

Justice Matters: lifting the lid on Pandora's box

Will McMahon introduces this issue of *cjm*

The starting point of Justice Matters is simple: criminal justice is far too big; far too costly; far too intrusive. Far from being a means of delivering social justice, it is the cause of much social injustice. The large footprint in society occupied by the combined criminal justice institutions is profoundly socially harmful.

The criminal justice process inflicts unnecessary suffering on many thousands of suspects, defendants and convictees every year. This suffering is experienced very differently depending on your position in society: for instance whether you are young or old, black or white, male or female, rich or poor.

The collateral damage of the criminal justice process is also profound. A criminal record is a life sentence for many: an ongoing obstacle to participation in work and the wider community. Families and communities whose loved ones are arrested, prosecuted, imprisoned and supervised experience deep and lasting loss. Collateral damage is also found in the stress experienced by many victims, whose traumas and distress are often left unresolved, and in the dissatisfaction of witnesses, whose experience of the criminal justice process can be so negative.

Criminal justice also crowds out other, more innovative, just and effective policy and practice solutions to the problems our society faces. It is good at punishing certain individuals and groups. It fails to prevent social problems from arising, or to resolve those that occur.

To get involved in Justice Matters visit: www.crimeandjustice.org.uk/why-justice-matters

The charge sheet against criminal justice, as summed up in the box above, is long and varied. My starting point in this article is not to debate the truths of the charges (to us at the Centre for Crime and Justice Studies they seem accurate enough and form the basis of the Justice Matters initiative), but to discuss: what alternative state of affairs do we wish to arrive at and how might we get there? For the Justice Matters project this is where the complexities begin.

The articles that make up this themed issue of *cjm* focussing on 'Justice Matters' are part of addressing these complexities. Each of them discusses how we might get from where we are, a society of mass criminalisation, where criminal justice activity and language are almost ubiquitous, to where we might like to be, a society in which criminal justice processes are reduced to a residual manageable core or, some would argue, do not exist at all.

The articles do, however, ask more questions than offer answers, pose problems and are not neatly aligned because they offer different viewpoints and in doing so aim to engage the reader in discussion with the Centre about how we might meet task that confronts us.

In his article, **Richard Garside** describes Justice Matters as 'eclectic, dynamic and contradictory'; **Helen**

Mills and **Rebecca Roberts** describe the Justice Matters for Women project as 'lifting the lid on Pandora's box' while **Roger Grimshaw**, drawing on his and Rebecca Roberts' recent research for the Joseph Rowntree Foundation on poverty and institutional care (Grimshaw et al., 2014) questions a central orthodoxy of progressive social policy thinking: de-institutionalisation.

Charlotte Weinberg brings a different perspective to the discussion from the newly established Reclaim Justice Network – 'a network of collective action' – that is asking many of the same questions as Justice Matters but seeks to build an active campaigning network to galvanise local groups across the country to reclaim the notion of 'justice' and to generate alternatives to the systematic harms of criminalisation.

The Centre is very supportive of the Reclaim Justice Network (and has already learned much from it), assisting it with lift off in 2014, as we hope it will bring to the table the ground-up ideas that are essential for real social change; policy and practice thinking is all well and good but over the long run the yeast of mass and local participation is needed if any change is to be effected. They may be developing different route maps, but Justice Matters and the Reclaim Justice Network seem to be heading in the same general direction.

So, while not while not choosing to revel in uncertainty, there is much that is uncertain about the Justice Matters initiative. If you can live with this uncertainty we hope you will be able to join us in our journey over the next two years of rethinking the future of criminal justice in a society that has seen more than enough criminalisation in the last generation and precious little social justice.

With that combination of uncertainty and journey in mind the articles in this theme raise some central issues and questions that we may well meet on our way and I briefly consider some of them below.

'Just to think about it is difficult'

The key question is how do we find our way to a different set of arrangements? Weinberg writes 'Just to think about it is difficult', this might be because, as Mills and Roberts argue, 'criminal justice has been so firmly equated with a robust response to harm...this logic has entered the realm of common sense'.

What seems to be 'common sense' is more often than not the point at which we have arrived after a process of contestation – it represents not only a certain set of economic and political outcomes, but also the capacity of those who predominate, because they have the upper hand in the contest, to impress their own world view onto society as a whole and to make it seem 'common sense' and even a natural.

This 'common sense' can make thinking some things seem unthinkable (such ideas being critiqued as 'idealism') because it is sustained by the language and terms we use (Roberts, 2010), the myths that have been constructed (Roberts, 2011), the buildings we have built, the employment that people have and the actually existing material reality we experience on a day to day basis. The present weighs heavily on the mind when we are being asked to conceive of what might be another possible future.

An example of being able to conceive another possible future is Professor **Tim Hope's** recent piece which appeared on the Centre's website (included in this issue), suggesting that we should 'give up the police service, particularly the uniformed branch, and its officers' because 'there is no evidence that they are effective in any of the tasks and functions they set themselves to perform in society'. As well as Tim Hope, **Chris Stanley, Tracey McMahon, Ben Bowling, JM Moore** and **Jordan Beaumont** consider what functions of the criminal justice system they would dispense with. This is the kind of thinking that gets us well and truly out of the 'criminal justice box' and as a result has provoked some strong reactions – both positive and negative, roughly the sort of debate required if Justice Matters is to make progress.

It is worth bearing in mind that while 'common sense' thinking might seem intractable it is always historically situated and *not* immutable. For example, it is not so long ago that the unquestionable economic theory 'common sense' held that you did not offer banks or financial institutions a government bail-out as it presented a long run 'moral hazard'; this piece of 'common sense' thinking evaporated on the collapse of Lehman Brothers in 2008.

What about the problem population?

One central nexus in the language and common sense of criminal justice thinking is that, whatever judgement one makes of criminal justice processes, they deal with a problem population of 'offenders' who need to be 'rehabilitated'.

The idea of there being a 'problem population' is reframed by Grimshaw as a population with life time problems who face heightened risks of being brought into criminal justice, many of whom are 'needy and impoverished' (almost in passing: I was astonished to read that over a third of those in prison have some form of disability). Weinberg tells the tale of 'Sandra', a young woman who has harmed someone and has thereby broken the law, to make the point that beneath these two facts lie a complexity of trauma and a maladministration of justice that only serves to increase the totality of harm experienced rather than reduce it.

Neither general data nor individual case studies are meant to invoke special pleading but to ask the question: is the discipline and punishment of criminal justice the best we can do for those with issues of drug misuse, mental health problems, learning difficulties and deeply rooted trauma? Here, Grimshaw sketches the lightest of outlines of a new response that might involve a new architecture of community care based on 'a network of material institutions in which people who have few assets and resources can live, work and develop'.

If this population with problems were the only 'offenders' then their capture by criminal justice might have some validity, but what is known is that the vast majority of law breaking, serious and otherwise, goes undetected (Garside 2006; Karstedt and Farrall, 2007). For the most part, law breakers who have greater social, cultural and financial resources are very unlikely to find themselves having a brush with criminal law of any kind. Properly categorised, those processed and found guilty are 'the convicted', the 'offenders', the law breakers, being a very much larger group in society.

Having dropped into the world of criminal justice just about a decade ago, it has always struck me as very odd that, in the main, criminal justice processes the poor and the vulnerable, who are viewed as in need of 'treatment', better known as 'rehabilitation'. There is a very basic inequality at work here, based on who is most susceptible to capture: this questions the very notion of 'rehabilitation' through criminal justice (Carlen, 2012).

Who might ally with Justice Matters?

Even within the portals of the Centre we debate a number of different views about how we might meet the challenge of radically downsizing criminal justice and just how far our ambitions go – we discussed and debated with each other for years before reaching this point. In this sense, the opening Justice Matters statement is a wide umbrella under which we ourselves have gathered and are asking others to join us.

We are acutely aware that we do not have the monopoly of wisdom or a bank of ready-made answers and that any initiative that aims for a far reaching

transformation will need to build an alliance with a variety of partners. In short, Justice Matters has identified what it believes to be the shape of the problem and, in its first stage, seeks to collaborate with other organisations, communities of interest and individuals who share our broad assessment of what the problem is and who want to fashion policy and practice alternatives out of a dialogue between us.

This will take time and a process of clarification before real world momentum is achieved. One thing we are convinced of is that a real transformation can only happen if the Centre, with allies, is able to help to orchestrate it by basing it on the evidence and research we have accumulated since the turn of the century. Justice Matters does not sit in the territory of lobbying government with a series of prepared campaign demands (in time, that route may or may not be taken): it is more about creating a sustainable alliance, committed to fostering lasting and long term change.

The Justice Matters opening statement makes it clear that it will not 'seek to duplicate or compete with the current work' of the criminal justice reform sector while recognising 'that respect for human rights and the rule of law are fundamental features of a healthy society that is responsive to human dignity and needs.' It continues: 'however, the focus of the initiative will be to explore options to build policy and practice *alternatives* [my emphasis] to criminal justice, not enhancing the capacity of criminal justice agencies to address the needs of those convicted of offences. It is about rethinking the configuration of policy and practice – for instance in housing, education, health, social security and employment – *so that many current criminal justice responses are not required at all* [my emphasis]'.

My own interpretation of this aspect of the statement is that, while the Justice Matters initiative will attract a thin but committed layer of support from within the criminal justice sector, over time the majority of allies will be found beyond criminal justice. Among them are those who, in very broad terms, clearly recognise the harms of criminal justice, its inability to effectively deal with the mass harms of the society we live in and the essential inequalities that are embedded in the criminal justice process. These recognitions will just remain observations unless Justice Matters can engage with a broad range of partners in housing, education health, social security and employment, in thinking through a panoply of approaches that effectively re-centre government policy on non-criminal justice solutions.

As Mills and Roberts note, Justice Matters will need to develop a 'broad platform of alternatives' that are 'holistic and effective'. These alternatives will need to go beyond a desire to return back to the halcyon days of the post war settlement because, as Garside suggests, not only do welfare and criminal justice form a continuum of regulation and control but also because, in terms of budgets, 'the evidence for criminal justice displacement of social policy is far from clear'. However, I would comment here that the evidence for a qualitative and deep incision of criminal justice processes and thinking into critical junctures of social policy delivery over the

last generation is abundant and will take some unpicking.

It is at this point that Garside's view of what makes up what we think of as 'criminal justice' (a phrase he describes as a 'mystification') is in fact 'a loosely connected ensemble of institutions and agencies' that are 'diverse', 'distinct', 'discrete' and 'divergent' informs the type of alliance that might be constructed. If the loose connections are there to be pulled apart, and the expertise required to do so is mostly to be found outside criminal justice, this offers the possibility of a number of inter-connected initiatives that, properly articulated, can form, as he suggests, a 'programme of activity'. We acknowledge that not all of our partners will want to sign up to every activity, travel at the same speed or by any means travel the whole journey.

To me this looks like the beginnings of an outline of a strategy, which is all that is required at this point – with the proviso that we remain wary that the 'movement' does not become an end in itself, and the initiative does not become simply a series of dis-articulated reforms. With such a proviso in place, my view is that as we travel along, the final destination will become clear. In the topical and comment section, **Ross Fergusson** juxtaposes two pieces of coalition legislation that disclose the tensions and ambivalent motivations in both political parties that are driving the criminalisation of young people. **Peter Squires** offers an explanation of firearm licence fees and the public safety issues arising from private firearm ownership. **Charmian Werren** explores the benefits and drawbacks of an intelligence-led approach in policing concluding that it could be perceived as 'just another illegitimate method of imposing control'. **Jon Shute** and **Juanjo Medina** argue that the coalition is playing fast-and-loose with ontology and evidence in its flagship youth violence programme. Finally, **Joe Sims** remembers Professor Stuart Hall, who died recently. ■

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If you are interested in supporting the Justice Matters initiative then please visit: www.crimeandjustice.org.uk/why-justice-matters

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