

Partnership Working for Public Protection*

The Rt Hon. Sir Declan Morgan†

Summary: This paper is based on a speech by the Lord Chief Justice of Northern Ireland on the topic of partnership, including how judges work with other elements of the criminal justice system, and the partnership concept in sentencing. It outlines North–South co-operation, presents statistics relating to the PBNI, notes the introduction of short pre-sentence reports and Supervised Activity Orders for non-payment of fines, examines alternatives to custody, and commends the Inspire Project and the Victim Information Scheme.

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Introduction

I was delighted to be asked to address the annual seminar and deliver this address. The PBNI has consistently provided a high level of service as part of the criminal justice system (the important word here is of course the word ‘part’). This seminar is concerned with how the many parts achieve a common objective.

The importance and seriousness of this issue is evidenced by the attendance here of the Ministers of Justice for both parts of this island, along with police, prison and probation officers who all have a key role to play in protecting the public.

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PBNI background

Before I turn to examine the theme of this conference I want to say a little about the work of the PBNI. I am sure that much of what I have to say is mirrored in the work of the Probation Service in the Republic of Ireland. The Northern Ireland Probation Board is a key organisation in the criminal justice system, founded in 1982 and employing some 376 staff. All Probation Officers are professionals who are registered with the Northern Ireland Social Care Council.

The Probation Board provides almost 10,000 probation reports per year, primarily for courts, but also for Parole Commissioners. At any one time it is supervising over 5000 court orders placed on offenders – over 4000 of these offenders will be in the community, and therefore public protection is absolutely vital. Probation Officers have a demanding role in dealing with people who often have little or no structure in their lives, with chaotic lifestyles, mental health problems and sometimes addiction problems.

The Probation Service seeks, through community service programmes and engaging with offenders, to help put some structure back into these chaotic and troubled lives. When these rehabilitation efforts succeed, there can be enormous public benefit. The risk of reoffending is reduced. The community is safer. There is also private benefit in that the home life and personal life of the offender can be significantly improved if they get help in tackling some of the complex addiction and social problems they face. Having spent nearly two years as a family judge in my judicial career, I am acutely aware of the benefits to children and other family members where such efforts succeed. I am also aware of the complexity and difficulty of the issues that the service and others face.

Officers are based in every provincial town in Northern Ireland, and they supervise 160,000 hours of unpaid work in the community every year, through the Community Service Scheme. One can see therefore that the contribution the Probation Board makes to the administration of justice and to local communities, through the partnerships that it fosters, cannot be overestimated, and is something of which the Probation Board and its Director, Brian McCaughey, should be proud.

Theme of seminar

The theme of this seminar is ‘Partnership Working for Public Protection’. The protection of the public is at the heart of the criminal justice system.

Indeed, not only must we protect the public but we must also ensure that the public are confident that they will be protected – particularly those who may feel vulnerable. Everyone has their role to play in this. That includes the judiciary. Judges must be independent, because that is what the rule of law in our community requires, but judicial independence does not mean judicial isolation.

No single group or profession will be able to achieve the objective of protecting the public on its own. Police and prosecution services can bring an offender before the courts. A judge can tailor a sentence to try to take account of his culpability, the harm he has done, and the need to protect the public from his potential future offending. The Prison Service may be involved. But none of these agencies either individually or cumulatively provides an answer to the underlying problem. It takes other dedicated people, with other skills, to tackle the addictions, family problems and social history that led to the offending behaviour with a view to preventing its recurrence.

Probation Officers work in partnership with community groups and the voluntary sector. All have roles in supporting families and building dynamic and hopeful communities where people have the strength, vision and motivation to build positive futures for themselves.

It is evident, therefore, that partnership working is vital if the wheels of justice are to run smoothly, and if we are to ensure that things get done, and get done fairly and in the interests of the defendant, victims and witnesses, and of course the general public. Judges have nothing to fear from engaging and working together with other key players in the justice system, and in my view we all have everything to gain from such co-operative work.

Examples of how judges engage with others and operate in partnership

I would like to divert slightly at this point to examine some of the ways in which judges work together with other elements of the justice system. We have met with local community groups to discuss issues such as sentencing, and to hear from them about their experience of the justice system. I, as Chief Justice, hold a programme of regular meetings with key stakeholders in the justice system – including the Minister, the Chief Constable, the Director of Public Prosecutions and the Director of the PBNI.

A senior member of the judiciary chairs the Criminal Justice Issues Group, which is made up of senior representatives from the criminal justice agencies and the legal profession, and representatives from the community and voluntary sector and victims' groups. The Director of the PBNI sits on this group, and I know his contribution to the work of the group, and its workshops and discussions, is very much appreciated by the Chairman, Lord Justice Higgins.

Sentencing – partnership

One of the public's key concerns about the legal system is that offenders should receive a just sentence for the crimes they commit. Sentencing is one of the most complex tasks that the judiciary has to undertake. The judiciary is dependent on receiving accurate and relevant information about an offender in a pre-sentence report (PSR) which has been prepared by a Probation Officer. Without such reports our task of sentencing offenders would be much more difficult.

My awareness of the public's concerns about sentencing has led me to set up a judicial sentencing group. We held a public consultation where we invited views from the general public about the areas in which new sentencing guidelines were needed. This was a genuine engagement with public opinion which informed outcomes, and is, in my view, further evidence of the judiciary operating not in isolation but in partnership.

The Minister has also been interested in the work of the Sentencing Group and, in co-operation with his Department, the membership of the Group will be enhanced to include two laypersons.

North–South dimension

The evidence of partnership is clearly present here, in that this is a North–South seminar. The Public Protection Advisory Group is one of the cross-border groups that were established following the inter-governmental agreement on co-operation in criminal justice matters. Representatives from both Probation Services are present at this seminar, both Justice Ministers, both police forces, prison services. The judiciary here regularly holds and attends conferences jointly with our judicial colleagues in the Republic of Ireland. I firmly believe that opportunities like this are highly beneficial in sharing knowledge, making contacts and reflecting on the good work that the Public Protection Advisory Group has achieved to date.

Nowhere is this partnership working more important than in protecting the public. Probation aims to prevent people from becoming victims of crime and to prevent re-victimisation. Its work is aimed at protecting the public and the community from crime. Offenders do not pay attention to borders when committing crimes, which is why such partnerships are necessary.

North–South co-operation

An initiative that I know the judiciary are very supportive of is North–South co-operation in relation to the preparation of PSRs for those who are resident in the Republic of Ireland. The agreement that is in place means that where a judge in Northern Ireland is sentencing someone who is resident in the Republic, and requires a PSR, the shared working relationship between PBNI and its counterparts in the Republic means that the Irish Probation authorities will prepare a report on that person.

All requests and reports go through a single point of contact in the Republic and in Northern Ireland. Last year the PBNI prepared about 15 of these reports for Irish courts, and the PS prepared about the same number of reports for courts here. From speaking to colleagues on the bench who have been provided with these reports from the Irish Probation Service, I know that they have a high level of satisfaction with the outcomes.

This example of North–South co-operation is one that Brian McCaughey and Michael Donnellan should be very proud of. This initiative significantly benefits the justice system and reduces avoidable delay.

PBNI stats and performance

The judiciary is probably one of the PBNI's largest customer-groups. Of the 10,000 reports it prepares each year, the vast majority are for the courts.

There have been recent additional demands on the PBNI as a result of the dangerousness provisions introduced by the Criminal Justice (NI) Order 2008. Prior to the introduction of that Order the judiciary had extensive consultations with the NIO on two fronts. The first was to make sure that the legislation did not repeat the mistake made in England

and Wales of requiring judges to impose long prison sentences on offenders where that was neither in the public interest nor the offender's interest. The second was to support the need to provide the PBNI with the resources necessary to carry out the additional work involved in assessment and supervision of licence arrangements under the new legislation.

I am aware of the Minister's desire to examine further the issue of alternatives to custody. That is a policy matter, on which I have no view to express. I do however want to repeat the submission we made in 2008 that despite an increasingly challenging financial situation, it is vital if the Probation Board is to continue providing its extremely valuable service, and to achieve its aim of protecting the public, that it has adequate resources to do so. Particularly where we are dealing with the protection of the public it is important to ensure that cuts in resources do not impact on the quality and timeliness of the important service that we expect from Probation.

Short PSRs

A major change recently in the courts, for both sentencers and the PBNI, is the introduction of short sentence reports. The District Judges have been working in partnership with PBNI about how the uptake for these short reports can be increased. A short report can be produced by a Probation Officer either on the day it is commissioned or within five working days. The judiciary have been promoting the use of short PSRs, and the figures would indicate that this is having an impact. For the seven-month period from 1 April 2011 until the end of October, 379 PSRs were prepared for the courts – up 68% from the same period the previous year.

PSRs are to be welcomed because they are quicker, take up fewer resources, and ensure that the PBNI's resources are used where they are most required. The judiciary is very much in favour of anything that can reduce delay, while also ensuring that the public is protected. The introduction of short sentence reports is, in my opinion, something that is positive and should be welcomed. The feedback I get from my judges is that they welcome their introduction, and they have no concerns about the quality of the short sentence report, as compared with the full PSR.

Supervised Activity Orders

The PBNI is working closely with the judiciary to introduce a pilot scheme in Newry Magistrates' Court in early 2012 involving Supervised Activity Orders for non-payment of fines. This will ensure that only those who need to be in jail will go to jail for non-payment of a fine. The work that the PBNI will be taking forward in Newry as part of this pilot, in partnership with the local judge, will help to achieve this aim.

I know that the public are troubled when they read reports about people going to jail for non-payment of fines. This whole area was recently examined by Dame Anne Owers in her review of the Prison Service, and I had an opportunity to discuss it with her when I met with her last month in London. The Prison Review Team took the view that 'custody should be wholly exceptional for fine defaulters'. I have to say that the judiciary would understand this view, and we would want to be supportive of feasible alternatives to enforcement.

Alternatives to custody

The kinds of orders that the PBNI supervises are orders that a judge makes, as an alternative to custody. A judge can sentence an offender to community service, or to undertake a period of probation.

The public need to understand that when a judge makes an order like this, it is not the case that an offender is getting a 'light touch'. Community sentences are challenging and demanding, and have a rehabilitative element.

Offenders who have been given community sentences could find themselves going into the Holylands in Belfast the day after St Patrick's Day to help with the clean-up operation; helping tidying up the grounds of a church or a community centre; or working on building a boardwalk at the Divis Mountain National Trust property. The work that the PBNI supervised at Divis Mountain required significant design skills and labour in taking the materials to the site and the preparation. No one could say that this work was not challenging or demanding. It also is a project from which the entire community can benefit. Projects like this really contribute to increasing public confidence in the system.

When a court has ordered a community sentence and an offender fails to comply with the terms of the order, some element of discretion must be allowed to the Probation Service. It is important, however, if the public

are to have confidence in the system, that in appropriate cases the offender is brought back before the courts timeously so that a judge can determine how best he be dealt with. This ensures that there is judicial supervision of the offender and the courts will be able to consider carefully what sentencing disposals should be considered.

This judicial supervision should help to allay any fears on the part of the public that community sentences are an easy option or a light touch.

Inspire Project

Some of you may be aware of the Inspire Project, which is being run in the Greater Belfast area. This is a project that the PBNI developed and on which it takes the lead. The project is a model of positive engagement with women who are marginalised, or vulnerable in some way.

The Inspire Project is a very effective partnership between statutory and community agencies and services. District Judge Bagnall, the Presiding District Judge, has visited it and has been very impressed by the good work. It is a unique scheme and, tying in with the theme of this seminar, is based on partnership working, with Probation at the centre of the partnership. Evaluations of the Inspire scheme show significant improvements in self-esteem, positive relationships and tackling substance abuse.

The innovative work that the PBNI has taken forward in relation to the Inspire Project is inspiring and is to be commended. If it leads to a reduction in reoffending then the entire community will benefit.

Victim Information Scheme

A scheme that the PBNI is involved in and which, in my view, is deserving of enthusiastic support is the Victim Information Scheme. This is a statutory scheme which ensures that victims receive information about what it means when someone is sentenced to an Order that requires supervision by the PBNI. The victim will have an opportunity to influence the type of work that an offender completes if he is sentenced to Community Service. For example, if a victim supports a particular charity, the offender might be tasked to work for that charity.

To date, the scheme has supported approximately 800 victims. Feedback suggests that an overwhelming number (98%) of these victims were satisfied with their contact with this scheme.

I am of the view that gaining the support and trust of victims and witnesses is absolutely vital to the effective running of the courts and the proper administration of justice. If witnesses were not willing to come to court to give evidence, then the courts would not be able to function. It is important that they have confidence in the process. The judiciary is committed to working with others in the justice system to ensure that when a victim or a witness comes to court to give evidence, their needs are considered and met. This is particularly important when dealing with young or vulnerable witnesses. That is why schemes such as the Victim Information Scheme are so important – they ensure that a victim is provided with information and given an opportunity, and a voice, to influence the kind of Community Service an offender may carry out.

Closing comments

Let me conclude by saying that I very much welcome the opportunity of delivering this lecture. It allows me to offer appreciation, on behalf of the judiciary, for the work of others in the criminal justice system and to demonstrate my own commitment to engagement outside the confines of the courtroom.