

ALTERNATIVES TO PRISON

- 1. Why Alternatives**
- 2. Current Alternatives to Prison**
 - a) adults**
 - b) children**
- 3. How Alternatives are used**
- 4. Effectiveness in protecting the public**
- 5. Effectiveness in reducing offending**
- 6. Effectiveness in punishing offenders**
- 7. What do sentencers think of alternatives?**
- 8. What do the public think of alternatives?**
- 9. Current Developments in the UK**
- 10. Conclusions**

Annex A. Characteristics of People on Probation

Annex B. Costs

Annex C. Who is responsible for alternatives

SECTION 1

Why Alternatives?

"The path of non-prison penalties is the rational path for most criminals found guilty of most crimes in order to achieve protection, recompense for the harm done and a solution that might reduce crime in the future" (Stern 1998)

In May 2002, the prison population in England and Wales reached 71,000. This is some 5,000 higher than a year earlier. The numbers are projected to rise further, on one Home Office scenario reaching 82,000 by 2005. This unprecedented increase in the number of prisoners gives cause for concern at many levels.

At a practical level it causes major problems for the prison service in accommodating the people concerned in a decent and dignified way. The Lord Chief Justice has called overcrowding the AIDS virus or cancer of the prison system. It leads to an inevitable diminution of the regimes and activities available in prisons. The Director General of the prison service has called the rise in numbers "insane" and called for an end to our "love affair with custody".

It would be in theory possible to build enough prison places to cope with the demand although no country has succeeded in doing so. But at a fiscal level prison is expensive. Prison costs the taxpayer an average of £27,000 per prisoner per year. A new prison costs an average of £60 million. Capital costs of a new primary school and secondary school is estimated to be 1.5 million and 8 million respectively. More information about costs is given in annex B.

At a moral level, rising numbers can also represent injustice by in Lord Bingham's words "the imprisonment of those for whom that penalty is not strictly necessary". In societies that do not use the death penalty, imprisonment is the most punitive and coercive sanction the state imposes on its citizens. In democracies which value freedom and humanity, there is a strong case for using non coercive, less formal and more positive approaches wherever possible and appropriate. The present Lord Chief Justice is in no doubt that "Today too few community sentences are imposed and too many and too long prison sentences are imposed. The consequences are doubly destructive of the needs of society"

Prison has an important role to play in protecting the community against the most dangerous offenders and in punishing the most serious crimes. But research and experience have shown the many disadvantages of over using imprisonment. Imprisonment can harm the chances people have to make amends and fulfil their potential as citizens. By definition prison limits the opportunities people have to contribute to civil society and democratic life. In theory, prison could provide its captive audience with decent

education, training and employment opportunities. With one or two notable exceptions in the form of resettlement prisons, such opportunities are not provided on anything like the scale required. Most prisoners therefore leave prison no better equipped to fit into society than when they entered it. Some leave a good deal worse off.

In this context, it is important to find effective alternatives to prison for offenders who can be safely punished in the community. In the past century many different ways of dealing with convicted people have been developed. The disadvantages and costs of prison and the problems prison cause keep the subject on the agenda of politicians, legislators and the media. Supervision by probation officers and social workers developed in the last century, followed by the introduction of community work for the benefit of society. More recently new electronic methods of control and surveillance using technical means and methods for treatment for the many whose crime is fuelled by drug addiction have been developed.

Non-custodial sentences are in fact used for the large majority of offenders in the UK. Every day around 485 convicted offenders begin community sentences supervised by the Probation service in England and Wales. *Section Two* shows that there is no shortage of alternatives available to the courts. Yet as in many countries with the greatest number of alternatives, the use of prison can rise at the same time as the use of sentences in the community. So the outcome of developing new sanctions and passing them into law is that the sanction system grows and becomes more severe. Prison is used as much as before. Convicted offenders who were fined or discharged are required instead to do community work or be supervised. *Section three* shows that this is what has happened in the UK. It is also the case that the use of non-custodial sentences as alternatives to prison varies from area to area.

There are several reasons why non-custodial sentences have not been used instead of prison. They might not work very well but this does not seem to be the main reason. *Sections four and five* summarise the evidence about how well non custodial sentences protect the public and reduce re-offending. Non-custodial measures can work very much better than prison. This is because they can address the problems that underlie so much offending without the disadvantages and stigma of detention. Annex A describes some of the characteristics of people on probation, which have much more in common with those types of people in prison than with the general population. In the literature on effectiveness, community based programmes have shown more positive results than custody based ones. Drug problems, problems with employment, accommodation and finances are all linked to reconviction. These are much more likely to be resolved through casework, treatment or other assistance in the community than through what is often the experience of being warehoused in a prison.

It may be that alternatives are not seen to provide enough punishment. *Section six* shows that the extent to which offenders are required to comply with the demands of their sentences is getting much better. This is not necessarily the public perception however. *Sections seven and eight* summarise the evidence about the attitudes of sentencers and of the public to sentencing in general and alternatives in particular. The position has

recently been expressed by the former Lord Chief Justice who told the Spectator "Everybody thinks our system is becoming soft and wimpish. In point of fact it's one of the most punitive systems in the world ".

When the Home Affairs Select Committee published a report on Alternatives to prison in 1998, they concluded that confidence was key. "Unless the public has confidence, far from reducing the prison population there will be calls for increasing it." This has to extent come to pass.

How can a greater level of confidence be achieved? The evidence suggests that action is needed on two fronts. First there is a need to reform the way in which alternatives are organised and implemented. *Section 9* describes current developments in the UK and gives examples of practice overseas which seems worthy of replication here. Second there is a need to improve the way in which alternatives are presented and communicated to the public. *Section 10* offers conclusions and summarises the elements of a plan for marketing alternatives to custody put forward by the Centre for Social Marketing at Strathclyde University.

SECTION 2

Current Alternatives to Prison

a) Adults

There are 5 substantive alternatives to prison available to courts when sentencing adults in England and Wales.

1. Community Rehabilitation Order (previously a Probation Order)
 - Offenders placed under supervision of a probation officer for between 6 months and 3 years. Regular weekly meetings plus increasingly participation in 'offending behaviour programmes' where offenders face up to the crimes they've committed, the damage they've caused and the changes they need to make to their lives. Examples include: alcohol and driving, anger management, domestic violence
 - Courts can also specify additional requirements as part of the community rehabilitation order such as living in a probation hostel
 - About 56,000 people a year are given community rehabilitation orders in England and Wales plus 6,000 Probation orders in Scotland
2. Community Punishment Order (previously a Community Service Order)
 - Offenders do unpaid work that benefits the community. Court orders are for a minimum of 40 and a maximum of 240 hours of work. This must be done at a rate of between 5 and 21 hours a week. The work must be physically, emotionally or intellectually demanding
 - About 50,000 people a year are given community punishment orders plus 6,000 in Scotland
 - About 8 million hours of work are contributed to local communities each year through community service carried out on these orders. Canals are dredged, graveyards are cleared, village halls are renovated, playgrounds are created, cycle paths are constructed, mosques are painted
3. Community Punishment and Rehabilitation order combines 1 and 2 (probation+unpaid work in Scotland)
 - About 19,000 people a year are given community punishment and rehabilitation orders
4. Electronic monitoring or tagging available as curfew orders, home detention curfew (HDC) for offenders released early from prison or restriction of liberty orders in Scotland

- Offenders placed under a form of 'house arrest', monitored via an electronic tag worn on the ankle. The electronic tag sends a constant signal through the phone line to a control centre. If the offender breaks the curfew the control centre is immediately alerted and responds accordingly.
- The curfew order lasts up to 6 months, and the court specifies which hours the offender has to be at home, which can be between 2 and 12 hours a day.
- About 2,600 people a year are given curfew orders.

5. Drug treatment and testing order

- Treatment targeted at people who commit crime to fund their drugs habit.
- Regular tests to prove that the offender is responding to the treatment.
- The order was introduced in 2000

6. In addition there are other penalties available to courts, which are not usually used as alternatives to prison

- Fines up to £5000 in Magistrates and unlimited in Crown Court
- Compensation orders
- Discharges Absolute and Conditional
- Attendance Centre for 10-21's
- Exclusion orders
- Drug Abstinence orders
- Supervised Attendance orders in Scotland for fine default

b) Alternatives for Under 18's

7. Intensive Supervision and Surveillance Programmes (ISSP)

- New alternative to detention available in high crime areas
- Targetted at 3,500 persistent and serious offenders; 900 already on them
- 6 months high intensity education, activities, reparation backed up by tracking or tagging with 25 hours a week contact time for first three months

8. Supervision orders/requirements

- Broadly similar to community rehabilitation order
- About 11,000 orders were given in 2000
- Wide range of conditions can be added

9. Reparation order or community payback

- A maximum of 24 hours unpaid work, to be done within a three month period similar to that done on community punishment orders,
- Can involve writing a letter of apology to the victim or repairing damage they have caused. 4,000 orders were made in 2000.

10. Action Plan order

This order lasts for 3 months and consists of a mixture of requirements in addition to being supervised, such as:

- having to do particular activities e.g. counselling, groupwork
- making reparation to the victim or the wider community

In the year 2000, about 4,500 orders were made.

11. Additional Measures not usually alternatives to detention

- Referral Orders - on first conviction, young offenders pleading guilty agree a contract with community panel and victim
- Reprimands/Final warnings - First and minor offenders get warned by police and may attend a restorative conference or other activity.

SECTION 3

How alternatives are used

Alternatives to prison can be used for a wide range of offences and offenders. Under the current law, courts must decide that the offending is "serious enough" to merit a community sentence but not "so serious" that only a custodial sentence can be justified.

Of those commencing community sentences in 2000, theft and handling stolen goods represented the largest specific offence group. The proportion of those starting community rehabilitation orders for these offences has fallen from a third to a quarter since 1995, whereas the proportion of those committing violent offences rose from 7 to 9%. The proportion convicted of burglary halved from 12% to 6% reflecting the greater use of custodial sentences for burglars. These patterns are repeated across the other main orders.

There was an average of 17 men for each woman starting a community punishment order in 1990. In 2000 the ratio had fallen to eight men for each woman. The ratio of men to women starting community rehabilitation orders remained unchanged at about 4:1. Courts have become readier to give community sentences to women over the last ten years.

Alternative sentences are not always used by sentencers as alternatives to prison. When Community Service was introduced nationally as an alternative to prison in 1978, research soon showed that only about half of community service orders functioned as alternatives (Pease and McWilliams 1980). It was also shown, that when they were available most suspended sentences of imprisonment were given to people who would not have been at risk of an immediate custodial sentence.

The way alternative sentences have been used for adults in England and Wales between 1980 and 2000 suggests that they have been used instead of fines rather than instead of prison. (see Table below). The use of imprisonment has risen from 17% of those sentenced for indictable (the more serious) offences in 1980 to 30% in 2000 for male offenders over 21. The use of probation supervision has increased. The use of community service orders has increased. The only significant decrease has been in the use of the fine.

Males aged 21 and over sentenced for indictable offences in England and Wales 1980-2000, by types of sentence (%)

<i>Year</i>	<i>Discharge</i>	<i>Fine</i>	<i>Probation</i>	<i>Communit- ity Service</i>	<i>Combinat- ion Order</i>	<i>Immediate prison</i>
-------------	------------------	-------------	------------------	--------------------------------------	--------------------------------	-----------------------------

1980	7	52	5	4		17
1981	8	49	6	5		18
1982	8	47	6	6		19
1983	9	47	6	7		19
1984	9	45	7	7		20
1985	9	43	7	7		21
1986	10	41	7	7		21
1987	10	41	8	7		21
1988	10	41	8	7		20
1989	12	43	8	6		19
1990	13	43	8	7		17
1991	15	39	8	8		18
1992	17	37	9	9	0	18
1993	18	38	10	11	2	18
1994	16	36	11	11	2	20
1995	15	34	11	11	3	24
1996	14	33	11	10	3	26
1997	14	32	11	9	3	26
1998	14	32	11	9	4	27
1999	13	31	11	9	3	28
1999	13	28	11	9	3	30
2000						
1.						

¹ Home Office Criminal statistics, England and Wales, annual volumes, 1980-1998 and 2000

In 2000, community sentences were imposed in 31% of cases of indictable offences in Magistrates courts and 26% of cases in the Crown Court. The proportionate use has gone up in the Magistrates court and down in the Crown Court.

All the indications are that during the 1990's community based orders have been used for less serious offenders who are more likely to be before the court for the first time and less likely to have prior experience of custody. Over the last seven years the proportions of those starting the three main orders with no previous convictions more than doubled.

If sentences used as alternatives are not in fact used as alternatives to prison, there is a danger that offenders might be sent to custody at an earlier stage than would otherwise be the case. They might be seen by the courts to have used up their chance.

There are examples of alternative sentences being used in a way, which reduces prison. The number of prison sentences imposed on boys under 16 halved between 1981 and 1988, thanks in part to the increased availability of intensive community supervision (known as intermediate treatment). (Allen 1991). The new projects were carefully targeted at serious and persistent offenders who would otherwise go to prison. They operated within a legislative framework with strict criteria for custodial sentences. There was strong involvement by the courts in the development of the schemes and a commitment by all of the agencies in the criminal justice system, including the police to a sparing use of prosecution and sentencing as a way of responding to juvenile delinquency.

Recent experience in Finland (discussed in section- below) shows how alternatives for adults have been used to reduce prison numbers.

It is also the case that the way alternatives are used varies from one part of the country to another. The Youth Justice Board has published figures showing that the ratio of community penalties to custodial penalties in different court areas ranges from 1:3 to 1:20. Recent analysis of differential sentencing shows that low custody areas are characterised by magistrates rating the quality of youth justice services more highly, in particular expressing greater confidence in the delivery of services and the quality of information provided by the Youth Offending Team.

SECTION 4

The effectiveness of alternatives in protecting the public

It is common sense that the only guarantee of protecting the community from an offender during the period of a sentence is a custodial sentence. It has been calculated that over a quarter of offenders serving community sentences will have re-offended at least once by the time an offender has served an average length sentence. The majority of offences are minor ones.

For offenders who present a risk of serious harm, prison is quite properly used. Prison provides absolute protection from an individual only for the duration of the sentence. This will not always mean protection from crime. It was suggested to the Home Affairs Select Committee in 1998 that demands for drugs from people inside prison results in crime outside.

The Home Office collects information on serious offences allegedly committed by offenders under supervision by the Probation service. In 2000, among those serving community sentences 103 convictions for very serious crimes were reported-about one in sixteen hundred of those starting sentences in that year.

Better longer- term protection may be provided by community supervision. If prison has not done anything to change offending behaviour, it cannot be said in the long term, to protect the public. If community sentences are effective at weaning offenders away from a criminal lifestyle, they may, in many cases offer the most effective long-term protection of the public.

It has been shown that even allowing for selection effects, prisoners released early under parole supervision are reconvicted less than those serving the whole sentence. For the Lord Chief Justice "many things can be done as far as offenders are concerned without sending them to prison which actually provides better safeguards for the public". Lord Chief Justice Woolf 27.12.2000

Some community sentences offer more intensive supervision than others. Probation hostels can offer 24 hour monitoring at 50-66%% of the cost of prison. There are just over 100 hostels providing 2,200 places.

ISSP for under 18's combines intensive supervision with close monitoring. The community surveillance element of the programme aims to ensure the young offender know that their behaviour is being monitored and demonstrate to the wider community that their behaviour is being gripped. ISSP schemes tailor individual packages of surveillance to the risks posed by each offender. They have available either:

- Tracking by staff members
- Tagging
- Voice Verification
- Intelligence led policing

We know from research and statistics that

- There is no clear relationship between the use of imprisonment and the rate of crime in the UK or internationally. *The 12% increase in recorded crime in France between 1987 and 1996 was similar to that in Holland although the percentage rise in the Dutch prison population (143%) was twenty times greater than the French*
- Incapacitation has only a modest effect. If a drug dealer is locked up, another will enter the market. If one of a gang of burglars is locked up the others may well carry on regardless. *The Home office estimate that a 15% increase in the prison population produces only a 1% reduction in recorded crime.* (Home Office)
- Properly designed community measures or early interventions are a more cost-effective route to prevention than imprisonment. *The American Rand Research Institute found that graduation incentive programmes and community supervision were considerably more cost effective than prison building in reducing crime.*

SECTION 5

The effectiveness of alternatives in reducing re-offending

People subject to community alternatives commit no more crimes afterwards than people who have been to prison and in some cases the results are even better.

The Home Office say there is no discernible difference between reconviction rates for custody and community penalties. 56% of prisoners discharged from prison and commencing community penalties in 1995 were reconvicted within two years.

Reconviction rates do vary by type of order. 2 year rates for probation and combination orders were 59% and 60% respectively considerably higher than the 52% for community service. Reconviction rates for prisoners released after short sentences of up to 12 months were higher (60%) than those for longer term prisoners.

Actual re-offending may be higher than that which is measured by reconviction rates. Crude measures of reconviction do not allow distinctions to be made between the seriousness of types of offence.

Some individual projects report markedly better rates. The HASC concluded that "some evidence suggests that the most successful forms of community sentence can reduce re-offending more effectively than prison." HASC 1998. Since then, the most effective community supervision programmes have been shown to reduce offending 15% more than a prison sentence. The Wiltshire aggression replacement training programme achieved a 14% difference and the West Midlands sex offender programme reduced overall offending by 22%.

Among the individual projects which report better results are Sherborne House and the Ilderton Motor Project in London; C-Far in Devon and two Scottish projects, the Airborne Initiative and Freagaarach.

The Home Affairs Select Committee in 1998 found "the absence of rigorous assessment astonishing". While the position is getting better, we still do not know as much as we might about effectiveness. As the then Home Secretary Jack Straw said in 1997:

"We know that community sentences can be effective. But we need to ensure that they are consistently effective".

Research has confirmed the common sense view that offenders with no legitimate source of income, no settled place to live and or addiction problems are particularly likely to re-offend. Studies (eg) have found that a number of social factors affect the likelihood of re-offending. These suggest that successful approaches need to

- Get offenders into work. *In a comprehensive North American study getting young offenders into work was by some way the most effective way of reducing recidivism (Lipsey et al)*
- Solve accommodation problems. *A Home office study found that in Nottinghamshire 44% of those with stable accommodation were reconvicted compared to 62% with unstable accommodation (May 1999)*
- Address and treat drug use. *A Home office study found that drug use was highly related to reconviction in all areas; offenders with drug problems were more likely to predict that they would re-offend (ibid)*
- Help with financial *problems Research has found some relationship between debt and reconviction (ibid)*
- For some offenders, approaches are needed which deal with relationship problems and engage the question of peer pressure (ibid)

All of these factors are capable of positive resolution through community intervention and likely to be made more problematic by imprisonment. "Evidence certainly exists to show that imprisonment creates additional challenges when prisoners are released- for example through loss of job or accommodation, or reduced prospects of obtaining either or both. (Home Office 2001). A research study from Scotland found that " the supervision of offenders in the community can bring about positive changes in behaviour". (McCivov and Barry 2000). Reconviction rates were lower following the imposition of a probation order than before, the majority of probationers believed that their circumstances had improved since they were on supervision.

In the literature on effectiveness, community based programmes have shown more positive results than those in custodial settings. (Vennard) This is not surprising given the then Prison Commissioner's insight 80 years ago that "it is impossible to train men for freedom in conditions of captivity".

SECTION 6

How well do alternatives punish offenders?

"After all doing unpaid labour for 240 hours or any significant number of hours is a deprivation of liberty and is a serious punishment" Lord Bingham 1997

Community punishment makes demands on offenders' time, makes specific expectations of engagement and behaviour backed up by breach. Rigorous community programmes can be more challenging and demanding than a short prison sentence where nothing is expected of the offender. National Standards set out the required frequency of contact between supervising officer and offender and action to be taken in cases of unacceptable failure to comply.

It is obviously important that the demands and expectations are actually met in practice. The HASC in 1998 were alarmed at the non adherence to standards in respect of enforcement but since then there has been a marked improvement. The latest standards require offenders to be taken back to court or breached after no more than two absences. The most recent audit of performance found that breach action was taken in 70% of cases where it should have been. Performance varied from area to area, with some achieving 100% and others 20% and 27%. Enforcement is the highest priority for the National Probation service in 2001-4.

Breach rates for probation and community service orders in 1999 were 18% and 30% respectively. For Combination orders the rate was 29%. 20% of community service orders and 17% of probation orders were terminated for failure to comply with requirements or conviction of another offence.

The proportionate use of custody for breaching an order declined between 1989 and 1999- for breaches of community service from 26% to 18%, of probation from 49% to 28% and combination orders 41% to 30%. This reflects the fact that community sentences were more widely used for first time or relatively minor offenders in 1999 than 1989. In these cases breach proceedings, which involve re-sentencing for the original crime were less likely to lead to a custodial sentence.

Recent Home Office research on what the public want sentencing to achieve found that "very few spontaneously refer to punishment or incapacitation". (Home Office 2001) The most common response is that it should aim to stop re-offending. A smaller scale study of the attitudes of victims, offenders, magistrates and probation practitioner found that where interviewees expressed a priority aim for punishment, they favoured the prevention of further offending over what we might understand as retribution" (Rex 2001)

SECTION 7

What do sentencers think of alternatives?

- Lord Chief Justice said "neither the public nor sentencers have sufficient confidence in the community alternative"
- Research in the mid 1990's found that 23% of lay magistrates were very satisfied with the work of the probation service in their area and a further 66% were quite satisfied
- Sentencer involvement in community sentences is low. A quarter of magistrates and judges and 7% of stipendiaries had visited a community service placement in the previous 2 years.
- Demonstration projects in the 1990's showed that relationships between the probation service and sentencers could be improved by better communication and working more closely together. The extent to which such improvements affected sentencing practice were limited.
- The main change that did occur was an increase in the use of probation orders with requirements for offenders who would previously have received 'straight' probation orders
- Research on the attitudes of criminal justice practitioners was conducted for the Halliday review of sentencing. Judges, District Judges and Magistrates were among those who completed questionnaires. Community penalties were judged most suitable for offences in the middle range of seriousness, where positive intervention were thought to be beneficial.
- Community penalties were considered inappropriate for those who had breached previous orders or with problems that could not be adequately addressed. Resource issues restricted their availability.
- A majority of all groups thought community service orders delivered punishment, rehabilitation and individual deterrence.

SECTION 8

What does the public think of alternatives?

In opinion polls, the public generally express support for harsher sentences for convicted offenders but it is well established that their preferences for a tougher approach are based on inaccurate knowledge about existing levels of sentence severity and do not take account of sentences other than prison. Over half of people make large underestimates of the proportion of adults convicted of rape, burglary and mugging who are in fact sentenced to prison. Evidence from the USA and elsewhere suggests that the proportion of the population who tell pollsters that the system is too soft remains fairly static whatever the objective sentencing levels actually are. But recent research has shown that:

- The public does not rank prison highly as a way of reducing crime
- Better parenting, more police on the beat, better discipline in schools and constructive activities for young people are preferred options
- Most think that people come out of prison worse than they go in
- It is not clear whether attitudes have become more or less punitive in recent years
- British people seem to favour prison more than other Western Europeans but less than Americans
- People in lower social classes have more punitive attitudes than those in social class A/B
- Members of the public know little about the sentencing options available to the courts Only 31% could recall three or more sentences without prompting, with about half remembering community service
- The idea of rehabilitating offenders is viewed positively
- An overwhelming majority agree that more use of intensive community punishment for young offenders
- For the LCJ "What we have to do is to achieve a situation where our punishments in the community are ones which the public find more acceptable than they do at present....." Lord Chief Justice Woolf, December 2000
- Members of the public given information about the criminal justice system are more likely than the general public to think probation, community service and fines effective in reducing offending
- Community penalties with some element of community service widely supported; in 1996 nearly _ thought offenders who are not a big threat

should be made to spend a certain amount of time helping in the community

- A small scale Mori study of attitudes found that, the image of non custodial sentences as a soft option was not accepted by all. If used for the right offenders (non violent, young offenders, willing to reform) and containing punishment or reparation, they are seen to have a part to play because of their rehabilitative potential (Mori 1998)
- There is confusion about what the probation service does
- There is much potential support:

MORI found that 93% supported greater use of intensive community supervision for young offenders

The Daily Mail said "Isn't it better to try to straighten them out through rigorous new community sentences involving compulsory work and training?" Comment, July 2001

- Imprisonment is a currency whose value differs enormously from country to country and from one historical period to another. *A five-year sentence in Scandinavian countries is seen as very harsh, in the USA as short and in the UK of moderate length.*

While the public says in general terms that they want harsher punishments for convicted offenders, when asked about specific cases they are more lenient than current sentencing practice. *Punitive attitudes are in large part based on misconceptions about current practice and lack of information*

SECTION 9

Current developments in the UK

Restorative Justice (RJ)

The Auld review of criminal courts recommended the development and implementation of a national strategy to ensure consistent, appropriate and effective use of restorative justice techniques across England and Wales. The Home Office is currently funding a major programme of research into the effectiveness of RJ. Rethinking Crime and Punishment is funding JUSTICE to undertake a complementary inquiry into the role which RJ should play in the justice system and how its philosophy and procedures can fit with the existing retributive system.

In the meantime, the forthcoming White Paper on Criminal Justice is likely to stimulate further activity in the areas of victim-offender mediation, family group conferencing and restorative conferencing. Particular encouragement may be given to the deferring of sentence after conviction in appropriate cases for voluntary restorative justice. Consideration is also being given to the introduction of a new community order along the lines of the referral order for juveniles. Under this, the court would decide the sentence length but a separate RJ panel, including the victim and members of the community, would decide the content of the order. This would be along the lines of the Reparative Probation panels operating in the US state of Vermont.

Evidence Based Practice

NPS is committed to evidence based practice, known as "what works" with targets of reducing reconviction rates by 5% by 2004. For those who misuse drugs the target is 25%.

This is to be achieved by putting 30,000 offenders through programmes accredited by an expert panel. These include:

- 4 general offending behaviour programmes
- 2 Substance misuse programmes
- 1 Drink Driver programme
- 2 sex offender programmes
- 1 violent offender programme

One new generic community sentence

The Halliday review of sentencing suggested a more flexible community sentence, providing courts with a menu of options to fit the offender and the offence. Community sentences would contain:

- A punitive component eg curfew, exclusion or community service
- A reparation component to the victim or community
- An offending behaviour component to address underlying causes such as addiction, lack of basic skills
- A proceeds of crime component which confiscates ill gotten gains

The punitive weight would be proportionate to seriousness of offending, but the current requirement that offending should be serious enough to warrant a community sentence would be dropped.

More say for Sentencers

Halliday says sentencers should be able to order offenders to attend an accredited programme and the type of compulsory community service work to be done. Halliday also proposed review hearings in courts to monitor progress on community sentences, deal with breaches, and alter intensity of supervision in response to good progress.

Tougher Enforcement

As yet unimplemented legislation would require courts to impose a prison sentence other than in exceptional circumstances when, after a breach, it decides an offender is not likely to comply with an order if it remains in force. Halliday says courts should have power when making a community sentence to say what length of imprisonment would be appropriate in the event of re-sentencing.

Better Fine Enforcement

The collapse in the use of the fine over the last 20 years is in large part due to a lack of confidence in procedures for enforcement in the case of non payment. The number of people sent to prison for non payment of fines has fallen substantially in recent years. A recent report by the National Audit Office found that a large proportion of fines are not paid in full.

Intermittent/Weekend Prison

Recommended by the Home Affairs Select Committee in 1998 but rejected as unworkable and likely to widen the net i.e. take into prison offenders who would not otherwise go there. Also recommended for consideration by the Halliday review of sentencing and put forward by the Home Secretary in February as an example of a "third way" or light touch punishment between prison and community.

Strengthened Intermediate estate

The Halliday review recommended more investment in the so called intermediate estate- the infrastructure of Probation centres, approved hostels, attendance centres.

SECTION 10

Conclusions

It seems clear from the evidence that community based alternatives to prison are not currently playing the role which they could in responding to crime. What this review suggests is that urgent improvements are needed in three areas.

First community alternatives need **to work better**. There is a need for more of them to work as well as the best in reducing offending. They need to be more widely available and resourced on a scale to match the problem. There is scope for a more comprehensive community response to offenders which solves the problems underlying their crime as well as getting them to make amends for their crime. Priority in developing a more robust infrastructure of alternatives could usefully be accorded to young people, women, and those with mental health and drug problems. The development of multi agency Youth Offending Teams offers a model for older age groups.

Second, community alternatives need **to be used more effectively as alternatives to prison rather than alternatives to alternatives**. There is a need to involve sentencers more closely in their design, implementation and management. More careful attention needs to be paid to the targetting of alternatives both in legislation- through criteria for custody – and in everyday practice. Pre sentence reports, prepared by probation officers are crucial in ensuring information about the offender's circumstances and the range of suitable options for meeting them are put before sentencers.

Third, alternatives need **to be marketed more imaginatively**, both to sentencers and the public. The British public is not as pro prison as is generally supposed. They are sceptical about its role in reducing crime and would prefer public money to be spent on other approaches. The public supports the idea of rehabilitation and restorative justice but has very little awareness of the range of sentences available to the courts. Almost everyone agrees with greater use of intensive community punishments for young offenders. This suggests that there is much scope for better "marketing" of alternatives to prison to the public.

A Social Marketing Study undertaken for RCP found that to market alternatives to prison there is a need:

- To create a strong well understood and attractive brand that encapsulates non-custodial sentences
- To reduce the "price" associated with the use of non custodial sentences so it is the easiest option
- To increase the availability and accessibility of non custodial sentences
- To use marketing communications to increase demand for non-custodial sentences and reposition them as tough and effective in reducing crime

e.g. through work with sentencers, politicians, the public and media. Focus groups suggest that key message strategies to engage public support for non-custodial sentences include:

Instillation of responsibility and discipline

Having to work hard, emotionally and physically

Putting something back

Paying back to victims

Restriction of liberty and requirement to change behaviour

Treatment of causes of offending

Messages that focus on the *costs of custodial sentences, the rising prison population, or humanitarian arguments* are less persuasive.

ANNEX A

The Characteristics of Offenders on Probation

Research on the characteristics of a representative sample of people on probation carried out in the 1990's found that

40% were in the 16 to 24 age group

82% were male

Over half were single (compared to 21% of adult population)

One in five had a job

A fifth had spent time in a children's home (compared to 2% of the population)

70% lived in rented accommodation

Only a quarter had a driving licence

Almost half said they had health problems

Drug usage was far higher than in the general population

ANNEX B

How much do alternatives cost?

The costs of alternative sentences vary. The broad brush figures are per order:

Community Rehabilitation Order	£3,000
Community Punishment Order	£2,000
Community Punishment and Rehab.	£4,000
Drug Treatment and Testing Order	£8,000
ISSP	£6,000

The costs of 12 months in custody are as follows:

Detention in Young Offender Institution under 18	£42,000
Imprisonment of an adult	£20,000

The average caseload of each probation officer is around 37 offenders on supervision. In 1992 it was 21.

There are 7,520 probation officers operating from 948 offices. Resources have been set aside for 1450 more Probation officers and 3000 new staff by 2005

The average number of people supervised per probation officer rose each year from 1992 to 2000, from 20.7 to 36.2.

The Home office says that its main functions include ensuring that "changes in the criminal justice system are properly evaluated and monitored and to use the resources entrusted to us to secure the best value for money". The Home Affairs Committee inquiry concluded that there is no straightforward way of making a simple comparison between the total costs involved of sending someone to prison or of giving them a community sentence. The basic facts are that the average annual unit cost of a prison place is more than, twelve times as much as the cost of a Probation or community service order, which cost about £6 per offender per day.

ANNEX C

Who is responsible for providing alternatives to prison?

Since April 2001, community sentences for adults in England and Wales have been supervised by the National Probation Service (NPS) which is run by the National Directorate in the Home Office. The service comprises 42 areas in ten regions. Each area reports to a local Probation Board, a group of 12 community members. The Boards are the employers of local probation service staff. The Board Chairs are appointed by the Home Secretary and the local chief officers and regional managers are employed by the Home office.

The aims of the NPS are:

Protecting the public

Reducing Re-offending

The proper punishment of offenders in the community

Ensuring offenders awareness of the effects of crime on the victims of crime and the public

Rehabilitation of offenders

Community sentences for offenders under 18 are supervised by Youth Offending Teams (YOT's). There are 154, each comprising representatives from the police, probation, social services, education and health services. YOT's are the responsibility of the local authority and the bulk of the funding comes from social services departments. The Youth Justice Board for England and Wales, a quango provides funding for the ISSP projects and disseminates best practice. Voluntary organisations play an important role in supervising alternatives to prison and other community sentences.

June 2002