

Modernizing and Transforming Criminal Justice in England and Wales: 1997–2015 From New Labour to the Coalition Government



**PHILIP
WHITEHEAD**

Professor in
Criminal and Social
Justice, Teesside
Centre for Realist
Criminology,
Teesside University,
United Kingdom

Significant changes have occurred in criminal and social justice, penal policy, and probation since the 1980s in England and Wales. It is of particular national and international interest to reflect on the era of New Labour (1997–2010), followed by the Coalition Government (2010–2015). New Labour advanced the process of modernizing public services, and the Coalition Government initiated a “rehabilitation revolution” driven forward by a competition strategy that created a mixed economy of offender services. This process culminated in the privatization of probation in October 2014 through the establishment of twenty-one Community Rehabilitation Companies. This article concentrates on systematically plotting major changes that have occurred during the previous eighteen years, and touches upon questions of justice and the political wisdom of some of these decisions.

I. New Labour and the Modernization of Public Services, 1997–2001

New Labour’s manifesto before the general election of May 1997, after eighteen years of conservative administrations (1979–1997)—*New Labour because Britain deserves better*—explained modernization as a new bond of trust between the political establishment and the British people, which was exemplified in ten specific commitments. These were education, tax, the economy, getting the unemployed into work, rebuilding the National Health Service, families and communities in a modernized welfare state, the environment, the imperative to clean up politics, and leadership in the modern world. At number six was a reference to being tough on crime and its causes by halving the time it takes persistent juvenile offenders to come to court.

New Labour set the country on a different course, in a spirit of rebuilding and renewing, on the foundation of progress and justice, value of equal worth, with no one cast aside in what would be a fairer and safer society. A narrative of personal responsibility, which legitimated a more punitive response, constructed the politics of crime. This approach set New Labour apart from previous Labour administrations.¹ New Labour had transformed its criminal justice philosophy since the early 1990s, so the claim could be made in 1997 that it had become the natural party of law and order. This was a critical selling point to secure

electoral legitimacy. Modernization would fast-track the punishment of recalcitrant young people, reform the Crown Prosecution Service to convict more criminals, put more police in uniform, and crack down on petty crimes and the malaise of disorder.

Although there is no overt reference to probation in Campbell’s book of the Blair era,² it is likely that probation was mentioned prior to 1997 within political debates on modernization. We step from speculation onto solid ground by 1998 with the proposal for a modernized probation service in the consultative document, *Prisons-Probation: Joining Forces to Protect the Public*.³ After decades of ideological, philosophical, and self-evident organizational distinctions between prisons and probation, a period of consultation was established to explore closer integration and thereby improve efficiency and enhance performance. Was it possible for these two organizations, which had for decades pursued their own distinctive penal-welfare trajectories, to work more closely together to reduce re-offending; better prepare prisoners for release; share resources, information, knowledge, and skills; and reconfigure organizational structures to provide value for money on the platform of new public management?

In the second chapter of *Prisons-Probation* is a reference to modernizing the organizational framework of probation. Significantly, it boldly claims that legislation that continues to direct employees to *advise, assist, and befriend*—language originally in the *Probation of Offenders Act 1907*—is out of touch with the expectations of the courts.⁴ The service had become more orientated toward public protection, and a modernized service must confront, challenge, and change offenders, rather than advise, assist, and befriend them. The document states there is a lack of probation accountability to central government due to fragmented governance arrangements, a claim the chief probation officers in the fifty-six local area services would have disputed. Consequently, the service needs to be better organized and forge closer links with central government, the prison system, police, mental health services, local authorities, and the Crown Prosecution Service. Interestingly, the theme of modernization and cultural transformation involves, it is argued, much clearer national direction and stronger national leadership, and the Home Secretary must be able

Federal Sentencing Reporter, Vol. 28, No. 4, pp. 293–302, ISSN 1053-9867, electronic ISSN 1533-8363.
© 2016 Vera Institute of Justice. All rights reserved. Please direct requests for permission to photocopy or reproduce article content through the University of California Press’s Rights and Permissions website, <http://www.ucpressjournals.com/reprintInfo.asp>. DOI: 10.1525/fsr.2016.28.4.293.

to have political responsibility—centrally imposed command, power, and control—over local area probation services. Windlesham concurs when stating that in the area of criminal policy, as in other areas of public administration, “the demands of modernisation called for models of central control, rather than delegated authority and local accountability.”⁵ From 1997 to 1998, New Labour modernizers dragged probation into the politics of modernization. This was confirmed in 1999 when it was asserted that government has a mission to modernize, renewing the country for the new millennium: this would involve modernising the education system, the national health service, the economy, and the criminal justice system. Even though the *Prisons-Probation* review gave due consideration to the merging of two organizations into a single service, to *reduce the cultural divide*, at this juncture it was a step too far—but not for long.

II. A New Urgency for Reform, 2001–2005

By 2001, after a four-year term in office, New Labour’s manifesto—*Ambitions for Britain*—included pledges for the next five years on economics, schools, and health. There was also a pledge for 6,000 extra police recruits to tackle drugs and crime and to build upon the claim that crime is down by 10 percent compared to 1997; in fact *conventional* crime had been falling overall since the mid-1990s.⁶ The manifesto repeated the language of tough-on-crime and the related themes of punishment and individual responsibility for one’s actions, regardless of different social circumstances. Outbursts of criminality are constructed as a battle that government has to fight and win on behalf of the people. In fact, the war on crime, the war on terror, and the war on poverty became cogent political motifs in the United Kingdom and the United States.

Reforming and modernizing impulses toward criminal justice were the subject of a white paper urging the quicker prosecution of offenders, taking victims much more seriously, continuing the fight against crime, and developing Crime Reduction Partnerships. Accordingly, *Criminal Justice: The Way Ahead*⁷ acknowledged that the increase in crime over the previous twenty-five years was partly a result of unemployment and lack of opportunities for the unskilled, the blight of drugs, and the availability of consumer goods. Even though the mechanisms for the creation of a responsible and law-abiding society do not inhere solely within criminal justice systems—socioeconomic forces and wider structural factors must be factored into an analysis of human behavior—nevertheless a modernized criminal justice system must function instrumentally to prevent crime and reduce reoffending, deal efficiently with cases, respond appropriately to victims, and be more accountable for its decisions. Fundamentally, what is desirable is a criminal justice system that delivers *justice for all*.⁸

Parts 1 and 2 of *The Way Ahead* summarize the reforms that had been introduced since 1997, and continue the theme of modernization: More persistent offenders will be apprehended and convicted, as 100,000 hard-core offenders could be responsible for half of all crime, and tough

and effective punishments will become more intense for them. The Criminal Justice Act 2003 exemplifies “the more you offend, the tougher it will be” penal philosophy. Modernization is also associated with giving the police, Crown Prosecution Service, courts, and other agencies what they require to do the job defined by central government, and to build public confidence. Moreover, modernization encapsulates the Auld review of, and reforms to, the criminal law (begun in 1999)⁹ and the Halliday review of sentencing practices (begun in 2000)¹⁰ by reducing delays in the system, bringing more people to justice, providing a better deal for witnesses and victims, and facilitating more effective partnerships to enhance delivery of services. It also involved the creation of the National Probation Service in 2001.¹¹ If these changes were not challenging enough for the criminal justice system to absorb, along came another set of reforms that established the National Offender Management Service (NOMS).

In 2002, Patrick Carter was asked to undertake a review of correctional services. His report, *Managing Offenders, Reducing Crime: A New Approach* was published in 2003,¹² the same year the new Criminal Justice Act went into effect. This report analyzed the state of the prisons, overcrowding, and the lack of help available for short-term prisoners following release. Carter proposed the linear concept of end-to-end management of offender services and the creation of a single agency, NOMS, to deliver it.¹³ NOMS would consist of a Chief Executive and National Offender Manager, and ten Regional Offender Managers responsible for commissioning services, both custodial provision and in the community, for the management of offenders in that region. Contestability, meaning competition, in a marketized mixed economy of provision would sharpen effectiveness and performance, and target achievement. In other words, it is possible that the work being undertaken by probation could be awarded to other organizations within the public, private, and voluntary sectors. This was not a novel policy because during the early 1990s, a decade before NOMS, the rise of a pluralism of offender service providers had challenged the monopoly position of probation.

It should be confirmed that help and support for offenders remained part of the NOMS structure, as services exist to respond to problems related to accommodation, education, training and employment, finances, and addictions. Nevertheless, the new organization was criticized for sustaining punitive controlism, depersonalization, and deprofessionalization. On the theme of punitive controlism, it was explained that the retributive penal agenda, fuelled by punitive populism, radically threatened to shift the purpose of probation “from one of caring control to one of punitive control.”¹⁴ Furthermore, the National Association of Probation Officers and the Probation Boards Association raised a number of concerns in response to developments associated with privatization and punishment.¹⁵ These issues became acute between 2010 and 2015.¹⁶

By 2004, the strategic aim of *Confident Communities*¹⁷ was articulated as social change to achieve enhanced

security. Also, the objectives of the Home Office for a safe, just, tolerant society included helping people to feel more secure in their homes and communities. The interests of the law-abiding citizen must come first, and they will be protected from the threat of terrorism, illegal immigration, and criminal disorder on the streets. The theme of modernization reverberated throughout *Confident Communities* when addressing ongoing reforms within the criminal justice system, the programme of structural and organizational changes that commenced in 1997, and elevating the status of victims. There are supporting references to the Halliday review and the Criminal Justice Act 2003, the delivery of effective punishments, the creation of NOMS, enforcement, and crime prevention. It is important to acknowledge that offenders will be supported to achieve the goal of behavioral change. However, if they do not respond positively to the offer of support, negative consequences will follow in the form of tougher enforcement practices.

Next, according to *Cutting Crime, Delivering Justice*,¹⁸ published concurrently with *Confident Communities*, the vision for the criminal justice system for the next five years (2004–2009) is: increased public confidence in the system; a high standard of service for victims and witnesses; bringing more offenders to justice; rigorous enforcement (mentioned again); coordinated services and reduced delays—all of which constitute the normative elements of modernization. Again, modernizing reforms that have occurred since 1997 are reprised, with specific reference to probation within the context of more resources being allocated to the police, Crown Prosecution Service, and prisons. In fact, when turning to probation, it is lamented that the training of new probation officers ceased under conservative governments between 1995 and 1998. No newly qualified staff entered the profession for several years in the fifty-six local area services.¹⁹ The documents published during 2004 signalled an end to the 1960s liberal consensus on law and order. Creating safer communities are to be pursued through a punitive war on crime, rather than ameliorative social policies to reduce inequality.²⁰

III. Beyond 2005: Drifting Toward the End of New Labour

New Labour's 2005 manifesto, *Britain forward, not back*, repeated the refrain of tough on crime and its causes and proudly asserted that sentencing had become tougher, illustrated by 16,000 more prison places compared to 1997. It also confirmed that NOMS, established in 2003–2004, ensured that every offender will be case-managed from the beginning to the end of their sentence. The manifesto referred to Anti-Social Behaviour Orders (ASBOs), which resulted in the criminalization of low-level disorderliness, a proper focus on victims and the law-abiding majority, and the commitment to cut crime and send dangerous offenders to prison. There was also a reference to making community sentences more effective, a persistent theme over the last two decades in England and Wales.

On 19 September 2005, Charles Clarke, Home Secretary, made a speech to the Prison Reform Trust, *Where Next*

for Penal Policy.²¹ Although sentencing within the reformed criminal justice system is conducted according to various sentencing philosophies, Clarke affirmed that government will be tough on crime and criminals, particularly dangerous and persistent offenders. The Home Secretary's speech addressed NOMS within the context of organizational change and the modernization agenda by bringing prisons and probation closer together. The central priority is to reduce reoffending by 5 percent by 2008, and then 10 percent by 2010. The role of the new offender manager is considered—note the change of job designation from “probation officer” to “offender manager”—as is the plan to develop a mixed economy of provision, thus breaking up the monopoly position of the National Probation Service in the delivery of offender services. He asserted that NOMS is committed to rehabilitation, but although a number of prison and probation areas have responded positively to the prevailing challenges and improved, other areas have not achieved as much as government considered necessary. This is why Charles Clarke was personally committed to the creation of a vibrant mixed economy within NOMS. The policy emphasized that encouraging contestability among the public, private, and voluntary sectors will enhance and improve the delivery of offender services. Consequently, the vision for the future consisted of purchasing services from different providers—this may no longer be a probation organization—who will be expected to achieve targets and provide value for money, and to drive up standards of performance within a market-driven criminal justice system.

During 2005, and updated in 2006, the Home Office was involved in producing the *NOMS Offender Management Model*.²² Included within this document was guidance to probation areas on the tiering (stacking) of cases, to relate resources to the assessed category of risk—low, medium, high, and very high. All four substantive tiers will deliver some form of punishment to offenders, even though the document articulates the importance of social work relationships as well: Tier 1, punish; Tier 2, punish and help; Tier 3, punish and help and change; Tier 4, punish and help and change and control. Tier 1 cases comprise low to medium risk categories; by contrast, Tier 4 contains high to very high risk categories, including public protection cases. Tiers 3 and 4 will attract most of the resources and be the preserve of trained and professionally qualified staff. The reconfiguration of resources and services by the risk status of offenders anticipated the Rehabilitation Revolution of 2010–2015.

A spate of documents appeared during 2006. Notwithstanding the complexities involved in obtaining an accurate picture of crime statistics, the *Five Year Strategy for Protecting the Public and Reducing Re-offending*²³ restated the claim that whilst crime is decreasing, the strategic aim remains to cut reoffending, protect the public, keep the right people in prison, and manage the risks posed by offenders. The offender manager is responsible for the punishment and rehabilitation of offenders, including the

promotion of closer links with the prison system via the newly emerging NOMS structure. The *Five Year Strategy* underlines the political message that even though the language of punishment, reparation, and rehabilitation overlap, punishment is a legitimate activity in prison and in the community, and that both probation and prison should prevent re-offending. The context remains one of being tough on crime, illustrated by the assertion that we are “catching and convicting more criminals.”²⁴ It is imperative that the public is kept safe from serious, violent, dangerous, and persistent offenders. Risks must be identified and managed via the Offender Assessment System (OASys),²⁵ which is considered one of the most advanced systems of its kind in the world.²⁶ Once again key political messages are delivered on enforcement,²⁷ specifying that when offenders breach their community orders, over 90 percent are enforced within ten working days, that is, they are returned to the sentencing court normally after two failed appointments. Nevertheless, confronting and resolving factors related to obtaining work, housing, and drugs can enhance managing offenders to prevent reoffending and improving compliance.²⁸

Much had been achieved since 1997, when the modernizers came to office. Nevertheless, the modernization of the criminal justice system was not completed, as was the message of *Rebalancing the Criminal Justice System*.²⁹ The report claimed crime had fallen by 35 percent since 1997, and that the risk of becoming a victim of crime was the lowest since the British Crime Survey began in 1981; that public confidence in the criminal justice system was on the rise, and worry about antisocial behavior had fallen. Modernization, which assumed the quality of a permanent revolution, is constructed positively by recourse to the provision of more resources for criminal justice agencies, investment, improved performance, partnerships, NOMS, stricter enforcement, new laws, ASBOs, and bringing more people to justice. Whilst much had been achieved, the system must be *rebalanced* in favor of victims rather than offenders. Paragraph 3.29 of the *Rebalancing* document addressed probation specifically by stating that resources should target serious, not minor, offenders, underpinned by the new tiering system. Also, the intention remained to break up probation’s monopoly by creating a mixed economy of provision through the NOMS structure, which required new legislation to enable other potential providers to get involved. Finally, the document turned to the aspiration of *Delivering Simple, Speedy, Summary Justice*,³⁰ the “Triple S” agenda.

This *Delivering* document, another integral component of the modernizing agenda, attempted to push ahead with a more effective and efficient criminal justice system, particularly within the magistrates’ courts, which deal with 95 percent of criminal cases. This had profound implications for the work of probation, primarily because the pressure to deal with more and more cases expeditiously touches the organization where reports (written sentencing documents) are being prepared for the courts, particularly

magistrates’ courts. In other words, if one of the aims of the “Triple S” agenda is to reduce the average number of hearings before a case is finally sentenced from five or six to one for guilty pleas, thereby eradicating costly adjournments, and if the court requires more information on the offender, then this will be in the form of a Fast Delivery Report rather than a full and detailed Pre-Sentence Report.³¹

By 2006, it had been more than two years since the Carter report³² resulted in the emergence of NOMS and proposals to utilize the diverse talents of public, private, and voluntary agencies. As John Reid stated in *Public Value Partnerships*, the public sector is valued and will have a continuing role to play, “[h]owever, all current providers should be open to challenge and able to demonstrate that the services they offer are the best available.”³³ If the Probation Service is seen to be failing under the reconstituted arrangements, another organization could take it over to deliver effective and efficient services. Government plans for extending contestability are not to cut costs or even to have competition for its own sake, but rather to improve standards of service by encouraging innovative practices that will result in less crime and getting the best mix of services and service providers.

The Prime Minister’s Strategy Unit published an interesting document, initially confirming that there has been a tougher sentencing regime since 1997.³⁴ The average length of custodial sentences at the Crown Court increased from twenty to thirty months between 1994 and 2004. Moreover, there was an increase in more demanding community services that had displaced fines rather than alternatives to custodial sentences. As reported in *The Telegraph*, a leaked Home Office letter, “Responding to Economic Challenges,” warned that the global economic downturn is expected to result in more crime, fewer police, and more illegal immigration, coupled with far right extremism. After studying previous recessions and effects on crime and policing, Home Office computer modelling indicated that an economic downturn “would place significant upward pressure on acquisitive crime and therefore overall crime figures.”³⁵

*Ten Years of Criminal Justice under Labour*³⁶ is significant because it constitutes an independent audit of events since 1997. From the beginning the intentions of New Labour were clear: tough on crime and its causes, and introducing modernizing reforms across the whole public sector, including the criminal justice system, manifested by more investment and harsher punishments. The priorities of New Labour were to narrow the justice gap (bringing more offenders to justice), to reduce reoffending, and to respond to antisocial behavior. Central concerns were policing, youth justice, and drugs. Indubitably, more resources were allocated to the criminal justice system, but the critical question remained: Has it all worked? The audit results are mixed, notwithstanding the reforms that were pushed through at a relentless pace. Significantly, this echoes the aforementioned Prime Minister’s Strategy Unit

document,³⁷ and questions remained about the efficacy of the criminal justice system to achieve its objectives. In other words, is it the right or most effective instrument to respond to illegal forms of behavior, particularly when some of these are associated with socioeconomic structural factors?

Next, the importance of *Lord Carter's Review of Prisons*, published in December 2007,³⁸ was in the analysis of those *drivers* behind the 60 percent—more than 30,000—rise in the prison population in England and Wales between June 1995 and November 2007, by which time it stood at 81,547. First, Carter addressed changes in public attitudes and the political climate, including the law-and-order themes of the 1980s; the break-up of consensus, economic decline, rising crime, and retreat from rehabilitation; the Jamie Bulger and Stephen Lawrence murders in 1993, and accompanying media responses; and developments within community punishment and the Prison Works debate in the 1990s. Consequently, there is a greater public preoccupation with crime, fuelled by media reporting, and accompanied by a heightened emotional tone in the way crime issues are presented.

Second, legislation and the sentencing framework, including the drift toward more punitive sentencing, are alluded to, particularly the sixty-six pieces of legislation since 1995. It is of interest to refer to the comments of Lord Justice Auld, who said that the public's confidence in the criminal justice system is damaged if, as happened all too often, legislative reforms are insufficiently considered and "hurried through in seeming response to political pressures or for quick political advantage."³⁹

Third, Carter noted custody rates and sentence lengths with greater sentencer demand for probation and prison. The number of community penalties at all courts increased from 129,922 in 1995 to 190,837 in 2006. Fourth, alluded to earlier, there had been a much greater focus on harsher enforcement practices and more emphasis on risk, harm, and public protection. When turning to the newly created Suspended Sentence Order, introduced by the Criminal Justice Act 2003, Carter recounted that a significant number of suspended prison sentences were being given for summary offences, and that "a significant number of these would previously have received non-custodial sentences."⁴⁰

Patrick Carter published his review on prisons by the end of 2007. In May 2007, the Ministry of Justice had been created, which assumed responsibility for probation and prisons following restructuring within the Home Office, with the Ministry of Justice and the Home Office being separate departments. One of Carter's proposals was to reappraise the headquarters function of NOMS, which would have implications for both prisons and probation. This was initiated during January 2008 to improve the efficiency and effectiveness of managing offenders and the refocusing of resources to enhance front-line delivery. By March 2008, this resulted in bringing probation and prisons even closer together within a streamlined headquarters function, and the rationalization of regional structures.

With this latest bout of restructuring, Phil Wheatley, Director General of Her Majesty's Prison Service, became Director General of NOMS, with material changes to the upper managerial and strategic reaches of the organization ensuing.

Changes at the national level were established on April 1, 2008, and further changes to regional structures were introduced by April 2009. As a result, each of the ten regions in England and Wales appointed a Director of Offender Management to coordinate and commission all probation and prison services from the public, private, and third/voluntary sectors, consistent with the legislative provisions contained in the Offender Management Act 2007. These arrangements were put in place in London and Wales during 2008, and the Prison Service London Area Office and the office of the Regional Offender Manager were formally merged into the office of Director of Offender Management. It may be suggested that these changes were largely cosmetic, primarily concerned with reducing costs, and would hardly be noticed lower down the organizational structure by prison officers and probation offender managers. But instead, senior managerial and organizational reconfigurations within NOMS culminated in the declining influence of the probation ethos throughout the whole of the criminal justice system.⁴¹

IV. On the Cusp of the Transition from New Labour to Coalition Government

In 2008, two years before the general election, the conservative party published *Prisons with a Purpose*.⁴² This document refers to energy supplies, pollution, economic stability, national security, immigration, transport, and development, before turning to crime and prisons. Students of criminal justice are inured to consulting the crisis literature on crime, prison overcrowding and longer prison sentences since 1993, reoffending rates, community sentences that lack credibility, and the volume of crime committed by offenders with previous convictions. Accordingly, the "right way to reduce the prison population is to break the cycle of re-offending and reduce crime."⁴³ It is imperative to restore confidence in the criminal justice system, which will be achieved by launching a "rehabilitative revolution" in which community and prison sentences reflect four basic principles: punishment, rehabilitation, employment, and reparation for victims. Community sentences must be tough and demanding to enhance their credibility and to improve compliance, which repeats familiar themes. Furthermore, the ongoing crisis in criminal justice is explained by insufficient prison capacity and the imposition of centrally imposed targets that paralyzed prison governors and probation officers. In fact, the "Probation Service in particular has been burdened with too many targets."⁴⁴ This analysis admits to organizational weaknesses but also proffers liberating possibilities after the stultifying, target-driven, and bureaucratically obsessed governmental regimes since 1997. However, it intriguingly reinforces that "[w]e want to see new providers brought in to *aid* the

probation service . . . ,”⁴⁵ a statement that continues the theme of criminal justice privatization.

There is a vestige of hope for probation services after nationalization in 2001, with the establishment of the National Probation Service, then after 2003 with NOMS, because of the tantalizing prospect of these changes energizing professional autonomy and discretion. Nevertheless, a closer reading of the text precipitates a number of niggling concerns as it outlines subjecting prison regimes to Payment by Results (PbR),⁴⁶ expanding the role of the voluntary and private sectors, and incentivizing performance. Some features are innovative in tone, for example, Payment by Results; others continue previous developments such as value for money and the deeper penetration of privatization and market expansion. However, two significant omissions should be considered.

First, analysis and response are not intellectually embedded within an explanatory historical, political-economic, and ethical-cultural context. The document fails to consider political decisions affecting criminal justice during the previous thirty years, the impact of governmental policies, material conditions leading to the economic crisis in 2007–2008, neoliberal ideology, and the moral implications of prioritizing fiscal efficiencies over offender services. This lacuna distorts the analysis compared, for example, to a much earlier Home Office *Review*.⁴⁷ Second, there is an air of silence on the content of, and arguments for, the moral coordinates of criminal justice and penal policy. Canton argues that work with offenders is a *morally significant activity* that cannot be reduced to technical gimmicks for achieving efficiency and effectiveness.⁴⁸ Criminal justice must combine fiscal considerations and ethical demands, but *Prisons with a Purpose* remains silent on the latter. In 2008, the battle lines are sketched to differentiate New Labour from conservative criminal justice policies during the period leading toward the general election in May 2010.

V. Coalition Government and Criminal Justice, 2010–2015

In December 2010, the new Coalition Government of liberal and conservative interests published a Green Paper, *Breaking the Cycle*,⁴⁹ which is significant, because it proposed fundamental changes to the criminal justice system to ensure “improved public safety through more effective punishments that reduce the prospect of criminals reoffending time and time again.”⁵⁰ *Breaking the Cycle* confirmed that the prison population had doubled since 1993, but fails to acknowledge this was because of decisions of a previous Conservative administration. Moreover, reconviction rates are too high and costly at £7–10 billion annually, and there are 16,000 active offenders at any one time, each with 75 previous convictions. There is also the admission that the weight of criminal legislation since 1997 has been excessive. The principles of reform underpinning the proposed rehabilitation revolution are public protection, punishment and rehabilitation, transparency and

accountability, and the decentralization of services.

Payment by Results⁵¹ is foregrounded as a radical reform that signals the transference of financial risk from taxpayers to the new providers. Consequently, there will be a competition strategy to determine the provision of services according to commercial and market principles. In other words, the Ministry of Justice will no longer pay for good intentions.

*Modernising Commissioning*⁵² comments on the rehabilitation revolution and associated plans for commissioning services through the expansion of mutuals, cooperatives, charities, and social enterprises in operating public services. At this early stage the Coalition Government is actively turning toward profit-making businesses with commercial objectives to assume an enhanced role in public service reform. The accumulating documentary evidence provides a strong suggestion for how public services should be delivered in future, the relentless demand to improve efficiency and effectiveness, investment opportunities, the superiority of private over public provision, the expansion of markets, and reducing risks to tax-payers through Payment by Results. Accordingly, “As announced in the Spending Review, the Government intends to identify particular opportunities to expand the use of payment by results across particular service areas.”⁵³ I have argued more fully elsewhere⁵⁴ that the privatization, marketization, and diversification of services, all of which have occurred without rigorous intellectual debate, damaged the moral fabric of criminal justice.

The following year, *Open Public Services* asserted that the reform of public services is a “key progressive cause.”⁵⁵ It conflates reform with the task of civilizing society, but omits the problem of reconciling the future commercial platform with the ethical provision of services. This document continues the thematic trend of reform through the fiscal mechanism of PbR, which is being applied to numerous organizational spheres, including the Work Programme, public health, drug and alcohol recovery services, children’s centers, vulnerable people, as well as the Rehabilitation Revolution in prisons and probation.⁵⁶ Five additional principles of reform are cited: increased choice, decentralization, diversity of providers, fair access to services, and accountability to taxpayers. With no supporting evidence, it is asserted, “Our reforms are the best way to deliver better services; indeed, they are the only way we can deliver improved, modern public services in a time of fiscal consolidation and growing demand.”⁵⁷

Next, the *Competition Strategy*⁵⁸ reinforced the aforementioned documentary themes, confirming that competition in offender services can be traced to 1992 with the first private prison at HMP Wolds.⁵⁹ However, the market in noncustodial sentences is much less developed. Therefore, the Ministry of Justice aspires to build on the platform of competition, inchoate privatization, the private finance initiative (PFI) prison building programme, better value for money (VfM) in the delivery of prison escort and custody services, bail accommodation, and the expansion of

electronic monitoring. A competition strategy is required to identify the most suitable providers to deliver offender services, which include custodial provision, community services, health, substance misuse, and learning skills. When shifting the focus from custody to the community, “The starting point here is different, as the use of competition in delivering core probation services is less developed, as is the market for providing these services.”⁶⁰ The drivers of public service and criminal justice reform are specified as financial rationalization, value for money (VfM), outcomes, target achievement, risk and reward, business models and commercial practices, the diversity of providers, privatization, markets, and competition between the sectors. Again, for comparative purposes, this operating framework is incompatible with the aforementioned *Review*.⁶¹ It is also discernibly different from the 1980s and 1990s, primarily because the nature and scale of reform are more extensive. The past was a different place, intellectually and morally, compared to the period under consideration here.

Two significant documents were published in March 2012: *Punishment and Reform: Effective Community Sentences*⁶² and *Punishment and Reform: Effective Probation Services*.⁶³ Previously, *Prisons with a Purpose* stated that reconviction rates were too high, indicative of a lamentable failure. Now, four years later, allowing probation to retain responsibility for approximately 40,000 high-risk offenders and the production of court reports for magistrates and judges will remedy the problem. The remaining low- to medium-risk offenders, approximately 220,000, will be the subject of market competition among the public, private, and voluntary sectors. “The aim of all this is to free up a traditional, old-fashioned system and introduce new ways of operating and delivering that will help drive a reduction in reoffending.”⁶⁴ *Effective probation services* extends the principle of competition outlined in the Offender Management Act 2007.

On reflection, it would have been beneficial to consider with greater intellectual perspicacity on why the “modern” is presumed to be superior to established historical traditions; new superior to old; competition better than cooperation; private enterprise superior and more efficient than public duty and service. Additionally, efficiency targets swamp moral questions appertaining to justice, and restructuring and rebalancing unbalances the criminal justice system by eroding former historical, cultural, and ethico-cultural conventions.⁶⁵ Finally, also during 2012, the White Paper *Swift and Sure Justice*⁶⁶ further supported the intellectual justification for reforming the criminal justice system in England and Wales, by repeating the arguments for modernizing an outdated infrastructure that delivers justice too slowly and costly.

Transforming Rehabilitation made a great impact in 2013, beginning in January with a period of consultation until February 22.⁶⁷ This second part of this New Year document, *A Revolution in the Way We Manage Offenders*, provided further detail on the structural mechanisms required

to deliver reform, and posed nineteen questions for consultation.⁶⁸ These questions refer to PbR, the pricing structure and incentives for providers, bureaucracy, incentivizing performance, managing poor performance, the supply chain of offender services, integrating the public, private, and voluntary sectors, relevant legislation, non-compliance with the orders of the courts, probation and other delivery systems, maximizing local expertise, maintaining professional standards, and the role of the Inspectorate. Subsequently, the Ministry of Justice published its response to the consultation in *Transforming Rehabilitation: A Strategy for Reform*.⁶⁹ First, under the rubric of *Reducing Reoffending*, rehabilitation and mentoring services will be statutorily provided to all offenders including those sentenced to less than twelve months. Consequently “Competing services will allow us to use innovative payment mechanisms which drive a focus on reducing reoffending. Providers’ level of payment will therefore be dependent on the reductions in reoffending they achieve.”⁷⁰ PbR is elucidated as a mechanism to facilitate fiscal incentives; providers must assist *all* offenders, not just those who will “succeed,” which would rig payment in favor of investors’ vested interests; providers will be financially rewarded for success when offenders and former prisoners achieve complete desistance for twelve months; payment mechanisms will take account of the total number of offences committed by offenders. Therefore, “The combined payment mechanism, including ‘fee for service’ and ‘payment by results’ elements will mean that providers need to work successfully with all offenders, in order to get paid in full.”⁷¹

Next, the section on *Protecting the Public* proposes a new public sector probation service after 60 to 70 percent of its work has been opened up to competition.⁷² Then, *Making the System Work* indicates that some probation staff will transfer into the private and voluntary sectors.⁷³ This signals the end of probation trusts through the creation of a new National Probation Service managed by the Ministry of Justice and NOMS. It was envisaged that by autumn 2014 there would be twenty-one Contract Package Areas of diverse providers called Community Rehabilitation Companies to deliver criminal justice services alongside a truncated probation system. Between May 2013 and autumn 2014, potential providers, including large private companies—Interserve, G4S, and Sodexo Justice Services among them—were encouraged to bid for Ministry of Justice contracts.

In September 2013, the Ministry of Justice issued the *Target Operating Manual*,⁷⁴ which consolidated the structure to deliver more effective rehabilitative outcomes. It includes through-the-gate services for offenders sentenced to less than twelve months imprisonment that necessitate new licence arrangements. Furthermore, the reformed structure endorses marketized competition among the sectors, the flexibility to innovate, a new National Probation Service, and twenty-one Community Rehabilitation Companies. It specifies that payment to the Rehabilitation Companies “will be based on a weighted annual volume of

offender starts, with a proportion of the payment at risk, dependent on their performance in reducing reoffending.”⁷⁵ As discussed in Chapter 3 of the *Target Operating Manual*, the National Probation Service will be responsible for writing court reports on offenders and providing sentencing advice to the courts, risk assessment, allocating cases, the management of high-risk cases, enforcement of community orders and licences, Parole Board duties, and Multi-Agency Public Protection Arrangements (MAPPA). Accordingly, existing Probation Trusts will be dissolved on March 31, 2014, and staff allocated to either the National Probation Service (NPS) or a Community Rehabilitation Company (CRC).⁷⁶ Nevertheless, a number of concerns were articulated during the transitional phase before the new arrangements were finally determined: the necessity for and pace of reforms and their rationale, making the transitional arrangements work, tender processes, how the market will work and the relationship between NPS and CRC if there is a change in the risk status of offenders (as assuredly there will be), PbR and penalties for failure, the risks and costs of reform, staff retention, and potential loss of skills.⁷⁷

After much activity between *Breaking the Cycle* of December 2010 and the cumulative events of 2013, thirty bidders passed the first stage of the competition process to win the twenty-one CRC contracts and lead the new era in a fight against offending.⁷⁸ A mélange of organizations and partnerships who want to lead the Rehabilitation Revolution, such as private firms, charities, businesses, and multinationals, submitted bids. In addition to bids from lead providers, 800 organizations expressed an interest in the delivery supply chain, for contracts worth £450 million annually. It was anticipated that the successful bidders would be announced during the autumn of 2014. For the Ministry of Justice, the Rehabilitation Revolution exemplifies innovative ways of doing business differently and the best way of using tax-payers’ money. But these reforms signalled the end of a probation service that had been located in the public sector since 1907.

The House of Commons Justice Committee⁷⁹ scrutinized the proposals for reform. Some committee members expressed approbation at the direction of travel since 2008, but others were concerned that reducing the role of the public sector Probation Service is unconvincing, too risky, untested and unpiloted, and unlikely to deliver better results. Furthermore, there were divergent views from witnesses appearing before the committee, with acknowledgements that there are gaps in current practice, such as support being unavailable to offenders leaving prison after serving less than twelve months (erstwhile prison voluntary after-care cases, PVAC). The evidence presented to the committee during 2013, including that by Ministry of Justice officials, ultimately consolidated the position that Transforming Rehabilitation has four elements:

- Extend statutory rehabilitation to those sentenced to less than twelve months—an extra 50,000

offenders—which has recently been implemented to ensure that *all* offenders released from prison receive supervision.

- Open up rehabilitation services to a diverse market of providers and new payment mechanisms.
- Create a new National Probation Service primarily involved in public protection.
- Reorganize the prison estate.⁸⁰

Most of the proposals can be undertaken through the Offender Management Act 2007, but new legislation is required to extend supervision to short-term prisoners in the form of the Offender Rehabilitation Act 2014. The conclusions and recommendations from the committee report are enumerated as follows:

- Extending statutory supervision for offenders sentenced to twelve months imprisonment or less is a positive reform.
- There remain serious questions about the evidence base for reform—ironic given the emphasis on “What Works” since 1992.
- Witnesses expressed apprehension at the pace, scale, architecture, detail, and likely consequences of reform.
- Risks to the system and costs.
- Retention of skills and the development of staff in the twenty-one CRCs.
- Payment by Results: Is the principle of reward for success and punishment for failure morally acceptable?
- The Ministry has high expectations of what can be achieved in the way of efficiency savings and extension of services through contracting out the management of low and medium risk offenders within existing resources. It seems entirely feasible to us that as the competition progresses and details are refined, the attractiveness of these contracts might wane, resulting in incomplete or inadequate provision in certain areas or types of service.⁸¹

On Wednesday, October 29, 2014, Chris Grayling, Justice Secretary, announced the decision on the successful bidders for the twenty-one Community Rehabilitation Companies: Sodexo Justice Services in partnership with National Association for the Care and Resettlement of Offenders (NACRO) (6 areas); Achieving Real Change for Communities (ARCC) (1 area); Purple Futures (5 areas); The Reducing Reoffending Partnership (2 areas); Working Links (3 areas); Geo Mercia Willowdene (1 area); MTCNovo (2 areas); and Seetec (1 area).⁸²

VI. Conclusion

Many changes have been imposed on the criminal justice system in England and Wales since the 1980s, and specifically after 1997, that have modernized and transformed police, probation, and prisons. It is important to emphasize

that the Rehabilitation Revolution during 2010–2015 was driven forward on the platform of competition, privatization, and marketization established by New Labour governments after 1997.⁸³ Saliiently, the bulk of probation work was privatized in 2014 with the creation of twenty-one Community Rehabilitation Companies. Currently, the National Probation Service is supervising high-risk and seriously convicted offenders (approximately 50,000), and privatized companies supervise low- to medium-risk offenders (approximately 200,000), which includes community supervision and prisoners released on licence from custodial facilities. Between 1993 and 2012, the prison population increased by 41,800 to 86,000;⁸⁴ in December 2015, the prison population was 85,847 (male 81,928, female 3,919), and the latest projection is 90,000 by 2020.⁸⁵ Furthermore, at 149 per 100,000 of the population, England and Wales has the highest rate of imprisonment in Western Europe.⁸⁶ Accordingly, modernization and transformation affected all aspects of criminal and social justice, probation, sentencing, and penal policy. However, it is questionable whether all features of modernization and transformation have been in the interests of justice.

Notes

- 1 See Philip Whitehead & Roger Statham, *the History of Probation: Politics, Power and Cultural Change, 1876–2005* (2006).
- 2 Alistair Campbell, *the Blair Years: Extracts from the Alistair Campbell Diaries* (2007).
- 3 Home Office, Correctional Policy Unit, *Joining Forces to Protect the Public, Prisons-Probation: A Consultation Document* (HMSO, 1998), available at <http://webarchive.nationalarchives.gov.uk/19990125100009/http://www.homeoffice.gov.uk/cpu/pcon1.htm> [hereinafter *Prisons-Probation*].
- 4 See Philip Whitehead, *Transforming Probation: Social Theory and the Criminal Justice System* (2016, forthcoming).
- 5 Lord David Windlesham, *Responses to Crime, Volume 4: Dispensing Justice* 245 (2001).
- 6 Robert Reiner, *Law and Order: An Honest Citizen's Guide to Crime and Control* (2007).
- 7 Home Office, *Criminal Justice: the Way Ahead*, CM 5074 (HMSO 2001), available at <https://www.gov.uk/government/publications/criminal-justice-the-way-ahead>.
- 8 *Id.* at 5.
- 9 Lord Justice Auld, *Review of the Criminal Courts of England and Wales* (2001).
- 10 *But see* Home Office, *Making Punishments Work: A Review of the Sentencing Framework For England and Wales (Halliday Review)* (2001), available at <http://webarchive.nationalarchives.gov.uk/+http://www.homeoffice.gov.uk/documents/halliday-report-sppu/>.
- 11 See Whitehead & Statham, *supra* note 1.
- 12 Patrick Carter, *Managing Offenders, Reducing Crime: A New Approach* (Dec. 11, 2003).
- 13 Loraine Gelsthorpe & Rod Morgan, *Handbook of Probation* (Willan, 2007); J.M. Hough, Robert Allen, & Una Padel, *Reshaping Probation and Prisons: the New Offender Management Framework* (2006).
- 14 Ross Burnett, Kerry Baker, & Colin Roberts, *Assessment, Supervision and Intervention: Fundamental Practice in Probation* at 228, in *Handbook of Probation* (Loraine Gelsthorpe & Rod Morgan eds., Willan 2007).
- 15 Gelsthorpe & Morgan, *supra* note 13.
- 16 See *infra* Section V.
- 17 Home Office, *Confident Communities in A Secure Britain: the Home Office Strategic Plan 2004–08*, CM 6287 (HMSO 2004), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251067/6287.pdf.
- 18 Office for Criminal Justice Reform, *Cutting Crime, Delivering Justice: A Strategic Plan for Criminal Justice 2004–08*, CM 6288 (HMSO 2004), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251064/6288.pdf.
- 19 Whitehead & Statham, *supra* note 1.
- 20 Richard G. Wilkinson & Kate Pickett, *the Spirit Level: Why More Equal Societies Almost Always Do Better* (2009).
- 21 Charles Clarke, Home Secretary, *Where Next for Penal Policy?*, Speech at Prison Reform Trust (Sept. 19, 2005).
- 22 National Offender Management Service, *The NOMS Offender Management Model*, para. 13.3–13.4 (May 2006), available at https://www.swmcrcc.co.uk/wp-content/uploads/2010/05/offender_management_model_1.pdf.
- 23 Home Office, *A Five Year Strategy for Protecting the Public and Reducing Re-offending*, CM 6717 (HMSO 2006), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/272221/6717.pdf.
- 24 *Id.* at para. 1.4.
- 25 *But see* George Mair, Lol Burke, & Stuart Taylor, “*The Worst Tax Form You’ve Ever Seen?*” *Probation Officers’ views about OASYS*, 53 *Probation J.* 7–23 (2006), DOI: 10.1177/0264550506060861.
- 26 Home Office, *supra* note 23.
- 27 *Id.* at para. 3.12.
- 28 *Id.* at para. 4.3.
- 29 Home Office, *Rebalancing the Criminal Justice System in Favour of the Law-Abiding Majority: Cutting Crime, Reducing Re-offending and Protecting the Public* (July 2006), available at <http://webarchive.nationalarchives.gov.uk/20060904182404/http://homeoffice.gov.uk/documents/CJS-review.pdf/CJS-review-english.pdf?view=Binary>.
- 30 Home Office, *Delivering Simple, Speedy, Summary Justice* (July 2006), available at http://webarchive.nationalarchives.gov.uk/+http://www.dca.gov.uk/publications/reports_reviews/delivery-simple-speedy.pdf.
- 31 For a detailed discussion, see Whitehead, *supra* note 4.
- 32 Carter, *Managing Offenders*, *supra* note 12.
- 33 Home Office, *Improving Prison and Probation Services: Public Value Partnerships* (NOMS, August 2006).
- 34 Prime Minister's Strategy Unit, *Policy Review: Crime, Justice and Cohesion* (Cabinet Office, 2006).
- 35 *Credit crunch could lead to crime wave, Home Office warns Downing Street*, *The Telegraph*, Aug. 31, 2008, available at <http://www.telegraph.co.uk/news/uknews/law-and-order/2657335/Credit-crunch-could-lead-to-crime-wave-Home-Office-warns-Downing-Street.html>.
- 36 Enver Soloman, Chris Eades, Richard Garside, & Max Rutherford, *Ten Years of Criminal Justice under Labour: An Independent Audit* (Centre for Crime and Justice Studies, 2007), available at <http://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/ten-years-of-labour-2007.pdf>.
- 37 Prime Minister's Strategy Unit, *supra* note 34.
- 38 Lord Patrick Carter, *Securing the Future: Proposals for the Efficient and Sustainable Use of Custody in England and Wales (Lord Carter's Review of Prisons)* (Ministry of Justice, 2007), available at http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/05_12_07_prisons.pdf.
- 39 Auld, *supra* note 9, at 19.
- 40 Carter, *Securing the Future*, *supra* note 38, at 51.
- 41 See Philip Whitehead, *Reconceptualising the Moral Economy of Criminal Justice: A New Perspective* (2015).

- ⁴² Conservative Party, *Prisons with a Purpose: Our Sentencing and Rehabilitation Revolution to Break the Cycle of Crime, Security Agenda Policy Green Paper Number 4* (2008).
- ⁴³ *Id.* at 4.
- ⁴⁴ *Id.* at 25.
- ⁴⁵ *Id.* at 80.
- ⁴⁶ Philip Whitehead, *Payment by Results: The Materialist Reconstruction of Criminal Justice*, 35(5/6) Int'l J. Soc. & Soc. Pol'y 290 (2015).
- ⁴⁷ Home Office, *A Review of Criminal Justice Policy 1976* (HMSO, 1977).
- ⁴⁸ Rob Canton, *Probation and the Tragedy of Punishment*, 46(3) Howard J. 236, 236 (2007).
- ⁴⁹ Ministry of Justice, *Breaking the Cycle: Effective Punishment, Rehabilitation, and Sentencing of Offenders*, Green Paper CM 7972 (Stationary Office 2010), available at <http://webarchive.nationalarchives.gov.uk/20120119200607/http://www.justice.gov.uk/consultations/docs/breaking-the-cycle.pdf>.
- ⁵⁰ *Id.* at 5.
- ⁵¹ Whitehead, *supra* note 46.
- ⁵² Cabinet Office, *Modernising Commissioning: Increasing the Role of Charities, Social Enterprises, Mutuals and Cooperatives in Public Service Delivery* (2010), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/78924/commissioning-green-paper.pdf.
- ⁵³ *Id.* at 9.
- ⁵⁴ Whitehead, *supra* note 41.
- ⁵⁵ HM Government, *Open Public Services*, at 5, White Paper CM 8145 (Ministry for Government Policy, 2011), available at <https://www.gov.uk/government/publications/open-public-services-white-paper>.
- ⁵⁶ *Id.* at para. 5.14.
- ⁵⁷ *Id.* at para. 1.27.
- ⁵⁸ Ministry of Justice, *Competition Strategy for Offender Services* (July 2011), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217248/competition-strategy-offender-services.pdf.
- ⁵⁹ Currently there are 14 private and 130 public prisons, including 16 Young Offender Institutions, in England and Wales.
- ⁶⁰ Ministry of Justice, *supra* note 58, at 15.
- ⁶¹ Home Office, *supra* note 47.
- ⁶² Ministry of Justice, *Punishment and Reform: Effective Community Sentences*, Consultation Paper CP8/2012, CM 8334 (Stationary Office, Mar. 2012), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228573/8334.pdf.
- ⁶³ Ministry of Justice, *Punishment and Reform: Effective Probation Services*, Consultation Paper CP7/2012, CM 8333 (Stationary Office, Mar. 2012), available at https://consult.justice.gov.uk/digital-communications/effective-probation-services/supporting_documents/probationreviewconsultation.pdf.
- ⁶⁴ Ministry of Justice, *Punishment and Reform: Effective Community Sentences*, at 3, Consultation Paper CP8/2012, CM 8334 (Stationary Office, Mar. 2012), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228573/8334.pdf.
- ⁶⁵ Whitehead, *supra* note 4.
- ⁶⁶ Ministry of Justice, *Swift and Sure Justice: The Government's Plans for Reform of the Criminal Justice System*, White Paper CM 8388 (Stationary Office, July 2012), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217328/swift-and-sure-justice.pdf.
- ⁶⁷ Ministry of Justice, *Transforming Rehabilitation: A Summary of Evidence on Reducing Reoffending*, Analytical Series (2013), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/243718/evidence-reduce-reoffending.pdf.
- ⁶⁸ Ministry of Justice, *Transforming Rehabilitation: A Revolution in the Way We Manage Offenders*, Part C, Consultation Paper CP1/2013, CM 8517 (Stationary Office, Jan. 2013), available at https://consult.justice.gov.uk/digital-communications/transforming-rehabilitation/supporting_documents/transformingrehabilitation.pdf.
- ⁶⁹ Ministry of Justice, *Transforming Rehabilitation: A Strategy for Reform*, Response to Consultation Paper CP(R)16/2013, CM 8619 (Stationary Office, May 2013), available at <https://consult.justice.gov.uk/digital-communications/transforming-rehabilitation/results/transforming-rehabilitation-response.pdf>.
- ⁷⁰ *Id.* at 14.
- ⁷¹ *Id.* at 15.
- ⁷² *Id.* at 20–23.
- ⁷³ *Id.* at 24–32.
- ⁷⁴ Ministry of Justice, *Target Operating Manual: Rehabilitation Programme* (Sept. 2013), available at <https://www.justice.gov.uk/downloads/rehab-prog/competition/target-operating-model.pdf>.
- ⁷⁵ *Id.* at 5.
- ⁷⁶ Personal communication between probation officers and author, 2013–2014, notes on file with author.
- ⁷⁷ *Id.*
- ⁷⁸ Ministry of Justice, *Best in the Business: Bidding to Rehabilitate Offenders*, Press Release, 19 Dec. 2013, available at <https://www.gov.uk/government/news/best-in-the-business-bidding-to-rehabilitate-offenders>.
- ⁷⁹ House of Commons Justice Committee, *Crime Reduction Policies: A Co-ordinated Approach? Interim Report on the Government's Transforming Rehabilitation Programme*, Twelfth Report of Session 2013–14 (Stationary Office, 14 Jan. 2014), available at <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmjust/1004/1004.pdf>.
- ⁸⁰ *Id.* at 5–6.
- ⁸¹ House of Commons Justice Committee, *supra* note 79, at pp. 59–60, para. 25.
- ⁸² Widely covered in news services at the time; see, e.g., Alan Travis, *Two companies to run more than half of probation services*, The Guardian, October 29, 2014, available at <http://www.theguardian.com/uk-news/2014/oct/29/justice-probation-contracts-private-companies>.
- ⁸³ For a critical discussion of these developments, see Whitehead, *supra* notes 4 and 41.
- ⁸⁴ Ministry of Justice, *Story of the Prison Population: 1993–2012 England and Wales* (Jan. 2013), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/218185/story-prison-population.pdf.
- ⁸⁵ Ministry of Justice, *Prison Population Projections: 2014–2020 England and Wales*, Statistics Bulletin (Nov. 2014), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380586/prison-population-projections-2014-2020.pdf.
- ⁸⁶ Michael Teague, *Neoliberalism, Prisons and Probation in the United States and England and Wales*, in *Organising Neoliberalism: Markets, Privatisation and Justice* (Philip Whitehead & Paul Crawshaw eds., 2012).