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EDITORIAL
COMMUNITY JUSTICE: WHERE DO THE VICTIMS OF CRIME FIT IN?

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Now that the direction of the government’s policy in respect of victims of crime is becoming clearer, it may be timely to consider where victims fit into the emerging shape of community justice, building upon Sandra Walklate’s contribution to the previous issue of this journal (Walklate, 2002). Legislation on victims’ rights is promised for the 2003/4 session of parliament, and it seems likely to represent a further, deeper commitment to improving the position of victims within the criminal justice system than we have seen to date. In fairness, it should be added that the current government has done a good deal already to make its intentions clear, including some significant legislative changes.

The response to racially-motivated crime
The decision to set up the Stephen Lawrence Inquiry had far-reaching social policy implications, not least where victims policy was concerned. The Inquiry Report made it clear that the reporting and recording of racist incidents needed shaking up, and the Home Office published a Code of Practice in 2000 which led to the introduction of local authority reporting and monitoring arrangements, including reporting centres in community buildings in some areas. While more work undoubtedly needs to be done to ensure that people in these libraries, schools, advice centres and places of worship deal appropriately with the reports they do receive, this is an imaginative development. Racially motivated crime is massively under-reported and police recording and case preparation are gradually improving in response to the Stephen Lawrence Inquiry Report’s recommendations and to new performance indicators on the detection of racially aggravated crimes (Knight and Chouhan, 2002). The involvement of community-based professionals such as church leaders, teachers, advice workers and librarians in encouraging people to report racial harassment and racially-motivated crimes is surely a step in the right direction. It could be described as an example of community justice in the sense advocated by Clear and Karp (1998), responding to community concerns and mobilising existing social capital in the form of local agencies to point out patterns of crime and disorder which require a response from official agencies.

In addition to the well-publicised failings of the police investigation, the Stephen Lawrence Report also drew attention to the inadequacies of the support offered to the Lawrence family and to surviving victim Duwayne Brookes. The family liaison officers appointed to support the Lawrences persisted in refusing to accept that the offence was racially motivated, maintaining this position even during the Inquiry’s public hearings. Given this, it was hardly surprising that their ‘support’ was seen as inadequate by the family. The police treatment of Duwayne Brookes, who was with Stephen Lawrence...
when he died, was part of the justification for the Inquiry Report’s finding that the police were institutionally racist. Instead of treating him as a traumatised witness of a racist attack, Mr Brooks was treated as a suspect. When he subsequently voiced public criticism of the investigation, his dealings with the police were characterised by increasing hostility, and in this climate he, too, failed to receive appropriate support from the police.

The Race Relations (Amendment) Act 2000 created a new requirement that public bodies must eliminate unlawful racial discrimination and promote equality of opportunity and good race relations as a routine part of the performance of their other functions. A substantial staff training programme has begun in the police, probation and other criminal justice services to help ensure that this duty is implemented in practice. While training alone will not solve the problem of institutional racism as it impacts upon crime victims, especially when it is delivered top-down in response to central government targets, it should help. Victim Support has also made a public commitment to improving its work with victims of racist crime (Knight and Chouhan, 2002). For local criminal justice agencies to be effective, they need to demonstrate a commitment to fairness, equality and inclusiveness.

**Vulnerable and intimidated witnesses**

Early in its term of office, the first New Labour government set up an inter-departmental working party on the treatment of vulnerable and intimidated witnesses. This was, in part, a response to media coverage of a 1996 rape case in which an unrepresented defendant conducted a lengthy cross-examination of the victim and a 1997 case which highlighted the communication problems some witnesses with disabilities have in court. The need to respond by improving the treatment of witnesses was mentioned in the election manifesto. A parallel but separate working party and consultation were conducted in Scotland, and two substantial reports resulted (Home Office, 1998; Scottish Office, 1998). The Home Office report, *Speaking Up for Justice*, included a detailed literature review and was launched with a three month consultation period, which encouraged a substantial response to the detailed questions raised in the report. All the submissions were published, followed by an implementation programme entitled *Action for Justice* (Home Office, 1999).

Many of the suggestions made in response to the consultation document required legislation, and the Youth Justice and Criminal Evidence Act 1999 was a substantial, if only partial, remedy. Under the legislation, a victim or witness may be defined as vulnerable on the grounds of age, the nature of the offence, their fear or distress at the prospect of giving evidence, or their disabilities. All victims of sexual offences qualify, as does anyone under the age of 17. Once so defined, vulnerable witnesses are entitled to various ‘special measures’ which affect the way the court case is conducted. These include screens which shield the witness from the defendant, evidence in private or by live video link, video recorded evidence, communication aids and the use of intermediaries for witnesses with disabilities, directions prohibiting defendants from cross-examining
specified witnesses, the removal of judges' and barristers' wigs and gowns, and further restrictions on questions about victims' sexual history.

In addition to these legal provisions, the police now provide a range of services to vulnerable witnesses, including escorting them to and from court in serious cases of intimidation. In some cases witnesses are provided with a pager so that they do not have to wait in the court building to give evidence. There is a growing realisation in the police service that treating witnesses well is likely to lead to better evidence and, in turn, to more successful prosecutions. At the same time, the Witness Service provided by Victim Support has been extended to cover magistrates' courts throughout England and Wales (and Scotland is not far behind in this respect). There have been delays in introducing aspects of the legislation, largely because of the need to adapt court rooms, but some measures have already been introduced and the remainder take effect over the coming two years (2002-4).

This legislation seems likely to resolve many of the difficulties outlined by Victim Support in its important report on victims' rights (Victim Support, 1995) and by a number of victims' organisations which responded to the consultations. This is not to suggest that the problems of witness intimidation and the revictimisation of vulnerable witnesses by the criminal justice system are solved, but the legislation at least represents an evidence-based attempt to tackle some of them. The Crown Prosecution Service has started training its staff with a view to improving their work with victims. This includes giving written reasons for dropping cases and reducing charges.

The changes might be dismissed by the cynical as merely responding to a crisis of legitimacy: something had to be done about the number of prosecutions failing because of witnesses' unwillingness to give evidence. However, the 1999 Act and the new procedures represent more than mere modernisation of a failing system. The consultation exercise and the government response to it demonstrated a degree of willingness to re-align the traditional stance of criminal courts in response to victims' and witnesses' needs, and the legislation created opportunities for the police, the prosecution and the courts to become more responsive to their local communities. The greater role of Victim Support in the courts (and in staff training) arguably represents a significant increase in community involvement in the administration of justice.

**Probation contact with victims**

The requirement on the probation service, to maintain contact and exchange information with the victims and survivors of the offences of life sentence prisoners, was one of the first practical consequences of the Victim's Charter (Home Office, 1990). The contact arrangements were extended to cover victims of violent or sexual offences in cases where the offender received four or more years' imprisonment in the second edition of the Charter (Home Office, 1996). They were further expanded to cover those where the offender was sentenced to 12 months or more when the Criminal Justice and Court Services Act 2000 came into force in 2001. Whereas the 1990 and 1996 arrangements
were meant to be implemented from existing resources, the 2001 changes were accompanied by substantial increases in funding and staffing for the probation service. It was also symbolically and practically important that victim contact was now embodied in a legal requirement.

This was a problematic area for the probation service, at least in the early days. In addition to the resource issue, there was widespread concern among staff about whether work with victims was properly part of the probation role. Implementation was extremely patchy, and ethical issues were slow to be resolved. Nevertheless, conscientious efforts were made to improve the service provided to victims, and by the late 1990s a consistently professional service was being delivered (Williams, 1999). When work with victims was reviewed by the Probation Inspectorate, the findings were overall quite positive, but several different models of working had evolved and the report found it impossible to recommend a consistent way forward (HMIP, 2000). The inspection report was also outspoken, however, in criticising the lack of central co-ordination and clear Home Office policy on this area of work. This was picked up with alacrity when the first national director of the new National Probation Service was appointed in 2001: detailed guidance on victim work was issued soon afterwards (National Probation Directorate, 2001).

For the victims of sexual and violent offences leading to all but the shortest periods of imprisonment, the probation service had become the main interface with the criminal justice system in the period after offenders were sentenced. Not only were victims provided with information: they were given a role in the decision making process. In many cases, offenders' release plans and parole conditions reflect the wishes expressed by victims during their contact with probation officers. This work represented a very significant addition to the work of the service and, more importantly, a huge change to its role. Victim contact work is important in itself, but it has also led to greater emphasis on victim perspectives in pre-sentence reports to courts, in individual and group work with offenders, and in the service's inter-agency work. Arguably, it has required probation workers to take a holistic view whereas in the past they worked primarily in the light of offenders' perspectives. A similar cultural change is now taking place among the staff of Youth Offending Teams implementing the 1998 and 1999 legislation discussed below (Williams, 2002).

These changes may turn out to serve community justice in the broad sense of the term, by bringing the victim perspective more systematically to the attention of the probation and youth justice services. So far, victims are consulted rather than actively being empowered. There has been strong resistance within youth justice, and in parts of the probation service, to engaging with victims as more than passive recipients and periodic providers of information. Nevertheless, there are already signs that probation in particular has begun to re-orient its everyday practice in the light of the insights gained by working directly with victims. As Walklate (2002) has pointed out, the limited form of victim contact envisaged by the Victim's Charter was hardly what victims themselves were clamouring for – but over the years, it has been adapted in the light of their views.
Victims and youth justice in England and Wales

As noted in the Editorial in the first issue of this journal, recent changes to the youth justice system have introduced a greater element of coercion into the system (see Goldson and Jamieson’s article in this edition). Much more use is now being made of custody, and it is only in England and Wales that reparation has been made compulsory on the part of young offenders, despite the success of voluntary approaches in many other countries. This fits in with the government’s version of communitarianism, which invariably prefers prescription to voluntarism (Driver and Martell, 1997). Restorative approaches are being tried only very tentatively and, it could be argued, peripherally (Dignan, 2002).

Nevertheless, the new youth justice system has some potential from the point of view of community justice. It introduces a greater element of lay, community involvement in the shape of Youth Offender Panels. Although these are chaired and serviced by members of Youth Offending Teams, they offer considerable scope for innovation by the ‘winger’ members, and they involve unprecedented numbers of community volunteers in the administration of youth justice. The Referral Order has been criticised for introducing unnecessarily intensive intervention too early in young offenders’ careers, and the contracts made under the Orders can certainly be onerous. All the same, the Referral Order removes power from the Youth Court, and Youth Offender Panels have a degree of discretion about how they exercise their powers.

Family group conferences, the Reparation Order, and reparation as part of the other new court orders created by the Crime and Disorder Act 1998, also have implications for community justice. One of the major consequences of the youth justice reforms from victims’ point of view relates to information. Even in the case of minor offences, victims are kept much better informed about the progress of the case if the offender is detected and is a young person, than they have ever been before. Early experience of family group conferences suggests that they can serve to empower victims and their supporters, but there are corresponding dangers of professional dominance and bureaucratisation (Johnstone, 2002). The evaluation of the Thames Valley Police experiment with family group conferences strikes a cautionary note about the ways in which professional dominance can be linked with authoritarian ‘facilitation’ of meetings. As Young (2001: 223) concludes:

    If the lessons of research are not heeded, community empowerment may yet turn out to be little more than legitimising rhetoric for unaccountable extensions of police disciplinary powers.

Many practitioners are well aware of the dangers of uncritical emulation of the Thames Valley model, though, and a wide variety of other approaches is emerging.

Family group conferences and reparation involve community organisations in dealing with young offenders to a much greater extent than in the past. This has often served to humanise the young offender in the eyes of the community or local authority worker who
becomes involved. One fire-fighter who supervised young people undertaking indirect reparation told Bailey et al (2002):

> It's opened my eyes. From probably being one of those people that thought that you should take people around the back of a shed and 'give 'em the old big stick' attitude to solve their problems, to being completely and 100% committed... There are obviously still cases that warrant custodial sentences, but, if we can get in there and prevent the cases getting that severe in the first place then we've a moral duty to do so.

**The Victim's Charter**

In addition to victim contact work, discussed above, the Victim's Charter was a mechanism for enforcing agencies’ compliance with existing legislation on victims (not least by encouraging individuals to make complaints: see Williams, 1999). In its first version, it combined listing potential recipients of public complaints with vague aspirations about improved practice (Home Office, 1990). The revised edition was more concrete, but it appeared at a time when the probation service’s resources were being cut back. This approach seems not to be favoured by the current government, which has announced that time will be made for legislation on victims’ rights in the 2003/4 parliamentary session in response to the consultation undertaken last year on the future of the Charter. This seems to augur well for the future of victim policy and may offer opportunities to lobby for a more inclusive, representative, community based criminal justice system working more in partnership with the voluntary sector.

The Victim’s Charter was criticised, among other things, for its selectivity in publicising the help available from voluntary agencies. For example, it promoted the NSPCC but did not mention the Rape Crisis and Refuge movements or agencies working with victims of racial harassment and attacks (Williams, 1999). The current government has provided some funding for such groups for the first time (and in Scotland, victim policy explicitly encourages criminal justice agencies to work in partnership with feminist and anti-racist service providers; see Scottish Executive, 2000). In addition, funding for Victim Support has been substantially increased. The diverse nature of the victims’ movement is thus being acknowledged and endorsed by government, which should increase the level of community involvement in criminal justice further. What Elias (1993) called the ‘hidden’, campaigning wing of the victims’ movement has emerged at least to some extent into official recognition, and its arguments about victims’ rights have gained some tacit acceptance.

**Victim Personal Statements**

A lower-key version of victim impact statements was introduced in England and Wales in October 2001 (see the Community Justice Files column in the first issue of this journal and Walklate, 2002). To date, it does not seem to be working very well in many areas. The statements setting out the effect of offences upon victims are supposed to be available at each stage of the criminal justice process, but many practitioners have never seen one –
although they are certainly being prepared by the police. Anecdotal evidence suggests that they are simply not being passed on to those who need them to prepare pre-sentence reports and make prison allocation decisions which take the impact of offences on victims into account.

**Conclusion**

There has been a marked change in government policy towards the treatment of victims of crime. It is receiving a higher priority and a higher profile, and the language of rights is increasingly being used rather than the paternalistic discourse of needs with which the previous, Conservative government was more comfortable (although this grossly over-simplifies the difference between the two governments’ approaches). Victims of racist and other hate crimes are included in policy discussions far more than they were even five years ago. The reasons for this are partly political – it would be a foolish home secretary who ignored the claims made by the victims’ movement. At times policy and pronouncements still smack of trying to make political capital out of victims, and there are still some signs of ineffective, rhetorical initiatives. Obvious examples are the use of individual victims’ names by certain politicians – as when Jack Straw spoke of “Sarah’s Law”, invoking a child victim’s name to justify legislation aimed at controlling sex offenders – and the Victim Personal Statement scheme. Nevertheless, there is a recognition of the existence of hate-motivated crime (not only racial, but against people with disabilities and gays and lesbians) which is new.

It is still unusual for official pronouncements to recognise the extent to which offenders may themselves have been victims and victims may previously have offended. Rather, the two groups are played off against one another and victim and offender are rarely recognised as overlapping, not discrete, categories. The overall effect of the youth justice changes currently being implemented may be overshadowed by the huge increase in youth incarceration which is undoubtedly part of the intention behind them. Locking thousands more young people up has little to do with community justice.

Having said this, the extent of the change in official attitude towards victims policy overall in a short period of time has been remarkable. What are the likely implications for community justice?

One important consequence of the changes outlined above is that restorative justice is suddenly much more credible in England and Wales. Although much that is done in its name is perhaps not truly restorative in its effect (and this is a danger, allowing the concept to be mis-applied and diluted; see Walklate, 2002) there is an opportunity to experiment with restorative approaches on a large scale for the first time in twenty years. If the 1998 and 1999 youth justice legislation is judged to have been a success, there may be a period during which restorative justice becomes acceptable as a way of dealing with adult offenders. While some very critical research has been published (such as Young, 2001), other commentators are more optimistic, albeit guardedly so (Bailey et al, 2002; Dignan and Marsh, 2001). Restorative justice takes community involvement seriously,
and at least in some of its forms it takes power away from professionals and empowers victims. The corollary, of course, is that it can also be seen as part of a responsibilisation strategy (Garland, 2001), encouraging victims and communities to take part in criminal justice in a way they would prefer not to. How it works in practice has much to do with the extent to which those implementing it take account of previous experience elsewhere, and of research evidence.

Etzioni’s (1998) notion of ‘community building’ is relevant to the community reporting of racially motivated crime. This is a relatively new phenomenon in the UK, but if it is successful it will both raise community awareness of racial harassment and crime – and racial discrimination more generally – and help to build capacity to respond to racism. The same argument perhaps applies, at a more general level, to the involvement of ordinary citizens in the victims’ movement. This is certainly a growth area while the present policies continue, with the expansion of the witness service the most recent example.

If effectively implemented, the 1999 Youth Justice and Criminal Evidence Act will have an impact both upon the responsiveness of the official criminal justice agencies to people who report crime, and through its youth justice measures, on local community involvement in supervising and making decisions about young offenders. Similarly, the huge expansion in victim contact work by probation and youth justice workers is bound to have an impact on practitioners’ responsiveness to victims’ concerns.

At present, we have only the vaguest idea of what the proposed legislation on victims’ rights will consist of – and a year is a very long time in criminal justice politics. It seems possible, however, that there will be new opportunities for community justice. These may take the form of an enhanced role for the voluntary sector, more opportunities for mediated, informal dispute resolution, and greater (optional) victim involvement in decision making. There is also an opportunity to address some of the remaining issues relating to the re-victimisation of victims by the criminal justice system. The injustices and exclusions of the criminal injuries compensation scheme might be addressed. It has also been announced that an Ombudsman for victims will be created. Perhaps the main issue for proponents of community justice is that the legislative process will provide the opportunity for a further and wider debate about the purposes of the justice system and the best ways to make it more victim-friendly, less bureaucratic and remote, and more accountable to the community.

References


PRISONERS AS CITIZENS

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Abstract
This article considers how the ideas of citizenship, and of the rights and responsibilities which go with it, might be applied to the treatment of prisoners and the management of prisons. Those ideas have different origins and can be applied in different ways and to serve different purposes. They have become politically prominent since the change of government in 1997, especially as a result of the incorporation into domestic law of the European Convention on Human Rights through the Human Rights Act 1998; of the Government's insistence that those rights are linked with responsibilities; of its programme to reduce social exclusion; and of its efforts to promote a sense of common identity among communities which are culturally and religiously diverse.

Within prisons, ideas of citizenship have received some recognition in programmes for resettlement and for work which benefits local communities. But prisoners are often still seen, politically and institutionally, as people who have for the most part forfeited their rights as citizens; and prisons are seen as institutions which are set apart from ordinary society. This article argues that a consistent attempt to treat prisoners as citizens rather than outcasts would not only carry into prisons the values which both the Government and the opposition political parties are seeking to promote in society as a whole, but would also enable the Prison and Probation Services more effectively to achieve the aims of resettlement and rehabilitation to which the Government is also committed. In the process, staff would gain in self-respect and the respect of others, and would find greater satisfaction in their work.

Introduction
Arguments that prisoners should be treated as citizens can be pursued from different directions and different perspectives. They can be founded on human rights and responsibilities, on the effective management of institutions, or on the reform and resettlement of prisoners. They do however point to similar conclusions - about the nature and purpose of imprisonment, the organisation and culture of the Prison Service, and the character of relationships both within prisons and between prisons and the outside world. The arguments also reflect some common values - that people may be in
different positions of power, status and authority and have different relationships with one another, but they are all entitled to equal dignity and respect as human beings; and that the state has both to protect its citizens but at the same time to limit so far as possible the extent to which it attempts to control their personal lives.

The subject has particular relevance for community justice. The approach suggested here has little in common with the "conservative" or "authoritarian" models which Brian Williams (2002), for example, discusses in his editorial for the first issue of this journal. But it does share many of the characteristics of the contrasting "democratic" model, and it applies many of the principles which he identifies as issues on which there seems to be common agreement. Other writers in the first issue (Kemshall and Maguire, 2002; Raikes, 2002) have drawn attention to the contrast between the "inclusive" and "exclusive" views which can be accommodated within the language of community justice, and the tension between them is likely to be a continuing feature of all criminal justice policy and practice.

The case for treating prisoners as citizens is also the subject of lively debate in Australia (Brown and Wilkie, forthcoming).

**Rights and Responsibilities**

The idea that prisoners might have rights and responsibilities is quite recent. There is virtually no mention of either in prison legislation. The Secretary of State and prison governors have various duties to provide facilities which might be seen as rights - correspondence, visits, access to confidential legal advice, medical attention, opportunities for complaint - but the Prison Service has a lot of discretion on the way in which they are provided in practice. There is no formal procedure, apart from the vigilance of the board of visitors, the Inspectorate and the Ombudsman, for making sure that prisoners have access to them. The resulting entitlements, or privileges as some of them are significantly described, are limited and conditional. Responsibilities, apart from the enforced responsibility to comply with prison discipline, have hardly been recognised at all.

The situation has to some extent changed over the last 30 years. The change came about partly as a result of changing attitudes in the Prison Service itself, where acts of humiliation - for example in reception, or at adjudications - which were commonplace a generation ago would no longer be tolerated today. It was also the result of a series of judgments in the domestic courts and the European Court of Justice. Chas Wilson describes the influence of the courts in his chapter in the Prisons Handbook (2002), where he lists those judgments which have been most significant. The process of change is likely to continue, although perhaps not at a rapid pace, as a result of the Human Rights Act 1998 and the incorporation of the European Convention on Human Rights into domestic law.

Some of the rights in the Convention and its protocols are absolute and inalienable, for example the rights to life, to freedom from torture and degrading treatment, and to
freedom from slavery and forced labour. Although the Convention does not actually say so, the rights to equal consideration, dignity and respect, regardless of race, ethnic origin or culture, must be similarly regarded as absolute. Other rights are qualified by references to what is necessary for public protection in a democratic society. Examples are the rights to respect for private and family life and to freedom of thought and expression. But all the rights established by the Convention apply to people as human beings, without discrimination and regardless of status, and they therefore apply to prisoners just as they do to anyone else. They are not automatically abrogated or forfeited by the fact that a person has been sentenced to imprisonment. Any restriction on those rights which results from a person's imprisonment must be justified, proportionate and legitimate.

Subjects on which challenges might occur under the Convention and the Human Rights Act include suicides and other deaths in prisons (under Article 1, the right to life); assaults on prisoners by other prisoners or members of staff, or on members of staff themselves (under Article 2, freedom from torture or degrading treatment, or Article 5, right to liberty and security of the person); adjudications (under Article 6, right to a fair trial or hearing); existing or prospective forms of discretionary release (under Article 5 or 6, but bearing in mind that victims also have rights under Article 5); and visits and correspondence (Article 8, respect for private and family life). More speculative subjects might be prison conditions more generally, for example if they can be judged as inhuman or degrading as a result of overcrowding or shortage of staff (under Article 2); private visits (under Article 8); access to the media (under Article 10, freedom of expression); and the ability of prisoners to form some kind of representative organisation (under Article 11, freedom of assembly and association). There is no sign at present that challenges in the courts are in the short term likely to bring about any dramatic changes in these matters, or in the nature of imprisonment more generally. But the possibility of such challenges should help to concentrate the mind of the Prison Service and help it to focus attention on subjects such as those which have been indicated. And perhaps more importantly and more effectively, the Convention and the Act should help the Prison Service to generate a stronger sense of mutual respect between prisoners and staff, and to reinforce changes in approaches and attitudes which are already taking place. Staff as well as prisoners would benefit.

A citizen is however more than a bearer of rights. Citizens also have duties and responsibilities - obviously to obey the law, but also to play a part in society, to support themselves and their dependants, to show consideration for others, to be a good neighbour, to have some concern for those who are vulnerable or disadvantaged, to support the institutions and legitimate authority of the state, and also to hold those institutions to account. These are responsibilities from which prisoners are at present largely absolved - sometimes necessarily, but often not. (This paper does not attempt to discuss the position of prisoners who are not citizens of the United Kingdom, except to make the obvious point that citizenship in the sense in which it is used here means much more than a person's status under nationality law, and that there should be no distinction between "first class" and "second class" prisoners based on nationality as such).
To make a connection between rights and responsibilities is not, as has sometimes been implied, to say that only those who discharge their responsibilities are entitled to enjoy their rights (Straw, 1999). A person's rights as a human being or as a citizen should not be dependent on someone else's judgement of their good behaviour, any more than a person's responsibilities should be thought of only as a means of gaining access to their rights. Nor should the responsibilities of citizenship be thought of simply in terms of individual good behaviour: they include protecting the rights of others and concern for those who are vulnerable or disadvantaged, as a matter of public duty as well as, ultimately, self-protection. Those responsibilities apply not only to individuals but also to organisations and institutions, including, importantly for prisoners, employers and providers of accommodation.

**Management of Institutions**

Prisons must obviously serve the society of which they are a part by protecting citizens from people who are dangerous. But they also uphold the rule of law by giving effect to sentences of imprisonment imposed by the courts; and they try to reform offenders so that they will not commit further offences. All three aims, which are implicit in the formal aims, objectives and principles of the Prison Service, require that offenders should so far as possible be enabled successfully and effectively to exercise their rights and responsibilities as citizens. They imply that the principles of rights and responsibilities should shape the ordinary life of a prison no less than they should inform a person's treatment before they come into prison or after they are released.

There is no shortage of texts on what this notion of citizenship might or ought to involve. From a judicial perspective, the leading authority is probably Lord Wilberforce's judgment in Raymond v Honey (a case concerning prisoners' correspondence) where he ruled that "a prisoner retains all civil rights and obligations which are not taken away expressly or by necessary implication". Although that was a landmark judgment which seems at first sight to be of great significance, Tim Newell has pointed out (2000) that the "necessary implications" of imprisonment are inevitably a serious limitation. So too are the practical difficulties which prisoners or their supporters would find in relying on that judgment in initiating any legal proceedings. Also from a judicial perspective, Lord Woolf made "justice in prisons" one of the three main themes (the others being security and control) in his report on the disturbances in Strangeways and other prisons in April 1990 (Woolf, 1991); and the theme was continued in the Government's White Paper which followed (Home Office 1991). The actual outcomes which followed that theme were however quite limited, being concerned mainly with giving reasons for decisions and with procedures for grievances and offences against discipline.

From an academic perspective, Richard Sparks, Anthony Bottoms and Will Hay (1996) have explored the concept of "legitimacy" in prisons and in particular the conditions necessary to achieve it such as integrity, fairness, explanation for decisions, and consent. (Similar considerations apply to all public services which exercise authority over citizens on behalf of the state.) Alison Liebling and David Price (2001) have explored similar
issues in relation to the work of prison officers, especially with regard to their role, culture, relationships, fairness, respect and use of power.

Among practitioners, Tim Newell (2000) has set out his ideas on sound relationships and professional and political responsibility, and he has directly linked them to the concept of community justice. He is now working on the ideas of restorative and community justice, and applying them to the management of prisons and to relationships within them, in conjunction with the Thames Valley Partnership and the International Centre for Prison Studies Project. The International Centre's work at Albert Park in Middlesbrough, carried out as part of its Restorative Prison Project in conjunction with three prisons, Middlesbrough Council, the Northern Rock Foundation, the Inside Out Trust and the Probation Service, is an important example of how prisoners can still be active citizens (International Centre for Prison Studies, 2002). Stephen Pryor (2001) has written on the subject of prisoners' responsibilities and the means of recognising them in practice; he explores questions of personal autonomy and choice, the nature of punishment, attitudes to risk and to authority, prisoners' relationships with their families, and racial and cultural diversity. The Director General, Martin Narey (2002), regularly emphasises the importance of "decency" throughout the Prison Service.

Among voluntary organisations, the Prison Reform Trust has examined the ways in which prisons try, not always successfully, to give prisoners the opportunity to be active citizens, through socially useful work within or outside their establishments (Farrant and Levenson, 2002). The Howard League for Penal Reform has published a series of papers, based on the League's own research, on Citizenship and Crime, Human Rights and Penal Issues, Children in Prison and Children's Education in Prison (all available from the Howard League).

Several indicators can be found of the extent to which prison institutions, and society more generally, treat prisoners as citizens. One is the degree to which prisoners are able to make choices for the way in which they spend their time in prison, and the means by which they are able to maintain contact with their families and accept responsibility towards them. Another is their ability to retain their personal identity, and to express it (for example) through the possessions they are allowed to keep and the clothes they are allowed to wear. A third is the ways in which prisoners and staff talk to each other, their use of names and tones of voice, and the respect (or lack of it) which they show to one another in the course of ordinary day-to-day contact. Other indicators could include the extent to which disputes can be resolved by restorative procedures rather than traditional, adversarial form of discipline; or to which prisoners are allowed to have some stake in the institution in which they are detained, for example through some form of consultative process.

Two illustrative examples have special symbolic significance. One is the right of children under 17 to protection from physical or sexual abuse, and of looked after children to a special degree of care, together with the corresponding responsibility of the state, in
practice through social services, to provide that protection and care. These are statutory rights and duties under the Children Act 1989, and in international law they are also rights under the United Nations Convention on the Rights of the Child. The Prison Service tries to observe the spirit of the Act, and the Youth Justice Board in its commissioning capacity for secure accommodation for children presses it to do so, but the Service still regards the Act itself as not applying to children held in its own establishments or in secure training centres. The protection of the Act is therefore not available to them. As a result, staff are in an ambiguous situation where they have to reconcile the conflicting expectations and demands of individual care and institutional order, and are themselves divided in their professional attitudes and outlook.

Children’s organisations such as the Children’s Society and the National Children’s Home, together with the Howard League for Penal Reform, have for a long time argued that this situation is unsatisfactory. Their main, long term, objective is to end the imprisonment of children altogether, but in the meantime they have called for the Children Act to be applied to the Prison Service and for the United Nations Convention and other international standards, treaties and rules on imprisoning children to be implemented in full (Goldson and Peters, 2002). The Howard League is seeking a judgment in the courts to the effect that the Children Act applies to prisons as it does to any other residential setting where children are accommodated.

The other example is a prisoner’s right to vote in national elections. This is both a right and responsibility of citizenship, which the Government increasingly emphasises for both national and local elections; but it is at present denied to prisoners on the ground, as a former Home Office minister once put it, that "those... serving a sentence have no moral right to vote" (Bassam, 1999). Great Britain is in a minority among European countries in not allowing prisoners to vote, and Prison Service managers have been reported as being in favour and seeing no practical difficulty (Prison Reform Trust, 2001).

Most of the aspects of citizenship mentioned so far can in theory be developed in prisons without legislation (the last two are exceptions), and mostly without new material resources. Some of the relevant practices are quite well established, at least in principle, in existing regimes at individual establishments. But their development has been for the most part piecemeal and haphazard. They all require commitment, shared understanding and a degree of stability and freedom from distraction which are difficult to achieve in an overcrowded system, where competing demands are imposed through sometimes inconsistent performance indicators; and where the culture is one of blame and the avoidance of risk.

There are of course corresponding issues for staff. They include the quality of the relationship between staff and management, the kinds of professional practice which are or are not respected and rewarded, questions of recruitment and training, and even the style of and need for staff uniform. The "soft" uniform which on the initiative of the Youth Justice Board can now be worn in establishments for juveniles is an interesting
example. It is essentially an informal tracksuit, with the officer’s name displayed on it, in contrast to the traditional “hard” and more military style uniform.

The role of boards of visitors could also be transformed. The recent review of boards of visitors (Lloyd, 2001) has already recommended that they should establish links with the external providers of key services inside the prison, and report to the community rather than the Secretary of State. But boards could have a more dynamic role as representatives of the institution’s stakeholders and its local communities, and with functions relating for example to the appointment of staff and the disposal of the budget, on the model of boards of governors for schools.

Reform and Resettlement of Prisoners
The issue here has two main aspects. One is the extent to which it is a responsibility of the state, of civil society, or of individual citizens, to help the reform and resettlement of those citizens who are or have been prisoners - either as a matter of self-protection against the possibility of re-offending, or more positively as a matter of civic duty in a spirit of social inclusion. The other is the extent to which the fact of imprisonment, or a criminal conviction, should in effect disqualify a person from what could be seen as the normal expectations of citizenship - most obviously in employment and housing, but also insurance, financial services and compensation for a criminal injury.

The first aspect came to the fore with the publication of the Social Exclusion Unit’s report on the resettlement of prisoners. ¹ The report focused on the extremes of deprivation from which most prisoners already suffer when they are sentenced, and the extent to which their situation is made even worse by the fact of their imprisonment. Information assembled by Nacro and presented to a conference on resettlement on 24 April 2002 showed that more than two-thirds of prisoners are unemployed before they go to prison, and a third of those with jobs then lose them. A third of prisoners have no permanent accommodation before their sentence, and another third lose their homes. Former prisoners with jobs are a third to a half less likely to re-offend; those without homes are between one and a half and twice as likely to re-offend.

There are good instrumental reasons for correcting that situation, in the sense that the public will be protected because prisoners will be less likely to re-offend. But there is also an argument of social justice that the effect of imprisonment should not be to degrade a person’s status as a citizen in respect of such critical issues as employment and housing. It was anticipated that the Social Exclusion Unit’s report would recommend organisational changes in which dedicated staff will take on an explicit responsibility for managing prisoners’ resettlement within an effective framework of accountability. But staff, however competent, willing and accountable they may be, will only succeed if society as a whole and the communities within it - including employers and providers of accommodation - are themselves prepared to accept their own responsibility towards their own members as citizens.
The second aspect arises from the simultaneous review of the Rehabilitation of Offenders Act 1974, the prospective introduction later this year of "basic disclosure", and the potential conflict between them. The hope for the review is that it will extend rather than restrict the protection of the Act by reducing the periods within which convictions can become "spent", or otherwise extending the circumstances in which offences are not subject to disclosure (information about the review is available on the Home Office website www.homeoffice.gov.uk/roareview). Basic disclosure will however enable employers to require prospective employees to supply a certificate showing any significant and "unspent" criminal convictions. The effect may be to expose former offenders to more enquiries about their records and therefore to a greater risk of being rejected. Nacro's information is that employers will reject applicants for half their available vacancies if the applicants have criminal records, and for 90 per cent of jobs if the conviction is for a serious offence. Speaking at the conference already mentioned, the Chief Executive of Nacro called for the implementation of basic disclosure to be delayed until legislation to extend the Rehabilitation of Offenders Act is in force.

Conclusions

A policy of treating prisoners as citizens does not by any means resolve all the tensions and conflicts which are inherent in imprisonment. In particular, it does not decide the balance which has always to be maintained between respect for individuals on the one hand and the protection of the public and the needs of the institution on the other. But it does provide a conceptual framework within which those tensions and conflicts can be resolved on a consistent basis of principle. It indicates the sort of practical measures which can make a positive contribution to the integrity and legitimacy of prison establishments, to the reform and resettlement of prisoners and hence to a reduction in re-offending. It has important implications for the location and design of prison buildings. It challenges the Prison Service, and the Youth Justice Board where it has responsibility, to manage their institutions in ways which are outward rather than inward looking, and which place the needs, hopes and expectations of its prisoners, of its staff and ultimately of society above the convenience of the Service and of its institutions themselves.

Above all, an approach of the kind considered in this article challenges communities, and society as a whole, to feel some sense of ownership for their prisons, and some sense of responsibility for their prisoners, as they often do for their schools and hospitals. They should not see prisons as a means by which that responsibility can be avoided. To achieve that sense of ownership and responsibility will demand, but may also result in, a much stronger determination, on the part of government and the courts, to keep the prison population within the capacity of the prison system. It may also demand a more radical review of the structure and accountability of the Prison Service than any which has so far been attempted. But the rewards for society, for the Prison Service and for the government which has the courage to attempt it, might be greater than has so far been imagined.
End Notes

Paul Senior will comment on some of the issues addressed in a Review Article on Resettlement in the next issue of the journal.

References

THE IMPACT OF RESTORATIVE JUSTICE CONFERENCING: A MULTI-NATIONAL PERSPECTIVE

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Conceptually, the restorative justice paradigm begins with the notion that crime is an act against people and a violation of relationships as well as a breaking of the law (Zehr, 1990). Restorative justice has become a framework for thinking about ways of humanizing justice, of bringing victims and offenders together in ways that provides opportunity for victims to receive explanation and reparation and for offenders to be accountable to the victim and the community, and of involving community members meaningfully in helping repair the wrong done to their neighbourhoods.

This shift in thinking away from the traditional punitive models of justice is also referred to as community justice (Griffiths and Hamilton, 1996; Stuart, 1995; Barajas, 1995), and restorative community justice (Young, 1995; Bazemore and Schiff, 1996). It remains to be seen whether these umbrella concepts are identical or whether significant shades of emphasis will emerge to further differentiate them. It is possible for example that some may be more victim driven and some more offender driven. It is also possible that certain components become more central in one framework compared with another. For example, Llewellyn and Howse (1998) identify voluntariness, truth-telling and a face-to-face encounter between victim and offender as the main elements of the restorative justice process. The face-to-face encounter between the victim and offender, a long standing Centrepiece of victim offender mediation (although even there, in practice, there are numerous exceptions), does not seem to be as much of a priority in family group conferencing, and may be non-existent in some peacemaking and sentencing circle work.

It is likely that the conceptual underpinnings of restorative justice are being modified somewhat by the experience of practice. Conceptual frameworks, hopefully, shape practice and well-documented practice will in turn bring about a refinement in conceptual frameworks.

Here, we will use the term restorative justice conferencing which encompasses a number of practice approaches to justice. Perhaps best known are victim-offender mediation, family group conferencing, and peacemaking circles. In recent years, a blurring has taken place particularly among practitioners who are attempting to apply restorative concepts
and processes to real life settings. The distinctions between and within the three modalities is less clear and from some points of view less important. Victim offender mediation which in its beginnings usually brought a single victim and a single offender together with a community mediator now works with as many victims, offenders and support persons (including parents) as seems relevant for the case. Family group conferencing brings together family members of victims and offenders as well as the victim and offender, and other community support members may also be present. Circles explicitly intend to gather not only victim, offender, and family members but also a number of community members including some who are unknown to the victim and offender families.

Increasingly, practitioners describe what they are doing as conferencing. The characteristics of the case and the nature of the underlying conflict as well as to a certain extent the desires of the victim and offender determine whether the conferencing process used resemble more the victim offender mediation, family group conferencing, or circle model. And any one case may lead to using each approach at different stages.

Considerable empirical work has been done over the past twenty years or so to document the impact of programmes attempting to implement restorative justice concepts. Here, we take a look at how this ongoing experiment with restorative justice conferencing is doing. We will consider client satisfaction, fairness, restitution, diversion, recidivism and cost. We will also reference a meta-analysis approach to some of these questions recently carried out by a Canadian group (Lattimer, Dowden, and Muise, 2001) which offers considerable promise. A total of 63 empirical studies of restorative justice conferencing, from 5 countries, were reviewed. This included 46 studies of victim offender mediation, 13 family group conferencing studies, and 4 assessments of peacemaking circles.

**Client Satisfaction**

**Victim offender mediation**

Proponents often speak of their efforts as ways of humanizing the justice system. Traditionally, victims were left out of the justice process. Neither victims nor offenders had opportunities to tell their stories and to be heard. The state somehow stood in for the victim, and the offender seldom noticed that his or her actions impacted on real, live people. In addition, victims, too, were left with stereotypes to fill their thoughts about offenders. VOM, reformers believed, offered opportunities for both parties to come together in a controlled setting to share the pain of being victimized and to answer questions of why and how. This personalizing of the consequences of crime, it was thought, would enhance satisfaction levels with the entire justice process.

The vast majority of studies reviewed reported in some way on satisfaction of victims and offenders with victim offender mediation and its outcomes. Across programme sites, types of offenders, types of victims, and cultures, high levels of participant satisfaction were found.
Before exploring the nature of this satisfaction further, it should be noted that forty to sixty per cent of persons offered the opportunity to participate in VOM refused. Typically, these refusals came from victims who: (1) believed the crime to be too trivial to merit the time required; (2) feared meeting the offender; or (3) wanted the offender to have a harsher punishment (Coates and Gehm, 1985; Umbreit, 1995). Gehm, in a study of 555 eligible cases, found 47 per cent of the victims willing to participate (Gehm, 1990). Victims were more likely to participate if the offender was white, if the offence was a misdemeanor, and if the victim was representing an institution.

Offenders were sometimes advised by lawyers not to participate (Schneider, 1986). And some simply did not want "to be bothered" (Coates and Gehm, 1985).

The voluntary nature of participating in VOM is a self-selection factor overlaying these findings. The high levels of satisfaction may have something to do with the opportunity to choose. Perhaps those who are able to choose among justice options are more satisfied with their experiences.

Several studies noted that victim willingness to participate was driven by a desire to receive restitution, to hold the offender accountable, to learn more about the why of the crime and to share their pain with the offender, to avoid court processing, to help the offender change behaviour, or to see that offender adequately punished. Offenders choosing to participate often wanted to "pay back the victim" and "to get the whole experience behind them" (Coates and Gehm, 1985; Perry, Lajeunesse, and Woods, 1987; Umbreit, 1989; Roberts, 1995; Umbreit, 1995; Niemeyer and Shichor, 1996; Strode, 1997; Umbreit, Coates and Vos, 2001).

Expression of satisfaction with VOM is consistently high for both victims and offenders across sites, cultures, and seriousness of offences. Typically, eight or nine out of ten participants report being satisfied with the process and with the resulting agreement (Davis, 1980; Coates and Gehm, 1985; Perry, Lajeunesse, and Woods, 1987; Marshall, 1990; Umbreit, 1991; Umbreit and Coates, 1992; Warner, 1992; Roberts, 1995; Carr, 1998; Roberts, 1998; Evje and Cushman, 2000). For example, a recent multi-site study of victim offender mediation in six counties in Oregon found an aggregate offender satisfaction rate of 76 per cent and an aggregate victim satisfaction rate of 89 per cent (Umbreit, Coates and Vos, 2001).

Even in an England based study (Umbreit and Roberts, 1996) which yielded some of the lowest satisfaction scores among the studies reviewed, eighty-four per cent of those victims engaged in face-to-face mediation were satisfied with the mediation outcome. For those individuals involved with indirect mediation, depending on shuttle mediation between parties without face-to-face meetings, seventy-four per cent were satisfied with their experience. These findings were consistent with an earlier study based in Kettering where a small sub-sample of participants were interviewed indicating sixty-two per cent of individual victims and seventy-one per cent of corporate victims were satisfied (Dignan,
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1990). About half of the offenders responding reported being satisfied. Participants involved in face-to-face mediation were more satisfied than those who worked with a go-between.

Victims often reported being satisfied with the opportunity to share their stories and their pain resulting from the crime event. A victim stated she had wanted to, "let the kid know he hurt me personally, not just the money...I felt raped" (Umbreit, 1989). Some pointed to their role in the process with satisfaction. One victim said, "we were both allowed to speak...he (mediator) didn’t put words into anybody's mouth" (Umbreit, 1988). Another female victim indicated, "I felt a little better that I’ve a stake in punishment" (Coates and Gehm, 1985). Another indicated that "it was important to find out what happened, to hear his story, and why he did it and how" (Umbreit and Coates, 1992). Numerous victims were consumed with the need for closure. A victim of violent crime indicated that prior to mediation, "I was consumed with hate and rage and was worried what I would do when he got out" (Flaten, 1996).

Of course not all victims were so enamoured with the process. A male victim complained, "It's like being hit by a car and having to get out and help the other driver when all you were doing was minding your own business" (Coates and Gehm, 1985). A Canadian stated that the, "Mediation process was not satisfactory, especially the outcome. I was not repaid for damages or given compensation one year later. The offender has not been adequately dealt with. I don’t feel I was properly compensated" (Umbreit, 1995).

Offenders generally report surprise about having positive experiences. As one youth said, "He understood the mistake I made, and I really did appreciate him for it" (Umbreit, 1991). Some reported changes, "After meeting the victim I now realize that I hurt them a lot...to understand how the victim feels makes me different" (Umbreit and Coates, 1992). One Canadian offender stated his pleasure quite succinctly: "Without mediation I would have been convicted" (Umbreit, 1995).

The following comment reflects the feelings of some offenders that victims occasionally abused the process, "We didn’t take half the stuff she said we did; she either didn’t have the stuff or someone else broke in too" (Coates and Gehm, 1995).

Secondary analysis of satisfaction data from a US study and a Canadian study yielded remarkably similar results (Bradshaw and Umbreit, 1998; Umbreit and Bradshaw, 1999). Using step-wise multiple regression procedures to determine those variables most associated with victim satisfaction, the authors discovered that three variables emerged to explain over 40 per cent of the variance. In each study, the key variables associated with victim satisfaction were; (1) victim felt good about the mediator; (2) victim perceived the resulting restitution agreement as fair; and (3) victim, for whatever reason, had a strong initial desire to meet the offender. The latter variable supports the notion that self-selection and choice are involved in longer run satisfaction. These findings also
underscore the important role of the mediator, and, of course, the actual outcome or agreement resulting from mediation.

These high levels of satisfaction with victim offender mediation also translated into relatively high levels of satisfaction with the criminal justice system. Where comparison groups were studied, those victims and offenders going through mediation indicated being more satisfied with the criminal justice system than those going through traditional court prosecution (Davis, 1980; Umbreit and Coates, 1992; Umbreit, 1995).

**Family Group Conferencing**

Family Group Conferencing also yields fairly high satisfaction responses from participants. Less than six out of ten victims in New Zealand (Maxwell and Morris, 1993) were satisfied with their family group conferencing experience compared with more than nine out of ten in the United States (Fercello and Umbreit, 1998). These varying levels of satisfaction may reflect differences in culture within as well as across programme. Authors of the New Zealand study, in particular, note differences among cultures within their sample (Maxwell and Morris, 1993). While only fifty-three per cent of the victims were satisfied with the outcome of their cases, eighty-four per cent of the offenders were satisfied. It should be noted that only forty-one per cent of the victims attended the conference. Victims often attributed their lack of attendance to not having enough lead time to make the necessary arrangements.

Although 95 per cent of the cases in the New Zealand programme reported some form of agreed upon outcome, victim comments regarding process and outcome were quite varied: "It is a soft option. He needs jail. It was very serious. I could have been killed"; "It's lenient. He's only paying $20 a week. I had to pay out cash and lose interest. It's me that suffers - it's not enough"; "I got the ill feelings out of my system"; "I felt able to understand the girl and her problems - she was receptive"; "The crime stinks, but the punishment stinks more"; "The first family had up to twelve (support persons present for offender) and there was just me - it was unbalanced" (Maxwell and Morris, 1993).

In an Australian study, Daly (2001) noted that ninety per cent of the offenders and 73 per cent of the victims were either satisfied or very satisfied with how their cases were handled. In 74 per cent of these cases, the victim was present for the conference.

In an Indianapolis based study (McGarrel et al, 2000), over ninety per cent of FGC victims reported satisfaction with how their cases were handled compared to 68 per cent of victims in a control sample. There were few differences for youth and parents.

Nine out of ten victims across three US based studies indicated satisfaction with the FGC process (McCold and Wachtel, 1998; Fercello and Umbreit; and McGarrel et al, 2001). The latter two studies also report offender satisfaction level at 90 per cent and higher.
The general rubric of satisfaction can tap any number of interest or needs of the participants. An Australian victim saw FGC as a means for underscoring the importance of people's rights. "The concept of other people's rights and their own responsibilities is very, very limited and this helps perhaps reduce that concept, in a very tangible, physical way." In contrast another victim in the same study stated, "I reckon it was just a put on" (Moore and Forsythe, 1995). In another Australian based study, victims participating in conferences were ten times more likely to receive some form of "repair" than their counterparts who went through the traditional court process. A family member of a victim alludes to this factor. "He (the victim) would never have known the offender had to pay for what he did if the case had gone to court" (Strang and Sherman, 1977). Another victim from that study noted, "You realise they aren't the monsters you made them out to be....".

Victims in a Minnesota study of FGC cited as most helpful in their experience the opportunity to "talk to the offender and explain the effect of crime on them and to hear the offender's explanation". The least helpful aspect of FGC was the "negative attitude of some parents" (Fercello and Umbreit, 1998).

A victim from the Bethlehem, PA. study reflected a brand of skeptical optimism which pervades many of the comments across these studies, "I enjoyed taking part in this programme! I do not feel that one meeting will change the offender's behaviour. It was easy for the offender to predict what we wanted to hear. I'm not sure this programme will be successful for all offenders. It's a great start though!" (McCord and Wachtel, 1998).

A victim in a Wagga Wagga, Australia study focused on the less tangible outcomes: "At least the kids were made to front up to, you know, have to look at their parents and say, "Look, you know, I'm sorry I belittled you..." (Moore and Forsythe, 1995).

In the Bethlehem, PA study, victim assessment of outcome while overwhelmingly favorable ranged from, "this is an important community service" to "the court costs made the restitution paid inadequate in repairing the store's expenses" (McCord and Wachtel, 1998).

A policeman interviewed for the Wagga Wagga study states clearly his view of how important satisfaction is to the practice of conferencing, "If the victim's satisfied; whether they get compensation; or a thank you...a sorry-letter, or just a straight out apology -- well that's the main thing."

**Circles**

Fewer studies regarding participant response to restorative justice or peacemaking circles are available to us. Circles are most often imbedded in a broader community response to conflict.
The earliest documented use of circles as a way of responding to offenders and victims come from various First Nation Communities in Canada. In those communities, there has been a reaching back to older traditions and spiritual heritages as a means of forming an holistic response to offenders and victims, their families, and the community at large. In other cultures, including many predominately Anglo communities in the United States, there has been a fascination with circles and their native heritage. There is an attempt in some of these communities to adapt aspects of the circle tradition while honoring its roots.

Preliminary research efforts suggest that talking circles, healing circles, and sentencing circles have positively impacted the lives of those who have participated in them. An early evaluation of the Hollow Water First Nation Community Holistic Circle Healing approach to sex victimisers and others, their victims, families and the community pointed to positive outcomes as well as lingering concerns (Lajenunesse, T. and Associates Ltd., 1996). The Hollow Water Community is a group of four First Nation communities located one hundred and fifty miles north east of Winnipeg, Manitoba. The intervention is explicitly holistic and spiritual. Traditional ways, such as the circle, are brought to bear on personal, intra family and community conflict. The intent is to work with the victimiser within the context of community rather than ship the individual to provincial or federal institutions. Some participants reported benefiting immensely from the circle process. Having a voice and stake in justice outcomes, mutual respect, and renewed community/cultural pride were cited as benefits of participation. On the other hand, lack of privacy, difficulty of working with family and close friends, embarrassment, unprofessionalism and religious conflict were cited by others as negative aspects of the circle process.

More recently, the Native Counseling Services of Alberta conducted a cost-benefit analysis of the Hollow Water experience and concluded that "There are still criticisms from community members and outside sources about the healing process. However, in the minds of MASH [acronym for the four communities served by CHCH] members, CHCH stands clearly as a presence in the community that is good and desired. There is strong public acknowledgement of the strenuous, extraordinary work it has accomplished over 15 years."

Victim satisfaction is cited as "very high" in the Healing/Sentencing Circles Programme in Whitehorse, Yukon Territory (Matthews and Larkin, 1999). The original purpose of this effort was to develop and unify the community by involving community members in the process of working with individuals in trouble with the law in their own community. The healing circle process involves an application process, development of a "wellness plan," and monitoring the offender's progress. The programme duration is six to eight weeks plus sentence which often is a probation term from six months to two years.
Victims’ families and offenders’ families as well as community members participating in restorative justice circles organized by the South Saint Paul Restorative Justice Council in South Saint Paul, Minnesota, were very favorably disposed toward their circle experience (Coates, Umbreit and Vos, 2001). This was equally the case with the circle participants in the South Saint Paul elementary and junior high schools. Two thirds of the Council’s cases came from the South Saint Paul Police Department and involved misdemeanors and low-level assaults. Each of the thirty victim and offender participants indicated that they would recommend the circle process to others who were in similar circumstances. Offenders indicated that what they liked most about circles was: “connecting with people in the circle”; “changed attitude/behaviour”; “opportunity to payback victim and community”; and “avoid court”. Victims liked being able to “tell their story”; “listening to others”; and “connecting with people in the circle”. Community representatives liked feeling that they “were giving something back to the community” and that “they were helping people.” Criminal justice decision-makers support for circles ranged from enthusiastic to lukewarm. The process was regarded as far too time consuming by some and as only appropriate for minor cases and first-time offenders. Others indicated that circle participation was an important way for involving local community members in the justice process and for letting victims and offenders know that the community cares about what happens to them.

**Fairness**

**Victim Offender Mediation**

Related to satisfaction is the question of fairness. Many studies of victim offender mediation asked participants about the fairness of the mediation process and of the resulting agreement (Davis, 1980; Collins, 1984; Coates and Gehm, 1985; Strode, 1997; Umbreit, 1988, 1989, 1991, 1995; Coates and Umbreit, 1992; Umbreit and Roberts, 1996; Evje and Cushman, 2000; Umbreit, Coates, and Vos 2001).

Not surprisingly, given the high levels of satisfaction, the vast majority of VOM participants (typically over 80 per cent) across setting, cultures, and types of offences reported believing that the process was fair to both sides and that the resulting agreement was fair. Again, these experiences led to feelings that the overall criminal justice system was fair. Where comparison groups were employed, those individuals exposed to mediation came away more likely feeling that they had been treated fairly than those going through the traditional court proceedings. In a study of burglary victims in Minneapolis, Umbreit found that eighty per cent who went through VOM indicated that they experienced the criminal justice system as fair compared with only thirty-seven per cent of burglary victims who did not participate in VOM (Umbreit, 1989).

These positive satisfaction and fairness experiences have generated support for VOM as a criminal justice option. When asked, typically nine out of ten participants would recommend a VOM programme to others (Coates and Gehm, 1985; Umbreit, 1991; Evje and Cushman, 2000; Umbreit, Coates, and Vos, 2001).
Family Group Conferencing

Fairness is also an issue of concern for participants in family group conferencing and is often a focus of research. In a study of conferences in Adelaide and the towns of Port Augusta and Whyalla (Daly, 2001), eighty to ninety-five per cent of victims and offenders reported that they were treated fairly and had a say in the agreement.

In a brief paper on offender attitudes regarding deterrence, the RISE research team investigating Family Group Conferencing in selected Australian sites reports that seventy-four per cent of the offenders felt the outcome of conferencing to be fair compared with 54 per cent of comparison offenders prosecuted in the traditional courts (Sherman and Strang, 1997). Interestingly, the conference offenders were also more likely to feel that they would be caught if they reoffended.

In three US based studies (Fercello and Umbreit, 1998; and McCold and Wachtel, 1998; McGarrel et al, 2001), about 95 per cent of victims indicated the process/outcome was fair. Eighty-nine per cent of the juvenile offenders in a Minnesota based study also indicated that the resulting conference agreement was fair. Over ninety per cent of victims and offenders in the Bethlehem, PA study (McCold and Wachtel, 1998) and the Minnesota study (Fercello and Umbreit, 1998) would recommend the family group conferencing programme to others. Nearly all victims in the Indianapolis based study (McGarrel et. al. 2001) indicated that they would recommend the programme to a friend involved in a similar situation. This was compared to a quarter of the victims making such a recommendation in the control sample. Likewise 85 per cent of the juvenile offender participants would recommend the programme to friends compared with thirty-eight per cent of those in the control group.

Restitution

Victim Offender Mediation

Early on, restitution was regarded by many VOM programme advocates as an important by-product of bringing offender and victim together in a face-to-face meeting. Restitution was considered somewhat secondary to the actual meeting where each party had the opportunity to talk about what happened. The form of restitution or what is called reparation in some jurisdictions is quite varied including direct compensation to victim, community service, work for victim, and sometimes unusual paybacks devised between victim and offender. Today, some jurisdictions see VOM as a promising major vehicle for achieving restitution for the victim. The meeting is necessary to establish appropriate restitution amounts and garner the commitment of the offender to honor a contract. Victims frequently report that while restitution was the primary motivator for them to participate in VOM what they appreciated most about the programme was the opportunity to talk with the offender (Coates and Gehm, 1985; Umbreit and Coates, 1992).

In many settings, restitution is inextricably linked with victim offender mediation. About half the studies under review looked at restitution as an outcome of mediation (Collins,
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1984; Coates and Gehm, 1985; Perry, Lajeunesse and Woods, 1987; Umbreit, 1988; Galaway 1989; Umbreit, 1991; Umbreit and Coates, 1992; Warner, 1992; Roy, 1993; Evje and Cushman, 2000; Umbreit, Coates and Vos, 2001). Of those cases that reached a meeting, typically ninety per cent or more generated agreements. Restitution of one form or another (monetary, community service, or direct service to the victim) was part of the vast majority of these agreements. Looking across the studies reviewed here, it appears that approximately 80-90 per cent of the contracts are reported as completed. In some instances, the length of contract exceeded the length of study.

One study was able to compare restitution completion between those youth participating in VOM with a matched group who did not (Umbreit and Coates, 1992.) In that instance, 81 per cent of participating youth completed their contracts contrasted with 57 per cent of those not in the VOM programme, a statistically significant finding. In another study comparing an Indiana county whose restitution was integrated into victim-offender mediation with a Michigan county with court imposed restitution no difference in completion rates were found (Roy, 1993). Each was just shy of eighty per cent completion.

A study of victim offender mediation in six California counties showed a staggering increase in average obligated restitution paid. The increases ranged from +95 per cent in Sonoma to +1000 per cent in Los Angeles County (Evje and Cushman, 2000).

**Family Conferencing**

Restitution or reparation is often part of the focus within family group conferences. Reparation agreements in the Indianapolis experiment (McGarrel et al, 2000) included the following elements: 1) apology, 62 per cent; 2) monetary, 42 per cent; 3) personal service, 36 per cent; 4) community service, 24 per cent; 5) other, 57 per cent.

Likewise a New Zealand study (Maxwell and Morris, 1993) found that apologies occurred in 70 per cent of the cases; 58 per cent, work in the community; 29 per cent reparation (monetary payback). When victims were present for the conference, the work was more likely to be done for the victim than when they were not present, although this still happened in only two fifths of the cases. The authors conclude that victim presence had little impact on victim’s receiving reparation. Reparation occurred 42 per cent of the time when victims were present compared to 29 per cent overall cases involving victims.

Studies done on family group conferencing in Australia depict a more positive view of the FGC programmes impact on restitution/reparation. Strang and Sherman (1997) conclude that victims processed through family group counseling were "ten times" more likely to receive repair than those processed through the traditional court. It should be noted that Strang and Sherman include apology, money, services, and other material compensation. Victims whose offender went through FGC were more likely to receive an apology (74 per cent) than if the offender had been sent to court (11 per cent). Moore and Forsythe
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(1995) indicate that 87 per cent of the conference agreements were largely completed. 
And Wundersitz and Hetzel (1966) reported an 86 per cent compliance rate.

In a Minnesota based study, Fercello and Umbreit (1998) indicate that 79 per cent of 
victims and 92 per cent of offenders indicated that an agreement had been successfully 
negotiated.

**Diversion**

**Victim Offender Mediation**

Many VOM programmes are nominally established to divert offenders into less costly, less 
time consuming, and frequently thought less severe options. Just as diversion was a goal 
lauded by many, others expressed concern about the unintended consequence of widening 
the net, that is, ushering in youth and adults to experience a sanction more severe than 
they would have if VOM did not exist. While much talk continues on this topic, there is 
a dearth of study devoted to it. Only a handful of the studies reviewed here address this 
question.

One of the broadest studies considering the diversion question was that conducted over a 
three year period in Kettering, Northamptonshire, England (Dignan, 1990). Offenders 
participating in the VOM programme were matched with similar non-participating 
offenders from a neighbouring jurisdiction. The author concludes that at least sixty per 
cent of the offenders participating in the Kettering programme were true diversions from 
court prosecution. Jurisdictional comparisons also led him to conclude that there was a 
thirteen per cent widening the net effect - much less than local observers would have 
predicted.

In a Glasgow, Scotland based agency where numbers were sufficiently large to allow 
random assignment of individuals between the VOM programme and a comparison group 
going through the traditional process, it was discovered that forty-three per cent of the 
latter group were not prosecuted (Warner, 1992). However, of those that were prosecuted 
most pled guilty and were fined. This would suggest that VOM in this instance was a 
more severe sanction and indeed widened the net of government control.

In a very large three county study of mediation in North Carolina, results on diversion 
were mixed (Clark, Valente, Jr., and Mace, 1992). In two counties, mediation had no 
impact on diverting offenders from court. In the third county the results, however, were 
quite dramatic. The authors concluded, “The Henderson programme’s effect on trials was 
impressive; it may have reduced trials by as much as two-thirds.”

Mediation impact on incarceration was explored in an Indiana-Ohio study by comparing 
consequences for seventy-three youth and adults going through VOM programmes with 
those for a matched sample of individuals who were processed in the traditional manner 
(Coates and Gehm, 1985). VOM offenders spent less time incarcerated than did their
counterparts. And when incarcerated, they did county jail time rather than state time. The length and place of incarceration also had substantial implications for costs.

**Family Group Conferencing**

The impact of family group conferencing on diverting offenders from the formal system or to a less severe sanction remains unclear. McCold and Wachtel (1998) indicate that FGC had left police and courts largely unaffected. As with many of the programmes that are studied, one might question how realistic it is to expect that interventions small in size will have any significant impact on large formidable justice institutions.

Moore and Forsythe (1995) conclude that the introduction of family group conferencing as part of community policing in the so called Wagga Wagga model is:

> associated with a substantial decrease in the total number of police interventions involving young people, and with a substantial increase in the number of those cases dealt with by way of 'caution' rather than in court.

New Zealand’s Children, Young Persons and Families Act (1989) established new procedures for state intervention into families and the lives of children and young people. The Act provided new roles for victims and a voice for the young people and their families. These altered the ways of police and court processing and provided for a "new decision making forum, the Family Group Conference" (Maxwell and Morris, 1993). The impact was dramatic. Before the Act there were up to 13,000 court cases each year. In 1990 there were 2,587. While this constitutes massive diversion, Maxwell and Morris point out that only three out of five youth who appeared in court previously received any formal penalty. For those offenders now going through FGC 95 per cent receive a penalty or make an apology. The authors conclude, “Thus the total number who now receive some form of penalty is almost certainly greater than in the past – in other words, the net appears to have widened” (Maxwell and Morris, 1993).

**Circles**

The Hollow Water First Nation Community Holistic Circle Healing Process was designed, in part, as a way of keeping victimisers in the community (Native Counseling Services of Alberta, 2001). Over a ten year period, ninety-four individuals, including sixty-eight adult males, seven adult females and nineteen youth were diverted within the four communities making up Hollow Water. Forty-one of these persons had assault charges and thirty-seven had sexual assault charges. An additional seven adult males came to the programme from other reserves. According to the authors of this study, one hundred and one individuals were diverted from the provincial or federal justice system. We will consider the cost savings generated by this diversion effort in a later section of this document.
Recidivism

Victim Offender Mediation

While recidivism may be best regarded as an indicator of society's overall response to juvenile and adult offenders, it is a traditional measure used to evaluate the long term impact of justice programmes. Accordingly, a number of studies designed to assess VOM have incorporated measures of recidivism.

Some simply report re-arrest or reconviction rates for offenders going through the VOM programme under-study (Carr, 1998; Roberts, 1998). Since no comparison group or before/after outcomes are reported, these recidivism reports have local value, but offer very little meaning for readers unfamiliar with typical rates for that particular region.

One of the first studies to report recidivism on VOM was part of a much larger research project regarding restitution programmes (Schneider, 1986). Youth randomly assigned to a Washington, DC VOM programme were less likely to have subsequent offences resulting in a referral to a juvenile or adult court than youth in a comparison probation group. These youth were tracked for over thirty months. The results were 53 per cent and 63 per cent; the difference was statistically significant. A third group, those referred to mediation, but who refused to participate, also did better than the probation group. This group's recidivism prevalence was 55 per cent.

The study based in Kettering, England (Dignan, 1990) compared recidivism data on the VOM offenders who went through face-to-face mediation with those who were exposed only to "shuttle mediation". The former group did somewhat better than the latter: 15.4 per cent and 21.6 per cent. As with satisfaction measures reported earlier, face-to-face mediation seems to generate better results both in the short run and in the longer run than the less personal indirect mediation.

In a study of youth participating in VOM programmes in four states, youth in mediation had lower recidivism rates after a year than did a matched comparison group of youth who did not go through mediation (Umbreit and Coates, 1992). Overall, across sites, eighteen per cent of the programme youth reoffended compared to 27 per cent for the comparison youth. Programme youth also tended to reappear in court for less serious charges than did their comparison counterparts.

The Elkhart and Kalamazoo county study (Roy, 1993) found little difference in recidivism between youth going through the VOM programme and the court imposed restitution programme. VOM youth recidivated at a slightly higher rate, 29 per cent to 27 per cent. The author noted that the VOM cohort included more felons than did the court imposed restitution cohort.

A study of 125 youth in a Tennessee VOM programme (Nugent and Paddock, 1995) reported that these youth were less likely to reoffend than a randomly selected comparison
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group: 19.8 per cent to 33.1 per cent. The VOM youth who did reoffend did so with less serious charges than did their comparison counterparts.

A sizeable cohort of nearly eight hundred youth going through mediation in Cobb County Georgia between 1993-1996 was followed along with a comparison group from an earlier time period (Stone, Helms, and Edgeworth, 1998). No significant difference in return rates was found: 34.2 per cent mediated to 36.7 per cent non-mediated. Three-quarters of the mediated youth returned to court did so because of violation of the conditions of mediation agreements.

Wynne and Brown (1998) report on a longstanding study of the Leeds Victim Offender Unit which began in 1985. Of the ninety offenders who met in face-to-face mediation from 1985-1987, 87 per cent had had previous convictions before mediation. Sixty-eight per cent had no convictions during a two year follow-up post mediation.

In another English study which focused on seven different restorative justice schemes across England, Miers et al. (2001) contend that "the only scheme that routinely involved victims (West Yorkshire) was for the most part both lower cost and more effective than the other schemes". And this same programme had a "significant impact on reoffending, both in terms of the offence frequency and offence seriousness".

Stone (2000) compared youth going through Resolutions Northwest’s Victim Offender Mediation Programme in Multnomah County Oregon with a comparison group. Eighty per cent of the youth processed through VOM did not recidivate during a one year follow-up period while 58 per cent of the comparison group did not reoffend during a year of follow-up.

In a Lane County Oregon study, Nelson (2000) took a different tack. One hundred and fifty youth referred to VOM from July of 1996 to November 1998 in that county were also followed for a year after referral. Comparing their referral frequencies the year prior to the referral to VOM with the year after, all referred youth had 65 per cent fewer referrals to the system in the subsequent year. Juveniles referred to VOM but refusing to participate had 32 per cent fewer referrals; youth who met with their victims had 81 per cent fewer referrals than the preceding year; and juveniles who fully completed their agreements had 76 per cent fewer referrals compared with 54 per cent fewer referrals for those youth who did not complete any part of the agreement.

Recidivism data was gathered on VOM programmes in two additional Oregon counties in the study conducted by Umbreit, Coates and Vos (2001). These data reflect one year before intervention comparisons of number of offence with one year after. For the group of youth in the Deschutes County programme there was a 77 per cent overall reduction in reoffending. Similarly, for the group of juveniles going through the victim offender programme in Jackson County there was an overall 68 per cent reduction in recidivism.
In a six county study in California conducted by Evje and Cushman (2000), one of the victim offender mediation programmes experienced a 46 per cent higher rate of recidivism than its comparison group. In the other five counties, the VOM groups ranged from 21 per cent to 105 per cent less recidivism than their comparison groups.

Nugent, Umbreit, Wiinamaki and Paddock (1999) conducted a rigorous re-analysis of recidivism data reported in four studies involving 488 VOM youth and 527 non-VOM youth. Using ordinal logistical regression procedures the authors determined that VOM youth recidivated at a statistically significant lower rate than non-VOM youth and when they did reoffend they did so for less serious offences than the non-VOM youth.

**Family Group Conferencing**

Two hundred and eighty-one juvenile cases going through the family group conferencing model employed by the Woodbury Police Department, in Woodbury, Minnesota between 1995 and 1999 were compared to a group of non-conferencing youth in 1993 (Hines, 2000). Thirty-three per cent of the conferencing youth re-offended compared to 72 per cent of the non-conferencing youth. Sixteen per cent of the first time offenders who went through conferences re-offended contrasted with 52 per cent of repeat offenders going through conferences.

Maxwell and Morris (1993) report that 48 per cent of those referred for an FGC in their New Zealand study reoffended within six months. There was some variation by region. In the Wagga Wagga experiment with introducing FGC into community policing there was little change in reapprehension patterns nine months before and after FGC. Youth going to court were more likely to be reapprehended, 35.6 per cent compared with 18.7 per cent (Moore and Forsythe, 1995).

In a recent work by Maxwell and Morris (2001), the authors take a most important step toward attempting to discern what factors influence a youngster’s propensity to reoffend or not. In 1996 they were able to contact some 108 young people (accounting for 67 per cent of the original sample) and 98 parents who had participated in family group conferencing in 1990-91. All the young people were in their twenties. Twenty-nine per cent of these young people had never been reconvicted. Twenty-eight per cent had been persistently reconvicted. Several multivariate analyses were conducted to sort out predictors of reconviction and pathways to reoffending. The authors conclude:

that family group conferences can contribute to lessening the chance of reoffending even when other important factors such as adverse early experiences, other events which may be more related to chance, and subsequent life events are taken into account. Critical factors for young people are to have a conference that is memorable, not being made to feel a bad person, feeling involved in the conference decision-making, agreeing with the outcome, completing the tasks agreed to, feeling sorry for what
they had done, meeting the victim and apologizing to him/her, and feeling
that they had repaired the damage.

The authors point out that "these factors reflect key restorative values, processes and outcomes".

Preliminary recidivism patterns in the Canberra Reintegrative Shaming Experiments (Sherman, Strang, and Woods, 2000) yield mixed results. Cases were randomly assigned to court or conferencing across four experiments identified by the types of offences handled. Recidivism rates are based on one year before and after comparisons. For the youth violence offenders, the court group rate of offending fell by 11 per cent in the year before and after comparisons. The FGC youth reoffending rates fell 49 per cent. This difference constitutes a 38 per cent reduction in the conference group relative to the change in the court group. Rates of reoffending for the drunk driving offenders showed a slight increase for both groups, that is, those who were referred to court and those who went through FGC. There was no significant differences between groups of offenders processed for juvenile property-shoplifting or for those processed for juvenile property-with personal victims.

McCold and Wachtel (1998) also report on a one year follow-up of youth randomly assigned to treatment (FGC) or control group in their Bethlehem, PA study. Their treatment group was divided in two: a group that went through FGC and a group that did not because either the victim or the offender chose not to participate. The declining group had a larger number of "violent" crimes. It should be noted, however, that it remains unclear how these offences were so labelled, given that most offenders charged with violent crimes were not eligible for the FGC diversion option in the first place. The recidivism results are as follows. For property offenders, 32 per cent of the conference youth reoffended compared with 35 per cent of those who declined to participate, and 21 per cent of those who were in the control group. For violent offenders, 20 per cent of the conference youth reoffended compared to 48 per cent of those who decline to participate, and 35 per cent of the control group. The authors conclude that conferencing positively "affects recidivism by resolving conflict between disputing parties."

The Restorative Justice Conferencing Experiment in Indianapolis also relied on a random assignment experimental design (McGarrel, 2000). Two hundred and thirty two youth went to the restorative justice family group conferencing programme and two hundred and twenty-six went to other diversion programmes. Recidivism was measured by contact with the court during a six or twelve month period since the initial incident, and contact with the court after completion of assigned diversion programme. During the six months after the initial incident, 79.6 per cent of the conference youth had no further court contact contrasted with 58.8 per cent of the control youth. That difference is significant at the .01 level using Chi-square. For the twelve month period, 69.2 per cent of the conference youth had no further court contact compared with 58.8 per cent of the controls. That difference is significant at the .05 level using Chi-square. For the six months post
diversion programme completion, 87.7 per cent of the conferencing youth had no contact with the court compared with 77.3 per cent of controls. Again, using a Chi-square the researchers found the difference to be significant at the .05 level.

**Circles**

While recidivism is not a primary focus of any of the circle studies surveyed here, it was mentioned in two of the reports. Matthews and Larkin (1999) note that an internal self-study was completed for the Healing/Sentencing Circles Programme at Whitehorse, Yukon Territory by an outside consultant. Over a two year period the programme served sixty-five clients. Follow-up tracking "indicated an 80 per cent decrease in recidivism."

Also, the Hollow Water study conducted by the Native Counseling Service of Alberta reported that only two clients (approximately 2 per cent) over the ten years had re-offended. They suggest that typical "recidivism rates for sex offences is approximately 13 per cent and for any form of recidivism the figure rises to approximately 36 per cent." It remains unclear if these latter comparative figures refer to provincial data, federal data or both.

All in all, recidivism findings across a fair number of sites and settings, suggest that restorative justice conferencing approaches are at least as viable at recidivism reduction as traditional approaches. And in a good number of instances, youth going through conferencing programmes are actually faring better.

**Costs**

**Victim Offender Mediation**

The relative costs of correctional programmes is difficult to assess. Several studies reviewed here addressed the issue of costs.

Cost per unit case is obviously influenced by the number of cases handled and the amount of time devoted to each case. The results of a detailed cost analysis in a Scottish study were mixed (Warner, 1992). In some instances, mediation was less costly than other options and in others more. The author notes that given the "marginal scope" of these programmes it remains difficult to evaluate their cost if implemented on a scale large enough to impact overall programme administration.

Evaluation of a large scale VOM programme in California led the authors to conclude that the cost per case was reduced dramatically as the programme went from being a fledgling to being a viable option (Niemeyer and Schichor, 1996). Cost per case was $250.

An alternative way of considering the cost impact of VOM is to consider broader system impact. Reduction of incarceration time served can yield considerable savings to a state or county (Coates and Gehm, 1985). Reduction of trials, such as in Henderson County, North Carolina where trials were reduced by two-thirds, would have tremendous impact at
the county level (Clarke, Valente Jr., and Mace, 1992). And researchers evaluating a VOM programme in Cobb County, Georgia point out that while they did not do a cost analysis, per se, time is money (Stone, Helms, and Edgeworth, 1998). The time required to process mediated cases was only a third of that needed for non-mediated cases.

The potential cost savings of VOM programmes when they are truly employed as alternatives rather than as showcase add-ons is significant. Yet a cautionary note must continue to be heard. Like any other programme option, these programmes can be swamped with cases to the point that quality is compromised. And in the quest for savings there is the temptation to expand the eligibility criteria to include individuals who would not otherwise penetrate the system or to take on serious cases that the particular programme staff are ill equipped to manage. Staff and administrators must be prepared to ask, "Cost savings at what cost?"

**Circles**

A cost-benefit analysis was the cornerstone of the Native Counseling Services of Alberta study of the Hollow Water's Community Holistic Circle Healing Process (2001). Efforts were made to track the cost that would have occurred if the ninety-four victimisers participating in the programme had not been diverted but rather would have proceeded on to the provincial or federal justice systems. Estimates of pre-incarceration, incarceration, and parole costs were derived. These were compared to the costs of the CHCH. It is estimated that the total costs to provincial and federal governments without CHCH in place would have ranged from $6,212,732 to $15,902,885. The authors conclude that given the "very low recidivism rate…it is appropriate to state that the value of services to both the government and community has been significantly understated."

**Meta-Analysis**

Increasingly the field of social science is witnessing the emergence of meta-analyses. These are methods of research synthesis across a set of empirical studies. Meta-analysis will typically involve reviewing the relevant literature, including published journal articles, books and perhaps less well known research monographs. Data are extracted from these studies and are aggregated for further statistical analysis. Three such studies are reported on here.

Nugent, Umbreit, Wiinamaki and Paddock (2001) conducted a rigorous re-analysis of recidivism data reported in four previous studies involving a total sample of 1,298 juvenile offenders, 619 who participated in VOM and 679 who did not. Using ordinal logistical regression procedures the authors determined that VOM youth recidivated at a statistically significant 32 per cent lower rate than non-VOM youth and when they did re-offend they did so for less serious offences than the non-VOM youth.

In a forthcoming work, Nugent, Williams and Umbreit have expanded their effort to include fourteen studies to compare the prevalence rate of subsequent delinquent behaviour of VOM participants with that of adolescents who did not participate in VOM.
This analysis relied on a combined sample of 9,037 juveniles. The results "suggested that VOM participants tended to commit fewer reoffences ... [and] tended to commit less serious reoffences" (Nugent, Williams and Umbreit, forthcoming).

In another large meta study, Latimer, Dowden and Muise (2001) reviewed eight conferencing and twenty-seven victim-offender mediation programmes. In order to qualify for inclusion in this analysis the study had to have evaluated a restorative justice programmes, i.e., "restorative justice is a voluntary, community-based response to criminal behaviour that attempts to bring together the victim, the offender and the community in an effort to address the harm caused by the criminal behaviour"; used a control group or comparison group that did not participate in the restorative justice programme; reported on at least one of the following four outcomes-victim satisfaction, offender satisfaction, restitution compliance, and/or recidivism; and provided sufficient statistical information to calculate an effect size.

Some of the major results of this analysis are:

* **Victim Satisfaction.** In all but one of the thirteen restorative programmes studied, victims were more satisfied than those in traditional approaches. The authors indicate that "VOM models tended to yield higher levels of victim satisfaction rates than conferencing models when compared to the non-restorative approaches." They suggest that this result may be explained by the conferences typically having more participants and thus it may be more difficult to find as much satisfaction with an agreement.

* **Offender Satisfaction.** Initial analysis shows "no discernible impact" on offender satisfaction. However when an outlier programme is removed,"moderate to weak positive impact on offender satisfaction " is noted.

* **Restitution.** "Offenders who participated in restorative justice programmes tended to have substantially higher compliance rates than offenders exposed to other arrangements."

* **Recidivism.** "Restorative justice programmes, on average, yielded reductions in recidivism compared to non-restorative approaches to criminal behaviour."

The authors discuss and consider the issue of self-selection bias, that is, victims and offenders choose to participate in these programmes. They note that McCold and Wachtel (1998) attributed apparent differences in recidivism to the effect of self-selection bias. Latimer, Dowden and Muise conclude: "Notwithstanding the issue of self-selection bias, the results of this meta-analysis, at present, represent the best indicator of the effectiveness of restorative justice practices (i.e. those individuals who choose to participate in restorative justice programmes find the process satisfying, tend to display lower recidivism rates and are more likely to adhere to restitution agreements)."
Continuing Issues

Restorative justice conferencing, in its various forms, has been studied empirically over twenty-five years in numerous countries and with a wide range of populations. It has probably been examined as extensively, if not more so, as any justice or correctional reform. Studies have ranged from small exploratory undertakings, to quasi-experimental designs, to meta studies.

Research on restorative justice conferencing began with a focus on how victim and offender participants experienced being part of these efforts to involve them in the process of justice-making. This was a reasonable beginning point, given the emphasis within restorative justice frameworks to include victims and their wishes as well as giving offenders opportunities for making things right and getting on with their lives. If studies were to repeatedly show that the bulk of offenders and victims were dissatisfied or felt additional harm was heaped upon them, then it would not matter if the programmes were effective or not at increasing rates of restitution completion or decreasing rates of recidivism.

Taken as a whole, the studies reviewed here reflect remarkably consistent levels of victim and offender satisfaction with conferencing strategies. Furthermore, it appears that conferencing does increase the likelihood that restitution contracts will be paid. It is suggested that this is likely because the criminal violation and its consequences have been made more personal so that any resulting agreement becomes more personal. And even crime reduction, measured by recidivism, seems to be happening for a significant number of offenders who are processed through restorative justice conferencing approaches.

Still, issues remain. Here we will consider a few policy and research issues.

Policy Issues

1. Overcoming the myth that nothing works.

For over a quarter century correctional philosophy and wisdom has been engrained with the dictum "nothing works". Rightly or wrongly a veneer of scepticism and cynicism often shrouds policymaker and practitioner alike. Each is often able to point to individual cases which bear out the generalization while the accounts of success are relegated to "stories".

This scepticism leads to low expectations: "nothing matters more than anything else." Or it may lead to justifying rote experimentation: "what's new this year? It won't make any difference, but we need to keep trying". Scepticism is often accompanied by considerable heart and compassion. And this combination frequently leads to frustration and disillusionment which in turn leads to a self-fulfilling prophecy that "nothing works."

But some things do work for some individuals and probably always have. Single approaches to justice are unlikely to work equally well with everyone. In cases where victims meet with offenders, it is likely that those who were motivated to seek such a meeting in the first place may be more likely to be satisfied with the experience and the
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outcomes. This will not be the result for every victim who sought such a meeting. Some will be disappointed; some will feel like it was a waste of time.

Even within the realm of conferencing, some individuals and cases may be better suited for victim-offender mediation, some for family group conferencing, and some for circles. Matching limited resources with particular cases and individuals is a perplexing problem for justice and corrections as a whole; such will also be the case for conferencing options.

The research community not only has a continuing responsibility for conducting studies which are as rigorous as possible given the practice circumstances. It also has a responsibility for articulating the meaning of findings in ways that inform educators, policymakers and practitioners in clear and reasonable ways. As researchers employ more sophisticated statistical tools, including meta-analysis approaches, the onus remains on the research team to explain the results so their policy and practice implications are evident. Slogans and aphorisms such as "nothing works" are too easy, but it is also too much to expect that all individuals concerned about directions in justice and corrections have a thorough understandings of betas, canonical variables, and effect sizes.

2. Restorative justice conferencing: what is it?
Conceptual thinking about restorative justice continues to evolve as do attempts to develop processes grounding those concepts and principles into practice. As noted at the beginning of this chapter, an encounter of all the parties with a stake in a particular crime incident is regarded by many as being at the core of restorative justice (Llewellyn and Howse, 1998), along with voluntariness of participation and truth telling.

At a recent seminar for practitioners and policymakers held at the University of Minnesota, Howard Zehr, a widely recognized leader in the movement toward restorative justice, indicated an uneasiness with the centrality of direct encounters in restorative justice definitions. He has moved toward a broader conceptual understanding reflected in the following, "Restorative justice is a process to involve to the extent possible, those who have a stake in a specific offence to collectively identify and address harms and obligations in order to heal and put things as right as possible" (Zehr, 2002).

Likewise the term "conferencing" has emerged as a generic descriptor to include victim offender mediation, family group conferencing and circles as well as some reparation boards.

Without attempting to sort out these conceptual and definitional issues here, it does seem important to highlight some pluses and minuses of the lack of a clear, widely agreed upon definition. A major plus is that there exists considerable room for innovation. There is no lockstep programme which is expected to work with all individuals. Conceptual breadth allows for policymakers and practitioners to fit restorative justice conferencing to the particular needs of their communities. A minus, however, is conceptual blurriness which hints at few parameters. A common criticism in corrections over the years is its
tendency to rewrap old programmes under new names and banners without changing much, if anything. For practitioners, policymakers and researchers alike, the continuous evolution of concepts and definitions can make implementation and evaluation difficult at best. And it can lead to frustration, particularly for the practitioner who has worked hard and "moved mountains" to implement a programme only to find out that the "field" no longer considers the effort to be "state of the art" or "best practice."

3. Realistic expectations regarding system wide impact
There seems little doubt that restorative justice conferencing can impact in transforming the lives of at least some victims and offenders. What are reasonable expectations regarding system wide impact? Many administrators point to the time demands of conferencing approaches and state flat out that there will never be enough resources to handle all the cases in conferencing approaches. A continuing debate within systems that are taking restorative justice seriously is what kinds of cases and participants are best suited for conferencing. Some will argue that the least serious cases are best suited while others will contend just the opposite is true.

Perhaps it is unrealistic to expect any massive shift in the numbers of cases being processed through conferencing strategies, but if restorative justice is indeed a process then it should be expected that system wide approaches to processing and interacting with offenders and victims should be noticeably different from the way they were. A useful dialogue, it seems to us, is an ongoing discussion among policymakers, practitioners and researchers on what we would expect to change and how to measure such change at the system level. Given our limited experience of raising these questions in a few communities, we expect that responses will range from changed philosophies and attitudes, to changed methods of processing and documenting cases, to changed ways of working with offenders and victims. That thinking and discussion is likely to lead to a continuum of restorative responses or services which is anchored in the context of security and available resources.

4. Widening the net
As with any good idea or well intentioned programme or process, there continues to be concern that the programme or process is not simply being used to enlarge the system's social control capacity. Many conferencing programmes are supposed to divert individuals, often youth, from the formal processing of the traditional system. The question remains whether the majority of these participants suffer more sanction under the diversionary programmes than they would have if such programmes had not existed. A corollary question also must be answered: to what extent, if any, is there substantial positive service and outcome to both the offender and victim which balances off any net widening effect. Obviously, to some observers nothing would balance off net widening.

5. Equal justice and opportunity
A justice and corrections response is typically faced with how to apply scarce resources to a broad population. Why and how are some offenders offered "innovative programmes"
and more opportunity for resources to come to bear on their family and community networks than others? As long as restorative justice conferencing approaches are not sufficiently abundant to offer to each offender or victim, then that decision-making process determining who has the opportunity and who does not needs to be scrutinized carefully by policymakers, practitioners and researchers to be certain that bias does not become a determining factor.

**Research Issues**

1. **Factors that foster satisfaction**

Understanding participant satisfaction with the conferencing process and outcome is central to determining to what extent conferencing is meeting some of the fundamental goals of restorative justice. Researchers, along with practitioners, need to continue ferreting out what factors contribute to participant satisfaction. On the whole, victims as well as offenders are satisfied with their experiences in these programmes. We know that what is important to one participant may not be as salient to another so there are many factors which potentially contribute to satisfaction levels. It seems to us that continued exploration of these factors may contribute to further programme development and refinement. If it is important, within a restorative justice framework, to remain sensitive to victim, offender and community needs and responses, then satisfaction and the factors influencing it is a fruitful research path to follow.

2. **Recidivism**

The study of recidivism is rife with danger. There are the familiar problems of what recidivism actually measures (offender behaviour, police and court practices, overall societal response to offenders and their families and communities) and what measures should be used (frequency of lawbreaking, seriousness of offence, level of sanction). In addition to these, two more are apparent. First, if a particular programme does not show a positive reduction in further offences, however measured, there is the danger that the programme will be scrapped while it is meeting other markers of success. Second, if a particular programme does show positive reduction in further offences, there may be a tendency to back off from other restorative goals such as victim and offender involvement in working out a solution, or voluntariness, or victim centredness. In other words, if recidivism is regarded as the most important desired outcome, it may become the only desired outcome and a "restorative" programme may over time be stripped of those qualities that make it restorative and that contribute to reduction in further offending.

We have long believed that simple "they did or they didn't recidivate" thinking overlooks examining the strengths and weaknesses of programmes and of offenders and their social networks. A more important question from a policy and programme perspective is "what factors contribute to an offender's likelihood of reoffending or not reoffending?" Attempting to sort out programme impact, offender characteristics, family impact, community impact and interaction with justice decision-makers will often require longitudinal, time consuming study, large samples and use of sophisticated multivariate...
statistical techniques (Coates, Miller and Ohlin, 1978). We believe that more work like that of Maxwell and Morris (2001) can offer much in addressing these pivotal questions.

3. **Describing the black box**

There is a continuing need to describe the proverbial black box, that is, the actual programme under study. Programmes may be called victim offender mediation, family group conferencing, or circles, but we cannot assume that these labels mean that programmes under each rubric are the same. One of the strengths of meta analysis is that it enables researchers to increase sample size by aggregating across a large number of programmes. And these meta analyses have much to contribute to the field. However, they cannot replace the ongoing evaluative studies upon which they depend. And these latter studies must continue to provide rich qualitative description of what is actually happening in the programme as well as tell the stories of victims and offenders. If we lose the story of the programme, of the victim and of the offender, then we have lost the heart of restorative justice.

4. **Diversion, widening the net, costs**

As noted above under policy issues, questions regarding diversion, widening the net and costs need to be pursued. Some may argue that conferencing is so inherently valuable that one need not be concerned about wider systemic impact. We believe that policymakers and administrators have a legitimate responsibility to raise these critical questions and to pursue answers. Data is sparse and mixed at this point.

5. **Setting up programmes**

An area of study seldom pursued is that of the process of establishing restorative justice conferencing programmes. Yet, it is just this kind of information that is desired by groups and jurisdictions thinking about setting up a victim offender mediation programme, or a family group conferencing programme, or a community circle council. In a recent study of six Oregon counties (Coates, Umbreit and Vos, 2001), it was this programme development lens that showed how each programme worked with similar yet very different local conditions and expectations to establish a victim offender mediation programme. The resulting programmes, in some instances, were strikingly different, reflecting those contrasting local conditions. Yet each county had a viable victim offender mediation option available to the court/corrections system.

**Conclusion**

Just as interest in restorative justice conferencing is growing within the justice arena so is the body of empirical knowledge collected to evaluate, shape and refine conferencing. Involving victims and offenders and community members in talking about the impact of the crime and developing a plan to repair the harm is yielding, for the most part, positive responses from participants. The vast majority of participants find the experience satisfactory, fair and helpful. In a number of jurisdiction rates of restitution completion have climbed. And offenders going through conferencing approaches often have lower
levels of re-offending than they did before or than compared with a similar group of offenders who did not go through conferencing.

Studies reviewed here range in rigor from exploratory to experimental random assignment designs. More questions need to be pursued and broadened, but given the empirical evidence generated over the past twenty-five years or so and across many countries, it seems reasonable to say that restorative justice conferencing strategies do contribute to increased victim involvement and reparation, to offenders taking responsibility for their behaviours, and to community members participating in shaping a just response to law violation.

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The Impact of Restorative Justice Conferencing: A Multi-National Perspective


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IDEOLOGY AND COMMUNITY: THE COMMUNITARIAN HI-JACKING OF COMMUNITY JUSTICE

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Abstract
This article aims to explore the ways in which the concept of community is utilised within criminal justice. The argument will be made that Amitai Etzioni’s communitarian ideals underpin the current application of the concept at a political and policy development level. Etzioni’s communitarianism offers a vision of community where social harmony is engendered through a careful balance of individual rights and responsibilities. This article will provide a critical analysis of this vision by questioning both its philosophy of community and the application of some of its ideas in the field of community justice. The concern is that an increasingly moralistic invocation of individual responsibilities has hi-jacked the concept of community and threatens to subvert community justice.

Introduction
The application of the concept of community to criminal justice is not new. Even before the birth of the modern penitentiary the community was seen as playing a vital role in the public spectacle of punishment (Foucault, 1977; Ignatieff, 1978). Since the early 1960s the use of the term has proliferated to community-based punishments, community policing, community crime prevention, community safety and so on. Crawford (1997: 44) suggests that during the 1990s the term became a ‘policy buzz word’. Whilst few would argue with this suggestion what is less clear is what is meant when politicians and policy makers refer to community. Willmott (1987) has noted that a reference to community:

...can conceal more than it reveals, and is often intended to. Those advocating a new initiative, and similarly those attacking or defending a particular point of view, often invoke the community in support of their case, without making it clear which community they mean or in what sense it is likely to be affected (Willmott, 1987: 2).

Community justice is no exception to this. Although it is a comparatively new term with an ongoing debate as to its meaning, Williams (2002) provides a succinct overview of its
characteristics. Similarly, Altschuler (2001) strongly equates community justice with the principles of restorative justice. What is less clear is what notion of community is being invoked and whether this invocation represents a particular political ideology. This article will therefore attempt to explore the ideological values attached to the political utilisation of community.

To do this, a brief summary of the process of ‘responsibilisation’ and the devolution of responsibility from the state to the community will be outlined (Garland, 1996; 2001). Following on from this a discussion of the relationship between New Labour and the communitarian movement in the United States (Etzioni, 1995; 1997) will be undertaken. This will demonstrate New Labour’s ideological commitment to the communitarian concern with rights and responsibilities. Communitarianism will then be outlined before going on to question the appropriateness of New Labour’s communitarian vision. Finally, the implications of this communitarian ideology will be explored before concluding that a highly politicised notion of community threatens to subvert the principles underpinning community justice.

The Devolution of Responsibility

In broad terms community justice refers to informal neighbourhood justice and increased citizen participation in crime related matters (Altschuler, 2001). This entails the involvement of a large range of individuals and community groups working in partnership with the statutory agencies to help deliver a more inclusionary form of justice. It is often held up as a viable alternative to an increasingly retributive, exclusionary and managerial conventional justice (Williams, 2002). As such it advocates reintegrative processes (Braithwaite, 1989) that address the harm caused by offending without stigmatising the individual. Restorative justice would therefore be a good example of community justice. In essence community justice believes that justice should be administered from within the community, involving the participation and co-operation of community members. If this process is to be successful it demands that the community must take some responsibility for crime control. This is what is meant by the devolution of justice: the devolution from state to community for crime control responsibilities.

The devolution of justice involves what has been referred to as ‘strategies of responsibilisation’. Garland (1996) suggests that these strategies reflect one of the ways in which the state has adapted to its inability to control high crime rates in modern or late modern society. Essentially, Garland (1996) argues that the normality of high crime in contemporary societies undermines the myth that the state is able to ensure ‘security, law and order, and crime control within its territorial borders’ (Garland, 1996: 448). On the one hand the state pursues what Garland refers to as ‘adaptations’ whilst on the other it behaves as if in denial of the problem. Garland identifies five adaptations. The first is what he refers to as ‘the new criminologies of everyday life’ which presumes the normality of offending in modern societies rather than a more orthodox explanation that assumes criminality is a type of deviation. The second is the ‘responsibilisation strategy’ which seeks to devolve criminal justice responsibilities from the state:
Its key phrases are terms such as ‘partnership’, ‘inter-agency co-operation’, ‘the multi-agency approach’, ‘activating communities’, creating ‘active citizens’, ‘help for self-help’. Its primary concern is to devolve responsibility for crime prevention on to agencies, organisations and individuals which are quite outside the state and to persuade them to act appropriately (Garland, 1996: 452).

The third is ‘adapting to failure’ which describes how the statutory agencies have had to modify themselves to cope with the increased demand on their services. The fourth is ‘defining deviance down’ which effectively decriminalises some petty offences and reduces the sanctions associated with others. This then relieves the burden on the system. The fifth is ‘redefining success and failure’. This involves altering the criteria by which success and failure are measured.

In his more recent work, Garland (2001) reiterates and elaborates on this perspective, arguing that the sovereign state can no longer provide security or social control for its citizens without devolving power and responsibility to the community:

In the complex, differentiated world of late modernity, effective, legitimate government must devolve power and share the work of social control with local organisations and communities (Garland, 2001: 205).

Garland (1996, 2001) provides a structural explanation for the state’s need to redefine both the nature of the crime problem and where responsibility for its prevention lies. Arguably, community justice could be said to be one of the manifestations of this redefinition. Although Garland (1996; 2001) clearly identifies the impetus and desirability for the devolution of responsibility, the ideological direction behind contemporary ‘appeals to community’ (Crawford, 1997) is left unexplored. This will now be considered in an effort to determine the ideological assumptions that underpin how the devolution of responsibility is disseminated.

**New Labour, New Ideology?**

In 1997 the Labour Party rose to power after eighteen years in opposition. Since this time there has been persistent speculation regarding the ideology and motivations of New Labour. This section aims to explore the New Labour rhetoric of ‘rights and responsibilities’ and its focus on building ‘strong and safe communities’ (Labour’s Manifesto, 2001). The intention is to demonstrate that New Labour’s efforts to engender individual responsibilities derive, in part, from a communitarian ideology developed in the United States by Amitai Etzioni (1995; 1997).

Over the last 200 years there has been significant discussion of ideology. The most prominent and enduring discussion probably dates back to Marx and Engels (1965) who argued that ideology was a shared set of ideas or beliefs that reflected the interests of the ruling class. Such ideologies therefore provided a distorted image of the world that was
used to justify the subordination of one group by another. There has been significant elaboration on the early works of Marx and Engels (Mannheim, 1960; Althusser, 1969; Gramsci, 1971) but in essence they remain within the Marxist tradition. Whilst the tensions between ideology, power and conflict may well remain a central concern to discussions of ideology, the aim here is to explore whether New Labour has a set of shared ideas or beliefs, and if so, what are they?

Over the last five or six years Tony Blair and New Labour have repeatedly talked of the need to balance individual rights with responsibilities. This emphasis is apparent within both their general policy framework and their criminal justice rhetoric. For example, the 2001 Labour Manifesto states:

> We all know the sort of Britain we want to live in – a Britain where we can walk the streets safely and know our children are safe. We have a ten-year vision: a new social contract where everyone has a stake based on equal rights, where they pay their dues by exercising responsibility in return, and where local communities shape their own futures (Labour Manifesto, 2001: 31).

The implication of this is that a lack of responsibility is somehow to blame for society's ills. In his pamphlet, *The Third Way: New Politics for the New Century* Blair (1998) reiterates this theme calling for the need to create a strong civil society, based on a balance of rights and responsibilities.

In addition to the rhetoric of New Labour, Anthony Giddens (1998; 2000) has significantly contributed to the development and formation of 'The Third Way'. His two influential texts concern themselves with the political, economic and social challenges of contemporary society. Within them Giddens details the 'death of socialism' in the light of the neo-liberal domination of the Thatcher-Reagan administrations. As a result of the impact of these New Right ideologies the traditional left had to modernise in an effort to respond to both electoral pressures and a shift in the political landscape. Giddens (1998) views 'The Third Way' as the basis from which social democracy can be renewed. Within this context, Giddens refers to the need to reinvest in the civil society, a society where there are 'no rights without responsibilities' (Giddens, 1998: 65). Underpinning this assertion is the belief that 'The Third Way' requires:

> a new social contract, appropriate to an age where globalisation and individualism go hand in hand. The new contract stresses both the rights and responsibilities of citizens. People should not only take from the wider community, but give back to it too (Giddens, 2000: 165).

Whilst by no means the total extent of Giddens' (1998; 2000) commentary, his two texts are peppered with references to rights and responsibilities and the importance of community in providing a locus in which these rights and responsibilities are practised.
What this suggests is that there is, at least, a set of ideas underpinning New Labour's policies. Tony Blair's notion of the 'stakeholder' society strongly resonates with the 'no rights without responsibilities' mantra. Giddens (2002) responds to the criticism that New Labour exists in an ideological vacuum by arguing that it may well have done itself harm by asserting 'what counts is what works' (Giddens, 2002: 36), a position that suggests New Labour has no ideological basis for the advancement of policy. This 'what works' principle is heavily infused within current criminal justice reform (Crow, 2001; Underdown, 2001) and is based on the idea that improvements to the criminal justice system should be led by examples of best, or most effective, practice (Chapman and Hough, 1998).

The ideological ambiguity of such an approach can be used to refute the notion that New Labour is ideologically driven. Yet this is at odds with the commitment to community and civil society promoted in the rhetoric and vision of New Labour. However, there is enough evidence to suggest that there is a New Labour ideology underpinning the development of community, namely strategies of 'responsibilisation' and community participation in crime control (Garland, 2001). The growth of restorative justice and parenting orders are examples of such strategies. These are complimented by an approach to community safety that vigorously endorses a zero-tolerance stance on anti-social and disorderly behaviour (McLauglin, 2002).

Crawford (1996; 1997), Levitas (1998) and Nellis (2000) have argued that this approach broadly reflects a communitarian ideology. This relationship has been confirmed by Giddens (2000). Recent public statements from the Prime Minister also suggest a continuing commitment to rights and responsibilities. His suggestion that child benefit should be removed from parents who fail to ensure their children attend school (The Observer, May 5th 2002) is but another example in a long list of policy suggestions that attempt to impose individual responsibilities through the threat of sanctions. If indeed New Labour draws some of its ideas from communitarianism and given its particular salience to notions of community justice, a closer inspection of the communitarian ideology is in order. This will provide a platform from which to consider how the concept of community is understood and applied by New Labour.

The Communitarian Vision

Communitarianism (MacIntyre, 1981; Sandel, 1984; Taylor, 1985) originally began with a critique of neo-liberal philosophies developed by the likes of John Rawls (1971), Frederick Hayek (1960) and Robert Nozick (1974). In response to a neo-liberal conception of justice, an ongoing debate between the two opposing paradigms of liberalism and collectivism was rekindled. On the one side the liberals keenly support the supremacy of the market and the rights of the individual as the only fair and equitable method of distribution. They see the autonomy and freedom of the individual as a fundamental prerequisite to the good society. They believe the only way to guarantee this is to reduce state interference to a bare minimum and allow the market free reign in the allocation of goods and resources. The political representation of this ideology is referred to as the New Right although there is also a strong neo-conservative element contained within this
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paradigm (Levitas, 1986). The New Right is characterised by a belief in laissez-faire capitalism, market freedom and individual liberty.

It is in response to this approach that communitarianism has developed (Kymlicka, 1989). The liberal belief in the importance of the individual and the liberal assertion that the human race is essentially selfish and self-seeking is strongly contested by communitarians. Unlike liberals, communitarians:

- make descriptive claims about the nature and essence of persons, arguing that individuals are social creatures whose identity is shaped by their community;
- Secondly, communitarians make normative claims and defend the value of the community, public participation and civic values;
- Thirdly, communitarians make a meta-ethical claim about the status of political principles and they eschew liberalism’s universalism, arguing that correct values for a given community are those that accord with the shared values of that community (Caney, 1992: 273-274).

Essentially, communitarianism refutes the liberal conception of the self and the market as the most important components in society. As a political philosophy communitarianism asserts that the real self is not autonomous but constituted through interactions with the community. Further, it argues universal laws are not pertinent to societies in which each community’s view of rights will be relative to their circumstances (Kymlicka, 1989). Communitarianism stresses the importance of the community in shaping individual ideas and practices and upholds the values of social obligation and civic behaviour.

Within the communitarian movement there is a number of competing paradigms. Hughes (1996) distinguishes between the ‘moral authoritarian’ version espoused by Amitai Etzioni (1995; 1997) and the more radical ways in which communitarianism has developed. Hughes (1996) identifies three alternative communitarian agendas: new local governance; radical egalitarianism; and restorative justice. Each of these approaches veers away from Etzioni’s (1995; 1997) ‘moral authoritarianism’ whilst maintaining a belief that communities are the medium in which the good society can be realised.

Arguably it is Etzioni’s (1995; 1997) communitarianism that most strongly reflects current New Labour values. As Driver and Martell state:

Labour increasingly advocates conditional, morally prescriptive, conservative and individual communitarianisms at the expense of less conditional and redistributorial, socioeconomic, progressive and corporate communitarianisms (Driver and Martell, 1997: 43).

Etzioni believes that American society has developed an unhealthy pre-occupation with individual rights and liberties at the expense of responsibilities. This leads Etzioni to
advocate a regeneration of community life concerned with balancing individual freedoms
with responsibilities:

If there is no civil order we risk a police state. We must aim for a moral
dialogue and agreement on what is right. We cannot leave everything to
the state. We must take responsibility in our families and communities

It is Etzioni’s (1995) political ‘vision’ that New Labour has latched onto (Crawford, 1996).
For Etzioni (1995) it is the decline of community that is responsible for the decline of
public morality. As such he sees the revaluation of families and schools as the
fundamental community institutions that can lead to the regeneration of public morality
and the civil society. For this to be achieved Etzioni (1995) also argues that there needs
to be a moratorium on individual rights so that the equilibrium between rights and
responsibilities can be restored.

Hopefully this brief discussion of communitarianism highlights the origins of the
movement and the relevance of Etzioni’s (1995; 1997) vision to the earlier debate
regarding the ideology of New Labour. This is important as it underpins New Labour’s
normative commitment to community. This commitment delineates both New Labour’s
assumptions regarding the nature of community and its ideas about what a community
‘ought’ to look like. Community is therefore the mechanism that protects against
normlessness and social disorder. The good society can be realised by creating
communities in equilibrium, where rights and responsibilities carry equal weight.

The Problem of Community

Amitai Etzioni’s (1995; 1997) version of communitarianism extols the virtues of
community and its capacity to ‘shore up moral values’ (Etzioni, 1995: 30-33). These ideas
appear to influence New Labour’s ideology and provide a platform from which it can
progress a strategy for crime control. Yet because this is a vision of what communities
ought to look like there is very little acknowledgement, either within Etzioni’s or New
Labour’s communitarianism, of the possible problems that accompany appeals to
community.

A range of sociological, anthropological and political observations call into question the
exclusively positive imagery engendered by the invocation of community. These
observations concern the exclusionary potential of communities and their restrictions on
individual freedoms. Whilst Etzioni (1995) does disavow authoritarian and puritanical
communities, these are seen as contrary to the communitarian vision and easily put to one
side. Etzioni (1995) does distinguish between coercive and suasive communities, the first
being the unacceptable pressure of community, the second, legitimate pressure to conform
to shared moral values. However, Etzioni (1995; 1997) is less clear how coercive
communities are to be protected against or at what point shared moral values oppress
those who do not, or cannot, conform.
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Kymlicka (1989) expresses concern about the communitarian assertion that there are shared ends that can be utilised to realise the common good for all groups in society. His concerns are twofold. The first is that communitarians have never provided examples of such shared ends, arguably because there probably are none. The second is with the communitarian belief that these shared ends can be found in historical practices and roles. Kymlicka (1989) argues that these practices and roles are founded on the interests of propertied white men. Even when women, ethnic minority groups and the working class are allowed to participate, these practices remain gender, race and class coded:

The problem of historically marginalized groups is endemic to the communitarian project. As Hirsch notes, ‘any “renewal” or strengthening of community sentiment will accomplish nothing for these groups’. On the contrary, our historical sentiments and traditions are ‘part of the problem, not part of the solution’ (Hirsch, 1986: 424 cited in Kymlicka, 1989: 87).

In a similar vein, Crawford (1996) points out that Etzioni (1995) fails to appreciate the ways in which ‘community membership and the process of inclusion and exclusion’ (Crawford, 1996: 253) are bound to the power structures embedded in society. He goes on to say that the process of inclusion is accomplished by reference to outside ‘others’. In this sense Crawford reiterates Anthony Cohen’s (1985) interpretation of community which includes the ways in which members of one group define their identity by distinguishing themselves from members of other ‘putative groups’ (Cohen, 1996: 12). For Crawford (1996), the failure to acknowledge that discourses of community are intrinsically linked to assessments of ‘us and them’, inclusion and exclusion, ignores the difference between the social and the communal and invites bigotry and racism. This point is reiterated by Hughes (1996) who argues:

‘community’ used in this context sounds like a prescription for bigotry and parochialism, given its attempt to resolve the complexity and antagonisms of an increasingly diverse population through the ideological device of a ‘regressively imagined people’ which excludes ‘aliens’, ‘lone mothers’ an the ‘underclass’ from its naturalised ranks (Hughes, 1996: 25).

The general point is that communitarians do not adequately engage with the ways in which individuals construct their sense of identity or the implicit power structures that exist within communities. To clarify, it is not that Etzioni (1995) is unaware of the potential dangers of community but that he sees these dangers deriving from extreme forms of coercion and repression rather than integral to the nature of community. Exclusion, competition and power differentials exist both within communities and between communities (Crawford, 1997).

In addition to this Zygmunt Bauman (2001) has commented on the relationship between community and freedom. Bauman (2001: 1) essentially argues that community represents
‘a warm place, a cosy and comfortable place’. It offers security and safety. Within it there is no danger, no strangeness and no ill will. Community stands for:

> the kind of world which is not, regrettably, available to us – but which we would dearly wish to inhabit and which we hope to repossess (Bauman, 2001: 3).

Community therefore signifies a type of utopia. A medium in which conflict and risk are swept away. Unfortunately Bauman (2001) argues that to obtain the security available from community there is a cost. This cost is the loss of freedom and autonomy. For Bauman (2001) this cost is inoffensive up until the point at which community is realised. He sees both freedom and security as equally valuable but cannot imagine a society that manages to provide both:

> we will never stop dreaming of a community, but neither will we ever find in any self-proclaimed community the pleasures we savoured in our dreams (Bauman, 2001: 5).

Bauman (2001) sees no resolution to this dilemma but asserts instead that we must not deny its existence lest we face the consequences. The significance of this discussion to Etzioni’s (1995; 1997) communitarianism is that it demonstrates a further obstacle to his conception of the good society. Firstly, the notion that community represents an unobtainable yearning suggests that the communitarian vision is striving for an impossible goal and secondly, that should it ever be realised, then it would not fulfil our needs, as individual autonomy would be compromised.

Bauman (2001: 4) also issues a warning that there is a difference between the ‘community of our dreams’ and the ‘really existing community’. The ‘really existing community’ is a collective that masquerades as the real thing and demands the submission of personal freedoms in return for security. Non-compliance with these demands is considered tantamount to treason and therefore social pressure is applied to relinquish autonomy for the common good. Yet this does not provide community but rather:

> a besieged fortress being continuously bombarded by (often invisible) enemies outside while time and again being torn apart by discord within; ramparts and turrets will be the places where the seekers of communal warmth, homelessness and tranquillity will have to spend most of their time (Bauman, 2001: 15).

This vision appears to have a particular salience to the current New Labour claims that we can create stronger, safer communities by engendering individual responsibilities. The intention is that we develop communities that will foster shared moral values that apply subtle forms of social control; instead we will sacrifice freedom and autonomy by shutting ourselves away within ‘gated communities’ (Garland, 2001). The implications of this, and
other concerns, is that by pursuing an ideologically infused notion of community, New Labour will subvert the potential of community justice to deliver a viable alternative to conventional justice.

**Hi-jacking Community Justice**

So what is the relevance of this discussion to community justice? Community justice aims to engage the wider community in an effort to address the harm caused by crime (Nellis, 2000). This involves attempts both to strengthen communities and engender responsibilities (Williams, 2002). These ideas resonate very strongly with the New Labour invocation of ‘rights and responsibilities’ and rebuilding communities. Yet it is not the same thing. Whilst both may well contain a commitment to community the roots of this commitment stem from very different sources.

Community justice promotes processes and practices that involve the community in both criminal justice and the control of crime. Whether it is restorative justice, community safety and crime reduction or increased partnership, the common purpose of such practices is to involve the community to address the problem of crime (Altschuler, 2001). Altschuler (2001) strongly equates restorative principles with community justice. He argues that community justice therefore represents an alternative to retributive justice, which has traditionally focused on individual treatment and largely ignores the needs of victim. Community justice is fundamentally concerned to:

1) repair the damage or harm experienced by individual victims and the community, and 2) to meet the needs of victims, communities and offenders (Altschuler, 2001: 28).

These restorative principles (Johnstone, 2002) represent an attempt both to empower communities and obligate offenders through negotiated settlements. The aim is to encourage individuals to take responsibility for the harm caused by crime (Crawford, 1997). Thus community justice is concerned with the damaging consequences of criminality for the social harmony within communities. Utilisation of the community acknowledges its status as a ‘victim’ of the anti-social consequences of offending and its ability to respond to such anti-social behaviour.

In contrast, New Labour’s appeals to responsibilities and community appear to be premised on quite a different set of ideals. For New Labour, it is by developing a particular form of community that crime, and other social problems, can be overcome. Community justice is concerned with the needs of communities and the ways in which they can be used to help prevent crime (Cohen, S. 1985; Garland 2001). New Labour is concerned with engineering a particular notion of community that will enforce moral standards and individual responsibility (Levitas, 1998).
Some of the problems associated with this commitment to community have already been mentioned. The failure to acknowledge the potential problems of pursuing strong community means that rather than create widespread social inclusion minority groups could be further excluded from:

the organisations and communities of which the society is composed and from the rights and obligations they embody (Room, 1995 cited in Oppenheim, 1998: 13).

New Labour has called for communities to take responsibility for crime repeatedly over the last five years. Jack Straw, the former Home Secretary called for the end of the ‘walk on by’ society where we ignore our responsibilities to confront low level disorder and anti-social behaviour (The Guardian, February 19th 1999). Underpinning these calls is a persistent rhetoric regarding the importance of family and its ability to defend itself against anti-social behaviour (Levitas, 1998). These features have manifested themselves in a package of legislative reform that attempt to engender responsibility in parents. The 1998 Crime and Disorder Act introduces a range of such measures including local child curfews, final warning cautions, parenting orders and reparation orders.

These reforms share a common theme in that they are designed to engender parental responsibility for juvenile delinquency. This is coupled with public statements from the Government regarding the value of traditional two parent families (The Guardian, 5th November 1998). This reflects an ideological agenda concerned with developing strong communities via the social institution of the family.

New Labour’s concern with strengthening communities by encouraging responsibilities shares much of the same terminology and rhetoric as community justice. Yet, it has become increasingly concerned with the enforcement of individual responsibilities rather than the careful fostering of them. Roy Hattersley notes this controlling tendency in the recent debate regarding the withdrawal of child benefits for parents whose children persistently truant:

The idea that rights are part of a bargain – which the state can make dependent on obedience to rules that it invents from time to time – is obvious nonsense (Roy Hattersley in The Guardian, May 6th 2002: 14).

The message seems to be one of compliance with an ideologically driven notion of moral virtue. Community is seen as the vehicle for these virtues and as such, the prize to be won. Underpinning this are the limitations associated with Etzioni’s (1995; 1997) notion of community. Bauman’s (2001) warning of the unacceptable demands made by ‘really existing community’ in the name of the ‘true community’ seems particularly apt to the New Labour rhetoric that we must respond to anti-social behaviour in a certain way and bring our children up under certain conditions.
The danger of this is that the concerns of community justice are subverted to a political ideology that appears to share the same values but is in fact based on a notion of community that is distinctly different. Instead of a community justice concerned with addressing the harm and needs of communities; instead of a community justice that pays careful attention to the nature of the communities it engages with there will be a community justice that panders to a political doctrine. A doctrine that pays little heed to the dangers of over-dominant communities, and is directed not at more inclusive and effective justice, but at the enforcement of moral values. It is in this sense that community justice is in danger of being hi-jacked by a communitarian agenda.

Conclusions: Disentangling Community Justice

Etzioni’s (1995; 1997) ‘moral authoritarian’ communitarianism appears to underpin much of New Labour’s ‘responsibilisation’ rhetoric. Whilst there may be a myriad of different perspectives contained within communitarianism (Hughes, 1996; Driver and Martell, 1997) the Government’s appeals to community are increasingly driven by moralistic overtures that demand compliance with socially prescribed norms. Whether it be parenting, schooling or law and order we must all take responsibility for ensuring the stability and security of our communities. To do this we must conform to New Labour’s vision of community. We do not have jurisdiction over the sort of community we wish to belong to; this is decided for us. Unfortunately this is based on an ideological notion of community that pays scant accord to the exclusionary, socially restrictive aspects of strong communities.

Community justice provides the ideal avenue for instilling New Labour’s moral values. Not only does it employ similar notions of responsibilisation and community empowerment, it promotes these notions with the laudable intention of reducing the harm caused by crime. To prevent community justice becoming the vehicle by which New Labour promotes its ‘moral authoritarianism’ there must be an attempt to disentangle the different ideological strands that make appeals to community. This must be done so that community justice can define its own conception of community. It may be that proponents of community justice will be entirely at ease with the New Labour agenda but this should not be taken for granted. Without such a debate there is little basis for either critically assessing or defending against alternative perspectives.

Crawford (2000) points out that criminologists have too long ignored normative questions about the sort of society we want to live in, and the sorts of institutions we ought to be building. If this is true perhaps we have also failed to recognise when other people are making normative claims. Community justice must therefore be concerned both with its own normative position and that of others. Otherwise the danger remains that it could be unwittingly subverted to someone else’s agenda.
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Community Bail or Penal Remand? A Critical Analysis of Recent Policy Developments in Relation to Unconvicted and/or Unsentenced Juveniles

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Abstract
This paper presents a line of argument which holds that contemporary youth justice policy formation and practice development is located within a highly-charged political environment. Despite the ‘modern’ emphasis on rationality and evidenced-based approaches, it is further argued that political calculations invariably exercise significantly more influence over youth justice policy, than ‘what works’ priorities and the messages that can be drawn from research and practice. This primary argument is applied and developed by focusing explicitly on bail and remand processes in relation to unconvicted and/or unsentenced juveniles. Underpinned by recently completed research, the analysis illustrates the means by which promising developments in policy and practice have been reversed and abandoned in order to suit the political moment.

Dealing with youngsters on remand has proved one of the most difficult problems of criminal policy in recent years. Everyone agrees that jail is no place to hold unconvicted school children (Towler, 1999: 20).

One of the biggest challenges we face is how to deal with young offenders who believe that [they are] untouchable, who flout the law, laugh at the police and leave court on bail free to offend again. The public are sick and tired of their behaviour and expect the criminal justice system to be able to keep them off the streets... That is why I am today closing the loophole in the law that allows these young persistent offenders to walk away from court on bail to create further havoc in the community’ (David Blunkett, speaking as Home Secretary, cited in Home Office, 2002: 1).
Rational Justice v Populist Punitiveness: A strained context for policy development

In recent years a discourse, underpinned by rationality, has apparently exercised substantial influence over criminal justice policy and practice. ‘Evidenced-based’ approaches, ‘what works’ priorities, and ‘best value’ imperatives, are now pervasive. ‘Programmes’ are routinely evaluated and ‘outputs’ are assiduously monitored. On one level, this is to be welcomed. Indeed, it is difficult to quarrel with any tendency which seeks to apply evidence (drawn from practice experience and research and evaluation findings) to the processes of policy formation and practice development.

The construct of rational, evidenced-based, criminal justice policy has not escaped critique however. Muncie (1999a: 287-289) has observed that such ostensibly rational processes are actually fixed within a context of ‘public sector managerialism’ and, as such, ‘rationalised inputs and outputs’ are conceptualised in ‘scientific and technical terms’ and ‘evaluations’ are ‘dominated by notions of productivity, task remits and quantifiable outcomes ... [whereby] evaluation comes to rest solely on indicators of internal system performance’ which blinds it to the wider environmental context. Equally, the methodological rigour of some ‘what works’ research has been queried (Fraser, 2000), and the extent to which political imperatives can serve to circumscribe, and even obstruct, the research-policy relation has been detailed (Goldson, 2001). It is this latter point which primarily concerns us here.

Since the election of New Labour in 1997, youth crime, ‘disorder’ and ‘anti-social behaviour’ have been conflated, and have come to assume quite profound political significance. Moreover, there is an extraordinarily wide-ranging and deep-rooted populist belief that only ‘tough’ responses can be legitimised - which is invariably expressed through a crude retributive penology. This process has been examined in detail elsewhere, and such examination does not bear repeating here (Goldson, 1999 and 2002a; Muncie, 1999b; Pitts, 2001). Suffice to note that a political consensus appears to have congealed within which complex youth crime issues are reduced to vulgar sound-bites, underpinned, as they frequently are, by promises of firm action and punitive intervention. When the political moment demands, the raw edge of such populist punitiveness is exposed and rationality is subverted:

When the spin-doctors decree that a burst of ... toughness is required from government ministers, the precepts of scientific management go “onto the back burner”... For all the talk of radicalism, newness and rationality, the default setting of New Labour’s new youth justice is “discipline” and, faced with electoral anxiety, it is to discipline that it reverts (Pitts, 2000: 10-11).

In this way youth justice policy formation in particular, and criminal justice policy more generally, is strained: stretched as it is across ‘contradictory rationalities’ which move it ‘from one discursive register [rationality] to another [populist punitiveness]’ and produce ‘incoherence and contradictions’ (Garland, 2001: 191). Indeed, the foundations upon
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which contemporary youth justice policy and practice rests - irrespective of the strength of its 'evidence-base' - is ultimately conditioned by political calculations, however short-term they might be. Recent policy developments in relation to bail and remand practice for unconvicted and/or unsentenced juveniles illustrate this general principle particularly well.

**The Vexed Question of Bail or Remand:**

**Three core concerns**

The question of which unconvicted and/or unsentenced juveniles should be released into the community on bail (with or without imposed conditions), and which should be remanded into local authority accommodation (open or secure) or penal custody, whilst awaiting trial or sentence, is complex, long-lived and contentious. With regard to striking a balance within such deliberations, it has been suggested that three broad concerns have been prominent over the last forty years or so: first, the rights of the accused person; second, protection of the public; and third, the administration of justice (McIvor and Warner, 1996: 1). There is a substantial body of evidence in relation to each of these core concerns and taken together it signals a direction for the development of rational policy formation and practice development. For the purposes here the evidence-base will be briefly surveyed.

**I. Human Rights and Humane Treatment**

Every juvenile involved in criminal proceedings in England and Wales has a general right to bail, thus all courts are legally obliged to consider granting bail at every hearing. Further to consideration however, bail may be refused and in such cases the Court is initially guided by the Children and Young Persons Act 1969:

where-

(a) a court remands a child or young person charged with or convicted of one or more offences or commits him (sic) for trial or sentence; and

(b) he is not released on bail,

the remand or committal shall be to local authority accommodation’ (Section 23(1), Children and Young Persons Act 1969).

Furthermore, in certain circumstances - when the conditions of Section 23(5) of the Children and Young Persons Act 1969 Act (as amended by the Crime and Disorder Act 1998) are satisfied - the court may make a secure remand. The criteria for a secure remand are complicated, and we shall simply summarise them (for a more detailed discussion see Ashford and Chard, 2000: 221-284). The criteria comprise two parts.

**Part 1 provides that a juvenile must be:**

- charged with, or have been convicted of, a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment of fourteen years or more, or
- have a recent history of absconding while remanded to local authority accommodation, and
be charged with, or convicted of, an imprisonable offence alleged or found to have been committed while s/he was so remanded.

Part 2 provides that:

- the court must be of the opinion that only remanding her/him to a remand centre or prison would be adequate to protect the public from serious harm from her/him.

Up until very recently (see later) both parts of the Section 23(5) criteria had to be satisfied before the Court was able to subject a juvenile to a secure remand, which in the case of boys (but not girls) aged 15-16 years, usually means prison custody (see Goldson, 2002b). Thus (notwithstanding its shortcomings) statute has served to provide safeguards in respect of the rights of unconvicted and/or unsentenced juveniles and, in the case of 15-16 year old boys, to protect them from unjust penal remands. Furthermore, in addition to the statutory provisions outlined above, the Human Rights Act 1998, together with international standards, conventions, treaties and rules (most notably the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the United Nations Convention on the Rights of the Child), also serve to protect the rights of unconvicted and/or unsentenced juveniles (for a fuller discussion see Goldson, 2002b: pp. 45-50).

Such safeguards are particularly important in the case of those 15-16 year old boys who, as we have noted, are eligible for penal remands. This is so not simply to protect their rights with regard to bail, but also to protect them from the inhumane treatment and damaging conditions that invariably characterise the remand wings of Young Offender Institutions, as repeatedly reported by Her Majesty’s Chief Inspector of Prisons:

The picture for young prisoners on remand ... is extreme... These statistics describe a group of young people ... isolated, victimised and disturbed. Many of them have experienced significant trauma and disruption in their domestic lives and their schooling, and are without the personal and social support they need to overcome their difficulties and begin to manage their lives and relationships. Many are mentally, emotionally and morally immature... Before any work can be done to sensitise them to the needs of others and the impact of their offending on victims, their own needs as maturing adolescents for care, support and direction have to be met (Her Majesty’s Chief Inspector of Prisons, 2000: 25).

2. Protection of the Public and Community Safety

It is not just the rights and treatment of unconvicted and/or unsentenced juveniles that are at stake with regard to the bail-remand question however. Broader concerns in relation to public protection and community safety are also especially relevant, and we have no difficulty in recognising this. Indeed, the behaviour of some juveniles is such to place their own safety, and/or the safety of others at significant risk, and in these circumstances the restriction of their liberty whilst awaiting trial or sentence is very probably quite legitimate. However, by drawing upon the evidence-base we would make four qualifying observations in this respect.
First, as we have just noted, if the human rights and humane treatment of juveniles are to be upheld in cases where it is thought necessary to restrict their liberty whilst awaiting trial or sentence, then the dangerous and damaging nature of prison custody cannot be regarded as fit for purpose.

Second, it would be quite erroneous to assume that all juveniles who are held on prison remand wings whilst awaiting trial or sentence, necessarily pose a serious risk to the public. Indeed, for many years there has been ample evidence to suggest that juveniles who present no such serious risk are routinely held in prisons on remand. In ‘interpreting the facts’ for example, Nacro (1994:10) concluded that ‘it seems likely that custody is not essential for all those currently remanded’, and more recently the Children’s Society (2001: 11) has reported that ‘around one-quarter of the children’ surveyed by the National Remand Review Initiative during a twelve month period ‘were remanded [in prisons] for property offences’. Similarly, Her Majesty’s Chief Inspector of Prisons (2000: 20) has commented upon the very substantial number ‘of prisoners held on remand [who] do not receive a custodial sentence’, and after analysing the court disposals in relation to 603 juveniles who had been held in prison on remand the Children’s Society (2001: 19) noted that ‘around one-third of children received community sentences after the period on remand (and) a further 5.6% of children had their charges withdrawn or were found not guilty’. Taken together, analyses of pre-penal remand charges/offences and post-penal remand outcomes, suggest that substantial numbers of juveniles are being held in prisons unnecessarily and unjustly when account is taken of the ‘serious harm’ legal criteria that we referred to earlier.

Further concerns of this nature are evident in respect of geographical variations in penal remand practice. A recent survey in Wales for example revealed that ‘remand into custody rates vary significantly across each local authority’ (Nacro Cymru, 2000: 2). Having studied 506 remand case returns from 19 local authorities in Wales, the researchers found that some authorities produced no custodial remands whilst others produced almost three times the average. Similar patterns of geographical variation in England have been attributed to inconsistent remand/sentencing cultures within and between the courts, and the varying quality of remand management and bail support services made available by local Youth Offending Teams (Goldson, Peters and Simkins, 2001; Goldson and Peters, 2002). In such circumstances it is the quality of the available resources, as distinct from the nature of the alleged/actual offence/s, which is likely to determine the nature of the court’s bail-remand decision.

Third, whilst penal remands might serve to provide short-term relief to the public in respect of the most serious juvenile offenders, the medium-term prognosis is significantly less comforting and, in many respects, such remands expose the community to heightened levels of risk. Indeed, locking-up juveniles is spectacularly ineffective in terms of preventing future offending. Furthermore:

such children invariably leave prisons not only more damaged but also more angry, more alienated, more expert in the ways of crime, more likely to
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commit more serious offences. In fact more of everything that the children themselves, and the community at large, need much less of (Goldson, 2002b: 159-160).

Fourth, in precisely the same way that it is mistaken to assume that penal remands provide for enduring public protection and community safety, it is equally misplaced to suppose that community bail supervision is ineffective in safeguarding the public from continued juvenile crime. Indeed, carefully executed and appropriately targeted bail supervision projects and remand management strategies have signalled some promising approaches, which are evidenced by the findings from our recently completed regionally-based research together with those drawn from nationwide meta-analyses, a point to which we shall shortly return.

3. The Administration of Justice

Balancing the human rights and humane treatment of unconvicted and/or unsentenced juveniles, with the imperatives of public protection and community safety, comprises a significant set of challenges for the justice system therefore. Furthermore, the primary question of community-based bail or penal remand, also embraces related issues with regard to the administration of justice. Some of these issues - including rates of compliance with community-based bail supervision programmes, ensuring attendance at court hearings, and curtailing the commission of further offences whilst on bail - will be discussed shortly. For now a more fundamental question of justice - ‘racial’ justice - is considered.

Despite the legal duty that applies to all ‘persons engaged in the administration of criminal justice’ to ‘avoid discriminating against any persons on the grounds of race’ (as provided by Section 95(1)(b) Criminal Justice Act 1991), together with the non-discrimination provisions of the international conventions, standards, treaties and rules referenced earlier, racism is endemic throughout the youth justice system (Goldson and Chigwada-Bailey 1999). With regard to the bail-remand question this ‘corrosive disease’ (Macpherson, 1999: para 6.34) not only means that unconvicted and/or unsentenced black juveniles are more likely (than their white counterparts) to be remanded in penal custody, but they also face the prospect of less favourable treatment and conditions whilst in prison. Indeed, Ashton and Grindrod (1999: 177) have reflected upon the ‘hugely disproportionate use of prison custody being made in respect of black children... which was particularly marked in the case of those remanded to custody’, and similar findings have been reported more recently by Goldson and Peters (2002). Equally, Her Majesty’s Chief Inspector of Prisons has commented upon the ‘brutal’ treatment and conditions that confront ‘minorities’:

I have long been concerned that the biggest single problem facing the Director General [of the Prison Service] is the culture that still pervades parts of the prison system ...It is a culture that adopts an attitude to prisoners that is not only judgmental, but too often includes physical and mental
One of its most obvious manifestations is in attitudes to minorities, of whatever kind, who are treated not as equal but as unequal because of their minority status. There are ... minority groups whose inequality of treatment concerns me - ethnic or cultural minorities (Her Majesty’s Chief Inspector of Prisons, 2001: 16).

**Bail or Remand? Key messages from the evidence-base**

To summarise therefore, the bail-remand question is steeped in complexity. The Court must attempt to balance the rights of the unconvicted and/or unsentenced juvenile on one hand, and the imperatives of public protection and community safety on the other. We have no desire to understate such complexity. However, the above review of evidence reveals some key messages which, taken together, signal a direction for a rational set of policy and practice responses to the difficult primary question. Indeed, the inhumanity of penal remands for juveniles, the inconsistencies and injustices which routinely characterise their application, and the ineffective (at best) and iatrogenic (at worse) impact of such remands comprise messages which warn against their use. Add to this the extraordinary financial costs incurred by the practice of incarcerating unconvicted and/or unsentenced juveniles (see Goldson and Peters, 2000: 8), and the relative effectiveness of community-based bail supervision (ibid: 18-20), and the presumption in favour of bail for all but the few most intractable and serious cases begins to look compelling. Indeed, this appeared to be the conclusion that the government, through the Youth Justice Board for England and Wales (YJB), had reached.

**Rational Developments in Bail Policy and Practice**

The YJB was established by the Crime and Disorder Act 1998, and in its first annual report it addressed the question of bail and penal remands:

Spree offending by a few young people on bail creates more victims. Young people failing to appear in court disrupt the business of the court, undermining respect for the legal process. Half the children and young people remanded to custody never receive a custodial sentence, but the lives of the young people and their families are disrupted at a substantial cost to them and to the taxpayer (Youth Justice Board, 1999: 22, emphasis added).

The YJB’s statement was seemingly informed by research evidence and practice experience: ‘spree offending’ was attributed to a ‘few young people’; the injustice of many penal remands was recognised; and the damaging nature of such responses together with their inordinate expense was also acknowledged. Moreover, the YJB appeared to respond rationally.

In December 1998 local youth justice services and the emerging Youth Offending Teams (YOT’s - which were established by statute in all areas of England and Wales in April 2000) were invited to apply for Development Funding - allocated and administered by the
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YJB - in order to establish, develop and bolster community-based bail supervision schemes for unconvicted and/or unsentenced juveniles. The three primary objectives for such schemes were set by the YJB itself:

- to reduce offending by young people on bail;
- to reduce delays to youth justice caused by young people not attending court;
- to reduce unnecessary remands of children and young people to custody (Youth Justice Board, 1999: 22).

The Chairperson of the YJB, Norman Warner, reported that £13 million had been allocated to support such bail supervision initiatives in 80 areas of England and Wales (ibid: 5). Furthermore, by 2000 the YJB reported that it had:

- funded 122 Bail Supervision and Support Schemes... [which] ensure that offending on bail is reduced, that the individuals appear in court as required and the time spent on bail is spent constructively. The schemes also provide alternatives to custody guaranteeing proper community supervision' (Youth Justice Board, 2000: 14, emphasis added).

Not only did the YJB substantially expand the number of community-based bail supervision projects therefore, but it had little hesitation in trumpeting their effectiveness.

This pattern of expansion and reported success continued, and by 2001 the YJB announced that it had:

- funded 128 bail supervision schemes that prevent offending on bail and ensure the young person returns to court... [and] remands to secure accommodation and custody were reduced by about 20 per cent during 2000-1 (Youth Justice Board, 2001a: 12).

Indeed, such was the YJB’s confidence in the efficacy of community-based bail supervision that it ‘expected to see wider usage in the future’ (ibid: 12), and Norman Warner personally opined that ‘remands to custody have dropped as courts find alternatives more appropriate’ (Warner, 2001: 2). A similar view was also expressed by Lord Bassam, Home Office Minister, who explained to the House of Lords that:

- It is with considerable delight that I say that bail supervision and support schemes funded by the Youth Justice Board are having a beneficial impact on the total remand population. I understand that it is down 22 per cent from April 2000 to January 2001. We believe that is real progress... and is something which all members of your Lordships’ house should congratulate the Board on achieving (cited by Pilkeathley, 2001: 6).
Even if it could be argued that the YJB’s central claim of success for the new schemes was a little premature, its commitment to replacing penal custody with community-based bail supervision (in all but the most serious cases) was unequivocal. Moreover, the YJB was apparently determined to obtain hard evidence with regard to the ‘performance’ of the bail supervision initiatives measured against their three primary objectives, and a condition of the Development Fund grant-aid was that the providers of each new scheme had to commission independent research and evaluation.

We undertook three research-based evaluations of bail supervision schemes in the North West of England, each over the period 2000-2002. Such evaluations proved difficult, and to some extent the research process was impeded by four factors. First, the compressed and accelerated time-scales within which each of the schemes had to be established and become fully operational. Second, the need for centrally designed methodological instruments (in order to provide consistency for the purposes of national meta-analysis), which whilst understandable, also served to hamper the extent to which research methods could be tailored to suit the specificities of individual schemes. Third, the enormous pressure on practitioners and operational managers to establish data-gathering systems in addition to attending to project implementation and development within a fast-moving policy and practice context. Fourth, and related to the third factor, the associated and inevitable problems encountered by practitioners with regard to accurately collecting routine data and making it available to their research and evaluation partners.

Notwithstanding such confounds however, the research findings provide grounds for believing that the YJB’s stated confidence in community-based bail supervision schemes for those unconvicted and/or unsentenced juveniles who would otherwise face the prospect of penal remands, is not unfounded.

By aggregating the data in respect of 90 unconvicted and/or unsentenced juveniles engaged within the three schemes which we evaluated the following became apparent:

- 52% of the juveniles complied with all aspects of their bail supervision programmes and a further 34% complied with some aspects of their programmes;
- 75% of the juveniles attended all of their court appearances during the period of bail supervision. Only 3% of juveniles were breached resulting in the termination of bail supervision as a result of failure to attend court;
- 87% of juveniles were not convicted of any additional offences during the period of bail supervision, and only 7% had bail supervision terminated on the basis of further offending;
- The bail supervision schemes made a tangible impact on reducing the numbers of unconvicted and/or unsentenced juveniles remanded in prison custody.

Owing to the four impeding factors outlined above, together with the limited duration of such evaluative research, such findings need to be interpreted cautiously (for a fuller discussion see Goldson, 2001). However, despite the need for such interpretive caution, the same findings also provide encouraging indicators in respect of the efficacy and
potential of key aspects of community bail supervision, and they accord with some of the early findings to emerge from the meta-analysis of such schemes across England and Wales:

The additional support and assistance provided by schemes in ensuring that young people attend court appears to be having a significant impact and high success rate... Some areas report a significant impact in reducing offending... [and whilst] it is difficult to apportion the exact impact that bail supervision and support has had... it is likely that it has been a contributory factor in reducing the remand population (Nacro Cymru, 2001: paras. 16.2, 16.19 and 16.23)

**Rational Developments in Remand Policy and Practice**

With regard to policy and practice responses to unconvicted and/or unsentenced juveniles the YJB did not limit its focus to community bail supervision alone. Indeed, no sooner had the Board been established when it also turned its attention to the question of penal custody in general, and penal remand in particular. Again, the evidence-base ostensibly informed the Board’s position, and it advised the Home Secretary that ‘there is clear evidence that the current arrangements for juvenile secure facilities are highly unsatisfactory’ (Youth Justice Board, 1998: 12, emphasis added). In many respects the YJB was simply amplifying an earlier message from the Home Office comprehensive spending review of secure and penal facilities for juveniles which had:

little positive to say about the present arrangements for ... remanded and sentenced children and young people. Regime standards are inconsistent and often poor... fundamental change is needed to the way in which the secure estate is planned and managed if it is to meet the aim of providing accommodation and regimes appropriate to the age and maturity of the young people held in custody on remand or under sentence and which addresses their offending behaviour and wider developmental needs (Summary of the Government’s response to the Home Office Comprehensive Spending Review of Secure Accommodation for remanded and sentenced juveniles, July 1998 - cited in Youth Justice Board, 1998: 14).

Furthermore, such observations echoed the authoritative report findings from Her Majesty’s Chief Inspector of Prisons that we considered earlier, which raised serious concerns about the conditions and treatment endured by juveniles on penal remand. Thus, with such weight of evidence behind it, the YJB implemented a root-and-branch reform of the ‘juvenile secure estate’ and insisted that institutional regimes must be based upon ‘clear principles’, that there ‘should be a structured and caring environment’ and that penal institutions ‘should be safe and secure’ (Youth Justice Board, 1998: 3). Accordingly the YJB assumed primary responsibility for planning, contracting,
commissions and purchasing ‘placements’ within the re-configured ‘juvenile secure estate’ in April 2000.

Within the wider context of institutional reform the YJB has placed significant emphasis on the importance of appropriate ‘placements’. Indeed, in its initial advice to the Home Secretary the YJB identified a number of principles that would inform the ‘placement’ of juveniles within the ‘secure estate’:

- young people should be placed in accommodation, which most effectively meets their needs and the risk of harm that they pose to themselves and others. The accommodation should be appropriate for their age, emotional maturity and level of vulnerability... placements for remanded and sentenced juveniles should be based on a comprehensive assessment of their needs and risks completed to defined national standards... juveniles should be accommodated as close to their home community as possible... those on remand... have particular needs as a result of the anxieties and uncertainties of being held on remand for which they may require considerable support (Youth Justice Board, 1998: 26-27, emphasis added).

This provides for a tidy rationality within which the placement process takes account of the specific ‘vulnerabilities’ of juveniles and matches individuals - on the basis of ‘comprehensive assessment’ - with the most appropriate institution within the ‘estate’. Furthermore, special attention is afforded to juveniles on remand in recognition of their ‘particular needs’.

In order to operationalise this process the YJB has established a centralised national Placements Team which takes the strategic overview of the contracted ‘placements’ within the ‘juvenile secure estate’ and - in conjunction with the locally based Youth Offending Teams - allocates places accordingly (Youth Justice Board, 2001b). However, the ‘placement’ process is characterised by competing tensions and complications and given that the overwhelming majority of available places are located within the Prison Service sector, it is inevitable that such tensions and complications will be most evident with regard to the pressing demand for placements in non-prison service provision. Moreover, the law (quite correctly) not only precludes the placement of all children under the age of 15 in prison custody, but it also severely limits the similar placement of 15-17 year old girls. Thus the determinations of statute mean that these constituencies of children have ‘first call’ on the places within Secure Training Centres and/or Secure Accommodation. This inevitably reduces the options available to the Youth Justice Board’s Placement Team, thus leaving 15-16 year old boys (irrespective of their needs and vulnerabilities) facing the distinct probability of a prison sector placement.

Despite such tightly circumscribed ‘placement’ options and associated system pressure, and notwithstanding the wide-ranging problems associated with the reform of the ‘juvenile secure estate’ (Goldson, 2002b), there is a clear three-dimensional rationality discernible
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within the YJB strategy. First, bolstering community bail supervision and in so doing reducing the number of juveniles being held on penal remand. Second, introducing targeted assessment and ‘placement’ measures to match juveniles with the most appropriate secure or penal setting, and minimising the placement of particularly vulnerable juveniles in prisons. Third, improving the treatment and conditions of those juveniles who are held in prisons. Moreover, such a strategy is informed and legitimised by evidence. Early results from research and evaluation appear to indicate that the expanded nexus of community bail supervision schemes, whilst not without certain shortcomings, is making commendable progress in meeting its primary objectives. Equally, whilst many problems remain in relation to the ‘juvenile secure estate’ and, indeed, with the very practice of holding juveniles in prison per se, there is little doubt that concerted effort and substantial financial resources have been invested to improve conditions, raise standards and aim to enhance effectiveness. However, as we indicated earlier, all such progress and rational justice is ultimately bracketed within the visceral context of political calculation, and as Jerome Miller (1991: xi) once astutely observed ‘in the inane world of corrections, nothing fails like success and succeeds like failure’.

Return Populist Punitiveness: The Implementation of Section 130 Criminal Justice and Police Act 2001

We introduced this paper by arguing that contemporary youth justice policy formation is subject to political opportunism and populist punitiveness. As such, when the political moment demands, evidence-based practice and rational justice is superseded by ‘tough talk’, authoritarian posturing and ‘knee-jerk’ reaction. The most recent ‘moral panic’ was triggered by a widely (and sensational) reported rise in inner-city street crime (essentially amounting to mobile telephone thefts), and re-engaged with the construct of repeat or persistent offending by some juveniles. The ‘panic’ was fuelled by the interjection of senior police officers, and it soon made the headlines with some of the leading mass-circulation newspapers demanding action to ‘lock up the child thugs’ (Daily Express, February 26, 2002). This particular wave of moral indignation and populist punitiveness showed no sign of abating and the government reacted. On April 16, 2002, David Blunkett, the Home Secretary, outlined the Government’s intention to implement provisions of legislation which serve to substantially relax the secure/penal remand criteria in respect of unconvicted and/or unsentenced juveniles.

We outlined the criteria for a secure/penal remand - provided by Section 23 of the Children and Young Persons Act 1969 (as amended by the Crime and Disorder Act 1998) - earlier. The most significant point to re-emphasise is that part 2 of s.23(5) Children and Young Persons Act 1969 provides that ‘the court must be of the opinion that only remanding him/her would be adequate to protect the public from serious harm from her/him’. However, Section 130 of the Criminal Justice and Police Act 2001 - to be implemented in ten areas from April 22, 2002 and all of the remaining areas of England and Wales from September of the same year, following the Home Secretary’s
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announcement - effectively replaces the ‘serious harm’ test with a ‘persistence’ condition. In other words the court no longer has to be satisfied that a secure remand is necessary to ‘protect the public from serious harm’, and can instead institute such a remand if it regards it necessary in order ‘to prevent the commission of imprisonable offences’. This potentially opens the floodgates, and it is likely to lead to a very significant increase in secure and penal remands for unconvicted and/or unsentenced juveniles.

Such policy regression not only amounts to spectacular folly - in undermining the developments in community bail supervision and the reforms of the ‘juvenile secure estate’ that have been introduced by the YJB at considerable public expense - but, by increasing the numbers of remanded juveniles and imposing further strain on the system of locked-institutions, it will inevitably drive down standards in terms of institutional treatment, and expose such juveniles to dangerous conditions. ‘Doubling-up’ in cells is almost inevitable. Prison staff will be stretched as staff-juvenile remand prisoner ratios become more strained. Unconvicted and/or unsentenced juveniles will be neglected and will suffer. Human rights and humane treatment will be compromised. Protection of the public and community safety will be weakened in the medium-term. The administration of justice will become more problematic. Evidence and effectiveness will be buried, as the government once again sacrifices rational justice on the populist altar.

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WORKING WITH YOUNG ADULTS SENTENCED TO LIFE

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Abstract
The authors of this article were the keynote speakers at a conference carrying the above title, held at HM YOI Moorland, in October 2000. The purpose of the conference was to concentrate on young adults sentenced life, in their own right, rather than as a sub-group of adult life prisoners. The speakers and conference members together examined, as this article will do, the traumatic backgrounds of some of these young men, the policy gap in addressing their special needs, and the constituents of a groupwork intervention which helps them to own their offending.

Introduction
At the time of the conference, a total of 150 young adults were serving Life sentences at Prison Service establishments. The conference focused upon the 140 young adult males forming the majority of this population, who were housed in Young Offender Institutions (YOIs). This figure sub-divided into 27 serving ‘Detention for Life’ (a discretionary sentence for a grave, usually violent, offence committed between the ages of 10 and 17 years inclusive); 64 serving ‘Detention during Her Majesty’s Pleasure’ (the mandatory sentence for murder committed between the ages of 10 and 17 years inclusive); and 49 serving ‘Custody for Life’ (encompassing both discretionary and mandatory sentences for murder or other grave crimes, committed between the ages of 18 and 20 years inclusive).

Whilst these young offenders constitute a significant group, they are small in number, compared with the corresponding population of 4,240 adult Life prisoners upon whom public and political attentions tend (with some notable exceptions such as the young killers of James Bulger) to focus. The conference was an explicit attempt to redress this balance by concentrating upon the criminogenic factors underlying violent and murderous offences by young men, the policy framework surrounding them, and the most effective means of addressing both their offending and their development needs as young adults serving long sentences within the YOI regime.
Criminogenic Factors

As the ‘global village’ becomes more accessible, so it becomes increasingly apparent that violence, both physical and mental, is embedded in prevailing social cultures. Its contemporary primacy is to be found in prolific military/religious architecture, statues, art, music, film, press and television coverage of more than 300 wars since the end of World War Two. As one commentator remarks:

Children and nations have been brought up to believe that battles, and wars, and military heroes, conquests, invasions, sieges and campaigns, constitute ‘the history’ of a people (Elliott, 1988: 125).

Against this backcloth, physical violence between family members is frequently seen as normal for many societies (Gelles and Straus, 1988). Towards the end of 2001, for example, the British Government (in contrast to the Scottish Parliament) took the decision not to make the disciplining of children by physical chastisement illegal. Child abuse, of all kinds, whilst prominent in the media, is nevertheless so discomforting a subject that involved professionals attract criticism both for not stepping in quickly enough, and for interfering too readily. Thus are violence and attitudes to it, at both macro and micro levels, modelled for young people growing up in today’s world. Such models provide confusing messages for them, as they pass through the identity-forming stages of adolescent development, during which they move towards the acquisition of a moral framework, against a complexity of social, cultural, psychological and other influences.

Whether they are exposed directly or indirectly to such influences, not all young people will themselves become violent. Such a development is liable to depend on a whole range of other variables, sometimes known as ‘protective’ or ‘mediating’ factors. They include biological predisposition, socio-economic opportunity, environmental factors, or a new and significant attachment figure who may help to mitigate against earlier stressful or traumatic experiences. (Garmezy, 1981; Boswell, 1996). Prospective longitudinal studies, which have the best chance of providing relevant, accurate data on those who do and do not later offend violently, have been relatively thin on the ground in the UK. The well-known Cambridge study of 411 South London boys did identify a sub-group of 50 who were convicted of violent offences. It concluded that the best predictors of violence included physical neglect by parent(s), harsh and erratic discipline by parent(s), and separation from parent(s) principally because of parental conflict (Farrington, 2000). The study also identified a number of other variables, including low family income, unemployment, large family size, and a parent with criminal convictions.

A retrospective study of 200 violent young offenders, detained under Section 53 of the Children and Young Persons Act 1933, showed that 72% had experienced abuse (emotional, physical, sexual, or combinations thereof) and that 57% had experienced significant loss in their earlier lives; 35% had experienced both phenomena (Boswell, 1995). A study of 20 young murderers portrayed unstable family backgrounds with
depressive mothers and violent, sometimes alcoholic, sometimes psychopathic, frequently absentee fathers; half had been physically or sexually abused and harsh treatment generally was a feature (Bailey, 1996). A review of research studies on attachment, attunement, loss and deprivation led another author to conclude that “violent aggression may be the reciprocal manifestation of a damaged attachment system” (De Zulueta, 1993: 78).

In the USA, an important retrospective longitudinal cohort study produced the prediction that ‘early childhood victimisation has demonstrable long-term consequences for delinquency, adult criminality and violent criminal behaviour’ (Widom, 1989: 164). Retrospectively, also, perinatal difficulties, accidents, injuries, parental psychopathology and social deprivation, were found to be significant contributory factors in incarcerated violent youngsters (Lewis et al., 1979). Dodge et al. (1990) also found neurological damage incurred as a result of abuse, to be a factor in later uncontrollable behaviour.

This necessarily brief review of relevant research highlights the stress factors which are frequently in play in the lead-up to violent and murderous acts by young people. Many, such as abuse and loss, are of a traumatic variety; others, such as poverty, social deprivation and anti-social modelling, may form more of a structural framework which further exacerbates existing stressors. As one of the authors has previously suggested:

> What seems important for this group of offenders is that criminal justice professionals adopt what might be termed a ‘welfare-conscious justice’ model (Boswell, 1996) where accurate assessment is attained through questioning and information gathering which takes into account pertinent research findings ….In intervention terms, the offender needs to be seen as responsible and accountable, rather than a helpless victim, and to be offered a systematic and consistent career plan with the ultimate aim of ceasing offending and enabling rehabilitation (Boswell, 1998: 206).

**The Joint Thematic Review**

In 1999, the Prisons and Probation Inspectorates published their first joint report, which focused upon people serving Life sentences (HM Inspectorates of Prisons and Probation, 1999). The review had been jointly conducted and written by Frances Flaxington (Probation Inspectorate) and Monica Lloyd (Prison Inspectorate). It was conducted because of general concern at the ability of involved staff to continue coping with rising numbers of these offenders, which had increased from 2339 in 1987 to 3721 in 1997. The review examined the whole of the ‘Lifer’ system from those charged with offences likely to attract Life, through the Life sentence itself, to those released on licence in the community. Its remit included the relatively small populations of women and young offenders, but time did not allow discrete studies of these populations. However, findings and comments relevant to the young offender group are extracted here.

The review began with Prison and Probation Inspectors holding meetings with people who were involved in this area of work, to seek their views and concerns. They included
prisoners’ rights and victims support groups and organisations. Standards were drawn up in order to establish clear expectations. For young Life prisoners these included:

“Appropriate preparations are made for transfer from secure to adult prisons and programmes are available to address, in particular, relationships and sexuality” (HM Inspectorates of Prison and Probation, 1999).

Postal surveys of prison and probation services were also conducted and visits made to 10 probation areas and 12 prison establishments, which included one YOI. Talks were held with governors, prisons officers, psychologists, probation officers and work instructors in prisons, and with managers and probation officers in the community. The records of prisoners were read on each of the visits, including 24 YOI files. It emerged, in fact, that 14% of the prison sample and 9% of the probation sample had been sentenced to Life under the age of 21 years. An important part of each visit was to meet with Life prisoners, including those who had recently received a sentence, those who had been in prison for many years, and those now in the community who no longer had to report to a probation officer because the supervision element of their Life licence had been suspended. These meetings included some who had been sentenced when they were under 21 years.

In respect of pre- and immediate post-sentence work, the review found that all those who had been sentenced to Life, even those now on licence in the community, retained vivid memories of the remand period. Women, and those sentenced as young people in particular, recalled their difficulties in coping with being in an institution, many for the first time in their lives. Provision for the preparation of pre-sentence reports (PSRs) in probation areas, for ongoing contact by probation officers, and for work in prison with this group, however, was variable. Crucial information, including PSRs and Crown Prosecution Service papers, was not consistently sent to prison-based staff needing to assess risk levels and criminogenic needs. Information required by YOIs for these purposes was sometimes difficult to obtain from Local Authority Secure Units (LASUs). The potential for effective multi-agency work in this arena was not being realised. Recommendations for these early stages focused upon the need for formal guidance and a co-ordinated plan of work for each Life prisoner that included allocation of a key worker and liaison with the home probation officer.

Inspectors were told by those who had come into prison as young people that they felt their emotional development had stopped at that point. Probation officers and a YOI governor, who described the emotional immaturity of those who had spent their adolescence in prison, identified the need for these long-term prisoners to learn about sex and relationships while in prisons. It is clear that staff have a crucial role model function here as well as adequate learning opportunities being provided within the YOI regime. This requires that a healthy environment is provided for young prisoners. The Prison Inspectorate uses four criteria in its model for this environment:

- That prisoners feel safe
- That they are treated with respect as human beings
That they are fully and purposefully occupied
• That they are able to address their offending behaviour and are helped to prepare for release

True healthy prison environments are learning media for responsible and considerate behaviour and, for young people growing to adulthood in prison, it is crucial that they experience positive environments which allow them to grow up to behave responsibly and to care for others. The review commented, for example, on the importance and successful implementation of anti-bullying strategies, as well as the need for young people to retain links with their families as they develop into adulthood. There was a reasonable take-up of the invitation extended to all families at the YOI visited to be involved in the initial induction board and sentence planning interviews.

In respect of preparation for transfer from a YOI to an adult prison, variable practice was again found. This is an anxious time for the young people concerned and they need information which will help them to know what to expect. Some examples of good practice had been found where a Lifer liaison officer from an adult women’s prison had visited young female Life prisoners to talk with them about life at the prison, and where inmates from an adult male prison had been taken to visit young male Life prisoners at their YOI. These practices were clearly working well and should be both developed and extended.

The review concluded that the prison service needed to ensure that:

All relevant information is passed from local authority homes to YOIs at the time of transfer; all young lifers transferring to adult prisons receive appropriate preparation; every YOI holding long-term prisoners should hold regular family days and involve families in the initial induction board and sentence planning reviews (HM Inspectorates of Prison and Probation, 1999: 71).

Very importantly it supported the need for dedicated resources to meet the different needs of young people serving Life, based on research and best practice. This included special training for staff to assist them to understand and manage adolescent and disturbed behaviour.

The Lifer Unit

The Lifer Unit has responsibility for implementing the recommendations of inspections and is taking forward some particular changes in the management of young Life prisoners. Its current title actually represents an amalgamation of the former Lifer Management Unit and the Lifer Review Unit whose roles had become blurred. The unit is now a liaison point with the Young Offender Group, holds liaison meetings with LASUs and juvenile YOIs, and has a dedicated case-working team to manage young Life prisoners. It has developed a new Life Sentence Plan (LSP) containing a comprehensive risk assessment,
long-term sentence planning targets, an improved sentence planning system and F 75 Progress reports. Recognising the specific needs of new young Life prisoners, it now seeks to provide information and support to those on remand, to ensure a period of stability and support following conviction, induction and preparation for transfer to First Stage Life Sentence establishments, and appropriate transfers which assist maintenance of family/community contact.

The prison estate is to be expanded to include more First Stage YOIs, all YOIs taking Life prisoners, places for ‘Two Strikes’ Automatic Lifers (Section 2, Crime Sentences Act, 1997), and open places for young Life prisoners. The provision of Offending Behaviour Programmes in YOIs is to be improved, and a psychologist is to be identified for every Life prisoner. Contact with outside agencies, such as Probation, Social Services and Youth Offending Teams is to be improved and proper preparation/induction for transfers to adult prison be provided. Young Life prisoners in Local Authority Secure Units are likewise to be prepared for their transfers to YOIs where the number of places for 15-17 year olds is to be increased.

Thus, following the Joint Thematic Review, a stronger framework of management of young prisoners serving Life is being put in place. In the meantime, YOI staff have been working in a range of ways to meet these inmates’ short and long-term needs. The Probation Department at HM YOI Moorland has, in particular, sought to provide a practice response which both addresses the early confusion of this offender group, and takes them into the challenging arena of understanding their offending and working to reduce their risk levels, taking into account the kinds of exhortations expressed earlier in this paper, for a research-minded approach.

The YOI Practice Response
Drawing on a series of relevant research findings, Probation staff at Moorland have devised a 30 week group programme known as the ‘Life Sentence Prisoners Group’ which has been running successfully since October 1999. (As yet, there is no specific accredited programme in existence for this group of offenders). On average 16 young men, at varying stages of sentence, complete each programme.

Groupwork programme rationale
The programme is a response to the fact that roughly one in ten of the Young Offender population (38) at Moorland is a young man serving a Life sentence. Lengths of time still to serve range from 30 months to potentially 18 years. The victim profile for the murder/manslaughter category includes strangers, friends, parents and children. Thus it is necessary constantly to bear in mind that staff are working with a spectrum of young men, ranging from those with a relatively low risk of reoffending to those with a complexity of risk factors:

All staff working with lifers should be aware of the ‘static’ risk factors that lifers present, such as those lifers with any criminal history being twice as
likely to reoffend on discharge than other lifers, and the ‘dynamic’ factors associated with the level of need in an individual case (HM Inspectorates of Prison and Probation, 1999).

Whilst making no assumptions about homogeneity, staff have identified two common purposes in working with this group. Firstly, it helps the young men sort out a great deal of confusion surrounding their offences. Secondly, and as a consequence, both they and the staff are better equipped to identify and address criminogenic needs which will enable all parties working together to draw up appropriate risk assessments to help determine considerations for transfer to open conditions and for subsequent release.

**Nature of the programme**

Because confusion, together with shame, anger, regret and repression, are common dynamics within these young people, the model for this group programme drew significantly upon staff’s experience of group work with sex offenders amongst whom similar dynamics exist, especially where the offence has culminated in the death of the victim. For this reason, staff aim for an affective content within the group - i.e. they focus on the emotions of these young people at the time of their offence, for frequently those emotions will still effectively be with them. In turn, they aim for an affective response from the young men. To put it crudely, in this group they want to hear about the blood, the bits of brain, the stab wounds, the snot, and the tears, to help them feel the damage they have done. This ‘feeling the damage’ is a profoundly uncomfortable state to be in and one which group members are usually keen to move through and beyond. Thus begins the process of effective change. As Canter observes, sexual abuse has much in common with other violent offences in its treatment of victims as objects, whether of desire or anger:

> From this view there is little fundamental difference between murder, rape, violent non-sexual assaults or child-molesting - all are onslaughts on other people. They may differ in the target or the consequences of their actions, but the central theme is the same (Canter, 1994: 241).

For those who have killed, however, this involves taking on an additional lifelong awareness:

> If you kill, you can never be reconciled with your victim and it is extremely rare for murderers ever to be reconciled with their victims' families and friends. From the day you are confirmed as a murderer, you are forever a murderer first, a person second (Cullen and Newell, 1999: 52).

Thus, in working with this group of young people, it is important to avoid labels such as ‘murderer’ and ‘lifer’. By so objectifying and dehumanising them staff can model what they have done to their victims. On the other hand, by helping to reinstate them with their individuality, staff model respect both for them and wider humanity. As Cullen and
Newell (1999: 164) also observe, 'In truth, the overwhelming majority of lifers, if treated with dignity, courtesy and respect, return these in full measure'.

Based on these understandings, staff introduce the option of enrolling onto the group in broadly the following terms:

We work a lot in the area of abusive behaviour. However, we do not work with 'Lifers', we work with prisoners serving Life sentences. What do you think the difference is?

We think that you must feel that the Criminal Justice System has branded you a 'Lifer', as thought there were nothing else to you. However, we work on the basis that there are lots of good points to you. There are lots of people who still love you, who think well of you, who remember you before your offence. You were also not abusive to everyone that you met.

However, it is clear that in one part of your personality, you have a set of problems that led you to decide to commit your offence(s) and this is the bit that we wish to focus on in this group.

**Developing victim awareness**

Offences which warrant Life sentences are, like most other offences, matters of cognitive dissonance - i.e. intellectually knowing something is wrong but behaviourally still going ahead and doing it. Those who find this is a difficult concept to grasp need only consider smoking, drinking and other health-endangering behaviours - and the attempts at minimisation that usually accompany them. In seeking to address these two factors in the Life Sentence Prisoners Group, staff aim to banish certain 'magic words' and substitute them with others. For example, they seek to remove the use of "it" as in "...when it happened.." and "only" as in "...there were only ten small stab wounds..". Their aim is then for the young men to begin to own their abusive behaviour, moving from "when it happened....." to "when I committed my offence".

In discussing victim objectification, Cullen and Newell (1999) identify a pattern of detachment leading up to the actual abusive event. This frequently has its roots in the earlier lives of these young men when they may have adopted dissociative states, to a greater or lesser degree, in order to survive the stresses identified in the above research review - abuse, neglect, loss, family conflict, social deprivation and so on. Asking them why they committed their offences is rarely productive. They need help to make these links, beginning with developing an understanding that their offending behaviour turned the people who were their victims into mere objects.

An exercise known as the 'Victim Grid' is used to engage the young men in this process. (Fisher, 1999). They are asked: "Describe your victim", "What was your relationship to your victim?" and "What did you feel about your victim?". A grid is then drawn up
around a stick figure victim which becomes covered in words such as hate, fury, revenge, low self-esteem, fear distrust, pain, drugs, abuse, power, control, alcohol, money, sex, loss. The group members are then asked to identify what they see first—the victim, the grid? The word ‘or’ is deliberately omitted. They invariably say that they cannot tell the difference.

For example, one group member stated that he had been unsettled by the fact that just before he attacked his elderly male victim who was berating him for the deficiencies of modern youth: “all I could think about was those people who had been nasty to me so many times before….” The grid showed him that his victim became, almost in an instant, a means for him to get back at all those other people. The young men tend to remember this exercise. Whilst they may not immediately grasp its full implications the process has served to make them think about their abusive behaviour and their victims in a different way, which is all that staff can ask of them at this time.

The journey to violence
Following this victim awareness work, the group members are asked to reflect on the journey from thinking about ‘it’ to doing ‘it’, that they have made in relation to their offences. This journey varies in length but all have made it, and so they are introduced to a range of models to help them understand this process. Initially they work with the ‘Four Steps to Abuse’ model, which relates to every individual act of abusive behaviour. (Finkelhor, 1986). The four steps involved are: motivation; overcoming internal inhibitors; overcoming external inhibitors; and overcoming the victim’s resistance.

The young men are asked to act out this model by referring to their previous offending, although it can still be used when referring to abusive behaviour for which they have not been convicted. They are required to ‘walk’ the four steps across the groupwork room carpet by mentioning every small element – written on small notes - that contributes to each stage. Whilst ‘the walk’ can be time consuming, ideally the carpet is littered with such notes and the young men gain a visual understanding of how they have given themselves permission to offend.

The ‘Cycle of Abuse’ (Finkelhor, 1986) is then introduced, to help the young men comprehend the pattern of their re-offending. They seem to find this exercise easier and quicker to grasp especially when, again ‘walking’ their pattern of offending, some of them comprehend that they were steadily increasing the pace of their offending both in its’ intensity and seriousness. What is important to remember and repeat is that such models focus specifically on the matter of choice as the basis of a person both committing an offence and repeating this illegal behaviour.

The function of violence
Having established the importance of this issue of choice, staff then begin to look at the function of violence in these young men’s offending. As mentioned earlier, minimisation will always feature, and this needs to be worked through first. Some group members will say “I only did it to defend myself” or “I only meant to push him away.” One member
maintained that he assaulted his victim as a result of provocation and that it was “kill or be killed” when threatened with a knife by his ultimate victim. If this seems like an understandable defence how is it that his victim was found to have seven stab wounds in his back? It is worth remembering that victims of serious and grave crimes will always be able to reveal something of their assailant, even when they are dead.

It is usually at this point that the concept of ‘instrumental’ versus ‘expressive’ violence is introduced to the group. Instrumental violence is a level of violence necessary to achieve a desired end - e.g. flight, restraint. Expressive violence is a level of violence far beyond that necessary to achieve an apparent aim - e.g. flight, restraint, defence. As a simple example, staff explain that an example of ‘instrumental’ violence is that used in the ‘control and restraint’ methods of the Prison Service - i.e. sufficient force to manage a violent prisoner and protect him from harming both himself and other people.

‘Expressive’ violence however, is what is frequently contained in the offences of the group members themselves.

This concept is explained to the young men by showing them the ‘Violence Flow Chart’ found in the ‘Duluth Aggression Model’ (Morran and Wilson, 1997) which is extensively used in the South Yorkshire Probation Service Domestic Violence programme. For the group's purposes, it is referred to as the ‘Escalator Model’ of violence. The reaction to circumstances and to provocation, the range of weapons used to inflict damage, can all be illustrated and comprehended through the use of this model. Very often, this exercise reveals what the young man saw as ‘the last straw’ leading to his explosion of violence.

It is highly common to find that, prior to their index offence, these young men have been involved in previous acts of violence or experienced intense negative emotions - e.g. bereavement. The ‘Escalator’ model aids the comprehension of a greater range of violence in the secondary crisis than in the first, because the physiological aspects of aggression are still present - i.e. adrenalin, together with the psychological elements of anger, fury, the rekindling and acting out of negative memories. This exercise is carried out by getting the young men to climb chairs and tables in order to illustrate the relative peaks and troughs of their emotional states. Rehearsal can lead to re-living and thus comprehending.

The final phase of the group’s work is an attempt to help the young men to understand not simply the process of the Risk Assessment procedures that they are subject to, but why it is there in the first place. All of them will want to talk about their ‘risk assessment’ and ask ‘What are my risk factors, boss?’ But it has become increasingly clear that they do not fully comprehend what all these terms mean, and that it is necessary to return to the issue of choice as the basis of these young men’s offending behaviour. In assessing them for exhibiting aspects of victim empathy it has to be remembered that, in the majority of cases, it is the young men who see themselves as the victims in their situations. To quote one young man: ‘It was just my luck that he was tall. If he had been smaller then I wouldn’t have stabbed him in the heart.’
**Emotional literacy**

Of relevance is that during the course of the groupwork experience, it has become increasingly evident that members exhibit an incredibly low level of emotional skill, in terms of their inability to identify or understand the concept of ‘thoughts, feelings and emotions’. Many of them begin by presenting as if they have just two emotional states - either “alright” or violent. There would seem to be clear connections between this lack of an emotional range, or ability to recognize ‘thoughts /feelings’, and to be able to put a name to them, and the subsequent level of ‘expressive violence’ displayed in their index offences. The problem about failing to recognize this important aspect of these young men’s functioning is again that staff do to them what they did to their victims. Just as they have ascribed objectification to their victims - i.e. forced upon them a status which is undeserved-is it possible that practitioners might also be in danger of objectifying these young men under the remit of the Risk Assessment process? How accurate is it, for example, to describe them as being ‘in denial’ about their offences when the obstacle may rather be one of emotional literacy?

As an example, one of the most disabling incidents on the group was when one member of staff, as a supposedly intelligent, articulate and sensitive Probation Officer, was asked, “What is an emotion?” At the time, he could not think of such a definition. The same young man also later asked “What is remorse and why do I have to show it”. This from a young man who until halfway through the group had genuinely not made the connection between the death of his father on the morning of his offence, his subsequent ‘coping’ reaction of drink and drugs, and the ultimate act of ‘expressive violence’ that led him and his co-defendant to murder one person and seriously injure another.

Hence, group-work staff aim to educate and inform these young men about risk by explaining both the difference and the connections between static and dynamic risk factors - the first being negative events for which they were not responsible, and the second being events for which they were responsible and can address. Again it is worth stating that if people who have committed serious abusive behaviour against another person begin to “feel the damage”, they will most likely want to do something about the damage that they have caused and the probable reasons behind it.

**Preparing for the future**

Furnished with these understandings, group members are subsequently asked to identify their own risk factors, and identify those of their colleagues, as taken from the list of risk factors contained in the Prison Service Life Sentence File. They also role play ‘Lifer Boards’ in which they ‘interview’ their group colleagues individually. The point of these ‘Boards’ is to conduct assessments of their colleagues’ ability to achieve transfer to another security category, secure release, or make clear from their colleagues’ presentation that more work needs to be done in order to demonstrate progress. The group members often display an ability to ask relevant, concise and demanding questions of the ‘Lifer’ in question.
As the group reaches its end, staff endeavour to draw up a ‘treatment profile’ for the young men - i.e. an identification of future areas of work that they need to carry out in order to maintain and demonstrate their progress. Initially, virtually all the young men have come to the group anticipating either a ‘certificate’ on completion, or that attendance of the group will represent the total amount of work they will be required to do in relation to their index offence. However, what the groupwork most importantly does is to lead to the identification of the second stage of work that needs to be carried out to make these young men safer.

A common recommendation for this ‘second phase’ is for individual one-to-one work with these young men, where models for understanding cyclical patterns of self-destructive behaviour can be utilised. Quite often, also, an element of future work with these young men will be bereavement counselling, both for what they have done, for personal losses they may have incurred, and for their own sense of loss for their ‘incarcerated years and youth’. However, in this area, at least, they have the opportunity to get their life back together whilst their victims cannot.

There is nothing sophisticated or intricate about this work carried out at HMP/YOI Moorland. But it does appear to be yielding changed attitudes both in the young men and in the system that holds them, though, in the nature of this offender group, it will be some time before this can be fully tested in terms of reconviction rates. In essence, the aim is simple enough. It is to help these young men begin to own their offending, and start to become safer as they progress through their custodial career. As a consequence, it is hoped to send into the adult estate articulate “Young Lifers” who know what they need to do to confront their offending and reduce the risk of repeating it. For, at the very least, they owe that to their victims and to their victims’ families.

**Conclusion**

The conference described herein followed a period when, partly as a consequence of the litigious history surrounding the young killers of James Bulger, regimes for young prisoners serving life had come under unprecedented judicial and public scrutiny and had, in some respects, been found wanting. The Joint Inspectorate Report further highlighted the failure of a range of bodies to recognise that these young people had special needs which surrounding policy had failed to address, because it was subconsciously directed towards adult lifers. The conference has been one step in the process to gain recognition for these needs. The response of the Lifer Unit to establish an explicitly dedicated team for this group, together with improving the dialogue between the LASUs, the Juvenile estate and the YOIs, will now provide a strategic base for further policy development. Thus, it may be hoped that the previous culture, which saw a Life sentence as somehow starting once a young adult inmate had entered the adult estate, will give way to one in which the criminogenic needs of such prisoners are addressed from the point of sentence in YOIs. As a consequence, intervention with them may be expected to be more effective, leading to an increasing number of inmates reaching tariff expiry dates at which they are fit to be released back into the community without endangering the public.
References


COMMUNITY JUSTICE FILES NO 2

Jane Dominey, De Montfort University

Sex Offenders

The Home Office publication Findings 164 ‘Reconviction rates of serious sex offenders and assessments of their risk’ by Roger Hood, Stephen Shute, Martina Feilzer and Aidan Wilcox examines the reconviction rates of serious sex offenders four and six years after release from long (determinate) prison sentences. The findings ‘challenge some preconceptions about the risks posed by sex offenders and have implications for sentencing and parole policies’.

Fewer than 10% of the study group were reconvicted, although those who were committed very serious crimes. The proportions reconvicted varied according to the type of victim, with those imprisoned for a sexual crime against a child victim not in their family being most likely to be convicted of a further sexual offence (about a quarter). All of those who were reconvicted had been identified as ‘dangerous’ or ‘high risk’ by at least one member of the Parole Board panel, but 9 out of 10 judged ‘high risk’ were not reconvicted (false positives). Prominent among these false positives were:

- offenders against children within their own family
- deniers (only one ‘high risk’ denier was reconvicted of a sexual offence)

An actuarial risk assessment instrument produced fewer false positives than the Parole Board members but more false negatives (i.e. those not identified as ‘high risk’ who were even so reconvicted).

The authors therefore suggest caution in assuming that the lengthy imprisonment of those identified as ‘high risk’ could effect a marked reduction in reconvictions for sexual offences. They also question whether those who deny (and therefore may not accept a need for treatment) pose a particularly high risk of reconviction. Concluding that reconviction rates are in general substantially lower ‘than most people appear to believe’, the authors draw attention to the obvious limitation of any study that has to rely on reconviction – especially for offences where the true incidence is believed to be much higher than the conviction rate.
Jane Dominey

Evaluating Cognitive Behavioural Work with Prisoners in England and Wales

The Home Office publication Findings 161 ‘An evaluation of cognitive behavioural treatment for prisoners’ by Caroline Friendship, Linda Blud, Matthew Erikson and Rosie Travers describes one of the largest treatment outcome studies of this kind in Europe. The study found that two-year reconviction rates for groups who had undergone cognitive skills treatment were up to 14% lower than matched comparison groups. Based on the number of prisoners expected to complete programmes in 2002-2003, this represents nearly 21,000 crimes prevented. Much evidence of the effectiveness of cognitive behavioural programmes hitherto has come from North America and this study confirms that the results of US and Canadian research ‘can be applied to a UK offender population’. The authors recognise that this is important and timely evidence for the Prison Service and the Probation Service.

Publications in the Findings series are available from Research, Development and Statistics Directorate, Communication Development Unit, Room 275, Home Office, 50 Queen Anne’s Gate, London SW1H 9AT. Phone 020 7273 2084. Findings 164 and Findings 161 can be downloaded from http://www.homeoffice.gov.uk/rds/rfpubs1.html

Race Equality in the Probation Service

The Home Office’s Race Equality Scheme, a plan which outlines how it is promoting race equality and eliminating discrimination in the Department, was published on 25th April 2002. In the paragraphs on the Probation Service, the document summarises progress made since the thematic inspection ‘Towards Race Equality’. Actions include

- The use of a diversity consultant in relation to all HMI recruitment exercises.
- Internal training events and discussions and team meetings to develop awareness of staff on race equality and wider diversity issues.
- Designing a skills audit to assess staff training and development needs on race equality and diversity issues to inform HMIP’s plan for 2002/3.
- Standards and criteria developed for all inspections and audits on diversity issues.
- All published HMIP reports contain analysis of performance by the national probation service in relation to diversity.

The document reaffirms that ‘HMIP is committed to continuing actively to promote race equality and wider diversity issues as an integral part of all of its work’.

The Race Equality Scheme can be downloaded from the National Probation Service website at http://www.homeoffice.gov.uk/cpd/probu/probu.htm

Women Offenders

A report from Nacro – ‘Women who Challenge’ by Sue Kesteven - emphasises the alarmingly high number of women in prison with serious mental health difficulties and
calls for concerted action in response. The report aims to provide a detailed overview of the problems faced by female prisoners with mental health problems, considering issues such as health care, substance misuse and provision of secure mental health services. It is argued that mental health problems can be exacerbated in prison, with damaging consequences for women offenders, their families and children. The report makes recommendations about how best to address the needs of this group of prisoners.

‘Women who Challenge’ by Sue Kesteven is produced by Nacro’s Mental Health Advisory Committee, priced £12.50 & £1.50 p+p, available from Nacro Publications, 169 Clapham Road, London SW9 0PU phone: 020 7582 6500 or at www.nacro.org.uk

Referral Orders

The final report of an 18-month evaluation of Referral Orders in the Youth Justice System is published as Home Office Research Study 242. The evaluation was conducted in 11 pilot areas in England and Wales between March 2000 and August 2001.

The report recognises that the Referral Order presented a number of new challenges to those responsible for its implementation.

‘These included:

• the recruitment, training and management of large numbers of voluntary community panel members
• the establishment and running of youth offender panels chaired not by professionals but by community panel members
• the active involvement of parents/guardians, victims and others in the criminal justice process
• the agreement of contracts with young offenders that both help challenge offending behaviour and allow for constructive activities including reparation.

The report comments favourably on the ability of pilot areas to recruit and train community panel members and speaks positively of the mutual respect developing between Youth Offending Team staff and community representatives.

Youth offender panels are described as one of the most encouraging aspects of the pilot. The evidence from the evaluation is that these forums were establishing themselves as constructive and practical meetings at which the young person’s offending could be discussed and appropriate responses planned. The vast majority of young people and their parents reported that they were treated fairly and with respect by the panels.

The report identifies the involvement of victims as an area where further work is needed. There will be a number of reasons for the current low level of victim participation in youth offender panels and the report offers suggestions for how victims can be encouraged and enabled to participate in greater numbers.
Jane Dominey

**Victims, Witnesses and Survivors**

The recent review of the Victims’ Charter has led to a decision in principle to introduce a Bill of Victims’ Rights. Because this will require legislation, the government has announced that Parliamentary time will be found for a Bill in the autumn of 2003. The resulting legislation is likely to come into force in 2004, and the proposals include the establishment of a Victims’ Commissioner or Ombudsman and substantial revisions to the existing charter. Meanwhile, changes to the law affecting victims and witnesses arising from the 1999 Youth Justice and Criminal Evidence Act and the ‘Speaking Up for Justice’ review are coming into force.

The timetable for implementation of the 1999 Act has been extended, apparently due to difficulties and delays in making the necessary physical changes in some courts. ‘Special measures’ introduced by the legislation will eventually include the provision of screens to conceal witnesses from defendants’ view, live video cross-examination, and hearing evidence in private in the case of intimidated witnesses. These will be available in respect of vulnerable and intimidated witnesses in the Crown, Magistrates’ and Youth Courts. The first measures will be introduced in the Crown Courts on 24 July 2002, with the remainder coming into force gradually over the next two years.

The Home Secretary has also announced his intention to establish an advisory panel on victims issues before the end of 2002, and to introduce video identity parades in cases where intimidation of witnesses may be an issue. The proposed advisory panel will include victims of crime and their families, although it is not yet clear how they will be selected.

The Crown Prosecution Service is taking on new responsibilities in respect of keeping victims and witnesses informed of decisions about criminal cases. Changes were recommended both by the Stephen Lawrence Inquiry and the Glidewell review, in recognition of the distress caused to many victims by decisions to drop cases without explanation. Pilot projects have established the practicability of providing written explanations when cases are discontinued altogether or some of the charges are dropped, and this becomes normal procedure nationally from October 2002. In more serious cases, victims and witnesses will be offered a chance to meet the prosecution service to receive an explanation for such decisions and for CPS recommendations about special measures in court (see above). Staff are currently being trained for this new role.

**Tagging for Juveniles on Detention and Training Orders**

The Criminal Justice and Court Services Act 2000 provided for the electronic monitoring of young offenders during the community based component of Detention and Training Orders and in May 2002 the Home Office announced that electronic tags will be available for young offenders henceforth. Those released and tagged will be eligible for release 1-2 months before the current release date at the half way point of the sentence. Those convicted of sexual or serious violent offences will not be eligible for the scheme.
The tagging of young offenders on bail had previously been announced in February 2002 with the intention of piloting the scheme across six areas in April and national implementation in June. Electronic bail tagging for juvenile offenders is designed to prevent offenders committing further offences while on bail by electronic monitoring of any curfew requirement made as a condition of bail or remand. The scheme will apply to 12 to 16 year-olds who may be granted court bail or remanded to local authority accommodation.

**Consistency in Sentencing**
In May 2002 the Home Secretary announced the intention to set up a sentencing guidelines body to improve the consistency of sentencing within the magistrates’ courts.

This development addresses the concern about wide regional variations in sentencing and in particular significant disparities in the use of custody. As an example the Home Secretary referred to statistical information drawn from Criminal Statistics England and Wales 2000 (Command Paper) which identified the differential use of immediate custody: in Teeside 20% of those convicted of burglary were sentenced to immediate custody compared with 41% in Birmingham. Similarly in Reading 3.5% of those sentenced for receiving stolen goods received a custodial sentence compared with 48% in Greenwich and Woolwich.

**Appeals Against the Granting of Bail**
The Auld report (A Review of the Criminal Courts of England and Wales) referred in paragraphs 69-90 of Chapter 10 to bail appeals. It recommended that the prosecution should have a right of appeal to the Crown Court against the grant of bail by a Magistrates’ Court in respect of all offences that would, on conviction, be punishable by a custodial, or partly custodial sentence. In May 2002 the Home Secretary announced plans to extend the prosecution’s right of appeal in response to Auld’s recommendation. He stated that the right to appeal against the grant of bail would be extended to cover all imprisonable offences and not just those carrying a maximum sentence of five years or more.

**Mobile Telephones – New Legislation**
A Bill to tackle the rise in mobile phone thefts was published in May 2002. The Mobile Telephones (Re-programming) Bill contains proposals that would create new offences. Changing the unique identifying characteristic of a mobile phone (i.e. the IMEI number) and owning or supplying the necessary equipment with the intent to use it for re-programming mobile phones are to become illegal. The new offences could be heard in either the Magistrates’ Court or the Crown Court and the maximum penalty available would be up to five years imprisonment or an unlimited fine, or both. The Bill is a response to growing concern about the prevalence of mobile phone theft and the link with rising street crime. Stolen mobiles are now involved in 50% of all robberies in London.
Remands into Secure Accommodation

Courts are to receive new powers to remand into secure accommodation persistent young offenders aged 12-16. The new powers, brought into force by the implementation of Section 130 of the Criminal Justice and Police Act 2001, will apply to young offenders who consistently break the law when on bail. The powers will initially be available in the 10 street crime initiative areas and will be nationally available from September 2002. The Home Secretary also announced in April that he is looking at ways of strengthening the law in respect of 10 and 11-year olds who commit persistent but low level crime and who, due to their age, fall outside the range of powers available to the courts.

A Review of Anti-Social Behaviour Orders

Anti-Social Behaviour Orders (ASBOs) were introduced under the Crime and Disorder Act 1998 as a civil order designed to deter anti-social behaviour and prevent the escalation of such behaviour without resort to criminal sanction. Between April 1999 and September 2001 a total of 466 ASBOs were granted, the majority on men (84%), and those 21 years of age and under (74%). A review of these orders has now been completed and published by the Home Office. (Home Office Research Study 236 ‘A Review of Anti-social Behaviour Orders’ by Siobhan Campbell)

Findings of the report included:

‘The overall opinion of ASBOs amongst those who have actually used them is generally positive. Many reiterated that the legislation was very much needed to deal with persistent anti-social behaviour. They stressed that if a local authority or a police force want to take out an ASBO they can: all they need is motivation. It was widely accepted that, when used effectively, ASBOs are a useful tool to deal with anti-social behaviour and can deal effectively with particular groups, such as juveniles and private tenants.’ (p.97)

However problems and difficulties were also identified:

‘Those unhappy with ASBOs either complained about the length of time they took to prepare and then obtain from the court or else were unhappy with their relationship with one of the links in the ASBO chain – the local authority, the police or the courts. They pointed to failures in partnership working, collecting information, supporting or granting orders, and enforcing or prosecuting breaches. For some, these failures were enough for them to state that ASBOs were not worth applying for.’ (p.97)

Forthcoming Conference

The European Forum for Victim-Offender Mediation and Restorative Justice is organising its second conference ‘Restorative Justice and its Relation to the Criminal Justice System’ in Bucharest, Romania on 10th –12th October 2002. The conference aims to attract restorative justice practitioners, legal practitioners, policy makers and researchers and is intended to be an interactive working conference.
For more information about the conference, including the call for presenters and coordinators, see the European Forum’s website www.euforumrj.org. The website also provides information about the restorative justice movement in Europe and a discussion board enabling communication between those interested in restorative justice.

**Community and Criminal Justice Monographs**

De Montfort University publishes this series of monographs. Monograph 1 ‘Take-Up and Rollout: The Implementation of Effective Practice in the Probation Service’ and Monograph 2 ‘Case Management: Context for Supervision and Design Issues for the Probation Service’ both by Paul Holt are priced at £9.99. Forthcoming monographs focus on work with adolescent male sex offenders and on enforcement practice in the probation service.

Submissions from both new and established authors are welcome and members of the Monograph Editorial Board are willing to give advice to potential authors who are interested in converting dissertations into publishable monographs. For further information about the series or to purchase copies of a monograph contact Gemma Lennon at the Community and Criminal Justice Studies Unit, De Montfort University, Scraptoft, Leicester, LE7 9SU. Tel 0116 207 8759.

**Policing and Community Safety**

**The John Grieve Centre for Policing and Community Safety**

The John Grieve Centre for Policing and Community Safety (JGCPCS), which will be launched in September 2002, draws on the expertise of a team with national and international reputations to engage with current research, policy, education and training in the areas of policing, crime reduction and community safety. The aim of the JGCPCS is to develop a centre of excellence, which will provide a forum for education, training and research at regional, national and international levels. The JGCPCS will work with central and local government clients, development agencies, regeneration partnerships, charitable trusts and research bodies to deliver high quality and cost effective research, education, and training for agencies involved in policing, crime reduction and community safety. For further information about the Centre’s activities contact: The John Grieve Centre for Policing and Community Safety, Buckinghamshire Chilterns University College, Queen Alexandra Road, High Wycombe, Buckinghamshire, HP11 2JZ. 01494 522141

**Community Cohesion**

The Local Government Association, Department of Transport, Local Government and the Regions, the Home Office and the Commission for Racial Equality published a consultation document, entitled Draft Guidance on Community Cohesion, in May (http://www.homeoffice.gov.uk/cpd/ccu). It follows up the Inter-Departmental Ministerial Group’s Building Cohesive Communities Report (2001) and the report of the Community Cohesion Review Team, chaired by Ted Cantle, which focused on the disorders that
occurred in Bradford, Oldham and Burnley in the summer of 2001. These inquiries, and others, identified the lack of social cohesion and racial equality in divided and fractured communities as problems requiring urgent attention and action. The Guidance report identifies local authorities as taking a lead role in the development of public, private, voluntary and community organisations. The overall strategic objectives are to:

- increase cohesion in communities;
- reduce racial conflict;
- provide equal opportunities for all members of local communities;
- recognise diversity;
- improve quality of life;
- increase participation.

Amongst the many policy issues identified by the report, such as housing, education, regeneration and employment, are racist crime and police-community relations. In particular it notes the centrality of racial crime and harassment in the Guidance to the Crime and Disorder Partnerships issued in May 2001. It argues that the police, local authorities and other agencies, as well as the wider public, need to work together to address these crimes in order to reduce racial segregation. The document identifies a need for:

- a good, close working relationship between the police and local authorities;
- recording the incidence of crime and anti-social behaviour in communities and the effective targeting of police and community safety resources to tackle these problems;
- the police to develop strong links and communication channels, especially amongst young people;
- the introduction of diversity training and equality targets to recruitment in the police and other agencies;
- multi-agency arrangements to address racist incidents;
- involving the community in consultation on the Crime and Disorder Reduction Partnerships;
- the police to formulate 'pre-established routines' to respond to race and hate crime;
- the development of contingency plans to prevent racial disorder.

The Community Justice Portal
The Community Justice Portal is currently under construction and pre-launch information pages can be accessed at www.cjp.org.uk. It will become a dynamic information and networking facility with wide opportunities for e-learning for all those engaged in the criminal and community justice sector. If you work with offenders, victims or the broader community safety and crime reduction arenas there will be something for you in this space. It will be of interest to probation officers, youth offending team workers, police officers, prison officers, the voluntary sector, penal reform groups, victims organisations, community safety officers and restorative justice mediators. Also those who
work with crime-related issues in housing, education, employment, drugs and alcohol, health and mental health and social and life skills will find areas of interest here.

On 20th September 2002 a launch conference entitled 'Joined-Up Justice' will open the Portal and an e-discussion forum on the Portal will follow that event. Go to the web-site for more details of this event and other forthcoming initiatives. The Portal links to an e-learning environment which is managed by Sheffield Hallam University. Please contact Professor Paul Senior at P.G.Senior@shu.ac.uk if you wish to discuss any aspect of the Portal.
BOOK REVIEWS

IMPRISONED FATHERS AND THEIR CHILDREN
Gwyneth Boswell and Peter Wedge. Jessica Kingsley Publishers, 2002; pp 175; £15.95, pbk.
ISBN 1 85302 972 6

One of the most pernicious effects of imprisonment is the removal from prisoners of their ability to take responsibility in any meaningful sense for their own lives. In terms of their contact and relationship with their children this is particularly acute. Access to visits may be a basic right, but the quality and length of the visit depends on facilities available at the prison concerned. With the prison population in England and Wales at a record level more children than ever before are affected by the imprisonment of a close relative. Overcrowding means that the Prison Service is unable to honour its commitment to keep prisoners as near to home as possible to facilitate contact. Possibly as a result of this, and of the increasingly stringent security procedures visitors must undergo, the number of visits to prisons has been falling at an alarming rate over the last few years.

Imprisoned Fathers and Their Children starts by briefly reviewing the literature on prisoners and their family relationships, and looking more generally at the loss of a father for other reasons, bereavement, family break up etc. The book consists mainly of a report of research undertaken ‘in the late 1990s’ by the authors on behalf of the Department of Health. They interviewed a total of 201 imprisoned fathers in 25 prisons and YOIs and 25 prisoners’ children aged between 3 and 19 years, as well as 127 prisoners’ partners/carers and prison and voluntary sector staff. Throughout the book the views of those interviewed are expressed as though quoted. While this is positive, providing a strong basis in experience for the authors’ conclusions and a much needed opportunity for prisoners, carers and particularly the children’s voices to be heard, the fact that all the ‘quotes’ are paraphrased by the authors somehow reduces their impact.

After highlighting the characteristics and perceptions of the prisoner fathers in the sample the authors move on to describe the effects on the children as described by carers and the children themselves. This, predictably, makes for disturbing reading. Most of the children had shown distress or behavioural disturbance following their father’s arrest and imprisonment. Sometimes the arrest had been witnessed by the child. In other cases the press treatment of the court case, the manner in which the child had been told or found out, or abuse from other school children had been particularly significant. For many children the absence of their father and the gruelling routine of prison visits was described as the cause of their distress.
The inadequacy of ordinary prison visits as a means of maintaining relationships between imprisoned fathers and children is described in detail by prisoners, carers and children. Security arrangements which mean that prisoners are unable to move from their seats to play with their children, the lack of play provision at many prison visits sessions so that children are bored and consequently difficult, and the limits on physical contact between prisoners and their children at many prisons, are all vividly illustrated. Special family, or children’s visits schemes, are then described in far more positive terms. Of course these visits are available only to very limited numbers, are not universally available and often rely heavily on the input of voluntary sector organisations and, indeed, of volunteers.

The authors then describe the relationship support systems available to prisoners and their families including parenting courses for prisoners, the role of the probation service and the reluctance to involve social services and the relatively low uptake of help and support from voluntary sector support services. They conclude with a chapter entitled ‘Strategies for Change’, which includes recommendations for change based on the research.

Disappointingly the book looks a little dated even though it has been recently published. References to security procedures, and home leave, and the absence of any reference to booked visits (the bane of many prisoners’ families’ lives) make it clear that the research was conducted in the early part of the late 1990s. No mention is made of the fact that many procedures have changed quite fundamentally, and that Prison Service internal instructions cited have been superseded. Only two references cited in the bibliography are dated later than 1998. There are probably very good reasons why this Department of Health commissioned research has not been published earlier, but a little more work to explain procedural changes since the research and to bring the references to relevant literature up to date would have been helpful.

That said, the body of British research relating to prisoners’ families is depressingly small and this book is undoubtedly a significant and valuable addition to it. Helping prisoners’ children make sense of their situation, investing resources in parenting courses for prisoners, supporting those caring for their children and particularly improving the quality of contact between children and their imprisoned fathers may have a significant and positive impact on children’s lives.

Una Padel, Director, The Centre for Crime and Justice Studies, King’s College London
REBUILDING COMMUNITY: POLICY AND PRACTICE IN URBAN REGENERATION

Our understanding of the United States is so conditioned by that country’s global role that it can be hard to appreciate the extent of organising and campaigning that takes place there within and across communities. Half of the 12 chapters in this book are about the US and they provide a very useful marker for non-US readers.

In the 1970s and 1980s, there were regular exchanges of ideas between the two countries on urban renewal policies and practice. UK trainers and researchers also made widespread use of the US literature on community organisation. Then the links seemed to weaken.

The editors of Rebuilding Community give both a snapshot of current issues as well as an analysis of developments in the US. What struck me was the assumption that efforts made by community organisations to influence city and state policies are considered to be part of the normal landscape of political discourse; a contrast to the UK, where community groups all too often appear to have their energies focused entirely on survival - dealing with short-term funding and negotiating with partnerships.

Two of the US chapters which make for fascinating reading are Frank Pierson’s account of broad-based organising and the light it throws on our understanding of two key elements in the regeneration process - citizen engagement and the exercise of political power; and, secondly, the chapter by Anne Kubisch and colleagues on evaluating comprehensive community initiatives. In contrast to UK writers on evaluation, American researchers appear to be ready to take a step back and review the ‘state of the art’. This particular chapter is an excellent example of giving such an overview.

Much of the content of the US chapters demonstrates how many of the issues currently facing UK policymakers could have been anticipated. Apart from one chapter on anti-poverty programmes in France, the remaining chapters take the reader through much more familiar UK social policy territory. Sarah Pearson and Gary Craig provide a thoughtful commentary on regeneration and neighbourhood renewal policies. This includes some challenging questions concerning the continuing area focus of these policies and the extent to which they beg the question of ‘community’. Both they and Chris Miller, in a separate chapter, bring together evidence concerning the difficulties and dilemmas surrounding the ‘community involvement’ imperative required of local authorities and other agencies. This makes the chapter by Peter North and Irene Bruegel on community empowerment particularly stimulating. Their central argument is that, in the long run, it may be rational for communities not to sign up for partnership agreements - because this stance will give them more leverage.
The chapter by Joan Smith provides a sophisticated analysis of some key ideas. She suggests that there is a ‘fundamental argument between the concept of social exclusion, which sees rebuilding social solidarity through public resources, and communitarianism, which emphasises enforcing a shared morality and nurturing social responsibility under the watchful eye of the justice and welfare systems.’ She makes the point that New Labour’s law and order agenda follows closely on from the family responsibility and crime and order agenda in the US, rather than earlier Labour policy towards offending and disadvantage. She is critical of the idea of social capital and the chapter ends with an important summary of the issues surrounding women-centred community organisation.

Perhaps because it comes after Joan Smith’s analysis, the concluding chapter by John Pierson does not stand out. He attempts, correctly, to point up the connections between the US and UK contexts but, by going into detail on the Citizen Organising Foundation’s work in the UK, I do not think he uses the opportunity to pull together the complex and important themes raised in the preceding chapters.

Overall, however, this volume is an important contribution to our critical understanding of urban regeneration. In addition to being an essential text on academic courses, it will also be stimulating and challenging reading for policymakers and practitioners. A minor quibble is that one or two references are missing, and one content area that I thought could have been added, especially given that there is a chapter on France, is the European policy context. Maybe that is the next volume.

Paul Henderson, Director, Practice Development, Community Development Foundation
MAKING A DIFFERENCE: PRACTICE AND PLANNING IN WORKING WITH YOUNG PEOPLE IN COMMUNITY SAFETY AND CRIME PREVENTION

In contrast to much of the literature which has emerged to critique New Labour's approach to youth justice Making a Difference attempts to provide ideas and strategies which might be utilised to exploit the opportunities which have arisen as a consequence of the government's concerns regarding youth justice and control. Advocating the need to develop initiatives which are child-centred, enabling and empowering, holistic, fair and appropriate the book draws on practitioner expertise and research findings to provide practical ideas and information on a diverse range of issues for those working directly with young people.

Within the overall context of providing guidance on project and staff/volunteer development the chapters largely fall into three categories. First those which concentrate on strategies and initiatives within particular contexts, that is, communities/neighbourhoods, schools, and other institutions. Second those, which describe different approaches to working with young people such as, social action, interagency working, befriending, and mentoring. And third those which outline particular methods of engaging young people for example, through games and activities; working away from base and encouraging young people's participation in particular strategies and activities.

Although the constituent chapters of the book vary in length and degree of coverage each provides an overview of activity and/or research findings, good practice guidance and references to other relevant material. Of particular note are the chapters that integrate practical examples and case studies. For example, Alan Dearling provides interesting insights into the considerations, difficulties and rewards of engaging with young people 'away from base'. Brian Williams analyses international and domestic initiatives and research findings to suggest a good practice guide for working with the victims of young offenders. Alison Skinner and Gwyneth Boswell describe a range of promising group-work models that may prove useful in working with violent men in both community and institutional settings. While John Pitts describes and reflects upon the development of various violence reduction initiatives in primary and secondary schools as a response to dealing with youth crime and violent victimisation.

While some of the issues tackled are highly specialist overall Making a Difference provides an introduction and general overview of a range of strategies and techniques that will be of use to those providing services to children and young people at both management and
practitioner levels. Notwithstanding some reservations regarding the structure and organisation of material *Making a Difference* provides a timely and relevant contribution to the consideration of child-centred provision within and related to the youth justice context.

*Janet Jamieson, Research Fellow, Youth Justice Research Unit, Department of Sociology, University of Liverpool.*
DRUGS AND CRIME

This book is extremely well written and has been particularly well researched, principally in the United States, from where Bean relates most of his evidence. The book presents a holistic view of the world of drug abuse and the ‘link’ with crime ranging from the sentencing of offenders, treatment facilities, policing drug markets and informers and corruption. There is also a chapter devoted to the problems associated with women drug users and crime.

The question of the link between drugs and crime has been prominent on the academic and political agenda for some considerable time. Bean has investigated this link, and is convinced that the suggestion by Hammersley et al (1989 cited in Bean, 2002: 12) that ‘rather than tackling the “drugs problem” in the name of crime prevention, it may be worth while to tackle crime in the name of drug abuse’, would be worthy of consideration.

Although the majority of examples in Bean’s work are based on evidence from America, he quotes Tonry and Wilson (1990: 2), as stating that American literature is scant and poor in quality. Bean’s examination of the theoretical paradigms is interesting; he maintains there was a shift in the 1990s from the sociological to the psychological model albeit retention of the former remained to a certain extent. However, there are two main categories, psychology and economic models, both being utilised as and when theorists delineate their usage concomitant with the political agenda, i.e. in the 1960s, discussion about social deprivation was unheard of. Bean discusses the three models identified by Anglin and Hser (1990 quoted in Hough, 1996:8): the moral; the disease; and the behavioural. The moral and behavioural models look towards treatment, with the disease model incorporating the Alcoholics and Narcotics Anonymous 12-step programmes, and Bean states this latter model dominates American treatment programmes.

On the sociological front, Bean looked at the three models identified by Mike Hough (1996:8 cited in Bean, 2002: 20), coping, structure and status models; and their non-association to the ‘main theories of mainstream sociology of deviance’.

When attempting to accommodate the link between drugs and crime, Bean came to realise that none of the foregoing ‘fitted the bill’ but believes the framework provided by Paul Goldstein (1985), goes a long way to supply a structure for future research. This work is mainly associated with violence, but has been developed and modified to include all crimes, the systemic model in particular, which draws special attention to the impact of drug abuse on the community.

Although treatment agencies are not euphoric with coercion of drug users into treatment, it is coerced patients that stay longer and hence, treatment is more successful.
Intervention must occur at some stage of the user's career. Saying this, the available resources within the United Kingdom are minimal and waiting lists for places are huge.

Bean advocates the use of Drug Courts, whose success rate in America is high. The judge has complete responsibility for these courts, and the success rate depends on the commitment of the judge, although it is difficult to comprehend the judge overseeing the whole process. Prosecution and defence work in tandem, together with the police and other agencies, to ensure success within the ten-point system, in an attempt to break the link with crime. Bean believes the DTTOs introduced in the UK are now outdated and advocates change, preferring the drug courts of the American system, and goes a long way to highlight the need for change in the UK.

Although Bean discusses mandatory drug testing, he says little of the CARAT initiative which was introduced into prisons. This scheme goes a long way to helping people, not just whilst they are incarcerated, but the throughcare facilities provide the necessary support on release, which is when the majority lapse.

On women, Bean accentuates the additional problem of women and drugs, particularly in view of childbearing and the social norms surrounding female deviancy, and in particular women's fears of admitting to their addiction for fear of losing their children. He quotes Rosenbaum's (1981) work regarding women's narrowing options in relation to treatment and the difficulties for them in attempting to return to the conventional world. Treatment facilities for women are far less prevalent than those for men, and although some wish to go for treatment, they are denied the option because of availability. When women enter prison their problems are exacerbated ten fold over their male counterparts; when a man is incarcerated, his partner normally keeps the home and children together, and visits regularly; for women, the problems encountered are enormous; hence she is given prescribed medication. Bean cites a Hansard Written Answer which states “The prison service recognises that many women received into custody have complex medical histories…….” (Hansard, Written Answers 14 July 1998: col.98). Bean does forget that portion of the prison population that receive little or no assistance, i.e. those with short sentences who are regular visitors to Her Majesty's establishments.

The numbers of women being incarcerated has increased rapidly over the last decade and a large proportion of these are women who import drugs into the country. These women enter the criminal justice system, and are given extremely harsh sentences, frequently not understanding a word of English. The most problematical for many of them is that they are not able to see or speak to their families during their incarceration. Although telephones are available, the telephone system in the country of their origin, is sometimes insignificant, and with little or no money, they are unable to purchase the necessary cards to contact their families.

Finally, Bean looks to the future and a way forward, with treatment, mandatory drug testing and supervision, as the mainstay. He also suggests a drug research centre, not the
odd researcher coming up with a different viewpoint, but a collegiate centre where policy issues could be investigated thoroughly before introduction.

A thoroughly good book for anyone working or who is interested in the drug/crime debate.

References

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REPARATION AND VICTIM-FOCUSED SOCIAL WORK
Brian Williams (ed). Jessica Kingsley Publishers, 2002; pp. 207; £15.95; pbk. ISBN 1 84310 023 1

This is a very useful publication that provides a clear, comprehensive review of current measures that engage with the victims of crime. Whilst the editor states that the text is designed to provide practitioners with the essential knowledge required to practice effectively (p. 14) it will also be of value to students and researchers trying to keep on top of this rapidly changing field of study.

The book contains eleven chapters that discuss a range of different topics relating to victims. The general themes include, reparation, victim support services and probation practice. Chapters are conveniently broken down into useful sub-sections and the font and presentation make it easy to read. This is complimented by minimal use of practitioner jargon or convoluted acronyms. When discussed, research findings are summarised succinctly and care is taken to make the material as accessible as possible.

Following the editor’s introductory chapter Jo Goodey examines compensation for the victims of violent crime in the European Union. To do this she provides a critical review of state compensation before going on to look at compensation for victims in Britain, France and Italy. The problems relating to the harmonisation of compensation orders across the European Union and the likelihood of such standards being implemented equally by all the member states are also discussed. In chapter three, Wemmers provides an interesting discussion of restorative justice by examining research evidence that compares whether victims prefer decision-making power or procedural justice. She makes a convincing argument that in cases where victims and offenders share common goals victims prefer to be heard in the justice process rather than determine sentencing outcomes.

Chapter four reviews family group conferences. In it, Guy Masters provides an up-to-date synopsis of recent research findings that consider the victim’s experience of such conferences. Chapter five by Jim Dignan outlines the growth of reparation orders. Drawing on his own research he assesses the problems of implementing reparation orders as well as the role and participation of victims.

Chapter six focuses on the provision of victim support services for the victims of crime in rural areas. Susan Moody explores the particular issues relevant to victims living in remote rural locations, and the problems of providing effective victim support to such communities. Charlotte Knight and Karen Chouhan discuss support for the victims of racist abuse and violence in chapter seven. They catalogue the failures of the current criminal justice system to understand, or respond, to racially motivated offending. They
end with recommendations designed to identify the needs of racially assaulted victims. Chapter eight by Barbara Tudor reviews probation work with the victims of crime. Here the focus is primarily on reparation and the requirements placed upon the probation service to work with victims.

Sandra Walklate examines victim impact statements in chapter nine. She explores what victim impact statements are, and what their purpose is, before going on to look at implementation issues and victim participation in the criminal justice system. Chapter ten by Jane Dominey discusses the ability of pre-sentence reports to adequately address victim issues. The final chapter, eleven, cites the Edinburgh Domestic Violence Probation Project as an example of good practice when working with abusive men. The authors (Morran, Andrew and Macrae) quote the importance of consulting women to ensure that a full understanding of the nature and extent of domestic violence is reached.

Overall, the contributors to this text provide detailed reviews on a range of recent developments that attempt to engage or respond to the needs of the victims of crime. Given the remit of this text I only have one real criticism, which is that it lacks a concluding chapter that draws together the central themes and issues relating to reparation and victimisation. However, as a guide to recent developments in the sphere of victim-orientated practice this text will be of undoubted value to a wide readership.

Simon Green, The University of Hull
RESTORATIVE JUSTICE AND RESPONSIVE REGULATION

In this book, John Braithwaite brings together the two strands of scholarship to which he has contributed over the years – those set out in its title – and adds ambitious offerings on their potential for "world peacemaking", "sustainable development" and "transforming the legal system". He admits, in the book, to being an incurable optimist, and the titles and contents of these three final chapters certainly reflect this position. Readers must judge for themselves how persuasive they find his arguments for the potential contribution of the lessons of restorative justice and business regulation for these wider arenas. Essentially, he argues that restorative justice has proved itself useful outside criminal justice already (for example, in school anti-bullying strategies and in prison discipline). He gives examples of “restorative diplomacy” (p. 170) which have worked, and argues that this approach could be used more widely and more imaginatively. Using examples from both restorative justice and corporate crime, he makes a case for transforming the legal system by resolving potentially costly disputes informally. If this sounds utopian, suffice it to say that many were sceptical about the likely impact of the case made in Crime, Shame and Reintegration in 1989, but few people dismiss its importance now.

The book updates, and at times critiques, the author’s previous works on restorative justice and corporate crime. The somewhat dry area of business regulation is brought alive with case examples and extended quotations which are separated from the main text in boxes, and the same device is used to illustrate the arguments advanced in favour of wider use of restorative justice practices. There is a good deal of repetition, and the book is by no means an easy read, but it makes important claims and produces a wealth of evidence to support them. Sometimes, the author’s optimistic outlook means that little weight is given to gloomier prospects. For example, he uses the South African Truth and Reconciliation Commission as a possible model for peacemaking in other countries without mentioning the limitations and disappointments of the victims’ experience of the TRC. However, his unrivalled experience and contribution to the two main bodies of knowledge which he synthesises in the first part of the book serve as a good basis for the more speculative approach he goes on to take.

As ever, Braithwaite’s style is appealing. In a chapter on "worries about restorative justice" he deals with most of the criticisms of his previous work. Unlike many academics, he is quite comfortable accepting that he has been wrong about some things, and this is a useful contribution to our understanding of the field. Even where one disagrees with his arguments, they throw light on the issues.
Interestingly, he argues that concern about victims of crime being used as 'props' by youth justice professionals whose main concern is to get young offenders a better deal arises mainly in the UK and has not been an issue elsewhere. He does not speculate about why this might be. He accepts that expressions of moral indignation and the use of restorative interventions as an excuse for lecturing offenders are counter-productive but do often occur. The best way of achieving a non-judgemental process in which feelings are disclosed and reintegrative shaming achieved is, he argues, by ensuring that facilitators have proper training and both parties in victim-offender mediation have plenty of supporters to back them up. The blistering criticisms of authors such as Harry Blagg and Kathleen Daly are taken seriously: Braithwaite accepts that restorative justice has sometimes succumbed to a kind of colonialist cultural appropriation. He clearly very much regrets the continued over-representation of Aboriginal people in Australian custodial institutions and the failure of restorative approaches to make significant inroads into the problem. However, he argues that this can be overcome and “plural aspirations” can be designed in (p. 145). Some practical examples would have been helpful here. Similarly, in dealing with the criticism that restorative justice is all very well in rural communities but less attainable in socially fragmented inner city areas, the experience of projects in cities such as Toronto, Vancouver and Sydney is mentioned, but the only concrete example of offenders’ and victims’ communities of care given is the involvement of homeless people’s “street families” (142) in restorative interventions. It must be said, however, that the author has dealt with this issue thoroughly in his more recent work on restorative justice.

Implicitly, this book sets out an agenda for future research and practice. For restorative justice advocates, it makes the future look very bright indeed. For supporters and sceptics alike, it provides plenty of food for thought, and it is likely to be very influential.

_Brian Williams, De Montfort University_