PROBATION *and* POLITICS

Academic Reflections from Former Practitioners

EDITED BY
MAURICE VANSTONE AND PHILIP PRIESTLEY

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Maurice Vanstone • Philip Priestley
Editors

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The enormous wisdom and personal insight in this unique collection of essays from a generation of former probation practitioners-turned-scholars reminds us just how much will be lost if current trends endure and probation work continues to be undermined. Based on personal narratives of probation's recent past, Probation and Politics *provides hope and good sense for what the future should hold.*

Shadd Maruna,
Dean, School of Criminal Justice,
Rutgers University, Newark

This is a very original collection, which, as seen through its authors' personal experience in both probation and academia, tells us about the recent changes in English and Welsh probation and its institutional and political roots. It makes for an enjoyable yet informative read, and raises essential questions. Particularly noteworthy is the following: how can we avoid state bureaucratic and centralist "prisonbation", whilst promoting local embeddedness, flexibility and innovation, without "selling out" to for-profit agencies or atomising probation? Whether in the UK or abroad, probation urgently needs to find the right balance, and to convince politicians that quick fixes and simplistic ideologically fuelled U-turns are not helping.

Martine Herzog-Evans,
University of Reims, Law Faculty

None of us wanted what actually happened to the Probation Service, and perhaps we all underestimated, politically and culturally, until too late, how much time and tide were against its survival in the form we desired. There are dark times when the writ of reason and the claims of virtue lose traction, but it is still necessary, in however dissident a spirit, to record why the public Probation Service was dismantled, to point out the moral and practical inferiority of the structures that have replaced it, to nurture such seeds as there are, to insist that things could have been politically and professionally otherwise and, even more so, to insist that they still ought to be. That is the form of truth-telling to which this reflective book aspires, and there is wisdom in the effort whether it bears fruit or not.

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Prospect: Probation Past, Present and Future

Maurice Vanstone and Philip Priestley

This book began with a letter to *The Independent* signed by seven of us,[1] all former probation-officers-turned-academics, protesting at the proposed sell-off of the probation service of England and Wales almost exactly a century after its formation:

> To remove up to 250,000 of its cases and auction them off to an untried consortium of commercial interests and voluntary bodies is in our view to

The editorial work for this book, like its predecessor 'Offenders or Citizens?' Willan 2010, has been equally shared. First authorship for the two titles has been alternated: this volume is 'Vanstone and Priestley'.

[1] Rob Canton, Philip Priestley, Peter Raynor, Paul Senior, David Smith, Maurice Vanstone, Anne Worrall.

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> take a reckless gamble with public safety and to put at risk the prospects for personal change and reform which lie at the heart of what Probation is and does. (Canton et al. 2013)

It occurred to us that there were more people who shared our origins, and we recruited another ten authors, inviting them to reflect on their academic work, relate it to their time in probation and speculate about possible futures for the service. The present volume is the outcome. The contributions embody not only a prolific scholarly output, but also a shared dismay at the apparently wanton destruction for ideological reasons of an organisation that has stood for humane and effective work with people in trouble with the law. The book is not a manifesto, former probation officers are too various and independently minded for that. What it does do is to encapsulate a rare perspective on what to many will look like a minor policy shift in a small corner of judicial administration but which to us raises profound issues about the present nature and future direction of the entire criminal justice system.

During the time that the probation service of England and Wales has assisted in the sentencing of people who appear before the criminal courts it has undergone change and variation in its organisational structure, its duties, responsibilities and their governance, its theoretical models and its methodology. Nevertheless, its humanistic approach to the rehabilitation of those people it supervises has remained constant as a core, guiding value; not only has its position in the criminal justice system been unchallenged (aside from doubts about its efficacy and transient theoretical models), but successive governments of the political left and right have endorsed its value to society. It might be argued that although it has survived largely because of that political acknowledgement and acceptance, its adaptability has ensured that at critical junctures in its history it has served useful purposes for society and government: it has served as a counterweight to punitive impulses. That adaptability has applied to both its duties and tasks and governance.

As far as the former is concerned, it is worth remembering that from the beginning probation officers had acted as advisers to parents of

problematic children, given budgeting advice to families, intervened in disputes between neighbours, functioned as conciliators in matrimonial disputes (matrimonial work was made a statutory duty by the Summary Procedure Act 1937), helped the relatives of prisoners and performed the role of guardian ad litem in adoption proceedings. In the 1960s its work was extended to cover the welfare of prisoners during their sentence and their after-care, and its name changed to the Probation and After-Care Service. Later in that decade parole was introduced by the 1967 Criminal Justice Act, thus expanding probation officers' experience of supervising and engaging with more heavily convicted, and what are now termed, high-risk people. At the beginning of the 1970s the inauguration of community service led to a radical departure from traditional supervision and an influx of differently experienced staff, and the setting up of the Day Training Centre experiment placed an emphasis on providing an alternative to imprisonment. Moreover, as far as the latter is concerned, the demands of more intensive, daily contact with people – initially called trainees – stimulated significant innovation in methodology. Change has also resulted from the removal of duties as, for example, when in 1969 the responsibility of supervising juveniles was given to social workers in what were to become Social Services departments, and when the Children and Family Court Advisory Support Service (CAFCASS), set up by the 2001 Criminal Justice and Court Services Act, took responsibility for divorce and separation, care proceedings and adoption.

However, it is only in recent years that governance of the Service has intensified: hitherto there had been a light, tentative hand on the tiller. So, the first Probation Rules, issued by the Home Secretary in 1926, required, among other things, visits to the probationer of at least once per week for the first 6 months, the keeping of formal records, reporting back to the court on the behaviour of probationers and the submission of annual returns to the Clerk of the Justices. An increase, albeit marginal, in central control and hierarchy is evident in the extension of the 1949 rules to cover the duties of senior and principal probation officers but local Services continued to operate with little interference. That is not to suggest that those changes in governance were insignificant, but for most of the twentieth century oversight of the probation service was left to local probation

committees and occasional visits from Home Office inspectors, and chief probation officers managed their areas in a largely autonomous way.[2]

Of course, there was accountability but practitioners had wide discretion and idiosyncrasy was viewed as a positive element of probation work: attempts to standardise the nature of the work were, therefore, long overdue. The introduction of information systems and computer programmes facilitated greater scrutiny as well as increased transparency of practice intentions and outcomes. The year 1984 saw the first attempt to standardise through the Statement of National Objectives and Priorities (Home Office 1984). National Standards followed and centralised governance was ensconced by the introduction of the National Offender Management System (NOMS) in 2000, the inevitable National Probation Service and Probation Boards.

The purpose of briefly revisiting these milestones in probation's story in England and Wales is not to write another historical account – the interested reader can turn to any one of a number of informative histories (for recent examples see Gard 2014; Mair and Burke 2012; and Whitehead and Statham 2006) – but rather to show that the probation service has accepted imposed as well as consultative change during its history and maintained a cooperative relationship with governments of different political hue. Some of that change was necessary and pertinent to the type and quality of service delivered to the people it supervises and to the community generally, but it is no exaggeration to argue that latterly, what might be more accurately described as a series of transformations driven by a neoliberal governmental programme, has decimated the probation service to such a degree that it hovers on the brink of extinction: at the very least it has reached the most critical juncture yet in its distinguished history.

Now, therefore, seems to be exactly the time to publish the thoughts of our authors with the broad aim of mounting a fundamental and coherent challenge to that policy agenda and mapping out a positive future for the probation service. Their contribution carries great weight not least because

[2] Duncan Fairn, Director of Prison Administration 1964–1968, maintained that the administration of probation in England and Wales was the last remnant of the Elizabethan Poor Law when local magistrates acted as proto-local authorities to implement Crown policy.

they have been practising, researching and writing about probation for the last 50 years. Their collective output is vast and includes 95 authored or edited books, 200 contributed chapters, 370 journal articles and 230 non-refereed papers and publications that total almost 900 descriptive, empirical, practical, historical and theoretical additions to the professional literatures of probation, criminal justice and criminology. They have covered a varied array of topics: privatisation, ethnicity, feminist theory, professional ethics, de-professionalisation, risk/need assessment/OASys (Offender Assessment System), violent offending, violence against helpers, sex offending, sentencing inequalities, victims, restorative justice, community justice, punishment, probation history, probation bail, sentencing, prison biographies, Rule 43 prisoners, probation in Macedonia/Romania/Ukraine/Turkey/Sweden/Norway, offending behaviour, rehabilitation, prisoner re-entry, voluntary aftercare, probation on film, the right to help, desistance, sex offending, persistent and prolific offending, mental health, alcohol and substance use and treatment, inter-agency relationships, what works/effectiveness research, accredited programmes, cognitive behavioural methods, community regeneration, day centres, worker skills, training and probation culture. This in itself is testament to the nuanced and complex nature of probation work.

In bringing this remarkable body of work together in this book, we want to avoid falling into the golden age trap. It is important to emphasise that the chapters do not constitute a nostalgic celebration of probation but rather a critically honest examination of what the probation service has contributed to the processes of justice and the rehabilitation of people who have come before the courts. Collectively, they will reflect on, among other things, what the probation service has, and what it should now, stand for; how it has engaged with evidence; whether it has heightened its own vulnerability to political power through, at times, being reactive rather than proactive; the extent to which its ideals have been contaminated by punitive values and language; the effects of taking on measurement of risk as a guide to practice; and how it has responded to the particular needs of women and minority groups. In addition, through the presentation of their own writings and rhetorics, the contributors will describe the history of its achievements, address what can and cannot be inferred from research findings about the effectiveness of probation work, explain the diverse

and specialised nature of probation practice, and flesh out both implied and explicit values. The book raises questions about whether probation has a future humanising role in the implementation of justice and whether it can lay claim to reducing the harm caused to communities by crime. It will be argued that fundamental to those questions and their possible answers is an understanding of the effect of political interventions on its past and present organisation, practice and policy.

In addition to these reflections, each contributor tells the story of her or his probation and academic career, a reading of which we hope will yield insights into theories, philosophies and ideologies as well as what motivates some people to embark on such a career trajectory. Though not generalisable, together they constitute a unique portrait of a group closely involved in the practice and rhetoric of the probation service during perhaps the most dynamic period of its history. They moved into academia, often from supervising students on practical placements and contributing to in-service training, in order to teach and train social work and would-be probation officer students, and although little mention of it is made in their contributions they have influenced, informed and stimulated students with their considerable knowledge of a broad range of relevant subjects. Moreover, as can be discerned from their personal stories, they have modelled curiosity as a fundamental characteristic of the reflective practitioner.

Inevitably, given shared interests, themes overlap, but when that happens, the contributors bring their particular and unique readings and interpretations, thus avoiding prosaic repetition. Because we could not identify any obvious thematic groupings, the contributors and their chapters are presented alphabetically. The book begins with Jill Annison relating her experience of joining what seemed like a benevolent 'gentleman's club' which combined with early work in prisoners' wives groups stimulated an abiding interest in the gendered nature of professional duties. In a stimulating opening chapter she traces the changing composition of staff in the probation service, presents her analysis of the gendered nature of probation policy and practice and explains how her research into practice with women who have offended, including its history, has led her to believe in the need to focus on their social circumstances and take many of them out of the criminal justice system altogether. Like Jill and every other contributor, Lol Burke explains how his awareness of, and concern about, inequality

and diversity was heightened in training and left him motivated initially in his practice and subsequently in staff development and training. Enthused by Bill McWilliams' seminal quartet of essays on probation's origins, history and development, he shaped his academic interest around the increased governance of the service. His chapter offers a trenchant and detailed analysis of the inexorable growth of central control, imposed structural change involving fragmentation and the introduction of contestability as it develops via New Labour, the Coalition and the current Conservative government. Tellingly, he characterises all this by drawing on Marquand's 'decline of the public' argument. The year that it can be argued the decline began – 1979 when Margaret Thatcher came to power – was when Rob Canton completed his serendipitous journey into probation via a therapeutic community. Unsurprisingly that experience heightened his interest in the exercise of power and his chapter is a salutary reminder of the limitations and false expectations of the criminal justice system's impact on crime. His honest critique of probation's role in that system, its limits and value as an inclusive force, makes a strong argument against reducing the business of rehabilitation simply to quantifiable processes, an argument underpinned by human rights-based probation values. Importantly, his chapter strikes a note of optimism based on the strength of the voices of users and the essential nature of probation work.

Those values and what Malcolm Cowburn terms 'epistemic' values, perhaps, face their greatest test in work with perpetrators of sexual crimes. Wishing to reduce the hardship caused by the criminal justice system he began his career in probation working with groups of people convicted of sexual offences, and later when he left the Service worked in a therapy centre for survivors. His chapter describes how punishment values have encroached into work with those who commit sexual crime and contains a very interesting examination of the value-based problems of mandatory treatment. It leaves in no doubt that values based on knowledge are critical to informed understanding of, and appropriately responding to, perpetrators of this type of crime. Political rhetoric, which is brought to bear most forcefully on the subject of sexual crime, is a focal point for John Deering's chapter. His interest in helping people was honed in social work with juveniles, his work before becoming a probation officer. Drawing on his research, the chapter examines the difference between political definitions

of what probation is and the view of probation and its values that emanates from the voices of practitioners. Encouragingly, it reveals that government attempts to redefine probation have failed in so far as practitioners have retained traditional commitments to helping and rehabilitating. This offers some optimism for the future but as John points out, it is tempered by the fact that in a broader sense the probation ideal has been overcome by marketisation and the dividing up of the Service. For him the jury is out on what kind of practice and values will emerge from this process.

Mark Drakeford was drawn towards probation by reading Bill Jordan's article 'Is the client a Fellow Citizen?' and despite being encouraged to look beyond the 'presenting problem' early in his career has retained his interest in the social circumstances of probationers. In his argument about the importance of the probation service engaging with the socio-economic context of people's lives, he uses the example of non-cooperation with the Social Fund and practitioners' role in bridging the gap between the welfare state and the criminal justice system through a focus on the right to services. (He is well placed to argue this case as he, with a group of colleagues, helped set up a housing project for young people that survives to this day.) A glimmer of optimistic light shines through the end of the chapter with his proposition that the motivation and willingness to focus on social circumstances lingers and that desistance theory might be the conduit for its continuation. Implicit in Mark's argument is the importance of human rights and David Denney moves on specifically to the continuing impact of discrimination within the criminal justice system on those rights. A student of radical social work, uniquely in this group we believe, he returned to probation work from academia. Language is at the core of discrimination and the chapter underlines this in its coverage of race, mental disorder and learning difficulties while also exposing how risk assessments have limited value in these areas. David touches briefly on violence and abuse against staff and argues that the Transforming Rehabilitation agenda is leading to a de-professionalised response to all but so-called high-risk cases.

Wendy Fitzgibbon joined the probation service imbued with a strong belief in public services and a concern about marginalised people and carried these forward into her academic career. Her chapter sets out a critique of 'neoliberal-inspired' management strategies, target and risk agenda, and privatisation. It illuminates the negative impact privatisation has had on

probation partnerships with the voluntary sector, but through reference to her work on the nature of media responses to high-profile scandals within the criminal justice system it shows the deleterious effect on public perceptions of probation caused by media moral panics. Tellingly, Wendy maps out the decline in the status of probation officers, crucially, at a time of increased 'social polarisation' and inexorable decline of the welfare state and its notion of 'collective citizenship'. Similar beliefs and concerns are evident in Marilyn Gregory's chapter although they were nurtured in experiences in a group home for people with learning difficulties and behavioural problems in Detroit and probation practice in the decimated mining communities of Yorkshire. As her chapter explains, work in prison and family court welfare led to research interest in domestic abuse and homicide, but the main emphasis is on research into the views of practitioners which complements (and adds extra dimensions to) John Deering's findings. Encouragingly, she found that amidst ever-increasing managerialism practitioners retain a commitment to all the acknowledged elements of relationship building as meaning to assisting processes of change. Newly qualified and experienced staff alike survive and adapt to the changing probation environment determined to engage positively and empathically to those people increasingly viewed as 'other'. Hazel Kemshall cites a career that began in a Juvenile Justice Bureau, moved on to a Homeless Offenders Unit and culminated in the role of senior probation officer that shaped an interest in risk management. Her subsequent research on how probation officers managed risk was grounded in a concern about the importance of making accountable decision to safeguard both staff and the public. She throws a critical eye on probation's transition to the risk agenda, the increased involvement of the probation service in crime control, multiagency work with high-risk people and the adaption of risk in Transforming Rehabilitation. Intriguingly, she examines how privatisation (and the dispersal from the centre) has impacted on risk resulting in assessment tools being used more for case allocation and away from a focus on public protection. In a strong conclusion she shows how risk has been 'colonised' by the police and how economic discourse has replaced moral discourse in work with people who offend.

The eventual annexation of probation by the prison service was predicted at a NAPO conference in 1967 by Philip Priestley who moved from probation and prison welfare posts (via NACRO) to academic research

projects in juvenile justice and prison pre-release groups. Working in prison and writing about its history brought him to an abolitionist position on the institution and an anti-punitive persuasion for work in the community. In arguing for a 'rhetorical' view of justice which encompasses important symbolic as well as practical purposes for the society it serves, he reclaims the word rhetoric for all those committed to rational argument. He breathes life into the argument with clear and absorbing descriptions of work on the victim dimension and probation day centres, originally proposed for short-term prisoners. He emphasises the importance of addressing offending behaviour and presents features of his one-to-one CBT programme that embody many of the founding principles of modern probation – now deceased? As his chapter demonstrates, he remains an optimist.

Radical politics, protest and arrest formed the background of Peter Raynor's preparation for probation, so his curiosity about the legitimacy of authority and why people should obey it seemed a natural progression! He begins his chapter by offering an interesting insight into what probation looked like in the 1970s and tracking his growing interest in discovering, through the gathering of evidence, how and why people can be persuaded to behave pro-socially. By reference to his substantial involvement in effectiveness research he not only unravels some answers to questions about how practitioners can help people to change their behaviour and life trajectories and how probation might replace prison as a routine response to crime but also reflects on the nature of evidence itself. Ways of communicating probation policy and practice over a forty-year period are explored by Paul Senior. Using the Gramscian notion of 'permanent persuader' the chapter focuses on the change in communicative modes he employed as a practitioner, manager, trainer, academic, researcher, policy implementor or consultant to achieve influence and impact over policy and practice in the world of probation.

He offers a unique insight into a life time of experience, maintaining a focus on real-world interventions and in recent years utilising the growing influence of social media outlets to permeate thinking and impact on probation policy and practice.

David Smith, who entered the Service at about the same time as Peter Raynor, is very specific about how Bill Jordan's understanding of the complexity of the relationship between the helper and the helped and his

introduction to the sociology of deviance honed his interest in systems intervention. In a chapter which complements Mark Drakeford's (also influenced by Bill who sadly was not in a position to contribute to this book) he expands on the context within which face-to-face practice takes place. In an echo of the early critiques of the treatment model he reminds us, through his research on the juvenile justice system, of the unintended consequences of precipitous, unnecessary and intensive intervention. This flows neatly into a description of 'non-individualised elements of probation practice' such as community involvement, crime prevention and inter-agency work. The chapter ends with fascinating insights into 'victim–offender' mediation and the complexities of challenging racially motivated offending.

Having been socialised by Rainer House Training, Maurice Vanstone describes how he began his career in probation pursuing cures for crime and finished it searching for evidence of what might effectively help people change their lives. He reminds us of the Day Training Centre experiment which not only played a part in intensifying and diversifying face-to-face practice with probationers but, as Philip Priestley's chapter explains, developed a template for alternatives to custody currently taken up in the United States. He revisits some of his research into the international origins and history of the probation service and complements Peter Raynor's exploration of evidence by outlining his interest in identifying effectiveness skills and how programme integrity is ensured so that programmes are delivered as intended.

Philip Whitehead's experience of volunteering for the probation service and working in a hostel stimulated his interest in probation and his research career began while in the Service in his role as research officer. The 'modernising frenzy' of New Labour is the starting point for perhaps the most explicitly philosophical of all the chapters in the book. He depicts the various transformation of probation in the late twentieth and early twenty-first centuries as part of the de-moralisation of the criminal justice system. In a persuasive critique of the way in which the probation ideal has been traduced by a neoliberal political ideology that is more concerned with economics than ethics, he argues for a reconstruction of the probation ideal and (by drawing on Kantian ethics) a 're-moralisation' of the criminal justice system.

The final chapter by Anne Worrall includes a moving personal account of the formative influence her mother's work as a probation office had on her, and in particular how her mother's anger about the impact that men's offending had on their families stimulated a deep interest in women and the way the criminal justice system (including, of course, probation) interacts with them. In an appropriate end-piece, Anne presents an illuminating analysis of probation cultures and adds to layers laid down by John Deering and Marilyn Gregory in their earlier chapters about how practitioners adapt and re-adapt to politicisation. In so doing, she provides a picture of their professional 'identities, values and cultures' and leaves us with a glimmer of optimism predicated on the notion that committed people survive.

We hope that the book is of interest to those working in the probation service, students and all those who have a direct or indirect interest in the criminal justice system, but if it ends up on the desk(s) of interested, enlightened and influential politicians and policy makers we believe that the efforts of the contributors and ourselves as editors will have been worth it.

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Women and Probation – Reflecting Back and Looking Ahead

Jill Annison

My engagement with probation spans a period of over 40 years, the early part of which encompassed roles in the 1970s and 1980s as an administrator, trainee probation officer and probation officer (generic and specialist roles). I worked in three different probation areas in the south of England during this part of my career before taking time out to look after my two children, while my husband continued to work as a probation officer. Completion of an Open University degree over this period – I had gained my Certificate of Qualification in Social Work (CQSW) through a non-graduate route – then drew me towards academia. I undertook postgraduate studies and completed my PhD 'Probing Probation: Issues of Gender and Organisation within the Probation Service' which, more perceptively than I realised at the time, examined the changes that were happening in probation in the late 1990s

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(Annison 1998). Since then I have been employed as a lecturer at Plymouth University, focusing on probation and, in particular, on women and the criminal justice system (see Annison et al. 2015a).

In reflecting on my early career in the 1970s there are aspects that struck me then, and which have resonance now, in considering the challenges of the current situation. First, probation officers embodied a humanistic approach to working with people which grew from roots as police court missionaries (Chui and Nellis 2003). The clarion call 'advise, assist and befriend', now an historical anachronism, informed the guiding principles of my day-to-day work. Second, probation orders made in court included the name of the supervising probation officer, presaging more recent research findings which have emphasised the importance of relationships as part of the pathway to desistance (Burnett and McNeill 2005; Rex and Hosking 2013), particularly for women who have committed offences (see Sheehan et al. 2011). Third, on becoming a trainee probation officer I was ceremoniously presented with a copy of Jarvis' 'Probation Officer Manual' which commenced with the statement, 'The justices, the local authorities and the Home Office are all involved in the administration of the probation and after-care service, and the relationship between them is a finely balanced one' (Jarvis 1969, p. 1).

In short, while these arrangements on occasions caused tensions and competing pressures, probation and its staff were clearly located as part of the public sector and embraced public sector values. In thinking back to this aspect of my working life within probation when making the opening speech at NAPO's Centenary Conference in 2012, I drew attention to the alignment between probation's traditional value base and the seven principles of public life that the Committee on Standards in Public Life (1995) had identified, namely 'selflessness, integrity, objectivity, accountability, openness, honesty and leadership'. While probation was renowned for some eccentric and independently minded individuals working within the organisation (Burnett 2004; Mawby and Worrall 2013), the vast majority of colleagues with whom I worked implicitly demonstrated their allegiance to such values on a daily basis.

Nevertheless, it is important not to romanticise probation during this time, not least because this was, sequentially, the time of the collapse of the rehabilitative ideal, the promulgation of 'alternatives to custody'

(Whitehead and Statham 2006), and the publication in 1984 of the Statement of National Objectives, which signified the introduction of the three E's (economy, efficiency and effectiveness) into probation (May 1991). However, my experience within probation over that period was of working within teams where staff kept under constant review their dual care/control functions (Harris 1980), where the focus was on people (for my later work in this area see Annison et al. 2008) and where probation officers were supervised and supported (in terms of therapeutic casework oversight) by a senior probation officer who had been appointed to the role as 'primus inter pares' (Haxby 1978). To summarise, the rigours of new managerialism (May and Annison 1998) and the strictures of 'What Works' (Merrington and Stanley 2007) had yet to impact on, and take hold within probation at grassroots level (Mair 2004; Annison 2013b).

Working as a Woman Probation Officer in Probation

When I joined the Probation Service in the mid-1970s the gender balance was 70:30 (male:female) across the organisation (Annison 1998). This preponderance of male staff (across all grades of the organisation) had been accounted for in terms of 'better conditions of service, a flatter organisational hierarchy and arguably a more reliable source of finance from the "law and order sector"' (Hearn 1982, p. 194).

I experienced aspects of the organisation as being a 'gentleman's club' (Parkin and Maddock 1995), mostly in the form of benevolent chauvinism, but there was also space for professional development as a woman, albeit in specialised 'niches' (Annison 2007). For instance, throughout my early career, alongside mainstream probation tasks, I co-led several Prisoners' Wives Groups. These operated as open groups facilitated by female probation officers, probation ancillaries and volunteers, with active connections to welfare agencies and voluntary community groups. My memory is of these being well-attended and supportive sessions, with probation incorporating this non-statutory resource into its overall workload. (It should be noted that at this time probation also offered voluntary

after-care to prisoners [Mair and Burke 2012; Worthington 2014].) This type of intervention fitted within an emerging interest in group work by probation practitioners (Burnett et al. 2007) but there is little trace of it within the literature (although see, for instance, Winfield 2014; Burnett et al. 2007). None of the groups I was involved with was written about or evaluated and they lacked the articulation of a theoretical base or practice framework. Nonetheless, they adopted a community-based, 'women-centred, women-only' ethos, which, more recently, has come to the fore as good practice for interventions with women (Corston 2007; Roberts 2010; Asher and Annison 2015). They were also indicative of probation's then engagement with local communities and endeavours to address social and structural problems facing the clients with whom they were working (see Senior 2013).

This aspect of my work took place in the context of a caseload which was heavily weighted towards women. It was usual practice for women to be allocated to female probation officers in all of the probation areas I worked in through the 1970s and 1980s. I clearly remember the reverberations around the office when a male senior probation officer, in the first office I worked in, took over responsibility for supervising a particularly difficult case involving a woman on probation, with sotto voce murmurings amongst staff about the (in)appropriateness of such an arrangement. I was intrigued to find out the origins of such issues when I carried out my PhD research, discovering that:

> [i]n terms of the gendered expectations of work duties, the histories of probation indicate that in the early stages, male probation officers supervised both men and women, while female probation officers worked mainly with women and children. This situation was examined in the *Report of the Departmental Committee on the Training, Appointment and Payment of Probation Officers* (Cmd. 1601) in 1922, when it was proposed that women offenders should be supervised only by women probation officers (Bochel 1976, p. 111).

This restriction was subsequently provided by statute (King 1969) and remained in place until the Criminal Justice Act 1967' (Annison 2007, p. 146). This direct intervention in terms of the state's regulation regarding gendered social control now seems archaic but did seem to be pervasive and persistent at that time (see Lacey 2014; Statham 2014).

The Changing Gendered Composition of Probation Staff

It was this interest in working with women and issues of gender in relation to probation policy and practice that caught my attention when I started my postgraduate studies in the mid-1990s. Initially, I had planned to investigate the impact of the 1991 Criminal Justice Act on probation, given the intention to move probation to a centre stage role to allow for the implementation of a twin-track approach which would impose 'Tough, retributive and deterrent sentences for serious, particularly violent criminals, and as far as possible, lighter and preferably non-custodial sentences or the mass of trivial offenders' (Stenson 1991, p. 24).

The anticipated additional workload led me to examine changes in staff numbers across the various grades of the service and then, because of the inclusion of this data in the statistics that had been sent to me, the changing gender distribution within the organisation. When the service was buffeted by the vagaries of political will, and with the 1993 Criminal Justice Act leaving the Probation Service as a 'disregarded extra, a spear-carrier at best' (Smith 1996, p. 1), my attention turned directly to the implications of the increasing feminisation of the Probation Service in England and Wales. There seemed to be an irony here given the shift in political rhetoric about the role of probation : as Broad (1991) commented, over time probation had experienced an inexorable movement from a 'rehabilitation' phrase, through a 'policy' phase, and then onto a '(more) punishment' phase. It thus seemed worthy of theoretical and empirical interrogation that this was the moment when more women than men joined the organisation and over time progressed up through the ranks.

Detailed analysis of the data and quotes from empirical research about the changes in the gendered composition of the Probation Service can be found in my publications engaging with these issues, namely 'A Gendered Review of Change within the Probation Service', in The *Howard Journal* (Annison 2007); and 'Change and the Probation Service in England and Wales: A Gendered Lens', in the *European Journal of Probation* (Annison 2013a). The information and analysis there highlights

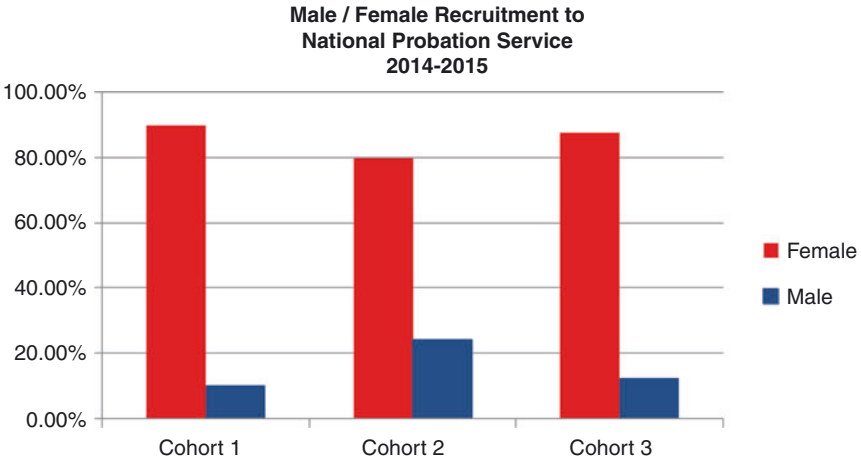
the watershed in probation in England and Wales in 1993 when, for the first time, more women than men probation officers were in post as a whole-time equivalent total of all grades (Annison 2013a, p. 46).

Most notably, as I commented in my 2013 article,

> It seems paradoxical to say the least, that the tipping point from more male to more female probation officers took place at the time when the Conservative Government's rhetoric was explicitly encouraging male recruits to join the Probation Service. Yet some key countervailing issues can be identified: in the 1990s and into the new millennium there has been a trend of young women seizing opportunities provided by work and education. Over this period probation has been repeatedly restructured and reorganised, with IT being embedded into the practice and the delivery of interventions becoming increasingly amenable to adaptable work patterns. As noted by Wilkinson (1994, p. 11) 'Employers increasingly want a more flexible and dextrous workforce – attributes associated much more with women than men'. (Annison 2013a, p. 56)

I witnessed this trend first-hand when I held the post of Programme Manager from 1998 to 2005 when Plymouth University had the contract to provide the academic element of the Diploma in Probation Studies (DipPS) in the South West Region. There were more women than men within each of the five cohorts, including women who were looking for career progression from probation service officer (PSO) level and also recent graduates with relevant degrees. By 2007 the statistics on gender at trainee probation officer level revealed that 72.86 % were women to 27.14 % men (Ministry of Justice 2007). In short, the gender composition had now switched around completely from the early days of probation – a turnaround that has not been mirrored in any other agency in the criminal justice system (Ministry of Justice 2013).

I have since updated information about gender within probation via a Freedom of Information request (Ministry of Justice 2015a) in relation to the three cohorts of recruits onto the PQF learners/NPS Graduate Diploma Scheme in England and Wales that commenced in October 2014, February 2015 and May 2015 respectively (see Graph 2.1).



Source: Ministry of Justice. Freedom of Information Request (2015a).
(Statistics supplied as percentages, the exact numbers were not made available)

This information shows an even sharper move towards the recruitment of women entrants than I had seen a decade earlier. Of course this is now only in relation to the National Probation Service (NPS) after the NPS/Community Rehabilitation Companies (CRC) organisational split brought about by the Transforming Rehabilitation programme in 2014/2015 (Annison et al. 2014). It is ironic that the problematics observed by Rosabeth Moss Kanter in her book 'Men and Women of the Corporation' now apply to men in the NPS rather than to women, namely the dilemmas of the 'token' woman or of a 'tilted' group in terms of gender representation (Kanter 1977).

The relevance of the change in the gendered composition of probation over this period seems particularly pertinent as it suggests a link with issues of de-professionalisation of probation, even ahead of the cataclysmic changes of Transforming Rehabilitation. In the first instance, the concept of a probation career as a 'vocation' disappeared many years ago (see Annison 2001). Second, as Tim May and I foresaw, changes in the 1990s reconstituted what it was to be 'professional'

within the Probation Service and represented the start of a trend of blurring of role boundaries – a feature which has come to the fore in the turbulence of Transforming Rehabilitation. Finally, an even more telling judgement that we made in this 1998 chapter was that 'Claims to expertise have changed as the probation service is expected, via programmes of intervention and treatment, to administer punishment in the community, not casework to individual offenders' (May and Annison 1998, p. 172).

Probation Practice and Women

As indicated earlier in this chapter, one of my main areas of interest as a practitioner was working with women caught up in the criminal justice system. Two particular cases remain vividly with me: the first was a middle-aged woman with physical and mental health problems who was placed on probation 'for her own good' after committing minor shoplifting offences. The magistrates had been concerned about her mental state and shortly afterwards she was admitted to a locked ward in a large mental hospital because of her suicidal intentions. Visiting her and seeing the condition of this Victorian institution was a truly sobering and distressing experience, not least because it seemed to me that her condition had been aggravated by her experience of being processed through the criminal justice system.

The second case was a young black woman who was the single parent of two small children and who had reoffended (repeated, but relatively minor non-violent offences) while on probation. She went to court anticipating that at most she would receive a suspended prison sentence and so had not told anyone in her family about her court appearance. On receipt of a short custodial sentence she appeared shocked and traumatised (these were the days when supervising probation officers would attend court with their clients and speak to their social enquiry report recommendations). She was adamant that her children should not be told what had happened to her; she made an impassioned plea to her elderly mother to look after them and to maintain the pretence that she was away at work

over the period of imprisonment. For reasons I have forgotten, I drove this young woman home after she reported to the probation office on her release from prison (except this was the sort of thing that probation officers did in those days!). I can still recall the look of complete bewilderment on the faces of her children at her unexpected return in the middle of the day.

Over the years since then I have taught students about the developments in feminist criminology and, in particular, the impact of the Corston Report (2007). Certainly the three broad categories of vulnerabilities experienced by most women caught up in the criminal justice system as outlined by Corston were very familiar to me, as illustrated in the two cases above and more generally from my probation caseload over the time I worked as a practitioner:

- Domestic circumstances and problems such as domestic violence, childcare issues, being a single parent;
- Personal circumstances such as mental illness, low self-esteem, eating disorders, substance misuse;
- Socio-economic factors such as poverty, isolation and employment. (Annison and Brayford 2015, p. 3)

I wholeheartedly supported the 43 recommendations made in the Corston Report, seeing it as an important landmark in terms of its potential impact and in relation to putting down a marker for social justice.

It was this awareness of the engrained legacy of women's positioning in the criminal justice system, and my sense that radical and persistent change needed to be informed by an historical perspective, that motivated me to undertake research into portrayals of women in the back catalogue of the *Probation Journal*. This led to the publication of my 2009 article in the *Probation Journal* which summarised my findings: the availability of the electronic back catalogue of the *Probation Journal* made it possible to conduct a 'sweep' of articles from 1929 to the present and to find and critique contemporaneous articles about probation work with women (and also the roles of women probation officers). As I wrote there,

> It needs to be noted that until the 1970s women were marginal, if not invisible, within criminology (Newburn 2007). It is therefore salutary to remember the relatively recent emergence of feminist criminology focusing on women and crime and that even now, new perspectives jostle with established views (Heidensohn 2006). The selection of extracts and the accompanying commentary regarding portrayals of women probation officers and women offenders thus draw attention to 'some of the most basic assumptions about law, justice, and punishment in our society and to raise queries about unstated "patriarchal" values.' (Heidensohn and Gelsthorpe 2007, p. 410) (Annison 2009, p. 436).

I concluded the article by 'acknowledging key developments and progress that has been made, while also drawing attention to work that still needs to be undertaken' (Annison 2009, p. 446).

Since then I have conducted applied research which has investigated the impact of criminal justice policy and practice: given the profile of cases going through the criminal justice system this has mostly been about men, but my interest has always been drawn to the small numbers of women in the research (for instance, locally funded evaluation research of an Integrated Offender Scheme [Annison and Hocking 2012] and an ESRC-funded research project, carried out with academic colleagues, in connection with the different elements of a local community court [for instance, Annison 2014]). Findings from both of these projects have illustrated situations where women in the criminal justice system had been 'shoe-horned' into provision designed for men – as Corston stated 'women have been marginalised within a system largely designed by men for men for far too long' (Corston 2007, p. 2). In the ESRC research project we found, in accord with Corston, that it was not just the range of problems that women defendants who appeared before the Community Court were facing, but the severe impact of the constellation of these problems. Indeed, as Margaret Malloch and Gill McIvor have commented, there are 'Inextricable links between poverty, addiction, abuse, marginalisation and the subsequent criminalisation of women who have often been failed by society in a variety of ways' (Malloch and McIvor 2013, pp. 207–208).

Transforming Rehabilitation – Recent Developments

Throughout my academic career I have reflected on the lack of connection between academics and their research findings and probation staff. While I have endeavoured to carry out applied research and disseminate my findings, this is a challenging area. It was in the hope of supporting such engagement – and drawing attention to the provision for older women in prison – that I undertook (as an academic and as a trustee of the charity at that time) a joint presentation about The Rubies Group at Eastwood Park Prison, with Alma, the RECOOP project worker.[1] This took place at the 'Women and Justice' conference at the University of Wales, Newport, in May 2013. In particular we wanted to illustrate 'how provision by a charity, in collaboration with and with the support of the prison authorities, can provide an innovative, flexible and constructive response' (Annison and Hageman 2015, p. 148).

This event brought together participants from a wide range of different backgrounds and sparked discussion and debate, particularly about the emerging Transforming Rehabilitation agenda. At that point the emphasis was on good practice that had emerged in the period since 2007 and efforts throughout the criminal justice system to support women-centred interventions across statutory, voluntary and third sector providers. However, developments in England and Wales from this point onwards began to raise concerns about the potential disruption and fragmentation of this ethos and the level of provision for women within the criminal justice system. This prompted the decision by Jo Brayford, John Deering and I to co-edit a collection of chapters, largely based on presentations at the conference and to engage with and contribute to the debate in this area. The resulting book *Women and Criminal Justice: From the Corston Report to Transforming Rehabilitation* was published in October 2015.

While the Offender Rehabilitation Act 2014 'placed a statutory requirement on the Secretary of State for Justice to ensure that contracts with new providers of probation services considered and identified the

[1] RECOOP is the Resettlement and Care of Older Ex-Offenders and Prisoners charity.

particular needs of female offenders' (House of Commons Justice Select Committee 2015), the report of this Committee went on to say,

> We were concerned that effective provision for women offenders might not be achieved under the payments by results system underpinning the Transforming Rehabilitation reforms. In particular, we queried whether there would be sufficient incentive for providers to make available appropriate provision for women offenders, taking into account that they are often classified for probation purposes as presenting a lower risk of re-offending and harm, but tend to have a higher level of need, which could require more intensive, and costly, intervention. (House of Commons Justice Select Committee 2015)

I concur with these concerns, not least because an evidence base of good practice was gradually emerging (see, for instance, the Justice Data Lab report [Ministry of Justice 2015b]). While only time will tell if the upheaval of the Transforming Rehabilitation changes will bring about any positive change, my co-authors and I concluded the last chapter in our book as follows:

> The strictures of contestability and Payment by Results enshrined within the neoliberal TR political project seem likely to change the criminal justice landscape in a way that can only be of concern in relation to female offenders. The lack of cohesion – and a 'one size fits all' approach for offenders – is the complete antithesis of the holistic and women-centred concept advocated by Corston . . . Much has been gained over recent years, but much stands to be lost. Corston's clarion call for 'a distinctive, radically different, visibly-led, strategic, proportionate, holistic, women-centred, integrated approach' (Corston 2007, p. 1) should not be lost in the onslaught of ideological change (Annison et al. 2015b, p. 256).

Meeting Myself Coming Back

The assessment of most women who are serving community or custodial sentences as low risk in terms of risk of harm, but presenting high levels of personal and social problems has been a long-standing characterisation,

often portrayed in terms of a 'troubled/troublesome' description (see, for instance, Gelsthorpe and Loucks 1997; Roberts 2010). In exploring these issues for my academic teaching and research I located Professor Loraine Gelthorpe's early publications. It was then that I discovered – much to my surprise – that I had been the social worker she had interviewed in 'Agency Two', a closed 'place of detention for alleged offenders not released on bail, and a place of safety for girls who were to appear before a court or on whom an interim care order had been made by a court' (Gelsthorpe 1989, p. 79). At the time I worked there (from 1980 to 1982), it was described as a regional observation and assessment centre (it no longer exists) and Loraine Gelsthorpe had undertaken some of her PhD research at this setting.

My reflective engagement with the research findings and with my reported responses in the book gave me pause for thought: I was surprised by the explicit focus in the research on 'sexism' in a way that now seemed particularly old-fashioned. However, alongside this, it was a somewhat unnerving experience to read comments that I had apparently made in answer to the research questions (I did not recollect any of this!). In applying a critique to myself from this distance of time, I commended my anti-custodial stance at one point, but then squirmed with embarrassment at my judgemental attitude about some of the girls' culpability for their offending behaviour. However, most of all, I reflected on societal and attitudinal changes that have taken place since the 1980s to the current day, particularly the life chances that are now open to many girls and women – but also how pervasive negative and punitive perceptions of women's offending behaviour have remained in the criminal justice system. In this respect I share Anne Worrall's observations (2002) that problems still remain:

> The 'search for equivalence,' driven by a misunderstood feminist hegemony calling for the empowerment of women by making them accountable for their deeds, has resulted in an inevitable increase in the numbers of women rendered punishable . . . In the effort to retreat from traditional paternalism and maternalism, the making of the penal crisis in relation to women has been instead the unmaking of 'women' as a category of offender requiring any special attention at all. (Worrall 2002, p. 64)

This reflection on the past also uncovered some sombre responses from the 'girls' themselves. In trying to find out when 'Agency 2' was shut down I went onto the internet and found many emotional blogs and messages from women who had had placements at Agency 2. They were trying to make connections with their peers from that time, and had written about their memories of distressing and disturbing experiences while they were there and during subsequent placements.

Concluding Thoughts

At this point in my personal and professional life, I find myself ruing the retrograde steps that the various elements of the Transforming Rehabilitation agenda are likely to have for women under supervision, not least because of the introduction of the profit motive where, in my view, none should intrude (see also Allison 2015). In line with Pat Carlen, I think that any consideration about the treatment of women by criminal justice agencies needs to be examined through

> The changing ideologies of female poverty and oppression in the UK, and also the key political ideologies and organisational rhetorics of legitimate penal governance. (Carlen 2002, pp. 235–236)

The adoption of a focus on social, rather than criminal, justice could take many women out of the criminal justice system altogether (see Centre for Crime and Justice Studies 2015). In this respect the proposed closure of Holloway Prison (Ministry of Justice 2015c) could provide an opportunity for radical change. It seems to me that the failure to close the large women's prisons in England was the fundamental flaw in the Labour government's response to the Corston Report (2007) because 'the continuing entrenchment of prison as a sentencing sanction for women' left imprisonment as 'a pivot around which policy and practice continue to revolve' (Annison et al. 2015b, p. 256). Removing Holloway from the prison estate therefore provides an opportunity to bring about 'real' change and to reshape penal responses in a more compassionate and humane

way with regard to the sentencing of women. In this respect within this chapter I have indicated that strands of good policy and practice could be drawn from the past to guide the present and to look ahead to the future. However, progress that has been made in recent years has been fragile and lacked the holistic vision that Corston (2007) advocated, and thus concerns about the potential for retrograde steps also need to be heeded.

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Jill Annison's connections with probation go back to the mid-1970s. Having worked initially as an administrator, she then obtained a place as a trainee probation officer before undertaking a 2-year CQSW course. This was followed by the 1-year confirmation period, with a protected caseload, opportunities for post-qualification training and regular supervision. A stark contrast with the current situation!

From 1978 to 1985 she had roles within SE London Probation Service as a generic probation officer and co-leading an alternative to custody group. In the middle of this period an interest in working with girls and women led to a post as a specialist social worker at a closed remand and assessment centre.

A career break provided an opportunity to complete an Open University degree, which in turn led to a more academic pathway. PhD studies and subsequent research into the changing gender distribution across the Probation Service and analysis of this has been an enduring interest (1985–1993).

Over this period contact with probation has been ongoing: from 1998 to 2004 as programme leader for the academic element of the DipPS; from 2000 to 2013 as external examiner to all of the academic providers of probation officer training

in England and Wales; through undertaking evaluation research, and finally, through maintaining links with probation, something that has become more challenging through the turbulence of Transforming Rehabilitation. All of these interests were brought together in the book *Women and Criminal Justice: From the Corston Report to Transforming Rehabilitation* (2015) co-edited with Jo Brayford and John Deering.

3

Where Did It All Go Wrong? Probation Under New Labour and the Coalition

Lol Burke

A Life on Probation

My association with the probation service spans over 30 years as a practitioner, trainer, manager and academic. As a young graduate I was employed in a probation office in inner-city Liverpool. The companionship and camaraderie of my fellow workers during this period shaped my values and developed my understanding of the essence of probation work which is located in a belief that professional relationships can be a powerful tool in stimulating and supporting positive personal change even if the means of achieving this is contested. This is because probation is what Mawby and Worrall (2013, p. 8) term 'dirty work' in that it involves interacting with groups of people who can be difficult and are regarded by society in general as undeserving of their efforts. My awareness of social

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inequality and a respect for social diversity was deepened through my training on the Diploma in Social Work (CQSW) programme. It also enabled me to locate my understanding of probation work within broader theoretical perspectives. On completing my programme of study I worked in a range of probation settings in both prisons and the community. During this time I developed an interest in training and staff development and eventually returned to Liverpool University as a joint-appointment with Merseyside Probation area. Working with the many trainees I had responsibility for stimulated a long-standing interest in the recruitment and training of probation staff and has subsequently formed a strand of my academic writing (see Burke 2010a, 2011a; Millar and Burke 2012). As an academic I have continued to develop my thinking through my teaching and research. Since 2007 I have been editor of *Probation Journal*. This has placed me in the privileged position of being able to directly challenge some of the policy and practice developments that have taken place during this period as well as hopefully being a 'critical friend' to probation. At times it has felt like observing a runaway train as it heads towards an inevitable and potentially catastrophic outcome. Despite this, working with a group of extremely supportive and insightful board members, some of whom are front-line practitioners, has nurtured hope against the political excesses of the recent past.

As a young probation practitioner I was influenced by the quartet of essays written by Bill McWilliams (1983, 1985, 1986, 1987) which explored 'the history of ideas sustaining the English probation service since its beginnings in the late nineteenth century' (McWilliams 1987, p. 97). Bill's writings opened my eyes to the fact that probation's contemporary challenges are not simply a result of what has been going on in its immediate past but are inextricably tied to the choices, tensions and initiatives that have marked out its history since its formation in the early twentieth century. In exploring probation's past I have hoped to illuminate and provide a critical commentary on the present, in an attempt to capture an ever evolving period in the history of an all too often misunderstood and under-appreciated part of the criminal justice system in England and Wales, whilst being attentive to the practical realities of working with individuals who offend. This chapter is therefore an attempt to provide an analysis of how contemporary probation

policy and practice has been respectively shaped by the New Labour and Coalition governments and to locate my own work within these developments.

Reflections on Probation and New Labour: Modernisation, Managerialism and Markets

The election of a New Labour government in 1997 was seen by many within the probation service as marking a potential upturn in its fortunes with the prospect of a more enlightened approach to law and order issues replacing the moral paucity that had marked the 'prison works' dogma of the previous Conservative administration. Lifting New Labour's election slogan, myself and George Mair put it thus, 'For many and certainly in the probation service, there was an expectation that things could only get better' (Mair and Burke 2012, p. 159). From the outset, the New Labour government set about an ambitious project of public sector reforms. For the probation service this meant a closer alignment with other criminal justice agencies and the government's public protection credentials. The creation of a National Probation Service (NPS), as myself and George Mair pointed out in *Redemption, Rehabilitation and Risk Management*, could be seen as 'the culmination of 15 years of fragmented initiatives and changes that had tended to point in the same overall direction of centralised control' (Mair and Burke 2012, p. 164). This was a profoundly important development because probation had been, since its beginnings, a local service with a great deal of local autonomy. Admittedly, this had been reduced slowly and indirectly at first and rather more rapidly since the 1980s. Centralisation did have some advantages in terms of potentially providing a higher political profile for probation but it also brought into sharp focus the tensions between local areas and central government.

By 2001, the NPS was building a new organisation, heavily involved in the development of pathfinder programmes that were being evaluated, getting up to speed with new initiatives such as DTTOs and MAPPPs. It was also faced with targets that were designed to be demanding with the threat of cuts in budget and the loss of government support if

successful delivery was not achieved. This combination of demands was asking a lot of an organisation that had been under real pressure for almost a decade and perhaps inevitably the NPS struggled. Two contradictory features of the new environment were apparent. First, of all the criminal justice agencies, the probation service had the largest real terms increase in spending (Solomon 2007). Second, Probation was still facing an overwhelming demand for its services to the extent that the Chief Inspector of Probation talked of the system of community punishments silting up probation and suggested that consideration should be given to private contractors taking over the supervision of low-risk individuals and those subject to community service because the probation service was stretched to capacity (HM Inspectorate of Probation 2003).

The strategy document *A New Choreography* (NPS 2001) outlined a vision for the probation service which emphasised the concepts of 'justice' and 'protection of the public' and recognised 'preventing victimisation' as an essential probation task. More specifically, there was a commitment to the development of the 'What Works' or the 'Evidence-Based Practice' initiative (Underdown 1998), but this in turn became caught up in the pursuit of creating local enthusiasm for more effective ways of working whilst dealing with a treasury that would only provide resources for clearly identified outputs. The central drive from the National Probation Division reflected the burgeoning target culture of New Labour and in combination with the control of local governance arrangements, probation practitioners became increasing directed in terms of their practice, senior managers constrained by fear of withdrawal of budget and heavy handed interventions from a highly critical centre.

Having undergone a wide-ranging, rapid and complex reorganisation in its first 3 years, the probation service was again faced with further transformation as Patrick Carter, at the behest of the Number 10 Policy Unit, began undertaking a review of correctional services. This culminated in *Managing Offenders, Reducing Crime: A New Approach* (Carter 2003). Carter argued that both prison and probation were dealing with far too many low-level cases. Sentencing had to be targeted more effectively so that probation would deal with more of those who were currently being sentenced to short terms of imprisonment, and fines would deal with those who currently were receiving community

penalties. None of the recommendations were particularly novel, but the report's insistence upon effective end-to-end management and the inefficiencies of having two different organisations, led to, 'the establishment of a National Offender Management Service (NOMS) – replacing the Prison and Probation Services, with a single Chief Executive, accountable to Ministers for punishing offenders and reducing re-offending' (Carter 2003, p. 43). The introduction of NOMS came just 3 years after the creation of the NPS – under the provisions of the Criminal Justice and Court Services Act – with little time for the new organisation to bed in and 'propelling change weary staff through yet another high speed restructuring' (Singh Bhui 2004, p. 99). In *From Probation to the National Probation Service: Issues of Contestability, Culture and Community Involvement* (Burke 2005a) I questioned the timing of the change given the considerable costs in terms of public expenditure that had been invested in the re-structuring of the probation service and the roll-out of accredited programmes. With hindsight, it is clear that this had been on the cards for some time but it was still surprising that it had happened so soon after the restructuring of probation into a national service only a couple of years earlier and before the NPS had been given little chance to settle down and be fully evaluated.

It is not difficult to understand the logic of incorporating the probation service into the NOMS as prisons and probation work together effectively as a single organisation in other countries (see Ploeg and Sandlie 2011 for a discussion of the arrangements in Sweden and Norway). However, Patrick Carter's (2003) report proposing the introduction of NOMS was somewhat vague on detail, and was accepted, and acted upon, remarkably quickly by government. In *From Probation to the National probation Service: Issues of Contestability, Culture and Community Involvement* (Burke 2005a), I warned that there had been 'scant recognition that the introduction of NOMS brings together two complex organisations with their own traditions and cultures, which will not easily (or for that matter should be) subsumed by organisational change alone' (p. 17). Since then NOMS has gone through various structural changes which have weakened the position of probation. Given the much larger size of the prison service, probation was always going to have to struggle to make sure its voice was heard in NOMS and

with the overwhelming dominance of prison staff at senior management levels it looks as if the struggle may have been lost.

Carter also believed that the quality of interventions would be improved by introducing an element of commercial competition – what he called 'contestability' – which would allow other public sector, private or voluntary agencies to bid against prisons and probation for contracts to replace them. Contestability was seen as having the potential to bring both positive outcomes in terms of increased innovation and diversity in service delivery. In this respect the proposals contained within the Carter Report can be seen as the incisive application of New Public Sector Management into the world of probation. In *From Probation to the National probation Service: Issues of Contestability, Culture and Community Involvement* (Burke 2005a) I argued that contestability was problematic on a number of levels. First, there was the potential tension between the statutory responsibilities of enforcement and compliance for Third Sector organisations that had developed within a framework of voluntarism and consensual engagement. Second, the commissioning and purchasing of services might add layers of bureaucracy and expense and lead to more diffuse systems of accountability at the local level. Third, unless care was taken contestability might lead to fragmentation of service delivery and the skills that underpin it in the community.

As Fitzgibbon and Lea (2014) note, two somewhat contradictory strands can be observed in these developments. On the one hand there was a form of 're-privatisation' through the promotion of probation partnerships with the voluntary sector and on the other a 'de-privatisation' through aligning it with the other statutory criminal justice organisations such as the police and prison services. This latter trend (with an emphasis on achieving the organisational goals of delivering effective criminal justice interventions, risk assessment and public protection) was perhaps most symbolised by the break with social work training. In my article, published in a Romanian social work journal (Burke 2010a), I argued that this radical shift in the training of probation officers was significant in both its 'intentions' (to move the probation service from its traditional social work ethos) and its 'structure' (an integrated award combining an undergraduate degree with a practice-based NVQ delivered over 2 years). The changes were, certainly in policy terms, also driven by a perceived

need to toughen up the probation service in order to enhance its credibility with the general public and were based on a notion that the service had somehow been contaminated by radical forms of social work in the 1970s and 1980s (Millar and Burke 2012). However as I pointed out 'in truth, such notions were based on a false dichotomy that characterised the social work role as one of caring and helping and probation of one of control – thereby ignoring the co-existence of humanitarianism and disciplinary concerns of both' (Burke 2010a, p. 40).

In 2005, following the publication of Restructuring Probation to Reduce Re-offending (Home Office 2005), I published a response piece in *Prison Service Journal* entitled 'Restructuring Probation to Reduce Re-Offending: Modernisation through Marketisation?' (Burke 2005b) in which I contended that the government's plans could potentially lead to a less cohesive system of offender management and supervision. In this short paper I began to explore a number of tensions that I believed were particularly pertinent to this development; themes which I have subsequently returned to and developed in my more recent writing. These were, the tension between 'increased central control or devolution?', 'What Works or what is politically expedient?' and 'authoritarian management as opposed to professional responsibility?' In this respect, I believed that the government's plans to restructure the NPS had to be understood within a wider policy context of economic rationalism and the marketisation of public sector services. A theme which I subsequently developed more fully with Steve Collett in '*Delivering Rehabilitation: the politics, governance and culture of probation*' (Burke and Collett 2015).

In December 2007, Patrick (by then Lord) Carter published his second review of criminal justice on behalf of the government – *Securing the Future: Proposals for the Efficient and Sustainable Use of Custody in England and Wales* (Carter 2007). In my editorial 'Can we build our way out of the prison crisis' (Burke 2008) I questioned the wisdom of expanding the prison estate, through the building of three 'Titan' prisons, and criticised the review for prioritising economies of scale over the operational difficulties inherent in managing such large institutions and ignoring the underlying social, economic and political factors which have led to record levels of imprisonment during New Labour's first two terms of office. I also warned that 'NOMS had

become an unwieldy bureaucracy that has added considerable costs to the overall supervision and management of offenders' (p. 6).

Following a series of organisational restructuring involving the Ministry of Justice, NOMS was split between 'delivery' and 'strategy' with responsibility for the former being assumed by the Director general of HMPS. In our piece 'Doing with or doing to – what now for the probation service?' (Burke and Collett 2008), Steve Collett and myself warned that the probation service as a distinctive voice within the criminal justice system was being lost in the name of greater harmonisation with a much bigger and politically more powerful prison service. We considered what the future held for probation following the departmental restructuring and identified three key policy drivers, 'moving centre stage', 'correctional drift' and 'modernisation' which we believed were shaping contemporary probation practice and delivery. Whilst we acknowledged that there had been some significant improvements in performance by the probation service under New Labour, we argued that this had been at a considerable cost to the organisation. For us the way forward for probation lay in it being able to deliver those aspects of criminal justice policy that quite rightly should remain centrally shaped and determined – such as broad sentencing, offender management, and enforcement, for example – with local responses to local crime that are sensitive to local needs and public engagement.

During the first decade of this century, the relationship between New Labour and probation turned up close and personal. Our contention in *Delivering Rehabilitation: The politics, governance and control of probation* (Burke and Collett 2015) was that specific events during the height of New Labour's period in office helped to advance the onslaught on probation as a public sector agency and played into the attritional approach to defining rehabilitative services within the ideology precepts of New Public Management. Probation services felt let down and unsupported, particularly when perceived mistakes in their supervision of dangerous cases were, quite rightly, subjected to intimate scrutiny and review. During early months of 2006, the probation service was subjected to ongoing negative media attention following several alleged failings. The attacks followed the criticism by the Chief Inspector of the Probation Service following the murder of the Chelsea banker, John

Monckton, by Damien Hanson and Elliot White, both of whom were under statutory supervision at the time of the offences (HM Inspectorate of Probation 2006a). This led to the subsequent suspension and reinstatement of four members of the London Probation Area and subsequently an approach to David Scott, then chief officer of Hampshire Probation Area, to take over the London service, which he did in 2005. In May 2006 another HM Inspectorate of Probation (2006b) was published, investigating the circumstances surrounding the murder of Naomi Bryant by Anthony Rice – a discretionary lifer released after 16 years in prison. With the murder of two French students, Laurent Bonomo and Gabriel Ferez in June, 2008, London Probation Service (and the wider probation community) braced itself, as one of the accused murderers was Dano Sonnex, subject to post release probation supervision. There were significant failings in the overall management of Sonnex (Hill 2009) but what became clear very quickly was that the fallout would be far-reaching and that political opportunism would determine how the circumstances of the case would be dealt with at the highest level. The events which lead to the resignation of the chief officer of London Probation Service, David Scott, are outlined in chapter 3 of *Delivering Rehabilitation: The politics, governance and control of probation* (Burke and Collett 2015). This, we contended, was indicative of how political duplicity and a wider blame culture had not only undermined the probation service's work with high-risk cases but also underlined the individual personal costs borne by those professionals in positions of authority when things go wrong. In my editorial 'A collective failure?' (Burke 2009), I argued that although the Sonnex case was apparently marked by individual errors of judgement (albeit probably in good faith and based on available evidence), poor communication, and practice that in parts fell short of the required standards, I also drew attention to what I saw as 'the obstinate refusal by the Secretary of State for Justice to accept responsibility for the wider funding issues and an environment of continual change and uncertainty faced by probation for the past five years has been neither helpful nor provided the principled leadership required' (Burke 2009, p. 219).

The triumphalism of the Labour Party victory at the 1997 election was in marked contrast to the somewhat dejected figure of Gordon Brown, leaving Downing Street, having failed to reach an agreement

with the Liberal Democrats that would have secured a fourth term of office. In the 13 years between these two events the impact of 'New Labour' upon the Criminal Justice System had been profound. During this period New Labour's approach to law and order often vacillated between paternalistic care and greater control and surveillance. For the probation service it has meant unprecedented levels of change which had in some respects resulted in a greater sense of organisational purpose and operational efficiency but with its 'humanistic sensibilities' (Nellis 2007) severely undermined and its future in a continuing state of uncertainty. The crime control policies of New Labour in its first term were certainly far more ambitious than those of the previous Conservative government and initially appeared to offer a more enlightened approach to tackling the social and economic causes of crime. In this respect, the early optimism felt by the probation service was perhaps justified in that it appeared to occupy a central place in the government's crime control policy – a role matched by increased investment and an enshrined separate identity after the rejection of the prison/probation review. On the other hand, the ideological and political nostrums for probation and the constant requirement to find new structures to deliver neoliberal approaches to public sector management made little sense to those who thought probation had delivered everything asked of it by successive administrations.

Whilst it is possible to identify a particular emphasis in each of New Labour's three terms in office (see Burke and Collett 2010), its overall approach to probation was perhaps best captured in James Treadwell's observation that 'The creation of the NOMS can be regarded as the culmination of a move toward meticulous regulation of both those within the probation service and the offenders with whom they work' (Treadwell 2006, p. 3). Under this 'meticulous regulation' the probation service increasingly became a law enforcement agency to which those on supervision reported in order for their court-imposed punishment to be administered.

Ultimately, New Labour could not square its desire to control probation from the centre through increasingly bureaucratic and perverse performance management ideology with its apparent commitment to localism, the development of civil society and the role of the local state in tackling both crime and antisocial behaviour. It underestimated the

complexity of the criminal justice environment which requires a legislative framework of clear and intelligible criminal justice provisions to deliver individual justice within an integrated environment of local state resources and expertise (Burke and Collett 2015). The initial push to tackle the causes of crime was lost within an environment where reducing the use of imprisonment for less serious offending was sacrificed on the high alter of media-driven political expediency and the price for this was an ever increasing prison population driven by a myriad of poorly reasoned sentencing and enforcement initiatives. Reflecting on new Labour's record in government in my editorial 'For better or worse' (Burke 2010b), I argued that it had; 'failed to take advantage of a falling crime rate and resorted to populist policies, fuelled by an "out of control" performance culture, which have in turn undermined the work of the probation service and led to record levels of imprisonment' (p. 228).

People Are Not Things: What New Labour Has Done to Probation (Burke and Collett 2010), written following the defeat of the Labour government in the 2010 General Election, was an attempt to evaluate the changing relationship between probation and New Labour, placing it within the context of wider approaches to crime control adopted by the government in each of its three terms in office. In our consideration of the previous 13 years we came to the conclusion that despite the negative impact on probation of an unrelenting reductionist focus on managerialist and technical policy fixes, there were still some grounds for optimism based on the emerging insights provided by the literature on desistance (see Annison et al. 2014 for a further discussion of these developments). Taking a lead from Lord Ramsbotham's statement in the House of Lords that 'people are not things' we reasserted the notion of probation as a moral enterprise:

> working with people, developing their personal capacity and enhancing their social capital – the resources they can utilize in their own rehabilitation – supported by evidence-based interventions is ultimately a human and moral enterprise. Returning offenders to the status of responsible citizens accepted and integrated within their own communities ultimately offers the public much greater safety than the

> expensive incarceration in a burgeoning prison population that has been a key motif and consequence of New Labour policies. (Burke and Collett 2010)

Reflections on Probation and the Coalition Government: Austerity, 'Big Society' and Privatisation

Following the election in May 2010, there was a flurry of activity focused around the notion of delivering a rehabilitation revolution. The appointment of Kenneth Clarke as Justice Secretary suggested a more pragmatic approach to penal policy; however, as I noted in my *Probation Journal* editorial 'Evolution or revolution' (Burke 2011a), it seemed to me that the Coalition was simply quickening the pace of what New Labour had either put in place or aspired to before their electoral defeat. Clarke inherited the legislative framework of the Offender Management Act 2007, which had introduced Probation Trusts and laid the basis for the future relationship between the Secretary of State and the 35 trusts. Competition was clearly going to be the order of the day and in December 2010, plans for a 'rehabilitation revolution' were outlined in the form of the Green Paper, *Breaking the Cycle* (Ministry of Justice 2010a), and an accompanying Evidence Report (Ministry of Justice 2010b). The Justice Secretary's oral statement to the Commons talked of bringing forward *a revolutionary shift in the way rehabilitation is financed and delivered*, based on more local and professional discretion, fewer targets and less proscription, greater competition and a system of Payment by Results (PBR) applied to all providers by 2015.

The proposals of the incoming government offered the possibility that there would be a different and more constructive approach to the governance of probation. As I noted in my editorial 'For better or worse?' (Burke 2010b, p. 229),

> Governments have a tendency to centralize and look for more radical change when there are favourable economic conditions and healthy

> majorities, and decentralize and look to more local solutions in adverse economic conditions when the capacity for change is limited and there is a need for shared responsibility for the management of scarce resources.

However, I found it hard to envisage how reduced wastage alone, or increased competition, would be enough without negatively impacting on front-line staff. Commenting on these proposals in my editorial 'For better or worse', I cautioned that

> The so called '*rehabilitation revolution*' whereby the private and voluntary sectors will be paid by how many prisoners they rehabilitate looks suspiciously like the ideological imperatives of marketization masquerading as economic necessity. The notion that organizations will be paid by results assumes a simplistic causal relationship between intervention and outcome that ignores the complex social context of many individuals who find themselves within the criminal justice system. In reality it could instead lead to an even greater concentration on narrowly defined targets and stifle creative work and innovation. (Burke 2010a, p. 230)

Whilst economic fortunes had been radically transformed between the latter days of New Labour and the new government as a result of the 2008 global banking crisis, there was also the shroud of David Cameron's *Big Society* hanging over the early days of the Coalition plans. As we elaborated in chapter 5 of *Delivering Rehabilitation: The politics, governance and control of probation* (Burke and Collett 2015), the so-called rehabilitation revolution, far from promoting or supporting Cameron's vision, instead took advantage of economic circumstances to continue to push further the interests of a neoliberal economy. In my editorial 'A runaway train' (Burke 2011b), I argued that 'It is perverse to talk about a "big society" whilst instigating public sector policies that undermine the social fabric upon which society is based' (p. 110).

Two documents entitled *Punishment and Reform* – one dealing with Effective Probation Services (Ministry of Justice 2012a) and the other *Effective Community Sentences* (Ministry of Justice 2012b) – were published as part of the overall *Transforming Rehabilitation* consultation process. Essentially, Effective Probation Services re-emphasised the

provisions of the Offender Management Act 2007 and asserted that 'Competition is seen as a means of raising the quality of public services which should be financed by the taxpayer, but delivered by whoever is best suited to do so' (Ministry of Justice 2012a, p. 3). A comprehensive PBR approach was envisaged for the future and Probation Trusts were to be developed as commissioners of services with separate local entities bidding for work in order to create a purchaser/provider split.

Taken together these consultations proposed a radical change to the delivery and oversight of community sentences. They further promoted the ideologically driven belief that splitting the service and outsourcing lower risk cases (irrespective of the dynamic nature of such risks) and other interventions would stimulate the market and encourage the private sector to bid for and achieve better results. Although there was some inevitable overlap, the second consultation paper *Effective Community Sentences* (Ministry of Justice 2012b) aimed to consult on the development of existing and future provision envisaged in the Legal Aid, Sentencing and Punishment of Offenders Bill (which received royal assent on 1 May 2012). As myself and Steve Collett argued in *Delivering Rehabilitation: The politics, governance and control of probation* (Burke and Collett 2015), 'The consultation document, whilst containing some welcome sections on the treatment of women and the development of reparative and restorative justice measures, was largely a rehash and reaffirmation of the importance of credible community sentences, rigorously enforced to punish offenders as well as to reform them' (p. 65). Whilst the paper reiterated the government's position that community orders were not there to replace short-term custody (Ministry of Justice 2012b, para. 20), it reaffirmed a belief that they could reduce it if used effectively. It argued the case for a punitive element in every community order, the introduction of intensive community punishments (interestingly for those at the cusp of custody), more flexible use of fines and innovations in the deployment of electronic monitoring, and the piloting of the alcohol abstinence and monitoring requirement provided for within the Legal Aid, Sentencing and Punishment of Offenders Act.

In my editorial 'Misunderstanding and misappreciation' (Burke 2012), I questioned what I saw as a number of dubious assumptions that appeared to underpin the two documents. First, the consultation

documents cited unacceptable reoffending rates as the justification for such sweeping reforms. It would be hard to argue that reoffending rates have been unacceptably high, with 60 % of released prisoners being reconvicted having served under 12 months (Ministry of Justice 2013b). However, it seemed somewhat perverse to blame the probation service, and use it as an excuse for further reform, for what is essentially a failure of the prison service, especially as this category of prisoner were released without statutory supervision. Moreover, according to the Ministry of Justice's own figures, proven reoffending of those individuals receiving community orders in 2008 was 8.3 percentage points lower than for those who had served prison sentences of 12 months or less, even after controlling for differences in terms of offence type, criminal record and other significant characteristics (Ministry of Justice 2012b, p. 10). Second, whilst the consultation paper Punishment and Reform: Effective Community Sentences (Ministry of Justice 2012b) did not seek to replace short prison sentences with community penalties, it proposed a clear punitive element in every community order and the creation of an intensive punitive community disposal for those on the cusp of custody. As I argued in my editorial 'Misunderstanding and misappreciation', 'Whilst punishment is of course a legitimate and expected response to criminality, by prioritizing the infliction of punishment, the proposals threaten to undermine the balance of sentencing outcomes and the underlying principles of proportionality and fairness in sentencing' (Burke 2012, p. 198). The rationale for such a move appeared to be based on what was perceived to be a lack of confidence in community sentences amongst the general public. In Bauwens and Burke (2013) we considered this 'search for legitimacy' in both England and Wales and Belgium and how the legitimation processes of the previous 15 years had impacted upon probation practitioners in both jurisdictions.

In a contribution to an edited collection of essays which we entitled *The devil in the detail: community sentences* (Burke and McNeill 2013), Fergus McNeill and myself further considered the arguments and proposals contained within the two consultation papers. We explored the conditions under which, and mechanisms through which, community sentences might serve to 'stem the flow' of imprisonment. We argued that the emergence of what we termed 'mass supervision' (in the

community) represented both opportunities and threats in terms of how they could come to be reconfigured and delivered in an increasingly marketised environment. Outlining what we saw as the practical and methodological challenges of implementing a PBR model of commission (see also *'Payment by Results': Some methodological issues and research challenges from the United Kingdom* [Burke 2013a]) we argued that although PBR may be politically attractive on a superficial level it ultimately fails to address the deeper questions of penal politics, values and approaches on which progressive reform depends. This led us to explore what alternative narratives might be imagined for community sentences? Our contention was that making community orders more punitive in an attempt to match the damaging impact of imprisonment 'was not only misguided but could undermine the legitimacy, without which securing compliance from those subject to community sentences, and even ultimately supporting their desistance from crime are jeopardised' (Burke and McNeill 2013, p. 114). Instead we argued that more attention was needed to to identify what sorts of reparation and redemption signals could be sent to communities that might foster support for reintegration.

When Kenneth Clarke was replaced by Chris Grayling as Justice Secretary in September 2012, it was evident that the pace and ideological intent of the rehabilitation reforms would intensify given the former's previous role in overseeing the implementation of a PBR commissioning model whilst he was responsible for the Department for Work and Pensions. January 2013 saw the publication of another consultation paper, entitled *Transforming Rehabilitation: A Revolution in the Way we Manage Offenders* (Ministry of Justice 2013a), that shaped the government's final position encapsulated in *Transforming Rehabilitation: A Strategy for Reform* (Ministry of Justice 2013c). In the short time between the two documents and the earlier consultations there was a significant change in direction. Rather than holding a central role in the commissioning of services, probation would in effect become a residual public sector organisation dealing with the most difficult and dangerous cases. The remaining, which constituted about 70 % of probation's workload, would be supervised by private sector organisations, in conjunction with those voluntary sector organisations who wished to form commercial

alliances. Local Probation Trusts would disappear as services were commissioned on the basis of some 21 contract package areas. This simple description, of course, does not capture the complex web of relationships and partnerships that exist at the local level. These range from those built up over years of informal engagement and commissioned activity to meet local needs to partnerships enshrined in law and binding on local probation trusts (see Burke and Collett 2015, chapter 6, for a discussion of these developments). An initial attempt by the Ministry of Justice to clarify partnership arrangements under future structures (2013d) only highlighted the potential for wasteful duplication and the danger of blurred accountability and governance that had been the responsibility of the local Probation Trusts.

The Transforming Rehabilitation proposals were short on detail regarding how risk would be managed across private and public bodies in a world of multiple providers. The government attempted to put a spin on the risks involved in its proposals by presenting them as a means of providing a better service to those short-term prisoners who currently receive no statutory support on release. Similar plans had been proposed by the previous New Labour administration but were curtailed on grounds of cost (Newburn 2013). In my editorial 'The rise of the shadow state' (Burke 2013b), I argued that 'Ultimately, it is difficult to understand the logic of fragmenting service delivery to the majority of those currently subject to statutory supervision under the guise of filling this gap in provision' (p. 4), pointing out that the probation service's lack of involvement with those sentenced to imprisonment of 12 months or less was not the result of a wilful neglect by the organisation but were the outcome of legislative changes brought about by a previous Conservative government in the 1991 Criminal Justice Act. Dismantling the probation service based on a rationale of unacceptable levels of reoffending amongst a group for which it has no statutory responsibility seemed to me to be 'at best disingenuous and betrays a fundamental ignorance of the services work' (p. 4). The contracts for running the CRCs were to be for between 8 and 10 years and as I noted in my editorial 'Grayling's hubris?' this had 'all the hallmarks of a "scorched earth" policy which a subsequent change of government would find difficult to untangle even if it were so inclined' (Burke 2013c, p. 377).

The proposals contained in *Transforming Rehabilitation* were presented to parliament as part of the legislative framework of the 2013 Offender Rehabilitation Bill (subsequently proceeding to the 2013 Offender Rehabilitation Act). In a short piece for the *British Society of Criminology* (Burke 2013d), I outlined my objections to the plans. Whilst I welcomed the focus on improved resettlement outcomes through the extension of the licence and supervision requirements for short-term prisoners as being long overdue I contended that the potentially unintended consequences of this development had not been fully thought through, or financially accounted for, and could in turn have the unintended consequence of increasing the prison population.

In Burke (2015) I suggested that perhaps the ultimate failing of the proposals was the lack of understanding of the complexity of supervision which I argued cannot be reduced to an instrumental means of reducing reoffending at the lowest cost. Service users were presented as a homogeneous group, differentiated only by the category of risk assigned, and there was little acknowledgment of diversity issues. For example, there was a glaring lack of any specific policies for dealing with women despite the government's acknowledgement in their *Transforming Rehabilitation* strategy of the widespread support among those consulted that services specifically tailored to women's needs should be further developed and delivered. In this respect the government's proposals contained all the elements of what Lorraine Gelsthorpe has insightfully described as a 'curious mix of political posturing, populist punitiveness and measures to reduce costs' (2012). The demise of the probation service in England and Wales as an integrated public service has been unedifying and has further widened the distance between the community and those who offend in order to maximise profit opportunities for a small number of powerful providers.

Where Do We Go from Here?

How then do we summarise the developments outlined in this chapter? In our conclusion to *Redemption, Rehabilitation and Risk Management* (Mair and Burke 2012) we considered the nature of the contemporary

changes to probation. First, we contended that they do not always represent radical discontinuities with the past. Second, we acknowledged that probation has always been subject to change – this is not something that has just begun to happen in the last couple of decades, although the scope, speed and depth of change have all certainly changed. What is different though has been the way in which change has come about. For most of its history, developments in probation were rooted in the practical everyday work of the service. Today, change is driven from the top down. In this respect probation's experience is perhaps just another example of what David Marquand (2004) has termed 'decline of the public'. Probation was an easy target for advocates of a punitive approach to crime control and the service was stripped of the assets that made it what it was. This has continued under both the New Labour and Conservative/Liberal Democrat coalition governments.

It could be argued that it is not so much that the key changes imposed on probation were necessarily mistakes in themselves. Probation needed to change and was at times reluctant to do so. The problem though was that the full, long-term, cumulative impact of the changes was not thought through. For example, becoming a fully fledged criminal justice agency may have been a sensible development, but having to lose completely its social work foundations meant that probation lost its unique nature. There were certainly many problems with having 42 separate probation areas, but moving to a fully centralised service based in the Home Office was not the only solution to these problems. Community penalties in general may have needed to be seen as more rigorous, but consistently making the service more punitive was a wasted effort as it could never compete with prison in these terms, and it meant the marginalisation of rehabilitation which – however difficult it may be to evidence consistently – does work in reducing offending, is less harmful to individuals and cheaper than custody. Probation had been working successfully with voluntary agencies since its earliest days, and perhaps encouraging more and more consistent use was a positive development; to open probation work up to competition, however, not only meant a myriad of difficulties of regulation, control and accountability, but risked thrusting probation into a marketplace

where it could easily lose its way. Finally, closer working with the prison service could only have been beneficial, but the form that NOMS has taken was not necessarily the way to achieve that and the many structural changes that have taken place since are, at the very least, suggestive of government unease.

We cannot escape the reality that it is the ideological imperatives of the grand neoliberal economic strategy that has ultimately determined probation's experience over the recent past. To simply concentrate on the immediate political environment, the interplay of party politics, public opinion, electoral success and service delivery mechanisms, without considering the wider ideological and political forces at play, makes understanding of policy direction and innovation in delivery mechanisms somewhat perplexing, particularly when they fly in the face of evidence about what is effective in reducing re-offending.

In the end, it is difficult to speculate about probation's future(s) without thinking about what has been lost. The impact of Transforming Rehabilitation has been profound, especially among those directly involved in its implementation (see Robinson et al. 2016). Despite the challenges in implementing the Transforming Rehabilitation agenda (HM Inspectorate of Probation 2015), and suggestions that at least one of the prime providers is struggling to meet its contractual requirements (The Independent 2015), the return of probation as an integrated public service seems unlikely in the foreseeable future. Whether or not the new arrangements will lead to the increased innovation and greater autonomy from centralised control, in the CRCs at least, is still a matter of conjecture. It might be possible to envisage ways of working that integrate the best of the traditions of probation drawing on the resources of the private sector. The diverse range of activities undertaken by the prime level providers, such as Interserve and Sodexo, could see those under their supervision linked into, and perhaps even gaining employment in other parts of their operations. A more dystopian vision is an increasingly fragmented model of service delivery controlled by a small number of multi-national corporations and mainly driven by the imperatives of cost reduction and profit maximisation. Throughout my work I have asserted my belief that the concept of rehabilitation is ultimately a moral undertaking because it is about what society ought to do, rather than what it

currently does, to rehabilitate and reintegrate those who offend. In destroying the ethos of probation and the occupational strength of its workers through fragmentation and privatisation, this moral narrative and purpose will inevitably be undermined.

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Lol Burke came upon employment in the Probation Service by accident securing a temporary contract to teach basic literacy in a local probation hostel. This stimulated an interest in working with those individuals caught up in the Criminal Justice System and he subsequently worked as a Probation Service Officer in an inner-city probation office in Liverpool before undertaking the CQSW as a Home Office Probation Officer Trainee. Between 1988 and 1997 he worked in a range of probation roles in both community and custodial settings.

Between 1997 and 2005 he was a joint appointment with Merseyside Probation Service and Liverpool University initially teaching on the social work programme. Following the introduction of the Diploma in Probation Studies, he was the Course Leader at Liverpool University whilst retaining oversight of the Trainee Probation Officers in the Merseyside area in his role as Senior Staff Development Officer. In 2005 he joined Liverpool John Moores University as a Senior Lecturer in Criminal Justice and was subsequently

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4

Social Justice, Human Rights and the Values of Probation

Rob Canton

Becoming a Probation Officer

I have participated in recruitment interviews where applicants have been asked 'Why do you want to become a probation officer?' and sometimes the question makes me feel uneasy: for I have never been sure how to answer that question for myself. As I left university, having studied Classics, Ancient History and Philosophy, I had no idea what career I wanted to follow. A chance set of circumstances led to my being appointed as 'Assistant Warden' at a hostel for former prisoners, where I was to work, living on the premises, for just over a year. It had been established as a therapeutic community, though none of us staff really appreciated what that meant. Some of our residents had come from Grendon Underwood and a few more from Broadmoor and they

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certainly had a fuller understanding of 'therapy' than we did. I found that I loved the work and immersed myself in the life of the hostel. It was suggested to me that I should next train to become a probation officer and although I didn't really know what that involved, I applied and was offered a place to study for a Master's and the Certificate of Qualification in Social Work at the University of Nottingham.

Probably the most valuable learning from this course took place on the practice placements, but I was also introduced to some ideas that were new to me and that have had an abiding influence. In particular, I recall my first introduction to criminology, including the critiques of the 'medical model' (presented to us by Philip Bean, whose arguments and style are well illustrated in Bean 1976), which gave me a different way of thinking about the work I was to undertake as a probation officer. The writings of Ivan Illich on medicine and on education convinced me that the problems of living cannot be resolved by technical means and I began to think this was true of crime as well (see below). Steven Lukes's brilliant monograph on power (Lukes 1974) helped me to understand better how power may be exercised.

After qualification, I worked for the Nottinghamshire Probation Service and after 9 years as a probation officer, I was appointed Senior Probation Officer (Training) (one of the national SPOTs). Several different roles came later and one to mention, if only in passing, is Senior Family Court Welfare Officer. This 'civil work' merits more attention in probation's history than it usually receives.

> Skills of mediation and conciliation, now applied to other circumstances of conflict (victim – offender mediation, neighbourhood conflicts) were originally acquired and honed in Family Court work. Challenges of diversity and difference of culture (questions of family responsibilities and rights, 'proper parenthood') were immediately manifest here and Family Court staff had to engage with these challenges. Inter-agency work – especially liaison with other agencies around child protection – developed here at least as early as it did through formal partnerships in relation to criminal work. An awareness of domestic violence and of the many ways in which (most usually) fathers could harass and undermine their former partners was also often acquired in this context.

> . . . the participation of probation officers in these activities enriched their understanding and broadened their repertoire of skills. An holistic appreciation of people in the context of their personal lives and relationships – working with people not just with regard to the offences they have committed – afforded insights that offered a much more rounded understanding. It also offered an enhanced appreciation of the ways in which relationships can conduce to desistance. (Canton 2007a, p. 146)

I next moved to work in the Midlands Training Consortium, established in 1998 to implement the new training qualification, the Diploma in Probation Studies (DipPS). I had already for some years worked as a Visiting Lecturer in Criminology at the University of Nottingham. This had encouraged me to read criminology much more systematically than I had ever done before and then to think about adding my own contributions to the literature. Joining the Consortium brought me close to probation education once more and it seemed a natural step, some 3 years later, to join De Montfort University, where I came to lead a large DipPS programme.

While I am certain that our practice background enriches our abilities to teach and research, I suspect that many others who followed this career trajectory – from practitioner to trainer to scholar – may feel as I do that there are large gaps in our knowledge of the subject because of the ad hoc manner in which we learnt about it. Gaps in our skills may be even larger: I have never had any training in methods of research and my understanding of some methods is decidedly wobbly.

The Personal and the Political

The year 1979 was the year I started working as a qualified probation officer and the year that Margaret Thatcher became prime minister. The recession over which she presided cast its long and dark shadow over many of my years in practice. Where I was working, as indeed across much of the country, young people who had hoped to do better than a job at the local factory now found that even that factory was closing and were harried and chivvied into various schemes that were a poor substitute for a ‘proper job’. I worked first in a relatively well-off part of the

Nottingham conurbation and here the recession weighed heavily enough, but between 1984 and 1988 I worked in an area called St Ann's where, some years before, Ken Coates and Bill Silburn (1973) had 'rediscovered' the poverty that politicians claimed to have been eradicated. Here I found some people striving in impossible circumstances, as well as some who were simply overwhelmed and no longer able to strive. These experiences confirmed my readings and reflections and starkly exposed the social injustices of this (and subsequent) periods. I struggled with the tensions and dilemmas of working 'in and against the state' (London Edinburgh Weekend Return Group 1980) though, as a diligent practitioner, my opposition rarely went beyond intellectual critique.

The salience of hardship and injustice brought me to certain views about the relationship between crime and criminal justice. And I don't know whether to be proud (consistent?) or ashamed (closed minded?) that these views are substantially unchanged since I first struggled to articulate them some 30 years ago:

> it is life opportunities that are associated with rehabilitation, whether it be a relationship or a home or employment. Custody necessarily denies these opportunities and undermines the capacity to take advantage if they do occur. The penal system, then, can destroy these opportunities, although it cannot create them.
>
> That the penal system is structurally marginal to crime does not entail that its impact on individual offenders is insignificant. On the contrary, its influence can be profound and life-changing and, . . . as concerns custodial sentences, is normally negative and productive of further offending. Non-custodial sentences, although unlikely to be sufficient to ensure a reduction in an individual's offending, do not normally destroy the opportunities that lead to stability. (Canton 1987, p. 100)

Much more recently, I have tried to put the matter in this way:

> The relationship between crime and criminal justice is, in many important respects, like the relationship between health and medicine. What makes people healthy? Genetic legacy is important, as well as (in the most general sense) environment . . . But most of this is entirely beyond the reach of medicine. This by no means entails that medicine is

> unimportant. On the contrary, high quality medical services are essential when people are ill or injured, and medical research has helped us to understand many of the elements of a healthy life. But it does expose the limitations of medical services in ensuring our health.

Analogously

> Most of the factors that are known to be associated with offending are entirely beyond the reach of criminal justice. The implications of criminological research point policy towards a range of social and educational measures, but very few of these are criminal justice interventions. This does not mean that criminal justice is unimportant: on the contrary, trustworthy and effective criminal justice institutions have an intrinsic worth and can make a decisive difference for many people. But, just as it is unrealistic to expect that medical services can make people healthy, so it is not reasonable to suppose that the agencies of criminal justice can solve the problems of crime. (Canton 2010a, p. 46)

A great deal of criminal justice policy has occasioned frustration and disappointment because of a wholly exaggerated belief that policing, prosecution and sentencing are 'the solution' to crime. For that matter, there are some interventions and punishments that make things much worse (*iatrogenic*, to pursue the analogy). A quotation I have (too) often cited is,

> we are tempted to adopt barbarous measures out of disappointment, or foolish ones of out despair, simply because we fail to achieve what we have no right to hope for in the first place. (Gross 1979, p. 4)

Further support for this way of understanding crime has emerged from the findings of desistance research (see McNeill and Weaver 2010 for a useful overview). This research indeed recognises the value of the relationships that probation can offer, but it also insists on the importance of social capital (Farrall 2002). Unless people are afforded fair opportunities, they will struggle to find ways of living in which offending has no place.

What does this mean for probation? Robert Harris once described probation as 'modest but useful' and I always believed that this is a reasonable assessment and in no way depreciates the remarkable work

done by so many probation staff. I once heard a Clerk to the Justices remark 'Probation should be scrapped. It doesn't make any difference at all to levels of crime'. I later adopted this as an essay title for students on the DipPS. Is it true? And does the worth of probation depend on just this? These reflections raise important questions about what probation 'stands for' – not (or not only) what it 'does' and the extent to which it 'works'.

Attention to representation, symbol and emotional elicitation is indispensable to an understanding of punishment and commonly the 'driver' of penal change (Smith 2008). Neglect of these aspects can also be fatal for policy initiatives that fail to chime with received attitudes and opinions. Throughout my career I have heard colleagues lament that probation must improve its 'public relations', its 'image'. If only the public truly understood what we do and how effective we are, it is supposed, it would have much greater confidence in our work. But perhaps probation is 'singing in the wrong register': even the most compelling statistical evidence would leave many people unmoved because 'probation does not look like enough of a punishment for a crime'. Ian Loader (e.g. 2005) has cogently argued that there are decided limits to the extent to which providing information is likely to affect attitudes to punishment because these attitudes have an emotional origin and foundation. It has been well said that 'It is useless to attempt to reason a man out of a thing he was never reasoned into' (attributed, perhaps incorrectly, to Jonathan Swift).

What does probation represent? Of the many decent things that probation may be said to stand for, one is that 'people who have offended are our members of our community'. Punishment by the state should be done against a background of confidence, shared by the punishers, the community and the person who has offended, that the status of 'offender' is temporary and that all involved will look forward to opportunities for reintegration and the restoration of the individual to community membership or (if the idea of community membership is too vague) to a time when their standing and prospects will no longer be determined by their past wrongdoings. If prison betokens exclusion, probation stands for inclusion and for fair opportunities for people who have offended to establish another way of living. But to affirm this is to row against the current of the times.

Probation: Its Limits and Its Value

Working abroad has strengthened my views about the priority of values and what probation should stand for. I have had the great privilege of working in a number of other countries that have been trying to develop their probation practice. But why might a country want to set up a probation service? Among the familiar arguments used in support of probation, three stand out in particular – and all have decided limitations.

> First, it is supposed that *community sentences, administered by the probation service, are the best response to rising prison populations*. {Yet} Some countries (e.g. England and Wales) have seen increases in their prison populations *at the same time as* increases in the proportions of defendants receiving community sentences [which] can have no more than a modest effect on the size of the prison population overall.
>
> Secondly, it believed that *probation can protect the public*. There are some excellent examples of probation services, typically in partnership with the police and other criminal justice (and civil) agencies, working diligently and successfully to reduce risk . . . At the same time, exaggerated political claims about probation's capacity can lead to disappointment and unreal expectations. A large proportion of grave crimes are committed by people in lower risk categories. So while probation's capacity to contribute to public protection is considerable, it is important that this should be expressed carefully and realistically.
>
> Thirdly, it is widely held that *probation can rehabilitate offenders*. But once again such claims must be expressed in a modest and qualified way. . . . A judicious summary of the achievements of programmes in England and Wales suggests that at least some initial expectations have turned out to be over-optimistic (Bottoms 2004). (Canton 2009a, p. 2)

Perhaps, then, above all it is the values of probation that should be affirmed when 'taking probation abroad' (Canton 2009b). But now questions arise not only about the substantive values that probation ought to espouse, but what sorts of things values are anyway and how they are to be discussed.

It is not enough to understand values in purely cognitive terms – just as beliefs or as attitudes.

> unless values are to remain as mere metaphysical loiterers without any obvious intent, they must enjoin certain types of behaviour and – just as importantly and often under-emphasised – rule out others. This is generally true of values, but it is definitively true of professional values – an announcement of how clients, service users and the public may expect the profession to behave. Clark well says that: 'It is an error to reify values – that is, to treat as inert objects what should always be understood as the ongoing accomplishments of skilled and knowledgeable persons imbued with a moral sense.' (Clark 2000, p. 31)
>
> The first test for a value statement, then, should be to try to determine what would count as expressing it in practice and indeed what would constitute a violation of it. . . . abstraction can disguise immanent conflicts in values that become apparent when we consider how to give them practical expression. (Canton 2007b, p. 241)

In that case, how probation goes about its work is paramount. Instrumental conceptions of our work – the idea that there is some thing or things that probation is 'for' – risk losing this and then encountering values as obstructions. David Garland captures this with his customary eloquence:

> the pursuit of values such as justice, tolerance, decency, humanity and civility should be part of any penal institution's self-consciousness – an intrinsic and constitutive aspect of its role – rather than a diversion from its 'real' goals or an inhibition on its capacity to be 'effective'. (Garland 1990, p. 292)

Processes Matter

Contemporary approaches emphasise outcomes and end-states and there have been times when the government has come close to saying that it is almost indifferent to the ways in which these outcomes are achieved. This is a serious mistake and runs the risk of admitting all kinds of attendant injustices. We need to focus on processes, on how things are done. But of course process is far more difficult to comprehend than outputs or outcomes and is therefore much less susceptible to audit. (It may be more than a grammatical curiosity that 'advise, assist and befriend' are verbs,

while the watchwords of probation in the twenty-first century are nouns – 'enforcement, rehabilitation and public protection' – outcomes, objectives, states of affairs.) These are among the reasons why some precepts of managerialism are inadequate to comprehend probation's work. There are dimensions of probation's work that cannot be captured by audit and that are distorted by an attempt to reduce them to quantifiable occurrences.

Enforcement is a conspicuous example. I was an SPO in a busy city field team when National Standards were introduced and their shortcomings were immediately apparent. The findings of later audits were said to show that enforcement was probation's 'Achilles heel' (Hopley 2002), but what these audits showed was that in many cases staff were not practising in accordance with National Standards (Hedderman and Hough 2004): they did not pretend to show (as their authors clearly emphasised) that practice was in this respect ineffective (either in increasing compliance or in reducing reoffending), inefficient or unfair.

> How are we to weigh the relative levels of compliance between, say, an offender who invariably attends the probation office, but determinedly avoids any attempt to 'address offending behaviour' and, on the other hand, an erratic attender who shows a significant – if variable – commitment to avoid reoffending? Who is making the better progress? But whom do the rules place at more risk of breach?
>
> {in particular} the way in which the rules and lists prescribe enforcement glibly ignores diversity – the indefinitely many ways in which people and circumstances differ from one another. It is true that an absence of rules opens up possibilities of capricious and unjust practice. But a decision can be quite as unfair if a factor – a factor that relevantly differentiates one set of circumstances from another – is ignored. And this kind of just and proper differentiation cannot be captured by audit at all. (Canton 2008, p. 531)

Similarly, not all problems lend themselves to responses that can be formulated as SMART objectives, and the attempt to frame a problem to make it amenable to a SMART analysis can distort its character. Not everything to which people reasonably aspire can in any significant sense be measured or even well specified: people may well have ambitions that are vague and distant, but nevertheless real and inspirational. Nor are the steps towards them always immediately apparent.

It seems to me that a direct pursuit of some of probation's objectives shoves processes aside (and thereby immediately compromises ethical practice) but can also be self-defeating (Canton 2013b). Instead we might ponder the virtues of 'obliquity' – the idea that some human goods are best achieved indirectly.

> treating people with dignity and respect must not be seen as an instrumental means of reducing reoffending. . . . this is an ethical entitlement that does not depend upon its contingent outcomes. . . . an ethical approach to probation not only ensures that moral considerations are prominent in the development of policy and practice, but also, because of the principle of obliquity, often turns out to be more effective in achieving probation's goals. (Canton 2013b, p. 15)

Perhaps neglect of process and disregard of ethical significance have worked symbiotically with instrumentalism and a managerialism that depends upon comprehending practice as (and reducing it to) auditable episodes – and losing the point along the way. It is not coincidental that the ascendancy of targets and objectives has been accompanied by 'the seeping miasma of moral silence' (Whitehead 2015, p. 80).

In any event, once it has been determined that it is outcomes that matter it seems easier to become indifferent to the question of who should 'deliver' these outcomes. If probation is seen as a device to reduce reoffending, it is well on the way to being transformed into a 'product' to be purveyed by the most efficient (or even cheapest) vendors. If, on the other hand, probation's value rests mainly on what it stands for – what a society owes to people who have offended to enable them to lead better lives without offending – the case against privatisation is much stronger.

Human Rights

How, then, ought values to be discussed and their substance identified? Some of my earlier work overseas had been in association with the University of Nottingham, Human Rights Law Centre, and unsurprisingly these experiences encouraged me to think in terms of human rights as the best way for probation to explore and articulate its value position.

> There are at least three advantages to trying to frame probation values in this way:
>
> 1. It would make probation values mainstream, using the common language of contemporary ethical discourse. This in itself reminds us of the essential humanity of offenders (and not only offenders) and that infringement of their rights calls for justification.
> 2. It would set probation values in an international context. . . . Accountability to the {Human Rights} Convention and the ECHR is a valuable safeguard. Equally, key principles like proportionality can be gauged through international comparisons.
> 3. It makes the policies and practices informed by these values justiciable – capable of being decided by a court. (Canton 2009c, p. 17)

That said, the concept of human rights is not everywhere popular (Gies 2014) and is often associated with debates about national sovereignty and what it means to be a member of an international community. Europhobia has accordingly misrepresented human rights (often wilfully) and encouraged sneering. Yet,

> Human rights are those rights that all people have in virtue of our common humanity. They include both liberties and claims, being used in political debate to remind governments of the limits of their powers over their citizens (liberties) and of their obligations to create circumstances in which people can thrive and prosper (claims). Human rights are especially important in criminal justice and punishment, where the coercive powers of the state are so manifest. Punishment may even be defined as a deprivation or suspension of rights. Yet hard questions arise about which rights are forfeit and which should be protected. (Canton 2013a, p. 3963)

and

> we need an ethical basis from which to challenge and criticise government – even (perhaps especially) in a democracy. The language of rights has been deployed to remind governments of their limits and their obligations, that ends may not be assumed to justify means, that individuals and minorities may not simply be disregarded in the relentless pursuit of their conception of the general welfare.

> . . . the question of the rights that we have, their extension, their relationship with the rights of other – especially in cases where rights conflict – is the very stuff of politics (Gearty 2006). Like most serious moral questions, the matter of the rights that we have remains open, indeterminate and inherently contested. (Canton 2009c, p. 10)

This seems to me to be the right way for probation to establish its moral foundations. The European Convention sets out an international consensus of values and the Council of Europe has done much important work in trying to work out what these values entail for prison and for probation (see Canton 2010b). Rights, it bears repeating, are everyone's and this encourages attention to victims, to people who have offended, to their respective families and to everyone else who is or might be affected by crimes or by punishments. The ground floor question for probation practice for some 20 years has been taken to be 'what works?' But not only has this question proved to be pretty much unanswerable, there is a risk, as we have seen, that rights will then be encountered as obstacles, leading to just the sort of litigious defensiveness that the Home Secretary warned against when the Human Rights Act was introduced (Canton 2009c). Better to begin with 'what's right?'. This is no easier to answer than 'what works?' but it is the surer guide to just policy and practice and, if the case for obliquity is persuasive, perhaps to effectiveness as well.

Some Thoughts About the Future

The creation of NOMS, binding probation tightly to prison, has further enmeshed the service in the volatile politics of imprisonment. In particular, there is a real risk that probation will be reduced to being a device to manage the size of the prison population – as seems likely in the under-representation (and sometimes even absence) of informed probation champions with influence. No less disconcertingly, *Transforming Rehabilitation* has exposed the political weakness of the probation ideal: critics of TR have won the argument time and again, yet the project was pushed ahead anyway and some of the wisest staff in the former Trusts were ignored or bullied into silence (see, e.g. Travis 2013). The radical flaws in the TR project have been exposed by many informed and

perceptive scholars (see notably *British Journal of Community Justice* 2013). My own critique was sketched in *Probation* (Canton 2011) and rests especially on three concerns:

First, it is not clear that commercial companies could (or even should) have regard to the public interest. Second, it is in the nature of commerce to expand and privatisation will unavoidably have a net-widening and inflationary effect on a penal system which is already bloated in the forlorn attempt to achieve 'what we have no right to hope for in the first place' (Gross 1979 – see above). Third,

> there are some domains where the market has no place. The involvement of the market corrupts and distorts the values of the social practices in question. If the value of probation consists in what it represents and embodies about society's duties towards victims and offenders, then its practices are not things to be bought and sold. Security is not a commodity, rehabilitation not a 'product'. (Canton 2011, p. 189, acknowledging; Sandel 2012)

It seems that payment by results, which was the basis of payment when these proposals were originally formulated, has been whittled away, as those commissioning provision on behalf of the Secretary of State came to realise that any community rehabilitation companies (CRC) would only be prepared to make the necessary investment if a sufficient return could be ensured. (This has often been the case with marketisation: for all their claims, providers in many sectors turn out to be much more risk averse than their proponents pretend and will only participate if they are assured that the Exchequer will underwrite their speculation.) The government has here a remarkably poor track record of securing a good deal for the taxpayer (see, e.g. Jenkins 2014) and these processes are usually tainted by suspicions of conflicts of interest which the government implausibly claims it can rise above (Jones 2014, passim).

The belief that market competition always raises standards is a triumph of ideology over reason and experience. The government has had to encourage bidders with the prospect of sufficient financial return, while hastily reassuring everyone else that these returns will not be exorbitant. The attempt to square this circle involves a reiteration of the lazy myth that the private sector is more efficient than the public sector and that

expense can be reduced by efficiency savings. Meanwhile large sums of money will go from the public purse to private shareholders – money that could have been invested into enhancing service provision.

While I have long been a critic of National Standards, it is worth remembering one of the reasons for their introduction, which was to enhance fairness by reducing discretion. (This is a mistake – unfairness is reduced not by constraining discretion, but by enhancing accountability [Canton and Eadie 2004].) Newer versions of Standards have restored considerable latitude, but while this could be given a welcome, the proper use of discretion depends on having well-trained, experienced and wise staff to exercise it with justice. While the CRCs retain many staff with just these qualities, it is hard to see how they will be protected as CRCs become established and look to minimise their expenses by reducing training and staff development.

Among the many clouds some can be seen with silver linings. First, the not-for-profit sector may be able to undertake much excellent work and stimulate the National Probation Service. So long as it is not neutralised by contract arrangements that bring it into government service, the 'third sector' could continue to be a force for enhanced provision and to perform its invaluable role as an irritant to complacency in policy. Second, the 'user voice' is becoming louder and more confident. Although there has been an enormous amount to admire in its history, probation, like too many other public services, has not tried to learn nearly enough from its clients. This has begun to change and may turn out to be a powerful influence for good. Here again the wholesome impact of desistance research can be detected. In a healthy rejection of any search for 'the causes of crime', desistance researchers have asked people about their 'pathways' into and out of crime, attending to their reasons and to the meanings with which they invest their behaviour. Now it is becoming impossible to ignore these perspectives and user groups are growing in assertiveness and political sophistication.

The concern with 'offender engagement' (despite the terminology) deserves at least two-and-a-half cheers out of three. This has reinvigorated inquiry into the nature of relationships and their contribution to enabling personal change which, together with an insistence on social inclusion, are the distinctive, if not defining, characteristics of probation.

There is also an increasing appreciation that none of these can be properly understood without considered attention to the importance of 'the emotional' (Knight 2014).

Another source of optimism lies in the nature of the work that probation has always had to do. It involves working with people to motivate and enable them to change – often including efforts to bring it about that they will do things that they might not have chosen to do – and this can only be achieved by treating them with dignity and respect. Practice in the CRCs may yet come to express 'probation values' just because it is the only way in which the job can be done.

> A professional ethics can – indeed should – emerge from the profession's experience of trying to deal with morally complex states of affairs in principled and decent ways. If that is the case, then some traditional probation values may be much harder to change than has often been appreciated precisely because they are the product of reflective and ethical responses to the realities of practice. Rather than framing an abstract series of values, which we then strive to apply to practice, we should take seriously the possibility that the demands of practice – specifically of working with offenders in the community – ought to be allowed to mould these values. (Canton 2007b, p. 245)

The profession of probation continues to attract a number of people who can see the value of trying to help others in difficulty and to support them in their endeavours to find ways of living in which offending has no place. In many important respects, their motivation has not changed and their answers to the question 'why do you want to become a probation officer?' are recognisable to earlier generations of practitioners (Deering 2011). These professionals will find ways of doing the right things in the right ways.

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Rob has taught, researched and written on a number of probation and penal topics. His publications include the *Dictionary of Probation and Offender Management* (2007), edited with David Hancock, and *Probation: Working with Offenders* (2011). He has been extensively involved in recent years in work on behalf of the Council of Europe and in European Union projects to help other countries develop their penal practice, especially in Eastern Europe. Rob was one of the experts appointed by the Council of Europe to contribute to framing the European Probation Rules and Commentary (2010) and on consolidating and updating the European Rules on Community Sanctions and Measures (anticipated autumn 2016). He has also acted as a Specialist Adviser to the House of Commons Justice Select Committee in the UK.

5

Values in Work with People Who Commit Sex Crimes

Malcolm Cowburn

Motivations and Values

One of my motivations for becoming a probation officer was to help 'ameliorate the hardships of the criminal justice system on people charged with and/or convicted of criminal offences', as I put it in my application for training. Initially, I worked with a team of probation officers based in what was described as a 'mixed' area encompassing very poor council estates and more affluent rural villages. The main source of working class employment was mining, which was to be destroyed by Thatcher government policies after the miners' strike of 1984. I was a committed Trade Unionist and joined the National Association of Probation Officers (NAPO) as a trainee; I remained a member of NAPO until I left probation.

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NAPO, as a trade union, was also concerned about issues of professional practice. At the heart of these concerns lay the nature of the probation order, and therefore, the nature of the probation service. The 1907 Probation of Offenders Act and subsequent legislation until the 1991 Criminal Justice Act defined the role of the probation officer as being 'to advise, assist and befriend' persons convicted in the criminal courts. Moreover, until 1991, the convicted person had to agree to being placed on a probation order. Consent and an absence of coercion were key to probation officers' involvement with most people convicted of offences. This is not to say that probation officers could not invoke the coercive authority of the courts or the Home Office where necessary; for failure to comply with the terms of a probation order probationers could be returned to court for re-sentencing, and those on licence could be recalled to prison in certain circumstances. As a probation officer, I recalled two lifers to prison.

The late 1980s and 1990s saw the growth of the number of conditions that could be included in a probation order or post-custodial licence, including requirements to attend offending behaviour group programmes that were being developed at this time. Initially NAPO and probation services resisted these impositions as incongruent with the voluntaristic nature of social work involvement with people convicted of offences (Robinson et al. 2015; Gelsthorpe 2007). However, penal policy of the 1990s established mandatory requirements within all varieties of probation supervision. Offending behaviour programmes proved particularly adaptable to this change in orientation with programmes becoming mandatory vehicles to 'toughen' community sentences. In these early programmes probationers were 'confronted' with their offending behaviour and required to change (Sheath 1990 was one of the few who raised concerns about the nature of confrontation).

The changes in (and eventual extinction of) the probation order reconfigured how the sentenced person was viewed – she or he became an 'offender', and, as such, their right to consent to treatment was withdrawn. By objectifying the person convicted of offences, the professional probation relationship potentially became attenuated, with the probationer being defined solely in terms of offending behaviour and the

parameters of the relationship being narrowly defined by mandatory requirement and National Standards (Home Office 1992). Shapland et al. (2012, p. 7) note that National Standards

> continued to attract criticism for their tendency to bypass quality in favour of the easily measurable, perhaps encouraging a focus on efficient rather than effective practices.

I suggest that the quest for 'effective' punishment preoccupied penal policy and probation practice at the end of the twentieth and the beginning of the twenty-first centuries, at the expense of values and ethics. It is to these matters that I now turn.

The Values of Probation Practice with Sex Offending

In this section I reflect on the encroachment of punitive values into probation practices with sex offending by:

- Considering the ongoing debate surrounding whether treatment can/should be forced upon a person without her/his informed and active consent (see, e.g. Connolly and Ward 2008).
- Exploring the values embodied in probation practice with people who commit sex offences.

Issues Related to Mandated and Voluntary Participation in Treatment Programmes

In 1991 my colleagues and I reviewed the arguments for and against mandated treatment (Cowburn et al. 1992, pp. 26–30). Early UK probation practice with men convicted of sex crimes was greatly influenced by Derek Perkins (who later became Head of Psychological Services at Broadmoor, a Special Hospital in England) and his colleagues who worked at Birmingham prison and Birmingham University. Perkins

(1987, p. 197), although he recognised that forensic psychological therapy could not be completely free of criminal justice and penal considerations, considered that voluntary consent for treatment should incorporate three principles: 'Information' – all options for treatment and non-treatment should be fully explained; 'Freedom' to withdraw from treatment without any adverse consequences; and 'Distance' from prison/parole decision-making processes. Thus, in accordance with professional values and codes of conduct, the practitioner respects the right of anyone to refuse therapy.

Salter (1988) was also very influential in early developments of this work in the probation service in the UK. She considered that preoccupation with voluntary consent prior to treatment was a residue of psychodynamic psychotherapy that was irrelevant to cognitive-behavioural work with people who had sexually assaulted children. Whilst people may have a right to refuse therapy that could stop them from harming themselves, they did not have a right to refuse therapy that may prevent them from sexually harming others. She unequivocally stated that 'court ordered therapy is an essential tool in treating child sexual abuse' (Salter 1988, p. 86).

Mandated treatment raises many issues related to informed and non-coerced consent. In relation to pharmacological treatment of sexually coercive men, Harrison (2008) highlights the complex and changing nature of informed consent; she discusses the need for those considering consent to be aware of the physiological and psychological side effects of medication; such concerns also apply to the impacts of psychotherapy. For example, most accredited programmes for men convicted of sex crime include sessions where people are asked to reflect on the nature of their close (parental/carer) childhood relationships, yet there appears to be little recognition that such an activity could be distressing and traumatic. Harrison (2008) also highlights the problem of consent not being given freely, but rather because of the perceived advantage that may be gained in relation to penal processes and early release.

It is arguable that consent in these circumstances may be fully informed if the person is told that the therapeutic programme is not linked to decisions related to parole and or early release. However, to do so in current circumstances would be to dissemble with the person contemplating

therapy. As a probation officer, I was once involved in long discussions with a life sentence prisoner about the benefits of undertaking an offending behaviour course in prison. As our conversation progressed, I had to acknowledge to him that whilst the programme may produce a more up-to-date and in-depth assessment of the potential risks he would pose if released, it might also produce detailed evidence as to why he should not be released. He decided against the programme and was eventually released a number of years later without having engaged in treatment.

It can now, perhaps, be argued that the debates over whether treatment programmes should be mandatory or voluntary are irrelevant as most people convicted of sexual offences are required to undertake some treatment programme and that failure to do so may have serious consequences. However, a bigger issue lurks beneath this debate; Connolly and Ward (2008, p. 91) citing the work of Glaser (2003, p. 146) note that mandated treatment 'overrides traditional ethical guidelines and so is not in the best interest of the offender'. It may be that as a corrections agency, the probation service and probation officers are no longer concerned with what is in the best interests of the person convicted of sex crimes; their responsibility is wider and has different priorities. However, there is here an ethical issue of recognition at stake – recognition that the 'sex offender' is a human being with 'human rights'. If the activities of the criminal justice system and people who work in it do not consider the 'best interest' of people who have committed offences then there is a danger that such people will gradually be seen as less human with fewer human rights. For example, given the personally intrusive nature of many accredited programmes (coerced), participants, by default, lose their right to a private life. In this context it is important to reflect on mandated treatment within the context of justifying punishment. In the UK, treatment in prisons is voluntary and there is generally a long waiting list (Comptroller and Auditor General 2013). The popular press commonly view community sentences as being 'soft options' (Worrall 2013), thus requirements in community orders are viewed as a means of 'toughening up' non-custodial sentences. It could be argued that mandated treatment is a key part of the mechanism for delivering retribution onto the convicted person.

Finally, in relation to the relative effectiveness of mandated and voluntary treatment there has been some research. In substance abuse treatment, mandated programmes have better completion rates than voluntary programmes (Coviello et al. 2013). However, Parhar et al. (2008) report the results of a meta-analysis of 139 studies of mandated and non-mandated correctional treatment programmes. They recognise that the distinction between mandated and voluntary was not always clear-cut and they classify the treatment programmes as 'mandated' (where there were legal consequences for not attending treatment), 'coerced' (where there were minor consequences for not participating in treatment) or 'voluntary'. When the results were analysed 'voluntary' treatment displayed larger positive effects than mandatory or coerced treatments. Mandated treatment programmes, therefore, appear to be less effective than programmes where people voluntarily consent to participate; respectful practice reaps its own rewards. Thus the justification for mandated treatment programmes lies within a retributive response to people who have offended; the challenge for probation is how to maintain an active presence in penal services that is not oppressive but does not undermine criminal justice policy. To view people convicted of crimes as people, with all their complexities and contradictions, may be a starting point. However to do this requires critical reflection on the epistemic values that are embodied in probation policies, programmes and practice.

Epistemic Values in Working with Sex Offending

In their review of 'good lives' programmes, Siegert et al. (2007, p. 1609) identify three different types of values:

- Prudential values consider what is in the best interest of individuals – in this case people convicted of sex offences.
- Utilitarian values focus on what is in the best interests of the community.
- Epistemic values relate to the forms of knowledge that underpin and sustain practice.

These distinctions are helpful, and here I particularly focus on epistemic values. Epistemic (or knowledge-based) values are of fundamental importance in understanding and responding to people who commit sex crimes. The phrase 'epistemic values' draws attention to the socially constructed nature of knowledge. By 'socially constructed' I mean that knowledge of any phenomenon is created through interactions between people who live in societies and communities. These societies and communities variously influence and shape what is deemed to be relevant to the development of knowledge in any particular (intellectual) area, and how the constellation of relevant factors is subsequently interpreted to produce a body of knowledge.

In 1990, I noted 'The language which we use to describe a problem informs the way in which we seek its solution' (Cowburn 1990, p. 157). At this time I encountered a paper (Cook et al. 1991) that brought these issues into sharp relief. The paper describes group work with 'non-violent sex offenders'; for me this was problematic – 'who' was defining offences as non-violent? I contacted the authors of the paper and engaged in discussion over their use of 'non-violent'. The non-violence was clearly identified, in their view, by criminal convictions; thus rapists were excluded. However, such an approach fails to recognise the experience of victims. For example, within the parameters identified by Cook et al. (1991) 'indecent exposure' is a 'non-violent' sex crime; however, the following words clearly illustrate that such a response lacks insight into what victims experience:

> The most difficult thing can be not so much coping with the harasser as with your own feelings about what is happening. Shula was on a tube late at night when a man sitting opposite her exposed himself and started to masturbate: 'I was very frightened and for sometime after felt that all men were in the same plot to "get at me". I also felt ashamed of myself – I was a serving policewoman at the time (not in uniform, of course) and I felt I should have done something heroic, or at least laughed it off. However, I felt violated and dirty somehow in that I knew I had been a part of this man's fantasy. This feeling of having been affronted and invaded is what I remember most.' (Kitzinger 1985, p. 266)

Recognition of the power of language to determine the ostensible nature of the offence led to my colleagues and I specifically outlining the values that underpinned our work with sex offending. Value bases underpinning practice are not static and fixed; they change and become more refined as knowledge develops (see, for example, how the above value base developed from Cowburn [1990, pp. 158–159] was re-worked in Cowburn and Modi [1995, pp. 205–206]). As we developed these statements of the values underpinning our work with men who were convicted of sexually harming others, we did not realise that we were effectively describing the epistemic values that informed and shaped our practice.

The value base in 1993 contained 13 statements about how we understood and worked with males convicted of sex offences (Cowburn 1993, pp. 219–220). Looking back it is interesting to note how different (disciplinary) forms of knowledge contributed to the statement. The first three items link strongly to feminist critiques of male behaviour:

1. Men are responsible for their sexual behaviour
2. Men can control their response to sexual arousal.
3. Sexual offences are a misuse of power.

We recognised that 'sex offenders' are not a population apart from society and we named them as 'men'; their behaviour was not dissimilar to many unconvicted men. Kelly's (1988) continuum of coercive male behaviours was helpful to us in recognising this – and it remains an influential piece of feminist theory today (see, e.g. Gavey 2005). Whilst we did not engage in the debate about whether sex crimes were about sex or power, we clearly located our understanding alongside contemporary feminist theory (see, e.g. Nelson 1982).

The fourth point, in many ways, emerged initially from our practice:

4. Sex offences are rarely isolated incidents and do not 'just happen'.

In our work with the men in the groups it was clear from what they said that their convictions only represented the 'tip of the iceberg' of the sexual harms that they had caused. It was encouraging, therefore, to read the study of Abel et al. (1987), which had guaranteed men convicted of

sex offences complete confidentiality if they disclosed the full extent of their offending behaviour (see Cowburn 2005 for a discussion of the ethical and methodological implications of this study). The study revealed quantitatively the commission of a greater number of sex crimes, and qualitatively a wider range of sex crimes than was represented by their criminal conviction records. Moreover, the alleged 'random' nature of offending initially described by many men that we worked with was not only refuted by themselves later in therapy, but research into the processes leading to sex offences – 'grooming ' – (e.g. Conte et al. 1989; Elliott et al. 1995) clearly demonstrated that sex offences were deliberate and premeditated acts.

The fifth item in the value base is:

5. Victims of sexual abuse are harmed by the experience whether or not additional physical violence is part of the offence. We would, therefore, take issue with both practitioners and theoreticians who speak of the 'consensual paedophile', the 'non-violent sexual offender' and 'incestuous relations'. Such terminology minimises the non-physical use of power and denies the harm and damage experienced by the victim. The use of such language implies an uncritical acceptance the offender's version of what happened before, during and after the offence, and could, therefore collude with both the offender's view of himself and his offending behaviour.

This was prompted by various cultural sources that denied the harm of sex offences, whether through disciplinary definition (e.g. Cook et al. 1991) or through political orientation (e.g. O'Carroll 1980; Brongersma 1988); for us it was important to listen to, recognise and respect victims' experience.

Items 6–10 explicitly recognise dimensions of diversity – ethnicity and sexuality in particular – and acknowledge that it is important to take into account 'difference'. One size of therapy most certainly does not suit everyone:

6. In white dominated society there are very negative views of black sexuality, which describe black men as predatory and black women as promiscuous. Anti-racist practice must recognise and challenge this by confronting practitioners' and offenders' use of stereotypes.

7. In white dominated society, racism inhibits black sex offenders talking about their offences in predominantly white groups.
8. Some homosexuals are convicted for their part in sexual acts with consenting peers.
9. In heterosexist dominated society the pressure of homophobia may make it impossible for homosexuals to participate effectively in programmes of group work.
10. In heterosexist dominated society there are very negative views of homosexual people, which see them as 'unnatural'. Anti-homophobic(s) must recognise and challenge this by confronting practitioners' and offenders' use of these stereotypes.

The final three items of the value base focus on the extent, in terms of time and offences, of offending behaviours and develop issues raised by item 4. Apart from the sources already cited, recidivism studies which showed that men convicted of sex offences could be reconvicted a long time after their original conviction for a fresh sex offence (e.g. Soothill and Gibbens 1978; Furby et al. 1989) were very important in developing our understanding.

11. Both research and practitioner experience indicate that convicted sex offenders significantly underestimate – in the early stages of working on their offending behaviour – the number and type of offences which they commit.
12. Research and experience show that some sex offenders are reconvicted for fresh sex offences for over 20 years after their first court appearance for sexual offences.
13. Studies of the prevalence of sexually assaultive behaviour indicate that many more sex offences are committed than are reported to the appropriate authorities.

Many of the issues highlighted above have remained important aspects of my research and subsequent writing (e.g. gender – Cowburn 2006, 2010, ethnicity, Cowburn 1996, Cowburn & Myers 2016). The importance of articulating an 'epistemic' value base is that it makes explicit the assumptions that underpin practice and opens them to examination.

These early value bases, in retrospect, were attempts to locate offending behaviour programmes within a framework of knowledge relating to

men, sex offending and victim-survivors. Ideally, there is a link between the programme value base and the programme content. Thus, for example, before programmes were nationally accredited, the programme in Nottinghamshire gave attention to how ways of being a man linked to sex offending (Cowburn et al. 1992).

More recently, Beech and Ward (2004) have drawn attention to the need for risk assessments to be linked to an etiological theory of sex offending; that is, construing risk should occur within a conceptual framework that seeks to explain the origins of and what sustains sexually coercive behaviours. They identify three types of explanatory theory – single factor, micro and multifactorial. In the mid-twentieth century, single factor theories were common and often in conflict with one another (e.g. feminist theory and evolutionary perspectives). Micro-theories consider a small element of offending behaviour, for example 'grooming' or 'relapse'. A key aspect of multifactorial theories of sex offending is that they have been developed from analyses of empirical studies of personal histories and offence patterns. Multifactorial explanations incorporate physiological, psychological and emotional dimensions, along with situational (changing/dynamic) and historical (fixed) matters. The models are particularly mindful of time and change, thus *change* in physiological, psychological and emotional states is important. See Beech and Ward (2004) for a review of these theories.

Hanson and Morton-Bourgon (2005), however, suggest that the evidence behind the identification of the factors and how they relate to (re)offending is weak. They suggest if the primary therapeutic objective of correctional work with people convicted of sex crimes is to reduce recidivism, then detailed attention must focus on what, statistically, can be shown to be directly related to re-offending. The most efficient means of identifying these factors is meta-analysis, which is a statistical technique for analysing large amounts of quantitative data from many studies (see Crombie and Davies 2009 for more information). Recently, there have been a number of statistical meta-analyses relating to men convicted of sex crimes (e.g. Hanson and Bussiere 1998; Hanson and Morton-Bourgon 2005; Babchishin et al. 2011), some of which highlight that certain well-established components of treatment programmes (e.g. owning responsibility for offending and victim empathy) are not

(statistically) linked to (re)offending (Hanson and Morton-Bourgon 2005). These studies have prompted calls for the content of programmes to be reconsidered (Ware and Mann 2012; Mann and Barnett 2012).

Whilst theoretical explanations of sex offending are becoming more rigorous and well evidenced, they continue to give slight attention to how cultures sustain or inhibit sex crimes. This is problematic because people who sexually harm others do not live in a world made up only of clearly identified and measureable variables; cultural influences are fluid, changeable and difficult to incorporate into understanding offending behaviour. As a practitioner, it was troubling to me to note how men in the therapy groups would acknowledge how sexist attitudes and values were linked to offending behaviour, and yet regularly read newspapers featuring photographs of half-naked women during breaks in the session. Male cultural 'norms' could apparently only be addressed in therapy sessions; outside of this setting such cultural norms re-asserted an unchallenged presence in the daily life of our group members. Sanday, an anthropologist whose work spans three decades, draws attention to the characteristics of 'rape-free' and 'rape-prone' societies and communities, and highlights the relevance of culture in 'the expression of male sexual aggression' (Sanday 2003, p. 337).

Moreover, again as a practitioner, it was noticeable that treatment groups were largely made up of white, ostensibly heterosexual men (Cowburn and Modi 1995). Panna Modi and I (1995) speculated on how both selection procedures and group processes deterred ethnic minority men and outwardly gay men from actively participating in group work programmes. In the UK, the issue of the continued (non) participation of ethnic minorities in treatment groups remains problematic (Cowburn et al. 2008a). Reasons for this are complex, and are likely to involve cultural inhibitors as well as discriminatory practices in both selection and group programmes (Cowburn et al. 2008a, b). The issue of developing appropriate group work approaches for 'out' gay men is also difficult. In a review of UK community-based treatment, Beckett (1998, p. 148) highlights that the Thames Valley Project offered gay men counselling from outside support networks. There is no mention about how group dynamics were managed, or how a safe environment for gay men was created and sustained. Interestingly however, Nel et al.

(2007) point to positive aspects of group therapy when the group is made up only of gay men; issues in such groups related to 'coming out' can be openly addressed, whereas in the standard sex offending treatment group such issues may well have to be concealed. The values embodied in treatment programmes and group work dynamics clearly influence both the willingness and the ability of minority groups to participate. The content of such programmes can actively exclude minority groups; for example, Harpreet Bains and I reviewed the UK Prison Service 'Thinking Skills Programme' and found most exercises were orientated to the white working class man (Cowburn and Bains 2008).

In hindsight, although the social and sociological aspects of knowledge related to sex crime are highlighted in the early epistemic value bases discussed above, what is not present is any statement about the nature of treatment. Multifactorial explanations and meta-analyses closely track and measure the phenomenology of the offending behaviour of people convicted of sex crimes, and from this data treatment programmes are devised and developed. Psychological research and theory is dominant in this area, defining and developing treatment programmes and refining and revising means by which risk is assessed. This is an important area of endeavour, and provides an evidence base for forensic practice with people who commit sex offences, and there are indications that such practice may be effective (Marshall and Marshall 2012).

Constructing Respectful Probation Practice with People Convicted of Sex Offences

There are, however, dangers in uncritically accepting a way of understanding people convicted of sex offences that is predicated on aggregate populations and quantitative analysis. Silver and Miller (2002, p. 138) suggest that the main concern of this approach is the efficient management of resources, by focusing on aggregate populations identified on the basis of data from criminal justice systems. One such system is the Offender Assessment System (OASys) currently used by the National Offender Management Service (see Moore 2015). Whilst such systems have brought quantitative rigour into criminal justice agencies'

assessments, potentially they also objectify the person being assessed as an 'offender' and thus diminish the nature of the relationship between the probation officer and the person she or he is supervising. Respectful professional practice is more complex than in-putting data and responding on the basis of a quantitative analysis; it involves individuals, knowledge(s) and values in 'relationship'. Whilst not dismissing the importance of quantitative evidence in informing professional practice, in this final section I consider more elusive elements that contribute to developing respectful probation practice.

It is important, first, to clarify what I mean by 'respectful'. Butler and Drake (2007, p. 115) identify two usages of the word 'respect' – 'respect-as-consideration' and 'respect-as-esteem'. It is the first usage that is of concern here. Liebling (2004, p. 212, cited in Butler and Drake 2007, p. 116) has further clarified respect as being 'Regard for the inherent dignity and value of the human person'. It is encouraging to note the 'Core values and ethical principles' of the Probation Institute (2014) recognise this by using the phrase '*people* who have offended' (emphasis added). Butler and Drake (2007, p. 119) note that 'everyone is entitled to respect, in the form of respect-as-consideration'. Respect is therefore something that is embodied and performed in (professional) relationships. A danger of uncritically adopting actuarial assessment tools and the word 'offender' is that it allows the probation officer to 'objectify' the person that they are supervising. This objectification is performed in probation supervision via a 'monological' relationship (for a full exploration of this and related concepts see Shotter 1993). Bakhtin (1984, pp. 292–293) notes that:

> Monologism, at its extreme, denies the existence outside itself of another consciousness with equal rights and equal responsibilities, another *I* with equal rights (thou). With a monologic approach (in its extreme pure form) *another person* remains wholly and merely an object of consciousness, and not another consciousness. Monologue is finalized and deaf to the other's response

The monological relationship is announced by the removal from the convicted person of the right to consent to participate in a programme of work. It is sustained by naming them 'offender' and implementing

programmes for 'offenders'. It is sustained by ignoring their rights. Interestingly Connolly and Ward (2008) suggest that people convicted of sexual offences are morally equal to all citizens (including psychologists and probation officers). This provides a challenge both for criminal justice agencies and people working within them. However, whilst dialogical perspectives require workers to recognise that they can be involved in 'talking with' rather than 'talking to' relationships, this is not enough to develop respectful relationships. There remains the issue of power. Whilst it is clear that probation officers are delegated considerable power 'over' people convicted of offences, the issue is how this power is exercised. Penal power is exercised (legally) within the framework of the law, within this framework; however, there is much scope for disrespectful practice that (unwittingly) ignores the humanity and human rights of people convicted of sex crimes. To construct and sustain respectful practice requires awareness of the values and knowledge that underpin practice. However, achieving this is not a 'one-off' activity. It requires ongoing reflection, hopefully supported by intelligent, critical, supervision that appreciates the complexity of probation practice with people convicted of crimes.

In concluding this chapter I finish with reference to my most recent work. Figure 5.1 illustrates the various dimensions of knowledge and

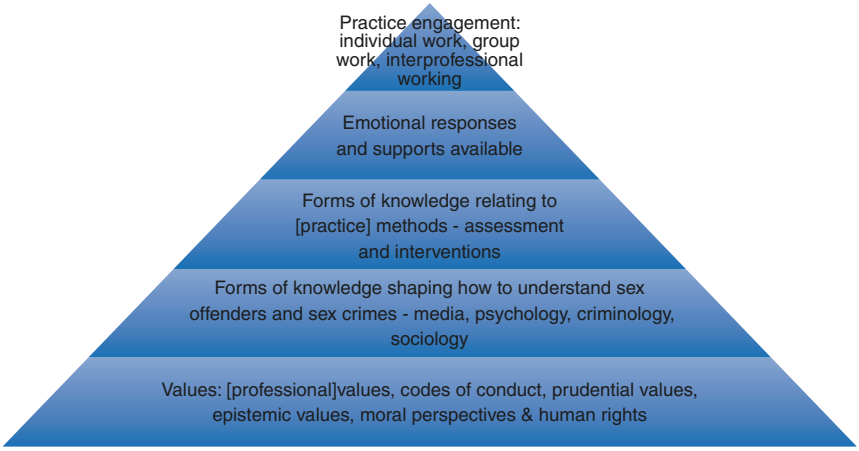

Fig. 5.1 Values, knowledge and practice with people convicted of sex offences (taken and slightly amended from Cowburn and Myers [2016, p. 157])

experience that underlie 'practice engagement'; in my earlier work, referred to above, I engaged with how forms of knowledge about people (particularly men) shaped the therapeutic programmes designed to help them refrain from offending.

Figure 5.1 develops this work considerably, discriminating between types of values, academic forms of knowledge and knowledge directly relating to practice. Furthermore it recognises the importance of workers' emotions and the supports that are available to them. All of these areas underpin the practice engagement and respectful practice demands that ongoing attention is given to each of these strata. Figure 5.2 (also taken and slightly amended from Cowburn and Myers [2016, p. 158]) suggests a dynamic process of reflection on-and-in practice.

In relation to this circle Steve Myers and I note that this figure:

> represents the dynamic interaction of knowledge and practice; the (hermeneutic) circle is continuous and there is no end point. The starting

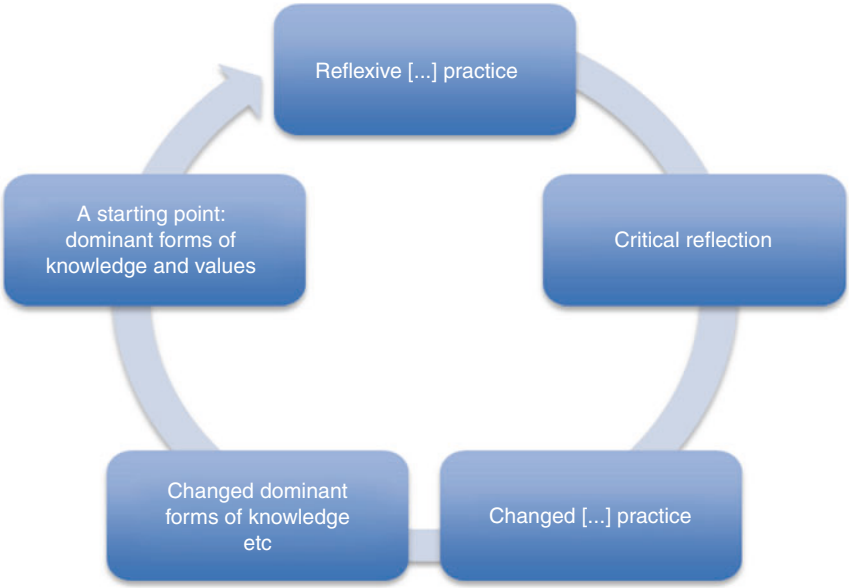

Fig. 5.2 A reflective circle – knowledge, change and practice

> point is purely notional; the practitioner comes to a practice situation largely influenced by dominant forms of knowledge. . . . this may be a mixture of media representations, some psychological information and safeguarding protocols. In the process of engaging in reflexive practice the practitioner develops more effective ways of engaging with the offender, and issues that s/he considers relevant. Critical reflection (with and without a supervisor) after meeting with a client enables the worker to reflect in greater depth on issues, particularly those relating to forms of knowledge and values, and thus both are changed. The process does not have an end point but may come to a halt for a range of practical reasons. (Cowburn and Myers 2016, p. 158)

Respectful probation practice with people who have harmed others is difficult. Dominant forms of knowledge and the construction of the transgressor 'other' can lead to objectifying and distancing practices that are innately disrespectful. Ongoing critical reflection can help practitioners avoid insensitive, automatic practice. Probation practice occurs within a prescribed criminal justice framework of coercion; therefore, the challenge for practitioners is to recognise the boundaries and constraints on the role of probation officer but also to demonstrate respect to people convicted of offences and their victims.

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Malcolm has worked in three universities since 1994 and lectured in many others. He has secured a number of funded research projects and published

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6

Voices from Practice – What Probation Has Been and What It Could Become

John Deering

This chapter draws on previous empirical and theoretical studies and tries to tease out the differences between the rhetoric of government about what probation should be about and what actual practice and practitioner values had seemed to become since the 1990s and into the twenty-first century. It considers what Probation Officers (POs) and Probation Service Officers (PSOs) thought about both broad normative issues and the practicalities of practice; in other words it attempts to get at the idea of 'real practice': what practitioners do or did behind closed doors. It covers attitudes and practices, as well as inevitably locating these within the value system of practitioners. It considers why probation practitioners might seek to resist official policy to some degree, arguing that this is largely because of the fundamental value base that they have brought to the job. This is the case despite government attempts to remodel and redefine 'the

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job' in fundamental ways, and thereby attract a different 'breed' of individual efforts that have largely failed.

The following therefore considers the extent to which practitioners accepted and worked with the broad 'what works' agenda, the onset of centralisation and managerialism and the enforcement and punishment changes introduced from the early 1990s, moving on to desistance-based approaches exemplified in the Offender Engagement Programme (OEP). Finally, the chapter considers how *Transforming Rehabilitation* (TR) was received by probation staff and how it may come to affect all aspects of practice and the value base of probation work.

I joined the former Mid-Glamorgan service in the earlier part of this period, in 1991, after working with young people in a social work department. Two significant changes occurred at this time: the 1991 Criminal Justice Act was due to come into force in October 1992 and its intention to reduce the use of custody, partly via bringing the probation service 'centre stage', was greeted enthusiastically in the main. Only later did other elements of the Act – making the probation order a sentence of the court and 'punishment in the community', plus the introduction of National Standards – lead to misgivings about the directions in which government was trying to move probation practice and values. The second development was the introduction into Mid-Glamorgan of the Reasoning and Rehabilitation Programme pioneered initially in Canada (Ross and Fabiano 1985), an early part of the cognitive-behavioural 'revolution' in probation in England and Wales which later became part of the inspiration for the Effective Practice Initiative (Home Office 1998) and considerable investment in accredited programmes by the Labour government after 1997.

These developments reinforced my interests in what might be effective in probation practice in terms of offering individuals 'help' in a broad sense to try to reduce their offending. I had always seen offending as based in a complex mixture of causes, unique to the individual, that combined social, economic and environmental conditions as the background to a level of personal choice. I became increasingly interested in the 'what works?' debate (remember the question mark?) but it seemed to me to be a disappointing development that the broad idea became expropriated by government and associated with cognitive behaviourism

in isolation, rather than a term that encompassed a continuing curiosity about effectiveness in all its breadth and complexity. Instead it seemed to become a new government-promoted orthodoxy, with evangelistic support and opposition perhaps in equal measure, which did seem to fit an increasing government emphasis on personal responsibility and punishment, with the playing down of the social context of offending.

Reflections on 'Voices from Practice' and Policy Development – the 1990s and the early 2000s

Throughout the 1990s, the probation service was being pushed by government to become an agency focusing upon risk assessment and public protection, punishment and law enforcement (Deering 2011; Home Office 1992; Kemshall 1996; Raynor and Vanstone 2002) via changes to pre-sentence reports (PSRs), the supervision and enforcement of probation and community service orders and other initiatives. This desire to increasingly control and direct policy and practice reached its logical conclusion with the creation of the National Probation Service for England and Wales (NPSEW). Its aims and objectives were set out by its first Director, Eithne Wallis (Home Office 2001). These were, in order: protecting the public; reducing re-offending; the proper punishment of offenders in the community; ensuring offenders' awareness of the effects of crime on victims and the public; rehabilitation of offenders (2001, p. iv). The ordering of such priorities fitted into the trajectory of government thinking about probation over the previous decade or so. Going back to the 'nothing works' era of the 1970s (Lipton et al. 1975), government had lost faith in rehabilitation and increasingly saw probation as a cheaper alternative to custody, but also as an organisation that was 'soft on crime' (Newburn 2003, p. 105) and, under the general advance of managerialism (Flynn 2002), successive governments had sought to monitor and audit its work, culminating in the creation of the NPSEW, which was perhaps a high point of New Labour 'modernisation' (Senior et al. 2007). Although government policy might sometimes be seen to be contradictory towards the service, promoting both law enforcement and rehabilitation (Newburn 2003) by the mid-2000s, the

direction was clear. Not satisfied with giving the NPSEW time to prove itself, the creation of the National Offender Management Service (NOMS) (Carter 2003) with its aims of punishing offenders and reducing re-offending (Home Office 2004) left little doubt about the government's intentions for the future of the service. Indeed, the creation of NOMS laid the ground for the marketisation and privatisation of the service realised by the Coalition government in 2014. Burke and Collett argue that Labour had come to hold a position opposed to probation's continued monopoly (and as a result that of the state) over non-custodial sentences. Home Secretary John Reid is seen as particularly hostile regarding the service's performance as poor and in need of contestability, marketisation and eventually privatisation (Burke and Collett 2010, p. 240). Furthermore, the influence of targets and a culture of audit also left a significant mark. Davies and Gregory (2010) report on the growth of targets throughout the New Labour period such that they came to be an end in themselves and that this tended to emphasise inputs, process and outputs, rather than other more 'professional' rehabilitative concerns. This, along with increases in caseload, led to a situation where face-to-face work had to take second place. In an interesting insight into practice, Matthews (2009) reported that the idea of the 'good officer' was one who was administratively efficient, rather than being skilled in any more therapeutic sense and studies of the practitioner's perspective reported widespread concern over the spread of a target culture (e.g. Farrow 2004).

How much all of these affected the values, attitudes and actual practice of practitioners, however, is far less clear. Of course establishing what 'real' practice entails is not easy but Vanstone (2004) provides the most comprehensive analysis of practice within this period. Overall, the picture was one of a varied and eclectic approach, rooted perhaps most firmly in an individual casework that encompassed more interventionist approaches based in behaviourism and social learning (Vanstone 2004, pp. 123–139). However, there were also theoretical arguments for an approach based in 'non-treatment' (Bottoms and McWilliams 1979) involving a collaborative approach between supervisors and supervisees aimed at offering appropriate help to assist in the latter's attempts to desist from offending.

A related aim of government was to change the value system of the service towards its new objectives, on the basis that this would also help to change practice. Clearly, the imposition of top-down changes outlined above was one approach, in the hope and expectation that organisational changes in terms of aims and objectives would influence the collective value base. Another was to recruit a different type of person to the job. Michael Howard had tried to start this process by abolishing probation training in the early 1990s and thus severing the link with social work, despite a widespread belief expressed in the Dews Report at that time that social work-based training had been fit for purpose (Ward and Spencer 1994). There was a subsequent gap in training but as far as my own recollections go, a number of (most?) probation services decided to continue to appoint only suitably qualified (i.e. social work-trained) individuals as POs (Deering 2016). In due course, the incoming Labour government resurrected probation training, but deliberately broke the link to social work with the new Diploma in Probation Studies (DiPS), which had the aims of '[p]rotecting the public and reducing crime through effective work with offenders' (Straw 1997).

In trying to come to some level of understanding of the extent to which these efforts had been successful, I undertook a study with Trainee Probation Officers (TPOs) in 2004–2006 (Deering 2010). This involved a self-completion questionnaire with two cohorts at the start, mid-point and end of their 2-year DiPS studies. The questionnaire used mainly open-ended questions but also utilised some attitudinal Likert scales to broaden the data and act as a form of triangulation. In this way it sought to gauge their attitudes and values when they joined the service (and hence reveal why they had joined) but also as they were about to enter practice full-time, thus considering how a 2-year training within both the workplace and higher education might have influenced their views. A total of 103 TPOs completed at least one of the questionnaires and the overall mean response rate was 70 %. Whilst not high enough to allow for strict representativeness (e.g. Sarantakos 2005), these were high rates compared to questionnaires generally and thus perhaps not atypical of the TPOs within the two cohorts.

Overall, the results across the period of training and between the two cohorts were highly homogeneous. In brief, TPOs had joined the service

for what were largely 'traditional' reasons, that is, due to a humanistic interest in working with people experiencing difficulties and to 'make a difference'. The clear focus was behavioural change, backed by a belief in the capacity for individual change and that crime was largely the product of a range of difficult external factors that might be addressed rather than some concept of innate 'badness' or rational choice. In this way, the focus of supervision should be broadly rehabilitative and not rooted in punishment. The study concluded that:

> Whilst respondents recognised the government's agenda [to change the value base and practices of probation work] they do not appear to have joined to follow it to the letter, but rather to acknowledge and work with it, with something of a different emphasis, particularly around what they regard as the purposes of the system and their role as practitioners. (Deering 2010, p. 23)

Overall, the conclusion was that government attempts to redefine the values and hence the practice of the service by recruiting a 'new breed' of practitioner had largely failed, but how might this have related to their practice, particularly after working in the service for a number of years?

In the midst of these changes, I had moved into education to teach on the DiPS. Partly as a result, I had become aware of what I thought was becoming a new orthodoxy promoted in government, echoed by senior probation management that probation *practice* (as opposed to policy) had followed the government agenda of 'offender management', punishment and public protection and that the NPSEW had become a law-enforcement agency, moving away from probation's social, humanistic and social work roots. My own belief was that throughout the 1990s and into the twenty-first century, many practitioners had retained values and practices based in the service's traditional aims of assistance and rehabilitation, whilst also taking on aspects of the government's programme, such as risk assessment and management.

To investigate the extent of the impact of government changes, between 2005 and 2006 I interviewed POs and PSOs (as well as a small number of managers) with the intention of finding out how they viewed the various policy and philosophical changes outlined above and

how, in what ways and to what extent, these might have had an impact upon their beliefs, their values about probation and their actual practice. The study involved semi-structured interviews, focus groups, Likert attitudinal statements and the reading of case files and PSRs.

In broad terms, one conclusion was:

> Perhaps the overriding impression from the data when set against the wider changes in the criminal justice system and the service is one of a group of practitioners with a clear idea of how they would wish to practice working in a structure that has made that ideal increasingly difficult to maintain. (Deering 2011, p. 179)

Practitioners were generally not openly hostile or resistant to government policies; however, they clearly had a significant difference in emphasis when considering their underlying values, the purposes of probation (as they felt they should be) and, to some degree, the ways in which they practiced. The influence of managerialism, as expressed by a law enforcement and target-driven agenda, was seen as particularly problematic, for example, the attempts to reduce practitioner discretion in relation to breach and the setting of targets for the scheduling of accredited programmes. Furthermore, at the time, the NOMS Offender Management Model (OMM) (NOMS 2005) was the means by which the proposed move towards a division between 'offender management' and interventions might be realised. This was seen as likely to inhibit the creation and maintenance of a good professional relationship, which was seen as the bedrock of effective practice.

It was also clear that the basic underlying values held by practitioners were the same as those of the TPOs discussed above and thus more or less aligned to 'traditional' values also identified elsewhere (Annison et al. 2008; Farrow 2004; Williams 1995). One of the fundamental elements of the government's move towards law enforcement and punishment, that of enforcement, also had only qualified support in that it was regarded as legitimate in terms of the potential to deliver more structure to supervision and accountability to the court. However, practitioners were clearly of the view that enforcement should not be administrative or 'knee jerk' but needed to be 'moderated by individual needs and levels of

engagement, to maximise the chances of purposeful engagement in the supervision process' (Deering 2011, p. 179). Other developments such as accredited programmes were also seen potentially positive, but not as a 'one-size-fits-all' panacea. In this way, respondents were opposed to the moves towards targets for the inclusion on accredited programmes of a large number of those individuals under supervision, instead arguing that targeting was vital, that is, that such programmes (and indeed any form of intervention) should be dependent upon need and that only the 'right people' should be included in such interventions:

> Ironically, practitioners agreed with the service's theoretical base, but appeared to feel the service itself was not concerned with these professional matters rather than counting and measuring inputs and outputs. (Deering 2011, p. 179)

In overall terms, there was little that reflected late modern thinking or the new penality (Garland 2001; Pratt et al. 2005) towards limited ambitions for probation supervision, or of the 'need' for 'offender management' and law enforcement and it is clear that respondents did not see themselves as 'control workers' (Rose 2000). One element of the government's programme – risk assessment – had clearly been accepted as a legitimate and important role for the service (Kemshall 1996, 2003). Practitioners regarded the idea of 'resources following risk' as legitimate in principle, but became far less comfortable if this meant other individuals who might be at a lower risk of harm, but in considerable need and therefore perhaps of high risk of re-offending, receiving a reduced service. In this way, they worked with individuals to assess risk, but also needs, seeing the former as very much located within the latter. In this way, practice was intended to reduce needs and hence risk, the aim being transformative, not to 'simply manage' individuals according to their risk category (Feeley and Simon 1992). Punishment was not seen as part of their role, except in limited and specific ways. Supervision was not to provide punishment, except in the sense of placing certain demands upon individuals and thus limiting their freedom to some degree. Of course, punishment could also follow as a result of enforcement, but in the main this was seen (and perhaps rationalised) as

a by-product of an individual removing their consent, rather than anything proactive on practitioners' behalf; it was also regarded as accountability to the court in terms of the carrying out of a sentence.

In terms of the overall theme of this chapter – the extent to which there might be a gap between the rhetoric of government about probation practice and the actions of practitioners engaged in 'real practice' – what might we conclude from these respondents? When considering their values, there was a sense of continuity about the reasons why they joined the service and also about what might be seen as the most important, fundamental belief – that of the individuals' ability to change – and also of the usefulness of probation's role in facilitating this in some way. Interestingly, the ways in which this might occur, whilst linked to cognitive behaviourism, did not seem to consistently explicitly focus upon accredited programmes. Although practitioners did talk about changes in individual's thinking as a way of reducing their problems, they rarely spontaneously spoke about cognitive behaviourism or programmes per se. Indeed, in reading case files and PSRs the insight into practice was that it seemed to be more reactive and needs based, something perhaps akin to a desistance-based approach, although this terminology was not used (Weaver and McNeill 2010). These ideas, attitudes and practices can be identified from other studies going back at least to 1990 and thus may be seen to represent some level of continuity (Robinson and McNeill 2004; Williams 1995; Humphrey and Pease 1992; McWilliams and Pease 1990; Vanstone 2004).

Overall, it seems likely that the gap between government and practitioners was real and might be seen to make real differences to the lives of those under supervision. However, this did not show itself as outright resistance, but was perhaps more subtle. As the original study stated:

> it is probably most helpful to think of resistance in terms of everyday thinking, decision-making and practices in which practitioners engaged. On the one hand these may appear rather inconsequential, but they are likely to have significant impact upon the lives of individual offenders as they will relate to breach, assistance with drug misuse, employment and accommodation etc. and not least their continued liberty. (Deering 2011, p. 180)

Perhaps none of this should be surprising (if indeed it is!) as it has long been argued that practitioners have to operate with discretion and make decisions based not only on official policy, but beyond that, in order to have the ability to act when necessary and thus to continue to do their jobs on a daily basis (Lipsky 1980). Hierarchical organisations, particularly perhaps ones as centralised as the NPSEW, cannot control activity 'behind closed doors'. Furthermore, the extent of any such resistance is unknown. Ironically, perhaps, some of it remains invisible to a management and government in thrall to managerialism and thus concentrating mainly upon auditing the 'completion' of tasks 'on time' rather than any real interest in the content and quality of the work undertaken. Certainly, practitioners in this sample felt management, even at team manager level, had become divorced from practice in this manner. Perhaps this allowed them sufficient space to practice in a manner they preferred.

The study concluded by considering how practice might develop in the future and whilst it considered marketisation, the radical changes that would be brought in by TR were not anticipated. However, the more punitive and managerialist sides of the government's agenda were seen as unlikely to change and it was posited that significant numbers of practitioners could become dissatisfied with the service continuing in such a direction.

Post 2010 – Towards the Present

Since the studies outlined above, my research has been around 'probation values', the apparent growing gap between practice and management, governance and the impact of the coming of marketisation and privatisation upon these. In an example of perhaps confused conceptualisation about the aims and purposes of probation, in this latter period NOMS was pursuing a contradictory agenda. At the same time as promoting the OMM, which was intended to facilitate the case management/intervention split and which had been criticised as inimical to a good professional relationship and hence good practice (Maguire and Raynor 2010; Raynor and Maguire 2006), NOMS was also setting

up the OEP (NOMS 2010). I considered this contradictory situation in an article (written before TR was announced) that considered the possible end of probation that has since come to pass (Deering 2014). The OEP was a development within NOMS that ran against most of NOMS' developments towards case management and law enforcement, including cognitive behaviourist approaches and accredited programmes. It was based in a consideration of desistance theories (e.g. see McNeill 2006; Weaver and McNeill 2010; King 2013 for how desistance might apply to probation) and how these might lend themselves to a more effective probation practice. The OEP aimed to 'improve the quality and effectiveness of one-to-one work with offenders and reduce re-offending' (NOMS 2010, p. 1). It promoted the importance to practice of the professional relationship and desistance theories and thus promoted a model of probation practice somewhat at odds with the direction promoted by government over the previous 20 years.

The OEP made a theoretical and practical impact within a short period of time. It was influential in the 2011 version of National Standards (NOMS 2011) which was very different from its predecessors as it removed many of the prescriptive elements around enforcement and breach, playing up the role of professional discretion. It also launched the Skills for Effective Engagement Development and a Reflective Supervision Model that would have returned team managers to more of practice-based supervisory role (Deering 2014, p. 7; Copsey 2011). However, the OEP proved short-lived, inevitably so in the wake of TR, and it ended in 2013 (NOMS 2013).

Finally, we indeed witnessed what perhaps we had never quite imagined would come to pass, namely the destruction of the unified, public probation service. Based on what seems to have been purely political reasons and lacking any empirical base, the Coalition Justice Minister Christopher Grayling announced in 2013 plans for the marketisation and part-privatisation of the service under what became the TR proposals (Ministry of Justice 2011, 2012, 2013). These proposals were opposed by Napo (2013) and it was clear that one significant group that was not consulted in any meaningful way about the changes was probation staff. Based upon the research discussed above, my view was that these proposals would be opposed by many practitioners and, with

Martina Feilzer from Bangor University, I undertook an online survey with probation staff in March and April 2014, shortly before the demise of the probation service (Deering and Feilzer 2015). The survey asked a range of questions about the following: why staff had joined the service; probation values; what should be 'probation work' and who should do it; prospects for the future; working within the third and private sectors; working for the new National Probation Service (NPS). Over 1300 staff members replied, mainly POs and PSOs, but including administrative and management grades. They responded to closed and attitudinal questions, but also provided a wealth of qualitative data. With few exceptions, the views expressed were homogeneous across differing job roles, length of service and training. The results of the study were clear:

> What is clear from this research was the unequivocal opposition to the majority of the proposals within the TR document, the most fundamental of which have now come into operation . . . there is no doubt that TR's fundamental design and intentions were opposed in terms that revealed the anger, feelings of betrayal, and sadness about the destruction of the unified, public probation service. (Deering and Feilzer 2015, p. 101)

It was clear that based upon a range of beliefs and values about probation (that were completely consistent with those outlined above from earlier studies) there was a firm view not only about what probation work should be about, but also that this should be carried out by a unified public service. There was an obvious rejection of privatisation as the private sector was seen as inevitably and finally responsible to its shareholders, rather than the public good and that profit should not be made from the supervision of community orders and licences and thus indirectly from the commission of crime. Respondents saw themselves and thus the service as motivated by their underlying value base and their desire to have an impact; they rejected completely government views of the need for market disciplines to drive up standards.

It is important to note that there was an emergent theme in the survey that the values of the service, and hence its legitimacy, had been coming under pressure from government for a considerable period prior to TR. In this sense, TR was seen as part of the trajectory

of the previous decade since the setting up of NOMS, although clearly the splitting of the service was seen as a far more radical, negative step. Concerns were expressed about: threats to the way in which practitioners might be able to practice, particularly within the Community Rehabilitation Companies (CRCs); that the professional relationship was likely to come under threat; that the CRCs would be seen as 'second rate' compared to the NPS; that the two organisations would not communicate effectively, with some respondents giving examples of where this had begun to happen, in anticipation and in advance of the split in June 2014. Based on the data, the conclusion of the study was downbeat, foreseeing organisational chaos and a loss of experienced professional staff as many did express the desire to leave, were they able to do so in the future. Interestingly, many respondents even saw a future within the NPS as far less attractive than the status quo, despite remaining within the public sector. The NPS was seen as far more likely to be restrictive and authoritarian, given that it was to be part of the civil service.

From Here to Where? Reflections on the Future

As mentioned, in the TR study, we concluded that the probation ideal had ended with the division of the probation service and its marketisation:

> We would define the probation ideal as a public sector task that aims to engage with those under its supervision in a humanistic and supportive manner with a view to encouraging behavioural change whilst recognising structural and social disadvantage as important factors in offending that need to be addressed. (Deering and Feilzer 2015, p. 2)

However, this begs the obvious question: can the ideal be amended to remove the requirement for it to be a public service endeavour? Can a curious, flexible, humanistic practice exist within the civil service NPS, let alone the mainly private CRCs? Will practitioners be able to focus on the professional relationship, based as it might be in empathy,

professional boundaries, pro-social modelling, the appropriate use of authority (e.g. Dowden and Andrews 2004), the giving of appropriate assistance and/or more desistance-based ideas of assessing where an individual might be in their own process of desistance and seeking to help remove barriers to further progress (e.g. King 2013; Weaver and McNeill 2010)? Will probation work be positive, based in the hope and expectation of change, or negatively focused on case management and punishment (Deering 2016)?

Perhaps the firmest conclusion to be drawn is that the future of probation work is unknowable, if such an equivocation counts as a conclusion. Drawing on Bourdieu's arguments (1977, 1990), it is likely to take time for actual practice to emerge from such significant, top-down changes as exemplified by TR. In such circumstances it is likely to take time for the cultures, policies and working practices of two new organisations to emerge from the interaction of the government's (and now private/third-sector organisations') 'field' and the 'habitus' of staff.

Perhaps key to this is whether both the CRCs and the NPS continue to attract individuals for the same reasons as in the past; will new recruits hold the same values (Deering 2016)? There have to be grounds for hope, as this has continued to be the case over the past 25 years, despite government attempts to recruit a new breed of trainee practitioner. This may well be the case for the NPS, as the government has recently announced a new training process for POs, which will retain the qualification within higher education (NPS 2015; Deering 2016). It seems a reasonable assumption that the curriculum for this training will contain many of the elements of its predecessors, the DiPS and the Probation Qualifications Framework, which were themselves largely similar. However, the position for the CRCs is far less clear, and with no requirement upon them to employ professionally qualified staff, it is impossible to predict a staff profile over time. Of course, even within the NPS, the difference in culture between a civil service organisation and the old probation service and the exclusive focus on working with those deemed to be at high risk of harm is likely to have an impact upon working practices, ethos and culture.

Quite apart from the recruitment issue, the TR study outlined above (Deering and Feilzer 2015) asked respondents about how they felt the

future of probation work might unfold. They were not optimistic, particularly about the CRCs, but also, interestingly, about the NPS. Primarily, as mentioned, the concerns were around the ethos and motives of the owners of the CRCs, but even within the NPS, there were concerns that the civil service would promote an increased level of orthodoxy and firm adherence to the government line when compared to the semi-autonomous probation service. In the end, it would seem that the best hope for probation work and a modified 'ideal' is that motivated people will continue to be employed within both sectors and that good, humanistic, curious practice will break out despite the restrictions of the governance of the probation world (Deering 2016).

However, even if this is possible, one issue that seems more likely to be increasingly relevant is the apparent growing gap between practitioners and management (including team managers) identified earlier (Deering 2011) but also in our latest study about TR:

> A further element to be considered is the evidence . . . of some level of division between practitioners and managers, although this seems to be emerging amongst the former and is perhaps not evident to, or acknowledged by the latter. Views expressed by practitioners did identify some divergence of view [between grades], with managers being seen as increasingly 'corporate' and willing to take on elements of the government's agenda, both pre-TR and around the TR changes themselves. Moreover they were sometimes seen as becoming less interested in practice and professional issues and more so in the attainment of targets and performance management. (Deering and Feilzer 2015, p. 100)

Should this be the case, it will presumably become even more difficult for practitioners to practice in a manner they would prefer. In the past, whilst sometimes clearly constrained by government and management agendas, practitioners seemed able to reconcile tensions by retaining and operating professional discretion. In a different atmosphere and within two separate and smaller organisations, practitioners may feel increasingly disillusioned and under pressure to conform to case management and law enforcement priorities. Regrettably, at this juncture it is difficult to be optimistic, as we concluded in the TR study:

> However, the probation ideal encompasses the wide range of tasks we have called probation work and also a range of values and attitudes that have been outlined above. Many of the tasks will presumably continue but it is far more difficult to envisage the culture and working practices within which they will take place. Perhaps some of these may experience some continuity, but it is hard to see how they will be able to flourish in the same inquisitive, contested, and debated manner that has sometimes been the case within the public sector. The marketisation of part of probation has introduced a new, unwelcome dynamic to the probation field. (Deering and Feilzer 2015, p. 103)

The probation service went through many changes in governance, organisation, underlying theoretical approaches and practice between its creation in 1907 and its destruction in 2014. Perhaps one consistent factor is that it has consistently attracted a similar type of individual to the practitioner role: people who have believed in the service's potential for facilitating individuals' ability to change. Very broadly, this has been seen as most likely via the provision of empathic 'help'. Should the same people be attracted to the task in the future, despite the significant barriers being placed before them via TR, then some hope must remain that they can continue to work in ways that reflect such beliefs and that probation work might still be done in a curious, optimistic and flexible way, and not simply reflect late modern obsessions with punishment, law enforcement and risk (Deering 2016).

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John Deering trained at Swansea University, receiving his CQSW in 1984. He worked first for the former Mid-Glamorgan County Council social services department on an urban aid-funded project with young people experiencing a range of social and educational problems, then as a member of a juvenile justice team that was involved in preventive work, as well as court report writing and the supervision of young people on court orders.

In 1991, John moved to the Mid-Glamorgan Probation Service, where he held a generic caseload, including group work and some family court work for several years. He became interested in the issue of effectiveness (no better

articulated than 'why am I doing what I do?' type questions) and training and ran two small internal evaluation studies with colleagues as well as acting as a trainer for some in-service events.

In 2001 John was seconded to the University of Wales, Newport, to teach probation trainees and, in 2005, he left probation to work for the university. He was involved in the DiPS from 2001 to 2010 and was the programme leader for 5 years. Alongside the DiPS, John has taught and researched in the areas of probation, youth justice and the criminal justice system. He is Reader in Criminology and Criminal Justice at the University of South Wales.

7

Probation – Rights and New Agendas

David Denney

This chapter considers the precarious and ever-changing positioning of probation within the criminal justice system, and the way in which probation has been required to define and redefine itself in the light of changing political agendas. It draws on a body of work which spans over three decades which has been concerned with the way in which basic rights are sometimes denied or begrudgingly given to those serving their sentences in the community. The writing has offered a critical analysis of the way in which discrimination based upon disability, gender and race was and still is an enduring feature of the criminal justice system. A starting point for tackling such discrimination is the idea that rights to fair treatment are inalienable and paramount and should follow the service user through the criminal justice process regardless of the offence. These rights should be made clear and understandable to those serving community sentences (Broad and

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Denney 1992, 1996). It will also be argued that recent developments in probation policy do nothing to address these concerns.

Being both an academic and practitioner over many years has led this writer to the conclusion that probation officers walk a tightrope over terrain that requires them to apply coercive sanctions as is the case for instance in breach proceedings, whilst also representing human rights in a system that can be inhumane and unfair. The latter enterprise often incurs the displeasure of other criminal justice professionals and the suspicion of governments.

Beginnings in Probation

On a grey day in 1971 a young man experienced his first day of employment as a 'temporary probation officer' with the Birmingham Probation Service. With a degree in Sociology from Birmingham University, Home Office 'sponsored probation training' followed. At that point the Home Office funded 'radical social work training' in this case at Warwick University, where radical social work ideas were being developed by the late Peter Leonard and his colleagues. It is interesting to reflect upon the fact that this training programme celebrated amongst others the theoretical achievements of Karl Marx himself and other radical writers on the left of politics including Antonio Gramsci and Paulo Freire.

A temporary lectureship at the University of Kent at Canterbury in 1979 began an association with Vic George, leading to a PhD which examined differential treatment of black offenders by probation officers under Vic's supervision. At this point Vic George with Paul Wilding had already broken with the established social administration tradition by analysing various forms of political ideology which had shaped the development of state welfare post Beveridge, whilst at Kent a book with the late Peter Ely reflected an attempt to put 'race' and 'ethnicity' on the social work and probation agenda at a point at which social work theory was dominated by Eurocentric and American psychologism (Ely and Denney 1987).

The idea of an academic returning to probation practice was greeted with scepticism by some probation authorities in the 1980s. It was made clear that there was no appetite to employ for an individual who would probably 'pirouette in and out'. However, working in the then Inner London Probation Service was a stark reminder of the difficult reality of life experienced by those serving their sentences in the community.

The move to Royal Holloway in 1997 facilitated a brief period of co-working with Brian Sheldon and Geraldine MacDonald – controversial figures in social work and probation training. Both eloquently argued for the use of cognitive behavioural therapy in probation and social work practice generally at a time when such practices were probation heresy in some quarters.

During the 1990s risk became a paramount consideration in probation practice (Denney 2008). Between 1998 and 2002 whilst at Royal Holloway with ESRC funding the author was able to participate in a study which investigated the personal risks faced by probation officers in their daily practice (Denney and O'Beirne 2003; Elston et al. 2002).

International influences have been important in developing probation research in the UK. One of the most innovative approaches towards anti-discriminatory probation practice can be seen in the Canadian criminal justice system. Unlike the UK these innovations have been led and enthusiastically supported by members of the Canadian Judiciary. In 1995 the author was invited and learned much from His Hon. Judge David Cole and was subsequently invited to make a contribution to the Report of the Commission on Systemic Racism in the Ontario Criminal Justice System (1995).

The treatment of individuals with mental disorders and learning difficulties has been a personal source of concern in practice and research. From 2009 and 2011 the author contributed to a project based at the University of Lincoln under the direction of Professor Charlie Brooker investigating the prevalence of mental health disorder and patterns of health screening access in a probation population (Brooker et al. 2014). The findings of the research showed the extent of mental disorder experienced by probation clients and the inadequacy of current treatment provided within the probation service.

Some Reflections

The journey from the 1907 Probation of Offenders Act which established the Probation Service to the 'Transforming Rehabilitation' agenda (Ministry of Justice 2013a) has shown the extraordinary flexibility and inventiveness of probation officers. From the court missionaries through diagnostic casework in the 1950s/1960s, 'what works' in the 1980s and 1990s, government policies have redefined the purpose of probation intervention. The recalcitrant and sinners identified by the early court missionaries became 'patients' and by the 1960s 'clients' and in the 1980s 'service users'. Privatisation of the probation service in some curious way makes 'service users' customers, although they do not purchase services. Through all these changes probation has injected humanity and basic human rights into the rehabilitative orthodoxy of the day (Denney 1998a). Even during the pessimism of the 'Nothing Works' period in the 1970s (Martinson 1974), and the punitiveness of the 'short sharp shock' of the Thatcher years, there was a consensus within government which guided probation policy. This orthodoxy recognised the need for a professionally delivered service with the welfare and rehabilitation of probationers and citizens at its core.

Notwithstanding this, the probation service has reflected inequalities and discrimination prevalent in the wider society. The work discussed here represents an attempt to recognise the potential strength of diversity and challenges that groups who are often discriminated against in society offer to the workings of the probation service and also to wider communities (Denney 1992).

Towards Anti-discriminatory Practice

The early 1980s marked a period of deep social unrest of extensive rioting in inner city areas of the UK fuelled by fears of the emergence of a new rabble, and a moral breakdown.

> The Bristol disturbances of 1980 and the widespread unrest in Brixton and other inner city areas which followed 1981 emphasised the need for

> policy that not only recognised the existence of institutional racism within the probation service, but contained practical policy related suggestions that would create the framework for an antiracist strategy. (Denney 1992, p. 142)

An early study of young Rastafarian probationers at this time reached the tentative conclusion that social work values and methods require some change if there is to be hope of effective work with this group, and that the full acceptance of a multiracial Britain was a necessary prerequisite to effective probation practice (Carrington and Denney 1981). These ideas were further developed in an article in the *British Journal of Social Work* (Denney 1983) and then a book with the late Peter Ely (Ely and Denney 1987). Drawing on the methodological ideas of Max Weber it was argued that

> Unless subconscious ideas of racial hierarchy are first acknowledged a racialist perspective will infuse any understanding of structural issues or cultural relativity with the automatic assumption that different equal's inferiority. If social workers do not incorporate awareness of their own racial feelings into their professional relationships on a conscious but not necessarily explicit level then the more assertive black clients will often do that for them. (Ely and Denney 1987, p. 4)

This drew attention to the presence and nature of racism in professional probation practices whilst introducing five abstract conceptualisations which typified the then current approaches to social work and probation intervention. First, a 'cultural deficit model' was dominant at this time emphasising service user responsibility to adapt to a British way of life. 'Liberal pluralism' also current in social work and probation in the 1970s offered a Fabian view of the social world. This perspective acknowledged the impact of multiple deprivation emphasising the role of social workers in enabling black people to utilise existing services more effectively. 'Cultural pluralism' drew attention to the delivery of culturally sensitive services. In contrast, the 'structuralist' position identified racially structured subordination as a manifestation of capitalist ideologies and inevitably created various forms of discrimination in service delivery. An emergent black professional perspective recognised

that black people had insufficient power over policy and service delivery and that many of the problems were created by racism and multiple disadvantage (Ely and Denney 1987).

This latter framework gained momentum through the 1990s. After considerable lobbying from NAPO, the Society of Black Lawyers and the Association of Black Probation Officers, a clause was added to the 1991 Criminal Justice Act which became Section 95. This part of the legislation made it incumbent upon the Secretary of State in each year to publish information for the purposes of facilitating the performance of tasks by persons engaged in the criminal justice system in a way which avoided discrimination.

The Centrality of Language

The power that probation officers possess to influence decisions made by sentencers resides in the use of language whether it is spoken or written. Probation reports, records and oral explanations to the courts focus attention on the way in which explanatory themes relating to criminal behaviour are selected and dispersed. Probation officers use language in ways which constitute linguistic conventions recognised by other professionals. A common view is reached between probation officers and sentencers through the use of differing forms of professional discourse. Central in the selection of professional linguistic codes as was mentioned above in relation to the cultural deficit model is the individual responsibility of the 'client' (Ely and Denney 1987).

The word describing the individual who is subject to probation intervention is in itself significant. There has been a gradual transformation from the use of 'client' to 'offender'. This is related to what is often referred to as the phase of diagnosis and was a central feature of the developing professionalisation of the probation service:

> The idea of the client emerged during a period in which psychiatric and psychological discourse came to dominate probation practice. Throughout the 1930s and 1940s the probation service went through the 'phase of diagnosis' with an emphasis on scientific assessment and treatment of the

> individual. This provided the probation officer with a professional status and refocussed work from the divine redemption of the Methodist missionaries towards the quasi-psychiatric assessment and treatment of the individual. (Denney 1998a, p.19).

The client then becomes a person who is using the services of a professional person, although in the case of probation no fee for this service is paid. On the contrary the client in this case was forced to comply with the professional, whilst failure to do so could result in possible breach proceedings and ultimate imprisonment. Despite this there was within this professional discourse the possibility of rehabilitative change facilitated by the 'scientifically' informed practices of the probation officer:

> Probation thus became integrated into the rehabilitative orthodoxy of the day. (Denney 1998a, p.19)

It was with the election of the most anti-collectivist government since the Second World War in 1979 that the changing authoritarian nature of the state appeared to be expressed through professional terminology routinely used within the criminal justice system. The word offender crept into the probation lexicon, emphasising the criminal act and not the individual human being. Already the individual coming into contact had been defined in terms of one who has given offence. The probation officer has a critical role in explaining the motivation of the offender to the court both in written form in pre-sentence reports and in verbal testimony (Denney 1992). If the probation officer judges that the 'offender' voluntarily committed the offence and shows no remorse, then a 'corrective' linguistic code is adopted in the presentence report. Words like 'irresponsibility', 'anger' and terms like 'intrinsic criminality' suggest that the criminal behaviour emanated from some form of individual pathology. Negative connotations were often used to qualify and affect the vocabulary of motive in such cases, leading towards the 'offender' being conceptualised as a wider threat to society and ultimately a risk. Such a form of discourse is more likely to lead to a custodial sentence. If the behaviour being considered by the courts is in some way contextualised within the influence of an external uncontrollable force, for example, depression,

sickness bereavement, temporary aberration, an 'appreciative code' is more likely to be adopted. This can often lead to a more positive outcome. However, 'Racism is not a concept that is readily utilisable within the conventional systematicity of probation discourse' (Denney 1992, p. 133).

Structural factors like racism are rarely if ever used by probation officers to contextualise criminal behaviour whilst equal opportunities seemed to be more professionally acceptable within probation: 'Equal opportunities policies seek to respect have understanding of diversity and counter unfairness, consulting user groups with regard to types of provision and individual needs. In other words equal opportunities approach seeks to bring about changes within existing structural arranges' (Denney 1997, p. 86). Antiracism by contrast emphasised 'The importance of transforming systems which create oppression and dominant ideological discourses which legitimate negative beliefs about particular groups' (Denney 1997, p. 86).

In many respects equal opportunities represented the liberal pluralist position outlined above, whereas antiracism reflected structuralism and an emergent black perspective (Denney 1983; Ely and Denney 1987). Antiracism provoked a hostile response in some parts of the media:

> The essence of the populist critique of anti-racism which emerged at this point rests on the supposed emergence of a form of intellectual neo Stalinism. Such ideas are supposedly backed by a corpus of undifferentiated certainties sanctioned and then promulgated by an institutionalised thought police situated within local education and social service departments some institutions in higher education and quangos like the Central Council for Education and Training of Social Workers. (Denney 1997, p. 87)

Criticisms of antiracism were not confined to the pages of the tabloids. Influential academic voices regarded antiracist polices as failing to recognise as is the case with equal opportunities policies, the importance of social justice and democracy in the battle against racism. Some forms of antiracism that Gilroy argued represented the experience of life for black people as little more than a response to racism. This leads to a reductionist conception of black people as victims (Gilroy 1990). The extent of discrimination in the criminal justice system and the barbarism of racist thuggery were demonstrated powerfully with the publication of

the report into the murder of Stephen Lawrence (Macpherson 1999). This report referred to the institutional racism which infused the Metropolitan Police and the extent of racism within wider society. It also powerfully demonstrated the extent of racism within the criminal justice system which previous policies and practices had failed to address.

Probation, Learning Difficulties and Mental Disorder

Practices which can create discrimination within the criminal justice system are not confined to race. History is littered with examples of gross injustices perpetrated against individuals with learning difficulties by the criminal justice system. The execution of Derek Bentley in 1953 and the improper conviction and false imprisonment of Stefan Kiszko from 1976 to 1992 showed how false forensic evidence was used against individuals described as having a low mental age (Denney 1998b).

As with racism the form in which offences were linguistically conceptualised could have a crucial bearing on the way in which behaviour is explained and considered by the courts through official discourses. No common understanding of the term 'learning difficulty' exists within the criminal justice system whilst accurate data as to the number of individuals with learning difficulties do not exist. In 1992 the workings of the Police and Criminal Evidence Act (1984) showed that more information needed to be given to the suspect about the right to legal advice whilst there needed to be more detailed guidance about putting rights into practice. Probation officers could be central in this process. According to a recent HMIC report, progress in this area has been almost non-existent (HMIC 2014).

Probation and Mental Disorder

In 1992 Reed identified a number of major deficiencies in the social services and probation provision for mentally disordered individuals in the criminal justice system (Reed 1992). Reed recommended more coordinated working between social services and probation and the

need to divert mentally ill people away from the criminal justice system where possible. Some 17 years later in 2009, Bradley found that there were more people with mental health problems in prison than ever before with inadequate provision. Custody can exacerbate mental ill health, heighten vulnerability and increase the risk of self-harm and suicide. Bradley made 82 recommendations for improving the treatment of people with mental health problems in the criminal justice system (Department of Health 2009). Five years later, a report completed on behalf of the Bradley Commission published in June 2014 made further recommendations for what still needs to be done to improve mental health services in the criminal justice system. Little progress had been made, and the report called for a new Concordat, committing agencies including the police, NHS, prisons and probation services to ensure that all front-line workers receive appropriate mental health awareness and regular updated training (Duncan et al. 2014).

As is the case with learning disabilities, little is known about the extent of mental disorder in individuals serving their sentences in the community. In a study of a large probation population in which the author of this chapter participated it was found that 49 % of participants reported experiencing a mental health disorder at some point in their lives. The most common categories of disorders were mood disorders (44 %), psychosis (16 %) and panic disorders (10 %) (Brooker et al. 2014).

Probation and the Risk Society

Despite the risk to vulnerable groups in the criminal justice system as described above, New Labour based their criminal justice policies on risk and fear. Three dominant New Labour risk discourses marked a change from 'needs-led' to 'risk-led' welfare (Kemshall 2002). First, New Labour policies were built upon the premise that mass affluence reduced the need for universal welfare and state-sponsored risk protection. Second, New Labour emphasised the precautionary principle which attempts to identify risks and act upon them before they occur. New Labour's construction of 'risk environments' in both foreign and

domestic policy was based upon the selective generation of possible scenarios which emphasised risk. Third, New Labour restated the relationship between risk, responsibility and regulation as a rapidly emerging theme in policy development (Denney 2009).

In the field of criminal justice this was reflected in early intervention, restorative justice programmes and intensive probation supervision. Risk assessment formed the basis for providing increased levels of intense supervision to individuals in the community. More coercive measures were even created to manage risks created by children. The abolition of *doli incapax* made children under the age of ten criminally responsible (Morgan and Newburn 2007). However, what is remarkable about these policy changes is that they singularly failed to take account of the existence of institutional racism and other forms of discriminatory practices within the criminal justice system and specifically probation practice (Denney 1992).

Systems like the three-tiered Multi Agency Public Protection Authorities (MAPPA) and the Offender Assessment System (OASys) form the basic foundation for designating an individual high risk. There are, however, a number of concerns with such high dependency on risk assessments.

Fitzgibbon and Green found incomplete risk assessments in some cases despite concerns present in initial screening relating to dual diagnosis, self-harm and inability of some individuals to conform to psychiatric treatment. Risk assessments were found to be severely limited since the process does not allow incorporation of significant episodes like previous suicide attempts (Fitzgibbon and Green 2006).

Bullock's research demonstrated how an overreliance on OASys led to 'regulation' rather than a 'response' to offending behaviour. Moreover, risk management continued to be moulded in terms of PR actioner values and preferences and not scientific objectivity claimed by advocates of risk assessment. Simple 'yes' and 'no' answers on the risk assessment tool prevented more nuanced assessments which in the field of mental health is an important dimension that needs to be considered if intervention and management are to be effective. Risk assessments have limited value in accounting for exceptional circumstances, individual characteristics and rare events and are less predictive for young people.

Moreover, it is still possible for such an 'objective' process to mask inherently subjective professional judgements (Bullock 2011).

In the Lincolnshire study on mentally disordered clients mentioned above, the random sample was stratified by tier of risk using OASys. Individuals in Tier 1 with high risk were significantly underrepresented in the study sample, whilst those in Tier 3 – the lower risk – were overrepresented. Individuals designated by probation officers as belonging to Tier 2 risk level (medium to low) had the highest suicide rate. Although this conclusion is drawn on the basis of one study, it raises further questions about the reliability of the OASys risk assessment tool in detecting the potential for self-harm and suicide.

The trust placed in flawed risk assessments contrasts starkly with the emphasis placed on developing existing rights for users of probation services. At the time of writing, the National Probation Service (NPS) is developing ever more complex forms of risk assessment technology, although there are severe limitations to the efficacy and usefulness of this as an accurate predictive practice tool (Brooker et al. 2014).

What is significant for the probation service here is that no consensus exists as to what constitutes risk. This is particularly evident with regard to the often conflicting expert opinions which form the basis for risk assessments: 'The fluidity and elusive nature of risk also suggests that the notion of an all embracing "risk society" oversimplifies the occupational and professional attempts to respond to risk' (Denney 2008, p. 78).

Violence and Abuse in the Workplace

Another aspect of risk relates to the abuse experienced by probation staff in their working lives (O'Beirne et al. 2004; Gabe et al. 2001). In one of the most extensive studies of violence perpetrated against professionals it emerged that nine out of every ten probation officers had experienced verbal abuse at work. One in five had been threatened with personal harm. One in ten probation officers had been physically assaulted. One per cent of female officers had been indecently assaulted (Denney and

O'Beirne 2003). This research indicated that violence in the form of verbal abuse threats and assaults is a common feature of routine work for probation staff. 'Our research indicates the potential for violence and the consequent fear felt by officers was structured into routinized tasks of probation officers. Furthermore probation staff interpreted violence with regard to the context in which the violence took place. Verbal abuse had to a large extent become a normalised form occupational hazard' (Denney and O'Beirne 2003, p. 61). Significantly this aspect of risk in the workplace has not figured in recent probation policy development.

Reflections – From Rehabilitation to Privatisation

The rehabilitative and humane values that probation has represented since the beginning of the twentieth century appear to be regarded as increasingly irrelevant by contemporary policymakers.

The case for more punishment and the increasing importance of the market can be seen from a number of perspectives but by far the most often used justification for more punishment is the ineffectiveness of probation:

> The probation service and other non state finance organisations are resented by the new right as hopelessly ineffective wasteful and useless. The probation service like other social work services has been subjected to market testing in the belief that the market can regulate and create efficiencies which the state-run and delivered services cannot deliver. (Denney 1998a, p. 192)

New Labour's approach to criminal justice moved in a commercial and more punitive direction as did the Thatcherite agenda which had preceded it (Denney 2008). Consequently, between June 1993 and June 2012 the prison population in England and Wales increased from 41,800 prisoners to over 86,000 (Ministry of Justice 2013b). An alternative view of probation built upon market principles has thus been gathering momentum for a considerable period. The idea that prisoners

should pay for their own accommodation and the privatisation of the prison and prison escort service were emerging on the policy agenda during the early 1990s (Cavadino and Dignan 1992).

'Transforming Rehabilitation' was a policy paper laying out the Conservative and Liberal Democrat coalition approach to probation between 2010 and 2015. Its contents re-echoed many nascent New Labour ideas. The document represented a radical move towards the privatisation of the probation service. Although state-funded NPS continues to supervise 30 % of high-risk offences, the remaining 70 % are supervised within 21 community rehabilitation companies replacing 35 Probation Trusts. Private companies now bid for contracts to run the CRCs. One of the most radical aspects of this policy is the payment by results approach which rewards providers that deliver the most effective rehabilitation programmes, effectiveness being conceptualised in terms of reconviction rates. Under the 2014 Offender Rehabilitation Act supervision will be extended to an extra 45,000 people a year released from short prison sentences (Ministry of Justice 2013a).

Two Probation Services

Before the implementation of the 2014 Act the House of Commons Justice Committee recognised that the effective creation of two probation services created considerable and previously uncharted challenges. Two probation services working locally will each have to forge relationships with organisations and bodies for the delivery of joint complementary services. The risk of wasted resources becomes more possible with the creation of complex communications and confused accountability (House of Commons 2014). A further problem identified by the committee is the mechanism whereby 'results' will be rewarded. The most worrying aspect of the tendering systems is the possibility that contracts will be awarded to the cheapest bidder without due regard to the standard of service supplied. The lack of evaluative research makes the impact of the changes speculative at the time of writing. However, it seems possible that a more expensive and less efficient system could result. The increased focus on rehabilitation and 'life management

issues' is stated in a vague context of protecting the public and reducing re-offending, rather than addressing the problems encountered by individuals who are serving their sentences in the community (Brooker et al. 2014). The term 'offender management' itself is sanitised and impersonal, transforming probation into a commodity which supposedly has monetary value in a complex seemingly incomprehensible market of supervision in the community. The intended and unintended consequences of this radical change in policy are not understood but leave probation with an uncertain future.

From Optimism to Risk-Based Pessimism

Overzealousness possibly led this author in some cases towards unrealistic and unfair expectations of individuals he supervised. A recommendation of probation for an older man who had served over 30 years imprisonment for minor offences had unintended consequences. In a matter of weeks following the order being made by the court the man committed a minor offence designed with the specific intention of returning to prison. In retrospect the recommendation for probation could be regarded as naïve although it was rooted in a sense of hope and optimism. The organisational structure which allowed probation officers to be optimistic and take risks for their 'clients' is in danger of being transformed into a low-cost, risk-based bureaucracy dominated by a precautionary principle which purportedly identifies hazards before they occur (Denney 2009). Moreover, as has been argued above, the risk instruments are flawed. Perceptions of risk are often invisible and based upon supposed casual relationships which can be exaggerated or minimised. Risk is also a concept which is open to construction and political manipulation. In the case of probation, risk and danger have been emphasised in order to justify a more punitive approach to community sentences (Denney 2008; Denney and O'Beirne 2003; O'Beirne et al. 2004). However, 'The destruction of a culture which seeks to address the effects of human need and hardship reflects the institutionalised removal of basic rights and will ultimately weaken society' (Denney 1998a, p. 237).

Deprofessionalisation

As the 'Transforming Rehabilitation' agenda moves inexorably forward, we could be witnessing a concomitant deprofessionalisation of services for all but the very 'high-risk' cases. This seems to counter evidence particularly in the field of mental health suggesting that specialist probation mental health practice has the potential to decrease re-arrests, lower levels of imprisonment and illegal drug use whilst enhancing possibilities for employment and stable housing. US Specialist Probation Units typically had reduced caseloads comprising of clients with mental illnesses. Continuous training is at the heart of specialist practice in the US (Skeem et al. 2006). Success in the US is best marked by the efforts to develop and test innovative interventions, build collaborative ventures across systems and target funding to support the evaluation and dissemination of innovation. Given the complexities involved in managing various forms of abuse and violence, the movement to de professionalise probation under 'Transforming Rehabilitation' is particularly worrying. Risk is also being used in the reformed probation service as a gatekeeping tool whereby individuals are directed towards a qualified probation officer or to one of the CRCs. There is a central contradiction here. The privatisation of probation could result in inexperienced unqualified probation officers dealing with service users who pose a risk to themselves, the general public and to the offender manager despite the dependency on flawed risk technologies in probation practice.

Individualisation and the Social Decontextualisation of Probation

It has been argued that the body of work described in this chapter shows that probation can reinforce and institutionalise the pathologisation of individuals. Bottoms and McWilliams (1979) in their seminal contributions argued for a redirection of the probation service in the light of the collapse of the treatment model. The 'non-treatment paradigm'

advocated the provision of help diverting appropriate cases from custodial sentences whenever possible. This approach concentrates on utilising information for the courts which is of direct relevance to the offence questioning the use of more routinely included subjective observations. The need to include other material which could have a bearing on the offence – e.g. local unemployment levels, housing problems – has run through the body of work described here. This is not an argument for complete exclusion of factors which relate to a person's family or education, but calls for an attempt to incorporate her/his explanation of the situation into professional accounts of criminal behaviour offered to the courts. Much of the work described in this chapter has attempted to draw attention to the manner in which criminal justice professionals speculate in a quasi-scientific manner whilst failing to acknowledge the impact of gross inequalities in our society (Denney 1992).

Increased Bureaucratisation

Privatisation introduces a wider and diverse group of potential service providers in the form of CRCs. This could create inconsistences within service delivery arising from the fragmentation of service provision. Internal markets themselves will create costs and create bureaucratic procedures which could ultimately reflect the interest of agencies and staff and work less in the interests of the service users. Such arrangements also have the potential to increase communication difficulties between various agencies involved. The scope for discretionary actions in the CRCs by probation workers is yet unknown, but concerns will be raised if CRCs are staffed by poorly trained staff. There is no longer a progression for a probation services officer to probation officer for CRC employees. Replacing human intervention with for instance biometric kiosks at one time unthinkable could be on the probation agenda. There is, however, as Ian Lawrence, general secretary of NAPO, argued, no substitute for skilled professionals at the front face assisting clients to make something of their lives (Lawrence 2015).

Back to the Future

It has been argued in this chapter that the politics of probation have ebbed and flowed with the dominant political ideas of the day. This chapter may be regarded by some 'reformers' as an argument for the status quo ante and constitutes a sentimental failure to recognise the reality of a mixed economy of welfare in the criminal justice system, clinging to a world that has gone. It has to be acknowledged that there has been steady progress in recognising the existence of discriminatory practices in the criminal justice system during the period described in this chapter. Landmarks like Section 95 of the 1991 Criminal Justice Act, the MacPherson Report and the Single Equality Scheme introduced by the National Offender Management Service (NOMS 2009) have all identified shortfalls and the need for changes in practice with respect to race, gender, disability, age, sexual orientation and religion.

However, even at this early stage some private companies who own CRCs are proposing significant reductions in staffing at a time when staff appear to be stretched to capacity (Lawrence 2015). Increasing risk adversity on the part of government has resulted in more complex needs being pushed towards an already struggling NPS. Even if we take into account teething problems with a new system, the creation of low staff morale within the NPS as a result of the pressures created by dealing entirely with complex cases must be a significant concern for government. 'Transforming Rehabilitation' raises the long-term future viability of NPS given its reduced size and structure. One possible future scenario would be the complete privatisation of probation which would seem to be a consequence of current policies. Probationer's rights have not figured in the decision to move the criminal justice system towards the private sector. The reduction of public expenditure through competitive tendering was the prime and unequivocal aim. The existence of inequality from this perspective is recognised, but is to some degree accepted on the basis that it constitutes an inevitable albeit undesirable result of market forces. The body of work described in this chapter would suggest that to demand justice from a society dominated by market competition is unrealistic and absurd.

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8

Bridging and Brokering – Hope for the Future of Probation?

Mark Drakeford

This chapter explores the extent to which the Probation Service has in the past, and could today, provide the criminal justice system with an understanding of the impact which large-scale social forces have on the choices available to, and made by, individuals. It also explores the strand in probation practice which has seen its work with such individuals as not simply about understanding such forces, but also about challenging and helping to change them.

Vanstone (2010, p. 19) suggests that while 'the history of probation practice can be seen as a continual quest for effective ways of resolving people's problems and helping them to lead crime-free lives . . . that quest has invariably been idiosyncratic, uncharted, often unsustainable and impermanent'. In this chapter I argue that the 'bridging' and 'broker' role, which the Probation Service and its individual practitioners has, to sharply fluctuating extents, always occupied, continues

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to offer some flickering hope of a future based on intellectual coherence, conceptual stability and practical usefulness, rather than the shifting sands of political fortune and occupational fashion.

Let me begin by being clear that it is not part of my argument that some 'golden age' once existed, in which the approach advocated here ruled supreme. Such avowals are themselves part of the social work academic tradition (see Vanstone [2010, p. 21] for such an example). In this chapter, I refer to only three pieces in which I have been involved as author, in a publication period which now includes five different decades. However, I see that a denial of 'golden ageism' was required some 20 years ago, in the text on which I draw most closely here (Drakeford and Vanstone 1996). No doubt similar disavowals are to be found in the work of Father Biestek (1957) and Mary Carpenter (1851).

The variable and contested extent to which the 'social' has featured in social work over the last 40 years is illustrated well enough in my own direct experience. My probation career began in 1976 when I saw a large advertisement in a national newspaper seeking candidates to train for a career in what it called, 'social work in the criminal justice setting'. I was about to complete my undergraduate degree in Latin and this seemed as good a bet as any. A spell as a volunteer, a chance encounter with an article by Bill Jordan (Jordan 1975) – 'Is the Client a Fellow Citizen?' – and I found myself as a Home Office-sponsored trainee in Exeter. Within a month I was on placement at Exmouth Social Services office. A harassed and hard pressed lady (as we would undoubtedly have said at the time) came to the office and asked for a letter to the local WRVS store where she could obtain extra blankets for the winter ahead. My supervisor suggested I explore the 'presenting problem' for what lay behind this request. My puzzled reply that it looked like a need for blankets was met with a response which was both amused and tolerant: I was young, naïve, but with luck, I might learn.

If this was my first social work encounter, then my time at Exeter was framed at its conclusion by the final event I attended as a student. It was a public lecture provided by the then-Director of Social Services. Its title? 'The Role of Social Work in the Event of a Nuclear War'. Anyone who believed that social work had a clear understanding of its own

boundaries, let alone a grasp of the community-focused, socially mobilising agenda which the Seebohm Report had set out for the profession (see Dickens 2011) would quickly have learned that the reality was rather otherwise. If this chapter makes an argument in favour of a particular sort of probation practice, therefore, it is quite certainly not founded on a nostalgic call for a return to a past which never existed.

In and Against the State

The probation service was by no means immune from the repeated crises of identity which have long been characteristic of social work. At no time in its history is it possible to claim that it was dominated by any single, hegemonic sense of mode of operation. Debates about purpose and method continued unabated in the late 1970s and early 1980s, with a wide spectrum of views advocated, for example, by Bailey and Brake (1975, p. 1980), Pinker (see, for example, 1979), Bottoms and McWilliams (1979) and Walker and Beaumont (1981). Yet, across this range of possibilities, it remained a relatively unchallenged contention that it was possible to work within a public service while remaining critical of the way such services were organised and provided. The extent to which such criticism should lead to action was undoubtedly debated but, to differing extents, what all these strands had in common was an understanding that empathetic relationships, by themselves, were 'no compensation to people enduring problems of poverty and deprivation' (Vanstone 2010, p. 21). If there was an orthodoxy, it was to be found in the belief that practitioners needed to rise above a focus on individuals and, instead, to recognise, and challenge, the circumstances which dispersed life's chances so unfairly. This was the era which Paul Senior (1984) describes as one of radicalisation and a diversification when it was still possible for probation officers to act as both 'in and against the state'. One example of this possibility will have to be sufficient for this chapter.

The history of the Social Fund has been well rehearsed by others (see, for example, Craig 1990; Drakeford and Davidson 2013). It combined a

series of driving purposes of the Thatcher period in its prime: it reduced public expenditure, it tackled 'dependency', it focused help on the 'deserving' than the undeserving poor, it 'privatised' the problem of poverty into the lives of those who experienced it and it allowed those in power and possession to take such decisions in the comforting knowledge that apparently harsh measures were, in fact, in the interests of those who bore the brunt of them. At the outset, Ministers believed that welfare workers at the front line should play a part in making Social Fund decisions, thus blurring the line between social work and social security. Who better, after all, to know which cases were the most deserving of help? This was fiercely resisted by both the British Association of Social Workers and the National Association of Probation Officers. It is more difficult, today, to imagine the assistance which was also provided by both the Association of Chief Officers of Probation and the local authority employers (see Stewart and Stewart 1991). Research commissioned by ACOP, for example (reported in Stewart et al. 1989), highlighted the direct and damaging impact which the Fund was having on probation clients within 1 year of its operation: far from reducing the risk of crime, the Fund created the conditions in which it became more likely; far from being an asset to front-line workers, it had the effect of using up huge amounts of probation officer time in assisting users to obtain its highly conditional help. The upshot was a national policy statement (Stewart and Stewart 1993, p. 410) which set out a policy of 'non-cooperation' with aspects of the Fund and 'determined advocacy' of the claim of every individual who wished their probation officer to intervene on their behalf.

The reason for highlighting the campaign which the Fund evoked in the 1980s is simply to suggest that, within the working lives of those still involved in such matters, the Probation Service, at all levels, regarded its responsibility to represent the social and economic circumstances of its users to those in authority, to make the case when those circumstances were adversely affected by public policy, to act on that evidence in practice and to do so in an entirely open and campaigning fashion. This chapter makes no claim that such traits were always, or unambiguously, dominant in the Service – but they were certainly present, and capable of being drawn to the surface.

Consequences?

The resistance to the Social Fund of probation organisations, and of social work more generally, certainly did not go unnoticed. By itself it was only one strand in a far wider set of concerns which saw Mrs Thatcher's privatising and marketising zeal move progressively from the economy to the sphere of social policy, following her election victories of 1983 and 1987. The Probation Service was no exception, albeit with some paradoxical results.

By the time the events recorded above were taking place, a process was already well underway in which, from the middle of the 1980s onwards, barely a year went by without some new Home Office document designed to tighten central government grip over the purpose, direction and daily practice of the probation service. The process began in earnest with the Home Office Statement of National Objectives and Priorities (SNOP) of 1984, which Vanstone (2010, p. 26) says 'set off a train of policy development that would culminate in a service unrecognisable' to practitioners and managers. It was followed by Home Office (1988, 1990) command papers, *Punishment, Custody and the Community* and *Supervision and Punishment in the Community: A Framework for Action*. The 1991 Criminal Justice Act, with its 'macho-correctionalist' (Pitts 1992) insistence on tackling and confronting offending, abolished the voluntary nature of probation, making it instead a sentence of the Court. By the time National Standards were published for the first time in 1992 (and again in 1995; and revised once more in 2000, this time with the benefit of 'direct political intervention' [Maguire and Raynor 2010, p. 246]), we were able to conclude, in *Beyond Offending Behaviour*, that 'compliance, not cooperation and the courts have become the keynote of the contemporary probation service' (Drakeford and Vanstone 1996, p. 3).

Such developments were clearly inimical to any sense of a probation service able to focus on addressing and challenging the social circumstances of its users. The energies which had previously been directed towards such activity did not disappear entirely, but were diverted, inside social work, into the development of 'anti discriminatory practice'

(see, for example, Dominelli 2002; Thompson 1992). ADP kept itself from the hostile gaze of Thatcherism through its emphasis on equality of opportunity (to the exclusion of much interest in equality of outcome) and by foregrounding causes of discrimination such as gender, ethnicity and sexuality, rather than social class or poverty. The ambitions taken up under the 'anti-discrimination' banner, and the causes which it sought to address, were real and important and kept a particular form of radicalism alive in practice, even as it side-stepped the agendas of economic and social disadvantage which, in the lives of users, had gathered pace over almost two decades. By the time of the 1997 General Election, the UK had been transformed from one of the most equal countries in Europe in 1976 to amongst the most sharply unequal. The impact on the lives of those most cut off from the mainstream, found in such concentration on the caseloads of probation staff, is very difficult to overestimate.

New Labour

The Labour years which followed saw a reversal in the chronic under-investment in public services in the UK. The general position of the health service (Nuffield Foundation 2014) and of education (see, for example, Whitney and Anders 2014) improved significantly. Employment rates rose to new heights and the introduction both of a minimum wage and of tax credits provided a new bolstering of the incomes of those in low-paid work.

It would be unfair to argue that some 'trickle-down' effect of these developments did not reach the lives of people caught up in the criminal justice system. However, the extent to which that was the case was significantly constrained by New Labour's recasting of the social citizenship model originally set out by Marshall. Mr. Blair's first major speech on becoming prime minister, delivered within days of entering 10 Downing Street, set out the New Labour approach. For those who 'play by the rules' the new government would be generous with its provision of assistance and its creation of new opportunities. For those who failed to take advantage of these new chances, however, the consequences would be real. For the first time in the history of the party the pursuit of a more equal

society was relegated to a subsidiary position. Provided everyone was getting better off then, as Peter Mandelson famously argued, it really didn't matter if some were getting better off a lot faster than others.

By the time New Labour left office, pensioners (for the first time ever) were no more likely to live in poverty than someone of working age. Child poverty had been reduced in both relative and absolute terms, compared with the position in 1997 (Parekh et al. 2010). Measured by the Geni coefficient, the rise in inequality in the UK had been halted, but by no means reversed. Against this relatively benign background some groups, however, had fared far less well. In particular the single, unemployed (from whom probation caseloads are disproportionately drawn) found themselves progressively detached from their contemporaries. Labour's record can best be summarised by comparing the position of different groups in 2011 (the year after Labour left office) with 1998 (the year after Labour took up office). A single pensioner, dependent on means-tested benefits, ended the period on 104 % of the low-income threshold (defined as an income of 60 % of median earnings). The comparable figure for a couple with two children was 70 % and that of an unemployed childless couple was 46 %.

If the New Labour approach created a 'long tail' of citizens, increasingly remote from the economic benefits enjoyed by others, then another key in which the context for probation practice has altered during the time in which we have been interested in the subject has been the blurring of the boundary between criminal justice and social policy ways (see Drakeford and Vanstone 2002 for this argument at greater length). Simplifying the position, it can fairly be argued that, for the first 30 years of the welfare state, solutions to social policy problems were sought by social policy means, while the criminal justice system attended to the consequences of offending. One of the fundamental roles of a probation officer was to act as a bridge between the two systems – attempting to extract the citizenship rights (Marshall 1950) to services in the fields of income maintenance, housing, health and so on to which probation users remained entitled. Since 1979, that boundary has been increasingly (and at an accelerating pace) breached. In particular, persistent attempts have been made to address social policy challenges by criminal justice means. Pupils fail to attend school with sufficient regularity? Prosecute their parents (Collins et al. 2015).

Tenants fail to adhere to the conditions of their tenancy? Pursue them through the latest manifestation of an antisocial behaviour order. Looked after children create a disturbance at a children's home? Call the police and have them arrested.

This blurring of the boundary was already well underway by the time we edited *Beyond Offending Behaviour* in 1996. Just one quotation must serve to illustrate this point. Surveying the impact of poverty on the lives of probation service users, John Arnold and Bill Jordan predicted that,

> There will be increasing similarities in the ethos and methods, and in the social relations, of income maintenance and criminal justice agencies. Anyone who doubts this could usefully spend some time comparing an average day of unemployment training in a low skill scheme with one spent on a community service programme, or a Restart group within offending behaviour group. (Arnold and Jordan 1996, p. 52)

During the New Labour years this approach to policy making persisted and gathered pace. It was accompanied by another continuation of previous developments in the rapid dismantling of previous governance arrangements, and their replacement with ever-more insistent imposition of national structures and priorities. All of this has been well rehearsed elsewhere. Maguire and Raynor (2010, p. 249) suggest that the pivotal year occurred in 2001 'when it was made a national service with its roots in a central government department, rather than a local service accountable to local magistrates', but even this was only one event in a far wider picture of the withdrawal of probation from social work courses, the abolition of 'consent' to probation, the 2003 Carter Report, the inauguration of the Orwellian-sounding National Offender Management Service and the start of the journey towards 'contestabilty' (Raynor 2014).

After 2010

As this chapter draws towards the present day, there are two key aspects which need to be brought together. In the first, it was argued earlier in this chapter that a focus upon the social circumstances of its users, and a

willingness to work towards their improvement remained a clear and visible strand in the history of the probation service right through the period covered by the chapters in *Beyond Offending Behaviour* in 1996. In a spirit of optimism, I am willing to conclude, tentatively and with caveats, that evidence can be found of the survival of such motivations, despite the enormous upheavals in the probation world. Robinson et al. (2015, p. 3) recently found that 'probation ethos has been found to be quite resilient', with the service 'continuing to attract staff with "traditional" values, motivations and orientations to do the work' (2015, p. 4). The emergence of 'desistance' ideas may yet provide a bridge between the enduring motivation of staff and some practical space in which they are enabled 'to help offenders with welfare and social problems as a core part of their practice' (Fenton 2013, p. 78). Deering (2015, p. 4), citing Burke and Davies (2011) and Gregory (2011), declares that the overt pressures to 'law-enforcement, managerialists and risk based approaches . . . have been resisted in everyday practice and cultural identities'. In a Lipsky (2010) sense, in the interstices of street-level bureaucracy, something real of the probation purpose remains alive and identifiable.

Even against the latest twists and turns of the 2014 'Transforming Rehabilitation' reforms, the rise of 'desistance' approaches in probation, including the Offender Engagement Programme, led Raynor and Vanstone (2015, p. 1) to contend that a renewed focus, in probation on individual practice skills and on the quality of relationships, 'is producing findings which resonate with traditional social work concerns'. Deering (2014, p. 7), in similar vein, argues that the new National Standards of 2011 signalled 'a shift from a one size fits all approach to enforcement to one that was based more on professional discretion'. He maintains, 'on the face of things, the Offender Engagement Programme, when combined with the new Standards potentially provides for a very different probation supervision, one based on individual are used to need, professional discretion, increased partnership and collaboration between offender and supervisor and a commitment to a wider range of interventions'.

In terms of social circumstances themselves, however, and the extent to which they are amenable to influence, a far bleaker conclusion has to be drawn. In almost all the core components of the welfare state, the

position of probation users today is more difficult than at any time over the past 70 years. The policies followed since 2010 have been firmly rooted in the beliefs set down during the Thatcher era. In poverty terms, the position has worsened rapidly. Changes to benefit rules have produced an enormous outflow of purchasing power from the most deprived communities (see, for example, Welsh Government 2015). Within such localities the impact of cuts has fallen disproportionately on those individuals – young, single, childless, unemployed men – who are most likely to come to the attention of the probation service. Inequality has risen sharply (see, for example, Dorling 2015) and been accompanied by a new willingness to apply deliberately stigmatising language to those who rely on state support (Patrick 2015). Romano (2015, p. 67) describes this as 'the resurgence of the moralising drift in the welfare state and the new social representation of those undeservingly living on welfare-the shirker-present all the elements of the past stereotypes of the undeserving poor', amongst whom, of course, those who get into trouble with the law have always been prominently positioned. The result, Crossley argues (2015, p. 22), is that 'state support for many people who lead precarious lives on low and/or insecure incomes is becoming either increasingly difficult to obtain or people do not believe it is worth the hassle associated with applying for it'.

The blurring of the boundary between social and criminal justice policy is seen at its most vivid in this area. The use of benefit sanctioning has risen hugely, in terms of scale, scope, duration and intensity, during the period since *Beyond Offending Behaviour* was completed. A first wave occurred in 2007 as a result, Tinson (2015, p. 8) argues, of 'the tougher line taken' by John Hutton as Labour's then Secretary of State at the Department of Work and Pensions. New record-high numbers of individuals subject to sanctions occurred in 2013, with 900,000 sanctions imposed on claimants of jobseeker's allowance, alone. In 2014 Tinson expressed the view that 'on average, each month just over 10% of all JSA claimants were referred for a sanction. With around half actually being sanctioned, this meant around one in 20 JSA claimants were sanctioned each month'. For such individuals, the length of time to which a sanction could apply had been extended to a maximum of 156 weeks and the proportion of benefit to which a

sanction could be applied has been raised to 100 %. Watts et al. (2014) showed that this rise in the sanctioning was not supported by any commensurate growth in justification. What was clear was the real hardship resulting from it.

We described housing, in *Beyond Offending Behaviour*, as one of the most basic props of a law-abiding life. Surveying the evidence of contemporary probation practice, we wrote that 'of all the subjects covered in this volume accommodation is probably the area where most progress can be identified' (Drakeford and Vanstone 1996, p. 83). Today, the position is very different, the scale and nature of the problem having worsened so sharply. Today, the general housing landscape facing a practitioner is one of 'escalating housing costs, acute pressures in the social housing sector, rising rents and historically low levels of new building' (Cole and Powell 2015, p. 42). More specifically, in relation to those who find themselves before the courts, the impact of changes in housing benefit (the bedroom tax, the reduction in housing benefit availability in the private sector, the abolition of the social fund and so on) will produce a particularly sharp impact. All of this is compounded by the enormous pressures felt by the local authority is housing and homelessness departments, a recent rowing back from some of the accommodation rights established for vulnerable ex-offenders in 2002 (House of Commons 2014) and the failure of successive administrations to provide a sufficient volume of social housing to meet even the most urgent needs. Cole and Powell (2015, p. 45) describe housing policy as 'going around in ever decreasing circles'. The impact on those whose lives become the concern of the probation service is that, as these circles contract, more and more of them find themselves excluded from access to one of the most fundamental foundations of a settled existence.

Nor are changes in income maintenance, housing and other policies to be seen in isolation. The cumulative impact of these changes has been to create, ever more sharply, the spatial concentration of disadvantage, with those whose needs are greatest driven furthest away from help. Hastings et al. (2015, p. 40) make the case that cuts to local authority budgets in England have fallen disproportionately on those councils with the greatest concentrations of deprived people, and with the greatest intensity of need. They suggest that English councils have, in general,

responded by attempting to prioritise those services which have the greatest impact on the poorest citizens. However, as austerity progresses, they point out, 'savings in "pro-poor" services are making up a growing share of the overall burden of savings'.

Even within concentrations of disadvantage, social and economic policies based on gradations of 'deserving' have created new hierarchies of their own. It is one of the core political calculations of the post-2010 administrations that older people, who vote, should be protected from cuts while younger people (including families with children) should bear the burden of austerity. Cole and Powell (2015, p. 44) conclude that 'the dependency discourse has taken an unusual turn in terms of defining what it is to be young – now, it seems, anyone below 35 years of age. It is being used increasingly as a mode of rationing benefit support'. This new form of discrimination is, of course, particularly significant for the probation service, where the age profile of users is so very heavily concentrated amongst those below the new age of full citizenship.

Final Thoughts

This chapter is written at a point where, with the practical formation of new Community Rehabilitation Companies and the relatively residual retention of a National Probation Service, a number of powerful trends appear to have reached their conclusion. Privatisation, marketisation and the unambiguous alignment of probation as a 'law enforcement agency' (as it was described in the Criminal Justice and Court Services Act 2000), and thus as part of the punishment purpose of the criminal justice system, are, to all intents and purposes, complete. Some gains, even from these changes, will be possible. The partnership working advantages cited by Maguire and Raynor (2010, p. 242) may well be apparent in fields such as alcohol and drug treatment teams, with some scope to develop out-of-court, out of formal criminal justice system, diversionary, preventative, non-criminalising disposals and supportive intervention of the sort advocated by Case and Haines (2015, p. 165) in their account of youth justice developments in Wales.

In *Beyond Offending Behaviour* we argued that, while the social circumstances facing offenders were bleak, and the practical ability of probation officers to address such matters had weakened, the case for focusing on the shaping forces of social life – poverty, unemployment, health and housing – remained intrinsic to any effort to address offending. We declared that

> Social work in the Criminal Justice System should be about imaginatively helping individuals to change, and it should be concerned with the reduction of harm caused by crime. But it should also be about doing good in the lives of people who are themselves often deeply disadvantaged and whose life chances have already been damaged by poverty and poor quality, residual public services. It means re-embracing social explanations of crime which contribute to an understanding of the complexity of real people, leading real lives. In the process it means abandoning some of the false simplicities of the justice model which suggest that the range of choices, and the moral context in which choices are made, are the same for the company director as for the young person living in the broken down car parked on the forecourt of his parents' home on the Ely estate in Cardiff. Dissatisfaction, disaffection and the loss of hope of improvement are poor soil in which to help people lead law-abiding lives. If it is to be otherwise it means recreating a stake in society for those who are excluded. For probation officers this begins with understanding, explaining and seeking to improve the social circumstances of those people with whom the Probation Service works. (Drakeford and Vanstone 1996, pp. 106–107)

Twenty years later it is difficult to be confident about whether such a change in policy direction can be achieved. The climate of policy and public opinion towards those who get into trouble with the law has hardened still further. Those attitudes have been deployed to justify a diminishing and evermore conditional form of citizenship, in which access to basic social policy services has become increasingly difficult and made all the more so by changes in the form, function and focus of what remains of the probation service. In 1996, albeit increasingly against the grain of the times, we were able to identify a plethora of local initiatives in all the fields which *Beyond Offending Behaviour*

addressed. While, at the micro level, probation officers still tended to individualise rather than contextualise social problems, as they emerged in the lives of their users (Broad 1991, p. 114), both they and their employing organisations nevertheless invested considerable time and energy in devising and implementing collective solutions to problems of unemployment, poor housing and falling incomes. Today the position in which the probation service finds itself makes that effort both less likely and far more difficult.

Raynor (2012, p. 186) sets out the dilemma very clearly when he suggests that, 'probation flourishes best in societies which believe that the legitimacy of government rests partly on recognising a substantial share of responsibility for the welfare of citizens'. When the state has withdrawn from such responsibility, the social bargain is broken in the process. When government itself has turned its back on the belief that collective action is necessary to mitigate (let alone reverse) inequality, or to construct achievable ways in which those in need might bring about improvement in their lives, then the task of even the most dedicated probation action has been made immeasurably more difficult. It is difficult to dissent from Deering's (2015, p. 1) conclusion that the pressure is on the service now 'ultimately irreconcilable' and that probation's days are 'numbered'.

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Mark Drakeford began work as a Probation Officer and Senior Probation Officer at South Glamorgan Probation Service in September 1979. During the 1980s he wrote on social policy, social work and probation practice in the *Probation Journal* and *Critical Social Policy*. From 1989 to 1995 he worked in youth justice and as a Barnardo's project leader at a community development project at the Ely estate in Cardiff. From 1995 to 2011 he worked successively at Swansea and Cardiff Universities, becoming a Professor of Social Policy and Applied Social Sciences in 2005. Between 2000 and 2004, with Ian Butler, he was editor of the *British Journal of Social Work*.

In 1985, Mark was elected as a Labour councillor at South Glamorgan County Council. In 2000 he became the Cabinet's Health and Social policy advisor at the newly formed National Assembly for Wales. From 2007 onwards, he was head of the First Minister's political office. When the First Minister, Rhodri Morgan, retired in 2011, Mark succeeded him as the Assembly Member for Cardiff West constituency. He chaired the Assembly's Health and Social Care Committee from May 2011 to March 2013 when he was appointed as Minister for Health and Social Services.

His publications include *Pre-Trial Services and the Future of Probation* (2001) with Kevin Haines, Bev Cotton, Mike Octigan; *Scandal, Social Policy and Social Welfare* (2005) with Ian Butler; and *Social Work and Social Policy under Austerity: Reshaping Social Work* (2012) with Bill Jordan.

9

Probation, Privatisation and Perceptions of Risk

Wendy Fitzgibbon

My interest in working with people who are marginalised and have limited resources stems from my own experience. I spent my childhood on a council estate in West London and went to the local school. I saw at first hand the effects of prejudice and poverty and this led to my strong commitment to social justice and fairness. I was privileged not by the material wealth of my parents but rather by their social awareness and this encouraged me to question and challenge the inequality and prejudice – including far-right politics – that I saw around me. At school I found that even supposedly well-meaning teachers promoted stereotypes regarding 'council estate kids' and their families. I was fiercely proud of my family and this led me to challenge such prejudice.

My family was supportive and valued education with the result that I succeeded in getting a place at the local grammar school. I followed this

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with a vocational education which began in nursing with socially deprived children and then progressed to social work, student welfare advice and finally to probation. Over many years I worked in probation offices, a bail and parole hostel, a prison and finally as a practice teacher. My probation experience consolidated my belief in the necessity of well-resourced public services and also in the need to challenge stereotypes of marginalised social groups.

I worked as a probation officer in London from 1989 to 1993 and as a Practice Development Officer for Hertfordshire Probation Service from 1997 to 2003. I moved into academia and am now Professor of Criminology, Faculty of Social Science and Humanities, London Metropolitan University. My research has covered risk and public protection, developments in probation, comparative penology and mental disorder and offending.

This chapter focuses on my concerns and observations regarding the growth in the use of targets and risk assessment tools in Probation, the introduction of neoliberal-inspired management strategies and finally the outsourcing and privatisation of the service. I firmly reject notions that social justice can be reduced to pound signs and 'payment by results' and that individuals can be reduced to collections of risk assessment data. I believe that privatisation is continuing and accentuating these tendencies which were already present in the Probation service and I hope that this chapter reinforces our awareness of the dangers that lie ahead if such policies are not abandoned.

The general contention of this chapter is that current debate about privatisation of probation in the UK has tended to set up a false dichotomy between state and private which diverts attention from the fact that privatisation as part of a 'rehabilitation revolution' intends, in fact, to continue the domination of the risk management approach. What is emerging is a public–private combination of increasingly centralised public sector probation and the private 'security-industrial complex' of global security corporations. An important consequence of this process is the annihilation of both residual elements of voluntary sector and community work within probation itself and of the smaller private charities and third-sector organisations which have long collaborated with probation in traditional desistance work.

This chapter, therefore, will argue that privatisation will, by dividing up probation work between a number of incommensurable and decentralised agents governed by well-known dysfunctional incentivisation such as payment by results, magnify these problems; and it will impact on the media's perception of probation, in particular the management of serious violent cases. It will illustrate how this has changed profoundly over the last 30 or so years and how media moral panics have increasingly portrayed high-profile murder cases as symptoms of catastrophic social breakdown and thus legitimised a vindictive and at times salacious attitude to the practitioners and managers associated with these cases. This serves to impute a new culture of practitioner culpability at times equal to or even exceeding that of the actual perpetrators themselves. The chapter will argue that this media coverage is due to the steady decline in the social status of probation practitioners combined with the elevation of journalists and the lay public to the status of experts regarding appropriate methods of probation work, and punishment more generally.

Finally, it will be proposed that a probation system operated by the security-industrial complex with a few voluntary sector agencies in tow might reduce public scrutiny and make more opaque the channels of managerial responsibility. The chapter ends on the optimistic note that the recent high-profile incompetence combined with alleged criminality of both corporations and operatives in the private sector may serve to redirect media focus to those aspects of deskilling of probation work, mentioned above, which have hitherto escaped the limelight.

Introduction

There have been two fundamental shifts in probation in England and Wales over the last 30 years. The first is the gradual shift from an orientation to welfare in the direction of a concentration on risk. That is to say an orientation which emphasised the needs of the client as they were helped to move away from crime and into non-criminogenic relations of work, family and community has been gradually superseded by an orientation which emphasises the need of the public for protection from risk and the correct assessment of the risk that the client may pose to public security.

I have discussed this shift in various places in my work, notably in my book (Fitzgibbon 2011) and an earlier monograph (Fitzgibbon 2004). In the latter I wrote that 'the old liberal and reformist concerns with social inclusion, while never disappearing entirely, continually slip further down the list of priorities in favour of concerns with management of risks and the neutralisation of problem populations' (Fitzgibbon 2004, p. 54). In my 2011 book much of the discussion was devoted to analysing the changes in the orientation of probation (and child protection social work) that had taken place since the 1970s. I concluded:

> Today the idea that the requirements of public protection need to be balanced by the rights of the offender, particularly if convicted of dangerous offences, to be rehabilitated might seem outlandish but in the mid 1970s rehabilitation was still a major aim of those agencies, such as probation, concerned with the management of offender. (Fitzgibbon 2011, p. 53)

I reiterated this shift in my 2007 article:

> Probation in England and Wales was traditionally a form of social casework with offenders, and aimed at rehabilitation. The traditional slogan 'advise, assist and befriend' summed up a relationship of trust established between practitioner and client crucial to the strategy of therapy, guidance and rehabilitation. The offender was seen as a citizen in need of help, and an understanding of the client's biography and the social circumstances that had led to criminality would be the starting point for a strategy designed to enable the offender to reorganize his/her life. The aim of the probation practitioner was that of providing a supportive relationship to facilitate change. In recent years, this relationship has been radically transformed. The offender is seen simply as a risk from which the public needs protection, and it is the task of probation to protect the public by managing that risk. (Fitzgibbon 2007b, pp. 87–88)

And again in my 2011 book:

> An element of the task of practitioners in both probation and social work was always the assessment of the risk of something dangerous happening.

> However, the proliferation of social fragmentation and intensification of public insecurity about crime and violence have acted to shift the focus of agencies such as prisons, probation and social work away from the rehabilitation of offenders and people in various categories of trouble towards the prioritisation of the protection of the public from such people. This focus on public protection has led to the prioritisation of the assessment of risk – of offenders committing further crimes, or of children being abused. (Fitzgibbon 2011, p. 84)

What does this shift involve? It is not possible to talk about this without reference to some features of the currently predominant neoliberal ideology, in particular the renewed emphasis on the responsibility of individuals and communities, rather than the state, to deal with adversity whether it be poverty, ill health or criminality. The role of government is continually restricted to notions of 'enabling' or 'steering' rather than 'rowing' (Osborne and Gaebler 1992) and in particular the protection of middle class and those designated as respectable citizens from any harmful risks arising from such deprivation. The emphasis is on the protection of 'the public' from the risk of harmful activities (crime, child abuse, anti-social behaviour) by individuals in poor and fragmented communities.

> The State contemplates these fragmented communities of the socially excluded less as citizens in need of policies aimed at rehabilitation and restoration of citizenship rights than as risks to be managed until they can, via their own efforts, for example to gain employment, be reintegrated within the community. (Fitzgibbon 2007a, p. 131)

For the probation practitioner this has meant the shift away from 'advise assist and befriend' – helping the client to get back to a non-criminogenic environment as a result of which they have a high chance of desistance to an emphasis on correct risk assessment and appropriate measures to maximise public protection. The main task of probation is increasingly surveillance and risk management, ensuring offenders are not a risk to the public while they 'self-rehabilitate'. For the client it means that rehabilitation is essentially 'self-rehabilitation': a shift of responsibility to the client for their own rehabilitation.

The term is still used of course but its meaning has subtly shifted to that of encouraging offenders to make 'correct choices', that is, to desist from further offending but without the support services, opportunities and help which make a noncriminal lifestyle a viable choice, particularly for young offenders. It is continually less about providing the support services and opportunities which make a noncriminal lifestyle a viable choice, particularly for young offenders. To the extent that the latter still exist they are subcontracted out to voluntary charities. While the majority of probation officers – probation has particularly strong traditions of professional autonomy – tenaciously cling to the older concepts of helping offenders, they have been continually undermined by increasing workloads and deskilling. Probation training was disconnected from social work in 1997 while increasing numbers of semi-skilled 'probation service officers' are employed to perform simplified 'tick-box' risk assessments of offenders.

Thus the 'offender manager' replaces the probation officer: managing the post-offender population to ensure it does not create trouble and disturbance. This plays to the second key element in the demise of the collective citizenship of the welfare state, social polarisation: mounting inequality and collapse of stable working class jobs, social cleansing etc. and hence welfare universalism is replaced by the (increasingly privatised) concern of the middle and upper classes for security against the precariat with whom there is less and less political or social communication. The poor are increasingly 'othered' (Young 1999) and reduced to the status of risk group.

At the same time the diminishing availability of well-paid stable jobs for young people in stable communities has meant the material underpinnings of the old strategy have weakened. Getting people into jobs and communities is less viable. Putting the responsibility on them is a cover for the lack of opportunities. This is something I emphasised in my 2011 book:

> The decline of employment has taken with it a whole set of values and networks which provided status, respect, notions of adulthood and childhood and an image of a life trajectory based on school, work, marriage and family in a context of mutual recognition and support for those

> progressing along the same path. These have been largely replaced by insecurity, disrespect, the decline of trust, high rates of crime and violence (in the context of a decline for the country as a whole), weakening of the family and respect of young for old, and a generalised culture of individualistic narcissism. (Fitzgibbon 2011, p. 38)

Actuarialism

Offender management is thus increasingly characterised by public protection, a shift from the needs of the offender to the (perceived) need of the public for security against the underclass. The overriding concern is to keep their risk low. This in turn is connected with two further important developments about which I have written. First, the underclass as a risk group to be managed and minimised is ultimately irrespective of whether they are in prison, released on licence, engaging in anti-social behaviour or just considered 'at risk' of engaging in any of these. Thus it is no surprise that these changes in probation exist alongside general moves towards 'pre-emptive criminalisation' about which I wrote some years ago. The Anti-Social Behaviour Order has been regarded as the epitome of preemptive criminalisation but I wrote about it in the context of mental health which is an interesting and less talked about (in general media and politics) aspect. In 2007 for example, I characterised preemptive criminalisation:

> The displacement of welfare and social inclusion by security and public protection has created a vacuum into which criminal justice agencies, such as the police, fulfil a frontline role in dealing with social disorder. It has also, as a consequence, increased constraint backed by law to the status of a general means deployed to regulate social problems. In such a context, the imposition of constraint on those who have yet to commit a criminal offence, or who have completed their sentence, appears a reasonable measure. The threat to public security comes in a wide variety of risks, incivilities, threats, indications of dangerousness, some of which will be direct transgressions of criminal law, others not. (Fitzgibbon 2007a, pp. 130–131)

Second, there develops a need to devise appropriate instruments to correctly assess the risk that clients may constitute to public security and appropriate strategies for the management of such risk. Again, essentially this is a general task of social control but which for obvious reasons is heavily reflected in developments within probation. The role of the Offender Assessment System (OASys) is well known:

> Through deployment of standardized risk assessment tools such as OASys, the aim is to identify the offender as the carrier of various criminogenic needs, needs that can become the targets of transformative therapeutic intervention aimed at behavioural change (O'Malley, 2002; Hannah-Moffatt, 2005). These criminogenic needs can be classified by reference to factors including previous and current offence(s), and the potential for harm to self or members of the public which such offences indicate. A number of background factors are included, such as accommodation, education, employment, financial situation, relationships, lifestyle and associates, drug and alcohol misuse, emotional well-being, thinking and behaviour, attitudes, health and other considerations. The OASys system allocates a score between 0 and 2 (2 being a serious problem) and guides the practitioner to the level and type of intervention required by the offender profile. (Fitzgibbon 2007b, p. 88)

At the level of social control in general, various actuarial strategies have emerged making it possible to 'read off' the risk level from the general characteristics of the group – young, poor, with convictions, low educational attainment, work record etc. Since it is about managing a class (by preemptive criminalisation of that class) it can be done actuarially by group characteristics.

This approach is increasingly used as a general control strategy – e.g. for CCTV controllers or security guards deciding who to let into a shopping precinct on the basis of dress or demeanour (with all the prejudiced stereotypes that such surveillance involves). The problem with probation is that probation work – due to the strong culture of practitioner autonomy – still focuses primarily on the individual relationship between practitioner and client. Practitioners know that this is the only thing that really works. From this standpoint, 'actuarialism' is no more a basis for actually making decisions about an individual than

it would be for deciding guilt in a criminal court. The well-known 'actuarial fallacy' notes, as I have previously pointed out, the problems involved in deriving the characteristics of a particular individual from the statistically probable (i.e. actuarial) characteristics of the group of which they are a member. This clashes markedly with the individual focused traditions of probation work as I have emphasised in my publications:

> The score registered for an individual client on the various components of risk assessment scales still indicates simply that the client belongs to a group which has a statistical probability of certain types of behaviour. Whether that individual will engage in such behaviour is still a question of the individual judgement of the practitioner (Horsfield, 2003) and, therefore, the better the practitioner knows the individual client the more accurate that judgement may be. Where the practitioner does not have an intimate knowledge of the client, the characteristics of the group may be translated into the characteristics of the individual. The ecological fallacy, well known to statisticians, observes that the characteristics of individuals cannot be inferred from the characteristics of areas or groups. In risk analysis there is thus the very real possibility of an actuarial fallacy whereby the behaviour of individuals is spuriously inferred from the behaviour of groups. The result is a tendency towards inflation taking the form of over-prediction of dangerousness of individuals, such dangerousness being conflated with the risk characteristics for the group to which the individual has been allocated. (Fitzgibbon 2007b, p. 91)

Deskilling

This conflict and tension between the continuing traditions of focus on the individual relationship on the one hand and the move towards standardised actuarial-based risk assessments on the other has been ongoing within public sector probation for some time. Institutional changes have continually favoured the latter. The inauguration of actuarial risk assessment tools such as OASys as standard procedure has been combined with the gradual deskilling of probation practitioners. First, by increasing employment of deskilled operatives.

Second, by changes in the length and focus of probation training – a shorter training, breaking the last connections with social work. These changes have been documented and commented on by myself and others. The effect, not to emphasise too much, has been to remodel the probation practitioner as a variety of security guard and surveillance expert and the final death of the notion that it is any concern of the probation officer to help individuals re-position themselves in a non-criminal lifestyle. As I pointed out in 2007,

> The result is a new regime in probation in which the practitioner becomes essentially a deskilled or specialized operative. Deskilling takes place through substitution of the old casework skills with pre-formatted 'tick box' assessment systems epitomized by OASys. Practitioners thereby become interchangeable. Indeed, risk analysis templates such as OASys can equally be implemented by prison officers. Meanwhile the cognitive therapy based programmes to which clients are referred on the basis of criminogenic needs assessment are increasingly administered by practitioners trained only in managing the particular programme and who have no overall perspective relating to the total life situation and biography of the client. Skilled staff increasingly concentrate on high-risk offenders, while lesser risk offenders are supervised by non-qualified personnel. (Fitzgibbon 2007b, p. 88)

This division of labour which was 'already emerging within the public probation sector' exactly prefigured the logic of the partial privatisation strategy embodied in Grayling's 'Transforming Rehabilitation' in which the serious offenders will be managed by the NPS and the rest will be handled by the Community Rehabilitation Companies (CRCs) with their increasingly deskilled and briefly trained workforce.

Privatisation

These changes were already underway within the public sector and therefore privatisation can be most adequately characterised as the last stage in this process. Changes following the Carter review (2003) allowed some probation functions, for example, work with offenders needing drugs treatment etc. to be outsourced to voluntary agencies and for back room

functions such as Human Resources etc. to be done by private sector, for example, Capita. There were also, importantly, pilots of some of the 'labour saving' technology which is now being used by private security companies managing CRCs to bring about staff redundancies and fundamentally change the probation experience for the client. In 2014 John Lea and I commented on London Probation's piloting of electronic kiosk reporting by clients (in Bexley and Bromley) as the model for the new offender management by private security, noting the 'graphic contradiction between techno-surveillance and personal contact' which these experiments revealed (Fitzgibbon and Lea 2014, p. 30).

This process of gradual development means that privatisation should not be seen as something of an aberration arising out of the neoliberal fantasies of Chris Grayling (the Justice Secretary in the Coalition government of 2010–2014). Recent debate about privatisation of probation in the UK has tended to set up a false dichotomy between state and private which diverts attention from the fact that privatisation as part of a 'rehabilitation revolution' is, in fact, the continuation and consolidation of the risk management approach developing in probation for some time. Privatisation should be seen as essentially the completion of long established processes.

But outright privatisation does resolve one particular conflict within probation: in particular that noted above between on the one hand the emphasis on the individual relationship and helping the offender, an emphasis sustained by the cultural autonomy of practitioners, and on the other hand an emphasis on risk-based offender management and public protection. Privatisation helps to resolve this decisively in favour of the latter by finally putting the nail in the coffin of practitioner autonomy by reducing practitioners to the status of a 'precariat' of lightly trained, insecure employees of CRCs run by large private security companies. This tendency was as noted already presaged in the strategies of deskilling mentioned above but could never be fully achieved while probation practitioners remained an organised culture. In a piece on probation and the 2011 riots in England I wrote that 'the precariously employed, deskilled operatives who work now within probation are tasked with supervising the rioters who share some of the same characteristics' (Fitzgibbon 2013, p. 19).

Meanwhile the probation officers who remain in the rump National Probation Service (NPS) will be silenced by becoming civil servants. The division between the 'elite' NPS and the 'mass' of CRC employees is being encouraged through such incomprehensibilities as the non-sharing of data, severing of communication channels etc. These developments will magnify the problems of miscommunication, poor risk assessments and ultimately increase risk to public. But the aim of these developments was never to increase the quality of probation work but rather to promote divide and rule antagonisms and finally break the profession. Probation practitioners will lose professional status and lose all opportunity to influence the development of practice. Innovation, such as it might be, will inevitably gravitate to managerial and advisory levels. Front-line practitioners will be simply a precarious workforce.

But in both cases, centralisation will be increased through a public–private combination of increasingly centralised public sector NPS and the CRCs under the control of a private 'security-industrial complex' of global security corporations. This will be compounded by the chaotic division of probation between a number of incommensurable and decentralised agents governed by well-known dysfunctional incentivisation such as payment by results.

Yet some argued that privatisation could liberate practitioners to pursue more creative and innovative methods, less focused on risk management and freed from the limiting target of cultural constraints and top-down management of the public service. But as the recent Sodexo example shows the direction of travel is towards massive redundancies of traditional practitioners and the consolidation of the risk management orientation through replacing labour by technology. The overriding theme which is emerging is precisely what critics foresaw: monetisation through 'payment by results' coupled with the profit incentives of the security-industrial complex would indeed turn probation into low-cost surveillance. There will be a double whammy: the annihilation of residual elements of voluntary sector and community work within probation itself is being reinforced by the demise of the smaller private charities and third-sector organisations which have been protected by probation through the outsourcing of traditional desistance work. From the perspective of the smaller voluntary sector the

outsourcing and 'contestability' of the Carter reforms was a godsend which kept the voluntary sector viable. Without probation to protect them their only future lies in placing themselves, through the CRC bidding process, under the de facto control of the security-industrial companies and the adoption of its methods of cost cutting and orientation to surveillance.

Probation and the Media

A probation system operated by the security-industrial complex with a few voluntary sector agencies in tow might reduce public scrutiny and make more opaque the channels of managerial responsibility. It is important to consider what the role of public scrutiny is and in particular what the role of the media is in such scrutiny.

Probation has had a particularly bad press in recent years and in my recent work I tried to show how this is related to the structural position of probation as a criminal justice agency in the forefront of the new emphasis on public protection and how it is failures rather than successes that become the media's focus. In my 2011 book I documented the failures of probation in some high-profile cases (and also child protection social work) and subsequently showed how these failures were magnified by the structural position of probation.

I then developed the argument that the structure of probation made it (together with similar agencies such as social work) particularly vulnerable to media criticism and orchestrated 'moral panics'. I wrote:

> Probation starts from its successes, the hundreds of ex-offenders who are kept out of trouble and integrated back into a non-criminal way of life. Probation does not start from the fact that occasionally individuals under its supervision commit SFOs (Serious Further offences). It is a measure of success that such things are relatively rare. But this is precisely where the media starts. Journalists focus on the event (the SFO) and then search for answers to questions about this particular event: how did this happen and who is to blame? There are quite different, and conflicting, notions of risk at work here. Probation starts from the low risk of SFOs and when one such occurs, is always in a difficult position, being forced to say things

> like: 'these things are rare but we cannot of course guarantee absolutely that they will never happen. We will attempt to plug the holes identified by our inquiry into this particular case and ensure it is unlikely to recur'. (Fitzgibbon 2016, Chapter 10)

This dynamic is then reinforced by the dynamics of neoliberalism and in particular the prevailing view that public sector bodies are inefficient. Thus the very political ideology which is used by government to justify the destructive privatisation of probation acts to reinforce the vulnerability of probation to criticism from the media for signal 'failures'.

There is, however, a countertendency in that the working of private, by contrast with state, agencies is shielded from public criticism and accountability since the direct link between government responsibility and agency performance is clouded by market considerations (see Mulgan 2003). Indeed in the case of English and Welsh Probation the guarantee of private profits included a 10-year guarantee against reversal of privatisation by future governments written into the bidding contracts for the CRCs. The tradition of reducing political accountability through privatisation is well established in the UK. The question is slightly different regarding the media. Politicians, in particular Ministers of Justice, can indeed shield themselves from political criticism by pointing to the private market performance responsibilities of CRCs and the lack of political control over their working methods. We are perhaps unlikely to see a repeat of the events in which Jack Straw, aided by a sharp media focus, created a situation in which the resignation of the London Chief Probation Officer David Scott became inevitable following the Sonnex case (Fitzgibbon 2011). But we need to remember the essentially partial nature of probation privatisation. A client similar to Sonnex is indeed likely to be under the control of the NPS for which the Minister still retains responsibility. Indeed, if a client such as Sonnex were under the control of a CRC then the latter might plausibly argue that the offender should not have been allocated to them in the first place but retained by the NPS which is responsible for all initial risk assessments. This is precisely the type of muddying of the waters of accountability which privatisation brings.

However, it is also true that the private security companies of the type which have now assumed control of most of the 21 CRCs have themselves

been in the limelight of media criticism for both inefficiency (G4S and the 2012 Olympics fiasco) and indeed for alleged criminal defrauding of government by overcharging for electronic tagging (Serco) as well as the unsavoury events at Yarl's Wood Immigrant Removal Centre which was under the control of G4S. Both these companies were barred from the initial probation bidding round for the CRCs no doubt because it was suspected that the media attention they had hitherto received might bring the whole privatisation process into public disrepute. It may well be that the fact of privatisation itself has only partially obscured the issue of accountability and that the media may well be as hostile to a failing CRC as it was to the old Probation Service in general or the new public sector NPS. In any case the basic fact that probation, public or private, is constitutionally at a disadvantage in relation to media because of the different ways in which the two institutions work remains unchanged.

Indeed privatisation may work in the other direction of enhancing the likelihood of media hysteria for failure. It is already evident that, in the CRCs at least the private companies are determined to reduce the number, quality and working conditions of probation practitioners through redundancies and increased emphasis on technology (the Sodexo example), all of which will intensify the already existing tendencies to deskilling and decline in status of the workforce. As the status of probation practitioners approaches that of security guards – not to mention issues relating to the quality of recruitment – vulnerability to media criticism may well increase. Low-skilled, unmotivated employees will lack the solidarity and cultural cohesion of the old probation service and, given the desire of CRCs to avoid public criticism of the organisation as a whole, are much more likely to be 'hung out to dry' but without the high-profile criticism of ministers and senior managers. Employees (possible on zero hours contracts) are more likely to carry the can. This downgrading of expertise and loss of status of probation can only enhance the tendency (which I noted in my study of the Sonnex affair; Fitzgibbon 2011) of the media to promote the 'expertise' of the public and the media who now presume to make judgements regarding the competence of professionals – whether probation officers, social workers or doctors.

The decline in the status of professionals is joined by the increased weakening of community cohesion and sense of local support and

solidarity in many deprived areas. This is something I focused on in my book and which has intensified in the subsequent period due mainly to massive government cuts in welfare and local authority funding. Community self-help groups that were originally a key component of the 'Big Society' theme (which has since sunk without trace) have been hard hit by funding cuts. A growing sense of isolation among the most deprived social groups – with no authoritative community members or social service professionals to link with – increases markedly the vulnerability to media moral panics, especially when the latter focus is on the failure of agencies whose ostensive agenda is that of public protection. Thus the tendency of media moral panics to focus on the event and the failure rather than the normality of success may thus well survive privatisation – particularly given the high-profile and negative image of the private security industry. Finally, quite apart from the new position in which probation finds itself, the cumulative weight of previous scandals may make the next scandal that much more attractive to the media. These remarks are necessarily conjectural in the early stages of privatisation. But it will be fascinating if the media now chose to adopt such a punitive attitude and extend these criticisms towards the private sector when mistakes and risks become more common under the new privatised management.

The Role of Academic Research

As I and colleagues have argued, academic criminology has traditionally had a special relationship with probation. The strong autonomy of probation culture was sustained partly by the closeness of probation to some sections of the academic criminological research community. John Lea and I wrote:

> links with radical academic researchers, have continually sustained the residues of traditional rehabilitation methods in which desistance is a matter less of 'management of criminogenic needs' than of reintegration into work and community networks. Probation, like social work, has been open to outside influence through attendance at academic criminology and similar conferences, the role of the Probation Journal and

> NAPO workshops and conferences. In this it contrasts with other criminal justice agencies such as the police where debate and discussion, although not absent, is much less amenable both to outside influence and to impact on professional practice. (Fitzgibbon and Lea 2014, p. 28)

The existence of academic research on probation practice by no means stands or falls with privatisation. It is entirely possible that private security corporations fund academic research. But as with government, the type of research which is funded will be that closest to the agendas of the funders. New surveillance technology is thus far more likely to be funded than innovative – but labour- and time-intensive rehabilitation – techniques such as the use of photography in client recording of biography and personal development (Photovoice). What would be required is some independent means whereby academic and other research showing the importance of updating traditional forms of rehabilitative work could be propagated. This of course presupposes a different political climate to the one which currently prevails.

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Wendy Fitzgibbon qualified as a probation officer in 1989 having previously worked in a range of caring professions in health and social services. As a probation officer she has worked in a number of generic teams, a bail and probation-approved premise and HMP Pentonville. She spent a number of years researching social policy and development issues in the European Parliament. The latter part of her probation practice career was as a practice development assessor for Hertfordshire probation service (1997–2003).

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10

The Nature of Probation Practice – From Clinical to Punitive Managerialist Enterprise

Marilyn Gregory

My Probation Career

I had a rather circuitous route into the Probation Service in England, via Detroit Michigan, where I had worked for 18 months from mid-1976 until the end of 1977 at a 'group home', which was a community facility for people with learning difficulties and behavioural problems. Having had an early career in secretarial, administrative and public relations work in the UK, I had decided, upon settling in Michigan, that working with people who might challenge me emotionally might be more rewarding for me. It was more than that. It opened my eyes to the unique capacities and personal qualities of people who had many difficulties to overcome but who nevertheless were capable of growth and change. After travelling around the United States and Europe, I

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returned to my home town of Sheffield and in 1979 began a 4-year Applied Social Studies/Certificate of Qualification in Social Work. This actually took 5 years to complete after a year out with glandular fever and I graduated in 1984, joining South Yorkshire Probation Service the following year just after The Statement of National Objectives and Priorities (SNOP) was published (Home Office 1984). SNOP heralded the change for probation from the period I have written about elsewhere as 'the clinical enterprise' (Gregory and Holloway 2005) and Vanstone referred to as 'the heyday of treatment' (2004, p. 95). SNOP was the beginning of fiscally driven priorities for the Service, and which Vanstone (2004) viewed as the beginning of the end of autonomy for probation practice.

I began in 1985 as a field probation officer in a former mining community in South Yorkshire, which was suffering from the deprivation caused by the Miner's Strike which had just ended, and following which many of the local collieries closed, leaving families destitute. A hitherto substantially law-abiding community was now beset by house burglary and theft, and over the next decade, the grey economy of heroin would replace the once thriving industrial base of the area (Pearson 1987). My first caseload included both criminal and family work and I went on to work in a prison for 2 years followed by a period specialising in family court work. These two quite divergent strands of practice were to form the basis of my later research interests in domestic abuse and homicide followed by suicide because I had worked with lifers who had committed murders within their families and also with families in conflict in the civil courts, the context of which at times leads to homicide and to homicide followed by suicide. The last few years of my probation career were spent in practice teaching, and I taught probation students both under the DipSW and latterly the DipPS, but when probation training left social work I felt that this was the signal for me to leave the probation service which had moved away from 'advise, assist and befriend' and instead became dominated by an ethos fundamentally based upon punishment. Moving into academic life gave me the opportunity to reflect upon my own career and upon the predicament facing the colleagues I had left behind, many of whom had both trained and practised during Vanstone's 'heyday of treatment'. They qualified as

social workers and were now expected to become 'offender manager'. I spent the first few years of academic life researching probation practice and interviewing both newly qualified and experienced practitioners about how they found professional practice. The next section highlights some of the themes from this work.

The Nature of Probation Practice

The 'clinical mode' of probation practice, part of a wider therapeutic enterprise, was established within the two relatively prosperous decades following the Second World War. This was the period of welfare-statism, where people felt secure in the provision of a safety net of welfare (Gregory and Holloway 2005). During such a period of relative security, the individual with the problem, for example a person who commits offences, is someone who, being seen as an outsider, enables the majority to enjoy their ontological security (Giddens 1991). The probation officer's role is a clinical one, working with individuals to enable them to be included again into society (Gregory and Holloway 2005). The underpinning values of practice at this time, underpinned by Kantian ethics, are care and respect for individual persons and hope for their future potential (Biestek 1961).

Post-war welfare-statism enabled probation practice to develop rapidly; it was a period of expansion of tasks, growth in the size of the organisation and consolidation of professional confidence in casework methodology (May 1991; Vanstone 2004). Casework was strongly endorsed by the Morrison Committee which was briefed in May 1959 to enquire into the probation service:

> Today the probation officer must be seen, essentially as a professional caseworker, employing, in a specialised field, skills which he holds in common with other social workers, skills which, if it opens up to him hopes of constructive work which were not enjoyed by his predecessors of twenty years ago, also make complex and subtle demands upon him, reflecting, as it does, growing awareness of the difficulty of his task. (Home Office 1962, para 54)

The confidence of probation as a profession and the clinical mode of practice was to crumble because even as it matured, the conditions of its development were in decline. The underpinnings of post-war welfarism were diminished substantially by the late 1970s. Socio-economic changes in the following decades which contributed to the loss of faith in the rehabilitative ideal underpinning the welfare state are well documented with economic recession, rising unemployment and a loss of the ontological security which had supported the clinical mode (Hobsbawm 1994; Hutton 1995). Those individuals falling by the wayside, who had hitherto been seen as individual cases to receive treatment, were now beginning to be seen as a threatening underclass. Fear of this underclass was capitalised upon by the Thatcher government which swept to power in 1979.

The cross-party consensus that had formerly existed about criminal justice policies was abandoned during the election campaign of 1979. It is significant that the link between law and public order was emphasised following the so-called 'winter of discontent' which had preceded the election campaign, and Mrs Thatcher swept to victory on a platform which promised a return to the rule of law (Downes and Morgan 1994). The psychological or social determinants of deviancy which had hitherto supported the broadly rehabilitative thrust of criminal justice policy were now abandoned in favour of a return to justice approach in which the person committing offences was labelled an 'offender' and could be once again seen as a freely acting individual, whose punishment should fit the crime. The policy discourse of criminal justice in this period shifted probation practice away from advise, assist and befriend and towards manage, control and punish. Public policy across the board in this period is characterised by marketisation and managerialisation in which the public sector is expected to behave like a public sector organisation, and to be managed like one. So we have the dismantling of public provision of services like rail, water etc., the creation of a purchaser–provider split, the use of private finance to finance public sector projects such as schools etc. Management is by performance, with public sector organisations having to meet targets and key performance indicators.

Within the probation service, following on from SNOP, in the early 1990s was the 'what works' agenda, in which the emphasis was upon an evidence-based approach to crime reduction, meaning that work with

service users who have committed offences could only take place within structured programmes which could produce measurable outcomes. Probation policy discourse now began to eschew language associated with an ethic of care and social work values and embraces a more punitive discourse associated with the ethic of justice. 'Client' becomes 'offender', 'care' becomes 'punishment', 'practitioners' become 'staff' and the key objective of 'advise, assist and befriend' is marginalised in favour of an approach to probation practice that prioritises 'protection of the public'. From the Criminal Justice Act 1991 there is a loss of voluntarism in the relationship between probation officer and client, who is now always called '*offender*'. There are for the first time National Standards which are linked to key performance indicators that must be met. The emphasis on enforcement of orders and breaching service users is strong. The discretion given to probation officers in the 1992 National Standards is swept away in the 1995 version (Home Office 1995). Whilst there may have been some optimism for practitioners on the election of the New Labour government in 1997, it quickly sought to prove its law and order credentials with its first piece of legislation – the Crime and Disorder Act 1998 which the then Home Secretary Jack Straw proposed as 'the most co-ordinated and coherent attack on crime in a generation' (Straw 1999, p. 1). A revision of Probation National Standards in 2000 is even more stringent in its requirements than earlier Tory versions. It is prefaced by a quote from the then Home Office Minister for Probation, Paul Boateng: '*We are a law enforcement agency, it's what we are, it's what we do*' (Home Office 2000, un-numbered first page).

By this time, the New Labour government had enacted their Tory predecessors' decision to remove probation officers from Social Work Training, and to many of those of us in practice at the time, it felt like the end of probation as social work practice.

New Labour also continued the Tory managerialisation and marketisation processes through the medium of new public management. Key elements of the modernisation agenda for probation were what works, risk management and partnership. The government would ideally have liked to merge the Prison and Probation Services, but resistance from key players prevented this (Burke and Collett 2010). However, closer relationships between these key agencies, the Police, the Courts and

social services, were encouraged. Probation officers were now firmly law enforcement workers, not social workers.

Some of the earliest research I did upon leaving the probation service was to interview 15 newly qualified officers about their training and early practice experiences. What was striking for me about this was their struggle to find a space within which to reflect upon their practice, having been trained by practice assessors like myself who had encouraged their abilities as reflective practitioners. They were now faced with supervision which was about meeting organisational targets, and where time for reflection was minimal or absent. They were already experiencing conflict between what their training had prepared them to do and the reality of practice. What was also clear, however, was their commitment to values such as empathy and warmth, respect and the importance of relationship building (Gregory 2007).

Following this, I went on to consider in some depth (Gregory 2008, 2010, 2011) the issue of how probation officers who had trained, qualified and practised during probation's clinical mode were able to adapt to their changing conditions of practice. Of particular interest were their levels of confidence in their own abilities, how they saw the managerialisation of practice, particularly the need to meet targets, and the reduction in professional autonomy, which had been well documented (Eadie 2000).

What is very interesting, reflecting now on the two different study groups, is that it is the issue of reflective practice that both divides and unites them. It divides them because the experienced officers do not use the *language* of reflective practice as such. They have not been trained during the 1990s and 2000s where reflective practice has been taught in a formal way. The newly qualified officers on the other hand would have had lectures on reflective practice and would have been encouraged in the use of reflective templates, for example, Kolb (1984) and Schön (1987). A key complaint for them is the lack of space to *reflect upon practice* as they had been trained to do.

The more experienced officers, who were asked a broad series of questions about their careers and the changes they had experienced, used the opportunity to embody the process of reflection and whilst they might not have used the language of reflective practice, they demonstrated their

ability to reflect, and in so doing to survive in conditions not of their own choosing. Participants demonstrated confidence in the deployment of what I termed a discourse of managerialism and control in discussing the context and focus of their practice. (Gregory 2010, p. 2278)

In that sense, they are comfortable with their environment and have made adjustments to enable them to continue to practice within it. But they are also keenly aware of what is lost when managerialism and control have replaced an ethic of care. I think it is worth re-iterating here participant Frank's view that the then new concept of compliance might signal a return to a focus on the actual content of work between worker and service user:

> It seems to me that there is some hope that once we've got the message about enforcement, that compliance is the next stage. So compliance is about getting through the content of the order, not just turning up. (Gregory 2010, p. 2278)

This could now be seen as prescient, because by 2011, the government had revised National Standards to make them, in its own words, 'less prescriptive (Ministry of Justice 2011, p. 5).

The same Ministry of Justice document also sets out the government's intention to increase professional autonomy and discretion, the erosion of which experienced officers in 2007 were seriously concerned about. Michael, when asked about confidence in his skills as a probation officer, said that he felt '*Pretty confident*', but added: 'I feel there is a kind of erosion, which I think I may have mentioned earlier, in terms of energy, because by being required to have to make certain administrative tasks, like eOASYS, a priority. It feels I have little time to sit and think about some of the more challenging people I have to work with' (Gregory 2008, p. 124).

By 2011 the Ministry of Justice could acknowledge that it was unacceptable for probation officers to be spending three quarters of their time on bureaucratic tasks and states clearly that national standards are being made less prescriptive in order to 'increase the scope for the exercise of professional judgement' (Ministry of Justice 2011, p. 5).

It is no accident that these professionals predicted a shift away from the prescriptive practice environment they were working in at the time of the interviews. Their years of experience working in the criminal justice system, their knowledge of the complex lives of the individuals

with whom they were working and their relationships with other criminal justice professionals enabled them to see beyond prescription as a way of working with other human beings. They adopted, in my view, the role of 'specific intellectual' (Foucault 1994, p. 126), taking a critical stance on broader probation policy and on the day-to-day practice they were carrying out. Risk assessment, for example, as participant *Jenny* puts it: was 'something we've always done just in a different format' (Gregory 2008, p. 114). The OASYS tool, a very lengthy pro forma officers were then being asked to use to assess risk, was not welcomed: *Jenny* again: 'I've not found it helpful, I've found it frustrating, it creates stress, and it doesn't serve its purpose' (Gregory 2008, p. 114). OASYS was used, but did not supplant professional judgement, as *Mark* pointed out: 'Well its all fine and dandy isn't it but I'm not going to use it to make the assessment' (Gregory 2010, p. 2281).

The probation service has a part to play in the protection of the public, and participants accepted this as part of their task, as *Anila* comments when talking about the skills of a probation officer: 'But not to collude, but that's something you have to build up, it comes with experience, you have to remember our job is about protecting the public' (Gregory 2008, p. 118). However, there is concern about the extent to which the resources deployed and the challenges of the day-to-day realities of peoples' lives can genuinely provide protection of the public, as *Michael* suggests:

> Yes, and its also a sort of malaise, feeling that the Service is hoodwinking offenders, and the community and courts by pretending that its doing all kinds of things with people that the courts and the community are pretty worried about, like they're not going on those groups that they are supposed to be doing, those groups are probably not as effective as doctored or premature research has suggested, we're not helping people with accommodation and we're not doing a lot to help people with drug problems. (Gregory 2010, p. 2280)

Placing stringent requirements upon people without being able to respond adequately to the often dire circumstances of their lives was identified by *James* as a direct cause of stress:

> And one of the things I didn't say when we were talking about stress, but that I often have said, is that one of the stressful things is that we have to negotiate between the reality of their lives and the kind of expectations that the organisation places on them, and that is stressful. So, you get people to do things that you don't think they should be doing, they don't think they should be doing, but the organisation does, and I actually find that quite difficult. (Gregory 2010, p. 2282)

Like their newly qualified colleagues, experienced probation officers continued to place great importance upon the role of relationship building in working with service users, and saw this as the basis of their work. As *Hamish* puts it: 'I mean the relationship has been very much undervalued over the years and this is the biggest single thing you can do to change people's approach to things over time' (Gregory 2008, p. 138).

Experienced probation officers whilst not like their newly qualified colleagues, using the term 'reflective practice', nevertheless critically reflected upon the policy and practice environment in a mature professional way. They recognised the demands of their managerialist working environment but deployed strategies to ameliorate this in order to continue to resist the worst excesses of managerialism, to continue to value their own professional judgement and to recognise the difficulties faced by those with whom they were working. They valued and respected service users and like their newly qualified colleagues, valued the working relationship as the foundation of change. As Michael put it:

> There are golden moments when you've just got the time, and a room and somebody who has come, and what you can offer them is what they need. There are golden moments, when you are writing reports when you think there's a whole new perspective and its like finding the fossil on Lyme Regis beach, and you have to grasp it and say yeah, this is a really good professional moment. (Gregory 2008, p. ii)

The approach to practice adopted by these officers has been described elsewhere as a *constructive approach* because it focuses on getting alongside the person and helping them, through narrative, to build solutions to their problems, as the basis for change (Gregory 2006). It is an approach that focuses on inclusion, not exclusion. Desistance research

supports such an approach because supporting the service users' own process of change by forming a relationship which helps them to re-engage fully with social capital is shown to deliver sustained change (Rex 1999; Farrall 2002).

The constructive approach to working with people who have committed offences employs a 'conception of the problem in which the unique and specific context of the person with whom they are working' is the focus (Gregory 2010, p. 2285). This approach has been shown to be valued by the service user as well as the probation officer (Rex 1999). This does not mean that protection of the public is overlooked or that the needs of victims are not taken account of. These experienced practitioners and their newly qualified colleagues, in practising in a way that values the relationship and takes account of people's unique circumstances, have to some extent been vindicated, for, as we have seen, some of their concerns have been recognised and professional judgement and discretion is once again being encouraged.

The Changing Landscape: From Punitive-Managerialist to Semi-Privatised Enterprise

As part of the government's Transforming Rehabilitation agenda, the Probation Service in England and Wales was officially divided into two separate constituents on 1 June 2014. Now we have the smaller National Probation Service (NPS) and 21 Community Rehabilitation Companies (CRCs) making up the larger part of probation provision. It is very early days of what might be termed the 'semi-privatised mode' of practice but concerns have been expressed about the threat to professional practice for those officers forced to become employees of CRCs when their career choice had been the publicly funded probation service. Not least of these are the diminution of conditions of service, and the fact that there is no legal requirement for CRCs to provide professional training for current or future staff (Clare 2015).

Since leaving probation I have remained keenly interested in professional practice and in probation and social work training. In my post-doctoral work I looked at homicide followed by suicide, which includes

some of the worst cases of domestic abuse a practitioner might encounter (Gregory 2010, 2011). I continue to chair a charity that provides services for women and children who have experienced domestic abuse. This is an area of practice area in which the probation service continues to play an extremely important role, both in providing programmes such as the Integrated Domestic Abuse Programme, the Community Domestic Violence Programme and the Healthy Relationships Programme (IDAP, CDVP and HRP) to address the behaviour of perpetrators, and in supporting victims. As an external examiner to an existing social work training programme, I am aware that social work students undertake placements with an IDAP programme and go on to be recruited to work as programme tutors. I am also aware from my work in the domestic abuse sector that there are very few perpetrator programmes available to perpetrators who are not subject to a court order.

The government implemented Section 9 of the Domestic Violence, Crime and Victims Act 2004 in 2011. A requirement was that after every homicide perpetrated by a family member or ex-partner (a domestic homicide) local areas must undertake a multi-agency review (a Domestic Homicide Review, DHR) of the circumstances with a view to identifying lessons learned. In 2013, the Home Office published a review of lessons to be learned from DHRs. It begins by highlighting the need for awareness raising on what constitutes domestic abuse, as there is still a residual view that only physical violence is domestic abuse. The Probation Service and now the CRCs are in a pivotal position to deliver on improving awareness both nationally and locally. Materials used for IDAP, CVC and HRP, because they are based upon the Duluth Model (DAIP no date), already incorporate the use of survivors' experiences in addressing perpetrators behaviour, which is one of the suggestions for what can be done locally to improve awareness. These programmes will, under the Transforming Rehabilitation Agenda, be delivered by the CRCs rather than the NPS. In addition, the NPS/CRC remains a key player in MARAC conferences, which regularly review the safety of victims of domestic abuse in local areas (Home Office 2011). The requirement for consistency in risk assessment across all agencies was highlighted by the DHR and a concern is that the possibility that having a two-tier probation service could impact upon what was hitherto

a more seamless approach to risk assessment by probation. Multi-agency working and information sharing were also areas for improvement, and again, whilst probation has hitherto been a key player in MARAC conferences, the divided responsibilities may lead to some disruption in relations with other agencies. In a number of the DHRs victims and/or perpetrators had complex needs including substance misuse; mental health, sexual or violent abuse; or physical health issues. The type of approach which takes account of the unique circumstances of each individual favoured by the experienced probation officers in my earlier research is just the kind of focus that would lead to the identification of the particular needs of service users. The review of DHRs also highlighted a few cases where opportunities to refer to children's services were missed. The agencies that might have made the omissions are not identified, and probation's active involvement in MARAC procedures would suggest that they are not likely to have been responsible.

We are currently at a particular juncture where there is the opportunity for the NPS and the CRCs to decide upon precisely the kind of training that will equip NPS and CRC workers (can we call them probation officers?) with the necessary skills to identify and work with such complex needs. It looks likely that sadly, there is going to be a two-tier system with NPS continuing to use the Probation Qualifications Framework (PQF), and CRCs being able to decide individually what entry requirements and training might consist of (NAPO 2015). However, the current PQF contracts expire at the end of March 2016 and no decisions have yet been made about what is to replace it. NAPO's view is that entry requirements could include both relevant prior experience and relevant degrees. Practitioners qualifying under current social work arrangements already practice in Youth Offending Teams and as already noted, as providers of IDAP programmes. A social work degree would have to be a strong contender as a relevant degree. CRCs could also look towards the HCPC Standards of Proficiency for Social Work (HCPC 2012) as a starting point upon which to base professional practice training. The skills and attributes described are substantially transferrable to the probation task, and it is only the legal and ethical framework, as well as relevant knowledge base and research requirements, which would need some detailed changes to tailor

them directly to criminal justice practice. Probation staff who signed up to work for a public service and now find themselves working for a private company could well be forgiven for thinking that they are 'second class officers eventually to be replaced by cheaper-to-run-staff' (Clare 2015, p. 50). Clare cites an example of professional commitment given by Jo Mead (CO of Derbyshire, Nottinghamshire and Rutland CRC) in a speech to fellow Chief Officers. Mead spoke about an officer in Rutland whose work she had shadowed. Finding a high rate of absenteeism among probationers he investigated the problem and found that the barrier was the inaccessibility of the probation office. An age-old problem – people simply could not afford the cost of attendance. The officer sought out and was able to provide a local base to which people could report. Problem solved. Clare's anecdotal example demonstrates that those working for NPS and CRC continue to have a deep commitment to professional practice, to professional values involving helping another human being to solve a problem and make positive changes in his or her life. How the training develops will have an important impact upon sustaining or diminishing those values, but desistance research has pointed to the fact that the relationship between client and worker, or the person to be helped and the helper, does deliver the kind of sustained change that society is looking for. *Angus*, a participant in my research, summed up the requirements of a good probation officer, as follows: 'You need knowledge – political, social, psychological knowledge and understanding deriving from that. But you need also to be a strategic thinker. You need to be a practical helper' (Gregory 2008, p. 127).

As this chapter is being finalised, the Prime Minister, David Cameron, has just made his speech on prison reform (Cameron 2016). I do not think we should underestimate the importance of a prime minister tackling this politically difficult issue which successive governments have sidestepped. Whilst (and I think he had to have a sop to the hard-line right of his party) he rules out early on in the speech that there is any intention of sentencing reform to prevent ever more people being sent to prison, he does go on to make a number of suggestions that should be grabbed with both hands by professionals from the NPS and CDCs. It appears to be an open door to the idea of as he calls them 'problem solving courts', a term he does not sufficiently define, but if we

look at Michael Gove's very public stance on his interest in the Texas system of rehabilitation courts (BBC Panorama 2015), we can get an idea of what he might have in mind. A court with a judge who specifically does not want to send people to prison but instead routinely returns people to court to report on their progress. Breach is swift if they transgress, but the process is clearly cutting prison numbers in Texas, which had hitherto set the record for imprisoning more people than any other state. Cameron also specifically mentions his serious concern that 49 % of people in prison have a 'definable mental health condition', and says that he is commissioning the NHS together with prison governors to look at better provision for these individuals. Furthermore, women with small children get a special mention in the speech with a view to putting an end to babies being born and spending their early years in prison. Whilst the idea of satellite tracking for these women as well as other people committing offences is draconian, if it puts an end to babies living in prison, from my particular point of view it would be a step in the right direction. Probation officers and other workers in NPS and CDCs are the right people to help some of these reforms to come into being. As I write, the ink on the speech is scarcely dry, and so there is ample opportunity for the expertise probation staff have to be put to good use in programmes that *could* result in fewer women, people with mental health problems and small children from spending time unnecessarily incarcerated. I know that despite the changes to probation training, people who put themselves forward to work with people who have committed offences have a deep commitment to helping those who are often seen as 'the other'. I look forward to reading about the development of treatment and rehabilitation schemes arising from these developments.

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Applied Social Studies/CQSW. On qualifying, she worked as a Probation Officer and Court Welfare Officer for 16 years, the last 5 years of which were focused upon practice teaching, initially for the DipSW, but latterly when probation left social work training, she taught on the Diploma in Probation Studies. She moved to the University of Sheffield in 2000 to teach social work. Her interest in criminal justice continued and she was awarded a PhD in 2008 which had focused on the careers of experienced probation officers and their abilities as reflective practitioners. Postdoctorally she worked on homicide followed by suicide and is the author of a number of publications related to probation practice and to homicide followed by suicide in Yorkshire and the Humber.

11

The Rise of Risk in Probation Work: Historical Reflections and Future Speculations

Hazel Kemshall

My Journey into Risk

I qualified as a Probation Officer in 1984. I began my probation career in the Juvenile Justice Bureau in Warwickshire Probation Service, dealing with fairly routine cases and a range of young people encompassing those cautioned and diverted from court, those on probation supervision and those in young offender institutions. The role was varied, at times challenging, but notably it gave me my first insight into multi-agency responses to offending, an approach I never forgot. From Warwickshire I went to the Homeless Offenders Unit, in the West Midlands. The office was situated in a rather run-down inner city area of Birmingham, and the work involved resettlement of long-term prisoners on release, community supervision of parolees

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and management of life licences. At that time the unit held almost all of the West Midlands Probation Service's Schedule One sex offenders against children, high-risk cases and those facing the trials and tribulations of resettlement after very long prison sentences. The work also involved regular contact with hostels, 'wet shelters' for homeless alcoholics and premises catering for mentally disordered individuals. The 'step-up' in terms of case work challenges could not have been more stark, but my period there focused my attention on how probation officers assessed risk, not only of re-offending, but of seriously harmful offending, particularly as we were relocating those who had committed grave crimes back into the community. These issues crystallised on my appointment as a Senior Probation Officer of a Through Care team, providing supervision of parole licences, resettlement and access back into employment for longer term prisoners. What struck me throughout my practice career was the lack of focus and assessment of risk issues and a tendency to 'give offenders the benefit of the doubt', even where patterns of serious offending were very well established. Following a period as a Senior Probation Officer I joined the Social Work Department at Birmingham University, where I was jointly responsible for the probation training course. This appointment led me into research, with a very early grant from the Economic and Social Research Council (ESRC) to investigate how probation officers assessed and managed risk. The results of this study became my first book: *Risk in Probation Practice* (1998a); and this was followed by a commission to write the first Home Office Training Manual on risk assessment and management (Kemshall 1997), followed by a similar training pack in Scotland (Kemshall 1998b). Thus began my career in risk. This career has seen me investigate front-line practice with risk, the assessment and management of high-risk cases, multi-agency responses to risky offenders and the development of practice guidance, training materials, policies and procedures. In over 20 years working with risk, two central concerns have underpinned my work throughout this period: the need to make defensible decisions for the protection of staff and the public and a wish to improve public safety.

Probation 'Discovers' Risk

It is probably reasonable to say that from the late 1990s onwards English and Welsh probation has been characterised by a focus on risk. Whilst the relative merits of this have been hotly debated (McNeill et al. 2009), and the appropriate balance with other concerns such as rehabilitation and inclusion fiercely argued (Weaver and Barry 2014), it is important to remember that there was not necessarily a 'golden age' of probation practice before this. Whilst a rehabilitative agency for much of the twentieth century, the Probation Service has proven adept at adapting to the 'shifting sands' of penal policy (Garland 2001; Kemshall 2003). Arguably the 1990s saw a sea change in the focus of the Probation Service. During the 1980s the Probation Service experienced a crisis of confidence, particularly stemming from research critiquing the treatment paradigm and bringing interventions into disrepute (Martinson 1974). This was paralleled by an increasingly centralised funding and management of probation, and a greater embedding in penal policy strategy. During the 1990s a number of themes coalesced around the Probation Service, including centralised justice, an increased systemic and multi-agency approach to penalty and a public protection focus (e.g. in the Criminal Justice Act 1991). The preventative sentencing introduced within the Criminal Justice Act 1991 achieved two things pertinent to later probation developments. First, it identified particular offences and those who committed them for specific attention and to some extent exclusion (e.g. sexual offences, Nash 1999). Second, it promoted a twin-track approach to sentencing, reserving the most intense interventions for the most 'risky offenders' and the use of selective incarceration for those deemed the 'most dangerous'. In effect, risk became a rationing device, for costly interventions and service delivery. Both trends have continued into contemporary penal policy and frame much of current probation work (Kemshall 2008, 2012).

In this chapter I am going to take the opportunity to present some reflections on probation's transition to the risk agenda; review the increasing involvement of probation in the 'problem of crime control', particularly around the community management of sex offenders; examine

the rise of multi-agency responses to high-risk offenders; and outline the new risk agenda under Transforming Rehabilitation (TR) arrangements.

The Transition to Risk

The 1990s saw a growing preoccupation with risk concerns within the Probation Service. Whilst difficult to pinpoint accurately the timing of this transition, it was certainly given impetus by the risk-focused sentencing of the Criminal Justice Act 1991 (Kemshall 2003). This decade saw an increasing shift from 'Advise, Assist and Befriend' to risk assessment and risk management, and a twin-track approach to sentencing which saw increased custodial lengths and preventative sentencing for those persons deemed to pose a 'serious risk of harm' (Kemshall 2003). During this decade I received a grant from the ESRC under the 1993 *'Risk and Human Behaviour'* programme to investigate how probation officers assessed and managed risk. This project resulted in a number of important outcomes, most notably a *Training and Guidance manual* for probation staff commissioned by the Home Office, a series of regional training events for probation staff and managers, minimum standards for decision making crystallised in the notion of 'defensible decision making' and a deeper understanding of how risk decisions were actually made (or indeed not made) by probation staff (see, e.g. Kemshall 1997, 1998a, 1998b, 1998c, 1998d).

The research was particularly important in highlighting the value-based nature of probation staffs' decision making on risk, linked to perceptions and acceptability of particular offence types and a predisposition to give those who committed certain types of offences the 'benefit of the doubt'. At this time the Probation Service lacked any formal or structured tools for the assessment of risk. The knowledge and use of risk factors to assess or evidence risk was embryonic (Kemshall 1998a). The lack of knowledge and expertise was partially addressed by the training manual and regional seminars, but it was quickly realised that work had to be undertaken at chief officer level to enable the strategic and operational development of critical systems and processes for risk management to come into play (Mackenzie 1999), a point emphasised in the Probation Inspectorate

Report in 1995 (HMIP 1995; see also 1998). Joint work during this decade with the Association of Chief Probation Officers resulted in a series of regional briefing events and consultations on operational procedures for risk-based practice. Defensible decision making became a 'touchstone' for judging practice standards, enhancing them and reviewing serious further offence incidents and case management failures.

In 1997 the Home Office took the unprecedented decision to release statistics on serious further offences to the press (Mackenzie 1999; Probation Circular 1998). These in effect provided the press with information about the numbers of probation supervisees who went on to commit a serious offence. The resulting media coverage was indicative of what was to come from 2000 onwards. The *Express*, for example, ran the headline: 'Stop this scandal of prisoners being freed to commit murder' (1997a; repeated again in 2006); and 'Officers facing blame as sex crimes soar' (*Express* 1997b); and finally the *Daily Mail*: 'Killing and raping while on probation' (2 July 1997; and later coverage in 2009). The Probation Service found itself under pressure and public scrutiny, and risk issues were firmly foregrounded. Home Office plans in 1997 and 1998 described the Probation Service's priority 'to reduce the risk to the public from dangerous offenders' (Home Office 1997; Probation Circular 1998), and the transition to risk was complete.

Probation and the Problem of Crime Control

By the early to mid-2000s probation began to be enmeshed in wider crime control debates particularly around high-risk sex offenders, epitomised by the notorious cases of Sydney Cooke and Robert Oliver.[1] These cases presented severe resettlement challenges, exacerbated by media 'outing' and vigilante action (both were 'housed' for a considerable time in a police

[1] Sydney Cooke and Robert Oliver were convicted of the rape and manslaughter of school boy Jason Swift in 1989. On release public reaction and a media campaign led by the *News of the World* made it virtually impossible to re-house or re-settle either man. Oliver was driven from six towns and for a while resided in a secure unit attached to Nottingham prison for his own protection.

station for their own safety). The management of sex offenders, paedophiles in particular, came to dominate substantive areas of the policy and legislative agenda from the late 1990s onwards, epitomised by legislation to increase the visibility and regulation of sexual offenders (through sex offender registration, multi-agency information exchange panels and preventative sentencing, see Kemshall 2003 for a full review). This increased visibility and regulation also resulted in increased 'fretfulness', expressed through media campaigns for a 'Sarah's Law', harsher sentencing and exclusion of sexual offenders (see, e.g. the News of the World campaign 'Sign here for Sarah', *News of the World*, 30 July 2000, page 1; see also News of the World 2001). The vigilante action on the Paulsgrove estate in 2000 against known and suspected paedophiles illustrated not only the level of public anxiety that could be induced (see *Doctor driven out of home by vigilantes*, The *Guardian*, 30 August 2000), but also the relative distrust of the statutory agencies to manage such risks effectively (Kemshall 2009). The following quote from my second book in 2003 expresses the risk management dilemma experienced at governmental and policy level, encapsulated as the problem of crime control, or more pervasively 'risk control'. It also sums up the daily experience of citizens living with risk.

> Whilst crime control techniques differ, dispersed and localized in communities in adaptive strategies and highly politicized, legislatively driven, and 'popularized' in sovereign strategies, the underpinning rationale is the problematic of crime control in advanced liberal society. This has been expressed as the 'meta-dilemma' of third way governance: the delicate balance of social inclusion for the 'dangerous classes' without alienating the ontologically insecure, fearful and 'fretful' middle class. This is set against an increased 'institutionalized crime awareness' and increased demands for security and risk avoidance. The result is a paradoxical awareness of risk coupled with a desire to be free of it. (Kemshall 2003, p. 46)

Significant amounts of probation time at senior management level began to be directed towards public concerns and engagement, with the Association of Chief Officers of Probation responding to not only Home Office demands to manage risk, but also increased public anxiety about sexual offending. This climate resulted in a vicious cycle in which

the combination of media coverage and the political and policy responses to such coverage resulted in a

> Constant awareness of crime potential, the constant spectre of victimization, and the constant need to self-care against crime risks produces citizens not only pragmatically adaptive to the daily reality of crime risks, but also unsympathetic to the needs of the offender. Sympathy is replaced by condemnation, and . . . reintegration is seen as . . . unrealistic . . . . In the face of economic and emotional costs, fear and irritation, distinctions between minor and violent predatory crime slides: all crime, any crime is intolerable. (Kemshall 2003, p. 47)

This was fuelled by the media campaign for 'Sarah's Law' following the abduction and murder of Sarah Payne in 2000. The pressure was maintained for the first half of the 2000s, particularly by the *News of the World* (see Bell 2005), and culminated in both political and policy concerns that the public had a right to know about sex offenders in their community. Against this backdrop, the 2005 Labour government began a commitment to the 'public's right to know' about sexual offenders in their community, despite advice from academics and key child protection agencies against the development of a disclosure scheme. However, by February 2008 the Labour government had committed itself to piloting a limited 'Sarah's Law' to enable members of the public to make an inquiry of the police about a person in order to determine whether that person had previous convictions for sexual offending against a child. The scheme is not a US community notification scheme and is actually quite limited (see Kemshall et al. 2010 for a full discussion). An enquiry must be made via the police, about a named person, the person must be in contact with or have access to a child or children, and the person inquiring will only be told something if the subject of the inquiry meets certain criteria of risk and has previous convictions for sexual offences against children. A disclosure is made to the person who is in the best position to protect the child. In essence, the scheme has three stages, stage one an enquiry to the police; if this meets the criteria it is

processed as a formal application; and if risk levels and previous conviction requirements are met then a disclosure is made.

The Evaluation of 'Sarah's Law'

An evaluation of four pilot areas in England was commissioned from myself and Jason Wood and subsequently published in 2010[2] (Kemshall et al. 2010). There were four pilot areas, and inquiries were expected to be around 2400. Expected take-up and potential disclosure rates were based on population size of a police force area, known number of Registered Sex Offenders in an area, known offence rates for sexual offending and significant media campaigning for disclosure (see Bell 2005; Silverman and Wilson 2002; Thomas 2011). However, the disclosure scheme highlighted the paradox of 'risk awareness with the desire to be free from it', and that at times, far from offering public reassurance, the disclosure scheme could engender a 'generalised anxiety' (Jackson and Gray 2010, p. 1). From interviews with those who had used the scheme it actually increased anxiety about sex offenders, particularly where nothing was disclosed, and this increased over time (Kemshall et al. 2012):

> The disclosure scheme, while aimed at alleviating anxiety about child sexual offending risks, actually had the paradoxical effect of increasing anxiety about future risks. Where there was a disclosure, applicants were left feeling more aware of risks than previously but were not always well equipped to manage such risks. This resulted in slightly ambiguous and more anxious feelings than prior to application. While applicants were generally more positive about the police, they were actually left more cautious and risk-averse. One applicant who was happy with the outcome of the disclosure was reassured by the scheme, but more aware of 'just

[2] The other members of the team were Jane Dominey, Sarah Hilder, Gill Kelly, Gill Mackenzie, Brian Stout, Sue Westwood and Bernadette Wilkinson. Thanks are extended to them for their excellent work on the project.

> normal looking people' who might pose a risk to children. (Kemshall et al. 2012, p. 174)

In essence, applicants to the scheme did not believe that there was nothing to disclose, and felt that, potentially, information was being withheld. In one instance, a family moved house despite being told that there was no risk to be disclosed. Possibly if one has seen behaviours of concern and has been through the demanding application process, it is difficult to accept that there is 'no smoke without fire'. Jackson and Gray (2010, p. 1) make an important distinction between functional fear that enables people to convert their concerns about potential crime into constructive action, and a 'dysfunctional worry that erodes quality of life' and upon which people do not take constructive action.

In addition, the disclosure scheme was underused during the pilot against projections made by the Home Office; only 585 enquiries from members of the public in total were received, although 2400 enquiries had been projected. Inquiries actually meeting the criteria and processed by the police were 315, and the number of members of the public actually disclosed to were only 21 across four pilot areas – a very small number indeed against the numbers expected (Kemshall et al. 2010), with similar experiences in Scotland (Kemshall and Weaver 2012). The Home Office claim that the scheme had protected 60 children was not borne out by evidence available to the researchers for the evaluation, and was independently criticised (see *Sarah's Law the story behind the statistics, Full Fact Team* (2010) at http://beta.fullfact.org/news/sarahs-law-story-behind-statistics/). However, the then Home Secretary Jackie Smith announced a national roll-out of the scheme before the pilot evaluation was completed, contrary to emerging evidence on take-up and disclosure rates.

Continued monitoring by the Association of Chief Police Officers shows application and disclosure rates continued to be low. Between August 2010 and 2012, 2712 applications were made across 39 participating UK police forces, with 299 disclosures made, a disclosure ratio nationally of 1:9. London Met Police covering a population of 7.8 million had 27 applications with 7 disclosures made (Wall 2012), and

up to December 2014 it had dealt with 219 applications with 11 disclosures made (London Metropolitan Police 2014).

Media pressure was mistaken for public appetite to know, and visibility of sexual offenders was mistakenly seen as potential reassurance for communities. Interestingly the converse actually occurred. Political and reputational risk also formed part of the decision-making process of politicians and senior policymakers rather than a robust evidence base (see Stout et al. 2011 for a full review); and the management of crime risks has been largely characterised by policy-led evidence (see Kemshall 2012, 2014).

Multi-agency Responses to High-Risk Cases

A risk focus, and the development of shared risk assessment tools and shared responsibilities, also enabled joint working, particularly by police and probation, primarily within Multi-Agency Public Protection Arrangements (MAPPA), but also in joint public protection teams and specific initiatives such as Integrated Offender Management (IOM). As well as offering a more systemic response to the complex problem of crime, particularly high-risk sexual or violent crime, multi-agency developments also began to blur the roles and responsibilities of probation and police officers. In a seminal article on the rise of joint working with risky cases, Mike Nash identified the emergence of 'polibation officers'. Such staff worked in joint teams, or multi-agency arrangements, and the term reflected the ever-increasing merging and blurring of roles, responsibilities and functions across probation and police (Nash 1999). The late 1990s and 2000s saw a preoccupation with joint working and an increased role for police in the community management of risky individuals, particularly those convicted of sex offences (see Kemshall 2003). Increasingly police were involved in checking, monitoring and supervising cases on the Sex Offender Register, and violent offenders were subject to MAPPA (Kemshall and Maguire 2001). Police officers were trained in risk assessment tools e.g. Risk Matrix 2000; Stable and Acute 2007 and engaged in intelligence gathering and 'disruption' tactics on known perpetrators. Offering powers of arrest, 24/7 contact and

surveillance capacity, police moved increasingly centre stage in the community management of risky offenders, including prolific offenders. By 2009 IOM was well established, using a range of agencies to target 'those most at risk of offending or committing offences that might cause serious harm to others' (HMIProb and HMIC 2014, p. 4). High risk of re-offending and high risk of harm offences were now legitimate targets for joint working, with 'risk' as the umbrella concept for both. In addition, the 2014 joint inspection of IOM noted that police 'were usually the lead agency, and in some cases, were attempting to fulfil both rehabilitative and control functions where Probation Trusts had not committed sufficient resources' (2014, p. 7). It should also be noted that the 2014 inspection found that there was no consistency in identifying 'targets' for IOM; and that approximately one third of cases were 'not subject to statutory supervision under current law' (2014, p. 7).

By the time of the 2014 joint inspection report of IOM, a number of critical things had happened in the risk history of the Probation Service which would have important repercussions for its future. The most notable is perhaps the 'colonisation' of the risk agenda by police, particularly the community management of those convicted of sexual offences (Kemshall and Wood 2007, 2008), extending over time to a raft of other offenders. Despite the increased centralised control of probation and an increased focus on public protection from the 1990s onwards (see Kemshall 2003: chap 4, 2008: chaps 2, 4, 5 for a full review), it was actually police who came to play the dominant role. Their responsibility for administering the Sex Offender Register, including checking addresses, carrying out visits; their central role in the administration of VISOR (the national IT system for the management of people who pose a serious risk of harm to the public); and their role as a Responsible Authority in MAPPA often also housing the MAPPA units and providing key personnel such as MAPPA coordinators gave them a pre-eminent position in the public protection arrangements.

Following the global financial crisis in 2008 and the election of the UK Coalition Government in 2010 all public services were subject to stringent cuts. Ministry of Justice and within it Probation were no exceptions, with initial planned budget reductions for Ministry of Justice from £8.9 billion in 2010–2011 to £7.9 billion by 2014–2015

(MoJ 2010). By 2014–2016 planned cuts for the Probation Service amounted to £148 million (Speak Up for Justice 2015).

The vulnerability of probation's position not only to cuts but to radical change was evidenced by the House of Commons Justice Select Committee in 2010 into the role of the Probation Service (*Justice Committee Eighth Report: the Role of the Probation Service* 2011). The focus of committee questioning was clearly the effectiveness (or otherwise) of probation's role, including on risk management and public protection.[3] The committee also considered evidence on IOM initiatives and the role of the police in the community management of high-risk offenders (see also House of Commons Justice Committee 2010).

The Select Committee in effect paved the way for a radical overhaul of the Probation Service, based largely on issues of effectiveness and implied comparisons to police contributions to the effective management of high-risk and prolific offenders – particularly via IOM arrangements (House of Commons Justice Committee 2010). A short while later the TR agenda began.

The New Risk Agenda under TR Arrangements

Unsurprisingly the TR agenda has placed a residue of high-risk cases with a radically downsized National Probation Service (NPS). This move has been supported by further emphasis on partnerships, joint working with police and a strengthened role for police in the community management of high-risk cases now including those who perpetrate serious acts of domestic violence and non-statutory cases. In effect, low-risk cases have been allocated to privately owned Community Rehabilitation Companies (CRCs); and high-risk cases have gained increased police attention including those subject to statutory probation supervision. The ultimate logic of such a position is that if police officers can function as probation officers do, but with increased powers and

[3] The author gave evidence to the House of Commons Justice Select Committee on the Probation Service's work with high-risk sexual and violent offenders.

flexibility, then it can only be a matter of time before 'polibation officers' are in reality police officers.

The current privatization of much probation work also presents risks. These risks were discussed in the early days of TR by Mythen et al. (2012). This article outlined the potential for risk assessment tools to become vehicles for rationing services and allocating resources. In essence, they become tools to establish thresholds for allocating cases either to the CRCs or to the NPS rather than having a focus on risk of harm. Managing risk to the public where services are in essence dispersed across the private and public sectors will be challenging, with a potential scenario of 'passing the risk buck' emerging. This increased dispersal of risk away from the centre and government responsibility is also problematic, and in effect weakens government responsibility for public safety. Whilst there are limited English data to date, there has been previous evidence that privatisation of justice provides perverse incentives to providers to 'skim' and 'park' risks (Fox and Grimm 2015). Over time, the CRCs will lose staff competence and experience to recognise and respond adequately to risk of harm issues, particularly in cases where risk is escalating. Conversely, an overloaded and understaffed NPS will have a perverse incentive not to take cases from the CRCs.

The potential implications could be wide ranging. Most notably economic discourse is increasingly replacing moral discourse in the management of offenders, including high-risk ones, thus: 'We have argued here that the increasing salience of economic risk in the sphere of offender management, and policy responses to victims, is exemplified by the commodification of provision, increased contractualization of services, and the proliferation of cost–benefit measures' (Mythen et al., p. 375).

Within this economic discourse perverse and unintended outcomes of incentivising will come to the fore, for example, not to take 'bad bets', time-consuming cases and so forth (Fox and Grimm 2015). In addition, risks and rewards are moved from the State to the private sector (Fox and Albertson 2011), and risks in particular are dispersed away from central government accountability. In this sense, risk is a public good that has been recast as a private trouble and a private commodity. In this brave new world, risk is a private threat, and a commodity whose mitigation is

to be costed. It is not a public concern, and until risk happens, safety will not be valued.

To date the probation sector has been dominated by large private companies, and larger charities, as only such organisations are likely to make a profit utilising economies of scale. Commodification of justice is also challenging:

> service delivery has to be specified, priced in terms of unit costs and quantified (how much and how often), target groups identified and outcomes specified and measured. Where commissioners are lax in their specifications, and where outcome measures are badly specified, providers will benefit, and can literally refuse to provide anything in addition to the contract. In this scenario the economic risk falls onto the commissioner, although 'clients' may well suffer through the provision of less than adequate services. (Mythen et al. 2012, p. 374)

It will be interesting to see whether commissioners (often Ministry of Justice or National Offender Management Service civil servants) turn out to have the experience and competence to adequately commission and hold private providers to account for risk.

The End of Probation's Risk Journey?

The risk journey for both myself and the Probation Service has been a long and interesting one. Under continuing media and political pressure the Probation Service sought to come centre stage on risk, and indeed has led on risk assessment, risk management and multi-agency working. However, over time, probation has been increasingly displaced, and partnership working has resulted in merged roles and responsibilities, and a creeping colonisation of risk issues particularly by police. Since *TR* the National Probation Service has become a largely residual service with a sole focus on risk. The challenges of this are acute, in terms of managing the political and media consequences of failures, a lack of resources to adequately manage risks and a pressured workforce. In this scenario the future looks bleak, with probation potentially withering away in the face of police risk

management. The colonisation of risk issues and the community management of sexual and violent cases by police continues, particularly via MAPPA and IOM. The distinctiveness of probation is now difficult to discern, and the ongoing blurring of roles and responsibilities is likely to leave probation redundant in time. However, given the strains of budget cuts it will be interesting to see how much more of this risk agenda the police feel able to take. Arguably, the risk agenda has not functioned to ration resources, but has functioned as an ever-increasing demand to be fed. Perhaps the 'age of austerity' will make us all more realistic about risk prevention.

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12

Alarms and Excursions: Rhetorical Space in Criminal Justice

Philip Priestley

'This young man', said the conclusion of the Assize probation report, 'must choose between his home and his homosexuality', an alliterative allusion to his father's hostility when told the charges facing his son (the stylistic tic persists). 'Mr. Priestley', said Mr. Justice Wintringham Stable, overlooking his half-moon glasses, 'this young man must choose between his homosexuality and a very long prison sentence'. That was how it was in the early 1960s. But despite his peppery reputation, and his recent threat to lock up a Nottingham jury for the night if they failed to reach a verdict in the next ten minutes Stable made a probation order for the prisoner at the bar – with his consent. After a few appointments, the young man went on his way, unfettered by the conditions of an order recommended only to avoid a prison sentence, and good luck to him.

Rhetoric is a word in dire need of rehabilitation; it rarely appears in public nowadays except on the arm of the epithet 'empty', but in several scholarly disciplines it means a public discourse supported by forceful and persuasive

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arguments and examples. Criminal justice will be treated here as a rhetorical space, one that is populated by a plurality of social and intellectual interests that are simultaneously complementary, contradictory, and conflicting; and all published through an expanding array of media, print, broadcast, and cyberspace.

Law as rhetoric is illustrated by the Assize case. Sexual relations between men had been a sin in the eyes of the Christian Church since its earliest days; were criminalised by Henry VIII; and applied to wider categories of behaviour in 1885. They were partly decriminalised in 1967, and more fully in 1994. During this time span the same behaviour was held to be a sin, a crime, an illness and a normal variation in sexuality but for 80 years the criminal law as an agency of state power shouted loudest, confirming its declarative function in these matters. In other ways too, the case is a microcosm of what is most intriguing in the operation of the criminal law and the place of probation in the daily court drama of those days. It starts, as in this instance, with two youths stealing an ashtray; and very quickly raises very large questions about the springs of human action, the nature of human nature, theories of society, and the meanings of morality. In this chapter a small number of big ideas define a history that is both activist and academic.

Probation

Probation is the first of them, first encountered watching trials for violent offences after a 1957 seaside invasion by Teddy Boys. A probation officer spoke to the character and antecedents of the accused. One young woman sentenced to Borstal was removed from the dock; her cries echoing up from the cells below; but the history of probation was one of saving people from imprisonment; standing alongside them, fulfilling its original mission 'to advise, assist, and befriend' (Vanstone 2004). Unlike some colleagues I think there *was* a 'golden age' in probation; not in what it actually did, but in the prospects it offered of 'professional' freedom to do good works in criminal justice. It made for an appealing career option, but postgraduate training in

social work at Bristol University[1] was received with dismay by this former student of economics and sociology. A psychoanalytic version of the casework approach was imparted in an explicitly anti-rational way, without any appeal to evidence. Its theory could be validated only through the subjective 'feelings' of the student, a process resembling the 'transference' of classical analysis. Reasoned rejection of this ideology made ensuing practice in the Leicester City office[2] something of an existential puzzle. What exactly was supposed to happen during the appointments and visits that made up the typical order? Parts of this chapter chronicle an ongoing quest for useful additions to the toolbox.

Prison

'Prison' is another very big idea; and a concrete reality for 85,000 people in England and Wales, and for millions more around the world. 'Doing' time as a probation officer in HMP Shepton Mallet[3] was a personal challenge and a profound learning experience. In 1966 it was a singular place housing men who had asked for protective status under Rule 43 of the Prison Rules (effectively solitary confinement) because of threats or actual attacks from other inmates. Some of the Rule 43 cases were there because they were informers or owed money to tobacco barons but the great majority had committed sexual (or sometimes violent) offences against children. It was hard to read what some of them had done, and the resources for doing anything constructive with them were not present in the prison; no psychiatrist; no psychologist; the part-time medical officer a retired GP; a prison welfare officer with no skills, knowledge, or experience up to the challenges posed by this unique group of prisoners. Prison rhetoric of the period emphasised 'treatment' and 'training', but notwithstanding some chemical experiments to 'cure' sex offending, the reality was that nobody knew what to do about any kind of offending.

[1] Student 1962–1964.

[2] Probation Officer 1964–1966.

[3] PWO 1966–1968. (Probation assumed this role in 1966.)

The question at Shepton as at Leicester was, 'What would make a difference?' Scrutiny of prison case files, interviews with all admissions to the protection wing, correspondence with US corrections departments, plus a literature search generated designs for a 'consultative' regime. Based on weekly group discussions run by prison officers its aims were to (1) 'increase staff involvement in the problems of prisoners' and 'enhance' their work role; and (2) 'reduce the influence of the inmate culture' on prisoners and 'enlist their co-operation in reducing recidivism' (Priestley 1967). Elections to a wing committee were also mooted. The Governor approved the idea; the local Prison Officers Association dismissed it with a minimum of well-chosen words (two, actually).

Two publications denote this period in prison: the first an article in the *British Journal of Sociology* (Priestley 1972). Using Merton's 'role strain theory' (1938), it observed that the social work orientation of probation/prison welfare officers was already being neutralised; they were 'becoming more involved in running the institution than with meeting the needs of prisoners'. Preventing this co-option would require the pursuit of 'objective policy statements about aims, backed up by classification procedures and alternative treatment measures subjected to vigorous evaluation', which seemed unlikely, being 'of academic interest only' to most probation officers. Boos greeted the assertion made at NAPO's annual conference, Scarborough, 1967, that by working in prisons probation was taking a ride on the back of a tiger and one of these fine days would be swallowed whole.

The second was the delayed publication of 'Community of Scapegoats', a participant-observation study of the prison (Priestley 1980). The population was varied; significant proportions came from seaside resorts; they walked round the yard in groups based on offence and regional origin. But perhaps the most interesting question concerned the social function served by their scapegoating in 'ordinary' prisons; more than 90 personal accounts of the process indicated a possible meaning. The book quotes Kai Erikson's view that in Puritan New England deviants 'fulfil some of the same general functions as witches for society as a whole; ie. the dramatic illustration of the boundaries around its social spaces and the enhancement of social cohesion' (Erikson 1966). The same seems to have held for prison society too. 'Scapegoats' was intended as a contribution to prison sociology. It also contributed to a growing personal

conviction that prison was a bad idea which in modern times had not been politically debated or decided; and should be abolished.

Writing later about prison history strengthened the feeling. Foucault's *Surveiller et Punir. La naissance de la prison* (1975)[4] supports a variety of readings, none of them simple, but the graphic opening of the book clearly locates the criminal law of royal France in the realm of rhetoric – one of cruelty. The state pays the flogger and the executioner to inscribe lurid messages on the flesh of the *condamné.* Influenced by Enlightenment ideas this public violence retreated behind high walls where messages of state power were written instead into the souls of prisoners. It is a thesis that captures an underlying truth. The ambition of *Victorian Prison Lives. English Prison Biography 1830 –1914* (Priestley 1985) was to assemble the words of prison writers without addition or comment; to let them tell the story of imprisonment in their own words; a history from below. The stories they told were remarkably congruent across prisons, authors, and eras. They testify to the Penitentiary Experiment that swept the United States and Europe before and after 1800 and its total failure to procure reformation through solitary confinement, silence, and daily chapel. Yet the costly buildings were everywhere retained; repositories of iron discipline and hard labour without moral purpose. Writers recount the smell; the cold, the stingy diet, the tedium of picking oakum; the punishments, the futility, and the loneliness. 'I wept in the shadows of my cell,' said one Shepton Mallet prisoner, 'and longed to die' (Wood 1932).

Editorial silence became impossible; hence these comments on prison work:

> The machine around which much the debate had revolved, the tread-wheel, shared an unwitting symbolism with the periods of exercise that decorated the prison mornings. Both were activities in which physical exertion had been separated from sensible outcome, perfect expressions of the effort without profit that was the lot of the industrial serf with nothing but his labour to sell on a buyer's market. And both were journeys without destinations, haunting reminders of the lack of direction that characterized prison management after the collapse of the penitentiary. (p. 145)

[4] The French title (un-translatable) is preferred to the English.

A 'New Introduction' to the 1997 paperback used the cataclysmic collapse of Soviet communism to predict the possible expulsion of the punitive prison from Western societies. 'The lunatic asylum and the workhouse, institutional contemporaries of the penitentiary', it said, 'have both disappeared into historical oblivion. They sprang from the same sources of Enlightenment thought, were found not to work, and have been abandoned'. 'The swiftness and completeness of the paradigm shift at work in human history,' it went on, 'is awesome to behold. Prison could be next' (p. xiv). So it is and so it could; but still we wait.

Victims

'The good, the bad and the victim' was the headline in the Bristol Evening Post (27 January 1969), referring to a scheme 'designed to encourage co-operation between the convicted and people who have suffered injury or loss'. The plan by NACRO Region Eight[5] was to have representative voices of all the actors in the criminal justice process participate in a working party under the chairmanship of Chris Holtom. Locating police officers, probation officers, court clerks, magistrates, and prisoners was no problem, they all had organisations. NACRO itself flew a flag of concern for ex-prisoners. But no one knew where to find crime victims; no one spoke for them and they did not speak for themselves; they were inaudible, and they were invisible.

Fortuitously the Evening Post had been featuring interviews with victims of violent crimes and some of them were invited to meetings of the working party. Hearing people describe their experiences of criminal violence, some of it life threatening, was for some of us life changing. 'Something important happened in these deliberations' says Paul Rock (1990); members of the working party 'were among the first professional criminal justice reformers to consider victims without inventing them. They were *listening* to victims'. A NACRO Regional

[5] National Association for the Care and Resettlement of Offenders. Regional Organizer 1968–1971. Post funded by The Pilgrim Trust.

Paper 'What about the victim?' (Priestley 1970a) summarised the working party findings and recommended:-

- Research into 'victim experiences' and their 'practical and emotional needs';
- An 'experimental social work programme' to assist them; and
- Exploration of 'victim-offender reconciliation' in appropriate cases.

Greater victim emphasis in criminal justice also pointed to a feasible 'alternative model for sentencing'. Finally it surmised that 'the unresolved feelings' of victims might 'constitute one of the single largest obstacles to the development of a rational and humane system of corrections'. The report also noted an 'extraordinary and persistent interest' from press/media in the project. The title of the paper parodied 'populist' critics of 'soft' penal policy, who never themselves lifted a finger to assist the victims of crime. Without any hint of irony they left that to the do-gooders.

These extracts do not however convey the intellectual excitement of that time. It was immediately apparent that victims occupied a rhetorical void lit only by a handful of documents, some of them about victim-precipitated crime; some about restitution, and the Criminal Injuries Compensation scheme; and virtually nothing relating to the issues identified by the working party. It seemed on reflection that given a place to stand the victim connexion was a lever capable of turning the criminal justice system upside down. The thought prompted a call made at the Margery Fry[6] Centenary Proceedings for 'a massive switch from negative justice based on retaliation and retribution to a positive justice based on restitution and reparation' (Priestley 1974); a world without punishment.

Chris Holtom chaired a further working party that initiated Victim Support – subsequently helping millions of people in the UK and elsewhere. Another outcome was a television documentary 'Just One of Those Things' (This Week. Thames TV, 13 February 1975) showing a mediation between Peter Dallas, a piano tuner going home from an

[6] Secretary of the Howard League and pioneer advocate of compensation for crime victims. Her attempts to get funding for a 'modest study' of victim problems met 'closed doors and deaf ears' (ditto).

oratorio rehearsal, and the man who subjected him to a frenzied knife attack on New Cross Station. Kevin McDermott, a builder just released from his four year prison sentence, had agreed to be filmed meeting his victim but waiting in his kitchen for Peter and the crew to arrive he grew increasingly nervous. 'What do you say', he asked, 'to someone you nearly stabbed to death?' My suggestion was 'Hello.'

In the event it was a polite, puzzled, and inconclusive encounter (running meetings between proxy victims and convicted burglars proved adequate preparation for this 'real' mediation). Peter could think of no reason for the violence he experienced, it went through his mind at the time that he had been marked for political extermination. Kevin said he was too drunk to remember. The fact that they met at all was probably the most significant thing about the programme. It was seen by eleven million viewers and widely reviewed, references to Pinter and Dostoevsky signifying the otherness of the occasion.

Grendon prisoners serving long sentences for violence listened intently when Peter spoke to them. They expressed surprise at the small amount of compensation he received. Then a prisoner jointly convicted of killing a gay man stood up and offered an apology from all perpetrators of violence to all those who had been victimised, including at New Cross. Peter, searching for a way to say thank you, spied a piano in the corner of the room and played them a Beethoven nocturne. The two men had reached across a chasm separating fatal violence from barely surviving to tell the tale, and created an extraordinary moment.

In 1969/1970 the wider topic of victims had been on virtually no one's agenda, but that was about to change. The first Women's Aid Shelter opened in Chiswick in 1971; the first Rape Crisis Centers were founded in the United States in 1972; the first international Victimology Conference took place in Israel in 1973; academics sensed new arenas of interest, the trickle became a flood, and bit-by-bit a new rhetoric of 'restorative justice' emerged (Zehr 1990). The moral force of its non-punitive argument is undeniable, but it has so far failed to fully deliver on its promise. This may be due to the enduring appeal of 'an eye for an eye'; or the inertia that protects legal ritual from change; or it may just be that its time is not yet. The issue is compounded by the 'rationalist fallacy' that reasoned exposition alone will usher in radical

change in criminal justice, including the restoration of victims, and the disappearance of prison. A *Christian Action Journal* article (Priestley 1977) stressed 'the profound *irrationality* of prison systems and judicial processes' which 'serve primarily *symbolic* purposes'. Any strategy for change it insisted, 'should respect rather than reject these social functions and propose symbolic rather than rational substitutes for imprisonment'. Restorative justice is a big idea that fits this prescription but implementation in the UK has been a stop-start process (Daniels 2013). Projects in Northamptonshire probation, the Thames Valley, and elsewhere never became mainstream, and their legacy today is a scattered archipelago of services rather than a transformed system of criminal justice. Despite a current flurry of policy documents it remains a question waiting to be answered.

The Price of Freedom

Through the gate officer's phone I could hear the wing officer shouting for 'Mabel' and asking her if she wanted to be released. As a founder member of Radical Alternatives to Prison (RAP), I was co-author with Jim Little of annual league tables (1973–1985) showing national rates of imprisonment in magistrates' courts (Little & Priestley 1973). One year Gloucestershire were top of the table jailing four times as many people (proportionately) as Gwent, across the Severn, who were the lowest. When I read in my local paper about a woman being arrested at a bus stop because she was 'unsteady on her feet' and had 'slurred' speech, for which she was fined £10 and then committed immediately to prison for non-payment, I rang the chair of the bench to remonstrate. He was outraged; 'How dare you . . . etc?' But I said that if he stood outside the Conservative Club next to his shop in the Market Square any Saturday night he could observe similar behaviour, except that nobody would be arrested and nobody would be sent to prison. We did not part on friendly terms. At HMP Pucklechurch, Mabel confirmed that she would rather be on the street than in a cell, so I paid the £10.00, and as the reporters say, made my excuses and left. It was her choice.

Probation Day Centres

Probation day centres began with a survey of '614 men leaving local prisons' (Vercoe 1970) initiated by NACRO (an organisation with roots in C19th philanthropy). Probation officers working in the local prisons at Swansea, Cardiff, Bristol, and Gloucester supplied data for successive short sentence releases over two separate months in 1969–1970. Analysis revealed a process of drift into estrangement from family, homelessness, social isolation, unemployment, addictions, and serial petty offending that attracted successions of very short prison sentences; with very little assistance for re-entering society. To keep some of these men out of prison, a non-residential Community Training Centre was proposed: 'an identifiable place where those sentenced could be required to attend' to pursue 'a wide range of courses and experiences in the general areas of health, remedial education, vocational training and preparation, and personal development' (Priestley 1970b).

Four criteria informed its intended curriculum: they were to (1) replace the language of 'inadequacy' with that of 'role performance', 'role development' including New Careers (Priestley 1975), and 'adult re-socialisation' (Brim and Wheeler 1966); (2) deal with the problems revealed by the survey; alcohol, unemployment, money, social isolation, literacy; (3) develop a 'non-treatment' style of service delivery within a broadly educational environment; and (4) test the idea of social skills training (Argyle 1967). Following the Criminal Justice Act, 1972, the Home Office issued guidance to the four authorised Day Training Centres; one that specialised in employment and job search skills (Pontypridd); two therapeutic communities (London, Sheffield); and an eclectic model (Liverpool). Virtually all the ideas for a new kind of content had vanished; only the institutional framework for an alternative to prison remained, but one that required prolonged daily contact and that implied group working of some kind.

Alongside the four 'official' projects, other probation areas began to set up their own centres; from drop-ins to group work premises, offering a mixture of services, activities, and offence-focused work. A few of them had local precedents like the Anchor Club in Leicester

and the Pontefract Handicrafts Club, and a handful employed New Careerists in staff roles. Most probation areas had one centre and a few had several; George Mair called them 'the penal success story of the eighties' (Mair 1995). They kept some people out of prison; they kept others going in the community; and they fostered innovations in practice (Vanstone 1993). They continued to thrive into the 1990s but the centralisation, the homogenisation, and in the end the nationalisation of the probation service squeezed out these untidy and non-uniform local initiatives with their aura of care and home-grown programmes. By the early years of the twenty-first century they were all gone (Vanstone 2004).

In the United States it was a different story. In 1985 two adjacent states opened day centres, both based on the England and Wales model (Tonry & Hamilton 1995). Connecticut was first with its Alternative Incarceration Center (AIC) (Bates 2017) and Massachusetts opened its Day Reporting Center a few weeks later (Larivee 1990). The Connecticut Prison Association (an organisation with roots in C19th philanthropy) was tasked to set up the AIC by the State Department of Corrections, after its deputy director heard about the centres at a 1984 London conference. The Criminal Justice Foundation of Boston (ditto) commissioned a paper from Martin Wright of the Howard League (Wright 1984) and sent a delegation to England to see the centres at work.

By 1989 there were thirteen centres in six states; by 1994 there were 114 in 22 states (Parent 1990; Parent et al. 1995). We have identified more than 1200 situated in every state of the Union; the formats have multiplied and flourished in the decentralised jurisdictions of American justice, and their numbers are still growing (Vanstone and Priestley 2016). The most salient innovation has been that of Evening Reporting Centers (ERCs) which occupy the peak-delinquency interval between school-out and bed-time, but day reporting for adults remains the dominant form in terms of numbers. Participants for the centres are recruited to local criteria; and like most US criminal justice policy, populations are disproportionately drawn from minority communities. They are managed by a variety of agencies: state and county departments of correction, sheriffs, probation services, not-for-profit agencies, private providers, and shortly the Federal Bureau of Prisons. They have multiple aims: (1) relieving

pressure on local and state-level jails, and saving money; (2) holding people accountable, sometimes via community service; and monitoring behaviour in the community via attendance and sign-in requirements (reporting), random testing, and electronic tags; and (3) keeping people out of prison and easing re-entry into the community by providing relevant services in one place; basic education, drug counselling, employment preparation, parenting, anger management, living skills; increasingly referred to as 'evidence based'. In some ways they are closer to the original proposals than was ever the case in the UK. The collegiate atmosphere in some centres is celebrated at graduation ceremonies.

Under the US Supreme Court ordered AB109 reforms, thousands of state inmates have been released from overcrowded California prisons into county-based community facilities, most of which include day reporting (Petersilia and Snyder 2013). 'It changes the way you look at life', said one Redding, CA, attender.

In 2014, Allegheny County (PA) used DRCs as part of a 'major transformation of probation' from an armed enforcement agency to one that 'placed rehabilitation front and center. The PO was always a bad guy in their minds; now the PO is working proactively to help them get a GED, find a job or get off drugs'. Under the headline 'From Probation to Restoration'. Pittsburgh DRC graduate Pam Cenci-Sparte says, 'They have made me a whole person again' (Barron 2014).

It is difficult to estimate numbers currently attending DRC and ERCs; our best guess would be 30,000 people who go home each night; maybe three times that number passing through the centres annually. It is a tiny fraction of the US prison population but the numerical equivalent of a third that of England and Wales. Outcome studies of DRCs, typically of variable quality, confirm that they can get participants through demanding schedules of reporting, education, and employment; completion rates average 50 % (range 13–84 %); one third of schemes report 60–80 %. The balance of evidence is that at worst day reporting does no worse than other sanctions; and at its best does better (Priestley & Vanstone 2015). It costs between a sixth and a half of local jail charges, saving taxpayers a quarter of a billion dollars annually; since 1985 it has engaged more than a million

individuals in serious efforts to improve their credentials as contributing citizens; it fills a logical space in the sentencing continuum and has become (a small) part of the syntax of US corrections. And through the dark years of the Great Incarceration it stood for something beyond the sum of its parts – a sanctuary for the non-punitive ideal of rehabilitation, an affirmative, respectful, and more hopeful response to criminal behaviour.

Working on Offending

The aims of the 'Prison Project'[7] were to train officers in two midlands prisons (HMPs Ranby and Ashwell) to run pre-release courses that would help prisoners get jobs in the community; deal with re-settlement problems; and reduce re-offending rates. Sheffield Day Training Centre also used the materials to replace their 'therapeutic community'. Staff were trained, programmes were created and delivered, and three populations were tracked through the process.

Re-conviction figures for both prisons showed no difference between Release Course members and matched samples of non-course attenders released at the same time, with one exception; violent re-convictions for Ranby course members were significantly lower than for the controls. Although most of the prisoners were sentenced for property offences, self-control had been rehearsed during the programme. We decided in the light of these findings to address offending directly in future work. We also learned that selected prison officers could prepare and run complex group-based programmes; that prisoners were motivated to take part in them; and to use outside what they had learned inside. At a 'reunion' in the George Hotel, Nottingham, people reported positive experiences after release.[8] But it was not all plain sailing.

[7] Home Office-funded project based in UCL Department of Psychology. Principal Researcher 1974–1978.

[8] Melanie Phillips. Guardian (05 December 1977).

'The defendant', I said, 'completed the Ranby Prison Release Course. He is able, intelligent, and articulate; a pillar of the prison AA group; a role-model and counsellor supporting fellow prisoners in their efforts to go straight'. Heads on the Brighton bench swivelled in unison to inspect the dishevelled figure in the dock. In a written account Mac described how his job course in the midlands fell through and he headed for the south coast. Awaking in a London churchyard he found that someone had walked off with his shoes. The Probation and Aftercare Service, he said, 'didn't want to know' (Priestley et al. 1984). He slept under the pier, attempted suicide, and was arrested running out of Marks & Spencer with garments he had not paid for. A plea for a suspended sentence to get help with his addictions, health, and homelessness was accepted.

The next time I saw him was in the long-term wing at Horfield Jail. 'Let go', he had said to the constable gripping his jacket through the car window; 'I'm driving off.' The officer did not do as he was told and Mac did what he said he would. Rehabilitation is a hard row to hoe. No wonder so many fall by the wayside.

Three books came from this project. '*Social Skills and Personal Problem Solving: a handbook of methods*' (Priestley et al. 1978) was the idea of Gill Davies, legendary Managing Editor at Tavistock, an imprint of Methuen and a posh port of call for authors in search of a publisher in psychology or social work. Our first proposal had been for a scholarly work on the Prison Project.[9] She said, 'Give me a book that tells people how to use the materials you developed.' And that is what we did.

The result was a 'popular' cognitive-behavioural book before its time; the words themselves were not then widely used in UK social work. The text, for use in any setting, adopted a problem-solving framework for working with personal problems of all kinds: gathering information, using it to set goals, learning how to reach them, and evaluating the outcomes of the effort. Within each of these stages a variety of methods and techniques, social skills, personal problem solving, self-management, values education, and information search were presented as exercises that could be adapted for use with groups or individuals and assembled into

[9] Later published by Routledge (Priestley and McGuire et al. 1984).

focused programmes of work. The book defined the process as 'an educational one rather than a medical one intended to appeal directly to the people with the problems and to put into their hands the tools they need to dig themselves out of the holes they are in'. It was, in other words, about empowerment. It went to seven printings, sold more than 30,000 copies, and was held in 400 libraries worldwide.

Its successor '*Offending Behaviour: skills and stratagems for going straight*' (McGuire and Priestley 1985) was specifically dedicated to criminal justice work; and its title focused on 'behaviour' rather than the person. It was written at a time when penal methods in England and Wales probation, prisons, and juvenile work were taken as given; no proof of effectiveness needed. Very little evaluation ever took place; case workers cared more about people than re-offending, or research; and the collapse of morale amongst CJ workers allegedly caused by the Martinson findings in the United States (Miller 1989) simply did not happen here. Their impact in North America is also overstated in histories of 'what works' by academics who cast themselves as keepers of the Grail and re-founders of evidence-based methods in corrections (Cullen 2005).

Building on Ron Blackburn's ground-breaking paper (Blackburn 1980), James McGuire collected all the studies that supported the idea of effective interventions for reducing re-offending. They were mostly unfamiliar to UK criminal justice workers and most of them were in the CBT tradition. The word 'behavioural' raised hackles in some quarters but to my mind 'cognitive' speaks directly to the rational/reasoning part of the self that can recruit feelings, values, and actions to the pursuit of personally chosen good ends. The book asserts a pre-condition for the use of the materials; that 'to work they must be placed under the control of those who are trying to change themselves' (p. 21).

Chapters were devoted to assessment, values and beliefs, status and self-esteem, social skills, risk-taking and decision making, and coping with the system. The book also made the case for addressing offending behaviour directly as part of this process; as a moral duty as well as a practical necessity. 'Addressing' here means 'co-operative inquiry' and not 'confrontation'. A measurable percentage of probation staff in England and Wales did training in the contents of this book and its

predecessor, and together they supplied content and stimulus for specific need and offence-focused groups in a number of probation areas and day centres (Vanstone 2004).

What Works and the One-To-One Programme

The first What Works Conference was at Haigh Hall near Wigan in 1989, organised by Manchester Probation Development Officer Bev Rowson (Rowson & McGuire 1992). With support from Chief Officers Cedric Fullwood, and Jenny Roberts of Worcester and Hereford, they became biennial three-day events through the 1990s, inviting big-name speakers from North America and Europe, including Joan Petersilia, Don Andrews, Paul Gendreau, Ray Novaco, Mark Lipsey, Doris Layton Mackenzie, Robert Ross, Don Gordon, Santiago Redondo, Vicente Garrido, and Friedrich Lösel. They attracted attendances of several hundred and, equally importantly, hosted multiple presentations by UK probation teams action-researching their own 'what works' projects. The sessions were organised and (mostly) received with enthusiasm, but to call them 'evangelical' (as some have done) is inaccurate; they followed standard academic conventions of papers, symposia, and workshops. At the 1996 conference Graham Smith announced centrally accredited programmes. 'Here comes the national curriculum,' I said to the person sitting beside me. The conferences influenced what came next, but not the mistaken implementation of the What Works initiative. Instead of instituting a rolling sequence of local evaluations, the project went for broke with a handful of national programmes. It hijacked the CBT contents of the programmes, discarded the consensual elements of their founding therapeutic alliances, and applied them in some cases as rote learning, as parts of a punitive experience. Early results from quasi-experiments comparing programme outcomes with large samples of 'untreated' cases found only weak evidence of reduced re-offending. Official interest in programmes waned and they no longer figure in NOMS or NPS paperwork.

The One-to-One (OTO) programme is a manualised, cognitive-behavioural, general-offending programme designed to be delivered, as

its title indicates, on an individual basis. Initially a twelve-session experiment for Somerset Probation (Priestley 1992), longer versions of it have been accredited for use in probation in England and Wales; in Sweden for prisoners and probationers (Priestley and Edström 2010); and also in Norway as a modular variant (general offending, substance use, and violence), a format also currently used in prisons and probation in Lithuania.

All the versions use the problem-solving framework first articulated in Social Skills etc. (Priestley and McGuire et al. 1978). Assessment sections in every programme contain a minimum of two offence analyses: opportunities for participants to describe what went on during their current offence, and to formulate goals for avoiding its recurrence. Criticisms of offending behaviour programmes and CBT include that they are epidemiological, mechanical, and coercive, denying the essential humanity of participants and their transactions with programme staff. None of this applies to OTO; it uses effectiveness findings to facilitate self-managed reflection and change within an atmosphere of cooperation and mutuality, which is where Probation came in.

Over 20 years, OTO has been delivered by upwards of 2000 practitioners to at least 20,000 individuals in different jurisdictions. Completion rates have varied from 40 to 70 %. Staff and participants have found it a useful and productive way of working. One English probation officer greeted its arrival 'with a healthy cynicism' but came to see it as a way of helping people 'to make choices and cause less trouble to themselves and other people'. 'The program works', says Norwegian manager Ingri Litleskare. In the Somerset experiment (n = 45), with cases alternately allocated to probation and probation + OTO, one and two-year re-conviction rates for males (completers and non-completers) showed a significant reduction of 37 % ($p < 0.05$) for the OTO sample. Swedish studies, using sizeable 'treatment' (728) and comparison (7280) groups, risk quotients, and regression analysis, found that completing OTO is associated with 25–35 % reductions in re-offending (e.g. Beşev & Gajecki 2009). Small-scale evaluation of OTO in England and Wales showed similar results (Hankinson and Priestley 2010).

But the strength of OTO has always been the individual work it makes possible. Stockholm probation officer Christina Bondeson had an OTO participant from four years previously call to say 'how much she had learned from it and she had practiced parts on her children and husband. *She still had the programme in her head*'. In an outstanding offence analysis Barbara Chilton (West Mercia Probation) repeatedly returned to the question of responsibility for the death of a man thrown from a moving vehicle (Priestley 2004). Without badgering or moralising, her persistence paid off, not with an epiphany, but with a deepened and more thoughtful acknowledgement of what had happened. Done well the work resembles cognitive counselling.

The latest manifestation of the programme is the SOLO one-to-one programme commissioned by Netherlands Probation (Priestley 2010) which combines desistance theory and practice (Maruna 2001) with cognitive content from earlier versions. Its twin aims are expressed as 'personal risk management' and 'positive self-change'. One participant in the first NL trial claimed to have 'learned more in twelve sessions than in twelve months of probation'. A second pilot of SOLO is currently underway.

Programmes have occupied me for more than 40 years. Are they dead and buried? Or will there be a fresh impetus to put evidence-based principles into practice? Re-evaluation of the Extended Thinking Skills programme indicates that it significantly reduced re-offending for all offence categories except robbery and theft (Travers et al. 2014). Nevertheless 'evidence based' must be more than an organisational slogan – it is what you must do to bring re-offending rates down.

The Rehabilitation of Probation?

The future is another kind of rhetorical space. What sort of probation service might be assembled around some of the ideas in this chapter? Three things tie them together: an unwavering belief in the value of the individual within society; a commitment to rational procedures that approximate to the 'scientific method'; and an abolitionist attitude towards the punitive prison which has driven continuing efforts to

develop alternatives. But to start from where we are, probation staff will never again be paid just to be nice to people in trouble with the law; to earn their keep they must offer a social service within criminal justice that reflects current realities but also respects their own history.

Six propositions for a renewed service: it should:

1. Define itself as a judicial social work agency whose main aims are meeting human need, social protection, and reducing the harms done by wrongdoing; offering services to a wide range of people, including victims, law-breakers, and those who are damaged by the operations of justice itself, for example, prisoners and their families.
2. Deploy methods which are as various and complex as the problems they address: counselling, advocacy, ongoing support (sometimes lifelong), restorative justice, CBT, offence-focused work, desistance strategies, basic skills, vocational preparation, drugs education, all tailored to individual need by the skilled work of trained professionals, and significant others in the lives of users.
3. Treat people as self-determining individuals acting as agents in their own change; restore the principle of consent; encourage creative uses of recognisance, bind-overs and sureties; and experiment with self-sentencing.
4. Declare professional sovereignty over its own aims, ethics, standards, working methods, training, qualifications, and effectiveness.
5. Operate as a stand-alone, not-for-profit, community-based 'learning organisation' engaged in continuous action-research to upgrade its user ratings, its social work-related outcomes, and its working methods – including those designed to reduce re-offending.
6. Stand for something good in the world; as an agency of repair, redress, and restoration; a universal supplier of services in criminal justice; an alternative to prison; opponent of punishment and proponent of education and rehabilitation to help people become contributing citizens.

Three mechanisms already discussed can play important rhetorical and practical roles in such a renewal. First, victim services can

help define a feasible new future for probation. The addition of victim impact work and mediation/restoration to the probation repertoire enhances its capacity to repair the disruption caused by offending. Second, offending behaviour programmes are vital for reducing re-offending; nimble and innovative research methods will be required to get rates down. And finally, day centres for women have begun to re-appear in England and Wales probation. Their expansion and development will speed the release of men *and* women from prison, divert others from going there at all, and as the US experience demonstrates, provide flexible platforms for the delivery of services in the community.

Recent history and real-world politics stand in the way of this imagined future. The 'end of probation' has not been detailed here but two items from its linguistic assassination epitomise the process: insisting that officers routinely call their cases 'offenders' (now enshrined in the title of NOMS); and that they define their work as 'punishment in the community'. George Orwell would be proud of the 'men from the ministry' who thought that one up. Probation has been systematically dismantled because of its autonomy, its professions of care for those who offend, and for harbouring liberal critiques of criminal justice policy. What has told against the service in all this is its small size; its dispersed structure; its failure to construct and communicate a robust professional identity; its weak and divided voice(s); the oppositional stance of NAPO; and its many enemies in high places (Mair 2016).

The only voices that can now be raised in favour of re-establishment are those from within, and they must argue in terms that win public support and secure political assent. It is a tall order, but it is not impossible. The origins of probation in England and Wales show how a good idea can demonstrate its utility and over time become established as a nationwide service. It can be done again – but by whom? It could be initiated by voluntary or *pro bono* enterprises. Or by surviving elements of probation joining forces; or by the Probation Institute; or a new political administration; or a coalition of interests? Or is this just whistling in the dark? Maybe; but if *we* don't whistle, who else will?

No matter how it happens, the pursuit of citizenship will be one of the keys unlocking the rehabilitation of probation. We ended our book 'Offenders or Citizens?' (Priestley and Vanstone 2010) with these words:

> Punishment is the rhetoric of the powerful – it meets harm with harm; it is pessimistic about human nature; it is about hurt and exclusion. Rehabilitation is a powerful, alternative rhetoric that promotes inclusion, education, and optimism about self-change towards active citizenship. It points to the kind of society we aspire to and its message is one of positive justice. We know which we prefer.

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Philip Priestley Independent researcher, writer, programme developer, trainer, activist, and film-maker since 1978, he was a probation officer in Leicester City (1964–1966); prison welfare officer at HMP Shepton Mallet (1966–1968); and regional organiser for NACRO South Wales and Severn Valley (1968–1971). Following research on juvenile justice in the Department of Social Administration, University of Bristol (1971–1974), he ran a Home Office-funded project in the Department of Psychology, UCL (1974–1978) to reduce post-release re-offending at two midlands prisons. Founder member of Radical Alternatives to Prison.

His books include *Social Skills & Personal Problem Solving* (1978) with James McGuire et al.; *Offending Behaviour* (1985) with James McGuire; *Community of Scapegoats* (1980); *Victorian Prison Lives* (1985); *Jail Journeys* (1989); and *Offenders or Citizens?* (2010) with Maurice Vanstone. Published chapters, papers, and reports address New Careers, sentencing rates, alternatives to prison, victims of crime, punishment, and 'what works'. Directed broadcast documentaries for two Bristol film co-ops, Forum and Epik (1983–1998), on landscape, history, archaeology, conflict, and criminal justice; awards include *New York Film Festival* (1989); *Prix Europa* Berlin (1992); *Royal Television Society* (1993); *BAFTA* series nomination (1996). He is author/co-author of cognitive-behavioural programmes for general offending, *One-to-One* (1992–2007); violence, *Controlling Aggression* (1997) with Liz Gates; substance abuse, *PRISM* (2001) with Mary McMurran; CBT/desistance *SOLO+* (2010) for Probation Netherlands; accredited variously in England and Wales, Sweden, Norway, and Lithuania.

Personal heroes include Jim Ducker, Elizabeth Edström, Morris and Fanny Eisenstein, J. Douglas Grant, D. Harris, Roz Kane, Jim Little, Sergeant Joe Malone, Jerry Miller, Roger Needham, Bev Rowson, Janet Wolfe.

13

Effective Probation in England and Wales? The Rise and Fall of Evidence

Peter Raynor

This chapter is about evidence: why we need it, what we do with it, how it is used and how it is misused. It is also a partial account of my own engagement with evidence of the impact and effectiveness of the probation service's work. First, I need to explain how I originally arrived in probation work.

At the end of the 1960s I was working in a bookshop (an occupation well known for long hours and poor pay) after graduating with a degree in ancient languages and philosophy, and with an interest in politics and social sciences developed as an active member of various radical groups and campaigns. I had demonstrated against the Vietnam War and against racism, and in favour of democracy in universities; I had been arrested and sentenced (quite leniently) for acts of civil disobedience; I had sold left-wing newspapers on street corners and outside factories, I

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had painted slogans and pasted posters on walls, I had attended many meetings and organised some in my home, and I had contributed anonymously to left-wing publications. In the late 1960s these activities seemed constructive and necessary, but by the end of the decade the big campaigns were beginning to run out of steam and had not delivered the degree of social and political change for which their members naively hoped. Many of us found ourselves looking for occupations which could benefit the powerless and the disadvantaged as a way of continuing our commitment to social change while managing also to earn a living. Some went into political careers, some into journalism, some into charities and voluntary organisations, some into teaching and some into social work. I found out about the probation service through an advertisement for Home Office-sponsored traineeships which my wife pointed out to me, and by reading Tony Parker's book *The Unknown Citizen* (Parker 1966), which told the story of a recidivist whose opportunities, resources and way of life were effectively destroyed and degraded by repeated imprisonment. I had also by this time met a number of people who regularly broke the law, and a few whose lives were beset with seemingly intractable problems. If there were jobs available helping people to get their lives back on track, and sometimes helping other people for whom they were causing problems, then that seemed a worthwhile endeavour. The Home Office was also offering a period of paid training on a university course. The job looked as if it might touch on another interest which I had carried forward from my studies in philosophy: why *should* people do as they were told by authorities? I knew I often didn't. What makes authority legitimate? When compliance with society's expectations is in the general interest as well as useful for the individual, how and why can people be persuaded to make the prosocial choice? Probation work seemed likely to offer a practical way to learn more about questions like these.

I was accepted on a course at Exeter University, along with David Smith (see his chapter in this volume), rode there on my Ariel Leader motorcycle (soon to be replaced by a Triumph Thunderbird) and set about learning whether I would cope with being a probation officer. I learned about social policy from Jean Packman, about criminology from Dermot Walsh and about the emotional and moral commitment of

social work from Bill Jordan, who had just published his first book *Client-Worker Transactions* (Jordan 1970) and was working on *The Social Worker in Family Situations* (Jordan 1972). We were slightly half-heartedly encouraged to practise psychodynamic casework along the lines of what was then the dominant model set out by Florence Hollis in *Casework: A Psychosocial Therapy* (Hollis 1964), but our practice supervisors added a more pragmatic approach, and we learned about the importance of listening (to what is said and not said), understanding, building positive relationships and trying to find ways to help. Some of us tried to introduce more activism into our social work training: for example, we helped to set up Claimants' Unions, and Bill Jordan became active in one of these, leading to his book *Paupers* (Jordan 1973), the first of his many studies of poverty and welfare. We also embraced the ideas emerging from critical criminology, such as labelling theory. Most of the learning, however, took place on practical placements in the local probation service, learning to get by, learning to cope with tricky situations and sometimes difficult people, learning to cooperate cautiously with the police instead of confronting them on demonstrations, learning my way around welfare bureaucracies and Courts and learning to organise myself and my work. By the end of the traineeship, equipped with the newly introduced Certificate of Qualification in Social Work and with experience in other agencies as well as probation, I was confident that I could pass muster as a probation officer. I had also become a father, and the Triumph Thunderbird had been replaced by a Reliant three-wheeler (the ambitiously named 'Supervan' model, later made famous in the television series *Only Fools and Horses*).

My first appointment as a qualified probation officer was in the Gloucester office of what was then the Gloucestershire Probation and After-Care Service, which offered me not only a job (slightly better paid than the bookshop) but also family accommodation in an old police house on a council estate – a house no longer needed by the police, who had moved their officers to more modern accommodation. It is quite difficult to convey the flavour of probation work in the early 1970s to modern readers used to a more technological and managerial environment: some good recollections can be found in a recent book of former

Chief Probation Officers' memoirs (Statham 2014), though perhaps occasionally a little rose-tinted. We had no computers or mobile phones, and no photocopiers: documents which needed several copies, such as social enquiry reports (SERs, equivalent to the modern pre-sentence report) were typed by clerical staff onto multiple sheets separated by carbon paper, to produce six copies at a time, or sometimes were typed onto stencils which were then fitted in a duplicator to produce multiple copies by turning a handle. The latter was preferable since the sixth carbon copy, which usually ended up in the officer's case file, could be rather faint and difficult to read.

Another young officer in the team was Maurice Vanstone, one of the editors of this book, with whom I was to collaborate on various projects for the next 40 years. (David Smith worked a few miles away in Worcester.) Our older colleagues, some of whom had been trained by the Home Office after military service during World War II, were pleased to have new staff but did not always know what to make of young graduates with left-wing views and non-deferential attitudes, although several of the older officers were quite non-conforming and individualistic themselves. As a qualified officer I was assigned to a patch, shared with a colleague, and we did most of the reports and supervision arising from that patch. I was also assigned to one City Magistrates' Court and one rural Court as court duty officer and liaison officer: I would present my own reports there, and if necessary go into the witness box to be questioned about them. It was also my job to visit defendants in the cells before the Court in case there were people there known to the Service and about whom we could provide some helpful information, and to carry out post-sentence interviews with people who were on their way to prison. The relationship with the local Magistrates' Court was central to the job: I was sworn in there when first appointed, and also had to attend periodical Case Committees where we had to give progress reports on our probation cases to a group of magistrates. Our employers, the County Probation Committee, consisted mostly of magistrates. Although the Service was financed by a mixture of Home Office and local authority money, we belonged more to the Court than to the Home Office. (It could be argued that this involvement and sense of ownership by the Courts was an important factor in the influence and

effectiveness of probation services; unfortunately it was lost when the Home Office nationalised the Service in 2001, creating a National Probation Service run by the central government and marginalising the judiciary.) We also wrote reports for the Crown Court where the approach was more formal and we could be cross-examined on our reports by barristers, and for the Juvenile Court which aspired to a more friendly and informal style.

With caseloads of up to 70 'clients', as we called them, and ten or a dozen reports to write each month, including reports for the Divorce Court on the welfare of children, we kept paper records in files which were very occasionally inspected by senior officers, and we submitted our workload figures once a month, but otherwise we were left largely to do our own work in our own way, provided that we met the basic requirements of the Probation Rules. Regular supervision by senior staff, usually in the form of case discussions, was available and sometimes helpful (although one senior probation officer made no secret of his view that people like me and Maurice Vanstone, being graduates, were overqualified for probation work). In general there was limited managerial direction except when duties or teams were being reorganised, or when somebody appeared to have made a mistake. We were treated, in fact, as largely autonomous professionals. Keeping files up to date required some self-discipline but was manageable. Other ways in which the job differed from contemporary practice included regular home visits, normally carried out alone, with up to three evenings a week spent visiting clients in their own homes. Few SERs would be completed without a home visit. Women were still a minority in the Service but moving towards parity in numbers, and were no longer expected to confine themselves to caseloads of women and juveniles.

It is important to avoid the temptation of rose-tinted hindsight. By today's standards we were lamentably deficient in specialist knowledge of important issues such as personality disorder or drug abuse; there was little understanding of the situations and experiences of our growing minority ethnic communities; child abuse and child protection were not major concerns until the report on the death of Maria Colwell at the hands of her stepfather was published in 1974 (Field-Fisher 1974) and put child abuse on the agenda of all public services. I remember one of

the older officers telling me that in some families incest was routine and accepted practice, and not something we should worry about too much. I later learned that throughout this period, and unknown to any criminal justice agency, the serial killer Fred West, who came from just such a family, was living and murdering a few streets away from our probation office.

Probation was, again by modern standards, quite variable; we all did things in our own ways and usually knew little about how our colleagues worked. Assessment and supervision planning were often rudimentary. I remember prioritising cases according to perceived risk, and asking myself 'What would need to change in this person's life to make crime less necessary or less attractive?' I also tried to help people to see how their own behaviour, thinking and feelings affected how they were seen by others and helped to create the situations in which they offended. (I found out later, from research by Andrew Willis [1983] that many officers hardly discussed offending at all, concentrating instead purely on a social welfare agenda.) But overall, once I had overcome my own anxieties and doubts about coping with the job, I began to wonder whether there were some important questions to be asked about what we were actually delivering. When I confidently persuaded the Court that a probation order would be less likely to lead to re-offending than a prison sentence, was this true? How did I know? If we were all working in different ways, could we all be right? When we were sent on courses to learn about unfamiliar methods of work such as family therapy or Eugene Heimler's approach to social functioning (Heimler 1975) was there evidence that they were all helpful, particularly when they did not seem to agree? Was our supervision of our clients always helpful, or could it be making some people worse, as some American research already suggested (e.g. Powers and Witmer 1951; Meyer et al. 1965; Fischer 1973) and the Home Office's IMPACT study was about to suggest in a British probation setting (Folkard et al. 1976)? (A study by Margaret Shaw [1974], which showed that spending more time with prison welfare officers actually helped prisoners to re-offend less, was a rare chink of light, but was never followed up in practice.) Was our aftercare work with released prisoners supposed to continue the good work begun in prison or to try to undo the harm that imprisonment had

done? Who was, ultimately, our 'client': the Court, the public, the probationer or all of them in the service of some common good which nobody actually articulated or defined? If people were deprived, disadvantaged, disempowered, struggling and poorly served by welfare agencies, how much blame should attach to them when they got into trouble, and what assistance should they be entitled to receive? If we were trying to reduce the use of imprisonment (which seemed high to many of us, although the prison population was less than half of what it is today) did we not need to demonstrate that probation offered a better strategy and methodology for reducing crime? I had already encountered during training some of the research which questioned the effectiveness of social work. In addition, I was aware of the radical critique of social work which was developed in the magazine Case Con and later summarised in the book *Radical Social Work* (Bailey and Brake 1975) in which social work was described as a social tranquilliser pathologising individuals and blaming them for social problems when what they really needed was political mobilisation for a radical redistribution of wealth and power in society. This analysis was never fully persuasive, because it did not reflect the kind of help which people actually sought from social workers; however, like the work of other systems theorists such as Pincus and Minahan (1973), it reminded social workers that they could have a role in the improvement of welfare systems as well as trying to influence individuals. For probation workers this raised the question of whether we should be trying to change the criminal justice system in the direction of a more humane and sympathetic approach to peoples' difficulties, and a more systematic effort to help them to achieve a less crime-prone way of life.

Starting Out in Research: Resisting the Dominance of 'Nothing Works'

The early 1970s were a time of political and economic instability in Britain. Inflation was rampant, a government was brought down by industrial action and bombs were exploded in crowded pubs and railway stations. An energy crisis led briefly to a three-day working week and

power cuts during which people lit their homes with candles. At one time the threat of petrol rationing led to the distribution of extra petrol coupons to 'essential' workers; I am pleased to report that this included probation officers. In the meantime, I began to think that my curiosity about the effectiveness of probation demanded deeper study than was easily available within the Probation Service itself, and with some encouragement (from Bill Jordan among others) I began to think of applying for university jobs. I eventually found a post in Swansea (in an area which, among other advantages, offered more affordable housing than Gloucestershire) and was almost immediately challenged to find evidence of social work's effectiveness.

I found that key figures in my department tended to regard social workers as well-meaning but a bit deluded and not necessarily very bright. Criminologists had read Martinson (1974) and tended to believe that nothing worked, and we also had an anti-collectivist social policy specialist who was a friend of the Conservative intellectual (and Margaret Thatcher's mentor) Keith Joseph. She co-authored a briefly notorious book about why social work was ineffective and made people worse (Brewer and Lait 1980). These challenges helped to launch me into a 40-year (so far) career of research and teaching which mainly concerned the effectiveness and impact of work with convicted individuals in the community, and I also tried to extend my limited practical experience by working part-time for what was then the West Glamorgan Probation and After-Care Service, and by helping to organise one of the first Victims Support Schemes in Wales. In those early days of victim support many of the people involved thought that by showing some effective support for victims, the criminal justice system might eventually be able to become less punitive and more constructive in the way it dealt with those who offended. As some of us put it a few years later: '. . . penal reform groups were often criticized for not being concerned about "the victim" (although there was no evidence that anyone else was doing anything for victims either)' (Holtom and Raynor 1988, p. 19); 'We wanted to avoid reinforcing illusions that victims benefit from harsher sentencing' (Holtom and Raynor 1988, p. 24).

I also tried to respond to received opinions that probation was ineffective and/or a form of soft correctional coercion in an article in a

social work journal which argued that probation should be understood as essentially an agreement entered into by the probationer, the supervisor and the sentencer, and that the defendant's choice, expressed as consent to the Order, was important. I also pointed to some more positive research findings (mostly not from Britain) as 'straws in the wind' which suggested how elements of effectiveness might be developed: 'we should treat people as people, not as objects to be coercively manipulated for our convenience . . . ' (Raynor 1978, p. 423).

One major methodological problem in social work research seemed to be that we were trying to measure outcomes ('what works') when the inputs (social worker activities) were not properly described or defined, and the overall goals and purposes ('what matters') were unclear or taken for granted: 'studies . . . based not on rhetoric but on the careful description and evaluation of real situations, do increase our knowledge about the effectiveness of different kinds of social work activity. Global pronouncements, on the other hand, are misleading and pointless' (Raynor 1979, p. 21); 'without an awareness of . . . normative and interpretative dimensions of the social worker's task and the conceptual equipment to consider them rationally . . . the empiricist approach to technical effectiveness is an insufficient guide' (Raynor 1984a, p. 9). Some people misinterpreted these arguments as a rejection of empirical work; for their benefit perhaps, I have pointed out in a more recent issue of the same journal that both qualitative and quantitative research are vital in social work and social science: 'Without qualitative research, there is not much *social* science; without measurement and comparison there is not much social *science*' (Raynor and Vanstone 2015, p. 14). We cannot sensibly ask 'does it work?' until we know what it is for.

By the mid-1980s my practical work in probation and victim support had largely ceased as I found myself responsible for running and developing what was initially a struggling Applied Social Studies department in the University. The search for resources, for staff, for student numbers and for continuing accreditation from the Central Council for Education and Training in Social Work (CCETSW, now deservedly abolished) took up a large amount of time, including the challenge of engaging with foggy CCETSW concepts like 'transfer of learning' and 'partnership'. However, I was able to continue research through my

contacts with practice, including the Afan Alternative to Custody in West Glamorgan, the Day Training Centre in Pontypridd (directed at that time by Maurice Vanstone) and a number of Youth Justice (or, in those days, Juvenile Justice) projects in which I studied diversion and impacts on local sentencing. My central concern was still whether probation and other forms of supervision in the community could demonstrate enough effectiveness to displace prison as a routine response to persistent offending by enabling some positive change and at least a comparable degree of public protection. Essentially these remained my research topics through several decades and over 200 publications. This chapter is not the place to try to summarise a large body of work, but instead I pick out a few examples which I think throw some light on the nature and uses of evidence in and around probation.

During the 1980s I was able to do some further work on the purposes of probation service activities (described in more recent writing as 'What Matters' [Mair 2004]). A series of publications concerned SERs, first arguing that they helped sentencers to assess seriousness and were a vehicle for making offers to the Court about what someone could do to turn his or her life around (Raynor 1980). A later study (Gelsthorpe and Raynor 1995) found that reports, if well argued and well presented, did actually have an impact on sentencing in the Crown Courts, making non-custodial sentences more likely. We also developed checklists and training aids to try to make this happen more often (Raynor et al. 1995). (By way of postscript, a small recent study found that since the 1990s reports have become more negative in tone and more concerned with risk and punishment [Gelsthorpe et al. 2010].)

On the question of probation's purposes, the government in 1984 published a 'Statement of National Objectives and Priorities' for probation services (Home; Office 1984) which represented a new level of central prescription. I had an opportunity to comment on the draft version (grandly entitled 'National Purpose and Objectives'). Although this document contained a number of policies it did not really articulate a core purpose for probation or its place in the criminal justice system. My suggestions about purpose, to fill this gap, were '(a) to reduce reliance on coercive solutions to criminal justice problems; (b) to increase and facilitate active participation by offenders, victims and the

community both in criminal justice decision-making and in the implementation of decisions' (Raynor 1984b, p. 46). These proposals, modest as they were, might have provided a yardstick against which to evaluate increasingly diverse probation service activities, and were consistent both with diversion from custody and with engaging people who had been in trouble to take part in constructive activities to improve their lives and make a positive contribution to the community. Later some of these ideas were brought together in a book (Raynor 1985) which had some impact at the time, though now it seems a distinctly uneven piece of work. However, later developments suggest that it was right to commend Joel Fischer's suggestions of possible routes to more effective social work practice. Fischer, who by this time was a professor of social work in Hawaii, had written one of the best summaries of research which questioned the efficacy of social work (Fischer 1976) and then offered suggestions for improvement (Fischer 1978), highlighting evidence which pointed to the usefulness of core counselling skills (such as empathy, warmth and genuineness, later to be included among 'core correctional practices' – see below), time-limited problem-solving approaches and behavioural approaches. This anticipated much of what later became known as 'What Works'.

Later in the decade I was able to complete a full evaluation of an 'enhanced probation' project in West Glamorgan based on group attendance requirements in a probation order, which succeeded in delivering both reductions in custodial sentencing and reduced re-offending, as well as leading to a reduction in the problems and difficulties reported by project members. (This was also the first research in which I used a desktop computer, an IBM 'portable' which I remember was about the size of a suitcase, with a five-inch screen.) The report of this study (Raynor 1988) was noticed in Scotland, where it was included in Gill McIvor's ground-breaking research review (McIvor 1990) but did not seem to attract much attention in England and Wales except from Mollie Samuels, one of the most well-informed Probation Inspectors. I suggested that the effectiveness of the project was largely due to:

> . . . clear gatekeeping to ensure concentration on the intended target group; reasonably effective referral systems to ensure consideration of

> the project as an option in appropriate cases; clear contracts with project members, including informed consent and a recognition of clients' obligations and responsibilities in the context of the order; a disciplined framework; a high level of involvement with Courts; high levels of client contact; methods which were demanding and evoked the personal involvement of clients in work on real problems; the social work skills of staff; the support of the Home Office and senior probation management, and the role of the local management committee . . . (Raynor 1988, p. 172).

By then I felt I was beginning to see how some of the questions with which I began this chapter could be addressed. However, after enjoying reasonable government funding and support during Margaret Thatcher's supremacy, probably because it was seen as part of the Law and Order budget and as contributing to economies in the criminal justice system through diversion from custody, probation came under attack in 1993 from a new home secretary, Michael Howard. He declared that prison worked, that diversion from custody was no longer an objective and that probation officers should not be trained as or with social workers. If this was intended to transform the culture of the Service it was largely unsuccessful, but it did seem to change the culture of some of the Service's managers, who no longer talked about 'alternatives to custody'. The Service's successes in diversion were no longer measured and, unsurprisingly, actual diversion among adults largely ceased: from 1993 onwards the prison population *and* the probation caseload grew while the use of fines declined (Raynor 2012). In a review of the annual volume of Probation Statistics I drew attention to the way 'alternatives to custody' had become Oldspeak, in spite of significant achievements, without any obvious Newspeak replacement: 'Orwell fans will remember that the whole purpose of Newspeak was to make history disappear . . . has there been a decisive shift from promoting non-custodial sentencing as a preferred option at the lower end of the custodial range, to marketing community sentences wherever a market can be found?' (Raynor 1998, p. 183).

Although the move away from diversion was arguably a mistake, it did have some positive consequences. One was that it focused minds on demonstrating that the probation service could reduce offending.

Attention was drawn by, among others, the editors of this volume to research which was being carried out in Canada on the characteristics of effective work to reduce re-offending (see, for example, Andrews et al. 1990; Ross et al. 1988; and a key work in the British dissemination of these ideas, McGuire 1995). A major focus was on helping people to learn the skills and the ways of thinking which would help them to avoid trouble and lead more satisfying lives, if they wished to make this change. There was strong empirical endorsement of cognitive-behavioural approaches, and the Probation Inspectorate, led by the late Graham Smith, made it clear that probation services were expected to adopt demonstrably effective practices with a focus on reducing re-offending. The Inspectorate's survey of the extent of effective and evaluated projects in probation services, in which I provided some assistance, produced disappointing results (Underdown 1998): out of 267 projects claimed to be effective by probation managers only four were soundly evaluated and shown to be effective. Wisely delaying the publication of this survey until after the election of a new Labour government in 1997, Graham Smith and his colleagues launched the Effective Practice Initiative, later known as What Works, in an attempt to transform the effectiveness of probation practice.

In the meantime I had had the opportunity, together with Maurice Vanstone, to evaluate an early example of a cognitive-behavioural group programme in probation, with quite encouraging results (Raynor and Vanstone 1996) which were also noted in the Inspectorate's report. This was the pioneering STOP programme, Straight Thinking On Probation, started by David Sutton, then chief probation officer of Mid Glamorgan. There was a tendency to seize on the positive results without looking at the detail of what went into the project: for example, we emphasised the need for detailed and patient preparation and consultation to embed the underlying ideas in practice culture (this took many months); we pointed out that effectiveness was not simply about the group programme but about the whole experience of probation including case management, individual supervision and support; and we took a strong interest in informed consent, and in participants' accounts of what they learned (Raynor and Vanstone 1997, 2002). Unfortunately the central directors of the 'What Works' project felt they had to go

much faster: the main development funding, provided through the Crime Reduction Programme, was only available for 3 years and there was a great deal of pressure to show results quickly. One result was that many practitioners felt that a new way of working was being imposed on them by diktat, some of the Pathfinder programmes established as part of the 'What Works' initiative were not well run and many of the wrong people were allocated to programmes in an attempt to hit target numbers:

> . . . researchers noted a large number of implementation difficulties: projects were often not running in a fully developed form when the evidence . . . was collected . . . projects tended to make a slow start and not to achieve their target numbers . . . the top-down management style . . . alienated parts of the workforce . . . little attention was paid to the need for effective case management.' (Raynor 2004, pp. 317–319)

Evidence alone was not enough: attention was also needed to the human processes involved in its practical application.

Later I became involved in research on risk and need assessment, piloting it in England and Wales with Colin Roberts (Raynor et al. 2000; Raynor 2007) and in a series of studies of post-prison resettlement with Mike Maguire, Sam Lewis and others (see, for example, Maguire and Raynor 1997, 2006; Maguire et al. 2000; Lewis et al. 2003, 2007). Again the results tended to confirm emerging models of effective practice: the most effective resettlement projects combined attention to ex-prisoners' pressing practical needs with work to influence attitudes, self-management and thinking. Regular contact with a supportive supervisor or mentor also helped. Further indications of how and why probation might be effective came from a study of Black and Asian probationers' experiences (Calverley et al. 2004; Lewis et al. 2006). A long-term research partnership with the Jersey Probation and After-Care Service, where standards are in some respects higher than on the mainland, led to a series of studies (e.g. Raynor and Miles 2007; Miles and Raynor 2014). Recently these have included a study, with Maurice Vanstone and Pamela Ugwudike, of the practice skills ('core correctional practices') used by probation staff. This quasi-experimental

study has confirmed the effectiveness of appropriate practice skills: officers who were typically more skilful and resourceful in their individual supervision achieved better results and lower reconvictions: '. . . skills matter in probation work: when practice is skilful, reconvictions are reduced . . . One cost-effective route [towards reduced reoffending] might be to focus on developing staff skills . . . The lessons of the evidence-based approach might have been learned better without attempts by headline-hunting politicians to impose a more punitive culture' (Raynor et al. 2014, pp. 245–247). Improving staff skills might in fact be a much more cost-effective approach to improvement than is offered by the current vogue for privatisation.

By this time I felt I had found at least the beginning of answers to several of the questions I had set out with 40 years earlier. However, it was also clear that many developments and changes in probation were not evidence driven, and that the application of evidence to policy and practice was far from straightforward. Finding evidence is not in itself the answer: persuading people that it is in their interests to pay attention to it is another challenge, and the nature of this challenge, and the uses and meanings of evidence, change over time. Before the 1990s the limited research available had little impact on policy and practice in England and Wales (though an early attempt by McGuire and Priestley 1985 to promote evidence-based practice was widely read). The Home Office had largely given up on the search for effectiveness and showed limited interest in research from overseas, or even from Scotland. This changed when probation's search for 'what works' coincided with the dissemination (often by psychologists) of new research on effective practice. The New Labour government elected in 1997 promised evidence-based policy-making and was prepared to invest in the 'Pathfinder' experiments although, as described above, the time scale was too short and the implementation too uneven to deliver the kind of results that probation's leaders hoped for. The peak years for evidence-based development in probation lasted from 1997 to about 2003; by then, politicians who had learned to see evidence as a useful resource began to look for evidence to support preferred policies rather than choosing policies to fit the evidence. Outside criminal justice the most glaring example of this was the manufacturing of evidence to manipulate opinion in favour of the

invasion of Iraq in 2003. Within criminal justice evidence has been used to support practice developments such as the accreditation of programmes, but major policy changes are based on little or no evidence, or on reports specially commissioned to support them. An early example was the abolition of consent to probation in 1997 (see Raynor 2014); more recent examples are the abolition of probation orders in 2000; the creation of the national Probation Service and marginalisation of the judiciary in 2001; the creation of the National Offender Management Service in 2004 following a report by a businessman (Carter 2003); the inclusion of a 'punitive requirement' in every community sentence in 2013, in line with an earlier report by a civil servant (Casey 2008); and finally, in the clearest example of evidence-free policy-making, the decision to break up and sell off the majority of the Probation Service to private providers in 2014–2015.

Pilot studies intended to inform these latest changes were discontinued in order to accelerate the process and complete it before the General Election of 2015 (just as the break-up and privatisation of rail services was accelerated before the election of 1997). The Justice Secretary who led the privatisation process, Christopher Grayling, is rumoured to have said 'you don't pilot a revolution'. The twenty-first century so far shows a progression from being *guided* by evidence, to using evidence as a *resource to support* policy decisions already made, to *creating* evidence to support policies and eventually to dispensing with evidence altogether. The erosion of the traditional basis of probation has been accelerated by a series of Home Secretaries and Justice Secretaries who seemed overconcerned with maintaining a tough image, from Michael Howard through to Jack Straw, David Blunkett, John Reid and finally Grayling. (Exceptions were Kenneth Clarke and, for a short while, the recent incumbent Michael Gove.) Some of these gentlemen may have felt that too much support for probation would compromise their tough image. As a result, the majority of probation staff trying to contribute to rehabilitation find themselves in a legislative and organisational environment which is not particularly helpful. In a recent article I compared the Ministry of Justice to the ancient allegory of the Ship of Fools, in which the quarrelsome and disorganised crew can never decide together how and where to sail: 'Part of the tragedy of life aboard the ship is that not

everyone on it is a fool, but those who have a good idea of the appropriate destination and how to get there cannot find enough others to agree with them, and their warnings about the rocks ahead are ignored' (Raynor 2014, p. 304).

Many Fears and a Little Hope

What, then, of the future – the future of probation, and the future of evidence? In a recent book chapter I suggested that 'if current trends in England and Wales continue, we can expect to see more diversity and variation in the provision of community sentences, with both good and bad results. These developments, however, seem likely to be driven more by political ideologies and expediency than by the needs of courts, victims or offenders' (Raynor 2012, p. 949). Early signs are not encouraging: several of the private companies which own the Community Rehabilitation Companies seem to be trying to protect their profits by reducing their staff by about a third, which suggests that they may be trying to live on their core funding rather than relying on the Payment By Results (PBR) element of their income. Anecdotes proliferate: one hears of a practitioner being instructed to prioritise a caseload according to the potential profitability of each case, while a voluntary organisation manager is reported to be enthusiastically announcing 'cream and park' (i.e. work only with those likely to produce the best results and 'park' the rest) as the strategy of choice. In a pilot PBR resettlement project services were at one time being withdrawn from any ex-prisoner who was reconvicted, on the grounds that such a person would generate no income (Hichens and Pearce 2014). The Probation Inspectorate, although cautious about criticising government policies, has expressed concern about the transfer of cases and information between bits of the system, the quality of supervision in community punishment and the inadequacy of the new after-care arrangements for short-sentence prisoners (the introduction of these was one of the main pretexts for the privatisation project) (H. M. Inspectorate of Probation 2016a, 2016b). But who needs evidence when we have markets and, as all good neoliberals know, markets

will automatically optimise outcomes? One might question whether the virtues of competition were fully realised in a procurement process in which the most experienced providers, namely the regional Probation Services themselves, were excluded from competing, but when shrinking the State is a political priority any privatisation can be seen as a success. In a sense, the policy has *already* worked, regardless of the actual outcomes. The new priority of 'What Pays' trumps both 'What Works' and 'What Matters'.

In these circumstances the role of evidence is in some ways unchanged: it still needs to be gathered, interpreted, clarified and communicated. It will still inform some processes, but for the time being it will not be the driving force in the development of what is left of probation. One day it will be needed again: it seems certain that the new system will need to be modified in the medium term and knowledge of what works and what matters will be important inputs. No government is permanent, and when the public tires of the cruelty and hypocrisy of the 'low-welfare' society we may see a rediscovery of the general commitment to universalist welfare services which provides the best environment for probation's revival. We have, now, the knowledge and skills to do better. In the meantime knowledge and understanding are never completely wasted, and we can also learn from other countries and jurisdictions. It may be a cliché to quote T. S. Eliot on this subject, but he captured it perfectly:

> the end of all our exploring
> Will be to arrive where we started
> And know the place for the first time. (Eliot 1963, p. 222)

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Peter Raynor is currently Emeritus Research Professor of Criminology and Criminal Justice, Swansea University. He was brought up in Birmingham and graduated with a degree in Classics and Philosophy from Oxford in 1969. He joined the Probation Service as a trainee in 1970 and was sponsored to train at Exeter University, then worked as a main grade officer in Gloucester until Autumn 1975, when he joined Swansea University as a lecturer. He gained his Doctorate in Criminology in 1987. During the late 1970s he also worked as a part-time officer for West Glamorgan Probation Service, and was a founder member of the National Association of Victim Support Schemes.

Much of his research over the last 40 years has concerned the evidence base for effective probation practice, including studies of the impact of pre-sentence reports; an early cognitive-behavioural programme for offending; risk and need assessment in correctional services; the resettlement of medium-term and short-sentence prisoners; the needs and experiences of Black, Asian and other minority ethnic probationers, and the criminal justice system of Jersey. In 2006, together with Fergus McNeill and Chris Trotter, he set up the Collaboration of Researchers for the Effective Development of Offender Supervision (CREDOS). He has produced more than 200 publications.

He is a member of the Correctional Services Accreditation and Advisory Panel for England and Wales, and was a member of the Community Justice Accreditation Panel for Scotland from 2003 to 2005. He is a member of the British, European and American Societies of Criminology, and in 2013 he became a Fellow of the Academy of Social Sciences.

14

Forty Years and Counting – Communicating Probation

Paul Senior

> The starting-point of critical elaboration is the consciousness of what one really is, and is 'knowing thyself' as a product of the historical processes to date, which has deposited in you an infinity of traces, without leaving an inventory. –Antonio Gramsci, Prison Notebooks (1929–1935)

Towards a Career

It is tempting to impose order on a career when looking back over a period spanning upwards of 40 years. In fact outcomes are rarely as clearly planned. I attended York University in the early 1970s. Much of the spirit of the 1960s was still around in those years, though when I left

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higher education (HE) 6 years later in 1977, strikes, inflation, punks, soccer hooligans and a sense of national decline hung heavily over Britain, Thatcher was just around the corner. I had gone intending to be a secondary school teacher, studying history and education. I had begun an intellectual awakening in my sixth form where I had first discovered the liberating experience of reading literature and poetry. For the first time I was moving beyond what Freire calls the 'banking' experience of education. This continued with my exposure to intellectual history and in the debates surrounding the 'de schooling' movement. I was influenced by Marx, Gramsci, Orwell, Freire, Illich, AS Neil, Montessori and many others. I had not thought of this intellectual legacy until I began to ask where my basic intellectual instincts had first emerged which took me from a career in secondary teaching to probation practice and policy and a lifetime in and around probation. As I look back at this intellectual springboard I can see three persistent themes:

- Always look beyond what you see for meaning and interpretation
  'I hate the indifferent. I believe that living means taking sides. Those who really live cannot help being a citizen and a partisan. Indifference and apathy are parasitism, perversion, not life. That is why I hate the indifferent.' (Gramsci in Hoare and Smith 1971)
- Always link practice and reflection
  'For apart from inquiry, apart from the praxis, individuals cannot be truly human. Knowledge emerges only through invention and re-invention, through the restless, impatient, continuing, hopeful inquiry human beings pursue in the world, with the world, and with each other.' (Freire 2000)
- Stay linked to the real world and pass on ideas and share knowledge
  'The insistence that the oppressed engage in reflection on their concrete situation is not a call to armchair revolution. On the contrary, reflection – true reflection – leads to action.' (Freire 2000, p. 66)

Having dismissed schools as a career I had to dig deep to find what really interested me. I had learnt that teaching history to 12-year-olds

was not for me but the youth work I did really grabbed my attention. The same kids who presented as difficult and disinterested in class emerged as more rounded, if at times troubled, young people in the evenings. Even when my teaching practice had finished I returned to the youth club fascinated by their difficult lives. I decided I wanted to do social or youth work, to engage these young people and hopefully encourage them to break out of their confines. A lofty aim and I did not fully appreciate how difficult that might prove to be.

This eclectic mix of ideas and experiences has given me an orientation which has shaped my career. What label can I put on this orientation? Is it the 'organic intellectual' of Gramsci, the 'embedded criminologist' which Petersilia (2008) describes or Loader and Sparks suggest: 'scientific expert, policy advisor, observer-turned-player, social movement theorist/activist and lonely prophet' (Loader and Sparks 2011, p. 28), offering the 'democratic under-labourer' (Loader and Sparks 2011, pp. 115–147) as their preferred role.

Most of these roles describe a disciplinary commitment – in these cases criminology – then seeking to impact on policy and practice from that discipline. In contrast Gramsci's concept is more endemic to a whole system approach and is at the core of his notion of counter-hegemony. He argues that whatever job an individual assumes they should seek to undertake this with a commitment to use their knowledges and influence, to seek to be what Gramsci called 'organic intellectuals': 'the mode of being of the new intellectual can no longer consist in eloquence . . . but in active participation in practical life, as constructor, organiser, "permanent persuader" and not just a simple orator . . .' (Hoare and Smith 1971, p. 10).

This approach eschews a particular discipline allegiance. I have found myself in different worlds with their own knowledges and I have adapted and used propositional knowledge from whatever discipline I have needed, be it sociology, criminology, psychology, policy science, learning theory, social work and more. I do not possess an overarching disciplinary commitment which prescribes how I respond. I will return to this after I have examined the nuts and bolts of my approach to work in the probation sector which started in 1975.

Training to Be?

As I started my social work training in 1975, as a Home Office-sponsored probation trainee, this choice to do probation had been influenced by the opportunity of a salary rather than another grant which my parents could not reasonably support. I did not know this world. I became a probation volunteer in Hull, partly because I knew so little. I was immediately confronted with difficult young adults whose problems seemed so endemic and far-reaching that it was hard to shape meaningful solutions. I just befriended them. I was exposed to a world of crime for which I had few reference points for interpretation. I was fascinated, engaged but chronically anxious at whether I could survive in this world. I found an inspiration from Keith Bottomley, then a new criminology lecturer at Hull, and through his guided study and my experience on the ground, it began to make a little more sense. When I had a difficult volunteer experience I wanted to stand back, reflect on it, make sense of it and I found the criminology teaching particularly helpful. New criminology was just emerging and it provided inspiration, ideas and challenges (see Taylor et al. 1973). It was though a sobering time for probation as research published in USA (Martinson 1974) and in the UK (Brody 1976) questioned whether rehabilitation was a goal which worked at all. Not an auspicious start to a career in probation! I qualified in 1977 with a CQSW, which had offered useful generic social work training with just a nod to probation. I did not yet feel equipped to undertake this complex role. I was appointed to work for South Yorkshire Probation Service.

Being a Probation Officer

I spent six years as a probation officer and this time is characterised by a busy environment of court reports, individuals on probation, prison visits and voluntary aftercare. I spent time questioning the perceived wisdom of probation orthodoxies, engaged in policy development through the professional association, NAPO and pursued further study through a Masters in Community Studies (Sociology).

I arrived in probation at a time when psycho-dynamic casework was being questioned and a radical agenda was emerging at the fringes. I was active as a member of NAPO Members Action Group, a loose amalgam of socialist sympathisers, akin to Case Con in the social work field. I worked in Doncaster which contained a diverse group who were members of the Salvation Army, a lay preacher, a socialist, a former volunteer, a former monk and so many different ideas about practice. I loved this but my intellectual curiosity was not always seen as helpful by my colleagues.

In becoming active in the professional association, NAPO, I found an outlet for this questioning mind. I spent 8 years on their Probation Practice Committee and we produced a huge number of policy papers whilst we were still at the strategic table with the Home Office. I met probation staff who brought their own experience of probation and we were able to debate the fundamentals of probation practice. The differences of perspectives were hotly debated. I learnt how small a world probation was and being involved nationally meant opening a window to practice across the country. For an enquiring mind this was such a wonderful environment as we grappled with a new agenda for probation. I was lucky to get to know Bill McWilliams, then research officer in South Yorkshire. He inspired me to develop what he termed a 'constructively critical culture' (Senior 2013a) to the world around me.

This period produced the first radical reflections on probation (Bryant et al. 1978; Haxby 1978; Harris 1980; Walker and Beaumont 1981). One journal paper had conferences dedicated to it and probation teams began implementing its ideals (Bottoms and McWilliams 1979). This level of debate about what constituted good practice I reflected in two complementary ways. First in my work as a probation officer I initiated two innovative projects, the Henry Asplen Day Centre (Senior 2008a) and a juvenile offender Intermediate Treatment Project as an alternative to custody. Second, though not published until 1984, I began to speak at NAPO conferences on the fundamental questions surrounding the nature of Probation Orders, asking if it was a vehicle of social work or social control (Senior 1984). I was beginning to understand what being a reflective practitioner entailed and in particular how the 'messiness of practice' grounds thinking in the reality of what actually happens.

> In the varied topography of professional practice, there is a high, hard ground where practitioners can make effective use of research-based theory and technique, and there is a swampy lowland where situations are confusing 'messes' incapable of technical solution. The difficulty is that the problems of the high ground, however great their technical interest, are often relatively unimportant to clients or to the larger society, while in the swamp are the problems of the greatest human concern. (Schön 1983, p. 42)

The period, 1975–1982 saw unprecedented changes to probation practice and in my own understanding of contemporary practice. Probation moved from being a probation officer organisation with a psycho-analytical approach, to one which had a range of different workers and within an organisation administering court work, prison work, hostels, day training centres and community service. It was supervising more difficult, high-risk people and increasingly taking on the task of supervising such people on alternative to custody projects. What constituted probation practice was in dispute:

> the language of the professional worker and the associated elasticity of the term social work often enable us to assume that there is a collective and shared set of values and beliefs. This myth is further sustained by concentrating discussion on the use of similar techniques and methods. (Senior 1984, p. 64)

The 1984 Statement of National Objectives and Priorities and the 1988 paper, Punishment, Custody and the Community, and the debates that this would engender around public protection and the management of risk were not far away. I now had some understanding of the kind of probation policy and practice I envisioned and wanted to find a place to persuade others of these ideas.

Being a Joint Appointment

In 1982 I started as a joint appointment as a Senior Probation Officer (training) and Senior Lecturer in Social Work. I did this role for 11 years during substantive changes to probation. The character of a joint appointment, giving a foot in the real world of probation as well as in

higher education was a perfect combination. It was also an interesting vantage point to see those changes reflected in training, in education and in practice developments. Using a regular column in Social Work Today I commented on the changing issues whilst grappling with them first hand (Senior 1985–1991). As a training officer in 1982 I could develop lots of diverse training from Heimler Human Social Functioning to motivational interviewing. I took my cue from staff and what they needed or wanted. I loved the way in which training, done well, using experiential techniques, engaged workers in exploring issues of importance and relevance to them. The 1982 Criminal Justice Act introduced major practice changes in probation and we organised a course which was experiential and, as a by-product, inculcated the new legal requirements. I was finding the training and education environment conducive to reflective learning. Being a trainer allows you to rehearse your ideas, develop and challenge your own thinking as well as that of the participants. This was reinforced in my university role in dialogue with my probation students trying to work out what probation really meant.

In 1985 I completed my Masters. The dissertation title 'The Conundrum of Penal Policy Making' (Senior 1985) was an important stepping stone grounding my intellectual direction on policy and practice. The complex, often paradoxical way in which ideas, theories and policies interact, persuaded me not to believe that an overarching view or theory could prevail and that each policy change had to be interrogated in its own right to determine the path it might take. In a counterpoint to the 'messiness of practice' I found the uncertainties of policy:

> at the level of both macro and micro ideologies and theories that political parties of seemingly different potential philosophic base occupy the same intellectual space. At the micro level ideologies of rehabilitation, justice, community, minimal state intervention and many others are supported with conflicting justifications. (Senior 1985, p. 29)

I did not see myself sitting back observing and writing at a distance. Polytechnics hardly sanctioned the idea of the ivory tower academic and I liked the challenging realities of policy and practice and so I sought out ways I could engage in that world, utilising knowledge gleaned from

research and theories, triangulated with what was happening on the ground. I did this through training, conferencing, workshops, tutoring and lecturing.

In 1984 I had returned to York University to organise 3 day professional conferences on behalf of NAPO (NAPO 1984, 1986). I often took the role of rapporteur summarising in the final plenary. These conferences sadly faded out as the structure of conferencing changed with time for such extended reflections reducing amid cost constraints and corporate financing. Yet they had formed the ideal environment for reflection.

This reflective approach to learning was also undergoing re-appraisal rapidly in my training and development role. Following SNOP in 1984 and a much more managed service which emerged, training became increasingly utilised to deliver whole agency training, with all staff receiving the same training whether it be child protection, equal opportunity and anti-racism training, or other policy developments.

> An increasing amount of in-service post-qualifying training with its prescriptive and tight delivery regimes, sometimes pejoratively referred to as 'sheep-dip training', does not augur well for a criminal justice profession which arguably needs the critical thinking and reflective practice celebrated at basic training to ensure innovative solutions are found to the problems facing our criminal justice institutions throughout the lifelong learning of practitioners. (Senior 2010)

This change is illustrated by the 1991 Criminal Justice Act. The government invested in a comprehensive training package which included schedules, OHPs, what should be taught and when. The room for manoeuvre was limited and this was clearly an attempt to dictate how and what staff should learn. The banking model of education noted by Freire had reached probation. The government was beginning to recognise that control of the training agenda helped to enforce their view of practice. This was to prove significant as the 1990s moved on and social work as the base for training was challenged. In the 2000s we would see nationally defined courses on accredited programmes taught in a didactic style with the intention that delivery would be exactly the same wherever it took place. Tilley (2001) was

concerned that practice efficiency was sacrificing a more reflective engagement, practitioners needed to be 'evidence-based theory learners, users, refiners and developers, not mechanical deliverers of standard programmes implemented with integrity' (Tilley 2001, p. 94).

Involvement in the CETSTW Council (1986–1989) as a council member coincided with two important probation developments: a more probation-focused curriculum in the DipSW for training and the launch of post-qualifying education. In part a reaction to a more specialised approach in social work, probation became another stream. There were few objections to this and, although not intended, it would act to strengthen the argument that probation trainees did need different training.

> The service has to make decisions about how it is to achieve a quality service. Many successful industries have realized that investment in their staff and in the development of a competent workforce are prerequisites for a healthy organization and good service delivery. This is a policy discussion which services need to undertake with some urgency. (Senior 1996c, p. 55)

My commitment to concepts of lifelong learning and critical reflection brought this centre stage for me. Post-qualifying had had a chequered history in probation; there was no structure or expectations that probation staff should advance their practice. In Sheffield I helped to set up a Centre for Continuing Professional Development (CPD), the joint centre (from 1987 to 1996) run with Sheffield University and local social work agencies including probation. Running day conferences, workshops, seminars and courses supported the more joined up and lifelong learning philosophy emerging in social work. A little later I became Chair of SYNEM (South Yorkshire and North-East Midlands), which was the Post-Qualifying Social Work Consortium. (I was chair from 1989 to 1998.) In training a future generation of workers grappled with the changing external world of probation and criminal justice. Reflective practice was at the heart of the post-qualifying methodology.

In 1992 with my colleague Alan Sanders I was awarded the contract to write the fifth edition of Jarvis: Probation Service Manual, the erstwhile legal bible for probation practitioners. It proved to be an exercise comparable in its longevity to painting the Forth Bridge. The end

product, a three-volume, loose leaf edition, was based entirely on reference to the law, statutory instruments and policy papers (Senior and Sanders 1993). Unfortunately we launched it in 1993 on a criminal justice world which was constantly changing its mind having rejected the tenets of the Criminal Justice Act 1991 on which we had based our core material. New legislation was presented almost annually (consider Criminal Justice Act 1993; Criminal Justice and Public Order Act 1994; Crime and Disorder Act 1998, Youth Justice and Criminal Evidence Act 1998) and consequential policy changes were constant and as a result upwards of a third of the manual was in need of updating in 1994 and 1997. This was exhausting and we negotiated to develop an online version. This was to run foul of the ever-increasing control the centre wished to exert. Sadly Jarvis was relegated to the dustbin of probation history by a new national service more intent on controlling messages than engaging in good practice.

During these 11 years my interest in communicating about probation came primarily through training events, education of new practitioners, conference organisation and delivery, some public speaking but many more workshop presentations and the production of conference papers, and my writing developed through such publications as Jarvis (Senior and Sanders 1993) and the occasional book chapter (Senior 1985, 1986, 1989, 1993). I enjoyed the challenge of being in the middle of policy and practice change and, though using theories and insights from evidence, I was keen to grapple on the ground with policy implementation.

Becoming a Freelance Consultant

I took secondment in 1993 and embarked on a freelance role (1994–1998). My experiences enabled me to experiment in my communications, leading to a greater engagement in consultancy, some early research endeavours (Senior 1994) and more opportunities to speak at policy events. I was becoming what Mawby and Worrall (2013) describe as a probation 'lifer' and I tried to use my knowledge by speaking, primarily at policy and practice conferences. I was often one of only a few academics who routinely attended policy conferences. I found these events a place of influence in dialogue with those

implementing policy and practice. I was very proud when in 1996 I was awarded a personal chair as the first ever Professor of Probation Studies. I was then to make a decisive contribution to the future shape of probation training and ultimately to my career direction.

It was not an easy time for probation after its failure to move centre stage. Under the Tory government social work was under attack and there was a move to remove probation from those historical roots as probation began to incorporate demanding commitments to public protection, law enforcement and risk management. The symbolic removal of training from social work was initiated by Michael Howard and completed by Jack Straw. It is beyond the scope of this chapter to discuss whether the separation from social work as the basis of training was the start of a substantive change in the direction of probation or just one consequence of a number of changes already underway. The move to 'punishment in the community' predates the changes in training and by the late 1990s much of the managerial practices which was to dominant early twenty-first-century criminal justice practices (see Senior et al. 2007) were in place. Bales' early attempts at risk assessment (Bale 1987) had been introduced at a grassroots level in the late 1980s and the original grassroots 'What works' conferences had started in 1989 in Manchester. These significant practitioner-led initiatives were colonised by the centre as the 1990s drew to a close. I had learnt that bottom-up initiatives grab the practitioners' interest and commitment and practices are routed in real-life engagement. But in the late 1990s there was a growing clash between top-down and bottom- up approaches which an increasingly manageralist government were intent on imposing. The control of practice was to reach its apotheosis in the new National Probation Service in 2001.

> When the National Probation Service was launched in 2001 the director of the NPD promised the Home Secretary that 'it would do anything the government wanted it to do' thus at a stroke losing its own sense of identity carved out during the whole of the 20th century. Its pragmatism is now its Achilles Heel as it has sacrificed its historical tendency to express independent and innovative ideas. It has now forgotten that the original impetus to the What Works focus and many other innovative practices it pursued was a bottom-up approach and the orthodoxy is now firmly driven from the centre. (Senior 2004b)

Much of the freelance work was focused around the changing contexts of training which took me into a more policy development role. I produced a range of publications designed to support training, policy and practice:

- The introduction of competencies as the guiding language of staff development, appraisal and assessment (Senior and Atkinson 1996b, 1997)
- The developing role of practice teaching (Senior 1994; Senior et al. 1994)
- The attempt to shape the post-qualifying initiatives to a probation remit (Senior 1993b, 1996, 1999a; Senior et al. 1996a, 1996c) and
- The development of workbooks and toolkits to support training, policy and practice (Senior 1994, 1997, 1998, 2000)

This took place against the losing battle over social work as the base for probation training. These were challenging times in the training world. The biggest project I undertook as a freelancer was to try and make sense of a new qualification for probation. There was a real sense of mourning amongst the people with whom I consulted, be they probation workers, managers or HE providers, allied to an anxiety over the development of a competence-based approach using National Vocational Qualifications (NVQs) which were in their infancy and within HE almost unknown. I worked through the Home Office group called PORTIG. This was a huge policy shift for probation. The first threat coming from Michael Howard was to HE as he considered a vocational qualification only. This represented a real crisis in what kind of staff probation needed, with Howard calling for the return of more ex-services personnel. The 1997 election immediately changed this debate, now dominated by the reforming zeal of Jack Straw who had brought in the 1997 Crime and Disorder Act and Youth Justice reforms. He also changed the debate on Probation training though reiterating the break with social work. The brief was that the new award must be an undergraduate award with a vocational qualification and completed within 24 months. These were the parameters for the DipPS, the Diploma in Probation Studies.

This piece of work conducted in 1997/1998 brought many innovative principles:

- Training to take place in practice
- Time for academic learning and reflection
- Central role of the practice teacher, the PDA – Practice Development Assessor
- A curriculum reflecting core texts from previous training with a stronger focus on criminology (but being careful not to use the words social work)
- Strong emphasis on equal opportunity and diversity
- Students qualify at the same academic level – that is, an undergraduate degree in community justice (probation)
- Students complete an NVQ, reflecting occupational standards
- Balance between each element – student, employee and trainee – within a 24-month window

Bearing in mind Straw's parameters there were a number of unintended consequences:

- HE providers who had delivered postgraduate courses were not happy with a move to a single academic level
- NVQs were novel and many did not understand them and some were positively hostile
- Levels of training for the role of the PDA
- The curriculum, partly driven by the knowledge base of the NVQs, may not be as reflective of social work
- Delivering a 3-year degree plus an NVQ in 24 months
- The abandonment of social work qualifications with withdrawal of the Probation Rules
- Enforcing quality standards particularly when the Home Office rejected the suggestion for a professional body

This final point represents a failed attempt to create a professional body to lead probation into the new world. It was a dangerous gap and one

which has still not been filled though the Probation Institute now, belatedly, offers such an option, of which, more below.

I argued in my inaugural professorial lecture (Senior 1999b) that this innovative approach represented a paradigm shift in the nature of professional training and provided an original and inclusive approach with partnership key to an integrated delivery. The resultant award, with a smaller number of universities working alongside Probation Consortia, was challenging for students particularly balancing the demands of study, vocational qualifications and being an employee. Technically there were sufficient learning hours to do this but it was demanding, almost unrelenting, to keep moving at such a pace. Nevertheless the award was well received and described by the National Training Organisation, the CJNTO, as a 'Rolls Royce' qualification.

The desired configuration assumes equal influence over the delivery. The strains that appeared were challenges to that equilibrium. A nervous service anxious to impose a particular set of practice options, as replicated elsewhere, led to changes – the introduction of accredited programmes into the award (removed the following year), changes in curriculum necessitated by changes in the NVQs, demands from service managers to use the individuals as employees and thus compromising learning time – all these elements have moved the award away from its ideal though echoes of it remain in the new Community Justice Learning of the NPS.

> Change the world of professional workers in probation it certainly did. Producing competent, fit for purpose, probation officers it certainly did. Finding ways to integrate academic and practice learning, history will judge, but I would say it has been a hugely innovative and ultimately successful structure. The one potential downfall is that, although built on a model of partnership, one element has had control. (Senior 2008c, p. 18)

Winning contracts to run this award meant a key career decision. I was asked to move into the university full-time and, after some equivocation, did so. Returning to the university but not in the social work department was difficult. I became the solitary member of a Community Justice Group. This was to expand as my career lurched more decisively towards criminology and to new career paths.

Becoming a Criminologist?

This period around the changes in probation training were accompanied by a growing interest in criminology and criminal justice. Colleagues who had focused on probation training within social work moved into research on criminal justice and criminology courses began to multiply. It took around 4 years to develop a thriving criminology department at Sheffield Hallam. This enabled me to further my interest in criminology and shape new ways of contributing to the complex world of probation in a changing criminal justice system.

I was asked to set up a research centre, which became the Hallam Centre for Community Justice (HCCJ). We looked to policy-oriented research in keeping with my previous policy interest. A substantial European research project working with voluntary sector and the Home Office established HCCJ. We spent 5 years on Women into Work projects (2002–2007) focused on the employability of women offenders, pioneering peer research and peer support services for women offenders (O'Keeffe, Senior and Monti-Holland 2007) and working across Europe. In 2002 we had launched the Community Justice Portal (CJP) (www.cjp.org.uk), an information exchange facility for the sector, and also that year saw the launch of the *British Journal of Community Justice* (BJCJ) jointly with De Montfort University. These were new communicative modes which I relished with enthusiasm.

Though working in a full-time academic post my predilection for being engaged in the real world remained. My research, my teaching, the launch of the CJP and the BJCJ were all rooted in the policy and practice worlds of probation, community justice and the criminal justice system. From 2002 I began to speak more at conferences and rarely attended an academic conference preferring to engage with practitioners and policy makers on the ground. In 2007 we ran an International Conference on the Century of Probation. As part of this we published individual reflections on the world of probation which was eventually published (Senior 2008c):

> These moments are rich vignettes from individuals capturing the essence of and experience in and with probation which typifies what probation means to them and to us all. On these pages we have

> highlighted events, legislation, policy changes, different innovations to practice, differential interpretations of the same event and collectively a memory of a range of moments documenting the history of probation . . . They breathe life into the term 'getting probation. (Senior 2008, p. 218)

Being a Researcher and Policy Advisor

In 2004 I became director of the HCCJ on a full-time basis. This meant I lost my engagement in teaching, the probation training being a particular loss though I kept a strategic oversight. Managing a growing research portfolio included commissions from the Home Office, Ministry of Justice, probation services, police, voluntary sector and private sector. This brought the team constantly to the edge of policy debates and the difficult place which research occupies in policy implementation. We were commissioned over a 10-year period in over 60 different pieces of work which reflected the policy concerns of government – resettlement (Senior 2003, 2004, 2008), Integrated Offender Management (Senior et al. 2011), women offenders (O'Keeffe and Senior et al. 2006, 2007), the role of the voluntary sector (Senior et al. 2005), accommodation for offenders (Senior and Meadows 2008) – to name a few. The ability to influence the policy process through research has proved to be one of the more challenging tasks of my career:

> Each contract research centre needs to have an in-depth understanding of the policy context and ideally, have staff who, in previous roles, have undertaken policy development or implementation . . . the research will always be mediated through this context and the researcher has to appreciate the pressures on sites and on policy leads to deliver projects that meet policy priorities . . . This requires a level of contextual familiarity and methodological flexibility that would be less important, and possibly, less legitimated in pure research. (Senior 2015b, p. 375)

We tried a number of ways to garner some influence over policy developments in probation including the development of toolkits

(Women into Work 2005); speaking at many policy and practitioner conferences; undertaking significant conference activity such as the Century of Probation Conference; portal lectures from 2002; international events in Hong Kong, Singapore and New Zealand; and some writing (Senior 2008d; Cowburn et al. 2015). All this work has been undertaken in uncertain and hostile times. The restructuring from 2012 under the transforming rehabilitation (TR) proposals has wreaked havoc on probation practice.

As a probation 'lifer' engaging in what Mawby and Worrall (2013) calls 'edgework' it has been important to help others make sense of this bifurcation policy of TR and attacks to the integrity of probation. The social media evolution has enabled this communication.

> In the last few years the growth of social media has produced an immediacy to this strongly articulated defence of probation practice drawing on the insights of academic, researcher, practitioner and manager contributions, allowing an instant replay of thoughts through linking newspaper and academic articles, extensive blogging, campaigns, reports by think tanks and Penal lobby groups and just the reflective exchange of ideas. (Senior 2013c, p. 1)

This included speeches (Senior 2013a); rallies (Senior 2013b); blogging; appearing on radio and TV and tweeting:

> My observations suggest it (i.e. social media) is beginning to occupy a distinctive space in the already crowded arena of criminal justice policy making. Is it now a place where you might choose to campaign or debate in preference to traditional forms of campaigning and communication of ideas to get your message across more quickly, to a more diverse and increasingly global audience and by so doing increase accessibility and democracy in relation to the development of crime policy? It is an intriguing possibility and one which if true may have implications for all those researchers and academics who seek to get their ideas heard. (Senior 2012)

I edited a special double edition of the BJCJ (BJCJ 2013). The BJCJ has always been a natural place to explore ideas and critical thinking on

probation. My editorials contain a constant observation on these changes.

> Probation deals with complex, difficult and intangible problems in a quietly authoritative, caring and committed way. Moreover even in the language of government it works. Probation on the Justice Ministry's own figures reduces re-offending and moreover offers service users real opportunities to reintegrate into society. Rather than throw this away in the rush to appeal to an ideological dogma. . . . now is the time to stop and think again. (Senior 2013b, p. 8)

This remains unfinished business as the world of probation adjusts. The latest issue of the journal, my last as editor, is another attempt to reflect on the future of Probation (BJCJ 2016 Vol 14, p. 1) and looks forward to 2020.

Developing a New Voice

> This will not be the easiest of tasks I have ever taken on . . . but it is one which I am certainly proud to do . . . I believe the PI (Probation Institute) has a potentially important and certainly unique role as probation is reshaped and refashioned . . . We are in the midst of a difficult time (and I recognise for many that is an understatement) concerning the future of Probation but the essence of what rehabilitation of offenders is all about is built into the DNA of successive generations of probation workers. We must continue to draw on that legacy and continue to strive for high quality, innovative practices. The Institute is committed to supporting and enhancing high quality probation practice by promoting the professional development of all workers. (Senior 2015a)

And with this blog I entered the final battleground of my career, Chair and Director of the nascent Probation Institute. I mentioned above the Home Office group which had steered the DipPS. One of the papers I prepared then was the outline of a professional body to quality assure the new award. I drew on my knowledge of CCETSW and saw the new Community Justice National Training Organisation as a potential site.

It was rejected, expunged even, from the agenda. I believe that probation education, training and research have since been unable to find an independent voice which a professional body and centre of excellence would provide. No other professional group has had to work without such a reference point and whilst the work that NAPO and PCA have done to keep the professional voice alive has been important, they lack the organisational power to hold probation standards to account. That the Institute emerged at the epicentre of the dislocation caused by TR was an unfortunate coincidence and has inhibited its passage into the probation world. I believe it will give a voice to the concerns of a profession split asunder by the TR change and support practitioners feeling isolated, uncared for and vulnerable. My second blog stated:

> I have pursued professional excellence and aspirations throughout my career through NAPO, through writing, through the social work council, through supporting training and development and through research. . . . No one knows more than I do the crushing way in which these reforms have affected probation staff and I have spoken and written on these issues many times. The Institute wants a secure profession across all agencies undertaking probation work, wherever that work is taking place. (Senior 2015b)

I will continue to voice my concerns and seek to persuade others of the importance of this profession.

A Career of 'Permanent Persuasion'

This biographical account whilst documenting aspects of my career has been scripted to try and identify the changes in probation philosophy and practice as seen from my multiple vantage points, particularly the impact on practice seen through the lens of training, education and research. At the outset I posed the question of what kind of worker have I sought to be? I posed some alternatives most of which were predicated on emanating from a stable knowledge base, mainly criminology, and its attempts to

influence through a reasoned use of research and theory developed within the academy. I find my own role has been much more eclectic in its loyalties. Starting from a practitioner role and working across two agencies for 14 years meant I felt both part of the probation world and part of HE. Criminology formed a substantial part of the knowledge base though not exclusively so but mediated through the 'messiness' of policy and practice. I have never found a disciplinary label helpful and also have some doubts about the primacy of any one element in the policy process. If I have a disciplinary loyalty it is to probation, where Gramscian 'traces' of many different theories and practices abound. Research has an important part to play but it is not a predominant or necessarily determining influence and other influences remain equally valid in policy formation and implementation. 'the varied foci, complexity and heterogeneity of criminological research and theory make simplistic relationships between evidence and policy problematic' (Senior 2011, p. 3).

Whatever role I have had – practitioner, trainer, manager, lecturer, workshop leader, speaker, researcher, consultant, writer, policy advisor, implementer or commentator or academic I have tried to be a 'permanent persuader' as Gramsci put it, of a philosophy of practice in the professional institution of probation. I have engaged and communicated about and, as a probation 'lifer' of an institution I believe in, I have tried to maintain a distinctive voice, more often mediated through speeches, blogs, editorials, tweets and dialogue but always with the intention to persuade and influence issues and engage in dialogue. Others will judge how far I have achieved this. As I retire in April 2016 I shall continue to exert whatever persuasive force I have left in my role as Chair, Probation Institute, a long overdue development which should have emerged years ago in kinder times! After all as a probation lifer, it's a life sentence with no remission!

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Paul Senior has been engaged in probation matters since 1975. As a practitioner, manager, trainer, researcher, writer, academic and consultant he has seen probation develop and change, responding to seemingly endless ways of government reinvention. Paul worked as a probation officer and training officer in South Yorkshire Probation for 17 years, has delivered probation training of

various kinds since 1982, has co-edited an International Journal, the *British Journal of Community Justice* (since 2002) which has published widely on probation matters and as an academic and researcher has worked at Sheffield Hallam University and with local and national probation services for 34 years. He was Director of the Hallam Centre for Community Justice from 2002 until September 2015 and in this role helped set up and run the Community Justice Portal. Having shaped the Diploma in Probation Studies in 1998 he then continued to have a deep interest in probation training and staff development. As a researcher he championed the importance of working through research to develop an evidence base to guide good practice. In his new role as Chair of the Probation Institute Paul is seeking to offer practitioners a way of maintaining and enhancing their profession and using evidence to inform their practices. It is important that the probation profession does not fragment and a common language of qualifications and training remains to enable career progression between the different agencies. As Professor of Probation Studies since 1996 he has continued to write, teach, train and research about probation.

15

Probation: Looking Out and Looking In

David Smith

In looking back at my writings on probation and related issues – the first of which appeared in 1976 – I have been conscious of the temptation to impose on them a story of consistency and coherence that ignores the often messy, ad hoc and fortuitous way in which they were actually produced. But, having tried to avoid wishful thinking and self-serving censorship, I want to focus on what seems a fairly consistent interest informing much of this work, a theme which I hope might strike an imaginary reader of my collected works. This is an interest in making connections between immediate face-to-face practice and the wider systems and contexts to which both workers and clients are inevitably bound: how, for example, unnecessarily intensive intervention early in an offending career may increase the risk of long-term enmeshment in the penal system; and, more tentatively, how practice might be informed by knowledge of

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needs, problems and opportunities in local communities. (The importance of the context of practice is also – inevitably – a feature of my occasional ventures into writing about prison-based practice [e.g. Smith 1979, 1993].) The first set of connections meant what came to be called 'systems management', the second the possibility of a community orientation for probation and engagement with crime prevention and restorative justice, and later an effort to connect the community and the personal levels in understanding racist violence. Perhaps grandly, I see both as attempts to find a practical response to C. Wright Mills' famous criticism that justice and welfare professionals, including probation officers, have an 'occupational incapacity to rise above a series of "cases"' (Mills 1970, p. 100).

First, a few relevant biographical facts. In the final year of a decidedly non-vocational Oxford degree, wondering what to do next, I wrote to a friend who had left the year before to train as a probation officer. He replied helpfully and encouragingly, and in 1970 I went to Exeter University on a Home Office bursary to take their social work training course. One of my teachers was Bill Jordan; one of my fellow-students was Peter Raynor, a friend from Oxford. I was impressed by Jordan's intense engagement with the complexities of client–worker interactions and also much taken by the then new (to British readers anyway) sociology of deviance (and in particular by Matza (1969)). So I took from social work training a commitment to the importance of the immediate relationship between worker and client but also a sense of how this relationship was embedded within the criminal justice system, with its power to label and stigmatise. In 1972 I got a job with the Worcestershire, soon to be Hereford and Worcester, Probation Service, working for just over 2 years in the Worcester office and for just under 2 years in Long Lartin, which had just become a maximum security dispersal prison. In early 1976 I applied for and got a probation-related lectureship at Lancaster University, where social work education was just being established. At the time I applied I was feeling over-worked; and perhaps I had always had in the back of my mind the idea that I might go into social work teaching. But I wasn't desperate to leave the probation service, and when I moved to Lancaster in September 1976 it was with some regret.

That feeling, however, did not last for long. Some – not all – colleagues at Lancaster (in my own department and elsewhere) quickly became friends

and sources of intellectual inspiration. As the specialist probation lecturer I came to know many probation officers in Lancashire and elsewhere and for years continued to feel an affinity with them, and often affection and respect. The same was true of most of the probation – and other – students; my teaching was never solely on the specialist probation stream, but it was the probation trainees that I knew best. I also contributed to in-service training through the northern Regional Staff Development Office and less formally in Lancashire, where I tried to encourage practitioner research. It was only when I became head of department in 1994, having been appointed Professor of Social Work a year earlier, that I stopped making regular visits to probation students on placements. At about the same time, of course, the initial moves were being made to separate probation training from social work, and when the first Diploma in Probation Studies students started in 1998 I was only marginally involved in their teaching and support. So from 1994 my main contacts with the probation service and probation officers were in connection with research.

The Juvenile Justice System

The first substantial research I undertook was on juvenile justice, mainly in Rochdale, where the local authority was keen to reduce its reliance on residential care for juveniles in trouble with the law and to develop what was then called 'intermediate treatment' as an alternative. My involvement came about entirely through my Lancaster colleague David Thorpe, who was already well known for his critiques of residential care and custody for juveniles and his advocacy of 'heavy end' intermediate treatment, with a focus on offending and its immediate circumstances (e.g. Thorpe 1978). (The relevance of this to probation had been noticed: I first encountered Thorpe at an in-service training event in, as I recall, early 1974.) The process of change in Rochdale began with a file study, in which I participated along with Thorpe and senior social services staff. Because Thorpe was much in demand elsewhere, I became the main Lancaster presence in Rochdale as the new services were developed. Thirty years later (Smith 2010), I gave an account of this process of academic influence on policy and practice, in which the most

frequently cited text was *Out of Care* (Thorpe et al. 1980). In the areas covered in *Out of Care*, probation officers were at least as involved as local authority social workers in writing court reports on juveniles, but their practice was rather different:

> While the excessive use of care was its main focus . . . Out of Care was also exercised by the substantial increase in the use of penal custody in the period 1969–77 . . . [It] deplored both the increase in the use of custody and the decreased salience of social work in juvenile court disposals. One reason for this change in the pattern of sentencing was that under the 1969 Act courts lost their power to determine what kind of care should be provided . . . But another reason for the increased use of custody was that social workers were quite prepared to recommend it to courts . . . The custodial recommendations were usually not made directly; typically they took the form of statements such as that the resources of social services had been exhausted in this case, and that the young person could now benefit from an extended period in a structured environment. Local authority social workers were much more likely than probation officers to make this kind of recommendation, as well as recommendations for care – presumably because probation officers were less immediately aware of the care system, and more immediately aware of what detention centres and Borstals were like (and hence more inclined to 'anti-custodialism' (Nellis 1995; Smith 2010, pp. 121–122).

(This attribution of motives, it occurs to me now, reflects my own ignorance as a practitioner as well, I hope, as a sense – not always well articulated or empirically founded – that custody ought to be a last resort.)

Communities, Crime Prevention and Inter-agency Working

In the 2010 article I emphasised that *Out of Care* had given close and prescriptive attention to face-to-face practice and was far from advocating non-intervention: it assumed, on the basis of hope rather than evidence, that something – offending-focused group work – might work. I argued this because some of the book's most tenacious critics

treated it as a product of a 'Nothing works' pessimism that argued that the less one did the better. But in fact, in the years after its publication, with the exception of work on victim–offender mediation, I gave more attention to non-individualised elements of probation practice than to its direct work with clients (to use the then still-current term). I think I more or less uncritically accepted the view of the Home Office (1984) that the main contribution the service could make was in system change rather than helping people change – or at any rate that individual-level work ought to take a new direction, and that mediation offered a hopeful possibility. In research funded (1985–1987) by the Economic and Social Research Council on inter-agency cooperation in criminal justice, in which Geoffrey Pearson was the principal grant-holder, my colleagues and I explored not only probation's relationship with the police, social work and health services but the ways in which it might achieve a more outward-facing community orientation. In keeping with my sense that it was important to think of the contexts in which probation worked, I had been interested in – and, I now see, made careful notes on – the essays published by the Midland Regional Staff Development Office (1978) as 'Teamwork in Probation?' and other accounts, such as those from Altrincham (McBride 1978) and the Vauxhall Community Services Centre in Liverpool (Smith 1978), of efforts to develop a more flexible, outward-facing approach to probation work that would allow the service to become a community resource. I used these in teaching as an indication of what a community orientation for probation might look like, but it was not until the inter-agency research that I began to understand in any depth and detail what might be entailed in practice.

Drawing on this research and on subsequent work with Harry Blagg for the Home Office on social crime prevention with young people (Blagg and Smith 1989), I spoke to a conference in December 1989 on 'Crime Prevention and the Probation Service' organised for members of its management team by the West Midlands Probation Service (Smith 1990). While the Home Office (1984) had treated 'wider work in the community' as peripheral to the main objectives and priorities for probation, the fact that the conference took place is evidence that there was considerable interest in what the probation service might

contribute to crime prevention beyond its work with people under supervision. The introductory material mentioned 'a long tradition of the Probation Service becoming involved with community development work' and explained that the conference would focus on 'the opportunities and responsibilities for the Service provided by the developing multi-agency community based approach to crime prevention'. In his introductory comments, the assistant chief probation officer Dick Marsh listed five conferences on crime prevention he had attended in the previous 2 months, one of them in Montreal. So crime prevention in a sense broader than what might be hoped for from the reform of individual clients was clearly a live issue for probation.

Following the then head of the Home Office Research and Planning Unit, Mary Tuck, who herself was following Wittgenstein (Tuck 1987), I said that I would use 'crime prevention' in its customary sense, and therefore exclude 'the range of probation activities with offenders on supervision which many probation officers think ought to count as crime prevention'. I would also (with 'perhaps less justification') leave out 'the crime prevention potential of diversion from prosecution' of young adults, although 'a policy of diversion might well be seen as a necessary part of a corporate effort by criminal justice agencies to reduce crime' (Smith 1990, pp. 2–3). (I noted that the Home Office had 'espoused a very strong version of the labelling perspective', and that it would be useful to have research on whether the predictions of this perspective were true. We now have that research, and they are true (McAra and McVie 2007).) I went on to say that Tuck's account was

> optimistic in that she envisaged the possibility of a paradigm shift away from a preoccupation with punishment, with prison at its centre, as the dominant means of social control, towards a view which would place less emphasis on the formal apparatus of control, the criminal justice system, and by shifting the emphasis aim to increase both the power and responsibility of other agencies, for example in local authorities and of the lay public. (pp. 3–4)

(We must have heard of Michael Howard, but could not know what he would do as Home Secretary.) All the same, my own optimism was tempered:

> The extent to which optimism is justified may also depend on just what forms of crime prevention are at issue. Mary Tuck provided a list of the sort of activities which count as crime prevention. I want to suggest that these can be roughly divided into exclusionary and integrative activities, and that there is a good case for saying that the probation service ought to seek to promote integrative activities at the expense of those which exclude and marginalise. From Mary Tuck's list, the following seem to me to belong in the exclusionary category: opportunity reduction efforts (property marking, the removal of coin-operated fuel meters; preventive design measures (based on the inherently paranoid idea of defensible space); increased local surveillance (Neighbourhood Watch and similar activities); and the policing (often private) of shopping centres and other public spaces. The following belong in the integrative category: alternative leisure facilities; more participative housing management; social education programmes; and (one might add) employment schemes; supported accommodation; help with resettlement; support for parents; policies aimed at reducing discrimination, and so on. Thinking of the recent suggestion by Tony Bottoms (1989) that among the values which characterise social work, and help to define what a social work agency is . . . are community cohesion and social justice, it seems clear that the second set of activities . . . is much more in line with these values than the first – and that this may provide a basis for thinking about the probation service's contribution in this field. (Smith 1990, pp. 5–6)

The paper went on to draw on Elliott Currie's distinction between Phase 1 (situational and exclusionary) and Phase 2 (social and inclusive) 'visions' of crime prevention. Currie (1988, p. 281) argued that in Phase 1 'offenders are outsiders, strangers . . . there is no sense that these offenders against law and civility are *members* of a community – some community – like the rest of us'. I suggested that, consistently with the values of community cohesion and social justice, the probation service should engage in crime prevention activities informed by Phase 2 thinking. In practical terms:

> crime has a community context, and the probation service is a community-based agency; it has a distinctive experience, and distinctive knowledge and values, to bring to the development of crime prevention initiatives. The service is already involved in a wide range of community

> activities which . . . have a clear contribution to make to a broad social approach to understanding and dealing with crime problems. Fullwood (1989) lists some of these for Greater Manchester – fine default and debt counselling, work on alcohol and drug problems, action research with black communities, employment initiatives, educational and recreational programmes, and so on. (Smith 1990, p. 14)

In this account, I seem to have bracketed off some of the difficulties probation officers actually experienced in trying to make sense of community-oriented crime prevention, which had emerged in the course of the ESRC-funded research on inter-agency cooperation. In a paper with Alice Sampson to the Northumbria Branch of NAPO's Otterburn Conference in May 1990, the problems were more fully recognised. While we found in the research, conducted in Lancashire and London, that probation officers were actively involved in inter-agency forums on local crime problems, most were sceptical about the helpfulness of the term 'community' and about what working 'in the community' might actually mean. There was a general feeling that, in the words of one officer, the probation service 'represents individuals rather than the community' (Sampson and Smith 1992, p. 107). And these individuals were often marginalised and vulnerable, so that it was difficult to see them as members of any meaningful 'community':

> Officers pointed out that they had clients dotted around a large geographical area, living in greatly differing 'communities'; and anyway many of their clients lived a peripatetic existence on the margins of society in bed-sits and hostels. It was difficult to think of such people as members of a 'community' at all – unless, perhaps, a community of the marginalised and stigmatised. Their clients' experience of 'the community' in its usual, benign sense was often one of alienation and sometimes of hostility. (Sampson and Smith 1992, p. 107)

Crime prevention was one of the main topics addressed by the various inter-agency forums in which probation staff participated in the period of our research; others included information-sharing and improving efficiency within the criminal justice system, housing policy and management and responses to drug and alcohol problems.

Whatever the issue under discussion, however, some key problems reappeared: 'the management of power differentials between agencies, the tensions between the demands of confidentiality and those of inter-agency communication, and dilemmas about levels and styles of inter-agency working' (Smith 1994, pp. 7–8). This was how I summarised the themes of the keynote paper, arising from the inter-agency research, which I presented at the 13 regional criminal justice conferences organised by the Home Office Special Conferences Unit from May 1990 to March 1993, the first eight of which were chaired by David Faulkner, the civil servant perhaps most identified over the preceding decade with criminal justice reform. They were intended to promote inter-agency cooperation and communication and to encourage a sense of shared purpose, and in reviewing them I was fairly positive about the model they provided of 'more open and participative . . . policy development and implementation than we are used to' (1994, p. 14). In the keynote paper, however, I also stressed that conflicts and differences of interest are inherent in the criminal justice system and ought to be recognised: hence we might take the advice of the philosopher John Anderson, cited in MacIntyre (1985), that we should ask of institutions such as inter-agency forums not 'What functions do they serve?' but 'Of what conflicts are they the site?' But as these conflicts were worked out, it was always clear that some agencies had power than others – in particular, the power to define problems and make their definitions stick – and that the probation service was generally in a relatively weak position – compared with, most obviously, the police. That this had to be recognised if inter-agency cooperation was to be meaningful, that there was an inescapable tension between the requirements of confidentiality that flowed from probation's necessarily person-centred practice and expectations of information-sharing in inter-agency settings, and that high-level strategic groups could easily become mere talking-shops while informal cross-agency communication went on among practitioners as it always had done – all these findings from the inter-agency research seemed to make sense to the senior probation staff who were conscientious attenders and active participants at all the conferences. So I still feel fairly confident that the research illuminated some practical

dilemmas for probation within the criminal justice system as well as in making sense of the idea of 'community'.

Victim–Offender Mediation

Further consideration of the meanings of 'community' and its relevance to probation practice might have been expected in the slightly earlier work I did on the pioneering victim–offender mediation scheme in South Yorkshire and on the cautioning-based 'reparation' scheme funded by the Home Office in Cumbria (Smith et al. 1988; Smith and Blagg 1989). In fact there is very little in either paper about this element of mediation work (soon to be called restorative justice). Both papers, of which I was the main author, adopt what I now find a disappointingly narrow, technical approach to their topics (perhaps because of the lack of a convincing theoretical framework in which to understand mediation, such as was shortly to be provided by Braithwaite (1989)). They focus on the practicalities of bringing mediation into the system, on the stage of the criminal justice process at which it might work best, on its potential to influence sentencing or cautioning decisions, and (in the Cumbrian case) on differences between police and probation staff on the purposes of referrals to the reparation scheme. Most of the cases described in the South Yorkshire paper were from a mining village, where the idea of a 'tight-knit community' made as much sense as it could make anywhere, but this dimension of the project's work is hinted at ('the more socially homogeneous nature of the area') rather than developed, as is the fact that the research took place during the miners' strike of 1984–1985 – after which, of course, 'communities' like the village we called Blackthorpe were deliberately destroyed. Another aspect of this research which remained important to me in memory but again is only hinted at in the paper is the importance of practitioners' skills and clarity of purpose (the paper mentioned 'differences in the styles of the two officers involved' and gave Truax and Carkhuff [1967] as a relevant source, but did not spell out why it was relevant [Smith et al. 1988, p. 380]). Perhaps this was inevitable, since it would have been easy for interested readers to identify the two

officers involved, but the point that successful mediation requires a skilled, sensitive and intellectually coherent intervention by the mediator emerged (if at all) only between the lines. The interviewee here was a farmer on the edge of Blackthorpe who had met the young man who had stolen eggs from his yard:

> The probation officer . . . prompted him from the start and then he eventually spoke quite freely and actually I was amazed at the lad's character and his ability . . . I was quite surprised how the probation officer had managed to get him into the office with me in view of the fact that I'd given him a right roasting during the time that these crimes had been committed . . . [The meeting] worked out so good I can scarcely believe it . . . [I'm] more cautious now about making my mind up about people being all wrong and being committed to a life of penal servitude. (Smith et al. 1988, p. 384)

I have tried in subsequent work to stress the importance of the quality of the helping relationship between workers and clients, for example in discussing the Freagarrach project for juveniles in central Scotland identified as persistently in trouble with the police (when again there was a comparison with less successful work, this time made more explicit) (Lobley and Smith 2007). I will return to this theme towards the end of the chapter.

Racially Motivated Offending

As probation practice became more sharply differentiated from social work and probation training followed it, the focus of my academic interests also changed, in part towards more traditionally criminological topics. I had taught some criminology to non-social work students since the early 1980s, and from the mid-1990s undergraduate courses on criminological topics made up about half of my teaching. In explaining why, having been appointed professor of social work in 1993, I became professor of criminology in 2002, I used to say that it was social work that had left me, not that I had left social work. And the cooperation and support of members of the probation service were essential in the most

substantial research project I ever undertook on a classic criminological question – 'Why do they do it?' The project also demanded a renewed effort to understand the nature of communities and their relevance to crime and conflict.

The topic was racist violence in Greater Manchester, and the research was funded by the ESRC, as part of its Violence Research Programme, for 18 months from 1998 to 2000. The Greater Manchester Probation Service funded the research for a further 6 months. From the earliest stages of planning, before we had funding for the project, my colleague Larry Ray and I worked with probation staff on issues of identification of research subjects and access to them. The research officer, Liz Wastell, was a probation officer on a 'career break' agreed with her employers. While one of the reviewers of our end of project report to the ESRC criticised the decision to use a probation officer as the researcher, bizarrely suggesting that someone with no knowledge of probation but training in qualitative research methods would have done better, I remain confident that without Liz Wastell's local knowledge and the credibility she had with her probation colleagues it would have been far more difficult than it was to arrange the interviews with relevant subjects that formed the core of the research.

Not that this was straightforward even with the advantage of an 'insider' researcher. Some probation officers were interested and supportive from the beginning, but others were hesitant about identifying offending as racially motivated and anxious about the effect on their relationships with clients if the possibility of racism were to be openly explored – though we encountered nothing like the level of denial Sibbitt (1997) had found in London a few years earlier. The introduction during the course of our research of the category of 'racially aggravated' offences in the 1998 Crime and Disorder Act meant that in some cases racial motivation was identified not by probation officers but by Crown Prosecution Service staff, but there is no doubt that racist offences continued to go unrecognised or at least unprosecuted as such, for reasons explored by Burney and Rose (2002). One of the main findings of the research, however, was that racist motivation was rarely clear-cut or 'pure', in the sense of being the sole motive for an offence, as it is in the classic image of racist hate crime, in which

victims are unknown to offenders and are selected because of their perceived membership of a hated ethnic group. Most of those interviewed in the research denied that they were racists, and we concluded that in terms of their conscious beliefs their disavowal of racism was truthful enough. We therefore argued that in order to understand their offending we ought to attend to their emotions, in all their complexity, rather than their ostensible beliefs. In trying, perhaps speculatively, to summarise the implications of this approach for practice I wrote (in part):

> Most perpetrators of racist offences will agree (at least when asked by probation officers) that racism is morally wrong and has socially undesirable effects . . . At a rational, cognitive level, they sincerely deny that they are racists. But . . . the emotions behind their offending are close to those that have motivated racist and fascist political movements. The social sciences have tended to favour explanations of human conduct that are cognitive rather than emotional . . . and the cognitive-behavioural emphasis of much writing on 'what works' with offenders has – perhaps belatedly – introduced the same bias into probation theory and practice . . . In the process, the emotions – including those that may be unconscious or only brought to conscious acknowledgement with difficulty – risk being ignored in probation practice; at the very least, it has become more difficult to write about them with the kind of confidence that characterised the era of psychoanalytically influenced 'treatment' of offenders. (Bottoms and McWilliams 1979; Smith and Wardak 2006a, p. 210)

We argued that some (then) recent sociological work on the central place of the emotion of shame in human interaction (e.g. Scheff 1994, 1997) was helpful in redressing the balance:

> [In this work] violence is interpreted as the result of the transformation of shame into rage and humiliated fury. This is liable to happen when shame . . . remains unacknowledged, as a result of denial or repression. In a state of shame . . . we feel ourselves as the objects of scorn and ridicule, reduced and belittled, passive, childish and helpless. We experience the other, seen as the source of our shame, as laughing, powerful, in control, adult and active. In the interview tapes from Greater Manchester both verbal and non-verbal 'cues' for this experience of shame appeared

> frequently, and in some cases the transformation of that shame into rage towards those who were perceived as the source of it – south Asian people – could be heard during the course of the interview itself . . .
>
> Ray et al. (2004) argue that the unacknowledged shame of perpetrators of racist violence arises from low self-esteem, and that this in turn is associated with a sense of anxiety and loss . . . The interviewees . . . expressed fears and anxieties about change, and while their conception of themselves involved hard manual work, their biographies showed that most had little real experience of work of any kind. Those who were visibly different – and apparently more successful – readily became scapegoats for the interviewees' sense of insecurity, anxiety and failure; hence the attacks on south Asians, against a background of widespread local resentment and envy of their (supposedly undeserved) achievements. (Smith 2006a, pp. 210–212)

I hope it is clear from these excerpts that we were interested in the socio-economic and cultural context of racist violence as well as in the inner life of its perpetrators and were trying to make connections between the two. We stressed that most of the interviewees were not very different, in terms of deprivation and disadvantage, from people typically to be found on probation caseloads. But racist offending was concentrated among residents of areas with particular characteristics – poverty, high unemployment, socio-cultural deprivation and an almost entirely white population. There were also differences across areas in the way racial tensions were defined and understood: in Oldham, which included one of the main concentrations of racially motivated offenders, inter-ethnic tensions were presented in the local press, quoting the police divisional commander, as resulting mainly from the hostility of young south-Asian men towards the white population. We did not predict the rioting that broke out in Oldham in 2001, but in view of our understanding of the peculiar local definitions of the 'race' problem it did not come as a surprise.

Later, working with Julia Palmer, I evaluated a probation programme for racially motivated offenders in Merseyside (Palmer and Smith 2010). Drawing on a paper Larry Ray and I had produced for NOMS as a contribution to guidance on work with people with such motivations, in which we tried to draw out the practice implications of the Greater Manchester research, I suggested that a successful programme would

have much in common with a general offending programme, but with specialist elements. These would include relevant educational material, adapted to local conditions, work on understanding and respecting difference and diversity, and the provision of opportunities for positive contacts with members of the 'hated' groups. But this would need to be complemented 'by a sensitive recognition of the shame and anger underlying racist offending':

> They [Ray and Smith] . . . discuss the importance of victim empathy, and of helping offenders to expand their choices and explore alternative ways of viewing the world . . . [I]nterventions should provide a supportive environment in which offenders can express their apprehensions, fears and uncertainties, and explore the ways in which they project unacceptable feelings onto stigmatized groups . . . [T]he aim should be to promote primary desistance (managing to stay out of trouble), but also to begin to encourage secondary desistance – in which people come to see themselves differently, as the kind of people who would not commit racially motivated offences. Against these rather demanding criteria, our view is that Promoting Human Dignity should be regarded as a successful programme, with the characteristics that should be associated with encouraging desistance from racist offending, and perhaps also from other interpersonal violence. (Palmer and Smith 2010, pp. 379–380)

Emotions in Probation Practice

In attending to the emotions underlying racist offending I had a personal sense of returning to the social work tradition in which I had been trained and a general sense of reviving themes which had been important in probation from the 1950s to the 1970s. One of the first research ideas I had after coming to Lancaster was to explore the extent to which psychoanalytic and related concepts had in fact been influential in probation practice. (Their supposedly excessive influence had been one of the bases for the critique of probation and social work in the sociological work which had intrigued me at Exeter.) In the late 1970s, therefore, I collected some material on psychoanalytic approaches to probation practice, then set it aside in favour of more urgent-looking

research activities and eventually lost it. So in working on the paper 'Making sense of psychoanalysis . . . ' that appeared in the *Probation Journal* in 2006 I had to start again. A new element was the (re)discovery of psychoanalytic thought in criminology: one of my motives in writing the paper, which probably did not emerge as clearly as it might have done, was to suggest that criminology might owe social work an apology for having for many years dismissed its interest in psychoanalysis (while overstating the extent of this interest) before belatedly (and sometimes uncritically) embracing psychoanalytical theory for itself.

Re-reading the paper, I think it would have benefited from a more careful distinction between psychoanalysis as a set of theories and psychoanalysis as a therapeutic practice. But I am still content with the conclusion, in which, before looking toward the future with what proved to be fully justified gloom, I wrote:

> The reconstruction over the past 10 years of the probation service (in England and Wales) as something other than a social work agency entails the risk of forgetting what may be of positive value in the history of the probation service, as well as what is best treated as an example of what to avoid. This article has argued that for all its evident limitations and its sometimes hard-to-defend rationalizations, the psychoanalytical orientation of the probation service from (roughly) the mid-1950s to the early 1970s contains lessons that remain valuable in thinking about what constitutes good practice. This has recently, if indirectly, been acknowledged in criminological research, especially work on criminal careers and desistance, and a parallel development in research on effectiveness has similarly rediscovered the importance of relationships between workers and clients that can accommodate the richness and contradictory complexity of clients' experiences. (Smith 2006b, p. 372)

I've Been Wrong Before

Over the years I have tried, on the whole, to remain optimistic about probation's prospects, and that optimism has usually proved ill-founded. (This is much less true of similarly optimistic writing on youth justice.) When I evaluated the 'Promoting Human Dignity' programme in 2009,

the destruction of the service had already gone far enough for me to treat the programme as evidence that, against the odds, positive and creative practice was still possible. Since then, of course, the dismemberment of the service has proceeded more rapidly and ruthlessly. I have only been able to view this process at a distance: my contacts with probation staff during the period have been sporadic and fortuitous. From these contacts I deduce that there is still room in the community rehabilitation companies for committed, evidence-based practice, with restorative justice perhaps a particular source of hope. But my contacts are certainly not a representative sample of the workforce. The present arrangements for what used to be probation work have (as far as I can tell) been put together so quickly and arbitrarily, with so little empirical justification, that one might hope they will prove transitory, and that some further, more positive changes may be in the offing. But when it comes to optimism in this field, I've been wrong before.

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His books include *Out of Care* (1980, with David Thorpe, Chris Green and John Paley); *Crime, Penal Policy and Social Work* (1989) with Harry Blagg; *Criminology for Social Work* (1995) and *Persistent Young Offenders* (2007) with David Lobley. He also edited *Ethical Issues in Social Work* (1995) with Richard Hugman; *Social Work and Evidence-based Practice* (2004) and *Race and Probation* (2006) with Sam Lewis, Peter Raynor and Ali Wardak.

In retirement he has been exploring out of the way places in north-west England and playing golf badly.

16

A Future for Evidence-Based Do-Gooding?

Maurice Vanstone

The decade, which has been assigned the dubious sobriquet, the swinging sixties, was a particularly interesting one in which to start a career (as I did) in the caring department of the criminal justice system. In its early years people were still being hanged for murder, consensual sex between adult males was a criminal act and children were being sent to Approved School for non-attendance at school and Borstals for their needs as much as their criminal behaviour. Furthermore, racism was barely acknowledged let alone challenged, the Miss World competition was a popular, televised event and women had to resort to illegal, dangerous back street abortions (Kynaston 2014). In a momentous 2-year period from 1965 to 1967, hanging was finally abolished, homosexuality was decriminalised, the first legislation to combat racial discrimination was placed on the statute book, parole and the suspended

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sentence were introduced and abortion by registered practitioners was legalised. At the same time, although perspectives on what constituted a long prison sentence were changed by the severe sentences meted out to the men involved in the Great Train Robbery, the topic of 'law and order' was relatively low on political agenda, and it was not until 1966 that the Labour Party attempted to emulate the attention paid to it by the Conservative Party (Downes and Morgan 1997).

It seemed like a progressive turning point in social and criminal justice history, but hindsight gives credence to Pratt's (2002) critique of the civilisation process: the politicisation of crime began to gather pace and Michael Howard and his 'prison works' conference speech lurked in the distance! Nevertheless, despite the emergence of some doubt about its effectiveness (Wilkins 1958) and critiques of the treatment model (Wootton 1959), probation thrived and probation officers continued to seek professional status through the model's prime method, casework (Raynor and Vanstone 2002). Confidence in its efficacy was high:

> the Morison Committee Report (Home Office 1962), which had been briefed to enquire into the probation service, showed no inhibitions in endorsing it as an approach to working with offenders. Casework embedded in the behavioural sciences according to the committee was the emblem of the Service's professional status; and probation officers were professional caseworkers like other social workers. (Vanstone 2004, p. 113)

Questions were emerging about probation's role as a court social work service, and the idea of a correctional service was raised in the Seebohm Committee Report (1968). Nevertheless, casework, informed by psychological theories as it was, lay at the core of officers' methodology. Those officers, in addition to their work in the criminal courts, undertook matrimonial guidance work, acted as guardians ad litem in the adoption process, prepared welfare reports to help courts decide on access and custody of children in divorce proceedings and mediated in disputes between neighbours. Some officers entered the Service without any training, some qualified through university courses and others qualified on the Home Office training course at Rainer House in London.

I had grown up in a working class family in Cardiff, been lucky enough to pass the 11 plus and go on to university. Subsequently, I somehow manoeuvred my way through the Home Office selection process and completed a 2-year qualification which involved a university-based diploma in social science and 12 months at Rainer House. By the time I emerged from that process dinner had become lunch, any purchase of a paperback was confined to Penguin and I was ready to proffer psycho-analytical cures for crime! At that time becoming a probation officer seemed a radical, vocational kind of job move, and it was several years before, to my surprise and indignation, a sociologist acquaintance called me a lackey of the State who wielded power over the powerless.

Naturally, people experienced the Rainer House course in different ways. For one officer I interviewed in research for my PhD, it was unique:

> It was a crash course [...] over a 12 month period. I spent the first 3 months [in] a field probation office where you did a mini apprenticeship [...] what was special about the Rainer House course for me was its intensity as you literally started tutorials or lectures at 8.30 in the morning and you could be going on until 8.30/9.00 o'clock at night. The course organisers called on professionals from the universities, the hospitals, treatment centres and alike who came in and taught on a sessional basis [...] so I was able to be taught by some incredible people and meet some amazing people [...] my child development tutor was Ann Freud's deputy at the Hammersmith. My psychiatric deviant behaviour tutors [included] Professor John Gunn [...] then at the Henderson [...] we met people like John Gibbons who came along to talk about women's issues. I met Heimler there and so many others. [...] There were different messages coming from different people. I mean I had a hard-nosed sociologist from the LSE who was giving a very sociological approach in all his explanations [...] I had a very strong psychoanalytic approach being presented but I had a psychiatrist [...] who had a very strong biochemical background [...] so I was being exposed to very different approaches and [those] responsible for the course weren't going to sort of point you in any one direction as opposed to another [...] everything was up for grabs and there was a sense in which any explanation was as good as another.

Another, who had trained at Rainer House several years earlier, remembered the theoretical focus of the course as 'Freudian [. . .] sprinkled with a bit of the other psychologists [. . .] Mixed with that still was the assumption that somebody was responsible for their own actions anyway'.

Underpinning that training was a concern with values and those like myself who emerged from that training were programmed with a list supplied (unsurprisingly) by a Catholic priest who (Biestek 1961, p. 134) described casework as 'a way of helping people who have psycho-social problems'. In a vivid description of the essence of the approach, he encapsulated probation's characteristic rhetoric of religion and science:

> The relationship is the soul of casework. It is a spirit which vivifies the interviews and the processes of study, diagnosis, and treatment, making them a constructive, warmly human experience. (pp. 134–135)

Anxious to avoid the idea that the experience of casework was in any way pseudomystical, he configured 'its elements into a matrix of three directions and seven principles. The directions are the needs of the client, the response of the caseworker and the awareness of the client; the principles, individualization, purposeful expression of feelings, controlled emotional involvement, acceptance, nonjudgmental attitude, client self-determination and confidentiality' (Vanstone 2004, p. 111). Clear though he was, the esoteric nature of casework helped many a practitioner through the sometimes mundane reality of daily routine.

Until the publication of *The Casework Relationship*, values were assumed rather than stated, hardly surprising given that *The Handbook of Probation* (Le Mesurier 1935, p. 51) had asserted that 'the value of the [probation] system is not in doubt' and implied that as long as people with a humanistic sense of vocation were appointed appropriate values would be inherent. Training of the late 1960s inculcated a sense that a value base was critical to appropriate helping and that probation held a stable, unchallenged position in the criminal justice system. Three officers who underwent training during that period described these values thus:

> the worker actually has to care about the client. It doesn't mean fall in love with them or whatever but if you don't like them it's very difficult to

> work with them and you not necessarily like the things they do but you have got to like them enough to want to work with them [...] they have got to be related to integrity, patience and being realistic.
>
> I suppose I am really saying people should be treated like I would expect to be treated. I remember [a probationer] telling me that, he said you always now (what was his phrase?) you always look so calm [...], you were always the same and you were always there.
>
> I definitely helped get people get insights, definitely listened to them, definitely reflect things back to them, let them take on sort of the responsibility for what's happening in themselves but also I did bring out this social model as well of thinking it can't be done on your own, you have got to know what's going on in society.

So when in the 1980s political challenges and managerialism accelerated (McWilliams 1987) it seemed natural to express concerns about a perceived threat to those values:

> Perhaps the greatest threat to the Service during this period of change is to its values [...] Indeed, the people who resisted the instruction to administer electric shocks in Milgram's experiment were those who either had a strong religious conviction or a well thought out philosophy. It is vital, therefore, that local services in delineating their objectives, firstly clarify the values that underpin those objectives and secondly, outline clear practice guidelines. (Vanstone and Seymour 1986, p. 47)

At this time in the history of probation the importance of accountability was self-evident but there was justified concern that increased centralised, political control would undermine the probation service's role as a placatory factor in the processes of penalty:

> The piecemeal growth of the Service as a bureaucracy over the last thirty years has led to problems of control and accountability, the solution to which has been sought in an increase in the number of managers, more elaborate systems of communication and more pervasive administration. Such centralisation of power has undoubtedly helped the Service to survive a period of considerable change and prompted improvements in standards of work. In this sense it has served a positive purpose, being largely motivated by a desire to ensure an effective service to clients.

> Perversely, however, it now ensures that we fit in neatly with the pattern of centralised Home Office power – each probation area a malleable section in a national grid, vulnerable to the demands of the accountant and the allure of community-based punishment. (Vanstone 1988, p. 131)

Articulating this concern did not imply a romantic view of an agency clear and unshakeable about its role and purpose untainted by inconsistency and authoritarianism. Indeed, the probation service had '"a severe problem about beliefs" and [its] position [had] always been ambiguous and sometimes dishonest and contradictory' (Vanstone 1988, p. 132). The problem stemmed, in part at least, from the fact that the probation service operated 'as a caring agency in a system primarily about control and punishment' (p. 132). It might have been a little over-simplified to state that

> '[values] based on the rights and needs of the individual, and a belief in people's ability to change are the antithesis of judicial values which give precedence to the rights and needs of society and the state, and in particular its right to punish' and that '[pragmatic] compromise and, on occasions, collusion, have allowed things to work and produce a vital element of humanity and hope' but the current position of the probation service gives credibility to the view that ' the foundations of the working agreement [were] dangerously exposed to assault'. (p. 132)

Given reports of the low morale of many people working in the public sector today, it is salutary to note that in the late 1980s it seemed the survival of a dynamic, creative and effective agency depended in part on the 'happiness of probation officers' in their role (Vanstone 1990, p. 121). Hugman's (1977) enthusiastic argument about the occupational health of its frontline staff did not seem 'a peripheral and even extravagant goal for any training officer'. Certainly, his 'proposition that principles of professional practice have no value unless the people subscribing to them are relatively happy people and that "enjoying the job" is a significant factor in determining effectiveness' (Vanstone 1990, p. 121) has a particular resonance today. Evidently, that kind of happiness must be rooted in a motivation to offer genuine, effective help to people, but at that time

there was a real sense that 'Government demands for "tougher" probation and "hard-nosed" management [meant] that the idea of offering help to people [was] being eschewed'. Challenging offending behaviour – tackling offending, or whatever the favoured term was – still entailed probation officers focusing on 'the everyday concerns of social work practice, i.e. poverty, unemployment, homelessness, deprivation, drug abuse, aggression, poor decision making, discrimination and despair' (Vanstone 1990, p. 121) and attempts in the 1990s to move beyond what Nellis and Gelsthorpe (2003, p. 227) described as a 'hiatus in understanding what probation values might be' reflected the importance of bringing probation values up to date. In contemporising Biestek, Williams (1995) listed modern, fit for purpose values as opposition to custody, commitment to anti-oppressive practice and justice for people who offend, a right to confidentiality and open, critical working relationships, recognition of the uniqueness and self-determination of the individual, protection of victims and the potential for change through purposeful, professional relationships.

Adherence to such values and the contradictory aspects of probation work were no more starkly evident in that undertaken in the Day Training Centre experiment and the Day Centres that followed. Day Training Centres, in particular, were institutions positioned halfway between prison and community supervision; they were after all meant to be an alternative to prison at a time when 'approved schools had been abolished, the training element of Borstal training was all but defunct, and the rehabilitative ideal of prisons had been long lost in the overcrowded morass of three-up cells and squalid de-humanizing conditions'. They rekindled 'the flame of institutionalized rehabilitation, but this time in a semi-institution in the community' (Vanstone 1993, p. 216). Within that institution, workers attempted to 'fulfil objectives that [were] underpinned by principles of voluntarism, openness and respect for people's integrity' (Vanstone 1985, p. 21) and 'although the day training centres were dealing with people who attended under court conditions and other centres with voluntary participants, the staff of these centres all shared the sense of excitement and enthusiasm induced by working in a new environment with some new methods'. Although there 'might have been [...] a naive faith in treatment, the

discernible motivations [were] clearly to do with help, concern and care' (p. 23). Experimentation in a new, unfamiliar environment stimulated high levels of motivation, innovative practice methods and prolonged contact between staff and probationers which produced an intensity in relationships that hitherto, perhaps, had rarely been experienced. However, this generated stress and a growing political pressure which emanated from being in the experimental spotlight. The centres, therefore, were not immune to political change and it was argued that in 'a ten year period there has been a shift from the situation in which day centre innovations occurred in an atmosphere of faith and liberal concern towards offenders who were experiencing social problems, to a situation in which day centres, it would be argued, are being set up as a response to the growing political pressure on the service to be seen to be containing offenders effectively' (p. 24). Inevitably, this involved compromise and facing up to the contradictory elements of legally enforced attendance and compliance to conditions:

> The skills possessed by probation officers are predominantly helping ones and their concerns have been traditionally about people's liberty and freedom to make decisions about their lives, as well as eschewing criminal behaviour. Probation staff are not, and (can I presume) do not want to be trained in surveillance. But whilst they are part of the process of dealing with crime, they cannot evade some of its implications. It is, for example, untenable on the one hand to argue for the reaffirmation of the probation order as a means of diverting people from custody (it used to be the only one) without on the other hand demonstrating, through practice, a commitment to the basic conditions of probation orders. In other words, if probation officers wish to offer help to people within the context of penal policy, they may have to make some personal compromises. It may be an unpalatable fact but the simple process of requiring someone to keep in contact with an official is an infringement of liberty.

Nevertheless, as Peter Raynor (1978) argues, 'Choices made under constraint . . . are still real choices' (p. 420):

> It could be said that the probation service ought to be developing more centres which rely on voluntary attendance. Indeed, if people can be

> successfully diverted from custody this way then there is, in my opinion no justification for attendance requirements; this, therefore, needs to be tested out. However, a requirement to attend a probation office or even a day centre need not be 'an assault on identity' or repressive or manipulative. People inevitably have to face the consequences of their behaviour but when that consequence is supervision by a probation officer it is imperative that that supervision is characterised by respect for persons and constraint as opposed to coercion. (p. 25)

Often, respect and constraint were manifested in the use of discretion, and Robinson (2013) has recently placed it in an illuminating context. She divides developments in compliance into four distinct eras: first, discretion (1907–1989) when practitioners' decision-making freedom was at its height; standardisation (the 1990s) when probation became a sentence in its own right, National Standards introduced the 'requirement of the new punishment in the community sentences to demonstrate the deprivation of offenders' liberty' (p. 30), and the probation officer became an enforcer; enforcement (the late 1990s to 2004) when there was an increase in breach action and further erosion of discretion; and pragmatism (2004–2012) when although the legitimacy of the service was closely linked to success in compliance, the 2007 National Standards introduced a slight increase by allowing judgements about the validity of excuses for non-compliance to include the circumstances of the individual. In addition to this historical analysis she underlines the inadequacies of a formal definition of compliance in pursuit of rehabilitation and in so doing she alludes to the critical nature of successful engagement in the processes of change. In other words, practitioners have to be successful motivators who recognise that compliance is 'a construct that emerges [from their interactions] with the people they supervise' (Ugwudike and Raynor 2013, p. 4).

Given the realities of enforcement and compliance in a semi-institution the trick, therefore, was to establish an ethos and model of practice that was compatible with what might be described as traditional probation values and goals, and Priestley et al. (1978) had provided a tangible and very useable framework of assessment, objective setting, learning and evaluation. Within the model they outlined, the individual

> should be given as full and clear a picture of the programme and in what areas she/he has choice, so that she/he can (as far as is possible prior to the court's decision) make an informed choice. Assiduous attention should be paid to people's rights. It should be remembered, therefore, that the authority to give help rests within the potential recipient and not within the conditions of the probation order; a refusal to be helped should not form the basis of a breach action. The programme structure should include a joint assessment process which assists people in making informed decisions about what help they require and allows them the opportunity of not being helped. It should further, provide opportunities for helpful programmes using known effective methods which are at the same time stimulating and relevant to those being helped. People are more likely to be responsive to offers of social work help that are concerned with problems important to, and identified by themselves. (Vanstone 1985, p. 26)

These principles remain pivotal to successful helping collaborations but have been ever more difficult to sustain since the removal of consent to the making of a probation order and the imposition of the politically driven, macho nonsense of punishment in the community. Nor has it been helped by the fact that not long after the Day Training Centre experiment was established, the efficacy of rehabilitative effort was placed in some doubt (Martinson 1974).

The scrutiny involved in being part of an experiment and an emerging awareness of the need to demonstrate the achievement of goals encouraged an interest in outcomes and the framework provided by Priestley and McGuire facilitated it: subsequent involvement in 'What Works' research was a natural progression. The detail of that can be found in Peter Raynor's chapter so does not need repeating here; my particular interest was what is now known as programme integrity, that is whether programmes were delivered by practitioners as intended by those who developed the programmes. Straight Thinking On Probation (STOP), based on the Canadian Reasoning and Rehabilitation (R&R) programme (Ross et al. 1988), was set up in the Mid Glamorgan service in the 1990s. The process of preparation and implementation has been described in Raynor and Vanstone (1997). Part of it involved observation of 44 randomly selected sessions using a checklist to ensure that

officers who had been trained in the R&R programme followed it. Analysis of the completed checklists revealed that officers did make changes to the programme but that mostly these changes strengthened the particular session, and only changes in three of the sessions threatened programme integrity. The overall conclusion was that

> Officers involved in the experiment mainly delivered the programme as it was intended. When they made innovations this usually increased the relevance and attractiveness of the programme to the participants. Training and the use of video recording of the sessions are likely to have contributed significantly to such consistency of practice. Variations were found, however, in the extent to which individual officers used techniques such as positive reinforcement of programme members' contributions to the session. Some of these would be best described as variations in individual style, but some of the more marked differences could have had implications for the effectiveness of a session and issues of this kind were fed back, in general terms, to practitioners. (Raynor and Vanstone 1997, p. 21)

A few years later, building on the experience of monitoring this aspect of the programme, a checklist was devised to assess the programme integrity of the Resettlement Pathfinder programmes with short-term prisoners (Clancy et al. 2006). This involved the application and evaluation of the FOR – A Change programme, devised by Fabiano and Porporino (2002) which was implemented by staff trained in the motivational interviewing approach in three local prisons and involved 278 prisoners.

The examination of programme integrity 'was based on three elements, namely observation of a selection of videos using integrity checklists, interviews with offenders to produce some structured participant feedback on aspects of programme delivery, and interviews with managers, which included a focus on the implementation of the programme' (Vanstone 2010a, p. 132). The specific focus was on three basic threats to programme integrity identified by Hollin (1995), 'namely *programme drift* (an incremental change in the aim of a programme), *programme reversal* (the undermining of the programme approach; for instance, demotivating rather than motivating), and *programme noncompliance* (changes to, or omissions from, the programme)' (pp. 132–133).

In addition to observing 47 recorded sessions, I examined 17 workbooks which had been completed by participants during the programme and observed or listened to five post release sessions. The overall conclusion was that workers in three separate custodial settings had maintained programme integrity:

> In general, levels of integrity were high, and the group leaders delivered the programme as intended with enthusiasm and commitment, and maintained good quality delivery. They all maintained the style of directness necessary to encourage and sustain the engagement of participants, and clearly the structure and sequence of the programme supported them in this. The fact that 16 group leaders who differed in personality, experience, and skill level were able to successfully stimulate individual group members to enthusiastically receive and understand a complex programme, work on personally specific goals, and identify potential blocks to change, says something about the robustness of the programme design. This last point suggests that with the implementation of appropriate changes to suit different cultural contexts, the programme has international applicability. (Vanstone 2010a, b, p. 138)

The positivity and enthusiasm of group leaders contributed significantly to the maintenance of programme integrity as did:

> the use of trained staff dedicated specifically to the delivery of the programme; initial training augmented by booster sessions provided by the programme's authors; the provision of constructive, useable feedback during in-house training sessions by treatment managers and other senior facilitators who had viewed video recordings; mutual support based on informal feedback amongst the group leaders; regular team meetings in which the programme was discussed; expert external supervision, feedback, and training; designated programme facilities, including separate premises for classroom and administrative work; strong and visible support from senior management within the prison; awareness training for staff not directly involved in the running of the programme but who have a working relationship with those who did. (Vanstone, pp. 138–139)

Although the programme was undertaken in custodial settings, the factors associated with success and appropriate implementation of the

programmes provide lessons applicable in the community. The extent to which the currently diminished probation service can play a part in the delivery of effective programmes is open to serious doubt. To say the least, the setting up of the National Offender Management Service (NOMS), its recalibration as an agency primarily of punishment and surveillance, the transformation of its professional language (Rumgay 1989), marketisation of services and the more recent privatisation of a large part of its function leaving it responsible for the high-risk end of the probationer spectrum, make the future of the probation service precarious. It is hard to be optimistic about the future, but the need for provision for those people who come into the criminal justice system remains. What kind of contribution a reduced service can make is difficult to judge. A reverse of privatisation will be needed if it is to be significant. Political ideologies may be brought to bear in the future and any changes will need to involve looking back as well as forward. Those who argue about the need to undo the political damage to probation can draw strength from reflection on its history.

It bears repeating, perhaps, that it is a sentencing concept with a distinguished international history: 'Between 1878 and 1920, probation was placed on the statute books in countries of North and South America, Europe, Africa and Asia. In a relatively short period of time, in some form or another, it became part of the penal systems of countries with such different political and social histories and diverse cultural traditions as Chile, Japan, the Philippines, France and Russia' (Vanstone 2008, p. 735).

Invariably, the reformative impulses behind the growth of probation were humanitarian and often faith-based, but the process of that growth was associated with class division, the maintenance of establishment power over potential threats from the poor, the development of the sciences of psychiatry and psychology as convenient conduits of control and the individualisation of punishment. Significantly, 'probation's one common penal cornerstone, across all those different jurisdictions, was, and continues to be, the prison,' and it has been 'a seductive and common international symbol of political response to loss of faith in that cornerstone' (pp. 735–736). Not only has its development to date been 'bound up with socio-political expediency as well as humanitarian

concern about excessive punishment and harsh prison conditions [. . .] but in its early years it straddled both science and religion with the effect that it had the advantage of a twin-track driver and it was able to maintain immunity from the accountability of evaluative scrutiny: it could grow as a faith-based science' (p. 751). Even accepting that more complex interpretation of its history, the humanitarian motivation has always been an underlying and potent one, and it may not be an exaggeration to suggest that it has never been more vulnerable to the vicissitudes of shallow political manoeuvring and posturing.

Innovation, though, has always been at the core of rehabilitative work, and practice has been developed through the creativity of individuals who 'have never lacked imagination or the enthusiasm for innovatory ways of endeavouring to achieve their goals' (Vanstone 2010b, p. 19). Mostly, the results or outcomes of that innovation went unevaluated but that did not mean there was a lack of curiosity; conversely, there were a number of examples of practitioner-led (e.g. Shaw and Crook 1977; Weaver and Fox 1984) and organisationally commissioned research (e.g. Hereford and Worcester Probation Service 1989; Linscott and Crossland 1989) which evidence the fact that service-based research, often of a sophisticated kind, 'emanated from a curiosity at local level about whether innovation was having the desired effect' (p. 24). Moreover, creativity was linked to developing awareness of limitations in the response of the service to minority and marginalised groups. For example, community work in Sheffield (Goff 1972); debt and benefit services in North Yorkshire and Northumbria (Ward 1979); the creation of a Housing Society in South Glamorgan (Drakeford and Vanstone 1996); the appointment of an ethnic liaison officer in the West Midlands Service, in Nottingham and West Yorkshire provision specifically for women (Hirst 1996); and a resource unit for black probationers in North Thames (Jenkins and Lawrence 1992). All of which took place when, as McWilliams (1980) has argued, the probation service was being transformed into a mechanistic bureaucracy premised on top-down communication via an inflexible hierarchy.

Clearly, liberal and humanitarian sentiments alone will not help the service now. If it is to reclaim the future it has to be accountable, demonstrate effectiveness in the pursuit of its goals and harness the

creative energy described above whilst retaining its traditional humanitarian values. This might be best achieved in the more flexible and organic organisation promoted by McWilliams (1980). 'The point is that increased governance from the centre combined with an acquiescent bureaucratic management structure has resulted in the stifling of innovation and the imposition of too narrow a practice agenda, and it need not have been like this' (Vanstone 2010b, p. 30).

As stated above, now is not the first time it has been 'moulded by political elites who were concerned about maintaining social order [nor is the first time that] it has been the focus of sometimes opposing humanitarian, scientific, social and political pressures, and in the sense that it has fulfilled a State function of controlling offenders it has been bound up inextricably with governance and the application of power' (Vanstone 2004, p. 157). How it now uses that power is critical to its future. Through its history it has 'survived largely because of faith: faith that it was justified morally, helpful, welcomed by its recipients and effective in reducing offending' (p. 157). That faith has faded, and in its now diminished form it has to re-argue its moral justification without tabloid-induced fear and demonstrate its indispensability with practice based on coherent theory and research evidence. Reflecting on the future in 2004, I argued that as well as

> retaining a clear sense of its value base [. . .]; probation might yet be able to exploit that commitment to further the contribution of social justice to criminal justice [and that to] do this it has to promulgate a dual strategy of influencing both individuals and systems underpinned by an interest in the efficacy of that strategy; and to this end the Service can exploit its unique historical role within the criminal justice system [. . .] More than anything else this means contributing to the reduction of harm to both the individual [. . .] and the wider community caused by offending. (Vanstone 2004, pp. 159–160)

Sadly, nearly a decade later this optimism lingers, just simply because meaningful attempts to help people in the processes of rehabilitation cannot be reduced to formal mechanistic transactions but have to turn to innovation encompassed in genuine, empathic human relationships.

If practitioners and managers who work in what is left of the Service maintain a commitment to those kinds of relationships, retain a genuine curiosity about their efficacy, and in partnership with interested academics seek to demonstrate through the accumulation of evidence that a focus on rehabilitation is the best way to help people lead a non-offending way of life, then probation will survive. What must be hoped for then is a future political climate conducive to its redevelopment as a significant player in the criminal justice system. There is no alternative.

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Maurice Vanstone having been trained in North East and East London, began a career in the probation service in the seaside towns of Penarth and Barry in Glamorgan in 1969. Eased into the role in his first year by a caseload of 63,160 social enquiry reports plus some divorce court welfare reports and guardian ad litem duties, he focused on the area's burgeoning drug problem. Until 1996 he undertook a variety of roles as a practitioner, manager, trainer and researcher in the Glamorgan, Gloucestershire and Mid Glamorgan services.

From 1989 to 1996 he held a joint appointment with Mid Glamorgan and Swansea University, and from 1996 to 2009 the posts of lecturer, senior

lecturer, Reader and Professor. He retired in 2009 and currently is Professor Emeritus in the School of Law. He has taught, researched and written widely on criminal justice issues with a particular emphasis on Day Training Centres, probation history, practice and theory, the effectiveness of community sentences, effective practitioner skills, child sexual abusers and resettlement of prisoners; to a lesser degree his work has covered community regeneration strategies, black and Asian probationers and prisoners, and rehabilitation and film.

Visiting Romania as consultant to its newly formed probation service and giving the opening keynote speech to the Probation centenary 1907–2007 International Conference have been personal highlights. His books include *Betrayal of Trust* (1996) with the late Matthew Colton, *Understanding Community Penalties* (2002) with Peter Raynor, *Supervising Offenders in the Community: A History of Probation Theory and Practice* (2004) and *Offenders or Citizens? Readings in Rehabilitation* (2010) with Philip Priestley. Now semi-retired, he nurtures the hope that along the way he hasn't done too much damage.

17

Probation Duty and the Remoralisation of Criminal Justice: A Further Look at Kantian Ethics

Philip Whitehead

I begin with two quotations from a criminologist in 1958 and a solicitor in the North-East in 2006:

> If I were asked what was the most significant contribution made by this country to the new penological theory and practice which struck root in the twentieth century . . . my answer would be Probation. (Radzinowicz 1958)
>
> The probation service has changed beyond recognition over the course of the last ten years. The shift of the probation service has left the criminal justice system unbalanced. There is too much emphasis on punishment and a void where there should be an agency dedicated to values of befriending and assisting.

The first quotation reflects and reproduces the 'golden age' of probation (Statham 2014); the second emerges from, and responds to, New

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Labour's modernised dispensation. The political-economic and ethical-cultural platform for Radzinowicz was the Keynesian post-war social-welfare nation state that supported a probation service and criminal justice system orbiting the circuits of *penal welfare* (Garland 2001). It was rehabilitative, ideologically anti-punishment and anti-prison. By contrast, the political-economic and ethical-cultural platform for my solicitor respondent in 2006 (see Whitehead 2007, 2010) was the quickening pace of New Labour's modernising frenzy imposed on public sector organisations. Its generative core is the 3Es of economy, efficiency, and effectiveness; value for money; a penchant for punishment and prison signalled by the Howard-Major era of 1992–1993. These modernising contours nestled on the ideological and material platform of neoliberal capitalism, paradoxically reinvigorated after the economic catastrophe of 2007–2008. The chronological distance between the two quotations frames my association as a probation worker (1977–2007), illustrated by transformative shifts from Keynesian conventions to the neoliberal order; from the nation state to market state; from governments supporting the personal social services, the welfare state, and probation taking centre stage in the criminal justice system, to releasing energies stimulated by privatisation, marketisation, and fearful competition that culminated in the 'rehabilitation revolution' between 2010 and 2015. The solicitor respondent stated that transformational excesses unbalanced the criminal justice system by too much emphasis on punishment in prison and the community that eroded the historic mission to advise, assist, and befriend. In other words, profound changes imposed from *without*, not developed organically from *within*, levered open a moral void where there was and should be a moral core. This is clearly illustrated in the demise of the probation ideal. To understand transformations in criminal justice since the 1980s, specifically through the lens of probation, constitutes an intellectually rewarding but also disturbing field of study. If postmodernism has accurately been described as the cultural logic of neoliberalism (Jameson 1991), transformations in probation and criminal justice reflect and reproduce the organisational logics of the neoliberal capitalist dispensation (Whitehead 2016 forthcoming) and its indifference to morality and justice.

The central theme of my academic reflections, informed by three decades of practice, is concerned with the imposition of a moral void in criminal and social justice contingent upon a politically induced and coercively applied transformation in probation. This can be traced to the 1980s, took a nasty turn at the hands of the punitive zealots after 1992–1993, solidified under New Labour 1997–2010, and now the latest revolutionary phase of 2010–2015. Essentially, the *a-moral* ideological and material platform of neoliberalism, which is more concerned with economics than ethics, has *demoralised* the criminal justice system. Accordingly, I advance the argument for *remoralisation*. To achieve this I draw upon first-hand existential-organisational experiences from within probation, supported by academic research, reflection, and publications. In fact, I have been concerned with morality and justice since my first co-authored publication (Whitehead and MacMillan 1985). Importantly, probation's future design for remoralisation must acquaint itself with Kantian deontological ethics to re-energise critical thinking on the criminal justice system. Recent changes raise moral issues and urgent questions that are insufficiently considered by the Ministry of Justice, National Probation Service, and the 21 Community Rehabilitation Companies. But first, it is necessary to begin with a historical excursus.

Probation History, Morality, and Justice

With its roots in nineteenth-century practices of bail, judicial reprieve, and the recognizance; the example of Matthew Davenport Hill and Edward Cox; developments in the United States and New Zealand, probation work emerged from the police court mission of the Church of England Temperance Society (Whitehead and Statham 2006). Probation was constituted as an alternative to punishment and imprisonment, containing elements of mercy, advice, assistance, friendship, and practical help, mediated through a *relationship* with a missionary then officer of the court after 1907. Raynor and Vanstone (2002)

suggest it is legitimate to resort to the language of mercy and help when excavating the early history of the probation system within the context of late-Victorian philanthropy, evangelical religion, and benevolence. Nellis (2007) uses the language of 'humanising justice' when analysing probation history until the early 1970s. Radzinowicz and Hood explain that during the nineteenth century individual moral reform and social amelioration were important features, often motivated by 'deep religious convictions, and philanthropic zeal and was thus a true reflection of the dominant ethos of Victorian society' (Radzinowicz and Hood 1990, p. 49). These archaeological deposits combine to construct the orthodox account.

However, a revisionist corrective must allow for the fact that police court missionaries were not extending mercy and benevolence to *all* lost offenders' souls when they appeared before the London police courts. The Victorian categories of deserving and undeserving invaded the probation system, and the missionaries were orientated towards a middle-class perspective. Although reformist impulses in penal developments were explained by a religious, philanthropic, and humanitarian spirit (Young and Ashton 1956), Peter Young (1976) advanced the thesis that the probation service had its roots not so much in the relationship between the officer and client, but the relationship between the classes towards the end of the nineteenth century. This thesis is consistent with a version of social work that functioned from within the orbit of the middle class as an attempt to stabilise what was then a rapidly changing social order by extending its largesse towards the working class. Young does not see the existence of social work as a mechanism for the liberalisation and democratisation of society, but rather a mechanism to *drain away* and *neutralise* working class demands, potential agitation, and threats to social order – Marxist ideology conflicting with missionary endeavour.

The McWilliams quartet (1983, 1985, 1986, 1987) asserts the view that police court missionaries were possessed of a religious philosophy. The increased power awarded to the Justices attendant on The Summary Jurisdiction Act 1879, then The Probation of First Offenders Act 1887, enabled the missionaries to inject mercy and leniency into the proceedings of the lower courts. Significantly, for a

period of 60 years after 1876 the rationale for the mission to the courts was the saving of offenders' souls through divine grace (1983, p. 138). Subsequently, the gradual decline of the missionary spirit after the 1930s, but not its total extinction, was occasioned by the emergence of a more secular and scientific social work discourse (Whitehead and Statham 2006).

Cecil Leeson (1914) worked as a probation officer as well as spending 2 years studying probation systems abroad, mainly in the United States. He referred to probation work in theological terms as a system for the reclamation and reformation of people who had offended and it is 'essentially constructive and redemptive in character' (p. 42). He also clarified that the probationer required the guidance of a probation officer rather than punishment. Leeson said it was possible that social and religious agencies could facilitate reclamation, and that the attitude of the officer should be as a 'sensible friend; for the essence of Probation is constructive friendship' (p. 114). It is of interest to allude to a number of additional points raised by Leeson in what is one of the earliest books on probation in the United Kingdom. First, his work has contemporary applicability when it is recorded that probation is involved in the protection of the community; offending is analysed more at an individual than social level; and the offender's swift return to court is necessary if the probationer breaches a court order. Second, there are marked discontinuities because probation is reform not punishment; an emphasis upon religious influence; the probation officer is a friend encapsulated in the legislative adage to assist, not a bully or dictator; and the officer must operate with discretion. Therefore, there are continuous and discontinuous elements in his account (see Mawby and Worrall [2013] on the sound of different voices).

If Leeson provided an insightful resource for understanding probation work during the early years after 1907, evidence contained in four Home Office Departmental Committee Reports repays careful study (Home Office 1909, 1922, 1936, and, 1962). These documents constitute a rich source of evidence on those impulses under review and contrast markedly with modernising developments since the 1980s. The Departmental Committee of 1909 underlines the rationale of the inchoate probation system as an alternative to punishment, custodial

institutions, and financial penalties, and its suitability for youths as an alternative to the Victorian Industrial and Reformatory schools. The personal influence of the officer is considered an essential component in the reformed system of justice taking shape during the early years of the twentieth century under a reforming liberal government. We should remind ourselves that the first probation officers, appointed after 1907, were gleaned from the pool of missionaries accruing since 1876, and by 1922 the religious convictions of probation officers remained an essential ingredient. In fact, the notion of probation work as a religious vocation was very much in evidence (Home Office 1922, p. 9). Interestingly, the second Departmental Committee report arrived at the conclusion that 'Many qualities were mentioned to us as desirable in a good Probation Officer – sympathy, tact, common sense, firmness, are but a few – but there was general agreement that a keen missionary spirit, based on religious conviction, is essential' (1922, p. 13).

The third Report of 1936 provides a detailed historical survey of the contribution made by former missionaries. These forerunners exemplified a 'humaner spirit' operating within the penal system. It is confirmed that probation officers should avail themselves of religious agencies in their work with offenders (Home Office 1936, p. 64); the probation officer is a social worker of the courts (p. 77); and the pioneering work of the police court mission is given due recognition. By the 1960s social casework eclipsed theological constructions and justifications for probation practice (Home Office 1962). During a period of change which started to gather momentum from the 1960s and 1970s (Whitehead and Statham 2006), religious inspiration gave way to 'scientific' casework practice. Nevertheless, the religious phenomenon (Whitehead forthcoming 2016), a humaner spirit, ethically informed personal relationships, congealed into the *probation ideal* that no longer frames political attitudes or organisational practices.

Probation, from its statutory beginnings during the early twentieth century, performed tasks on behalf of the state whilst operating with a measure of organisational independence until, that is, relatively recently. Its rationale, although containing a mélange of competing ideological perspectives (see Whitehead 2016), exemplified a humane approach to understanding the biological, psychological, and sociological correlates of offending behaviour. It was also, at its ideological best, a humanising

influence throughout the whole system. Probation officers responded to Schweitzer's (1929) advice to find vocational work to facilitate human welfare through which they could make a difference as well as make a living (see also Statham 2014). They understood something of and practised *reverence for life* towards their clients, victims, and local communities, to promote criminal and social justice. They implemented a life view that blended cognitive insight with empathic sensibility, professional duty to the courts and passion for the job conducted through relationships that combined the professional and personal. In other words, there was a moral dynamic stimulating practice, negotiating and mediating criminal and social justice. The central features of the *probation ideal* can be reconstructed as follows:

- Informed by religious, humanitarian, and personalist impulses that combined to humanise the criminal justice system.
- Utilised the human sciences, from psychology to criminology and social theory, to excavate the aetiology of complex behavioural patterns. Understanding incorporated both *what* and *why* dimensions (*what* have you done and *why* have you done it?) to explain offending to magistrates and judges by taking account of structural, cultural, and biographical variables (Whitehead and Thompson 2004).
- The probation ideal involved openness to the *other* and a curiosity about behavioural repertoires. It concurred with George Eliot that the world can be a better place by understanding and comprehension, which was the function of the social enquiry report to advance. According to George Eliot in *Middlemarch*, human relationships are unquestionably complex but if taken seriously they come with the invitation to grow beyond self-centeredness: 'If I really care for you – if I try to think myself into your position and orientation – then the world is bettered by my effort at understanding and comprehension' (Mead 2014, p. 223 – *this is the social worker's and probation officer's creed*). Empathy, curiosity, and imaginative understanding.
- The probation ideal supported a constructive and educative approach in the community wherever possible, which symbolised something more positive than punishment and prison. It was part of the personal social work services, not retributive punishment.

- Operated with a narrative of tolerance, human decency, caring control and compassion, empathy, support, and help which was its vocational public duty.
- Believed that people can change and so did not give up on others. Relationships were at the centre of practice – good and right in themselves, and effective.
- It explicated that probation officers were the social workers of the criminal and civil courts, therefore different to other staff within the organisations of criminal justice.
- The probation ideal included intellectual curiosity and moral obligation, qualitative service outputs, deontological ethics, a value-driven rationality, and the rehabilitative ethic. In other words, probation work and its diverse services could be justified by being good and right in themselves. Probation may not reduce reoffending; it may accomplish 'nothing'; but what it stood for was good in itself (see Kantian ethics below). This was the probation ideal, ethic, and aesthetic.

In Chapter 3 of my *Exploring Modern Probation* text (2010) that excavates the religious, humanitarian, and personalist tradition of the probation system, I quoted from my doctoral thesis that researched probation work during the 1980s. It is worth repeating that:

> In essence, whilst probation officers are engaged in a diverse range of practices which are sustained, at times, by conflicting ideologies and with an eclectic approach to methods, the unifying thread weaving its way through all the paradoxes and dilemmas is a commitment to a personalist philosophy concerned with the meeting of human need. Probation work, for these respondents, is primarily about a social work service to the disadvantaged and not about social control or social action. (p. 79)

Well into the 1980s the probation system was committed to the delivery of a social work service, sustained by a rehabilitative ethic that informed the morality of criminal justice. However, the collapse of the rehabilitative ethic in conjunction with the probation ideal

eventually created a moral vacuum. My recent work on moral economy is a response to this politically imposed vacuum that is worth an explanatory note.

Brief Note on Moral Economy

The purpose and scope of my latest monograph (Whitehead 2015) theorises, reconceptualises, but also refines the idea of moral economy in its relevance for, and application to, criminal justice in England and Wales with specific reference to probation. In the prologue I stated:

> Beginning in the 1980s, followed by successive new labour administrations from 1997, and the Transforming Rehabilitation agenda of 2010 to 2015, criminal justice has been seized by the technical requirements of economy and efficiency, value for money, measurable outcomes, retributive punishment, prisons, and bureaucratic rationality. These features have combined to impose a paradigm shift in governmental policies and organisational practices, indexed most notably in probation. (p. ix)

It is absurd to reduce criminal justice to an instrumentally driven operation to achieve fiscal efficiencies or provide investment opportunities to the commercial sector. Rather, the starting point is to establish its intellectual and moral foundations, the precepts of which are required to legitimate policy and practice. Accordingly, the concept of moral economy constitutes a point of rupture to the contemporary orthodoxy of criminal and penal policy, its modernising blandishments, and the platform of neoliberal ideological and material interests that it reflects and reproduces. Moral economy is foregrounded to excavate discernible transformations; it functions as a conceptual device; it also makes a serious contribution to the urgent task of moral reconstruction. Moral economy can bear the weight of these heavy demands placed upon it, as well as constructing a platform on which to plot a different way of thinking about doing justice.

Formerly, probation work within the criminal justice system was an integral component of the post-war Keynesian settlement as a public

good, delivering a public service, as a public duty, largely to a disadvantaged section of the public. It belonged to the personal social services that operationalised a personalist ethic until, that is, the profession was trashed by the politics of new public management and its supporting musculature of managerial consultants, specifically after 1997. Probation's pioneering mission constructed structural, cultural, and biographical analyses of the human condition to understand and explain offending behaviour, an intellectual *and* moral task on behalf of the state and criminal justice system. But it has been vindictively jettisoned into the circuits of privatisation, marketisation, and fearful competition. For this author my first-hand experience of doing probation work since 1977, in addition to supporting academic research that began in 1985 (Whitehead and MacMillan 1985), exposes the systematic erosion of moral obligation imposed by government ministers and civil servants. In other words, probation practice driven forward by social work relationships, personalist values, and humane interventions has been overturned. Nevertheless, the future must belong to ethics and a return to Kant offers a way forward.

Return to Morality and Justice through Kantian Ethics

It was a grave error to fragment the humane conventions of probation by an instrumentally driven operation to achieve fiscal efficiencies, provide investment opportunities to the commercial sector, to become the subject of governmental will to power over troublesome populations. The substantive reason for this proposition is that probation, in conjunction with youth justice, health, welfare, and educational provision, is *people-facing*. Its rationale is I–thou relations (Buber 1970) not I–it functions. Organisations that work with people, rather than inanimate objects, are confronted with existential and moral questions. Accordingly, it is necessary to distinguish between the functionally useful, fiscally responsible, and morally right. Probation and social work have suffered from governments' inability to make these fundamental distinctions since the 1980s. Working with people who offend is ineluctably entangled with

the coordinates of personalist sensibilities (Mounier 1952), symbolic conventions, and ethical demands.

Presently, there is a moral deficit in probation, caused by a politics of imposition and disavowal. To rectify this deficiency it is necessary to construct a route to Immanuel Kant (1724–1804) to forge a thematic association between deontological ethics and probation duty that was legislatively established in 1907. This was sequentially engraved in historical and cultural conventions through the aforementioned documents (Home Office 1909, 1922, 1936 and 1962), and inculcated into the matrices of practice. Kantian ethics can be applied to criminal justice developments since the 1980s to expose intellectual and moral erosion, contingent on the demise of probation duty and the expansion of an internal market of services alongside punishment and prison. Kantian ethics foregrounds salient concepts of significance, a vocabulary of interest, to analyse, critique, theorise, but also to confront a recent history of moral neglect. This constitutes an ethical corrective to the political and organisational logic of instrumental utility applied to organisational domains, primarily probation and the inchoate community rehabilitation companies. It is important to summarise a central Kantian text.

Groundwork of the Metaphysics of Morals (Kant 1785, 2005)

Although Bertrand Russell (1946) was reluctant to support the judgement that Kant was the pre-eminent modern philosopher, he ascribed historical importance to deontological ethics (Greek δεόν/deon = duty, should, or ought). When the *Groundwork* was published in 1785, followed in 1788 with the *Critique of Practical Reason*, moral philosophy had progressed through the natural law formulations of Aquinas, Grotius, and Pufendorf that inscribed moral law into the fabric of the universe like some Greek universal logos. Hobbes, the anthropological pessimist, believed the state was confronted with the necessity to impose morality onto self-interested human beings. Later, Shaftesbury and Hutcheson talked about a moral sense, and Hume's utilitarian approach

prioritised feeling over reason in ethical evaluation. Bentham's utilitarianism stated that the criterion to judge right action was its usefulness for human happiness (consequentialism). Mathematically, the utilitarian calculus quantified morality conducive to achieving the greatest happiness for the greatest number, but at a price. It risked manipulating others to accrue beneficial outcomes to oneself. It also put into sharp relief what is deemed useful according to contingent conditions and what is intrinsically right or good (see Schneewind [2003] for a detailed exposition on moral perspectives). With Kant, towards the end of the eighteenth century, the history of moral philosophy was presented with a perspective that makes the rightness or wrongness of an action independent of the goodness or badness of its consequences. It rejected utility for 'systems which are held to be demonstrated by abstract philosophical arguments' (Russell 1946, p. 639). In other words, Kant advanced a metaphysics of morals in which moral concepts are located *a priori* in human reason. It has been declared that 'Kant stands at one of the great dividing points in the history of ethics' (MacIntyre 1967, p. 190).

The *Groundwork* is complex; for Eagleton (2009, p. 113) curious; but Kuehn endorses a 'most impressive work' (2001, p. 283). It is not within my purview to critique its central metaphysical and rationalist contentions. Rather, I extrapolate *concepts of significance* that can be applied to probation work and transformations in criminal justice conventions. The *Groundwork* has three main parts and I am indebted to MacIntyre (1967) and Ross (1962) for the following reconstruction. Kant differentiates between what *is* the case or actuality of behaviour, from what *ought* to be the case according to the logical progression of philosophical argument. The latter form of knowledge is *a priori* because it does not depend on observing the actualities of behaviour. Copleston explains the difference by suggesting that we cannot 'verify the statement that men ought to tell the truth by examining whether they in fact do so or not' (1960, 2003, pp. 308–309). The statement is true independently of conduct that establishes an objective principle compelling to the will, a command of reason that constitutes an *a priori* imperative in the Kantian schema (Russell 1946, p. 644).

Kant begins with an exposition of a good will. A good will is considered good not because of what it produces, achieves, or its

utilitarian consequences, but by virtue of it being good in itself. In other words, it has intrinsic value. It requires no qualification, nor can it be added to something else to produce bad results. Then, in a statement of considerable import, a good will even if 'lacking in power to carry out its intentions, if by its upmost effort it still accomplishes nothing, and only good will is left; even then it would still shine like a jewel for its own sake as something which has its full value in itself' (1785, 2005, p. 65). Kant acknowledged that the human condition is subjected to both good and bad impulses, desires and drives, but a good will manifests itself in acting for the sake of duty. Duty is a central feature of the moral consciousness and its three propositions are: human action is deemed morally good when undertaken for the sake of duty, not inclination, desire, the Benthamite pursuit of happiness, or Hobbesian self-interest; dutiful actions have moral worth when undertaken according to a maxim, principle, or motive, not instrumental utility; to act according to duty is the requirement to act out of reverence for the moral law.

There are many obstacles to exercising a good will and doing one's duty. But the moral law ought to be obeyed for its own sake. Copleston elucidates by saying that human actions 'if they are to have moral worth, must be performed out of reverence for the law. Their moral worth is derived, according to Kant, not from their results, whether actual or intended, but from the maxim of the agent' (Copleston 1960, 2003, p. 318). Nevertheless, this vocabulary of good will, duty, and the moral law appears abstract, lacking in content. So how do these abstract concepts translate into the concrete moral life? The answer introduces the categorical imperative that has three modes of expression:

1. 'I ought never to act except in such a way that I can also will that my maxim should become a universal law' (Kant 1785, 2005, p. 15), e.g. speak truth not lies
2. Humanity as an end in itself – we cannot and must not use other human beings as the means by which we pursue and achieve our own ends.
3. Kant refers to the universal legislative will.

Notwithstanding the defensible merits of Kant's deontological ethic, there are objections. Hegel found it too formal and abstract (Pinkard 2000); Eagleton (2009) is bemused; and Schweitzer (1929) argued that reverence for the moral law lacked existential human content stating: 'How far Kant is from understanding the problem of finding a basic moral principle which has a definite content can be seen from the fact that he never gets beyond an utterly narrow conception of the ethical' (1929, p. 108). Consequently, he replaced reverence for law with reverence for life. Nevertheless, Schweitzer's evaluation supported the centrality of human beings as ends rather than means, motives rather than consequences, so that the 'utilitarian ethic must abdicate before that of immediate and sovereign duty' (1929, p. 107). A final and telling objection is that Kant's *a priori* moral consciousness can be said to be one of history's naïve assumptions, a metaphysical conjuring trick in its mysterious relation with the functioning of human reason. Accordingly, transcendental materialism (see Hall 2012) rectifies this naivety by understanding morality not as some fixed component of our cognitive apparatus associated with a numinous metaphysical realm, but inextricably entangled in the configuration of drives and desires by ideology. Copleston did not refer to the transcendental materialist perspective, but his positive summation was that 'It cannot be denied, I think, that there is a certain grandeur in Kant's ethical theory. His uncompromising exaltation of duty, and his insistence on the value of the human personality certainly merit respect' (Copleston 1960, 2003, p. 345).

To summarise, Kant asserted the existence of moral consciousness within rational human beings, and isolated the *a priori* as an unchanging element independent of ephemeral conditions. He emphasised a good will manifested in duty, prioritising motives over consequences. But, MacIntyre asks, how is duty presented to us? The answer is that it 'presents itself as obedience to a law that is universally binding on all rational beings' (1967, p. 193). What is the content of this law? Its content is manifested in precepts that must be obeyed by all rational human beings, which is the categorical imperative. Ultimately, the test of a moral imperative is that it can be universalised. According to the Kantian schema human beings are ends, not means, so any attempt at

calculable manipulation must be avoided. Significantly, Kantian deontology rejected utilitarian ethics for a system demonstrable by abstract philosophical arguments (Russell 1946, p. 639), more concerned with the ideal of pure reason than pragmatic decisions in complex human situations (Kuehn 2001). Nevertheless, the central concepts of significance, the primary vocabulary of interest, should not hastily be dismissed which can be distilled as follows: *a priori*, good will, duty, motive, moral consciousness and obligation, moral law, ends over means, and respect for human personality. They are applicable in forging a thematic link between Kantian deontology and probation duty, which necessitates a chronological leap from 1785 to 1907 and a return to themes introduced earlier.

Kantian Ethics and Probation's Duty to Remoralise Criminal Justice

I do not possess the empirical evidence to suggest that the lawmakers in 1907; Home Secretary Herbert Gladstone; or the five members of the Departmental Committee appointed by Gladstone on 8 March 1909 were Kantian ethicists in the reforming Liberal government of this period. But duty, a salient Kantian moral concept, resonated with probation. Section 4 of the *Probation of Offenders Act, 1907* specified the duties of probation officers:

1. to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order;
2. to see that he observes the conditions of his recognisance;
3. to report to the court as to his behaviour;
4. to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment.

Within one year of the primary legislation, an inquiry was established to determine whether full advantage had been taken of the 1907 Act (Home Office 1909). It is of historical and penological interest to confirm that probation was established *instead* of punishment, prison,

and financial penalties. Significantly, the system was contoured by a relationship of influence between the probation officer and probationer that enabled specifiable duties to be undertaken. These duties were subsequently engraved into the coordinates of policy and practice over the next few decades.

Self-evidently, probation was not constituted by, nor solely operated to, Kantian deontological ethics. There has always existed a complex dynamic between its original religious mission, construction as a state-directed practice, and the controlling interest of the Home Office before the Ministry of Justice was established in 2007. Probation may well have been entrusted with the performance of numerous duties instead of punishment and prison. However, definitions of moral and legal duty were positioned obliquely to the primary instrumental function of reducing crime and preventing reoffending. Such tensions became more acute after the Morison Committee (Home Office 1962), but this should not preclude affirming that probation duty was for several decades a component of settled criminal justice and penal-welfare conventions (Garland 2001). These settled conventions were disrupted in the 1970s, since when a moral vacuum has disturbed the policies and practices of criminal justice. It is vital and urgent to establish a fundamental and foundational moral order in criminal and social justice, and probation should be the prime mover, informed by a clear sense of what is intrinsically good and right when working with people who offend.

Last Words

The accumulated deposits of my practitioner experiences and academic reflections over a period of nearly 40 years have been informed and sustained by a personalist ideology, enriched by Kantian ethics, initially manifested in the probation ideal before its latest expression in moral economy (Whitehead 2015). Indubitably, this ideology is in conflict with a neoliberal order of things and new public management, replete with moral indifference. I maintain the argument that there is a higher and nobler political philosophy and set of organisational policies and practices that respond to the claim of duty and exercise moral obligation towards

the *other*. This may achieve nothing according to the modern obsession with instrumental calculation and efficiency, but *shine like a jewel* because it is intrinsically the right thing to do. In other words, organisations that are constituted to work with the troublesome and disadvantaged are confronted with an ethical demand that transcends the all-too fleeting contortions of ephemeral party politics with their economic priorities.

Therefore, it is vital and urgent to shift the terms of the debate from the stranglehold of a-moral neoliberalism, organisational demoralisation, to remoralisation. This requires a decision at the level of politics proper that systematically reverses the incalculable damage inflicted on criminal and social justice, starkly manifested in the privatisation and marketisation of probation services that puts economic viability before ethical responsibility. I urge a rapprochement between ethics and politics that will put moral economy before political economy. Without moral reconstruction there can be no criminal and social justice, and probation must place itself in the vanguard of shaping the future. It is urgent and vital to advance a vision of something new, of something better, of something that is ethically and morally superior to what has been politically and organisationally allowed to happen since the 1980s. In fact, we urgently need a vision of the Good Society by which to restructure the politics of criminal and social justice.

One final comment: when I was first appointed as a probation officer in July 1981, I expected this would be my profession until I retired. However, by 2007 it was no longer possible to do the job I'd been trained to do at Lancaster University as a *social worker of the courts* because of modernising impositions. It is, therefore, more accurate to say that I did not leave probation, it left me. This will always be a regrettable state of affairs, compensated for by the opportunities at Teesside University to continue in the field of probation, criminal and social justice, and penalty.

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Some of his publications are *Community Supervision for Offenders* (1990); *Managing the Probation Service* (1992) and *The History of Probation* (2006), both with Roger Statham. More recently: *Organising Neoliberalism* (2012) with Paul Crawshaw; *Reconceptualising the moral economy of criminal justice* (2015); and *Transforming Probation: social theories and the criminal justice system* (forthcoming November 2016).

Philip Whitehead is particularly troubled by the moral erosion of the criminal justice system, contingent upon the politics of indifference towards probation, and the implications for criminal and social justice.

18

Probation in the Genes? Personal Reflections on the Fortunes and Misfortunes of an Honourable Profession

Anne Worrall

My mother was a probation officer in London during the Second World War (Worrall 2008), so it was always a career option for me from childhood. In her day, female probation officers worked only with women and juveniles and she herself was expected to resign when she married. This incongruity and waste of talent struck me from an early age and, throughout my working life, I have been aware of having so many more opportunities than she did. I left school around the time of the Seebohm Report that resulted (among other things) in social work qualifying training for probation officers and I opted for one of the very few new 4-year university courses leading to the CQSW as well as a degree and was fully qualified at the age of 22 years.

As a probation officer in Stoke-on-Trent in the 1970s, my generic caseload (of men and women) included Family Court Welfare work (divorces and adoptions) and Voluntary After-Care for prisoners. Like

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my mother, much of my time was spent in magistrates' courts and on home visits in the community. In the early years, I participated in Prisoners' Wives [sic] Groups but then started the first group in the area for women on probation. My interest in the treatment of women who break the law developed from that practice concern and eventually led to my PhD and first book (Worrall 1990).

Perhaps my mother's outrage at the impact, on their own families, of criminal behaviour by 'feckless' men (poverty, fear of violence, intergenerational transmission of 'anti-social values') was something that I absorbed subconsciously and something that influenced my later career interests and choices. She knew instinctively why people behaved as they did during the war and the circumstances that tipped ordinary people from legal to illegal behaviour, but she never understood why crime continued in the post-war welfare state when life should have been so much better. Perhaps I felt I owed it to her to explore those questions and make some contribution to our knowledge about why people break the law and how we should respond.

Thus, in the early 1980s, with experience as a practice teacher, I moved into an academic post at Manchester University, with responsibility for the Home Office-funded probation 'stream' on the CQSW, and later DipSW, programmes. A further move to Keele University at the end of the decade eventually led from a Social Work Lecturer post to a Criminology Lecturer post in the newly established Department of Criminology and the first undergraduate Criminology degree course in the country (Keele had a long history of postgraduate Criminology in the Departments of Law and Sociology).

My interest in women continued (Alder and Worrall 2004; Carlen and Worrall 2004), but I also became the probation 'specialist' within the Criminology staff (Worrall 1997; Worrall and Hoy 2005). I became a Professor of Criminology in 2003. Outside academia, I was a member of the Board of Visitors (now the Independent Monitoring Board) of Drake Hall women's prison and then a member of the Parole Board of England and Wales.

I retired from full-time work in 2009 but have continued to undertake funded research on a part-time basis, specifically on probation

worker cultures (Mawby and Worrall 2013) and on Integrated Offender Management (Worrall and Mawby 2004; Worrall and Corcoran 2015). In the wake of 'Transforming Rehabilitation', I have been an active founder member and Fellow of the Probation Institute and in 2015, I delivered the 18th Annual Bill McWilliams Memorial Lecture at Cambridge University (Worrall 2015).

Writing a chapter like this, which is essentially very personal, it is tempting to wallow in nostalgia and hark back to a 'golden age' when 'autonomous probation officers walked the earth, advising, assisting and, above all, befriending' (Mawby and Worrall 2013, p. 146). A more constructive approach to nostalgia is to view it as a way of organising and controlling the present and the future – identifying what things were 'good' about the past and should be held on to, what things are best forgotten (believe it or not, there was some 'bad' practice in those 'golden' days!) and what unstoppable changes have to be faced up to.

Bearing this in mind, my reflections fall into four categories:

1. Probation and women who offend
2. Probation's changing relationships with the police
3. The resilience of brand 'Probation'
4. Identity and occupational cultures in probation.

Probation and Women Who Offend

I began working with women who break the law in 1972 and continue to be haunted by one case in which, revelling in my 'expertise', I persuaded a magistrate (against his better judgment, I suspect) to place on probation a young woman who had been 'found drunk'. When I interviewed her for a 'stand-down' report, I discovered that she had a few personal problems. I thought a short period on probation might assist her. It did – but, on reflection, how could I justify such a net-widening recommendation for a first offence and such a trivial one? I believed that I was making the invisible needs of a neglected group visible – but at what price?

The 1970s was the decade in which probation officers grappled with the emerging awareness of gender discrimination in the criminal justice system. I say 'grappled' because it was by no means obvious that women who appeared in court were, as a group, dealt with more harshly than men. There were so few of them and their novelty value meant that some were treated more leniently but others were not – and the difference was not accounted for by the nature of their offences. Something else was in play and it had to do with stereotypical expectations of how women should behave and lead their lives.

In the mid-1970s with the support of colleagues, I started a group in Stoke-on-Trent for women who offended. It was a new idea – previously only 'prisoners' wives' groups had existed, with an ethos that would have been recognisable to my mother some 30 years before! We certainly didn't get everything right straightaway and it would look like a very feeble effort by today's standards, but I like to think it changed the way we thought about working with women on probation and our Assistant Chief, the wonderful Jenny Roberts, went on to found the far more sophisticated ASHA Centre some years later.

Following on from my doctoral research in the 1980s, I wrote one of the first academic books specifically on women being supervised in the community (Worrall 1990):

> [I] highlighted the dilemmas facing probation officers who wanted to achieve the best results for, and do the best work with, women offenders yet were confronted by ideological and professional demands that often conflicted with the demands and responsibilities of the daily lives of women offenders. Probation officers recognized that structural and personal oppression experienced by women offenders but they also recognized that the women themselves often colluded with stereotypical descriptions of themselves as good wives and mothers or as being emotionally unstable. Most of the women [I] interviewed did not see themselves as 'real criminals'. They committed their crimes out of economic necessity or as a response to intolerable emotional stress. Key themes emerged – loneliness, fear (including fear of the power of experts and officials), low self-esteem, bewilderment, anger – frequently suppressed into depression – and a sense of not being listened to, heard or understood. Perhaps frustratingly, they were not radical in their views – they did not want to break out of their traditional roles. But

> they did want the worst effects of those roles to be alleviated. The help they appeared to appreciate most was friendship, material help and the opportunity to make some real choices for themselves – however trivial these might seem to others. But the women were not simply passive recipients of supervision. They were not prepared to organize their lives to suit the experts – however well-intentioned – and, if forced to do so, would find subtle ways of resisting and eluding such control. (Worrall and Gelsthorpe 2009, p. 337)

The 1980s and 1990s were increasingly optimistic years for work with women in the community. The ground-breaking and oft-maligned Section 95 of the Criminal Justice Act 1991 embedded anti-discriminatory practice in sentencing law for the first time:

> The Secretary of State shall in each year publish such information as he considers expedient for the purpose of facilitating the performance of those engaged in the administration of justice to avoid discriminating against any persons on the ground of race or sex or any other improper ground.

But this didn't come from nowhere. For the previous decade, the probation service, alongside other organisations and academic researchers, had been working to gain official recognition of the discrimination experienced by women (and ethnic minorities) in the criminal justice system.

Probation can be justly proud of its track record, first in making women visible, highlighting the discriminatory impact of sentencing decisions and increasing awareness that formal equality often leads to inequality of impact. Second, many probation workers took up the challenge of making women 'fit' into the 'what works' agenda. It took a long time to persuade policy makers that women need more than a few minor adjustments to cognitive behavioural programmes designed for men and that provision for women requires a different approach. Third, probation has worked hard to resist the backlash of gender-neutral approaches. A feature of twenty-first-century criminal justice has been the amplification of female offending, not just by the media, but by policy makers and sentencers, or what I have termed 'the search for equivalence' (Worrall 2002) – the assertion that women are behaving more and more like men, so there is less and less need to treat them differently. Women

perpetrate domestic violence and child sexual abuse, deal in drugs and behave in rowdy, disorderly ways; more women go to prison because more women behave badly – or so we are told. Challenging this version of events and demonstrating that the vast majority of women sent to prison still serve very short sentences and for non-violent offences, against disproportionate backgrounds of abuse, addiction and mental illness, has been a constant theme of probation work with women.

There is of course a more pessimistic story to tell about women over the past 20 years – increased numbers in prison,[1] endless official reports reinventing the wheel (the latest being the Corston Report 2007), countless missed opportunities and disgracefully uncertain funding for numerous innovative programmes for women. But probation's record stands and the NOMS recent stocktaking report (National Offender Management Service 2013) demonstrates the strength of collaboration between probation and the voluntary sector. Probation is already ahead of the TR game. But I am also ahead of myself and will discuss the future of probation work with women later in this chapter.

Probation's Changing Relationships with the Police

In many ways, a more dramatic example of probation achievements in the past 20 years lies with its changing relationship with the police. My recent research with Rob Mawby on probation cultures (Mawby and Worrall 2013) identified this as one of the most significant cultural changes in probation work, as this quotation from a chief officer indicates:

> I think relationships with the police are excellent . . . When I was a new officer, the police were the enemy, . . . police officers didn't come into a probation office . . . Our natural allies actually are the police not the prison

[1] The number of women in prison nearly trebled between 1993 and 2005. This has started to slowly reverse but, at almost 3900, there are still over 2000 more women in prison today than there were 20 years ago (Prison Reform Trust Bromley Briefings; Prison Reform Trust 2015, p. 4).

> service. You know, I think the mistake was, if we had to go in with somebody, was to go in with the prison service, not the police; I'd much rather be in with the police. (Chief Officer cited in Mawby and Worrall 2013, p. 78)

My personal recollections of probation attitudes towards the police reflect those of this Chief Officer – they were the enemy and the feeling was mutual. Prior to the CPS, they prosecuted all our clients, so we were wary of holding conversations that might jeopardise our relationships with clients. We pontificated about 'client confidentiality' and they found us utterly frustrating and uncooperative.

The Crime and Disorder Act 1998 was a turning point and I remember being involved (as a researcher) in the excitement of the early Prolific Offender projects in North Staffordshire when police and probation officers actually sat side by side in an office on a daily basis and found that they could talk to each other and even understand each other (Worrall and Mawby 2004). Probation's role in the development of what is now Integrated Offender Management is very well documented and, of course, now involves prisons as well. One might say that it is one of the few clear achievements of the National Offender Management Service and is the closest NOMS has got to the elusive goal of seamless offender management. An alternative view is that the ever closer relationship between probation and police has provided solace and a sense of purpose for probation workers amid the frustrations and failures of NOMS.

Integrated Offender Management now provides a microcosm of the tensions between central and local criminal justice policy-making:

> A decade or so ago, prolific property offenders – burglars, shoplifters and car thieves – were the bane of the criminal justice system and local politics. Locally driven, intensive, multi-agency 'carrot and stick' work caught the professional imagination. Despite equivocal evaluations, those working on the frontline 'knew' that this work was effective in terms of changing lives and creating the social and personal conditions conducive to reducing re-offending. Proving it beyond doubt to a skeptical public and to local politicians was more difficult but everyone enjoyed hearing successful case studies and the work touched a chord. Unfortunately, this 'feel-good factor' is no longer sufficient to guarantee the sustainability of such programmes and the IOM finds itself in the much harder edged,

> competitive world of commissioning. Moreover, property crime has fallen dramatically (Office for National Statistics 2014) in the past decade, for reasons that probably have little to do with intensive supervision – though that may have played its part. Central government criminal justice policy has shifted and IOM programmes are being called upon to tackle violent offenders (including domestic violence perpetrators), sex offenders and gangs. The suitability of the IOM model for dealing with different types of offenders and offences is now being scrutinized. (Worrall and Corcoran 2015, p. 271)

The Resilience of Brand 'Probation'

Probation started to be politicised under the Thatcher government but it wasn't personal. Probation just happened to be a public sector service that experienced the cold wind of managerialism alongside many others. In fact, in retrospect, the Criminal Justice Act 1991 was an extraordinarily liberal piece of legislation and was initially very successful in reducing the prison population and putting probation 'centre stage'. But it all went wrong by 1993. The riots of the summer of 1991, the media construction of 'rat boy' as the epitome of the persistent 'young offender' responsible for a disproportionate amount of crime and the appalling murder of James Bulger all contributed to a climate of public anxiety that could only be satisfied by a complete political U-turn. Michael Howard's infamous 'Prison Works' speech at the Conservative Party Conference in Blackpool in October 1993 caught the mood of public opinion brilliantly.

Even so, it was not until the New Labour government that the Probation Service became a target in its own right. In 1998, the Home Office launched a consultation to rename the Probation Service because it feared the terminology was 'misunderstood' and 'associated with a tolerance of crime' (Home Office 1998, para 2.12):

> The desire of the government to erase the concept of 'probation' from the collective conscience was the surface manifestation of a more fundamental desire to blur the boundaries between freedom and confinement and extend the disciplinary effects of imprisonment wider and deeper into the

> community . . . Community-based sentences were no longer to be viewed as alternatives to custody . . . or as sentences in their own right . . . but as part of a continuum which allows the smooth and easy movement between prison and the community. The state of tension – indeed of healthy conflict – that had hitherto been assumed to exist between advocates of imprisonment and advocates of community-based penalties had been rendered redundant. (Worrall and Hoy 2005, p. 91)

The creation of the National Probation Service (with its new motto, 'Enforcement, Rehabilitation and Public Protection'), the National Offender Management Service (dominated by the Prison Service) and the Criminal Justice Act 2003 (which introduced new sentences explicitly combining custody and community-based supervision) continued the relentless attack on the uniqueness of the probation service's role in criminal justice. Yet, through all this, probation workers adapted and re-adapted, continuing to offer a professional, values-based service to people in trouble with the law while accepting increasing demands for accountability and risk-based assessment:

> Despite governmental attempts to eradicate it from criminal justice vocabulary in England and Wales, the concept of 'probation' has proved remarkably resilient and has, in recent years, come to signify subversion of the dominant penal discourse of 'offender management'. It has become an 'imaginary penality' (Carlen 2008) – an area of work where it is possible to distinguish between competence (knowing the rules and doing what is required) and performance (using the rules to achieve meaning). (Worrall and Mawby 2013, p. 101)

Identity and Occupational Cultures in Probation

> While a great deal has been written about the historical, political, policy and practice changes that have shaped the role of the probation officer, very little has been written on the changes to occupational cultures and the ways in which probation workers themselves view the impact of these changes. (Worrall and Mawby 2013, p. 101)

Following my official retirement, I wondered if I would now get the chance to write the book I had secretly always wanted to write – about why people become probation officers and what sustains them in their work in times of social and political turbulence. In 2010, Rob Mawby and I secured funding to undertake a small but innovative study of the neglected area of how probation workers construct their occupational cultures and identities. We did this for two reasons: first, with the future of the probation service already looking precarious, we wanted to document an aspect of the work that we felt to be important before it disappeared and second, to see what lessons could be learned for whatever the future of probation work might turn out to be.

We used an interview-based design for this study as we wished to examine how probation workers construct, and tell the stories of, their occupational identities, values and cultures. To do this, we talked to 60 probation workers about their working lives. They talked about their original motivations and aspirations on joining the probation service, their knowledge of the service at the time of joining, their training experiences and career development, their views on public and media perceptions of probation work, their daily routines and relations with probationers, courts and other criminal justice practitioners; we asked them to describe crises and typical working days. These were the key points in our final report (Mawby and Worrall 2011, pp. 7–8):

- Probation workers come from a variety of backgrounds, although there are three identifiable broad groupings: 'lifers', 'second careerists' and 'offender managers'. They share certain core values such as recognizing the human worth of offenders and believing in the ability of people to change but differ in their views on the source and operationalization of those values within the contemporary political and organizational context of risk management and public protection.
- Much probation work now resembles other public sector office work, consisting of computer work in 'faceless' open plan offices and office appointments with offenders. However, probation workers have the opportunities to build a varied career, resulting in a widely experienced, multi-specialist workforce. The chances to move around help to satisfy their creative instincts and intellectual curiosity.

- Probation has become a 'feminised' occupation over the past two decades and this has important and possibly unexpected consequences for the cultures of the organization (see Jill Annison's chapter.)
- Doing probation work is stressful and workers have both individual and group coping mechanisms. Individual responses include seeking creativity and intensity in engaging with offenders and group responses include developing a sense of team solidarity.
- Probation work increasingly involves working with other agencies. Probation workers' relationships with the courts are characterized by an immediacy that can be both testing and exciting at times. The probation-prison relationship remains complex and has become more problematic since the creation of NOMS. The improved relationship between the police and probation services is marked, but cultural differences remain.
- Probation workers feel that their work is not well understood by the general public and is ignored or distorted by the media. The self-effacing character of the probation service is not conducive to proactive promotion of the organisation. The influence of NAPO on the cultures of probation work has declined but, paradoxically, it remained the most publicly recognizable voice of the service (in the person of Harry Fletcher).
- Probation cultures vary across settings and over time but core features include: long office hours and group solidarity; high levels of organization and computer literacy; multi-specialism; weariness and cynicism about the probation service and NOMS; a yearning for autonomy and opportunities to be responsibly creative; valuing thinking and reflecting; managing emotional responses (their own and those of offenders); belief in change and their own ability to effect (and affect) it; probation work as 'more than a job'; feminisation; liminality (a willingness to work 'on the edge' and in the 'gaps').

In our later book we concluded that

> . . . probation cultures are complex but, if properly understood, do not undermine the objectives of offender management nor need they be feared by management, the government or the media. However, attempts to dismantle or dilute these cultures by fragmenting probation work and

> parcelling it out to the lowest bidders, may be counter-productive by loosening the 'ties that bind' probation workers to what was described to us as an 'honourable profession' and thus devaluing their commitment to their core universal value of reducing crime by working with offenders who are conditionally at liberty. It would be courageous for both NOMS and the government to respect that this work inevitably involves a willingness to work holistically and optimistically, though not naively, with uncertainty, ambivalence and (to a degree) failure. Someone has to do it. (Mawby and Worrall 2013, p. 154)

Possible Futures for Probation: Civil Courage in the Face of Adversity

The conclusion to this chapter will aim to combine the four themes of my reflections by examining the possible consequences of 'Transforming Rehabilitation' for the retention and development of probation cultures:

> Probation is an honourable profession that has survived several governmental onslaughts on its integrity in the past 30 years. By far the most far-reaching and damaging has been Transforming Rehabilitation and it is not unreasonable to talk about the end of Probation as we know it and the salvaging of a legacy as the best we can do in the circumstances. However, this narrative of decline runs the risk of doing a disservice to the thousands of probation workers who remain committed to the core values, knowledge and skills of probation work and who daily demonstrate their resilience in momentously turbulent times, whether they are working in the National Probation Service as civil servants or in Community Rehabilitation Companies alongside private and voluntary sector colleagues. (Worrall 2015, p. 508)

While it is too early to have any data about the gender split of cases being assigned to the NPS and the CRC, everything we know about women who break the law would suggest that the vast majority of them will be assigned to CRCs, since they are low to medium risk and overwhelmingly serve only short sentences when imprisoned. Arguably, the relationship between probation and the voluntary sector has been at its strongest in

respect of provision for women. In particular, the concept of 'one-stop shop' provision goes back more than a decade to the opening of the ASHA Centre in 2002 (see Coulsfield Inquiry 2004). The basic idea of providing isolated and disadvantaged women with a safe women-only environment in which to achieve personal development and improved economic stability, through access to a range of services and facilities, has proved to be very successful but it remains to be seen whether the private sector will continue the commitment. Gelsthorpe and Hedderman predict limited interest: 'It is highly doubtful that new suppliers [will] be attracted into the marketplace. The level of demand in terms of sheer numbers is too small, and the complexity of women's needs too great, to make this an area for easy and quick profits. Existing suppliers are operating from a sense of moral purpose, not financial reward' (Gelsthorpe and Hedderman 2012, p. 387).

The future of Integrated Offender Management is also likely to be dependent on the interests of the private sector partners in CRCs. The assumption that IOM clients are low- or medium-risk offenders may sound logical but our recent evaluation of a local IOM (Worrall and Corcoran 2014) revealed that they tend to be the kind of 'chaotic' people whose risk assessment scores fluctuate wildly. They also tend to breach their orders with depressing regularity. In other words, they sit at the interface between CRCs and the NPS. Politically, as previously stated, the 'typical' IOM offender has also dropped down the government's priority list.

> In our study, some argued that the model is wholly inappropriate for high-risk violent and sex offenders. They pointed out that, while a multi-agency approach to such offenders may be appropriate, the IOM model is not the only one available – MAPPA (Multi-Agency Public Protection Arrangements), for example, having been around for a long time (see Hazel Kemshall's chapter). They were concerned that the specific IOM model will become either overwhelmed by the demands or so diluted in practice as to be meaningless. Others suggested that IOM could be viewed as the equivalent of 'acute medicine' for a range of offenders. Offenders could be allocated to the intensive programme for a finite period before being moved on to 'normal wards' or lower levels of supervision and monitoring. Either way, it is possible to

> distinguish between the principles of IOM – which may be widely applicable – and the interventions that need to be considered afresh and tailored for each new cohort of offenders. Finally, one must consider the as yet undetermined consequences for local criminal justice landscapes populated by influential new players in the form of Offices for Police and Crime Commissioners and Community Rehabilitation Companies. Controversial and unpredictable as these developments are, there is no doubt that the formation of offender management partnerships will in future be buffeted between the need to be both market-ready and more locally responsible. The extent to which partnerships might facilitate greater democracy as well as accountability for resources may well be a key test of their future resilience. (Worrall and Corcoran 2015, pp. 271–272)

In the 18th Annual Bill McWilliams Memorial Lecture, I suggested that the concept of 'civil courage' might provide some hope for the future of probation work. I argued that we were perhaps too ready to sympathise with the 'plight' of probation workers in the new order of TR and failed to recognise and applaud the resilience and courage they are demonstrating on a daily basis.

In particular, the controversial role of the Probation Institute is, in my view, crucial to holding together the values, skills and knowledge of the profession. It is very important that one of the first things the Probation Institute has done is to establish a code of ethics. In these turbulent times, it is important for probation workers to have an option to join an organisation that offers them support, collegiality and development opportunities based on their identity as probation workers, rather than as employees of particular organisations. Signing up to the PI code of ethics is one way in which they can retain that identity and feel less isolated as probation work becomes increasingly fragmented:

> Commonly held values are one of the defining features of an organizational or occupational culture. They contribute to a sense of 'how things are done around here', including the rituals of daily routine, the work atmosphere and shared systems of meaning that are accepted, internalized and acted upon. They are reflected in shared experiences, training and

> mutual support. They affect how practitioners perceive their work, how new employees are introduced to ways of working and how the work is done. They are also extremely important in times of external and internal change, enabling practitioners to either adapt to change or, where appropriate, to resist it. They form a common language that employees recognize and buy into. (Worrall 2015, p. 514)

It is all too easy to be pessimistic about the future of probation work now that the historical organisational structure has been torn apart. But this has happened to other public sector services subjected to neoliberal reform, such as the NHS and Education. Despite the perfectly justifiable negative analysis, committed people have to carry on working professionally and with courage, either through choice or necessity, and they deserve our support and respect, not just our sympathy. My mother's courage in the face of huge personal, social and political adversity has been a model that I hope I have learned from and one that I would want to pass on to those who remain committed to probation work, regardless of its organisational context. You belong to an honourable profession.

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Anne Worrall qualified as a probation officer in 1972 and worked in Stoke on Trent for nearly 10 years before becoming Lecturer in Social Work, first at Manchester University and later at Keele University, being responsible for the Home-Office-funded Probation stream of the CQSW and DipSW programmes at both institutions. In 1993 she moved to the Department of

Criminology at Keele and became Professor of Criminology in 2003. She retired from full-time work in 2009 but continues to carry out research on a part-time basis. She was a member of the Board of Visitors (now Independent Monitoring Board) at Drake Hall women's prison for 10 years and was a member of the Parole Board of England and Wales from 2001 to 2007. She has held honorary teaching and research posts at the University of Western Australia in Perth for the past 18 years.

Anne has two overlapping research interests. Her PhD thesis and subsequent book *Offending Women* (1990) were concerned with female experiences of the criminal justice system. She has collaborated with Pat Carlen on a number of research projects and publications.

Anne has also written widely about the politics and practices of the Probation Service, including *Punishment in the Community* (1997 and 2005). More recently she has worked with Rob Mawby, first evaluating Prolific Offender Projects and then researching the occupational cultures of probation workers, leading to *Doing Probation Work* (2013). Anne's most recent research projects have concerned Integrated Offender Management and mentoring young women released from prison – both undertaken with Mary Corcoran. She is a Fellow of the Probation Institute.

19

Retrospect: The End of Probation?

Maurice Vanstone and Philip Priestley

It would be fruitless for us as editors to attempt a simple summary or even a synthesis of such a richly figured text, to decode its 'message' as it were; and we shall not try.[1] What may be possible though is to distil from its many-faceted pages some threads or themes that promise to illuminate aspects of probation, past, present and future. One way in which they do this is that taken together, the contributions to this volume contain what amounts to an informal and partial (in at least two senses of the word) contemporary history of probation for almost half of its existence from 1907 to the Offender Rehabilitation Bill of 2013.

[1] The diversity of the chapters is indicated by the limited overlap of their references.

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The biographies of most of the authors in this book follow similar trajectories and fall into a number of discrete phases: training to be probation officers; working in the service; becoming practice supervisors for probation students; then joining university departments to teach the probation option. But what was the initial stimulus to join the service in the first place? Mawby and Worrall (2011) have classified probation officers as 'probation lifers' who go directly from graduation to professional training; 'second careerists' who transfer from other occupations; and 'offender managers'. All our authors were probation officers before the third category was an option; many of them went from first degrees to CQSW courses and others worked in health and social service settings before joining. We do not have motives for everyone; someone knew somebody who was already doing it; one responded to an advert in a national newspaper; one watched public order trials, one or two did vacation or short-term jobs in social work or criminal justice organisations and found it stimulating. During training and early work experience there were various influences – personal tutors (Bill Jordan) and lecturers (Philip Bean); schools of thought (deviance sociology, psychoanalysis, radical social work); specific texts (Fr. Biestek, Paulo Freire, Antonio Gramsci, Florence Hollis, Ivan Illich, Peter Leonard, Steven Lukes, Karl Marx, David Matza, Bill McWilliams, C. Wright Mills); and particular experiences (mostly practice placements). The cited sources fall into a number of classes; social work values and practice; mainstream sociology; deviance theory; Marxists; liberationists; radical social work; and probation history. We have more information about the Home Office-sponsored probation training than the university postgraduate CQSW courses; both reflect a Catholic and eclectic mix of inputs from authorities in different disciplines.

Into Work

After training Peter Raynor drove towards a future in probation in his Reliant Supervan and found himself in a pre-technological world where virtually autonomous professionals serviced their courts and their 'patches' untroubled by anything that looked like management. It could not last, of course, and the arrival of bright-eyed young graduates and more mature trainees itself helped create an organisational hierarchy up which they could

climb towards more money and more power (a career ladder where none had previously existed), thereby destroying the very features that had attracted them in the first place. But these developments converged nicely with a Home Office ambition (not necessarily a political one at that stage) to control what it was (largely) paying for and to create a more biddable structure for the delivery of centrally formulated objectives and methods. One way in which this was furthered was that as senior posts became more common, the Home Office tightened its grip over them, exercising a de facto veto over the promotion of 'unsuitable' candidates. Chief officers appointed before these arrangements were put in place boasted a starring cast of 'strong characters' who would not have taken kindly to the degree of regulation required by the emerging centralised and centralising regime. But in due course, time took its toll on these individualists; and the eventual lack of effective opposition from within the service to its own demise may owe something to the success of the whole process.

In the Academy

When professional training for probation staff was abolished at a stroke in 1995, some but not all of our probation scholars were obliged to re-invent themselves academically, as teachers and researchers in criminology, criminal justice or social policy, servicing courses other than their original specialism. The resulting outputs, illustrated in their separate chapters, can be grouped under three main headings: the history of probation; empirical inquiries – often but not always as commissioned research projects; analysis and commentary on policy and practice issues, values and theories.

In many of these areas they have made contributions that helped refract actual knowledge, belief, values and activity within the domain of probation and criminal law: putting women in the criminal justice system very firmly on the academic, organisational and political map; exploring, reporting and elucidating probation history; contributing to the debate over 'risk'; recording and critically responding to patterns of discrimination within the judicial sphere based upon disability, gender and race; racist violence; establishing the correlates of effectiveness in experimental projects to reduce re-offending; inventing concepts such as 'pre-emptive criminalisation' and 'the search for

equivalence'; developing alternatives to prison; devising evidence-based programmes; promoting and researching the victim interest; providing services to those who commit sexual offences, and their victims; acting as ambassadors of probation to former Eastern Bloc countries – whilst ironically threatened with extinction in one of the birthplaces of the concept; thinking deeply about the values that typify the tradition; and expressing regret, dismay and outrage at the destruction of the profession that inspired and supported all these professional achievements.

The Ghost at the Feast

There is also a 'ghost' at this feast, never wholly visible because probation thinking tends to avoid formal theory, but definitely there, shadowy, persistent, the underlying presence of determinist explanations of criminal behaviour. Is crime 'caused' by the presence of social and psychological factors in the lives of individuals: male gender, youth, poverty, poor parenting, substandard education, physical and mental health problems, addictions, antisocial associates, criminal neighbourhoods, social and economic deprivation? The question is never directly answered; the discussion hovers around allusions to the 'responsibility' of the individual for her/his crime and the extent to which she/he can be held accountable, punished or required to undergo an accredited programme based on cognitive-behavioural principles. There is of course a point of view that all these factors can be predictive and that they combine with personal traits in ways as yet not deciphered leading to delinquent behaviour. But since there is no clear outcome to this debate (a fudgy combination of nature and nurture is the commonest conclusion) it is most often sidelined to that vast hinterland of imponderables which surround almost every area of human endeavour to help others in their hours of need.

Public Intellectuals

Occasionally, the academics in this collection soliloquize on the wider functions served by their calling: how to win friends (public opinion) and influence people like policy makers via publication, publicity, new

media, conferences, letters to editors. Wendy Fitzgibbon, writing with John Lea, says that 'links with radical academic researchers, have continually sustained the residues of traditional rehabilitation methods in which desistance is a matter less of "management of criminogenic needs" than of reintegration into work and community networks' (p. 169).

Other models for the role include Joan Petersilia's 'embedded criminologist'; Foucault's 'specific intellectual' which Marilyn Gregory describes as practitioners 'taking a critical stance on broader probation policy and on the day to day practice they were carrying out' (Gregory p. 184); and Gramsci's 'organic intellectual' – an occupationally based scholar with expressive and revolutionary potential. But the probation academy by and large eschews formal theory (the chapters that don't add spice to the mix); the collective outputs of its members faithfully reflect and reproduce the professional roles they once held: principled, pragmatic and helpful.

Going Underground – Probation's Secret Weapon?

It is a curiosity of the intellectual influences during training cited by authors that the widely taught theories of deviance and radical social work are sharply critical of standard practices in probation. In fact, anyone who took them truly to heart would pack the job in pronto. Instead they are 'kept in mind', accommodated and incorporated into a world view that takes account of warnings about the dangers of 'labelling' or 'the velvet glove on the iron fist' of state repression, in ways that let the informed practitioners get on with the practical work at hand.

One of the reasons for this super-absorbency is that behind all the theories and schools of thought (not always in public view), there can be discerned what might be called the 'deep structure' of social work – the casework model; a set of ideas that revolve around the 'relationship' between the worker and in terms of probation the probationer (an idea dating from the origins of the probation experiment) and celebrated by Fr. Biestek as the 'soul of casework'; the cherishing of the individual; and a pragmatic choice of methods to solve particular problems in their lives. The original friendship/relationship concept and the common sense utilisation

of methods and services have stood the test of time in probation and seen off successive pretenders to the crown; the medical model and 'treatment'; psycho-analysis; the 'justice' model; and cognitive-behavioural therapy, all the while taking elements of theory and practice from each of these approaches and incorporating them without breaking stride into the simpler and more enduring formulation of 'relating' and 'helping'. 'Desistance' theory has not been around for long enough to be seen off, but would no doubt have followed the same path as its predecessors, its insights and innovations woven into the pre-existing fabric of casework.

Paul Halmos, in his influential book '*The faith of the counsellors*' (Halmos 1965), argued that the counsellor was an influential moral agent who 'must apply a sociopsychological science to the control of his work' but that the science is 'somewhat blurred at the edges' (p. 109). He contrasts evidence-driven work in other sciences with the fact that 'in counselling, the theoretical generalisations often lead straight to action, even when they have not yet been verified' (p. 109). He talks about 'the moral resolve to act on faith' (p. 110) and counsellors viewing the act of helping as 'an unanalysable personal and molar performance' (p. 111).

Interviews and online surveys with serving and new entrant probation staff revealed what John Deering characterises as a process of 'resistance' whereby they 'acknowledged' management policies but carried a different 'emphasis' into their face-to-face work with probationers. He relates this emphasis to what he calls 'the probation ideal'. The responses also reflected a growing gulf between managers who espoused and practised the offender management policies of the agency and the ground-level staff who worked directly with probationers and held to what increasingly appears to be a subterranean form of internal opposition. Similar sentiments appear in the interviews conducted by Marilyn Gregory where probation staff resented spending time on things like OASys[2] and cherished '*golden* moments' when they could offer people 'what they need'. For Philip Whitehead 'the unifying thread weaving its way

[2] OASys is sometimes seen as a tool for the mechanisation of probation, a harbinger of relationship-less management of cases – another view of it is an attempt by the Home Office to avoid paying repeat test fees for the copyrighted LSI-R scale by developing its own version of a risk/needs scale.

through all the paradoxes and dilemmas is a commitment to a personalist philosophy concerned with the meeting of human need'.

A complex pattern of historical currents surrounds this history of 'resistance'; the attractions of folk theories and unverified models like TA, Heimler, Family Therapy etc. because they offered tangible frameworks and a move away from vague theoretical generalisations; officers seeking to reduce their level of discomfort (cognitive dissonance) at the contradictions between what they came into the job to do and the (changing) demands of agency policy; and ideological opposition to new ways of working. There were elements in NAPO (and elsewhere) opposed to programmes and resistant to evidence-based practice, arguing that they embodied a focus on psychological causes of crime and the individual; a stance that didn't help the service politically – a chance to seize the political initiative was lost.

Casework however provides a simple yet profound set of values, beliefs and practices that have endured throughout all the changes of the last 60 years – part of the glue that has held a semblance of the good ship 'Probation' together through thick and thin, through fair weather and foul, through the 'golden age' and more latterly a prolonged stay on death row without hope of reprieve. Its appeal and its strength derive from its essentially a-theoretical character and the pragmatic eclecticism of its working practices; its convictions inform a 'felt' rather than a 'thought' world view. Whether and in what form it will survive the current train-crash is another question.

Silver Linings?

Bad dreams fade when sleepers wake but no such exit still exists for probation workers who have witnessed the destruction of their agency in a firestorm that has obliterated a tradition, an organisation, a profession. So is there to be found anywhere amongst the clouds that hover over ground zero where once probation stood, and that darken many of the memoirs in this collection, any sign whatsoever of a silver lining? The short answer is 'no'. But here and there in this book there are efforts to look on the brighter side. Rob Canton, for one, hopes that 'the not-for-profit sector may be able to undertake much excellent work and stimulate the National Probation Service', and thinks that 'the "user voice" is

becoming louder and more confident. Although there has been an enormous amount to admire in its history, probation, like too many other public services, has not tried to learn nearly enough from its clients'. Desistance theory, he thinks, has reversed this trend, asking 'people about their "pathways" into and out of crime, attending to their reasons and to the meanings with which they invest their behaviour. Now it is becoming impossible to ignore these perspectives and user groups are growing in assertiveness and political sophistication' (p. 72).

For John Deering, the only hope for the future is that probation, in any of its many organisational forms, might continue to attract workers who 'have believed in the service's potential for facilitating individuals' ability to change' which he says has been seen as most likely via the provision of empathic 'help'. If it does, then, he believes 'that probation work might still be done in a curious, optimistic and flexible way, and not simply reflect late modern obsessions with punishment, law enforcement and risk' (p. 114) Mark Drakeford thinks there is scope for 'bridging and brokering' as a necessary role for a new probation service. A speech by Conservative Prime Minister David Cameron in February 2016 gave Marilyn Gregory hope that fewer women might end up in prison in the future and 'that despite the changes to probation training, people who put themselves forward to work with people who have committed offences have a deep commitment to helping those who are often seen as "the other"' (p. 190).

No need to be an avid reader, nor an ardent adherent of the works of Immanuel Kant (1724–1804), nor even to know much about him at all, to admire the ambition of Philip Whitehead's proposed reconstruction of probation along Kantian lines. Kant's world view is built into Biestek's opus on casework (1957), especially the imperative to treat all human beings as ends in themselves and not means to anything else – a fundamental, unconditional and existential respect. Philip's diagnosis is that neoliberal thinking and policies have 'de-moralised' probation in two important meanings of the word. Probation workers have been personally demoralised in the sense of experiencing a loss of morale. But on the larger stage the institution of probation has been demoralised by having its essentially moral purposes sheared off to prepare the corpse for sale to private enterprises whose prime aim is to make

money from their undertakings.[3] The only response, he insists, is a profound re-moralisation of the service along Kantian lines.

'One day it will be needed again', says Peter Raynor of probation. 'No Government is permanent' he continues 'and when the public tires of the cruelty and hypocrisy of the "low welfare" society we may see a rediscovery of the general commitment to universalist welfare services which provides the best environment for probation's revival' (p. 256). For his part Maurice Vanstone is emphatic in his plea for the values of the pioneers to be joined to modern empirical procedures for more effective probation practice, saying simply: 'There is no alternative.'

Envoi

So here we are, at the end of days for the probation service, with a version of events that serves a variety of purposes. In one sense it has sat as a coroner's jury on the death of an agency with a distinct and distinguished history. There are those amongst our probation scholars who see it as a requiem for an occupation now disappeared apparently beyond retrieval over the horizon of the recent past. It can also be read as a festschrift to what these writers have made of their post-probation lives in academia. They have, amongst other things, pursued one of the original tasks of their profession – in this case 'to advise' on the basis of scholarly inquiry, analysis and publication in fields and on topics relevant to its practice. These reflections also constitute a heart-felt call for the restoration of what has been the human face of criminal justice for more than a century in England and Wales. No better way then to say farewell than to repeat Anne Worrall's double tribute, urging 'civil courage in the face of adversity'. 'My mother's courage in the face of huge personal, social and political adversity has been a model that I hope I have learned from and one that I would want to pass on to those who remain committed to probation work, regardless of its organisational context. You belong to an honourable profession.'

[3] It can also be argued that neoliberal dogma has demoralised developed economies *and* their associated civic cultures.

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