



## Prisons and Probation

## Evidence versus politics in British probation

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At the beginning of this century the Probation Service of England and Wales (these two countries have separate Governments but form a single jurisdiction for criminal justice purposes) was regarded as one of the strongest and most advanced in the world. Twenty years later it finds itself under-resourced, understaffed, organisationally fragmented and partly demoralised, with little idea how it will look or how it will be run a couple of years from now. This is largely due to a series of decisions taken by politicians which were (believe it or not) intended to improve the Service, but which were not adequately informed by evidence or by an understanding of practical realities. The story of how this happened is an object-lesson in how not to do criminal justice reform and is summarised here in the hope that it may act as a warning to other jurisdictions.

To understand what went wrong, and what might be done about it, we need to look a bit further back, and my starting point is the development of the Welfare State in Britain after the second World War. Probation services in Britain were well established by then, and like other welfare services, they had good prospects for further development. Max Grünhut, a German lawyer and criminologist who escaped from the Nazi regime and established the teaching of criminology at Oxford, wrote 'Probation is the great contribution of Britain and the USA to the treatment of offenders. Its strength is due to a combination of two things, conditional suspension of punishment, and personal care and supervision by a court welfare officer. With the growing use of probation, social case work has been introduced into the administration of criminal justice ...' (Grünhut, 1952, p. 168). A few years later Leon Radzinowicz, another refugee from Nazi domination of Europe who founded the Cambridge Institute of Criminology, wrote 'If I were asked what was the most significant contribution made by this country [i.e. England] to the new penological theory and practice which struck root in the twentieth century ... my answer would be probation' (Radzinowicz, 1958: x). In addition to such expert endorsements, probation services were well respected and an integral part of both the developing social work profession and the criminal justice system. They were run by County-level committees which consisted mainly of magistrates, giving the main users of probation a stake in its success and a good understanding of how it worked. Chief Probation Officers played a significant role in social work's professional organisations, and expansion and development continued fairly smoothly until the 1970s. Even the proliferation of negative or discouraging research findings about the capacity of different sentences to reduce offending (for example, Martinson, 1974) did not

significantly undermine probation in Britain, as it developed a new and useful mission as the provider of alternatives to custodial sentences. Governments were keen to encourage this for financial reasons. In this way the Service largely avoided the cuts in public services which were imposed by a Conservative government during the 1980s.

### 1. Populist punitiveness versus 'What Works'

The tide began to turn in 1993. A Conservative Minister, hoping to achieve popularity through a display of toughness, declared to his party's annual conference that 'prison works', signalling an end to 'alternatives to custody'. The Probation Service, under considerable political attack, needed a new way to present its role, and in due course its leaders (particularly the Chief Inspector of Probation, Graham Smith) launched the 'What Works' initiative to develop the Service's effectiveness in reducing reoffending (Underdown, 1998). By this time the 'nothing works' consensus of the 1970s was being replaced by new research which showed that some ways of working could have a positive impact on offenders' behaviour. Probation leaders and researchers were strongly influenced particularly by Canadian studies of effective rehabilitation (for example Andrews et al., 1990) and by British psychologists who disseminated similar ideas (such as McGuire, 1995). Money from a new Government of a different political colour enabled the establishment of 'Pathfinder' projects to develop and evaluate new methods, with a particular (though not exclusive) emphasis on cognitive-behavioural group programmes, and for a while at the end of the last century and the beginning of this, England and Wales were seen as global leaders in a very ambitious and comprehensive 'What Works' exercise. Gerhard Ploeg, a leading figure in Scandinavian probation, told the Confederation of European Probation that 'The Probation service in England and Wales has always been in the vanguard in these developments, and many other European countries are watching it like a hawk, ready to accept that which seems to be working and to criticise that which isn't' (Ploeg, 2003, p. 8).

Unfortunately the results of the 'Pathfinders' were not as good as probation's leaders hoped (Raynor, 2004). Over-rapid and top-down centralised implementation did not give probation staff time to understand and adapt: many of the new methods eventually became established, but this took at least twice as long as the three-year period allowed for the Pathfinders to prove themselves. In addition, political changes

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were reinforcing central Government control over probation, so that probation policy became more politicized and local influence and control, particularly by the Courts, was diminished. A new Criminal Justice Act in 1991 had redefined probation as a punishment in its own right (no longer Grünhut's 'conditional suspension of punishment') and in 2001 the Service became the National Probation Service, run from London. This also meant it was very visible to London-based politicians, and vulnerable to politicians of both major parties who wanted to be seen as 'tough on crime'. In 2004 the Probation Service was merged with the larger and wealthier Prison Service to form the National Offender Management Service, which in theory might have led to better integration of offender management across the criminal justice system but in practice meant that the central administration of probation was dominated by officials who understood the needs and practices of prisons better than they understood probation.

## 2. Evidence versus delusion

Practice in the meantime had become dominated by risk assessment and risk management, with some officers having to spend more time on their computers than with the people they were supervising, and with a new official focus on enforcement as a priority. The evidence-base of practice remained primarily psychological, and there was less time to address social circumstances and social needs or to link people into the other services from which they could benefit. Probation officer training had been disconnected from social work training. However, the biggest changes were yet to come, as a new Conservative-led Government looked for opportunities to reduce social spending and to marketize public services by moving them into the private for-profit sector. A new Government Minister, Justice Secretary Christopher Grayling, was a particular enthusiast for privatisation and saw this as a way forward for probation. There was, in fact, no evidence to suggest that this was a good way to run community corrections in Britain, or that this might be profitable for the private companies jostling for a slice of the criminal justice pie. The Minister was encouraged to pilot the proposed arrangements but stated that there was no need to do so. This egregious example of evidence refusal was motivated by blind faith in markets and a right-wing Conservative tradition of scepticism about State-funded public services, and in 2014 seventy per cent of the Probation Service's work was handed to private companies, some with little criminal justice experience (Raynor, 2020).

After implementation in 2015, it quite quickly became clear that the private companies (known as Community Rehabilitation Companies) were in difficulty, and a series of inspections by the independent Inspectorate of Probation consistently showed them to be performing considerably worse than that part of the Service which had remained public. The companies had exaggerated what they could offer, and only a high degree of magical thinking by politicians could explain their confidence that the new arrangements would work. Before long the companies were trying to maintain profitability by making about a third of their staff redundant, leading to over-large caseloads handled by often inexperienced people. In short, although some innovations were

interesting, overall the private companies damaged the services they claimed to be able to improve, leaving them in 'a worse position than they were in before the Ministry embarked on its reforms' (Public Accounts Committee, 2019 summary: 1). Eventually, after four years of bad results, politicians had to recognise their mistake. The decision has now been taken, by a new Justice Secretary, to terminate the contracts of the private companies and to re-unify probation as a public service. This is already happening in Wales, and England is following.

It is, of course, encouraging to see a bad policy decision reversed by considering the evidence; this does not always happen. However, the new Probation Service faces a considerable task of reconstruction and recovery, and discussions are still continuing about exactly how it should be organised and managed. Many commentators favour a greater degree of local involvement in governance with the restoration of some judicial input, not just central control by civil servants in London. In addition, practitioners and their managers need to be able to focus on the development and use of evidence-based skills, informed by what we already know about how to promote rehabilitation and desistance from offending. The coronavirus pandemic has shown that Government spending on public services is necessary and unavoidable, and there is less political clamour to shrink the State and hand over services to private enterprise. However, the post-Covid world will be short of money, and criminal justice will have to compete with other strongly justified demands for public expenditure. Perhaps the most important lesson learned from the rise and fall of British probation is that there is no magic bullet to bring about a step-change in the effectiveness of probation services: development needs to be gradual and incremental, and informed at every step by evidence and evaluation rather than ideology.

## Declaration of competing interest

The author has no competing interests to declare. Any opinions expressed are solely those of the author.

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