

# **Transcription of Interview:**

**SPC Evidence Session - Sacro  
Susan Matheson  
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HM: Okay, Susan, welcome.

SM: Thank you.

HM: And apologies for the late start.

SM: Not at all.

HM: I think what we've been doing with the other sessions is essentially to allow you to make a presentation which is fine, we will then have some questions. And I think, as I was saying to you outside, what we're really keen to do is to pick your brains on not so much the kind of welter of information and some great material that is around in Scotland, but actually how we move from where we are to implement or take on board some of the good policy advice that's around.

On that basis we will do a transcript, it's being recorded, if that's okay?

SM: Of course.

HM: Send the transcript to you just to make sure that you're quite happy with what you've been saying.

SM: That's good, correct my grammar.

HM: And then get that back. And, as I said, this is part of the wider review and I think you're aware of the terms of reference so I don't want to labour that particular point.

SM: Yes.

HM: We've got Lesley who you know and David.

SM: Well that's very kind of you to let me do it that way. I'll try and take you through this quite quickly so that there is time for you to ask me any questions.

What I wanted to do was talk you through this diagram [attached] which I've adapted. Rod Morgan gave it during Sacro's Annual Lecture a few years ago and I find it very useful, but I think it does need talking through to explain it. And although it's about reducing imprisonment I think it's relevant to today's conversation about rehabilitation as well.

What we're suggest is that if we did the appropriate thing with everybody at the appropriate stage then you would reduce the prison population appropriately. So we're saying there should be an increase in the use of diversion, that includes restorative justice, conditional cautions, etc. And then if people do get into the system, increase the use of discharges, fines, electronic monitoring for the lower risk people. Then if they are sentenced, reduce the use of community penalties for low risk people, they should have been dealt with in these other boxes further up. And then, however, increase the use of community penalties for the medium and high risk, because sometimes people rather too low risk come into them and there's no need and there's no spaces for the medium or higher risk or the higher risk go to prison when actually they could be dealt with effectively in the community. So if you do all that appropriately, as I say, then you limit custody to those who really need to be there to protect the public.

So that's where I'm coming from overall.

The first question you asked was if prison's not most effective to deal with short sentences how do we punish and rehabilitate offenders? And I wouldn't say a lot about punishment, but we think to rehabilitate you need to, and it follows from what I've been saying, maximise the effective use of community disposals at each stage. And I'd also, if there's time, like to say something about diversion to restorative justice and about bail supervision and accommodation.

Quite a lot of what I'll say, I was just saying earlier, is in Reforming and Revitalising, [Scottish Government 2007] but we in Sacro were saying it before and will continue to say it, so it's not just just taken from there, but we do agree with its proposal but if Reforming and Revitalising is

implemented, there has to be adequate capacity so that we, as a society, can do what I've been describing in this diagram.

I also think that to actually make it work we'll have to have statutory limitations, we'll have to look at which crimes and offences can be given which sentence, which are appropriate for custody and which are appropriate for community penalties rather than diversion.

LR: Have you got an example of one you'd take out of being a custodial sentence?

SM: I don't have to hand, Sacro could come up with some, but probably... restorative justice...

LR: But I guess it's if you're going to have statutory limitations, so this would therefore be a catch all, there's no room for much...

HM: Yes, it would be very important.

LR: That it needs to have one or two that you could easily put into that category, or else it makes you wonder whether it's doable.

SM: Yes, I think it is and if I was accompanied by some of my experts they would have come up with examples, but obviously we do need to have examples and there are some.

Also there are some crimes which need redefining and there I do have one example, people who are fined for not paying their TV licence and we know that there's always a few people in Cornton Vale because they didn't pay their fine for that, for example, and there'll be others. But it probably needs quite... there's a long list of crime and offences and it needs a really rigorous look at to come up with the examples, but I could send these in.

We don't need more penalties, I don't believe, I think we've got a very broad range in Scotland but we do need the resources so that those penalties can actually be used by the bench.

I think when community penalties are used they need to be used repeatedly. What we find is that prison sentences, once people have worked their way up to prison, then that's just used over and over, and we've got case studies on our website where eventually people do, and perhaps unusually, get a community sentence after a prison one, they come to us and they say, 'Why didn't I come here in the first place?' And 'This is the one thing that's made me turn my life around'. But people do not always succeed on community sentences at first, and so there needs to be a lot of flexibility about compliance, just like there is in the drug courts, because it is a process, two steps forwards, one step back almost, rehabilitating people.

And it needs to be in the community rather than prison because they have to learn to live with the pressures, the peer pressures, the drug dealer around the corner, whatever, that's actually in the community, they can do some of that in prison but really they need to learn how to live in the community. And so the sentence needs to be in the community, they've come from the community, they're going back there.

Of course the priority is to protect the public, but the best way to do that is actually to address the underlying causes of the offending and try and build up some strengths that the offender has, training and education and employment, that sort of thing.

So we're saying that we should be investing public funds to speed up access to these penalties. But I think we have to remember that penalties can't solve social ills and inequalities, the criminal justice system actually deals with a very small proportion, a very small proportion are actually convicted... Although your question is about short sentences, it's important to think before that stage about early intervention, even the sort of thing John Carnochan [Violence Reduction Unit] is talking about, nursery schools, even at that stage supporting families, parenting programmes, all that sort of thing.

Community mediation so that we have a constructive resolution of conflict in neighbourhoods. Alcohol and drug treatment we all know about, but I think we need to focus again on alcohol, I think that again John Carnochan is bringing that up the agenda, the importance of that in relation to violent crime.

When we talk about diversion it's perhaps stretching the jargon a bit, but I think there needs to be diversion, if you can call it that, to health and welfare, as well as restorative justice referrals from the fiscal so instead of going to court they're diverted from court to restorative justice. Also, instead of sending people to prison on remand, there should be bail supervision and accommodation services available for a proportion of them - and I'd like to come back to that, and then community penalties obviously.

What we'd like to see is a health service proactively involved so that the court actually has enough information when somebody's before them about their physical and mental health. And that the sheriff isn't in the position of seeing somebody very vulnerable in front of them and really having nothing more they can do than send them to Cornton Vale.

LR: We've had that.

SM: You've had it?...

LR: Well we had that and we've had that appalling one we keep mentioning - the suicide victim who's in for breach of the peace for her own good.

SM: Yes, and that does happen and it happens more than some people admit, because I know a former governor used to actually sometimes phone up sheriffs and say, why are you sending this woman to me? She used to phone Carstairs and beg for a bed, so we need to have these beds available.

Bail supervision I've mentioned. Structured deferred sentences are available but the services to actually make use of them are a bit limited, obviously we would like to see presumption in favour of community sentences. We need to see that there's a social worker in court, that the social worker says to the convicted person, right, you've got an appointment tomorrow morning at ten o'clock, if necessary there will be a mentor or somebody who goes their house and brings them to court, when they get to court the next day they're allocated a key worker and an assessment's carried out and they effectively begin the sentence there and then.

Now with social workers I've heard them say at quite a high profile meeting, that can't be done. I think they have to challenge that, if it's resources we'll have to deal with that, if it's about practice we'll have to change the practice.

HM: On that, Susan, do we need social workers to do that?

SM: It doesn't always have to be a social worker, but it has to be somebody trained and experienced. But for some statutory duties social workers are required. It might have to be a social worker in the court because there may be other statutory duties.

HM: But I suppose the point is the legislation could be changed, but essentially if they're precious about professional time and professional abilities, it may be in these circumstances you need a buddy, you need a mentor, you need somebody which is going to be like a carer but for somebody in court.

SM: Well to bring you to court, but you would need a professionally trained person, who need not necessarily be a social worker, to do the assessment.

HM: It wouldn't, that's right.

SM: Yes.

HM: No, that's what I'm saying, the assessment is professional but there's other parts of this that can be done either by the voluntary sector, trained or other people on...

SM: Absolutely, yes, volunteers, trained volunteers, supported volunteers. But I think key workers are very important, we'll probably come back to that. Reparative tasks should be part of many sentences, and they might have to be specially tailored for women, and the community involved to say what they want done, a bit like the New York experience that we're hearing about.

LR: Is this happening at the moment?

SM: A little bit, but it can be difficult because you can't... there's all health and safety regulations, people are always using the example of clear graffiti, but you can't do that very easily, you need all sorts of special equipment.

HM: And chemicals and all that.

SM: But we do something like that with young people in Fife and Aberdeen, we have volunteers who would go along say to help the young person for a day, mend a path in a wood or something like that. So there are things that can be done. There was one case where young people rebuilt a wall that they had knocked down in a car, so they worked with a volunteer who's a wall builder.

I'll probably come back to women. We've talked about flexibility. Very important to involve the families perhaps more than they have been, because there's a lot of research to show if people have got good family support, that can help them not to re-offend and to be rehabilitated. And we've talked about volunteers.

And then, this is from Fergus MacNeil's and Beth Weaver's research, that policy and practice needs to build good relationships, not label the person, they're not only an offender, they're lots of other things, and people respond to the expectations of them so if you're only an offender you'll then offend. Minimise use of imprisonment, avoid criminalising young people, generally create offenders' stake in society and the key worker can be very important to that. And recognising that people can change and do change, and we see that a lot in our work.

Another thing, this may be off to the side but it's, really important, I think, is that we have to effectively tackle regeneration. There's a lot of research going to come out in a forthcoming Scottish Consortium paper by Prof Sparkes shows that there is statistical association with levels of crime and levels of inequality. Obviously it's been tackled for thirty, forty years, but it's the same areas, we all know where they are.

LR: Yes, some of us do.

SM: No doubt Chris will have talked to you about Community Link Centres and supported accommodation. I think that they are a way of meeting the underlying causes of re-offending... research tells us that one of the significant factors in rehabilitation, is people having accommodation, it's absolutely basic, they can't really function without that and an address. If they're capable of education, training and employment they need to get the support for that. Obviously professional support with drug and alcohol misuse.

They need help with obtaining and sustaining the tenancy. It's one thing getting a tenancy, that's difficult enough, but people often don't have the life skills or the ability not to get into debt so that they run up arrears and so on. The need to be registered with a GP and that can be quite daunting for some people. Even claiming the right benefits is difficult and learning how to manage their money. Relationships and having a network in society is key as well, and people need help to rebuild that, even after a short, very short prison sentence all of that can be disrupted.

How can we improve the effectiveness? I think you'll have heard all of this - and it's all in the government's latest document. The nature of community sentences must be clear to the judiciary, but also to the public, clear about what will the person actually have to do, is it demanding or is it a soft option? It is actually demanding, we've got people saying, 'It was easier when I was in prison for three weeks than actually facing up to what I'd done'.

And they need to be clear about the social benefits of really tackling the underlying causes of offending, but that has to be done in particular cases in the court getting a statement out to the media and also giving feedback to the court on particular cases. And also outreach work into the community to explain the nature and effect to community groups, I would love to see Sacro staff having the capacity to go to the local parent teacher association, the women's guild, whatever's around, and talk to them.

LR: Sorry, which staff?

SM: Well my own staff, but not only mine, obviously a whole range of organisations, but we could certainly, if we had a bit more capacity, our people would have a lot to say about community sentences, and would have links into the local community, they could go to groups and talk about community sentencing. And I think the CJAs have also got an important role to play, that's part of their function and I think as partners we could assist with that.

We've talked about the key worker, Weaver and MacNeil talk about it being pivotal, a professional relationship being pivotal. It seems to be that this key worker actually being totally committed to the person, develops loyalty and accountability, and it also helps them to key into other agencies once they've assessed their clients' need. We run a very small service in Edinburgh for women street sex workers, and the worker there is absolutely dedicated to the clients and they are reducing their drug use, reducing their street work, sometimes even coming off for a while, and the women have just never experienced this level of professional support before and it's making a difference to them.

We need to boost the confidence of the judiciary and I think part of that is the need to know what's available locally.

LR: Sorry, just to come back to that there.

SM: Yes, sure.

LR: That kind of person you can sometimes... is that kind of person liable to be a social worker or a volunteer or...

SM: No, not necessarily, it could be a volunteer if they were trained and supported, but they wouldn't need to be a qualified social worker. Most of our staff are not qualified social workers but they come from a social care background or they've been police or they've been prison officers or residential workers, and then we give them additional training.

DS: And they're paid employees...

SM: They're paid employees, yes.

LR: Could they be ex cons?

SM: They could be, yes.

LR: Are they?

SM: Rarely.

LR: Because if half the problem is lack of employment would that... is that inappropriate to think of?

SM: No, it isn't inappropriate to think of it, if people could get to that stage, often the people we see are really not at the stage of being able to cope even with managing a tenancy, never mind a job, but certainly when people progress of course they could, yes. There is a very senior person in another voluntary organisation who was in prison at one time, so it does happen.

LR: Because the Cornton Vale lot seem to be very pleased with the progress of what... when they were putting into placements, but then they all dispersed back across the whole of Scotland and...

SM: No, they need support, I think that that's it. I met a woman on a long sentence at Cornton Vale who was doing extremely well in a local garage, I think it was, but I don't know what happened once she was released, and probably she would have still needed some support to continue to work effectively, even after being in an open, effectively open, prison.

I think it's important that sheriffs visit, that first of all they need the information and I think it's patchy how well it's given to them. And I've been saying for many years, can they not just have

on the bench a book that says, this is what you've got locally? And I have been told, it is, there now... it's on a website for them, but I'm not sure that it is, and I don't see any reason why that couldn't be done so that they know exactly what's available locally. But they need to go out and see it, and if necessary they need to be required to go and see it, and to go and see prison indeed, how many of them do that?

DS: It's the wrong ones, or the wrong ones don't go – the right ones go, and keep themselves informed and up to date.

SM: Yes, that's right.

HM: And the ones who perhaps need to go down...

SM: Yes, so perhaps that needs to be a requirement for them in CPD. I know that when they went to visit the 218 service in Glasgow, the Turning Point one, they started then to refer to it, and it really wasn't until they had those visits that it became effective.

They need regular reviews and reports going back to them in the courts so that they know exactly what did happen as they seem to get a lot of satisfaction, the sheriffs, from that in the drug court.

But also we do need very much more rigorous monitoring and evaluation, and then feeding that back into practice, so that there's constant improvement in practice, and also so that we can provide evidence to the court.

Now we work very hard to do this in our organisation, we've got one Research Officer, it's very difficult to get resources, but the local authorities, I'm advised, I don't know if it is true I can't say any stronger than that, that they might have some monitoring and evaluation but do they have really rigorously qualified researchers who can analyse that monitoring and evaluation and feed it back into their practice too? I think it's always a struggle to get resources for that, The Criminal Justice Social Work Development Centre says something like fifteen percent of budget should go on monitoring and evaluation. Well we could not get that, we struggle to get even a tiny percent for training our people never mind the monitoring and evaluation. But we have been generously funded by the government to do some of our monitoring and evaluation, but I think all of that needs to get better so that all those delivering services can demonstrate effectiveness. It is long term, but we do need to do that to give people confidence.

Involving the public we've talked about, I think they need to see what tasks have been carried out, and I asked the Cabinet Secretary about this at the National Advisory Body and was relieved to hear that he was not for putting people in orange suits, that is counter-productive, it's labelling again. But there's nothing wrong with having some thing up to say, 'this garden is maintained by the local community service team' or something like that.

Enforcement - we've talked about that, the people are chaotic, we need to look at reasons for non compliance, modify the order and consider re-designing options before resorting to custody. It's actually in the National Standards of Social Work, before they revised it, minor breaches should not be referred back to court, you should be working with the person, that's good practice, and maybe we need to make sure that that is the case across the board.

DS: You had concerns earlier about people on community service doing tasks that are being done by paid employees of local authority, and that's almost like taking other people's jobs. Do you think either, so what, or are there plenty of tasks that could be done on community service?

SM: You just need to be creative. As I said, in Fife when we were doing it with young people we had creative workers who went to the Forestry Commission or whoever it was and, they wouldn't be paying for anybody to do it, but 'Great if you've got a team of volunteers' to do things like path building. I think there are a lot that can be done by volunteers, and the offender could join in with a group of volunteers and doing something like that they wouldn't be labelled at all, and they'd probably get even more satisfaction, they'd begin to get a social network, so there could be all sorts of spin offs. So, I think if we're creative it wouldn't have to take jobs away from other people. [See information on Community Based Reparation in Aberdeen submitted later.]

If you'll allow me to talk about bail supervision and accommodation we have heard very welcome news yesterday that there's an additional half a million going towards this. That may increase the throughput from currently 196 Sacro places (and 764 local authority places) per annum to about 1,360. In 2006/07 and I suspect it's increase since then, there were over twenty three thousand remand receptions, that was an increase that year of eighteen percent, ~~to~~ a few years before that there'd been an increase of twenty nine percent. So of the seven and a half thousand, or whatever it is now, daily prison population, fifteen hundred or so more are remand people, costing over fifty one million pounds pa.

It's old information but I doubt it's changed much, that over half of those remanded won't be given custody, they're unlikely to be a danger to the public. There is a robust and cost effective alternative to remand and that is bail supervision. The people remain in the community and they can be assessed, start doing the work on their offending behaviour, getting help from the other agencies at this early stage, and we'll make sure they turn up in court on the due date, which is something the court are worried about.

DS: Those as yet unconvicted are you talking about?

SM: Yes.

DS: Or are you talking about people who are awaiting sentence?

SM: Well it can either I think, but if it is awaiting sentence then they can go back to court with a report saying they're working well in the community and they're even less likely to get custody. So there are savings and benefits all round and, as I say, you're starting working with them as soon as you possibly can and you're keeping the community safe.

LR: Just in terms of the numbers you gave us there, what impact will that six hundred have on the...

SM: I think it's the tip of the iceberg. I'm saying if say there's twenty three thousand, let's be conservative and say well not quite half of them, perhaps some of them should be in prison, more than half should be on bail supervision. If you want ten thousand to go through bail supervision a year you'd have ten thousand prison beds immediately released, but the required daily bail supervision capacity of 3,100 compared to the projected bail supervision capacity of 1,360. To have adequate capacity you'd have to invest more and a further 1,740 places are required.

I've been saying for a long time, and I've spoken to senior people in the government and in the Executive, in the Prison Service (and certainly one person in the prison service got very excited about this) we could save a prison straightaway, (well could, but the trouble is we've got watertight accounting silos, even if you save on these beds as I'm suggesting), they could use the remand wings straightaway for sentenced prisoners.

DS: So ten thousand prisoner beds, is that per year, are you talking about thirty beds physically?

SM: Yes, I'm talking about a year.

DS: But it makes it more manageable I would have thought, if there's about five and thirty place.

SM: Currently there are 1,567 remand prisoners (beds) on daily basis. If remand receptions were cut by half then we would have to calculate the impact on the daily remand population.

LR: But just coming back to what the bail supervision is, one thing that Alistair had been talking about a lot, because we were looking at this remand thing before, and he was saying somebody's come up and they just kept breaching bail conditions over and over and over again.

SM: Have they been on bail supervision though?

LR: Well that's a good question.

SM: I think they've been on standard bail.

LR: Yes.

SM: If they're on bail supervision they come and first of all have an assessment, they'll have meetings three times a week, sometimes in the office, sometimes at their home, they'll have an initial assessment, and they'll begin to work on whatever they need to work on - if they need to get into a drug agency or they need to go to see housing or they need to get help to go to the benefits agency, someone will 'hold their hand' there. Sometimes when they come in to the office they'll just say, 'Everything going okay?', and it's just a tick box but they still have that rigour of having to get up in the morning and get into the office to say, 'Yes, everything is okay'.

So not every meeting is a long meeting, but there will be long ones when necessary. That's three times a week, and 'Remember you've got court on Tuesday' etc

LR: Sorry, it's almost like having probation before you've been convicted.

SM: It is in a way, but it's more...

LR: But should all the goodies, if probation is ever seen as such, wait until you're convicted? It seems like you're taking that ahead of time.

SM: Well yes, because the increases in the prison population is very largely down to this huge increase there's been over the last few years in remand prisoners.

LR: Right, well that... we were talking about that before, just the impact that the remand...

SM: It's huge.

LR: Because I'm trying to look at where is the increase coming from, because if we generalise, if we can't find its source and we can't put the finger in the dyke, so you think that is where the volume is coming from?

SM: Well I think a lot of it is coming there, some of it's coming from the fact that sentences have got longer and longer, so long term people, obviously they're longer so they clog up the system a bit, and that's despite the fact there's no evidence that a long sentence is any less effective than a 'very long' sentence. So I think long sentences is part of it and remands, because how many receptions are there in a year? I think it's forty thousand or something, isn't it? Twenty three thousand of them on remand. It's forty thousand something, so of the churn, which is what overcrowds prison and uses up resources; makes it difficult for them to spot the people who are vulnerable; and all the rest of it; if we could stop that churn by taking out half of the receptions it'll be good.

LR: So just to be clear about what you propose then, that this news has come through, what would you like to see in terms ideally of how... what's the cut off or what's the proportional...

SM: I'd like to see capacity for bail supervision of conservatively ten thousand people a year, i.e. a total of 3,100 places per day, instead of the new projected capacity of 1,360. I mean they don't say the point five million will buy six hundred, I'm doing that on the basis that we have a hundred and ninety six people a year and it costs us, a quarter of a million, so I am estimating what another half a million will provide.

I want to turn to women next. We've obviously got to change the minds of the public and maybe sheriffs and change practice. There's been quite a few meetings of people like the Scottish Consortium of Crime and Criminal Justice, the Scottish Government, when it was the Executive, a year or two ago, there were quite a lot of meetings on women offenders, so most of what I'm saying in the next couple of pages comes from that.

Why focus on women? Sometimes we're challenged about this, because is that not being sexist? But there's quite a lot of good reasons: they generally are in even worse physical and mental condition on reception than men, not to say the men are in that great condition, but the women are very, very ill very often. They very often have backgrounds of abuse, so do many of the men, but nearly all the women have. And they respond, they tend to respond differently to circumstances, to turn in on themselves rather than become aggressive, although that's not

always the case but that's the tendency. They also tend to be the primary carers, so there's a knock on impact on their kids and on the cost of children going into care, but also the fact that that's going to set them on the cycle of deprivation, the cycle of offending.

Also they're relatively small numbers, albeit they've doubled or they've grown hugely (and there's still far too many), but it's still relatively small numbers. They're generally less serious offenders, and the serious ones, there'll be plenty of room for them if the ones that didn't need to be there were not there. And also it's more acceptable even to the tabloids, you tend not to get the horrific headlines if you're "lenient" towards women.

HM: I mean just to say you, we were in Cornton Vale last week where much of that was really reinforced, it opened our eyes so that makes a lot of sense.

SM: Your third question was about other countries, I don't really have a lot to add here, I'm sure you've got researchers who can give you a lot of detail on that. But Finland I know have had a strategy to depoliticise crime, and they worked with the judiciary, the media, social work departments, they all worked together and agreed, 'We need to get this prison population down' and it worked. It's going up again a bit, but not as... still nowhere near our level.

And one of the things they did was to increase use of fines, and I think that's really important, and that's back to my original diagram, to make sure that we use fines appropriately, and I think they are bringing in new methods to collect and enforce them. And, in fact, I was on a committee with the Executive years ago, it must have been about six, seven years ago when we talked about fines, and we came up with ideas about making it easier for people to pay, having positive supportive fine enforcement officers, and I think they might be coming in soon. But we need to implement things quicker.

LR: Because it started briefly, I think.

SM: Yes.

LR: But the reason that some people just have a sort of general fines, earlier we were talking about trying to just delist, fines for non payment of television licences, and a lot of people just think, well fines, all that happens is they wait to get another bigger sentence and then they run their sentence for the fine defaulting concurrently. And it's not even a... it's just a non useful thing.

SM: It's a non useful thing, well that can be the case, but I think if we go back to that diagram, if you use it appropriately...

LR: What's appropriate then?

SM: Well if people have not let me try and think of a case.

LR: So do you tend to think if somebody's got no cash and they're on the dole, just fines are not... almost by definition seem to be difficult.

SM: Yes, well that was one of the things that this group looked at, and it said, you need to fine proportionately, or if you don't, if their fine is really not appropriate because people just can't pay, and I think there is some research, I seem to remember from those days that... it's usually can't pay rather than won't pay, although there are obviously some who just don't, then that's where we have reparative tasks.

DS: Yes, and you have supervised attendance orders.

SM: Supervised attendance orders, yes, of course.

LR: But why don't you just cut to the chase and do that and forget about...

SM: Well quite, yes, but that's why we want to be using the appropriate sentence.

LR: Okay, I just wondering. If you talk about increased use of fine, so it sounds like it's...

SM: I think the fine withered away to some extent, and for some people it will be appropriate.

LR: Right, okay.

SM: And in Finland they increased their spending on substance misuse programmes, but I think probably fundamental to the changes was that it is a welfare state and there were fewer inequalities.

And then there's all the things that come from other countries, and I can't spell out which country has which, but things that could be looked at such as just going to weekend prison, so that people... if they've got a job or even other things in the community, those are not dislocated. Weekend prison or having waiting lists, a cap on the numbers in prison and you wait for your place and if you've worked well while you've been waiting then you don't need to go in, but you'd probably need some support and supervision during that time. So capped numbers and some countries have a sentencing budget for judiciary, but I don't think that will go down too well here.

SM: Sentencing statements, we're saying yes, and there's some backup to why, I've got a list of references to give you, but there was some Scottish government research that says people are not aware and they don't understand and they don't know the logic behind it, there's no public awareness of the scope of sentences, never mind what they do, and that they can be beneficial.

Also we find in our own experience sentencing vocabulary's very difficult for the press as well to understand, all these 'different' words. Even 'community sentences', 'community service orders', people think they're one and the same thing, there's confusion. We could get smarter about that.

I think we need to get across that there **is** honesty in sentencing, sheriffs obviously take account of early release when they're sentencing, so they know there's going to be a bit in custody and a bit in the community, and somehow we just don't portray that properly. Now we're coming onto the next bit about the Custodial Sentence and Weapons Act, we've got the nuts and bolts of it there already, but we just need to tell people in a different way, use different words. The community part is really valuable and it's in the current system.

So I'm suggesting that we probably need public information officers for the sheriff courts. As I understand it the one that we have at the moment for the high courts is very much welcomed and valued by the high court judges. Some sheriffs get access to that support if they've got a high profile case and they value it. But the capacity's not there for it just to be a routine thing, that there's somebody there all the time explaining. The person builds up a relationship with the journalists and they begin to have an understanding and write informed and more accurate articles.

Well I can just say, I think it's also that sheriffs need to know about this research into public opinion because I think they can be, I've had some say to me they are, affected and nervous about the headlines that they're going to get the next day, but if they knew that the public actually don't quite feel the way the media, and the tabloids portray them, that might help them sentence appropriately.

LR: But where is this perception coming from?

SM: I've given you references at the back.

LR: Right.

SM: Also local authority social workers, social work departments tend not at the moment to engage with the media, it's left to the voluntary sector, and it can be counterproductive to say 'No comment'.

LR: Amen.

SM: Well maybe now we're going to require things of the sheriff's job description, we're going to require things of the directors of social work job description. And I'm just saying, yes, it has an enormous impact, you know all that.

We need more features and documentaries, but we do work with the media to try and get features and that's fine, documentaries I think are very, very powerful, but everybody's terrified, especially after Airborne.

Sacro's going to have a media seminar, well Alex Spencer and Mike Nellis, one of our board members, are going to have a media seminar with the editors of some of the papers. I think we're going to have two, one with the broadsheets and one with the tabloids, to try and engage in a good dialogue with some of them.

HM: Good.

LR: When is that happening?

SM: This summer, I haven't got a date yet.

Custodial Sentences and Weapons Act - If you've got to go, Lesley, basically I'd say we are very, very concerned about it and we were very pleased that it was postponed and it was going to be looked into. And we've had a paper from the Consortium, Alec Spencer has submitted papers and will be coming to see you and Sacro agrees with what he says and has said.

I think the reason people voted for it, is that the principles were laudable, you couldn't really say 'I don't like this'. But one of the principles was that it should be more understandable, it isn't, it's actually very complex, I can't quote you the details of that now, but when I was at the time going to speak to the Justice Committee against it and knew the ins and outs of it, it was very much more complex than was being portrayed by some people.

And one of my colleagues worked out what a sheriff would actually have to say in court, [and I tried to find it before I came up, I will be able to find it for you,] and it was a page long, and if you read it out it would have taken five minutes. Well they're not going to do that in every case, they couldn't possibly. So the explanation will either be long or it'll be so short that it will not help the public to understand the reason for a decision.

Obviously it's a good thing to target risk, but the threshold was set so low that you would have to process thousands of people, and we worked out that seventy two percent of them would be in what we called the 'lowest risk' or 'low risk', the under twelve months people, and risk assessment is resource hungry, it would be disastrous.

HM: What would be your limit?

SM: Well I don't know, I mean at the time we said six, twelve, twenty four months, I think the higher we can make it the better, because really the...

HM: Right.

SM: I think the length of sentence is a pretty good measure of risk in itself that certainly the four years and over people, but below that I think we could debate and certainly...

HM: Okay, no, that's fine for me.

SM: I wouldn't say below two years, myself personally, but Sacro doesn't have a defined view on what that level should be, but certainly not fifteen days. And does it meet victims' needs? Not really, even Victim Support the day we were at the Justice Committee were saying, 'this does meet our needs to some extent', but they weren't wholeheartedly in favour of it. I think it would place a seriously unrealistic burden on the prison service, and it would mean that in terms not only of risk assessment but the fact that prison would become more and more overcrowded, because the prison population would go up. So prison officers wouldn't have time for the productive work they should be doing with the long term prisoners or any other high risk prisoners.

Also, it would put an absolutely unrealistic burden on the social work community, at the moment they supervise about six hundred and it would go up to three thousand seven hundred. These figures would change obviously, but they would always be roughly approximately right.

The timescales within the act are unrealistic, risk assessment is time consuming, for some people by the time the risk assessment was done they wouldn't get out any earlier anyway. The burden on the prison service and social work, particularly the social work departments and, the voluntary sector if involved. Are the staff there, are there qualified social workers enough to do this? If we had to take on staff we might be able to recruit, but would we be able to train them in the numbers required? We struggle as it is to find resources for training, so I think that that would seriously have an effect on the implementation of the ~~act~~ Act.

And it wouldn't help rehabilitation. It would be poor value for money for a huge increase in expenditure. You'll have seen the funding annex in the papers that went with the Bill. There would be less time on community supervision for some of the very high risk people, because they're going to come out, I can't remember the details now, but instead of coming out any earlier they'll actually stay in for longer, for seventy five percent, isn't it?

HM: Yes.

LR: It was two thirds and it's up to seventy five percent.

SM: So you're going to put the most at risk people back out into the community without supervision. Whatever their risk they're going to come out, and without that period of community supervision which is so vital to helping them to be less risky. It will lead to unnecessary imprisonment for many low risk people, as I mentioned, just the process taking so long; longer periods of imprisonment for many others, doubling the time serviced by the least serious, (now they're very few in number the people under fifteen days, but why should they get double when the fifteen day person perhaps doesn't. They have to serve the full fifteen days, I mean). It [the Act] would lead to really seriously unmanageable increase in the prison population.

Overcrowding, we know about the nine evils of overcrowding from Andrew McLellan HMCIP. I've said criminal justice social work is already stretched, how would they find more people? I've mentioned training, and deflecting from work with the people we really need to be working with to make the community safe.

HM: From the analysis you would really be saying that whilst the principles are laudable don't go ahead with it.

SM: Yes.

HM: Is that the...

SM: I would, absolutely.

HM: Okay.

SM: I have a definition of restorative justice, because some people say 'what is restorative justice?' So that's a UN definition, it's any process where the victim and offender can, when it's appropriate obviously, get together and usually with the help of the facilitator, come to their own arrangement or agreement.

So I don't know if that... I'm very grateful to you for letting me approach it in that way, they were prepared but if you've got other questions.

HM: No, Susan, that was very good and it covers a lot of the points and, in fact, it covers all of the points. And I really don't have, in view of the time, not much to add. David?

DS: No, I think you touched on everything, my questions are what are the alternatives if we don't send people to prison for six months, what are the credible alternatives, and how do you convince sentencers and the public and the media, and politicians that that's the right thing to do?

HM: No, I think the... it's not a question so much, it's the point that we're very conscious there was an awful lot of work in Scotland over a long period, but the prison population is still heading through

the roof. And the community sentencing or the community issue is still not well understood or accepted by the public, press and much of the bench. And whilst I think what we're trying to do is, I mean for example the new Act, there's a lot of resource implications, but you feel like, well if every penny you wanted was there you could argue through some of those things. But it's just the frustration that we haven't got to where we are, other countries have, but it's often difficult to learn lessons from them. But it's how we get from point A to actual the solution which would take a lot of people out of prison, have a lot more people in the community and have a much more content population as well.

SM: I think we have to put constraints on sentencing because you'll never meet a sentencer who sends people to prison, or only very rarely, they don't do it, they don't like doing it. So we have to make it not possible for them to do it, and that comes back to Lesley's question, well give me examples, and I'd need to come up with that.

HM: But that's why other countries have maybe managed because they've said, well in some areas nobody under twenty five goes to prison.

SM: Yes, that sort of thing.

HM: Nobody goes for under six months, and so you'd be very, very prescriptive.

SM: Yes.

HM: But one of the issues that we've got to face I suppose it's the practicalities, the real apolitique that we're working in. And we're not going to shy away from that, but it's a huge, huge constraint because if everything was... if Scotland had so much potential we wouldn't be where we are.

SM: No, one of the things I had in an earlier draft that I should have brought with me but, again, I can send, I've got a pie chart of resources in the criminal justice system, and if that's the pie chart (attached) that's the slice for criminal justice social work, and the police get a lot it but, of course, the police say, but that's not an entirely fair comparison because we have to do things like...

DS: Lots of things – bad weather, and...

SM: Yes, exactly. But even allowing for that you've got, COPFS social work, so the bit to actually reduce offending is small. I think sentencers aren't going to have confidence in a system when it's so patchy, they've got the statutes on the books that they can use, but they can't use it unless they've got somebody who's going to do that work for them in the community. And the resources are... they've gone up hugely over recent years but compared to endless resources into prison building and prison maintenance and...

DS: Can I just get one final question?

SM: Yes, of course.

DS: Whether your definition of those who ought to go prison is too narrow, that danger to the public I was thinking about ten million pound tax invasion or something that, one wouldn't see as a danger to the public or perjury, Jeffrey Archer, or something like that, commenting on that, there's a sort of sense of in which there should be scope for...

SM: Yes, absolutely. It should be for them and serious offenders and those who are a danger.

DS: I think when it says serious offenders you would include those sort of...

SM: Well I think yes, and big drug dealers and people like that.

DS: Well you can't argue they're a danger to the public.

SM: Well they are a danger to the public, but yes.

HM: They're the ones we don't get.

HM: They're the respectable people who are investing their ill begotten gains.

SM: Yes,

HM: Okay, well thanks very much for your...

SM: Thank you very much for the opportunity and for listening and letting me do it my way.

HM: No, no, that's important, please feel free if there's any material that we have, any further advice, pass to us.

SM: I will, I'll send you the slides to which I have been referring.

HM: We'll give you the transcript and then we'll get a response from that.

***End of recording***



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