

Delivering Rehabilitation

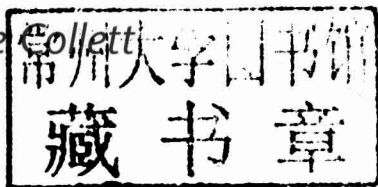
The politics, governance and
control of probation

Lol Burke and Steve Collett

DELIVERING REHABILITATION

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We have wanted to write this book for a while and when the opportunity came along, the timing could not have been better. We have been working on and developing the themes and ideas presented here during a highly turbulent period in the history of the Probation Service and so have never been short of argument and debate with regard to developments affecting the future of the Probation Service, as well as the form and delivery of the rehabilitative endeavour.

We are also fortunate in being involved academically and through practice and management in an area of public policy that demands and receives incredible commitment from a broad range of individuals – academics, practitioners, leaders, critical friends, colleagues within the criminal justice system and, on occasion, some of our political representatives. It would be invidious and impractical, therefore, to mention individuals by name given the debt of gratitude we owe to so many people. However, readers who know the world of probation will understand why we would want to acknowledge two individuals – the late David Mathieson who died in 2013 and David Scott. Mathieson, a career probation officer and chief probation officer of Merseyside Probation Service until his retirement in 1999 never let us forget the importance of humanitarian values to the work and effectiveness of the Service. David Scott, likewise a career probation officer who led London Probation Service during a highly volatile and politicised period, maintained his honesty, decency and integrity while some around him lost theirs.

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Part of Chapter Seven draws significantly on Steve Collett's 2012 McWilliams Lecture – *Riots, Revolution and Rehabilitation: The Future of Probation* – which was published by John Wiley & Sons Ltd. in the *Howard Journal*, (2013) 52(2): 163–189.

ABBREVIATIONS

ACOP	Association of Chief Officers of Probation
ASBO	Anti-Social Behaviour Order
AUR	Automatic Unconditional Release
BCU	Basic Command Unit
CAFCASS	Children and Family Court Advisory and Support Service
CCTV	Closed-Circuit Television
CDRP	Crime and Disorder Reduction Partnership
CJ Act	Criminal Justice Act
CRC	Community Rehabilitation Company
CSP	Community Safety Partnership
DOM	Director of Offender Management
DIP	Drug Interventions Programme
HMCS	Her Majesty's Court Services
HMIP	Her Majesty's Inspectorate of Probation
HMP	Her Majesty's Prison
HMPS	Her Majesty's Prison Service
IOM	Integrated Offender Management
LCJB	Local Criminal Justice Board
LDU	Local Delivery Unit
LGA	Local Government Association
LSE	London School of Economics
LSP	Local Strategic Partnership
NAPO	National Association of Probation Officers
NOMS	National Offender Management Service
NPD	National Probation Directorate
NPM	New Public Management

NPN	No Page Number
NPS	National Probation Service
PA	Probation Association
PbR	Payment by Results
PCA	Probation Chiefs Association
PFI	Public Finance initiative
PPO	Prolific & Priority Offender
PSE	Poverty and Social Exclusion UK
RCVP	Riots, Communities and Victims Panel
MAPPA	Multi Agency Public Protection Arrangements
MARAC	Multi Agency Risk Assessment Conference
OCJR	Office of Criminal Justice Reform
ODPM	Office of Deputy Prime Minister
ROM	Regional Offender Manager
SEU	Social Exclusion Unit
SFO	Serious Further Offence
YJB	Youth Justice Board
YOT	Youth Offending Team

ABOUT THE AUTHORS

Lol Burke is a Senior Lecturer in Criminal Justice at Liverpool John Moores University. He has worked as a Probation Officer and Senior Probation Officer and was involved in the delivery of probation training prior to his current appointment. Lol has written extensively on probation policy, practice and training issues and is co-author of *Redemption, Rehabilitation and Risk Management: A History of Probation* (2011) with Prof. George Mair. Lol is currently editor of the *Probation Journal* and a member of the editorial board of the *European Journal of Probation*. He is also a member of the Howard League for Penal Reform's Research Advisory Group, the European Society of Criminology Working Group on Community Sanctions and CREDOS (an international collaboration of researchers for the effective development of offender supervision).

Steve Collett worked for three North West probation areas over nearly three decades, retiring from the Cheshire Probation Trust in December 2010 after ten years as its chief officer. He also taught social work and social policy in further/higher education in the early 1980s before returning to Probation to take up a joint appointment with Merseyside Probation & Liverpool University (1987–1991). Steve has been an Honorary Fellow within the Department of Sociology, Social Policy & Criminology since then and following his retirement in 2011, he was made an Honorary Reader in criminology within the School of Law at Manchester University. In 2012, he was made an Honorary Fellow of Liverpool John Moores University. Steve has been a member of the *Probation Journal* Editorial Board for over 20 years and was a founding vice chair of the Probation Chiefs Association.

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1

INTRODUCTION

8 November, Leeds. Walking along Wellington Street towards City Square I pass the offices of the probation service, now plastered with protest leaflets and posters from Napo against the selling off of the service, protests that in my view are wholly justified. The notion that probation, which is intended to help and support those who have fallen foul of the law, should make a profit for shareholders seems beyond satire. As indeed is the proposal to take the East Coast line out of what is virtually public ownership and reprivatise it for the likes of the expatriate Branson. I never used to bother about capitalism. It was just a word. Not now.

(Alan Bennett 2013)

Covering the ground

Beginning a book is a difficult and precarious task, but there are times when serendipity delivers exactly what you were looking for. In our case, it is this extract from Alan Bennett's diary of 2013 that we landed on by good fortune. Not only does he hint at the current situation the Probation Service finds itself, but places our predicament within a wider context. His humanitarian concerns are, in essence, what this book is about. A great many other questions arise: Do offenders have the right or expectation to call on the resources of the state for their rehabilitation from a life of crime? Should the public expect punitive and coercive approaches to offender rehabilitation? Other than incapacitating offenders in prison for the protection of the individual and the wider public, why should the state be concerned with prisoner reform; beyond that, how, can helping offenders be justified when there are disadvantaged groups who are unable to access the services they desperately

need? Finally, why does the state appear to target and criminalise certain groups and individuals and not others?

The range of questions, issues and potential approaches that need be included in *Delivering Rehabilitation* is clearly daunting. Indeed, the interested practitioner, policy-maker or scholar has only to browse through the pages of relatively recent edited readers – for example, *Handbook of Probation* (Gelsthorpe and Morgan 2007), *Moments in Probation: Celebrating the Century of Probation* (Senior 2008), or *Offenders or Citizens* (Priestley and Vanstone 2010) to appreciate the dilemma authors may have in refining their focus. There are also so many excellent books that engage the interested reader in both historical analysis and contemporary debate about offender supervision, rehabilitation and the role of probation. Indeed, the title of Whitehead and Statham's 2006 book, *The History of Probation – Politics, Power and Cultural Change 1876–2005* might suggest that much of the *Governance, Control and Management* referred to in our title has already been covered and all that is required is an update. Alternatively, our inclusion of *Delivering Rehabilitation* might also suggest that we are traversing similar ground to that covered so superbly by Rob Canton in *Probation – Working with Offenders* (2011).

The truth is that whilst we draw heavily on the work of many probation and criminal justice academics, commentators and practitioners, we have also attempted to fashion a more general, theoretical, and politically informed analysis, one that is critical of post-modernity and the hegemonic nature of neoliberalism as it has developed into a global force, ostensibly accepted by both the left and right of the political spectrum. Therefore, publications such as Emma Bell's *Criminal Justice and Neoliberalism* (2011) and *Organising Neoliberalism: Markets, Privatisation and Justice* (2012) edited by Philip Whitehead and Paul Crawshaw, have also been informative. Without, hopefully, doing an injustice to the necessary detailed analysis of probation over the past two decades we have also drawn on the work of authors Loïc Waquant, Danny Dorling, Richard Wilkinson, Kate Pickett, Michael Sandel, Christopher Lasch and Guy Standing. These authors have influenced the general thrust of our arguments. We are also interested in the role of specific events and personalities in shaping probation's future. In essence, we have attempted to capture a critical, ever-evolving period in the history of probation, whilst keeping in mind the practical realities of working with individuals who offend.

What do we mean by Probation?

In the quote from Bennett's diary, he specifically mentions *probation service* but also refers to *probation*. It is not clear whether he is using the latter term as shorthand for Probation Service or as a reference to the concept of probation – of putting someone on test to behave better in the future – or indeed as a reference to supervision under the guise of a probation order. Throughout this book, we use *probation* in a similarly ambiguous way and unless we intend it to have a specific meaning, we

leave it to the reader to interpret whether we are referring to specific organisational and bureaucratic features, a concept and a set of values for conducting offender supervision or indeed as a (now defunct) sentence of the court.

We use probation in this generalised way as an umbrella for the rehabilitative endeavour because our understanding of the practical and professional world of probation and the Probation Service is one of a complex value-laden and politicised environment within which committed work with individuals is undertaken on the personal and bureaucratic level to deliver rehabilitation. Furthermore, whether we use terms like offender management, risk management and assessment, control, surveillance or compliance, we nevertheless believe that what has motivated generations of probation staff has been to give individuals who are policed, arrested, prosecuted and sentenced, the opportunity to lead crime-free, productive lives that have meaning for themselves, their families, and the wider community.

Our arguments will acknowledge that whilst punishment has been the enduring core in the state's response to the treatment of offenders and past approaches to rehabilitation sometimes conveyed more about the aspirations of burgeoning social work and medical professions than the real needs of poor working class people, the state nevertheless maintained a relatively even-handed approach to rehabilitation. However, on the back of rising post-war crime rates, the crime debate became increasingly politicised and despite long-term trends in falling crime and ever decreasing levels of victimisation over the past fifteen years, the penal arms race has been used to the wider political advantage of both Tory, Labour, and now Coalition administrations. This battle for the right to use crime control for party political fortunes now, however, pales into insignificance compared to the insidious impact of neoliberal thinking on the construction of crime, problem populations and the delivery mechanisms for penal big business.

Structuring the debate

The opening chapter – *Contextualising Rehabilitation* – sets out the general terrain and context for understanding the concept of rehabilitation and begins signposting events that have had a significant impact upon the development and delivery of rehabilitative services over the past two decades. In Chapter Three – *Governing Rehabilitation: Politics and performance* – we show how a heady mix of ideology, mezzo politics, personalities and events have shaped probation and ultimately led to the future it faces under the Coalition's *Transforming Rehabilitation* project. The higher profile given to law and order in recent years has meant battling crime has increasingly been viewed as a mechanism for securing electoral support. Prime Minister Blair's oft-repeated *tough on crime, tough on the causes of crime* effectively introduced ambiguity into both public and professional understanding of criminal justice policy approaches to rehabilitation. Contemporary probation practice has therefore had to operate within a heightened and volatile political environment

that has often been dominated by anti-liberal rhetoric fuelled by negative media representations. This chapter analyses the ambiguities, continuities and discontinuities of government policy and its impact on the Probation Service. The changing political landscape and drive for public sector modernisation under the precepts of *New Public Management* (NPM) has also fundamentally altered the relationship between probation and central government. We will question why, given its relative size and influence, the Probation Service has been a particular concern for central government. Rather than being a participant in the decision-making process, the Service has found itself subsumed into a prison service dominated by a command-and-control environment and culture. This has had profound implications on the character and governance of probation and its relationship with local communities. Ultimately it raises questions, we argue, about the significance of losing traditional probation values for local communities and for wider society.

In combination, our first two chapters aim to set out the concepts and the contexts for the rehabilitative endeavor. The remaining chapters take on a more thematic approach to an understanding of *delivering rehabilitation*. Chapter Four – *Providing Rehabilitation: Occupational culture and professional identity* – reflects on why so much consideration has been given to a service that has effectively been in perpetual reorganisation since becoming a national service in 2001. We pay particular attention to the operational and professional culture within probation and how its public and political image has changed over the past two decades. We also consider how workers reconcile the care and control aspects of their job and their personal and professional values within the changing requirements of contemporary policy and practice. These requirements include developing new ways of working and different types of relationships with other agencies within and beyond the criminal justice system. Finally, we consider the potential impact of the Coalition government's *Transforming Rehabilitation* project upon the occupational culture, training and working practices of probation staff.

Part of the rationale for the creation of the National Offender Management Service (NOMS) was to deliver a system of *contestability* that hoped to introduce the concept of *market tension* into the monopoly of community-based corrections. The avowed goal was to improve the quality and effectiveness of public provision. However, the debate has developed into a politically-motivated initiative to privatise aspects of probation as part of a wider desire to expose the criminal justice system to competition and private capital. In Chapter Five – *Competing Rehabilitation: Markets, profit and delivery* – we discuss these developments in light of recent policy initiatives such as *Payments by Results* (PbR) and the uses of social impact bonds. This will lead to a discussion of the future role of the state and the private sector in the delivery of the core tasks of offender management and whether or not the arrangements envisaged will lead to greater effectiveness or dangerous fragmentation.

Chapter Six – *Widening Rehabilitation: Partnership, localism and civil society* – considers a key feature of contemporary criminal justice planning in the concerted

attempt to control crime through partnerships of statutory, private and voluntary organisations. Similarly, the idea of *joined up* government to tackle wider social problems through multi-agency partnerships represents a significant break with the idea of centralised power. The discussion in this chapter encompasses the role of the state in the pursuing reductions in levels of crime and re-offending through non-criminal justice agencies as well as crime agencies and Local Criminal Justice Boards (LCJBs). The chapter will further examine the Prolific and Other Priority Offender (PPO) initiative and explore the workings of Multi-Agency Public Protection Arrangements (MAPPAs) established by the Criminal Justice and Court Services Act 2000. Both will be analysed in terms of effectiveness and questions of appropriate levels of intrusion and intervention into offenders' lives.

The recent experience of criminal justice agencies has been one of an overpowering sense of management, control and direction from their respective central government departments (Home Office/Ministry of Justice). This feature of the Blair years helps to account for and shape much of what has been covered in the preceding chapters. However, the end of the Labour administration heralded a move to localism and the Coalition government has seized on the political and ideological opportunities afforded by a return to the *local*. Localism has significant potential to tackle local problems but it also exposes the tensions of operating a sentencing framework for England and Wales within the context of local action and community engagement. This chapter will conclude by critically examining what the much heralded but little understood notion of *Big Society* might mean for managing and rehabilitating individual offenders.

Chapter Seven – *Blaming Rehabilitation: Citizenship, exclusion and the state* – takes the discussion into a more discursive ideological environment by considering the rehabilitative endeavor in the context of forty years of neoliberal economic and cultural hegemony. Our aim is to analyse how social problems are defined and institutional responses determined. Specifically, we are interested in how *responsibilisation* has moved beyond the individual to agencies of the state, including probation. A case study of the 2011 riots is used to highlight the way assumptions about the poor are reinforced in negative stereotypes that justify reactionary responses to their plight. We also consider how notions of equality of opportunity and social mobility within a notional modern meritocratic society are deployed to further isolate undeserving groups whilst justifying massive and increasing inequalities in income and wealth.

The title of our conclusion – *Reimagining Rehabilitation* – suggests, despite our reservations concerning the direction in which probation is being moved structurally and philosophically, that there is optimism at the margins. The debate about the balance between the responsibilities of the individual to behave in a law-abiding manner and those of the state to ensure the preconditions for the good life have been central to debates within probation and wider social policy for generations. Notwithstanding the current domination of neoliberal thinking, we consider that

this debate has not atrophied to the extent that community and citizen engagement in the rehabilitative endeavor is beyond the imagination. It will require, however, new ways of working with offenders.

The last decade has seen significant innovation in the multi-agency approach to targeting offenders, and the correctional services have enhanced their ability to differentiate between different kinds of offending and levels of risk. Probation, in particular, has had to respond to working with dangerous and high risk offenders in ways that have impacted on its organisation and operational culture. Yet there is emerging evidence that the relationship between worker and offender remains critical to successful outcomes. In a number of important ways probation has changed for the better over the recent past. Still, reimagining rehabilitation is as much about renewing and reinvigorating features of the rehabilitative endeavor that have been lost as it is inventing new technocratic approaches to supervision that have accountability to shareholders rather than the local community.

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2

CONTEXTUALISING REHABILITATION

What I really need is the chance to become an acceptable, responsible, productive member of my community. A voice that can be heard. A voice that can speak for its own self. The guilt, the shame, the remorse, it's made me feel worthless. Surely my solution lies behind re-evaluated self-esteem and re-directed purpose. I'll grow when I'm ready! Just help me plant the seed, 'cos' hope is the drug that every offender needs. A new identity indentation. A source of inspiration! So show me examples of the people that succeeded, so I too can believe that I'm valued and needed.

(Duncan 2013: 13)

For me there were two significant relationships that in different ways gave me hope, determination and the courage to change. First, when I was aged 22, I met an older guy in prison who was nearing the end of a life sentence. He was previously involved in organised crime and had credibility in my eyes. During our time together he spoke about earlier beliefs, values and experiences that all conspired to result in his life sentence. More importantly, perhaps, he also spoke about the stark realities of crime and his 'wasted life' and he basically gave me a framework to examine the futility and destruction of my own offending behaviour and the effects this was having on my life and the people who cared about me. Given his past experiences, no-one else would have held so much sway over me in the same manner. Indeed, this was my first experience of a positive male role model; a convicted murderer. The second relationship came in to play when I was released from the same prison sentence and involved the social worker I had had since childhood. On reflection, her value for me wasn't necessarily in her profession, but her

personality. She was a lovely, caring individual who believed firmly in the concept of change and rehabilitation, and she never lost sight of me during all those years of bedlam.

(Weaver 2013: 7)

Innate evil and mindless selfishness

We begin this chapter with quotes from two individuals who have experienced the rehabilitative endeavour of our correctional services. Although those who offend, sometimes seriously and persistently, can find ways of expressing their own journeys, it is often within the confines of academic literature, agency publicity or occasionally through the processes of the criminal justice system itself. It is much more likely that the general public will receive information about offenders from the media. On 22 February 2010, 27-year-old Jon Venables reported to his probation supervising officer that he thought his identity had been compromised. This began a series of investigations that quickly led to Venables being arrested and subsequently charged with offences relating to the downloading of pornographic images of children. On 24 February, he was recalled to prison in breach of the terms of his post-release life licence and he remained in custody until he appeared before the Central Criminal Courts on 23 July. He was sentenced to two years imprisonment for those child pornography-related offences. The case was subject to considerable scrutiny and media hysteria because as a 10-year-old boy, he had been convicted along with his co-accused, Robert Thompson, also aged 10, of the murder of 2-year-old James Bulger, abducted from a shopping centre in Merseyside by the older boys in 1993. Jon Venables and Robert Thompson were, therefore, just above the age of criminal responsibility when they killed James Bulger. They were eventually tried, convicted and sentenced in an adult Crown Court to be detained for life at Her Majesty's pleasure.

The child's body was found on a railway track, but it was the CCTV footage of the two boys holding the hand of James Bulger as they led him away from the shopping centre, along with news coverage of the subsequent baying crowds outside South Sefton Magistrates' Court that were to become iconic images and defining moments in the history of modern British criminal justice. Robert Thompson and Jon Venables became the youngest children in England and Wales to be convicted of murder in the twentieth century. The case was controversial from the outset and was complicated by legal argument in the European Court of Human Rights over the suitability of the court proceedings involving such young children in an adult court. There was also intense political debate over the appropriate length of sentence they would have to serve before being released on life licence. Following their release in 2001, both Robert Thompson and Jon Venables were provided with new identities so as to protect them from the depth of public feeling aroused by their crime. The extent to which the threat to both was real and enduring and the subsequent identity planning and security arrangements have been documented in

Sir David Omand's *Serious Further Offence* review of the Venables case, where Omand concluded that "it was the right judgement to create a complete new identity for Jon Venables given the police assessment of the level of threat" (2010: 41).

Rather than presenting the offence as aberrant or resulting from the interplay of a complex range of social, economic, biographical, cultural and psychological factors, the media portrayals of the two boys tended to pathologise them in simplistic and absolute terms. Germaine Greer observed at the time, that it seemed that almost everyone who dealt with the two children (as well as those who hadn't) was able to offer an opinion about their moral character and decided they were *innately evil*, interpreting "their every gesture whether nervous or vacant or frightened or uncomprehending as a manifestation of evil" (cited in Collett 1993: 185). The concomitant vying for professional ascendancy between so called experts was unsightly, but it was also ideological in that classifying both the crime and the perpetrators as evil "may serve to remind us that the only guarantee of safety in this increasingly dangerous society is by placing ourselves behind the thin blue line" (Collett 1993: 185).

On another level, the enduring impact of the murder of James Bulger can be seen in part as the result of a number of political contingencies fuelled by the breakdown in the post-war Butskellite consensus that had "implicitly rested on the non-partisan character of crime and on the merit of gradual shifts towards rehabilitative policies for its control" (Downes and Morgan 1997: 128). In this respect, the murder was presented as symptomatic of a deeper moral malaise within British society; a condition that required remoralisation and condemnation through tough and uncompromising policies. For the revitalised Labour Party under the leadership of Tony Blair, "Out-toughening the Tories on law and order also included the legitimisation of simplistic, doom-laden, tabloid rhetoric that was usefully employed to convince voters that they were on the brink of a moral crisis, one which the Tories had allowed to occur and which New Labour was better equipped to address" (Green, 2008: 198). Similar crisis narratives would be invoked nearly two decades later in David Cameron's response to the riots that occurred in the summer of 2011:

When we see children as young as 12 and 13 looting and laughing, when we see the disgusting sight of an injured young man with people pretending to help him while they are robbing him, it is clear that there are things that are badly wrong with our society. For me, the root cause of this mindless selfishness is the same thing I have spoken about for years. It is a complete lack of responsibility in parts of our society, people allowed to feel the world owes them something that their rights outweigh their responsibilities and their actions do not have consequences. Well, they do have consequences. We need to have a clearer code of standards and values that we expect people to live by and stronger penalties if they cross the line. Restoring a stronger sense of responsibility across our society in every town, in every street, in every estate is something I am determined to do.

(Quoted in *New Statesman* 2011)