

# Justice Reinvestment – A New Approach to Crime and Justice

Edited by Rob Allen and Vivien Stern

International Centre for Prison Studies  
King's College London – School of Law  
Strand  
London WC2R 2LS

Tel: 00 44 (0)20 7848 1922

Fax: 00 44 (0)20 7848 1901

Website: [www.prisonstudies.org](http://www.prisonstudies.org)

Email: [icps@kcl.ac.uk](mailto:icps@kcl.ac.uk)

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# Justice Reinvestment - A New Approach to Crime and Justice

## *Note on contributors*

**Rob Allen** is Director of the International Centre for Prison Studies at King's College London

**Eric Cadora** is Director of the Justice Mapping Center in New York, US

**Andrew Coyle** is Professor of Prison Studies at King's College London

**Kadhem Jallab** is Director of Tyne and Wear Research and Information

**Elaine Snaith** is Assistant Chief Executive of Gateshead Housing Company

**Vivien Stern** is Senior Research Fellow at the International Centre for Prison Studies, King's College London and a member of the House of Lords

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- Helen Scott JP, Chair of the Bench Training Committee
- Mitch Egan, Regional Offender Manager, North East
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Rob Allen and Vivien Stern

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# Introduction

## From Restorative Prisons to Justice Reinvestment

*Rob Allen*

How a society should respond to people who break its rules is one of the most challenging and politically pressing problems of the early 21st century. For countries without the death penalty, imprisonment is the severest punishment. We know that different countries make use of prison at very different rates which are not explained by different rates of crime and violence. We know too that the way in which prisons are managed – their underpinning philosophy, their physical conditions, their activities and regimes vary widely – from boot camps to therapeutic communities, from super maximum security to open prisons. Differences exist too in the way prison systems are organised and funded by government.

What is true all over the world however is that people in prison are not representative of society as a whole. They are disproportionately drawn from certain poor neighbourhoods where a range of social, health and community problems are concentrated. This reflects in part the fact that people who are economically and socially marginalised are at greatest risk of being drawn into criminal behaviour and in part the way the police and other law enforcement agencies tend to concentrate their efforts on these areas.

Justice Reinvestment (JR) is a term coined in the US to describe efforts to use funds spent on imprisoning offenders more productively in these areas through local community based initiatives designed to tackle the underlying problems which give rise to criminal behaviour. This new and interesting approach to criminal justice gives local rather than central government the power to decide how money should be best spent to produce safer local communities. There are two key elements. First, JR seeks to develop measures and policies to improve the prospects not just of individual cases but of particular places. Second, JR adopts a strategic approach to the prevention of offending and re-offending by collecting and analysing data to inform decisions about how and where best to allocate public funds to reduce crime.

The International Centre for Prison Studies (ICPS) at King's College London has spent the last two years exploring the relevance of the ideas underlying JR, that is, a more local approach to justice decision-making, in the UK context. Work is being undertaken in partnership with Gateshead Council, with funding from the Northern Rock Foundation.

### *The origins of the project – Restorative Prisons*

The Justice Reinvestment work grew out of earlier ICPS research in the North East of England. Between 2000 and 2004 ICPS undertook a project which aimed to question the retributive model of prison, and test the extent to which prisons might be based on restorative principles.<sup>1</sup> The Restorative Prisons Project showed that these principles could indeed be developed, in particular by strengthening the relationships between prisons on the one hand and local authorities and civil society organisations on the other. Many positive outcomes flowed from the project and some have been sustained, for example through work undertaken by prisoners producing benefits for local communities. But the project reminded all those involved that the role which prisons play in achieving the wider objectives of greater public safety and cohesion is necessarily a limited one. The measures needed to produce better outcomes for victims, offenders and the neighbourhoods in which they both tend to live lie not behind prison walls but in the way people in deprived and vulnerable communities are housed, employed and educated, the extent to which the health services treat substance abuse and mental illness and the availability of accessible opportunities to address and remedy their problems.

The Restorative Prisons Project highlighted the awareness of the paradox that has long bedevilled the delivery of measures to offenders known to the criminal justice system. While the services are by and large delivered at a local level, the arrangements for supervising convicted known offenders are not. Local authorities and agencies have almost no say on how the £4.5 billion of public money spent on prison and probation is used. There has been very limited local say about the desirability of changes in national sentencing policy which have brought a near doubling of the prison population since 1992 although this doubling has many implications for local authority services. Given the negligible impact on crime reduction, particularly from short prison sentences, and the substantial economic and social costs involved, a fuller debate might have been expected about the value and utility of such increases. It is true that sentencing takes place at a local level but sentencers have had scant opportunities to see their sentencing in its social context. Thus criminal justice policies have been relatively unconstrained by questions of affordability, social costs or long term impact. Because prison, by far the costliest sentence, is paid for nationally, there is limited local interest in reducing the numbers locked up as any savings that accrue cannot be spent on other measures at a local level.

### *Justice Reinvestment*

It is these matters of the location of decision-making and accountability which are the subject of this book. As a follow up to the Restorative Prisons Project, ICPS has since 2005 been exploring these wider questions of the local governance of responses to convicted people and the financial incentives and disincentives involved in decisions about people in conflict with the law. The framework in which we sought to do this is Justice Reinvestment (JR). The term originated in the US where the Open Society Institute – the philanthropic foundation set up by financier George Soros – has been

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questioning the cost of maintaining the current unprecedented level of imprisonment in the US and asking whether a redirection of resources away from criminal justice and into social, health and educational programmes might not make a more effective long term contribution towards creating safer and stronger communities.

For example, a study of the criminal justice system in the state of Connecticut found that in recent years about \$20m was being spent annually by taxpayers to imprison around 380 people from a disadvantaged district in New Haven called the Hill. These 380 people served their sentences in state run 'correctional facilities'. This expenditure is therefore incurred by the state but appears to bring little long term benefit to the community since the majority of released prisoners return to the same social and physical conditions in the Hill. Without the prospect of work, education or social reintegration many commit further crimes. Policymakers are now examining whether redirecting existing resources from the fast growing prison system to re-building the social fabric of the community in areas like the Hill – investing in schools, healthcare and public spaces – might not have a greater long term impact.

An experiment in Oregon has shown how this might work. The state government turned over to the local level county administration funds equal to the cost of keeping the youths from that county in state criminal justice institutions. The county, not the state, then became financially responsible for all juveniles placed in custody but was allowed the alternative of supervising them in community programmes. The county could also use the funds to create neighbourhood improvement projects and to invest surplus funds in crime prevention programmes. The arrangement therefore gave the county a powerful incentive to cut down on youth custody. As a result a very impressive reduction of the number of juveniles in custody has been reported.

Inherent in the concept of JR is a greater emphasis on local ownership of those in trouble with the law and the development of local solutions. One very radical way of implementing Justice Reinvestment would be to make local authorities responsible for the funds that pay for prisons, thereby giving incentive to the creation of a wide range of more socially productive alternatives. While dangerous, serious and persistent offenders still go to prison, keeping others in the community at a fraction of the cost provides savings for local reinvestment.

This locality based analysis and approach is consistent with the current development of local public service agreements and local area agreements in English local government. The Local Government Association in their 2005 report *Going Straight* said they would like to see, and would support, a pilot approach to Justice Reinvestment (involving the development of alternative approaches to financing services to offenders) being initiated in England. In a similar vein, the report of Lord Coulsfield's independent inquiry into alternatives to prison published in 2004 found JR to be an idea 'which clearly has attractions and possibilities' and one which would 'fit well with our strong view that local communities should have a much greater involvement with the criminal justice system'.<sup>2</sup> The Inquiry suggested that some of the details of the initiative need to be explored further; in particular how the sentencing courts and the county authorities

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interact in determining how a particular offender should be dealt with; and how local authorities could be equipped and staffed to perform functions involving the substantial transfer of funds from central to local government. Lord Coolsfield recommended that the initiative should be studied as a matter of urgency. This book contains the findings of such a study.

### *The structure of the book*

The first chapter deals with the experience of JR in the US. Eric Cadora of the Justice Mapping Center describes experiments with methods for gradually redirecting spiralling prison expenditures into long-term community resettlement investments. The experiments arose from concerns about the inadequacies of community supervision combined with evidence about the concentrations of known offenders in particular neighbourhoods. In chapter two Rob Allen, Kadhem Jallab and Elaine Snaith describe the findings of exploratory work undertaken in partnership with the borough of Gateshead in Tyne and Wear. Mapping data about offenders has proved difficult but none the less the results pointed to significant concentrations of offenders in the most deprived wards and neighbourhoods within wards. The chapter also describes the kinds of practical initiatives for increasing local ownership of criminal justice which are being considered by local stakeholders in the North East as well as more radical ways of applying the localism agenda to criminal justice policy.

Andrew Coyle expands in more detail on one of these proposals in chapter three by setting the idea of more local responsibility for prisons in a historical and international context. In the final chapter Rob Allen and Vivien Stern set out what benefits a move to more local decision-making and fiscal control would bring, consider some of the pitfalls of localism and the necessary safeguards and finally reflect on the likely impact of Justice Reinvestment on the development of criminal justice policy over the next few years.

- 1 Stern, V (2005) *Prisons and their communities: testing a new approach*. London: ICPS
- 2 Esmée Fairbairn Foundation (2004) *Crime, Courts and Confidence: Report of an Independent Inquiry into Alternatives to Prison*. London: Esmée Fairbairn Foundation

# Chapter One

## Justice Reinvestment in the US

*Eric Cadora*

In the US authority and financial responsibility for public services are structured in ways that create a complex and sometimes conflicting set of incentives for policy makers. This is no truer than in the criminal justice system. Upon arrest, defendants are held in county or municipal jail for case disposition; also, if they are sentenced to less than a year of incarceration, they will most often serve that sentence in jail. Financial responsibility for jail with rare exceptions falls on either municipal or county government. The same is true of juvenile detention and most often for probation, both of which depend on local government funding. State or federal government provides little in the way of financial support.

Convictions resulting in sentencing of one year or more are primarily served in state prisons. Here too the burden of paying for state prisons is borne almost entirely by each state with little to no support from the Federal Government. But because arrest, prosecution, and judicial authority operate at the local, municipal/county level, there is a financial disincentive against coming up with local solutions to problems for which we currently use prisons in such high numbers. For example, let us imagine that a locality determined (as is happening in many jurisdictions in the US today) that it was counterproductive to keep sending inveterate drug users or probation technical violators to prison for repeated short one to three year stints. The municipal/county jurisdiction would have to come up with the dollars to finance an alternative programme for these formerly imprisoned offenders; that is, they would have to take on the costs formerly paid for by the state. So instead, they continue to send this class of offender to state prison because it does not cost them (the municipality) anything to do it. The costs are all borne by the state. And the whole counterproductive cycle is repeated.

### *Overview*

Between 2000 and 2005 most states in the US experienced tremendous budget pressures as a result of flagging economic performance, rising costs, and falling tax revenue. Prison expenditures remained among the fastest-rising state government expenses growing from \$9 billion to \$41 billion in 20 years.<sup>1</sup> The drop in crime rates in the 1990s provided no relief. By 2004 over 670,000 people were being released from prison each year, but instead of regaining a secure place in their old communities, more than half were back in prison within three years.<sup>2</sup> The double whammy of ineffective resettlement (the term in the US is 're-entry') and high rates of recidivism has led elected officials to ask what the return on continued investment in prison expansion would be and whether there is a more effective strategy. In response, national

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experts have suggested a gradual reinvestment of prison dollars in ways that will allow a retooling of parole and probation for the 21st century, transitional supports for people in need of housing and healthcare, and increased sponsorship of civic and neighbourhood renewal initiatives.

### *Research and public education*

The resettlement crisis has exposed the limitations of using criminal justice as the primary weapon against public safety problems, which are in fact critical issues for civil society as a whole. Indeed, new research demonstrates that the highest concentrations of inmates come from a very few communities, all of which are widely excluded from the social, political, and economic life of the mainstream. Officials in every state can identify a small number of poor, inner-city neighbourhoods that have become ground zero for a perpetual recycling of residents among prison, parole, and home. The high incarceration rates in these neighbourhoods fuel the increases in prison budgets.

The needs of these communities are many, but financially beleaguered states are in no position to allocate additional funds. Faced with the costly reality of the system's failure to help resettling inmates create a viable life on the outside, lawmakers have begun to demand greater fiscal accountability from the criminal justice infrastructure. Researchers, meanwhile, are working to develop a more comprehensive portrait of the impact that constant interaction with the criminal justice system may have on the daily life and civic resources in neighbourhoods where large numbers of people cycle in and out of prison.

### *New facts*

In early 2000, two lines of research came together to create a whole new context in which to consider the questions of criminal justice performance. The first uncovered the connection between growing prison populations and the failure of parole and probation supervision. The second tied spending on prisons and criminal justice resources to conditions in those neighbourhoods from which the vast majority of people caught up in the justice system come. Together, they suggested a powerful opportunity for reform and economy-of-scale investments.

As prison populations have continued to grow despite historic drops in crime, new research into the forces driving that growth has identified a lesser-known factor - parole and probation revocations to prison. In state after state, from Arizona to Connecticut to Kansas to Louisiana, researchers are learning that between one-third and two-thirds of all people admitted to prison are there because their probation or parole has been revoked, not because they have received a first-time conviction for a new crime. Moreover, it turns out that high proportions of these revocations to prison are the result not of serious new crimes, but rather of multiple failures to meet a variety of conditions of parole and probation supervision. While not insignificant, these breaches in administrative conditions include repeated failure to report for meetings, curfew violations, positive drug-test results, and continued unemployment. When they respond to these violations by sending so

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many people back to prison, parole and probation line officers are making decisions that have multi-million dollar implications for state budgets.

The new information suggests not only that community supervision is facing a crisis of purpose - does its real mission lie with enforcement or support? - but also that the field is ripe for reform. How would parole and probation officers function if they were squarely focused on successful resettlement? How could community supervision be redesigned to reflect 21st century realities?

A second line of research uses computer mapping to visualise traditional criminal justice data in new geographic dimensions. 'Geographic audits' make connections between criminal justice expenditures and the well-being of neighbourhoods on behalf of whose inhabitants those resources are being deployed. The phrase 'million-dollar blocks' was coined to refer to research findings which show that in certain communities states are spending up to a million dollars per block to cycle residents back and forth from prison each year. Measured in financial terms, prison is becoming the most significant government investment in these neighbourhoods. Geographic analyses of community supervision showed that even though the vast majority of cases are concentrated in a small number of high-resettlement neighbourhoods, hundreds of parole and probation officers remain isolated in downtown offices far removed from those communities. And this same research is showing that despite the fact that families receiving government subsistence, housing, and medical support overlap substantially with people going in and out of prison, those services are not coordinated and the responsible agencies are often pursuing policies in conflict with each other.

The new resettlement research is bringing accountability to what prison dollars are buying. If we spend a million dollars on one block, why doesn't the block improve? If so many people on probation and parole live in the same neighbourhood, why do community supervision agencies know so little about resettling people there? If homelessness is a factor that increasingly leads to re-imprisonment, why are people with criminal records excluded from public housing? Although the resources associated with high-resettlement communities are considerable, the new research shows that there is no overall focus to the distribution of these resources and that service providers rarely coordinate with each other. If community efforts were clearly organised around resettlement, there might be substantial opportunities to use resources more effectively.

### *Policy reform and local initiatives*

New research is leading to new strategies for reinvesting the resources that already go toward criminal justice. There is a growing awareness that the criminal justice system cannot effectively restore prisoners to their old neighbourhoods without reorganising resources to make resettlement a primary mission. Moreover, policy makers are beginning to recognise that successful re-entry depends on strong civil institutions, and therefore it cannot be achieved by the criminal justice system alone. From within this crisis of purpose, reconceived measures of performance are spurring innovative experiments in Justice Reinvestment and attracting diverse new players.

### *Incentive-based financing*

Today, Justice Reinvestment is taking a variety of forms in states around the country and within the Federal Government. The realisation that justice resources must be redeployed within high-resettlement communities is leading to experiments in states from Connecticut and Kentucky to Oregon and Kansas.

In 1998, Oregon introduced an incentive-based justice reinvestment model for reducing juvenile incarceration. The experiment was based on state legislation that awarded a block-grant to Deschutes County in the amount that the state was spending to incarcerate juveniles from the county each year. The County was free to spend the annual grant as it saw fit with the proviso that it would be 'charged-back' the cost of incarcerating juveniles who were sent back to the state. The charge-back system resulted in a 72 per cent drop in juvenile incarceration from the county, redeployment of community supervision in the highest resettlement community, and leveraged new investments in civic service and neighbourhood revitalization. Soon after, this model was emulated in Michigan and Ohio, which also saw substantial drops in the use of institutionalization of juveniles and the strengthening of local infrastructure.

And the companion understanding that the criminal justice system cannot accomplish successful resettlement alone has led the US departments of Justice, Labor, and Health and Human Services to pool grant dollars and sponsor re-entry resource reorganisation in most states around the country.

### *Connecticut*

Drawing on model programmes that used innovative financial incentives to lower juvenile incarceration rates in Oregon, Ohio, and Michigan in the late 1990s, some states are experimenting with policies that cut costs by reducing the adult prison population and reinvesting the savings in high-resettlement communities. The first state to take on the issue for the adult population was Connecticut.

In 2002 the state was experiencing prison population pressures and severe state budget strains. States facing similar situations have often opted either to build more prisons or pay other states to temporarily house their prisoners, which sent the state into greater debt, or just begin releasing prisoners. However, Connecticut officials chose to experiment with a Justice Reinvestment model that reduced the prison population substantially over two years, while crime rates continued to decline.

The problem was serious. The state had been building prisons for a decade at a cost of over \$1 billion. But, despite the expansion, the state was facing a shortfall of 500 prison beds by the year 1999 for which the state contracted prison space in the state of Virginia. And by

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2003 they were again facing a shortfall of 2000 beds for which they were now looking to other states to fill at an additional cost of millions of dollars a year.

By this time, state officials had come to the conclusion that continued prison building would be futile. Something had to be done to interrupt the cycle or it would continue unabated and threaten the fiscal foundations of other important agencies and public services. A flood of newspaper editorials published between June 2003 and April 2004 argued for policymakers to consider alternatives to incarceration instead of continued prison construction.<sup>3</sup>

Public officials sought support from the Council of State Governments,<sup>4</sup> which provided the technical support of a network of national experts who analysed data about prison growth and the places where people in prison came from and to which they returned. Their research confirmed national trends. Failure of people on probation and parole was pushing prison populations up; they were staying in longer; and there were myriad delays in their release. Moreover, they found that half the prison population came from a few neighbourhoods in three cities in the state, including the city of New Haven where a single neighbourhood was costing the state \$20 million a year, \$6 million of which was for probation violators alone. And by examining not only criminal justice data, but also mining social services data, the study found that people returning from prison lived in the same neighbourhoods as those where a disproportionate number of unemployment insurance and Temporary Assistance for Needy Families clients live.<sup>5</sup>

As a result, a growing political consensus formed around recommendations made by the researchers for reducing the pressure on the prison population and for reinvesting anticipated savings. So that in 2004, the State passed the *Act Concerning Prison Overcrowding*, which included measures for reducing probation revocations and creating comprehensive community plans for accommodating people returning from prison. The State called off a plan to pay the State of Virginia to house 2,000 more Connecticut inmates, reduced the Corrections budget by \$30 million, and reinvested \$13 million in neighbourhood targeted strategies. The reinvestment funds went to support community planning processes, increase the capacity of the Department of Mental Health and Addiction Services to provide more community outreach and treatment, to new probation programmes that focused on transition from prison to home and community based responses to technical violators, and added nearly 100 new probation officers to reduce caseload sizes.<sup>6</sup>

### *The results*

According to the Council of State Governments, the results were encouraging. Connecticut went from being one of the fastest growing prison systems in the country to nearly the fastest shrinking one. Not only were plans to build additional prisons scrapped, and out-of-state contracts cancelled, but the prison population actually dropped and the original 500 prisoners housed in Virginia prisons were brought back. Resulting drops in probation revocations to prison led the State to follow up with additional funds in 2007 of

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\$6 million for the probation violator programmes and \$11 million for community based and residential treatment programmes. And looking forward, the State established two analytical divisions - one to collect data from both inside and outside the criminal justice system to evaluate reinvestment policies, and a sentencing task force to assess the impact of sentencing and corrections policy.

Even though the Justice Reinvestment initiative established a number of model achievements, it also met some obstacles. The foremost was the inadequacy of community planning. The primary approach to reinvestment taken by the local planning committee was to fund isolated small programmes that target very small numbers of people returning from prison instead of a more widespread community initiative. Part of the problem in the US with the reinvestment strategy is the weakness of local intermediaries to plan and coordinate an evidence-based set of initiatives. To be more successful, the project in Connecticut will have to organise a much more effective community coalition that can understand research, overcome inter-agency competition, and develop a more integrated approach that leverages more community and extra-criminal justice resources.

### *Challenges and opportunities going forward*

The Connecticut experiment is attracting the attention of other states. Prior to the Hurricane Katrina disaster, Louisiana had begun to experiment with prison population reduction reforms aimed at generating community reinvestment funds. As in Connecticut, the state commissioned a study to locate key pressure points that caused the prison population to surge. It found that an astonishing two-thirds of all admissions to prison each year were the result of parole revocations – indicating a widespread failure of the prison system to prepare people for re-entry and of the parole system to successfully resettle them. It also determined that over a quarter of the entire prison population, which was costing the state \$100 million dollars annually, came from a small number of inner-city neighbourhoods in New Orleans, among them the embattled 9th Ward - a pre-Katrina indictment of the weak civil institutions of those communities.

Like Connecticut, Louisiana first targeted parole, the main feeder of the prison system. It established local parole revocation centres, which gave parole officers a regulatory option short of returning violators to prison. Since Katrina, the drastic reductions in the state budget have forced Louisiana to further accelerate its plans for prison reduction. It has established a state-wide task force to broaden reforms aimed at diminishing prison populations and improving resettlement practices.

Echoing findings in Louisiana, a study commissioned by state legislators and corrections officials in Kansas showed that nearly 80 per cent of people entering prison each year were being admitted on the basis of parole and probation revocations. The parole violators generated nearly half of the State's entire prison operations costs, and more than 40 per cent of them were coming from a few neighbourhoods in Kansas City and Wichita at a cost of nearly \$80 million dollars a year. With no end in sight, Kansas

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lawmakers launched a Justice Reinvestment research and planning project in 2004. By 2007, the legislature had passed Senate Bill 14. The Bill makes law many reforms similar to those legislated in Connecticut, such as reinvestment in probation to support a mandated 20 per cent reduction in revocation to prison rates, financial support of county based advisory boards, and use of education and treatment programmes to reduce in prison time for non-violent drug offenders. State officials are pursuing further studies into how best to invest anticipated savings in successfully resettling residents in those hardest hit Kansas City and Wichita communities and have recruited the participation not only of state government agencies, but also a major private real estate developer in consideration of transitional and supportive housing ventures.

### *Conclusion*

As the Justice Reinvestment movement leverages public money to end the overdependence on criminal justice, it may also hold the promise of a deeper, systemic reform - one rooted in the deepening recognition that the issues of public safety stem from problems that should engage every institution of a civil society. This movement is in its infancy today, but word on its potential is out. Kentucky, Arizona, and Rhode Island have joined the list of states commissioning studies on Justice Reinvestment, while Connecticut, Louisiana, and Kansas are already starting to experiment with methods for gradually redirecting spiralling prison expenditures into long-term community resettlement investments.

In all of these states, the need to better manage existing criminal justice resources has fostered the realisation that the justice system cannot successfully resettle such large populations on its own. These days, a typical re-entry task force will bring together representatives of diverse agencies, including those dealing with health and housing, workforce development, and child welfare. They are finding common cause in the challenges of resettling people returning from prison - after all, former prisoners may also need access to neighbourhood services for the homeless, mentally ill, or drug addicted, and are likely to have children at risk as well. These cross-sector conversations, generating ideas that may become reality as the new Justice Reinvestment initiatives take shape, are creating the critical mass needed to address the increasing social, political, and economic isolation that high resettlement communities around the country experience today.

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- 1 National Association of State Budget Officers (2005) *State Expenditure Report 2004* Washington, D.C.: National Association of State Budget Officers
- 2 Two out of three people released from prison are rearrested within three years (2002) See Langan, P. A. and Levin, D.J. *Recidivism of Prisoners Released in 1994*, US Department of Justice, Bureau of Justice Statistics, NCJ193427. Washington, D.C.: US Government Printing Office, 2002
- 3 A Budget Solution in Prison Reforms', *New Haven Register*, July 4 2003; 'Time to Examine Sentencing Options', *Connecticut Post*, 14 December 2003); 'More Signs of Strain with State Prisons', *Greenwich Times*, 26 December 2003 ; and '19,000 Connecticut Inmates', *The Hartford Courant*, 13 April 2004
- 4 which through the support of private foundations and the US Department of Justice, makes available technical assistance to help states interested in pursuing justice reinvestment strategies.
- 5 Austin, J.F., Cadora, E., & Jacobson, M., (2003). *Building Bridges: From Conviction to Employment*. New York: Council of State Governments.
- 6 Legislative Program Review and Investigations Committee (2005) *Public Act 04-234 Compliance Monitoring Project*. Hartford, CT: Connecticut General Assembly.

# Chapter Two

## Justice Reinvestment in Gateshead – The story so far

*Rob Allen, Kadhem Jallab and Elaine Snaith*

The aim of the Justice Reinvestment project has been to explore the relevance in the UK of an approach to criminal justice developed in the United States where the seemingly inexorable rise in the prison population has stood in marked contrast to under-resourcing of social measures to prevent offending and re-offending. Key to the approach is a focus on places as well as cases, developing responses to the heavy concentrations of prisoners and others under criminal justice supervision in the most deprived neighbourhoods.

It is well known that incidents of crime and anti-social behaviour are not equally distributed across different parts of the country or types of neighbourhood. A recent study found that people living in the poorest ten per cent of electoral wards are almost six times more likely to be murdered than those living in the least poor ten per cent.<sup>1</sup> The countryside is safer than cities, with five per cent of vehicle owning households in rural areas a victim of one or more vehicle thefts in 2004/05, compared with nine per cent of households in urban areas.<sup>2</sup>

The British Crime Survey has also found that different kinds of neighbourhoods are associated with higher risks of particular crimes. Living in an area classified as ‘hard pressed’ (predominantly low-income families, residents in council estates, people living in high-rise buildings) or ‘urban prosperity’ (prosperous professionals, young urban professionals and students living in town and city areas) gives you a higher risk of criminal damage to your home than living elsewhere.<sup>3</sup> It is also well established that burglary rates in the 88 most deprived areas are higher than average. Moreover five times as many residents of council estates and low income areas perceive a high level of disorder as those in affluent suburbs and rural areas and twice as many say ‘teenagers hanging around’ are a very or fairly big problem.<sup>4</sup>

The implications of these variations have not been lost on the authorities, with both the Home Office nationally and the local Crime and Disorder Reduction Partnerships encouraging targeted and intelligence led responses. Increasingly sophisticated computerised mapping is available to identify hotspots and develop a response. This is often confined to strengthening the enforcement efforts of the police so that they can meet their Whitehall-imposed targets of bringing more offences to justice rather than embracing a more radical and fundamental attempt to tackle the underlying causes of crime and restore social peace.

### *Concentrations of imprisonment*

Less widely discussed is the fact that not only the location of criminal events but the dwelling places of convicted offenders tend to be highly concentrated, usually in the most deprived areas. As Eric Cadora points out in chapter one, in the US, research has found that the vast majority of incarcerated people come from and return to a relatively small set of inner-city neighbourhoods.<sup>5</sup> The removal and return of so many people from a single neighbourhood has a major impact on the social fabric. Increasing numbers of prisoners returning to a small number of the most disadvantaged communities reduces stability, increases public safety risks and places extra strain on public services. The fact that prisoners are generally drawn from among the most socially excluded, and their concentrations in the neediest neighbourhoods has a major impact on the permanence of housing occupancy, employment rates, and the strength of networks and cohesion which are essential to safety and quality of life in those communities. Collecting a range of social data at a very local level has opened up a debate in the US about the implications both for criminal justice policymaking and the best way of spending resources in the poorest areas.

With the scale of incarceration in the US almost six times higher than in England and Wales, the need for action on prisoner re-entry or resettlement and the scope for Justice Reinvestment appear substantially greater than in the UK. Across the Atlantic, the individual, case-by-case decisions made by police, prosecutors, courts, and prison and probation services collectively commit substantial public funds ostensibly for the well-being of particular neighbourhoods. In some, mapping reveals 'million dollar blocks', in which more than a million dollars are spent to incarcerate and return residents from that small area in a single year. Yet despite much lower absolute numbers of offenders under criminal justice control in the UK, work undertaken to explore the relevance of these approaches here is beginning to show both similar concentrations and the potential for more constructive and cost effective measures based on a much greater responsibility being exercised at the local level.

### *Prison and social exclusion*

The first evidence about the concentration of prisoners comes from Scotland. Research undertaken for the Scottish Prison Service in 2003 found that a quarter of the prisoners in Scotland's jails come from just over 50 of 1,222 council wards across the country and half come from the poorest 12 per cent of council wards.<sup>6</sup> There are 269 more affluent wards across the country from which no-one goes to prison. The findings, based on a 92 per cent sample of the prisoners detained in Scottish prisons on one night and on reports given by prisons of their releases over a year, show the high concentrations of prisoners in Scotland's poorest communities was particularly acute in Glasgow. Sixty per cent of prisoners from that city come from the poorest council estates. The study not only found that criminal activity that leads to imprisonment is highly concentrated in a small segment of Scottish society, but also found a near absolute correlation between the level of social deprivation of local government wards, measured by the Scottish Index of

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Multiple Deprivation (SIMD) and the imprisonment rate among people living in those wards. That correlation holds true throughout the range from the most prosperous communities to the most deprived. While the imprisonment rate for men as a whole in Scotland was 237 per 100,000, the rate for men from the 27 most deprived wards (those with SIMD scores >70) was 953 per 100,000. For men aged 23 from those wards the rate was an astonishing 3,427 per 100,000.

The ICPS Justice Reinvestment project in the North East of England has produced similar findings in its work to map the dwelling places of people who enter and leave prison.

### *The ICPS project*

The ICPS project began in 2005 in partnership with Gateshead Council. The Metropolitan District of Gateshead is located in the county of Tyne and Wear in the North East of England. The Council had been involved in the earlier ICPS Restorative Prisons Project, when serving prisoners from several prisons in North East England including Durham had contributed to renovation work in Saltwell Park, a 55 acre Victorian park in the heart of Gateshead. The local authority has a reputation both for the quality of its services and for its vision. The Millennium Bridge, the Baltic arts centre and Sage music and arts centre are testament to local ambitions. Gateshead Council was classified as excellent in the Audit Commission's comprehensive performance assessment in 2004, and its multi agency Youth Offending Team is consistently awarded the top performance level by the Youth Justice Board.

After a series of exploratory meetings with officials and other stakeholders, the Council cabinet considered a proposal from the Chief Executive to become the 'test area' for the JR project 'where research will be carried out, data will be collected and where alternative models of financing and delivering services to offenders and ex-offenders can be drawn up and considered for their practicality.' The reason for participating was 'to improve the intelligence available about the use of resources in relation to offenders in Gateshead'. The proposal was agreed on 8th February 2005.<sup>7</sup>

Gateshead, on the south bank of the Tyne, has a population of 191,000 (according to the 2001 Census) and comprises 22 electoral wards. The Census found the level of employment in Gateshead, 54.7 per cent, was lower than the average for England of 60.9 per cent, while the level of unemployment at 4.0 per cent was correspondingly higher than the average of 3.4 per cent. With earnings below national average, the borough is the 26th most deprived out of 354 districts in England.

The first task of the Justice Reinvestment project was to collect data about people who come to the attention of the criminal justice system and go to prison. Although good cooperation was provided by the various agencies – particularly the police, prison and probation services, the task of assembling a detailed picture of the numbers and characteristics of Gateshead people in prison has proved surprisingly difficult. The detailed data collection was undertaken on behalf of ICPS by Tyne and Wear Research and Information (TWRI) a unit set up in 1986 to support the five Tyne and

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Wear district Councils (Gateshead, Newcastle, North Tyneside, South Tyneside and Sunderland) through the assembly and analysis of statistical information.

TWRI established early on that the prison service at national and regional level was unable to provide information which would enable us to know the post code either where prisoners had lived prior to imprisonment or where they would live on release. In August 2004, a Housing and Returning Prisoners (HARP) protocol had been developed to create a framework to help local authorities, the prison and probation service and voluntary sector housing providers to prevent homelessness amongst people returning from custody. Although Gateshead Housing Company, along with the other Tyne and Wear Housing authorities, were party to the protocol, there was not at the time of the initial data collection a systematic flow of information to the local authority about Gateshead residents being released from prison.

One might expect individual prisons to collect information about all those they receive and discharge. Although some data is indeed collected, reliable information about addresses is not always recorded. As for addresses on discharge, it appears that relatively large numbers of prisoners report that they have no fixed abode, a practice which historically has given eligibility for an additional discharge grant.

The police collect data on all arrests and record the outcome. For individuals who are prosecuted, information about the outcome is recorded but not in a consistent way which allows comparison over time. As for courts, there are computerised systems for recording detailed data about where offenders live. However it would be extremely resource intensive to try and extract this information.

The best source has proved to be the probation service, who keep good records of offenders known to them, including addresses. This data enabled us to assemble both a snapshot of the numbers in prison and under community supervision on any one day; and a picture of the flow of cases during the course of a particular period. During the course of 2004-5, 748 offenders from Gateshead became known to the probation service and in 2005-6 there were 834. In August 2005, there was a total of just over 1000 offenders known to the service.

The majority of these offenders were subject to community sentences rather than prison sentences. In 2004-5, 673 became subject to community sentences and 126 subject to prison sentences. In the six month period April to September 2006, there were 437 community sentences and 61 prison sentences. Of the cohort of offenders known to the service in August 2005, 322 were (or had been) in prison and the remainder were subject to community supervision.

There are good reasons for thinking that the probation data, which suggests about 120 Gateshead residents going to prison each year, does not however give a complete picture of people sent to prison from Gateshead. The probation service records information about those with whom it has some formal relationship – on those about whom it prepares pre sentence reports, cases where courts impose a community order or offenders subject to statutory supervision on release from prison. It does not

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automatically include information about defendants given short prison sentences, sent to prison for fine default or those who are remanded to custody. In some of these cases the individual detainees may already be known to the service or in the case of remand prisoners become known during their detention, but it is likely that probation data under-records the numbers entering and leaving prison.

One way to assess how far this is so is to look at the probation service's data alongside what we know from Criminal Statistics about sentencing practice in the local courts. During the course of 2005, the latest period for which statistics are available, the Gateshead Magistrates Court sentenced 102 people to custody and committed a further 28 to the Crown Court for sentence. In addition 331 were committed for trial at the Crown Court.

Of course, not all of those sentenced by Gateshead Magistrates will have been residents in the borough of Gateshead. People tend to be sentenced in the jurisdiction where the crime is committed rather than where they live – but it seems reasonable to suppose that non Gateshead offenders sentenced at Gateshead Magistrates Court may be largely offset by Gateshead offenders sentenced in other Magistrates Courts. What we do know for certain is that the average length of the prison sentences imposed by Gateshead Magistrates in 2005 was 2.3 months.<sup>8</sup> Yet in August 2005 there were only seven people from Gateshead known to the probation service serving or having served prison sentences of less than a year and furthermore in the six month period between April and September 2006, only six offenders entered probation supervision serving sentences of less than a year's imprisonment. Most of these are likely to have been offenders aged under 21 who are subject to a minimum period of supervision after release from a Young Offender Institution however short the sentence. It thus seems highly likely that there are additional numbers of adult offenders spending short periods in prison without becoming known to probation.

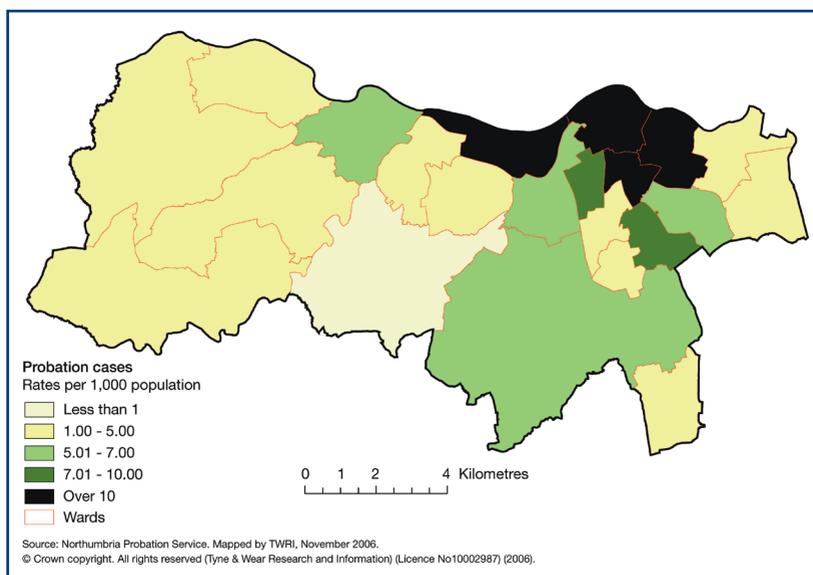
This proposition is given further support by the estimates made by the probation service about the increase in work load likely to arise from the new sentence of Custody Plus. Introduced in the Criminal Justice Act 2003, custody plus provides for offenders to serve a short period in prison followed by a period under supervision in the community. The Northumbria Probation Service estimated that once courts are able to impose the sentence, the work load would increase by some ten per cent.<sup>9</sup> The sentence has yet to be implemented.

Rather more assumptions are needed to estimate the number of Gateshead offenders sentenced to prison from the Crown Courts. We know that 28 people were committed for sentence from the Gateshead Magistrates in 2005 with an additional 331 committed for trial. Using data from Newcastle Crown Court to estimate the proportion of the 331 who were convicted suggests that in total some 308 Gateshead people may have been sentenced in the Crown Court. Of these the Newcastle Crown Court data suggests 49 per cent or 150 people could expect to be sentenced to prison for an average of 25.7 months.

While it is not possible to be certain, on the basis of the sentencing data it is reasonable to think that the 120 Gateshead people known by the probation service to have gone to prison in 2005 is an underestimate – perhaps a substantial underestimate – of the actual numbers who in fact did so.

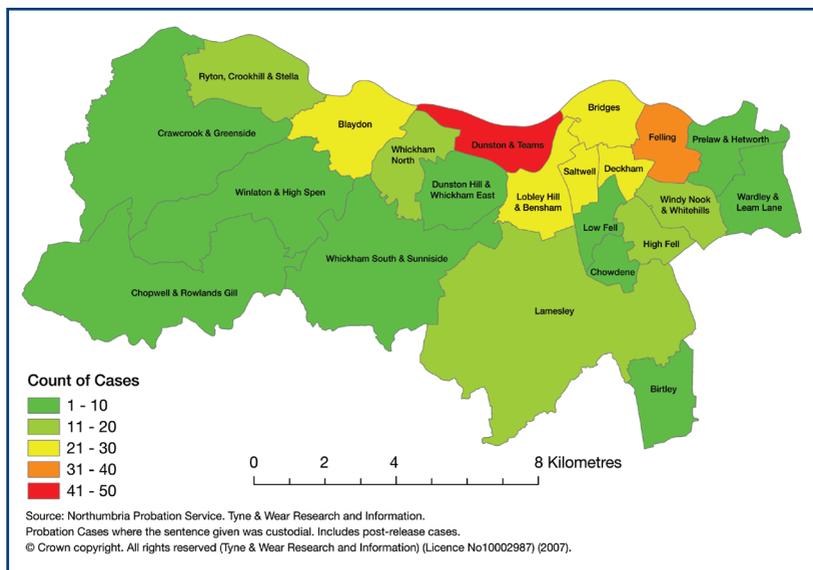
### *Where are the offenders from?*

Notwithstanding the limitations of the data, it has been possible to map where the offenders known to probation reside. Almost a quarter of the offenders who became known to the service in 2005-6 lived in two out of 22 electoral wards – Dunston and Teams and Felling – while a half lived in just five. Half of the wards account for 80 per cent of the known offenders. Figure 2.1 shows that in four wards more than one in a hundred residents is under probation supervision while in others the rate is less than one in a thousand.



*FIGURE 2.1 Probation Cases per thousand of Population by ward*

The distribution of the 322 probation cases who, as at August 2005, were or had been in prison shows a slightly higher concentration with just over a quarter from the top two wards (Figure 2.2). Of these, 221 were still in prison and 101 were under supervision in the community. It is important to note that this data includes 29 individuals residing at probation service residential premises located in the Dunston and Teams ward, the majority of whom were not necessarily people who had lived in Gateshead before.



*FIGURE 2.2 People known by the probation service who were in prison or subject to post release supervision in August 2005 by ward*

Mapping the distributions has revealed substantial overlaps with indices of deprivation. The higher a ward ranks on the index of multiple deprivations, the more probation cases are likely to reside there. While the correlation is not perfect, it is very strong (0.89 on the Spearman rank coefficient). Figure 2.3 gives the number of probation cases per ward on a map showing the level of deprivation per lower layer super output area (LSOA).<sup>10</sup>

Within wards, the mapping has not surprisingly shown that offenders tend to reside in the neighbourhoods with the highest levels of deprivation. This is illustrated in Figure 2.4 which shows the numbers of people known to probation and those receiving housing benefit per census output area – the smallest area on which data is collected in the census.

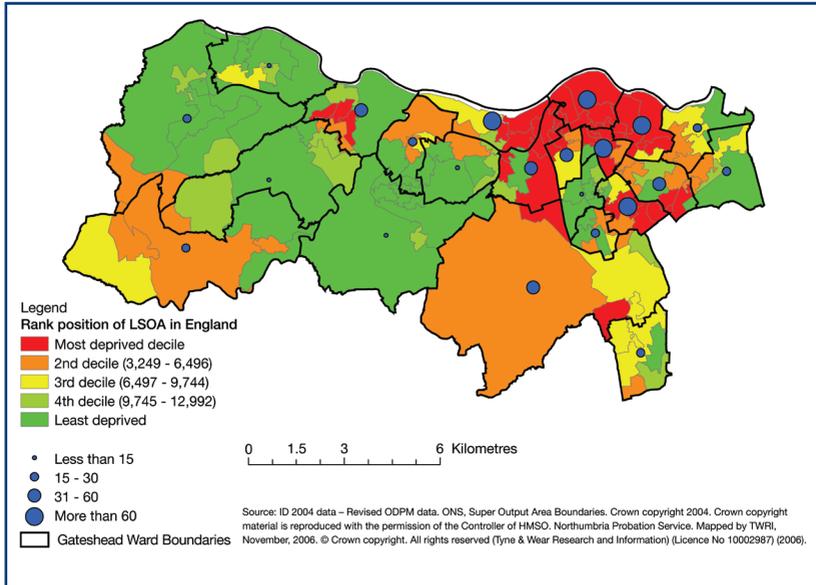
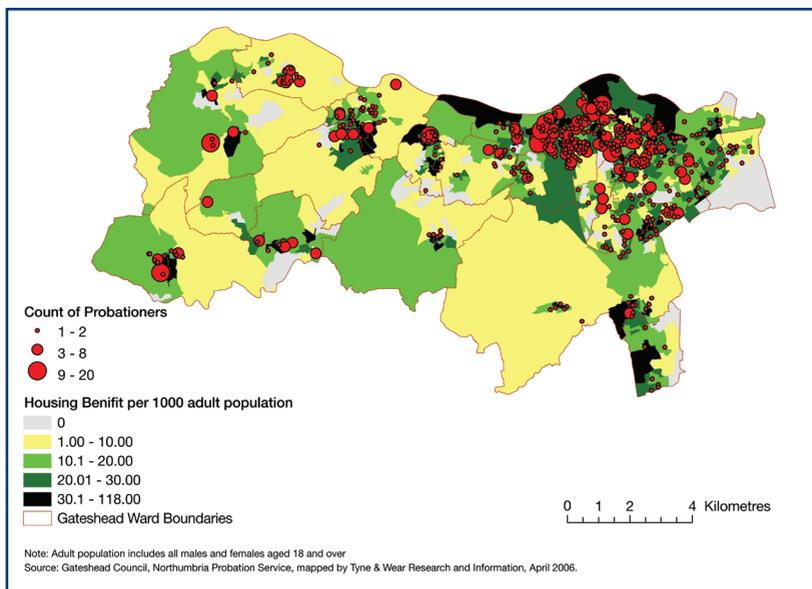


FIGURE 2.3 Lower layer super output areas ranked on overall index of deprivation 2004 and numbers of probation cases per ward 2005-6



*FIGURE 2.4 Housing Benefit Claimants and Probation Cases per 1000 Adults by Census Output Area 2004-5*

The mapping exercise has also shown that the neighbourhoods with high numbers of known offenders are associated with a range of other problems including high numbers of tenancies of less than a year and rent arrears.

Data from the Youth Offending Team has produced a similar picture for under 18's. Figure 2.5 suggests that children known to be involved in youth offending live in neighbourhoods alongside those who have problems at school or in families – children with special educational needs, excluded from school or subject to care orders. Often of course they are the same children. Both troubled and troublesome children tend to be poor children as evidenced by correlations with children receiving free school meals.

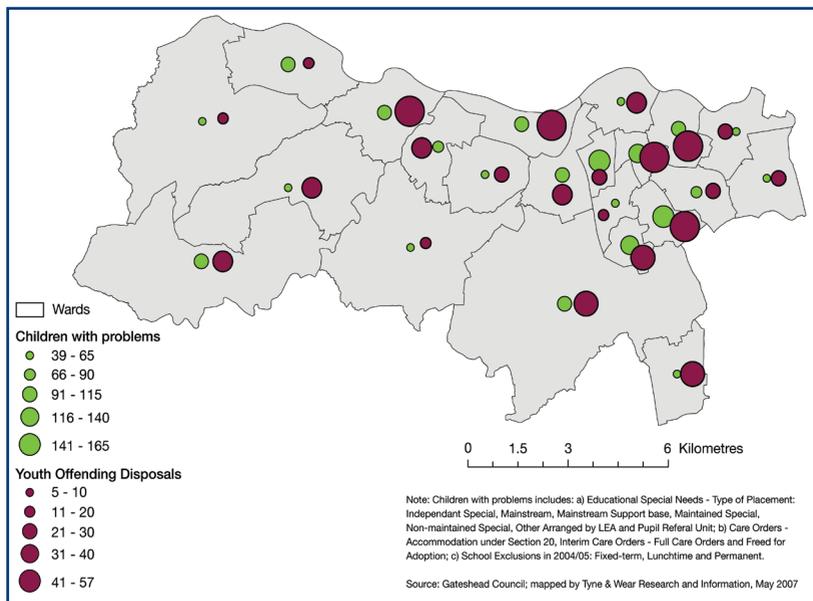


FIGURE 2.5 Children with problems and youth offending disposals by ward 2004-5

## Costs

Given the uncertainties about the numbers of Gateshead offenders, calculating the costs of sending them to prison and the consequent scope for Justice Reinvestment has not been straightforward. The Sentencing Guidelines Council has analysed decisions from Magistrates and Crown Courts to estimate the numbers of prison places needed as a result. The 89 adults sentenced to prison by Gateshead Magistrates in 2005 took up a total of ten prison places over the course of the year and the 13 juveniles sent to custody by the Youth Court a further four. The number is calculated by multiplying the number of people sent to prison by the average length of the sentences to produce a total of prisoner months. Dividing this by 12 produces the number of annual prison places needed.

Turning to costs, the cost of a prison place at HMP Durham where most short term sentences are served by Gateshead adults was £35,035 in 2005. It is thus possible to say that Gateshead Magistrates generated an annual imprisonment cost of £350,000. Because of the range of costs of juvenile placements, estimation is harder in respect of under 18's but if all 13 were placed in Young Offender Institutions, the cost would have been in the region of £200,000 – considerably more if any of the placements were in more expensive Secure Training Centres or Secure Children's Homes. Decisions by the Magistrates thus incurred over half a million pounds worth of costs in sending just over a hundred individuals to prison.

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Substantially greater costs were of course generated by Crown Court decisions. The estimated 150 Gateshead offenders sentenced to prison needed a total of 160 prison places at a cost of more than £6 million.

### *Responding to the findings*

As a result of the findings, ICPS has put a number of ideas forward both to partners in the local authority, and also to the probation service and other key agencies. These have included both practical project ideas to consider at the local level and more far reaching policy implications for discussion at national level.

Although the numbers of prisoners and offenders on probation are much lower than in the US, they tend to be concentrated in particular neighbourhoods. This suggests a need for services aimed at supervising and reintegrating offenders to be organised at a highly local level with a focus on places as well as cases.

At the local level, ideas have fallen into three distinct but overlapping groupings. First an approach to working with offenders that is more devolved; second better multi agency coordination and commitment to information gathering which can inform policy planning and decision making; and third a greater role for the local authority in the supervision of offenders in the community.

### *Neighbourhood justice*

Making public services more locally responsive has been a key theme of recent reforms to local government, health and policing. Gateshead, like several local authorities, has developed an area structure to plan for and oversee services at a local level. In 2001 it established five neighbourhood management areas and in November 2006 the Council agreed further proposals for developing the Council's engagement with local communities and neighbourhoods. The core aim is to offer local people 'the chance to influence how their neighbourhood is run and to make a real difference to their lives.'<sup>11</sup>

Neighbourhood policing has also been a priority. In Gateshead, in addition to working out of the town centre police headquarters, there is a substation in Whickham ward. Aspects of criminal justice policy have also recently emphasised the importance of localism, particularly the notion of community justice (See chapter four).

Early ideas to emerge from the project in Gateshead had some similarities with this concept although the focus was less on the courts and more on the co- location of services and organisations which could address the needs of offenders, victims and the local community. With local authority coordination, neighbourhood based justice centres in one or more of the wards with the largest numbers of offenders could potentially house a range of activities such as housing and employment advice, neighbourhood mediation and alcohol counselling. While addressing the needs of people in the criminal justice system would be a priority, services would be more widely available as part of efforts to address problems in the neighbourhood.

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There are a number of established community centres in Gateshead which are already functioning as 'one stop shops' with learning opportunities, health and fitness services and child care already in place. There could be an opportunity to graft drugs and alcohol services, probation meetings and other problem solving services onto such centres.

A variant of this idea is that the probation service should develop more of a presence in the parts of Gateshead where their caseload is concentrated. The mapping work in the US has led some probation services to reorganise their work on a geographical basis with a small group of officers assigned responsibility for all of the cases from a particular locality. Such an approach enables the probation service to get to know the strengths and resources within particular neighbourhoods as well as the problems. In England patch based probation services were developed in the 1970's but recent practices have militated against such a localised approach. Programmes tend to be delivered according more to the type of offender than on a geographical basis. The National Probation Service's 'estates strategy' through which decisions are made about the location and staffing of buildings and facilities has reduced the flexibility that probation areas have about the use of property.

The possibility of a more neighbourhood based approach was discussed with the probation service, the local authority and with the JR project's Advisory Board<sup>12</sup>. Despite interest in the idea, two main issues were raised which were seen to require further work. First is the likely concern or opposition among residents to the location of a facility related to offender rehabilitation. Whether this concern is about the stigma attaching to the area or practical worry that a facility would act as a magnet for offenders, it became clear that a careful strategy of consulting local residents would be essential. Ward councillors, who under Gateshead's neighbourhood engagement strategy are recognised as 'champions for their local community, within a framework of corporate responsibility', will be crucial in this process.

The second issue raised by the probation service related to how far their presence would in fact be welcomed by the individuals they supervise in deprived neighbourhoods. The mission of probation has changed a great deal since the days of advising, assisting and befriending. The service is now seen very much as a part of the apparatus of law enforcement, playing an important role in public protection and working closely with the police. As a senior probation manager put it 'we are no longer social workers with offenders.' At a practical level the reliance of the service on computerised technology could also prove an obstacle to moving staff out of a headquarters building.

### *Multi-agency coordination*

Improved inter-agency cooperation has been seen as a key to effective government over the last ten years. Crime and Disorder Reduction Partnerships, Drug Action Teams, Youth Offending Teams and Criminal Justice Boards have all sought to provide effective mechanisms for planning and delivering 'joined up' responses to particular crime problems. Multi Agency Public Protection Arrangements have proved an innovative

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way of managing the relatively small numbers of offenders who present a serious risk of sexual offending.

For under 18's the Youth Offending Teams (YOTs) based in local authorities have proved a largely effective way of harnessing the contributions of police, children's services, health and education towards the prevention of offending. An inspection carried out in 2006 found the Gateshead YOT to be 'well resourced by the local authority and partners, and positioned to deliver good quality services. Work with children and young people was of a good standard.'<sup>13</sup>

Once young people reach the age of 18, the response of the various agencies if they get into conflict with the law is much less structured. There are two initiatives which are targeted at particular types of offender. The Drug Interventions Programme (DIP) is a Home Office funded programme to reduce levels of acquisitive crime by getting problematic drug users into treatment. The Prolific and Other Priority Offender (PPO) scheme is aimed at the most active offenders who the government estimate to be responsible for one in ten offences. The programme comprises three strands to 'Prevent and Deter', 'Catch and Convict' and 'Rehabilitate and Resettle' offenders. In Gateshead both programmes involve staff from a variety of agencies, but the numbers of offenders engaged in the programmes are relatively small. Between April 2005 and August 2006, 47 individuals had been on the caseload of the DIP for more than six months. The PPO scheme manages about 20 offenders at any one time. Monitoring suggests that both programmes have an impact on the level of offending committed by those subject to the programme. A national evaluation of the PPO scheme has been particularly encouraging.<sup>14</sup>

There are therefore likely to be large numbers of adults who are involved in criminal justice but do not receive the range of interventions they need if they are to stay out of trouble. In order to address this, the possibility was suggested of creating a more systematic and comprehensive multi agency response through an Adult Offending Team (AOT). Modelled on the YOT, the AOT was first proposed in the LGA report *Going Straight*. The focus would be on

*'effective rehabilitation as opposed to prevention. It would mean a multi-agency and client focused approach enabling improved risk assessment and identification of programmes to reduce the likelihood of re-offending, including restorative justice/ reparation. It would build on existing local working relationships among agencies and allow for coherent and established local structures.'*<sup>15</sup>

One option would be to limit the responsibility of the AOT initially to the young adult age group, those aged 18-24. The sharp cut off point between the youth and adult justice system is particularly ill suited to meeting the needs of young people in transition.<sup>16</sup> Most of the PPO caseload are in their twenties.

### *Increased role for the local authority*

The third group of ideas to emerge from the project relate to an increased role for the local authority in various aspects of criminal justice. The area on which there has already

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been the most agreement in Gateshead is the need to explore the more systematic and imaginative identification of unpaid work placements by different local authority departments which might enable more relevant, visible and locally based opportunities for offenders on community orders to make reparation. Such opportunities might also assist offenders to acquire skills capable of enhancing their chances of obtaining further training or permanent employment to fill local skills gaps. Unpaid work is the most commonly imposed element in the community order, the main non-custodial sentence available to the courts as an alternative to short sentences of imprisonment. Identifying placements for offenders is the responsibility of the probation service.

In Gateshead, there are already strong links with the local authority, with three large projects undertaken in partnership; Foundation Gardens, a European funded project involving 4,500 hours per year clearing of overgrown gardens of elderly residents across the borough; graffiti removal in which the local authority identifies areas, usually subways and underpasses in the borough, which can be painted over by offenders; and Spenburn Woods, a project to clear rubbish, cut back overgrown areas and repair pathways. There is interest in building on these relationships in a way which might enable offenders to make a wider variety of reparation which goes beyond environmental improvement and potentially allows the work to be undertaken in the particular neighbourhoods where they live.

The second option is for local authorities to assume a more formal role in respect of people receiving short prison sentences. The postponement of the implementation of custody plus (see page 21) means that people going to prison for under a year receive no statutory supervision or help on release and will not have been involved in any rehabilitative programme of work during sentence. The local authority could step into the gap by offering at least to ensure that basic resettlement needs are addressed. This would effectively mean that local authority officers would take responsibility for ensuring that each prisoner returning to Gateshead would have in place a package of assistance designed to help their reintegration back into the community. Such a package could include necessary help across what the Ministry of Justice calls the resettlement pathways. These are elements of a person's life which may need attention if he or she is to lead a positive life on release – accommodation, employment, training or education, health, substance misuse, thinking attitudes and beliefs and family relationships. One way to start such an initiative would be to form a partnership with Durham prison which discharges on average two prisoners back to Gateshead every week.

Each of these options is at the time of writing being considered by stakeholders including the Regional Offender Manager. It is clearly important that any decision to implement one or more of the options is taken locally by the Council and the wider partnership, rather than imposed from outside. There are however three additional points to emerge from the research which have a bearing on future developments.

First is the desirability of retaining the basic idea of Justice Reinvestment that some of the funds currently spent on incarceration should be made available to strengthen community based responses. The creation of the National Offender Management

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Service provides in part a vehicle by which such a transfer of resources could conceivably take place.

Second, whichever measures are put in place, the ICPS project has shown a need for much improved information sharing between agencies involved in dealing with offenders. At the level of individual cases, a system for alerting the relevant agencies about the needs of particular offenders could help to ensure that relevant and timely help can be offered alongside a community based order, or on release from prison. That such a system is needed is illustrated by the report of an inspection of Durham prison carried out in 2006 which found that in a survey of prisoners, three quarters thought they would have problems finding work and with money and over half would have problems finding accommodation. A quarter thought they would have a problem with drugs when they left prison, and 22 per cent problems with alcohol, significantly higher proportions than comparable prisons. Moreover more than a third of prisoners expected to have a problem accessing healthcare and substance misuse services.<sup>17</sup>

At the broader level, it is important to build up an accurate picture of the number and characteristics of people coming before the courts, if effective preventive and rehabilitative measures are to be established.

Third, there is a strong case for building on existing approaches. For example the data suggests that almost half of the offenders in Gateshead are under the age of 26. The possibility of creating a young adult offending team seems a sensible first step towards a more integrated local multi agency approach. While agencies and communities might express anxiety about the types of offender that they would be taking on, the data suggests that many of the offences committed by those known to probation are ones which can be effectively dealt with in the community. Of the 1000 plus offences committed by offenders starting probation in 2005/6, theft is the largest category (212) followed by violence against the person (119), burglary (83), drug offences (48), criminal damage (45) and fraud/forgery (43). However the largest number are convicted of 'other offences' – a catch all category of crimes that are not included in other groupings. Ninety three are involved because of breaching other orders and 68 for summary offences. There are only 21 involved with robbery and 16 for sexual offences.

### *Policy change*

Alongside the possibilities for practical change at local level, the project findings suggest the need to consider more radical options for improving the governance arrangements for criminal justice at a national level. One idea for example which could be considered by the Ministry of Justice is making local areas more financially accountable for the use of prison and using financial incentives to encourage the reduction in the unnecessary use of custodial sentences. While this is not an option which has been examined in any detail in Gateshead, one implication of the original US Justice Reinvestment model is that if local authorities in general were required to meet some or all of the cost of custodial sentences, they might work harder to develop preventive programmes or community-based alternatives to prison.

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As with multi agency working, it is possible that youth justice could point the way. A pilot could for example be established in which a YOT is given a sum of money based on the costs of average use of custody over the last three years. It is then charged for using custody in the following year but can keep any savings. As discussed above this form of 'Justice Reinvestment' has proved successful in reducing juvenile incarceration in Oregon (see page 12) and urgently needs exploration here.

### *Conclusion*

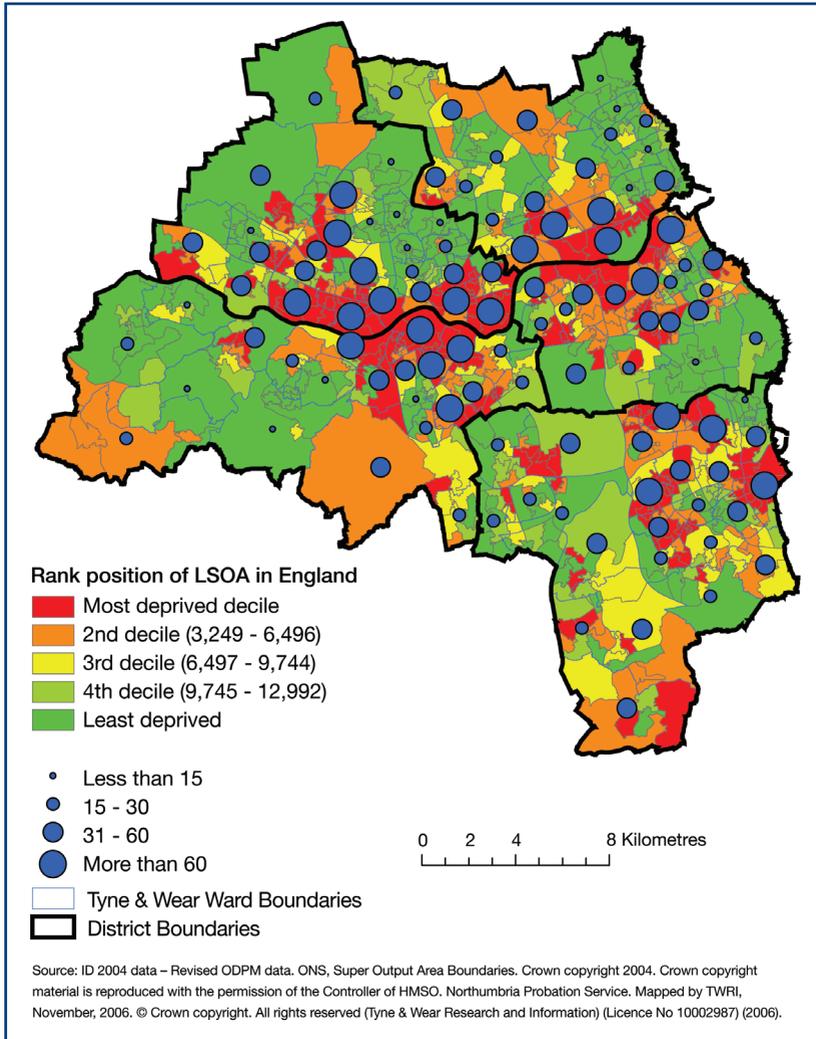
The Justice Reinvestment project has for the first time enabled a local authority to paint a comprehensive picture of what happens in the criminal justice system in its area. Having such knowledge could give scope for a wholly new way for the local authority to become involved. The findings about the concentrations of people in Gateshead known to the criminal justice system are likely to be replicated to a greater or lesser extent all over the UK. Indeed Figure 2.6 maps the numbers known to probation across the five Tyne and Wear boroughs. Of 5,000 plus people known to the probation service in 2004/5 almost a third came from just ten out of 111 electoral wards. These tend to be the poorest wards.

The implications of this data are likely to be similar across the country too. They include the need to apply neighbourhood management principles to key neighbourhoods which could involve devolving more control of criminal justice interventions to local residents; the case for establishing a closer relationship between the local authority on the one hand and the police and Magistrates Courts on the other to provide them with a broader range of services that can be used as part of a diversion programme or low tariff sentence; and the need to devise a co-ordinated response to the areas of heaviest concentration aiming at harm reduction, prevention and community strengthening.

While the practical mechanisms will vary, there will always be a need to specify the numbers of short term and low risk offenders who go to prison and could be diverted. These include those serving short sentences for non violent crimes and the groups specified in the Home Office consultation paper *Making Sentencing Clearer* as including people who go to prison unnecessarily – women, young people and the mentally ill.<sup>18</sup> It is also important to identify the characteristics of offenders among those groups of offenders in relation to the various resettlement pathways, to establish systems for information exchange between agencies necessary to plan and monitor services and create models for service delivery which produce better outcomes.

Key to all these tasks is the local authority. As the Home Office Minister Gerry Sutcliffe said during the Second Reading debate on the Offender Management Bill last year:

*In the past, the difficulty has been that local government bodies have wanted to push offenders away into a silo of the criminal justice system. If we are to tackle reoffending, we have to tackle issues such as resettlement and unpaid work. We have to consider how to bring people back into society so that they do not re-offend.'*<sup>19</sup>



*Figure 2.6 Lower layer super output areas ranked on overall index of deprivation 2004 and number of probation cases per ward Tyne and Wear 2005-6*

- 1 Dorling, D. (2005) *Prime Suspect Murder in Britain* in Hillyard et al (eds) *Criminal Obsessions*. London: Crime and Society Foundation.
- 2 Home Office (2006) *British Crime Survey 2005*. London: Home Office.
- 3 Ibid

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- 4 Prime Ministers Strategy Unit (2005) *Improving the prospects of people living in areas of multiple deprivation in England*. London: Cabinet Office.
- 5 See also Open Society Institute (2003) *Ideas for an Open Society: Justice Reinvestment*. New York: OSI.
- 6 Houchin, R. (2005) *Social Exclusion and Imprisonment in Scotland :A Report* Glasgow Caledonian University
- 7 <http://online.gateshead.gov.uk/docushare/dsweb/Get/Document-10165/Item+06+-+Justice+Reinvestment.doc>
- 8 Sentencing Guidelines Council (2007) *Sentencing Trends: Local Court Area Comparisons* (CD). London: Sentencing Guidelines Secretariat.
- 9 Personal communication
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- 12 The project has been assisted since 2005 by an Advisory Board chaired by Sir Jeremy Beecham
- 13 [http://inspectorates.homeoffice.gov.uk/hmiprobation/inspect\\_reports/yot-inspections.html/Gateshead\\_YOT\\_report.pdf?view=Binary](http://inspectorates.homeoffice.gov.uk/hmiprobation/inspect_reports/yot-inspections.html/Gateshead_YOT_report.pdf?view=Binary)
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# Chapter Three

## Making prisons locally accountable

*Andrew Coyle*

### *Introduction*

The prison is one of very few large institutions in modern society which is totally under central government control. Other public institutions such as hospitals, schools and police services all have a combination of central and local government control. Prisons were not always managed as they are today. The national prison structure was set up 130 years ago in an age when there was great belief in large institutions, many of them managed by national commissions. This arrangement has long since disappeared for other institutions. It may be that the time has come to consider whether having a national prison system gives society best value or if we would be better served by having a more local structure.

This chapter argues that there are two main justifications for considering a prison system with greater local accountability. The first is that the current structure is excessively costly since prisoners who pose little or no threat to the public are held in the same prisons as those who have committed very serious crimes. These prisons have high and expensive security levels, while offering little in the way of rehabilitation. The second reason is that local communities, however they are defined, have no sense of involvement in prisons and what goes on in them. This means that prisons are still regarded by most people as places of exile from the community, places to which wrong doers are sent as punishment, where not much thought is given to their future rehabilitation. The fact that a prison with around 700 prisoners costs anything between £20 and £30 million pounds of taxpayers' money each year means little in a local context and there is never a question about whether communities could get better value, more safety and increased satisfaction if this money were spent differently.

### *The history of the national prison system*

The national prison system was established in England and Wales following the Prison Act of 1877. Prior to that date there had been a dual system. On the one hand, there was a single system for convict prisoners, which was a legacy from the era of transportation and penal servitude. As transportation came to an end in the first half of the 19th century the government built a number of prisons to hold convicts, many of whom were employed on public works, such as the creation of dockyards and harbours<sup>1</sup>. This explains why today there are prisons in places like Parkhurst on the Isle of Wight, Portland in Dorset and Peterhead in the North East of Scotland. Because of the need to cope with the increasing numbers of convicts being held in this country,

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the government also began to build central prisons, the first of these being opened at Pentonville in London in 1842.

In parallel, there was also a network of prisons which served local courts. These prisons were generally under the control of the bench of local Magistrates. Many of them were in a very poor state of repair and conditions for the prisoners were frequently criticised by government inspectors and other visitors.

The early years of the second half of the 19th century saw great political activity. When what was to become the Prison Act 1877 was being debated in parliament, the Disraeli government faced two conflicting fiscal pressures. The first was about whether to retain the relatively new system of national income tax, which was proving very unpopular and which the Conservative party had promised to abolish while in opposition. The second pressure was to reduce the burden of local taxation. The Hansard records of the parliamentary debates before the legislation was passed show that the two main arguments presented in favour of centralisation were the need for an improvement in the discipline within prisons and better fiscal control<sup>2</sup>. Central government began to take an increasingly critical interest in the state of the local prisons through the work of its Inspectors of Prisons and to issue directions to the local Magistrates about how prisons should be run. This led in turn to a growing body of opinion that if local rate payers were to be subject to this degree of central oversight then they should no longer have to carry the financial burden of the prisons. For political reasons this latter argument won the day and, despite the natural antipathy of the Disraeli government to any centralising tendency, the Prison Act 1877 was introduced.

The Act conferred on the Secretary of State responsibility for every aspect of prison administration in England and Wales. He took over all the powers which had previously been vested in local Justices of the Peace, including the prisons themselves, the appointment of all staff and the control of the prisoners. A new body, the Prison Commission, was set up to manage all of these matters on behalf of the Secretary of State, headed by the former Chairman of the Convict Commissioners. For a period the local and convict prisons retained their separate identities but within the new Commission the centralising traditions of the former Convict Directorate took precedence.

The English Prison Commission lasted from 1877 until 1963. It was then dissolved and a Prisons Department was set up in the Home Office to oversee the management of prisons in England and Wales. In 1993 what was by then known as HM Prison Service was re-defined as an Agency of the Home Office. This was an attempt to separate the operational management of prisons, which was the responsibility of the new agency, from government policy relating to the use of imprisonment, which was to remain within the main Home Office. In broad terms this is still the organisational structure although a new tier of management was added within the Home Office in 2004 called the National Offender Management Service and in May 2007 the new Ministry of Justice replaced the Home Office as the accountable government department.

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In any discussion today about prisons and their role it is worth bearing in mind that the national prison system was established in England and Wales for reasons that had less to do with good prison management or the treatment of prisoners and more to do with the distribution of public expenditure. At the end of the 19th century local prisons were generally places where people were held while awaiting the implementation of another judicial disposal. They were either awaiting trial, sentence, until a debt or a fine was paid or for execution. Imprisonment as a direct punishment to be imposed by the court was not common. Prisons were linked, physically and conceptually, very closely with the courts which they served. In many cases a special place was reserved for the governor of the local prison at Assize and Quarter Session Courts so that he could receive into his care prisoners whom the court sent to him, together with the instructions about the conditions of their detention. In some courts this tradition lasted until well into the 20th century.

### *The prison as a place of reform*

The concept of prison as a place of personal reform or rehabilitation, with the objective of what is currently described as ‘reducing re-offending’ by the convicted persons who were sent there, did not come originally from legislation, nor from the judiciary. The genesis of this notion came instead from two other sources. A number of reform minded individuals were recruited to work in prisons. They were not satisfied with being jailers or guards but also had an ambition to help those under their care to become law abiding citizens. At the same time a number of public spirited individuals started to take an interest in prisons and began a campaign to improve the conditions within them and the way that prisoners were treated. In England and Wales mainstream acceptance of the notion that one of the purposes of imprisonment should be the personal reform of the prisoner is usually traced to the Gladstone Report of 1895, with its famous dictum that ‘prison treatment should have as its primary and concurrent objects, deterrence and reformation’. In the first instance this notion was applied mainly to younger prisoners and led to the introduction at the beginning of the 20th century of the Borstal system. In succeeding years this principle of the prison as a place of personal reform was expanded to apply also to adult prisoners serving longer sentences, especially those in what became known as training prisons.

The reality of what this involved was quite unsophisticated. Most convicted prisoners were given some form of work to do but in all prisons the cutting words of a Chairman of the Scottish Prison Commissioners rang true: ‘There is no unproductive labour, but there is a lot of it not very productive’. In a similar way, attempts to provide education in prisons were often hit and miss. Until well into the second half of the 20th century education was co-ordinated in many prisons by the chaplain, who often depended on a wide network of friends and acquaintances to come to the prison to lead discussion groups and classes in basic education. Projects to provide prisoners with practical training to learn skills which might help them to find employment on release were more realistic, focussing on enabling a small number of prisoners to gain City and Guilds qualifications in bricklaying, carpentry, painting and decorating and car mechanics.

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Where the system failed was in providing any follow-up which encouraged employers to give employment to released prisoners.

The problem of relating the good work which went on in some prisons to the reality of life after release had been recognised in the early 19th century by William Brebner, the Governor of Glasgow Prison, who had developed a programme of support for the young prisoners in his care. But he complained publicly that ‘the youth upon whom it appeared to have produced the best effects, not only found no opening to earn their bread by honest industry, but were watched on the day of their liberation by the profligate and the criminal, and drawn back, alike by the absence of every virtuous, and the presence of every vicious influence, to the course they had resolved to abandon.’

Brebner well understood that all his best efforts in prison would achieve little or nothing unless there was a link between the experience which people had while in prison and the local community to which they were to return. His answer in this particular case was to work with the local authorities and the public to raise funds to set up a House of Refuge for Boys. That initiative, taken almost 170 years ago, gives us a clue as to what needs to be done today. The prisons in Glasgow at that time, in common with most throughout the United Kingdom, were administered by the Town Council and the County Board. The prisoners came from Glasgow and returned to it after their sentence was completed and that enabled the development of local initiatives such as those introduced by Brebner.

### *The consequences of centralisation*

When prisons in the United Kingdom were brought under central government control in 1878 the advantages were largely organisational. In taking control of all prisons, the government became able to move prisoners anywhere in the country, rather than having to keep them in the prisons linked to the courts where they had been sentenced. Within a short period they began to close many of the small local prisons and to concentrate prisoners in larger institutions, thus gaining economies of scale. Similarly, all prison staff became civil servants, liable to be transferred wherever in the country they were needed. The links between staff and local communities were weakened and prison staff housing estates were created in the shadow of the prison walls to facilitate transfers from one prison to another. Finally and importantly, the cost of prisons was transferred from the local rate payers to the central taxpayers. One consequence of this was that the cost of imprisonment to the public purse became less of a political consideration. The cost of maintaining a local prison, let alone constructing a new one, had been a heavy burden on local rate payers and meant that the need for prison places was subject to constant scrutiny. However, once this cost was transferred to the national budget, the amount involved became relatively small in terms of over-all spend and so attracted little public comment. All of these considerations, as we shall shortly discuss, remain relevant today.

The disadvantages of the change were less immediately apparent but were far-reaching in their consequences. One was that prisoners were from then on regarded as a homogeneous group. All of them, regardless of crime or sentence were now in the care of the national prison system. Before 1878 there had been a difference between the

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prisons that were locally managed, usually by benches of Magistrates, and the central prisons managed by the Convict Commissioners on behalf of central government. The central prisons managed by the Convict Commissioners carried with them the traditions of transportation, where the long term prisoners were expected to spend their sentences in some form of hard labour, first in the colonies and latterly in the public work prisons, for example, building dockyards. As the public works came to an end at the turn of the 19th century much of the work which the convicts had to do was 'not very productive' but the notion of prisoners earning early release from their sentences through good behaviour and application to work, which was a successor to the former marks or remission system in the colonies, remained.

Many of the prisons under local control were in a shocking state of repair and had been the subject of severe criticism from the late 18th century by individuals such as John Howard. These prisons were purely places of detention and of occasional punishment. Their location in prominent positions near town centres was meant to remind the local population of the possible consequences of law-breaking. Generally there was no pretence that the experience of imprisonment in itself might be a mechanism for personal reform, although in a few isolated instances attempts were made to prepare prisoners for return to their communities. Offenders were sent to these prisons merely to 'thole their assize', that is to serve their sentences. Once this punishment had been completed, they returned to their local communities. One consequence of this concept of imprisonment was that it was imposed relatively rarely and that once a period of imprisonment had been completed, it was felt to have served its purpose.

In the century following the centralisation of prisons the concept that prison could be a place of personal reform began to attract increasing interest. It came first of all from the new generation of senior prison staff who were keen to be more than jailers. The prison governor felt better about himself if he was able to tell friends not that his job was to lock people up but that it was to reform them. There had always been a notion of this in the old convict system but it was gradually extended to include those sent to what had been the former local prisons. This concept of prison as a place of personal change has been described over the years by a variety of names. The Gladstone Committee described it as 'reformation', it was later described as 'rehabilitation' and more recently as 'reducing reoffending'. There was never any real evidence that prisons could in fact achieve this objective, although it was attractive to a variety of players, including policy makers, politicians and government ministers.

The likelihood that someone who is sent to prison will commit further crimes within a relatively short time after release has always been high, with rates fluctuating between 50 and 60 per cent. This is true in many countries. In prisons which are not badly overcrowded, which are well resourced and well managed it may be possible to reduce this rate by a few percentage points. But this is never likely to be an efficient or effective use of public funds nor a justification in itself for sending an offender to prison. Other chapters in this book discuss alternative models which may be more likely to achieve this worthy target. Once we accept that the prison of itself has a very limited role to

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play in reducing reoffending, then we open up the possibility of a radical re-structuring of the way the prison system is organised so that it can achieve its proper objectives of increasing public safety and providing value for money.

### *The implications for today*

It is government policy that prison should be reserved for those offenders who have committed serious offences.

*The court must not pass a custodial sentence unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was so serious that neither a fine alone nor a community sentence can be justified for the offence.*

(Criminal Justice Act 2003, S.152)

It is also now acknowledged that there are a significant number of people in prison who should not be there. For example, in November 2006 the Home Secretary, the Lord Chancellor and the Attorney General published a consultation paper *Making Sentencing Clearer*<sup>3</sup> which listed the groups who should not be in prison. According to these senior government minister they included those for whom mental health treatment would be more appropriate, the majority of non-violent offenders with low level disorders, who could be treated in the community without any risk to the public, vulnerable women and young offenders.

This chapter does not seek to deal with the justice of that situation but with its organisational and financial consequences. In general terms as far as the prison system is concerned, a prisoner is a prisoner regardless of his or her crime or length of sentence. This means that in large prisons, such as Birmingham, Brixton and Leeds, those serving sentences for offences such as shoplifting, theft of a bicycle or breach of an anti-social behaviour order are likely to be held alongside those serving sentences for more serious crimes such as personal violence or armed robbery. The cost of holding each of these prisoners is up to £40,000 a year. They are all provided with the same facilities. In these overcrowded prisons they are likely to be locked in their cells for over 20 hours each day, with very limited access to work, education or any other influences which might assist in their rehabilitation. They will receive little help in preparing for release in terms of securing accommodation or employment. For many of them, where they serve their sentences is little more than a lottery. If the sentence is a short one then they may stay in the same prison throughout and at its end will be put onto the street outside the prison gate, clutching their personal possessions in a transparent plastic bag. There is an equal possibility that they may be transferred to another prison, often hundreds of miles away, to make room for those newly admitted from court. This is neither an efficient use of public resources, nor is it an effective way to reduce reoffending.

The time is now opportune to reconfigure the way the prison system is organised so that prisons can become more decent and humane, that they can better protect society, that they can offer better value for taxpayers' money and that they can contribute

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meaningfully to the government's objective of reducing crime. One way of doing this would be by adopting a modern version of the arrangements which existed before centralisation in 1878. The majority of prisons would be organised on a local basis, resourced and organised in a manner which would make them locally accountable.

If this were to happen, it would be unrealistic to expect each of these local prisons to deal with the relatively small number of prisoners who present a genuine threat to public safety. These prisoners would continue to be held under the authority of central government in a national prison system. There are various possible ways of defining who should be included in this group of high security prisoners. The prisons in the national structure might be those that are currently described as dispersal prisons, of which there are five, currently holding about 3,000 prisoners. An alternative would be to include the eight prisons which the Prison Service describes as the 'high security estate', with about 5,800 places in total. Neither of these arrangements includes provision for women or for young offenders. There would have to be a debate about whether this would be needed.

If, for the sake of argument, about 6,000 prisoners in England and Wales were held in centrally managed prisons, the remainder would be held in prisons which would have much more local accountability. There are a number of models along this pattern in other countries which could be examined. In Canada, for example, all remand prisoners and all convicted prisoners serving up to two years are held in provincial prison systems, while convicted prisoners serving more than two years, about 37 per cent of the total, are held in the federal prison system. In the United States the great majority of the two million plus prisoners are held in state prisons or local jails, with about eight per cent held in federal prisons. It should be pointed out that such a model would be quite different from the National Offender Management Service, which as its name indicates remains a national service organised on a regional basis.

A series of local prison structures would mean that prisoners would serve their sentences relatively close to home. This would enable prisoners to keep in touch with other family members. It would also make it much more feasible to build up the links which are necessary for long term re-integration on release. These include making provision for somewhere to live, contacting potential employers, arranging future training courses or continuing drug counselling. At present the hard-pressed providers of these local services, whether statutory or voluntary, are unlikely to make provision for the future needs of people who are in prisons hundreds of miles away. If prisons were to be more identified with their local communities it might be possible to begin the process through which ordinary members of the public could begin to appreciate that the people in the local prison are from their communities, will return to their communities once they have completed their sentences and that it is in everyone's interest that they should be integrated into those communities when they are released.

As well as strengthening local community links, a new local structure would also reinvigorate the relationship between prisons and the courts which they serve, providing judges and Magistrates with regular information about what happens to those whom they sentence.

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Such a structure would also make fiscal arrangements for prisons more transparent. At an annual cost per prisoner of around £35,000, a prison for 700 people costs the taxpayer in the region of £25 million per year to maintain. This does not mean much at a local level when the amount is subsumed into a national budget controlled from Whitehall. If, on the other hand, this expenditure were to be identified locally, as it is for schools and hospitals, there might be much closer scrutiny of whether the local taxpayer was getting value for money. If prisons were to be organised locally there would be greater public awareness that, just as most crime is local, so prisoners are local and the solutions to most crime are likely to be found locally.

A network of smaller local prisons underpinned by integrated links to local services and with a series of two way channels of support between the prison and society would oblige us to re-examine the link between the prisoner and the community. Prison would become an opportunity to analyse where those links are weakest and need strengthening, where they are non-existent and need to be created. This is not to advocate soft treatment for criminals. On the contrary, rather than being the place of boredom, monotony and escape from reality that it is so often today, prison would become a place where offenders had the opportunity to refashion their lives and connections, not by identifying and minimizing personal failings, as happens at present, but by identifying their strengths and building on them. Prison would become a much more challenging place than it is at present and society as a whole would be much better served.

- 1 McConville, S. (1981) *A History of English Prison Administration, Vol I*, London: Routledge & Kegan Paul
- 2 Thomas, J. E. (1972) *The English prison officer since 1850: A study in conflict*, London: Routledge & Kegan Paul
- 3 Home Office (2006) *Making Sentencing Clearer: A consultation and report by the Home Secretary, Lord Chancellor and Attorney General*. London: Home Office

## Chapter Four

### Localism and criminal justice – suggestions for a new balance between national and local decision-making

*Vivien Stern and Rob Allen*

*By any measure, England is uniquely centralised when compared with other countries.  
p.5*

*There never were any serious theoretical, empirical or popular arguments in favour of centralisation. But we can now say with certainty that a generation of centralisation has not improved the relative standing of Britain's public services. Cross-national comparisons suggest that overcentralisation tends to be associated with poorer performance, and decentralisation with better performance. p.9*

*... Whitehall would become more like many other central governments – less involved in the minutiae of what happens in individual schools, prisons and hospitals and more focused on the areas where it really can add value.p.13*

From *Double Devolution: the renewal of local government*, The Smith Institute, Edited by Geoff Mulgan and Fran Bury of the Young Foundation, 2006

This volume will we hope make a contribution to the thriving debate on pushing more power to the local level. Much has been written on the increased centralisation of the last few decades and considerable work is being done to win political support for reversing that process. Dissatisfaction with the centralised target driven approach to service delivery is widespread. A major player is the think-tank, the New Local Government Network. The Network aims to be an 'advocate of locality in the UK'. It is devoted to developing arguments for setting local councils free and producing detailed proposals for how this can be done. Yet few of the many publications, conferences and research reports mention criminal justice. Apart from two very welcome but exploratory reports from the Local Government Association<sup>1</sup> and a recent pamphlet from the New Local Government Network<sup>2</sup> little thinking seems to have been given to where responsibility should lie for prisons, probation and reintegrating ex-offenders. This is a serious omission and we hope this chapter will start such a debate.

The arguments that are being widely used suggest that government has become much too centralised. Local government has been stripped of most of its power and the results of this are lower levels of service and a lower quality of life. The analysis does not just apply to services such as health and education. A recent project of the New Local Government Network for example suggests a bigger role at the local level in migration and social cohesion policy. The Network advocates 'greater freedoms for local councils to tailor their approach and achieve lasting and sustainable settled communities'.

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Their spokesperson, Dick Sorabji, said:

*Trickle-down management on migration and population mobility cannot possibly reflect the nuanced and complex variation in circumstances from one neighbourhood to another. Instead of seeing local authorities as passive conduits through which grant formula allocations magically solve all problems regardless of local circumstances, we believe councils need to be set free to innovate and drive their own approach...<sup>3</sup>*

We believe that whilst sentencing is a matter for the court system, similar arguments could apply to many other aspects of the way offenders and ex-offenders are dealt with.

A leading advocate of more localism, Professor Gerry Stoker of the University of Manchester, has suggested that local government should have six roles. These include:

*...to protect your safety, defend you from crime, protect you from disasters and in times of emergency, and help to see that justice was done in your community...*

*...to push a public health agenda and create the conditions for you to maintain a healthy lifestyle for yourself and your family...*

*...to help maintain the cohesiveness of your community.*

He goes on:

*To deliver these six functions, the powers and capacities of strategic local government would have to be enhanced, and a substantial shift in power from Whitehall and Westminster would be required. Oversight and influence over other public bodies and utility providers, operating in localities to provide services and programmes, would have to be increased, perhaps through a formal requirement on these agencies to work in co-operation with elected local government.<sup>4</sup>*

Under the framework Professor Stoker sets out, local management and provision of probation activities would be logical. His framework also implies support for the ideas set out by Andrew Coyle in chapter three of this book for a more locally accountable prison system.

### *The benefits of more local involvement in criminal justice*

We now look in a little more detail at how the localism agenda might be applied to the governance and location of some criminal justice activities. This consideration is necessarily preliminary but we suggest that it is worthy of more detailed work.

The arguments for more localised decision-making over criminal justice spending have been set out in the preceding chapters of this volume. They are these. First of all, localised decision-making is more likely to be understood by local people and to secure their involvement, participation and acceptance. Evidence from a range of sources suggests that the services with a local presence and a local face are more trusted.<sup>5</sup> Where there are local and visible probation officers, rehabilitation projects that produce results and community sentences that are explained, confidence in the system is likely to be greater.

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Secondly, work with offenders and ex-offenders can be integrated into wider local programmes of building social capital and supporting social cohesion. It is clear from chapters two and three that the home addresses of convicted law-breakers are concentrated in certain neighbourhoods. These are the neighbourhoods where the young people who are the concern of the local Youth Offending Teams live and where most of those on probation caseloads will also be found. The disproportionate number of convicted people living in the area will add to the pressures of daily life and the stigmatisation of the neighbourhood for all its residents. The strain of receiving a number of people on their release from prison adds to the pressures. These are the very same neighbourhoods of multiple social problems, and community fragmentation. Local government and local agencies will be working hardest here to build social cohesion.

Yet, the individualised criminal justice interventions which many of the residents receive do little to strengthen the community. If it is possible to bring together the activity to make a neighbourhood safer and more cohesive with the work of dealing with the individuals who are in trouble with the law, effectiveness should be considerably enhanced. The limited objectives of the probation supervisor with one individual can be strengthened by the activities of those concerned with the whole family and with the opportunities available to all who live there.

Thirdly, actions driven at a local level are more likely to engage a wider range of locally-based services in the social reintegration of offenders and ex-offenders. When a government department in London is the main driver of the system for dealing with people under supervision or released from prison, it is too easy for the local authority to feel that it has no responsibility and for local services and groups to concentrate their efforts elsewhere. More local involvement in criminal justice matters could ensure that a wider range of appropriate services is available to the police, the courts and the probation and prison services and the outcomes could be improved. Devolution of control would give local authorities more ownership of their own ex-offenders and much more of an incentive to take actions, for example to provide jobs for some ex-offenders, to ensure housing is retained and work is done with the family to stop other members taking the same path.

*The services that local authorities have responsibility for are of pivotal importance in helping determine whether the complex needs of many ex-offenders are met or not, as are the relationships with the local community and stakeholders. Local authorities should consider what opportunities they have to prevent offending and reduce re-offending by targeting their own services – notably housing (including benefits), education, social services, employment (including as employers in their own right), community development/regeneration, leisure and, of course, community safety – towards preventative interventions or dealing with specific offender needs.*

Local Government Association (2005) *Going straight: reducing re-offending in local communities*. London: LGA, p.4.

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Some local authorities have already seen the wisdom of this approach. Oxford City Council for instance has regular meetings with staff at Bullingdon prison to identify the housing needs of prisoners leaving to return to Oxford and make plans for their return.<sup>6</sup> Liverpool City Council funded the charity the New Bridge to carry out a project to ensure support and accommodation is provided for ex-prisoners returning to the city after serving a sentence of 12 months or less.<sup>7</sup>

More local accountability of criminal justice could also benefit the administration of justice more generally. If responsibility were devolved to a more local level, reliable local information would be needed. Chapter three shows how scant such information is at the moment. Gateshead local council has had enormous difficulty collecting the information that has enabled it to establish how the interventions of the criminal justice system impact so heavily in certain of its neighbourhoods and barely impinge at all on others. The current information may be adequate for centrally governed criminal justice agencies whose work is very properly concerned with processing individuals and their cases and ensuring that the processes are lawful and just. But for those with a specific responsibility for the well-being of all those in the area, the way the individual interventions of the police, the courts and the punishment and resettlement systems affect neighbourhoods will be an important contributor to the success or otherwise of local policy-making. It is noteworthy that the mapping information on the home location of juvenile offenders was provided by the Gateshead Youth Offending Team without much difficulty because the YOT is part of the local authority and works within the same boundaries. Capturing information on adults is more complex but it is clear that the probation service is the key agency. Probation officers are in touch with some defendants before their trial, and with many (but not all) convicted people who are sent to prison, as well as those under supervision and most of those who return to their communities. A closer fit between probation service organisation and local authority areas would enable enough information to be provided for appropriate policies to be devised.

Disaggregation of many of the figures currently presented nationally would have a further very important consequence. A more meaningful picture could be presented to the residents of an area of the local crime picture and the activities of the local justice system. More understanding of the local nature of crime would help to deal with inappropriate fear of crime and put national information about crime in a proper perspective. More familiarity with the work of the courts could bring a new confidence in sentencing and an understanding of what the courts are trying to do.

Spreading such understanding can be of great benefit to the local administration of justice. If local people see that community service is being done in their area to visibly improve it and those undertaking it are actually working regularly under good supervision, support for such penalties will increase. If a local community organisation that, for example, cares for stroke victims is getting help from offenders on community service that organisation may well become a supporter of non-prison sentences for such offenders and will say so. Thus a wider range of organisations and individuals would be

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taking responsibility for sensitive and politically controversial matters. Policies would become less monolithic. There would be more variety and experimentation. More voices would become available to the media to explain how local policies for dealing with offenders and promoting diversion and rehabilitation benefited communities.

Local newspaper headlines in south London have become depressingly lurid in recent months, depicting communities riddled with a drug-fuelled gang culture. Whatever the realities of violent crime in the capital – which is not, in truth, as bad as the scare stories suggest – there is little doubt that many urban neighbourhoods are facing a stubborn challenge, namely the persistent dysfunctional consequences of social failure and family breakdown.

... how are we going to change direction and actually deal with these issues on the ground?

Political parties based in Westminster might be able to legislate or create new budgets, but ultimately the solutions will emerge street by street, in the local community itself, rather than from on high. We need a radical shift in the way we come together as a society to solve our new social problems, which requires a different form of local leadership, cutting through the bureaucracy that too often hampers the sort of timely and caring intervention that can make a real difference.

At the New Local Government Network, we believe passionately that local success requires a wholly different way of working between council officials, social workers, police, probation, employment service, housing teams, health officials and Magistrates...

Perhaps allowing the local voice to be heard in the criminal justice system would be a start. ..

I believe councils should be given a say on the budgets and appointments of other local agencies, as a real incentive to force joint working. Councils should also have a much stronger presence in the local criminal justice system, acting as the conduit between local residents and the machinery of the law.

Chris Leslie is the director of the New Local Government Network (NLGN).<sup>8</sup>

Finally more localism could lead to more effective ways of spending money. Collectively the criminal justice system will be bringing a lot of money into the particular parts of a local authority area where criminal justice interventions are concentrated. However, the input of resources is theoretical only. The money coming in provides little neighbourhood benefit as those spending the money are governed by other objectives than improving the lives of those in the neighbourhood. To give but one example, the probation service works to a very detailed set of weighted targets. These targets for the year 2006-07<sup>9</sup> included a requirement that staff sickness shall not exceed an average of nine days per staff member

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per year, that 90 per cent of reports on certain offenders shall be done within five days, that 85 per cent of victims of certain offences shall be contacted within eight weeks, that 90 per cent of pre-sentence reports shall be done within the required time, that 50,000 orders of unpaid work shall be completed, and 48,000 skills for life courses and 17,500 accredited programmes completed. None of these have any relation to local conditions, differences between town and country, affluent and deprived areas. Nor do they permit a local probation service to join a locally based body and integrate its work in any way with a wider view of how to supervise and resettle offenders. Prisons have targets that relate mainly to their internal performance such as preventing escapes and number of hours of constructive activity<sup>10</sup>. The criminal justice interventions as currently framed can therefore make little contribution to local authority objectives except in the broadest terms.

A devolution of spending and an opening up of policy choices should lead to less money spent on process and more on actions like drug treatment with beneficial outcomes for the whole community. Problem-solving and prevention should attract more of the budget. Central government priorities relate to individual offenders and to national targets regardless of place. Local priorities would focus more on individuals as part of their neighbourhood, see their behaviour as part of a pattern and seek solutions that brought some improvement to both individuals and the community.

### *Current developments in more localised criminal justice*

Recent years have seen a number of centralising initiatives where decision making has moved to Whitehall. In 2000 the link of probation services with local government was brought to an end and a national probation service was set up. Until then the probation service was organised locally through 54 probation committees with 80 per cent of its funding provided by the Home Office and the other 20 per cent by the local authority.

A programme of rationalisation of Magistrates' Courts has been underway and many local courts have closed, not without some protests from the Magistrates Association.

In a response to two Government papers on justice reform the association said

*Magistrates' courts are community courts and responsive to the needs of the community... Before court closures there was a better provision of that important local justice.<sup>11</sup>*

On the other hand there have been developments in the opposite direction. The changes in the administration of the youth justice system (for those under 18) brought in in 1998 in the Crime and Disorder Act created a new local structure, the Youth Offending Teams (YOTs). Each YOT brings together professionals with a range of disciplines. Statutory involvement is required from local authority social services and education departments, the police, probation service and health authorities; other agencies, such as housing and youth and community departments are also encouraged to contribute resources to YOTs. Each team is led by a YOT manager, who is responsible for coordinating the work of the local youth justice services.

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Ideas of a more localised delivery of justice are also being pursued. Many have crossed the Atlantic to visit a pioneering community court in a poor neighbourhood of Brooklyn called Red Hook. The community justice centre in Red Hook is in a former school and contains a court, an education centre, a childcare centre, the office of the drug treatment, mental health and other community organisations. There is a mediation service and community service organisers. Some of the benefits of the community court that have been noted by commentators include that the judicial approach is based on the needs of the community and geared to an outcome. The judge tries to solve the problem. Conflicts are resolved rather than postponed. Many of the matters that come to the Brooklyn court turn out to be basically disputes between people who have to live at close quarters. An instant mediation service is on the premises.<sup>12</sup>

The work in Brooklyn inspired the first pilot community justice centre in North Liverpool which has now been in operation since 2004.

Many lessons have been learned by me from this close interaction with those most affected by my decisions. The community demands transparency from the court, it understands that prison is often a totally inappropriate method of dealing with those who it sees coming to live back amongst them in a worse position than before but equally it needs to understand that community alternatives are relevant and effective and rigorously monitored. I know that there are those who disagree but for some community penalties to be effective they must be visible and this is especially so in the case of unpaid hours. If curfews are imposed and no action taken if they are breached they are worse than useless. I have tried to encourage the use of a restorative justice approach in our sentencing and we have had early successes in this field for both offender and victim with the regular ingredient in a community order of a specified activity requiring a restorative justice element in the sentence. I am the only judge in England and Wales authorised by the DPP to administer conditional cautions and at the CJC this is done highly visibly to encourage accountability and increase community awareness and understanding of this method of diversion.

The community, so often the collective victim of crime needs to know what we the professionals are doing and why. We ignore their concerns at our peril and we must change perception or how else can we persuade an ever more sceptical, indeed cynical public that we are capable of tackling crime and the behaviour that blights lives. I do believe that at the CJC we are starting at last to scratch the surface.

Extract from 'The Community Justice Centre, North Liverpool' by His Hon Judge David Fletcher – speech given to Probation Boards centenary conference, May 2007

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The community justice centre in North Liverpool provides a useful pointer to the elements of a more localised approach to criminal justice. The sentencer, whether judge or magistrate, carries out the sentencing task in accordance with the law and the guidelines that apply to the system throughout England and Wales. The element that is localised is the support given to the convicted person that aims to solve the problems that led to crime in the first place and the involvement of the community in the work of the court, so as to build trust and understanding.

### *Possible difficulties of localisation*

What would be the drawbacks of a more localised approach? Would there be inconsistency? Would there be outcries about post-code lotteries? Of course, the point of giving control to localities is so that they can make their own decisions and allocate resources in accordance with their own analysis of the needs and own vision of what their area should be like. Indeed there are already substantial local differences in how convicted people are dealt with. Rural and urban areas respond differently. Some places have more drug treatment than others. Some local authorities already give much more help with the resettlement of ex-offenders than others. Some prisoners are held much nearer home than others just because of the historically determined location of prisons. Mental health facilities, especially for the young, are scarce and very unevenly distributed.

With a much greater devolution would the existing differences become unjust and weaken confidence in the law because of glaring anomalies? Our conclusion is that localism would create no more inconsistency than already exists. The courts already reflect local differences but these are constrained within the framework of law and guidance and the corrective effects of appeals.

Is it possible that more localised justice would mean more punitive justice? Certainly, localism gives opportunities for local politicians to take the political opportunity to whip up hysteria about criminals and their treatment and to sell themselves to the electorate as the tough and punitive choice. Since politicians have used this tactic the world over it is unlikely to be avoided.

The example of how local authorities have used the anti-social behaviour order legislation is perhaps a worrying sign. The legislation gives local authorities scope to take measures of extreme punitiveness should they so wish. If they can get the agreement of the local Magistrates Court, they are able to restrict the freedom of movement and association of any of their residents, from the age of ten and subject them to public humiliation and vilification by printing their names and addresses or putting their photographs in public places. Even though this opportunity has presented itself and has been widely promoted by the national government as a perfectly reasonable piece of policy, some local authorities have taken full advantage of it and others have barely resorted to it.

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It may be that the authorities who regard this legislation with some restraint understand their constituents. Research carried out for the Joseph Rowntree Foundation into anti-social behaviour strategies shows that two-thirds of those interviewed favoured preventive action to deal with the causes rather than tough action against those behaving anti-socially.<sup>12</sup>

The advantage however of localism and the reason why local politicians are less likely to seek re-election through espousing harsh punitiveness is that the electorate have to live with the consequences of such tough talk in a very direct way. The local authority will not have control over punishment as such and will have no involvement in sentencing. If they choose to follow the punitive line in administering those aspects under their control and do not offer drug treatment to those coming to court or housing to returning ex-prisoners their constituents will suffer from the actions of homeless untreated drug addicts. Since local government wards are small and ex-offenders are concentrated, some councillors will represent areas where many ex-offenders live. The consequences of harsh policies for their constituents would not be much welcomed.

Would there be undesirable consequences flowing from more information being available about crime and criminals in the locality? For the devolution to local control to be effective the local authority will need to collect data on the home addresses of convicted people and returned ex-prisoners in order to properly allocate its resources (see chapters two and three). This information could be very sensitive and lead to negative stereotyping of an area and all the people in it. Community involvement and community consultation will bring information about who is in trouble with the law more into the public domain. In an environment where naming and shaming has become legitimised attention will need to be given to protocols on information-sharing and good training in protecting privacy will need to be given to those volunteering and contributing. The community involvement cannot be allowed to become a platform for those who demonise the young.

Work with ex-offenders will not be as popular as work with children or old people. Local authorities are sometimes accused of accepting funds intended for one purpose and using them for another. The funding arrangements will need to be such that certain levels of service are guaranteed, in a way which does not limit experiments, innovation and integration of some specialist services into mainstream provision with protected access for say those attending as part of a court order, or a resettlement programme.

### *A way forward*

The work of the probation service would be most affected by incorporation into the local authority framework. Whilst the supervision of the most serious offenders would be carried out within a national framework there would be no point in greater local accountability and integration if the local authority were not able to determine priorities and new ways of working. One could expect therefore that the rules on how to deal with breaches of orders would be localised so that courts and local authorities could develop more productive ways of securing compliance, as have been developed in the

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specialist courts such as the drug court. The way probation officers are used would become more flexible. In areas of severe disadvantage for instance, the local authorities might want to base probation officers in neighbourhood centres and give them much more of a community cohesion role, assisting with the creation of social control.

One approach might be the establishment of 'community justice neighbourhood centres' in the areas with the heaviest concentration of criminal justice interventions. The centres might have the following features:

- Local-authority managed and run
- Staffed by a mix of local authority and seconded probation officer staff
- Providing supervision and resettlement services and YOT services
- Bringing into the neighbourhood drug and other health services
- Providing legal advice and other advice services (to make it clear that access to justice is not just about crime)
- Providing neighbourhood mediation services to defuse conflicts
- Responding to incidents of anti-social behaviour
- Establishing groups of residents prepared to become involved in choosing the projects to be carried out by offenders doing community service and in supporting released prisoners
- Liaising with the local Magistrates Courts
- Liaising with the police

Such a centre would bring together local criminal justice resources for the benefit and strengthening of the whole community.

The organisation of the community service element of community sentences might be more closely integrated with the community development functions of the authority and be linked much more to the voluntary organisations in the community. An authority with well developed services on domestic violence, drugs and routes out of prostitution might wish those departments to become the lead departments for dealing with women in trouble with the law. Local arrangements for mediation, diversion from prosecution and more opportunities for reparation might be made. Magistrates Courts in some areas might wish to develop innovative ways of speeding up processes by bringing services under the roof of the court with instant access.

Unacceptable inconsistencies are unlikely to occur but the changes would give the system a chance to break out of a national framework that destroys creativity, stifles innovation, consumes vast sums of money on processes and unproven methods, is averse to taking risks, and fails to inspire public confidence.

### *Conclusion*

Trying to resettle ex-offenders outside a social context is likely to fail. The best bulwark against crime is the social control exercised by a community which is strong and confident. Neighbourhoods where there is trust, confidence to assert values knowing they will be shared, what is called 'collective efficacy' are more likely to be neighbourhoods where fear of crime is lower and crime rates are under control. The involvement of local people in work to resettle released prisoners or mentor children at risk builds a stronger more confident community. Current centralised policies are costly and ineffective. They tend to pull less serious offenders into a top heavy national system that provides standardised responses and is not well organised to give practical help. Inappropriate prison sentences on minor offenders can send them on a journey round the prison system that takes them miles away from their homes. In the end the consequences of these wasteful processes come back to be dealt with at the local level. The argument for local involvement and control in dealing with offenders seems very powerful. We hope this volume will stimulate such developments.

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