

the **Howard League** for **Penal Reform**



Justice is more than just criminal justice

**Perspectives on Criminal Justice
Institutions and Citizen Participation**

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A pamphlet for the Howard League for Penal Reform by
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Executive summary

This research was undertaken as part of the Howard League for Penal Reform's What is Justice? symposium and sought to provide a snapshot of how people relate to the state and participate in deliberations about justice and safety. In particular it looked at issues of confidence, trust and legitimacy; justice; and the role that the public wanted in decisions related to the criminal justice system.

Overall the research shows a high level of trust in criminal justice institutions including the police, magistrates and judiciary but notably, not Police and Crime Commissioners (PCCs). Most identified a clear value in lay involvement in these areas but maintained that there was an important role for professionals. Fears were voiced that greater public engagement in decision making may affect the delivery of justice while equally acknowledging the potential benefits of local engagement and participation enabling local solutions.

The research was undertaken in Sheffield in 2013-14. The sample of 25 (12 men and 13 women) were aged between 20 and 64 years from a range of BAME groups. There were differing employment status including students, working, unemployed and retired people. Each participant was interviewed using a semi structured questionnaire.

Engagement with the criminal justice system

- General contentment with the status quo in particular the idea that it is good to be judged by one's peers as in the jury system. This type of engagement was regarded by most respondents as a civic duty.
- Sentiments were expressed relating to important decisions being made by others who knew better and the need for objective correctness in such decisions. If there were greater public involvement, it was indicated that this should be in criminal justice processes rather than decision making.
- Desire for more involvement and greater democratic accountability to facilitate greater confidence in the criminal justice system and possibly local solutions.
- Concerns were raised about the public being encouraged to participate more, in particular, the potential time commitment, whether the right people would be involved, whether they would be representative of the local community, and the possible motivations of those participating.
- Consideration was given to the relative inputs of both victims of crime and people with convictions including those who had experienced imprisonment. While the research identified overwhelming support for people with convictions and former prisoners using their experience to enhance the criminal justice process, fewer thought victims of crime should be actively involved due to concerns about even-handedness.

Police and Crime Commissioners

- 28% of the sample voted in the Police and Crime Commissioner (PCCs) elections – a greater proportion than the turnout nationally and in the research area which was 15%.
- People stated they voted out of a sense of duty rather than commitment to the election of PCCs.
- Those who did not vote stated it was because of a lack of information and the potential for the politicisation of the criminal justice system, and were not clear about the independence of PCCs.

The role of the state

- The most often stated function of the state, according to respondents, was to deliver safety particularly in public spaces.
- The state was also viewed as the guarantor of justice, not merely in terms of criminal justice, but also in terms of social justice.

Citizenship

- Citizenship, in particular the desire to be a good, active citizen could be regarded as a motivating force to participate in civic institutions and processes including those engaged in justice. Respondents believed that while citizens are independent and responsible for their actions, the state should encourage the interdependence of citizens and provide appropriate support to engender co-operation and civic engagement.
- A majority of respondents supported the idea of prisoners voting, however, the issue was far from settled with strongly held, conflicting views being voiced including concern about those convicted of breaking the law being allowed to choose who makes the law as well as acknowledging the connective potential between prisoners and the community that voting symbolises and represents.

Justice is more than just criminal justice

Introduction

Criminal Justice is an issue that is relevant in everyone's lives in one way or another. Some watch it on television through series such as CSI or Orange is the New Black, others live and work with it every day. It has been stated often that public confidence in criminal justice is low, being much easier to damage than to enhance, and having knock on effects for legitimacy and cooperation with authorities (Hough et al., 2013). Research on confidence in the criminal justice system has tended to find that the way people are treated is more important than the actual effectiveness of the system in terms of the trust afforded to it (Bradford and Myhill, 2015). Indeed, Hough et al. (2013: 7) have stated that:

In a society where perceptions of institutions are shaped by a growing range of media, there is a risk that strategies to improve the legitimacy of the justice system becomes little more than a public relations exercise – securing the right media messages, and ensuring that staff remain “on message” in their contact with the public. Such strategies of appearance management may yield some short-term results, but there are inherent risks in this approach given that it is about trust-building. This is because when gaps between appearance and reality surface the costs to legitimacy can be very high indeed. In other words, improvements in trust have to be earned and not simply claimed.

What people rarely discuss, however, is what 'justice' actually is, and how they understand their positioning relative to it as citizens. For instance, are people happy simply to trust the criminal justice system to get on with it (if they do trust it)? Or do they aspire to something more like active citizenship? Do they think that citizens should do more to hold the (often hidden) system and its officials accountable? Do they think that greater public participation in criminal justice could be a good thing? Whilst there has been much research discussing the role of the media (McNeely, 1995; Dowler, 2003), and how education (Tsoudis, 2000; Mandracchia et al. 2013), and personal characteristics (Miller et al., 1986; Windsor, 2015) affect public perceptions of criminal justice, this is often focused on distinct groups and specific areas of the criminal justice system such as policing (Hough et al., 2013), sentencing (Miller et al., 1986; Morgan, 2002; Stalans, 2002; Hough et al., 2013; Bennett, 2014a) and punishment (Mayhew and van Kesteren, 2002; Roberts and Hough, 2002), rather than the system as a whole.

This paper presents the results of the What is Justice?: Local Justice and Participation research project, which is one element of a wider undertaking for the Howard League for Penal Reform as part of the What is Justice?: Re-imagining Penal Policy initiative. The objective of the project was to undertake research into how people relate to justice and the state (with particular reference to perceptions of criminal justice institutions), and also to find out how they might respond to

different ways of imagining the criminal justice system, including ways in which 'the public,' or local people in particular, are given more control over what it does. When the question of greater public participation in criminal justice is raised, it might be expected that people would react with a mixture of a sense of acknowledged responsibility for what is done by criminal justice officials 'in the name of the people,' on the one hand, and a fear of uncontrolled public sentiment on the other. Whether that is so, and the reasons for it, were amongst the issues we sought to understand better through this research.

The research was conducted in Sheffield from November 2013 to March 2014. There were 13 female and 12 male interviewees (pseudonyms have been used in the report to protect their real identities).¹ They ranged in age from 20 to 64 and were from a variety of ethnic backgrounds. They held an assortment of jobs, some were students, and others were retired or unemployed. As such, it took a much broader approach to the task of researching perceptions regarding criminal justice. Sheffield is a city in which a number of events have taken place that have challenged public perceptions and legitimacy of criminal justice institutions, including police actions at the British Steel Coking plant at Orgreave during the 1984-85 miners' strike; the events that resulted in the death of 96 Liverpool supporters at Hillsborough Stadium; and the lack of action by various criminal justice institutions and social services to protect children in nearby Rotherham.

The main areas we focused on were:

1. How people relate to criminal justice institutions;
2. How much involvement in decision-making processes in the criminal justice system do people want?
3. The lived reality of citizenship with specific regard to the beliefs and values underpinning what is expected of 'good citizens'.

We explored these issues in one to one interviews with members of the public. The five key areas which the project examined were:

- a) engagement with the criminal justice system (the interviews probed for opinions on whether members of the public wanted greater or lesser involvement in decision-making roles within the criminal justice sphere);

¹ Interviews were conducted in a number of locations, including in respondents' houses, the University of Sheffield and a local community centre. Respondents were informed that the study was being conducted by the University of Sheffield, School of Law (with approval from the School's research ethics committee) for the Howard League for Penal Reform. Each interviewee was initially provided with an information sheet outlining the details of the project. The research process was discussed with each interviewee before they were offered a consent form to sign. Each of the interviews was recorded and transcribed.

- b) Police and Crime Commissioners (the interviewees' knowledge, opinions and perceptions of Police and Crime Commissioners);
- c) The role of the state (in matters of safety and justice);
- d) citizenship (the manner in which the interviewees conceptualized obligations and responsibilities);
- e) prisoners and voting (the opinions of the interviewees on the subject of prisoners having the vote).

The interview schedule is reproduced at the end of this report in Appendix A.

1. *Engagement with the Criminal Justice System*

One of the main motivations for undertaking this research was to examine people's involvement in the criminal justice system (CJS), and the reasoning behind their participation or non-engagement. The first set of questions focused on people's perceptions of who should and should not be involved in the criminal justice system, looking at different features of the process, including the roles of victims, prisoners, ex-prisoners and the general public.

The general public's involvement in the CJS

There are a variety of ways for members of the public to get involved in the workings of the criminal justice system. As well as the multitude of voluntary organizations that work within the field, members of the public can be called for jury service (although this has its issues in terms of fairness and the composition of the jury (see Thomas, 2010)); or can volunteer to be part of the official workings of the system. For example, as of 31 March 2014 there were 17,789 Special Constables in the 43 forces of England and Wales, 30.8% of them women, and 10.8% from minority ethnic backgrounds (Home Office, 2014). These are seen by some to be more representative of the communities they work in than 'standard' police officers (HMIC, 2014: 66). Magistrates too are a way for members of the public to become involved in criminal justice, although compositionally they struggle with regard to ethnic diversity and representation of the younger members of the community (who may have greater age parity with those undergoing trial and/or sentence) (Judiciary, 2015). In addition their numbers are falling, potentially indicative of public views of the role (BBC, 2014).

Participants were asked whether the general public should have greater involvement in the criminal justice system. Their responses were evenly split. In general there were very positive views of the existing elements of the criminal justice system that encourage public involvement such as juries and magistrates. Jess² (female, 20) believed that in terms of citizen participation in criminal justice institutions:

They already have that don't they? Are they magistrates? I think it's quite good that they have something like that, because it makes the community feel more involved in what's going on in their area [...] you have like voluntary policemen as well. So having people in the police volunteering who are [...] meant to be part of the community and then having people [...] in the justice system who are also volunteering and also part of the community sort of makes it feel like it is more of a community effort, I suppose, as opposed to just having like separate organisations, like organising how justice is administered in society.

2 All names are pseudonyms to preserve anonymity.

Elizabeth (female, 20) agreed. "I suppose I do take the view that the old idea of being judged by your peers and people being involved in the administration of justice is a good thing". She continued: "I think it's to do with a sense of belonging, if you belong to society, having a say in things gives a sense of cohesion, a sense of responsibility, a sense that you have a stake in something".

Where people differed tended to be with regard to the idea of greater involvement. Claire (female, 50s) thought that "some things about that looks like a sword, a double, sharp [blade] - sometimes it's good in one way but in another way, maybe it's quite dangerous, especially if people abuse the system". There was popular consensus that certain matters should be left to professionals who have the knowledge, training and insight to deal with particular issues and complexities around criminal justice institutions. This was seen to engender a feeling of confidence in the system (see De Cremer and Tyler, 2007). As Anthony (male, 57) noted:

You know when you go on holiday [...] and you jump on one of those great big airplanes? [...] Right, it's really nice to know that the bloke at the front and his mate have got some qualifications and have driven one of these before, isn't it? [...] You would be really upset if somebody said 'I used to work at British Steel and I think I will just have a drive of this, you know'.

Gwen (female, 46) made a similar point: "I think...it should be left to people who know what they're doing", as did Joanna (female, 32) who stated:

I think there is a difference between taking advice from people and seeking feedback, there is a difference between that and decision making; decision making should be done by someone who is suitably experienced and qualified to do that and obviously the public does not fall into this category.

It is interesting that there appears to be a perception of some objective 'correctness' within the criminal justice process, as opposed to it being a highly subjective mechanism that 'anyone' could partake in. However, others felt that having the general public more involved would itself heighten justice, enhance democracy and increase confidence in the criminal justice system, as well as allowing for local understanding and potentially innovative solutions. Camilla (female, 21) contended that:

the more involvement normal – shouldn't really say 'normal' – people have, with society, the fairer society is, because if not, you sort of get total authority and power in one set of people and that isn't really what justice is all about. It's about everyone in society, every citizen from all different walks

of life, coming together to create, sort of like, a fair unit and you should not have sort of authority that can be abused, the more you are not involved in it the more it gets abused.

The overwhelming majority felt that there would be longer sentences if the public were to become more involved, unless additional measures such as education and some opportunity for informed deliberations were put in place. The means through which greater involvement might be achieved caused some concern.

Participants were asked whether enhanced participation in a range of different aspects of the criminal justice process should be a legal obligation, a paid role, or should be left as voluntary. Many gave nuanced responses. For example, the majority felt that involvement was a civic duty, and that the rights that we enjoy come with certain responsibilities (but see Bennett, 2014b for critical discussion of this). However, they felt they personally had insufficient time to become involved. Others felt that an imposed obligation would bring inherent difficulties. They were concerned that payment for such roles would result in the ‘wrong people’ getting involved for the ‘wrong reasons’. Frank (male, 54) framed it in the context of active citizenship, because he would be:

a bit hesitant and reluctant to kind of, sort of dangle a carrot in terms of sort of financial incentives. I think it's [...] got to be genuine, if you like, from the heart so to speak [...] in terms of the process [...] I think there should be, and I'm not sure exactly how that would be done, but I think the incentives should come from the community in terms of if they see the value in it, then I think it would be active participation.

For George (male, 64), the concern was “if you had an input of this sort, whether you would just get another lot of white male middle class folk who are just one step away from the judging fraternity, possibly”.

Albert Dzur (2012) argues that citizens should share the responsibility for making criminal justice decisions. Within the research reported here, community involvement in criminal justice institutions was generally considered imperative. All participants felt that local people should be asked to decide together how often certain penalties are used. Links were made to taxation and local safety, yet others highlighted the fact that the decisions made might not be perfect. Elizabeth (female, 20) argued that “it’s a part of a notion of local democracy”, although she confessed: “I do have a suspicion that people could be quite punitive in a way that might run against the notion of rehabilitation [...] you could get into the business of kind of pandering to people in order for political purposes which wouldn’t necessarily be in the interests of justice”. At the same time though, Gillian (female, 46) believed the notion that “when local interested people come together, they can often find really creative solutions to problems”.

Julie (female, 20) expressed similar sentiments but believed there were practical impediments which made it difficult with “practical things like budgets, and how available those services are because you could ask the public and they would say: ‘Oh, I want to have like five times the amount of use of this particular service’”. Therefore, “practically, I think that would be really difficult” and because the general public is unaware of the realities, she didn’t “necessarily think that they would kind of favour the things that evidence tells us are actually the best things”.

Involvement at different stages in the CJS

Participants were also asked whether the public should be involved in certain key decisions in the criminal justice process. We asked about decisions to charge, prosecute, and sentence. In all cases, opinions were split, and it was interesting to uncover the lack of public awareness of current responsibilities in these areas – another potential indicator of lack of understanding and/or an absence of general engagement with the criminal justice system. There were many questions raised about the practicalities of public involvement, such as the amount of time necessary to participate and how best to involve people. Some spoke of involvement of citizens in the processes rather than individual decisions. When discussing the decision of whether or not an individual should be prosecuted, Anthony (male, 57) was quite clear:

No, I think it is far too - it sounds awful doesn't it? - It is far too important for members of the public to be involved. It is a decision taken by professionals. I think that it is right at the end of the day that should the matter go to trial and be serious enough to be heard by the Crown Court that the public should be involved on jury service to make a decision then, but I think we would end up in all kinds of messes if we started having individuals or groups of people sitting down deciding whether we should charge somebody or not particularly when it is serious offences.

Others spoke of the potential benefits to involve the public in the criminal justice system, such as placing checks on those involved, and they believed that there was a public interest at stake. Yet, there was greater support for keeping the public out of direct decisions about sentencing. Indeed, when asked about her views on the impact of sentencing, Hazel, (female, 51) stated:

If I would be in a country where I know I can trust people to make a decision that is not influenced by, you know, fear, uncertainty and doubt spread by some media, I would feel much more at ease with giving this power to ordinary people.

Involving victims in CJS decision making

The role of the victim in criminal justice decision making has been contested worldwide, particularly with the increasing advancement of the victim-centered approach to criminal justice. Research has indicated that victims wanted a voice in the criminal justice process, but did not want decision making powers. It also found that victims are not generally punitive towards the person who had committed the crime against them and show similar or less punitive attitudes when compared to the general public (Doak and O'Mahony 2006; Shapland et al. 1985; van Kesteren et al. 2014). In England and Wales, the Victim Impact Statement has been seen to have the potential to both empower victims (Erez, 1999) and Victim Support organisations have been said to enhance confidence in the criminal justice system through the provision of a voice (Bradford, 2011). Yet such interventions also run the risk of undermining their effectiveness through raising expectations which cannot be met by the system (Hoyle et al., 1998). Research (in the USA) has demonstrated that most members of the courtroom felt that victims should have a limited role in the criminal justice system (Englebrecht, 2011).

For the purposes of this What is Justice? research project, interview participants were presented with the following scenario:

Imagine a situation in which someone had been found guilty of burglary and was now being sentenced. Would it be right for burglary victims (not necessarily the burglar's own victims) to help the judge decide on their punishment? How do you feel about the burglar's 'own victim' helping to decide on their punishment?

Participants were concerned about the impartiality of victims, feeling that they would be harsher towards those convicted of crimes, highlighting the importance of procedural fairness (see Tyler, 1988). This was not necessarily seen to be a 'bad thing' though – some felt it could be useful. While Stephen (male, 20) thought that “they should be involved” in the sentencing process, “they certainly shouldn't have a governing say in the sentence”. Nevertheless, even though he believed it would be beneficial, he was unsure exactly how it might work. “It would be productive if they were involved in the sentencing”, he continued: “well not in the sentencing but at least they had contact with the burglar and maybe then as a result the burglar would feel more remorse for the crime or perhaps understand why they might have been given a certain sentence if they can see the emotional damage or the financial damage that they caused the victim”.

Donald (male, 49) and Jess (female, 20) feared the negative repercussions. Donald stated:

I know how I would feel if a criminal had committed [an offence] against, say my child, I know how I would feel if it was a severe one you know, I would probably want to break their neck but that is not justice. It needs something removed from that, from vengeance [...] I think it has got to be removed from the victim because in so many crimes that are committed the victim will never be satisfied with the sentence, so what do you do then? It's just, it starts an escalator of retribution, I think and that is where a dispassionate, or as dispassionate as it can possibly be within the parameters of the law is set by the democratic process I think that's got to be. I don't like the idea of victims being able to decide punishment.

Jess (female, 20) expressed similar sentiments. For offences such as burglary, victim involvement might be beneficial, however:

the victim shouldn't have all of the control over the situation. It shouldn't be they get to decide now what happens to you. It doesn't really seem fair to put that much responsibility on one sort of side, like it should be even though the victim's rights and you can sympathise a lot with the victim over any crime, but at the same time you need to be respectful and not make the person who is being prosecuted feel as if they are being sort of - I don't know - persecuted in a way and sort of isolated.

Interviewees felt there was a need for evenhandedness for those convicted of crimes, especially at the lower level, in contrast with the prevailing opinions expressed in the media (see Drake and Henley, 2014 for a discussion on the construction of a false dichotomy between victims and those who commit crime).

Involving people with convictions in CJS decision making

In comparison, there was overwhelming support for the involvement of former prisoners and people with convictions being involved in decision making thus allowing the voices of individuals who had been convicted of crime to be heard in the criminal justice process. It appears that restoration is becoming more prominent in discourse around what to do with former prisoners and is receiving positive public support (Bliss, 2013).

There was great value placed on their experience, and the benefits people with criminal pasts could bring to the system, not least because, as Donald (male, 49) believed, "the criminal justice system needs those individuals to prove that it actually

works". He continued, "the reformed criminal, that bad boy made good, has always played a role in the criminal justice system". Gillian (female, 46) also believed in former prisoners being involved in the criminal justice decision-making process, but questioned how it might work:

I am not so sure. I haven't thought it through really, or come up with any ideas myself, but [...] that voices are heard is really important. How the process works for them or doesn't work for them, how they are changed by it? I think everybody's stories need to be heard but I would hate the judge to have an advisory panel, unless she or he feels they need to take advice, maybe they are out of touch with how things really work for people and they need to hear some voices.

As such, there appeared to be greater faith in the involvement of former prisoners in contrast to victims (although they can, sometimes, be the same people). Nevertheless, as George (male, 64) stated, theory and practice can be very different things:

I mean, you know we sit here in this nice office making all these marvelous general wonderful things about this: 'I love prisoners and they all ought to watch television and play table tennis every day', until someone breaks into your house or you know rapes your sister and then of course it's all rather different, isn't it actually.

Involving interviewees in CJS decision making

The final question in this section asked participants if they personally would like to be more involved in the criminal justice system. Almost everyone replied positively. Louise (female, 20) said:

I think it feels nice to kind of be a part of something, to be a witness to that, to be able to actually have a say if you think that something is unjust. So if you are kind of seeing someone else in the criminal justice system like a professional behave in a way that you think, actually, that's not right, being able to see that and, you know, make a call on it. Being on a jury I think [is good] because there is a group of views, it feels like you are making a decision as a community almost and there is something quite helpful about that and it feels like you are being useful. I like the feeling of being useful.

In spite of this, however, most people highlighted the practicalities limiting their own involvement, such as Brian (male, 28) who was interested in more involvement, but admitted: "I'm pretty busy". Stephen (male, 20) argued that it "would be interesting to be involved but I don't know whether I would like to help on a regular basis". Ben (male, 56) believed that "it's hard if you are working full time and you are tired in the

evening, to be involved in the community in any great way really". Therefore, he was concerned because "what will tend to happen is that the people who get involved are the people who don't need to work, I suppose, or part-time. So you just end up with a group of people involved in it [who] will be the same people who used to volunteer for anything, I suppose. So it will become kind of just a certain type of people will be involved".

Interview participants felt they would like to participate in local criminal justice institutions, but due to time constraints, only up to a point. This is particularly interesting when read against the fact that numbers of volunteers working within the criminal justice system (such as magistrates) are falling. Despite the much analyzed disconnect between the public, politicians and state, they expressed confidence in the professionals who already run and work within the criminal justice system. However, there was a widespread belief that ex-prisoners would bring an important perspective that might enhance the criminal justice system. Interestingly, a few interviewees felt that their very participation in this study allowed them to have some involvement in the system. Nevertheless, they seemed wary about allowing everyone to be involved, fearing that without education or additional measures, it may create a more punitive approach to criminal justice processes and outcomes.

2. *Police and Crime Commissioners*

The Police Reform and Social Responsibility Act 2011 replaced local police authorities with Police and Crime Commissioners (PCC) in the 41 policing districts outside London. Police and Crime Commissioners can “hold the relevant chief constable to account for the exercise of (a) the functions of the chief constable, and (b) the functions of persons under the direction and control of the chief constable.” The low turnout of just under 15% nationally in the first elections for the Police and Crime Commissioners in November 2012 led to widespread criticism of the new initiative. The turnout in the South Yorkshire region was 15%. The Labour Party candidate, Shaun Wright was elected with just over 51% of the vote.³

The PCC role has been the subject of debate with regard to its effectiveness. A YouGov-Cambridge/RUSI poll found that 47% of the 1,744 participants they spoke to thought that PCCs “will make no difference in the fight against crime” (Gilmore, 2012: 12), and there was much concern about the party political nature of the elections and candidates. Indeed, it has been argued that the democratic nature so championed by those advocating PCCs has been “undermined not only by a failure of local politics to confer on them a strong mandate but also by wider inadequacies in how their role and remit have been defined and structured in law” (Lister and Rowe, 2014: 1).

Similar cynicism and dissatisfaction (or complete disengagement) was clear in our interviews. Even for the 28% who claimed to have voted in the PCC elections, they overwhelmingly admitted they lacked knowledge of the candidates’ policies and manifestoes in the run up to the election. There was criticism of the process, even among those who had voted, and questions about whether it was a democratic innovation, a bureaucratic absurdity or political folly. Asked why they voted, those who went to the polls did so mostly out of a sense of duty rather than a fervent belief in the office of the Police and Crime Commissioner.

Voters

Mark (male, 61) voted out of a sense of duty and obligation, not because of a belief in the office or the efficacy of the position. He admitted that he “likes to take part in the democratic process”. Even though it was over a year since the election, he professed that he “had no idea what they’ve [PCC’s] done”. Despite this, he believed in democratic accountability because “it is somebody

³ In 2014, the first PCC for South Yorkshire, Shaun Wright resigned amid the child sexual exploitation scandal in Rotherham. The turnout in the by-election for his replacement in October 2014 was 14.88%. Alan Billings, the Labour Party candidate, was elected as the Police and Crime Commissioner for South Yorkshire with just over 50% of the vote. This sample was interviewed prior to these events.

who is taking responsibility rather than a committee and somebody who has been sort of democratically elected". When asked if he voted, Phillip (male, 55) replied: "Unfortunately, yes". He had been motivated to do so out of "guilt" and "a sense of public duty". Nevertheless, he believed it had been a "bad development" as "a Crime Commissioner is one person with a huge amount of power who can have a bee in their bonnet. They could be BNP [British National Party], let's say, and it is open to demagoguery of the worst kind". Even though he had voted, he admitted that he did not know much about the activities of the PCC in South Yorkshire since the election in 2012. So concerned was he about the potential for the position to be abused, that he thought that the office should be abolished altogether.

Veronica (female, 33) voted out of a sense of duty, having very little understanding of the position. She exercised her franchise because: "I always vote. Yeah, well, my motivation to vote is, it is a vital part of democracy that everybody has to be involved in". She added: "I don't think there was much good information provided to the public about it". She believed "it might make the police service more accountable [...] I suppose having someone that is elected is good because it is kind of a point of contact for the public". Although Duncan (male, 60) voted in the PCC elections, he said: "I can't for the life of me tell you who I voted for [...] Nothing negative has happened from it but I can't think of anything positive that's come from it". Nevertheless, he was positive about the position of PCCs, believing that "it has made it more democratic, just the sheer introduction of having someone you can vote for". He located the introduction of the PCCs in a wider framework of democratic accountability and felt that the introduction of PCCs was a good development, "helping the public get more involved in the criminal justice system in the same way that MPs should be helping people get involved more in sort of parliamentary affairs". He felt that "having a democratically elected position should be a way of getting ordinary people's view points across". He believed that: "I couldn't just phone up a judge and ask him why he had done a certain thing, but I could phone up my Police and Crime Commissioner and they can ask the judge what he's done".⁴

Others who had voted were not as enthusiastic about the potential for making the police service more democratic through the introduction of the PCCs. While they hoped that there would be improvements, they had not seen any major innovations or changes in policing practices in the 12-16 months after the election when the interviews were conducted. It seemed that a sense of duty was the over-riding reason for individuals to vote and as a result they were skeptical of the position and activities of the Police and Crime Commissioners, and somewhat cynical about political involvement within the policing framework.

⁴ This is not actually within the remit of the PCC.

Non-Voters

Many committed voters had not participated in the elections for PCCs because of a combination of lack of information, alienation from the political establishment, cynicism and a rejection of the office. Some were very angry about the creation of the position, believing that, as it was part of the Conservative-Liberal Democrat government's 'Big Society' (Cabinet Office, 2010) initiative, it was a political ploy. Most of these non-voters felt a lack of information impacted on their potential to make an informed choice on who to vote for. Some argued that the position was too political, while others rejected all the candidates.

Katie (female, 33) was keen to point out that she usually voted in elections, but for the PCC she "didn't really understand what it was all about [...] I remember seeing something, I think something came through the door. But I didn't feel at the time that I had enough understanding and I didn't know enough about who to vote for". Since the election of the PCCs, she had not noticed "enough differences since that person was elected". Nevertheless, she believed that "they should have a higher profile within the community [...] they should keep people informed as to what is happening within the community, what their intentions are, what they have done". Jess (female, 20) did not vote because she "didn't really know much" about the PCCs, so she thought she would "leave it". She was unsure about the role of the PCC because they had not been visible in the media. Echoing the sentiments of practically every other respondent in the research, even those who had voted for the PCC, she proclaimed that: "I don't even know what they've done really".

Janet (female, 47) made a conscious decision not to vote because "as somebody who evaluates programmes" she was "very interested in things such as theories of change". This made her consider "whether you voted for a Commissioner or not would have any impact on crime. [It] just annoyed me so much that I didn't want to vote". She was also scathing about the candidates in the election as "they were all party political candidates and none of them stood out particularly as being people I would feel comfortable voting for, so in the end I decided the combination of those two things meant that I just wasn't going to vote". She believed that the PCC could lead to the politicisation of policing and cited the USA as an example which she felt "makes it easier for certain interest groups to get things done rather than any real democracy".

Even though Stephen (male, 20) didn't vote, he thought the office was "definitely" a good idea. "if they can vote for their Commissioner",

but then I suppose you have the problem of the Commissioners, fighting for the vote of the people, becoming more like politicians and that might take away from the actual policing if they are focusing on getting elected or something like that. I think it is a positive thing.

Brian (male, 28) did not vote, saying: “I guess the feeling of that disconnect, you know, perhaps I did not know enough but that feeling of that disconnect between my vote and decision making”. Elizabeth (female, 20) was civically-minded and had been involved in a community justice initiative. She was well-informed about the criminal justice system, but did not vote because “the whole thing was very badly handled and I wasn’t going to [vote] because, no one had serious information to make a proper judgement”. Essentially, she felt the elections and the office “feels like a bit of joke”. Donald (male, 49) said he didn’t vote but would have spoiled his ballot paper because “it is not something that I see is particularly relevant”. He felt that “it might give more opportunity to busybodies. But as to improving democratic engagement to society? no, I don’t think so. Perhaps it just introduces another layer of bureaucracy”. Anthony (male, 57) was particularly well informed about the debates surrounding the PCCs. He had very strong views, but did not vote because he felt the position was “another level of bureaucracy [...] completely unnecessary” and “an interference into a professionally run organisation”. It was, he believed “an extremely bad development” and “has done absolutely nothing for the criminal justice system”. He argued very strongly that the introduction of PCCs was “appalling” and believed that “it is neither use nor ornament”.

In response to being asked how happy they were with the PCC, and what they had done so far, there was near unanimous agreement among interviewees that they were unfamiliar with the accomplishments of the incumbent. The PCC had not been visible in their area and many were unsure of the role. While respondents tended to believe that PCCs should be an interface between the public and the police, few believed that this had been achieved. Many felt that the position should not be politicised, reflecting a feeling that it was another layer of political interference. In England and Wales where few independents win political office, the fact that 12 out of 41 Police and Crime Commissioners who were elected were independents perhaps reflected fears expressed among respondents that the creation of the office of PCC would lead to the politicisation of policing.

Overall, there was a welcome for initiatives which allowed for more local involvement in policing but most interviewees, even those who voted, were cynical about the creation of the role of Police and Crime Commissioner. They feared that the independence of the police might be undermined if they were too closely

associated with politicians. Respondents were concerned that those who stood and got elected could damage the credibility of independent policing. The low turn-out both nationally and locally (in the Sheffield area where the interviews took place) indicated low levels of interest or trust in the PCC and perhaps questions the democratic legitimacy of the position. Indeed, as Joanna (female, 32) stated: “I’m sure those people work very hard day to day but if you are not engaging with the community then it is basically pointless”.

3. *The Role of the State*

We asked respondents what they expected the role of the state to be in delivering safety and justice. A number of dominant themes emerged. Interviewees felt that their safety could be enhanced, if not assured, by better street lighting and more ‘bobbies on the beat’ (see also Windsor, 2015, who found this to be a more prominent theme with older participants she spoke to about perceptions of the CJS in South Yorkshire). Everyday issues were of primary concern and trumped other matters that may have been on their mind. On the subject of justice, some felt that this related to how the state punished those convicted of criminal activities while others located the concept of justice, not in the narrow framework of criminal justice, but in the wider context of social justice.

State delivering safety

Many respondents felt that safety in their neighbourhood was inter-linked with a strong sense of community. Frank (male, 54) believed that safety is “where you can actually feel you are not in any danger in terms of – and I mean across the board from young people to old people - they don’t feel threatened”. It was important to “feel comfortable and secure in the sense that you know that there won’t be harm inflicted on you [...] I’m almost inclined to think, like you know, in communities where you can leave doors open and if somebody finds something they’ll return it. That sort of environment, if you like”. Anthony (male, 57) believed that safety is “the ability of the individual to move freely around their community and other communities. They should be safe and secure in their own house, they should be safe and secure on the streets”. But he believed that this was asking too much. “It is a bit of a wish list really because it is never going to happen”.

Visible policing was a common theme (and has been noted to have links with improved perceptions of the police – Hawdon et al., 2003), especially among female respondents. Gwen (female, 46) argued that in her community “they should have more walking policeman, like they used to, you don’t see them anymore, do you?” This was a pressing concern because “up and down here [points to street] you get cars running up and down the road and you know running up and down on the pavement. The kids aren’t safe to go out and play”. For Claire (female, 50s), “a little bit of patrol [...] and better lighting maybe” would make her feel safer. Elizabeth (female, 20) echoed this sentiment. Safety is “to do with an element of a public space that is safe and a private space that is safe in terms of feeling safe in my own home, in terms of protection from harm”. Joanna (female, 32) believed that, “Safety to me would be that you can walk down your own street without feeling fearful whilst engaging common sense and police presence. I mean there was meant to be an increase, wasn’t there, in police presence and I’ve not seen any”. Julie (female,

20) believed that while safety was about feeling secure walking home at night, there was a wider perspective. She was keen to highlight how social interventions might divert young people from criminal activity and advocated a rehabilitative approach, even when individuals did commit a crime:

I think that they ought to be doing some kind of preventative work so things like youth centres and support for people who have got substance misuse and alcohol problems and things like that, people who need other services to kind of help them stay away from crime in the first place. I think that they should be trying to make urban spaces safe in terms of their kind of town planning, so things like having street lights and then I think that they should be doing some kind of work where people do commit crimes to kind of intervene in that person's life and say you know, this isn't right and make some kind of reparation with the victim.

George (male, 64) explained that safety for him was "being able to walk down West Street (a bustling social area of Sheffield) on Saturday night and not fear you are going to be mugged, although I think in most cities my guess is that fear of violence and law-breaking is much worse than it actually is". Janet (female, 47) believed that: "It's about your perception as well as the actual threats that might be around you because there are a lot of people who feel unsafe, even if in purely statistical terms they are actually perfectly safe". She continued:

It is also about generating a feeling that people will not be harmed in their communities and the feeling that the community is cohesive and not a dangerous place to be out, whatever time of day. So I think safety is really multi-layered, things that go from just whether you feel under threat if you are out at night to far more wider community issues and global issues.

Donald (male, 49) had a different take on the idea of safety and feared the pervasive power of the state in times of crisis:

Safety is not necessarily anything to do with justice as far as I can see. Whose safety are they talking about? I mean I can remember during the miners' strike safety meant not being attacked by the police. If you lived in Brixton in the early 1980s, safety meant safety from the state and safety from the police and now, the state seems to be trying to portray itself as a cuddly organisation which will help the rights of the oppressed which I find very, very bizarre. I think it uses the language of safety to increase its own power [...] Safety I think as well has meant a restriction on free speech and freedom of expression.

The state as guarantor of justice

There were two primary concerns in terms of how the state can provide justice for its citizens. There was a distinction between those who interpreted this as the state enacting laws and rules and punishing those who broke the laws. The second theme was a desire to locate the term 'justice' in the context of social justice. Phillip (male, 61) believed that "justice is about putting things right, righting wrongs and justice for me, it's about quality of character so I think it's intrinsic, so I believe that justice is like a virtue of excellence of character". Anthony (male, 57) echoed Phillip's remarks. "Justice would mean that people are treated properly and responsibly within the bounds of the law, be that criminal, civil or moral".

Not just criminal justice

For Gerry (male, 30), justice was about "the true allocation of resources amongst different people". Gillian (female, 46) echoed this perspective. For her, justice is "about everybody having a fair chance, you know, an ability to live out their lives without being oppressed by somebody". Ben (male, 56) pursued this theme and believed that the state ought to reduce crime by targeting those "things in other areas of life that, you know, result in crime, I suppose that are neglected generally." He added: "I don't really think building more prisons is the answer or more people in prison". Louise (female, 20) observed that:

Justice is more than just criminal justice. I think social justice is really important, what the government is failing at miserably at the moment. But I think sometimes people do conflict the two and that justice is something bigger than that and fairer and when more people are becoming homeless, that's not fair. So, I don't know if people link it directly to the police but it's just, it's another reason why the police don't hold up justice either and it's just about law and order and so getting more people involved in the police meaning that they feel like they can make it fair. To reintroduce justice would be a great thing.

Elizabeth (female, 20) believed that "an awful lot of people end up in prison who clearly have made wrong moral choices along the way but also are the victims themselves of an awful lot of things that lead them there". She added: "It is a question of balancing those two issues, protecting the public and recognising that people who end up committing crimes aren't beyond the pale". Justice for Gwen (female, 46) was about being "equal, what's the word, I'm trying to think of the word, equal opportunities, like getting what's right, do you know what I mean?"

The state as punisher

Katie (female, 33) believed that justice means “that if somebody breaks the law and harms others, then they basically have to pay for that in some way, whether it be some of their human rights are removed for a period of time [...] I don’t think that somebody should be able to do something that results in somebody, either themselves or their possessions becoming unsafe or being taken or damaged, and not pay a price for it”. Veronica (female, 33) agreed with this perspective, saying that justice is “about feeling that there is a system in place so that if something, if someone, if there is a wrong done that there is a system in place to try and kind of repair that harm that has been done, to try and catch the person and put them through the process of the criminal justice system and then ensure that if they are found guilty that there is an appropriate punishment”. Tina (female, 21) agreed that it should be about “making sure that someone is not just punished for their crime but then helps them so they don’t go on to commit future crimes”. She argued that her sense of justice is “kind of more a rehabilitative form as opposed to a retributive form of justice”.

Camilla (female, 21) argued that prison would work if it was more austere. In terms of the state delivering justice she believed that “punishment is the biggest deterrent”. Prison “should be stricter, there should be none of this, I don’t know, watching telly nonsense, because some people, some people prefer to be in prison than to be sleeping rough for example. But then obviously, rehabilitation, but I suppose people can rehabilitate, but I think, I do think if the police were more strict and the prison service was harsher, that would decrease crime”. George (male, 64) continued this theme:

To some extent I think justice is about Gilbert and Sullivan, isn’t it, make punishment fit the crime. I absolutely don’t believe in capital sentences, I’d better get that in I suppose. Nor do I believe in corporal sentences, I don’t want to birch people or hang them. But there does seem to be a mismatch on the face of it between what people have done and what they end up either getting done to them or not. Some sentences seem over long or over harsh, some seem inadequate in a sense.

Frank (male, 54) agreed that justice was about righting a wrong: “I think, you know, where there has been, if you like, something done or crime committed then I think that should be adequately punished, if you like, well the perpetrator should be punished and something done about it in terms of, you know, the system”.

Interviewees tended to believe that improvements at a local level would enhance their safety, or at least make them feel safer. Better street lighting and more visible policing would enhance the potential for individuals to feel safer. While some respondents were eager to stress the importance of punishment in the role of criminal justice institutions in delivering safety and justice, others were keen to emphasize that there should be a wider understanding of the concept of justice outside of the criminal justice sphere. For them, social justice was integral to understanding the concept of criminal justice.

4. *Citizenship*

The What is Justice? research also wanted to gauge respondents' opinions and beliefs about 'citizenship'. There has been a growth in the emphasis on 'citizenship' as a principle over the years – for example, it is a key part of children's education within the national curriculum, which states:

A high-quality citizenship education helps to provide pupils with knowledge, skills and understanding to prepare them to play a full and active part in society. In particular, citizenship education should foster pupils' keen awareness and understanding of democracy, government and how laws are made and upheld (Department for Education, 2014: 82).

Citizenship, or the desire to be a good citizen, can also be a motivation for people to get involved in civic processes and institutions, even when they do not have a direct stake in them. This is the sense of 'active' citizenship. During the period of this research, the Conservative-Liberal Democrat coalition government (Cabinet Office 2010: 1-2) argued that they wanted "to give citizens, communities and local government the power and information they need to come together, solve the problems they face and build the Britain they want". However, the government believed that "Building this Big Society isn't just the responsibility of just one or two departments. It is the responsibility of every department of Government, and the responsibility of every citizen too". One of the issues we were looking for was some indication of the strength of people's attachments to, and feelings about, citizenship as a motivation and a civic bond.

A number of statements were offered to participants (see Appendix One for the statements). They were asked how strongly they agreed or disagreed with each statement about being a citizen. The questions were designed to provoke thought and discussion. Respondents were generally supportive of criminal justice institutions, although many feared that increased citizen participation raised the possibility of vigilantism. There was an overwhelming sense that one should be honest when dealing with state officials. Indeed, they should not be treated differently and most interviewees went further to suggest that honesty was a virtue when dealing with all members of society. The vast majority believed that all people should obey the law, but a number raised the potential of moral objections to "unjust" laws.

Some aspects of authority were best left to the state. Anthony (male, 57), for example, was fearful of the potential dangers of allowing elements of the criminal justice system to be taken out of the hands of government: "There is a danger of

people taking responsibility for themselves [...] you end up with people walking around the streets armed with cudgels.” Jess (female, 20) also felt similarly: “I think if people took responsibility for themselves there would be quite a lot of maybe repercussions that wouldn’t necessarily [be good], I think that would create more injustice rather than justice”.

George (male 64) believed that it had to be “a symbiosis”. He felt that:

People do have to take responsibility for their own safety and well-being and the safety and well-being of others but on the other hand the state also has a huge responsibility to do some of that as well. What the balance is I’m not really sure. Possibly having too many people who walk by on the other side at the moment but on the other hand, I think this whole Cameron business of the Big Society, I mean, it’s just a way of avoiding the state doing what they are supposed to be doing half of the time. So I’m not very keen on that, well not at as you can encapsulate it anyway.

Many believed, like Stephen (male, 20), that “you should be able to rely on government for core services like education, healthcare, armed forces and those kind of things”. Julie (female, 20) located the role of government in a wider context of social justice and wealth and resource re-distribution:

I think that some people are more able to rely on themselves than others and I think that it is a sign of a good and fair society that the government is doing some kind of work to address inequalities and to help people who are not able to look after themselves. I think that a society in which you say everyone is just responsible for themselves is an incredibly unfair one. I think that people should, as good citizens, think: ‘I want to look after the vulnerable people in our society’, but I think that not everybody does. I think that the only way to make that happen is to have a state that forces that to happen.

On the subject of whether it was acceptable to lie when dealing with state officials, there was near unanimity that this was unacceptable behaviour. Not necessarily because it was a state official, but rather, according to Katie (female, 33), “just because lying is morally bad, so I think that’s just my morals in any case”. Gerry (male, 30) agreed. “I mean lying is never the right way to go when dealing with anyone apart from, perhaps, children”. Gillian (female, 46) held similar beliefs: “Well it depends what kind of person you want to be, do you want to be a liar or do you want to be a truthful person, you know? If you are going to be truthful, it’s kind of got to be consistent because otherwise you will be a liar so it depends. So I would

have to disagree with that". Julie (female, 20) felt that there may be instances where white lies might be justifiable but in more serious cases, it was not. "I don't think it would be okay to lie to a Police Officer about a crime and I don't think it's ever acceptable to lie if you are under oath, so if you have been sworn in as a witness in court I think you have got to tell the truth and it is a sign of poor character if you don't follow the oath that you just said that you would". According to George (male, 64), "If people go around lying all the time then we are not going to get anywhere, are we really?"

However, others felt differently. Ben (male, 56) felt that, while it would be "wrong [to lie to state officials] as a principle", there may be instances where an individual would be justified in lying:

I think there might be occasions where [...] perhaps not necessarily in this country, you know, where the state is dangerous. You might protect someone from a state that is not, you know, very humane and that is okay. You know I think you have to judge what the state is, is the state on your side or against you kind of thing, and if you are in a country where the state is against you then it might be okay, I would think.

Hazel (female, 51) expressed similar views in dealing with the issue. She asked: "I mean lie about what? It really depends because, I mean, for instance if you are the one who gets charged obviously it should be your right to lie about it. Maybe if you are related to somebody who is charged then it is your right to lie about it". However, "in other cases it should be punishable if you lie about something [...] So, it totally depends. You shouldn't lie about your taxes but everybody does it, so I don't know".

There was general agreement with the statement that: "People should obey the law". If a state was legitimated through the democratic process then individuals should obey the law. According to Brian (male, 28): "As long as people feel they can shape the laws [...] and as long as the laws respect some basic human principles, then yes, I agree with it". George (male 64) believed that the "very quick answer to that is yes they should". Even though he believed that "of course there are times when the law is an ass [...] But even so if one does not like what is going on, one should try and change it somehow rather than disobey it [...] I mean what we do in a democratic society, [we] have the theoretical option to get rid of the people who make these laws and put in people who make laws of the sort we like". Tina (female, 21) agreed that "if the law is justified and makes sense then people should abide by it". Frank (male, 54) believed that laws are "paramount to civilisation and you know I think the whole society and I think laws are made to have harmony and you know kind of create, you know, civilised communities". Camilla (female, 21)

agreed, “because if you don’t obey the law, it just sort of falls apart”. Katie (female, 33) maintained this reasoning for obeying the law: “I think for the sake of civilisation, laws are there for a reason and should be followed. A lot of the time it is to keep people happy and safe so to keep things in order”. Stephen (male, 20) summed up this perspective: “Law is based around universal truths or universal morals so I think you should follow the law in that respect. But I think you should also question the law and I think there should be, yeah, more public involvement in how laws are changed or decided”.

Duncan (male, 60) distinguished between different laws and their impact. While he thought that “you should definitely obey the law, if [breaking] that law could damage someone other than yourself”, there were circumstances where the impact may not be as acutely felt. “If you are just sitting in your living room smoking a joint [of marijuana] you are probably not going to go out and damage anyone else, so you are breaking the law, but in that case it’s not so important that you have done so”.

There were a number of respondents who believed that, while in general people should obey the law, there were circumstances when it was justifiable to break it. Gillian (female, 46) believed that “it depends what the law is [...] I think some laws are ridiculous”. Donald (male, 49) felt that overall people should obey the law, “but then again I would say certain circumstances then I think you have a duty as a citizen to ensure that justice prevails and if a law is unjust then I think you have got a duty as a citizen to make sure that law is removed”. Julie (female, 20) believed that “there are some laws that are wrong, that are not just [...] like for example, people who protested at the Arms Fair and got arrested for it, they are protesting against people being tortured and murdered horribly, and yeah, they were doing aggravated trespass and that is illegal, but it is not wrong”. Phillip (male, 61) believed on moral and religious grounds there were instances when it was acceptable to break the law. “Being a Christian”, he believed, “sometimes disobedience is intrinsic to the Christian traditions, so generally speaking yes [to obeying the law], but not 100 per cent”.

Janet (female, 47) agreed that in general, people should obey the law. However she thought it was justifiable to break it in some circumstances:

I have sympathy with people who break the law in things such as cutting the fence to get into a nuclear establishment. I would support them absolutely because if that is how you get your voice heard in some situations, it is reasonable. However I would not support somebody who, say, does 40 miles an hour in a 30 mile zone, or [someone who] talks on their mobile phone while driving a car because while that might appear quite a minor thing it is actually dangerous.

Similarly, Louise (female, 20), believed that “it depends on the law”. Some laws “aren’t right”, she added, including the “new laws that have been introduced to really undermine or stop and prevent protest. I think that is unlawful really even though it is law”. Claire (female, 50s) responded “I’m sorry, but I am not going to obey if something is against my conscience or belief”.

In terms of citizenship, interviewees seemed to be content to obey the authority of the state. They believed that while citizens are independent and responsible for their actions, the state should encourage the interdependence of citizens and provide appropriate support to engender co-operation and civic engagement. In general, interviewees believed one should not lie when dealing with state officials. Even though some expressed support for those protesting against what they deemed unjust laws, most agreed that laws should be obeyed, unless there was a moral reason not to do so.

5. Prisoners and Voting

The subject of prisoner voting has been a matter of some controversy in the United Kingdom over the last decade. The issue has not yet been settled, and the UK government still has an outstanding judgment from the European Court of Human Rights which ruled that the blanket ban on sentenced prisoners voting contravened the European Convention on Human Rights (see *Hirst v the United Kingdom (No 2)* [2005] ECHR 681).⁵ The majority of discussions around prisoners and the vote in the United Kingdom have revolved around issues of parliamentary sovereignty and European ‘interference’ in domestic legislation (see Behan, 2014: 44-59). The court’s decision prompted the Prime Minister, David Cameron to declare that “It makes me physically ill even to contemplate having to give the vote to anyone who is in prison” (Hansard, 2010). The House of Commons voted to reject the European Court of Human Rights’ judgment (Hansard, 2011) citing among other reasons, that removal of the vote should be part of a prisoner’s sentence, the European Court of Human Rights had no jurisdiction on the matter and it should be left to the “democratically elected lawmakers” in the United Kingdom parliament to decide the issue.

In 2010, a poll found that 76% of respondents thought that prisoners should not be allowed to vote. Only 17% believed that they should retain the right to vote (YouGov/The Sun, 2010). For the What is Justice? research project, interviewees were asked whether they believed that prisoners ought to be given the right to vote and then probed for the reasons behind their decision. Fifteen respondents believed that prisoners should be given the right to vote, seven felt they should be denied access to the franchise, two believed it should depend on the crime, with one “don’t know”. Those in favour believed it would send a symbolic message of inclusion to prisoners, encouraging them to participate in society, and that voting might be used as part of a ‘normalising’ framework while in prison. Those who opposed allowing prisoners to vote did so because they believed that it should be part of their punishment. This echoed the sentiment from the elected parliamentarians in the House of Commons debates: if someone breaks the law they should not have a say in how the law is made.

Julie (female, 20) began by saying that she didn’t “really know, it’s one of those things I don’t really have a particularly strong opinion about. I don’t really mind if they do vote, I don’t feel particularly strongly that they shouldn’t vote”. However, with “the rates of voting so incredibly low, it wouldn’t be a bad thing to have more people voting and they are still people, they are still humans and they are still members of our society”. After some elaboration she professed: “I think every member of our society has the right to vote and I think they are still members of our society if they are in prison”. She continued:

5 For the most recent update on prisoner voting please see House of Commons Library, 2016.

I think it's probably seen by people as a punishment like: 'we won't let them vote, that is an extra part of their punishment', but I don't think it would be perceived by prisoners necessarily as a punishment. I think it's probably just like an extra way in which they're disenfranchised from our society, when most of them are in groups that are disenfranchised from our society already and maybe it would be a good thing for them to have a vote. Maybe that would make it more likely that when they come out, they feel a part of what is going on, if they kind of voted in the government that is in [power] when they come out.

For Veronica (female, 33), taking away the opportunity to vote for prisoners "is just saying we don't care about you at all, we will just forget about you". Stephen (male, 20) believed that it should depend on the length of the sentence. If somebody was sentenced for three months, then as they will be back out again relatively soon, they should be allowed to retain their vote. However, "I would say if the general time was over four years then they should not be allowed to vote". For Claire (female, 50s), it depends on the crime. She believed that prisoner voting was the "most important question" in the survey. "I think this question and the answer is quite complex, it depends what happened. I think it's not just if somebody broke the law in just tiny little things". Duncan (male, 60) believed it depended on the crime. "Someone who has committed assault or burglary or drugs or something like that, then in the grand scheme of things that is a fairly low level crime [...] compared to someone who is sort of a child molester or a triple murderer, then obviously it would be a lot more difficult to justify giving them sort of a right back, but I do think it's a basic human right to be involved with the democratic process". He believed that those who are on shorter sentences or within one year of release should have the right to vote, and suggested that it might be useful to have an MP specifically to represent the interests of prisoners:

Perhaps the solution would be to create a position, to have all people in prison vote on who they would like to represent them [...] It's a very interesting, tricky scenario [...] I think it's too emotional an issue to really discuss in the media like it is. I think it needs to be looked at a lot more, like it has been in the European courts.

Mark (male, 61) professed that he felt "very strongly" that prisoners should be given the vote. "Yeah, I would think they ought to be allowed to vote, yes". Anthony (male, 57) admitted that he "gave this a long and hard thought when the European Court decided that we should". He discussed the widening of the franchise and linked it to the Reform Acts of the 19th century and concluded: "Bearing in mind that most of the population don't vote anyway I can see no reason why they shouldn't be allowed to vote". Janet (female, 47) argued strongly in favour of prisoners voting:

I think they should have a right to vote. Prisoners are a part of our society whether, well, whether the society likes it or not. Just because we have locked them away it does not mean they are no longer part of our society [...] They have a stake in what happens with society and it is a bit like if you treat a child as a child it will behave like a child. If you treat a child like an adult it will behave like an adult. So if you treat prisoners as if they have a role in society, I think they are actually far more likely to come out and feel they have obligations to society.

For Phillip (male, 61), it was simple: "Prisoners should be given the right to vote. How on earth are you going to help people back into society unless you encourage them to be citizens?"

Some interviewees were keen to deny the franchise to prisoners. Joanna (female, 32) felt that denying the vote to prisoners could act as a learning exercise. They should "absolutely not" be allowed to vote because there "has to be a line". While arguing in favour of support such as counselling while in prison, she said, "at the end of the day, they are in there because they have been taken out of society and their civil rights therefore are reduced [...] Why should they vote? If they want to vote they will learn to do that next time, when they are out". Donald (male, 49) agreed that prisoners should not be allowed to vote: "If you have broken the rules of society then this is about restriction of your liberty and I think democratic expression is a fundamental part of liberty and if you are not restricting people's liberty, where is the punishment?" Camilla (female, 21) went further, arguing that there was justification for denying former prisoners the right to vote:

Because they've disobeyed the country and I think it would be quite ludicrous for them to then have the right to vote and the right to have a say in what happens. You can't expect things from a country where you haven't served the country well and a lot of the things you are voting for would be actually applied to them...

It's their fault that they are in prison, they shouldn't be able to have any influence in what happens to them. Yeah I don't think if you have ever been in prison. I don't think you should have the right to vote but then if you have been found guilty obviously I don't think you should have the right to vote... Even afterwards.

Tina (female, 21) agreed that prisoners should be denied the right to vote. After having served their sentence they should get the vote restored, "but not necessarily immediately after they have been released, but a specific amount of time after and

obviously I can't, I don't know the amount of time it would be [...] So by maybe postponing their right to vote as being part of the kind of conditions of breaking the law. The law is in place to protect society and having a short term revocation of that right to vote is a punishment. But having it indefinite, I don't think is proportionate to the crime".

George (male, 64) was initially conflicted about the issue, admitting that "I'm not sure they should really [...] [because] we have situations whereby the victims of crime end up really much worse off than the perpetrators sometimes and so I mean voting is just one example. I guess there's other things one could think of". He continued:

God, I'm going to sound like a right-wing wotsit now aren't I, really? But you could commit quite a nasty crime it seems and you go into a jail which I'm sure is hideous, I'm sure being locked up in a jail is absolutely hideous, I'm sure it is. But nonetheless you know you suddenly find these people have registered to do an OU [Open University] degree and all the rest of it, you know. Well, you know Mrs. Bloggs, who's got three kids and has paid her taxes and obeyed the law all her life, she can't get on to do a degree and something I think has to be done about that. I don't think that means you have to sort of beat prisoners and make them suffer, [...] but I do think that if you break the law then yeah, you do lose privileges, at least temporarily.

As the responses indicate, interviewees were divided on whether prisoners should have access to the vote. For some it reflected their belief that punishment should begin once incarceration commences and that losing the right to vote should be one of the collateral consequences of imprisonment. Others believed that those who are sent to prison for breaking the law, should not have the opportunity to decide on who will make the law. Conversely, those in favour of allowing prisoners to vote believed that prison should be the punishment and argued that allowing prisoners to vote would help maintain connections between prisoners and society. While prisoner voting has caused considerable political and media debate in the United Kingdom, with much of the discussion arguing against allowing prisoners access to the vote, the responses indicate that the matter is not settled amongst these interviewees, although the majority favoured allowing prisoners to the vote.

Conclusions

The What is Justice?: Local Justice and Participation research set out to produce a snapshot of how people (including those who may have broken the law and/or have been victims of crime) relate to the state and participate in deliberations about safety and justice. This research indicates that there is a high level of trust in criminal justice institutions, including the police, magistrates and the judiciary. While most argued that some lay involvement in these agencies enhances them, they believed that criminal justice processes - especially in the dispensing of justice - should be left to the professionals who currently undertake these tasks. Fears were expressed that wider participation by the general public could undermine the integrity of the criminal justice system. Whilst believing in citizen involvement, most people were hesitant about committing more time to greater participation in the criminal justice system. However, their responses generally in the section on citizenship reiterated their trust in criminal justice institutions.

The level of support for, or trust in, the position of the Police and Crime Commissioner was very low. The knowledge of the activities of the office was even lower. While they were created to bring more local democratic accountability to the police service, the lack of engagement from the public expressed in voting and general cynicism towards the position leaves challenges for policymakers and politicians in the future. The low level of voting should be of particular concern to those who promote the idea of Police and Crime Commissioners.

Opinion was divided on whether prisoners should be allowed the right to vote, a matter of some controversy in the United Kingdom. Some argued that giving prisoners the right to vote should be considered a human right and could encourage them to adopt a more pro-social identity, whilst others argued that it should be part of their punishment for breaking the law. Interestingly, two respondents believed that disenfranchisement should last for longer than just the prison sentence, which no major political party has adopted as a policy in the United Kingdom (as yet). Respondents indicated general respect for the law and they also saw prisoner voting as an issue within a broader citizenship agenda.

In conclusion, whilst undoubtedly changes and innovations are necessary in any criminal justice system, the deep lack of engagement with one of the most recent innovations - Police and Crime Commissioners - raises some challenges for politicians and policymakers. However, this research found broad support for public participation in, and local control over, the criminal justice system; at the same time, we also found high levels of trust. While critical of some aspects of the system, interviewees were content with the professionalism of the different criminal

justice institutions. However, there was a desire from many respondents to locate the criminal justice system in a wider context of social justice. This challenges all those involved in developing criminal justice policy and the constituent institutions to build a criminal justice system that continues to inspire the confidence of those it serves, and is based firmly on social justice. It seems that Tyler's contention that "the public is broadly and deeply dissatisfied with the law, the legal system, and legal authorities" (1996: 697) may not be entirely accurate when considered in the light of the criminal justice system in operation in England and Wales today. The What is Justice? research project has clearly indicated that members of the public care about both criminal justice and social justice and have often well-argued views about key debates within it. They may not agree, but they have really thought about many of the issues which formed the basis of our questions. If citizen participation were to be a more prominent part of criminal justice, it is likely to be careful, considered citizen participation.

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Appendix One

What is Justice? Survey

We are interested in people's thoughts about the criminal justice system (including courts, the police, prisons and probation) and how much of a say they would like in what these groups do and how much of a role ordinary people want to play in criminal justice.

Engagement with the Criminal Justice System

1: Do you think that members of the public ought to have a greater involvement in the CJS? How?

- 2: Are there any decisions which you think people ought not to be involved in? Why not?
3. Should local people be involved in local criminal justice (i.e. with the police/ local courts)?
- 4: How do you think members of the public can be encouraged to help more with the CJS? Probe for: civic duty; payment; legal requirement like jury service.
- 5: The CJS needs to make lots of decisions about whether or not to charge someone with an offence, if they ought to go to court or trial and what to do with them if they are found guilty.

In relation to the police charging someone with a specific offence, do you think members of the public ought to be involved in this decision at all?

In relation to deciding whether people should be prosecuted, that is, go to court, or whether they should not, which are decisions currently taken by the police and prosecution, do you think members of the public ought to be involved in this decision at all?

In relation to what should be done if people say they are guilty at court, or are found guilty after a trial, do you think ordinary people ought to be involved in deciding what sentence they should have?

Probe: why/why not? Any special groups encouraged/not allowed?

- 6: Imagine a situation in which someone had been found guilty of burglary and was now being sentenced. Would it be right for burglary victims (not necessarily the burglar's own victims) to help the judge decide on their punishment? How do you feel about the burglar's 'own victim' helping to decide on their punishment? Why/why not? Who else might be asked about the sentence?

- 7: Do you see a role for those people who have been found guilty of offences in the past helping the justice system? What roles would they be able to undertake? Any they ought not to do?
- 8: What do you think greater involvement of ordinary people will do to criminal justice in England & Wales? Do you think sentences would get longer or shorter? Why would that be?
- 9: Do you think that the CJS ought to ask local people to decide together how much we use, for example, prison, or the community penalties we impose? How would they do this?
- 10: Would you personally want to assist the CJS more? In what ways? Do you think other people would want to help?

Police and Crime Commissioners

Now I'd like to ask you about Police and Crime Commissioners. These are the people elected to make decisions about which services to provide in local areas.

- 1: Did you vote in the elections back in November for these? What motivated you to vote? If you didn't vote, why not?
- 2: Has the introduction of PCCs made the CJS more democratic? Might this change in the future? Is this a good or bad development?
- 3: Do you think that PCCs offer more opportunities for ordinary people to contribute to the running of the CJS? Do you think that this is a good thing? Why/why not?
- 4: Are you happy with the PCC in your area has done so far? Why/why not?
- 5: What do you think the role of PCCs should be?

The Role of the State

Some people say that PCCs change what ordinary people can expect from the state (i.e. government and administrative systems) in terms of safety and criminal justice [because they are elected and operate locally]. I'd now like to ask your some questions about this.

- 1: What sorts of things do you think the state ought to do to deliver safety and justice?
- 2: What do terms like 'safety' and 'justice' mean to you?

Citizenship

Finally we are interested in some of your wider opinions and beliefs. How strongly do you agree or disagree with the following statements about being a citizen? If you feel strongly about these, say so.

Some people say...

1. People should not rely on the government, they should take responsibility for themselves
2. It does not really matter if you lie when dealing with state officials
3. People should obey the law.

Prisoners and Voting

Do you think that prisoners ought to be given the right to vote? Why? Why not?

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About the Howard League for Penal Reform

The Howard League for Penal Reform is a national charity working for less crime, safer communities and fewer people in prison. It is the oldest penal reform charity in the UK. It was established in 1866 and is named after John Howard, one of the first prison reformers.

We work with parliament and the media, with criminal justice professionals, students and members of the public, influencing debate and forcing through meaningful change to create safer communities.

We campaign on a wide range of issues including short term prison sentences, real work in prison, community sentences and youth justice.

Our legal team provides free, independent and confidential advice, assistance and representation on a wide range of issues to young people under 21 who are in prisons or secure children's homes and centres.

By becoming a member you will give us a bigger voice and give vital financial support to our work. We cannot achieve real and lasting change without your help. Please visit www.howardleague.org and join today.

About What is Justice? Re-imagining penal policy symposium

This paper was commissioned as part of the What is Justice? symposium in order to understand the public's understanding and appetite for direct involvement in the criminal justice system – be in as direct participants (eg jurors or magistrates); voters (eg in the Police and Crime Commissioner elections) or who should have the right to participate (ie prisoner voting).

The Howard League for Penal Reform is committed to developing an effective penal system which creates fewer victims of crime, has a diminished role for prison and creates a safer community for all. Through *What is justice? Re-imagining penal policy* we are seeking to develop innovative, credible and challenging ideas that build into models to change penal practice and outcomes. It is charged with generating the climate and the intellectual debate to act as the springboard to contest the conventional role of the penal system and ultimately promote a new, achievable paradigm that will deliver a reduced role for the penal system while maintaining public confidence, fewer victims of crime and safer communities. The symposium's challenge will be to develop an agenda for change that counters the current mores of penal populism.

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