

SENATOR WENDY KINNARD, PRESIDENT, HOME AFFAIRS COMMITTEE

1. Sentence policy - use of non-custodial options for addicts

The Panel The President was asked whether she would accept that prison is a more expensive and less effective way of dealing with people in that situation than rehabilitation. It appeared that many addicts were on a treadmill of repeated offences, linked with their drug habit, returning them time and again to custodial sentences. The Panel asked why, with an increasingly overcrowded Prison, further use was not made of non-custodial options for people with drug-related problems.

The President's response -

- (a) There are three types of drug-related offender - (i) those caught in possession of drugs; (ii) those trafficking in drugs; and (iii) those with a substance misuse problem who are convicted of another offence - Each type is treated differently in criminal justice system.
- (b) She accepted that these categories are not mutually exclusive - people may fit into more than one category. She said however that individual responsibility of addicts caught up in trafficking or other crimes should be taken away entirely.
- (c) Figures for drug offenders sent to Royal Court/Prison from the Magistrates Court in 2003 (*supplied*). Only small percentage of type (i) (i.e those charged with possession only) were sent to Royal Court/Prison. The majority of type (i) were fined. WK believes that, while Jersey imposes heavy penalties on traffickers, it is not overly punitive on drug users.
- (d) Offenders caught in possession are routinely offered treatment.
- (e) Of those caught in possession entering the Island through the airport (77) only 4 went to prison. Most of those arrested at the airport or harbour were trafficking.
- (f) Two key strategies relating to drug use -
 - (i) **Substance Misuse Strategy 1995** (which will become from 2005 part of joint strategy with Health and Social Services '**Building a Safer Society**') advocates a harm reduction approach.
 - (ii) **Draft Criminal Justice Policy** (about to be discussed by Home Affairs Committee) highlights creative use of alternative sentence options in Jersey through Probation Service diverting people into treatment and community service. Courts can consider delaying sentences in favour of treatment.
- (g) The Committee is aware that the profile of sentences has changed enormously since 1991 when 90% of sentences were less than 6 months. Custody for short sentences is now much less used because of other community based options. There are, on the other hand, many more long term sentences and an overcrowded prison.
- (h) The Rutherford report said that one of the contributory factors to prison overcrowding was the **Royal Court** sentencing policy for trafficking. The tough sentencing policy, however, does not appear to have led to any decline in trafficking. The Home Affairs

Committee intends to request the Royal Court to review its policy in the light of experience elsewhere.

- (i) WK is not aware of any cases where drug use has been cited as a mitigating factor in a criminal case.
- (j) While she accepted that prison is an extremely expensive way of dealing with offenders and is not the most effective way of dealing with problems of drug addiction, she said that in any criminal justice system there will always be a punitive element on the part of a society which has been harmed by an offence.

'There has to be a balance between retribution and rehabilitation. There have to be clear expressions of what works and what doesn't work because there is no point in punishing people at the end of the day if they are going to turn out a worse offender.' (Senator Kinnard)

2. Wool Report: Health Needs Analysis H.M. Prison La Moye 2004

The Panel: The President was asked to respond to the criticisms made in the Wool report which had drawn attention to the strains caused by the increasing number of prisoners dependent on drugs, particularly heroin, who are received into custody each year. In particular, the report stated that the detoxification method used in the prison did not conform to current medical practice. Addictive behaviour was cited as one of the main challenges presented by prisoners.

The Report described the interval in Prison as *'a unique opportunity to benefit not only individual prisoners but ultimately their effect on the overall public health.'* However, there had been instances of prisoners who had been infected with blood-borne viruses through drug use while in prison. Yet harm reduction provisions for prisoners were limited.

The Panel referred to a study for the United Kingdom Home Office on mortality rates among newly released prisoners.

The President's response -

- (a) She accepted that at the time the report was being researched the criticisms were true. However, many of the recommendations of the Report were already in the process of being implemented.
- (b) The Home Affairs Committee had received the Report on 13th May 2004 and had requested the Prison Governor to take the necessary action to ensure that the recommendations were acted upon. It had requested that targets dates be set for those which could be implemented within existing resources and that those which required additional resources should be identified.
- (c) Prisoners with a history of intravenous drug use could request an appointment with the microbiologist.

- (d) Hepatitis B vaccinations were offered to all prisoners serving over three months.
- (e) Funding for these purposes was currently at the discretion of the Health and Social Services Committee and it was hoped that this would continue.
- (f) A comprehensive health needs strategy (*copies supplied to the Panel*) was now in place. Prisoners were screened on reception. They were offered access to substance misuse counselling on the basis of self-referral. The support of health professionals, from Alcohol and Drug Service, Jersey Addiction Group, and the Community Forensic Psychiatric Service was available.
- (g) A pilot detox scheme based on the use of subutex was currently being trialled.
- (h) In general, it was not considered that a maintenance regime using methadone was appropriate in prison, even for remand prisoners, due to practical difficulties involved.
- (i) It was a matter of concern that drugs were available within the prison walls. Fortunately, this was currently at a low level in Jersey in comparison to the United Kingdom. There were already a number of procedures in place to prevent the spread of blood-borne infection. Dr Muscat visited the prison twice a month. The Substance Misuse Counsellor's remit was harm reduction policy. ADS provided advice to prisoners and staff.
- (j) Drug-free accommodation has been a great success. Prisoners on these wings agreed to voluntary testing.
- (k) Every opportunity is given to all prisoners to remain drug free and to take responsibility for their own health. All prisoners can elect to participate in voluntary testing as part of sentence planning. Well-woman clinics are available on the female wing and two full-time female health care officers.
- (l) WK believed that condoms should be available to prisoners.
- (m) Pre-release work with prisoners covers the dangers of overdosing in returning to drug use after a drug-free environment.

3. Sentence planning and post custodial supervision.

The Panel: The President was asked to comment on the failure to secure funding through the Fundamental Spending Review to implement an appropriate system of sentence planning and post-custodial supervision, available elsewhere in the United Kingdom. Does the Fundamental Spending Review process recognise the principle of false economy?

The President's response -

- (a) The failure to secure funding over the last three years through the Fundamental Spending Review process was a great disappointment.
- (b) Post-custodial supervision was currently on a voluntary basis only.

- (c) The lack of resources to provide this service was a major obstacle to good rehabilitation work. It was recognised that many prisoners were quite vulnerable on release. Despite the good work being done while prisoners were in La Moye, it remained extremely difficult for many without support to remain drug-free once they were released.
- (d) Temporary release scheme - the President gave an update on the current position of the scheme which was now back in operation under revised criteria and risk assessment. This was acknowledged as an important part of goal-setting for prisoners.
- (e) She had an informal discussion last year with Silkworth regarding a possible role as half-way Hostel for ex prisoners. She was aware that some had found their way there of their own volition. She felt that some prisoners would welcome, on a transitional basis, the closed environment and support available through a rehabilitation regime like Silkworth. This could be provided as part of post-custodial supervision with a prisoner on release on licence. However, nothing had come of these talks to date because of lack of funding. No specific feasibility study had been undertaken to estimate costs.

'I cannot emphasise strongly enough how much I believe that, not just in this area but in all areas of the criminal justice system, if we were to have post-custodial supervision we could be incredibly more effective in reducing overall crime in the Island in the long term and in reducing overall harm to victims and also to individuals who find themselves involved in substance misuse. We have an opportunity here to make a great difference.' (Senator Kinnard)

- (e) She agreed that there was a tendency in the Fundamental Spending Review process to concentrate on the short term at the expense of long term initiatives. Committees were given a budget and were told to make of it what they could.

'The Home Affair Committee has several unavoidable statutory responsibilities and it was difficult to shift resources to areas such as Probation and After Care to improve effective treatment services and post custodial supervision working together as a seamless transition from prison onto the outside. Getting resources to do that when you are literally fire fighting in many circumstances, in terms of the prison, with the overcrowding the numbers the pressures and so on, - it is very difficult to shift the resources into something we believe will be a long term benefit. We've got to find a way out of that. I'm hoping that on the back of the Criminal Justice Policy, once it has been consulted upon and firmed up, that we may be able to persuade the public and our political colleagues that we need to take a longer view about effectiveness.'