An aerial photograph of a city, likely in the United States, showing a dense residential area with many houses and trees. In the center of the city, there is a large, multi-story institutional building complex, possibly a prison or a government facility, with several interconnected buildings and a large parking lot. The sky is blue with some light clouds.

# PRISON SERVICE JOURNAL

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# Contents

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- 2 Editorial Comment**
- 3 The Changing Quality of Justice: the need for a clearer, more principled sense of direction**  
David Faulkner
- 9 Co-producing change: resettlement as a mutual enterprise**  
Beth Weaver and Dave Nicholson
- 17 'Be careful what you ask for': findings from the seminar series on the 'Third Sector in Criminal Justice'.**  
Dr Mary Corcoran
- 23 Ex-Prisoners Beyond the Gate: making a case for the development of community chaplaincy**  
Dr Philip Whitehead
- 27 Working on the inside: new approaches to increasing the employability of offenders**  
Chris Murray

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# November 2012

- 35** Perrie Lectures 2012  
**Rethinking prisons and the community**  
Peter Wright
- 42** Perrie Lectures 2012  
**Prisons: where DOESN'T the community come in?**  
Professor Nancy Loucks
- 51** Perrie Lectures 2012  
**What role should the victims of crime have in prisons?**  
Javed Khan
- 57** Book Review  
**Crime and economics: an introduction**  
Jamie Bennett
- 58** Book Review  
**Crime and punishment in contemporary Greece: international comparative perspectives**  
Jamie Bennett
- 59** **Interview: Dame Anne Owers**  
Jamie Bennett

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Cover photograph: aerial view of HMP Nottingham.

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The Editorial Board wishes to make clear that the views expressed by contributors are their own and do not necessarily reflect the official views or policies of the Prison Service.

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# Editorial Comment

There is a long-standing and proud history of collaboration between the Perrie Lectures and *Prison Service Journal*. The Lectures were established in 1986 and provide an opportunity for practitioners, academics and interest groups to come together in order to explore critical issues in prisons and criminal justice. In that respect, the Lectures and PSJ share aspirations and outlook.

This year the Lectures took the theme *Prisons: Where does the community come in?* This question invites consideration of a wide range of perspectives and issues. Which organisations do prisons and prisoners interact with and how can this be enhanced? How can relationships with families and communities flourish? What is the role of public accountability and scrutiny? How do prisons reflect and reinforce social structures including power and inequality? Such questions pick up the theme at practice, policy and academic levels.

This edition of *PSJ* contains the text of three of the lectures. The first is by Peter Wright, who discusses his work as Governor of HMP Nottingham. He has overseen the rebuilding and expansion of the prison and used this as an opportunity to strategically re-imagine the relationship between the prison and the community. This not only meant linking up with voluntary and statutory agencies but also having direct dialogue with members of the public. Importantly, he draws out the ways in which prisons reflect and reinforce power structures in society including inequality and discusses ways in which this might be thought about in a different way. The lectures by Nancy Louks, Chief Executive of Families Outside, and Javed Khan, Chief Executive of Victim Support explore the experiences of those who are not the direct subjects of imprisonment but are deeply affected by crime and criminal justice. Both argue for a more mindful and sensitive approach to developing practice and policy.

The Perrie Lectures Committee also presents an annual award to an individual who has made a significant contribution to the development of penal policy. This year the recipient was Dame Anne Owers, former Chief Inspector of Prisons. She is interviewed in this edition and discusses the purpose of inspection, the major challenges during her tenure, and the changes in prisons during that time.

The edition continues with other articles which are intended to contribute further to thinking about

the theme of the Perrie Lectures. The first is an article by David Faulkner, now at Oxford University but previously a senior Home Office official. In this, he critically discusses the limitations of contemporary criminal justice policy. In particular, he describes how a more punitive, emotive and populist set of policies have left gaps in effectiveness and fairness. He suggests alternative approaches to address these deficits and calls for a cooling of criminal justice policy making so that it is more rational.

Two articles discuss ways in which the voluntary sector engages with prisons. The first article by Beth Weaver and Dave Nicholson argues that co-operation between prisoners and the agencies they are working with is the most effective way of achieving change. This suggests that this should be encouraged through the setting up of mutuals or social co-operatives where prisoners, ex-prisoners and others have a direct stake in the organisations. The article draws upon international examples to make the case that this is both economically sustainable and provides an environment in which individuals can flourish. In contrast, Mary Corcoran explores some of the problems of third sector organisations working with the criminal justice system. These problems include that organisations become co-opted into state mechanisms and dilute or lose their distinctive philosophical edge. There is also a risk that in a larger market, smaller organisations become marginalised or absorbed by larger ones, or simply become a cheap option for service delivery. This article rightly highlights that whilst community involvement should be welcomed, this should not be done in a way that ignores the risks or the issues of power and diversity.

The edition closes with two specific examples of initiatives that link prisons and the community. Phillip Whitehead examines the development of community chaplaincy and Chris Murray looks at the employability of prisoners particularly as addressed through the work of a social enterprise. These provide discrete examples of the linkages between prisons and the community at the level of practice.

*Prison Service Journal* is proud to continue its relationship with the Perrie Lectures, not only in publishing the text of the lectures but also in picking up, exploring and responding to the issues and themes raised. It is in this mutually supportive dialogue that the relationship is at its best.

# The Changing Quality of Justice:

## the need for a clearer, more principled sense of direction

*David Faulkner CB is a Senior Research Fellow at the University of Oxford Centre for Criminological Research and worked for over 30 years at the Home Office.*

**This article considers the context and nature of the present debate about criminal justice in England and Wales, reviews the agenda which successive governments have followed over the last 30 years, and discusses a number of issues where the approach which government, and the country as a whole, chooses to adopt will affect the quality of British justice and even the nature of our society as a whole.**

### Context

The formation of the coalition government in May 2010 gave reasons to believe that the new administration recognised the frustrations which had beset criminal justice in England and Wales during the previous twenty years, was ready to learn from the experience of the past, and would begin to set course in a new direction. Early ministerial speeches and the green paper *Breaking the Cycle*<sup>1</sup> gave a new emphasis to rehabilitation, work in prisons and some reduction in the prison population. Some of that programme remains and the government is still committed to promoting restorative justice, but much has effectively been abandoned. The debate, for example in the consultation papers published in March, 2012<sup>2</sup>, is now more about devising new forms of punishment and promoting competition than it is about the underlying problems of crime, criminality and their effects.

Criminal justice has to be seen in a wider context in which social pressures, the economic downturn, and the policies of the coalition government have challenged long-held assumptions about what citizens can expect from government and their public services. Especially in England, people feel unsettled by uncertainty over the state of Britain's national finances, its social fabric (the so-called 'broken society'), its place in the world, and some would say its identity as a nation. The British Social Attitudes Survey shows that there is less sympathy for those who are disabled, disadvantaged or living in poverty. People find comfort in looking for enemies and scapegoats who can be

portrayed as threatening the hard working and law abiding majority and as different and less deserving. That reasoning applied especially to offenders but is often applied to those on benefits and foreigners as well. A new class structure may be appearing, with the poor, the disadvantaged and those who 'don't belong' at the bottom and subjected to the disdain of those who are more fortunate. The debate is often conducted in a language and in metaphors which portray complexity and uncertainty as if it were a simple conflict between 'good people' and 'bad people' in which 'good people' have to take sides<sup>3</sup>.

The anxieties, and sometimes behaviours, which prompt those attitudes are real and have to be taken seriously. But they need to be kept in perspective and to receive a sensitive but also considered and proportionate response. At such a time it is especially important that the process and institutions for dealing with crime and social conflict have the country's trust and are founded on firm principles of fairness and justice.

### Nature of the Debate

There is general agreement that improvement is still needed, but agreement dissolves when the discussion turns to specific measures. It is hard to reconcile demands for more rigorous enforcement of the law, longer sentences, more people in prison and less regard for offenders' rights with providing more help for offenders' rehabilitation, more and earlier social intervention, a greater emphasis on reconciliation and restoration, and fewer people in prison. People will often try to present the choice as a practical matter — which does more to protect the public? Or it may be a political calculation about which will attract more support. In some aspects the choice may reflect more fundamental differences in moral values, ethical standards and beliefs about human nature and human behaviour. Those who hold strong opposing views are not often prepared to change them, find it hard to communicate with one another, and rarely meet for any

1. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*, Cm 7972, London: Ministry of Justice.
2. Ministry of Justice (2012) *Punishment and Reform: Effective Probation Services and Punishment and Reform: Effective Community Sentences*, London: Ministry of Justice.
3. Canton, R. (2010) 'Not another medical model: Using metaphor and analogy to explore crime and criminal justice', *British Journal of Community Justice*, 8 (1): 40 – 57.

dialogue. But they need to respect each other's point of view, and it should be a mark of a civilised society that they should work together towards objectives on which they can both agree.

There are some areas where agreement may more easily be found than others. Few people oppose the rehabilitation of offenders, and most people have sympathy for children (apart from those who kill other children). There is evidence that, except for the most serious crimes of violence, victims are often more concerned that the offence should not be repeated than they are about the severity of the offender's punishment. Opposing views may be more easily reconciled locally than at national level. Progress might best be achieved by starting with those areas of agreement and working at local level.

### The Government's Agenda

Across government as a whole, the agenda for successive administrations has been one of improving efficiency and effectiveness, centralised direction and management, competition, outsourcing and now payment by results. Criminologists can connect it variously with 'late modernism'<sup>4</sup>, the 'new penology'<sup>5</sup>, 'new public management'<sup>6</sup>, or Rutherford's three 'strategies' — punitive, managerial and ethical<sup>7</sup>.

That agenda brought a necessary financial and managerial discipline, and important improvements were made, for example in the safety and humanity of prisons and through techniques such as neighbourhood policing and integrated offender management. But attempts to prevent and reduce crime and improve public confidence were overlaid by a separate and sometimes ideological agenda of modernisation and public service reform which raised their own issues and brought their own problems. The country lost sight of the more fundamental issues of what to do about crime, what is meant by justice, the nature and purpose of punishment, and what can be expected from the criminal justice system. It would be an interesting

research project to ask if the country is any more just, or fair, or safe, than it was 10, 20 or 30 years ago. The choice of the tests or metrics to be used would be as important as the answers, and rates of crime would be only one among others.

### Policy and the Use of Evidence

In a lecture at the London School of Economics, Sir Gus O'Donnell, the former Secretary of the Cabinet and Head of the Home Civil Service, has set out 'Ten Commandments for good policy making'<sup>8</sup>. They are

- Be clear about outcomes you want to achieve
- Evaluate policy as effectively as possible
- Do not assume that government has to solve every problem
- Do not rush to legislate
- Work effectively across departmental boundaries
- Honour the evidence and use it to make decisions
- Be clear about who is accountable for what and line up the powers and accountabilities
- Encourage frank internal debate
- Do not forget that is a privilege to serve

There is evidence that, except for the most serious crimes of violence, victims are often more concerned that the offence should not be repeated than they are about the severity of the offender's punishment.

### Keep a sense of proportion

Those commandments have been regularly broken, in criminal justice and elsewhere in government. Apart from their sometimes obsessive concern with statistics of reoffending, governments have been more concerned with impressions and the appearance of action than with substantive social outcomes. Policies have often been changed but rarely evaluated. Governments have tried to show that they have a solution to every problem and have responded by piling one new initiative on top of another. The flood of complex new criminal justice legislation and the proliferation of new criminal offences became a notorious feature of the Labour government after 1997, although the trend had begun before then.

4. Garland, D (1996) 'The Limits of the Sovereign State', *British Journal of Criminology*, 36: 445-70.

5. Feeley, M. and Simon, J. (1994) 'The New Penology: Notes on the Emerging Strategy of Corrections and its Implication'. *Criminology*, 30: 449-74.

6. Hood, C. (1991) 'A Public Management for All Seasons?', *Public Administration*, Vol 69, No 1, 3-19.

7. Rutherford, A. (1993) *Criminal Justice and the Pursuit of Decency*, Oxford: Oxford University Press.

8. <http://blogs.lse.ac.uk/politicsandpolicy/2012/05/01/retrospective-sir-gus-odonnell>

An extensive body of literature shows broad agreement that the processes of policy formation, legislation, management and implementation all need to be improved<sup>9</sup>.

The processes of policy formation, consultation and implementation should be more orderly and less febrile than they have been in the past. Despite years of talk and good intentions, better connections are still needed between the processes of policy making and the delivery of services on the ground. Change cannot be successfully achieved by imposing standard models or processes without engaging the people who will have to carry it out. It needs the active engagement of the workforce, and the consent and if possible the support of those who would be affected by it. That has not been conspicuous so far in any of the reforms of criminal justice.

There needs to be a stronger relationship of trust between ministers, public servants and the citizens they serve. Policy and legislation should be the outcome of open and responsive consultation which draws on experience and expertise from a range of relevant sources. Those who will be directly affected, especially those on whom the department will rely for delivery, should feel that they have been part of the process by which the policy has been formed, even if they do not agree with the outcome. The language should not be so obscure, or the issues made to appear so complicated, that only 'insiders' feel able to contribute. Consultation should not be left until the main decisions have been taken and the government is only interested in detail and the means of putting its intentions into effect.

Communities should feel that not only schools and hospitals but also the police, the courts, prisons and probation are 'their' institutions in which they can take some pride and towards which they have some responsibility.

The nature and relevance of the evidence which government needs to support a government policy varies according to the subject and the discipline involved. An important issue is the part which scientific evidence and understanding play in the work of the department, and especially the department's culture in looking for evidence, appreciating its significance and applying it to policy and practice. It should be an important part of the Chief Scientific Adviser's job to promote that culture and to encourage the relationships with universities, think

tanks and the private and voluntary sectors, in this country and abroad, that will enable it to flourish.

The evidence is significantly stronger, more widely accepted and more likely to be conclusive in medicine (for example) than it is in criminal justice. Government will sometimes be able to commission research which will settle an issue; sometimes the issues are too complex, or the study would be too expensive or take too long. Government may sometimes be able to rely on an expert committee to assemble evidence and give advice which it will normally accept; sometimes, and especially where the evidence is likely to be inconclusive or disbelieved, it will have to make a political judgement for which they take the relevant evidence into account but may not regard it as the determining factor. Ministers are entitled not to act on the evidence or the advice if they choose,

but they should then be ready to justify their decision to Parliament and ultimately to the electorate. Good practice would also expect them to give a reasoned explanation to those who have provided the advice. There is general agreement, not always observed in practice, that statistics and evidence from research should always be published and made publicly accessible, together with any expert advice that may be based on them.

The evidence is sometimes counter-intuitive and often inconclusive, especially if is based on small samples or pilot schemes. Ministers ask 'What causes crime?' or 'Will this work?' and the answer is often 'We don't know' or 'It depends'. It may be 'We can find out', but sometimes — though neither ministers nor criminologists would willingly admit it — the honest answer is 'There is no way of knowing for certain'. *The Evidence report* associated with the green paper *Breaking the Cycle* is a good example of what can be done.

### **Influencing Human Behaviour**

Experience and research have shown that the country should be more realistic about the limited effect which governments and the institutions and processes of criminal justice can have on the general level of crime. It should acknowledge the evidence that the fall in crime since the mid-1990s owed more to crime prevention, improved security, and social and economic circumstances than to the increase in the number of people in prison. Sentencing as a deterrent has only a

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9. For examples, see Faulkner, D. and Burnett, R (2011) *Where Next for Criminal Justice?*, Bristol: The Policy Press, Chapter 10.

limited effect. There is good support for the calculation in the Halliday Report<sup>10</sup> that it needs a 20 per cent rise in the prison population to bring a one per cent fall in crime.

The country should be more sensitive to the influences which affect criminal behaviour, and have a better understanding of the situations and motivations which lead people to commit crime, to stop committing it, or not to commit it in the first place. It should acknowledge that common assumptions about people's motivations and about incentives and deterrence are often mistaken. Crime and people who commit it, or are affected by it, should be seen in a wider context of their relationships and their social and economic situation, and criminal justice should be seen within a wider context of social policies and values. People, whoever they are, need material things — work, somewhere to live — and they also need supportive relationships and hope for the future.

More attention should be paid to the evidence on legitimacy and desistance — the reasons why people respect authority and obey the law<sup>11</sup>, and why they stop offending or do not offend in the first place<sup>12</sup>. It is consistent with the work which inspired therapeutic communities but it has a much wider application. It shows that a higher priority should be given to prevention, early intervention, responsibility and desistance, and that the country should be less obsessed with punishment and give more emphasis to change and restoration. The emphasis would then shift from managing the criminal justice system to promoting relationships, capabilities and motivation as the means of preventing and reducing crime.

### Outsourcing and Payment by Results

The consultation paper on probation services promises that strong probation trusts will remain in the public sector, with certain functions such as advice to the courts and the Parole Board and the management of high-risk offenders reserved to it. Others would be put out to competition, with payment by results, but

usually with Probation Trusts as the commissioning authority.

Outsourcing is not objectionable in principle. It is well established in other sectors, although with what can now be seen as mixed results, and in criminal justice it could in theory enable small, usually voluntary, organisations to provide particular services for which they are especially well suited. But it is dangerous territory, especially if it accompanied by payment by results<sup>13</sup>. The main purpose, as the government sees it, is the transfer of financial risk from the tax payer to the investor, with the financial protection, the reduction in costs and the greater productivity that are assumed to follow. That assumption is however more a matter of political conviction and ideology than a conclusion based on evidence, and experience in other areas of public service has not been reassuring. Releasing the energy of small voluntary and community organisations is a secondary consideration and there is understandable scepticism about how far that will happen.

Some people seem to think that the only difference between the public and private sectors that matters is that the private sector is more efficient at running a business. But government is not just another business, and justice most certainly is not. There are very real differences in the sectors' culture and in the structure of their accountability, and those differences matter, especially when they affect justice, personal freedom and the fabric of British society. One is not better than the other — they are just different and they have different places in the scheme of things.

There are some functions which governments, or the state, should not attempt, and others which should only be performed by public sector organisations accountable to ministers and Parliament. Many of those taken in criminal justice involve judgements about a person's character and behaviour which may affect the person's liberty and position in society, the situation of their family, and the public's safety. Those judgements should be made within a statutory framework, in accordance with due process and professional standards

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10. Halliday, J. (2001) *Making Punishments Work: Report of a Review of the Sentencing Framework for England and Wales*, London: Home Office.  
11. Tyler, T. and Huo, Y. (2002) *Trust in the Law: Encouraging Public Cooperation with the Police and Courts*, New York: Russell Sage Foundation.  
12. McNeill, F. (2009) *Towards Effective Practice in Offender Supervision*, Edinburgh: Scottish Centre for Crime and Justice Research.  
13. <http://opinion.publicfinance.co.uk/2012/04/payment-by-results-is-no-panacea/>

and by public servants who are accountable to ministers and ultimately to Parliament and free from considerations of their employers' profitability or commercial advantage.

The government's consultation paper on probation services acknowledges that argument in what it says about 'public interest decision points'<sup>14</sup>, and asks what are the key issues in outsourcing — or 'competing' — offender management for low risk offenders. Some specific services could well be 'competed' in accordance with those criteria but all offender management, for example, will involve 'public interest decision points' and it is hard to see how offender management could properly be 'competed', even for low-risk offenders.

There has so far been little public discussion of 'decision points' in relation to policing, and the government's arguments about the principles involved in outsourcing and the evidence for its success have so far been of a very general and often dogmatic kind. The issue needs closer analysis and more rigorous argument.

### Localisation

There is much talk about the localisation of public services. The case for it is that decisions about priorities, the allocation and use of resources and the response to local issues should be taken as 'near the ground' as possible, and that those taking decisions should have some responsibility towards and some effective accountability to the communities they serve. Communities will then respect the decisions that are taken and feel some responsibility for helping to achieve successful outcomes from them. Greater budgetary control might enable local choices to be made about the best use and allocation of resources between different programmes — for example 'justice reinvestment'<sup>15</sup> — without the perverse incentives which exist at present such as the temptation to use national resources such as prisons in preference to those which are funded locally. Local debates focused on practical questions of what will 'work for us' are likely to be better informed and less polarised than those conducted in national newspapers.

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There is not much about localisation in the consultation papers, but elected Police and Crime Commissioners will create a new dynamic in policing and probably in criminal justice more generally. It is not yet clear how genuinely representative they will be, how far their influence will extend to prisons and probation (or beyond), and whether they will be elected with enough votes to give them credibility. Critical questions will arise over their relationships with central and local government and the effect of their party political affiliations. Critics see the outcome as likely to be greater fragmentation, confusion, conflict and populism. Or, more optimistically, elected commissioners might in time help to move the focus of debate away from national government and national politics and towards local areas

and communities and local solutions, and perhaps towards a redistribution of priorities and resources on the lines of 'justice reinvestment', as penal reformers have argued for some time.

The dynamics of the new relationships and the spirit in which they are handled will be critical. Everything will depend on how power, responsibility and accountability are aligned. The critics' fears may not be realised, but the situation is likely to be precarious for some years.

### Future of the Lay Magistracy

Localisation as it has been discussed in government has not usually been connected with the future of local justice or the role of the lay magistracy, and this may be the time to think more radically about the possibilities and opportunities. The Ministry of Justice has a review in progress, and the Magistrates' Association has published its own report on *The Magistracy in the 21st Century*<sup>16</sup> and a collection of essays on the future of the magistracy to mark its 650th Anniversary<sup>17</sup>. The collection could have been a celebration of the magistracy's achievements over that time, but the Association decided instead to look forwards and invited contributions about the roles which it might play in future.

Some contributors argue for a closer relationship with the higher judiciary, stronger powers, simpler

14. The paper (page 17) lists initial assessments of the harm and risk of reoffending; advice to court and the Parole Board; determining required levels of offender management; participating in supervision and decisions about MAPPA cases; resolutions of recall and breaches; and early revocation of sentences for offenders for good progress.

15. Allen, R. (2009) 'Justice Reinvestment – a new paradigm?' in Collins, J and Saddiqui, R. (eds) *Transforming Justice: New Approaches to the Criminal Justice System*, London: Criminal Justice Alliance, pp 57-66.

16. The Magistrates' Association (2012) *The Magistracy in the 21st Century*, London: the Magistrates' Association.

17. Faulkner, D. (ed) (2012) *The Magistracy at the Crossroads*, Winchester: Waterside Press.

legislation and a transfer of business from the Crown Court. That is one approach, and there are good arguments for it, including the argument that decisions on sentencing may sometimes be better taken by a mixed panel than by a single individual. Others take a different approach based on ideas of community justice. They point out that although out-of-court penalties, neighbourhood resolution panels, and restorative justice are for the most part to be welcomed, there are important questions about accountability and legitimacy, about how standards and consistency are to be maintained, and about how much local variation of practice will be acceptable or tolerated. Suggestions are that magistrates could have a role in overseeing the use of out-of-court penalties; and that they might have functions in following the progress of offenders while serving their sentences, for example in discharging orders in recognition of good progress and supervising their recall to prison when that is necessary, perhaps on the lines of *juges d'application des peines* in France. They might also oversee the powers of such bodies as youth offending teams and multi-agency public protection arrangements (MAPPAs and MARACs); and become members of probation trusts or independent monitoring boards for prisons, despite the discouragement there has been so far.

Ideas of that kind need a lot more work before they can be turned into practical reality. Some would need legislation or a national initiative, but others could be developed locally. It might well be helpful if courts could work with a voluntary organisation, as the Oxford courts did the Thames Valley Partnership on the project 'Making Good'<sup>18</sup> a few years ago.

### Conclusions

The debate on criminal justice has become muddled and polarised by misunderstanding, false assumptions and preconceived ideas.

The country needs a clearer understanding of what is meant by justice and by punishment. Is justice the fact of bringing a person before a court, obtaining a conviction, and imposing a sentence that satisfies the victim or public opinion? Is it about achieving an outcome which is fair to all those affected by the offence, from which it is possible for them to move forward? Or is it the process by which those things happen? Or is justice to be found not so much in the outcome as in the fairness and legitimacy of the process and in the culture of the relevant services and institutions? How does criminal justice relate to social and procedural justice, and to fairness and proportionality?

What are the nature, role, and purpose of punishment? What makes it legitimate? Does it have to be deserved for something a person has done or can it be used as a precaution against something they might do in future? Does only imprisonment count as punishment? Must wrong doing always attract punishment? Is there a place for compassion, mercy and sometimes even forgiveness? It should be a matter for concern that those words are now rarely heard in public debate and are seldom if ever used by government.

The country does not need more reorganisation and legislation so much as a clearer and more principled sense of direction. Without it criminal justice will at best face a continuing period of frustration, and at worst increasing instability as further cuts and structural reforms take effect. The underlying principles of legitimacy, decency and humanity need to be restated and reinforced, together with integrity, honesty and transparency in governance and administration. This should be a time for vision and leadership, and for more vigorous and challenging public debate.

*The arguments in this article are discussed in more detail in *Where Next for Criminal Justice?* by David Faulkner and Ros Burnett, published by The Policy Press (October 2011).*

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18. A report is at <http://www.thamesvalleypartnership.org/wp-content/uploads/making-good-an-assessment-tania-wickham-rob-allen.pdf>

# Co-producing change: resettlement as a mutual enterprise

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## Introduction

**Prison numbers have continued to rise across the UK over the last decade despite a corresponding reduction in crime rates, suggesting a custodial-turn in sentencing practices. As a penal response, the well documented failure of prison to rehabilitate prisoners and support their civic reintegration<sup>1</sup> is a costly concern, with each prison place costing an average of £39,573 in England and Wales<sup>2</sup>, £73,762 in Northern Ireland<sup>3</sup> and £32,146 in Scotland<sup>4</sup>. In this context, the ongoing financial crisis has necessarily added considerable weight to arguments in favour of reconfiguring criminal justice to better facilitate reductions in the cost of re-offending, estimated in England and Wales to amount to between £7 billion and £10 billion per year<sup>5</sup>.**

While it is well established that prisons are a financially costly and ineffective way of tackling offending, it is equally accepted that imprisonment further exerts unintended but no less deleterious effects, or opportunity costs, on the factors that can support desistance from crime such as relationships and employment<sup>6 7 8</sup>. Proponents of the *Rehabilitation Revolution* are focussing their energy on making prisons 'places of hard work and industry'<sup>9</sup> as a means

of promoting citizenship, but, crucially, are neglecting to attend to the role of employment in the *resettlement* of former prisoners. Audit Scotland (2011)<sup>10</sup> have recently estimated that helping one former prisoner into employment and out of crime for five years after release would yield a net saving of £1M. There is also a substantial body of empirical research evidencing a significant, albeit complex, relationship between participation in employment and desistance<sup>11 12</sup>. Moreover, a recent Ministry of Justice study<sup>13</sup> revealed that most prisoners wanted to work and saw this as critical to supporting their efforts to 'go straight' on release.

In this article, we consider the potential of an old idea in a new context: that is the use of social co-operatives and mutual structures as a mechanism for supporting the resettlement of prisoners. We review what this means in a criminal justice context and share some exciting developments in how this idea is being put into — effective — practice. There has been little consideration of what role co-operatives and mutuals might play in the 'Rehabilitation Revolution', in supporting desistance and in penal reform more broadly. Admittedly, the National Offender Management Service (NOMS) has recently published a report on *Reducing Re-offending Through Social Enterprise*, delineating the involvement of social

1. Ministry of Justice (2010a) *Compendium of re-offending statistics and analysis*. Ministry of Justice Statistics Bulletin, November 2010. London, HMSO.
2. Table 1, Ministry of Justice (2011) *Costs per place and costs per prisoner by individual prison, National Offender Management Service Annual Report and Accounts 2010-11: Management Information Addendum*, London: Ministry of Justice.
3. Criminal Justice Inspection Northern Ireland (2011) *An inspection of prisoner resettlement by the Northern Ireland Prison Service, Belfast*: Criminal Justice Inspection Northern Ireland.
4. Scottish Prison Service (2011) *Scottish Prison Service Annual Report and Accounts 2010-11*, Edinburgh: Scottish Prison Service.
5. Ministry of Justice (2010b) *Breaking the cycle: effective punishment, rehabilitation and sentencing of offenders*. London: Ministry of Justice.
6. Armstrong, S and Weaver, B (2010) *What do the punished think of punishment? The comparative experience of short prison sentences and community based punishment*. SCCJR Research Report 04/2010 available online at: <http://www.sccjr.ac.uk/pubs/User-Views-of-Punishment-The-comparative-experience-of-short-term-prison-sentences-and-communitybased-punishments/284>
7. Trebilcock, J (2011) *No Winners: The reality of short term prison sentences*. London: The Howard League for Penal Reform.
8. Social Exclusion Unit (SEU) (2002) *Reducing Re-offending by Ex-Prisoners: A Report by the Social Exclusion Unit*. London: ODPM/SEU.
9. Ministry of Justice (2010b:1) *Breaking the cycle: effective punishment, rehabilitation and sentencing of offenders*. London: Ministry of Justice.
10. Audit Scotland (2011) *An overview of Scotland's criminal justice system*. Available online at [http://www.audit-scotland.gov.uk/docs/central/2011/nr\\_110906\\_justice\\_overview.pdf](http://www.audit-scotland.gov.uk/docs/central/2011/nr_110906_justice_overview.pdf)
11. See for example Rhodes, J (2008) Ex-Offenders, Social Ties and the Routes into Employment. *Internet Journal of Criminology*.
12. See for example Farrall S (2002) *Rethinking what works with offenders: probation, social context and desistance from crime*. Willan Publishing: Cullupmton, Devon.
13. Ministry of Justice (2012) *Research Summary 3/12, Accommodation, homelessness and reoffending of prisoners*, London: Ministry of Justice.

enterprises within prisons and probation services, but the authors make no distinction between the work of mutual and co-operative social enterprises and the work of the wider social enterprise sector. Conflating the various forms of social enterprise as ‘independent businesses that trade for a social purpose’<sup>14</sup>, obfuscates the critical feature of mutual and co-operative forms of social enterprise — the ‘ownership question’ — which differentiates them from other models of social enterprise. Moreover, the social enterprise model of the NOMS report allows for a prisoner run enterprise to be considered indistinct from a global corporation (like Kalyx which bills itself as ‘a business with social purpose’<sup>15</sup>) and seems in other ways to be as focused on encouraging private sector investment and profit (as with A4E<sup>16</sup>) in criminal justice as on the resettlement of prisoners.

The ownership question is fundamental to differentiating between the cooperative and mutual sector and ‘social enterprise’. Cooperatives and Mutuals are businesses owned by their members — their customers in the case of consumer cooperatives; their employees in the case of worker cooperatives; and service users, service providers and the wider community in the case of public service multi-stakeholder social cooperatives or public service mutuals. It is these multi-stakeholder social cooperatives in particular that offer a unique potential to support desistance, providing a mechanism to pursue co-production and personalisation<sup>17</sup>. In general terms, then, ownership by staff, service users, and, where appropriate, the wider public is the defining characteristic of social cooperatives and mutual public services, just as ownership by consumers and workers is

These circumstances show the need to co-operate to ‘co-produce’ more innovative and sustainable means through which various stakeholders collaborate with service users, professionals and public services to respond to this collective need.

the defining characteristic of the different forms of co-operative enterprise<sup>18</sup>. While Boyle and Harris (2009<sup>19</sup>) specifically rule out mutuals and co-operatives for policing and justice, they assert that specialised public services for *preventing and dealing with crime* ‘rely on an underpinning operating system that consists of family, neighbourhood, community and civil society’. Indeed, informal social networks are the predominant means through which probationers and former prisoners access paid employment<sup>20,21,22</sup>. However, while this perhaps illuminates the challenges that former prisoners and probationers experience in accessing employment opportunities, not all families have access to such resources and many institutions and services are often similarly unprepared to offer the kinds of assistance required<sup>23</sup>. These circumstances show the need to co-operate to ‘co-produce’ more innovative and sustainable means through which various stakeholders collaborate with service users, professionals and public services to respond to this collective need. Realising this, however, not only means relinquishing monopolies of power and service defined expertise but the generation of reciprocal relationships underpinned by mutual responsibilities; this, we argue, can be realised through the co-ownership and co-control of mutual structures providing social and economic support to its members.

### Origins of Mutuals and Co-operatives

The birth of modern cooperative and mutual enterprise coincided with the industrial revolution but the sense of solidarity and cooperative organisation

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14. NOMS (2009) *Reducing re-offending through social enterprise: social enterprises working with prisons and probation services – a mapping exercise for National Offender Management Service*. London: Ministry of Justice.
  15. <http://www.kalyxservices.com>
  16. <http://www.mya4e.com/>
  17. Weaver, B (2011) Co-producing community justice: the transformative potential of personalisation for penal sanctions. *British Journal of Social Work*. Doi:10.1093/bjsw/bcr011
  18. Hunt, P (2006) *In the public interest: the role of mutuals in providing public services*. Mutuo Manchester.
  19. Boyle, D and Harris, M. (2009:6) *The challenge of co-production: how equal partnerships between professionals and the public are crucial to improving public services*. London: NESTA.
  20. Farrall (2002) see n.12.
  21. Rhodes (2008) see n.11.
  22. Niven, S and Stewart, D (2005) *Resettlement outcomes on release from prison in 2003*. Findings 248: London: Home Office.
  23. Farrall, S (2004) ‘Social capital and offender reintegration: making probation desistance focused’ in Maruna, S and Immarigeon R (eds) *After Crime and Punishment: Pathways to Offender Reintegration*. Willan Publishing, Cullompton, Devon.

were present in many pre-modern societies including the early Christian Church, medieval monasticism and craft guilds. Five models of cooperation can be identified arising out of the industrial revolution and into the modern era. Firstly, the consumer cooperative originating in Fenwick in Scotland in 1769 and Rochdale in England in 1844; secondly, labour or worker cooperatives originating in a variety of contexts which gained ascendancy in France from 1831 onwards; thirdly, credit unions or mutual banks, again emerging in a variety of contexts but becoming a major force in Germany from 1849 onwards; fourthly, the joint farmers' cooperative were a particular feature of late nineteenth century Scandinavian society, but like credit unions has also been a feature of many different societies worldwide.

It is the fifth model that largely concerns us here. Various called the 'social cooperative', 'multi-stakeholder cooperative' or 'public service mutual', this model originated in Italy in the 1970s as a totally new version of extended mutual cooperation. It is characterised by a multi-stakeholder model of governance, a model in which the representatives of a number of different interest groups all have a say in decisions and a role in the governance structure. Thus the decision-making bodies comprise not only worker-members but also the beneficiaries of the cooperatives' services and representatives of the local community. This model has been widely replicated across Europe and serves as the European definition of 'social enterprise' in distinction to the much wider and vaguer UK definition referred to above<sup>24</sup>.

In a criminal justice context these social cooperatives or public service mutuals provide employment and resettlement services for their members both in prison and in the community. They are essentially 'mutual reducing re-offending services'<sup>25</sup>, where former and serving prisoners create their own

employment and provide resettlement support to each other through their membership of the social co-operative. The role of the professional in these structures is to facilitate the promotion, development, and success of each social co-operative rather than simply providing either expert assistance or 'offender management' to individual members<sup>26</sup>. Social Cooperatives are thus both part of the formal criminal justice system but at the same time transcend it. Just as the process of desistance itself extends beyond the

criminal justice system, so approaches to supporting resettlement and desistance require collaborative responses that extend beyond the practices and proclivities of the justice sector<sup>27</sup>. Social Cooperatives provide a structure through which to deliver these collaborative responses.

#### **The Operative Function of Public Service Mutuals and Social Cooperatives.**

Mutuals and social co-operatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity<sup>28</sup>. In the setting of criminal justice, mutuals and social co-operatives' of former and serving prisoners and rehabilitation professionals are a legal structure through which co-produced ventures providing employment and other resettlement services to their

members in prison and on release can be developed. There are some examples where these services are provided solely by serving and former prisoners for serving and former prisoners. Most, however, are through-the-gate *multi-stakeholder* mutuals providing employment and resettlement services and comprise an equal partnership of serving and former prisoners, professional staff (including prison staff and other relevant service providers such as further education providers, local businesses and local authorities) and appropriate community members. In some ways they resemble the *Prisoner Aid Societies* which pre-dated the

Just as the process of desistance itself extends beyond the criminal justice system, so approaches to supporting resettlement and desistance require collaborative responses that extend beyond the practices and proclivities of the justice sector.

24. Zamagni, S and Zamagni, V. (2010). *Cooperative Enterprise: Facing the Challenge of Globalization*. Edward Elgar Publishing.

25. Nicholson, D (2011: 18) *Cooperating out of crime*. CentreForum.

26. Thomas, A (2004) The rise of social cooperatives in Italy. *International Journal of Voluntary and Nonprofit Organisations*, Vol 15, 2004

27. Weaver (2011) see n.17.

28. Majee, W and Hoyt, A (2010) Are worker-owned cooperatives the brewing pots for social capital? *Community Development*, 41 (4): 417-30.

formation of the Probation Service in the early twentieth century, but their key difference is that they are co-owned and controlled by their service users 'co-producing' their own services in the context of paid co-operative and mutual employment<sup>29</sup>.

There are opportunities for this model to go beyond current Italian practice to develop prison-based and through-the-gate co-operative and mutual structures of employment as a means of enabling prisoners to make financial reparations to victims as well as to support their own families and provide financially for themselves on release through the imbursement of real pay for real work operating under fair trade principles<sup>30 31 32</sup>. To a certain extent this has already been piloted in the UK in the Howard League's 'Barbed'<sup>33</sup> enterprise in HMP Coldingley. Launched in 2005, The Howard League's 'Barbed' project was the first social enterprise to be run from an English prison. This enterprise provided an innovative, meaningful approach to prison work to eleven prisoners through a professional graphic design service<sup>34</sup>. Incarcerated members contributed 30 per cent of their wages into a separate fund that made charitable donations. The remainder of the income generated by serving prisoners was used to make financial contributions to their families or saved to support resettlement on release.

Where *Barbed* differed from the Italian model, however, was that it was a social enterprise in the UK sense rather than the European sense. Prisoners were not equal members of the enterprise with other stakeholders and, moreover, *Barbed* did not guarantee continued employment in the enterprise post-release. Crucially, it is this provision of *continued* access to training and through-the-gate employment opportunities that can contribute to the longer-term social resettlement of former prisoners. Equally, the open membership of mutual and social co-operatives

structures of employment can circumnavigate some of the structural obstacles (relating to criminal records, employers attitudes and discrimination<sup>35</sup>) that former prisoners routinely encounter which directly impact upon their potential to access employment. As part of a mutually co-operative self-help structure, former and serving prisoners, professionals and the wider community can thus 'co-produce' the kinds of social supports and associated goods that can assist former prisoners' social reintegration.

A further and perhaps more radical opportunity to go beyond current Italian practice is presented by the Royal Society of Arts proposals contained in 'RSA *Transitions: A Social Enterprise Approach to Prison and Rehabilitation*'<sup>36</sup>. This essentially proposes that prisons should themselves be run as Public Service Mutuals or Social Cooperatives, with prisons and prison services '...co-designed and delivered by service users, local employers, local people and civic institutions; all would have a voice in how it is designed and run', which Alison Liebling<sup>37</sup> described as 'wholly consistent with existing practice, but [which] attempts to offer a co-productive form of public service management that is explicitly and uncompromisingly rehabilitationist'.

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### Examples of Public Service Mutuals and Social Co-operatives

Public Service Mutuals or Social Co-operatives providing through-the-gate employment and resettlement services are a rapidly developing feature of the Italian Criminal Justice System and are increasingly found throughout the EU and further afield. Some are entirely prisoner and ex-prisoner owned and managed while others include criminal justice and social work staff in their membership to provide additional rehabilitation and resettlement support services. Some work exclusively with prisoners

29. Nicholson, D (2011) *Co-operating out of crime*. CentreForum.

30. <http://www.fairtradeprinciples.org/>

31. See Howard League (2008), *Prison work and social enterprise: the story of Barbed*. London: The Howard League for Penal Reform.

32. See Howard League (2011) *Business Behind Bars: Making Real Work in Prison Work*. The Howard League for Penal Reform.

33. Howard League (2008) see n.31.

34. Howard League (2008) see n. 31; Howard League (2011) see n. 32.

35. McEvoy, K (2008) *Enhancing employability in prison and beyond: a literature review*. Belfast: Queens University.

36. O'Brien, R (2011:14) *RSA Transitions: A social enterprise approach to prison and rehabilitation*. London: The Royal Society for the encouragement of Arts, Manufactures and Commerce.

37. Liebling, A (2011:3) in O'Brien R (2011) see n.36.

with drug and alcohol problems while others work with all prisoners regardless of offence-category. Some operate both in prisons and in the community offering 'through-the-prison-gate' employment and mutual support, while others provide day release employment and a guarantee of continued employment on release.

An Italian prisoner-led co-operative, for example, runs a micro brewery in Saluzzo Prison, producing high quality craft beers which are exported across Europe and the United States. The same co-operative also operates in Turin Prison, processing, roasting and packaging coffee and cocoa for the Pausa Café ('Coffee Break') chain of co-operative Cafés<sup>38</sup>. Prisoners join the co-operative by paying a small fee. Membership then guarantees them paid employment during their time in prison as well as after their release, together with resettlement support and, as members of the cooperative, they also share in the profits and decision-making of the business as a whole.

The *Exodus Social Co-operative* in Capriano del Colle<sup>39</sup> in Italy manufactures semi-finished window and door frames and has serving prisoners on day release as members, together with ex-prisoners, skilled trades-people from the local community and a social worker, psychologist, psychiatrist and criminologist who provide additional resettlement and rehabilitation services in the context of membership and employment in the co-operative. It also offers legal services to its members and pays 50 per cent of any legal costs incurred by them and a job brokerage service to help members move on into the mainstream labour market. This helps maintain a regular throughput of new members and provides an ongoing employment, resettlement and rehabilitation service.

In a similar way the *Inside Art Co-operative*<sup>40</sup> in Canada is a marketing and mutual support co-operative of self employed prisoners, ex-prisoners and community artists producing and selling both fine art pieces and production items: stained glass, fused and slumped glass, blown glass, carved wood items and handcrafted furniture. The income generated helps prisoners make reparations to victims and support their own families and there is a ready-made mutual support structure and

means of financial self sufficiency for members once they are released.

Prisoner Social Co-operatives like these share some features with what in the UK are called Social Firms or Work Integration Social Enterprises (WISE). But they have something else as well: democratic member control. Social Co-operatives are democratic organisations controlled by their members with equal voting rights. Prisoners co-own and co-control the co-operative together with the other stakeholder members — ex-prisoners, community members and criminal justice and social work professionals.

There are some scattered examples of both mutual and co-operative solutions to offending in the UK. One of us is directly involved in the operation and development of Public Service Mutuals and Social Cooperatives in the Criminal Justice System in the UK. Ex-Cell Solutions ([www.ex-cell.org.uk](http://www.ex-cell.org.uk)) is itself an 'ex-offender' led cooperative providing employment and resettlement services to ex-prisoners returning to Greater Manchester. Together with Cooperative and Mutual Solutions ([www.cms.coop](http://www.cms.coop)), Ex-Cell have a contract with the National Offender Management Service (NOMS) to promote and develop Public Service Mutuals and Social Cooperatives with Prisons, Probation and the

Cooperative and Mutual Sector in the UK. This involves identifying through-the-gate Social Cooperative opportunities with individual prisons and working with them to implement them as well as assisting in developing full Public Service Mutual proposals and working with groups of ex-offenders to develop their own cooperative and mutual solutions to reducing reoffending. An example of the latter is Recycle IT!, a co-operative of former prisoners in Manchester who provide employment and mutual support to each other through their co-ownership of their own IT recycling business ([www.recycle-it.uk.com](http://www.recycle-it.uk.com)). Work is ongoing with prisons across England and Wales to develop through-the-gate social cooperatives on the Italian model, particularly (but not exclusively) in the horticulture, green technology, catering, cleaning and construction sectors. However, despite this selective overview, mutual and social co-operative structures in

## Social Co-operatives are democratic organisations controlled by their members with equal voting rights. Prisoners co-own and co-control the co-operative together with the other stakeholder members

38. [http://www.pausacafe.org/chi\\_siamo\\_progetto.html](http://www.pausacafe.org/chi_siamo_progetto.html)

39. For Further information see: <http://www.scie-socialcareonline.org.uk/repository/fulltext/0017680.pdf>

40. For further information see: <http://bccca.coop/member/inside-art-cooperative>

the criminal justice system remain rare and unevenly distributed; rarer still are systematic and comparable evaluations of their effectiveness.

### Evidence of Benefits and Outcomes:

The research on mutuals and social co-operatives outside the Criminal Justice System show them to be effective at linking individuals and groups together in productive activities. This has the effect of developing social capital. Such achievements show how this model could lay the foundation upon which serving and former prisoners can build a life of desistance. Research is not yet available on the benefits and outcomes of mutuals and social co-operatives in the criminal justice sector specifically but this will come as structures develop and spread. At this point, then, we consider the role of mutuals and social co-operatives in the development of social capital, in supporting desistance and developing a sense of community.

Evidence from the literature on social co-operatives, beyond those operating in the criminal justice system, suggests that 'they are an organizing vehicle that creates both bonding and bridging social capital'<sup>41</sup>, which can be construed more generally as an 'intrinsic benefit'<sup>42</sup> of membership. Social capital is generally portrayed as an important asset for the well-being or flourishing<sup>43</sup> of those involved in its creation and maintenance. In this sense, it is a social relation which encourages or discourages certain actions of individuals through their mutual orientation towards the maintenance of the relational goods it produces, from which other ends, information or resources can be derived as secondary emergent effects<sup>44</sup>. Social capital is not, then, an asset

possessed by the individual, nor a collective property of a social structure, but a configuration of those social networks which are shared by people who will not be able to produce such goods outside their reciprocal relations<sup>45</sup>. Put simply, social capital can be understood 'as networks, norms, and trust that enable participants to act together more effectively to pursue shared objectives'<sup>46</sup>. The core emergent effects of social capital are the relational goods of social or civic trust, solidarity and social connectedness or civic engagement, all of which rest 'implicitly on some background of shared expectations of reciprocity'<sup>47</sup>

Two basic dimensions of social capital are bonding and bridging<sup>48</sup>. Bonding social capital denotes ties between similarly situated people such as immediate family, friends and neighbours. Bridging social capital involves establishing new social relations; these ties facilitate the reciprocal exchange of resources from one network to a member of another network and in this sense are linked to the development of broader identities and social mobility<sup>49</sup>. Confidence building among co-operative members through

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mutual ownership, democratic decision-making processes, teamwork and open communication, play a central role in improving their participation and network building capabilities<sup>50</sup>. It is through these relational processes that mutuals and social co-operatives generate not only bonding but also the more elusive bridging social capital. The open membership status of co-operatives supports participation in activities that extend beyond familial and close social networks. They need 'critical mass' to be successful, requiring the development of ties to, and connections with, numerous other networks and

41. Majee, W and Hoyt, A (2011:59) Cooperatives and community development: a perspective on the use of cooperatives in development. *Journal of Community Practice* 19(1):48-61.
42. Carr, S (2004) *Has service user participation made a difference to social care services?* Social Care Institute for Excellence. Available online: <http://www.scie.org.uk/publications/positionpapers/pp03.pdf>
43. Flourishing is a broader concept than well-being in that it 'includes the development of character and potential, and participation in community' (Liebling (2012:1) (see: [http://www.insidetime.org/resources/Publications/Can-Humans-Flourish-in-Prison\\_PPT\\_Liebling\\_Lecture-29May12.pdf](http://www.insidetime.org/resources/Publications/Can-Humans-Flourish-in-Prison_PPT_Liebling_Lecture-29May12.pdf) ). 'That human persons are flourishing means that their lives are good, or worthwhile in the broadest sense' (Pogge 1999:333) in Liebling (2012).
44. Donati, P(2006) Understanding the human person from the standpoint of the relational sociology. *Memorandum* 11: 35-42 available online at: <http://www.fafich.ufmg.br/memorandum/a11/donati01.pdf>
45. Donati, P (2007) L'approccio relazionale al capitale sociale. *Sociologia e politiche sociali* 10 (1): 9-39.
46. Putnam, R (1995:664-665) Tuning in, tuning out: The strange disappearance of social capital in America. *Political Science and Politics* 28:664-683.
47. Putnam, R (2000:136) *Bowling Alone: The collapse and revival of American community*. New York: Simon and Schuster.
48. Woolcock, M and Narayan D (2000) Social Capital: Implications for development theory, research and policy. *World Bank Research Observer* 15 (2):225-249.
49. Woolcock and Narayan (2000) see n. 48.
50. Majee and Hoyt (2010) see n.28.

structures. The bonding of small networks into a coherent multi-stakeholder co-operative structure 'creates an opportunity for members to gain access to bridging social capital that is not available to them as individuals or as small isolated networks'<sup>51</sup>. Thus, the distinct strength or contribution of mutuals and cooperatives resides in their capacity to create businesses, and thus employment structures, based on a mutual need, that can negotiate for resources and build connections to external groups<sup>52</sup>.

Desistance research has consistently emphasised the significance of not only the acquisition of capacities to govern and control the direction of one's life but opportunities to exercise those capacities. Involvement in 'generative activities' (that contribute to the well-being of others), such as mentoring, volunteering, or employment can support the development or internalisation of an alternative identity or shifts in one's sense of self.<sup>53 54 55</sup> Engagement in generative activities has also been shown to ameliorate the effects of a stigmatised identity, re-establish a sense of self worth and, importantly, a sense of citizenship<sup>56</sup>. This suggests that the process of desistance from crime is not solely a within-individual phenomenon but is also dependent on interactions between the individual and their relationships, their immediate environment, community and the social structure. As such, supporting the development of social capital<sup>57</sup>, fostering connections between people and restoring relationships are key components in supporting desistance.

These are the very processes, practices and outcomes that mutual and social co-operative structures can support, and the very factors that are either suppressed by the repetitive routine and minimally stimulating environment of prison or knifed off as an effect of imprisonment<sup>58</sup>. Mutual and social co-operatives thus represent a potential means through which individuals, networks and agencies can collaborate to support desistance and ameliorate some of the pains of imprisonment<sup>59</sup>. The emphasis

on the centrality of reciprocal relationships and mutuality in supporting resettlement is the distinct contribution that co-operatives and mutuals have to offer to current approaches to supporting desistance and contributing to penal and public sector reform.

### Concluding Observations

Mutual and social co-operatives not only provide training and employment opportunities within a supportive framework, but operate under a principled and legislative infrastructure through which serving and former prisoners can collaborate with other people, out-with the criminal justice arena, who can contribute the kinds of social

and economic resources which can support their desistance from crime<sup>60 61</sup>. Mutual or social co-operatives can thus offer vital social support to individuals, contribute to the development of a more pro-social identity, increase levels of self-esteem, self-efficacy and provide a sense of purpose. Through the negotiation of mutual rights and responsibilities, mutual and social co-operatives can also promote

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51. Majee and Hoyt (2011:57) see n. 41.

52. Ibid.

53. Uggen, C., Manza J., and Behrens, A. (2004) 'Less than the average citizen: Stigma, role transition and the civic reintegration of convicted felons' in Maruna S and Immarigeon R (eds) *After Crime and Punishment: Pathways to Offender Reintegration*. Willan Publishing: Cullompton, Devon.

54. Maruna S (2001) *Making Good: How Ex-Convicts Reform and Rebuild their Lives*. American Psychological Association Books, Washington, D.C.

55. Weaver, B (2012) The Relational Context of Desistance: Some Implications and Opportunities for Social Policy. *Social Policy and Administration* 46 (4).

56. Maruna, S and LeBel T. P. (2009) Strengths-based approaches to reentry: Extra mileage toward reintegration and destigmatization. *Japanese Journal of Sociological Criminology* 34: 58-80.

57. Farrall (2004) see n.23.

58. Armstrong and Weaver (forthcoming) Persistent punishment: Users views of short prison sentences. *The Howard Journal of Criminal Justice*.

59. Sykes. G. M (1958) *The Society of Captives: A study of maximum security prison*. Princeton, NJ: Princeton University Press.

60. Nicholson (2011) see n. 29.

61. Weaver (2011) see n. 17.

active citizenship<sup>62</sup> and support the development of social capital.

While desistance may be one of the *ends* (or objectives) of the criminal justice system, for the would-be-desister desistance often seems to emerge rather as the *means* to actualising individuals' relational concerns, goals or aspirations with which continued offending is more or less incompatible<sup>63</sup>. Increasing investment in these social relations and what these represent to an individual can trigger a reflexive evaluation of their current lifestyle against their shifting sense of self and what matters to them, reflecting this reorientation of their relational concerns<sup>64</sup>. Critically desistance is, therefore, about more than reducing re-offending and promoting public protection; it is also about individual and collective flourishing. Nor is

supporting desistance the province of criminal justice processes and practices; the key message emerging from the research is that the process of desistance extends beyond professionally led practice, to what individuals and wider networks contribute in sustaining and supporting change. All of this implies the need to look beyond the practices and proclivities of the justice sector to find new ways to support people, communities and organisations to develop co-productive relationships and responses to the issues and challenges they face. In turn, this means re-configuring and renegotiating relationships between relevant stakeholders, premised on principles of reciprocity and mutuality, and in so doing harnessing each one's unique contributions and strengths<sup>65</sup>. Social cooperatives and mutual structures offer one means of realising this.



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62. There is no universally agreed definition of Active Citizenship. Crick (2002:2) argues that it represents a focus on 'the rights to be exercised as well as agreed responsibilities'. Activity in this sense is often associated with engagement in public services, volunteering and democratic participation. For further see Crick, B (2000) Education for Citizenship: The Citizenship Order. *Parliamentary Affairs* 55:488-504; Lister, R (2003) *Citizenship: Feminist Perspectives* (2<sup>nd</sup> Ed) Basingstoke. Palgrave Macmillan.

63. Weaver (2012) see n. 55.

64. See also Vaughan B (2007) The Internal Narrative of Desistance. *British Journal of Criminology*. 47: 390-404.

65. Weaver (2011) see n. 17.

# 'Be careful what you ask for': findings from the seminar series on the 'Third Sector in Criminal Justice'.

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## Background

In recent decades, several countries have transferred some welfare and penal roles from the state to community-level actors including for-profit and third sector interests. This handover is premised on a blend of neoliberal political rationalities for restructuring state welfare systems as 'mixed service markets' in late capitalist societies and communitarian aspirations to liberate the untapped social capital of the community and voluntary sectors.<sup>1</sup> Both the New Labour and Conservative-Liberal Democrat coalition governments have pursued programmes for engaging communities and civil society actors in determining local crime, justice and community safety strategies. Empowering groups, localities and communities to meet more of their own social and justice needs, the argument runs, fulfils public expectations more effectively and legitimately than the central state can achieve. Not only does self-reliance foster greater diversity and pluralism in developing local justice, it is supposedly more responsive to the needs of marginalised social groups (such as women, offenders and 'minorities') who have hitherto been neglected by criminal justice and social welfare.<sup>2</sup>

The key trends shaping policy frameworks for involving more diverse groups in offender-related work at community level can be summarised accordingly: firstly, they reflect a *localism* agenda in which successive governments have devolved responsibility for discharging ancillary and, increasingly, core roles in reducing crime and reoffending to the most local administrative level. Secondly, *diversification* describes the strategies through which the National Offender Management Service [NOMS] has sought to raise extra capital, expertise and labour through collaboration with for-profit, community and voluntary sector service providers<sup>3</sup>. Thirdly, the reconfiguration of criminal justice service networks is being encouraged through *marketization*, evidenced by the introduction of competitive commissioning and the

removal of legal and political constraints on non-state agents from direct involvement in treating, rehabilitating or supervising offenders in the community and in custody.<sup>4</sup> Fourthly, governmental interest has converged on stimulating *partnerships and consortia* comprising agencies from the public-, private-, and voluntary sectors to deliver support and resettlement services. The 'rehabilitation revolution', for example, proposes fundamental changes in the locations and methods of disposal of offenders from the costly and ineffective prison system to community-based treatment and supervision involving for-profit and voluntary sector agencies.<sup>5</sup> These trends are also stimulated by the requirement under the Comprehensive Spending review that NOMS finds savings of fifteen per cent from its budget.

At first sight, these policies represent welcome responses to decades of lobbying on the part of community- and voluntary sector groups for parity of access to public service contracts, and for recognition as an alternative welfare system which has compensated for failures in market- and state systems to meet the complex needs of offenders and victims of crime. However, the prospect of closer engagement with both government and private sector providers has also generated ambivalent, vexed and cautious responses. Despite general interest in, and support from, voluntary sector organisations (hereafter VSOs) for these initiatives, they have also generated fundamental concerns that they are entering uncharted territory. The crux for community and voluntary sector is that the different strands underlining current policy are inherently in conflict. Whilst the 'Big Society' programme suggests that real responsibility is being handed to communities and voluntary bodies, the drive towards marketisation and the commodification of public services exposes local as well as national providers to the imperatives of competitive and commercial discipline. It is not at all clear how these policy objectives are reconciled.

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1. Norman, J (2010) *The Big Society: The Anatomy of the New Politics*. Buckingham: University of Buckingham Press.
  2. Local Government Information Unit (2009) *Primary Justice: An Inquiry into Justice in the Communities*, London: LGIU.
  3. NOMS (2012) *Commissioning Intentions*. London: NOMS.
  4. Ministry of Justice (2011) *Competition Strategy for Offender Services*. London: HM Government. <http://www.cjp.org.uk/publications/government/the-competition-strategy-for-offender-services-13-07-2011/>
  5. Ministry of Justice (2010) *Breaking the Cycle*, London: Ministry of Justice.

This article presents the state of the debate about the current and future role of community and voluntary sector actors' engagement in criminal justice fields of work. The discussion draws on the research literature and proceedings of six meetings of a seminar series on the 'Third Sector in Criminal Justice' between February 2011 and June 2012.<sup>6</sup> The series was attended by participants from voluntary and community organisations, local and central government departments, statutory services, academics and researchers who deliberated on several contemporary challenges regarding the participation of voluntary workforces, the role of the sector in penal reform or service provision, and the wider implications of mixed economies in criminal justice, among other topics. Discussions embraced the legal, contractual and political implications of commissioning, contract and audit regimes, and partnership/co-producer relationships. Participants also explored questions of trust, power, identity and social roles, as well as perceptions of risk, compromise, resistance and adaptation to current developments. Finally, the series identified long-standing and ongoing critical questions about power, equity and relationships in an 'all sector' penal landscape.<sup>7</sup>

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### Cooption or negotiation?

Two positions tend to dominate the debate about non-profit organisations working with the formal criminal justice system. The first stresses the inevitable risks of VSOs being co-opted into the normative, criminogenic or political orbits of their paymasters, whether state, philanthropic or corporate funders. As a consequence, even those organisations that initially set out to preserve their independence or alternative credentials are invariably suborned by relationships of dependency, compromise and accommodation. A second approach proposes that VSOs knowingly negotiate a series of implicit and explicit inequalities between funders and service providers. Not only do their

activities bring about tangible improvements to the lot of offenders, victims and communities in the criminal justice field, the argument runs, they play an essential role in 'supplementing, complementing and extending informal and statutory arrangements *but also* sometimes meeting new needs and using different approaches'.<sup>8</sup> Several speakers focused on the conflicting implications that inhered with the position of the voluntary sector as a 'critical friend' of government. However, there was a strong consensus that retaining their duality of roles as service deliverers and as campaigners was non-negotiable, however much in contention. This was not simply in order to preserve the sector's distinctiveness, but it allowed VSOs to perform social functions as 'bridge-makers' between policy makers and (often) disenfranchised communities. Additionally, it was asserted that they play irreplaceable roles in delivering services and shaping how policy is made as well as translated into practice.

Nevertheless, claims that the sector is always and innately progressive are open to question, especially given the constraints on penal reformism and the potential for collusion with state punitive agendas, whether intentional or not. Citing the Canadian experience, Kelly Hannah-Moffatt described how radical reforms

initiated by the Elizabeth Fry Societies, initially embraced by the prison service in the aftermath of critical public inquiries, were appropriated by security and punitive agendas.<sup>9</sup> Cautioning participants to 'be careful what you ask for: you might get what you want', she outlined how innovation was institutionalised by the exclusionary strategies for accrediting programme used by prison authorities alongside the selective use by government of approving 'spokespersons' from the sector, while discrediting critics. Ultimately, prison reformers failed to challenge their own assumptions about the beneficial consequences of engaging with policy and prison administrative processes. In the UK context, Stephen Shaw<sup>10</sup> noted that that for all the virtues of innovation and flexibility associated with community and voluntary

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6. Over 150 participants attended the series, which was funded by the Economic and Social Research Council and jointly coordinated by Leeds and Keele Universities (Hucklesby, Corcoran and Mills). The views in this article reflect the author's interpretations. For full reports of the proceedings see: <http://www.law.leeds.ac.uk/research/projects/the-third-sector-in-criminal-justice.php>
  7. The seminar was run according to Chatham House rules, whereby the discussion is reported but not attributed to individuals. Any speakers cited here are already named in the public reports.
  8. Poole, L. (2007) 'Working in the Non-profit Welfare Sector: Contract Culture, Partnership, Compacts and the 'Shadow State'', Mooney, G. and Law, A. (eds) *New Labour/Hard Labour: Restructuring and Resistance Inside the Welfare Industry*. Bristol: Policy Press. pp233-261.
  9. Hannah-Moffatt, H. (2011) 'Reflexive Engagements: The Evolving Dynamics of Penal Reform and Community Involvement', presented at the seminar 'Penal Reform in service provision', University of Birmingham, 13 September 2011.
  10. Shaw, S. (2011) paper given to the 'Penal Reform in Service Provision' seminar, University of Birmingham, 13 September 2011.

sector groups, they could also be ideologically inflexible and self-preservatory. The sector's refusal to get involved with the electronic monitoring of offenders was both an example of its 'conservatism' and handed the advantage to the private sector, he contended. Organisations also faced future challenges including the potential for 'capture' if it become increasingly difficult to campaign against a partner or funder, and because organisations will have to undertake punitive and coercive roles as well as the 'nice work' if they contract to undertake core penal tasks. Chiming with Hannah-Moffatt, Shaw noted that the 'community' has become a site for penal expansionism alongside the provision of prison places.

### Whose community justice?

From a sociological vantage point, 'community' is a heuristic construct that artificially joins movable and baggy entities together. Too often, appeals to 'the community' become occasions for majoritarian self-righteousness preceding the explicit or subtle exclusion of the criminal 'other'. As Herbert comments: 'the assertion of the necessity of 'community' involvement in efforts to address such problem as crime is not a straightforward one'.<sup>11</sup> Because the 'crime and community' question is not self-apparent, it poses knotty problems regarding the representativeness and status of the 'active community', including who volunteers and who is volunteered upon? The second seminar considered the benefits and problems associated with volunteering including the recruitment and management of voluntary labour, identifying appropriate and inappropriate roles for volunteers, managing risks, and levels accountability and responsibility expected of lay citizens in discharging criminal justice roles. There was a strong consensus that volunteer labour should not substitute for paid professional jobs, nor that the sector should become a cheap alternative utility in the light of cuts to local services.

A primary virtue that the community and voluntary sector frequently lays claim to is that it is more socially representative of, and closer to, the concerns of communities. Yet, since the Deakin Commission on volunteering (1996), there have been concerns about the

narrow social demography of volunteers, sometimes pejoratively summarised as middle aged, middle class, female and white. Recent studies indicate that these remain the resilient core of voluntary participation. There are greater levels of participation in volunteering among those aged 35-49 years. Participation is higher in wealthier parts of the country. More women than men volunteer as do more 'able bodied' persons than those with a long-term illness or disability. Managerial and professional workers are more likely to volunteer, followed by small employers, supervisory and technical workers, full-time students and those who have never worked or are long-term unemployed.<sup>12</sup> Black and minority ethnic volunteers tend to leave service in criminal justice earlier and in greater numbers than other groups. Several factors contribute to marginalisation of minority constituencies including the unforeseen consequences of mainstreaming BME organisations. This can detach them from their community and political roots (especially among communities which have been historically wary of engagement with criminal justice or political authorities). There were concerns that the double jeopardy encountered by Black and minority ethnic groups in the criminal justice system more widely might recur in the field of

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voluntary activism. 'Double jeopardy' refers to the over-criminalisation of Black and minority ethnic persons (especially youth) alongside the concomitant neglect of their security and criminal justice needs. In short, minorities are over policed and under protected. The ensuing discussion considered the problems of recruiting volunteers from one section of the community to 'police' other groups. A discord was identified between the aims of 'social engagement' with offenders, which largely motivated volunteers, and the potential for their becoming involved in coercive or quasi-punitive roles.

### Volunteering by offenders: views from prisons and community-based peer-mentoring projects.

Issues about whose voices are heard as members of the 'community' and as 'citizens' were also pertinent to discussing the role of offenders and ex-offenders as volunteers. Ironically, offenders are least likely to be

11. Herbert, S. (2006) *Citizens, Cops and Power: Recognising the Limits of Community*. London: University of Chicago Press, p5.

12. NCVO (2011) UK Civil Society Almanac, 2010: 'Workforce: Formal volunteering per annum'. London: National Council for Voluntary Organisations.

thought of as active agents in volunteering. Research on the Samaritans 'Listener' programme, conducted by prisoners in prisons, and on peer-mentoring programmes in the community indicated that volunteering can enhance social capital, which is a precondition to 'making good' on the part of offenders.<sup>13</sup> Offenders who volunteered reported perceived increases in skills, confidence and self-esteem. Because they share a common status and struggles as former offenders, peers offer a unique empathy and can therefore bridge a gap between staff and service users. Many mentors had made the journey from service user to volunteer to paid staff. Identity arose as an important theme with reference to who constitutes a 'peer mentor' and whether this changes over time. It appears that acting as a mentor or a mentee allows offenders to undergo shifts in their personal identity in order to make the transition from offender to resettled person.

Yet volunteers who have been involved with the criminal justice system have yet to attain an equal voice and full status as volunteers or citizens. The unique challenges associated with volunteering with a criminal record or as an offender revolve around constraints because of their status as probationers and prisoners. Operating under close probationary supervision or as a volunteer in the prison environment are crucial distinguishing factors from 'regular' volunteering. Jaffe found that the prerogatives of prison security shape the nature of confidential peer support in prison. Listeners reported that there were few private places for confidential discussions, for example. Unlike Samaritans on the outside, Listeners, who are trained Samaritans in prison, uniquely sharing the closed environment of the prison with their clients. They are known to their clients and under constant demand. Moreover, Listeners constantly struggle to balance the potential suspicion of peers that they are 'grasses' with dependency on the goodwill of staff to discharge their roles. More widely, security procedures can be used to exclude VSOs from prison premises. Consequently, offender-volunteers can experience burnout and exploitation, while many programmes need to develop more appropriate exit strategy protocols for those who wish to leave.

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With the likely expansion of voluntary sector work with offenders (Mills et al, 2010), and the continued reliance upon volunteers in victim-oriented work, crime prevention, community safety, the composition of voluntary sector workforces, their motivations, values and conceptions of their roles is a prime area of research. This is all the more important because criminal justice agencies will continue to want to engage diverse demographic groups as especially important to working successfully with offenders and the wider community.

### A 'mixed' economy?

Neo-liberal orthodoxy relies on several recognizable justifications including the importance of competition for 'driving up the quality' of public services, the superiority of market mechanisms over state bureaucracies in distributing social goods, and the capacity to link payment and the social value to measurable outcomes. Concomitantly, 'Big Government' must be pared back by decentralising authority and transforming the role of governments from that of primary social provider to catalysing all sectors into solving complex social problems. In addition, consumer choice is viewed as empowering citizens by offering them more control over public services. These principles, initially promulgated by New Labour as mechanisms for reforming prisons, the police and probation services, are central to

the current government's framework for integrating VSO's into service delivery through competitive commissioning and encouraging 'all-sector' (public-, private- and voluntary) participation in liberalised criminal justice service markets.

The ensuing discussions were largely framed within these normative paradigms, signalling an apparent consensus that the pace of marketisation has left little scope for stakeholders other than to adapt, perish or disengage. It was argued that the mixed economy presented both favourable and unfavourable conditions for different providers. For example, competition presented an unprecedented opportunity for providers from different sectors to enter into constructive partnerships and enhance each other's strengths. Private enterprise partners in bidding consortia could provide the initial investment outlay and

13. Jaffe, M. (2011) 'Volunteering by Prisoners'. Paper presented to 'The Third Sector in Criminal Justice, ESRC seminar, Keele University, Staffordshire, UK, June 28, 2011. Gamble, D. (2011) 'Development of ex-offenders volunteering: Some views on the process, challenges and benefits'. Paper presented to 'The Third Sector in Criminal Justice, ESRC seminar, Keele University, Staffordshire, UK, June 28, 2011.

cash flow, thus bearing the financial risks and allowing VSO partners to supply skills and services. Several arguments were made as to why a commissioning approach could be beneficial to justice services, including claims that greater 'success' could be achieved for less cost, and that the involvement of more competitors would raise the quality of services, bring about more innovation and reduce obstructive bureaucracy. Moreover, VSOs were natural contenders as they had always operated within mixed markets. Indeed, the current direction of policy was continuation of existing practice because offenders already accessed services from a wide range of providers acting collaboratively.

The prospect of receiving 'payment by results' as distinct from payment for service provided or by clients generated considerable heat. The PbR model requires that providers carry the financial risks and payment is only made on measureable outcomes — currently defined by the reduction in reoffending rates as agreed between providers and NOMS. Four different PbR methods currently under evaluation at HMP Peterborough and HMP Doncaster were discussed as opportunities for NOMS to gather evidence of 'what works', with a view to scaling up successful methods nationally. 'Payment by results' (PbR) was presented as a viable solution on the basis that it sets transparent performance and outcome thresholds on which payment will be made. In turn, this stimulates providers to offer value for money whilst also giving greater discretion and autonomy for providers to decide how services will be delivered.

Critics of these claims argued that this system of funding made it more likely that providers would conform to marketised behaviour by 'cherry picking' client groups that are thought to be most likely to satisfactorily complete programmes. PbR did not reflect the diverse needs of service users, and that the hard binary measure (did/did not reoffend) seemed inimical to measuring desistance and the 'distance travelled' by offenders, as well as the value added by particular providers. In particular, the needs of hard to reach groups and those already socially and economically excluded, especially women, would be further marginalized by the commissioning mode, it was claimed.

The new landscape was thus spoken of as offering unprecedented opportunities to improve services for the benefit of offenders, the wider community and the public benefit more widely. However, delegates

challenged the claims that the current commissioning model was the most appropriate way to achieve sustainable mixed service partnerships. Several political objectives were identified in the government's determination to achieve a mix in criminal justice provision and governance. A central concern related to a growing recognition that the *mixed economy* may in practice result in private sector dominance of the service landscape. In this vein, it was observed that partnership working could in practice become contractual working or sub-contractual working for third sector partners. Criticism was also focused at the quality and type of services provided and whether the pressure on services to be commercially viable would be compatible with meeting the needs of clients. Additionally, the dominant influence of private sector values, notably the profit motive, is predicted to

accelerate the trend towards selecting 'mainstream' client groups with the most stable rate of return, thus diverting VSOs from accessing minorities or hard to reach constituencies. Thus, the core attributes which VSOs claim for legitimating their social role — independence, advocacy, client-centredness and trust in the community — are at risk.

Under these circumstances, commissioning and marketization are thought to hasten the current trend whereby small agencies are crowded out of the market, while large-scale charities emerge that are indistinguishable from large

corporations. It was observed that voluntary sub-contractors can be used by primary (often commercial) bidders as 'bid candy' to win contracts. Overall, VSO providers could be susceptible to a loss of autonomy and 'mission drift' as their survival becomes increasingly dependent on the priorities of the market, directed by criminal justice policy, rather than service user needs. Private sector representatives concurred that such concerns were material, given that 'niche' or specialist work does not necessarily attract funding. Meanwhile, VSOs must adapt to exposure to the monopolistic behaviours that are stimulated by 'free' markets, as well as risk becoming targets of mergers or acquisition by the private sector. Whereas the dominant concern in previous decades was that VSOs were continually subject to co-option by their state funders, their current challenge will be resist the turbulence of markets and the amorphous influence of large market players. In this sense, the old burden of dependency on state funders has been substituted for dependency on market funders.

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### Critical reflections:

The seminar series identified and challenged several contestable, self-fulfilling myths that have become normalised within voluntary and community sector discourse. These narratives not only reinforce problematic assumptions about the nature of volunteers and volunteering, but they inform misconceptions in policy about the motives and role of the voluntary sector, especially as how far it is willing to expedite political projects. Jurgen Grotz introduced the concept of the 'benefit fallacy' as a critical framework for deconstructing conventional narratives of volunteering as a panacea, or all-inclusive solution to complex social and policy issues<sup>14</sup>. The dangers of oversimplified concepts of 'helping offenders' were all the more important when one considers their multiple needs and how these might or might not be met by volunteering projects, he argued. Grotz identified some key issues:

- ❑ Firstly, the assumption that volunteering is universally beneficial for all participants (volunteers and clients) must be counterbalanced with the risks and detriments that occurred in practice, but which rarely came to public attention.
- ❑ Secondly, attention must be paid to potentially harmful or adverse affects of volunteering in criminal justice arena more broadly.
- ❑ Thirdly, VSOs and other stakeholders must acknowledge and prepare for the contingency that as the demand for voluntary involvement with offenders increases, so also do the risks of managing the activities and behaviours of volunteers fall to individual agencies.

Agencies were thus being obliged to develop 'quasi-employment' relationships with volunteers alongside legal obligations to paid staff, clients and contractors. They were obliged to establish procedures for dealing with misconduct, bullying, harassment, breaches of confidentiality and safety practices, discrimination and disrespect for clients. Additionally, volunteers were also subject to burnout, post-traumatic stress, injury or death while agencies working in a criminal justice framework would also have to adapt their practices with a view to 'public protection'. These concerns are eliciting complex and sometimes adverse changes within VSOs.

The final deliberations foregrounded several critical themes that will continue to inform dealings among

communities, charities and other stakeholders. A primary observation is that there is little room for avoiding the significant influences of market players as well as the state in the future development of criminal and social welfare frameworks. The role of successive governments as 'enablers' of the sector has produced some unforeseen strains. Participation campaigns have not increased volunteer numbers (which remain static) but the state is asking civil society to bear more social demands. Evidence suggests that volunteers do not participate because they wish to replace public services. The contentious issue of criminal justice exceptionality, i.e. that is whether the criminal justice field is different from other policy fields such as social care or housing, for example, is largely glossed over by advocates of the current status quo. The question as to how far, and to what degree, for-profit and citizen groups should be involved in criminal justice disposals, which invariably imply punishment and coercion by rule of law, poses significant ethical, legal and socio-cultural challenges for communities. Political rhetoric and official reports tend to idealise the contribution of the voluntary sector without recourse to clear evidence as to the unique challenges and constraints that inhere with their involvement in the criminal justice arena. With regards to payment by results [PbR] the prospect of paying providers based on narrow indices of 'reducing reoffending' is based on a logical fallacy which sets volunteers, VSOs and offenders up to fail. Rewarding providers on the basis of a crude offending/reoffending binary does not stem from a valid criminological proposition but reflects an actuarial conundrum with regards to how to monetise service activity. Compelling trustees, workers, volunteers and to provide evidence of binary outcomes without reference to wider contributions, such as enhancing life chances, life choices or health, for example, is thought to reflect a misconception of what voluntary interventions do. Just as problematically, claims that recruiting more offenders into volunteering creates a route into desistance or reduced offending behaviour and lifestyles are not unequivocally supported by research. At most, the literature indicates that any links between volunteering and outcomes such as reduced criminal behaviour are consequential. Overall, the consensus of participants is that voluntary engagement in criminal justice is a complex arena of social activity that cannot be straightforwardly treated as an extension of state functions of crime and security management.

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14. Grosz, J. (2011) 'Deconstructing the Panacea', paper presented to 'The Third Sector in Criminal Justice, ESRC seminar, Keele University, Staffordshire, UK, June 28, 2011.

# Ex-Prisoners Beyond the Gate:

## making a case for the development of community chaplaincy

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### Introduction

**There is a well established historical association between religion, the emergence and reform of prisons, and other features of criminal justice formation. Religion influenced the penal system in the United States which was differentially manifested in the Quaker Philadelphia Separate system and the Calvinist Silent system. Canadian penitentiaries reach back to the 19th century when the reformative influence of religion upon the imprisoned was a salient feature when crime was equated with sin. Religion stimulated prison reform in England and Wales in addition to the emergence of probation after 1876. For these and other reasons it is accurately stated that 'religion has been a major force in shaping the ways in which offenders are dealt with'.**

It is also pertinent to acknowledge that chaplains have been located in the British penal system for over 200 years. In what is now a little read and referenced text, Hinde<sup>2</sup> refers to four pieces of legislation during the 18th century which gave power to the justices of the peace to appoint chaplains to local gaols. Much later Radzinowicz and Hood,<sup>3</sup> at two specific points in their analysis of penal policy in Victorian and Edwardian England, consider the work of chaplains. It is suggested they played only a minor role in 19th century convict prisons and that governors had the upper hand in terms of influence. Furthermore, the authors proceed to state that chaplains 'seemed to be more like tired functionaries, expected to discharge difficult duties in a hostile environment'<sup>4</sup>. Initially they were drawn from the Church of England, but after 1864 Roman Catholic priests were appointed. Also Jews and non-conformists were allowed their religious representatives, in addition to which there were facilities for Hindus. Today chaplains can still be found within the prison system of the United Kingdom, as well as those of other countries, where religion persists in various denominational forms and modes of expression.

The purpose of this article continues to excavate this religious theme by drawing attention to what is a relatively new faith-based phenomenon in the criminal justice system of England and Wales, namely *community chaplaincy*. The argument will be advanced that there is the scope to develop and expand the work of community chaplaincy which will further establish its role in providing support to prisoners when they exit the prison system. Building a case and developing an argument for community chaplaincy will be illustrated by drawing attention to original empirical research which has recently explored, among other subjects of relevance, the relationship between prison chaplaincy and community chaplaincy. But first it is necessary to fill in the details of the origin, rationale, and development of community chaplaincy.

### Origins of community chaplaincy in Canada

The origins of community chaplaincy can be traced to the initiative of the Rev. Dr. Pierre Allard in Canada during the late-1970s and early-1980s<sup>5</sup>. This was a period when Canadian prisons were harsher than subsequently, when prisoners existed in a 'world apart' so that the inchoate vision of community chaplaincy was to build bridges between the prison institution and community. Significantly these bridges were to be built by faith motivated volunteers establishing contact with serving prisoners. It was acknowledged that prison chaplains could 'not go it alone' but required the assistance of volunteers to share the responsibility for what is often difficult work. Subsequently the vision was enlarged to the period beyond the release of prisoners from custodial facilities.

The Canadian vision was uncomplicated, theologically grounded in the injunction to serve others, and concretely expressed in a commitment to build human community for released prisoners which involved forging links with partnership resources and supportive multi-faith communities. Community chaplaincy does not dilute the criminological postulate of offender

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1. Garland, D. (1990) *Punishment and Modern Society: A study in social theory*, Oxford: Oxford University Press p.203.
  2. Hinde, R.S.E. (1951) *The British penal system 1773-1950*, London: Gerald Duckworth and Co. Ltd.
  3. Radzinowicz, L. and Hood, R. (1990) *The emergence of penal policy in Victorian and Edwardian England*, Clarendon paperbacks, Oxford and New York: Oxford University Press.
  4. Ibid p.541.
  5. During a research-based visit to Ottawa, Canada, during September 2010 to enhance understanding of community chaplaincy in its country of origin, I was provided with the opportunity to discuss relevant matters with Dr. Allard.

responsibility and behavioural accountability, but it does affirm that communities of faith have a responsibility for *all* citizens which includes offenders who have served custodial sentences. Currently there are only two full-time community chaplains in Canada employed by Correctional Services Canada. The explanation for this is that the dominant operational model in Canada incorporates a much wider definition because it involves people of faith who are not ordained (unlike prison chaplains), offering their time and support to ex-prisoners. Accordingly it has more flexibility than the formal structures of ordained ministry; it has emerged from and is sustained by grass root voluntary support; it is bottom-up rather than top-down. Community chaplaincy attracts and encourages people of faith from different faith communities to get involved and make a difference in the lives of ex-prisoners by volunteering their personal capital with the ultimate goal of reducing reoffending. If this religious phenomenon began in Moncton, New Brunswick and Kingston Ontario approximately 30 years ago, by 2006 there were 26 projects scattered throughout the five regions of Canada<sup>6</sup>.

### **Migration to England and Wales**

Community chaplaincy crossed the Atlantic during the period 1999-2001 and the first project was established at Swansea Prison<sup>7</sup>. It should be noted that its development in England and Wales coincided with what can be described as the renaissance of the *religious question* in the criminal justice system. In other words this was the beginning of a political process that culminated in the emergence of the National Offender Management Service which, in 2003-04, established the conditions whereby public, private, and voluntary sector organisations could contest for the business of providing offender services. Even though the competitive dynamics of NOMS may well enhance levels of performance in public sector organisations, New Labour governments between 1997 and 2010 increasingly encouraged the voluntary sector and its charitable organisations, including multi-faith traditions, to get more involved. It was being

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asserted that central government cannot promote citizenship, reduce re-offending, or promote community cohesion by itself, which is why it must seek alliances with, as an example, The Faith and Voluntary and Community Sector Alliance. One specific manifestation of partnership alliance is community chaplaincy which 'provides a bridge between prison and the community. It takes prisoners from the gate and supports them as they start their new lives, building the links between churches and the community'<sup>8</sup>.

Since the first project was established in 2001, community chaplaincy has expanded so that at the time of writing there were numerous projects located in the following areas: Low Newton (Durham), Manchester, Leeds, Birmingham, Leicester, Exeter, Buckinghamshire, Rochester, Lewes, Feltham YOI, Basic Caring Communities in London, Wandsworth, Wormwood Scrubs, and Swansea. Furthermore Northern Ireland has recently joined this list. In March 2010 the Community Chaplaincy Association was founded whose vision is to provide all those leaving prison with support and opportunities to free themselves from crime. It is also committed to building a national network of multi-faith community chaplaincy projects, allied to prison chaplaincies, which engage with people of faith and none. This process begins in prison before continuing through the gate and into the community.

It is of interest to acknowledge that the Swansea project, for example, is located within Swansea Prison and shares office accommodation with the prison chaplaincy; at Leeds it is located just outside the gate in prison service offices next to the Visitor Centre; the Methodist Central Hall, Oldham Street, is the location of the Manchester project. The aforementioned 15 projects (there are differences between them) have core staff members comprising community chaplains, project managers, other support staff, and volunteers drawn from local communities without whom the projects could not function. To reiterate the primary task is to begin the process of building relationships with prisoners who request to avail themselves of community chaplaincy

6. Cuff, D. (2006) *National Chaplaincy Evaluation, Community Engagement Project*, Canada: CSC.

7. I acknowledge the assistance of David Emery during a research-based visit to Swansea in April 2011, who told me about the beginnings of community chaplaincy in England and Wales.

8. Clarke, C. (2005) *Where Next for Penal Policy?* London: Prison Reform Trust p.7.

involvement before they are released, followed by support which continues beyond the gate for a specified period of time<sup>9</sup>.

### Research Methodology

The genesis of recently conducted community chaplaincy research can be traced to an accumulation of factors which include:

- ❑ The aforementioned historical and contemporary association between religion, penalty, and the wider criminal justice system;
- ❑ The origins and rationale of community chaplaincy in Canada over thirty years ago, in addition to its subsequent migration and expansion in England and Wales, both of which are under-researched;
- ❑ The impetus provided by NOMS to facilitate competition between the public, private, and voluntary sectors, including encouragement given to faith communities;
- ❑ The political impetus provided by the election of a Conservative-Liberal coalition government in May 2010 which is committed to the 'Big Society', 'Rehabilitation Revolution', and therefore an enhanced role for third sector faith communities and the utilisation of volunteers in the criminal justice system.

Accordingly during the summer of 2010, in consultation with the Community Chaplaincy Association<sup>10</sup>, it was decided to visit 6 projects located at Low Newton (Durham), Leicester, Leeds, Manchester, Feltham, and Swansea. The purpose of these visits which occurred between the 2nd November 2010 and the 14th April 2011 was to acquire a qualitative understanding of, thus facilitating rich insights into, community chaplaincy. This was achieved by conducting a total of 22 interviews comprising community chaplains (N=10) and other staff made up of project managers, volunteer coordinators,

and other essential support workers (N=12). Even though this research pursued a number of pertinent issues with all 22 respondents, one specific question explored the relationship between community *and* prison chaplaincy with ten community chaplains. The interviews were recorded and subsequently analysed, and the findings appertaining to this discrete theme will now be illustrated by presenting data from all six locations visited.

### Relationship between community chaplaincy and prison chaplaincy

When exploring the relationship between the relatively new phenomenon of community chaplaincy which began in 2001, and prison chaplaincy which reaches back to the closing years of the 18th century, the interview data strike a positive tone. At *Leicester*, where community chaplaincy began in 2007, it was recounted that a 'good relationship' prevails between the two distinct groups of chaplains<sup>11</sup>. Moreover the continuum of care which commences inside the prison extends into the community following release. It was affirmed that prison chaplains do a good job and for the first time a prisoner could find 'somebody cares for them, they can actually connect with, and we want that to continue' which is when community chaplaincy has an important function in continuing

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the work beyond the institution. This positive encomium was reiterated when I visited *Low Newton* women's prison in the North-East region, which began during 2005-06, when it was confirmed that there is a good relationship between the prison chaplaincy team and community chaplaincy. At *Low Newton*, as at other projects, prison chaplaincy refers prisoners to community chaplaincy for support beyond the gate.

When turning to the situation at *Manchester*, again there is a positive relationship and it was clarified that community chaplaincy grew out of prison chaplaincy services and Manchester Churches Together in 2004. Additionally 'We get most of our referrals from chaplaincy in prison because they recognise that our work is valuable'. When the project began there may have been

9. Comprehensive research-informed data on community chaplaincy in Canada, England and Wales, is due to be published in an Evaluation Report towards the end of 2011.

10. I am indebted to Kevin Armstrong, former Chair of the Community Chaplaincy Association, for supporting this research. I also acknowledge the encouragement of Clinks, and permission granted by NOMS to conduct this research.

11. It is important to explain that at the Leicester project, as well as Manchester, community chaplaincy work is undertaken with ex-prisoners released from numerous prisons. The Leicester project: Leicester, Glen Parva, Stocken, Ashwell, Onley, Swinfin Hall, and Lincoln prisons; then Manchester: Styal, Buckley Hall, Forest Bank, Wymott, Risley, Swinfin Hall, and Manchester (formerly Strangeways).

some scepticism, but no longer. 'They (prison chaplaincy) may not fully understand what we do, but community chaplaincy is trusted' to work with prisoners who have served less than 12 months as well as more serious offenders released on licence to probation services.

During my visit to Leeds (West Yorkshire Community Chaplaincy Project) it was stated that 'It's good. The chaplains in the prison, not the current ones but previous incumbents, were involved in setting up this community chaplaincy project in the first place (in 2005). So they set it up because they were concerned about the under 12 month prisoners constantly returning to prison and seeing the same old faces over and over again. So it is very good and they refer people to us; there's a lot of communication'. Interestingly the relationship 'has changed a lot over the years. It's gone through a cycle from being absolutely rooted in the prison chaplaincy and getting referrals from chaplaincy, to a more distant relationship. But now coming back to a close relationship where we have a member of the prison chaplaincy on the community chaplaincy board'. Community chaplaincy also participates with prison chaplaincy staff in running groups for prisoners within Leeds prison.

At Feltham Young Offender Institution where community chaplaincy began in 2005, there are good relations with prison chaplaincy staff. Again, as other projects, the former emerged out of initiatives precipitated by the latter. Finally at Swansea there have been close links between prison and community chaplaincy since the latter began in 2001. This is manifested in shared office accommodation inside the prison which I observed, and the comment was expressed that there is 'a positive and empowering relationship'. They may not agree on everything, but 'we are there for one another'. Accordingly the dominant impression gleaned from visiting these six locations is that the relationship between community chaplaincy and prison-based chaplaincy is overwhelmingly positive.

## Discussion and conclusion

Ten years ago a joint thematic inspection by HM Inspectorates of Prisons and Probation expressed concern at re-offending rates following release from prison institutions, and also acknowledged that resettlement was fraught with complexities<sup>12</sup>. Even though it was much too early for the Inspectorate report to incorporate community chaplaincy projects (because the first began in

2001), at paragraph 3.5 it is noted that non-governmental organisations, prison chaplaincies, prison visitors, and different faith traditions have made a significant contribution to resettlement. Similar concerns over recidivism and resettlement were reinforced the following year<sup>13</sup>. Subsequently the National Offender Management Service, after 2003-04, fostered a closer working relationship between prisons and probation conducive to reducing recidivism. Nevertheless it should be acknowledged that not only has the prison population doubled since 1993, but reoffending rates for short-term prisoners of less than 12 months have increased from 58 per cent in 2000 to 61 per cent in 2008<sup>14</sup>. Therefore recidivism and resettlement remain areas of concern for criminal justice organisations and governmental penal policy makers, which maintains an interest in the *religious question*.

Even though the accumulated evidence on the relationship between religion, faith-orientation, delinquency, and crime must be treated with caution, the contribution of religion to reducing re-offending amongst ex-prisoners must not be summarily dismissed as irrelevant. Notwithstanding the comprehensively critical review of the research literature by Aos et al.,<sup>15</sup> religion has value within prison<sup>16</sup>; faith-based interventions can conduce to rehabilitation if coupled with substance abuse treatment, educational and employment services, and the principles of What Works<sup>17</sup>. There is also some evidence that prison chaplains can positively influence post-release outcomes<sup>18</sup>.

Accordingly a case can be built and an argument advanced for the development and expansion of community chaplaincy, closely aligned to prison chaplaincy, with a view to making a positive contribution to an important feature of penal policy: reducing recidivism amongst ex-prisoners beyond their release from custody. This research-based article has produced some empirical data to illustrate a positive relationship between prison chaplaincies and community chaplaincies, specifically in six locations of England and Wales. Therefore the position is advanced that there is scope to develop this relationship for the mutual enrichment of both groups of chaplaincies within prison establishments; the benefit of prisoners beyond the gate; to enhance the continuum of care and support; and the effective contribution to government policies for criminal justice. This is also an area which offers a fruitful research agenda for prison and community chaplaincy to consider.

12. HMI Prisons (2001) *Through the Gate: A Joint thematic review by HM Inspectorates of Prisons and Probation*, London: HMIP.

13. Social Exclusion Unit (2002) *Reducing re-offending by ex-prisoners*, London: The Office of the Deputy Prime Minister.

14. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*, London: Ministry of Justice.

15. Aos, S., Miller, M. And Drake, E. (2006) *Evidence-Based Adult Corrections Programs: What Works and What Does Not*, Olympia, WA: Washington State Institute of Public Policy, 1-19.

16. O'Connor, T.P. and Perreyclear, M. (2002) 'Prisoner Religion in Action and its influence on Offender Rehabilitation', *Journal of Offender Rehabilitation*, 35, 3, 11-33.

17. McKean, L. and Ransford, C. (2004) 'Current Strategies for Reducing Recidivism', *Centre for Impact Research*, Chicago.

18. Sundt, J.L., Dammer, H.R. and Cullen, F.T. (2002) 'The role of the Prison Chaplain in Rehabilitation', *Journal of Offender Rehabilitation*, 35, 3, 59-86.

# Working on the inside:

## new approaches to increasing the employability of offenders

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### Introduction

**A large body of research now indicates that having a job directly influences whether an ex-offender commits further crimes. Studies show that if a former prisoner secures employment then they are between 30-50 per cent less likely to re-offend<sup>1</sup>. Yet the routine of work is one that is unfamiliar to many offenders. Over two in three individuals have no job at the time they are sentenced to prison<sup>2</sup> and 13 per cent have never had a paid job<sup>3</sup>. Unemployment is also prevalent amongst newly released offenders. Three quarters of prisoners say they do not have paid work to go to when they leave custody<sup>4</sup>. A study of over 1,000 people on probation found that only 21 per cent were in employment compared to 60 per cent of the general population<sup>5</sup>.**

Previous research has shown that there are a wide range of reasons why people re-offend. In 2002, the government's Social Exclusion Unit published a report called 'Reducing re-offending by ex-prisoners'<sup>6</sup>. This wide-ranging research consisted of consultations with many prisoners and professionals both inside and outside the criminal justice system. The report identified nine factors which directly affect re-offending rates: education and training, employment, drugs and alcohol, mental and physical health, attitudes and self control, institutionalisation and life skills, housing, benefits and debt, and families.

Although employment is just one part of this complex boiling pot, the Social Exclusion Unit's research showed how pivotal work is in turning offenders away from a life of crime. The study showed that 68 per cent of offenders believe having a job is the most important factor to stop them re-offending<sup>7</sup>.

It is vital that other issues, which may obstruct employment, are addressed. Finding accommodation, beating drug and alcohol addiction and getting help for mental and physical health problems are all hugely important. But recent research and the latest government policy papers indicate that employment pathways are finally getting the recognition they deserve around reducing re-offending.

In June 2011, think tank Policy Exchange published a report stating that 'research has consistently identified employment and education as the two most significant risk factors correlated with recidivism; with employment-related interventions associated with the largest reductions in re-offending'<sup>8</sup>.

Employment must be seen as the central spine to prisoner rehabilitation, supported by other important interventions around housing, drug and alcohol addiction. Studies show that regular work can help ex-offenders remain in mainstream society and generate the life-style shift needed to break idleness and criminal habits and create a routine. A steady job on release helps to bridge the gap between inside and out, it gives ex-offenders stability and financial security and can provide a sense of purpose and satisfaction. Employment also provides former prisoners with a future trajectory, helping them to build up their CV and work towards career goals and an improved salary.

### Government Policy

This strong link between work and reduced recidivism has been acknowledged through investment in offender skills programmes. Over recent years, money put into the prison skills systems has trebled as the government sought to make offenders more attractive to

1. Social Exclusion Unit (2002) *Reducing re-offending by ex-prisoners* <http://www.nlgn.org.uk/public/wp-content/uploads/reducing-re-offending.pdf> [Accessed 15/08/11] p.52.
2. Social Exclusion Unit (2002) *Reducing re-offending by ex-prisoners* <http://www.nlgn.org.uk/public/wp-content/uploads/reducing-re-offending.pdf> [Accessed 15/08/11] p.53.
3. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.8.
4. Social Exclusion Unit (2002) *Reducing re-offending by ex-prisoners* <http://www.nlgn.org.uk/public/wp-content/uploads/reducing-re-offending.pdf> [Accessed 15/08/11] p.53.
5. G.Mair & C.May (1997) *Offenders on probation*, Home Office [Accessed 22/08/11] p.12. <http://www.ohrn.nhs.uk/resource/Policy/OffendersonProbation.pdf>
6. Social Exclusion Unit (2002) *Reducing re-offending by ex-prisoners* <http://www.nlgn.org.uk/public/wp-content/uploads/reducing-re-offending.pdf> [Accessed 15/08/11]
7. Ministry of Justice (2010) *Compendium of reoffending statistics and analysis* <http://www.justice.gov.uk/publications/docs/compendium-of-reoffending-statistics-and-analysis.pdf> [Accessed 15/08/11] p.136.
8. Policy Exchange (2011) *Inside Job* [Accessed 04/08/11] p.26. <http://www.policyexchange.org.uk/publications/publication.cgi?id=242>

employers<sup>9</sup>. This significant increase in budget did bring about improvements to learning in jails. Many more prisoners have taken part in training courses and other skills development opportunities than ever before and the quality of these opportunities has improved<sup>10</sup>.

But there is little evidence that cash ploughed into offender learning has helped a large number of ex-prisoners find regular work or encouraged them to take up educational opportunities on release. In the 2011 white paper, *Making Prisons Work: Skills for Rehabilitation*, which sets out the government's reform programme for offender learning, Ministers admit that 'we are still failing to capitalise on the learning and training inside prison by finding ways to ensure prisoners continue their progress on release'<sup>11</sup>.

In today's economic climate, where public service providers must increasingly demonstrate the value for money of their work and the tangible impact they are having, government is keen to hold services to account for the results they achieve. With unemployment at its highest level for 16 years at the end of 2011 and only a slight drop in 2012<sup>12</sup> — the onus is on the government to reduce the number of prisoners adding to this total on release. As a result, learning and employment pathways that aim to reduce re-offending are one such service that will, going forward, operate in a context of payment-by-results. The pressure is on the Ministry of Justice to use approaches that generate powerful outcomes — translating skills development inside into a high number of training and work opportunities on the outside.

In December 2010 the Ministry of Justice launched a green paper to begin the debate around these issues. *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*<sup>13</sup> was billed as a cornerstone of the Coalition's criminal justice system reforms and contained some radical policy ideas around rehabilitating ex-prisoners.

The paper was responding to pressures to halt the 'destructive cycle of crime'<sup>14</sup> which costs the UK dear. The National Audit Office estimates that crimes committed by individuals released from short sentences cost the tax payer £7 — 10 billion every year<sup>15</sup>. The annual cost of convicting someone and keeping them in prison for one year is £126,500<sup>16</sup>.

### Re-offending Rates

Despite significant investment in tackling re-offending, rates are still very high — particularly amongst young people and individuals serving short sentences — where, in the past, there has been little attempt at rehabilitation. Figures show that nearly 50 per cent of offenders released from prison re-offend within one year<sup>17</sup>. A staggering 75 per cent of young people released from custody and 68 per cent of young people on community sentences reoffend within a year<sup>18</sup>. One in five offenders spent some time in custody the year after they were released from prison or started a community sentence. Almost three quarters of those who were released from custody, or began a community order, in the first quarter year of 2000 were reconvicted of another offence within nine years<sup>19</sup>.

Recent evidence suggests there is a group of around 16,000 active offenders at any one time, who each have over 75 previous convictions. On average they have been to prison 14 times, usually for less than 12 months, with nine community sentences and 10 fines<sup>20</sup>.

### Reform of Prisoner Rehabilitation

*Breaking the Cycle* tackles a multitude of issues surrounding the punishment of offenders and the payback they must make. It looks at new ways to rehabilitate people who commit crime, addressing factors

9. Ministry of Justice (2011) *Making Prisons Work: Skills for Rehabilitation* <http://www.bis.gov.uk/assets/biscore/further-education-skills/docs/m/11-828-making-prisons-work-skills-for-rehabilitation.pdf> [Accessed 14/07/11] p.5.
10. Ministry of Justice (2011) *Making Prisons Work: Skills for Rehabilitation* <http://www.bis.gov.uk/assets/biscore/further-education-skills/docs/m/11-828-making-prisons-work-skills-for-rehabilitation.pdf> [Accessed 14/07/11] p.5.
11. Ministry of Justice (2011) *Making Prisons Work: Skills for Rehabilitation* <http://www.bis.gov.uk/assets/biscore/further-education-skills/docs/m/11-828-making-prisons-work-skills-for-rehabilitation.pdf> [Accessed 14/07/11] p.3.
12. Office for National Statistics (2012) *Labour market statistics: February 2012* <http://www.ons.gov.uk/ons/rel/lms/labour-market-statistics/february-2012/statistical-bulletin.html> [Accessed 20/02/12] p.1 and Office for National Statistics (2012) *Labour market statistics: August 2012* <http://www.ons.gov.uk/ons/rel/lms/labour-market-statistics/august-2012/statistical-bulletin.html> (Accessed 04/10/12) p.1
13. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11]
14. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.5.
15. National Audit Office (2010) *Managing offenders on short custodial sentences* [http://www.nao.org.uk/publications/0910/short\\_custodial\\_sentences.aspx](http://www.nao.org.uk/publications/0910/short_custodial_sentences.aspx) [Accessed 22/08/11] p.4.
16. St Giles Trust <http://www.stgilestrust.org.uk/s/stats-and-info/p517/key-statistics.html>
17. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.1.
18. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.67.
19. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.5.
20. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.6.

around getting off drugs, mental health problems and how to make sure prisoners pay their way. It also tackles issues around sentencing reform and improving the youth justice system.

Employment is a central theme within this green paper, both in terms of improving an offender's prospects on release and also ensuring their punishment is meaningful and intensive.

One key proposition is to turn prisons into places of 'hard work and industry'<sup>21</sup>, ending the enforced idleness that has dominated the prison system for so long. Prisoners will be required to work a full working week of up to 40 hours, making punishments more rigorous and ensuring prisoners face the purposeful routine and 'tough discipline of regular working hours'<sup>22</sup>.

The criminal justice system will work more closely with voluntary and private organisations to develop working prisons. The 9,000 prisoners currently employed in prison workshops will be significantly increased, with more emphasis put on learning vocational skills in real work environments.

*'In some cases, the prison might provide the work. In others, the prisons may have contracts with a diverse range of external providers. We want to make it easier for the private, voluntary and community sectors to use their expertise and innovation to develop the working prison. This includes building on the excellent role of companies such as DHL and Cisco in providing work and training in prisons'.<sup>23</sup>*

Fundamentally, Breaking the Cycle sets out that prisons should play a more central role in providing offenders with the skills needed to live a life free of crime on the outside.

Following a significant response from the voluntary, public and private sectors to Breaking the Cycle, the

Ministry of Justice and Department for Business, Innovation and Skills published 'Making Prisons Work: Skills for Rehabilitation'<sup>24</sup>. This white paper outlines a major re-think of how to equip offenders with the right skills needed to find a job and kick criminal habits for good.

The result is a focus on how offenders can develop vocational and employability skills inside prison, ensuring they are attractive to employers on release. As with Breaking the Cycle, Making Prisons Work emphasizes the importance of de-centralisation and local-level control. *'We will achieve the most effective results by making offender learning an authentic part of the skills and employment systems that operate at that same local level'.<sup>25</sup>*

One idea is to engage with local employers and ask them to be involved in the design of prison training programmes. This would help to make offenders more competitive on release — specifically within their local job market and it could also help to plug regional skill shortages.

But in reality how can busy employers get involved with the delivery of learning and development programmes for offenders? What would this look like on the ground and what's in it for employers? What about health and safety issues, quality assurance and the costs involved?

### Prison industry transfer

One solution is currently being tested in the north west of England. Fusion21 is liaising with local businesses so they can work with HMP Liverpool to train prisoners as part of a prison industry transfer pilot. Run by Merseyside-based social enterprise Fusion21, the pilot will test whether manufacturers and construction companies in the area can transfer part of their production process into prisons. If successful this industry transfer model would develop profit-generating businesses in prisons that are not reliant on state funding. Such enterprises would help prisoners all

Employment is a central theme within this green paper, both in terms of improving an offender's prospects on release and also ensuring their punishment is meaningful and intensive.

21. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.1.

22. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.9.

23. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.15.

24. Ministry of Justice (2011) *Making Prisons Work: Skills for Rehabilitation* <http://www.bis.gov.uk/assets/biscore/further-education-skills/docs/m/11-828-making-prisons-work-skills-for-rehabilitation.pdf> [Accessed 14/07/11]

25. Ministry of Justice (2011) *Making Prisons Work: Skills for Rehabilitation* <http://www.bis.gov.uk/assets/biscore/further-education-skills/docs/m/11-828-making-prisons-work-skills-for-rehabilitation.pdf> [Accessed 14/07/11] p.5.

over the country to develop their CVs, gain accredited training and provide something of value back to society rather than 'simply being a burden on the state'.<sup>26</sup>

Crucially, this model will not take jobs away from law-abiding people on the outside, something that is particularly important at this time of economic uncertainty and high unemployment. Instead it will work with those firms that want to grow or set up new parts of their business or companies that want to transfer work back to the UK that is currently being done off-shore. It will help these companies reduce their overheads and meet corporate social responsibility objectives.

The model also includes a skills and training levy, paid by employers, which is ploughed back into training opportunities for offenders. No state funding is required — this approach is self sustaining.

This could make good business sense for local organisations and also help to meet the demand for specific skills. If there is the need for skilled workers in a particular area, such as the production and installation of energy efficiency goods, then it makes sense to train prisoners up in that area so they can make a valuable contribution to their local economy on release. Fusion21's aim is to create an industry transfer framework that meets the demand of local job markets.

Such a model could work well for trades that currently import goods or outsource the assembly of products to foreign countries. Rather than going down the import road, prison workshops could help companies reduce their costs and carbon footprint by manufacturing or constructing products in the UK. The building, horticulture, manufacturing and housing maintenance sectors all lend themselves well to transfer into prisons. A large proportion of prisoners have a low skills base — almost half have no qualifications. So certain areas of these industries that are straightforward to learn and non-technical, yet in demand on the outside, would be ideal.

In the past, a common training model for ex-offenders has centred on giving individuals 'safe' jobs such as clearing or renovating empty properties — which they sometimes live in on completion. But we must be wary of creating an alternative economy for former prisoners. Training opportunities must be authentic, taking place in real work environments and helping offenders to gain mainstream careers. Rather than

receiving concessions, ex-offenders must get constructive skills support that makes them attractive in the increasingly competitive job market.

That's why Timpson's prison workshops have been so successful. Offenders learn how to engrave, repair watches and mend shoes. The business offers pre-release training and jobs on the outside. Repair and mending skills will always be needed and this type of work doesn't require strong literacy skills or lots of qualifications. Importantly it provides stable, secure job prospects on release<sup>27</sup>.

### **New model for job creation**

Increasing an offender's 'employability' is vital to helping them carve out a crime-free future. Fusion21 has been developing the employment skills of ex-offenders since it was set up in 2002. The social enterprise was founded by seven social landlords, initially as a consortium to drive collective procurement. It now helps over 130 organisations across the country to make savings when purchasing goods and services — everything from lifts and legal support to scaffolding and solar panels.

The key to Fusion21's model is how it links procurement to job creation. For every £1million worth of work awarded to a scaffolding

contractor for example, 1.5 people are trained through the social enterprise's Skills Programme and employed by that contractor. So far a total of 856 jobs for local people have been created, with approximately 300 of these positions going to known offenders.

This job creation has brought about an estimated £32million boost to the Merseyside area through a reduction in benefit claims and investment into the local economy. In addition to creating jobs, Fusion21 delivers training to thousands of Merseyside residents in construction, health and safety and up-skilling courses to help increase their chances of securing employment opportunities. Many of these trainees include ex-offenders<sup>28</sup>.

Over the past year Fusion21 has also set up training workshops at HMP Liverpool with prisoners gaining City & Guilds Level 2 qualifications in a range of trades. Some workshop graduates have now been released, with one ex-offender coming to Fusion21 the day after he was

Training opportunities must be authentic, taking place in real work environments and helping offenders to gain mainstream careers.

26. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.15.

27. Ministry of Justice (2011) <http://www.justice.gov.uk/news/features/features-180111a.htm>

28. Fusion21 <http://www.fusion21.co.uk/>

freed. He was able to train for a Construction Skills Certification Scheme card free of charge and quickly found employment with a local contractor through Fusion21's partner recruitment agency Employer Pool.

### Working with social landlords

A large number of the apprentices and trainees Fusion21 works with find jobs in the social housing sector. The social enterprise is keen to develop links between housing associations, prisons and probation trusts in order to boost the employment prospects of ex-offenders.

The social housing sector itself has been employing former prisoners for years. Offenders often come from housing associations and go back to these communities on release. A Home Office criminality survey indicates that over 56 per cent of ex-prisoners surveyed in 2000 were living in accommodation provided by local authorities or housing associations<sup>29</sup>.

Social landlords know all too well that the financial, social and personal effects of re-offending on neighbourhoods can be devastating, and it's in their interests to take a co-ordinated approach. Housing providers need to work together further, looking for effective solutions that are self funding and can be rolled out across the country.

A number of social housing providers already support former prisoners by employing them to clean or renovate empty properties, do gardening or window cleaning. These projects generate some great results but there is only so much a single housing association can do on their own, especially if their work is grant dependant.

Several social landlords are now working with Fusion21 and HMP Liverpool to create a pathway for offenders in custody and beyond the prison gate. Supporting an offender before their sentence ends can help housing providers to reduce the chance of that person re-offending in their local community. It can also help landlords to tackle skill shortages — a problem the sector faces around the green economy as it seeks to make housing stock more energy efficient in response to tough carbon reduction targets.

### Beginning apprenticeships inside

Fusion21 is also speaking to the National Apprenticeship Service, social landlords and a range of other employers that take on apprentices. The aim is to see whether offenders can begin training programmes during the latter part of their sentence. This would help to maintain continuity beyond the prison gate and generate the lifestyle shift needed to root offenders firmly within mainstream society immediately on release.

If approved, then prisoners would be able to start apprenticeships such as those in housing maintenance, construction or horticulture whilst still inside, completing the first four levels of accreditation before they are released. This policy change would speed up the rehabilitation of offenders and their ability to contribute to the local economy while reducing their reliance on benefits.

### Changing Community Payback

In *Breaking the Cycle*, the Ministry of Justice proposes reforms to community payback systems. There are plans to make this type of punishment more intensive and immediate, to enforce it properly and to create further opportunities for community payback to develop an offender's vocational skills and

chance of employment in the future<sup>30</sup>. Significantly, the government wants to look at new approaches that allow local communities to influence the type of community payback work given to offenders. As a result more voluntary and community organisations will work with the criminal justice system to improve community payback opportunities.

Fusion21 is already in talks with probation trusts to explore a range of new approaches. One such idea is to work more closely with housing associations in the design of local community payback schemes.

Although community payback can be quite a disparate programme, there is some robust work already being delivered in this area by the probation service. Social landlords have a strong understanding of the needs of their local communities. Every housing provider has a neighbourhood plan, identifying the

Social landlords know all too well that the financial, social and personal effects of re-offending on neighbourhoods can be devastating, and it's in their interests to take a co-ordinated approach.

29. Social Exclusion Unit (2002) *Reducing re-offending by ex-prisoners* <http://www.nlgn.org.uk/public/wp-content/uploads/reducing-re-offending.pdf> [Accessed 15/08/11] p.98.

30. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.14-19.

environmental changes they'd like to make if they had the money. Generally these plans remain aspirational, listing the things they would like to do if only they had the resources. If a more co-ordinated approach to delivering community payback was developed then offenders' free labour could be used to make neighbourhood plans a reality. Fusion21 is keen to work alongside the probation service in this area, supporting the significant progress it has already made.

The Merseyside-based social enterprise is also speaking to probation trusts to explore how community work schemes can train offenders, boosting their employability. Probation trusts have long recognised the importance of training and employment in helping offenders to exit the criminal justice system and make a positive contribution to their communities. For some time, trusts have supported Employment, Training and Education (ETE) programmes, working with a range of providers to create opportunities for offenders to gain qualifications and move into work.

Now community pay-back has now been opened up competitively, other providers will look to link court sentences with employability training. The focus will be on supporting those offenders with community sentences in excess of 150 hours and individuals who have been unemployed for more than two years.

But at the same time, pressure is increasing to make community-payback more robust. Offenders must be allowed to provide more reparation to the communities that have suffered as a consequence of their behaviour. Community projects will always feature in the work undertaken by offenders and increasingly more public sector organisations — in addition to housing associations — are recognising the role that community payback can play in their plans to tackle environmentally damaged areas.

One idea is to support probation trusts to manage land bought by property developers which is now sitting empty. Rather than attracting fly tipping or anti-social behaviour, land would be used and managed by community payback schemes until property developers want it back. Offenders would learn skills and boost their work history by managing the land and probation trusts would earn income.

## Procurement

Fusion21 already runs dozens of purchasing contracts with local suppliers. To date around £45million has been saved through its collective procurement frameworks<sup>31</sup>. This experience has demonstrated that if housing organisations and construction firms procured goods from the prison estate then such a partnership could generate significant benefits for businesses and the prisoners making the products.

Examples of this are already happening on an ad hoc basis. A social landlord is currently looking to the prison estate to manufacture fencing for a multi million pound fencing programme. But a nation-wide, joined up approach is needed if this type of initiative is to have any major impact. If prison industries are expanded for their 80k-strong population then jails could become competitive, commercial suppliers to social landlords and the building industry. Companies working with prisons could open a percentage of their procurement frameworks to prisons — fulfilling social responsibility objectives and enabling them to buy cost-effective products.

Offenders must be allowed to provide more reparation to the communities that have suffered as a consequence of their behaviour.

### Case study: Steve's story

'Steve' is 23. Four years ago he received a 21 month jail sentence for the supply of class A drugs. Apart from six GCSEs, Steve had no qualifications or employment records since leaving school. All he had on his CV was nine months experience as a trainee scaffolder. Getting a stable job on release wasn't going to be easy.

After Steve left prison he came to Fusion21 through one of the organisation's unemployment programmes. Through a work focused training course, Steve gained qualifications in first aid, manual handling, health and safety and construction.

After that Steve managed to secure a six month placement at a local housing association and completed another course, this time in cleaning and support services. His hard work paid off and the social housing association kept him on for an extra six months through Employer Pool — a group of businesses that recruit local workers such as Steve<sup>32</sup>. With more experience, qualifications and a good reference under his belt, Steve had the confidence to apply independently for a job with a large contractor and move on.

31. Fusion21 <http://www.fusion21.co.uk/>

32. Employer Pool <http://www.employerpool.co.uk/>

Like many ex-offenders it would have been easy for Steve to slip back into the cycle of re-offending without having the purpose and routine provided by regular employment. It's these softer skills such as discipline, motivation, time management and the ability to respond to instructions that work also provides.

The Policy Exchange elaborates on this wide range of benefits in their report 'Inside Job'. They cite evidence showing the positive impact work and skills development can have on an individual's mental health, their sense of achievement, satisfaction and self confidence. Vocational training provides structure and purpose to an offender's day as well boosting their own sense of identity<sup>33</sup>.

### Conclusion

If the government's ambitions for reducing re-offending through employment pathways are to be realised then innovative, holistic solutions are needed. Projects and agencies offering job and training opportunities to prisoners must join up their work and carve out a new route for offenders in custody and beyond the gate.

In *Breaking the Cycle*, Ministers ask an important question. 'How can prisons be made into places of hard work and discipline?'<sup>34</sup>. This is a vast issue with a series of complex answers. A number of cities do already have successful prison industries in place — but the key to making all prisons places of meaningful work is to develop a model which can be replicated across the country. This model would vary locally in terms of labour demands and the different employers getting involved, but the overall framework would remain the same.

And this framework must be self sustaining. Prison industry systems should be profit-generating and non reliant on government grants, this will enhance the longevity of such schemes and help to gain support from the public and Ministers.

In the meantime, more pilots are needed — such as the one taking place in Merseyside — to identify how offenders' employment skills can be developed on a larger scale. Ultimately, leaders need to become advocates and champion this approach — it makes strong economic sense for government, employers and prisoners alike.

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33. Policy Exchange (2011) *Inside Job* [Accessed 04/08/11] p.26-27. <http://www.policyexchange.org.uk/publications/publication.cgi?id=242>

34. Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*. <http://www.justice.gov.uk/downloads/consultations/breaking-the-cycle.pdf> [Accessed 15/08/11] p.16.

## **THE PERRIE LECTURES 2012**

### **Prisons: where does the community come in?**

# Rethinking prisons and the community

*Peter Wright is the former Governor of HMP Nottingham<sup>1</sup>, now Governor of HMP Lincoln.*

**I believe that the way prisons relate to the community is one of the most important issues facing prison managers today. It is my most recent experience in a local prison that has been the most striking to me. I now see that my working life has been spent on the fringes of the criminal justice system. Now I feel part of it. But am I really? When Nottingham prison was recently expanded we committed ourselves to configuring the prison on community lines. Although we could not attempt the Woolf community prison formula of 1991, we did our best to let the community in.**

First, a word about Bill Perrie. I never met the governor in whose memory these lectures are named. But I have experienced his influence. He opened Long Lartin in 1971. I was there 25 years later. I felt at the time that there were aspects of the culture of that establishment that still reflected his values. The way that a prison is opened can influence its culture and ethos. I thought that the tradition Bill Perrie started, a tradition that made it normal for staff to talk to prisoners, was still there in the mid 1990s. I understand that it is still there today. For me, the message to be learned from that experience was clear. When you open a prison or fundamentally change its role, don't be limited merely to introducing systems. Prisons need values too.

I will be making four points this morning. Firstly, there is a lesson from history: we're in the wrong place. That is, I'm going to argue that the world we take for granted came about through a mistake. That world is the system in which local prisons are run by a central government department. If we accept that it was a mistake it makes it easier to contemplate a somewhat different future. Secondly, I want to reflect on how this has shaped us: the attitudes that make us fail. There is a danger that we are taking on a responsibility for issues that we cannot reasonably be expected to deal with. Put another way, the answers to the challenges of crime and anti-social behaviour do not lie in prisons but sometimes we speak as if they do. The community reality of crime and antisocial behaviour is largely excluded from prison discourse. Thirdly, we should be finding the community:

meeting the people who pay us. Finally, there is the question posed by these lectures, where the community comes in: a practical idea and an unpractical vision. These are some thoughts about accountability. The vision will be unpractical because I will not give a route map. But it will not be impracticable.

Obviously I am going to be talking about crime. By 'crime' I mean burglary, theft, street violence, gang crime, domestic violence. This is sometimes called 'volume crime'. That is, I mean the sort of crime that is of immediate concern to communities. I will not be talking about serious and organised crime, terrorism or sexual offending, or about the valuable work being done in the community and in prison in respect of those offences.

## **A lesson from history: we're in the wrong place**

Sir Edmund Du Cane, the literal architect of Wormwood Scrubs, was also the principal architect of the nationalisation of local prisons. The work of Sean McConville has illustrated that the impact of Du Cane was immense<sup>2</sup>. I would add that it has had so profound an effect that we do not question the world that he created for us.

There follows a brief, very simplified, history lesson. The 1840s to 1870s saw a transformation in English life as a result of the growth of the railways. Greater mobility and the improvement of communications led to a breakdown of what we would now describe as localism. From this came big changes in how people viewed the world, including crime and punishment. From Anglo Saxon times, it had been axiomatic that communities should themselves be responsible for law and order. For example, in the 1840s local government paid almost all law and order expenses. After the second reform Act of 1867, the view emerged that less should be paid from local property taxes and more from central government taxation. People also thought that more mobility meant that criminals had become a national problem, and their punishment should become central rather than a local responsibility<sup>3</sup>. So in the nineteenth century, a criminological theory emerged that criminals

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1. I wish to acknowledge my colleagues at Nottingham, Karen Lloyd (Head of Partnerships) and Jane Hilton (Senior Probation Officer, Nottinghamshire Probation Trust), and also to our former colleague Mel Gardner (now with Nottingham Crime and Drugs Partnership). They are the experts and I am the spokesperson.

2. McConville, S. (1998) *The Victorian Prison* in Morris, N. and Rothman, D. (eds) *The Oxford History of the Prison* Oxford: OUP .

3. Incidentally, this is as wrong now as it was then. It is astonishing that despite all the advances in transport, education and communications crime remains almost entirely a local phenomenon. It comes out of marginalised communities. And people in those communities don't go anywhere.

planned to do crimes where prisons were soft. They would move to those areas. So there was concern that punishments were not uniform. This added to the arguments for centralisation and justified chillingly austere regimes.

In Disraeli's second administration in 1874 all this came together. Disraeli's election promise had been to reduce local rates and central government taxation. So if you could remove prisons completely from local government this would give immediate relief. Du Cane put forward a clinching argument: if local prisons were to be nationalised, there would be a net saving in expenditure — thus reducing the tax burden both national and local. This was accepted by the Home Secretary, by Cabinet, by the Prime Minister and finally by Parliament.

It was, unfortunately, completely fallacious. Edmund Du Cane argued that he could close half the local prisons in the country and use the savings to pay for the other half. It was something for nothing. He thought that local prisons could have productive industries. They did not. He failed to survey local prison buildings and as a result central government ended up with a local prison estate needing investment.

Du Cane was offered a large cash bonus to carry the whole thing through. He impressively forced more than 60 prisons into the new national prison commission, which he chaired. There followed investment and new buildings and self-congratulatory annual reports. For example, in 1891 an entire new prison was built on the then outskirts of Nottingham for the sum of £20,000.

Edmund Du Cane retired and he was rubbished by his successor who in turn was rubbished by his. But no one challenged the notion of prison nationalisation. By the 1930s progressive and official opinion accepted the necessity of nationalisation as an absolute truth. Not a single voice of dissent has been raised. That remains true to this day. For example, the 2011 White Paper on *Open Public Services* mentions in passing the self-evident fact that the running of prisons obviously could not be devolved to communities.

John Rentoul, the *Independent on Sunday* journalist is very active on Twitter<sup>4</sup>. He has a tongue in

cheek campaign about barmy headlines with this hashtag: #QTWTAIN — Questions To Which The Answer Is No. I sometimes play a game about QTIHNBA:

Questions That I Have Never Been Asked. Some of questions I have never been asked include:

- What happened in the local criminal justice board last week?
- How are we performing in MAPPA panels?
- What is your reconviction rate?
- What are you doing to support crime and safety partnerships?

It is strange that having worked for so long in a government department and then in public and private sector prisons that it has only been since I first walked into Nottingham prison in July 2008 that I felt that I was part of the criminal justice system and — for the first time in my working life — that what I did was relevant to the community.

It was interesting to think about my community brief. I knew of no leadership engagement with the other agencies. The third sector was important only for its annoying failure to turn up regularly for the race relations management meeting so we could meet our audit requirement. The contrast with the other agencies was stark. For example, police senior teams seemed to be as at ease with the professional demands of policing as they were with the

social dynamics of working with marginalised communities. I felt there was a kind of humility there too — a willingness to engage with the public and reprioritise according to the public's concerns, even where police leaders did not necessarily agree. I was also struck by the low expectations of me. I heard another governor once say of his own Local Criminal Justice Board experience — of course it's all about stuff at the beginning of the process like offences brought to justice. 'There's nothing much for us to do'. But why was there such a difference between being the governor of a local prison and the chief executive of a probation trust? Or between being a governor and being the chief constable of a police force? What caused this professional separation?

Du Cane put forward a clinching argument: if local prisons were to be nationalised, there would be a net saving in expenditure — thus reducing the tax burden both national and local.

4. @JohnRentoul

## How this has shaped us: the attitudes that make us fail

In the years that followed nationalisation, local prisons drifted away from their communities. Whenever I speak to Derbyshire magistrates I love to tease them with a picture of Derby prison. It closed in 1919. Over the years Derbyshire prisoners have gone to a range of local prisons far from the county.

Prison places are a free service to the courts. Communities do not bear the financial consequences of locking up young men in their thousands. I don't blame magistrates for their use of short sentences. It's unusual to come across a magistrate at ease with short sentences. What else can they do? Nottingham prison releases each year 2500 men into the community, most of them at the end of short sentences. The average number of previous convictions is 54.5. What else can the magistracy do if they are to preserve public confidence in the courts?

Today there is no discussion about the role of the state in the running of prisons or in the commissioning of prisons. Obviously, no-one today wants to see local government taking responsibility for prisons. No member of a local authority has cast a covetous eye over Nottingham prison and said to me, we could do better. But prisons were nationalised on the basis of woolly thinking about crime and a mistaken business case. Crime hasn't been nationalised. Crime isn't national. Crime isn't regional. Crime is local. In fact crime is sub-local. Crime is about neighbourhoods. It's a matter of postcodes. It's about streets. But we have enduring and unchallenged attitudes.

All public sector prisons have a service level agreement. I struggle with this idea because it seems to be unrelated to finance. And it's always fun to tease commissioners. The SLA template says:

*3.1.1.HMPS will work with the local community and with the voluntary and community sector, social enterprises, faith groups, private and statutory organisations and agencies and, in Wales, the Welsh Assembly Government, to support the delivery of this SLA and to further NOMS objectives.*

Well, I suppose there's nothing very wrong with any of that. But it did make me smile. This is an SLA of 5932 words and 29 pages. It is the only mention of community. Just look. It's in terms of what the community can do for centre: *to support the delivery of this SLA and to further NOMS objectives*. It implies a sort of category error. Do you want to know the answer to the community's problems? Look within this government department. The community would be a safer place, if only this SLA were to be delivered and NOMS objectives were achieved.

I want to share my own moment of conversion. I have told this story many times before because it defines my assessment of the issue. I happened to be standing outside Nottingham prison one morning when a group of men were released at the end of their

sentences. One young man was met by two of his friends. I watched as they greeted each other in the car park. There was cheering and hugging and fist bumping. They crossed Perry Road. I forgot about the meeting I was supposed to be going to, and followed them. I hurried along the pavement and caught them up. The ex-prisoner turned abruptly, saw me, and jumped back in alarm: 'Are you CID?' he asked. I introduced myself and we talked. He had been in prison for 10 weeks. I thought it sensible, in front of that audience, not to ask him what for. But I did ask him what he was going to do that day. It was very clear from his replies that his

discharge grant was going to be spent in a way that he would regard as sensible but I would not. Then, I asked him about getting a job. I will always remember the moment. His eyes met mine. He said nothing. And the story as I tell it is that at that moment I knew my concerns about work or education or drugs or rehabilitation would be wholly irrelevant to the choices he would be making that day. But what did he see as he looked at me? Did he not see me as someone who was wholly irrelevant to his life? I stood still and watched him as he continued on his way along Perry Road with his excited friends.

The question of the role of the community must be one of the most important questions facing those of us who work in prisons today. It is a more important than competition. Competition answers some big questions but of itself remains a centralist venture, although there is obviously scope for requiring contractors to let the community in.

. . . prisons were nationalised on the basis of woolly thinking about crime and a mistaken business case. Crime hasn't been nationalised. Crime isn't national. Crime isn't regional. Crime is local.

I believe strongly in letting the community in. I could give some examples. But I hesitate to do that. Any prison governor here could say they let the community agencies in to provide that activity or to do that service. We could make a list. We could all leave this room with some useful thoughts. 'Oh, yes we do a bit of that.' 'Or that's a good idea. Let's try that'.

The question of where the community comes in, is a sensible one. So I am not being rude when I say that it is, in a sense, also the wrong question. The question comes from a world that is inside. It comes from a perspective that is introspective. And it causes us to look for solutions in the wrong place. This is a really serious problem. This is not least because those of us who are practitioners are now placing ourselves in a position of responsibility. We are accepting a position of responsibility for crime and anti-social behaviour.

If your house catches fire it will be very important indeed for you to call on a fire and rescue service that is effective and efficient. You will want them to arrive quickly and act decisively. You want that fire out. You'll have some additional concerns. In their efforts to put out the fire you don't want them to cause more damage than the fire itself. You want them to be efficient and competent. You would also be grateful for their expert advice on how fires like this are caused and how they can be prevented in future. In the 21st century the fire and rescue service is actively engaged in crime and safety partnerships in helping communities to be safer. But it would not occur to you to blame them for your fire. You would not expect people to look at the fire statistics of your town and say, what is the fire service doing about that? What are we paying for? There are too many fires in this town. This fire service isn't fit for purpose. It would be absurd to blame the fire service for our house fire because we know who is responsible. We are responsible for making sure that our electrical wiring is safely installed or that a family member behaves responsibly when frying chips. The fire service is just responding to our problem.

So as responsibility for house fires rests with the community, so does responsibility for crime and anti-social behaviour. The answer to the problem of crime and ASB does not lie within prisons or in any other part of the criminal justice system. The answer lies in the community.

To ask, 'Prisons: where does the community come in?' is to provoke a number of thoughts. First, the community is self evidently outside. We will decide whether or not it should come in. Further, this is about the community coming in, not us going out. To me it also implies that we decide what will constitute 'the community' that we will allow in. It implies that involvement of the community is for the benefit of the

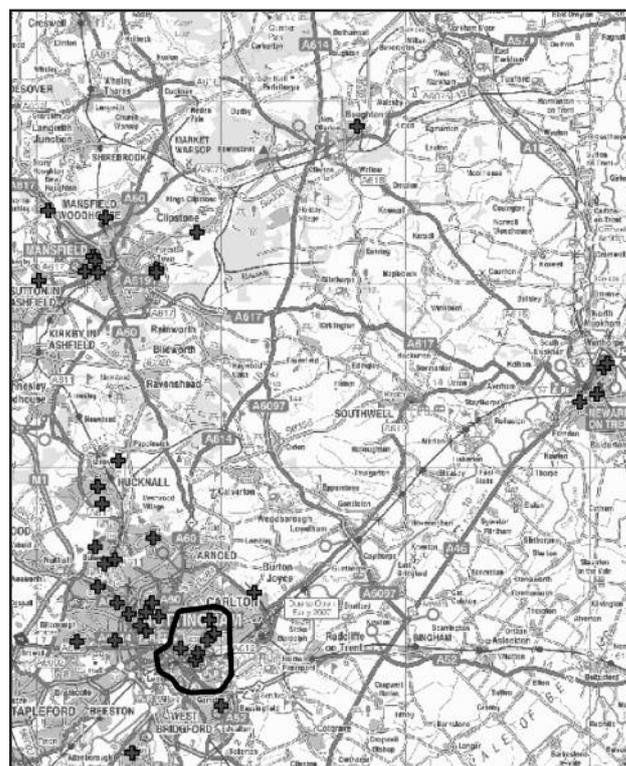
prison. It implies that prison managers will set the agenda. It implies the hope that the prison will endure but in some way will also be improved as a result of the community coming in. I believe that we're in the wrong place on all these issues.

### Finding the community: the people who pay us

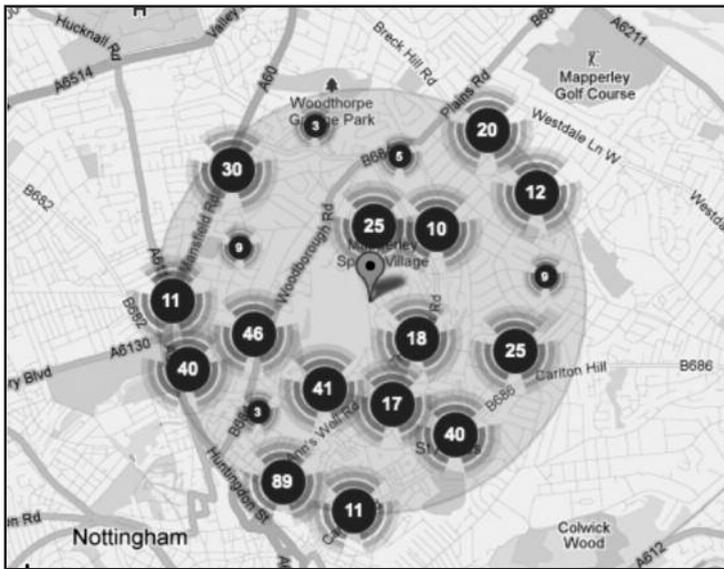
This is my favourite picture of Nottingham prison.



It's in a community. It's in the place where crime and disorder is taking place. Those people in those flats and houses are victims and taxpayers. Their taxes paid £96 million for the prison to be expanded. They'll pay £21 million this year to run it. This is where we discharged prisoners in to Nottinghamshire in April 2012. The people discharged to NG3 — St Ann's are circled in black.



This is a crime map of St Ann's:



This shows street-level crime and anti-social behaviour in St Ann's in one month — March 2012. Each of those blobs isn't a crime. It's a collection of crimes. Those blobs represent 464 crimes. A former Chief Inspector of Prisons said to me that Nottingham prison was like a water wheel that scooped people up from the community and dumped them back again.

### Where the community comes in: a practical idea and an unpractical vision

There's a type of fiction called alternative history. It consists of stories that are set in worlds in which history has diverged from the actual history of the world. You may have read Stephen Fry's 1996 book *Making History*. It's good fun and very clever. A time machine is used to alter history so that Adolf Hitler was never born and the book follows the unintended consequences of that change.

Let's go back to 1876 and imagine an alternative history in which people see sense and Du Cane's nationalisation of prisons does not take place. Instead a powerful Inspectorate is created and local government is supported in improving local prison conditions. Local prisons remain the responsibility of justices of the peace — the local government of the day. By the early 21st century, governors of local prisons are answerable to prison and probation trusts. They have a legal duty to support the objectives of crime and safety partnerships, on whose boards they all sit. As local government employees local prison governors are enthusiastic participants in local criminal justice boards, and well aware of the need to make high quality contributions to

MAPP level 3 panels. They are significant players in the local criminal justice world.

Interestingly, their prisons are smaller but more numerous than we would expect. It has long been accepted that spending millions on prison places may not be an effective response to crime and antisocial behaviour. Since the late 20th century local authorities have been making a trade off between spending more and more on prisons, and evidence based interventions in families and communities. As with the recognition that public order has not been the sole responsibility of the police, so reducing re-offending has obviously not been the sole responsibility of prisons. And local authority adult and child safeguarding departments have been quick to emphasise the importance of keeping women in prison near their children and there have been successful experiments in ultra low security for women — and based on their needs (where perimeter security is more about keeping them safe from men than preventing escape).

You might object to all this. Clearly it is not realistic to propose transferring local prisons to local authorities. This would probably not go down that well. But the idea isn't completely mad. Let's look at the *Open Public Services White Paper*<sup>5</sup>. This states:

*We want control of public services to be as close to people as possible. Wherever possible we want to decentralise power to the individuals who use a service.*

But the Du Cane's spirit lives on. The document excludes prisons from the generality of decentralisation<sup>6</sup>:

*Commissioned services — There are local and national services that cannot be devolved to individuals or communities, such as tax collection, prisons, emergency healthcare or welfare to work.*

But, the idea is not totally ruled out<sup>7</sup>:

*5.17 Our commitment to decentralising power means that we are enthusiastic to identify central government commissioning functions that could be decentralised to locally elected individuals and authorities, such as local councils and Police and Crime Commissioners. This could enable locally*

5. Cm 8145, July 2011, p.8.

6. Ibid p.12.

7. Ibid p.34.

*elected individuals, local authorities and Police and Crime Commissioners to integrate these with other local commissioners' functions, using, for example, Community Budgets to enable joined-up solutions relating to the needs of local people to achieve better value for money.*

So here's a practical idea and an unpractical vision. The practical idea is why not give over some control now to local agencies and to communities themselves?

In Nottingham, we have an Accountability Board on which local agencies sit and guide our strategic vision. We involve the police, Jobcentre Plus, CSPs, the CDP, health, probation and others and give them a clear mandate to shape the prison's community objectives and the vision for the long-term direction of the prison. For our part we commit to supporting partner agency objectives and targets, even when these are not strictly relevant to our mission. The most striking example of this is healthcare where we facilitate 4000 health interventions a month. By giving up power over our prison and asking partner agencies to guide and shape our destiny, the levels of trust that exist between us and our colleagues in the community increase and practical collaboration intensifies: Integrated Offender Management, restorative justice, police productions, gangs, housing surgeries. I am there when things get tough for our community colleagues from any of the agencies. There is a personal relationship. And when things go wrong for me, they step in with their personal support.

But we can move beyond criminal justice agencies. By using existing police consultative arrangements we can be sure of aligning our service to community expectations. Neighbourhood watch associations are readily available for this. Whenever I speak to neighbourhood watch associations I say something about them and me. I say I'm there because they are paying my salary. And because of that it matters to me deeply what they think. I am not there to lecture them about Nottingham prison but to give them an opportunity to influence it. I have been struck by how

concerned the police are to respond to local community concerns. There is something respectful in the way that neighbourhood police respond to local concerns that sometimes seem trivial. We have tried to copy that: going out to NWAs with personal briefing; inviting the committees in to see the prison, to talk to prisoners and go into cells. Each person gets my personal contact details and an assurance that their views matter. They are paying for the service and it is important for us that they feel comfortable with what we do. This influences policy.

I have been struck by how concerned the police are to respond to local community concerns. There is something respectful in the way that neighbourhood police respond to local concerns that sometimes seem trivial.

The number one issue for communities: why do you let them watch television? The number two issue: do you let them have Playstations? It is easy to smile at these concerns. How trivial! We've got an important job to do and this is all they are worried about? In his latest book the social psychologist Jonathan Haidt<sup>8</sup> gives his perspective on why good people can differ so much on issues. He argues — compellingly in my view — that we have evolved to have instinctive moral values. We then use our rational selves to justify the moral position we already hold. And we hold those moral values not alone but in groups and communities. We are, to use his term, 'groupish'. So on this basis the concern about prison conditions generally and TV in cells in particular is not

something we can productively argue about. But if we can spend time with members of the community and try to align our prison with their expectations, trust increases and the community instinctively moves into positions of support.

Three examples:

- A proposal comes to the SMT to provide games consoles to enhanced prisoners. The background is that the privileges available to enhance prisoners are not sufficiently different from standard. There is an easy technical fix to enable modern consoles to be used safely in prison without accessing the internet. Answer: no, the community just does not find that acceptable. I regularly mention this to community meetings as evidence of our responsiveness. We've moved towards them.

8. Haidt, J. (2012) *The Righteous Mind* London: Allen Lane.

- ❑ A public consultation meeting of a local CSP in Derbyshire on a wet evening in November. I am the main speaker and as usual there is a lively debate about crime (they don't believe the statistics) and prisons (which are 5 star hotels that reward wrongdoing). As I struggle to deal with these points, a Conservative councillor intervenes: we've all been to Nottingham prison. Nothing could prepare us for the moment we stood in that cell and saw how small it was. This is a real punishment.
- ❑ Three weeks ago I turn up for a routine meeting of the Nottingham Crime and Drugs Partnership Board. There is a presentation on reducing re-offending in the city. The presentation is not by me, or the probation director who is also there, but by the CDP's own analyst. There are gasps as Nottingham prison's reconviction data appears on the screen: it is 67 per cent reconvicted within a year for those released from sentences under 12 months. More gasps as they see the turnover data: 400-500 new people received every month. A throughput of nearly 6000 a year. 2500 released into the community every year. The CDP wants to analyse this. A few days later there is a political response: the City Council's Overview and Scrutiny Committee wants to conduct a review into how well are partners working together on the effective rehabilitation and resettlement within Nottingham's communities of adult male and female prisoners following release from prison?

The unpractical vision goes like this. If you think about it, it isn't actually true that prison has to be a national service 'that cannot be devolved to .... communities.' The police are a local service. The fire service is a local service. Safeguarding is a local service.

Probation is a local service. Youth offending is a local service. Education is a local service. Health services will be commissioned by local CCGs and the 50 local offices of the NHS Commissioning Board. We've seen that a national prison system was based on a mistake. Is it really impossible therefore to contemplate trying out local commissioning of local prisons? We don't

know what the prison system is going to look like in future. But competition will transform it. I believe that it will be important that we don't throw out the accountability baby with the inefficiency bathwater. To move from an accountable public sector monopoly to an unaccountable private sector oligarchy might not be very attractive.

I am not ignoring the risks. There would need to be controls. Police and Crime Commissioners are the obvious candidates for involvement in prison commissioning. So prison standards would require statutory protection and the role of external inspection would become even more important. So it's not exactly a practical idea to take away today. But I do think we cannot go on peering out into the community to ask how it can be involved. We need to be out there supporting those communities to respond to the challenge of crime.

### Conclusion

Crime is a mark of unequal communities. Wilkinson and Pickett<sup>9</sup> have shown that unequal communities are burdened with big prison populations. Those of us who work in prison cannot meet the challenges of crime and anti-social behaviour from within our institutions. The drivers of crime are inequality, unemployment and family dysfunction. We will not be able to deal with the challenge of crime unless we reduce inequality. We need to let those communities be heard and to support evidence based solutions. The best of these is very low caseload supportive interventions in families with young children. But we need to find easy ways for those communities to take on a leadership role in addressing the issues that drive crime. Of course there are interventions in prison that make a difference. But cognitive behavioural therapy needs time and time is only available in longer sentences. To rely on these is to say that we can only do something after the person concerned has done a crime sufficiently bad. If we really want to bring down re-offending we must look to the community. Not to bring the community in but to go out to the community and help it find the solution to one of its most besetting problems. That solution will be within the community itself.

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9. Wilkinson, R. and Pickett, K. (2010) *The Spirit Level, Why Equality is Better for Everyone* London: Penguin.

# Prisons: where DOESN'T the community come in?

*Professor Nancy Loucks is Chief Executive of Families Outside and Visiting Professor at the University of Strathclyde Centre for Law, Crime and Justice.*

**The theme of this year's Perrie lectures, as you know, was 'Prisons: Where does the community come in?' My question is where *doesn't* the community come in? Prison is about much more than the prisoner. However, I'll start by telling you a bit about Families Outside and what we do.**

## Families Outside

Imprisonment is a traumatic experience for families, and its impact is often significant and enduring. Families Outside works to mitigate the effects of imprisonment on children and families — and consequently to reduce the likelihood of reoffending — through support and information for families and for the people who work with them.

Families Outside is the only national charity in Scotland that works solely to support the families of people involved in the criminal justice system. Through our work, we ensure that families affected by imprisonment and the people who work with them are informed and supported; that policy and practice reflects the needs of families affected by imprisonment; and that children and families receive information and support at the earliest possible stage in a way they understand.

## Relevance to prisons

Maintenance of a prisoner's family ties benefits prisons and prisoners in a number of ways. This is the *Life of Brian* question: What have families ever done for us?

First, prisoners who maintain family ties are up to six times less likely to reoffend after release<sup>1</sup>. Exact

estimates vary, with the lowest rate — 39 per cent — cited by the Ministry of Justice in 2009<sup>2</sup>. Regardless of the figure, these benefits are common sense: prisoners who maintain contact with their families are more likely to have a place to stay on release; more likely to have social support; more likely to have financial support; more likely to have links into employment, and so on.

Prisoners who maintain contact with their families also show improved behaviour in prison<sup>3</sup> and improved mental health<sup>4</sup>. They are also more likely to reunite with their families after release. Conversely, family breakdown is a risk factor in and out of custody: prisoners who experience family breakdown are at higher risk of suicide<sup>5</sup>. After release, breakdown in relationships has implications for homelessness, breach, and relapse into substance misuse and mental health problems, all of which have clear implications for further offending.

A recent example of the influence of family is the Ken Loach film, *The Angels' Share*. The film's protagonist has a long history of offending and has spent time in prison but is trying to stay out of trouble due to his girlfriend's influence and the fact that they have just had their first baby. The film is a powerful depiction of the difficulties many offenders face in staying away from crime, especially in the face of unstable housing, local conflicts and violence, and few prospects for employment.

The influence of family is not a new theme within the Prison Service in England and Wales. For those of you old enough to remember, the Woolf Inquiry highlighted this issue specifically:

*The disruption of the inmate's position within the family unit represents one of the most*

1. Holt and Miller (1972) *Explorations in Inmate-Family Relationships*. California Department of Corrections Research Report 46, Hairston, C. F. (1991) *Family Ties During Imprisonment: Important to Whom and for What?* in *Journal of Sociology and Social Welfare* 18 (1), 87-104.
2. Ministry of Justice and Department for Children, Schools and Families (2009) *Reducing re-offending: supporting families, creating better futures — A Framework for improving the local delivery of support for the families of offenders*. London: MoJ and DCFS.
3. Scottish Forum on Prisons and Families and the Scottish Prison Service (2000) *Report on Facilities for Families visiting prisons in Scotland in 2000: Implementing the standards and increasing good practice*. First Annual Report of the Scottish Forum on Prisons and Families and the Scottish Prison Service joint standing committee. Edinburgh: Scottish Forum on Prisons and Families.
4. Hairston (1991) see n.1.
5. Akhurst, M., Brown, I., and Wessely, S. (1995) *Dying for Help: Offenders at Risk of Suicide*. Wakefield: West Yorkshire Probation Service.

*distressing aspects of imprisonment... Enabling inmates, so far as possible, to stay in close and meaningful contact with the family is therefore an essential part of humane treatment .... There is every reason to believe that the nature of a prisoner's relationship with his or her family will be an important factor in determining whether he or she will succeed in leading a useful and law-abiding life on return to the community.*<sup>6</sup>

Maintaining a prisoner's links to the community is a common theme internationally as well:

*It is critical... that the prison system not further exacerbate prisoners' isolation beyond that which is inherent to incarceration. Instead of creating impediments to prisoners' contacts with outsiders, the burden is on the prison system to facilitate such contacts.*<sup>7</sup>

Within Europe, the need to focus on a prisoner's reintegration is embedded in the European Prison Rules, as well as in the domestic legislation of a number of member states<sup>8</sup>:

*The preparation of prisoners for release should begin as soon as possible after reception in a penal institution. Thus, the treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. (European Prison Rules 70.1)*

This includes contact with families as well as links with the community more broadly.

### **Prisons: current links**

Prisons throughout the UK already support links between prisoners and families in a number of ways.

Parenting programmes such as Safe Ground's Fathers Inside and Family Man programmes conduct extensive work with prisoners and their families on parenting and relationships. In Scotland, the Triple P parenting programme extends into prison and includes partners in the work within prison — occasionally including prison staff in the parenting groups alongside prisoner participants. Family Days and Family Learning programmes such as those at The Wolds and the Learning Together project at HMP Parc are other innovative ways of engaging prisoners in their parenting roles alongside their children and (sometimes) partners.

In all prisons in Scotland and some in England and Wales, Family Contact Officers (or Family Liaison Officers) are actively engaged in supporting links between prisoners and their families, which in some prisons can include parenting work. In most prisons in England and Wales and, conversely, very few in Scotland<sup>9</sup>, prison visitors' centres play an important role in bridging prisons and communities. Arts projects such as Theatre Nemo and Artlink Central in Scotland, and arts programmes in prison culminating in things such as the

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annual art show at HMP Shotts, are further means of linking people in prison with their families and communities.

### **Impact of imprisonment**

The reality, however, is that prison separates people from their families and therefore actively fractures these links. About half of prisoners (43 per cent of sentenced prisoners and 48 per cent of remand prisoners)<sup>10</sup> lose contact with their families when they enter prison. Only about half of prisoners use their minimum entitlement to visits (HMCIP 2001). This is a specific effect of imprisonment itself: Grounds<sup>11</sup> reports breakdowns in relationships where prisoners' convictions have been overturned, as the separation through imprisonment changed family dynamics to such an extent that they could not recover. Of the

6. Woolf, LJ and Tumim, S. (1991) *Prison disturbances April 1990: Report of an inquiry*. Cmnd 1456. London: HMSO ch. 14, para. 223, emphasis added).  
7. (Human Rights Watch 1998: ch. IX).  
8. For example in the Prison Act in Germany see Lazarus, L. (2004) *Contrasting Prisoners' Rights: A Comparative Examination of Germany and England*. Oxford: Oxford University Press.  
9. See Families Outside (2010) *Prison Visitors' Centres: An ongoing debate in In Brief* 5. Edinburgh: Families Outside.  
10. Social Exclusion Unit (2002) *Reducing Reoffending by Ex-Prisoners*. London: Home Office and NACRO (2000) *The forgotten majority: The resettlement of short term prisoners*. London: NACRO.  
11. Grounds, A. (2009) *The effects of wrongful conviction and imprisonment*. Challenging Crime: A Conference to Celebrate 50 Years of the Institute of Criminology. Institute of Criminology, Univ of Cambridge, 24 September 2009.

couples he worked with, only 8 of 22 marriages survived, with 11 ending during custody and 3 ending after release. *The fact of imprisonment itself* therefore has measurable negative effects on children and families.

Loss of contact between prisoners and families may well be due to practical reasons as well as emotional ones. Andrew Coyle notes, for example:

*Given that many prisoners come from marginalised and impoverished backgrounds, the cost of travelling long distances may mean it will not be possible for families to visit if the prison is a long distance from the area where the family lives.*<sup>12</sup>

Ten years later this is still the case, if not more so:

*... the poorest households with a car were spending at least 17 per cent of their income on transport.*<sup>13</sup>

There are many other reasons, however. Imprisonment has enormous implications for the families left outside. These include factors such as the following:

- ❑ Loss of income: often the main wage-earner is the one in custody, social welfare benefits may decrease, or the family may be left responsible to pay for debts or compensation. Loss of income can affect families even when they have already split up: one lady we spoke to had lost her child support payments when her ex-partner went to prison, saying 'He's doing the sentence, but I'm paying the price.'
- ❑ Loss of housing: a tenancy may have been in the name of the person now in prison — something which is more often the case for female offenders. A reduction of income may mean they cannot afford to stay where they are, or they may be targeted by neighbours, people connected with any victims, or the victims themselves.

## Imprisonment has enormous implications for the families left outside.

❑ Shame: this is crucial, as it is an important reason why families tend not to access any resources that may be available. They do not wish to identify themselves as people with a family member in prison, so they will not seek the help they need and are unlikely to tap into support available in the community. Research by the University of Cambridge noted that 72 per cent of families visiting prisons were receiving no support of any kind<sup>14</sup>. Prisons can therefore become the only means of accessing families to ensure they have the support and information they need;

❑ Victimization: families were commonly targeted by neighbours or by victims or victims' families. I spoke to one woman with a 2-year old daughter who had been approached on the street and threatened, finding stab-marks in her door, etc. She was in council housing, and it took the council 18 months to move her to other accommodation<sup>15</sup>. You may also recall the case of Joan and John Stirland a number of years ago in England; their son was in prison for assault, so they were killed in retaliation. Again, they had committed no offence themselves, but were targeted anyway; and

❑ Cost and logistics of transport: a report for Families Outside<sup>16</sup> showed that almost half of prisoners' families in Scotland spend between five and twelve hours for a return journey to a prison for a visit. Difficulties with travel and transport can itself be a reason families lose contact with someone in prison. We worked with a young mum whose partner was on remand in HMYOI Polmont — Scotland's only Young Offender Institution. She was based in Dumfries and travelled by public transport for five hours each way for the half-hour visit she was entitled to. Costs can also be prohibitive, yet only about a third of families are aware of the financial support available through the Assisted Prison Visits Scheme<sup>17</sup>.

❑ Impact on children: the impact on children is particularly extreme, especially where a

12. Coyle, A. (2002) *A Human Rights Approach to Prison Management* London: International Centre for Prison Studies.

13. Dalton, A. *Families plunged into 'transport poverty'* in *The Scotsman*, 29 Feb. 2012.

14. Pugh, G. and Lanskey, C. (2011) *'Dads Inside and Out': study of risk and protective factors in the resettlement of imprisoned fathers with their families*. Conference paper for *What's new in Research and Evaluation? Informing our work with prisoners and offenders and their families*. Institute of Criminology, University of Cambridge, 19 May 2011.

15. Loucks, N. (2004) *The Tayside Family Project*. Dundee and Edinburgh: Tayside Criminal Justice Partnership and Families Outside.

16. Higgenbotham, M. (2007) *Do Not Pass Go? Travel Links to Scottish Prisons*. Edinburgh: Families Outside.

17. Loucks, N., Nugent, B., and Stalker, E. (2009) *Edinburgh Prison Visitors' Centre: Survey of Visitors and Staff*. Glasgow and Edinburgh: Robertson Trust and Families Outside.

mother is imprisoned. More detail about this will follow below.

- ❑ Lack of information: families often receive little or no information about their family member following arrest and imprisonment, especially if the person in prison is unwilling or unable to provide this themselves<sup>18</sup>. The quality of and access to family induction programmes in prisons varies widely, assuming families even know which prison their family member is in.

- ❑ Little involvement in the decisions that affect them: prison staff and other professionals regularly take decisions about prisoners that have an impact on families, particularly basic information such as where a prisoner is located and date of release. The Scottish Prison Service is making efforts to include families in prison case conferences to plan for prisoners' release, though even then information can be lacking. We worked with one woman whose husband would have conditions on his license regarding where he could live on release. This lady was willing to sell their home and buy a new one in a location that would be suitable, but discussion of what the conditions would be would not take place until six weeks prior to her husband's release — not enough time for her to make the arrangements she needed.

Basically imprisonment puts the entire family under tremendous stress. The impact of imprisonment affects many more people than the prisoner. Further, these issues extend well beyond the justice system into housing, health and mental

health, schools and education, children and young people, income and social welfare, and so on. The broad range of issues means that many professionals will come into contact with these children and families — but none has overall responsibility for supporting them. Agencies work in silos, with few making the connections that would support these families more appropriately, especially if the family is unwilling to disclose their circumstances, again due to the shame or stigma of having a family member in prison.

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### Children of prisoners

I mentioned previously that imprisonment has a particular impact on the children of prisoners. About half of men and two-thirds of women in prison are parents of dependent children<sup>19</sup>. Based on estimates from the available research and recent increases in the prison population, we know that every year in the UK about 160,000 children are separated from a parent through imprisonment (an estimate recently raised to 200,000), with estimates of about 18,000 separated from an imprisoned mother. In Scotland, the equivalent estimate was that 16,500 children are separated from a parent through imprisonment, with about 1,850 separated from an imprisoned mother. This means that each year, more children experience a parent's imprisonment than a

parent's divorce<sup>20</sup>.

Because these figures were estimates, and disputed estimates at that, we managed to include this question in the most recent Scottish Prisoner Survey. Figures from the Survey showed that, every day, about 7,600 children in Scotland have a parent in prison. This brings the estimate of children affected per year up to 27,000 — raising the equivalent number in England and Wales to at least 270,000, and nearly double the figures affected by divorce in that time. This shows clearly how hidden this population actually is.

18. See for example the *No One Knows* programme of research from the Prison Reform Trust regarding prisoners with learning difficulties and learning disabilities <http://www.prisonreformtrust.org.uk/ProjectsResearch/Learningdisabilitiesanddifficulties>

19. Scottish Prison Service (2011) *Scottish Prisoner Survey 2011*. Edinburgh: SPS.

20. Action for Prisoners' Families, CLINKS, Prison Advice & Care Trust and the Prison Reform Trust (2007) *Parliamentary Briefing: The children & families of prisoners: recommendations for government*. London and York: APF, CLINKS, pact, and PRT.

## Impact of imprisonment on children

Children of prisoners have a higher risk of future imprisonment<sup>21</sup>. For example the Equal Opportunities Committee of the Scottish Government<sup>22</sup> reported that half of children with a mother in prison end up in prison themselves. They also show a higher risk of substance misuse. Higher risk of problems with physical and mental health are also evident in the literature, with children of prisoners developing serious mental ill health at three times the rate of other young people<sup>23</sup>. Imprisonment of a parent does not necessarily cause these problems: children of prisoners are often living in difficult circumstances anyway, and the characteristics you see here are very similar to the characteristics of looked after children<sup>24</sup>. In saying this, many children are looked after because a parent is in prison. The relationship is complex, but there is no doubt that a parent's imprisonment exacerbates these problems, particularly in relation to future offending.

Regressive behaviour is a common reaction from children, often showing up through deterioration in behaviour and performance in school. This type of behaviour is very similar to children who have suffered a bereavement. 'Grief reactions' such as anger and acting out, self-medication, isolation, and so on parallel the two experiences. An important difference between loss through death and loss through imprisonment is that the former engenders sympathy and social support, whereas imprisonment fosters hostility and stigma. Doka refers to 'disenfranchised grief', referring to grief that people experience that is not socially supported<sup>25</sup>.

Multiple care arrangements are common when any parent goes to prison but are a particular problem when a mother goes to prison. Children are likely to move a number of times during a family member's imprisonment and may be separated from siblings, friends, schools and so on.

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(son, age 19).

Finally, children often do not learn about a family member's imprisonment from their own family. Carers report knowing what to say to children when a family member goes to prison as one of the most stressful aspects for them. Parents and carers will often try to hide the imprisonment from children, saying 'Mummy's in hospital' or 'Daddy's working away', but children often realise the truth for themselves for example from other children at school or, as they get older, from reading the signs at the prison. One man I spoke to said his 18-month old son talked about daddy being in prison before anyone in the family had discussed it with him. The difficulty is that children often find out before they've had an opportunity to talk about it with their parents or to ask questions. They in turn become afraid to discuss it and 'play along' with the family's attempts to hide it from them.

Calls to Childline in Scotland reflect clearly some of the feelings young people experience when a family member goes to prison:

*No-one explained anything. I knew he was getting kept in, but I didn't know where.* (daughter, age 12).

*Folk shouted 'murderer' at me in the street.* (daughter, age 15).

*Someone should have just asked me what was wrong [at school].*

I want to focus on the theme of children and imprisonment, as it shows clearly what we mean when we say prison has everything to do with wider communities. In Scotland, we have seen a range of initiatives and research focused on children affected by imprisonment. Scotland's Commissioner for Children and Young People wrote a thematic review on this called *Not Seen, Not Heard, Not Guilty*<sup>26</sup>. One of the main recommendations from this report was for child

21. Farrington, D.P., Barnes, G.C., and Lambert, S. (1996) *The concentration of offending in families in Legal and Criminal Psychology* 1, 47-63.
22. Equal Opportunities Committee (2009) *Female Offenders in the Criminal Justice System*. SP Paper 332. EO/S3/09/R3. Edinburgh: Scottish Parliament.
23. Philbrick, D. (1997) *Child and Adolescent Mental Health and the Prisoner's Child*. Durham: NEPACS.
24. Murray, J., Loeber, R., and Pardini, D. (2012) *Parental involvement in the criminal justice system and the development of youth theft, depression, marijuana use, and poor academic performance in Criminology* 50(1), 255-302.
25. Doka, K. J. (1998) *Living With Grief: Who We Are, How We Grieve*. Washington, DC: Hospice Foundation of America.
26. Marshall, K. (2008) *Not seen. Not heard. Not guilty. The rights and status of the children of prisoners in Scotland*. Edinburgh: Scotland's Commissioner for Children and Young People.

impact assessments to be conducted at the point of sentence. This recommendation flagged up a theme that has remained prominent, namely that adult, offender-focused systems tend to overlook their impact on children.

Two reports on how child and family impact assessments might work in practice as well as children's perspectives on these followed shortly afterwards, alongside a visit to Scotland from South African Justice Albie Sachs, who made a landmark ruling about the judiciary's need to take the impact on children into account in its decisions (see below). In 2011 the Parliamentary Cross-Party Group on Children and Families Affected by Imprisonment held its first meeting. On behalf of the Cross-Party Group, Together Scotland, Scotland's Commissioner for Children and Young People, and Families Outside submitted a paper for the United Nations' Universal Periodic Review of Human Rights, which has been reviewing the UK's record this year. The recommendations to the UK from other countries as a result means the UK, if it accepts the recommendations, will be obliged to review its record in relation to these children.

Winston Churchill Fellow Sarah Roberts is currently working to develop links between prisons and schools, specifically looking at how schools can support children of prisoners more effectively. This includes a look at how schools can support parents in prison to engage with their children's education. The consultation for the Scottish Government's National Parenting Strategy included discussion groups with parents in prison and the carers outside to take into account how prisoners can be supported as parents. Finally, Sir Harry Burns, Chief Medical Officer for Scotland, is exploring more broadly how issues such as health and attachment can be addressed as a community issue and how communities can be empowered to sustain this work themselves<sup>27</sup>.

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In sum, a range of work is underway that recognises the need to consider prisons in the context of families and communities rather than in isolation. We are not alone in this, however, and other countries have secured a stronger footing in this regard. Again, looking at the example of children of prisoners, we see a number of examples of practice that takes more account of people other than the offender. In South Africa, the case of *S v M* (2007) was a landmark decision that required that judges take into account the needs of dependents when sentencing a primary carer:

*... all South African courts [must] give specific consideration of the impact on the best interests of the child when sentencing a primary caregiver. If the possible imprisonment will be detrimental to the child, then the scales must tip in favour of a non-custodial sentence, unless the case [is] so serious that that would be entirely inappropriate.<sup>28</sup>*

The courts have since pulled back from this decision to some degree, with consideration of dependents now limited to single primary caregivers only<sup>29</sup>.

In India in October 2011, the High Court of Gujarat ordered State support of a prisoner's family because the imprisonment had caused them 'untold misery and deprivation without any fault on their part.' Similar consideration of the family is evident in countries such as Argentina, Germany, and Italy, all of which make some provision for mothers of young children to serve prison sentences part-time, for example returning to prison in the evening, or as house arrest<sup>30</sup>. Scotland has made some gestures in this regard, for example with a Sheriff last year allowing a woman to return home to make arrangements for the care of her children before serving her sentence in HMP Cornton Vale<sup>31</sup>. While welcome, this has not established a legal precedent and remains very much an exception to the norm.

27. Burns, Sir H. (2011) *Assets for Health and New Approaches for Scotland*. December 2011 Christmas Lecture. UK Healthy Cities Network. <http://www.healthycities.org.uk/resources.php?s=78>

28. *S v M* 2007 (2) SACR 539 (CC).

29. *S v S* (CCT 63/10) [2011] ZACC 7; 2011 (2) SACR 88 (CC); 2011 (7) BCLR 740 (CC) (29 March 2011).

30. Robertson, O. (2012) *Collateral Convicts: Children of incarcerated parents*. Recommendations and good practice from the UN Committee on the Rights of the Child Day of General Discussion 2011. Geneva: Quaker United Nations Office.

31. Currie, G. (2011) *Sent home to warn daughter she's off to jail* in *The Scottish Sun*, 4 March 2011. <http://www.thescottishsun.co.uk/scotsol/homepage/news/3445527/Sent-home-to-warn-daughter-shes-off-to-jail.html>

## The rights of the child

The UN Convention on the Rights of the Child — to which the UK is a signatory — speaks very clearly of the need to take the best interest of the child into account for any decision that affects them (*Article 3.1*):

*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*

This includes prisons, yet we tend to overlook children when we think about prisons. Similarly (*Article 12*):

- 1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
- 2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.*

Importantly this includes administrative decisions, yet these take place in prisons on a regular basis with no involvement of the family, let alone specific consideration of children. Loureiro<sup>32</sup> looked at this in relation to decisions in court and what children themselves wanted to happen:

*When listening to the children, it was clearly evident that many clung to the hope that their feelings would make a difference to the sentence given by the judge.*

Again, international protocols are very clear on this. The UN Rules on the Treatment of Women Prisoners (the Bangkok Rules) state, for example that (Rule 2.2):

*Prior to or on admission, women with caretaking responsibilities for children shall be permitted to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interests of the children.*

And again, the UK is a signatory to this.

In September 2011, the UN Committee on the Rights of the Child hosted a Day of General Discussion that focused for the first time on children with imprisoned parents. The Quaker United Nations Office compiled a detailed report on the event<sup>33</sup>, which included the following recommendations:

*Child impact assessments should be conducted whenever considering placing or releasing parents from custody.*

*Non-custodial sentences should also be assessed for their impact on children.*

*When a sentence causes parents to be separated from children for whom they are caring, they should be given sufficient time to make arrangements for those children.*

. . . adult-focused systems, and arguably adult, offender-focused systems in particular, tend to overlook their impact on people other than their main client group.

So far this paper has focused heavily on the rights of children more broadly, which may seem to drift away from the context of prisons. The point however is this: adult-focused systems, and arguably adult, offender-focused systems in particular, tend to overlook their impact on people other than their main client group. A clear example of this is the fact that the Scottish Prison Service (SPS) currently has no operational overarching child protection policy. Some individual prisons have developed their own, and the SPS is currently drafting a new policy.<sup>34</sup> In the interim, this leaves prison staff who have identified concerns unsure of where to go with them. More seriously, perhaps, it means that prison

32. Loureiro, T. (2009) *Child and Family Impact Assessments in Court: Implications for Policy and Practice*. Edinburgh: Families Outside and Loureiro, T. (2010) *Perspectives of Children and Young People With a Parent in Prison*. Edinburgh: Scotland's Commissioner for Children and Young People and Families Outside.

33. Robertson (2012) see n.30.

34. SPS published its new child protection policy in September.

staff do not recognise that child protection and safeguarding has anything to do with them. Child protection has something to do with all of us; the Children Acts for England and Wales and for Scotland assign a duty of care to all of us, whether we work with children on a day to day basis or otherwise. This has everything to do with prisons.

In recognition of this, and on behalf of the Cross-Party Group on Children and Families Affected by Imprisonment, Together Scotland, Scotland's Commissioner for Children and Young People, and Families Outside submitted a recommendation to the UN Human Rights Council's Universal Periodic Review (UPR), as noted above. Again, the UPR is a process by which, every four years, each member state is subject to peer review of its human rights record, and 2012 is the UK's second review. The draft submission to the UPR made the following recommendation:

To improve support for children with a parent in prison across the UK and devolved governments, including by:

- using child impact assessments (as noted above)
- establishing visitors' centres at all prisons (something which is common practice in England, Wales, and Northern Ireland but very much the exception in Scotland); and, more contentiously
- ensuring that visits are a right of the child rather than a privilege of the prisoner that can be withdrawn as a disciplinary measure.

This last point, which is also part of the Bangkok Rules on Women in Prison, conflicts with common practice in prisons. Prisons throughout the UK comply with this to some extent, in that all prisoners are entitled to a minimum of two visits a month, regardless of their behaviour, with closed (non-contact) visits if deemed necessary. The practice of using visits as a tool for discipline applies more to 'bonding' visits (parent-child visits) and their withdrawal. The concern is that this interferes with a child's right to quality contact with their parent; how

do you explain to a child why they can only see their parent twice a month now, or why their parent is no longer allowed to get up and play with them? The child will feel that they are the ones being punished, or blame the parent for not wanting to be with them any more. Where relationships are already strained, and parental interaction with children is limited, such practices are not helpful. In South Africa, Justice Sachs made this point clearly in his judgment on the imprisonment of primary carers:

*Every child has his or her own dignity. If a child is to be constitutionally imagined as an individual with a distinctive personality, and not merely as a miniature adult waiting to reach full size, he or she cannot be treated as a mere extension of his or her parents, umbilically destined to sink or swim with them.... The sins and traumas of fathers and mothers should not be visited on their children.<sup>35</sup>*

Child protection has something to do with all of us; the Children Acts for England and Wales and for Scotland assign a duty of care to all of us, whether we work with children on a day to day basis or otherwise. This has everything to do with prisons.

#### **Families as part of the solution**

Not all of this is about rights and obligations. Better interaction with families can be beneficial for everyone. In the United States, an organisation called Family Justice (now part of the Vera Institute for Justice) promotes engagement with families as a crucial element of

justice practice:

*Changing the lens to think about the family as a unit of analysis has really had an impact on the workforce; parole officers, probation officers, correctional staff are all recognising that they don't have to do their job alone; that there's a natural network; very connected, committed and loving that can be tapped to help them do their job.... They should be part of the collaborative team; they count, they're a member and they're not just part of the problem.<sup>36</sup>*

35. S v M 2007 see n.28 , emphasis added.

36. Shapiro, C. (2011) <http://www.youtube.com/watch?v=qyFhilJ0BJE>

In saying this, we recognise that families are not always a positive influence. Indeed, Families Outside regularly supports families divided by domestic abuse or families for whom maintaining ties with the prisoner is otherwise not in their best interest. This is why Family Justice commends the use of strengths-based genograms, which takes the standard social work/probation tool of genograms and applies it to the identification of positive supports within families. Even where the immediate family is not best placed to support a prisoner, often an aunt or a grandparent or even a key worker may be able to provide that positive influence and social support. Family Justice also developed the Relational Inquiry Tool specifically for prison staff to use to identify positive relationships and potential motivators for prisoners to help them focus on and plan for their release.

### **Conclusions: Prisons, prisoners, families, and communities**

Returning to the earlier *Life of Brian* question of the relevance of families to prisons and prisoners, the following areas all provide opportunities for better engagement between families and communities with prisons and the wider justice system:

- ❑ Information at arrest — From the earliest point, families need information about what is happening to their family member and what support is available.
- ❑ Training — Prison staff need to know about the impact of imprisonment on children and families and about how they can support families to cope with this. This applies equally to police and court staff but also to agencies outside the criminal justice system such as health, housing, and schools.
- ❑ Identification of vulnerable families — Families who visit prisons are often not accessing support for the many issues they face, both as a result of the imprisonment and more generally through their life circumstances. These families are also often very difficult to identify in other contexts.
- ❑ Child protection/Children's Act — All agencies have a duty of care to children

vulnerable for whatever reason. Adult-focused agencies tend to overlook this, but imprisonment of a parent is a classic example of where issues for children and adults overlap.

- ❑ Risk assessment/MAPPA — Families are often left out of the risk assessment process. However, they have known the person in prison longer and are more likely to have full information about triggers and patterns of behaviour that may not be evident from clinical or actuarial assessments.
- ❑ Risk management — Families are likely to be in more regular contact with prisoners on release than are statutory services. Their support matters; we should recognise this.
- ❑ Home Detention Curfew, Home Leave and parole — These decisions have a direct impact on families, yet the families are rarely included in these discussions. Where positive supports can be identified, families are an asset and should be treated as such. Further, they have their own needs and rights, which should be supported and respected. They are not the ones convicted of the offence.
- ❑ Prevention of breach — Good relationships and positive family support reduce the likelihood of breach as well as homelessness, relapse, and reoffending.
- ❑ Prevention of crime — Support for families affected by imprisonment reduces a prisoner's risk of reoffending. Equally, however, it improves the longer-term life chances of their children and families.
- ❑ Prevention of longer-term problems — The impact of imprisonment on children and families is wide-ranging, with the criminal justice process only a small part of a much larger picture. This impact on housing, education, physical and mental health, finance and benefits, victimisation, offending and so on has longer-term consequences for the family — and consequently for communities — as a whole.

# What role should the victims of crime have in prisons?

*Javed Khan is Chief Executive of Victim Support.*

**It is often assumed that victims and their representatives don't have a lot to say about prison, other than that more offenders should be caught and put there. I want to explain why that assumption is wrong.**

Victim Support is the national charity for victims of crime; we are the biggest of our kind in Europe. Our forty years or so of supporting victims — and we help over a million of them every year — tell us that victims' views on prison, and on sentencing more generally, are much more considered than many expect. It is indeed true that victims want to see sentences that work to punish crime, but they also want to reduce the chances that others might become victims too. So we in no way object to an increased role for the community in prisons, if it helps deliver this result. The case that I want to put forward today is that a stronger link between prisons and the community must go hand in hand with better engagement with victims and if it doesn't we will miss a key opportunity to achieve three outcomes, which I know we all desire, namely: the full rehabilitation of prisoners; an improved experience for victims of crime, and; a community that is confident the justice system is doing its job.

I believe effective rehabilitation must mean equipping prisoners with the skills they need to be a functional part of the community. It's obvious that this means going beyond education and training — even though these are important ways to anchor prisoners back into normal life after they leave. It also means prisoners taking responsibility for their actions so that they don't offend again. This can't happen without addressing the most direct consequences of those actions: the impact of crime upon victims. In our view, there are a number of ways to do this: some, like funding victims' services through prisoners' earnings, and Restorative Justice (RJ), are well-known and already underway. Others are surfacing in innovative projects across the country, and deserve our attention and support.

I'm going to go through some of these — but what I want to emphasise is that I won't be offering an

exhaustive view of how prisoners can be encouraged to connect with victims. This is because I'm aware that we are right at the beginning of this conversation, which has been a long time coming. Some ideas that may end up integral to the prison regime have yet to be even thought of, and I hope some of that thinking will follow on. The future of the prison system will rely on imaginative, enthusiastic communities taking ownership of this agenda — and I'm really excited about it.

## **What do victims of crime want from prisons?**

So, starting at the beginning — what do we think victims actually want prison to do? Well, probably more than you think.

Just after I started as Chief Executive in 2010, we did some research<sup>1</sup> with victims and witnesses to see what they thought sentencing as a whole should be about. Many did think punishment should be the main purpose of sentencing because, in the words on one interviewee: 'they need to pay for what they did'. However, they were equally clear that this should also help to reform offenders, rather than be punishment for punishment's sake. The common view was that the outcome of sentencing should be that the offender does not commit the crime again. One victim even had doubts about whether prisons could deliver the right kind of punishment at all, saying:

*I'd rather see a system where they may not go to prison but you're damn sure that they're made aware of the effects of whatever they've done has had on the victim. That's more productive than sticking them in a room full of other people that are just as bad, if not worse. You should be aiming to punish these people, but you should be punishing them in the most effective way.*

Other evidence also suggests the same about what victims want. A recent Ministry of Justice survey<sup>2</sup> found

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1. Victim Support (2010) *Victims' Justice? What victims really want from sentencing* available at <http://www.victimsupport.org.uk/About%20us/News/2010/11/Sentencing%20Report>

2. Ministry of Justice (16 November 2007), 'Victims of crime want punishment – but not always prison'. Available at: <http://www.probation.homeoffice.gov.uk/output/Page391.asp>

that as many as 93 per cent of victims said the most important outcome for them was that the offender did not do it again. 81 per cent would prefer an offender to receive an *effective* sentence rather than a *harsh* one.

In other words, victims care about their community. They want to see their community protected immediately after a crime, with swift action taken against offenders. They also want to see it protected in the long-term, which means changing offenders' behaviour.

### Community sentences

Victim Support has an interest in the role of the community as part of the sentencing regime. It often surprises people to know that we are actually great champions of community sentences too, but we are supportive only if we can really capitalise on their potential. Often, community sentences are seen as 'a soft option' by both victims and the wider public. Perceptions like this do matter, not only because people have the right to feel safe, but because we all know that the criminal justice system can't work if people don't have confidence in it. This is especially true of the victims that the criminal justice system relies on to report crime and see cases through to court — without them, there would be no justice system. However, we have always felt that community sentences can offer unique benefits to offenders who are capable of change — by showing them the sense of fulfilment that comes with working for and with others, and allowing them to feel part of something bigger than themselves. Most importantly, we think it's about making reparation: doing what you can to make good the damage that you caused. We are currently looking at the Government's plans for reform in this area, and hope that they will strike the right balance between robust and credible punishment, and genuine rehabilitation.

As an example of what contribution we are making on this key agenda, last year Victim Support played an important part in helping produce a report called *Community or Custody*, led by the charity Make Justice Work<sup>3</sup>. I was part of a national inquiry, chaired by the political commentator Peter Osborne, along with colleagues from NACRO, the Magistrates Association, Dame Anne Owers and Lord Ian Blair, to look at different types of community sentences and try to assess if they are more, or less, effective than short term custodial sentences. Experts and members of the public

were given the opportunity to offer evidence and opinions and the enquiry offered some useful insight. Along the way we noted, as you will know, that a year in custody costs around £40k per offender and, distressingly for us all, most offenders released from short term custodial sentences go on to re-offend. Nearly two thirds of adults given short term sentences are re-convicted within a year of release. This is clearly wasteful and damaging, not least for those caught in the re-offending cycle, but also for victims. This simply cannot go on. The social cost and the individual costs are simply too high. It seems clear that short spells in prison help neither offenders nor victims and society is shelling out vast sums of money on practices that, quite simply, do not work. This isn't just the view of the usual suspects, whom it is easy to label as being the 'wet liberal brigade', but it is a view that is borne out by the evidence.

As part of our inquiry we looked at the Intensive Alternative to Custody model used in Manchester. These IAC orders can last up to two years and, have at their heart, intensive interventions that occupy the offender five days a week. This goes hand in hand with a community outreach service which monitors behaviour and enforces compliance seven days a week, right around the clock. I don't think anyone who has seen this work would call it a 'soft

option'. Indeed, it is rigorous, robust and, compellingly, effective. The level of activity required under such programmes and the focus on compliance make an alternative to custody a far tougher prospect than prison. It's also rooted in the community on whose behalf these sentences are supposed to work.

Of course, if any system is to produce positive results, then it must bring together a wide range of interested parties and agencies. A clear lesson we have all learned is that no one individual, agency or part of the criminal justice service can deliver on its own the results society expects. Effective alternatives to custody must essentially be effective partnerships between multiple agencies. Partnership based inter-dependence and not independence!

Following this inquiry, and the subsequent published report, we're doing some further work with Make Justice Work. We are exploring the issues connected to victims of crime and community alternatives to custody. The project got underway in January this year and will report ahead of the party conferences in September 2012. The work will focus on

81 per cent would prefer an offender to receive an *effective* sentence rather than a *harsh* one.

3. See <http://www.communityorcustody.com/>

lower level offending, for two very good reasons, firstly that lower level offenders are more likely to be those committing crimes due to alcohol, drug and mental health needs and more likely to re-offend than perpetrators of more serious offences, and secondly that the associated short term prison sentences have been shown to perform poorly both in terms of providing rehabilitation and reducing re-offending. This work will build on what has already been done, and will look at what victims want from community alternatives to custody in order to be confident in them as an effective and appropriate form of sentencing. Interestingly, I think, it will include how far and in what ways victims want to be involved and informed around the use of community alternatives in sentencing offenders in their own cases.

As well as an evidence review, the work will pull together focus groups of victims of lower level offences to explore their views, and a survey of up to 2000 victims. The focus groups themselves will be based around a visit to an intensive community sentence scheme, being organised in partnership with Thames Valley Probation Trust. Victims will see community alternatives to custody in action — first hand experience that will help inform and shape the debate and offer a more compelling argument than any amount of desk research can. These visits are about to take place and both Victim Support and Make Justice Work look forward to sharing the evidence. I believe the report will suggest that some of the old myths and clichés will need to be abandoned in the light of its findings. The early work already suggests that victims, when able to give an informed view, commonly support the use of alternatives to custody in dealing with low level offences. With this informed view, they are not seen as a soft option.

### The use of imprisonment

Alongside all this work, we do of course stand by the need for a robust system of custodial sentencing. Alternatives to custody are not appropriate all the time, and victims and society see the clear need for a wide

range of approaches to tackle offending and reoffending. But even so, we don't think it's in victims' interests that prison should be a mere 'holding pen' — that offenders should enter, pass their sentence, and leave, much the same as they came in.

We know that between 1998 and 2007, the Prison Service received an increase in real-term funding of 40 per cent<sup>4</sup>. However, this did not translate into a reduction in reoffending, and we know that the dangers of that are perhaps more obvious to victims of crime, than anyone else. So, besides our support for community sentencing, we're very receptive to the shift this government is championing in prison policy, in which prison is designed not as an end, but as a beginning on the road to rehabilitation — as a turning point.

It's very important to us that the same spirit of reparation that is so central to effective community sentences, also exists in prison and that, where possible, this includes making amends directly to victims. When the Government launched its watershed review of sentencing policy last year- the *Breaking the Cycle* Green Paper<sup>5</sup>, in which the idea of the 'working prison' was front and centre. Victim Support said that this should be developed in a meaningful partnership with the community. We said that prisons should be places where the harm that has been done to the community is,

in part, repaired. We suggested this could include developing a business plan for the prison whereby a percentage of the income generated by offenders' work is directed into the community or community projects. In addition, if there isn't enough profit-making work, we said prisoners should be encouraged to make items which would actually be of use to the local community. Perhaps the least surprising thing I'll say today is that we are very pleased with the plans to put some of prisoners' earnings towards vital victims' services. This has been a long time coming.

You'd of course expect me to say that every penny that goes to victims' services really counts in today's climate, and this money is certainly a welcome addition to initiatives like the victims' surcharge. In terms of what we do with this money, let me share a couple of examples with you:

Victims will see community alternatives to custody in action — first hand experience that will help inform and shape the debate and offer a more compelling argument than any amount of desk research can.

4. Helen Mills, Arianna Silvestri and Roger Grimshaw (2010), *Prison and probation expenditure: 1999-2009*, Spending briefing series, Centre for Crime and Justice Studies.

5. Ministry of Justice (2010) *Breaking the cycle: Effective punishment, rehabilitation and sentencing of offenders* London: Ministry of Justice.

The first is a victim of robbery:

*An 80 year old elderly man was robbed on his way home from the post office where he had collected his pension. He was robbed at knifepoint. His pension money was stolen as well as his wallet and keys. His main concern was security as his wallet contained his address. This victim had no family living close by who would be able to assist him. We used the prisoner's earnings money to pay for new locks to be fitted, which made him feel secure. We also provided him with £20 worth of luncheon vouchers so he could purchase some food until he was able to sort out his finances, and a personal alarm.*

The second is a victim of sexual assault:

*A 16 year old girl was raped in her bedroom by a family member. The victim was so distraught she was unable to sleep in the bed after the incident. Her mother was a single parent who could not afford to replace the bed. We purchased a new bed and bedding for the girl, paid for by Prisoners' Earnings.*

These are simple interventions, but only possible because money has been made available. But as well as the practical usefulness of the money, we should note a valuable principle here. There is now a direct connection between prison and much-needed support for victims. Reparation can now be a mainstream part of the prison routine in a way that wasn't before. We think that's a meaningful change for victims; for offenders who feel genuine remorse for what they've done, and for the community as a whole.

This is surely one of the most important tests of an effective prison system: whether it can put prisoners back not only into the jobs market, but back into a society in which we all have obligations to each other: where we empathise with each other; where we understand that our choices affect each other; where we respect each other's dignity, property and right to live, free of violence and fear.

It's in this spirit that we want to see the Government go even further with another of their ideas about the prison regime — one that not only seeks to promote

rehabilitation, but which places victims of crime firmly at the centre of that process and that is: victim-led Restorative Justice (RJ). Again, people don't always expect Victim Support to be supportive of RJ. Well, not only are we supportive — but we're involved with several RJ projects throughout the country. In fact we think it should be more widely available, including in prisons. For example, we worked with Cardiff Prison to develop the 'Supporting Offenders Restoratively Inside', or the SORI programme. This aims to help prisoners come to terms with the damage they've caused to others, partly through role-play and group exercises, and partly through meeting with people who've been victims of crime, and the wider community. It's a voluntary, week-long course that has been piloted in seven prisons, and in time we'd like to see it rolled out to more. An academic paper<sup>6</sup> published last month showed that participants finished the course with: enhanced levels of concern for all types of victims; more motivation to change their offending behaviours, and; more willingness to take responsibility for their actions.

We also know that many of the victims we have supported have benefitted from RJ conferencing — where the victim and their support workers meet with the actual offender and his or her support workers, to discuss the crime. Most significantly, the victim has an opportunity that the criminal justice process itself often isn't able to offer: to ask their own questions; explain face-to-face how they've been affected, and; to get an apology. We know from first-hand experience that RJ can bring substantial benefits to both victims and offenders. The research evidence backs it up<sup>7</sup>: government research demonstrates that 85 per cent of victims participating in the RJ conferencing model were satisfied with their experience. Almost nine out of ten would recommend the process to other victims.

Over half of participating victims said that taking part had given them a sense of closure. Most said it had helped to reduce the negative effects of the offence, and almost 40 per cent said that they felt more secure after taking part. The same research also showed RJ could cut reoffending: in this case by between 14 and 27 per cent over the seven years of the study. If it increases victim satisfaction with the justice system and

This is surely one of the most important tests of an effective prison system: whether it can put prisoners back not only into the jobs market, but back into a society in which we all have obligations to each other . . .

6. Beech, A. and Chauhan, J. (2012) *Evaluating the effectiveness of the Supporting Offenders through Restoration Inside (SORI) Programme delivered in seven prisons in England and Wales* in *Legal and Criminological Psychology* (in press).  
7. Shapland, J., Robinson, G. and Sorsby, A. (2011) *Restorative justice in practice*. London: Routledge.

reduces recidivism, this means greater public confidence, more participation and in the end, a safer society for all of us.

On top of that, and in the current fiscal climate it needs stating, cutting reconviction rates in this way could save the taxpayer millions. When Victim Support and the Restorative Justice Council analysed the same research, we found that providing RJ in 70,000 cases involving adult offenders would deliver £185m in cashable cost savings to the criminal justice system over two years, through reductions in re-offending alone<sup>8</sup>.

Restorative Justice doesn't just deliver results from a distance. It is, both symbolically and literally, an example of the community coming into prisons, in a way that's quite revolutionary. In the past, it's been almost as rare for community members to get into prisons as for prisoners to get out. It's time to recognise that allowing victims and the rest of the community to be part of prison life can increase their understanding of, and trust in, the work that modern prisons are doing to address offending behaviour and protect citizens. Victim-led RJ can also take prisons off society's sidelines and make them real hubs of public engagement with the effort to reduce crime, developing a 'community ownership' of this most vital public service. In other words, RJ is not just about transforming prisoners, but can also be about transforming prisons themselves.

None of this means that we want a wholesale, unsophisticated move to RJ, because if there's one thing we know about victims it's that even those who've experienced similar crimes will often have very different experiences and needs. For example, we need to be mindful about the use of RJ before sentencing is passed. We have to be sensible about the risks — not only that some offenders may take part in order to get a more lenient sentence, but that the agencies involved may end up inadvertently pressurising victims to serve the rehabilitation agenda.

We believe victims should not be taking part in RJ for any other reason than an informed wish to do so. It also has to be an absolute bottom line that RJ is only delivered by trained professionals — the possible emotional and psychological damage that could otherwise be caused is not an acceptable risk.

Victim-led RJ delivered to a high standard, as long as victims feel the time is right for them, could breath new life into the justice system. RJ should be offered more widely to all victims who want it, in cases where the offender has genuinely accepted responsibility and agreed to a restorative approach. The option should be there at any point during the criminal justice journey. Handled right, RJ is a clear and well-evidenced way for victims and offenders to reach a degree of understanding that can make all the difference for both of them. Yet let's also just note that at present, less than 1 per cent of victims are offered the opportunity to participate in RJ. Why so low a figure?

So, we also welcome the proposal that the right to RJ should be included as part of the review of the

statutory Victims' Code of Practice — but obviously this can only happen with increased investment in the projects themselves.

As radical and welcome as increased opportunities to participate in RJ would be, it's not the only way to bring victims' experiences into the heart of the prison regime. You may all be familiar with the Prison Radio Association, which has run the National Prison Radio service since 2009. The PRA is a charity which explicitly aims to use the power of radio to reduce reoffending; I believe it's currently available in 76 of 131 prisons and 94 per cent of prisoners have

heard of it. Alongside other valuable work like publicising advice services, and promoting skills and literacy, the PRA has worked in partnership with Victim Support to raise prisoners' awareness of the victim experience.

Earlier this year, we produced a one-hour radio programme for Radio 4 called *Face to Face*, which featured three victims of crime meeting three offenders who had committed violent crime. Just last month, the programme won the Gold award in the Best Community Programming category of the Sony Radio Academy Awards. The judges said it was 'True 'stop what you're doing' radio'; that it 'unpacked the potentially dry concept of 'restorative justice' and provided drama, insight and the tantalising prospect of a different future'. As many of you will no doubt agree, nobody who's seen first-hand the benefits of RJ could find it dry. This kind of project, that extends its reach

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8. See [http://www.restorativejustice.org.uk/restorative\\_justice\\_works/rjvictim\\_support\\_proposal\\_for\\_victims\\_of\\_serious\\_crime\\_would\\_save\\_185\\_million/](http://www.restorativejustice.org.uk/restorative_justice_works/rjvictim_support_proposal_for_victims_of_serious_crime_would_save_185_million/)

out to offenders who don't have a chance to participate directly, is quite visionary, especially if it's just the start of an approach to rehabilitation that fully appreciates the role that victims and their representatives can play. We'd like to see prisons and communities actively encouraged to adopt similar ideas.

I said at the start that I also think there's a real chance here to develop completely new ones. It seems the political will is there, practitioners are coming together through joint projects of the kind I've mentioned, and even the media is taking more of an interest. We should be capitalising on this by aiming to ensure that there is no prison in the land where offenders don't have the opportunity to learn about the harm that crime creates, and their responsibility to make some form of amends. This could be done in so many different ways. Starting small, different kinds of victim support services could be invited in to address interested prisoners. For example, at Victim Support we rely on the commitment of over 6,000 trained volunteers — ordinary members of the community, some of whom have been victims themselves, who have chosen to spend their time helping others get back on track after a difficult experience. That's a lot of people, each with a different story to tell about the many and varied impacts of crime on people's lives. It's hard to think of a better audience for them than prisoners who want to change.

It may also be time to start thinking about how victims and the community can play a greater role in the formal governance and workings of prisons. One possible entry point is on the Independent Monitoring Boards, which give ordinary men and women the chance to be the community's eye on whether prisons are running fairly and effectively. Not only should this work be better promoted — but perhaps individual boards could be encouraged to think about pro-actively recruiting members who have been victims of crime, and want to use that experience positively? Why not?

Let me be clear, none of this must be misunderstood as not valuing the work that prison

staff and governors already do to increase prisoners' awareness of their social responsibilities. After all, they are members of the community too. However, for us, the authority of victims when it comes to explaining the impact of crime is second to none. In this respect, they really are a unique category of people. They're also an incredibly diverse one: the victim experience crosses all social divisions to bring together millions of people who may be united in nothing else. Too often this diversity is underestimated: governments, agencies and even the media guess at their needs and views, instead of recognising that they are individuals. In other words, I am saying that a stronger connection between prisoners and victims can offer an insight not only into the impact of crime, but into the richness and variety of society itself. If we really want to see prisoners finishing their sentences with a full understanding of what it takes to lead an honest, decent life, why wouldn't we want to bring these two groups of people together?

Whether that's in person, through RJ, or through less direct means like financial reparation and raising prisoners' awareness of victims, we think the benefits to both sets of people are profound, and deserve to be offered on a wider scale. Prison regimes can do far more than rehabilitate offenders and improve victims' experiences. They can and should also build community confidence in the justice system. That confidence is not just a good in itself; it is the difference between whether people support and help the justice system to work, or not. So victim-centred initiatives can bring about a value far beyond the financial savings that also stand to be made.

Victims and their representatives have a lot more to say about prison, and a lot more to say to prisoners, than people sometimes realise. Facilitating those conversations is a matter for all of us, at national and local level, inside and throughout our prisons, and at the heart of the public debate on justice. To us, that's where the community comes in — and indeed comes into its own.

# Reviews

Book Review

## ***Crime and economics: An introduction***

By Kevin Albertson and Chris Fox

Publisher: Routledge (2012)

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This book opens by suggesting that 'At first glance the reader might wonder what economics can bring to the study of crime'. However, I considered this to be a curious suggestion. Economics has become one of the dominant strands of criminal justice in the late modern era, providing a means through which academia, policy makers and practitioners consider the causes of crime and approaches to criminal justice. At first glance I really wondered why there were not many books that offered the introductory overview provided here by Kevin Albertson, from the Department of Economics, and Chris Fox, Professor in the Department of Sociology, both at Manchester Metropolitan University.

Explanations of crime often focus on economic ways of thinking about and explaining the world. For example, those who take a more individual approach to explaining crime, describe this in terms of rational choice, where individuals tot up the benefits and risks of different courses of action and act in ways that maximise their own personal benefit. Criminal justice interventions such as deterrent sentencing are based on the premise of being able to alter this calculation that potential offenders are perceived to be making. Similarly,

crime prevention measures such as surveillance and target-hardening, which are also designed to increase the risk of detection, are presumed to influence the choices individual make before committing a crime. Many would, of course, question whether individuals make such fine and complex calculations. Those who take a progressive view of the causes of crime also cite economic explanations. In particular, they draw upon issues of economic deprivation, poverty, social exclusion and inequality.

Economic considerations also influence criminal justice policy and practice. Most obviously, recent decades have seen the proliferation of managerial practices imported from the commercial sector, these include target-setting and monitoring, greater fiscal discipline and the use of competition. More recent manifestations of this include the development of payment by results, social impact bonds, contracting out non-core services and the expansion of the commercial market for custodial services. However, economics also penetrates deeper into how prisoners and the treatment of prisoners are managed. There is an increasing focus on instrumental measures or targets as a means to gauge success or failure. Services are developed and evaluated based upon notions such as cost-benefit and quantitative measures of effectiveness.

All of these issues and more are discussed and explored in this book. Albertson and Fox provide an excellent insight and overview into the ways that economics is used and applied in thinking about crime and criminal justice. What emerges from

their discussion is not only the centrality of economics but also its technical limitations. In their expert analysis, economic calculations, evaluations, measures and techniques offer less certainty than is often assumed, and are indeed often complex, controversial and imprecise. They suggest not that economics has the answer to all problems, but it does offers those studying and working in criminal justice a means of better understanding some of the issues.

While the book also discusses some of the limitations of markets and economics generally to explain and inform social policy, it might have covered more fully issues such as, for example, what has been described as 'economic rationality'. This concept has been criticised as being insensitive to the emotional, human and social texture of prison life and as a consequence has been responsible for promoting approaches that reduce legitimacy<sup>1</sup>. More widely it has been argued that uncontrolled commercialism and consumerism fragments communities and corrupts social values<sup>2</sup> and also that it can diminish the quality of life of individuals<sup>3</sup>. What is also missing from the book is how economics has been more recently adopted as form of resistance to dominant approaches to criminal justice. For example, the Justice Reinvestment movement has sought to use economic techniques such as crime mapping to expose social inequality and use arguments such as cost-benefit analysis and fiscal restraint to campaign for reduced use of prisons<sup>4</sup>.

In *Crime and economics*, Albertson and Fox have provided a

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1. Liebling, A. (2011) *The cost to prison legitimacy of cuts in Prison Service Journal* No.198 p.3-11.

2. Sandel, M. (2012) *What money can't buy: The moral limits of markets* London: Allen Lane.

3. Sennett, R. (2006) *The culture of new capitalism* New Haven: Yale University Press, see also Dorling, D. (2010) *Injustice: Why social inequality persists* Bristol: Polity Press.

4. Allen, R. and Stern, V. (eds) (2007) *Justice Reinvestment: A new approach to crime and justice* London: International Centre for Prison Studies.

clear and helpful introduction to some critical issues that permeate thinking about crime and criminal justice practice. The book promotes an enhanced and more critical appreciation of the techniques and ideas used. On that basis alone, it deserves a place on the shelves of academics, practitioners and policy makers. However, the use of economics and the practice of economic rationality should be treated with care and placed in a wider context where the emotional, human and social nature of crime and criminal justice is placed at the fore.

**Jamie Bennett** is Governor of HMP Grendon & Springhill.

Book Review

***Crime and punishment in contemporary Greece: International comparative perspectives***

Edited by Leonidas Cheliotis and Sappho Xenakis

Publisher: Peter Lang (2011)

ISBN: 978-3-03911-562-4

(paperback)

Price: £52.00 (paperback)

The economic collapse, social and political turmoil in Greece have been prominent in the news

over recent years. These catastrophes are in marked contrast to the idyllic image of Greece as the cradle of modern Western civilisation, the birthplace of the Olympic ideal and the destination of choice for British holiday makers. In this book, Leonidas Cheliotis of Queen Mary, University of London and Sappho Xenakis of the Hellenic Foundation for European and Foreign Policy in Athens, casts aside such superficial representations and provide a volume of impressive depth.

The authors describe their aim as being to address the absence of Greece from international comparative studies of crime and punishment by providing a systematic introduction to these issues from a Greek perspective. The book is divided into three sections. The first is entitled *Experiencing crime* and addresses issues including fear of crime, the role of the media, and the relationship between immigration and crime, and youth crime. The second section explores *Topical crime issues* including corruption, drugs, organised crime, honour crimes and sex crimes. The third section on *Reactions to crime* examines the impact of the European Union, the development

of surveillance, policing, sentencing and prisons.

The most impressive and innovative aspect of this book is the way that each topic is discussed by an academic of Greek origin or currently working in Greece, and then followed by a commentary by a respected academic drawing upon international comparisons. This approach helps to draw out key issues and provides a wider perspective. Over the course of the book, this allows the emergence of an appreciation of the way that a local social system, in this case the Greek criminal justice system, is formed through an interaction between global trends and local customs and tradition. The way that these forces intersect, interact and conflict is critical to understanding the nature of globalisation in any particular setting. The strategy adopted in this book is particularly effective in drawing this out.

There is no question that this book is a landmark achievement providing an in depth introduction to crime and punishment in Greek society, but also in providing a living example of globalisation in action.

**Jamie Bennett** is Governor of HMP Grendon & Springhill.

# Interview: Dame Anne Owers

*Dame Anne Owers was HM Chief Inspector of Prisons 2001-10. She is interviewed by Jamie Bennett, Governor of HMP Grendon & Springhill.*

**Dame Anne Owers was Her Majesty's Chief Inspector of Prisons between 2001 and 2010. Prior to this post she was Director of JUSTICE, the UK-based human rights and law reform organisation.**

In June 2008, she was appointed Chair of Christian Aid and in 2010 also took up the position of Chair of Clinks, a charity that supports the work of the voluntary and community sector working with offenders and their families. She was appointed Chair of the Independent Police Complaints Commission (IPCC) in March 2012.

She is the recipient of the Perrie Award for 2012, awarded to recognise the outstanding contribution of an individual towards promoting understanding of the work of the Prison Service and pushing forward the development of penal policy.

This interview took place in August 2012.

**JB: How did you come to be appointed as Chief Inspector of Prisons?**

**AO:** The short answer is that I was interviewed for the job and was offered it. I applied for it because it looked like a fascinating and important job. I had some exposure to the criminal justice system from the outside in my work at JUSTICE and it seemed to be a wonderful opportunity. It proved to be just that.

**JB: Can you remember the first prison you visited and your first impressions on taking up post?**

**AO:** Before I started doing inspections, I went to two prisons in two days: Whitemoor and Birmingham. The contrast between them was telling. Whitemoor had huge amounts of resources, people and technology. The day I visited, something had gone wrong with the water supply and so a note was put under every prisoner's door saying what was happening and why they wouldn't be able to get showers if they went to the gym and so on. There was respect between staff and prisoners. At that time there was also the Dangerous & Severe Personality Disorder (DSPD) unit opening. It was a controlled environment with clear boundaries. At Birmingham at that time there was no interaction like that between staff and prisoners. Nobody looked at you as you went around, neither staff nor prisoners, and prisoners were locked up most of the time. The relatively new Governor and Deputy

Governor at that time were trying to get some order and routine into what was happening. It was a huge contrast between a large local prison where nothing much was expected and nothing much happened, and a well controlled, well resourced high security prison where things that were meant to happen by and large did.

**JB: What do you see as the purposes of prison inspection?**

**AO:** It has a number of purposes. Like all inspection, it is intended to improve performance. Prison inspection has another purpose, which is the visibility and accountability of the prison system. Prisons operate behind closed doors, unless they are open prisons, and people don't get to see what goes on inside them, good and bad. Inspection is about making that visible, shining a light into what is happening in prison and doing that independently of the management of those institutions. It is part of democratic accountability.

**JB: How does it relate to human rights?**

**AO:** It is a necessary part. All human rights instruments stress the need for independent inspection of places of detention. During my time as Chief Inspector, the UK was one of the first signatories of the UN optional protocol to the convention against torture, which requires states to have in place a national preventative mechanism. This is a body that has authority to enter places of detention at any time and report what happens. That is one of the key aspects of inspection, that it is preventative. There are other mechanisms such as the Ombudsman and Courts which are reactive, they come into play when something may have gone wrong or has gone wrong. If inspection is finding abuse then that is a failure of the system. What it should be doing is operating a long way upstream from abuse to look at what may be happening. That means looking at culture rather than process and outcome rather than input. This should highlight potential problems before it needs to go to court or trouble an Ombudsman.

**JB: During your tenure, the prison population expanded from 66,000 to 85,000<sup>1</sup>. This is a high level of imprisonment compared to our immediate Western European neighbours<sup>2</sup> and has happened throughout a period of decreasing crime<sup>3</sup>. What**

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1. House of Commons Library (2012) *Prison population statistics* [www.parliament.uk/briefing-papers/SN04334.pdf](http://www.parliament.uk/briefing-papers/SN04334.pdf)  
2. [http://www.prisonstudies.org/info/worldbrief/wpb\\_stats.php](http://www.prisonstudies.org/info/worldbrief/wpb_stats.php)  
3. [http://www.ons.gov.uk/ons/dcp171778\\_273169.pdf](http://www.ons.gov.uk/ons/dcp171778_273169.pdf)

**are your views on this expansion in the use of imprisonment?**

**AO:** It is a common perception that prison is overused. I saw during inspections at Whitemoor and other places many people who definitely ought to be in prison and ought to be in prison for a very long time in some cases. However, what you also see are prisons being used as the 'too difficult' tray for people that the rest of society is not dealing with properly. The classic example of that is mental health where having closed the large hospitals we promised care in the community but didn't provide sufficient of it so those people drifted into prison. There are also issues around drugs and alcohol misuse. Prisons soak up things that are going wrong in the rest of society. For too many people, in order to get access to what they need, such as mental health support or drug and alcohol treatment, they have to walk through the door marked 'criminal justice' and end up in prison. So prisons are being used for purposes for which they are not appropriate and are not intended. Unless or until we can provide proper services outside prison, then prisons will continue to carry out this function. Of course the more we lock up these people, the less the prison system is able to do the job we need it to do with the people they are holding.

**JB: There has been some important questioning of the role of imprisonment for women, in particular through the Corston Report<sup>4</sup>. However, the use of imprisonment for women has also expanded, albeit at a slower rate than for men. The population grew during your tenure from 3740 to 4236<sup>5</sup>. What are your observations on the changes in the use and practice of imprisonment of women?**

**AO:** It is significant that in the later years of my time as Chief Inspector, the women's prison population more or less flat-lined which was not the case for the men's population. So, I think that the Corston Report did have an important effect in that it made people question the need for increasing imprisonment for women. The sad thing is that it

For too many people, in order to get access to what they need, such as mental health support or drug and alcohol treatment, they have to walk through the door marked 'criminal justice' and end up in prison.

didn't stimulate a sea-change in the way that we look at women's imprisonment and lead to opportunities to develop alternative ways of dealing with women who have multiple needs and risks, and also are often parents and whose imprisonment therefore has a generational effect. I feel that the opportunity was lost to be brave and really invest in alternatives to prison for women both instead of and after custody. Although there has been some investment in initiatives such as women's centres, by the end of my time as Chief Inspector, they were struggling with fragile financing and were often unsure about how long they would be able to operate. They also faced constant demands for evaluation and reporting, there was huge pressure on them. We are still not in the position of having sufficient investment in those alternatives.

**JB: The diversity of the prison population changed during your time in office. For example the number of foreign national prisoners rose from 7000 to 11,000<sup>6</sup>, Muslim prisoners doubled to 10,000, and Black and minority ethnic prisoners made up double the proportion of the prison population as compared to the general population. What did you see as the main effects of these changes and how did you judge the response?**

**AO:** One part of our work during my tenure was that we focussed on thematic reports on different aspects of diversity within the prison system. We did reports on race, Muslim prisoners, prisoners with disabilities, older prisoners as well as on women in prison. Those reports then fed into the criteria for inspections, so when we were inspecting prisons we were looking at the experiences of those different groups. That helped to focus on those aspects of diversity, which are different for the different groups.. However, what you always face is that a lot of energy goes in initially, for example, there was a focus on race in prisons following the murder of Zahid Mubarek and the subsequent inquiry, but then there is a tendency to think 'job done'. That is particularly the case in a system facing cutbacks, so equality officers are

4. Corston, J. (2007) *Corston report: Women with particular vulnerabilities in the criminal justice system* London: Home Office.

5. House of Commons Library (2012) see n.1.

6. Ibid.

withdrawn for example, and there is a risk that the important focus is reduced.

**JB: The Inspectorate carried out pioneering work on the needs of older prisoners<sup>7</sup>. What do you see as the impact of the Inspectorate having highlighted this issue?**

**AO:** As with all of the thematics we would write the report and then take that into our own criteria for inspection, so that we were more alert to the needs of older prisoners. That helped to heighten awareness in prisons as well. We also made alliances with organisations outside of prisons such as Age Concern, and that helped to make improvements. I remember going around the older prisoners unit at Norwich prison which was, frankly, pretty awful. At Kingston also, which had an older prisoners unit, we helped to improve practice there. Some reports commented on prison officers refusing to push wheelchairs because of 'health & safety' and therefore we found one prisoner who hadn't had a shower for 18 months. It is a truism that prisons are created around the needs of young, white, able-bodied men because that is the majority. We raised awareness of that and there appeared to be improvements as we went around and people were aware that it was an issue we would address during inspections.

**JB: A number of reports by the Inspectorate highlighted some of the problems of what might be termed managerialism. For example you described how some Governors created a 'virtual prison' which existed on paper but differed from the lived experience<sup>8</sup>, you also highlighted chronic problems of inaccurate reporting of time out of cell<sup>9</sup> and even uncovered an attempt to "subvert" the inspection process at Pentonville and Wandsworth<sup>10</sup>. What do you see as the potential and risks of managerialism?**

**AO:** It is not a word I have used and that is not least because I do not want to create the impression that you do not need to manage what happens in

prisons and ensure that resources are used in the best possible way. I am not against management. Inspection would have been useless unless there were management processes that tried to make happen what we wanted to happen and implement recommendations. The risk, of course, is especially with a 'target culture', that there is huge pressure only to report good news upwards. Few people are going to question when things appear to be going well. A classic example is of time out of cell, where in some inspections the amount being reported was not physically possible. In one prison, a small local prison, they reported having every prisoner out of their cell for

12 or 14 hours a day, which was impossible. However, no one had ever challenged or questioned this because it was good news. You have to be careful in any system that you are questioning what is unfeasibly good just as much as that which appears to be bad. You should also avoid putting so much pressure on managers that they are being blamed for things that they can't do. One of the things that good managers appreciated about inspections was where we highlighted what was not happening because it couldn't happen because managers did not have the resources to make it happen. Unless that message goes all the way up to Ministers, it does no service to those living or working in prisons.

Some reports commented on prison officers refusing to push wheelchairs because of 'health and safety' and therefore we found one prisoner who hadn't had a shower for 18 months.

**JB: Another aspect of managerialism is the move to ever larger organisations and the creation of economies of scale. You openly challenged proposals for the development of large 'Titan prisons'<sup>11</sup>. Why did you feel it was important to take a public stand on this issue?**

**AO:** We are an evidence-led inspectorate and the evidence from our inspections showed that small prisons worked better than large ones. That is because running a good prison depends upon human interaction, not just resources and economies of scale and so on. If there was any evidence that extremely large prisons worked well, we would have gone with it, indeed we had a look at a prison in France that was

7. HMCIP (2004) *No problems — Old and quiet: Older prisoners in England and Wales* London: HMCIP.

8. Owers, A. (2007) *Imprisonment in the twenty-first century: a view from the inspectorate* in Jewkes, Y (ed) *Handbook on Prisons* Cullompton: Willan p.1-21.

9. HMCIP (2008) *Time out of cell: A short thematic review* London: HMCIP.

10. HMCIP (2009) *Report of an announced inspection of HMP Pentonville 11-15 May 2009* London: HMCIP, HMCIP (2009) *Report of an announced inspection of HMP Wandsworth 1-5 June 2009* London: HMCIP.

11. HMCIP (2009) *The prison characteristics that predict prisons being assessed as performing 'well': A thematic review* London: HMCIP.

being run on exactly the same model as was being proposed and it was dreadful. It was acknowledged by both prisoners and those who worked there as not working well. There are ways in which prisons can be clustered or there can be economies on back office work, but in the end, prisons depend upon those personal relationships between prisoners and staff. That is what keeps them safe and makes them purposeful, facilitating positive challenge, which makes a difference to prisoners and the rest of society.

**JB: Another development that you were involved in challenging was the proposal to create a merged Inspectorate for Justice, Community Safety and Custody. What was it about this proposal that you were concerned about?**

**AO:** I was concerned that it didn't recognise the specificity, the difference in inspecting places of detention. Inspection covers a multitude of different activities. It is perfectly possible in some areas and for some purposes to inspect on paper, looking at process, such as examining the progress of cases in the CPS Inspectorate. If you are going to inspect places where people have to live, you have to be there. There was a phrase of the head of the Commission for Social Care Inspection, which inspected social care before it was merged with healthcare into of the Care Quality Commission.

She was concerned about the approaching merger, because she said in their work 'you have to be in there and smell the urine'. It is the same in prisons, you have to be there. The merger proposal was part of a movement towards 'light touch inspection' with 'inspection holidays' and 'self inspection' or 'self-regulation'. My view is that that can work well in some places, but not in prisons. I was worried that this would get lost in a kind of inspection that would level things down. Some of the concerns that are now being expressed about the Care Quality Commission and OFSTED taking over the inspection of children's services and care homes to some extent prove my point that there is a value to inspectorates that are specific and focussed.

**JB: At the later end of your tenure there was an expansion in competition for the provision of prison services. What do you see as the risks and benefits or involving the market?**

I have never taken the view, in relation to public and private prisons, that you can say that one is always good and that one is always bad. I have seen some very good private sector prisons and I have also seen some very bad private sector prisons.

**AO:** I have never taken the view, in relation to public and private prisons, that you can say that one is always good and that one is always bad. I have seen some very good private sector prisons and I have also seen some very bad private sector prisons. The private sector has been is a relatively small part of the provision and it is run in the same way, with the same inspection and standards. What I would say is that the private sector is more variable than the public sector. It can be innovative in a way that is much more difficult for a large organisation like the Prison Service, but it can also

be worse because it does not have the same safeguards or depth of understanding of how prisons work. It carries possibilities and risks. The controls, balances and safeguards are particularly important. I remember an early inspection of Ashfield, which was one of the least safe prisons I have ever been in and the public sector had to come in and sort it out before handing it back. I have also seen some extremely good work, so Forest Bank when it first opened was excellent. It is a more varied picture — and as the balance between public and private starts to shift, it is something that needs constantly to be revisited to ensure that standards are not being compromised.

**JB: What was your final prison visit as Chief Inspector what were your reflections on how prisons had changed**

**during your tenure?**

**AO:** The last prison I visited was Forest Bank, during a month long handover with my successor Nick Hardwick. It was not as good as it had been and staff and managers did not fully recognise that. It reinforced my concern about young adults. When I first came into the inspectorate there was a promise that the quite dramatic improvements that were made in the under 18 group, would be rolled upwards. At that time the only question was whether it should be 18-21 year olds or 18-25 year olds. That got lost and the 18-25 group represents a lost generation. They do not get the services the under 18s get. There is an assumption that at 18 they become fully fledged adults. However, they are a group where if investment is made, the outcomes can be very positive. It is an opportunity. I did some work after I left the inspectorate with an organisation called Transition to Adulthood who work with young adults, recognising that with the right support you can

help them move away from crime and if you don't intervene they will carry on with a criminal lifestyle. The prison system serves young adults badly and that was evident at Forest Bank.

More generally the changes in prisons that I noticed included the huge improvements in healthcare once it transferred to the National Health Service, but at the same time, the need was much greater than the resources. The improvement in education was also recognised by OFSTED inspectors who worked with us, but again the quantity was not enough for the increasing numbers in prisons. In resettlement there was a greater focus on what people needed such as housing, employment, family life and so on. This was a positive move but there wasn't enough to cope with the volume of work and to address the problems people had. The quality therefore improved, but that was undermined to a degree by the sheer volume of the numbers going through the prison system.

**JB: How have you viewed subsequent changes since your departure? In particular, the extension of competition, the development of payment by results, the support for real work and the idea of a 'rehabilitation revolution'?**

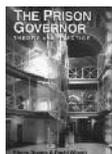
**AO:** I have observed from a distance and I always feel that I would rather speak about what I know rather than taking a punt at things I don't have detailed knowledge of any longer.

In so far as the 'rehabilitation revolution' means only using prisons when needed and ensuring that when people are there they do good, focussed work, then that is in line with what I have said. Payment by results I have had some exposure to as I am Chair of CLINKS, the umbrella body for voluntary sector organisations working with offenders. There are concerns about the risks of cherry picking because payment is for success and therefore people don't want to work with the most challenging cases. It is also very difficult for small voluntary organisations, even those with successful track records, as they don't have the capital resource to invest up front and wait for payment. The voluntary sector have found that they have been used as 'bid candy' for large private organisations bidding for contracts and end up as sub-contractors, without the security or control they need.. Some really good organisations have folded or are at risk and we will lose some good and specialised provision if we are not careful.



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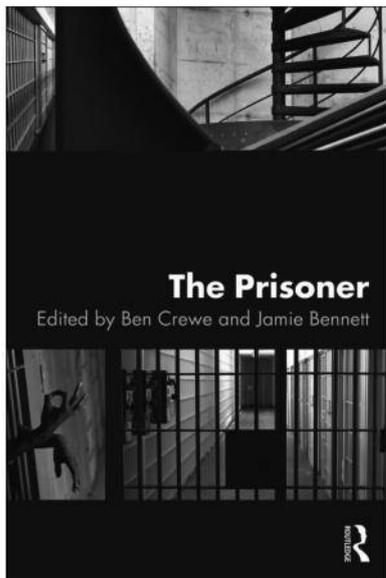
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