



TALK TO THE HOWARD LEAGUE, SCOTLAND: 25TH NOVEMBER, 2003.
By Cedric Fullwood

1. Robin MacEwen's invitation to give this talk asked me to reflect on the commitment by the Scottish Executive, in their document "A Partnership for a Better Scotland", to "publish proposals for consultation for **A SINGLE AGENCY** to deliver custodial and non-custodial sentences in Scotland with the **AIM OF REDUCING REOFFENDING RATES.**" (my emphasis) This commitment appears in what to my reading is an overall bold document, in the section on Justice which also includes Youth Crime. It is a High Level Commitment in a subsection on reform of the courts and the legal system.

2. I worked for nearly five years in the Scottish Office a long time ago (1978-82) and I cannot pray-in-aid that experience to comment on what has happened in the intervening twenty years, and less so on the current significant proposals for reform. If I have any authority to comment it probably derives from two sources. Firstly my six years working on Youth Justice Reforms in England and Wales – at the heart of which was a single aim "to prevent offending", enshrined in legislation (Crime and Disorder Act, 1998). Secondly my participation in the debates and initiatives surrounding the working relationship between the prison and probation services. This includes strategic reviews in the late nineties as to whether there should be a merger of the two services, through to this year's Review of Correctional Services (undertaken by the business man Pat Carter.)

3. Can I make a temporary diversion at this early point in my talk to comment on this phrase "Correctional Services". A North American phrase that since the early nineties has infiltrated the terminology of Home Office discourse. Initially used to cover probation and prison services, it was later used to designate structural change within the Home Office itself, and more recently has been used in the nomenclature of one of the new Permanent Secretary posts, namely, 'Commissioner for Correctional Services'. In the last two years the term 'correctional services' has, quite inappropriately in my view, begun to incorporate 'youth justice services'. I believe this term 'correctional services' is a retrograde development, introduced with no public debate about its relevance and implications. I notice that the phrase has begun to surface in Scotland! "What's in a name?" you might ask. Well I believe that the name given to institutions and services is vitally important and hugely symbolic. Why we have to ape North American jargon is beyond me. It is not as if the effectiveness of their 'correctional services' is all that impressive. The phrase 'Community Justice' appears to me much more appropriate and encapsulates that sense of 'justice' on the one hand, and that dealing with offending and breakdown is a truly 'community' responsibility on the other. (I did wonder, as I noticed the enthusiasm for the term 'corrections', whether our prisons would soon be renamed "Houses of Correction"!)

4. In this paper I wish firstly to reflect on my experience of the Youth Justice Reforms in England and Wales and highlight some aspects which may be of interest. Secondly I will summarise some of the key issues in the "Single Agency debate".

First of all the **YOUTH JUSTICE REFORMS** in England and Wales which deal with young people up to the age of 18. The seminal document from the past for Scotland was the Kilbrandon Report, borne out of concerns in the nineteen sixties over how the courts dealt with children and young people; how diversion and coordinated interventions could be better delivered; and the development of a visionary ideal for a wider social work services

structure at local level. I am also aware of the tenacious defence practitioners in the Childrens Hearings System can mount in the face of any attempts to undermine the founding principles. In England and Wales in the early nineties there were grave concerns about how the youth justice system was functioning.

- The decade began with police, parliamentary and media outrage at prolific offending by some, often very young, offenders going unchecked. An outrage seemingly encapsulated in the single and tragic murder of James Bulger.
- Other concerns focussed on repeated offending on bail; the apparent 'failure' of cautioning; the turgid processes of courts and the legal system, summarised in two words: delays and responsibility. 'Delays' because it took over 140 days on average for a case to conclude. 'Responsibility' because the child and parents seemed often to be mere passive observers to the processes effecting them.
- When it came to supervision there was a discrediting of what were classed as non-interventionist approaches (based on a "they'll grow out of it if left alone" philosophy).
- And the failure and at times abuse within the residential sector.

6. Our seminal report (not as philosophically inspired as Kilbrandon) was the Audit Commission Report 'Misspent Youth' (1996) followed through by the new Labour Government in 1997 with the establishment of a Task Force on Youth Justice, and then the Crime and Disorder Act of 1998. The Task Force originally recommended a single aim for all agencies working in the Youth Justice System, similar to yours, it was "to reduce re-offending", but ministers, quite correctly (and I think hugely symbolically) re-cast the aim as "to prevent offending". I'll return to the subject of a single aim.

7. However let me highlight what I consider to be the ground breaking elements of the new arrangements which the Youth Justice Board was empowered to implement. There are eight features that I will mention, some which have echos to developments in Scotland:

- a National Board of 11 members bringing their experience to direct and guide the changes;
- the political will and Ministerial involvement in grappling with the courts (including the Crown Courts), police, CPS and other parts of the criminal justice system, to reduce delays (with the Home Secretary and other Departments' Ministers actually going out to the main centres where delays were most severe, chairing multi agency meetings and returning on a number of occasions to ensure progress promised was made);
- the establishing of multi agency teams (Youth Offending Teams) with five core partners (social work, probation, police, health, education), directed locally by a Steering Group chaired by the local authority Chief Executive (the latter's role being crucial, not only to the steering group but to give authority to access mainstream services);
- an emphasis on prevention, from Parenting Orders, summer play schemes, police work in schools, Restorative Justice schemes, final warnings and related interventions, and more lately, Referral Panels;

- initiatives to tackle persistent offenders, in particular what became known as the Intensive Supervision and Surveillance Schemes, including the use of new technology;
- the commissioning role of the Youth Justice Board with regard to the secure estate (Local Authority Secure Units, Young Offender Institutions, Secure Training Centres), its powerful contracting role, the setting of its own standards, in particular regarding the provision of safe regimes with education and training;
- the role of the private sector in particular, as well as the independent sector;
- the monitoring, research and development role of the Board – one aspect of which I would draw your attention to is the publication of at least 14 Key Elements of Effective Practice, quality assured by Regional Managers, supported by National Implementers (contractual partnerships between private and independent sectors), and underpinned by an imaginative and broad based training strategy.

8. Returning now to the single aim of “preventing offending” one cannot emphasise enough the significance of having this enshrined in legislation. It is not that every youth court clerk, prosecutor, police constable, teacher, health worker has the phrase as their professional mantra. Rather it is accepted as the overarching rationale for what the youth justice system is striving to achieve. It has symbolic significance, some would say, lapsing into jargon, as a ‘mission statement’. If one is tempted to become fixated with punishment versus rehabilitation, or the administrative minutiae of tackling delays, or whether the emphasis should be on restorative justice or dealing with prolific offenders, one can always return to the question “what is the Youth Justice System for?” and answer it clearly that it is “to prevent offending”. My comment on the Scottish Executive phrase would be to urge a reconsideration of the narrower aim “to reduce re-offending rates” to a broader based “to prevent offending”. I believe that this broader approach is relevant to the notion of a single agency.

9. Similarly one cannot stress enough the multi-agency/multi-disciplinary nature of the Youth Offending Teams. Our research and practice informed us that:

- it was not just social workers and police who had a part to play in dealing with offenders and offending from prevention to community supervision;
- it was the probation staff, whose ‘intelligence’ in writing reports and running programmes needed to be harnessed in respect of risk management and public protection;
- the role of education, training and employment providers was integral as well;
- the contribution of health professionals was needed whether it be drug or alcohol specialists, or in accessing basic GP and dental services;
- and, when it comes to the wider Crime and Disorder agenda, it is the local authority, whose Chief Executive, under the Crime and Disorder Act 1998, was placed alongside the Chief Constable with the responsibility for promoting ‘community safety’.

10. I emphasise these other partners, whose role is captured in national legislation and local organisational structures, as a way of linking to the second theme of this paper, namely **A SINGLE AGENCY TO DELIVER CUSTODIAL AND NON-CUSTODIAL SENTENCES**. Of course I am not privy to what is meant here in Scotland by “a single agency” although I

noticed that in the Minister's talk to the Directors of Social Work Conference last week the Prison Service and the Criminal Justice Social Work Service were the only two mentioned (albeit, I noted, with the ambitious additional aim of "lowering the prison population").

11. When this idea was examined in England and Wales by the new Labour Government it focussed on probation and prison which were seen to be failing to deliver effective and joined-up services. The Review then asked whether merging what were seen at that time as two failing services would result in a successful one emerging. (The corollary might be whether bringing two successful services together would add value to their mutual success or place their effectiveness in danger.)

12. One of the arguments for a single service was the establishment of a Joint Prison and Probation Accreditation Panel. This subjected programmes to research and academic scrutiny and, if approved, it was expected that these programmes would be delivered consistently and with integrity across the services (often being subject to videoing to monitor quality). The same programme for tackling offending behaviour, substance abuse, sex offenders, domestic violence, which the prisoner was undergoing in custody should surely be the same one that he or she would continue with on licence, or have experienced in the community, or vice versa.

13. A second argument was around the notion of sentence planning and the 'seamless sentence'. In the late sixties Neighbourhood Borstal Schemes were briefly experimented with. A team of probation and prison officers worked together with a group of youngsters in the institution, and then jointly supervised the young persons when they were on licence in the community. Ownership by community/probation staff of what was happening in prison was matched with ownership by prison staff working in the community. The message for the trainee, of a continuing commitment by both services within the same team was plain to see. This was achieved without massive organisational upheaval, but rather joint leadership from both services, inspired management at local level, and committed practitioners from both services.

14. An argument against a single agency, apart from the one about two troubled services not adding up to an effective one, was the imbalance in size and resources between probation and prison services. Would the former (a relatively small community based service) be swallowed up by the latter (a big institutional – and mainly closed institutional – based service)? Others argued that the history, culture/mores/ethos of a 'uniformed' service compared to a basically 'social work' service was a difference that would present, if not insurmountable problems, certainly problems that would preoccupy and detract from the main purpose in hand for years. Another more subtle point of concern was that, from a prison perspective, 'security' and 'order' in the institution and related demands of running a prison 24 hours/7 days a week, meant that it was easy for the other priorities connected with programme integrity, resettlement, rehabilitation, family and community ties, to take second if not third place. This is not a criticism, just a fact of penal institutional life. What looks good on a clean sheet of A4 paper is much messier in execution.

15. However my main reservations about a single agency as so far proposed derive from other reasons which I would now like to explore. Firstly I return to the aim of preventing offending and the self evident truth that crime, in the main, is committed in communities and neighbourhoods and, in the final analysis, it is in those communities and neighbourhoods where long term solutions will be found. Whilst I do not wish to diminish the utter significance of custodial and community staff working closely together to deliver what I will later describe as a Resettlement Strategy, it is the other partnerships which are of greater importance to turning offenders away from crime.

16. I return to the concept, put into practice in youth justice for over three years in England and Wales, of a Team dealing with offending whose members are drawn from the five key agencies. Let me emphasise that is not about a Youth Justice Team liaising with these other agencies, it is those agencies supplying staff and/or resources for the specific aim of preventing offending (including interventions to known offenders). It is also about their presence in the teams, and on the Steering Groups, leading to detailed knowledge of, and practical access to, mainstream services. This is a continuing challenge to effect but real progress is being made with tangible results in terms of prevention of offending and reducing the numbers of young people in custody.

17. I do not have time to give examples from education/training, health, or the wider local authority service provision such as accommodation, but I would like to mention the partnership and involvement of the police. Constables and sometimes sergeants are members of Youth Offending Teams, under the leadership of the Youth Offending Team Manager (normally a social worker or probation officer by background). Assistant Chief Constables or Divisional Commanders are members of Steering Groups (or what are going to be known, under new guidance, as Strategic Management Groups). Young offenders and their parents are aware that the Youth Offending Team is so composed and one of the staff dealing with them could be and sometimes will be a police officer. In the Intensive Supervision and Surveillance Programmes the operational links go further and include joint work from intelligence sharing to tracking and surveillance, with Basic Command Units of the police at local level.

18. In a number of submissions to the Home Office I have argued for the establishment of Young Adult Offender Teams composed in a similar way to the Youth Offending Teams. Whilst this has not been accepted some steps have been taken. Two are worth mentioning:

- **Multi-Agency Public Protection Services.**
- **Prolific Offender Schemes.**

19. It is not only the significance of this joint working between police and probation/community staff as perceived by detectives and basic command units, it is the significance for the community when they see 'social workers' and police joining forces to protect the public.

20. However, from the Youth Justice Board perspective, the links with the police are not confined to dealing with serious offenders. The strategic importance is to be seen in prevention and restorative justice work, whether this is in schools, Final Warnings, information sharing protocols, community interventions, or work with victims.

21. Before I turn to the notion of a Resettlement Strategy I want to mention one other development. This anchors community based work with offenders within the wider community safety/criminal justice agenda, rather than the narrower (but no less important for all that) links with prison. This other development is the launch of the Local Criminal Justice Boards which are coterminous with police boundaries. These 42 LCJBs link to a national Criminal Justice Board. They comprise the main Criminal Justice players: police, Crown Prosecution Service, probation, Youth Offending Teams, courts, Chief Executive (LA), and prisons. In the area where I chair the Probation Board we have an Advisory Committee serving the Criminal Justice Board. This Committee is chaired by the senior judge and involves health, victim support, police authority member etc.

22. The Local Criminal Justice Boards are, in effect, virtual organisations, jointly sponsored by three government departments and given three priorities for the coming year

which involves increasing the confidence of the public in the Criminal Justice System – how offenders are effectively dealt with in the community must surely be part of this. The performance of the Boards is monitored centrally and a Government Minister is assigned to link with each Board.

23. I do not have to spell out to this audience the scale of the contribution of community based services (probation, social work, Youth Offending Teams) to these strategic and operational initiatives. A department dealing with ‘x’ young offenders, supervising ‘x’ adult offenders and parolees in the community, preparing ‘x’ number of reports on individuals, their family and social circumstances: all this adds up to a powerful and informed voice in local debates about offending and breakdown in communities, and the interventions that will contribute to solutions. The interaction and joint responsibility with the other contributing agencies is wider than just prison. (Dare I say that such effective community partnerships for tackling complex community and personal problems lay at the heart of Lord Kilbrandon’s vision forty years ago.)

24. I do not wish to conclude having simply to criticised a bold and imaginative idea albeit one I truly believe, from my practical and strategic experience, that it is a flawed one. Rather I would like to commend the contribution that a Resettlement Strategy might make to the problems you and we are facing, without going through the costly and administrative turmoil of moving to a Single Agency. I do not have time to describe in detail all the elements. The Strategy that we have developed in the North West of England was recently launched by the Lord Chancellor and Secretary of State for Constitutional Affairs. I quote:

“...effective progress can only be achieved by joint working between criminal justice agencies and by a broad partnership approach involving other key organisations to address the multiple and diverse needs of offenders.” (North West Region: Prisoner Resettlement Strategy, p.4.)

“The focus is on reducing re-offending and meeting practical resettlement needs by working in collaborative partnerships with other agencies, community based services, voluntary partners and the private sector.”

The strategy goes on to give details of ten ‘pathways’ which need to be addressed to ensure that changes are sustained to achieve effective integration into the community. These pathways are:

- employment;
- learning and skills,
- family and social support,
- health,
- victims and community,
- accommodation,
- life skills and offending behaviour,
- drug and alcohol misuse,
- finance,
- case management.

25. Most of these ‘pathways’ must be anchored in services based in the community, they come alive, are sustained and have their long term effectiveness in that community setting.

26. The latter term, ‘case management’ refers to prisons and probation working together, but one can see that this is only one, albeit essential, part of the overall strategy. I believe that this overall strategy can be achieved by deploying energy and imagination on a

coordinated and sustained approach based on a broader front than just a traditional understanding of services delivering non-custodial and custodial sentences. A comprehensive strategy must, in my view, combine prevention (including diversion), community help in all its forms, targeted public protection involving where essential new technology, and resettlement. (Strong signs of such I see in the full text of the Scottish Executive document.)

27. An emphasis on 'correctional services', and a preoccupation with significant organisational change to achieve a single agency, would detract from this comprehensive strategy, at a crucial time when there is much to be learned from such achievements as the Youth Justice Reforms. Let me stress that I am not against organisational change. For me there are three levels of such change: more effective liaison between existing services; commitment (in the case of the youth justice reforms, backed by legislation) to creating new structures to deliver better services; full blown mergers or newly constructed 'agencies'. It is the middle course that I would advocate.

28. I was genuinely delighted to be asked by the Howard League Scotland to come and speak tonight. I have the greatest admiration for what you are trying to achieve. I trust that some of the experience and thoughts that I bring from England and Wales will have been of some interest to you on a November night in Edinburgh.

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(The views expressed in this paper are the views of the author alone.)

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