



Northern Ireland
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Committee for Justice

OFFICIAL REPORT (Hansard)

Criminal Justice Inspection Northern Ireland
Reports: Management of life and
indeterminate sentence prisoners in Northern
Ireland

25 October 2012

NORTHERN IRELAND ASSEMBLY

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Criminal Justice Inspection Northern Ireland Reports: Management of life and indeterminate sentence prisoners in Northern Ireland

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Alex Easton
Mr Tom Elliott
Mr William Humphrey
Mr Seán Lynch
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Mr Tom McGonigle	Criminal Justice Inspection Northern Ireland
Mr Brendan McGuigan	Criminal Justice Inspection Northern Ireland

The Chairperson: The first briefing is on the report entitled, 'Management of life and indeterminate sentence prisoners in Northern Ireland'. I welcome Brendan McGuigan, who is acting chief inspector, and Tom McGonigle, who is the lead inspector on lifers' inspection. Is this the first time you have been before the Committee as acting chief inspector, Brendan?

Mr Brendan McGuigan (Criminal Justice Inspection Northern Ireland): It is indeed, Chair.

The Chairperson: Congratulations on that particular promotion. You are very welcome.

Mr McGuigan: Thank you very much indeed, Chair. I am encouraged to hear that some members might have read the reports during the summer recess. I hope they did, because you will find the three reports particularly interesting and there is some encouragement in them about how the criminal justice organisations are responding to what we see as very important issues.

The first report is on life sentence prisoners. Public protection and confidence in the criminal justice system demand that life sentence prisoners are thoroughly assessed and tested before they are released from prison and that their management in the community is robust once a life licence has been granted. Lifers have been convicted of the most serious crimes, and protection of the public must be paramount when they reach the stage where they are returning to the community. They must also be afforded the opportunity of decent rehabilitation during their years in prison to maximise the likelihood of their returning safely to society.

The inspection examined how well life prisoners are managed in prison and after their release. We found strengths in a number of important areas, including: the legislative basis for managing indeterminate sentence prisoners in Northern Ireland was good and had been informed by serious pitfalls that had arisen in England and Wales over the past decade; the Probation Board for Northern Ireland and the Parole Commissioners had comprehensive rules and standards to guide the detail of their work; life licensees were being carefully supervised in the community by the Probation Service; administration by the Parole Commissioners and its operational level contact with criminal justice agencies was much improved, which was leading to better case management; and the Northern Ireland Prison Service had developed its lifer management in several ways, with arrangements for indeterminate sentence prisoners to progress and regress in the prison system more systematic and transparent than they had been when we last inspected and a dedicated lifer house at Maghaberry Prison providing a better environment for many of the prisoners held there.

The inspection also identified areas for improvement. First, it was clear that no effective action had been taken in respect of previous internal Prison Service reviews or inspection recommendations on the prisoner assessment unit. The unit was suspended in April 2011 and serious concerns emerged about staff and prisoner conduct. The prisoner assessment unit role was very important, as it provided a base for the pre-release scheme where life prisoners were gradually prepared for a return to the community. As of October 2012, it has still not been reinstated, and the staff have been redeployed.

Secondly, the current methods of delivery and psychology services in the Prison Service were not greatly valued. There were not enough psychologists to undertake all the forensic assessments, and, while offending behaviour programme delivery had improved, external substitution was required and was proving costly.

Thirdly, there was scope to further develop the regimes for life prisoners. For example, for staff to actively engage with prisoners at an earlier stage in their sentence, to better identify and respond to the needs of potential lifers and to transfer more lifers to Magilligan Prison.

The inspection report made 14 recommendations. The main three recommendations were for the Prison Service and others to urgently establish a new step-down facility for lifers; to reconfigure the respective roles of Probation Service and Prison Service psychology services; and to improve the delivery of offending behaviour programmes in the prisons. If properly implemented, those measures should significantly enhance the quality of risk-management in prisoner resettlement while also delivering financial savings.

Although there were areas in which operational practice could be improved, Criminal Justice Inspection Northern Ireland's (CJINI) overall conclusion was that indeterminate sentence prisoners were being well managed in Northern Ireland, both in prison and in the community. The improvements we recommend should be quite manageable in a small jurisdiction that has singular prison, probation and parole organisations. There were three strategic recommendations and a number of other operational recommendations that I will not go through unless members want me to.

Basically, we found that the arrangements were good and were working effectively. We believe that they could work even better, and it is because we aspire to that level of excellence that the recommendations were made.

The Chairperson: Thank you very much. This is a report that I did get a chance to read during the summer, so I have a number of questions. It was news to me, and perhaps that is because I was not properly informed, that terrorist-related offenders are not subject to any form of supervision by the Probation Board.

Mr Tom McGonigle (Criminal Justice Inspection Northern Ireland): That has never been the case. They were never supervised at all. I suppose that is because of the different background of offences and their amenability to supervision in the community.

The Chairperson: Was that part of the Belfast Agreement or was it in law that, because it was not —

Mr McGonigle: It well preceded the Belfast Agreement. From the time that the first lifers were getting out, probably from the late 70s or early 80s, they were never supervised. That was an arrangement between the probation service and the then NIO.

The Chairperson: My reading of your report was that 20 of them have since been recommitted. Does that not suggest that there should have been supervision?

Mr McGonigle: Possibly, but the reasons for the recall would be ordinary-type offending, and the reasons for the original sentencing were related to the Troubles. The working arrangement had always been that people sentenced in relation to the Troubles were not subject to supervision. If and when those people came to be re-released, and the reasons for recall are about domestic violence, dishonesty or other ordinary-type offences, then they may be subject to supervision by the probation service. That will be decided on a case-by-case basis.

The Chairperson: That just jumped out at me. I had never heard that. That is perhaps more in ignorance. I know that it was not part of the report, it just came up as a fact that raised my eyebrow a little.

Mr McGonigle: It is an important issue.

The Chairperson: A couple of other points, then: page 31 of the report states:

"Probation Officers were constantly surprised at how quickly after release some licensees failed to comply."

It went on to say that:

"Since December 2001 a total of 41 life sentence prisoners had been recalled to prison, 28 of these had been prosecuted for a further offence. Records also indicate that at least 14 other life licensees had received letters warning them about their behaviour".

I was struggling to pick out aspects about the Probation Board in the report, and I can see there are areas that concern me around what is happening in prison, and I want to get into that a little bit more, but, on the probation side, are people who are reoffending in that respect because of a failure in what has gone on in the prison, or is it because the Probation Board is not properly monitoring, supervising or looking after them when they have been released?

Mr McGonigle: No; it is not that. I am not sure whether any of the people who have been recalled from supervision have been involved in serious reoffending. The reconviction rate for serious offences by lifers is very low across the UK. Probation supervises them very thoroughly, and recall is quite often prompted by concerns about behaviour that might lead to further offending as much as by actual reconviction. So, very few of those who were recalled were adjudicated formally by the criminal courts after their release, but pre-emptive action was taken by probation to try to make sure that they would not re-offend as that would lead to them being recalled.

The Chairperson: OK. Before I go on to the Prison Service aspect of things, the report mentioned somewhere — and I cannot find it at the moment, so correct me if I am wrong — that the Probation Board takes its role very seriously. In that context, it goes on to say that the board has had four reviews because of failures. When I read that, I wondered who was saying that the Probation Board takes its role seriously: is that the opinion of the Inspectorate or is that what the Probation Board says? It has had to have four reviews, and yet, from what I can see, there is not one recommendation of how the Probation Board should do things better. However, the inference is that things have gone wrong, otherwise you would not have a review.

Mr McGonigle: I am not sure where the part about the four reviews is in the report myself, but, from memory, those were cases that did not meet the criteria for what they call a serious case review. Nonetheless, one was initiated just to be sure that no one was missing out on any learning points. The bit about the board taking its role seriously is the inspectorate's opinion, quite clearly, and that is based on the examination of case files, observation of meetings between probation staff and life prisoners, and examination of the statistics of recall and how they manage those cases in total.

The Chairperson: It is on page 32. That takes me on to the Prison Service side of things. If your view is that they take it seriously, and from what I can see there are no recommendations here of where they should do things better —

Mr McGonigle: No.

The Chairperson: — but, when it comes to the Prison Service, there clearly are.

Mr McGonigle: Sure.

The Chairperson: So, does it not take it seriously?

Mr McGonigle: Not as seriously. It does take it seriously, and it is important to highlight that it has improved. We have a significant sense of commitment to this and to other issues under the new director general. How that will play out remains to be seen. It could quite clearly have done more. The Prison Service itself will say that it could learn from the thoroughness of scrutiny and of assessment and risk management of lifers demonstrated in probation practice. However it has some way to go, particularly in the two main areas that need to improve, which is by having some sort of step-down facility to help gradually reintroduce life prisoners and others to the community, and in the delivery of psychology services.

The Chairperson: In that respect, two of the strategic recommendations relate to the psychology end of things. I am trying to establish what the thinking is in those recommendations in the context of the Owers report. Owers talked about healthcare in prisons becoming more integrated —

Mr McGonigle: And with probation.

The Chairperson: — and with probation, but there is no recommendation in your report about healthcare. The three main strategic directions of travel are that the Prison Service and Probation Board support psychology, in whatever integrated way is agreed. However, Owers talked about the service becoming more integrated with healthcare. So —

Mr McGonigle: I think that that means healthcare for the totality of the prison population, as opposed to just for lifers. We are talking here specifically about the provision for life prisoners.

The Chairperson: Yes.

Mr McGonigle: We are saying that in respect of those and other prisoners who need psychology services, there is scope for better delivery by integrating the two psychology services, so that there is continuity between community and custody and between custody and community when people are being prepared for release.

The Chairperson: So how do you envisage the more integrated probation and prison —

Mr McGonigle: In an ideal world, one psychology service could deliver to both custody and community. This is a very small jurisdiction, in which it should be quite manageable for us to deliver things more effectively. A single psychology service could do that effectively for those in custody and those supervised by the Probation Board in the community after release. Probation staff in the community could deliver the offending behaviour programmes and could work in custody, as, again, Owers said. We are trying to promote the direction of travel that Owers suggested. There is scope for the probation staff who currently work in the community to deliver some offending programmes in prison. We are not saying that we should go there in one fell swoop. We are saying that we could pilot some of those arrangements, see how well they work out and trial and develop them over the next couple of years. That is the suggestion.

The Chairperson: I read what the report said about the cost of having to buy in resources for the prison. The amount of cost that is associated with this worries me. Can the Probation Board meet the gap? Obviously, everyone has talked about resources, not least the Probation Board, and we are putting more responsibility on it by diverting away from prison to the community, with a much greater emphasis on management in the community. The board's resources are stretched, so can they fill that gap in prison?

Mr McGonigle: We suggest in the report that some of the resources that currently go to external psychology services would shift to probation. Justice reinvestment is the concept, and that would enable probation to deliver some of those programmes in custody at lesser cost, and it would free up the psychologists to deliver the services that they should be.

The Chairperson: Who would lead an integrated service? I know the question from unionist unity; who would be in charge — prison psychology or probation psychology?

Mr McGonigle: We would not be prescriptive about that at all. We would say that that is for two, hopefully mature, organisations to sort out between themselves. We certainly have no preference about who leads and I am not sure that the organisations themselves do, but that is for them to work out in the detail.

The Chairperson: Out of interest, what is the breakdown, the critical mass of psychologists — prison or probation?

Mr McGonigle: Prison has by far the biggest number.

The Chairperson: OK. That will be interesting.

Mr McGonigle: Sure; and important.

The Chairperson: Yes, very much so.

Mr McGonigle: It is an important public protection issue and a bit similar to the learning and skills provision in the prisons. They are not as integrated in the corporate Prison Service as they ought to be, and the same applies to psychology services. There is scope to bring some of those rehabilitative services more centre stage within the Prison Service.

The Chairperson: I have no more commentary on it. To me it is very important, because we are talking about life-sentence prisoners. Owers talked about the healthcare, and I agree that it needs to be a whole package. I am a little bit alarmed about how negative it was on the prison side of it, and I am interested in exploring that a little bit more with them, but —

Mr McGonigle: It is not the first time we have reported in this way about aspects of the Prison Service. It is a continuing trend.

Mr McGuigan: There is a tremendous win-win if they can secure those improvements, because, at the end of the day, it is about public protection, and that is to the fore in lifer management. It is ensuring that, when people do come out into the community, they represent a much lesser risk than they did when they went in.

The Chairperson: I just want to be sure that probation staff can still do everything that they need to do in the community with increased responsibility and not to be stretched to the point of having to deliver prison-related stuff, but I take the point that they should be able to work collaboratively.

Mr McGonigle: Some reconfiguration of resources would enable that.

Mr McCartney: Thank you very much for the presentation. The executive summary makes you lazy; you do not have to read the full body of the report. *[Inaudible.]* In a broad sense, what is the impact if the recommendations that are made are not delivered or in place? What is the overall impact of the release programme on it?

Mr McGonigle: The Prison Service is still releasing life prisoners, with the co-operation of the Probation Service and the agreement of the parole commissioners. That will still happen, but the point is that, unless there is a step-down facility to prepare prisoners coming out, they will not be as well prepared. That is why the Probation Service commented that so many break down so quickly after getting out. They go back on the drink or drugs, driving cars that they should not be driving or forming relationships that are not safe. Prisoners could be better prepared for release if the recommendations were implemented. It is about the process not working as well as it could and should in this jurisdiction.

Mr McCartney: In terms of a timeline to see that established, what has the response been from the Prison Service or the Department?

Mr McGonigle: The Probation Service is ready to go. We are still waiting to hear clearly. We have got verbal commitment from the new director general of the Prison Service that she is ready to go. We still need to see the outworkings of that in an action plan.

Mr McCartney: Sometimes people have the view that life sentence prisoners should be held together in a separate facility. There is a view in here that Magilligan has a role to play. Will you explain that?

Mr McGuigan: We believe that the regime at Magilligan is more progressive. In ideal circumstances, you could think about moving life sentence prisoners to an open prison towards the tail end of their sentence. We do not have one, so, of the prison establishments in Northern Ireland, Magilligan is probably the most progressive in that there are better opportunities to work with the prisoners and better opportunities for officers to get a clearer idea of what is going on in the prisoner's life and how well they are being rehabilitated and prepared for release.

Mr McCartney: In the wider sense, would that assist the idea in the Owers report of Maghaberry becoming three separate prisons? The regime could be more progressive than them being held —

Mr McGonigle: It could do, with smart planning. That is the short answer to that.

Mr McGlone: Thank you for your report. I have just one query. On page 40, paragraph 5.24 states:

"Since December 2001 a total of 41 life sentence prisoners had been recalled to prison, 28 of these had been prosecuted for a further offence."

What happened with the other 13? Were they keeping bad company or what?

Mr McGonigle: There might have been issues of concern in their conduct, either keeping bad company, as you say, or, for example, some may have been living in a hostel and not adhering to curfew times. The Probation Service, which supervises them, wants them in the community, and is trying to be sure that they are behaving safely.

Mr Easton: On the establishment of an integrated psychology service, psychology strikes me as being a health issue. Are you involved with the Department of Health on that?

Mr McGonigle: No, in this sense, we are talking about forensic psychology, which is very much a criminal justice issue. You are quite right to put your finger on that because there are clinical psychology deficiencies, and a lot of those prisoners have serious traumas and issues that they need to address if they want to be released safely. The Southern Health and Social Care Trust now has that responsibility and needs to be involved. However, we are primarily focusing on forensic psychology issues such as how risk is assessed and managed and how the parole commissioners are helped to decide about safety.

Mr Easton: Are you, rather than the health service, picking up the tab for that?

Mr McGonigle: The Prison Service — so the criminal justice system — picks up the tab for forensic psychology.

Mr Easton: OK; I am glad to hear that. Will you offer the psychology service to every life prisoner?

Mr McGonigle: That is for the Prison Service to determine. Psychology needs to be involved with every life prisoner, if only to assess the risk and to try to make sure that the best plan is in place for their release.

Mr Easton: What happens if somebody in the psychology service picks up that a person will go out and not be able to cope and might offend again?

Mr McGonigle: In that case, in simple terms, they should report that to the parole commissioners, who will take that information into account when they decide whether or not to release the person.

Mr Easton: Theoretically, they might not get released?

Mr McGonigle: Absolutely, yes.

Mr Humphrey: Thank you both for your presentation. How long after having been in society should prisoners, particularly life prisoners, stop being prisoners and return to being normal people in society? Lots of ex-prisoner organisations get funding. Does that happen in perpetuity or does that, at some point, come to an end and those organisations and the people they represent become normal people within society as others are?

Mr McGonigle: It is a good point. It will vary from release prisoner to release prisoner. The philosophy is that prisoners are citizens who have lost their liberty. Once they return to society, they should return, as far as possible, to being normal citizens with all the responsibilities and rights that that entails. Some will need lots of support services, and some will be quite independent and not need any support services. It will change between one ex-prisoner and another.

Mr Dickson: Thank you for your report. Are you satisfied that appropriate training regimes are in place for prison and probation staff to ensure that they can, in turn, deliver the best possible service to the prisoners and their clients?

Mr McGuigan: It could always be better. We genuinely feel that a significant amount of training goes on. I am sure you have heard on numerous occasions about the difficulties in the Prison Service and, perhaps, the reluctance to engage with prisoners in a way that supports the rehabilitation process. Having said that, the Prison Service has, traditionally, put some very good staff into lifer management, and some significant work has gone on there. Could there be more? Yes. Could the training be better? Possibly. We genuinely feel that the Prison Service has moved some distance in helping provide the situation that we have reported on. Could it do more? Yes. Would training help? Yes, absolutely.

The Chairperson: The session is concluded. I thank you, Mr McGonigle, for coming.