

COMMISSION ON ENGLISH PRISONS TODAY



Localism

A Consultation Paper

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Terms of Reference and Background for the Work of the Commission on English Prisons Today

Terms of Reference

1. To investigate the purpose and proper extent of the use of prison in the 21st Century.
2. To consider how best to make use of the range of community sentences that currently exist, the principles that should guide them and to explore new ideas.
3. To consider the role of the media – both broadcast and print – in helping to re-shape the debate about the reform and proper use of imprisonment.
4. To investigate those issues which drive up the prison population in an age of globalisation.
5. To place any recommendations within the broader workings of the criminal justice system of England and Wales, giving due consideration to international development.

The Commission will look at the driving forces influencing change and practice including legislation, politics and the media.

The Commission will think radically about the purpose and limits of a penal system and how it should sit alongside other social policy strategies. We should not be constrained by 'starting from here' but create a vision for a different future.

Background and History

The prison population is now at an all-time high but it has not always been so. The Commission commemorates a period of significant decarceration.

Between 1908 and 1939 the prison population of England and Wales halved, from 22,029 prisoners to just over 11,000. As a result some 20 prisons had to close – despite the fact that the crime rate actually increased during this period. This is the longest period of decarceration in world history, but it has rarely featured in any discussion about the use of prison in our public policy.

How are we to explain this phenomenal drop in numbers? Naturally we could point to the impact of the First World War, but there is more going on here than the sad simple reality of conscription and the high numbers of young men who died in the trenches. Instead we could point to:

- a general scepticism about the use of prison that was widely shared, for example, by politicians such as Winston Churchill (who had been a prisoner-of-war during the Boer War), who set about reducing the numbers of people being sent to jail whilst he was Home Secretary between 1910 and 1911;
- the scepticism of conscientious objectors and suffragettes who had been imprisoned and who campaigned for change on their release;
- the existence of a credible alternative to prison in the shape of probation;
- the support given to penal reform from leading civil servants such as Alexander Paterson, who were prepared to advocate for change from within government; and
- the creation of the Howard League for Penal Reform which campaigned for changes to the prison estate and provided a focus for activities of the various reformers.

Two conscientious objectors, Stephen Hobhouse and Fenner Brockway, who had both been imprisoned, established an independent commission on the state of the penal estate and published their book *English Prisons Today* in 1922. It had an immediate impact on popular and political thinking about what to do with offenders and the limited role that existed for prison in dealing with those who broke the law. Its impact lasted until the outbreak of the Second World War.

The Howard Association was founded in response to the first Royal Commission on Capital Punishment which brought to an end the practice of public executions.

The last Royal Commission (1993 under Lord Runciman) looked at the criminal justice system and concentrated on criminal justice processes, policing and the courts.

Commissioners

Cherie Booth QC (President)	Barrister; Crown Court Recorder
Oscar Campbell	Serving prisoner
Baroness Jean Corston	Labour Peer and former MP, author of report on vulnerable women in the penal system
Professor Andrew Coyle CMG	Professor of Prison Studies, King's College London; former prison governor; founding Director of the International Centre for Prison Studies
Frances Crook	Director, The Howard League for Penal Reform
Dr Carolyn Hoyle	Reader in Criminology, Centre for Criminology; Fellow, Green College, University of Oxford
Professor Ian Loader	Professor of Criminology; Director of the Centre for Criminology, University of Oxford University; Fellow, All Souls, University of Oxford
Kevin McGrath	Partner, Reit Asset Management

Paul Myners	Chair, Guardian Media Group, Land Securities, Low Pay Commission and Board of Trustees of Tate; former Chair Marks & Spencer
Stephen Nathan	Journalist and researcher, specialising in privatisation
Eddie Nestor	BBC Radio London
Professor Sir Duncan Nichol CBE (until June 2008)	Chairman, Courts Service Board; former Chief Executive of the NHS and Chairman of the Parole Board
Dame Helen Reeves	Consultant on victim and witness issues and former Chief Executive, Victim Support
Professor Andrew Rutherford	Emeritus Professor of Law and Criminal Policy; member of the Parole Board and former prison governor
Clare Tickell	Chief Executive, NCH
Sue Wade	Chair, The Howard League for Penal Reform
Professor Martin Wasik	Professor of Law, Keele University; Crown Court Recorder; former Chair, Sentencing Advisory Panel
Dick Whitfield	Trustee, The Howard League for Penal Reform; former Chief Probation Officer, Kent; former Independent Member of the Parole Board
Professor David Wilson (Chair)	Professor of Criminology, Birmingham City University; Vice Chair, The Howard League for Penal Reform; former prison governor
Ruth Wyner	Psychotherapist and Group Analyst; Director of the Dialogue Trust; former head of Wintercomfort for the homeless; former prisoner

Introduction

The Commission on English Prisons Today has identified several thematic strands to its work, which it is currently examining. These are:

- penal moderation;
- localism;
- human rights;
- restorative justice; and
- the needs of special groups of prisoners – for example, women and children.

Specialist groups of the Commission have been set up to explore each of these thematic strands. The localism group is led by Professor Andrew Coyle of the International Centre for Prison Studies (ICPS) at King's College London. Other members are Professor Sir Duncan Nichol (until June 2008), Sue Wade and Oscar Campbell.

The concept of reinvigorating the 'local' in public life and renewing local government is one that increasingly attracts cross-party interest and support. Channelling more power to the local level to increase cohesiveness in the community, to boost public safety at the local level and to push a public health agenda is being seen as an attractive alternative to the over-centralised and bureaucratic model of governance that has developed over recent decades.

The Commission is examining what this movement towards more local approaches might mean for the penal system and this consultation paper briefly sketches the terrain for debate. It looks at why localism might usefully be applied to criminal justice, the influence of the movement known as Justice Reinvestment (JR) and examples of localised criminal justice in Kansas and Connecticut, as well as Brooklyn, North Liverpool and Scotland. The paper then proposes a possible solution, with the implications for the prison estate particularly in mind. It should be stressed that the ideas in this consultation paper do not represent the Commission's final position but are intended to stimulate further discussion and debate.

The Commission would like to thank Professor Coyle, in particular, for providing much of the material used in drafting this paper. It should also acknowledge *Justice Reinvestment: A New Approach to Crime and Justice*, published in 2007 by the ICPS, to which Professor Coyle contributed and which passages of this paper will necessarily echo at certain points.

Why Localism?

Pushing power away from the bureaucratic centre to the dynamic local level is the subject of much current debate and has garnered support from both the right and the left. As the ICPS notes:

'The arguments that are being widely used suggest that government has become much too centralised. Local government has been stripped of most of its power and the results of this are lower levels of service and a lower quality of life. The analysis does not just apply to services such as health and education. A recent project of the New Local Government Network for example suggests a bigger role at the local level in migration and social cohesion policy. The Network advocates greater freedoms for local councils to tailor their approach and achieve lasting and sustainable settled communities.'

(Allen and Stern 2007, p.43)

If looking at localism may be following an emerging zeitgeist in public policy thinking, what is its precise relevance for the Commission on English Prisons Today? Is localism a concept whose time has come in criminal justice? A recent public consultation by the Joseph Rowntree Foundation on contemporary 'social evils' (Watts 2008) perhaps answers these questions. Those members of the public surveyed in the consultation identified a decline in community as one of the major social evils currently shaping British society. They spoke of weak communities and described people as increasingly isolated from their neighbours, at considerable cost to their own well-being and happiness. Against this backdrop, it was significant to see the public identify crime and violence as one of the more concrete social evils they saw in contemporary Britain. Given that the greatest volume of crime that comes to public attention is local, that its negative effects are felt locally and that perhaps solutions to it are to be found close to home, it is fair to say that a link between weak communities and fear of crime might be posited. After all, if recorded crime continues to fall – even as prison numbers rise inexorably – why is it that members of the public routinely express views in opinion polling, constituency surgeries and the media that they feel less safe? If a sense of declining communities is key then any truly successful criminal justice approach must address this.

It might be suggested that the overweening emphasis on the individual in criminal justice policy has had an invidious effect, with government-imposed targets such as reducing reoffending by individual offenders rendered largely meaningless in terms of achieving the required outcome. The current organisational structure in criminal justice reflects this focus on the individual.

The National Offender Management Service (NOMS) by definition deals with the individual offender; its delivery is national and bureaucratic; the emphasis of NOMS is on management of individuals and not engagement with communities. In the meantime, magistrates' courts in city centres have been closed down and moved out of town into large court hubs that might be said to resemble industrial estates. With all this in mind, the increased use of imprisonment has perversely taken the delivery of justice away from the community context: people offend, are taken to courts that the general public perceives as distant and whose day-to-day goings-on are now little reported in the media.

They are then sent to prison, a place that the general public knows even less about than the courts, which, in turn, helps to engender a suspicion that jails must be insufficiently tough. Eventually, individuals then return to the community, most likely to reoffend, whereupon the whole mysterious process – perhaps somewhat less mysterious to the ever-increasing numbers being processed through the system – begins again.

In contrast to the distancing effect of our criminal justice system, evidence suggests that localised decision making is often better understood by local people and may secure their increased involvement, participation and acceptance. A 2003 study by the Audit Commission, for example, found that people are more likely to trust services with a local presence and a local face. Similarly, research suggests that people have more confidence in a justice system that employs local and visible probation officers, that explains community sentences and that runs rehabilitation projects that produce results (Coyle 2006; Farrow and Prior 2006).

An alternative to our centralised penal system and focus on the individual can be found in JR, a new way of looking at the delivery of criminal justice that originates from the United States. JR seeks to rebalance the criminal justice spend and use funding that would otherwise be spent on custody, in community-based initiatives which tackle the underlying causes of crime. In other words, it is a devolved approach that focuses on localities. In the United States, sophisticated mapping techniques are used to identify areas of high risk and resources are targeted to reduce crime and increase social cohesion. These so-called 'million dollar blocks' – thus named because just a few streets in Brooklyn had so many residents in jail that they cost the state more than \$1m in prison places – need investment in employment and education, in healthcare, in housing and public spaces and JR seeks to provide some of this investment out of the budget otherwise spent purely on prison places. Although superficially unrelated to criminal justice, it is, in fact, these very areas of social policy that directly relate to the underlying causes of crime and to a greater sense of well-being and safety in the community.

In the United States, JR has begun to find purchase due to the harsh fiscal realities of that nation's use of mass imprisonment and its advocates speak in terms that should be familiar to anyone who has spent time examining our own failing criminal justice system:

'A critical component of reinvestment thinking is stopping the debilitating pattern of cyclical imprisonment: 98 per cent of these persons will return to the community – 630,000 annually – and two-thirds will end up back in prison. One-third of those released return to prison not because of new crimes but because of violations of their parole – missed office appointments, positive drug tests, or breaches of curfew. In California, 65 per cent of new admissions are for parole violations, which cost the state \$1 billion annually.'

'From an investment perspective, both our prison and parole/probation systems are business failures. These policies destabilize communities along with the individuals whom they fail to train, treat, or rehabilitate (and whose mental health and substance abuse are often exacerbated by the experience of imprisonment).'

(Tucker and Cadora 2003, p.3)

JR is attracting increasing interest in the United Kingdom. Given that the UK spends proportionately more on law and order than any other country in the Organisation for Economic Co-operation and Development (OECD), including the United States, perhaps this is unsurprising (Solomon et al. 2007). Alongside the Commission's own investigation into localism, the House of Commons Justice Committee is also currently conducting an inquiry into JR. Some of the ideas around JR are now being tentatively explored by the Ministry of Justice, with the Secretary of State for Justice, Jack Straw, announcing in March 2008 that pilots of 'million dollar blocks' – or in his terminology 'diamond districts' – will be introduced in three local authorities, including in London. While superficially promising, the Ministry of Justice concept of JR still appears wedded to the management of individuals by criminal justice agencies, as the April 2008 bulletin of the London Criminal Justice Board reveals:

'The Metropolitan Police Service (MPS) is working as part of the London Criminal Justice Board (CJB) to deliver an innovative and ambitious project, Diamond Districts, designed to break the cycle of re-offending.

'Building on the success of the MPS Safer Neighbourhood teams, the project will target and co-ordinate criminal justice and resettlement resources in neighbourhoods (probably wards) where the largest numbers of offenders return on their release from prison.

*'Safer Neighbourhood teams will be boosted in yet to be identified targeted areas, with London Probation and other resettlement agencies. **The main focus will be on offenders who have been in custody**, including youths and those who have served custodial sentences of less than 12 months and so are not subject to statutory supervision on release.*

'The aim is to provide a holistic, multi-agency solution to re-offending that focuses the resources of key providers on delivering positive outcomes that would not be achieved by a single unstructured intervention. We are liaising with local authorities, which are vital to the project's success and will be seeking the involvement and participation of the voluntary (third) sector.'

(London Criminal Justice Board 2008, p.3, emphasis added)

There is little sign, then, that these pilots will focus on the non-criminal justice needs of the areas involved and, while local authorities are mentioned, there is no sign that any investment will be placed in the hands of local government and directly financed from money that would otherwise be part of the centralised prison service budget. The government should consider carefully the failings of its youth justice system, where a recent report found that "fundamental questions need to be asked about whether the youth justice agencies can really address the complex economic and social factors that are the cause of so much youth offending" (Solomon and Garside 2008, p.11). The same questions might be asked of the criminal justice agencies attempting, or not attempting, to tackle the problems of the diamond districts. In other words, there is a real danger that the government has got the wrong end of the stick.

In fact, JR suggests a far more radical restructuring to achieve a truly localised approach to criminal justice, inviting new and innovative thinking about how we might create safer and more confident communities. The clearest implication for England and Wales is that a large share of the cost of custody should be transferred from central government to local government, so that local authorities would be able to commission prison places as well as use the money to explore new models in the community, reinvesting any savings into the community itself.

In other words, identifying high-crime areas is only the first step of the process. As the ICPS notes in its report on JR:

'When a government department in London is the main driver of the system for dealing with people under supervision or released from prison, it is too easy for the local authority to feel that it has no responsibility and for local services and groups to concentrate their efforts elsewhere. More local involvement in criminal justice matters could ensure that a wider range of appropriate services is available to the police, the courts and the probation and prison services and the outcomes could be improved. Devolution of control would give local authorities more ownership of local ex-offenders and much more of an incentive to take actions, for example to provide jobs for some ex-offenders, to ensure housing is retained and work is done with the family to stop other members taking the same path.'

(Allen and Stern 2007, p.45)

The resultant shift from central to local government might be termed 'community justice' rather than criminal justice. Criminal justice solutions as we know them would be restricted to serious violent and sexual offences, significant white collar and serious organised crime and our existing criminal courts. For other matters, community justice would provide local solutions for local problems. In terms of the structural alterations required to deliver these local solutions, it may even be that the mechanism for change is already in place in England and Wales – in the form of Local Area Agreements (LAAs). There may also be an opportunity to tie in existing crime and disorder reduction partnerships with the healthy city partnerships promoted by the NHS which bring together representatives from the city council, neighbourhoods, community and voluntary, health, business and academic sectors. Indeed, the localism agenda in health policy development (and in that of education) would appear to pave the way for any application of localism to criminal justice.

On a European level, we can see the required holistic approach in the Democracy, Cities and Drugs (DC&D) II project – where EU cities are encouraged to develop 'local, partnership based drug policies involving the relevant stakeholders – local authorities, health services, criminal justice services, communities, including visible minority ones and drug service users – so that a coordinated, participative, targeted and thus resource effective approach can be developed towards drug-related problems' (<http://www.democitydrug.org> accessed 1 July 2008).

To examine in more detail how localism might work, we now turn to examples of JR and community justice in action.

Examples of Localised Criminal Justice: (i) Justice Reinvestment in Connecticut and Kansas

JR is still in its relative infancy in the United States and caution should be the watchword when considering taking lessons from the country with the world's highest prison rates. Nonetheless, it might be argued that the very extremis of the situation in the United States will inspire radical new ways of thinking there and that JR constitutes just such a possibility.

The Council of State Governments (CSG) Justice Centre – a non-partisan, non-profit organisation – runs a website, <http://www.justicereinvestment.org> (accessed 26 June 2008), which details how JR is being implemented in nine individual states. These are Arizona, Connecticut, Kansas, Michigan, Nevada, Pennsylvania, Rhode Island, Texas and Vermont. Other states involved in similar projects include Kentucky, Oregon and Louisiana (Allen and Stern 2007).

Connecticut

Connecticut provides one of the first examples of the CSG Justice Centre helping a state to implement a JR strategy. Due to a critical combination of both the fastest-growing prison population in the country and a significant budget deficit, Connecticut policy makers were forced to commission the CSG Justice Centre to help them find a solution to the problems they were facing.

The first step taken was to analyse both the prison population and spending in the communities to which people in prison often return. This analysis found that offenders who had violated conditions of their parole or probation accounted for a significant percentage of prison admissions. In 2003, the average length of stay for parole violators in Connecticut was about one year, compared with three to four months in most other states (Austin, Cadora and Jacobson 2004). In addition, people in prison eligible for parole remained incarcerated for an average of nine months beyond their eligibility date (Austin, Cadora and Jacobson 2003).

Geographical analysis then identified that a handful of communities in Connecticut received the majority of people released from prison (it should be emphasised that what this analysis determined in terms of locale is only part of the story in a state of economic and racial divisions) and that nearly half of male prisoners came from the state's largest cities – Bridgeport, Hartford and New Haven. Within a single neighbourhood of New Haven, the cost of custody amounted to \$20m. Of that total, \$6m was spent on probation violators.

The CSG Justice Centre then presented the Building Bridges: From Conviction to Employment report (Austin, Cadora and Jacobson 2003) to state policy makers. The report found that Connecticut had a relatively small parole population; that only 30% of the prison population was charged or convicted with a violent crime; and that nearly one-quarter of prison beds on any given day in the state were occupied by probation violators. The report identified potential savings of \$48.9m if various cost-cutting strategies were implemented. These included: requiring persons sentenced to at least two years to serve no more than 85% of their

sentence; reducing the length of stay for people returned to prison for technical violations; and reducing the number of technical violations admissions by 25% by seeking to increase compliance among probationers and parolees. The report projected that these policy options would reduce the prison population by as many as 2,000 from 2003 to 2006.

The next step was to quantify savings made by these policy options and reinvest the money into high-risk communities. State legislators passed an Act with cross-party support in 2004 which included provisions to streamline the parole process, reduce parole and probation violations by 20%, ensure a period of supervision for all persons released from prison and require the state to develop a comprehensive re-entry plan to address high reoffending rates (Connecticut General Assembly 2004). That same year, legislators cancelled a contract which the state had with Virginia to supply 2,000 additional prison spaces, worth \$30m annually.

Connecticut reinvested \$13m in neighbourhood-targeted strategies, with funds going to support community-led planning processes and increasing the capacity of the Department of Mental Health and Addiction Services to provide more community outreach and treatment. The state also hired 96 new probation officers between 2004 and 2005, reducing caseloads from approximately 160 cases per officer in January 2004 to approximately 100 cases per officer in June 2005 (still a markedly high number, it is worth noting). Probation violations, in turn, dropped from 400 in July 2003 to 200 in September 2005 (Legislative Program Review and Investigations Committee 2005).

As described by Eric Cadora, Director of the Justice Mapping Centre, the implementation of JR by Connecticut achieved some success:

'Connecticut went from being one of the fastest growing prison systems in the country to nearly the fastest shrinking one. Not only were plans to build additional prisons scrapped and out-of-state contracts cancelled, but the prison population actually dropped and the original 500 prisoners housed in Virginia prisons were brought back. Resulting drops in probation revocations to prison led the State to follow up with additional funds in 2007 of \$6 million for the probation violator programmes and \$11 million for community based and residential treatment programmes. And looking forward, the State established two analytical divisions – one to collect data from both inside and outside the criminal justice system to evaluate reinvestment policies and a sentencing task force to assess the impact of sentencing and corrections policy.'

(Allen and Stern 2007, pp.13–14)

While a continuing drop in the crime rate accompanied the unprecedented reversal in the growth of the male prison population in Connecticut, it should be noted that the population has recently begun to slowly rise again. This rise is partly explained by a temporary ban on parole that was put in place in September 2007, following a widely publicised case where two parolees committed a 'home invasion', which resulted in the deaths of three people (Connecticut Statistical Analysis Centre 2008). While the ban was relaxed at the beginning of 2008 and legislation passed which expanded community supervision, the vulnerability of any reform to high profile cases and ensuing public concern remains problematic.

Kansas

A more recent example of JR can be found in Kansas, after state policy makers (with bipartisan support) requested the assistance of the CSG Justice Centre in 2006. At the time, the prison population was projected to increase by 22% within ten years at a cost of approximately \$500m in additional construction and operating costs.

To gain a sense of public attitudes on criminal justice, Kansas commissioned a public opinion survey, which revealed that despite the enactment of various laws designed to incarcerate serious, violent offenders for longer periods of time, most Kansans continued to believe, incorrectly, that people currently sentenced to prison served less time than they did ten years ago. The same poll results also showed that Kansans overwhelmingly supported providing substance abuse treatment to people in prison and assumed – again incorrectly – that such services were already available. When informed that strategies designed to keep offenders from failing on probation and ending up in prison could be employed to avert growth in the prison population, the vast majority of those surveyed preferred this alternative to simply building more prisons (Council of State Governments Justice Centre 2007a).

Working with the CSG Justice Centre, Kansas is now implementing a JR strategy with the following highlights (Council of State Governments Justice Centre 2007b):

- An analysis of the prison population identified high rates of failure on community supervision and low rates of in-prison programme completion as key factors driving the projected growth.
- To reduce recidivism rates, state lawmakers enacted both a 60-day credit for people in prison who complete certain programmes and a grant programme for local community justice agencies to increase success rates among those under supervision by 20 per cent. The measures are expected to avert \$80m in state spending over the next five years.
- Policy makers reinvested \$7m of the projected savings in additional treatment programmes and efforts to improve community-based supervision and are focusing these efforts on high-crime neighbourhoods.
- State, county, city and community leaders are collaborating on the New Communities Initiative, a major neighbourhood reinvestment project.

Of particular interest is the final objective. The New Communities Initiative is set to focus on one high-risk area within the city of Wichita, seeking to reinvest funds into the community and is steered by a policy group that includes the public, private and voluntary sectors. Government agencies collaborating on the initiative include the Wichita Police Department, Wichita Public Schools, Kansas Housing Resources Corporation, Kansas Department of Corrections and the Parole Board and the state's departments of Labor, Commerce, Health and Environment, Social and Rehabilitation Services and many others.

The New Communities Initiative has five outcome areas that are the focus of its mission:

- provide quality housing for people of all incomes;
- create employment opportunities for those needing and seeking jobs;
- enhance the learning environment across all age groups;
- address safety and security concerns in the neighbourhood; and
- improve quality of life for children and youth.

The ambition on display in tackling social problems well beyond the reach of purely criminal justice agencies puts the UK government's 'diamond districts' initiative in the shade and reinforces the diluted version of JR being piloted in England. Ultimately, state and local leaders hope that their efforts in one area within Wichita will serve as a model for other communities in the city and across Kansas (Council of State Governments Justice Centre 2007c).

The efforts being made in Kansas are still at an early stage. As the CSG Justice Centre explains:

'For the state of Kansas to realize the objectives in the legislative package, state and local government officials will need to address several challenges. The statute's goal of reducing probation revocations, for example, will require unprecedented levels of collaboration among judges, community-based treatment providers, community corrections agencies and other local stakeholders. Together, these groups must design new, effective supervision strategies, which are tailored to the unique aspects of their counties to improve the success of people on supervision.'

(Council of State Governments Justice Centre 2007b, p.6)

We now turn to examples of localism that demonstrate ways in which criminal justice agencies might usefully work with other partners in the community.

(ii) Brooklyn and North Liverpool

While a JR-inspired pilot in Gateshead has experimented to a limited degree with the ideas found in the United States (Allen and Stern 2007), there is no example of a local government in the UK being handed the power required to instigate true JR policies. There are, however, examples in both the US and the UK of ways in which criminal justice agencies can be better incorporated into the community.

Brooklyn

Perhaps the most famous example of community justice in action, which has attracted a great deal of attention from the UK, is the pioneering community court in a poor neighbourhood of Brooklyn called Red Hook. Launched in 2000, the Red Hook Community Justice Centre is located in a former school and seeks to solve neighbourhood problems. At Red Hook, a single judge hears neighbourhood cases that, under ordinary circumstances, would go to three different courts: Civil, Family and Criminal. The goal is to offer a co-ordinated approach to people's problems, with an array of sanctions and services at the judge's disposal. These include community restitution projects, on-site educational workshops, drug treatments and mental health counselling. There is a childcare centre and an instant mediation service. As Red Hook's website says these services are 'all rigorously monitored to ensure accountability and drive home notions of individual responsibility' (<http://www.courtinnovation.org> accessed 31 May 2008). The court and its many attendant services seek to engage the community in aggressive crime prevention, solving local problems before they even come to court.

Red Hook is the product of a unique public-private partnership that has engaged all levels of US government – county, city, state and federal. Core operational funding is provided by the New York State Unified Court System and the City of New York. A variety of government and private funders also provide ongoing support. The Justice Centre's model of public-private partnership extends beyond funding and it relies on an array of institutional partners to identify local problems, supervise community service and offer on-site social services. These include government agencies (such as New York City's Departments of Education and Probation), citywide non-profit organisations and local groups.

The success of the Red Hook approach has been summarised by the Lord Chief Justice, Lord Phillips of Worth Matravers, in a speech to the Oxford Centre of Criminology:

'The beneficial results to the community have been dramatic. Compliance with sentences imposed has averaged 75%.

As at a year ago more than 1000 defendants had been directed to long-term drug and alcohol treatment. Low-level offenders have contributed hundreds of thousands of dollars worth of labour to the community – cleaning local parks, painting over graffiti and sweeping the streets. In 2004 Red Hook for the first time in 35 years had experienced no homicide and the same was true of the next two years. The Community Court cannot claim all the credit for this, but the change in attitude that it brought about must have helped.'

(Phillips 2006)

As Lord Phillips says, there are other factors to bear in mind when considering the track record of the Community Court – not least that overall crime is down across New York City, while Red Hook itself is close to parts of Brooklyn that have gentrified considerably since 2000. Nonetheless, the success of Red Hook cannot be denied.

Key Features of Red Hook Community Justice Centre

Co-ordination: The Justice Centre handles low-level criminal cases (including some felonies), as well as selected Family Court and Civil Court matters. In hearing these cases, the Justice Centre recognises that neighbourhood problems do not conform to the arbitrary jurisdictional boundaries of the modern court system. By having a single judge handle matters that ordinarily are heard by different decision makers at different locations, Red Hook offers a swifter and more co-ordinated judicial response.

Restitution: By mandating offenders to restore the community, the Justice Centre makes justice more visible to local residents and acknowledges that communities can be victims just like individuals. Restitution projects include painting over graffiti, sweeping the streets and cleaning the Justice Centre.

Help: By using the coercive authority of the court to link defendants to drug treatment and by providing on-site services like domestic violence counselling, healthcare and job training, the Justice Centre seeks to strengthen families and help individuals avoid further involvement with the court system. Services are not limited to court users but are available to anyone in the community wishing to avail themselves of them.

Accountability: Compliance with social service and community restitution sanctions is rigorously monitored by the Red Hook judge, who requires litigants to return to court frequently to report on their progress and to submit urine tests. State-of-the-art technology helps ensure accountability.

Prevention: The Justice Centre actively seeks to resolve local problems before they become court cases. The Justice Centre's prevention programmes include community mediation, a Youth Court that offers intensive leadership training to local teenagers and the Red Hook Public Safety Corps, which provides 50 local residents with full-time community service jobs each year

North Liverpool

The work in Brooklyn inspired the first British pilot community justice centre in North Liverpool, which has now been in operation since 2004. The community justice centre in North Liverpool provides a useful pointer to the elements of a more localised approach to criminal justice. The sentencer, whether judge or magistrate, carries out the sentencing task in accordance with the law and the guidelines that apply to the system throughout England and Wales. The element that is localised is the support given to the convicted person that aims to solve the problems that led to crime in the first place and the involvement of the community in the work of the court, so as to build trust and understanding (Fletcher 2007).

The centre's community resource team provides a range of free and confidential services for anyone living in North Liverpool (not simply those in contact with criminal justice agencies) including:

- support for victims and witnesses;
- legal advice on housing, debt and welfare benefit;
- help for those with problems with drugs and alcohol;
- help with education and employment; and
- individual support through a mentoring scheme, Side by Side, which uses local volunteers.

The centre has a problem-solving approach that operates on two levels, providing support for offenders going through the court system, while offering free and confidential advice to everyone in the community – including residents, victims of crime and witnesses.

In a recent speech to the Royal Society of Arts, Jack Straw discussed the centre's work in favourable terms and the government has now expanded its pilots in community justice courts, although North Liverpool remains the most developed model (Straw 2008). Interestingly, these pilots are not aligned in any way with the 'diamond district' pilots mentioned earlier, which again suggests that the diamond districts are a diluted form of localism and community justice.

(iii) Scotland

If the community justice centres of Brooklyn and North Liverpool suggest ways in which localism might work on the ground, Scotland provides an example of how criminal justice structures on a broader level might deliver a more localised approach. The Commission visited Edinburgh in February 2008 to examine the devolved approach to criminal justice north of the border and members of the Commission were impressed by what they found.

In 2003 the Scottish Executive published a consultation paper 'for a single agency to deliver custodial and non-custodial sentences in Scotland with the aim of reducing re-offending rates'. This proposal broadly mirrored plans in England and Wales to set up the centralised NOMS framework. The Scottish consultation produced near unanimous opposition to the proposal and identified widespread support for an alternative model.

The outcome was the Management of Offenders etc. (Scotland) Act 2005. Among other things, this established eight Community Justice Authorities (CJAs). Their remit is:

- to work with local authorities, the Scottish prison service and other partners to prepare local joint area plans focused on tackling reoffending, which will require to be submitted to the minister for approval;
- to monitor and report on the effectiveness of joint working between all the local partners, including police forces, NHS Boards, relevant voluntary organisations, the Scottish courts service and the Crown Office;
- to support better information sharing and the sharing of good practice;
- to distribute funding for criminal justice social work services in local areas and ensure that this is being used effectively to improve the management of offenders and tackle Scotland's unacceptably high reoffending rates.

The CJAs were set up in shadow form in April 2006 and went live in April 2007. At the same time a National Advisory Body on Offender Management was established. Its remit is:

- to provide advice on the shape and direction of offender management by developing and keeping under review the national strategy for managing offenders;
- to advise on how best to achieve the reforms needed for better practice on offender management;
- to support the work of the CJAs, to monitor and report on the effectiveness of joint working between local authorities, the Scottish prison service and other partners to tackle reoffending.

The National Advisory Board is chaired by the Cabinet Secretary for Justice. Its membership includes the Convention of Scottish Local Authorities, the Association of Directors of Social Work, ACPO (Scotland), The Crown Agent (equivalent of Director of Public Prosecutions), the chair of the parole board, the chief executive of the Scottish prison service, a Sheriff (equivalent of Crown Court judge), the Scottish Federation of Housing Associations, the Risk Management Authority, the Health Service, various voluntary organisations, a number of academics (including the Commission on English Prisons Today member, Professor Andrew Coyle) and two public appointments.

Money is allocated through the CJAs, with Scottish prison service managers working with each CJA. Within the CJAs the concept of the 'community facing prison' is promoted. For example, the Commission visited Edinburgh prison, where 'one stop shop' Community Links Centres (CLCs) have been introduced both in the prison and in the community. These through-care centres, staffed by the same people in both the prison and community to encourage continuity of contact, cover everything from housing help and drug treatment to formal licence and voluntary after-care arrangements.

Run by Sacro, a third sector organisation, the CLCs in Edinburgh are responsible for co-ordinating the support for short-term prisoners in preparation for their release back in the community and operate on the following principles:

- operating a clear and robust referral route into the service across the three main prisons serving the Edinburgh area;
- while in custody, short-term prisoners referred to the service are supported through a comprehensive assessment of their needs to plan the arrangement of important community appointments. These appointments are ideally set up with the agencies based within the CLC and, if required, with agencies based in the wider community;
- at both pre-release and post-release stages, the Sacro team employs a consistent system of standards in practice to maximise the chances of the individuals leaving prison engaging constructively with Sacro and partner agencies;
- ensuring that the CLC is able to act as a 'one stop shop' where the ex-prisoners can attend in the knowledge that they will be able to have their complex range of needs met under one roof. In order for this to work effectively, it is important that key agencies from City of Edinburgh Housing, Employability/Training Agencies, the NHS and Benefits support are all fully resourced to operate within the CLC.

Crucially, the staff of the CLCs are to have access to the Scottish prison service's IT system so as to facilitate full and integrated case management of offenders from custody through to the end of contact within the community.

Overall, the CJAs are relatively new and difficult to assess at present, but they are expected to play a much more active role in trying to reduce reoffending than the somewhat equivalent Area Criminal Justice Boards in England have been able to demonstrate. Local authority services, in particular, are key players. On paper at least, the Commission saw evidence that the Scottish model is much sharper than the bureaucratic and centralised NOMS of England and Wales, as well as more results-oriented and with stronger lines of accountability that go directly back to parliament.

A Possible Solution

Reflecting on the lessons learnt so far, it would appear that the process of bringing more localism into the criminal justice system in England and Wales would begin with the identification of pilot areas for the implementation of JR strategies and the devolution of power from relevant central government budgets to that of the local authorities.

The areas selected would likely benefit from the establishment of community justice centres. As described by the ICPS in its report on JR, these centres might have the following features:

- local authority managed and run;
- staffed by a mix of local authority and seconded probation officer staff;
- providing supervision and resettlement services and youth offending team (YOT) services;
- bringing into the neighbourhood drug and other health services;
- providing legal advice and other advice services (to make it clear that access to justice is not just about crime);
- providing neighbourhood mediation services to defuse conflicts;
- responding to incidents of anti-social behaviour;
- establishing groups of residents prepared to become involved in choosing projects to be carried out by offenders doing community service and in supporting released prisoners ('community justice panels');
- liaising with the local magistrates' courts; and
- liaising with the police.

The ICPS authors continue:

'The organisation of the community service element of community sentences might be more closely integrated with the community development functions of the authority and be linked much more to the voluntary organisations in the community. An authority with well developed services on domestic violence, drugs and routes out of prostitution might wish those departments to become the lead departments for dealing with women in trouble with the law. Local arrangements for mediation, diversion from prosecution and more opportunities for reparation might be made. Magistrates Courts in some areas might wish to develop innovative ways of speeding up processes by bringing in services under the roof of the court with instant access.'

(Allen and Stern 2007, p.52)

Bearing in mind the lessons of Red Hook and North Liverpool and given the widespread problem of delays in community sentences being commenced (compared to the immediate transition from court to prison after custodial sentencing), that final point may well be of critical importance.

What would all this imply for the prison estate then? To help fund these community justice centres and to allow local authorities to reinvest money into non-criminal justice solutions to the crime-causing problems of an area, a logical conclusion could be that much of the centralised custodial budget would be devolved to local government. It is not impossible, for example, that the cost of prison places might appear on the public's council tax bill, alongside other local services. Not all prisons would be locally run, however and there would have to be service standards handed down to local authorities from central government. A likely alternative model for the prison estate would therefore include three elements:

- policy issues retained with the Ministry of Justice;
- high-security prisons managed on a national basis (and a model for others);
- and all other prisons to be locally controlled.

Proper development of community-justice initiatives along the lines described above would mean that, in time, prison might genuinely become 'a place of last resort', with imprisonment used only for those who had committed offences for which no other disposal was reasonable.

The development of 'community-facing prisons' in Scotland suggests something of how the locally-run prisons might then function, in particular the possibility that the community justice centres on the outside could be represented in prison as well, along the lines of the CLCs the Commission saw in Edinburgh Prison and in the city. Establishing 'one stop shops' for resettlement services and genuinely effective through-care both in custody and in the community should provide a positive effect on reoffending rates.

The management of any partnership approach between local authorities and criminal justice agencies, as well as between other possible partners in relevant areas such as the health and voluntary sectors, might be enabled via the developing Local Area Agreements (LAAs) and by adapting elements of the CJA model found in Scotland.

Notwithstanding its support for exploring localism, the Commission recognises that there are a number of dangers that would have to be avoided in any devolution of centralised power, both in terms of consistency (avoiding 'postcode justice') and in terms of fostering a punitive mentality (Crawford 1997; Girling, Loader and Sparks 1999). The possible difficulties of localism are aptly summarised by the ICPS in the final chapter of their report on JR (Allen and Stern 2007, pp.50–1) and we would agree that checks and balances would need to be in place, with the Ministry of Justice playing a key role in setting national standards.

To national politicians, caught on the unending treadmill of satisfying a perceived public clamour for prison-based punitiveness that can never truly be appeased (as the lawmakers of Kansas discovered when their voters were first polled), localism may well offer an exciting opportunity. By handing power to communities, we would also be handing over some responsibility. Devoid of any real knowledge of the fiscal consequences and of the policy choices that might actually be available, it is understandable that the public's expectations of criminal justice focus so much on shutting people away in prison, 'out of sight and out of mind' – indeed research on public attitudes to crime has demonstrated that punitive views are often the product of a lack of information on and misunderstandings of, the criminal justice process (Roberts and Hough 2005). In fact, the lack of control that communities have over

criminal justice, the distant disposals of court and prison, the hysterical rhetoric of politicians attempting to ride the tiger of public opinion – all these factors and more actually contribute to a rising fear of crime and a sense of societal breakdown.

Devolving power and developing community justice would also allow the centre to then focus on the serious organised crime that actually generates so much of the harm felt by our communities (for example, the drug trade). Currently, so much energy is directed elsewhere that an organisation such as the Serious Organised Crime Agency (Soca) has seen its budget 'slashed' and is reported to be losing staff 'in droves' (O'Neill 2008). It might be ventured that localism would allow central government to sensibly rebalance priorities in the fight against crime.

Conclusion

The Commission on English Prisons Today believes that a more local approach to criminal justice should be explored if we are to promote confident and safe communities. By empowering communities and taking a truly holistic approach with a wide range of partnerships both within and without the criminal justice sector, it is possible that the underlying causes of crime in specific areas would be far more effectively tackled. Most importantly, serious consideration should be given to whether the cost of custody and responsibility for running prisons (barring the high-security estate) should be shifted from central government to local government, enabling local authorities to co-ordinate JR strategies based on the work in the United States – such as that found in Connecticut and Kansas. Examples found in Brooklyn, North Liverpool and Scotland suggest how community justice and truly ‘local prisons’ might operate.

This is not a pre-packed solution and one that needs careful consideration. The Commission hopes that this consultation paper will help stimulate discussion and in the coming months we will be exploring further the implications of localism and how such change might be delivered. What seems certain is the need for a preferable alternative to the government’s current Titanic course: prisons with 2,500 places and alienated from communities, built on economies of scale and contributing little to public safety.

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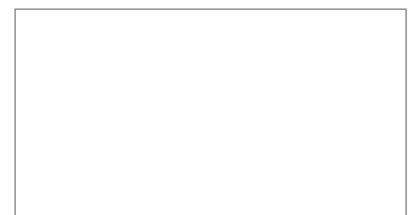
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