



The Criminal Justice System Under Stress

A joint parliamentary briefing from Napo, PCS, POA and the Police Federation

INTRODUCTION

All key staff in the criminal justice system are experiencing parallel problems with pay disputes, cuts to national budgets and creeping privatisation or civilianisation. These three factors are having a profound and damaging effect on the standards of service to the community. Workers from the relevant trade unions and staff association have launched a unique parliamentary campaign aimed at securing a fairer deal and a service that protects the public, not one that puts it at risk. The campaign represents staff working in the Courts, the Crown Prosecution Service, and the Probation and Prison Services. It is the first time that the, Napo, PCS and the POA have joined together to fight cutbacks and attacks on pay and conditions.

There has been an unprecedented response from staff in the Criminal Justice System. On 23 January 2008, over 25,000 police officers marched through London; on 29 August last year prison staff walked out of jails across England and Wales; and both the PCS and Napo are contemplating industrial action this summer on a scale not seen before.

A significant number of MPs have signed an early day motion in support. This reads: "This House recognises the contribution made to public safety by the police, prison officers, probation, court and CPS staff, and therefore calls on HM Government without delay to ensure that staff in the criminal justice system can carry out their statutory duties in an efficient and effective manner".

A national rally and lobby of parliament is planned jointly by the unions on 9 June and work is actively being pursued with MPs who are members of the Justice Unions' Parliamentary Group, to bring about change. The Police Federation will also be in attendance.



PAY NEGOTIATIONS - OUTCOMES 2006/8

PCS

A new pay system was introduced in the Ministry of Justice in 2007. This was not introduced by collective bargaining but by individual opt in. The main features are a four-year settlement with a maximum of a sub-inflation 2% increase to the band maxima and, controversially, the introduction of 5 regional pay ranges. In effect this means that staff working in the North East, North West and South West of England and in Wales will receive substantially less than those working in the West or East Midlands. Following negotiations a review of the new pay system is currently taking place.

During 2008 the 2% increase has been applied but the PCS has also put in a full pay claim and the Ministry of Justice has agreed that if the Treasury remit guidance changes they will re-open negotiations. However, severe difficulties are expected in the civil service and within the Ministry of Justice over the summer of 2008, and it seems certain there will be a dispute over pay during that period.

Napo

The pay agreement for 2006 to 2008 was contained in a pay and conditions modernisation agreement which covered a three-year period. From 1 April 2005 staff received an increase of 2.5% and a 1% non-consolidated bonus. In 2006 pay was based on the movement of all staff to a new 6-point pay band based on job evaluation. During 2007 the value of the new bands increased marginally further. However, during the current year, because of financial difficulties, the employers have indicated they will be renegeing on the agreement and are threatening not to pay annual increments due to staff on 1 April 2008. The Staff Side has submitted a claim this year for 5% or £1,000, whichever is the greater. The employers have responded saying that the pay settlement must include previously sacrosanct increments, despite the fact that no suggestion was made in 2005 that incremental progression would lapse in 2008. The delay in decisions, particularly on increments, has meant that staff have lower take home pay, and it is a breach of good faith that threatens the integrity of the whole process and raises the prospect of industrial action.

The Police Federation

Police pay arrangements are not co-terminus with the financial year but run from 1 September to 31 August. The 2006/7 award was 3%, effective from September 2006, following a Police Arbitration Tribunal award. A further award of 2.5% was made with effect from 1 September 2007, however the Home Secretary decided to defer payment of the 2.5% until December 2007, giving an in-year value of just 1.87%. This led to the unparalleled action in January this year.

Against the background of the breach of trust which happened in 2007/8, the actions of the Home Office appear to the Police Federation to be undermining the effectiveness of the Police Negotiating Body (PNB). The Government also appears to be pushing for a Pay Review Body, with reference being made to a three-year deal in the short term in order to buy some time whilst this can be imposed. The police therefore envisage another difficult year ahead for pay negotiations. The Police Federation is currently awaiting the outcome of the Judicial Review (instigated by them) of the actions of the Home Secretary and is also conducting a poll of its members to see if they want to pursue the introduction of industrial rights for police officers in the absence of arbitration that is binding on the Government.

POA

In March 2007 the Parliamentary Under Secretary of State announced that, whilst the Prison Service Pay Review Body, introduced as a compensation mechanism for staff not having the legal right to take industrial action, had recommended an increase of 2.5% on basic pay, the Government had decided not to introduce it but to stage it so as to be consistent with the Government's wider objectives to ensure economic stability and steady growth. The Pay Review Board recommended a 2.2% consolidated increase for staff on prison officer grades and a 2.7% increase to principal officer pay. As a consequence, the Home Secretary announced on 7 February 2008 that the recommendation would be met in full, however the cost of the increase would have to be met from within the delegated budget already allocated to the Prison Service. The POA believes, because of the 3% efficiency savings demanded by HM Treasury from 2008 to 2011, that this will constrain money available to the Prison Service for the next three years. This will place further potential restrictions on the Prison Service Pay Review Board to recommend at or above inflation pay increases, further calling into question the independence of the process. This policy will increase the potential for any future pay award to be staged, should the Government or the Prison Service decide they do not have, or they will not provide, the funds necessary to implement future recommendations in full.

CUTS

PCS

Between April 2006 and April 2008 the Ministry of Justice, formerly the Department of Constitutional Affairs, instituted 1,700 job cuts. These related to the Treasury headcount targets. As a consequence, this put tremendous pressure on workloads, in the county courts in particular. The early indications of the Courts' settlement for the period 2008/11 would see a cut of about £100 million. Full details are not yet available, but the level of job cuts would not be repeated.

The department is introducing “lean production” methods and intends to examine all areas activities to see where savings can be made. This will involve a streamlining of all administrative processes. It is likely there will continue to be the integration of Family Jurisdiction into the magistrates and civil courts, and the co-location of many magistrates and county courts. It is thought that this will result in the closure of about 100 courts during the period but the Ministry of Justice claims that this will not significantly reduce the number of towns with courts. It is also likely that the Tribunal Service will be hit, with the number of Hearing centres falling from 136 to 40 and the number of administrative centres to 6. This will result in large numbers of relocations to the new centres and will probably double the waiting time for Hearings. It currently takes at least 6 months from the point of application to get a Hearing.

Napo

A survey of Napo branches in 2006 showed that the overwhelming majority of Probation Areas were suffering budget deficits. This led to unfilled vacancies and subsequent workload pressure on staff. During the financial year 2007/8, over 80% of the service reported that there were severe restrictions on sentencing. This meant that a particular sentence, such as Unpaid Work, was either not available or there were severe delays in programmes being delivered. Delays of over a year were reported for commencement of Domestic Violence, Drink Impaired Driving and Sex Offender Programmes.

A survey by the Probation Boards’ Association, published in November 2007, said: “Probation Boards are facing an unprecedented set of budget pressures in 2007/8 which has the potential to threaten the ability of local areas to sustain the necessary level of service provision. The Probation Service, along with everyone else in the Ministry of Justice, has been instructed to make 3% efficiency savings for each of the next three financial years. The Ministry of Justice has also been told to make a cut of over £1 billion over the three-year Comprehensive Spending Review period 2008/11. As a consequence the actual cut to the Probation budget is in the region of 5% for each of the next three years. This will make the Probation Service untenable. The Ministry has subsequently announced that it has found £40 million for Probation in 2008, which will go some way toward rescinding the cut for that year. However, the crisis that beset the service in 2007/8 has not been alleviated.

Police Federation

Police authority budgets are not keeping pace with inflation so headline increases actually represent deficiencies in real terms. Despite Government assurances of record officer numbers there was a fall of 647 in the 6 months to December 2007. This added to the strain on an already overburdened and overstretched police service. The loss of highly trained and experienced officers cannot be rapidly redressed and therefore the impact of the loss is prolonged.



According to evidence submitted to the Home Affairs Select Committee by the Association of Police Authorities and ACPO for their inquiry into police funding, police budgets needed to increase by at least 5% to stand still. However, the proposed allocation of police grants for the next few years is 2.9% for 2008/9, 2.9% for 2009/10 and 2.7% for 2010/11. This equates, according to the APA, to a shortfall in the region of £1 billion and could lead to a reduction in officers of at least 4%.

These trends are highlighted in "*Footing the Bill*" a report produced by the independent think tank, *Policy Exchange*, in 2007, which states: "Poor use of resources, rapidly rising police costs and pension commitments will exacerbate problems arising from the Comprehensive Spending Review. This agreement, outlining police funding from 2007 to 2011, has ushered in a new era of financial restrictions during which Home Office funding will increase by only 1.1% annually in real terms."

However, it continues: "Without efficiency savings, inflation and rising costs within the police service mean that an annual increase of 5% to 7% will be required to guarantee a constant level of service." It further states, given that, according to the APA, 80% of police budgets are dedicated to maintaining staffing levels, a reduction in funding will lead to cuts in personnel. And it quotes Bob Jones, Chairman of the APA, as saying "You could be talking about a move (from the current number of 141,000 police officers) down to 135,000-136,000".

The report further points out that police funding is derived from a complex combination of locally levied police precepts and central grants from the Home Office. The breakdown varies by police force in accordance with the police funding formula. With central funding grants set to fall, and given the disparity between police precepts in different police authorities, some forces will be hit much harder than others. Against this backdrop, the report says, Police Authorities will naturally want to raise police precepts to cover the shortfall. However, the Government has capped the average increase of council tax for 2007/8 at 5%.

The report concludes: "there is a startling lack of a clear, comprehensive modernisation agenda to stem the effects of the police funding shortfall. The police service has reached a critical juncture at which the case for a programme of modernisation has never been more pressing." The Police Federation are not anti-reform per se but consider that the current workforce modernisation agenda being pursued by the Government is undermined by a lack of any clear, overall vision and the piecemeal fashion in which it is being applied to the police service. They believe that there is a lack of any rigorous assessment of the demonstration projects that are currently running in forces and that fundamental changes to the workforce mix are about to be rolled out across the country based only on an assumption of benefit. The Federation feels that the Government has paid no heed to the dire state of operational services as highlighted in their investigations into response policing and CID offices.

POA

The Prison Service has been told it needs to make a 3% efficiency saving for each of the next three years. However, the service is also to be hit by the cut to the whole of the Ministry of Justice budget by £1 billion by 2010/11. This has now led to severe responses. The Prison Service is proposing that prisons are effectively shut down between Friday and Sunday with the introduction of the “core day”. There will also be the clustering of support services for many establishments, numerous functional reviews and a review of staff rostering and administration in establishments. All of this will lead to more warehousing and less rehabilitation and programmes for prisoners, which will impact on re-offending rates on release. In recent years the Prison Service has had a developing policy of operating public sector prisons with ever increasing shortfalls in prison officer numbers. These shortfalls have to some extent been filled through the use of non-pensionable overtime payments to existing staff, despite POA calls for full staffing.

PRIVATISATION

PCS

The Ministry of Justice has privatised catering, cleaning and security. They are currently market testing HR shared services, such as recruitment, which would lead to a reduction in service. The privatisation of security has led to 150 staff transferring to Mitie.

Napo

Hostel facilities, including cooks, cleaners and maintenance staff were contracted out in 2002. The contract was awarded to Morrison's and subsequently costs rose by on average 62%. The management and maintenance of Probation premises was privatised in 2003. This in turn led to an immediate increase in costs of 35%. Both privatised projects have been characterised by a fall in service standards.

Curfew orders with electronic tagging operated by private companies were launched in 1995 and rolled out nationally in 1998. The cost of electronic surveillance for a full year is £6,500 compared to £3,080 for supervision by probation staff. Figures from March 2005 show that there is a large profit margin made by the private companies operating the tagging system - the cost of kit (which can be used at least 5 times) is £375, the fitting cost is £150, and each call out is £150. Evidence collected by Napo also shows that there are numerous problems with the operation of the tagging including: delay in fitting the tag; poor communication; failure to bring breaches to Court; technical problems; and a number of violations not routinely monitored.



For the future, the Probation Service is under the constant threat of competition and privatisation, or contestability as the Government likes to call it. The threat is either to an entire service or to functions such as Unpaid Work.

Police Federation

Private Security Firms now provide the bulk of prisoner transport to and from court in forces throughout the country. A number of forces have entered into PFI agreements to provide custody services in police station. There is increasing pressure from management to civilianise an increasing number of police functions. Many of these roles were once the preserve of attested officers but are now delegated to non-attested police staff (including PCSOs). As the majority of these functions do not require police powers (such as securing crime scenes and guarding prisoners in hospital), the Federation believes that it is only a matter of time before the private sector take over these roles.

POA

The Prison Service has a long history of the civilianisation and the privatisation of what the Government and Prison Service consider non-core functions since the 1980s. These have involved catering, prison works, escorting and the privatisation of all new prisons. The threat of privatisation continues and all new projects are subject to the competition process.

A report published by the think tank *Catalyst* in Summer 2004 found that on an hourly level public sector prison officers' pay rates are on average 51% greater than their private sector counterparts. When the value of pensions and holiday benefits are added to this the difference rises to 70%. The report also showed, not surprisingly, that high levels of labour turnover are a serious problem in many PFI prisons. Overall, amongst prison custody officers, turnover is 25% per annum, an astonishing 10 times greater than the 2.5% rate for state prison officers.



EFFECT ON SERVICES

PCS

Over the period until April 2008 the effect on service delivery has been severe in the county and magistrates courts. In some courts there has been a very high turnover of staff which has affected the level of service. Turnover has reached 10-15% in some areas. There are over 1,500 agency staff and consultants working in the department and this means that resources which could be used to train staff are being used on temporary employees. HMCS has been consulting on ways to reduce resource problems: the introduction of "lean production" methods; the reduction of County Court counter services; and the merging of courts within towns. All these will have a detrimental effect on the service to the public and increase the stress on employees.

Napo

A survey by Napo, published in March 2008, showed that there were severe restrictions on the courts' ability to sentence appropriately in 80% of probation areas.

The major impact of cuts will be on staffing levels against increasing, and increasingly complex, workloads as well as on pay and conditions. Napo's 2007 survey of branches shows widespread freezing of vacancies, job losses through natural wastage and a number of areas are proposing redundancies (both voluntary and compulsory).

Many areas are making redundancies. Kent, alone, is seeking to make 40 posts redundant at the time of writing, and these redundancies come on top of 60 posts which are currently being held vacant. Other areas are simply advising courts on what tasks they can no longer do. For example, Staffordshire has advised magistrates' courts that it can no longer afford to recommend community sentences or specific programmed interventions on alcohol until the end of the 2007/8 financial year.

The PBA, in a survey of Areas in November 2007, show "36% of respondents (Areas) report having to manage a substantially increasing Area workload with a reducing employee establishment and 31% are anticipating a possible actual permanent reduction in the size of their Area's workforce in the next 2-3 years." The survey also showed that 500-600 probation jobs had been lost across the 42 Areas in the year 2006/7 and a further 1,700 plus were predicted over the next 2 years.



The cuts, redundancies and attacks on pay and conditions will, in Napo's view, leave staff demoralised and make it impossible for the service to fulfil its statutory responsibilities. As a consequence probation programmes are likely to be curtailed or cancelled and the quality of supervision will fall. There will also be a continued impact on sentencing, if sentencers do not have an alternative of community supervision/programmes, with the result that more people will be sentenced to short-term custody.

Police Federation

The frontline delivery of policing has never been so overstretched and this has had a major impact on service delivery. Because of the creation of specialisms to deal with particular crime the number of staff available to respond on a day to day basis has been severely restricted. The provision of custody functions by the private sector has resulted in difficulties over line of responsibility and management structure. The almost weekly Government announcements on legislative changes and policy decisions have had a direct impact on the police service with an accompanying increase of demand on resources. All of this has, without doubt, led to a deterioration in service.

POA

Discussions on cuts in service delivery are happening at local level with a dispute already raised at national level. The shutdown of prison regimes at weekends has put severe restrictions on their programmes, which are delivered on Fridays, and on weekend visits. The increasing size of the prison population means that programmes are routinely disrupted and delayed and this will ultimately have an impact on reconviction rates. The continued overcrowding of the prison estate, due to the lack of a prison building programme since 2001, has seen an increase in the number of offenders having to share a cell. This has led to increasing numbers of assaults on staff and prisoners in recent years. The crisis has also led to increased numbers of offenders being held further away from their homes and increased numbers of prisoner transfers.

CONCLUSION

The criminal justice system has never been under such stress on so many fronts at any time in its post-war history. Pay levels have been routinely attacked across the sector in an effort to cut costs and this has resulted in plummeting moral, low job satisfaction and an increase in the number of staff considering leaving. The cuts to budgets in the current, and next three financial years, will put an even greater strain on service delivery. It is already the case that there is severe delay at all levels in the system and that the desires of sentencers are being thwarted in many areas.

The introduction of privatisation across the justice system has not led to a raising of standards but a deterioration in service delivery and cuts to pay and conditions and high turnover rates. The Government has countered trade union campaigns against privatisation with threats that they will expand the process unless its targets and demands are met. The imposition of cuts, low pay deals, and privatisation of tasks has, without doubt, led to a deterioration in service delivery. If further cuts, as the Government currently plans, are imposed during the next three-year spending cycle then service delivery will deteriorate even further. Napo, the PCS and POA, believe that the current situation is unsustainable and that public protection is being compromised as a consequence.

Recommendations

- **There is an urgent need for an independent review of the funding, performance and management of the criminal justice system, of the deployment of resources and of service delivery.**
- **The Criminal Justice System needs a period of stability free from continuous reorganisation and restructuring.**
- **There needs to be an independent evaluation of the contribution and effectiveness of the introduction of privatisation.**
- **There is a clear need for additional trained frontline staff.**
- **There needs to be a reduction in bureaucracy and conflicting and obsolete targets.**
- **The Government must make a public commitment to honour all future Pay Review Body recommendations and pay agreements and to pay staff all legally binding increments.**
- **There needs to be a commitment to pay increases that match the RPI and for equal pay for men and women, across the justice sector.**

20/05/08

