

Criminal Justice Alliance Members Meeting
Monday 22 January 2018
The Foundry, 17 Oval Way, London SE11 5JH
Bob Neill MP, Chair of the Justice Select Committee

I want to start by thanking the Criminal Justice Alliance for the work that you do, because you've been regular interlocutors with the Select Committee. We're very grateful for the evidence given collectively and by individuals in this room which has helped us with our inquiries in the past. We do really value the interaction which we have with you and your individual member organisations. Ben, we were very grateful for the evidence which you yourself gave us on the criminal courts charge.

The current position of how Select Committees are operating is interesting. Two things have coalesced, partly by design. One has been that over the years, and under successive governments, there's been a strengthening of the role of Select Committees. There's been an increase in the amount of resource given to the secretariat and there have been some changes in the way in which they're constituted.

And in politics, patronage - or lack of - is quite an important consideration. The fact that now and in the last three parliaments the Chairs of the Select Committees have been elected directly by the whole House, as opposed to being appointed by the party whips, is a really very important change.

The Committees therefore require cooperation and consensus. What we have always tried to do is base our decisions and our reports on the evidence as far as possible, rather than partisan considerations. It also means that the chairs are reshuffle-proof, so we have had a bit of continuity there. So despite the fact we come from different parties, we have a mandate from the House and that, I think, has enabled Committees to punch rather more above their weight than in the past. Each of the backbenchers and remaining members of committees are filled by an internal party election, so again there is an element of democracy around that - the whips can't appoint people as a reward for having voted.

The second thing that's coalesced has been the fact of hung parliaments, twice in recent years. So again there is no majority whereby Government can steamroll things. Government itself is sensible and has to make compromises. That's an important consideration and it means therefore that any government ultimately is going to have to take account more of Select Committee views, provided we get them well-researched; provided we don't overstate the case; and provided we stick to that mantra of basing it on the evidence.

I'm conscious that the CJA has two big work-streams at the moment: restorative justice and stop and search. On restorative justice, there was some work on that in the last Parliament but I'm not convinced at all that the government has added what we picked up on those issues. We are still nowhere near it coming into law for a number of reasons.

I think reform in the whole of the justice area is yet another victim of Brexit. The scope for doing what would be a perfectly sensible - and I would have hoped broadly supported - is not there. This is not necessarily because ministers have suddenly taken a turn for the reactionary, but that even when there is political will, they don't have the space in which to do it. I think Tony Blair quite rightly said when he first turned up he thought you pulled a lever and things happened, but it's not like that. At the moment I fear it's pretty swamped so we have to fly against that current to try and get reform.

The issue of stop and search perhaps is rather more within the Home Affairs Select Committee's field, but I'm conscious as a London MP of the issues and the difficulties around that. I am conscious when you look at the evidence, London itself is changing a great deal. We used to see this as an inner London issue. I suspect that's no longer the case. The idea that then there is rather a monolithic socially troubled inner London and a leafy prosperous outer London doesn't work anymore. We have to be much more alert to

the changing face of London. It's certainly a very important issue which we need to address and we need to take some of the party political heat out of that too.

So let me tell you what we're doing, where I hope you will be willing to help us and I hope we will be able to work together. Inevitably a lot of our work has been prison-focused. It's the biggest issue as far as the MoJ is concerned and it's the one where I think there are the biggest problems.

We are doing two major pieces of work on the criminal justice side. One relates to the prison population 2020 and that follows on from the work that we've done in the last 12 months on safety in prisons and also on the prison reform programme. The second piece is Transforming Rehabilitation. And there's an obvious linkage because one of the great failures of our system is the massive reoffending rate and you can't divorce the two.

We deliberately make a point of having enough time and space in the schedule to do quick one-offs when something comes along that's really serious. So we're doing an inquiry on Wednesday specifically around the problems in Liverpool.

There are a number of problems. There's a pattern that's emerged, isn't there? There has been an unwillingness until very recently to accept that there was a crisis. I hope that perhaps our Committee had some role in that: after our previous report calling for greater transparency as to what was going on, we finally dragged from the MoJ an acceptance that there was a crisis and an acknowledgment that a reduction in staffing had had a role in that.

Some resource was put in, and it was actually a success that Liz Truss had whilst she was at Justice to get some funding. However, it has not turned things around and at very best it may have just plugged some holes. The sense that we get is that water is still coming through. We're still shedding experienced staff. Although we don't have very good data, anecdotally and from the knowledge of everyone in this room, all the performance indicators still continue to go the wrong way.

What we have been looking for specifically is greater transparency and we want to press for greater publicity of performance targets and some clarity as to what they are. So we are doing that through the inquiry.

Safety and reform are key priorities. It seems to me that when you have someone like Peter Clarke - who is a sober, considered man with an experienced team - talking about an 'abject failure' of a 'decent and purposeful environment', you can't get much more damning than that. These are the questions that we need to push on.

I feel a little sorry for Rory Stewart as he's only been in the job for a matter of weeks. Arguably, that's part of the problem - the fact that the Ministry of Justice has a sort of ministerial revolving door has meant that even with the best will in the world, anytime ministers have started to get on top of issues, then they are moved on again. I think Michael Gove actually had some genuinely visionary approaches to rehabilitation and prison policy. Tragically, he ended up doing some of the things he did and then ended up getting moved out for it. Liz Truss did get in some resource and I think David Lidington was minded to go very much in the same way as Michael Gove had done.

The Prison & Courts Bill was squeezed out because of the Brexit Bill. We'll push very hard to try and get that resuscitated over the course of this Parliament. Although the urgent procedure notice is useful, it's not the same as putting the whole of the inspectorate on a statutory basis. It's not the same as putting a statutory obligation upon government to respond to the reports. One of the quite shocking things it seems to me is that the number of recommendations acted upon has actually declined. There is something fundamentally wrong it seems to me in the culture of HMPPS when that happens.

Imagine if Ofsted was coming round to schools and that rate of pure rejection of considered recommendations was taking place. It would be regarded as scandalous. We will press for more powers around the inspectorate, more transparency around the performance data. We are expecting the latest quarterly stats at the end of the week so let's see. How do we calculate the MoJ's performance ratings? I think there is a real concern of them 'marking

their own homework'. Last year out of 118 establishments, ten were of serious concern and 40 are of concern. Well that's 50 out of 118, so not terribly good. And that's a movement up from 31 of serious concern or concern the year before. So the indication is that it's going the wrong way. And what's 'concern' and what's 'serious concern' in that context? There is a lack of transparency on that. We have just brought in the Justice Data Lab to increase transparency.

We have always been worried about the lack of purposeful activity. Again ministers say they are worried about that too, but what's the means of measuring that? We wanted to press the Ministry on publishing information on disorder but we couldn't get the matrix for that. We wanted to have data on time out the cell, but we are told there's not currently a reliable means of recording it. Why? We live in the modern world. It seems to me that that's unacceptable.

It's against this background that we're doing our inquiry into *Prison Population: Planning for the future*. The forecast is that it will grow to 88,000 prisoners by 2022. Why? How has that happened? How do you calculate that growth? Is it that somehow the English and Welsh are incurably more inclined to criminal activity than their Western European neighbours? I rather doubt it, but we seem somehow to imprison a rather higher percentage than most of our comparators and we seem to get worse results in terms of reoffending. Might it just be that actually they are fundamentally doing something better and more cleverly than we are?

One of the things which I find deeply frustrating is that it's not 'sexy' in political terms to do prisons, to do criminal justice policy. There are votes in education, votes in hospitals, votes in pensions, votes in sorting out the trains to run on time. There's votes in those, but no votes in prisons. But that doesn't mean that it shouldn't happen because it's really fundamental of a civilised society that we get that right.

From a centre-right perspective, there is a really good centre-right case based in social outcomes and cost effectiveness for saying prison is not an effective way of tackling this. You have seen Christian Democrat, centre-right led governments in Germany, in the Netherlands, in some of the Scandinavian countries actually doing it. If they can do it, there's no reason why my party shouldn't be able to do it, never mind a left of centre party. We even sometimes see Republican administrations in some states in the US adopting a very imaginative approach.

So this shouldn't be a tribal party political issue. But we really need to bang the drum on this, and part of the reason is to do that, you've got to 'roll the turf', you've got to change the climate of party debate, you've got to prepare the policymakers and the people who might push back for that. Otherwise you just get the *Daily Mail* kick-back and some of my colleagues scream and shout about it and ministers get scared.

On the Transforming Rehabilitation inquiry, we're focusing specifically on how are the measures that the government took actually working to reset the system. Or is it just that they've pumped in a lot of money to prop up something that's basically flawed and failing? How are we getting around this almost postcode lottery in terms of provision? What are we doing about the basics of information systems not being joined up?

I want to return to the treatment of young adults in the criminal justice system. I think the government's response to that was deeply disappointing. We did a short report on youth criminal records but I think there is still more to do. I don't think the minister quite got it last time. This new minister will have another try. I do think that gets in the way of young people making a move on in their lives.

We are of course going to be looking at the Parole Board and I decline to jump to knee-jerk reactions around that. Actually, I think David Gauke has handled the situation thus far very soundly and I was very happy to back him up rather than go around screaming 'judicial reviews' every five minutes. I think we do need a reform of the way the Parole system works and I think Nick [Hardwick] himself and his team recognise that. So we're giving them the opportunity to come and tell us about their thoughts in February. Let's

take it from there. There is a big issue around that and that brings me round to my final point.

Ultimately we've got to ask a really big questions, haven't we? Do we either keep pumping more and more money into the prison system, forever increasing a prison population when we are, at the moment, largely warehousing significant numbers of people without any real turnaround in their behaviour or social outcomes, at significant extra cost to a country which, on any view, is going to have to watch the money over future years? Or are we prepared to make that really radical reform and actually say you should be looking to manage down the prison population? That should be the strategy, that we actually seek to find alternatives that are meaningful.

That's why credibility of the Parole Board is important, because we do want, I hope, to be releasing people regularly when they are no longer a threat. That's why I hope some reform and greater transparency will help the cause of those who are reformers of the system. The more public confidence we can have, the harder it is for the *Daily Mail* type scare stories to spook the system. So we've got to work really hard on that and at the same time we've got to develop something which other countries do where we've always failed: genuinely publically credible alternatives to custody. Credible with the public, because ultimately no criminal justice system can operate effectively without public buy-in. And also credible to sentencers as well. That came across very strongly when I went to speak at the Magistrates Association's Annual Conference recently. I think the magistrates very often do want to do innovative and progressive things. But at the moment, they don't have confidence that there are interventions to enable them to do so.

What sort of criminal justice system do we want? What's it for? That should have been in the Prisons & Courts Bill. That's why I think we need it back. Ultimately we have got to get away from this reactive approach to prison numbers and start actually positively trying to reduce and find alternatives.

It always cheers me up when I come to events like this because there are a lot of people out there who are doing so much and I'm conscious that sometimes it must feel like banging your heads against a brick wall. But it's not. It is worth it. I'm an optimist. We will get there in the end, but we can only do it with your help. Do keep in touch with us.

Q and A:

Rod Clark (Prisoners' Education Trust): Could you comment on some of the issues around the management of contracts in the prison system at the moment? Obviously Carillion is in a mess, we know that there are question marks over some of the CRCs going forward, and last week the MoJ confirmed that they are terminating the contracts for careers advisors in the prison service and making hundreds of them redundant from April without anything to take their place.

BN: For outsourcing to work, the contracts do have to be properly written and be properly enforced and I don't think either happens at the moment. What I and the Committee will want to do next few weeks and what the Committee will want to do over the next few weeks is press ministers and Michael Spurr and his people about how actually do you monitor these contracts; who's responsible; what's the accountability?

It seems pretty clear - I have no reason to doubt the POA evidence from Liverpool - that they were reporting concerns for months, years probably. One thing Governors have said to me is that the contractor doesn't see the relationship as being with the prison - their relationship is with MoJ Commercial and providing they tick the boxes for them, they pretty much ignore the prison. Now that's an obvious example where I think where we need to do something about it.

What's happened with Carillion just sharpens that focus. The TR inquiry will certainly be wanting to look specifically at CRC contracts where there seems to be a lot of evidence to suggest these were set up on a completely false financial model and a great deal of trouble

stem from that. Just pumping money in in itself isn't going to change things, you've got to change the model itself.

Peter Dawson (Prison Reform Trust): I suspect I am not alone in feeling that the fundamentals of this are that a huge amount of money was taken out very, very quickly without a strategy to control how long people spend in prison. And those two things together may simply have created an organisation that is unmanageable no matter who is doing it. The question is whether once you've spoken to Michael and the new governor at Liverpool and Kate Davies, you might also retrace the process by which those strategic decisions about money and abandoning a strategy to reduce prison population were taken.

BN: Seldom is it entirely down to one person. These things are obviously systemic – that's the sense I got from Peter Clarke's report – a systemic failure. I'm not averse to being disobliging to ministers on my own side. I'm quite happy to follow where the evidence goes and that's the approach I think we need to adopt.

Katharine Sacks-Jones (Agenda): To what extent do you think the solutions to addressing prison overcrowding, to reducing prisoner reoffending, lie within criminal justice system or whether we also need to look more broadly at the pressures on services and lack of support that's available to people who often have very complex set of issues outside of the justice system?

BN: I think you've got to look outside and my own experience in local government for 16 years tends to lead me to that. I had a spell on a Health Authority so I'm very conscious that very often the people who come through the justice system have come through a number of other statutory agencies first. I don't think we are anything like as good as we should be in joining that up.

I think also that's what true of the justice system is true of the courts system too. I was a great fan of problem-solving courts and I know the previous Lord Chief, Lord Thomas, was very keen. I'm not sure yet where Ian Burnett's coming from around that, but I think that's something that they could usefully try and revisit. In New York I think there's some really impressive work there. It did strike us that the TR inquiry will be a good means to have some of the evidence around that, because one of the concerns that has already been raised is that with fragmentation of the system, those linkages have got harder. That was the sense I got talking to the Director of Social Services in Bromley. The YOTs team have had to recreate things that were already there and well built up. Some of this has not been recreated at all.

Lucy Jaffe (Why Me?): One of the things we have seen in the Worboys case is a kind of public reaction which is actually quite punitive. How can we improve victim services and involve victims in the solution whilst avoiding knee-jerk responses, bad law strategy and see a kind of move to a more humane way of delivering justice?

BN: Your key bit is not to knee-jerk about it – to keep calm and have a fairly careful, considered approach to it. Certainly making sure we publicise what is done to help victims and give victims a voice more, I think that's really important. I think maybe just make the point that very often the overlap in some areas between victim and offender is actually a very narrow one, and that many offenders have themselves been victims at one point or another.

I also find it useful with more right-wing populist members of the public to make the point that it just isn't working either in money terms, or what could happen to their families either. That reducing reoffending means fewer victims is the thing we should be banging on about all the time.

And it's about the £18.5 bn cost of reoffending. That's taxpayers' money – money that can't go into schools, that can't go into the health service, that can't go into pensions.

Jonathan Aitken and I did a public meeting in Dartford a year or so ago. It was a general cross-section of the Dartford population and we were asked to talk about prison reform. In terms of its demographic, Dartford is 'Daily Mail territory'. In fact we had a really good debate and people were not as simplistic and knee-jerk in their attitudes as you might have thought at the beginning of the meeting. It gave me a lot of hope that people who are very much seen as middle England and thought to be socially quite authoritarian were prepared to listen to the case when it was made and come away being much more positive about it.

John Samuels QC: Thank you for proclaiming your interest in problem-solving courts. May I suggest you change the name from 'problem-solving' to 'judicial monitoring'. 'Judicial monitoring' is positive, 'problem-solving' to particular areas of the media is a toxic phrase.

BN: That's a really useful and helpful suggestion and I will take that away and use it in my contacts and discussions. It's quite interesting culturally, as a lot of politicians will have come to the opposite conclusion, which indicates the mindset of our world who say it's a good thing to seem to be solving a problem because it sounds quite macho, but there is another side.

Nathan Roberts (abandofbrothers): It was great to hear you banging the drum again for the outcomes of the young adult offending cohort. At the moment, far from seeing the pupil premium that was recommended by the report, we are actually seeing a huge cut in services to the young men, particularly aged 18-25. We have this idea of the criminal justice system being almost the only public service that can't say no. And we are seeing now a decrease in support around mental health, around housing. Prisons are just coming under such increasing pressure and the quality of service is absolutely appalling.

BN: On the young adult offenders, I think the response to that report was pretty woeful and I thought it was one of the most well-referenced inquiries that we've done in terms of the evidence there. What is really disappointing is that I think more thoughtful people in the MoJ know that's the reality but somehow they've been unable to admit it and feel unable to do anything about it so it's really important that we do keep up the pressure there. We have a policy now that we're adopting of revisiting our reports after about six months – we may have a bit of a rush to catch up after the general election, but we don't want them gathering dust, so we are going to be returning to them, so there will be opportunity for fresh evidence and fresh insights around that. I welcome everybody coming forward on that.

Helen Boothman (AMIMB): Building on the point that Rod [Clark] made about outsourcing and governors' responsibility, I think what Monitors see all over the place is just lack of clarity about responsibility and accountability at a local level. But also at the national level. Do the MoJ and HMPPS know what their different responsibilities and accountabilities are?

BN: I think the whole point about accountability and the role of the IMBs is useful, and let's face it, they've been ignored all too often within the system as well. Both IMBs and the Inspectorate quite often tend to corroborate very markedly and I think we don't make anything like enough use of that. When we are going forward with the prison system inquiry, the accountability and transparency point will be very helpful to us.

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