



Early Career Academics Network Bulletin

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Introduction



This ECAN bulletin has been delayed a little so that we can incorporate some of the hints and suggestions about the direction of penal policy under the Coalition Government (see Dr Emma Wincup and Dr Andrew Millie's contributions). There have been some definite positives for the Howard League, not least Ken Clarke's statements about the role for work in prisons (see our news section) and the continued affirmation that there needs to be a reassessment of short prison sentences, but as ever we are cautious. This was reiterated for me in some of the early findings of our research into the reality of short prison sentences; most of the prison governors

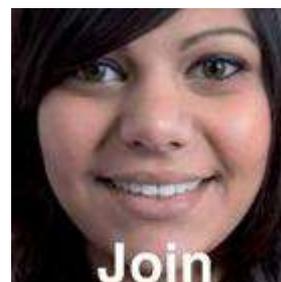
surveyed felt that policy on this issue would be driven by economic factors and political expediency (most frequently cited reason) rather than evidence from research (least cited).

On a less sceptical note, the words of Deputy Prime Minister, Nick Clegg regarding children have also cheered us, he told his conference:

Because I believe at times of great difficulty, great things can still be done. At times of great difficulty, great things must be done. Some say we've bitten off more than we can chew. I say there's no time to wait. We could wait to solve the welfare crisis, but every day people struggle to get back into work. We could wait to give our children a better start at school, but they only get the chance to grow up once. We could wait to reform our prisons, but every day offenders leave prison and go straight back to crime. ... Imagine how it will feel to say that our Government has taken action to cut reoffending, and cut crime, while stopping Labour's mass incarceration of children.

Likewise, I was also interested in the words of Lord McNally, the Liberal Democrat Minister of State for Justice's comment: "We have to win the argument that simply banging up more and more people and pushing them through the revolving door of the prison system is self-defeating – and expensive."

Hopefully the Howard League will be able to engage with the Coalition on these and a number of other issues over the coming months to affect real change so that we can see our core aims of "Less crime, safer communities, fewer people in prison" become a reality.



News



Children's Commissioner to speak at our AGM

We have just announced that Dr Maggie Atkinson, the Children's Commissioner for England will be the keynote speaker at our AGM on 24th November in Central London. [Book your place](#) to hear what she has to say about children in the penal system.

Howard League success! Turning prisoners into taxpayers

The Howard League for Penal Reform welcomed the Coalition's plans to turn prisoners into taxpayers by introducing real work to prisons. The charity has campaigned for this radical change for more than ten years, starting with the first research into prison workshops and running a prototype business inside Coldingley for three years.



Frances Crook, director of the Howard League for Penal Reform said, "We welcome this radical shift from the coalition government that will turn prisoners into tax payers. Bringing real work into prisons is the most important reform to the prison system in two centuries. Prisoners must pay tax which is the best way to support victims, families and for the first time, be asked to contribute to the common good. We must get prisoners to take responsibility for their actions and work is the best way to achieve this."

The Howard League will soon publish a new report following up what happened to those who worked in our [Barbed graphic design studio](#).

Abolition of the Youth Justice Board

It has just been announced that the Youth Justice Board will be abolished, with its responsibilities being devolved to the Ministry of Justice. Frances Crook, director of the Howard League for Penal Reform said, "The track record of the YJB has been pretty poor in that it has failed to protect children in custody, reduce the unnecessary use of custody and influence practitioner and public attitudes to children in conflict with the criminal law. However, the big question is whether transferring the responsibility for children back into the ministry of justice will improve the treatment of children.

"Instead of expanding the machinery to deal with children in the criminal justice system it would be both cheaper and more effective - providing enhanced public safety - if we raised the age of criminal responsibility to take children out to the criminal justice system altogether."

→ [Read more on Frances Crook's blog](#)

Overnight detention of children in police cells



The Howard League has appointed Dr Layla Skins to undertake the secondary analysis of statistics secured by the Howard League by a freedom of information request to each of the 43 police service areas in England and Wales. The analysis is due to be published before the end of the year.

→ [Further information](#)

Short Prison Sentences – emerging findings

The first information from the Howard League's research, in conjunction with the Prison Governors Association, into the reality of short prison sentences has just been published. The early findings from a survey of more than 200 prison governors, 96% of whom had experience of working with short sentence prisoners, revealed that:

- 81 per cent of all respondents disagreed or strongly disagreed with the statement 'short prison sentences serve to reform and rehabilitate the offender', with only six per cent of governors agreeing or strongly agreeing
- 59 per cent of all respondents disagreed or strongly disagreed when asked if short prison sentences serve to reduce crime (including by deterrence)
- Three quarters of all respondents (75.8 per cent) reported that they considered the current use of short prison sentences between zero and six months to be 'excessive'

→ [Download the initial report](#)

The next phase of the research is to survey stakeholders and the wider public. See page 28 of this bulletin for more information.

Access Denied

The Howard League has just released a report looking at access to justice for young adults in the penal system. It is a study of 25 young offenders' institutions and almost 300 requests for legal help. It found that 80% of those struggling to access legal advice are from black and ethnic minority backgrounds, and 9% are female – almost double the number in the overall prison population.

→ [Download the report](#)



2000 still slopping out

The National Council of Independent Monitoring Boards have recently released [a report](#) highlighting the fact that 2000 people are still slopping out in ten prisons across the prison estate despite the practice officially ending 14 years ago.

Commenting on this report Frances Crook said: “There are thousands of prisoners slopping out, with no access to water to wash their hands, contained in small shared cells with stinking buckets. They can’t get to drinking water for almost the whole weekend as prisons are pretty much shut down from midday Friday to Monday morning. Some prisoners are allowed out of cells for 15 minutes to use toilets, shower, collect water and fill a flask. When they run out of water, they run out of water. When they want to use the toilet, they have a plastic bucket or use of an electronic queuing system that allows them a few minutes to get to a lavatory.”

→ [Read more on Frances Crook’s blog](#)

Sentencing women to prison

The Howard League has just released figures showing that London magistrates are more likely than their counterparts in any other part of England and Wales to send women to prison. The analysis showed that in 2008, London magistrates sentenced only seven per cent of women to community sentences compared to Yorkshire courts at 13 per cent and South East courts at 12 per cent. The numbers of women sentenced to a year or less in prison varied from 892 women in London to 187 in the North East.

→ [Further information](#)



Features

The Coalition Government and Penal Policy

Dr Emma Wincup



Dr Emma Wincup looks at the Coalition partner's actions to date in relation to penal policy within the context of the General Election 2010.

The formation of the Coalition Government on Monday 11th May 2010 followed four days of anxious waiting. Once announced, anxiety about which parties would form the next Government were replaced with apprehension about

how the Conservatives and Liberal Democrats would work together in practice and reconcile existing differences on matters as diverse as electoral reform, the role of the European Union and the use of nuclear weapons. Whilst some aspects of the forthcoming social and public policy agenda were predictable; for example, cuts in public spending were seen as inevitability, the direction which criminal justice policy might take was far from certain.

A cursory glance of their respective manifestos reveals both shared concerns (for example, drug-related crime) and similar policy measures (for example, rapid deportation of foreign nationals upon their release from prison). At the same time there are significant differences; for example, in relation to the use of imprisonment with the Conservatives favouring the redevelopment of the prison estate and increasing capacity and the Liberal Democrats promising to cancel plans to build new prisons. This short article offers a brief analysis of each of the Coalition partner's actions to date in relation to penal policy. First it outlines the main challenges facing the penal system at the time of the 2010 General Election.

Whichever party assumed power in May 2010, it was evident that they would inherit a penal system beset with problems such as an ever-expanding prison population, high rates of reoffending and their associated social and economic costs. Crisis is an over-used word in the field of criminal justice but problems such as overcrowding in prisons, offender managers struggling to cope with ever-increasing caseloads and too few conceited offenders desisting from crime have the potential to lead to events with disturbing consequences. Perhaps unsurprisingly public confidence in the penal system was low. The problems appeared to be recalcitrant: the prison population had almost reached 85,000 by May 2010, despite ongoing falls in crime rates, the introduction of measures which allowed early release from prison and reform of community sentences. Similarly approximately two-fifths of adults who were released from prison or commenced a community order under probation supervision in the first three months of 2008 were reconvicted of an offence

within one year despite far-reaching reform of the structures, processes and approaches to managing offenders.

Soon after taking up his post of Secretary of State for Justice, Kenneth Clarke identified what he believed to be the major challenges he faced: the prison population was too high with prisons acting as costly 'warehouses' rather than effective places of punishment and rehabilitation, particularly for short-sentence prisoners. He dismissed the link between crime rates and the use of imprisonment, noting that the prison population had doubled in less than two decades despite significant decreases in crime. The cause of the rapid expansion in the use of custody, he proposed, was the use of tough rhetoric and the solution, he argued, was 'intelligent sentencing' which reserved imprisonment for those from whom society needs to be protected. His analysis is reminiscent of the thinking which underpinned the 1991 Criminal Justice Act which came into force at the time when he was Home Secretary. His analysis of the problems within the current penal system and proposed solutions may have attracted criticism from members of his own party (for example, Michael Howard), not least because they went against the grain of commitments outlined in the Conservative manifesto. However, they have been well-received in some unexpected quarters. The incoming Labour leader – Ed Miliband – praised his willingness to look for alternatives to short-term prison sentences in his first speech as leader to the Labour Party conference, and made explicit that this was not being 'soft on crime'.

In the current fiscal climate, it is likely that the direction of penal policy will be driven as much by the need to curb public spending as the pursuit of political ideology. In Kenneth Clarke's speech to the Centre for Crime and Justice Studies on 30th June 2010 there were repeated references to the acute financial crisis and the need to develop cost-effective solutions, although he is keen to dismiss the view that policy should be determined by the need to reduce public spending. The unprecedented scale of the planned budgets savings run the risk of exacerbating some of the problems facing the penal system and undermining good practice but they also have the potential to force policy-makers to consider more radical changes to the ways in which offenders are managed such as moving away from a reliance on imprisonment. In the same speech, Kenneth Clarke warned about the dangers of 'salami slicing' budgets and advocated the need to go back to 'first principles': punishing offenders, protecting the public and providing access to justice.

As I write, Kenneth Clarke has just announced at the 2010 Conservative Party conference his plans to introduce a 40-hour working week for prisoners. This policy was included in both the Conservative and Liberal Democrat manifestos, and perhaps somewhat ironically makes use of legislation introduced by Michael Howard in 1996. Whilst critics might accuse Kenneth Clarke of 'fiddling while Rome burns' or creating employment opportunities for prisoners at the expense of law-abiding citizens, it does provide evidence of fresh thinking on the use imprisonment through acknowledging both the rights and responsibilities of prisoners. It distances the Coalition government from the tough law and order rhetoric typically associated with the Conservative

Party but incorporates a sense of authoritarian populism which influenced the law and order policies in the Thatcher years through its emphasis on promoting the individual responsibility of prisoners. Similarly, other policy announcements have a familiar feel, drawing upon the economic neo-liberal principles which were influential in the 1980s. A Social Impact Bond pilot is already underway at Peterborough Prison which aims to promote rehabilitation by funding voluntary sector organisations to work with 3,000 adult male prisoners serving short-sentences. Investors will receive financial payments if there is a demonstrable reduction in reoffending of 7.5%. The 'payment-by-results' approach – again included in Conservative manifesto – borrows practice from other areas of social and public policy; for example, the provision of health care and welfare-to-work schemes. Whilst such schemes provide external finance to address social problems, there is a risk that projects might 'cherry pick' individuals, prioritising work with those most likely to lead to the desirable outcome for minimum cost.

Five months on and the Coalition's plans for penal reform inevitably remain in their infancy. Next month a Green Paper will be published which will open up a public consultation about rehabilitation. In the *Programme for Government* the Coalition made a somewhat grandiose claim to introduce a 'rehabilitation revolution' with especial emphasis on the use of the private and voluntary sector to reduce reoffending. The Green Paper will ask for feedback on sentencing reforms, informed by the full review of sentencing due for completion at the end of this month. This should provide a clearer indication of the strategic thinking underpinning the patchwork of policies which have been introduced to date but the Comprehensive Spending Review, expected to take place later this month, will be equally important.

This article is based in part on a conference presentation given in conjunction with Dr Catherine Appleton (University of Leeds) delivered in June 2010 at a conference organised by the Centre for Criminal Justice Studies at the University of Leeds entitled 'Aligning Research Agendas to the Challenges of Criminal Justice Policy and Practice'.

Emma Wincup is Deputy Director of the Centre for Criminal Justice Studies at the University of Leeds

“It’s time to move beyond the ASBO”: The Coalition and Anti-Social Behaviour

Dr Andrew Millie



Dr Andrew Millie looks at the Coalition’s rhetoric to deduce what their approach to anti-social behaviour might be.

On 28th July 2010, in a speech on anti-social behaviour, the Coalition Home Secretary Theresa May declared that, “It’s time to move beyond the ASBO”. In what appeared to be a radical departure from the (old) New Labour approach to anti-social behaviour, she went further in stating that, “For 13 years, politicians told us that the government had the answer; that the ASBO was the silver bullet that would cure all society’s ills. It wasn’t. Life is more complex than that.” Theresa May called for “a complete change in emphasis”. For a new government there are certainly political gains from being seen as different to the previous administration. In this short article I consider what the Coalition’s approach to anti-social behaviour (ASB) might be. There are some surprises in the rhetoric, but also some familiar Conservative themes.

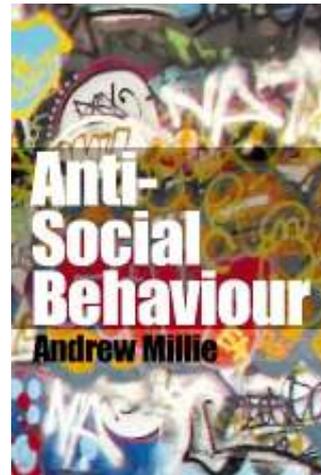
Tackling ASB was certainly an important part of New Labour’s approach to crime and disorder (see e.g. Squires, 2008; Burney, 2009; Millie, 2008; 2009a; 2009b). The previous Conservative administration under John Major had introduced the 1996 Housing Act – the first time ASB was mentioned in legislation – but New Labour had taken it *much* further. The most (in)famous measure was the Anti-Social Behaviour Order, or ASBO, introduced with the 1998 Crime and Disorder Act; but this was only the very public tip of a much larger iceberg of measures – and acronyms – including ABCs, ASBIs, DOs, DPPOs, FPNs, NANs, PNDs and POs. The New Labour government tried to coordinate these various responses centrally through various campaigns and taskforces including the Together Campaign 2002-2006, Respect Taskforce 2006-2007, Youth Taskforce 2007-2010 and ‘Tackling not Tolerating’ campaign 2009-2010 (Millie, 2009a; Millie, 2010).

Some of the language continues with Theresa May stating that “I believe it is time for us to stop tolerating [ASB]”. However, the top-down nature of the New Labour approach is seemingly being replaced by a local emphasis; as May has put it, “as with so much [New Labour] did, their top-down, bureaucratic, gimmick-laden approach just got in the way of the police, other professionals and the people themselves from taking action. ... the people who are closest to the problem need to be driving the solution”. For me this is good news. In a recent book on anti-social behaviour (Millie, 2009a) one of my recommendations was for a ‘bottom-up governance’ of ASB. Quoting Theresa May again, “The solution to your community’s problems will not come from officials sitting in the Home Office working on the latest national action plan”. It

is an approach that fits in with David Cameron's Big Society emphasizing a smaller state and bigger involvement at the local level:

... where people, in their everyday lives, in their homes, in their neighbourhoods, in their workplace don't always turn to officials, local authorities or central government for answers to the problems they face but instead feel both free and powerful enough to help themselves and their own communities (Cameron, 2010).

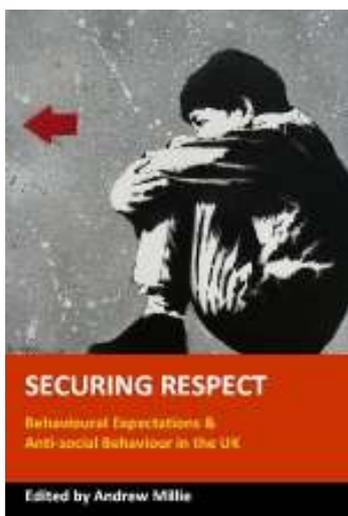
At a time of budgetary constraint, having less state involvement may also prove to be cheaper for the Government. However, I do not feel it will go far enough. The Conservatives have for a long time been attracted by 'underclass' thinking, and especially the work of Charles Murray (1990). It is a view that there are two categories of poor – the deserving and undeserving. The deserving poor are 'honest people' struggling on low incomes. According to Murray (1990: 5), the undeserving poor – or underclass – is "a subset of poor people who chronically live off mainstream society". For instance, according to Iain Duncan-Smith (now Secretary of State for Work and Pensions), there is a "creeping expansion of this underclass: the way 'decent' people are sucked into and governed by the 'code of the street'" (2008: 9). My fear is that the Coalition's Big Society project will be inclusive of those deemed to be 'decent', but exclusive of disempowered and marginalized others – and following underclass theory these others will tend to include working class youth, single parents and other groups deemed to be undeserving. It is similar to New Labour's emphasis on respect which created a neat divide between a respectful us, and a disrespectful them (Millie, 2009b). True bottom-up governance of ASB would be *inclusive* of those labelled as the underclass, the disrespectful and the anti-social other. The targets for Coalition policy on community engagement are more conventional; as Cameron (2010) has noted, "When I ... speak to council leaders, social entrepreneurs and local activists it's clear to me that there is a real hunger out there to do more". A truly *big* society would include all perspectives, would be characterized by mutual respect, and *more* tolerance of other ways of living rather than less. It would also challenge stereotypical views of 'others' (Mackenzie et al. 2010).



To return to ASB enforcement and the ASBO, Theresa May has promised a review of ASB powers and has suggested the need for, "Simpler sanctions, which are easier to obtain and to enforce, [and] will provide the police and practitioners with a firm hand to tackle the problem cases" (May, 2010). If it is "time to move beyond the ASBO", it is not time to move beyond strict enforcement; and making sanctions easier to obtain might not be all positive. However, May also suggests that:

Where possible, they should be rehabilitating and restorative, rather than criminalising and coercive. But where necessary, they should be tough and provide a real deterrent (2010).

There are grounds for optimism in the language used here. It is important that the *criminalising and coercive* nature of the ASBO is recognised. Furthermore, the talk of ASB policy being *rehabilitating and restorative* is almost revolutionary. Yet, this is still balanced by measures having to be *tough*.



What will follow a review of ASB powers is anyone's guess. However, there may be clues in the Conservative Election Manifesto (2010: 56) where a new Grounding Order was proposed as an 'instant sanction' curfew issued by the police to anti-social young people. The proposal seemed to be a cross between existing powers introduced by New Labour - the Fixed Penalty Notice, Dispersal Order and Local Child Curfew Scheme - despite the Child Curfew not proving popular or used by local authorities (Millie, 2010). The Grounding Order would fit the bill of being "easier to obtain and to enforce", but maybe less *rehabilitating and restorative*.

There are other Coalition plans for ASB, including partnership working, alcohol licensing and, of course, the plans to change how police forces are run with electable Police and Crime Commissioners. There are certainly interesting times ahead. The challenge for the Government will be to make their Big Society emphasis on the local truly inclusive of all perspectives, to make ASB policy *rehabilitating and restorative*, and not to get sucked into the trap of populism in talking tough, and acting tough. The longer the Coalition survives, the more tempting this may become.

References

Burney, E. (2009) 'Respect and the politics of behaviour', in A. Millie (ed.) *Securing Respect: Behavioural Expectations and Anti-Social Behaviour in the UK*, Bristol: Policy Press.

Cameron, D. (2010) *Big Society Speech*, 19 July, Available at: <http://www.number10.gov.uk/news/speeches-and-transcripts/2010/07/big-society-speech-53572>.

Conservatives (2010) *Invitation to Join the Government of Britain: The Conservative Manifesto 2010*, London: The Conservative Party.

Duncan-Smith, I. (2008) 'How can we mend a broken society?' in: G. Allen and I. Duncan-Smith (eds.) *Early Intervention: Good Parents, Great Kids, Better Citizens*, London: The Centre for Social Justice and The Smith Institute.

Mackenzie, S., Bannister, J., Flint, J., Parr, S., Millie, A. and Fleetwood, J. (2010) *The Drivers of Perceptions of Anti-Social Behaviour*, Home Office Research Report 34, London: Home Office.

May, T. (2010) 'Moving Beyond the ASBO', *speech at the Coin Street Community Centre in London*, 28 July, Available at:
<http://www.homeoffice.gov.uk/media-centre/speeches/beyond-the-asbo>.

Millie, A. (2010) 'Moral politics, moral decline and anti-social behaviour', *People, Place and Policy Online*, 4(1) 6-13.

Millie, A. (2009) *Anti-Social Behaviour*, Maidenhead: Open University Press.

Millie, A. (ed.) (2009) *Securing Respect: Behavioural Expectations and Anti-Social Behaviour in the UK*, Bristol: The Policy Press.

Millie, A. (2008) 'Anti-social behaviour, behavioural expectations and an urban aesthetic', *British Journal of Criminology*, 48(3) 379-394.

Murray, C. (1990) 'The British Underclass', *The Public Interest*, Vol. 99 (Spring), 4-28.

Squires, P. (2008) *ASBO Nation: The Criminalisation of Nuisance*, Bristol: Policy Press.

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→ [Further details about Andrew's books on "Anti-Social Behaviour" and "Securing Respect"](#)

Time for change: recommendations for a more positive future for ageing male prisoners

Dr Natalie Mann

Dr Natalie Mann looks at the causes and consequences of the ageing male prison population. She suggests that positive change can be achieved only if the new Coalition learn from the mistakes of the previous government.

This article is based on my PhD research (Mann, 2008), which used extensive in-depth interviews with prisoners aged 55 years and over, in order to examine the causes and consequences of the astonishing increase in the number of ageing men being sentenced to imprisonment over the last two decades. Due to a great change in the political arena we now find ourselves at somewhat of a crossroads, and what I propose throughout this article is that the new Coalition government learn from the mistakes of their predecessors and work to produce a legacy documented by positive change in the penal system.



The number of male prisoners aged 60 years and over more than trebled in the ten years from 1994 to 2004, making them the fastest growing population in prison (Personal correspondence with Home Office, 2004). However, my findings highlight how their very basic requirements, such as adequate healthcare, appropriate education and employment, and regime differentiation are continually being overlooked because of the principles and policies on which the prison service runs. Such policies have been accused of being ageist (Wahidin, 2000, 2005a, 2005b), however, I believe that such accusations credit those individuals involved in the design and implementation of such policies with far too much consciousness. In order for the prison service to implement ageist policies, they would need to have an understanding and an awareness of the needs and rights of older prisoners, and this is something they clearly do not have. These policies are not ageist, they are simply outdated, and because they are outdated they have very little grounding in modern day society and as such, they systematically overlook the needs of what has become the fastest growing section of the prison population.

The current pressures on the penal system in England and Wales are a culmination of a number of factors which have together created a huge strain on the system. The overall increase in the prison population has stretched resources to the limit and placed increased pressure on prison staff. In an environment where the day to day running of the prison is as challenging as it could possibly get, it is little wonder that there has been no voice given to older prisoners and no calls for the implementation of age specific schemes

and policies. Before we can successfully address the problems created by the absence of such policies, we must first identify and address the problem of prison overcrowding.

The New Labour Government was characterised by a 'tough crime policy' and, whilst a policy which seeks to address the crime problem is commendable, unfortunately for New Labour, their approach was an overly punitive one. At a time when there are more non-custodial forms of punishment available than at any other time in history, prison still remains the most common. Unfortunately, by attempting to give victims an increased sense of retribution, Labour's policy makers only added to the problems of the penal system.

This over reliance on custodial sentences, coupled with increased legislation served only to 'widen the net' (see Matravers & Hughes, 2003) and resulted in a 39.5% increase in the prison population under New Labour. The coalition Government now has the unenviable task of tackling this crisis in the prison population and, as director of the Prison Reform Trust, Juliet Lyon has stated, they will hopefully take 'the opportunity to break with the failed legacy of vacuous prison building and instead concentrate on what works in justice policy' (Guardian, 2010).

Initially, there needs to be an evaluation of the crime policies introduced by Labour in order to deduce whether their principal pieces of legislation, such as the Crime Sentences Act 1997 (see Morgan, 1997) and the Crime and Disorder Act 1998, have been successful in tackling the problem of crime and developing a more progressive policy (see Johnstone & Bottomley, 1998), or whether they were simply 'knee jerk' reactions to high profile cases and increasingly public disquiet.

There also needs to be a committed and highly publicised drive for the use of community based punishments. The general public need to be made more aware of the benefit these punishments have for both the offender and the community, in order to address the distorted view which is currently held, which seems to consider them as an 'easy option' for offenders. By addressing public opinion on this issue (Kennedy, 2004) sentencers will be under less pressure to enforce custodial sentences on those offenders whose crimes are not serious enough to warrant imprisonment (see Hough, Jacobson, Millie, 2003).



At present, the problem of prison overcrowding is starving the prison service of the vital resources it needs to carry out its role and fulfil its purpose. If this problem is addressed then much needed resources can be redirected back to those areas which have been neglected, and perhaps then the needs of the ageing prison population can at last be addressed.

Most importantly, there needs to be a policy level appreciation of the fact that older offenders are different, that they pose different problems and that they experience prison in a different way to their younger counterparts. With the inevitable increase in life expectancy, comes an inevitable increase in older offenders and, as such, national level age specific policies need to be implemented in the prison service. Such policies would safeguard the human rights of our older offenders and ensure that every prison establishment is adhering to a specific and appropriate set of guidelines, something many academics have long called for (see Rothman, Dunlop & Entzel, 2000; Wahidin, 2004; Crawley & Sparks, 2005).

Whilst the segregation of ageing prisoners, such as that seen in the USA and at HMP Norwich in the UK, benefits those few individuals which it aims to assist, there has been much opposition to this innovative solution to the problem of our greying prison population (see Prison Reform Trust, 2003), and such criticisms were highly evident amongst the prison officers in my study, as Officer [08] fervently highlights:

At the end of the day, the person who you've locked up for thirty years has been locked up because he killed somebody and that doesn't change just because they start pissing themselves...No one does knee jerk reactions like the prison service...how is it better? It's only better for that one individual...I can understand segregating for the sake of their safety but how far are we gonna break it down? Are we gonna have all Muslim units, all Jewish; in short, we'll have ghettos and isn't that what diversity tells us not to do?

It appears that far from providing the 'perfect' solution to the problem of ageing prisoners, age segregated housing within the prison estate can actually increase the problems experienced by this age group, as it encourages dependency, increases ageing and promotes a feeling of imminent death among its inhabitants. Many of the prisoners in my sample referred to such units as 'God's waiting room' and many were frightened about ending up in such a facility. The officers in my study had firsthand experience of the problems such units provide, as Officer [09] explains:



We had an old boy here a while ago, he came from Kingston, where he had been in an old persons unit and it had destroyed him. When he arrived here, he was very unsure about what to do because we said to him, 'You do it', whereas at Kingston, it's, 'You'll sit in that chair, you'll sing and clap when we say so', and it'd destroyed him, but over his time here, he actually developed back into a person who thought, and I think it can destroy people if they put them all together and treat them like oldies... In most older people, the body is frail but the brain isn't and that needs stimulating

In the light of such criticism, it seems unlikely that we will see the UK following in the footsteps of the USA in terms of the widespread introduction of such specialised facilities. However, if segregation is not the answer, then we need to look at ways of accommodating the needs of older prisoners within the mainstream prison population.

Within the US penal system, a number of prisons run age tailored programmes, which as Aday discusses, 'blend elements of education and ageing awareness, family bonding, health and end of life issues' (2006: 220). Such programmes address the specific needs of the ageing prisoners, whilst maintaining the benefits of their position within the wider population. In recent years, a number of prisons in the UK have begun to develop and implement age related initiatives and by taking a more inclusive approach to ageing prisoners, it is these establishment based schemes which are leading the way forward in the absence of any official policies.

Although none of the prisons in my research sample were running such initiatives, I was lucky enough to interview four men from the over 50's club at one such prison during the course of my MA research and I can confirm the difference this club made to their lives. All that was involved in the running of this club was one forward thinking member of staff, two afternoons a week, the rental of some old videos and one set of carpet bowls. However, the result was fifteen very grateful men whose shared sense of identity and belonging brought much relief to prison life. By immersing these ageing prisoners in nostalgia, by positively setting them apart from the mainstream population and by engaging them in appropriate light weight exercise, this twice weekly club addressed many of the extended pains of imprisonment and provided a good example of how much can be achieved by the implementation of minor changes.

If the prison service together with the government cannot solve the issue of prison overcrowding thus freeing up the resources needed to implement a national age specific policy, then it can at least make minor changes to existing policies so as to incorporate the needs and requirements of older prisoners into the daily running of every prison establishment. The new coalition Government has a clean slate from which to work and if they strive to move on from the obsessive use of imprisonment, a trend which New Labour began, then the future for all prisoners will be much more positive.

References

Aday, R., (2006) 'Managing the special needs of ageing prisoners in the United States', in A. Wahidin and M. Cain (eds) *Ageing, Crime and Society*, Devon: Willan Publishing.

Crawley, E., Sparks, R., (2005) 'Surviving the prison experience? Imprisonment and elderly men', *Prison Service Journal*, issue 160. Available from

<http://www.hmprisonservice.gov.uk/resourcecentre/prisonservicejournal/index.asp?id=3833,3124,11,3148,0,0> (Accessed 12th April 2006).

Guardian, 21st May 2010 'Coalition can break from failed justice policy'. Available from

<http://www.guardian.co.uk/commentisfree/2010/may/21/coalition-can-break-from-failed-justice-policy> (Accessed 22nd June 2010).

Hough, M., Jacobson, J., & Millie, A., (2003) 'The Decision To Imprison: Key Findings', London: Prison Reform Trust.

Johnstone, G., & Bottomley, K., (1998) 'Labour's Crime Policy in Context', *Policy Studies*, 19 (3/4), 173-185.

Kennedy, H., (2004) *Just Law*, Chatto & Windus, London.

Mann, N.R., (2008) 'Doing Harder Time? The Experiences of an Ageing Male Prison Population in England and Wales', Unpublished PhD thesis, Colchester: University of Essex.

Matravers, A., Hughes, G.V., (2003) 'Unprincipled sentencing? The policy approach to dangerous sex offenders' in M. Tonry (eds) *Confronting Crime: Crime control policy under New Labour*, Devon: Willan Publishing.

Morgan, R., (1997) 'Imprisonment: Current Concerns and a Brief History Since 1945', in M. Maguire, R. Morgan and R. Reiner (eds) *The Oxford Handbook of Criminology* (2nd Edition), Oxford: Oxford University Press.

Prison Reform Trust and The Centre for Policy on Ageing (2003) 'Growing Old in Prison: A Scoping Study on Older Prisoners', London: PRT.

Prison Reform Trust (2008) 'Doing Time: the experiences and needs of older people in prison'. Available from <http://www.prisonreformtrust.org.uk/temp/DoingspTime.pdf> (Accessed 16th January 2009).

Rothman, M.B., Dunlop, B.D, & Entzel, P., (2000) *Elders, Crime, and the Criminal Justice System: Myths, Perceptions and Reality in the 21st Century*, New York: Springer Publishing Company Inc.

Wahidin, A., (2000) 'Life behind the shadows: Women's experiences of prison in later life', In R. Horn and S. Warner, *Issues in Forensic Psychology, Positive Directions for Women in Secure Environments*, The British Psychological Society, 24-35.

Wahidin, A., (2004) *Older Women in the Criminal Justice System*, London: Jessica Kingsley Publishers.

Wahidin, A., (2005a) 'Older Women in the Criminal Justice System: A Timely Response'. Available from

http://66.249.93.104/search?q=cache:q0CrBeU2RxsJ:www.womeninprison.org.uk/index.php%3Foption%3Dcom_docman%26task%3Ddoc_download%26gid%3D8%26Itemid%3D78+wahidin,+azrini&hl=en&gl=uk&ct=clnk&cd=19
(Accessed 26th May 2006).

Wahidin, A., (2005b) 'We are a Significant Minority: Elderly Women in English Prisons' *British Journal of Criminology*. Available from <http://www.britisoccrim.org/volume6/001.pdf> (Accessed 7th February 2008).

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Sentencing Council consultation on sentencing for crimes of assault

Roz Campion



Roz Campion outlines the changes to the sentencing guidelines for those who have committed assault and calls for Submissions to the consultation.

On Wednesday 13 October, the Sentencing Council launched a twelve week public consultation proposing changes to the guidelines currently used by judges and magistrates to sentence those who have committed offences of assault. As well as amending the content of the existing guidelines, the draft guideline – which will be the first issued by the new Sentencing Council – also proposes significant changes to the way that guidelines are to be structured. The Council wanted to look afresh at the judicial decision-making process in order to create guidelines which set out a clear and accessible approach to sentences.

The Sentencing Council for England and Wales, chaired by Lord Justice Leveson, was set up by the Coroners and Justice Act 2009 and replaces the Sentencing Guidelines Council and the Sentencing Advisory Panel. Its aims are to promote greater transparency and consistency in sentencing whilst maintaining the independence of the judiciary. It is an independent, non-departmental public body of the Ministry of Justice whose primary role is to issue guidelines on sentencing which courts must follow unless it is in the interests of justice not to do so. As well as developing sentencing guidelines and monitoring their use, the Sentencing Council assesses the impact that guidelines have on sentencing practice. It aims to promote awareness amongst the public of the realities of sentencing, as well as to increase public confidence in sentencing and the criminal justice system.

The assault guideline will replace the existing guideline produced by the Sentencing Guidelines Council. This had prompted concerns among sentencers, who highlighted the difficulty of applying the current guideline – which has been divided into very specific descriptions of circumstances and harm caused – to the wide variety of cases which come before the courts. In producing this new guideline, the Sentencing Council has decided to go back to first principles in relation to the approach to crimes of violence, and has considered in particular how the structure of the draft guideline can aid sentencers as well as allowing the public to understand how and why a particular sentence has been given, and to see that sentences are appropriate to the seriousness of the offence. The principal aims are to promote greater consistency of sentencing, to ensure that offenders receive appropriate sentences which reflect their culpability and the harm caused, and to increase public confidence in both sentencing and the wider criminal justice system.

Lord Justice Leveson has said: “Our revisions set out a proposed guideline that means any offence of assault can be met with a proportionate sentence based on a consistent framework. I hope that it will be easily applied by

judges and readily understood by victims and others. We have tried to present the guidelines in a way that everyone can understand.”

The draft guideline covers a number of assault offences, which are characterised primarily by the infliction of some harm upon a victim by a direct action or the intention to inflict such harm.¹ These are as follows:

- Wounding or causing grievous bodily harm with intent to do grievous bodily harm – Offences against the Person Act 1861 (Section 18)
- Unlawful wounding / causing grievous bodily harm – Offences against the Person Act 1861 (section 20)
- Assault occasioning actual bodily harm – Offences against the Person Act 1861 (section 47)
- Assault with intent to resist arrest – Offences against the Person Act 1861 (section 38)
- Assault on a police constable in execution of his duty – Police Act 1996 (section 89)
- Common Assault – Criminal Justice Act 1988 (section 39)

The consultation paper seeks views on a number of proposed changes to the existing guidelines in relation to sentencing for the above offences, and more broadly on whether the proposed guideline is likely to achieve its aim of increasing clarity, transparency, and public confidence in the sentencing process.

One significant change is the new guideline structure proposed by the Sentencing Council in its draft guideline on assault, which is intended to be adopted in this and all future offence specific guidelines. It is hoped that this proposed structure, which incorporates individually tailored processes for each offence, will make it easier for sentencers, legal practitioners and victims to follow the sentencing process. The draft guideline also proposes changes relating to what is known as ‘the decision making process’. It sets out a new step-by-step process that sentencers can follow, and proposes a new method of determining the seriousness of an offence based on a comprehensive, but not exhaustive, list of aggravating and mitigating factors compiled specifically for each assault offence.



Views are also sought on a number of proposals in relation to the presence of starting points for offences. These define the point within given offence ranges from which a sentencer can begin calculating the provisional sentence. The draft guideline proposes to retain the use of starting points, but to remove the

¹ The CPS charging standard on offences against the person provides practical interpretations of statutory definitions.

assumption existing to date that the starting point and offence ranges apply only to first time offenders.

The consultation paper proposes that the availability of the existing sentences for the most serious offenders is maintained while ensuring that sentencing for less serious offences is proportionate and consults in particular on the use of non-custodial sentences for the less serious offences. The consultation also addresses further issues including: offence ranges, levels of discretion available to sentencers, and factors determining harm and culpability including premeditation, mental illness, and youth. Questions are also asked more widely around public confidence and accessibility and in particular the consideration that can be accorded to victims as a result of the revisions to the guideline.

The Sentencing Council would like to hear from both the public and from criminal justice professionals so that, following the consultation period, it can produce a definitive guideline informed by the views of everyone who has an interest in sentencing.

Submissions to the consultation can be made by email or post to the Sentencing Council any time between 13 October 2010 and 5 January 2011. All consultation documents can be found at www.sentencingcouncil.org.uk. A definitive guideline will be produced following the consultation, which will then be used in both the Crown Court and magistrates' courts.

Rosalind Champion is head of the Sentencing Council for England and Wales.

Member profile

Alex Robinson from the Bristol Law School, University of West England



Hello, I am Alex Robinson. I am originally from Preston but now live and study in Bristol. I have completed a Law degree at the University of the West of England (UWE) and achieved a 2:1. Whilst at UWE I studied the qualifying law degree core subjects, to supplement that I studied Environmental Law, completed a Dissertation titled Are the Social Security (ICA) Regulations 1976/409 and the Social Security Contribution and Benefits Act 1992 S.70 (3) compatible with Government rhetoric? I also studied Criminal Justice and Penology. I have just commenced the Bar Professional Training Course on a part-time basis at Bristol Law School.

I have been curious about the workings of the penal system since childhood, I will always remember sitting in the car with my father, driving past Preston prison and seeing visitors waiting outside the prison in broad view of anybody; I found that an incredibly undignified way of treating visitors, it seemed to criminalise innocent people. However, my interest in the penal system accelerated whilst I studied Penology and Criminal Justice in my final year. I found that there are so many problems with the penal system and I was shocked that these issues were often ignored and maligned to suit other agendas.

Academically, in April 2010 I entered an essay competition that the Howard League had organised for undergraduate students: Why Prisons Don't Work? It was judged by Eric Allison and I came second (you can see his comments and the essay [here](#)). The biggest challenge I had with the essay was keeping below the 1000 word-limit, I would relish the opportunity in the future to fully expand on the essay as I believe there is much more that could be added! My main research areas are the history of prisons and how they have developed over time, this also includes prison architecture. The interesting thing about our prison system is that many of the current Victorian prisons like Preston, Leeds and Manchester have virtually remained untouched internally throughout the previous centuries and retain some magnificent features of architectural and historical importance. Moreover, I am interested in and extremely concerned by the populist media coverage of the penal system and the pressure that they place on sentencers to hand out custodial sentences rather than explore community based sentences; I believe these are key to saving the taxpayer millions of pounds, ensuring that an offender has the opportunity to give something back to the community rather than stagnate in a prison cell, providing offenders with skills and training to help them find work and assisting them to change their life around. This means that there will be more benefits to society rather than damage.

I joined the Howard League's Early Career Academic Network because I would like the opportunity to enhance my knowledge of the prison system through liaising with the many experts that are fellow members of the group. I think this a fantastic network because it gives us the opportunity to provide support and advice to each other to aid our own research. I look forward to working with you all in the future.

First look

Doctoral research into imprisonment and masculine identity

Jennifer Sloan



Jennifer Sloan outlines the research questions and emerging findings for her Doctoral research, as well as sharing her personal experience of the time she spent doing fieldwork inside a category C prison.

My PhD is looking at the adult male prison experience, specifically the impact of incarceration on masculine identity. I became interested in this issue studying for my MA in International Criminology at the University of Sheffield during a module on violence and gender. This module led me to focus my dissertation on the topic of male rape in prisons with reference to the subject in South

Africa, the USA and England and Wales. Whilst considering this topic, the issue of masculinities and crime emerged with reference to the subject of prisons. I was especially interested in the general adult male prison experience as I felt the majority of research on prisons tended to focus upon distinct groups (such as women, long terms prisoners or young people in prison), as opposed to directly engaging with the issue that approximately 95% of the current prison population is male (according to the figures for the week of 27.8.10, HM Prison Service website).

Research questions

The research questions that my PhD research intends to address have two sections. The primary questions are:

- How do men experience prison (and prisoners) as men?
- What are the interpersonal relationships (both positive and negative) experienced by inmates (with inmates) in the prison setting?
- How do the relationships experienced between men affect their masculine identities?
- What difference does incarceration make to these relationships, and subsequently to the masculine identity?

And the secondary questions are:

- Can any of these positive relationships be harnessed to improve the prison experience and make it more constructive?
- How might an explicit focus on gender identity in a male prison inform understandings of masculinity more widely?

Fieldwork

I was granted access to a category C prison in order to undertake a period of research, during which I spent time interviewing (31 qualitative interviews with

prisoners, each lasting between 45 minutes and 1 hour 15 minutes) and observing (on the wings and in the prison as a whole whilst I did odd jobs to try to provide some immediate benefit for my presence). I questioned prisoners about their general experiences in prison and allowed them to elaborate on issues that they found to be most pertinent, in addition to asking them (at the end of the interview) a short selection of YES/NO questions and the collection of basic biographical data.

I then performed a pilot analysis on three transcripts according to four key themes that related to the research aims and the interview schedule:

1. Identity and Contexts;
2. Relationships in and out of prison;
3. Well-being and security; and
4. Time (positive/used versus negative/unused)

This was then followed by an analysis of the remaining data based upon the sub-themes that emerged from the pilot.

I was very fortunate in that I came across few obstacles when undertaking the research; I was granted access very quickly to an extremely helpful and supportive prison with a governor who showed a clear interest in my research, and prisoners who showed an interest in taking part and were keen to volunteer as they got to know me during my time in the prison. One of the key problems I found personally, however, was managing my gendered identity within such a masculine environment, and maintaining a sense of self and a positive mental attitude; I found spending protracted periods in the prison very wearing and stressful, and felt that I had to police my identity through my dress and behaviour in order to avoid being overly feminine. This policing was totally self-enforced and came from within based upon my personal perceptions of how I, as a prison researcher, 'ought' to be. This is a key problem for PhD researchers who generally work alone and lack the personal support that many academics working within a group can provide each other through shared experiences and de-briefing – what King describes as a *“large emotional burden”* shouldered by the lone researcher (2000: 300). I felt that I had to limit how much information I could share with others in any 'de-briefing' discussions in order to maintain the highest state of confidentiality (not really knowing how much I could or should say without endangering anyone's confidentiality – which comes with practice – and as a result, trying to say nothing at all). As such, the process of doing the research was very lonely and quite alienating with a high degree of emotional labour involved. In addition, it caused me to question my sense of self and my views on prisons and the prison system after spending time with so many polite and helpful men whose crimes were not clearly visible to the observer.



Emerging findings

Many interesting points are emerging from my analysis, not least regarding the impact of prisons on researchers, as well as the everyday positive and negative masculine identities of men in prison and the impact of these identities upon the different experiences within the prison setting, so watch this space for future findings!

References

King, R. D. (2000) 'Doing Research in Prisons' in King, R. D. and Wincup, E. (Eds.), *Doing Research on Crime and Justice*, Oxford and New York: Oxford University Press

Jennifer Sloan is a doctoral candidate in Criminology at the University of Sheffield, School of Law. She is a member of ECAN so can be found in the members' directory and through the Facebook group should you wish to contact her about her research.

Get involved

First ECAN event: Supermax

Just in case you have missed this, I would like to invite you to the first event aimed primarily at ECAN members.

The Howard League for Penal Reform and the School of Law Birkbeck College are hosting this special event with Dr Sharon Shalev of the Mannheim Centre at the London School of Economics. It is on Wednesday 10th November 2010, 18:30-20:30 at the Cinema, Birkbeck College, University of London, 43 Gordon Square, WC1H 0PD.

Sharon has kindly agreed to introduce key aspects of the American criminal justice system and some of the design and regime features of supermax prisons drawing on findings from her award winning book, *Supermax: controlling risk through solitary confinement*. This will be followed by the screening of exclusive extended excerpts from a documentary filmed inside two typical supermax prisons. It includes interviews with prison wardens, staff, mental health professionals, current and former prisoners, penal experts and the architect who designed both prisons.

Sharon Shalev is a human rights worker and a criminologist. She is a Fellow at the Mannheim Centre for Criminology at the LSE and an Associate of the International Centre for Prison Studies at King's College, London. She is the author of A Sourcebook on [Solitary Confinement](#), a practitioner's guide to the health effects of solitary confinement and to human rights and professional standards relating to its use. Her latest book, [Supermax: controlling risk through solitary confinement](#)



(Willan, 2009) has been awarded the British Society of Criminology's Book Prize for 2010. **Those attending the event will receive a special offer of 20% off the cover price of Sharon Shalev's book, *Supermax*.**

This is an invitee only event and there are just a few places left, so if you are interested please contact Victoria Brown [via email](#) or complete [the booking form](#) online.

Reality of short prison sentences: stakeholder surveys

The Howard League for Penal Reform and the Prison Governors' Association have commissioned a piece of research to look at short term prison sentences primarily from the perspective of those serving short sentences and those working in prisons. The focus of the study is adult men serving sentences of up to 12 months in prison in England and Wales.



However we are also interested in stakeholder views. This means you. We are just about to send this survey live and would really appreciate it if you would take the time to fill in the questionnaire. We are really keen to hear what the academic community has to say! We will send you direct notification that the survey is available, please let us hear what you think.

An analysis of the views of the academic community will be reported in a future edition of this bulletin.

Information about the research is [available here](#) or you can [contact Dr Julie Trebilcock](#), the academic leading the research directly.

ECAN Facebook Group



The Howard League for Penal Reform is active on [Facebook](#), [Twitter](#) and [Delicious](#). There is a special page dedicated to the Early Careers Academic Network that you can reach either by searching for us on facebook or by clicking on the button above.

We hope to use the Facebook site to generate discussions about current issues in the criminal justice system. We are currently seeking your views on the future of the probation service in England and Wales.

Also, if there are any topics that you would like to discuss, please start a discussion.

Guidelines for submissions

Style

Text should be readable and interesting. It should, as far as possible, be jargon-free, with minimal use of references. Of course, non-racist and non-sexist language is expected. References should be put at the end of the article. We reserve the right to edit where necessary.

Illustrations

We always welcome photographs, graphic or illustrations to accompany your article.

Authorship

Please append your name to the end of the article, together with your job description and any other relevant information (eg other voluntary roles, or publications etc).

Publication

Even where articles have been commissioned by the Howard League for Penal Reform, we cannot guarantee publication. An article may be held over until the next issue.

Format

Please send your submission by email to anita.dockley@howardleague.org.

Please note

Views expressed are those of the author and do not reflect Howard League for Penal Reform policy unless explicitly stated.