

Challenging Times

Clare Sparks and Matthew Taylor illuminate the contradictions within developing criminal justice policy.

A raft of legislative change and policy development since 1997 has changed the face of criminal justice, expanded its network of providers and altered the context in which its services are delivered. Many of the reforms have reflected those occurring more broadly in public services as part of the modernisation agenda. But this dramatic sweep of change has brought its own set of challenges. Over the last year IPPR's criminal justice forum has drawn together some leading thinkers in the field to identify and consider some of the key challenges facing the criminal justice system and its agencies. Here we highlight four of them: the increasing use of the criminal law as a sanction; the tension between 'tackling crime and tackling the causes of crime'; the move towards central control; and the increasing role of outsiders in criminal justice policy and practice.

Central to the whole debate is the increasing use of the criminal law as a sanction, rather than welfare

they have not yet attained the maturity to understand the full consequences of their actions nor the capacity to overcome malign external influences.

Linked to this reliance on criminal justice for addressing social problems is a tension which runs through New Labour's twin aims of 'tackling crime and tackling the causes of crime'. There continues to be a sense that in tackling crime, the government has undermined some of its own work on tackling the causes. The demonisation of 'jobs' contrasts vividly with the more rounded work on issues for young people from the Social Exclusion Unit.

There is a limit to what can be achieved through 'liberalism by stealth'. Encouragingly David Blunkett brings a strong social inclusion agenda and focus on education which can only benefit the prison and probation services. But for a really progressive criminal justice system to develop, the government must challenge punitive populism. A new approach to imprisonment, emphasising the damaging nature of custody and its use as a last resort, would be an

For a really progressive criminal justice system to develop, the government must challenge punitive populism.

or administrative options. Government shows little hesitation in creating new criminal offences.

Politicians, pressure groups and journalists, in the words of Andrew Ashworth, talk "as if the creation of a new criminal offence is the natural, or the only appropriate, response to a particular event or series of events giving rise to social concern".

There are now some 8,000 separate offences, 139 created in the 1999-2000 parliamentary session alone. But many of these could in fact be dealt with through other means. One option is the use of administrative sanctions for offences such as littering, graffiti, certain driving offences, minor criminal damage, minor assaults or vandalism. Alternatively, restorative justice initiatives could be used to divert cases from the criminal court. The social costs of criminalising behaviour unnecessarily are significant, and contradict the government's drive for social inclusion.

Of particular concern is the extension of the criminal law to offences committed by children as young as ten, bringing more young people into the damaging embrace of the criminal justice system. We believe that children of that age cannot be deemed fully responsible for their behaviour because

important move towards that.

The move towards central control has been part of New Labour's determination to create effective and efficient public services. The development of a highly centralised Youth Justice Board and National Probation Service reflects this, with New Labour taking control of two significant aspects of criminal justice which it perceived to be failing. But this approach has made it increasingly difficult for local criminal justice agencies to respond to the specific problems or needs of their area, despite the fact that local areas differ enormously. One senior police officer commented that "good policing is local policing" but his priority has to be the Best Value Performance Indicators and Key Performance Indicators on which any police force is judged.

There have also been particular tensions with another aim of the modernisation agenda - public consultation. Police and local authorities are required, in the *Crime and Disorder Act*, to consult local people about their priorities for their local area, but then are not able to respond if local priorities may clash with national ones.

There is undoubtedly an important role for central authority in establishing competencies and broad



Julie Grogan

Thanks to Paul Baker, the staff, Governor and inmates of HMP Wormwood Scrubs for allowing CCJS access to take the photographs in this issue.

national standards of service delivery or developing effective IT systems between criminal justice agencies for example. But decisions about direction and emphasis at local level should be made by those agencies who know the local context best.

Interestingly, alongside this move towards central control, there has been increased emphasis on the involvement of the voluntary sector, the private sector and also individual citizens in criminal justice. Government and criminal justice agencies alone cannot address crime effectively without a significant contribution from the public, from civil society and from the private sector.

The voluntary sector has played an important part in criminal justice practice and the development of policy for many years - we need only look at the range of services that the sector delivers in prisons. Individual citizens are key to the criminal justice system both as witnesses to crime and victims of crime, and also in specific roles such as jury members, lay magistrates and lay visitors to police stations and prisons. We are also increasingly aware

of the role that the private sector plays, through the involvement of the private security industry in policing and in the provision of private prisons. Private companies should also be encouraged to develop a responsibility to contribute to the prevention and detection of crime wherever possible - for example through 'designing out' crime from products.

The role of the individual citizen is also crucial. Their involvement in criminal justice processes improves the quality of decision making, contributes to transparency and accountability in the system, and can have a positive impact on public confidence. However, in the examples of public involvement which IPPR's Forum considered - in the lay magistracy and in policing - there was a lack of clarity between the differing roles of the lay person and the professional. We need to identify the skills and qualities that each person brings, the responsibilities that each should have, and where the appropriate limits of public involvement lie. In these cases, and our third example, witnesses, we found barriers to public involvement and a need to change the conditions in which citizens are being asked to contribute. We should encourage participation and value the contribution that the public make.

We have identified four of the strategic challenges that New Labour faces in its second term arising from themes developed in its first: how to halt the increasing criminalisation of behaviour; the balance between tackling crime and tackling the causes of crime; the tension between central control and local autonomy; and the role of the wider community in criminal justice. As a system for dealing with social problems, criminal justice is inherently damaging. For New Labour, the key choice is whether to proceed along the tightrope between criminal justice and welfare, or whether instead to stop liberalising by stealth and start pursuing an agenda for criminal justice based on crime prevention, social inclusion and problem solving.

The final report of IPPR's Criminal Justice Forum will be published in March 2001.

Matthew Taylor is the Director, and Clare Sparks is the Criminal Justice Research Fellow at IPPR, The Institute for Public Policy Research.

References:

- Ashworth, A. (2000), 'Is the Criminal Law a Lost Cause?' *Law Quarterly Review* vol. 116.
- Crawford A. (2000), *Public Matters: Public Involvement in the Criminal Justice System*, London: IPPR.
- Faulkner D. (2001), *Crime, State and Citizen*, Winchester: Waterside Press.