

# Prisoners maintaining their innocence

*An article by Judge Anthony Thornton, a judicial member of the Parole Board, which first appeared in the Parole Board magazine the Board Sheet in April 2008*

## **Parole Board sponsored conference**

Progressing Prisoners Maintaining Innocence (PPMI) supports and assists high risk prisoners whose assertions of innocence hinder their release. On 30 January 2008, the Parole Board sponsored a conference jointly chaired by Chris Glenn and PPMI's chairman, Bruce Kent, concerned with the problems these prisoners encounter. The conference was attended by representatives from the Parole Board, NOMS, the Howard League and the Institute of Criminology and by experienced lawyers.

Helpful background papers were tabled and the conference opened with useful addresses from Terry McCarthy and Dr Michael Naughton of Bristol University. It then split into working groups who discussed why some prisoners maintain innocence, the particular difficulties these prisoners encounter in the risk reduction and risk assessment processes and changes that could be made to accommodate these difficulties which would not compromise risk assessment. The conference ended with a very informative report back session.

Historically, this group of prisoners was confined to murderers denying their guilt. However, the discussion showed that this group now extends to all prisoners who maintain their innocence of any fact relevant to risk assessment whether or not connected with the index offence.

A prisoner maintaining innocence should not be disadvantaged in any risk assessment process because of that stance, even if it has precluded participation in relevant offending behaviour programmes. However, the Parole Board when assessing risk may not go behind relevant facts associated with a conviction even when these are not admitted by the prisoner. A lawful verdict of guilty must be respected by the Board and no account can be taken of pleas of innocence. Thus, in many cases of maintained innocence, a risk assessment inevitably takes account of a prisoner's lack of appropriate admissions and of any consequent absence of relevant risk reduction work.

Dr Naughton's research, summarised in his papers and his talk, showed that many prisoners are wrongly convicted and that many factual denials may be justified or of limited relevance to risk. However, risk reduction and risk assessment processes do not usually take account of these possibilities. Furthermore, a demonstration of risk reduction is premised on the successful completion of behaviour modification programmes which require an acknowledgement of guilt and a preparedness to discuss self-critically the salient features of the offence.

Thus, many innocence-maintainers cannot demonstrate appropriate risk reduction and their progression is often held back. Dr Naughton also

stated that the relevant incomplete statistics appear to show that prisoners maintaining innocence are much less likely to obtain release than prisoners who accept guilt but that once released they are no more likely to re-offend than those who fully acknowledge their guilt.

### **Conclusions from discussions**

In the discussions, a clear consensus emerged that innocence-maintaining prisoners present many problems for the risk assessment process. These problems will intensify with the exponential growth in the number of IPP, high risk, determinate and recalled prisoners needing risk assessment coupled with the acute shortage of appropriate offending behaviour programmes and prison psychologists working on an individual basis with such prisoners.

The collective experience of those attending suggested that there is a need for the risk assessment process to take greater account of all forms of innocence assertion. In particular, the nature and extent of, and reasons for, any assertion of a prisoner's innocence should be explored and challenged in much greater detail than at present using archived material that may not be readily available in prison files or the parole dossier.

Suitable sexual and violent risk reduction work should be devised for those maintaining innocence. Furthermore, one to one motivational work should be more readily available for such prisoners, particularly when their stance is holding back their sentence progression. Psychologists and other assessors and report writers need further training in how to assess the risk of innocence-maintainers. This training should include an analysis of the different types of denial and of the varied reasons for adopting that stance. Additionally, reports and assessments, including the OASys form, should be adapted to allow for details to be provided about the maintenance of innocence and the reasons for that position.

It was also agreed that more rigorous research was needed into the relative times spent in custody by innocence-maintainers and by those who admit guilt and into the relative re-offending rates on release of both groups.

The Parole Board should take forward the ideas generated by this informative and useful conference. A working group could investigate the issues thrown up. More ambitiously, that task could be undertaken as part of a wide-ranging investigation by the Parole Board into the current risk reduction and risk assessment processes.

In conclusion, PPMI, Chris Glenn, Terry McCarthy and Michael Naughton should be congratulated for providing a focused and ground-breaking conference that highlighted a series of problems needing attention.