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DIVERTING YOUNG ADULTS FROM CUSTODY: THE EFFECTIVENESS AND POTENTIAL OF SPECIALISED PROBATION ORDERS

Peter Raynor

POLICY BACKGROUND

The research outlined in this paper, although locally based, relates also to national policy concerns about the role of the Probation Service, and in particular its response to the opportunities created by the 1982 Criminal Justice Act to develop "strengthened" or "enhanced" probation orders. The broad policy debate about how far the development of "alternatives to custody" imposed a new and unwelcome coercive role on the Probation Service has ranged for many years, and will be familiar to readers through discussions elsewhere (e.g. Walker and Beaumont, 1981; Raynor, 1985; Pointing, 1986). The more specific issue of "strengthened" probation orders has been controversial since first proposed by the Younger Report on "Young Adult Offenders" in 1974, and has been given a sharper focus by the case of Cullen v. Rogers in 1982, in which the House of Lords ruled that probation orders could not be used to impose daily attendance requirements except at the four designated Day Training Centres. The Criminal Justice Act later that year responded to Cullen v. Rogers by abolishing the Day Training Centres and creating new powers for the inclusion of "positive requirements" in probation orders; further, the Home Office "Statement of National Objectives and Priorities" (SNOP) invited the Probation Service to justify itself primarily through the provision of alternatives to custody.

Service responses to SNOP have been varied (Lloyd, 1986), and in some Areas marked ideological divisions have emerged between advocates of alternatives to custody and practitioners who see themselves as resisting a drift towards more coercive and controlling Probation Service functions. One such Area was studied in detail by Bullock and Tildesley (1984), who report a bewildered magistrate: "Is it not sad that legislation intended to reduce the population of our prisons may well be virtually ineffectual by reason of the decisions of the Probation Service, of all people?" A more recent survey (Parker *et al.*, 1987) suggests that while most Areas are trying to implement the 1982 Act, much disagreement remains, and the authors speculate that the new developments may have little impact on custody rates.

Broadly speaking, current attitudes within the Service still range from the enthusiasm of some managers for control, containment and deterrence (competing with custody by imitating custody, like the Kent Probation Control Unit) to a marked scepticism among many practitioners (e.g. Drakeford, 1983) about the use of any additional requirements in probation orders to create "alternatives to custody". The libertarian opponents of additional conditions allege that they risk increased breach rates (and consequent escalation into custody, through over-surveillance), that they risk dragging offenders up the sentencing tariff through net-widening or the incorporation of clients who could have been dealt with by less intensive measures, and that they represent a sell-out to "law and order" ideology by devaluation of the Service's traditional social work values and practices. Their opponents allege a lack of "credibility" in the conventional probation order and a need for both political "realism" and for a demonstration of an effective impact on sentencing patterns.

Both sides can point to some evidence, particularly in the history of juvenile justice initiatives; there are examples both of failed diversion from custody with unintended adverse consequences and of a reduction of custodial outcomes through a combination of well-designed "alternatives" and good system management strategies (for instance, Thorpe et al., 1980; Longley, 1985; Raynor, 1987).

Failure to resolve conflicts of this kind makes development difficult, particularly as Probation Service projects based on the 1982 Act are still relatively new and little evaluative information is available. The arguments seem to become polarized and politicised in inverse proportion to their empirical base. In principle, it seems that most concerns could be satisfied by the use of schedule 11 of the Act in a manner which both reduced custodial sentencing and offered useful help to offenders, without devaluing or replacing the traditional probation order. Given the absence, as yet, of any nationally coordinated research into these important issues, studies of local practice innovations become particularly important. This paper reports some findings from one such study, involving evaluation of a project which began well before the 1982 Act with the result that follow-up of its clients is now available.

THE STUDY

The project concerned began in the Afan (now Port Talbot) petty sessional division of West Glamorgan in late 1980 as a response to low use of probation orders and high custodial sentencing for young adult male offenders in Port Talbot. Local sentencers were involved in initiating the project, and responsibility for its development rested mainly with Mr. Deri Lewis, a local probation officer with substantial experience in groupwork with offenders. It became known as the Afan Alternative project, and involved the inclusion in probation orders of a requirement to attend one or two group sessions a week during the first 6-9 months of a probation order; thus it anticipated in its design many of the projects now developing from Schedule 11 of the 1982 Criminal Justice Act. From the outset its objectives included both the provision of an alternative to custody for the target male age group, and the provision of a more helpful and constructive experience for offenders on the project than the custodial sentences it intended to replace.

Groupwork methods on the project were innovative, involving a combination of physical training, psychodrama and sociodrama focussed on everyday life situations in which project members experienced difficulty or caused trouble to others; other features included close contact with families, a regular presence in Court, clear contracts with offenders involving clear expectations about behaviour, and close links to the local community through a local management committee which included sentencers and other key figures in the local criminal justice system. Another unusual feature was that provision for independent evaluation was built into the project from the beginning, at the request of project staff and with the cooperation of the local service. The evaluation was able to encompass the first five operational years of the project and (with the aid of a small grant from the Nuffield Foundation but nothing from the Home Office) it included an analysis of outcomes in relation to the 79 offenders supervised during those five years; thus it provided a larger base of information about a local "alternative" probation project than is yet

available from comparable projects elsewhere. The study included a 1-year reconviction follow-up for all 79 offenders, and a 2-year follow-up for the first 66. (Continuing evaluation of the project beyond its first five years is now being undertaken by the Probation Service itself.)

The detailed results of the evaluation, together with a history of the project in its local context, can be found elsewhere (Raynor, 1988), but those findings of particular interest in relation to the Probation Service's involvement in alternatives to custody can be summarised as follows:

- i) Diversion from custody. The project was successful in bringing about a marked reduction of custodial sentencing in the target group, at a time when custodial sentences for this group were increasing nationally (see Tables 1 and 2). Its clients resembled, both in previous convictions (averaging over 5 each) and in the nature of their current offences, offenders receiving custodial sentences elsewhere rather than offenders normally placed on probation or community service (see Tables 3 - 6); a third had already been in custody. There was no clear evidence of "net-widening", and "normal" probation orders and community service orders in the relevant age group did not disappear from the Court's repertoire.

- ii) Tariff escalation. Despite the expectation of close adherence to project requirements, administrative breach proceedings were rare (only 10 in five years) and resulted in custody in only two cases; the others remained with the project. More than half of those who reoffended were dealt with by non-custodial sentences (Table 7) and in several cases returned to the project, so there was no evidence that the project operated to accelerate recruitment to custodial sentences. Project staff were aware of this risk and usually took steps to avoid it when preparing reports on reconvicted clients.

- iii) Helpfulness to clients. Project clients' self-reports about the nature and level of problems in their daily lives were obtained by completion of a Mooney problem checklist (Psychological Corporation, New York) before and after the period of compulsory group attendance on the project. Project members who were reconvicted early were not available to complete a second checklist but, of the majority who were, about two-thirds reported a reduction in the social and personal difficulties they faced (see Tables 8 and 9). While this is not evidence that improvements were a consequence of the project, spontaneous improvement was perhaps not very likely for this group, and a positive outcome is certainly more consistent with project objectives than a negative outcome.

iv) Reconvictions. As opposed to the conventional wisdom that "nothing works", there was evidence of a significant reduction in reconviction risk for project members - that is, their reconviction rates over two years were substantially lower than the nationally recorded rates for comparable groups of offenders on release from custodial sentences (see Tables 10-12). There was also some indication that offenders reporting a reduction in problems were less likely to reconvict afterwards than offenders reporting an increase in problems. This is reminiscent of Lipton, Martinson and Wilks' conclusion that if work with offenders in the community "is directed towards their immediate problems, it may be associated with reductions in recidivism rates" (Lipton et al., 1975).

Overall, then, the results of the evaluation were quite encouraging, suggesting that projects of this kind can have a helpful impact both on local criminal justice systems and on offenders, without inviting all the unintended adverse consequences predicted by opponents of additional requirements in probation orders. The full results of the study tend to confirm this picture, and suggest that the effectiveness of the project was significantly enhanced by good gatekeeping, reasonably effective referral systems, clear contracts with offenders, clarity about project rules and expectations, close involvement with local courts and community, demanding methods which engaged the interest and involvement of clients, skilled staff, and careful monitoring. The project also operated much more cheaply than custodial sentences, at about £56 per client week during the period of required group attendance, compared to over £260 in young custodial establishments; however, a "normal" probation order in 1984 cost about £13 per week, and it is clear that the costs of moving probation orders substantially up the tariff are likely to be higher than seems to be envisaged by SNOP.

This brings us back to the wider policy issues raised at the beginning of the paper. The project research has added at least a little more empirical weight to the argument that enhanced probation projects can be feasible and can be compatible with social work objectives when they are used as part of a strategic approach to intervening in and influencing criminal justice processes. Such an approach would aim both to reduce reliance on coercive measures and to increase opportunities for clients to participate in activities relevant to resolving problems which they themselves regard as important. This dual commitment, to social work values and to evidence of impact on the criminal justice system, can help to inform a more purposeful and effective practice.

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TABLES

(National comparison figures are drawn from Home Office Criminal Statistics, Prison Statistics and Probation Statistics.)

TABLE 1

Sentencing of males aged 17-20 for indictable offences
in Afan PSD

	1979	1980	1981	1982	1983	1984	1985
Discharges	2	7	11	3	4	9	6
Fines	80	66	82	96	92	76	75
Probation	4	8	9	21	14	12	7
CSO	11	6	15	9	20	24	15
Suspended Imprisonment	10	8	11	3	6		
* (DC (YC (Prison [immediate and (part suspended] (Committed for sentence	9	6	4	6	5 6	11 9	7 8
Others	6	9	3	8	2		
	10	7	4	2	3	1	0
Others	0	2	3	3	2	0	0
Total	132	119	142	151	154	142	118
*Custodials as percentage	19	18	8	11	10	15	13
Probation as percentage	3	7	6	14	9	8	6
Number of Afan Alternative orders included	0	4	8	14	7	10	4

TABLE 2

Summary of sentencing: males aged 17-20, Afan PSD

	Before project 1979-80 %	During project 1981-85 %
Non-custodial	81	89
Custodial	19	11

TABLE 3

Previous convictions of project members
and custodial receptions

	Project members %	Males 14-16 entering custody %	Males 17-20 entering custody %
0-2 previous	20	47	28
3-5 previous	42	39	38
6-10 previous	29	12	28
11 and over	9	1	6

TABLE 4

Proportions in Home Office offence groups:
Project members and receptions into custody

	Project %	Custody %
Violence against the person	13	16
Sexual offences	0	1
Burglary	42	37
Robbery	0	4
Theft, handling, fraud	33	28
Others	13	14

TABLE 5

Project members and national entry into probation
and community service, by offence group

	Project %	Probation %	CSO %
Violence against the person	13	7	9
Sexual offences	0	3	0
Burglary	42	26	24
Robbery	0	1	0
Theft, handling, fraud	33	47	48
Others	13	16	18

TABLE 6

Previous histories of project members compared to national
caseload of probation orders and community service
in age group 17-20 in 1984

	Project members	National Probation (males)	National CS (persons)
Percentage having no previous convictions	1	18	11
Percentage having previous custodial sentences	34	25	35

TABLE 7

Sentences on first reconviction
(N = 39)

Custody	18
Suspended sentence	1
Fine	9
New Afan Alternative order	5
Community Service	4
Deferred sentence	1
Failed to appear	1

TABLE 8

Summary of changes in self-reported problems
on follow-up (N = 57)

Project members	
Increase in problems reported	18
Decrease in problems reported	38
Same level of problems reported	1

TABLE 9

Summary of responses to follow-up
problem checklist (N = 57)

	Mean problem scores	Mean differences from same group's initial scores
Work	5.3	-2.1
Money	6.9	-1.5
Law	4.8	-2.0
Health	1.8	-0.7
Social	6.9	-1.9
Personal	7.7	-2.7
Family	8.9	+0.1
Total	42.3	-10.8

TABLE 10

Cumulative reconvictions of project members
(N = 79 for 6-month and 12-month follow-up;
N = 66 for 24-month follow-up)

Months from date of order	Numbers reconvicted within period	Proportion of N
6 (N=79)	15	19%
12 (N=79)	35	44%
24 (N=66)	35	53%

Reconvictions excluding trivial offences not counted
for Home Office reconviction statistics
(corrected reconvictions)

6	15	19%
12	33	42%
24	33	50%

TABLE 11

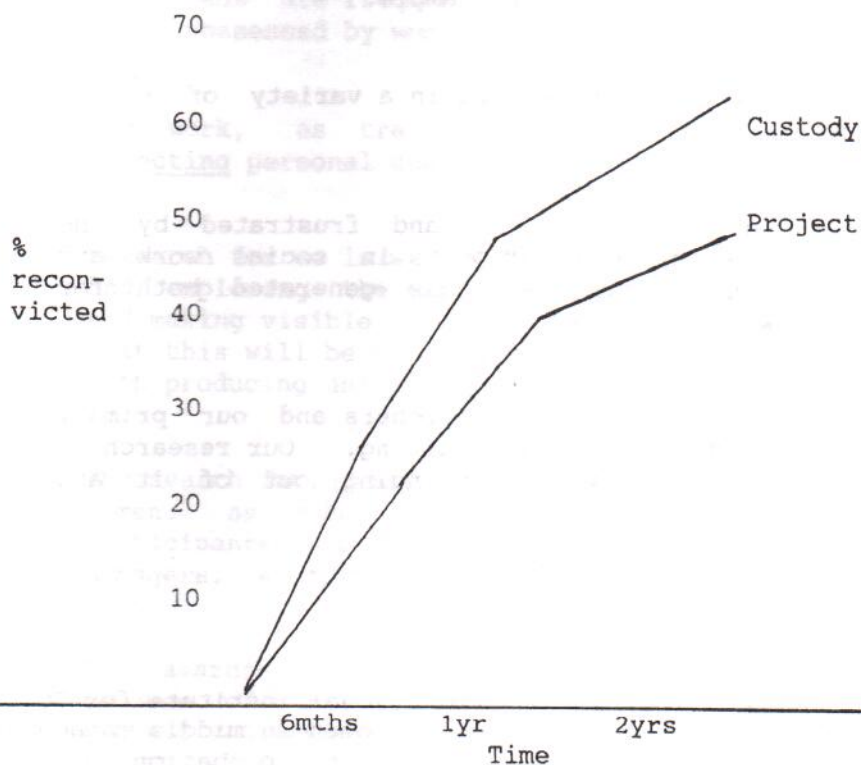
Offences on first reconviction (N = 39)

Assault GBH	2
Assault ABH	6
Burglary	12
Theft	13
Criminal damage	2
Drugs	3
Public order (trivial: not counted for "corrected" rate)	2

TABLE 12

Cumulative reconviction rates of project members
and offenders leaving custody

Proportion reconvicted within time periods (%)						
Months from date of order/ release	Project members (all)	Project members aged 17-20	Detention Centre 17-20	Borstal 17-20	All young male offenders	
					14-20	17-20
6	19	21	22	25	26	25
12	42	39	39	46	48	46
24	50	50	59	65	66	63



Reconviction rates of project members aged 17-20 and male offenders aged 17-20 receiving custodial sentences.