

Written Evidence from Clinks

Home Affairs Select Committee Inquiry into Effective Sentencing

6 March 2007

Information about Clinks

1. Clinks is an infrastructure body which supports voluntary and community sector organisations that work with offenders and their families. We are a membership organisation with over 200 members and a further 250 'friends' that support our aims. We provide advice, consultation, training, and information to voluntary sector organisations that are currently working with offenders or who may wish to do so. Examples of our work include guides to working with offenders in prison, training packs for volunteers working with offenders, and responses to government policy and strategy. We provide the National Offender Management Service, HM Prison Service, and the National Probation Service with representative views about the offender related sector and promote a closer working relationship between the corrections agencies and the voluntary sector.
2. Clinks has a number of regional and national projects which endeavour to bring together the public and voluntary sector strategically and operationally to create effective arrangements to reduce offending. Our work is informed by a commitment to diversity and inclusivity, and wherever possible we look for opportunities to promote collaboration within the voluntary sector. Clinks welcomes the opportunity to contribute to the Home Affairs Committee investigation into the effectiveness of sentencing and in particular to explore how the Criminal Justice Act can support community sentences.

Executive Summary

- The intention to use custodial sentencing for serious and violent offenders and to promote the use of community sentences for non-violent offenders is welcome.
- There is very little merit in short prison sentences for non-violent offenders.
- There is considerable potential for shifting resources away from unnecessary use of custody by identifying and publishing the unit costs of sentencing decisions.
- There needs to be significant investment in services, particularly those provided by the Voluntary and Community Sector (VCS), to address problems relating to homelessness, substance misuse, unemployment, debt, and family relationships. These need to be readily accessible at all points of the criminal justice system from arrest to sentence and post-release.
- The VCS should be commissioned to provide a range of welfare services to meet the needs of low level offenders in order to divert them community orders.
- The specific needs of women offenders and Black and Ethnic Minority offenders should be met through increased investment in voluntary sector organisations specialising in delivering services to these groups.
- Locally based initiatives similar to the Liverpool Community Justice Centre should be replicated across the country. The strategic approach promoted by the Coalition for Social and Community Justice in 'Neighbourhood by Neighbourhood'
(<http://www.tiscali.co.uk/search/results.php?section=&from=&query=Neighbourhood+by+Neighbourhood>)
should be adopted in developing services for offenders.

Custodial Sentencing

3. Clinks began as an organisation that mainly supported voluntary sector organisations working in prisons. We found that given the right support, financial and strategic, the voluntary sector could provide innovative services to prisoners and their families which helped to both mitigate the unhelpful effects of imprisonment but also contribute to the worthwhile work undertaken in progressive prison regimes. One of the benefits which voluntary sector organisations bring to work with prisoners is their independence from the statutory sector and their focus on the needs of the service user. Additionally, and importantly, the vast majority also have a strong base in the local community and can help to facilitate the reintegration of the offender in to the community. Finally, they deliver specialist services in crucial areas such as housing, employment, debt reduction, children and families, and a range of arts based initiatives which have a strong record in motivating offenders to change their perspectives on offending.
4. We welcome the broad thrust of the Criminal Justice Act 2003 in its focus on reserving prison for serious and violent offenders who present a risk to the

public, and its promotion of robust community sentences for the majority of non-violent offenders. We are concerned that the rapid rise in the prison population and the present overcrowded conditions make effective rehabilitative work within establishments extremely problematic. There is increasing evidence that resources that might have been devoted to supporting voluntary sector organisations working in prisons have been diverted to simply managing the secure containment of offenders.

5. There is clearly a strategic difficulty in the government's commitment to increasing prison places when it is acknowledged that the majority of those in prison could be managed more effectively in the community. Although it is hoped to use the extra capacity for serious and violent offenders, the cost of increasing custodial provision will impact on the resources available for developing community based services.
6. We would question the value of short prison sentences which allow very little opportunity for effective work with offenders before they are released again into the community. In some ways these short sentences achieve a disruption in housing, employment, and family ties, exposing offenders to the damaging impact of prison life, without any benefit in terms of addressing the issues that led to the offending. Given that the average prison sentence imposed in magistrates courts is only 3 months, of which the prisoner will serve only 6 weeks, it would seem that the risk to the public posed by these offenders is minimal and that they could be subject to community sentences. This is partially reinforced by the fact that magistrates have increased the proportion of convicted defendants sent to prison in the past 10 years from 7% to 15% during a period when the overall crime rate has fallen.
7. It is undeniable that achieving rehabilitative objectives is much more difficult from within prison than in the community. Much of the good work undertaken in prisons is focused on mitigating the impact of custodial sentences. This is especially the case when prison overcrowding often means that prisoners are held in prisons large distances from their home area and the daily regime is restricted as a result of the pressure of numbers.

Community Sentencing

8. The current evidence suggests that community sentences are more effective at reducing reconvictions than prison sentences, given the respective rates of reconvictions over two years are 54% and 67%. These figures will undoubtedly mask a number of issues but the difference is significant. Given the observations above about the large number of short prison sentences, it is difficult to argue that the difference in the reconviction rates might be explained by more serious offenders being sent to prison rather than being given community sentences.
9. The government consultation document, Making Sentences Clearer identifies a number of groups of offenders for whom community sentencing is more appropriate than custody:

- Foreign nationals
 - Vulnerable women offenders
 - Young offenders
 - Non-violent offenders with low level disorders
 - Remand prisoners who could be placed on electronic surveillance
10. With the exception of foreign national prisoners who in most cases could be deported, the rest could be better able dealt with by way of community sentences which could provide more effective interventions to address their offending or to ensure their compliance with court sanctions. However, to effectively achieve the removal of these offenders from custodial sentencing requires a strategic approach combining informed decision making at each stage of the criminal justice process with swift and efficient access to community based services.

Diversion

11. Strategically, the most effective way to reduce the level of custodial sentencing is to shrink the pool of possible candidates for imprisonment. This is achieved in a number of ways:
- a. Increase rate of adult cautioning. This can be supported by police having access to a range of services to meet the needs of low-level offenders. This begins to stem the flow of low-level offenders into magistrates courts. This would require the implementation of routine screening of arrested individuals to assess suitability for cautioning and effective referral arrangements for those that required assistance with substance misuse, mental health needs, housing, etc.
 - b. Increase provision of court based bail information schemes. These had proved effective at reducing the rate of custodial remands. This achieves both a reduction in remand prison population and means that a larger proportion of offenders appear for sentencing having been able to begin to address some of the factors that have contributed to their offending - a much easier thing to achieve when in the community than from a prison cell. These could be supported by prison based bail information schemes which could work to put in place arrangements that made it possible for remand courts to bail defendants at their next appearance.
 - c. The success of bail information schemes depends, as with adult cautioning provision, on the availability of drug, mental health and related services at the court/police station. Rapid access into services can provide a base for making the case that offenders remaining in the community will be more effective in effecting rehabilitation.
 - d. We would support the suggestion in Making Sentences Clearer (paragraph 6.9) that the welfare needs of low level offenders could be met without resort to placing them on community orders. It has historically been the case that magistrates have imposed probation/community orders in order for the

offender to get help for their problems. These welfare concerns can be addressed by properly funded and organised schemes delivered by the VCS. (eg H&W Probation ran a Minor Offenders Support Scheme which provided professionally managed and trained volunteers who were able to address the welfare needs of offenders without recourse to community sentences). This approach helps to ensure that the problems that have contributed to repeat low level offending are addressed and thus prevent further offending which can often lead eventually to imprisonment as a response not to seriousness but to persistence of offending.

- e. This approach could be linked to arrangements identified in 6.7 for the provision of an initial screening of convicted offenders to assess the level of risk and their potential for a financial penalty.
- f. Finally, the proposal at 6.12 to limit community orders to those offences that are imprisonable should be adopted. This would further restrict the pool of offenders who could be sentenced to community orders or indeed short custodial sentences.

Identifying the Costs of Sentencing

- 12. There is considerable merit in the proposal, at paragraph 7.2, to publish the unit costs of sentencing decisions. This could be done by local court, by magistrate court area, and by region. If this was linked to the proposal at 1.20 to include in the role of the Sentencing Guidelines Council to control correctional resources, there would be a major strategic lever to reduce the use of custody. Additionally, it might also create the opportunity to redirect resources away from prisons and into communities, particularly those that have been identified as having disproportionately large numbers of residents sentenced to custody.

Role of Offender Managers

- 13. We would not support the idea of offender managers being given a quasi-judicial role in managing community orders. This would unnecessarily complicate the relationship between the Offender Manager (formerly probation officer) and offender, as well as others who would be involved in delivering interventions.
- 14. It is still not entirely clear why, in the past 10 years or so magistrates have increased custodial sentencing from 7% to 15% of cases appearing before them. It might be worth examining the correspondence between Offender Managers' recommendations in reports and magistrate sentencing. Have probation reports been instrumental in increasing the prison population? Or is it the case that magistrates have been sentencing against recommendations for community sentences in court reports?
- 15. A report by the Prison Reform Trust on the numbers in prison as a result of technical breaches of post-release licenses estimated that approx. 8,000 offenders were in prison having been recalled as a result of enforcement procedures. This has been the entirely predictable consequence of the ever more inflexible standards of supervision in the interests of protecting the public and, ironically, increasing the confidence of the courts in the suitability of community

sentences. However, there may be scope here for allowing greater discretion for probation staff in responding to failures to comply with requirements in licences. There is considerable research that demonstrates the uneven and fluctuating nature of the rehabilitative process. Given the chaotic and difficult circumstances of many offenders it is not surprising that so many find it impossible to maintain a consistent pattern of attendance for interviews, maintain a drug free life style, resist the pressure of criminal peer groups, etc. There is an acceptance within the drug treatment field that lapse and relapse are factors in rehabilitation that need to be anticipated and used constructively as learning experiences to build upon. This requires flexibility, challenge, and tolerance. In the case of dangerous and highly prolific offenders, a return to prison will often be the most appropriate response to failure to comply with supervisory requirements as these may be precursors to further significant offending. And, given the high profile cases of offenders committing serious further offences while under supervision, it is understandable that the probation service will adopt a policy which reduces the risk of these events occurring. Nevertheless, it is important to achieve a balance in this area.

Localism

16. If community-based responses to offending are to be successful however, there needs to be significant investment in offender services and the structures created to ensure that the delivery of interventions is efficient and effective. The Liverpool Community Justice Centre is an excellent model that needs to be replicated across the country (and properly resourced). One of the features of the Liverpool model is its very local focus with residents, including victims of crime, and agencies specialising in housing, debt relief, and related services located in and around the court.
17. Clinks is one of a number of organisations that form the Coalition for Social and Community Justice which published 'Neighbourhood by Neighbourhood', which argued that local authorities, the voluntary sector and the criminal justice agencies working at a local level could most effectively deliver services to offenders and reduce re-offending. Community sentences provide much greater opportunities for this to be delivered than is the case when offenders are removed from their communities as a result of custodial sentences.
18. We also support the development of restorative justice initiatives wherever possible. The opportunity for offenders to repay the damage caused by their crimes, and for victims and the local community to be involved, is currently a feature of many Unpaid Work schemes and could be developed much further.

Women in the Criminal Justice System

19. Baroness Corston will shortly be publishing the report on her investigation into the conditions of vulnerable women in the criminal justice system. There is already overwhelming evidence of the unnecessary and inappropriate use of custody for vulnerable women whose offences do not represent a risk to the public. The Together Women programme is welcomed and the lessons learned about effective community provision for women should be disseminated as soon as possible. It is crucial that women offenders are provided with 'women centred'

services to meet their needs, especially in relation to mental health and substance misuse, often arising from their experiences of abuse and exploitation.

Black and Minority Ethnic Offenders

20. It remains the case that Black and Minority Ethnic offenders are disproportionately represented in the prison population. The BME voluntary sector generally, and especially those organisations that work with offenders, is fragile and underfunded. Investment in front line and second tier organisations that work in this area would enhance the opportunities for effective diversion away from custodial sentences. Criminal justice agencies, and commissioners of services, need to work closely with local BME organisations working with communities to reduce re-offending.

Recommendations

1. The government should revisit its commitment to increase custodial provision and assess whether the resources could be better and more effectively used for increasing community based services.
2. There should be a co-ordinated communication strategy identifying the proper use of custody for serious and violent offenders and how that is achieved in sentencing policy.
3. The Liverpool Community Justice Centre model should be rolled out across the country and resourced appropriately.
4. The proposal to identify and publish the unit costs of sentencing could be further developed and a strategic view taken of the potential for reinvesting any saving from reducing custodial provision in those communities that have disproportionately 'consumed' custodial resources.
5. NOMS and other commissioners of offender services should invest in local voluntary and community sector organisations that can deliver key interventions in relation to housing, debt relief, mental health services, and substance misuse.
6. There needs to be a concerted strategic approach to diverting non-violent offenders away from both custodial sentences and involvement of the probation service in low level offenders. This will require investment in services available at all stages of the criminal justice process from arrest to sentence.
7. The government should legislate to restrict the imposition of community orders to imprisonable offences.
8. Agreements should be negotiated between probation services and courts to implement screening processes which would identify convicted offenders suitable for financial penalties.
9. The recommendation at 8 should be supported by funded provision of welfare services available at court.