The Crime and Disorder Bill currently going through the House contains a number of new sentencing initiatives. One of them, the reparation order, which we know is close to your heart, involves principles of restorative justice. What is restorative justice and how will this work as a sentence?

Keeping the Queen's peace

Charles Pollard talks to David Kidd-Hewitt.

David Kidd-Hewitt

Restorative justice really involves a completely different concept from our traditional criminal justice system. That is very adversarial, and victims in particular really have no part to play other than as givers of evidence. Nor does the community have any part to play because the system is about the State versus the offender.

Now restorative justice says: crime affects communities and it affects victims and they should have a part to play. The form of restorative justice we have developed in the Thames Valley is something we call community conferencing. This is getting together in a room, the offender with the offender's family and supporters, the victim or victims' family and supporters, key players in the community perhaps, and having a conference facilitated by carefully selected and trained police officers who manage what many people feel can be a very volatile discussion. These conferences are very, very powerful. They are powerful in three ways.

The idea is that the offender is confronted with what they have done by being brought face to face with the people they have harmed. That is a hugely powerful thing. There is nowhere for them to go. There is no defence lawyer giving lots of mitigation and trying to minimise the responsibility for what they have done. There's none of that. This is about coming face to face with the harm they have caused, and that has the impact of shaming the offender.

But what's important is that it is in private and is what we call reintegrative shaming which means that once that person has really understood the impact they have had on others they are very ready to really think about how they are going to change their behaviour in the future. They are ready to think about how they are going to repair the damage to the people they have harmed whether by compensation, certainly by apologising, maybe doing some work for them. These things happen regularly in restorative justice.

For the victims the fact that they actually have a part to play in the system, are there, can explain what happened, they can get it out of their system, they can meet the person who did it: all this actually has a very good effect. Victims realise very often that the person who has harmed them is not some ogre but another human being who has done something very silly. Their attitude towards crime probably changes as a result.

And finally the community members are there. They normally don't have any part to play, yet crime affects communities, it affects fear in communities, fear of people. They can indicate this to the offender. Again, they take away something about reducing fear in communities.

How do you decide which victims to approach and what type of offence is suitable for restorative justice?

We have only so far been using this approach predominantly with first and second time offenders and we are very careful about which offences; not all offences are going to be appropriate. In each case we look at the circumstances before we decide we are going to have a conference.

What sort of offences are appropriate?

Things like car crime, petty theft, shop theft, burglary. There have been some assaults, mostly at the lower level. We have had some cases which for various reasons have been more serious, and in each case the victim of the crime has the concept explained to them. Their involvement is purely voluntary. But a lot of them who initially are rather reticent, eventually do come to feel afterwards that this has been a very useful, helpful process.

Can it work the other way on occasion, where victims wish they hadn't been involved?

There have been occasions - but they are very rare, very rare indeed. I would say that probably two thirds think it has been a very valuable experience. There is a small number for whom it is neutral and there is a tiny number, perhaps one percent I would think, where they really feel they wish they had gone to court. But that also may be to do with that particular conference, the way it was handled. This is a very complex set of emotions we are dealing with and that's why our police officers have to be very carefully trained to deal with that.

Paying money back or giving back something they have stolen is just one aspect of reparation - as is a straight apology. The criminal justice system doesn't have a form of apology. It never requires people to apologise for their behaviour. But that's the first and most important part of reparation, when that person says, "Sorry, I am desperately sorry, I had no idea that what I was doing would have this impact and I can see what I have

"The criminal justice system doesn't have a form of apology. It never requires people to apologise for their behaviour. But that's the first and most important part of reparation."

"Our criminal justice system is pretty hopeless, frankly, in terms of having a strategy to stop re-offending, and I mean really hopeless."

done and all I can say is I am desperately sorry", and they mean it. That is a very important starting point for both the offender and for the victims who suddenly feel, well we are now moving forward in a sensible way.

A typical case I just came across the other day was one where there had been a series of burglaries in commercial premises in one of our towns by some sixteen, seventeen year olds. One part of the reparation for one of them was that they went and helped the owner to redecorate the premises which had been burgled. Several days helping to decorate; that's a very good form of reparation which is very meaningful for everybody.

You say apologies are meant - how do you know they mean it? Are there follow up studies to show that, as far as you know, they didn't offend again?

First of all I think if you are in a conference you feel it. Believe me, they are very powerful. It won't always work that well: there will be occasions where they'll say sorry but you can see they don't really mean it. Okay, that's a problem. This is not a perfect world, there will be people who are genuinely sorry at the time, but they then get back into their peer group and they'll forget about it.

It is too early to be certain that this technique will reduce re-offending, but all the evidence we have at the moment points very strongly to very significant reductions in re-offending.

I am still puzzled here Who are 'the community' in the sense that you want to be able to bring them in? Who decides who they are?

Well, we're developing that. For example, if the case involved an arson, you would have someone from the local fire and rescue service to represent how the community would feel about it.

Another example would be where you have a burglary. You have got the person who has been burgled, but Mrs Smith who lives in the next street is going to hear there has been a burglary in the neighbourhood or maybe a series of burglaries and is going to be very worried, so you bring along Mrs. Smith as a secondary victim on behalf of the community. It could be a representative from the Parish Council, it could be the representative from the District Council.

What we would like to have is a situation where we have a whole range of volunteers, people who are trained to represent the community at these conferences. They will go and be able to talk just as a citizen about the concerns they have, the way they change their life-style as a consequence of crime. That's what we are now developing and it'll take a year or two before we get there properly.

Interesting, because there is the Mrs. Smith you would never want to represent the community and the Mrs. Smith you would. People who self-select in this way could be the worst people for such a representative role.

I think I'd have to say that there is an element of selection by us as to whether someone is suitable or not. And there has to be, because clearly you could get exactly the wrong person who will damage a conference and make it almost a counter-productive exercise, as opposed to something which is productive for everyone.

How does the restorative justice concept relate to the new proposal in the Bill for an action plan order?

At the moment, under the present regime, we are doing this instead of cautioning people.

This is a formal caution with first and second offenders, who haven't even been to court. But it is a caution done in a totally different way. The caution is a restorative conference, as a result of which there is a formal caution as one part of it.

Now under the proposed legislation, the concept of a caution changes to a reprimand and a final warning. And the key thing about that which the Home Secretary wants to introduce, and which I totally support, is the idea that in those particular final warnings (and I would also say the reprimand), it's not good enough just to issue what used to be considered a police caution: 'What you have done is silly, don't do it again' - a ten minute discussion. That's the time to really intervene properly.

The new approach is very much a 'caution plus' approach. It would be something which would probably include restorative justice but could include lots of other things to support the caution. So, if you have a young offender, why is that person offending? Is it a drugs habit? In which case, what about the drugs rehabilitation clinic, where he or she would be held to account for attending and to make sure he or she gets off drugs. Is it that there are problems at home? Is it that the father's a problem, the mother's struggling - desperately trying to help a child but needs some help to do it?

It's not just the caution, it's the add-ons which enable the reprimand and final warning to really mean something. If they offend again after that they'll go to the Youth Court and I think the Home Secretary has in mind there very much that the sentencing part of the Youth Court as opposed to the truth finding part of the Youth Court will be very inquisitorial and restorative in nature. It will not be like the current court, in which you have a young person, they have a lawyer, they don't say anything, they're just an observer, they don't actually have to have any interaction with anyone. The restorative approach will involve a discussion with all the parties to sort out what needs to be done. That could be quite similar to a community conference or it could be a discussion as a result of which there is then a proper community conference.

A reparation order by the court, as I understand it, will be a mandatory thing for the young person. I think it is very useful to have that as a backstop but reparation is most effective when it is voluntarily offered and given. All the evidence shows that there's an eighty to ninety per cent chance it'll happen, in that case, but only thirty to forty per cent if it's an order of the court.

I would like to explore the concept of anti-social behaviour referred to in the Bill. What is it? Is it easily definable and are the police confident in identifying and dealing with it?

I think this is a very important concept. It is not a new concept but what is new I think is the sense of the community and Government and the police that this is far more significant than it's always been seen to be.

I look back 32 years ago to when I was a police constable on the street. You had things called crimes, then you had something called disorder. In fact you spent most of your time dealing with disorder but it was more to do with seeing it as order maintenance, maintaining the Queen's peace. It wasn't seen in the context of people moving into a spiral of increasing crime, and this being the first point at which it should be addressed before they progress to assault or more serious crime.

The concept of nipping things in the bud at that stage, I think, is a hundred percent right and our criminal justice system has never really acknowledged this. Our criminal justice system is pretty hopeless, frankly, in terms of having a strategy to stop re-offending, and I mean really hopeless. If you analyse how crime is committed and why people commit crime, the single most significant thing you find out is that the time it is most easy to stop it is at the time it is about to start. Yet all our resources are poured in when it is far too late. That's just common sense. What's happening in the Crime and Disorder Bill is this emphasis on the earlier stages: this is absolutely fundamental and it's a very, very sensible change.

In terms of what anti-social behaviour consists of, is it clearly identifiable?

Anti-social behaviour which is criminal is very clearly defined now, by a whole range of laws about drunkenness on the street, about abusive or disorderly behaviour on the street. There are laws which define what that is in terms of breaching the peace and causing disquiet and anguish to other people.

I think there is another thing about disorderly behaviour which is very important with regard to restorative justice and that is this: that because there is a lot of it about, police will always deal with it but it's never been seen to be as high a priority as crime for two reasons. One is, just because people haven't quite seen its significance, that it leads to crime and you can see very strong linkages. The second reason is because in the past we were using the same criminal justice system tools to deal with it as crime, ie: you arrest someone, you've got a lot of paperwork to fill in at the police station, if they go to court you've got the bureaucracy and delays of the court process.

Now, I am a police officer on

the street, I see this behaviour. The incentive to go in firmly and effectively with low level disorder, antisocial behaviour, in terms of what I can actually do about it, isn't very great. I can just deal with it there and then, give a warning on the street, or I've got to arrest them and I'm into this huge thing, I'm off the streets for six hours filling in forms. So I really don't have the incentive. Now as soon as you move into restorative justice, or a simpler system, the police are going to be much clearer about dealing with that and arresting them.

My police officers know this is really powerful. The whole impact of this is that police officers will be far more effective at dealing with anti-social behaviour which is criminal at an early stage. They will intervene because they can see that these new approaches are far more effective at dealing with it once they've got them to the police station. I think that's going to help us nip crime in the bud much more than we have ever done before.

How does this relate to the concept and practice of zero tolerance? Is there a connection here?

It's a question of how you define zero tolerance. In terms of not tolerating disorderly behaviour, or minor infringements, this is absolutely right. Where, however, the concept of zero tolerance has been portrayed (from places like New York and one or two places in this country) as a very hard line approach, sweeping all the beggars and drunks off the street, arresting everyone, really hard policing, this is inconsistent with that. This is about firm, fair and sensible policing. It's not about quick reaction, quick-fix solutions, pure enforcement and punishment, it's about a much more constructive approach which, frankly, in the longer term or in the medium term or even the short term, is going to be far more effective.

You seem very positive now about these future policies of stepping in at an early stage - almost as if we are at a watershed for future sentencing possibilities. Have we reached a point when differences are really going to happen?

I'm very optimistic. There are two critical changes. One is the concept of nipping things in the bud and getting in early. I think these proposals are very good and I think they will be very successful. The second point is that, as well as stopping it early, we are now developing tools which will deal with that early behaviour very effectively rather than just through the old traditional adversarial systems which, frankly, I do not think serve society at all well.

So future policing strategies are clear and will be effective as far as you are concerned?

Well, we have a very clear aim for the Thames Valley Police which is to reduce crime, disorder and fear. We believe that, and it's because we have that longer term perspective about our job rather than just reacting to events as they happen, that crime is already falling very significantly in the Thames Valley, more significantly than in many other parts of the country. I am confident and determined that these other new tools are going to help us drive crime and disorder right down, much further in the future, with the help of our partner agencies and our communities. It's all about working together with probation, social services, education, health, district councils and magistrates. We all have a part to play together and we all link into the strategy. That's what's going to succeed.

■

***Charles Pollard** is Chief Constable of Thames Valley Police.*

Notes and queries

Peter Francis and **Penny Fraser** consider the main aspects of the Crime and Disorder Bill, currently passing through Parliament and in doing so answer your queries about its context, content and consequences.

What are the main provisions of the Crime and Disorder Bill?

Taken as a whole, the aim of the Crime and Disorder Bill is to address offending behaviour more effectively and to reduce crime in England, Wales and Scotland. In addition it is anticipated that it will 'produce significant savings to the criminal justice system', with anticipated further savings possible 'from less direct impacts of the provisions of the Bill on a wider range of public services' (Crime and Disorder Bill, 1997:ix). Specifically it is for an Act '*to make provision for preventing crime and disorder; to create racially-aggravated offences, and to abolish the rebuttable presumption that a child is doli incapax; to make changes to the criminal justice system; to make further provision for dealing with offenders; to make further provision with respect to remands and committals for trial and the release and recall of prisoners; to amend Chapter I of Part II of the Crime (Sentences) Act 1997 and to repeal Chapter I of part III of the Crime and Punishment (Scotland) Act 1997; to make amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of certain enactments; and for connected purpose*' (Crime and Disorder Bill, 1997: I). The structure of the Bill is as follows: Part I deals with the prevention of crime and disorder; Part II with the criminal law; Part III with the criminal justice system and Part IV with ways of dealing with offenders. The final section - Part V - details miscellaneous and

'The Bill contains a range of constructive proposals designed to reduce crime, improve youth justice services and reduce pressure on the prison system. These include the new statutory duty on local authorities to promote crime prevention, drug treatment and testing orders, stricter pre-trial time limits, youth offending teams and the National Youth Justice Board. However, the Bill also contains some retrogade measures, including the abolition of the doli incapax rule and wider court powers to lock up child offenders. Practitioners must work to build on the Bill's many positive features and to minimise the effects of its more regressive provisions.'

Paul Cavadino, Chair, The Penal Affairs Consortium

supplemental powers and provisions.

Well, that's all very well and good, but can you be a bit more specific about the structure and contents of the Bill?

Part I is entitled *Prevention of Crime and Disorder* and focuses upon measures aimed at dealing with those adults and young offenders involved in crime and disorder. Within this section are provisions for an *Anti-Social Behaviour Order* and a *Sex Offender Order*. Additionally this part of the Bill details the establishment of crime and disorder strategy groups and places a requirement on local authorities to be aware of the implications and consequences for crime and disorder in the exercise of their statutory function.

You mentioned an Anti-Social Behaviour Order. Precisely what is meant by this?

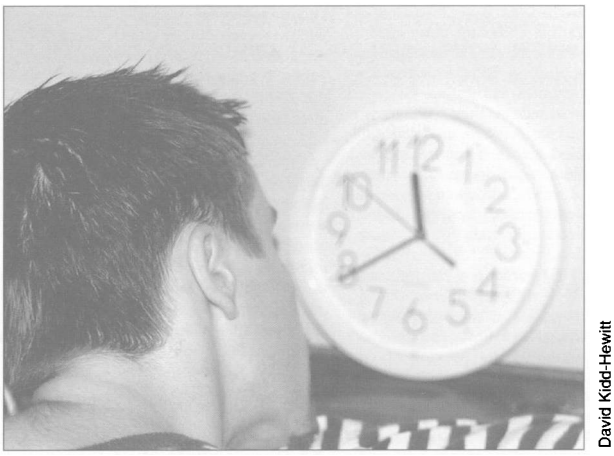
Included within the proposals detailed in Part I is an Anti-Social Behaviour Order allowing local authorities and the police to apply for an order prohibiting any person aged 10 or over from acting in an anti-social manner (... that is to say, 'in a manner that caused or was likely to cause harassment, alarm or distress to two or more persons' Crime and Disorder Bill 1997: I) over a given period (not less than two years).

And a Sex Offender Order?

This allows a Chief Officer of Police to protect the public from a convicted or cautioned sex offender by applying to the magistrates' court for a Sex Offender Order placing certain restrictions on them which, if broken, will mean that the person is guilty of a crime and liable to conviction, imprisonment and or a fine.

What about Curfew Orders - I've heard so much about them?

The final few pages of Part I focus upon youth crime and disorder and details ways in which they can be prevented. Local *Child Curfew Schemes* allow local authorities in consultation with the local community to impose a curfew notice prohibiting children of specific ages (e.g. under 10 years of age) from being in a specified public space unless in the company of a responsible adult over the age of 18, *Child Safety Orders* enable the magistrates' court to place a child under 10 years under the supervision of a responsible officer in the interests of care, protection and support where it is deemed they are, or are at risk of becoming, involved in anti-social behaviour.



David Kidd-Hewitt

Is any provision made for the parents of these children?

Yes. *Part I* also provides for *Parenting Orders* through which the parents of children imposed with a sex offender order, an anti-social behaviour order or a child safety order or convicted of an offence are instructed to attend guidance or counselling sessions and to comply with specific requirements. The aim of the order is to prevent repetition of the behaviour deserving of one of the orders above. The order may also be enforced where a child is not regularly attending school.

Could you also say a little about what is meant by Crime and Disorder Strategies?

As I indicated, *Part I* of the Bill details the establishment of crime and disorder strategies. Generally, this requires the police and local authorities together with partner agencies to produce 'a strategy for the reduction of crime and disorder in the area'. Auditing of crime and disorder in the area is a requirement, with implementation strategies and performance targets following on. The Home Secretary can require local areas to submit a report 'on such matters connected with the exercise of their functions' in this respect.

You mentioned changes to the criminal law. Could you expand on exactly what those changes are?

Part II of the Crime and Disorder Bill - entitled Criminal Law - focuses upon two areas: racial aggravation and the presumption of *doli incapax* (meaning incapable of harm). As regards the former, the Bill defines what is meant by 'racially aggravated' and creates new offences of racially aggravated assault, racially-aggravated public order offences and racially aggravated harassment. The Bill also abolishes the presumption of doli incapax for children aged between 10 and 14 years.

What about the criminal justice system? Are there specific measures proposed whose aim is to change the operation of the criminal justice system in general and the youth justice system specifically?

Part III (Criminal Justice System) of the Crime and Disorder Bill sets out the principal aims and provisions of youth justice. The principal aim of the youth justice system is to 'prevent offending by children and young persons', and the provision of appropriate youth justice services is seen as a duty of the local authority with the participation of other local agencies such as the police, probation and health. One of the requirements of the Bill is that these three agencies together with education and social services will be responsible for the creation of inter-agency Youth Offending Teams, and local authorities in consultation with the other agencies are to produce annual 'youth justice plans'.

Any other changes to the criminal justice system detailed within Part III of the Bill?

Yes. A new national board - the Youth Justice Board - will monitor the operation of the youth justice system, promoting good practice and setting national standards and advising the Home Secretary; a comprehensive range of statutory time limits will ensure the enforcement of measures aimed at tackling delays in young offender cases, paying particular attention to: arrest to first listing, first listing to start of trial, and conviction to sentence, *Part III* also details fast tracking arrangements for so called persistent young offenders; and allows youth courts to remit a person charged with an offence who attains the age of 18 to the Magistrates' Court. Related offences can be tried in the Crown Court and the Bill establishes a presumption against adjourning youth court cases solely on grounds that the accused is committed to the Crown Court in respect of a separate offence or because the accused is charged with another offence. A single JP will be able to exercise a number of powers of the Magistrates' Court; with the Lord Chancellor providing for powers to be exercised by justices' clerks; and the possibility of beyond first time and pre trial hearings where the offender is in custody to be conducted by means of a television link between the court and the prison.

What are those further provisions for dealing with offenders detailed in the quotation at the beginning of our discussion?

Such provisions can be found in the penultimate part of the Bill. *Part IV* - Dealing With Offenders - empowers the courts to impose a sentence on drug dependent offenders which includes an extended period of post-release supervision. Specifically *Part IV* provides for a new community order (reviewable monthly)

entitled the *Drug Treatment and Testing Order* for those aged 16 years and over who are dependent, including provision for drug treatment and testing. Offenders must indicate their willingness to be considered for an order of this kind before it can be imposed. With regard to sexual or violent offenders, section 46 provides for sentences to be extended for licence purposes.

What about dealing with young offenders?

Part IV of the Bill also details a number of provisions, the aim of which is the prevention and reduction of youth crime and disorder. The Bill details that the current cautioning system will be replaced by a system of *reprimands* and *warnings*; a warning being followed by referral to a Youth Offending Team for assessment and where appropriate future targeted provision aimed at reducing their re-offending. The Bill also states that a conditional discharge is inappropriate for young offenders convicted of an offence within two years of a warning being given.

I have heard much about restorative justice recently. Is there any provision within the Bill for this approach?

Yes. *Part IV* details *Reparation Orders* allowing offenders to repair the damage caused by their behaviour with their victim and or the community; the decision concerning the type of reparation is to be made in the light of written evidence to the court detailing the victim's views.

Anything else of interest in Part IV?

Part IV also details an *Action Plan Order* requiring a young offender to comply with an action plan made by the court (based upon written evidence) and aimed at addressing their offending behaviour. In addition, the provision of *Supervision Orders* are strengthened through the amendment of the Children and Young Person Act 1969 by: enabling reparation to be attached to the order and allowing courts to impose residence requirements on young persons whose residence arrangement contributed to their offending. Finally, a *Detention and Training Order* will allow a court to sentence a young offender to detention followed by a period of supervision. Only those under 15 deemed persistent however will be the subject of this order; as will only those under 12 years old where a custodial sentence is deemed necessary to protect the public. For those aged 10 and 11, the Home Secretary maintains discretionary power to introduce such an order.

The Detention and Training Order supercedes detention in a Young Offender Institution for those under 18; the offender must serve a period of detention and training in secure accommodation (secure training centre, young offender institution, local authority accommodation) as determined by the Home Secretary. Breach of supervision may be followed by being re-detained in secure accommodation.

What actually is meant by 'miscellaneous and supplemental'?

The final section of the Bill (Part V) details powers and provisions relating to remands and committals for young offenders and the recall of prisoners. With regard to the former the Bill makes provision for courts to remand particularly aged and vulnerable children to secure accommodation, while with regard to the latter, the Bill details that short term prisoners may be released on home detention licence (enforced by electronic tagging) for up to two months prior to their date of release; recall powers are to be transferred from the court to the parole board; and those recalled will be subject to supervision upon their subsequent release.

And precisely when will all this take place?

The Bill should receive royal assent during the summer of 1998. Following a period during which some of the measures will be piloted, the Bill's provisions will be implemented as the Crime and Disorder Act. ■

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The Crime and Disorder bill is available from the Stationery Office (London) priced £9.60. NACRO have also produced an excellent briefing paper on the Bill and its contents. Contact NACRO on Tel: 0171 582 6500.

In mid-February, as the Crime and Disorder Bill eased its way through parliamentary processes, the Home Office announced that the 1000th offender had been tagged in the current trial areas. Where the newspapers bothered to report it (Daily Telegraph 17.2.98.) it rated precisely one column inch. But Sections 82-83 of the Bill give us an early and an easy answer to the question of the future of tagging, and there is a good deal of frantic activity, in both the public and private sector, in consequence.

The magic bracelet

Dick Whitfield looks at the future of tagging.

The Bill enables prisoners to be released early providing they are electronically tagged and, since the proposals cover all sentences of more than three months and less than four years, it affects a huge swathe of the sentenced prison population. For the public, it offers (albeit for very short periods) the prospect of some extra protection during the crucial time after release; the Prison Service releases bed spaces before (it is hoped) the entire system reaches melt-down; and the Treasury smiles all the way to the bank with - at last - the prospect of some really cost-effective use of the new technology and a halt to the bottomless pit of expenditure on yet more prisons. Along the way, almost unnoticed, England and Wales will have the largest single electronic tagging scheme in the Western world. Is this then, simply, the face of the future?

It would be easy to think so. The original pilot areas to enable tagging to be used as a sentence of the court have been twice expanded, and so has the use to which it can be put - tagged adult offenders have now been joined by juveniles and will soon be by bailees; even fine defaulters (in proposals which seem to have been lifted

"England and Wales will have the largest single electronic tagging scheme in the Western world."

straight from the pages of 'Alice in Wonderland') have been invited to wear the magic bracelet. Nor is this a peculiarly English phenomenon. Sweden and the Netherlands have established schemes, Scotland starts a pilot project shortly, France and Belgium now have (admittedly, small) schemes in place and proposals for use are current in several other European nations, notably in Germany. Before we get too carried away with the seductive excitement of the new technology, however, it is worth separating out some of the strands of development - and asking some key questions about the likely impact.

The new proposals

The *home detention curfew* proposed in the new Bill will apply to an estimated 6000-7000 offenders. Those on the shortest sentences (3-12 months) will simply be subject to the curfew as a "stand-alone" order for a minimum of two weeks and a maximum of two months; those serving over 12 months up to 4 years will have a two month period on curfew before their period of supervised licence would otherwise have started. The curfew always starts at the point of first release - it is for a minimum of 9 hours per day but may be more and indeed the expectation is that a 'normal' order will be for 12 hours per day. The curfew period need not be continuous and may specify different periods on different days.

Not everyone will be eligible - deportees and previous escapees are automatically excluded and Prison Governors will only authorise early release on a Curfew Order where a satisfactory risk assessment has been completed. There are also a number of process problems concerned with the very short time scales (especially when time on remand is a factor) and with checking and finding "suitable" addresses and the responsibilities of the contractor which still have to be resolved. But "dry runs" are testing these out and there is a sense of urgency, imposed by the burgeoning prison population, which means that an early start in 1999 is most likely.

Just how much of a reduction in the prison population is achievable will, of course, depend on the proportion of eligible prisoners actually released by Governors - and on the recall rate for those who breach the conditions. Current estimates of 3000 are, I think, overcautious, for the curfew periods will be so short that, if experience elsewhere is any guide, successful short term completion will be high and confidence will soon grow. There is no doubt that post-release, or "back-end" tagging *can* work well and, by releasing prison beds, it offers the most cost effective way of exploiting the technology. This doesn't make it cheap, however - costs of £1900 per Curfew Order in the pilot projects could be expected to reduce somewhat once a national infrastructure was in place but economies of scale are finite; local follow-up and monitoring remains crucial.

"There is a sense of urgency, imposed by the burgeoning prison population, which means that an early start in 1999 is most likely."

The dangers

After a difficult and occasionally farcical start, tagging has had a relatively low-profile development phase. Numbers have been, proportionately, very small and neither contractors nor courts have been under pressure as a consequence. As an example, in the second year in the pilot courts, while 300 curfew orders were being made, the same courts passed 2800 prison sentences and 6200 community sentences. It remains a small scale option. How will those concerned cope with large numbers, short time scales and the inevitable pressures to maintain compliance? I think that the two current contractors, Securicor and Geografix, have worked well, and inspire real confidence but the history of schemes which expanded rapidly in the USA, often with untried contractors, should alert us to the potential dangers. Sooner or later, most schemes have to cope with serious offences committed by tagged offenders and public confidence can be fragile.

A more general point (and I admit to a personal interest, here) is how the costs are absorbed. A clearly targeted, tightly controlled scheme in Sweden *has* succeeded in bringing prison costs down. Elsewhere, all too often, prison costs either remained static or *increased*, because of higher than expected breach rates. The result, according to one commentator, was that "Probation..... was sucked dry" and that many useful community sentence resources simply disappeared. We need to ensure that the balance of expenditure remains sensible and sustainable.

We need, above all, to remain sceptical about tagging as the *all purpose* answer. When I first wrote about it in this Journal (CJM No. 20 Summer 1995) I quoted Anne Schmidt, one of the most respected researchers in this field, whose advice was "An emphasis on targeting - and being aware of the limitations of the equipment - should be built in from the beginning". The new phase of post-release tagging has a clear purpose in providing short term control in exchange for reduced prison places - and in cost-effectiveness terms this may be the best approach.

Tagging as a sentence of the court, either as a stand-alone option or in conjunction with other community penalties, has no such clear aims as yet. It has the capacity to escalate costs without providing clear benefits and in some cases its use as a fashionable appendage to another sentence ought to sound warning bells. Its use with juvenile offenders has not been properly thought through and its availability for cases of fine default (where we could solemnly incur costs of £900 to tag an offender for 2 weeks in place of a £200 fine) beggars belief. Rigorous monitoring and an open debate are needed now, and as usage expands, to ensure that the key questions can be answered. What impact does it have on offending and offenders? What impact on criminal justice costs generally, and prison populations in particular? What "added value" can we attribute to the tag itself?

What is certain is that the technology will become more sophisticated and irresistible, year on year. Less certain is our ability to use it well. ■

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