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EDITORIAL
NOMS - THE NATIONAL COMMUNITY JUSTICE SERVICE?

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David Blunkett's belief that the changes envisaged by the Carter Review, to create an amalgamated prison and probation service, represent a 'once in a generation opportunity' has been dismissed by many commentators as overstating the impact of the changes to the operating practices of the prison and probation services. However the distinctive cultures and attitudes towards work with offenders which has characterised the prison and probation services cannot be easily written out of the equation by a name change, a move to a single office and political will. This is indeed a major re-organisation which demands a thought out change management process to make it work and a business plan which makes sense to the worker on the ground but, more crucially, investment to carry through the innovative potential of these changes. The first two will attract the attention of ministers but a realistic assessment of the resources required may simply not be envisaged by the changes. One reading of the government's 'modernisation' agenda, itself an 'aerosol' word which implies positive practices but delivers a deadening commitment to targets and performance monitoring of the most intrusive and misguided way, may actually undermine the potential for radical community-oriented change much trumpeted by government in other policy spheres.

Indeed if you interrogate the short time since the National Probation Service came into being there has been little sense of that dynamic and community-oriented spirit associated historically with the service in its routine day-to-day work. This is not to deny the many positives – the commitment to 'what works' and 'evidence-based practices', a growing sophistication with work in crucial areas such as domestic violence, drug treatment, public protection panels, mental health, basic skills and resettlement processes. But, there has unfortunately also been a performance management culture which has sapped the pioneering spirit of probation and deskilled and deprofessionalised its core staff. We see staff who are shell-shocked, over-worked and suffering from stress, low morale and subject to crippling performance management processes which deaden the profession. The same orthodoxy chasing Key Performance Indicators, determined from the centre, is characteristic of the prison service too though arguably the traditionally more task-oriented culture of the prison makes such changes a little easier to contemplate. Having to deliver what the centre defines as the key targets undermines transformative actions. It is at a local and regional level that the innovative potential to deliver not just a new organisation but a new philosophy and approach which has to be garnered for successful change. The prison population continues to spiral towards 80,000 which, according to government, is the projected maximum figure to which it will be allowed to go (Travis, 2004a). Without innovative thinking this figure for the limits of custodial containment
will simply be reached and exceeded and then the real ‘once in a generation opportunity’ - to build a Reductionist strategy based on community justice principles – will have been missed.

If you were constructing a correctional service from scratch it is likely you would champion the benefits of a single organisation to deliver both custodial and community-based sentences. Examples exist in Canada and Sweden, for instance. The co-ordination which would flow naturally from a single organisational structure would make sense on a map where the relationships had no other reference point. But can this be a natural process in the current arrangements? What does the advent of NOMS imply about organisational re-alignment? Is it a merger, a take over, an amalgamation, an integration or a completely new service? Is there a difference, philosophically, from that defined as multi-agency work implying working together from different but complementary perspectives, rather than inter-agency work where fusion of ideals and a single perspective is desired? Is it not healthy that prison and probation have a tension about how they see provision for offenders – a tension which ensures that services are sensitive to the different needs and requirements of individual offenders.

We know from the organisational literature that mergers often become take-overs and, in the institutional struggles for power, the larger unit often dominates in new alignments. Prison has always been the pivot around which sentencing is oriented in this country. Indeed the language alone seems to determine this prime orientation – punishment, deprivation of liberty, electronic surveillance, home detention curfew, curfew orders, alternatives to custody, community penalties, intermittent custody, custody plus and, perhaps the most revealing example, custody minus - a sentence of the court where custody is not the outcome but where its title is still defined by its relationship to custody not to community. Prison is by far the larger organisation and has also been under the directorship of the new chief executive of NOMS in a relatively successful period of re-marketing of its services. This is not necessarily regrettable. Arguably the prison service has been more open to change in recent years as some of its work in resettlement testifies. Its insularity and fear of outsiders has lessened, if not quite disappeared, in the past decade - a criticism that can still be levied at probation's deteriorating engagement with community.

Probation has been attacked over the past decade as not being able to deliver effectively. It has routinely been accused of under-performance and the media and its ‘public’ often repeat the mantra of lack of confidence in the probation service based partly on reflecting public pronouncements from government ministers themselves. In this amalgamation, prisons are going to be, numerically and in spirit, the top players. Prison managers already operating at a regional level more fundamentally than probation whose Regional Managers do not have the status or power of their prison colleagues, are likely to be the natural candidates for Regional Offender Managers. How far can probation aspirations, whatever they are in today’s climate, maintain a distinctive place in the way in which the services develop? Indeed has that power base already been eroded by its own officers at
national level. When the National Probation Service was launched in 2001 the director of the NPD promised the Home Secretary that ‘it would do anything the government wanted it to do’ thus at a stroke losing its own sense of identity carved out during the whole of the 20th century. Its pragmatism is now its Achilles Heel as it has sacrificed its historical tendency to express independent and innovative ideas. It has now forgotten that the original impetus to the What Works focus and many other innovative practices it pursued was a bottom-up approach and the orthodoxy is now firmly driven from the centre. Just as probation’s internal squabbles and lack of vision impacted upon its sense of identity in the last decade, its future vision may not be radical enough to compete in the battle for direction which NOMS will demand. And yet it has an historical role as a community-oriented agency (Haxby, 1978, Broad, 1988) which can and arguably should be revived to bring it genuinely centre-stage in this new configuration.

A recent online consultation on the Carter Review run by the Community Justice Portal (www.cjp.org.uk) articulated a clear set of four principles which must underpin the new arrangements:

- **Shared Vision** - ‘For a positive synergy in this amalgamation there will need to be significant efforts made in developing understanding of differing perspectives, and at a most basic level overcoming the stereotypes’
- **Cultural Shifts** - ‘Change does require new structures but as important if not more so it requires cultural change’
- **Positive Language** - ‘The continued use of the language of punishment has little relationship to the effectiveness and quality of community sentences and work undertaken on prison based programmes’
- **Trust** – ‘The danger is that we try to hold on to our current perceptions and rationalisations for our own services rather than look forward to a service that can commission and deliver ‘joined up’ services’

These aspirations must underpin the new arrangements and in this sense we need NOMS to be a new organisation, genuinely growing out of the traditions of both organisations not subsumed by historical relations. A word on nomenclature is important here. Much has been made of the rather limp description of the new organisation. What message does Offender Management convey? It is not a message which will inspire a public already jaundiced about its public services. The public want services for offenders to reflect public protection, rehabilitation, restoration and just deserts. Is this what ‘Offender Management’ conveys? I don’t think so. It is unfortunate that at a time when internationally the brand name ‘probation’ has increasing purchase and resonance that this could disappear from the language of the new arrangements. For all the attacks on its services, some of which has been unhelpful and misguided, probation is an understood and accepted brand. The recent Probation 2004 Conference gave a strong international perspective to that brand. Maybe, the natural title would have been Correctional Services, most commonly used in other jurisdictions, or more dynamically Community Justice Services which would actually have resonated with some of the government’s other agendas. It is to the implications
behind this and a desire to remember and celebrate some of the radical history of probation which I would want to turn.

Blair and Blunkett have initiated debates about how its services throughout the public sector can be more reflective of and driven by what communities want. Its focus on civil renewal, victim's charter, citizen-focused policing, anti-social behaviour, youth offending panels, community cohesion, neighbourhood renewal, prisoner councils, crime and disorder partnerships and local strategic partnerships look to the centrality of the community perspective. Government reports on the prison estates have always promoted the need for inmates to be imprisoned within their localities and prisons have begun to link more effectively with local communities in pursuing employment opportunities. Its Restorative Strategy states:

The Government is committed to placing victims' needs at the centre of the Criminal Justice System (CJS). We also want a system that encourages responsibility, so that offenders face up to what they've done, and make amends. And we want the wider community to be involved in finding positive solutions to crime and anti-social behaviour (Home Office, 2003).

Local Criminal Justice Boards are intended to create an agenda which is reflective of what local areas need rather than the destructive orthodoxy of national targets which have done so much damage to local sensitivities and local action.

It is unfashionable to look back at historical arrangements for community involvement. Yet the probation service had a strong history of community engagement which defined its role in the 1970s and 1980s. Probation Officers were known in local communities and made sure that local services were accessible to offenders seeking to re-enter society as citizens. Probation services have steadily ceased to be community-oriented and been replaced by the voluntary not-for-profit sector and increasingly by private sector involvement. Indeed the private sector is already organising for change as the public sector agonises about the propriety and desirability of these changes. The amalgamation of Securicor and Group 4 creates a single and potentially powerful organisational grouping who will already be costing out the provision of community services as well as getting ready to bid for groups of prisons as Martin Narey has already publicly encouraged (Travis, 2004b). Probation and prisons in the public sector already deliver some good projects and need to be considering how to market their wares aggressively and confidently. Contestability, the government spin for market testing and competition, will challenge local areas and local prisons to demonstrate they are the best for the job. The interpretation of ‘best’ will, of course, be crucial. Gloomy predictions talk of the overriding desire to push down costs and this may well drive the bidding process. However public provision is still, however tentatively, in the driving seat and knows what it can deliver. If it can add value to this bid, value which resonates with other government priorities, the polished but soulless private sector will not be able to compete.
Years of negative marketing by government aped by the media and coming to reflect public opinion has forced the probation service to be defensive and compliant in equal measure. Compliance has been interpreted as necessary for survival and a crushing orthodoxy has been centrally imposed. Social inclusion and social re-integration are necessary if offenders are to become and sustain themselves, first as ex-offenders, and ultimately as citizens contributing to community cohesion. This means making the links with communities, meaningful, reliable and at the core of ‘Offender Management’. According to the Home Secretary, Probation Officers are to be the main group from which Offender Managers are to develop. A positive case management system which ensures a key and direct role for probation officers linking with community resources and ensuring a seamless sentence can be achieved but only if such officers find again the communities and the connections to make this work. The challenge for NOMS is to be open to such a local and regional identity. To release the negative grip of central targets which leaves workers chasing targets for the sake of cash rather than to achieve the best possible practice. Otherwise it will be a ‘twenty times in a generation missed opportunity’!!

References
The Community Governance of Crime, Justice and Safety: Challenges and
Lesson-Drawing

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Abstract
This paper offers some critical reflections on and lesson-drawing from the current
modernising project in the local governance of crime, justice and safety in the UK and
Australia. It begins with a sociological account of the growing salience of appeals to
community in crime prevention and community safety. The seductions and dangers of the
discourse of 'community in the singular' are examined before a 'defence' of radical
articulations of the 'communal' is made. Finally five major challenges facing proponents
of community-based prevention, safety and justice are highlighted.

Introduction
This paper offers some reflections on and lesson-drawing from the current 'modernising'
project in the community governance of crime, justice and safety in the UK and Australia.
The paper begins with a brief sociological account of the growing salience of appeals to
community in the field of crime prevention; it then examines both the seductions and
dangers of appeals to community in the field of crime prevention together with a qualified
defence of communalism in crime prevention. Finally it suggests that there are five major
challenges for radical proponents of the community governance of crime, justice and
safety.

Explaining the Persistence of Community Crime
Prevention
There have been notable transformations in crime prevention and community safety and
in the new institutional architecture of prevention and safety in the past two decades
across a number of late modern societies (see Garland, 2001; Hughes, 2004; Hughes et.al,
2002). The overall assessment of the tangible successes of such developments is still
difficult to call. However, in terms of the currently dominant 'what works' orthodoxy
associated with Home Office administrative criminology and the ‘crime science’ evaluators in the USA and UK, community crime prevention as one element of the new preventive sector has been noticeable for its apparent lack of any ‘measurable’ successes (see Sherman et al., 1997; Welsh and Hoshi, 2002). This may be a problem of measurement of course as much as the inherent limits of the ‘alphabet soup’ of initiatives frequently developed under the seductive yet vague rubric of community-based crime prevention. Whatever the lack of tangible successes of community crime prevention, when compared with that eminently measurable, ‘evidence-based’ set of techniques associated with situational crime prevention, we appear to have the stark fact that appeals to community in crime prevention, as well as in other sectors of criminal justice, will just not go away. Indeed the political and policy rhetoric of ‘community’ governance across many contemporary societies has never been more strident and pronounced.

For societies made up of seemingly ‘loosely engaged strangers’ (Young, 1999) this paradox is striking and one that Kit Carson (2003) in Australia and others have rightly noted. How do we explain this paradox? Perhaps, in the words of Jeffrey Weeks (1996), writing about the idea of a sexual community among gay people, community may be ‘a necessary fiction’ in these fluid and uncertain as well as often oppressive and discriminatory times.

One possible answer to this seeming conundrum may lie in the growing emphasis from sociologically-informed research and theory that crime prevention, in all its myriad forms, is as much a political and normative enterprise as a scientific endeavour (Hope, 2000; Hughes, 1998). Recent research on localities and occupational cultures in the field of prevention and safety in the UK (Gilling and Hughes, 2002; Hancock, 2001; Hughes et al., 2002; Hughes and Edwards, 2002) has suggested that we may need to rethink the idea of lesson-drawing and the cruder versions of the ‘what works’ and ‘evidence-based policy’ paradigm currently dominant in the Home Office. In particular it is argued that we need to take greater account of the crucial contingencies associated with the specific contexts in which crime control and community safety strategies emerge and how actions and meanings in situ are negotiated. This body of work suggests that we should be wary of ‘reading off’ what happens in specific local and regional contexts from highly publicised national and international templates on ‘best practice’ and ‘what works’ produced by global policy entrepreneurs such as Sherman et al. (1997).

When detailed sociological research is carried out in specific localities on community-based partnerships and their strategies of prevention, safety and justice, the picture that emerges is not only one of diversity behind superficial conformity to central government diktats but also a highly contingent, contested, and profoundly unfinished business. In particular, research on the lived realities of policy making and implementation in situ suggests that the field of community safety (and by implication community justice) is an inherently political and normative – and symbolic (Sutton and Cherney, 2003) - set of practices as well as a technical enterprise. Indeed it may be contended that there is an omnipresence of political and moral agency throughout the entire process of policy formulation, implementation and evaluation in the emotionally charged field of local
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crime control. At the same time this contention should not be read as a rallying call for despondency and what John Braithwaite (1992) termed 'pessimism' and 'cynicism' in criminology. Rather it is the necessary realism from which to rethink debates in the fast moving field of community safety and crime control.

The Seductions and Dangers of Appeals to ‘Community’: Engaging with Conceptual Foundations

On the surface, the call to re-examine the basic conceptual foundations upon which crime prevention policies currently rest may seem to be an arcane and navel-gazing luxury. However, I would agree with Carson (2003) in arguing that a conceptual debate on the ideas of community and communalism is itself intensely practical in its potential consequences. From my own experiences as both researcher and a practising ‘partner’ in local community safety work in England, I would contend that the debate on what might be meant by such notions as ‘community’ and lately the seemingly ever-present magic pill of ‘social capital’ is not just an academic exercise for ivory tower dwellers. Rather they are necessarily part of the everyday dilemmas – if not explicit conversations – for practitioners, local activists and ‘community builders’ when they are sent out (or ‘parachuted’) into communities and neighbourhoods to foster partnership work and ‘community capacity-building’.

Acknowledgement of the dubious seductions and dangers of appeals to community in policy discourses is a common and well-trodden one for any social scientist. It is hardly novel to note that the assumption of communities being akin to ‘ye olde idea of community’, is both a wrong-headed and dangerous imagined tradition, whether imagined as the bucolic village of a hierarchical but harmonious past, or as the homogeneous ‘high trust’ working class community of industrial society yore. It is of course a myth to assume that actually existing communities today are commonly characterised by a ‘relatively homogeneous group of people, closely bounded, sharing certain values, usually within a defined spatial locality’ (Carson, 2003: 13). Although we do find examples of such ‘exclusive clubs’ today, the modern reality of living together is that of more open, fluid and hybrid social arrangements and also, crucially, of often conflict-ridden and ‘nasty’ relations, especially in the most deprived ‘communities of fate’, left behind by the neo-liberal times of affluence and consumerism.

However, simple, or ‘primitive’, notions of community still often have the status of a ‘natural category for crime prevention’ (O’Malley, quoted in Carson, 2003). To cite just one example, the extreme dangers of such exclusive notions of community today have been graphically captured in the following dystopian observation by the sociologist, Zygmund Bauman. Writing with regard to many worried citizens’ desperate attempts to hang on to the primitive idea of the singular, exclusive and excluding, community today, Bauman opines:
What they are after is an equivalent of a personal nuclear shelter; the shelter they are after they call 'community'. The 'community' they seek stands for a burglar-free and stranger-proof 'safe environment'. 'Community' stands for isolation, separation, protective walls and guarded gates (Bauman, 2000: 114).

Such sceptical but realistic observations from the sociological academy are a vital starting-point for any informed and progressive debate on 'community' across many policy spheres. However, they have an especially important part to play in the volatile and highly emotive field of crime control and security policies. That said, this systematic scepticism should not blind us to other ways of articulating alternative imaginings of belonging, mutualism and collective solidarities in our contemporary world. It is probable that there is much common ground shared by readers of this journal with regard to the dangerous seductions of simplistic takes on 'community'. What is perhaps less certain is how we may take the debate on the 'communal' in community safety and, by implication, community justice, forward.

‘Dare to Imagine’: A Guarded Defence of Communalism in Crime Prevention and Community Safety

At this point some reflections on the tentative new ways of articulating relations between the often 'lightly engaged strangers' of late modernity (Young, 1999) and the promotion of new modes of mutualism, solidarity, civility and of being 'public' are apposite. In doing this it may also be necessary to confront Carson's claim that my previous work in this field (Hughes, 1998a) remains 'trapped by the burdens of 'community' as a concept' (Carson, 2003: 25). To a large degree this observation is well-taken. However, whatever the academic misgivings over the generally nostalgic and dangerously claustrophobic appeals to 'the (moral) community' which I share (Hughes, 1996), the intellectual position adopted here remains that we cannot afford to discount the power of the highly promiscuous and capacious concept of community in contemporary political and moral discourses. It appears that in some ways we cannot live with community but nor can we live without it. In that sense I depart from the post-modern critics' (Young, 1990, Pavlich, 2001) more brutal dismissal of communalism in all its guises. Here are some provisional reasons why this author is not persuaded to give up on the potentially progressive if volatile appeals to community in the field of governance despite all the necessary health warnings.

The common response among radical social scientists is to abandon the signifier of community given its capacious, dangerous and inaccurate qualities in this seemingly post-modern world of our ‘lightly engaged strangers’. But perhaps this is an elitist response itself, particularly given the grim realities of living together in often territorially-defined and socially and spatially trapped ‘communities of fate’, whose members often co-habit ‘cheek by jowl’ with equally desperate different ‘communities of identity’ (Home Office,
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2001, Edwards and Hughes, 2002). This stands in sharp contrast to the 'communities of choice' which many of our more affluent citizens – and especially post-modernist intellectuals - are able to inhabit, alongside indulging in the capacity for consumerist 'de/constructionist' life-style options. And, more optimistically, some supposed communities of fate may also be a source of new forms of mutualism (see, for example, Pahl, 1995, on friendship networks and 'public spirited work' among single female parents). In turn the work of both Lisa Miller (2002) and Clifford Shearing (2001) illustrates the potential of poor, marginalized communities to produce progressive solidary processes of community capacity-building in their struggles for a say in decision-making and 'bottom-up governance'. Miller's research in Seattle plots the successful counter-struggles of the black community against the criminalizing and racialising 'weed and seed' strategy of the Seattle police against the young black men of that community. Meanwhile, Shearing's involvement in the community capacity-building programme in one of the townships in South Africa highlights the potential for generating seriously 'bottom-up' processes and restorative, 'peacemaking' solutions to shared harms and insecurities in the most seemingly marginalized and traumatized communities. Accordingly, appeals to community or preferably communities may function as a 'necessary fiction' (Weeks, 1996) for minorities struggling against discrimination and marginalisation and for the possibility of rights claiming beyond the moral majoritarian norm.

There is then some difficulty with the claim made by such critics as Iris Young (1990) and George Pavlich (2001) that the appeal to 'community' is fatally inscribed in a claustrophobic, excluding, and conservative moralising discourse. It is of course vital to recognise in a profoundly non-nostalgic manner that communities are and always have been generally hard places and conflict-ridden spaces in which disorderly dispute as well as orderly agreement is to the fore. But they remain, even as necessary fictions, important in the struggles of poor and stigmatised citizens - and those excluded from citizenship altogether - for both the redistribution of resources and recognition of identities and alternative ways of existence. The challenge is to imagine community without recourse to either neo-tribalism or self-immolation (Weeks, 1996). It is also important to recognise that appeals to community literally people the landscape of state and governmental practices and the new local institutional architecture of crime, justice and safety policy. Put bluntly, community is now a key component of the new sense of the 'national-popular' in many late modern societies (see Hughes, 1998b). No amount of sociological deconstruction of the concept of community is likely in the short to medium term to change such material and symbolic relations of power, meaning and interpellation.

Despite this important disclaimer, I share Carson’s (2003) commitment to look for ‘constructive collective alternatives’ to the generally stultifying, claustrophobic, exclusive and wrong-headed notions of the single moral community, accepting that this is easier said and written about than done. In the final part of the paper five key challenges facing proponents of inclusive and community-based preventive approaches to the problems of crime and injustice in contemporary society are highlighted.
Five Challenges for Community-Based Solutions to Crime, Safety and Justice
(1) Promoting an Inclusive and Rights-based Vision of Prevention, Safety and Restoration

This first challenge is to counteract the pull and push of punitive populism and exclusionary law and order politics and to articulate and promote an alternative inclusionary and preventive ‘replacement discourse’ of safety and justice (van Swaaningen, 2002). In pursuing this vision we may wish to argue for moving from the talk of ‘war on crime and disorder’ to ‘winning the peace’. I am struck by the general lack of public dialogue in the UK involving academics and researchers as public intellectuals, compared for example with the work of academics in Australia (see for example the work of John Braithwaite (2002) with regard to the promotion of ‘preventive’ restorative justice, which has been aimed not just at errant kids but anti-social corporate leaders!).

All academic researchers should of course be committed to the goal of value neutrality in the production of their research findings. However, this is not to say that academics are divorced from the world of politics and contested democratic debate. As ‘public intellectuals’, there is a duty on academics to undertake political and normative engagement with the ‘big’ issues of the day. In particular, a commitment to the tricky and risky aspirations of prevention, restoration and community empowerment in crime, justice and safety policies and politics needs to be made, as part of a broader struggle for an inclusive and revitalised vision of the ‘public’ and of ‘social justice’. One component of these aspirations is the need for more support to be given to inclusive multi-agency crime reduction and community safety programmes and the use of constructive community penalties rather than the expulsionary logic of imprisonment wherever possible (see Nellis, 2002). In turn the profile of these in the public mind needs changing. Much of this challenge is bound up with a debate about how the crime problem is currently framed – with prison seemingly the only solution – and how it may be re-framed, not least by addressing which are the ‘better’ and ‘worse’ ways of reducing crime.

This is not to deny that positive contestation of the claims of restorative justice and community safety is of course a necessary part of the public debate. For example, the ‘success’ and popularity of the new restorative strategies may be closely linked to what has been termed the ‘market state’ and the shift of primary responsibility for the governance of crime and disorder onto responsibilised individuals and communities. At the same time, I and colleagues at the Open University would argue that radical criminology must continue to be supportive of restorative justice because it offers us ‘an analytical framework that insists we would have a lot to say to one another about what ‘crime’ signifies emotionally, if only we knew how and when to speak and how and when to listen’ (McLaughlin et.al, 2003: 17). More generally, we argue that it is only by refusing to be contained within a criminal justice paradigm and the emergent discourse of insecurity that criminology can hope to promote a different type of public conversation – involving new conversational partners – and encourage transformative agendas to take hold (ibid).
Community governance techniques such as restorative justice processes and community safety partnerships may be viewed as seeking to redistribute power and dispense decision making to a much wider and more heterogeneous ‘community’, informed by the principle of ‘subsidiarity’ (namely that we should locate the engagement with social problems as near as possible to the origins of these problems) (McLaughlin et.al, 2003). However, should the more ambitious aim be not the ‘restoration’ but rather the ‘transformation’ of communities (Clear and Crawford, 2003)? Here, for example, we may look for inspiration again to the previously-mentioned work of Clifford Shearing and the programme of community capacity-building and transformation in one of the townships in South Africa (Shearing, 2001).

(2) Partnerships, Whole of Government and the Audit Culture
In the long-term is ‘partnership’ the framework through which a multitude of over-lapping disciplinary techniques is being impressed upon criminal justice and community safety professionals? In countries like the UK and Australia the national and state governments’ intention is to replace ‘old’ criminal bureau-professional arrangements with multi-functional integrated partnerships whose performance will be dominated by the requirement to produce ever more arduous measurable and quantifiable outputs and cost-effective outcomes. Professional practice is also being shifted more and more towards a technical process in which risk assessment is determined by standardized statistical prediction models (Hughes and McLaughlin, 2003). At the same time there are resistances to these pressures, not least among the new ‘technologists’ of community governance (Gilling and Hughes, 2002).

Accordingly, it is vital that social scientists examine the contested nature of the knowledge, skills and values base of the work of community safety partnerships as
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currently experienced by practitioners and other actors across different locales. A crucial element to my argument here is that the politics of articulation of what constitutes community safety partnership ‘work’ remains unfinished and thus represents a major challenge for researchers and practitioners alike to articulate in the context of a centralising top-down policy agenda. Indeed my own research on community safety managers in the UK and Victoria, Australia (Hughes, forthcoming) suggests that this work continues to slide uneasily and with contradictory effects between the at times conflicting and at other times collusive agendas. These agendas include a technicist ‘crime reduction’ approach, a moralising concern with the war on disorder and the anti-social, and a social democratic vision of ‘social regeneration’ and ‘community safety’ going back to broader social programmes of the ‘old’ welfare state.

It is also crucial to explore in future research how the new ‘technologists’ of community governance working interstitially between both professional and organisational forms of authority and discipline have to manage themselves in an overlapping series of potentially contentious relationships

- between the local, regional and central;
- between agencies;
- between conflicting policy objectives;
- and between different representations of the community (Clarke, 2002).

(3) Rethinking ‘What Works': Lesson-drawing, Learning and Training Issues

There is obviously much to be said for evidence-based policy and practice and ‘what works’ criteria will have a key role to play in the ongoing reform and improved performance of public services. Who could disagree with the challenge of rational, scientifically driven policy making conjured up by the new ‘crime scientists’? However, there has not been a particularly creative and expansive notion of, nor debate about ‘what works’ and what is counted.

First, for understandable reasons, those working in the crime reduction field and in community safety partnerships are uncritical, in public at least (Gilling and Hughes, 2002) of what is a highly prescriptive top-down approach. In both the UK and Australia (Sutton and Cherney, 2002), governments’ declared commitment to pragmatism, in the form of ‘what works’ and ‘knowledge-based’ practice, is obviously a welcome relief from the New Right’s dogmatic insistence on ‘competition’. In addition, central departments such as the Home Office, Scottish Executive and Ministries of Justice across the states of Australia are all providing copious guidance and direction on how to measure ‘what works’, ‘success’ and ‘progress’. But is this conducive to undertaking imaginative, long-term crime prevention, never mind ambitious locally nuanced community safety work?

It is becoming increasingly obvious that ‘success’ in the reduction of crime and disorder is, in the short term, largely synonymous with what can be counted, audited and easily
targeted. The pressure to deliver ‘what works’ and to minimise risks ensures that ‘tried and tested’ (situational) crime prevention initiatives will be prioritised over more ambitious social programmes of prevention and safety (Hughes and McLaughlin, 2003). We thus need to move urgently beyond the ‘off the shelf’ or its latter day equivalent of ‘off the web’ naïve emulation and evaluation in crime reduction policy and practice.

In turn, there are challenges around learning and training for practitioners and policy makers as ‘change agents’ facing strategic dilemmas in the field of community safety and by implication in community justice. Their work is not just about techniques but also involves normative and political questions for every practitioner ‘doing’ community safety. To date much of the push on training seems to emanate from ‘above’, is centrally driven and often comes neatly if simply packaged as ‘toolkits’. This narrow approach to knowledge construction should be challenged by professional associations and related practitioner networks in alliance with academic commentators. As Michael Hess and David Adams (2002) note with regard to the contemporary challenge for public administrators in Australia, appropriate public knowledge is no longer a given to which administrators will have privileged access through expertise and authority. Rather it is related to the processes by which meanings and values are created and embedded, constructed and deconstructed in a world that is becoming increasingly episodic rather than linear’ (Hess and Adams, 2002: 75).

(4) Democratisation of crime prevention
This democratisation of crime prevention is a truly major challenge as it lets loose participative as well as representative democratic forces and in turn the ‘emotive’ (Freiberg, 2001) in local crime control and justice strategies. In turn this challenge raises implicitly the issue of how to tolerate the intolerant in our often diverse and divided communities. Here Nancy Fraser’s notion of ‘counter publics’ may be helpful in forcing us to recognise that they exist and in turn that such counter publics need a voice which is heard and recognised.

The acid test of this in the UK may be seen in the inter-communal disorders and the associated rise to popularity of extreme nationalist and neo-fascist forces such as the British National Party (BNP) in some of England’s de-industrialised Northern towns. In towns and cities such as Burnley, Oldham and Bradford, we have different minority ethnic groups, faith communities and fractions of the (non-) working class living ‘cheek by jowl’ and engaged in an intense struggle for scarce public resources. It is of course difficult to argue with the pious call for greater ‘community cohesion’ among the divided and socially excluded sections of the poor (Home Office, 2001) but this will count for little if the issue of political inclusion and greater participation in decision-making is not addressed. Perhaps we need to articulate a new politics of public renewal by which concrete policy and identity problems may be addressed. And here the ideas of the Scandinavian commentator Bang (in Newman et.al, 2002) may be helpful to us.
According to Bang, the distinction between ‘project politics’ and the ‘politics of presence’ may help open up the political system to a new cultural agenda. Project politics are concerned with how to engage citizens in helping solve particular and local problems. On the other hand, the politics of presence are concerned with how to enable citizens to voice their interests, experiences and identities in a deliberative process. Both these dimensions – each fraught with great risks – appear to have been lacking in the recent experiences of the Northern towns and cities examined by Ted Cantle in England (Home Office, 2001). However, it is important to acknowledge that the dominant tendency in countries like the UK and Australia will be for community-based crime prevention and (by implication) community justice to continue to be ‘managerialised’ rather than democratised (McLaughlin et al., 2001). That noted, the current ‘modernisation’ projects with regard to the public services in the UK and Australia may be giving the issue of responsiveness to the demands of the public, a new and greater, though still fragile, status in the hierarchy of legitimisation (Newman, 2002; Hess and Adams, 2002).

Another key issue here seems to be the possibility of changing the relationship of ‘expert’ and ‘local’ knowledge to the point where the two roles become increasingly synergetic and fluid. As Carson (2003: 31) notes, this is potentially a ‘personally and professionally treacherous terrain’. This carries obvious implications for the transformation in the skills required of public servants: moving from expertise in bodies of established knowledge to expertise in participative processes (Hess and Adams, 2002) and in turn necessitating a willingness to share elements of power and control. Again I endorse this ambition for all participants in the community safety and justice ‘movement’, not least those aspiring to be ‘public intellectuals’ involved in the co-production of ‘governmental savoir’ (Hughes, 2002; Stenson, 1998).

There are of course dilemmas, constraints and opportunities for academic researchers seeking to engage with ‘here and now’ as well as with future policy, practice and political initiatives. These issues are neatly captured by Stan Cohen in the following stringent ‘loyalty test’. There is then:

A triple loyalty: first an overriding obligation to honest intellectual inquiry itself (however sceptical, provisional, irrelevant and unrealistic); second, a political commitment to social justice; and third (and potentially conflicting with both), the pressing and immediate demands for short-term humanitarian help. We have to appease these three voracious gods (Cohen, 1998: 118).
The Community Governance of Crime, Justice and Safety: Challenges and Lesson-Drawing

(5) Instabilities of Community Governance

According to its proponents, the dominant tendency of neo-liberal governmentality is towards individuation (involving the constitution of the producing, consuming and responsibilised subject). However, Nikolas Rose argues that it also works through the decomposition of the national ‘social’ into territorialized locales or ‘communities’ (Rose, 1999). By this means, communities are both the preferred site of attachment and identification and the locus and space of governmental practices. It would appear that the goal would be the creation of self-regulating communities to supplant state-centred national, social democratic collectivism.

The extent to which this tendency towards the ‘death of the social’ has occurred is open to some serious questioning and in particular the loss of state sovereign power, not least in the field of crime control, may have been greatly exaggerated by the grand narrators of neo-liberal governance. Nonetheless, the appeal to community cannot be under-played in the understanding of the new governance of crime control and public safety. ‘In the present conjuncture, community appears in multiple guises: it is the site of governance, the mode of governance and the (intended) effect of governance’ (Clarke, 2002: 5). It literally ‘peoples’ the landscape of devolution, decentralisation and localisation. Perhaps what is most new and distinctive about the shift towards recruiting ‘communities’ to governance is that the community supposedly acts as both the site and the agent. They are seemingly invested with authority and capacity due to their ‘politico-moral’ agency (Rose, 1999). They also require the attention, respect and interest of statutory, voluntary and private governmental institutions and agents. Meanwhile, communities are the vital repositories of values and resources which may be ‘activated’ in the process of co-governing. And increasingly these new forms of local governing are represented as ‘partnerships’.

The instabilities of community as a site and mode of governance are manifold and represent an ever-present challenge for all institutions, groups and agents involved in mobilising and harnessing such collective energies. For example, as John Clarke (2002) notes, communities are difficult to find when you need them; it is difficult to decide on who are their ‘usable’ and ‘legitimate’ representatives; and when they do ‘materialise’, they are often plural and contradictory entities. In turn, communities defined by place are often constructed and fissured by different identities and interests. On the other hand, communities defined by identity are themselves riven with tensions regarding their seemingly ‘essentialised’ identities and the role of community ‘leaders’ in embodying these qualities. It is difficult to form communities and hold them stable for the purposes of governance. In practice, if not in rhetoric, communities are generally weakly bounded and leaky systems in our late modern conditions.

Nowhere is this more starkly evident with all its contradictions and instabilities than in the cognate fields of community safety and local crime control. Meanwhile, the people who live in high crime areas have been incidental rather than central to ‘community’ crime prevention efforts (see the work of Hancock, 2001, and Miller, 2001). As a
consequence, agencies charged with constructing community-based programmes have largely ignored the core constituency and then determine that it cannot be relied on as an agent of change (see Tim Hope's work, 1995, 2001). The extent to which governmental practitioners and local actors in this field confront these issues routinely in their discourses and practices of governance needs to be fully examined as a central question in this policy field.

**In conclusion**

To be ‘governmental’ in our research and scholarship implicates us in the agendas of the moment and in their articulation, deployment, defence and legitimisation. In saying this I also want to argue, following Clarke (2003), that the ‘governmental’ role needs to be counter-balanced by a willingness to discover and voice the ‘other’ critical publics, interests, imaginaries and possibilities that are not dominant. This is an important and vibrant sense of the public interest. I hope that this paper will play a small part in articulating these other imaginaries of prevention, safety and justice than those currently prevalent across many contemporary societies.

**Notes**


(ii) The ideas in this section owe much to conversations with Kit Carson discussing his work in Victoria, Australia although any possible peculiarities of the position adopted are solely my responsibility!

(iii) This ideas expressed in this section are indebted to the collaborative work I have undertaken with my colleagues, John Clarke, Eugene McLaughlin and John Muncie at the Open University.

**References**


The Community Governance of Crime, Justice and Safety: Challenges and Lesson-Drawing


RACIST VICTIMISATION, COMMUNITY SAFETY AND THE RURAL: ISSUES AND CHALLENGES

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Abstract

Whilst issues of rural poverty and exclusion have received some national media attention in recent years, the problem of racist victimisation in rural areas has been largely overlooked within academic and political discussion of the rural. Drawing upon research conducted by the authors in two rural English counties over a two year period, this paper asserts that racist prejudice is very much part of the reality of rural living for minority ethnic groups whose presence in the countryside tends to be overlooked. The paper discusses the experiences of victims of racial harassment to illustrate the disturbing nature, extent and impact of racism in rural areas, and suggests that the enduring ‘invisibility’ of the problem is compounded by flawed multi-agency responses to racist incidents. It is argued that agencies need to develop a deeper understanding of racism in the rural arena and this can only occur once they comprehend the needs and characteristics of rural minority ethnic communities.

Introduction: Researching Rural Racism

On 5 November 2003 residents in the Sussex village of Firle undertook their usual Guy Fawkes Night procession which culminated in the lighting of a bonfire. To the shock and consternation of many who attended the event, the bonfire consisted of a caravan with effigies of gypsies contained within it and the false numberplate ‘PI KEY’ attached to its rear. The organisers of the event defended their actions, stating that the burning of the caravan was simply part of a Sussex bonfire tradition that stretches back centuries. Each year, in the village of Firle, the effigy of a topical ‘scapegoat’ is burnt as part of Bonfire Night celebrations, and in 2003, this ‘scapegoat’ happened to be Gypsy Travellers (Carter, 2003).

The burning of the ‘gypsy caravan’ highlighted the tensions that existed between the inhabitants of Firle and Travellers who had been camped in the village. It also brought national attention to issues of rurality, racism and intolerance, a rare occurrence as within the media there is a tendency to portray rural England as a problem-free ‘idyllic’
environment (see, for example, Cloke, 1997 or Scutt and Bonnet, 1996). Typically, this conception is encapsulated in the oft-used term of the 'rural idyll', which in the words of Cloke and Milbourne (1992: 359) 'presents happy, healthy and problem-free images of rural life safely nestling with both a close social community and a contiguous natural environment'. Within such an idyllic context therefore, studies of crime, deviance, and more specifically racist prejudice are perceived to be superfluous and better suited to urban environments.

However, the priority given by the British National Party to countryside issues (exemplified by its publication 'The Countrysider', part of its 'Land and People' campaign) has brought some attention to the presence of far-right parties and of 'racial politics' in the rural arena. With this in mind, the authors of this article embarked upon research into the nature, forms and impact of racist harassment in the countryside, as well as assessing the effectiveness of mainstream and voluntary agencies in providing services to victims. This research, conducted over two years in the rural counties of Suffolk and Northamptonshire, was designed to develop a body of knowledge about racist victimisation in rural areas. Whilst the forms and extent of such victimisation in these counties did differ in some regards, the aim of this paper is to outline the key themes that emerged from both areas.

The research built upon the work of several small-scale rural projects that have sought to draw attention to the problem of racist prejudice (see, for example, Derbyshire (1994) and Jay (1992)). It has been suggested that for minority ethnic households living outside major towns and cities, racism can in fact be more distressing and prolonged as they find themselves living in a 'double-bind' situation: on the one hand minority ethnic groups are ‘invisible’, in that their needs are not accounted for within existing policy and service provision; on the other hand they are all too visible to local rural communities as a result of being one of few individuals or families from a minority ethnic background1. Accordingly, the lack of interaction with local agencies, as well as experiences of overt and latent racial prejudice, is likely to intensify feelings of isolation and marginalisation.

This article assesses the experiences of victims of racial harassment to illustrate the nature, extent and impact of racist prejudice in a rural context, before moving on to discuss some of the factors behind the continued ‘invisibility’ of rural minority ethnic populations. The article concludes by suggesting that a lack of understanding of both the importance of racism and nature of rural minority ethnic communities prohibits many key agencies from developing community safety strategies that effectively challenge racism.

**Background and Methodology**

The research material referred to in this paper is drawn from two rural-based studies broadly similar in scope. The first of these was commissioned by Suffolk County Council and associated partner organisations2 to investigate the problem of racism in rural Suffolk. Specifically, the research was designed to investigate the nature and extent of racial harassment suffered by minority ethnic families living in rural and isolated parts of the...
county, and to examine agency responses to victims of such harassment. A similar study was commissioned by Northamptonshire's Eastern Area Multi-Agency Group Against Racial Attacks and Harassment (MAGRAH) to undertake research into the effectiveness of services provided by local voluntary and statutory agencies for victims of racial harassment living in the borough of East Northamptonshire. Common to both studies was a belief that such research would elicit further information about hitherto 'hidden' forms of victimisation, thereby helping local agencies to provide fully-informed, levels of support.

The utilisation of similar qualitative and quantitative methodological devices in each study helped to develop a broad base of original material from which detailed findings could be drawn. Of central importance were the 30 in-depth, semi-structured interviews conducted with victims of racial harassment living in both areas, which were undertaken as a way of gaining a deeper appreciation of the various facets of racist victimisation from households with direct experience of the problem. As a way of establishing a representative selection of victims with regard to their demographic profile and experiences of racism, interviewees were chosen on the basis of recommendations from local agencies and through identification via questionnaire responses. The victims involved in each study were evenly distributed in terms of gender, and drawn from a broad cross-section of visible and non-visible minority ethnic communities, rural areas of residence and age groups.

A total of 33 in-depth, semi-structured interviews were also undertaken with representatives from local statutory and voluntary agencies in both counties. Accessing the perceptions of such a broad range of organisations was a valuable way of assessing levels of inter-, and intra-agency working practice and of identifying gaps in support provision. A further feature of the methodology utilised in each study included the organisation of focus groups and interviews with members of established white rural communities; this, it was anticipated, would help to contextualise victims' own experiences of racism by illustrating how members of minority ethnic groups are perceived in communities renowned for being intransient.

Finally, in accordance with Bowling's (1993) suggestion that a combination of both qualitative and quantitative methods can be the key to establishing a clear understanding of racist victimisation, the methodology also included a postal questionnaire survey of minority ethnic groups living in both rural areas. Essentially, this was designed to provide quantifiable back-up to the other methodological features by gauging respondents' views on a range of issues relating to crime, community safety and racial harassment.

**The Experiences of Minority Ethnic Communities in the Rural Arena**

The friendly, community-oriented image of English rurality has been challenged by previous studies that have suggested that these values are often absent when it comes to welcoming minority ethnic groups to rural areas (see, for example, Agyeman and Spooner,
Further weight to this argument can be gained through assessing the perceptions of minority ethnic individuals and families living in rural areas. Certainly, interviewees in both Suffolk and Northamptonshire gave the impression that they lacked a true sense of belonging to their locality, arguing simply that their ‘face didn’t fit’ within the immediate surroundings of conventional rural society. Indeed, despite making efforts to form part of established networks, interviewees’ attempts at integration had generally proved unsuccessful, thereby leading to suggestions that established rural communities tend only to accept ‘their own’, as the following quotation illustrates:

There’s a chap who lives just down the road from me, he was saying ‘It’s all right love, we don’t see you as one of them. You’re one of us.’ I don’t want to be one of you, thank you very much. I’m me, thank you.

Dual Heritage female, Suffolk

Although some minority ethnic interviewees acknowledged the more positive elements of rural living, such as the relative ‘peace and quiet’ of village life, those that had previously lived in more diverse, urban environments lamented the small number of minority ethnic rural residents and often felt socially and culturally isolated, as inferred in the following observations:

We moved to our village because we loved the house when we saw it, but we were slightly hesitant because obviously moving to a village you are going to stand out a bit more. I find in some villages you go in and it’s almost as though they’ve never seen a black person.

African Caribbean female, Northamptonshire

This family that we live next to would literally stand in front of the house talking to anybody that would walk by in the village and just constantly point towards our house, trying to instigate the whole village.

White American male, Suffolk

The unexpectedly harsh realities of rural life had prompted a number of interviewees to seek to live in more urban areas where they believed there to be higher numbers of visible minorities and therefore greater acceptance of diversity. Moreover, it was felt that relocating to a city would also reduce the risk of racist victimisation, which many referred to as a constant worry. Direct experiences of such harassment also inevitably had a major impact upon people’s quality of life, and it is these experiences, together with their various forms and contexts, that this paper now addresses.

Experiences of Racist Victimisation

Previous studies of racist victimisation (for example Bowling, 1998; Clancy et al., 2001) have suggested that racial harassment is a continual process rather than a series of unconnected events; a standpoint which helps to promote recognition of the continual and multi-faceted problem of racism and its impact upon day-to-day existence. This was
certainly an appropriate way in which to view racism in the context of the Suffolk- and Northamptonshire-based studies, where most interviewees across the various age and ethnic groups found it difficult to break their experiences down into separate incidents of harassment. For most, experiencing racist abuse was just another fact of everyday living, as the following quotations suggest:

He [grandson] suffers a lot of racist abuse, he’s bullied and gets called a white wog, and I get told to go and have a baby my own colour and I’ve had windows put out. I’ve had rubbish thrown in the garden and stuff like that.
White British female living with dual heritage grandson, Northamptonshire

It never stops. You get more and more and more…It’s been going on for years.
Pakistani Muslim male, Suffolk

A further noteworthy facet concerning the patterns of racial harassment was that seasonal factors appeared, in some cases, to influence the frequency of victimisation. The extent to which levels of racism vary with the seasons has seldom been a feature of previous investigations. However, several victims living in Northamptonshire villages stated that their fear of harassment was heightened during the summer months, due to the longer and warmer days being more conducive to racist perpetrators ‘hanging around’ in the streets for substantial periods of time. Although this is an area that would require further research, this increased vulnerability during the summer, whether perceived or actual, is a consideration that should be borne in mind in the provision of support to local minority ethnic families, as the following interviewee stated:

It [racist abuse] is guaranteed to happen all through the summer, so as the light nights come back, they [the perpetrators] will start because they know I don’t let him [grandson] out after dark … it happens every day, I’d guarantee it. Out here or if he goes over to the park to play, they follow him over the park. He’s even been playing in his back garden and we’ve had bricks come across.
White British female living with dual heritage grandson, Northamptonshire

Evidence from the research conducted in Suffolk and Northamptonshire suggests that members of minority ethnic groups living in rural areas are likely to have encountered racism in a variety of forms, contexts and manifestations. These experiences may range from the more persistent ‘low-level’ examples of victimisation (most typically verbal abuse and name-calling, stone-throwing, unnecessary and repeated staring) to the less frequent, but arguably even more serious, examples of property damage and physical violence.

However, the alarming incidents detailed by many of the victims interviewed as part of the research highlight the implications of racist prejudice in all its forms, and show how damaging to a person’s physical and emotional well-being such constant experiences are.
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Whilst the harmful nature of serious incidents is often acknowledged, the effects of ‘low-level’ forms of racism are less commonly appreciated. Indeed, it is contended here that the term ‘low-level’, oft-used to describe many forms of victimisation, is misleading and in some ways dismissive as it implies a sense of relative unimportance that serves to trivialise the impact that any form of racism can have on its victim. In reality, the damaging physical and emotional effects of racist victimisation are often difficult for any third party to appreciate:

I have heard about people going on antidepressants and I was laughing, but now I'm on antidepressants so why do I have to live like this?
Iranian Muslim male, Suffolk

When you’re scared, you can’t walk alone. I’ve tried to do a little bit of walking, but I can’t. You are careful: you don’t walk, you use a car.
Pakistani Muslim male, Suffolk

The implication then is that all forms of racist experience in a rural context are serious in nature with regard to their impact on the victim and their family. Whether agencies that have a responsibility to provide help to minority ethnic families fully appreciate this is a matter of contention, and it is to this issue that this paper now turns.

An Examination of Multi-Agency Responses to Racist Incidents in the Rural

Although partnership working has been advocated by some senior police officers and many crime prevention practitioners since the 1980s, it became enshrined in law only after the enactment of the 1998 Crime and Disorder Act, which placed a statutory duty upon local authorities and the police to undertake community safety and crime prevention work in conjunction with other relevant agencies. This impetus has also impacted upon other contexts, such as tackling racist victimisation, where organisations have come to recognise the benefits of adopting a multi-agency approach. In the cases of Suffolk and Northamptonshire, multi-agency forums have been established, namely the Multi-Agency Forum Against Racial Harassment (MAFARH) in the former county and the Multi-Agency Group Against Racial Attacks and Harassment (MAGRAH) in the latter, that aim to co-ordinate service provision for victims of racism.8

Ideally, the key aspects of Crime and Disorder Reduction Partnerships, namely the localised nature of the work, the focus on the prevention of criminal behaviour, including racism, and the emphasis on collaboration should form the basis of similar multi-agency initiatives that combat racism in rural Suffolk and Northamptonshire. Indeed, many of those organizations and individuals involved in providing services to victims of racism in these areas had had experience of participating in effective multi-agency models through the previously established crime and disorder partnerships.
However, an analysis of the workings of the two multi-agency anti-racist forums highlighted a number of problems that agency interviewees admitted hindered the efficiency of their workings. A key aspect of these difficulties was a lack of clear aims and objectives on the part of each forum, something which created the perception that they were rather ‘vague’ bodies that did not have a clear sense of direction and lacked a sense of authority, as one agency worker in Suffolk noted:

It [MAFARH] is just a very feeble type of group. It’s due to the personalities who sit on that group, and their inability to action anything because the authority isn’t there. People are usually representing somebody else who isn’t there who really should be there…I think if MAFARH was managed properly, and it had a work programme, it would be far more useful and beneficial.

Racial Harassment Caseworker, Community Safety Unit, Suffolk County Council

A particularly interesting aspect of the above quotation is that the community safety worker lamented the absence of certain key individuals from such multi-agency forums. This lack of participation may reflect scepticism amongst practitioners that the forum itself was of any real benefit. It may also be an indication of the lack of priority given to combating racism in rural areas, something noted by a representative from an education agency, Inclusion and Pupil Support, in Northamptonshire:

I was fairly horrified when talking to more than one senior area education officer when I was told to take a book along to MAGRAH because they’re really boring meetings…There’s no point in people attending meetings concerning racism because someone’s told them they’ve got to be there. They’ve got to be committed.

This lack of commitment to challenging racism is a criticism that has been levelled at agencies (and particularly the police) in other contexts (see, for example, Rowe, 2004). Victims of racial harassment interviewed for this research were often very sceptical as to whether service providers were genuinely convinced that racism in rural areas was a serious issue, and it appeared to many victims that agencies were instead channelling their resources into tackling other crimes, such as burglary or vehicle crime, that show up more clearly in official crime statistics. As Hughes (2000) argues, such crimes are often prioritised by crime reduction partnerships as their levels can be more easily monitored (and thus any success in reducing them can be more easily demonstrated) than those of hate crimes such as racial harassment, where successful interventions may actually result in a rise in the recorded levels of incidents.

There was also a perception on the part of some agency workers, common to both counties that feature in the present study, that certain statutory and/or voluntary bodies were not ‘pulling their weight’ when it came to undertaking multi-agency anti-racist work.
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It appeared to some of those interviewed, and especially to those who represented key statutory agencies such as the police, that only a few organisations actually did more than pay ‘lip service’ to participating in anti-racist initiatives:

If you see how many are signed up to MAGRAH I think it’s about fifteen, sixteen agencies, but the majority, the bulk of the work’s done by two, and a third one in terms of projects, so that’s poor.
Racist Incident Officer, Northamptonshire Police

These feelings of resentment at the lack of involvement of certain organisations may be indicative of other difficulties, including personal problems between individuals or political mistrust between agencies as a whole. Indeed, in both Suffolk and Northamptonshire relationships between organisations represented on the MAFARH and MAGRAH forums appeared to be characterised by a degree of mutual suspicion and wariness, which led to a lack of information-sharing between them:

I think some people [other agency workers] don’t even know what we are working with. They know that it’s racial harassment, but that’s about it. They don’t really know our role, and vice versa. I may not know some of their roles.
Racial Harassment Caseworker, Community Safety Unit, Suffolk County Council

There have been isolated incidents in this area of racial harassment and it’s picked up that they are regarding housing, yet they come through via somebody else, whether it’s social services or the police and it’s often ‘Why weren’t we aware of that?’ The information flow could be slightly better.
Anti-Social Behaviour Officer, Housing Department, Northamptonshire

Crucially, this lack of inter-agency co-operation has led to delay in the implementation of assistance to victims. The dearth of knowledge of each other’s roles mentioned above has also clearly not been solved by the presence of agencies at partnership meetings. A related but significant issue is the fact that a number of key organisations, including community groups, are not even present at such meetings as they have not been invited to participate. Interviews with members of minority ethnic groups revealed frustration at their absence from multi-agency anti-racist forums and has inevitably led to the feeling that these forums are ineffective and exclusionary:

The African Caribbean Association haven’t had a representative at any meeting to do with MAGRAH for the last year and yet they are a member. There’s the Indian and Muslim associations, they haven’t turned up in the last year to any meetings.
Police Racist Incident Officer, Northamptonshire
They [MAFARH] or any of their organisations haven’t contacted me...I’ve been living in this town for such a long time. We have no information or contact whatsoever.

Pakistani Muslim male, Suffolk

Consequently, members of minority ethnic communities, who may already be feeling isolated, may also feel disenfranchised from the very initiatives that should be supporting them. Whether this is a consequence of deliberate agency actions or merely a product of their thoughtlessness is open to conjecture. It is also, to a certain degree, irrelevant in the 'post-Macpherson' era where polices and procedures that 'disadvantage minority ethnic people', whether deliberate or unwitting, are evidence of institutional racism (Macpherson, 1999: 28).

**Conclusions – Minority Ethnic Communities and Community Safety**

It is evident from the preceding discussion that the nature and regularity of racist incidents in rural and isolated areas should be a serious cause for concern amongst agencies. Moreover, although the number of racist incidents reported to the police in Suffolk and East Northamptonshire during 2001/02 was comparatively small, just 3039 and 26910 respectively, the actual totals may be far higher, since only a fraction, perhaps just one-in-ten, of incidents are ever reported to the police (Bowling, 1998). This under-reporting of incidents, coupled with their alarming effects upon victims, highlights both the significance of racist victimisation in the rural arena and the need to develop effective and compassionate responses.

However, as was illustrated above, the 'loose' partnerships that provide support to victims of racism in both counties studied were criticised by victims and by many of those that work within them. The forums were seen as somewhat vague bodies that did not provide much-needed direction and leadership. They were also criticised for not engaging local minority ethnic community groups; not sharing information efficiently and having, as participating members, organisations whose commitment to the forums was debatable.

Although these problems are notable and worrying, they do reflect concerns that have been expressed about partnership working in other contexts. For example, the Audit Commission has questioned the effectiveness of multi-agency approaches to crime reduction, and concluded in its evaluation of crime and disorder partnerships that they 'had not made an obvious impact on community safety' (Audit Commission, 2002: 1). The Commission also found that whilst some organisations, such as the police, participated fully in such networks, others, such as education and health, were less involved (2002: 19; see also Dhalech, 1999), mirroring the findings referred to in this article.

If there is a reluctance of some agencies to fully contribute to crime and disorder reduction partnerships for which they have a statutory obligation to participate, then it could be
argued that they would be even more reticent to become involved in more ‘informal’ networks, such as the anti-racist coalitions in Suffolk and Northamptonshire. This appeared to be the case with some agencies that were examined during the course of this study which were wary of committing scarce resources to tackling racial harassment when the number of incidents did not contribute significantly to the crime statistics. This attitude reflects Gilling and Pierpoint’s (1999: 124) description of the reluctance of rural agencies to commit resources to tackle broader crime issues when they cannot see the material benefits of doing so:

The government view is that successful crime reduction generates savings to pay for itself, but this may not convince those who … do not forecast great savings because the initial costs of rural crime are not perceived as great, and who are not convinced that savings would accrue to themselves …

Persuading agencies to commit scarce resources to combating the effects of rural racism, a form of crime that some do not take seriously anyway, is therefore an even greater problem. It is contended here though that anti-racism, including the provision of services to victims, should be a central component of rural community safety strategies. Unfortunately, the comparatively small size of rural minority ethnic populations appears to result in their needs being less of a priority to agencies than those of more substantial communities.

Rather, it may be beneficial to develop such strategies within the framework of the Audit Commission’s formulation of community safety (that refers to ‘people’s sense of personal security and to their feelings of ease in the places that they live, work or spend leisure time’ (Audit Commission, 2002: 4 (our italics)), since this idea is not predicated upon traditional ideas of community based around geographical notions of significant numbers of people, with shared interests, living in the same location. As Hughes (1998: 109) argues, within much of the contemporary community safety political agenda there is a ‘diagnosis of the problem of crime and disorder and the means of their prevention [where there] always appears to be the existence of a tight and homogeneous community’. From the research outlined in this paper it appears as though much of the community safety work in Suffolk and Northamptonshire, including combating racism, is also conducted within this framework. Therefore, the diverse nature of rural communities is missed as they are conceptualised as ethnically homogenous entities, and this may explain why minority ethnic populations become ‘invisible’ to agencies.

Johnston (2000: 54-55) refers to a ‘plurality of communities’ which he sees as ‘diverse, overlapping, pragmatic, temporary and frequently divided from one another’, and when conceived in such a way, membership of communities is not dependent on a shared spatial location. In the same way, though they may have shared cultural and historical interests, rural minority ethnic populations are isolated, fragmented and dispersed, a reality of rural life that is not easily compatible with communitarian notions mentioned above. Instead, these communities are diasporic, spread thinly throughout the countryside and as a
consequence sometimes become ‘invisible’ to agencies. They are, however, a significant and important presence within the rural arena and deserve to have their voices heard.

**Notes**

1. For a more detailed discussion, see De Lima (2001).
2. These organisations include: Mid Suffolk District Council; Suffolk Coastal District Council; Waveney District Council; Suffolk Police; East of England Development Agency (EEDA); Learning Skills Council; Youth Offending Service; Education; Suffolk Health; Social Care; Connexions.
3. The Suffolk-based research was conducted primarily in the county’s designated rural priority area, which, according to available Census figures, has a total minority ethnic population of 3,275 (3.0 per cent of the overall population in that area). The largest minority ethnic groups in this area are black (including black African, black Caribbean and black other, 1.1 per cent), Irish (0.8 per cent) and south Asian (including Indian, Pakistani and Bangladeshi, 0.2 per cent). The second study was based predominantly in East Northamptonshire, which has a minority ethnic population of 1,332 (less than 2.0 per cent of that borough’s total population) according to the latest Census figures. The largest minority ethnic groups there are dual heritage (0.7 per cent), followed by Asian (0.4 per cent), while black and Chinese groups each account for approximately 0.3 per cent of the population.
4. All of the potential interviewees contacted by the research team in each county expressed their willingness to take part.
5. Due to lack of space, the findings from this aspect of the research are not detailed here, but instead can be found in the authors’ edited volume *Rural Racism: Contemporary Debates and Perspectives*.
6. As the focus of this paper is on the qualitative aspects of the research, and with considerations of space in mind, the findings from the surveys will not be assessed here, but instead can be found in Garland and Chakraborti (2002) and Chakraborti and Garland (2003).
7. The precise location of each victim’s rural area of residence has been withheld to preserve their anonymity.
8. MAFARH co-ordinates the anti-racist work of a number of agencies in the form of a loose ‘partnership’ on a county-wide basis in Suffolk, whilst there are several MAGRAHs in Northamptonshire. The present study examined the workings of the Eastern Area MAGRAH. Both forums contained representatives from a variety of organisations, including, for example, local authorities, the police, race equality councils, Victim Support and community groups.
9. Source: Suffolk County Council Community Safety Unit.

**References**


'I KNOW WHERE YOU LIVE!': ELECTRONIC MONITORING AND PENAL POLICY IN ENGLAND AND WALES 1999 - 2003

Mike Nellis, University of Birmingham

Abstract
Electronic monitoring (EM) in England and Wales remains surprisingly understudied and undertheorised. Given the strength of New Labour's commitment to it, heightened in the recent Correctional Services Review, coupled with moves towards the increased use of surveillance in criminal justice, it is not unreasonable to think that EM technologies will one day become a normal and dominant feature of community supervision. This paper reviews recent policy developments regarding EM and seeks to clarify its exact nature as a penalty, scotching the idea that it is incapacitative in the way that both its supporters and critics have claimed. It explores the increasingly ambivalent place of EM on the tariff and develops a typology of compliance, so as to better understand the difference EM might make to community supervision.

Introduction

'Friends, Romans and countrymen ..... I know where you live!'. Politician in Alan Bleasdale's 'GBH'. Channel 4, 1991

This paper will argue that the emerging EM technologies being used with offenders in England and Wales constitute the beginnings of a significant transformation of the way in which community supervision will be understood and undertaken in the early decades of the 21st century. It will do so by examining both the expectations and intentions of policy makers in regard to EM (as far as these can be ascertained), and also its operational impact. There is, at present, a discrepancy between the two - EM has not thus far developed on quite the scale, or at quite the pace, which policy makers seem to have anticipated and desired but its operational impact can no longer be regarded as negligible. At the end of November 2003 131,847 people had experienced EM since the two main schemes - adult curfew orders and Home Detention Curfew (early release from prison) were rolled out nationally in 1999; on that same day 8618 people per day were
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subject to it (www.probation.homeoffice.gov.uk). England and Wales are also Europe's largest EM scheme - in March 2003 77% of all offenders tagged in Europe were here, with the Netherlands, at 8.3% (n=770), coming next (Toon, 2003). Scotland, ranked fifth with 3.3% (n=300) , will not be covered here, although the dynamics of EM’s development there yield insights which support the paper’s general argument, insofar as EM was implemented nationally despite research into three pilot schemes which suggested that Scotland did not need this measure (Lobley and Smith, 2000, Smith, 2001).

At the present time, the Home Office manages eight EM programmes:

Table 1: Total number of new starts on Electronic Monitoring by each financial year -

<table>
<thead>
<tr>
<th>Programme</th>
<th>98/99</th>
<th>99/00</th>
<th>00/01</th>
<th>01/02</th>
<th>02/03</th>
<th>03/04</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home Detention Curfew</td>
<td>3028</td>
<td>15962</td>
<td>15216</td>
<td>14462</td>
<td>21941</td>
<td>14590</td>
</tr>
<tr>
<td>Adult Curfew Order</td>
<td>415</td>
<td>2947</td>
<td>4539</td>
<td>5628</td>
<td>9264</td>
<td>9227</td>
</tr>
<tr>
<td>Juvenile Curfew Order</td>
<td>8</td>
<td>92</td>
<td>148</td>
<td>1272</td>
<td>2078</td>
<td>1519</td>
</tr>
<tr>
<td>Adult Bail</td>
<td>51</td>
<td>61</td>
<td>6</td>
<td>37</td>
<td>21</td>
<td>134</td>
</tr>
<tr>
<td>Juvenile Bail</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td>2423</td>
<td>2575</td>
</tr>
<tr>
<td>Detention &amp; Training Order</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>49</td>
<td>1734</td>
<td>1280</td>
</tr>
<tr>
<td>Release on Parole Licence</td>
<td>1</td>
<td>11</td>
<td>44</td>
<td>77</td>
<td>169</td>
<td>150</td>
</tr>
<tr>
<td>Voice Verification</td>
<td>0</td>
<td>0</td>
<td>9</td>
<td>266</td>
<td>294</td>
<td>124</td>
</tr>
<tr>
<td>TOTAL</td>
<td>3503</td>
<td>19073</td>
<td>19962</td>
<td>21796</td>
<td>37924</td>
<td>29599</td>
</tr>
</tbody>
</table>

28th January 1999 – 30th November 2003

From: www.probation.homeoffice.gov.uk

Some of these programmes are available nationally, some are still only used in a number of experimental sites. What this listing obscures is the very variable ways and contexts in which EM can be used. An EM-based curfew can be a stand-alone measure, or it can be used in conjunction with a variety of other measures. It can be used for varied periods of time (although there are legal maxima) and it can be customised to suit individual circumstances. There are 17 legal and administrative permutations of EM available for young offenders (which reflect an abject failure of legal draughtsmanship). Among them, the Intensive Surveillance and Supervision Programme - a sentencing package which includes education, reparation, offending behaviour work and electronic monitoring - is the most intensive penalty with which EM is associated. A near identical version for young adults, the Intensive Control and Change Programme is also being experimented with.
This paper will focus on the two largest EM programmes - the early release Home Detention Curfew (HDC) scheme and the adult curfew scheme, and appraise the imminent development of tracking. These alone provide evidence of the underestimated importance of EM; and although EM developments in youth justice have been a little different, any appraisal of these or other programmes would merely strengthen the general argument. The early history of EM in England, covered elsewhere (Nellis, 1991; 2000; Fay, 1993; Whitfield, 1997), does not warrant repetition; the only reminder required here is that journalist Tom Stacey, who originated the idea of EM in Britain and who set up the Offenders’ Tag Association in 1981 to promote it, hoped it would help reduce the use of unnecessary imprisonment. Insofar as EM-based curfew orders could have contributed usefully to the intensive community penalties desired by government at that time, this was not an unreasonable belief (Lilly and Nellis, 2000). The HDC scheme keeps approximately 3000 people out of prison at any given time (Toon, 2003), but neither it nor curfew orders have helped significantly to reduce or stabilise the use of imprisonment, which stands at 74,000 and is projected to rise further. EM-based measures constitute a transformative development in penal policy nonetheless, because they create the possibility of making the surveillance of an offender’s location and schedules integral to the very idea of community supervision, in a way that has not been practicable in the past 2.

The Home Detention Curfew Scheme

The Home Detention Curfew (HDC) scheme was introduced by the New Labour government in the Crime and Disorder Act, in July 1998, to help manage the 62,000 (and rising) prison population it had inherited on taking office in May 1997. No such scheme had figured in its election manifesto3, and the idea may have originated with the probation service. Drawing on international developments in EM, and particularly Holland, the Association of Chief Officers of Probation (Association of Chief Officers of Probation, 1997), had suggested using EM, four months before New Labour was elected, ‘to reduce prison pressures by using tagging for phased release schemes prior to current prison licences’. In September 1997 Graham Smith, a Chief Inspector of Probation much respected and highly influential in Whitehall, commended EM’s use in releasing prisoners to a Council of Europe conference. The scheme was announced to the press in November (Benetto, 1997).

Electronic monitoring can also offer a resource for pre-release work. It is now technologically efficient and can provide temporary or early release into a community under conditions of security and public protection. Its increasing sophistication merits a significant growth in its use. (Smith, 1999:119)

The HDC scheme was crisis-managed into existence, without localised trials, and became operational nation-wide on 28th January 1999. This absurdly short lead-in time entailed massive preparatory work from prison staff, area probation services and the newly contracted EM providers. The scheme enabled short sentence prisoners over age 18 - those serving under four years and over three months - to be released up to 60 days early,
the exact amount of time being determined by the length of the original sentence. Release and precise curfew specifications were at the discretion of the governor, based on risk assessments by prison and field probation staff. Certain exemption criteria were specified from the outset, relating mostly to violent and sexual offenders, those sentenced under mental health legislation and those who had violated previous release conditions. Return to prison was the penalty for serious or sustained non-compliance. The government anticipated 30,000 releases in the first year (out of 60,000 considered) (National Probation Service, 1998), although in reality, only 14,000 were released (out of 45,000 considered). The proportionately lower release rate (31% rather than 50%) was attributed to the caution of prison governors. (Dodgson and Mortimer, 2000), many of whom resented making risky, individualised decisions, creating the appearance of a sophisticated, personalised approach to prisoner resettlement when in reality HDC was primarily a mechanism for managing prison numbers.

Both the media and penal reform groups perceived the latent strategic purpose of HDC although in the Home Office, this ‘could never be openly acknowledged’ (Faulkner, 2001:196) - as had also been the case with parole. Instead, ministers and officials presented HDC as a means by which short-term prisoners nearing the end of the sentences experienced

\[ a \text{ disciplined return to the community.} \]

\[ \ldots \text{HDC offers to help prisoners reintegrate more effectively into society. It will deprive them of their liberty for a major part of the day, but also provide some structure and order into (sic) their lives (National Probation Service, 1998: para 2.1-2 emphasis added) } \]

Despite recognition of a problem of post-release offending (Home Office, 2001: 47), this emphasis on ‘disciplined resettlement’ was largely disingenuous: there had been no evidence-based argument that surveilled curfews - as opposed, say, to better support services - would be a solution to it. Such rhetoric was nonetheless consistent with New Labour’s tough-on-crime stance, and in fact proved helpful in defending the HDC scheme from early outbursts of ‘populist punitiveness’ (Bottoms, 1995) in the media\(^4\), and indeed in parliament. The Conservative opposition did make political capital out of early release (albeit without mentioning the tag), publicising the fact that 200 offences, including two rapes, were committed by the first 14,000 released offenders, even using this in their first party political broadcast in the 2001 election (Collings and Seldon, 2001:68), despite Tom Stacey having earlier written to the Daily Telegraph to point out that HDC successes far outweighed failures.

The Home Office weathered these storms, and extended HDC at the first opportunity. A joint thematic review by the Prison and Probation Inspectorates (Her Majesty’s Inspectorate of Prisons/Her Majesty’s Inspectorate of Probation, 2001) had strongly supported the scheme, noting nonetheless that there were unacceptable variations in its use among prisons of the same functional type, and insisting that some could use it more.
In November 2001 new Home Secretary David Blunkett encouraged prison governors to be bolder. Prison Service Director Martin Narey berated them for 'deliberately obstructing the process' (Stone, 2002: 951). A compromise resulted: governors had some risk assessment pressures taken off them by the creation of 'presumptive HDC' (near-automatic early release for those serving under 12 months), while the scheme itself was expanded from 60 to 90 days (catalysing the immediate release of 600 prisoners).

HDC was further extended in mid-2003. For offenders serving over 12 months (but not those serving less) the maximum curfew period was increased to 135 days. This brought forward the release dates of all eligible prisoners (some new exemptions were added, including prostitution, brothel keeping, living off immoral earnings, indecent exposure, possession of an offensive weapon) by between approximately 1 day and 6 weeks. The intention was to make 1000 more prisoners eligible for immediate release on the 14th July, subject to passing a risk assessment. The releases were, however, to be phased over July and August, to avoid flooding the Probation Service and the electronic monitoring companies with more work (risk assessments and supervision for the former, tightly scheduled home visits to fit tags for the latter).

The new scheme did not, in fact, expand on quite the scale intended. Using a range of probation contacts, Fletcher (2003) estimated that only 400 more people - not 1000 - were actually brought forward for release; many more, although eligible in terms of the time criteria, were excluded because their offence now placed them in the expanded exemption categories. Furthermore, in a separate and uncoordinated development the police cracked down on bail jumpers and fine defaulters, leading some prisons to anticipate an increase in population over the summer rather than a decrease. In addition, extending the HDC maximum to a more onerous 135 days may, paradoxically, have discouraged some prisoners from considering early release.

In its own terms, HDC has been a major success - clear evidence of what can be achieved quickly when sufficient political will exists to override the inevitable resistance. It met its implicit objective of making prison numbers more manageable, and its explicit objective of intensifying discipline in the prison release process. It has had the incidental effect of winning greater support for EM from probation officers - more of them were exposed to it than to curfew orders, and it was, after all, ensuring that offenders spent less time in prison (Nellis and Lilly, 2000). But the overall penal rationale of HDC remains dubious. Perhaps the best that can be said for it is that it has been a rational response to the irrational situation of an inexorably rising prison population, as two senior prison service officials recognised early on:

While any relief to the prisons is obviously welcome, this proposal is self-evidently a safety valve that demonstrates just how far out of balance the criminal justice system has become. There is something badly wrong in a situation in which more and more offenders are shoved into prison at one end, while the government exercises every ingenuity to invent cumbersome
The Halliday Review of the Sentencing Framework (Halliday, 2001) later took a similar view and, against the grain of government policy (Home Office, 2001: 44) proposed terminating the HDC scheme (although not the use of tagging after prison), on the grounds that discretionary early release undermined transparency in sentencing. The HDC scheme, however, had proved itself too useful as a means of managing prison numbers for government to abandon it. The White Paper, ‘Justice for All’ (Home Office, 2002b) reflected the Prison and Probation Inspectorates’ pragmatism regarding HDC rather than Halliday’s ostensibly more principled position, arguing that a 2% reoffending rate (among 44,000 releases) indicated that the scheme:

struck a good balance between resettlement of prisoners and providing protection for the public. .... HDC is a key resettlement tool which gives authorities the opportunity to keep an offender under close supervision while managing their transition back to the community. (Home Office, 2002b: para 6.26)

Arguably, however, the anomalies in the HDC scheme have only been accentuated by its extension to 135 days. One consequence of this has been the arrival in prison of offenders who, having spent time remanded in custody, are eligible for early release within days of arriving in prison (something which the original version of the scheme sought to avoid). Complex, time-consuming risk assessments must then be undertaken by prison and probation staff. As a probation officer administering HDC in a large city prison told me, it would make more sense to put the offender straight onto an EM-curfew order (Bob Marsh, personal communication October 2003). Obliquely, this then raises the bigger question of why EM-curfew orders have been less used than expected, and why, in general, they have proved to be a less successful measure than HDC.

**Curfew Orders with Electronic Monitoring**

A putative ‘curfew order’ in the form of a ‘night restriction requirement’ in a supervision order was introduced for juvenile offenders in the Criminal Justice Act 1982, but was rarely used. Various professional associations in probation, youth justice and local government had judged it too intrusive and unenforceable without risking staff safety during late night check-ups at offenders’ homes. Magistrates (who had introduced curfews into the Act) reluctantly accepted this. The Green Paper which launched the ‘punishment in the community’ initiative (Home Office, 1988) resurrected the idea of a free standing curfew order for adult offenders, but recognised that it could only become a viable penalty if the enforcement problem were solved by electronic means. As such, curfew orders, (and also combination orders) were intended by the Criminal Justice Act 1991 to set a new standard in the continuing search by government for ‘the ultimate community penalty (or penalties)’ that had begun in the late 1970s - the tough, intensive,
high-tariff, ‘credible’ measures which would enable sentencers to use prison less but still satisfy public demands for punishment and public protection.

EM-based curfews could be used as a stand-alone order, jointly with another community penalty, or alongside a pre-existing sentence, and seemingly offered a greater degree of control over offenders than probation or community service orders. It was the opposition of the probation service to EM-based penalties that had originally prompted government to use private security organisations to deliver the original EM/bail curfew experiment in 1989/90 (in Nottingham, Westminster and Newcastle) (Mair, 2000). By the time three areas (Manchester, Norfolk and Reading) had been identified in which to trial curfew orders in 1996, the commitment to private sector contributions to penal practice was stronger. The penal climate had itself changed from 1991; community penalties were still to be ‘strengthened’ (Home Office, 1995) but prison reduction was no longer on the government’s agenda, and the work of the probation service was openly denigrated by ministers.

It is mostly from research into the original trial areas (which steadily expanded) that our basic knowledge of EM-based curfews derives. Numbers of orders did increase over the first and second years, from 83 to 375 but the researchers still concluded that ‘compared with other disposals, the curfew order remained a rarely used sentence’ (Mortimer and Mair, 1997: 2). Magistrates seemingly used curfew orders as high tariff measures, on offenders predominantly guilty of theft, burglary, driving while disqualified and drugs offences who would otherwise have been at risk of custody, or had already experienced it. Four out of five orders were successfully completed, ‘the main reasons for breaches ... [being] persistent absences or interference with the monitoring equipment’ (Mortimer and Mair 1997: 1). That the cost of administering a curfew order was less than probation, but more than community service, together with clear evidence that EM technology was reliable cannot but have been helpful to the Home Office. The finding that many tagged offenders, ‘need[ed] support to cope with the demands of the sentence’ and that the relatively untrained private sector staff ‘coped well with these unforeseen difficulties’ (Mortimer and Mair 1997:4) was one of several that the probation service found uncongenial.

The trials themselves proved that EM-curfew orders worked adequately to reduce re-offending during the period of curfew, but never allayed all magistrates' and probation officers’ uncertainties about exactly who to use them with. It was, nonetheless, always likely that such orders would be rolled-out nationally, with or without a change of government. As it was, New Labour developed bold ambitions for EM, and from the outset looked beyond the existing curfews: Home Secretary Jack Straw saw EM as integral to ‘the future of community punishment’ indicating that it may ‘be used to monitor offenders wherever they are in the community; [or] to track their movements, and make sure, for example, they stay away from certain areas’ (Home Office, 1997: 1).
Debates about enforcing community penalties actually gave New Labour its rationale, and its moral authority, for expanding EM-based penalties. These arose because, as Faulkner (2001: 193) notes, the government considered 'that standards of compliance with the conditions of community sentences - and of their enforcement - were sometimes so low that community sentences could be seen as neither effective nor credible' (see also Hedderman, 2003). Thus, under New Labour, what I will call the enforcement potential of community penalties came at least to equal - and arguably surpass - in political importance their substantive features, and EM-based penalties scored notably better on this than more traditional non-custodial measures.

But the use on the ground of EM-based curfews still remained less than expected in the first year of national roll-out. Walter, Sugg and Moore (2001) confirmed continuing sentencer and probation officer ambivalence about them. The then Prisons and Probation Minister acknowledged that 'although numbers of orders are rising, the use of curfews is patchy', writing in December 2001 that much depends:

on individual probation officers recommending monitoring in pre-sentence reports and in magistrates passing sentences that include EM. It is my strong hope that this may occur in response to the Communications Strategy [currently being developed] (Hughes, 2001)

Perhaps the ‘Communication Strategy’ played its part. Certainly magistrates and probation officers were separately encouraged to make more use of curfew orders - and more were imposed. In 2002, 5628 were made on adults and 1272 on juveniles. In 2003, the equivalent figures were 9264 and 2078. They were not, however, used consistently as high tariff measures: the Home Office itself estimated (in 2002) that 20% displaced a custodial sentence, 5% displaced other community sentences and 43% displaced fines (Toon, 2003). This was hardly ‘success’ in the terms usually envisaged for curfew orders, but in the Criminal Justice and Court Services Act 2000, the Home Office had already committed itself to the more general use of EM technologies to improve the enforcement of community penalties. And yet even as this legislation was being enacted, the Home Office-steered Halliday Review of the Sentencing Framework, was presaging even more change, questioning time-honoured forms of community supervision and bringing the search for the ultimate community penalty - as it had hitherto been understood - to an end.

The Criminal Justice and Court Services Act 2000: Normalising EM

Although Faulkner (2001: 193) rightly observed that the Criminal Justice and Court Services Act 2000 (along with new National Standards) ‘between them demand much higher standards of compliance and much more rigorous processes of enforcement’ the Act’s significance for EM has largely gone unremarked (but see Jason-Lloyd, 2001). This is possibly because its other significant features, such as the creation of a National Probation Service, and the hugely symbolic renaming of the probation order have eclipsed its
ostensibly 'lesser' implications - but more than any previous legislation it embodied New Labour’s modernising enthusiasm for EM technology, and its determination to transform community penalties. The Act introduced seven new legal uses of EM and two new EM technologies. The latter were tracking (monitoring an offender’s movement in real-time) and voice verification (monitoring an offender’s presence at a sequence of multiple locations). Apart from tracking, the other new legal forms included curfews as part of the Intensive Supervision and Surveillance Programmes, which could then be used either as an alternative to custody package in its own right, as bail support, or as part of the post-release element of a Detention and Training order. It introduced a curfew as a condition for ordinary prisoners released on licence and for dangerous offenders released under the early warning scheme (see Home Office Circular 34/01). All three of these release programmes could use either conventional tagging technology, or voice verification technology, or both. Most significantly - because of the potential scale on which this might be used - it introduced the possibility of including a curfew order in a Community Rehabilitation Order or a Community Punishment and Rehabilitation order, and the use of voice verification to monitor any conditions in these orders. The government ministers who piloted the Bill though Parliament made clear that the intention behind this was to enhance the potential for enforcement in conventional community penalties:

The Bill will allow for electronic monitoring of a range of community sentences and electronic monitoring of conditions of release on licence. These new uses of electronic monitoring will make compliance with community sentences far easier to monitor (Lord Bassam, Hansard, House of Lords, 3rd July 2000 emphasis added).

The evaluation of the trials found that curfew orders were more strictly enforced than other community penalties, a fact that places greater value on completion. The primary reason for this is the fact that the electronic monitoring contracts leave little discretion in the enforcement of breaches. The monitoring equipment ensures that violations of curfew are detected immediately, and offenders in breach of their order are very quickly returned to court by the contractors. (Paul Boateng, Hansard, House of Commons 19th July 2000 emphasis added)

What was being envisaged here was the normalisation of EM - making the monitoring of location and schedules and, indirectly, the activities undertaken at or within them, into a routine and commonplace feature of supervision in the community for both adult and young offenders, both before or instead of, and after, prison. Discursively, this was being presented as a solution to the enforcement problem inherent in existing community penalties.

The Act also introduced a new measure - the EM-monitored exclusion order, which could prohibit an offender’s entry to a place or area for two years in the case of an adult, and three months in the case of a juvenile. An exclusion requirement could be incorporated in
community sentences and parole licences. Although, like tracking, these were to be trialled later, the government spokesmen placed great presentational emphasis on this measure, portraying it as a major new development in the fight against crime. All the new measures in the Act were said ‘to build on the success of the HDC scheme and curfew as a community sentence’ (Home Office, 2001b: 1) and while there was evidence of continuity and development, the step change entailed by making EM integral to the very conception of community supervision was not spelled out.

Pilot projects for using curfews in Community Rehabilitation (and Punishment) Orders, and in licences, and for voice verification (which had already been used experimentally in some youth offending teams) were announced in July 2001. The trial areas were West Yorkshire, Nottingham and Hampshire. By December 2001 the then Home Office prisons minister was confident that this initiative had been launched well:

It has taken some time for the Probation and Court services to inform and train their staff/magistrates in the new sentencing options and they are only now in a position to begin applying them. Measures have been taken, however, to raise awareness of the provisions and to encourage their use. Officials have had regular meetings in the pilot areas to develop good working relationships between the Probation and Court services and the contractors. It is being emphasised that EM can be very flexible and used to work around domestic arrangements and childcare considerations that are particular to women (Hughes, 2002).

In reality, there was much less uptake than expected of the new measures, for women or anyone else. Normalisation was impeded. The impediments warrant investigation. The researchers involved in evaluating the new uses of EM will doubtless tell their own story, but what I still want to highlight here is not the limited developments on the ground, but the scale of the Home Office’s ambition for EM. It was willing to infuse EM into a wide swathe of community supervision, willing to legislate in anticipation of new technologies and thereby the inevitable corollary of this - to strengthen the private sector contribution in community penalties. The Criminal Justice and Court Services Act 2000 sought to intensify the ‘enforcement potential’ of community penalties (and licences), and to reconfigure the nature of compliance with them. This can be understood as move away from traditional ‘trust-’ or ‘threat-based compliance’ towards ‘surveillance-based compliance’. Some parliamentary debate on EM gave the impression that with technology a professional’s trust and an offender’s cooperation no longer mattered in enforcement. This is mistaken, but there can be no doubt that ‘surveillance-based compliance’ devalues measures which are merely ‘trust-based’, and which have only ‘low enforcement potential’. Taken in conjunction with a variety of other changes in penal policy (see Scheerer, 2000), the Criminal Justice and Court Services Act 2000 can be understood - in intent, if not immediately in effect - as emblematic of the emerging shift from a humanistic-rehabilitative paradigm of offender supervision, to a surveillant-
managerial paradigm, whose significance I have tentatively explored elsewhere (Nellis, 2003a; 2003b)

The Halliday Review: Misunderstanding EM

Such is the pace of change in penal policy that even as the Criminal Justice and Court Services Act was being debated and enacted, longer term plans were being developed which would, at the very least, complicate the kind of future it envisaged. The Halliday Review of the Sentencing Framework was an ambitious ‘overhaul of law, practice and institutional arrangements for dealing with convicted offenders in Britain’ (Rex and Tonry, 2000: ix), albeit one which was substantially steered by pre-determined New Labour policy (Home Office, 2001). Inter alia, it provided the first official opportunity to explore the implications of EM for sentencing since its advent in the CJA 1991, and given that EM had been ‘one of the most innovative developments of the decade’ (Windelsham, 2001:292), with significant implications for the enforcement of certain types of penalty, one might have expected it to do so. The opportunity was not taken - the Halliday Report contained nothing distinctive or original about EM as such, although because the report broke with the way in which community penalties had traditionally been conceived, it nonetheless had implications for the future frameworks in which EM would be used. Halliday effectively abandoned the search for the ultimate community penalty - a measure tough and credible enough to enable the reduced use of imprisonment, but falling short of imprisonment itself - and substituted instead the government’s idea of the ‘seamless sentence’ (Home Office, 2001), in which intensive community supervision was to be preceded or entwined with short periods of imprisonment?

Halliday’s overarching typology of sentencing was too crude to capture what is distinctive about EM. The Report characterised sentences broadly as having punitive, reparative and crime reductive aims, the latter being subdivided into rehabilitative, deterrent and incapacitatative elements. It is unclear where ‘surveillance’ might fit in this. Halliday’s reference to EM-based curfews as ‘protective measures’ (Home Office, 2001: 23) implies that he saw them as incapacitatative (a penal strategy of which he was otherwise unenamoured). This implication is misleading, and it is indicative of the shallowness of Halliday’s thought on EM that it accepted uncritically the rhetoric (used by both EM’s supporters and opponents) to characterise it as an intrinsically tough, indubitably high-end penalty. Cavadino, Crow and Dignan (1999: 119), for example, despite recognising its limitations, still called it ‘non-custodial incapacitation’. Faulkner (2001: 193) anticipates ‘forms of electronic monitoring [which] will be able to restrict a person’s liberty to a degree which is virtually equivalent to the loss of liberty which is caused by imprisonment’. Hudson (2003: 180) believes they have already arrived: ‘electronically monitored home confinement would certainly seem to be turning homes into prisons, rather than keeping people out of ‘prison’ and at ‘home’. Perhaps compared to other community penalties, EM-based penalties are more readily characterisable as incapacitatative and prison-like - phrases like ‘detention’, ‘jailspace’, ‘turning the home into a prison’, ‘virtual prison’ and ‘electronic ball and chain’ (see Aungle, 1994, Gibbs
and King, 2002), are intended to convey just such an impression. But such metaphors obscure the kind of control which EM imposes, which, although it may well be onerous, falls some way short of the incapacitation entailed by walls, bars and razor wire. Even for offenders who admit to finding EM-based penalties burdensome, compliance with them remains as dependent on their consent, co-operation and goodwill - their readiness to act responsibly - as probation or community service. It is quite true that non-compliance will be registered (and probably acted upon) much more quickly than with other community penalties - this is precisely the difference that surveillance technology introduces - and this may have a deterrent, prudential effect that merely trust- or threat-based penalties do not have. But - even when offenders experience a curfew as confining - this is not incapacitation in the penal sense. Surveillance-based compliance requires self-discipline in a way that incapacitation-based compliance does not. With EM/surveillance trust still matters - offenders have a meaningful choice regarding compliance (which incapacitation, properly understood, denies them). Seen this way, EM-based penalties are not prison-like at all, and while surveillance-based compliance has greater enforcement potential than trust- or threat-based compliance, the space it leaves for trust and self-restraint ensures that it still resembles traditional community penalties.

The corollary of Halliday’s mistaken belief that EM was incapacitative was the equally uncritical acceptance that it must intrinsically be a high-tariff penalty. This was most obvious in discussion of the proposed generic community punishment order. Only the highest tier included ‘curfew/exclusion (with tag where appropriate)’ as a possible component; neither of the two lower tiers contain anything as severe. It was the tariff-position of cognitive behavioural programmes which perplexed Halliday - the place of EM seemed obvious in comparison: ‘The ‘punitive weight’ of the chosen ingredients [in the generic sentence] would be relatively easy to measure - such as compulsory work and curfew with tag - but more difficult in areas such as compulsory programmes’ (Halliday 2001: 41). In reality, sentencers charged with making complex individual decisions about community penalties have not always found it easy to gauge the ‘punitive weight’ of EM-based penalties. (This may not have been entirely clear in the Home Office research available to Halliday, but it has become clear since).

Although Halliday aimed to find an alternative to short, less than 12 month, custodial sentences, the ‘seamless sentence’ cannot be understood as a community penalty in the traditional sense, because a foretaste of custody now became integral to it. Halliday took for granted that curfew and exclusion orders, monitored by EM, would be used in the non-custodial components of these sentences. Some of the seamless sentences were to be understood as ‘intermediate sanctions’, to be developed out of a new and more co-ordinated use of probation centres, prison and probation hostels and attendance centres, and involving ‘serious loss of liberty, but some continuing freedom’ (idem: 35) - later described as ‘containment in the community’ (idem:66). Halliday ruled out intermittent imprisonment as an intermediate sanction - it having been twice considered and found wanting in the recent past (see Shaw and Hutchinson (1984) for an earlier debate) - but argued that
the effects of intermittent imprisonment can be achieved in other ways. An offender receiving a community sentence can be required to reside at a named address, including a probation or prison hostel; to attend a designated centre at a designated time, to stay at home under curfew, electronically monitored, for designated periods; and to refrain from entering designated areas at any time (Shaw and Hutchinson, 1984: 35).

As was noted earlier, the Halliday Report argued that the HDC scheme should be ended, because early release undermined transparency in sentencing. This particular proposal - knowingly made against the grain of government policy (Home Office 2000:44) - proved politically unacceptable, but many of the Report’s other proposals duly found their way into the White Paper Justice for All, and thence into the Criminal Justice Act 2003. Its generic community punishment order, which replaces existing community sentences, including curfew orders, includes EM as one of a range of options that can be combined into a customised sentence for particular individuals. As a Prison Reform Trust researcher notes, ‘it is hoped that this new approach will ensure that tagging is more widely used by the courts’ (Solomon, 2003:47). The new Act has in fact introduced ‘intermittent custody’ despite Halliday’s reservations about its administrative complexity, but as offenders subject to it will also be eligible for HDC, making it more complex still, Halliday may yet be vindicated. Whatever the precise consequences of the Criminal Justice Act 2003 for EM its enactment means that many of the legal measures introduced in the Criminal Justice and Court Services Act 2000 will be rendered obsolete without ever being used - exclusion orders, for example, although the 2000 Act remains the touchstone of the government’s manifest enthusiasm for EM-based penalties, including tracking.

**Tracking and its Prospects**

In debate about the future of EM it has been commonplace for some years to anticipate that tracking an offender’s movements rather than, as with a curfew order, merely restricting them to one place (at night), would be the next key development. It should not, however, be forgotten that the Offender’s Tag Association imagined and promoted tracking tagging simultaneously with curfew tagging in the early eighties, and, indeed that it was always their preferred form of electronic monitoring (Stacey, 1989). This thinking surfaced in the 1988 Green Paper: ‘the main justification for [EM’s] use in England and Wales would be to enforce tracking or an order requiring the offender to stay at home for a limited period, thereby making it possible to keep out of custody offenders who would otherwise be in prison’ (Home Office, 1988:4.2). Interestingly - and unlike the OTA - the Green Paper considered that its use for tracking would be ‘less restrictive’ than its use with a curfew (Home Office, 1998: 3.20). Even after curfew tagging was established, Tom Stacey (1993, 1995a, 1995b) remained ardent in his promotion of tracking tagging, and, as he envisaged, the technology - using global positioning satellites (GPS), although this is not the only way it can be done - has become available.

and Michigan are now using this method, and that ‘one of the most important benefits of satellite tracking is the increased protection it offers crime victims’, in terms of specifying and monitoring exclusion zones, and being able to send a pager or text message to the victim (and indeed to the offender and his supervising officer the moment perimeters are broken). She quotes a Florida Judge who sees tracking as the ‘ultimate means of protecting society’ and notes a survey of Florida probation officers showing that they believed tracking to be an ‘ideal for violent (particularly domestic violence) offenders and sex offenders’.

Jack Straw’s early anticipation of tracking in 1997 notwithstanding, the Home Office first showed public interest in tracking after the murder of Sarah Payne by a known paedophile in 2000, and clearly presented it as a measure likely to improve public protection. It was legislated for in s62 of the Criminal Justice and Court Services Act 2000, with a view to implementation when reliable technology became available. The Shadow Home Secretary was quick to indicate when it was (Conservative Research Department, 2002), but the Home Office was cautious. A British company called Sky Guardian demonstrated its GPS technology at the Labour Party conference in October 2003 and only then did a government plan to tag between 100-500 paedophiles seem imminent. The technology, which had been devised in conjunction with experts on sex offending, would ‘allow probation services and police to pinpoint the wearer anywhere in the UK to within three metres’, and as crucially, will enable communication with an offender who has breached an exclusion zone so that he can be ‘talked down’ and prevented from reoffending (Doward, 2003: 1). The Director-General of the National Probation Service made clear that it might be used with other very serious offenders, apart from sex offenders, and ‘possibly [with] the heavily persistent as well’ (Wallis, 2003:6). As it was, the first tracking scheme to be formally announced was for asylum seekers, although a scheme for offenders is still planned (personal communication, James Toon 19th December 2003). Both will start in 2004.

Tracking technology will likely be deployed in two legal forms. One, the perpetual surveillance of an offender’s movements in real-time (on electronic maps) - or, if periodic downloads are used, retrospectively - for a given period. Two, more narrowly, monitoring the perimeters of exclusion zones and warning when they are being breached. Indeed, without electronic tracking, exclusion orders are no different from contemporary restraining orders or Anti-Social Behaviour Orders, which also prohibit entry to particular places or areas, but which thus far have relied upon threat-based compliance - and are not well complied with (Hansen, Bill and Pease 2003). EM-versions may eventually displace them. Nonetheless, even surveillance-based compliance cannot guarantee victim protection - because it still relies on trust and self-restraint, and perhaps on unfeasibly rapid responses by the authorities to a perimeter-breach - and some victims’ groups in the USA have been sceptical of EM-based exclusion orders (Whitfield 2001:86). Bearing in mind that the 1988 Green Paper seemed intuitively to grasp that tracking tagging was in fact ‘less restrictive’ than curfew tagging this again raises the question of how controlling and censorious - and therefore how punitive - EM-based penalties are
perceived to be by the wider public and, indeed, what their ‘punitive weight’ - to use Halliday’s terminology - actually is. This hinges, in part, on the cultural meaning of locatability in real-time.

Drawing on Marx’s (1995) cultural analysis of contemporary surveillance imagery I have argued elsewhere that state/corporate capacity to remotely pinpoint and locate citizens and consumers - particularly offending citizens - is no longer perceived by people in general as the totalitarian practice, or the source of ‘Orwellian’ fears, that it might once have been (Nellis, 2003a)\textsuperscript{10}. By the end of the 20th century the multiplicity of data trails routinely left by consumers, even more so the ubiquity of mobile phones, together with their underpinning digital infrastructure, had between them turned locatability into a commonplace fact of life. If not quite a civic good, it was something mostly experienced as enablement rather than as constraint or threat (Lyon, 2001). The ability to pinpoint the whereabouts of a tagged offender for part of the day - or in the case of tracking, all day - is only one use among many to which ubiquitous location-monitoring technology can be put (Bloomfield, 2001), and as such, hardly registers in public consciousness as ominous or draconian. Court-ordered surveillance may well constitute ‘censure’, but it manifestly still requires self-restraint on the offender’s part, and does not evoke the visceral, decisive sense of loss, pain or intrusion necessary for it to be perceived as fearsome and severe. As a personally demanding, ‘responsibilising’ punishment, however - albeit rather less controlling and censorious than past Home Office rhetoric has implied - location-monitoring penalties may well become culturally acceptable ways of responding to lower risk offenders. Whether or not this tentative explanation of public scepticism about EM is valid, it is not without significance that a debate as to where on the tariff an EM-based curfew properly belongs has already begun.

**EM and the Tariff: An Emerging Debate**

Most of the early Home Office research into EM-curfew orders suggested that magistrates did indeed see them ‘as an alternative to custody and higher-end community penalties’ (Mortimer and May, 1998:3), as government has encouraged them to do. Nonetheless, the limited number of sites in which research was undertaken, and the large numbers of magistrates overall should make us cautious here - as should the fact that 43% of EM-based curfews displaced fines \textsuperscript{11}. In any case, not all the Home Office’s other programmes have been committed to the high tariff use of EM-based curfews. In the EM pilots for 10-15 year olds, for instance, magistrates were almost as likely to replace supervision orders with EM-curfews as to replace custodial sentences (Elliott, Airs, Easton and Lewis, 2000a: vii), which suggests that curfew orders were not universally seen as viable alternatives to custody. Regarding EM use with adult bailees, the evaluators were even more explicit:

> There was no consistent evidence that a bail curfew provided a true alternative to custodial remand. There were strong indications that it had been used in place of custodial remand for some defendants, but there
were equally clear indications that bail curfew had been used as an additional bail condition for others. (Airs, Elliot and Conrad, 2000: vi)

On reflection, this uncertainty as to where EM-based penalties belong is not perhaps so surprising. The very fact that curfew orders can be used either as a stand-alone measure or, in some contexts, in conjunction with other supervisory measures, implies that there is a range of places - at least two points - on the tariff at which they might be used. Both official and professional rhetoric has underplayed this, and among probation officers and penal reformers, there has been much anxiety about the prospect of netwidening, a fear that without proper targeting EM would drift inexorably down tariff towards offenders not at risk of custody - as happened with earlier community penalties. In its first position paper on EM, ACOP (1997) insisted that it was used as a high tariff measure, and at operational level this is where most probation officers have probably been pitching it. The National Probation Service’s (2003) revised guidelines on curfew orders still encourage this. Paradoxically, however, under Home Office pressure to develop ways of increasing the use of EM curfew orders, some local probation managers have entertained an explicitly lower tariff use of EM. The West Midlands Probation Area, for example, has mooted the use of a stand-alone EM-curfew order as an alternative to a fine, a penalty with notoriously low ‘enforcement potential’ (Skidmore, 2002). Given that 43% of curfews were already displacing fines in 2002 this cannot be regarded as implausible. Rod Morgan (2003: 18), when he was Chief Inspector of Probation, also saw ‘stand-alone electronic monitoring orders [as] a clear option’ for removing large numbers of low risk offenders who are sitting up probation caseloads, preventing key skills and resources from being deployed on the higher risk offenders for whom they were intended. There may well be practical and legal impediments to this - staffing costs in the monitoring organisations, loss of revenue from fines, and the fact that at present EM-curfew orders are already penalties for fine default (Elliot, Airs and Webb, 1999). Thus far, however, Morgan’s suggestion has not met with the outrage that such an otherwise brazen proposal for netwidening might once have done, although for the time being the low tariff use of EM has specifically been curtailed by the National Probation Service, for purely financial reasons.

Eithne Wallis, when she was Director of the National Probation Service may well have been ahead of Morgan here, concurring with the low risk problem, but already looking beyond the present forms of electronic monitoring to resolve it.

We want to extend the use of electronics, both at the no- or low-risk end of the spectrum and at the heavy end. We believe that there is roughly 25% of our current caseload which at the low risk end, and we want to find more cost-effective ways of working with them. We think we can probably consider the use of biometrics, for example, as one way of actually managing the low risk more cheaply but more successfully. (Wallis, 2003: 6 emphasis added)
The reappraisal of the position of stand-alone EM-curfew orders is also a consequence of other penal developments. It has arguably been aided by the development of multicomponent sentencing packages for young and young adult offenders, namely, the nationally available Intensive Supervision and Surveillance Programme for young offenders, and the still experimental Intensive Change and Control Programme for young adults. These each contain elements of education, offending behaviour work, reparation, intelligence-led policing and curfews with EM, and make substantial demands on offenders’ time. The question then arises, if these packages are now being promoted as the uppermost measure on the community penalty tariff, what would be the standing of the various components if used - as some legally can be - on their own? The obvious implication is that they would be lower tariff. It is partly against the background of these emerging multicomponent sentencing packages that Morgan (2003) and Wallis’s (2003) reappraisal of the ‘punitive weight’ of EM-based penalties can be seen to possess a certain prima facie logic.

England, in any case, is not the only jurisdiction in which this is occurring. In Australia, Bagaric (2000) has openly doubted the deterrent value of EM-based penalties: ‘it is simply not obvious that [home detention] will be viewed as a sufficiently unpleasant disposition to cause people to seek to avoid it’. Echoing the distinction I have drawn between surveillance-based and incapacitation-based compliance Bagaric concedes that such penalties are undoubtedly constraining, but remain nonetheless ‘a significantly lighter sentence than imprisonment’ (Bagaric, 2000: 439), even when the time in detention is relatively long. A jurist in the New South Wales Court of Criminal Appeal had recently spelled this out:

> I accept that the standard conditions of a home detention order are burdensome; but it seems to me that they are burdensome in the sense of being, by and large, inconvenient in their disruption of what would be the normal pattern and rhythm of the offender’s life in his normal domestic and vocational environment. Any suggestion that such inconvenient limitations upon unfettered liberty equate in any way at all to being locked up full-time in the sort of prison cell and within the sort of gaol that are normal in New South Wales could not be accepted, in my respectful view, by anybody who has had the opportunity of going behind the walls of any one of those prison establishments; and of seeing, even from the limited point of view of a casual visitor, what is really entailed by a full-time custodial sentence (Sully J quoted in Bagaric 2000: 439).

This seems to accord with the emerging public view of EM in England. It does not mean that EM-based penalties are lenient per se, just that even at their most onerous they are not easily comparable to the experience of imprisonment, and they are not incapacitative. According to offenders themselves, even as a stand-alone measure they are experienced as a restriction of liberty and autonomy, and as offering useful time to reflect. Some of their ‘pains’ are distinctive to them - including resisting the temptations...
occasioned by being among ‘free’ people, and the stigma of wearing the tag (Payne and Gainey, 1998; Gainey and Payne, 2000). Mair and Mortimer, (1996:24) noted that some offenders cited ‘the feeling of being watched’ as a disadvantage of being tagged, but in the main the surveillant dimension of EM remains ignored in the offender perspective literature - Richardson (1999; 2002) is the one exception - as indeed it is in the EM literature more generally 15.

Conclusion

There is no doubt that corrections technology will accelerate in coming years and will allow community corrections the option of becoming more surveillance oriented. (Petersilia, 2003: 91-2)

More than a decade ago Morris and Tonry (1990: 179) suggested that EM was merely ‘a means to the enforcement of nonincarcerative sanctions’ rather than a penal sanction in its own right. This insight - which nonetheless underplays the extent to which surveillance can be a form of punishment - has also been neglected. I have argued here that EM-based penalties are contributing to the transformation of community supervision before, instead of and after prison by altering - augmenting and possibly displacing - the traditional means of enforcement. Even allowing for an implementation gap, there have still been significant operational developments. But it is on the apparent intentions of government, the manifest ambition it has for EM - as expressed most comprehensively in the Criminal Justice and Court Services Act 2000 - that I am mostly basing my case. Even without full knowledge of the thinking which has underpinned Home Office initiatives on EM, it seems clear that a significant element of electronic surveillance - the real-time regulation of offenders’ whereabouts and schedules - is now being seen as a desirable ingredient of community supervision, as a stand-alone measure and in conjunction with behaviour-change programmes. These programmes themselves are more coercive, prescriptive and managerial than the traditional humanistic forms of probation and it is at least arguable that the shift from trust- to threat-based compliance and from low-intensity to high-intensity enforcement measures has already ushered in a post-humanistic phase in community supervision. Even if it were not yet so, the shift towards surveillance-based compliance is taking us closer to it.

In order to draw out what is at issue here I want to propose the following typology of compliance, whose starting point is a similar typology developed by Bottoms (2000; 2002) but which refines his notion of ‘constraint-based compliance’ (distinguishing different types of constraint) and restricts itself to compliance with community supervision, rather than law-abidingness in general. The types are not all mutually exclusive and the first four all require greater or lesser degrees of cooperation by the offender, who retains a choice whether to comply or not. The first three typify the approaches which predominated in the Probation Service in the past; the emerging fourth - to whose implementation private organisations have been crucial - was symbolically, if not yet actually, strengthened by the Criminal Justice and Court Services Act 2000. The fifth - an incapacitative community penalty - is more easily imagined than made real, akin
perhaps to the excruciating, immobilising pain programmed into an offender whose aggression level rises too high, as envisaged by Anthony Burgess (1962). Increasing duration - thus far a favoured way of making EM-based curfews more burdensome - is not per se to make them incapacitative. Even the custodial element of seamless sentences in the Criminal Justice Act 2003 seems to be justified more in retributive and deterrent terms than in incapacitative ones, although the taint of gratuitous confinement pervades them.

Incentive-based compliance - offering some desirable state or good at the end of the process: 'I will give you this; you will gain this'

Trust-based compliance - creating a sense of obligation by seeking the offender's consent: taking the offender at his/her word, accepting their 'promise' to do what is required. 'Be good; I believe in you'

Threat-based compliance - instilling a fear of future consequences, threatening or administering a sanction at whatever point compliance fails: 'Co-operate or else'

Surveillance-based compliance - instilling an awareness of immediate regulation, as a result of being perpetually or intermittently watched; imposing the real-time monitoring of whereabouts and schedules, and storing 'incontestable' details on databases: 'I am keeping my eye on you'.

Incapacitation-based compliance - going beyond the mere restriction to the actual deprivation of an offender's liberty of action, usually, but not necessarily, by removing the offender to a place of confinement; inhibiting, not just prohibiting a particular action: 'I'll stop you in your tracks'.

I have not, simply for reasons of space, dwelt here on the private sector dimension of EM service delivery, but the increasing use of 'contracting-out' in the community supervision field is a further aspect of the transformation with which this paper has been concerned (Nathan, 2003). Suffice to say that the increasing involvement of commercial organisations - who have 'a more risk-infused approach to crime management' (Kemshall, 2003: 120, see also Marquis, 2003) - in the administration of criminal justice is likely to give increased momentum to surveillant approaches, and to further displace humanistic ones. The organisations likely to be involved - mostly drawn from the security and ICT industries, some with involvement in private prisons - have no prior or primary commitment to humanism (as the Probation Service had), and while that does not preclude an ethical standpoint, are almost wholly profit-driven. The current contracts for Securicor, Reliance and Premier expire in 2005 - the retendering process began in autumn 2003 and is open to new bidders - but there is little chance that state agencies will take on the management of EM (as they have done from the outset in mainland Europe). The Correctional Services Review - the basis on which the next wave of transformation in
penal policy in England and Wales will occur - encourages more contracting-out of 'correctional services' (conceived in the Review as a unified prison and probation service, with at least oversight of the Youth Justice Board) and 'will be very important for EM' (Toon, 2003). While the difficulties of accomplishing change on the ground - the multiplicity of new initiatives and competing priorities and deadlines demanded by central government combine with local cultures of resistance to constitute a significant impediment - should not be underestimated, we should be equally clear that in the past five years we have seen the emergence, in the community supervision field, of what Norris (2003), following Lianos and Douglas (2000) calls automated socio-technical environments, in which the use of EM technologies seem certain to become more prominent.

Addendum

The Correctional Services Review (Carter, 2004), together with the Home Office (2004) response to it, appeared on January 6th 2004, after this paper was completed. They open up a new era in penal policy, whose larger aspects - a National Offender Management Service, more contracting out to private and voluntary organizations - cannot be explored here. But Toon (above) was right about the Review's favourable disposition towards EM. It noted 'a significant opportunity to extend the use of electronic monitoring', particularly but not only as part of the third, most intensive tier of the new community punishment order. Whilst envisaging 'greater use of curfews and house arrest' it was extraordinarily enthusiastic about the use of satellite tracking for persistent offenders, which is the centrepiece of its proposals on EM, and indeed integral to its overall penal vision. It commits itself to this largely on the basis of the 20,000 offenders who have been satellite tracked in the USA, and while recognizing the dangers of 'over-hyping the technology' (which improves on present technology but still 'does not provide complete control') (Carter, 2002: 28-29) it seems oblivious to the possibility that trials may question its efficacy. The Home Office largely accepts Carter's strategy, and its commitment to EM could not be plainer, or stronger

Electronic monitoring has proved very successful and its use has been expanding rapidly ....... The use of new technology to provide a means of monitoring the location of offenders under supervision in the community will be an increasing feature of correctional services in the future. We are already developing a pilot of satellite tracking technology which could enable offenders to be continuously and accurately tracked (Home Office, 2004:13 emphasis added)

Notes

1. An earlier version of this paper was presented at the British Society of Criminology conference 'Too Many Prisoners: reducing and managing the prison population' on 7th November 2003, in London. I am grateful to James Toon, Head of Electronic Monitoring in the National Probation Directorate, who also spoke at this conference, for some of the statistics used in this paper, and for subsequent advice.
2. It is reasonable to argue that non-electronically monitored curfews, and tracking - highly intensive and frequent one-to-one contact - which were used in England on a small scale in the 1970s and 1980s, were the precursors of electronic monitoring, but with one caveat. ‘Punishment, Custody and the Community’ (Home Office, 1988) certainly treats them as precursors. They undoubtedly raised the prospect of monitoring locatability and schedules in community supervision but when, under intense criticism, both ‘failed’ - curfews because of enforcement difficulties, tracking by mutating into more welfare-oriented mentoring - no-one within the existing penal reform network consciously sought a new or better means of fulfilling these functions. Electronic monitoring, of course, originated outside the traditional penal reform network, in the Offender’s Tag Association, but inter alia fulfilled these functions more effectively. Underlying both developments, at a deeper cultural level, were the ideological changes wrought by managerialism, which accustomed politicians (and some professionals) to expect, demand and promise an ever-more meticulous regulation of human behaviour, possibly because traditional/informal community controls were perceived as fraying. The one direct, ‘personal’, link between curfews, tracking and EM was Nicholas Stacey, Director of Kent Social Services, brother of Tom Stacey and member of the Offenders’ Tag Association board, who pioneered a close support unit for young offenders, which used curfews, and who helped import tracking to England from Massachusetts. (see Ely, Swift and Sutherland, 1987; Nellis, 2004)

3. Even six months after New Labour’s election victory Home Office Minister Alan Michael (1997) made no mention of an early release scheme in his speech to the Howard League conference (September 1997). He promised only to extend the existing curfew order pilots, and to establish new EM pilots for those on bail, petty persistent offenders, juveniles and fine defaulters.

4. The electronically monitored early release of offenders who have acquired some degree of notoriety is usually exploited by populist punitive sections of the press. Thus the release (three months early, six months into an eighteen month sentence for racially abusing a black police officer) of David Norris and Neil Acourt was denounced on the front page of The Daily Mail (25th January 2003) under the headline ‘Lawrence duo freed because jails are too full’. Some years before they had been among those accused of Stephen Lawrence’s murder and the tabloid media had persistently proclaimed their ‘badness’. The lead article cursorily explained the HDC scheme, and quoted the Prison Service’s defence of it. The Mayor of London, the Metropolitan Police, and the head of a unit monitoring racial attacks were then cited as opposing the early release of ‘violent racists’. A spokesperson for the National Black Police Association was also quoted as saying ‘This sends out completely the wrong message, that people who perpetrate such crimes can walk free with a tag’. (emphasis added). Similarly, the early release on HDC of Brendon Fearon, notorious as the injured victim of a farmer, Tony Martin, whose house he had tried to burgle was criticised both in principle, and for its particular insensitivity - it occurred within days of Martin himself - who had served his full prison sentence for killing Fearon’s accomplice while protecting his property - being released.

5. It is fact unclear what the Communications Strategy is in this context, other than whatever circulars, memoranda and letters are sent out from the prison and probation service headquarters, and whatever material appears on Home Office (and specific agency) websites. A phone call to the Prison Service public relations desk (December 2003) elicited bafflement as to what the Communication Strategy was. Senior officials in the Howard League for Penal Reform and the Prison Reform Trust (January 2004) doubted if such a ‘strategy’ existed, although communication flows outward all the time.

6. Prof. Keith Bottomley, Prof. George Mair and Dr. Anthea Hucklesby won the Home Office contract to research the new uses of electronic monitoring in summer 2000. The National Probation Directorate, into which the Home Office’s once free-standing Electronic Monitoring Unit had moved in early 2003, terminated the project six months ahead of schedule. At the time of writing (December 2003) the researchers’ final report had been submitted to the NPD, but not published.
7. The exact origin of the term 'seamless sentence' is unclear. It was used in New Labour’s announcement of its ‘way ahead’ (Home Office, 2001) but it seems to predate this. Chief Probation Inspector Graham Smith (1999: 110-111) used the concept of ‘seamless prison sentence’ at a Council of Europe conference in 1997 to refer to the way in which the Crime Sentences Act 1997 had stressed ‘the concept of a prison sentence as being served, party in custody and partly in the community when they [the prisoners] are released on various forms of licence and supervision’.

8. According to the official guidance on the two intermittent custody pilots (starting January 2004) ‘offenders will be on licence only on those days where they would otherwise have been serving custodial days. Such offenders will remain tagged but the curfew will only be monitored on the relevant days’ (Home Office 2003: para 16). And rather extraordinarily, given that the Crime Sentences Act 1997 dispensed with the offender’s consent to probation and community service orders, intermittent custody is a sentence which requires consent. (Home Office 2003: para 8). The question of consent to community supervision, seemingly settled once the Crime Sentences Act 1997 abolished it for probation and community service, needs to be opened up again because of a de facto recognition that an offender’s active cooperation - ongoing consent - is necessary to secure compliance, even surveillance-based compliance.

9. The Asylum and Immigration Bill 2003 contained a package of contentious measures apparently designed to deter asylum seekers from entering Britain. Electronic tracking is to be applied to failed applicants awaiting deportation, or as a tabloid newspaper, The Sun (28th November 2003) put it: ‘bogus asylum seekers will be monitored by satellite to ensure they do not just vanish into the community before being booted out’. This is being presented by the Home Office as an improvement on incarcerating deportees in much criticised detention centres, such as Dungavel in Scotland (run by Premier Prisons) and Yarl’s Wood in England (run by Group 4, but partly destroyed by fire during a riot in 2002) and may solve the longstanding difficulty of finding new sites for such centres, which are invariably resisted by local residents on a ‘not-in-my-back-yard’ basis. While the announcement that asylum seekers were to be subject to EM was unexpected, we should note that some of the publicity issued by the monitoring companies readily admits their interest in the immigration as well as the criminal justice market. There are precedents for such usage in the USA, in Alaska and Florida. (Goodchild and Bloomfield, 2003)

10. The media coverage of EM provides one way of exploring cultural attitudes towards surveillance practices, and even a cursory survey in England and Wales shows a marked reluctance to take curfews with EM seriously as a high tariff, prison-like penalty (Nellis, 2003a). In contrast to penal reformers who initially portrayed tagging as something different from and at odds with probation, the press have persistently treated it as similar to probation rather than similar to prison, a community penalty which, whilst patently constraining, requires the willing compliance of the offender if it is to function as a means of crime reduction. Being able to ‘serve time’ in the presumed comfort of one’s own home has not, by and large, been regarded as onerous or draconian. Portrayals of EM in film and TV drama have often been explicitly disparaging, highlighting limitations more than advantages, and building stories around atypical events. In one recent television drama, for example, (which attracted an audience of 4 million) a newly released prisoner initially abides by his curfew, but then storms angrily from his flat intending to murder two people whom he believes have betrayed him (The Canterbury Tales, BBC1, 25th September 2003).

11. In the Magistrates’ Association (2000: 72) Sentencing Guidelines ‘the electronic monitoring of curfews’ is given special prominence in the two-page section on using community penalties. Magistrates’ actual use of EM warrants further investigation. Although judges were favourably disposed to the concept of the curfew, Hough, Jacobson and Millie’s (2003: 48) research on sentencers’ decision-making showed magistrates to be quite sceptical of it. A recent meeting with twelve magistrates from a bench in an impoverished area of the West Midlands (12th December 2003) supported this. I was told that no EM-based curfew order had ever been made.
in their court, over the past three years. Some recalled a training event on the subject three years previously. None recalled a probation officer ever recommending such an order. One magistrate felt that a penalty which allowed an individual ‘to stay at home all day watching television’ would hardly amount to a punishment, given the lifestyles of those appearing before the courts. Another, on reflection, felt they could use it more with women, and another with juveniles, for whom enforced staying in at night would be a ‘real’ punishment. None knew, until I told them, that EM-based curfews could be used as an alternative to fine default. Several - upon hearing about it - welcomed Rod Morgan’s (2003) idea of using a stand-alone curfew as an alternative to a fine.

12. Biometric surveillance - based on voice, iris or fingerprint recognition, or a combination of all three - can be used to create kiosk-style reporting systems, which dispense with, or at least minimise, the need for personal contact (Fairhurst, 2003). Wallis’s willingness to consider using new technologies with even ‘no-risk’ offenders is indicative of how precarious humanistic practices are becoming in community supervision. Expensively trained staff, perhaps with personal or professional commitments that run deeper than managerial objectives, and which may even conflict with them, may well become dispensable if adequate public protection can be achieved in other ways. Furthermore, if the community supervision of offenders comes to be regarded as distasteful and ‘low status work’ - ‘dirtywork’ - unattractive to people who aspire to middle class careers and lifestyles, the automation of social control processes, tended by technicians with basic people-skills, is likely to increase. Interviewed on ‘Law in Action’ about tracking (BBC Radio 4, 25th October 2003), Wallis, faced with a question that gave her the opportunity to affirm the overarching importance of humanistic values, emphasised instead the Probation Service’s increasing reliance on the ‘technological’ as evidence of its modernity, presenting it as a necessary next phase of the Service’s development as a public protection agency.

13. Wallis made her remarks in Criminal Justice Management, a journal whose existence has barely registered in the academic community, yet which is probably more widely read by criminal justice managers than academic journals, even those with a policy and practice orientation. It reflects, celebrates and encourages the increasing use of new technology in criminal justice, the necessity of which was affirmed by Home Secretary David Blunkett in the Police Foundation’s John Harris’s Memorial Lecture. A large proportion of Criminal Justice Management’s (short) articles and advertisements extol the use of computerised technology in policing, court administration and corrections. It is emblematic of important trends in British criminal justice in Britain, and criminologists should pay more attention to it.

14. There is, admittedly, a difficulty with simply contrasting experiences of EM-based penalties with ‘imprisonment’ for there are, after all ‘qualitative variations in imprisonment’ which Dingwall and Harding (2002) argue are neglected on contemporary accounts of retributive sentencing. The ‘penal severity’ of local, training, dispersal, closed and open prisons, let alone experiences like cell sharing or solitary confinement cannot be measured by the conventional quantitative criteria - sentence length - alone. Perhaps the experience of EM is more comparable to being in an open prison? Interestingly, although Dingwall and Harding place ‘curfew and house arrest’ as point-2 on their 7-point ‘continuum of incarceration’ they neglect issues of consent, compliance and enforceability as means of distinguishing degrees of severity, and rely too much, in my view, on ‘censure’ and on variations in ‘the denial of lifestyle opportunity’ as the basis for the distinctions.

15. Lilly’s (1990) insistence that EM be studied as much as a form of surveillance as a community penalty largely went unheeded. Modern surveillance theory, developed more in sociology than criminology, exemplified by David Lyon (2001) has been little used to analyse EM. This is partly why EM’s significance for criminal justice has been underplayed - traditional analysts of community penalties tend not to grasp how fully realised the ‘surveillance society’ has become, and have been insufficiently sensitive to the manner in which various modalities of surveillance are spreading into ‘their’ territory. Clive Norris (2003) has been a pivotal figure in bringing surveillance theory to bear on crime policy. The
emergence of insightful summaries of surveillance theory within criminology textbooks (eg Innes, 2003) will hopefully encourage further developments.

16. Contemporary changes in the duration, tempo and immediacy of punishment and control have largely been neglected by criminology (Nellis, 2002). Extending the length of time to which an offender may be subject to EM is one of the ways in which the penalty can be made more onerous, but should be understood as increasing the period in which s/he is subject to real-time control. Approximations to real-time control - driven by efficiency considerations - are emerging as a new ideal in community supervision which mirrors, but does not exactly emulate, the real-time control achieved by imprisonment. In respect of EM, how long might it eventually be feasible or ethical to monitor someone, especially if the alternatives were always markedly more severe? A few months? Life? The present short periods are surely not sacrosanct. The curfew period has twice been increased on the HDC scheme. The Anti-Social Behaviour Act 2003 increases the length of time a 10-15 year old can be subject to a curfew from the original three months to six months. We have probably not seen the end of extensions to the duration of EM-based penalties.

17. The two-phase Correctional Services Review was announced in Justice for All (Home Office, 2002) in July 2002. The first phase concentrated on short term needs, the second undertaken for the Cabinet Office by Patrick Carter, a management consultant, sought to develop correctional strategy for the 2005-2008 period.

References


Mike Nellis

NORMALIZING THE DEVIANT?: ARRESTEES AND THE NORMALIZATION OF DRUG USE

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Abstract
Traditionally in the UK scant research attention has been paid to the arrestee population. The introduction of the NEW-ADAM programme has done much to change this. To date, arrestees have not featured in research that is relevant to the normalization of drug use and it is argued that they should be. This article will posit six reasons which when combined will demonstrate arrestees’ suitability to the normalization thesis. First, when one explores the contemporary drug scene and observes that drug use is at the centre of youth culture, many of the distinctions that were once held to define arrestees as highly deviant due to their drug use can no longer be maintained; second, a diverse range of groups are using drugs as part of their everyday lifestyle and the addition of arrestees merely adds to the existing diversity; third, arrestees are the first to try new drugs and form new modes of drug consumption patterns which are later mirrored by other drug using groups; fourth, the features of normalization are present in the levels and patterns of arrestees drug consumption; fifth, leisure plays a key role in arrestees drug and other criminal behaviour; and finally, arrestees have a greater willingness to report use of those drug types that are considered to be normalized.

Introduction
At the close of the last decade and into the new one, drug use has become a normalized activity in the UK (Hammersley, et al., 2003; Measham, et al., 2001; Aldridge, et al., 1999; Parker, et al., 1998, Measham, et al., 1994). To date, arrestees have not featured in research relevant to the normalization thesis and it shall be argued here that they should be (Patton, 2002).

The natural focus of criminologists when researching a given sample is upon their respondents’ deviant and illegal behaviour. Hardly any space is ever given to the ordinariness of a research samples’ lives (Hammersley, et al., 2002). Published material in relation to arrestees is in alignment with the criticism of Hammersley, et al. (2002) that people who consume drugs are presented in a one-dimensional manner. For example, the
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lifestyle addendum reported by Bennett (1998) sought information from arrestees about sources of drug purchases, gun ownership, prevalence of HIV/AIDS, accommodation type and their involvement with the criminal justice system.

The emergence of research into the dance club culture has finally forced wider cultural and lifestyle issues on to the research agenda as well as exploring the levels of drug consumption. Hammersley, et al., (2002) asked their sample of former and current ecstasy users questions relating to their leisure time, how it was spent, what things they would usually buy other than drugs, how they would vote and whether or not they were religious.

The disparity in the content and nature of the two lifestyle questionnaires is immense. As a direct consequence of the type of questions traditionally asked, it is easy to see why arrestees are painted in a negative light, in terms of their drug and other criminal behaviour. Arrestees are young people and adults that participate in everyday activities and their drug and/or criminal activities form only part of a wider lifestyle. This view challenges and uproots many of the stereotypical and one-dimensional notions that have commonly accompanied discussions about arrestees and ensures that the continuance of such an approach is futile.

The case for regarding arrestees as being a relevant study population to the normalization thesis will be shown first by, re-positing arrestees' behaviour, primarily in the context of drug consumption, in the contemporary setting. Drug consumption has spread from being a highly stigmatised activity engaged in by those on the margins, to become a central element of popular culture.

Second, it shall be highlighted that a broad and diverse range of drug using groups are already included under the banner of normalization, each with their own distinct characteristics. Arrestees with their own distinct characteristics, would add to this diverse range of drug consuming groups.

Third, arrestees try new drugs and exploit new drug markets before other drug consuming groups. In this respect they are regarded as 'pioneers' of normalizing drug consumption patterns which are later mirrored by other drug consuming groups.

Fourth, normalization has affected the drug consumption levels and drug consumption patterns of drug consumers. Therefore the features of normalization are present in the level of drug consumption found, and in the drug consumption patterns of arrestees, both in terms of poly drug consumption patterns and an equal distribution of drug consumption in relation to age, race and sex.

Fifth, a key factor in the normalization of drugs is that a person's drug use is neither the prime focus nor the sole determinant of the drug consumer's life. It will be argued that the levels of drug use and other criminal behaviour among arrestees may be more to do
Sixth, the normalization thesis advocates that not all drugs have become normalized. Drugs that are included are: amphetamines, ecstasy, cannabis, nitrates, and LSD. Heroin and cocaine are not part of this phenomenon. Although, the status of powder cocaine is a little more ambiguous as it is increasingly becoming incorporated into the drug repertoires of recreational drug users (Measham, et al., 2001; Ramsay, et al., 2001; Ramsay & Partridge, 1999). When Patton (2002) explored the external validity of arrestees reporting practices, it was shown that more positive admissions were gained by self-report, than positive results gained by urinalysis for those drugs that are deemed to be normalized.

**A Paradigm Shift**

At the crux of the normalization thesis is the movement of what was previously a highly deviant activity (drug taking) into the centre of youth culture. Figure 1 illustrates the assertion that drug consumption was previously concentrated in highly deviant groups, but at present, is prevalent among other groups in society (for example, students, rising professionals etc.). A circle in the top right-hand corner of each rectangle represents the ‘deviant’ groups, the black dots represent the presence of drug consumption, the inner or smaller rectangle represents the centre of youth culture (which undoubtedly includes a mixture of groups within society) and the outer or larger rectangle represents wider society.

**Figure 1: The Spread of Drug Consumption from Deviant Groups to The Centre of Youth culture**

The ‘old’ Drug Scene:  

![Image of old drug scene]

The ‘current’ Drug Scene:

![Image of current drug scene]

The current drug situation, whereby drugs are normalized is depicted on the right in Figure 1. Here, drug consumption has spread beyond the deviant/offending groups to wider groups within the centre of youth culture. Whilst the presence of drug consumption is still very evident among the formerly ‘deviant’ groups (as shown by the number of dots in the circle), the contrast between the number of dots contained within the circle, and the
number of dots outside the circle is less stark especially when compared to the ‘old’ drug scene. It is therefore time to include those groups that were originally associated with drug taking and labelled as a deviant and abnormal group, for example arrestees, as relevant to the normalization thesis. The now outdated distinction between the two groups (those in the circle and those in the centre of youth culture) can no longer be maintained. In some respects the pendulum may have swung the other way:

Over the next few years, and certainly in urban areas, non-drug trying adolescents will be the deviants (Parker, et al 1995: 26).

**A Diverse Mix**

It is a central tenet of the normalization thesis that the drug consuming population is diverse. More young people from both sexes, all social classes, races, occupational groups, sexualities are trying a wide range of licit and illicit drug types (Aldridge, et al, 1999; McKeganey, 1998; Parker, et al, 1998; Sutherland & Willner, 1998; Leitner, 1998). Indeed, the fact that drug use has penetrated all strata within society is held to demonstrate the normalized status of drugs. Those who have been included in research relevant to normalization so far include schoolchildren, higher education students, ‘dance club frequenters’, and general household members. Each have their own distinct characteristics and yet may share some similarities. The addition of arrestees merely supports and adds to the existing diversity of drug consumers included under the remit of normalization.

It is the potentially diverse make-up of arrestee samples (in terms of the differing levels of drug and criminal behaviour as opposed to their demographic make-up) that perhaps marks them out especially from other criminal justice samples traditionally studied in research relating to drugs and/or crime. The assumption should not naturally be that all persons arrested are guilty. Some arrestees will undoubtedly be innocent, some may be guilty of their arrestable offence, some may be released without charge, some will be charged, not all of those who are charged will be proceeded with by the Crown Prosecution Service, of those that are, not all who plead not guilty will be convicted by a court, and those that are sentenced will receive varied sentences. Further, there will be a mix of drug using patterns. For example, some will be drug abstainers (some may be former drug consumers while others may never consumed a drug in their lifetime), some will have only recently begun experimenting with drugs, some will have used drugs regularly over the last 12 months (whose use may be termed recreational) and some will have use patterns which are more chaotic or even dependent.

**Pioneers of Normalization**

It can be observed that previously drug taking was ‘pioneered’ by those displaying high levels of deviant behaviour (as illustrated on the left of figure 1 above), that is, they represented an extreme group where drug taking was commonplace. Whilst the gap between the former ‘deviant’ group and the ‘non-deviant’ group has reduced, arrestees must be regarded as contemporary ‘drug pioneers’.
Evidence generated from the U.S.A. by the Arrestee Drug Abuse Monitoring (ADAM) program has demonstrated that arrestees comprise an active drug using group and therefore are likely to try new drugs and exploit new drug markets before any other group (Reardon, 1993; Wish & Gropper, 1990). Their arrestee data has proved to be an early indicator of prevalence changes in new and existing drug consumption patterns that are later mirrored among other drug using groups (Wish & Gropper, 1990).

**Indicators of the Features of Normalisation in Arrestees' Drug Consumption Levels and Patterns**

Normalization has radically altered the drug taking landscape (Parker, et al, 1998). As the last decade progressed numerous drug surveys documented increasing drug consumption levels among a wide range of drug using groups (Burke, 2001; Sutherland & Shepherd, 2000; Wibberley & Price, 2000; Aldridge, et al, 1999; Sutherland & Willner, 1998; Parker, et al, 1998). By the close of the 1990’s it was stated:

> It is quite extraordinary... that we have so quickly reached a situation where the majority will have tried an illicit drug by the end of their teens and that in many parts of the UK up to a quarter may be regular drug users.’ (Parker, et al, 1998: 152-153).

Arrestees were not included amongst this body of evidence, and further, traditionally in the UK, drugs research has not focussed upon arrestees. Prior to Bennett (1998) there had only been three studies that had explored the prevalence of drug use amongst arrestees in the UK (Chatterton, et al, 1998 & 1995; Robertson, et al, 1995; Maden, et al, 1992). The drug prevalence rates found amongst the arrestees from the three studies conducted were not particularly high, with drug consumption levels not exceeding 22% (even when alcohol was included). However, Bennett (1998) found that the overall prevalence of illegal drug consumption during the three-day period prior to testing was 64% when measured by urinalysis.

Further, the NEW-ADAM programme has continued to document high drug prevalence levels amongst arrestees (Bennett, 2000) and similarly, a Scottish version of the NEW-ADAM programme has also found high levels of drug consumption, with 71% of arrestees testing positive for a controlled drug in the three-day period prior to testing (McKeganey, et al, 2000).

Utilisation of the ADAM methodology in the UK has improved current understanding of the levels of drug consumption amongst arrestees. It is clear that drug consumption features in the lives of arrestees which is therefore to be regarded to be normalized.

Poly drug consumption is another prime feature of normalization. Its effect on drug consumption patterns was also found to be evident amongst arrestees. Parker & Measham
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(1994) highlight that what defines current drug consumption patterns is a pick ‘n’ mix approach to drugs where poly drug consumption tends to dominate. Poly drug consumption, that is where an arrestee tested positive for two or more drug types when alcohol was excluded, ranged from 18% to 44%, (md = 30%). When alcohol was included poly drug consumption ranged from 28% to 45% (md = 35%).

Previously, variables such as gender, race, social class and age were believed to be good indicators of the likely extent of drug consumption (Ramsay & Percy, 1996, Measham, et al, 1994). Normalization has altered this pattern and is reflected in the levelling out of drug consumption amongst the general drug using population in the UK in relation to gender, race, social class and age (Wibberley & Price, 2000; Aldridge, et al, 1999; Ramsay & Partridge, 1999; McKeganey, 1998; Sutherland & Willner, 1998; Parker, et al, 1998; Roberts, et al, 1993; Leitner, et al, 1993; Saunders, 1993). Equally, these ‘key’ variables are no longer helpful in explaining observed levels of drug consumption found amongst arrestees.

Bennett (1998) found that for most drug types, females were as likely or more likely to test positive than males. Further, no differences were found by sex in the proportion that tested positive for multiple drugs. No differences were found to exist by age in relation to testing positive for any drug type, (although older arrestees were statistically more likely than younger arrestees to test positive for opiates and younger arrestees were statistically more likely than older arrestees to test positive for cannabis). In terms of race, little difference was detected between the white and non-white arrestees in terms of the proportion testing positive for any drug type or for multiple drug types even when alcohol and cannabis were excluded individually and collectively.

The high level of drug consumption, the pervasiveness of poly drug consumption patterns and the equality in drug consumption levels across age, gender, and race are attributed to the effect of normalization on drug use amongst arrestees. Interestingly, Hammersley et al (2003) have recently concluded that drug use has become normalized amongst young offenders.

Leisure, Drug Consumption and Offending

The relationship between leisure and drug consumption, and leisure and offending shall be discussed in turn. Three samples that were considered by their respective authors to be ‘conventional’ and ‘normal’, (Hammersley, et al, 2002; Flood-Page, et al., 2000; Ramsay et al, 2001) shall be used, and applied to and/or compared to, arrestees to highlight factors that may be affecting the levels of drug consumption and offending amongst arrestees. The use of these studies was necessary as to date, no research study has explored the wider lifestyle practices of arrestees.

The relationship between leisure and drug consumption, and leisure and offending is supported when leisure is defined as time spent socialising outside the home, especially in the form of number of evenings spent socialising outside the home (Hammersley, et al,
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The existence of this relationship may be a prime contributory factor to the levels of drug consumption of arrestees, in that arrestees have high levels of leisure time and a large number of evenings spent out of the home.

Leisure and Drug Consumption

It has been shown that leisure and drug consumption are related (Ramsay et al, 2001; Ramsay & Partridge, 1999; Leitner et al, 1993). Hammersley et al (2002) found that among their research sample of mainly current and former ecstasy users that they led ordinary lives, and their drug consumption was only part of their wider lifestyle. In addition to their ecstasy use, the other kinds of activities they engaged in on at least a monthly basis were: visiting friends, going to the pub, cinema, and restaurants. They watched movies at home, and played computer games. Overall, 69% of respondents participated in sports, and 62% had a hobby of some sort. Purchases of consumables other than drugs included: sweets and soft drinks, CDs, take away food, magazines, and broadsheet and tabloid newspapers.

The British Crime Survey (BCS) 2001 found a clear association between drug consumption and the number of evenings spent out in leisure venues such as pubs, bars and nightclubs (Ramsay et al, 2001). It was shown that young people visiting a pub or bar in the week prior to interview were twice as likely to have consumed a drug in the last 12 months when compared to those that had not gone out as often in the week prior to interview (Ramsay et al, 2001). Equally, the levels of drug consumption in the 12 months prior to interview was almost double for those that attended a nightclub at least once a week when compared to those that visited less often. Finally, Ramsay et al, (2001) also found that significantly higher rates of drug consumption for Ecstasy, hallucinants and Class A drug use was found amongst frequent nightclub attendees.

From the two findings discussed above it was shown that people’s drug consumption appeared to have been arranged around their work, familial, leisure and other commitments. This adds weight to the idea that the high levels of drug consumption found amongst arrestees may be less related to the existence of a highly deviant lifestyle but more to do with high levels of leisure time and the number of evenings spent out of the home. The attraction and engagement in leisure time is as applicable to arrestees as it has been shown to be among the groups discussed above.

Leisure and Offending

The Youth Lifestyles Survey 1998/1999 found a link between the amount of time spent in leisure and offending (Flood-Page et al, 2000). It was clear that those that went out a lot were more likely to have offended.

Interestingly, the study of ecstasy users found that their respondents had high levels of self-reported offending for a wide range of offence types. The types of offences included:
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shoplifting, handling stolen goods, violence, dealing drugs other than ecstasy, fraud, mugging, and prostitution (Hammersley, et al, 2002). The offending rates from the ecstasy sample and the self-reported offending rates of arrestees in the 1997 – 1999 cohort (Bennett, 2000) are compared on an ever and last year basis in Table 1 to show that arrestees and their offending behaviour is comparable to another drug consuming sample which is considered normal.

Table 1: Percentage of Ecstasy Users and Arrestees Reporting a Range of Crimes Committed ‘Ever’ and ‘in the last 12 Months’

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<tbody>
<tr>
<td></td>
<td>Ecstasy Users</td>
<td>Arreestes</td>
</tr>
<tr>
<td></td>
<td>Ever %</td>
<td>Last Year %</td>
</tr>
<tr>
<td>Shoplift</td>
<td>56</td>
<td>26</td>
</tr>
<tr>
<td>Handling</td>
<td>61</td>
<td>39</td>
</tr>
<tr>
<td>Drugs Supply</td>
<td>48</td>
<td>40</td>
</tr>
<tr>
<td>Fraud</td>
<td>20</td>
<td>7</td>
</tr>
<tr>
<td>Theft (Person)</td>
<td>3</td>
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Offending rates amongst ‘ecstasy users’ on an ‘ever’ or lifetime basis are shown to be noticeably higher for handling stolen goods and, in particular, for drug supply. The offending rates are almost equal to that of arrestees in relation to shoplifting, fraud and theft from the person. The ‘ecstasy users’ sample has already been shown to be a normal group whose members led ordinary lives and participated in a wide range of leisure, social and lifestyle activities. Despite this they perhaps surprisingly achieved offending rates higher than or almost as high as arrestees. This suggests that the level of offending by arrestees does not preclude them from being considered, a normal group whereby offending forms only part of a wider lifestyle.

In summary, the variables that are contributory factors towards drug consumption and offending are as applicable to arrestees as to other samples. It is proposed that arrestees’ drug consumption and offending behaviour are only a part of a wider lifestyle of leisure, familial, friendship, work and other lifestyle commitments and activities. Leisure time, venues and pursuits are integral aspects of popular culture as well as commodities that are sold by popular culture that affect and are consumed by arrestees just as much as any other group.

Positive Drug Admissions

When Patton (2002) explored the external validity of arrestees reporting practices when compared to urinalysis, evidence was found of a willingness to report use of certain drugs and not others. The self-report measurement tool detected higher rates of drug use when compared to urinalysis positives for most drug types: alcohol, amphetamines,
benzodiazepines, cannabis, and methadone. Heroin and cocaine were the only exceptions to this finding.

Interestingly, the drugs that produced more self-reports when compared to urinalysis positives are the same drugs that have consistently been identified by normalization advocates as achieving normalized status. Cannabis and ‘dance drugs’ are more likely to be self-reported. Heroin and cocaine which are not regarded as part of the normalization thesis, are less likely to be reported when compared to positive urinalysis detections. It would appear that arrestees do not have a problem in disclosing their recent consumption of those drugs that are regarded to be normalized which may reflect a decreased stigma associated with drugs other than heroin and cocaine.

**Discussion**

Many of the distinctions that are thought to exist between arrestees and other drug consuming samples in terms of the levels of deviance found are significantly less than imagined or the distinctions may be very much more blurred than is currently presented in the drugs discourse.

Ultimately, what the ‘arrestee’ label can usefully or meaningfully add to the understanding of the current sample is questionable. To a large extent, the very short time-span in which this label may be applied to the arrested person renders the utility of the label devoid of any real worth. Essentially, the current respondents are not an ‘arrestee sample’, but a sample of people that have been recruited in a very specific context and novel way. That is not to deny that there are certain characteristics that are prevalent amongst this group. However, being single, or white or unemployed or having used drugs recently is not peculiar to an ‘arrestee sample’. Any one of these variables or a combination of a few or all of them can be found among many other samples. The fact that a person has been charged by the police means only that the label of arrestee has been temporarily attached to them. Sadly, this usually means that the person is then perceived through the prism of the label and its associated stereotypical features of being deviant rather than ‘normal’.

Prior to arrest, an individual is regarded as being ‘normal’, with responsibilities, jobs, familial and friendship relations, indulging in popular culture and leisure pursuits in the same way as everybody else. It is not suggested that distinctions do not exist on some levels, nor that high levels of criminal and/or drug consumption are not found among arrestees. Nevertheless, as soon as the label arrestee is attached to a person, the wider person somehow disappears, and drugs research has done very little to reveal the full lifestyle of drug consumers (Hammersley, et al, 2002), arrestees or other criminological populations that are traditionally studied.

Drug consumption has spread from a stigmatised activity engaged in by those on the margins, to become a central element of popular culture, encompassing a myriad of population types. The high level of drug use that featured amongst deviant groups has now become less stark in contrast, as drug consumption has spread on a significant level to
other community groups, whether they are school, young adult, household, or leisure-based samples.

At present ‘dance club frequenters’ have the highest level of drug consumption and school children have the lowest amongst those groups currently included in the normalization thesis (Measham et al, 2001). Arrestees would overtake clubbers when included within the normalization thesis, as represented in Figure 2 below:

**Figure 2: The Levels of Drug Use by Group**

![Diagram showing drug use levels by group]

Arrestees
Clubbers
Young Adults
School Children

The inclusion of arrestees merely widens the drug consumer base making it even more diverse.

When one listens to the voices of those who consume drugs and/or participate in other illegal activities the powerful influence of leisure time and popular culture cannot be ignored (Parker, et al, 1998; Collison, 1996; Parker, et al, 1995). Such findings when applied to arrestees would demonstrate that the levels of offending found amongst arrestees may not be peculiar to them but can be found among other ‘normal’ drug consuming groups.

Arrestees are a relevant study sample appropriate for inclusion in the normalization thesis. Features of normalization are shown to operate among the current sample with regards to the prevalence and pattern of arrestees’ drug consumption. In addition, arrestees have a greater willingness to disclose their recent consumption of those drug types that are considered to have become normalized.
Presenting offenders as a highly exceptional one-dimensional group in relation to their drug and offending behaviour is a perception that can no longer be maintained. Offenders, including arrestees, need to be re-conceptualised beyond their drug consuming and other offending behaviour. Empirical evidence that maps the different ways in which normalization has created new pathways into drug consumption and a drug consumer's journey beyond their initial experience of drug consumption is urgently needed. The time has come to embrace the reality that drug consumers are ‘normal deviants’. Previous research evidence has demonstrated that drug consumption is normalized amongst young people (Parker, et al 1998), young adults (Measham, et al 2001), young offenders (Hammersley, et al 2003). Arrestees may now be added to this list.

References
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COMMUNITY JUSTICE FILES 6

Jane Dominey, De Montfort University

Managing Offenders, Changing Lives: Correctional Services Review by Patrick Carter

The Correctional Services Review led by Patrick Carter was published early in January 2004. The review is critical of a number of aspects of the current criminal justice system: it argues that the recent increased use of prison and probation has impacted on first time offenders rather than those whose offending is serious or persistent, sentencing practice continues to vary across the country, judges and magistrates operate without the information needed to make best use of prison and probation and the benefits of competition are not yet fully realised.

The review argues for a new approach and highlights three key areas:

- Targeted and rigorous sentences. This includes a greater use of fines and punishment in the community, with greater control and surveillance measures for persistent offenders. Custody should be reserved for serious, dangerous and highly persistent offenders.
- A new role for the judiciary. The Sentencing Guidelines Council will work to improve the effectiveness of sentencing. Judges and magistrates will need to ensure that prison and probation resources are used in a cost-effective and efficient way.
- A new approach to managing offenders. The review proposes the establishment of a National Offender Management Service (NOMS) with a single Chief Executive tasked with punishing offenders and reducing reoffending. The National Offender Manager will be responsible for the supervision of offenders and the commission of custody places, fine collection and intervention whether in the public, private or voluntary sectors.

The government response ‘Reducing Crime – Changing Lives’ accepts the vision for the future of correctional services outlined in the review. The use of conditional cautions (linked to financial reparation to the victim or community work) is to be developed for some adult offenders. The use of the fine is to be revitalised with the possibility of a day-fine system to be explored. Electronic monitoring is to be extended and will become a greater feature of future punishment in the community. Persistent offenders will be subject to an increased range of sanctions.
The National Offender Management Service will be launched on 1st June 2004 and Martin Narey has been appointed as its first Chief Executive. The Youth Justice Board will remain a non-departmental public body with responsibility to the Home Secretary. Its funding and oversight will rest with the Chief Executive of NOMS.

Announcing the plans, Mr Blunkett said: ‘This is a once in a generation opportunity to transform the way we manage offenders to make sure they pay back the community they have harmed, to reduce reoffending and to cut crime.’

Responding for the Howard League, director Frances Crook said: ‘Whilst the Howard League is still sceptical about the creation of a single correctional service (on the grounds that we believe a seamless path between prison and the community will in reality be a fast-track to prison for non-violent offenders), if it is grounded in a commitment to reserving the use of prison for violent and dangerous people, we are willing to give it a go. What is essential is that there is a new and vigorous champion for community sentences who will transform them from a mere control mechanism, into a means for people to make amends and change their lives.’

**Youth Justice 2004: A Review of the Reformed Youth Justice System**

This Audit Commission report was published in January 2004. The study considers the impact of the many changes that have taken place since the publication of its 1996 report ‘Misspent Youth’. The Commission’s conclusions are largely positive. In summary, it reports that:

- Young offenders are more likely to receive an intervention
- Young offenders are dealt with more quickly
- Magistrates are very satisfied with the service they receive from youth offending teams
- Young offenders are more likely to make amends for their wrong-doing.

The Youth Justice Board was praised for its role in setting the strategy and monitoring performance. Areas for further improvement and development were identified, including:

- Although crime overall has fallen (and youth crime has not increased), the public know little about the new reforms and their confidence in the youth justice system is low
- While some young offenders are benefiting from early pre-court interventions, too many minor offences are taking up valuable court time
- Although young offenders on bail are less likely to offend (and are therefore less of a risk to the community), large numbers are still being remanded to custody, especially black and mixed race young people
- The reconviction rates for young offenders given the new alternatives (reprimands, Final Warnings, Action Plan Orders and Reparation Orders) have fallen, but they
have not fallen for those on the older community penalties and the overall amount of contact time has hardly changed

- Intensive Supervision and Surveillance Programmes (ISSPs) are a more constructive and considerably cheaper option for persistent young offenders than a spell in custody, but they cannot be expected to reduce custody on their own
- In contrast to the continuing rise in the adult prison population, the juvenile prison population has remained stable, but black and minority ethnic young offenders are much more likely to be given custodial sentences than white young offenders

The report argues that it would not be sensible to embark on further major change at this time, but suggests that improvements could be made in a number of areas, including multi-agency work to prevent children getting into trouble and to meet their wider needs (in areas such as health and education). Courts should focus their work on serious and persistent offenders.

In a separate report, also published in January, the National Audit Office describes how the Youth Justice Board has successfully developed and introduced a range of new non-custodial sentences and programmes for young offenders. However, the report argues that there is scope for the Board to improve forecasting of custodial numbers, deciding of placements and agreeing common aims and objectives with the Prison Service for establishments. Further education and offending behaviour work with young offenders in custody can often be disrupted, and the work is too often not continued when the individual returns to his or her community.

These reports were welcomed by the Youth Justice Board. Sir Charles Pollard, acting director of the YJB said, ‘It is heartening to see that both of these reports point to the significant progress that has been made in the youth justice system since the reforms were put in place in 1998. This improvement would not have been possible without the dedication and professionalism of those working on the front line of youth justice, in Yots, secure establishments, for partner agencies and organisations, and in crime prevention programmes across England and Wales.’

For further information see
- www.youth-justice-board.org.uk
- www.audit-commission.gov.uk
- www.nao.gov.uk

**From Insult to Injury: How the Criminal Injuries Compensation Scheme is Failing Victims of Crime**

This report, published in November 2003 by the organisation Victim Support, highlights the ways in which the needs of victims of crime are not met by the state-funded Criminal Injuries Compensation Scheme (CICS). The focus of the report is on three particular
groups of victims who, Victim Support argues, are particularly ill-served by the scheme. These are:

- Victims of sexual offences where no physical violence was used. The CICS makes a distinction between 'consent in law' and 'consent in fact'. Victim Support argues that the CICS should move to a more modern understanding of sexual offending and compensate all victims of sexual offences regardless of the level of physical force involved.
- Those victims of crime injured or abused by people living in the same household if the incident took place before 1 October 1979. The report's view is that this is an arbitrary and unjust rule, denying compensation to victims of serious offences.
- Those victims who receive means-tested benefits, because an award from the CICS is counted as capital for the purposes of assessing benefit. An award in excess of £8000 will end a victim's right to benefit. Victim Support argues that the award of compensation, paid as a consequence of the pain and suffering following an injury, should be disregarded when benefits are calculated.

Victim Support calls on the government to take account of these issues in its forthcoming review of the CICS.

For further information, see http://www.victimsupport.com/about/publications/insult_to_injury/report%20-final%20text.pdf

**Victims and Witnesses: Providing Better Support**

In this report, published in December 2003, the Audit Commission has reviewed the current services provided to victims and witnesses, incorporating evidence from policymakers and practitioners as well as victims and witnesses themselves. The Commission argues that little comprehensive evaluation has taken place of the existing services to victims and witnesses of crime, disorderly or anti-social behaviour. Victims and witnesses have not described in detail their experiences of obtaining help and support, and whether any received support was satisfactory.

The report makes a number of recommendations to all the key agencies, for example the police, crime and disorder reduction partnerships, local criminal justice boards, the CPS and the voluntary sector, including Victim Support. The following themes emerge from the report:

- Agencies must understand the demand for services from victims and witnesses
- Cultural change to recognise that meeting people's individual needs is key to improving victim and witness satisfaction
- Clear accountability for performance and service quality is necessary to drive improvement
Better use and communication of information is required.

The report cites examples of existing good practice. These include examples of police procedures intended to improve the way that communication with victims and witnesses is organised. For example, work in the Thames Valley area has improved the police understanding of race crime and sought to ensure that patterns of racist harassment and anti-social behaviour are not overlooked. In Northumbria, the police recently introduced a victim/witness database that enables all victims and witnesses to be updated at every stage of the case by letter, telephone, text or email (the choice is theirs).

For further information, see www.audit-commission.gov.uk

**Towards Race Equality: A Follow-Up Thematic Inspection**

This report, dealing with the progress made by the National Probation Service in the area of race equality since a comprehensive inspection in 2001, was published at the start of 2004. The report found evidence of improvement in recent years, but there are still areas where work with minority ethnic offenders is not as good as work with white offenders, for example in the preparation of pre-sentence reports. Not all probation areas have current policies and practice guidelines to address racially-motivated offending.

The report highlights issues that still require attention, particularly the continuing sense of disadvantage experienced by some minority ethnic members of staff. The report does point to examples of good practices, for example the use of external consultants to advise about recruitment and appraisal processes, and urges that these be adopted more widely. The Inspectorate found little evidence that probation areas had fully incorporated the Macpherson definitions of racist incidents and institutional racism into their policies and practices.

For further information, see http://www.homeoffice.gov.uk/docs2/towardsraceequality04.pdf

**Acceptable Behaviour Contracts**

A report, written by Bullock and Jones, considering the use of Acceptable Behaviour Contracts (ABC) as a means of dealing with anti-social behaviour in the London Borough of Islington has been published by the Home Office. Acceptable Behaviour Contracts (ABCs) are written agreements between a young person, the local housing office or Registered Social Landlord (RSL) and the local police in which the person agrees not to carry out a series of identifiable behaviours which have been defined as antisocial. The contracts are primarily aimed at young people aged between ten and 18, but they can be used for adults, and a variation of the scheme has been developed for children under ten.
Jane Dominey

Having undertaken research in Islington and surveyed police forces and local authorities in England and Wales the report makes a number of recommendations, including:

- Make use of multi-agency data to maximise the evidence base against young people and to ensure that their circumstances are fully understood
- Make use of more sophisticated data collection techniques to improve the way that complaints are dealt with, contracts are monitored and subsequent evaluation
- Improve the way that individuals are selected for the scheme to ensure the scheme is applied appropriately
- Ensure the scheme is well publicised
- Involve other agencies early on (including youth offending teams and education services)
- Ensure training is available for staff involved in ABCs

For more information, see http://www.homeoffice.gov.uk/rds/pdfs2/rdsolr0204.pdf

**An Evaluation of Community Service Pathfinder Projects**

Home Office Occasional Paper 87, authored by Rex, Gelsthorpe, Roberts and Jordan, was published in January 2004. It outlines the evaluation of Community Service Pathfinder projects established in 1999. These pathfinders, run in a number of probation areas across England, were intended to explore what about community service may serve to reduce offending. The projects made use of three different approaches used with offenders; pro-social modelling, skills accreditation and tackling other offending related needs. The evaluation also looked at the profile of those offenders on community service orders, considered the implementation issues faced by the projects and examined outcomes and outputs (for example, whether offenders gained employment).

At this stage, before any reconviction analysis is complete, findings can only be tentative. However, there are indications that the projects focusing on skills accreditation produced the best outcomes, although the cost of the pro-social modelling projects was lower. Projects combining skills accreditation with pro-social modelling seemed effective. The researchers also found that there was, on average, a statistically significant reduction in both pro-criminal attitudes to offending and problems in those offenders who completed an assessment tool before and after their community service, although they caution that this is not necessarily the result of the project. 60% of offenders were also rated by staff as having undergone positive change.

For more information, see http://www.homeoffice.gov.uk/rds/pdfs2/occ87.pdf
**Domestic Violence Telephone Helpline**

A new national domestic violence telephone helpline was launched in December 2003. The service will be run by the domestic violence agencies Women’s Aid and Refuge. The service is jointly funded by the government and the charity Comic Relief. It offers access to 24-hour emergency refuge accommodation, as well as an information service, including safety planning and translation facilities.

The freephone number is 0808 2000 247

**Forthcoming Events**

**Effective Restorative Justice**

The third international conference on Effective Restorative Justice, organised by De Montfort University, will be held in Leicester on 16 and 17 September 2004. Further information can be obtained from Lucy Norman, lnorman@dmu.ac.uk. Anyone wishing to discuss possible workshops or papers is invited to contact Brian Williams, bwilliam@dmu.ac.uk

**‘Children First, Offender Second?’**

This is the title of Nacro’s annual youth crime conference. It is to be held at Loughborough University from Wednesday 21st April until Friday 23rd April. The conference will consider the consequences of new criminal justice and anti-social behaviour legislation and reflect on the future development of youth justice and wider children’s services.

For further information, see www.nacro.org.uk

**‘Building a Global Alliance’**

The fifth international conference of the International Institute for Restorative Practices will be held in Vancouver, Canada from the 5th to the 7th August 2004.

For more information see http://www.iirp.org/index.html
BOOK REVIEWS

SEX CRIME AND THE MEDIA: SEX OFFENDING AND THE PRESS IN A DIVIDED SOCIETY
ISBN 1-84392-004-2

Chris Greer’s book is important both as an empirical study and a sophisticated theoretical analysis of sex offending, a family of crimes which fascinates and frightens citizens throughout all late modern societies. Within the book there is a discussion of a disparate collection of crimes including incest, paedophilia, rape, sexually motivated homicide and prostitution. Much of the public’s interest in and fear generated by sex offending is sustained by the media, in particular the popular press which is awash with salacious and sensationalised stories about sex crime. Sex Crime and the Media provides a cogent analysis of the portrayal of sex offending in the context of Northern Ireland, a society fractured as a result of an inter-ethnic conflict underpinned by religious rivalry. Whilst public concern about sex crime in general is well documented, a notable strength of Greer’s unique contribution is that it provides a novel analysis of the representation of such offences in a politically divided society. Having said that the book’s key findings and arguments are far from being parochial and have resonance in all late modern societies. This is especially so given the globalisation of media led communication.

A major positive feature of the text is that it offers an insightful account of the complex processes surrounding the social construction of sex crime in media narratives. This is achieved through a thorough analysis of the media’s contribution towards shaping public and political perceptions of the extent and prevalence of sex offending in a variety of forms. It shows how the media provides a template which suggests how citizens ought to react to the complex reality of, and risks posed by, sex offenders. An organising argument of the text is that the work of the media has a strong and softly deterministic influence on the public’s understanding of sex crime. However, there is also a suggestion that the media is reacting to the demands of an audience that is ‘dumbing down’ and withdrawing from conventional party politics and so-called serious debates and issues in public policy.

Above all Greer’s book is a welcome addition to the literature examining the linkages between the crime and media because it considers sex crime in the context of the news production process. The fieldwork in the book, for instance, considers the activities of journalists and their sources in relation to the social construction of sex crime. This micro level analysis is then clearly located within broader socio-economic cultural and political changes. It provides a compelling account of the commercialisation of news production in
an increasingly competitive market in which customers would appear to prefer spending their money on tabloid newspapers. In comparison to the broadsheets, the tabloid press are more adept at disseminating often inaccurate information about the nature of sex offending to wider sections of the public. It also outlines in some detail the nature of the relationship between the media and those criminal justice practitioners involved in assessing and managing the risks posed by sex offenders. A message contained in the book is that the quality of the information about sex offending produced by the media is generally poor and does not really adequately educate the wider public about the practical problems represented by such crimes. It may be concluded from this that a better informed public in possession of a more accurate understanding of sex offending would be beneficial for policy makers involved in the difficult task of preventing and solving this type of crime.

In my view this book is important and deserves to be read by a wide audience, including academics involved in teaching modules which focus on the relationship between crime and the media, specifically the influence of the media on the criminal justice policy making process. Some of the examples would also be ideal for stimulating the interest of students approaching criminology for the first time. Journalists would also find the book to be an interesting description of their working environment and the extent to which their activities are interconnected with an important area of public policy. Criminal justice practitioners who are required to work with the media may also find the book helpful as a way of familiarising themselves with the workings of an increasingly commercialised and market driven media industry.

Chris Crowther, Sheffield Hallam University
CRIME AND EVERYDAY LIFE.

Marcus Felson is a major and significant contributor to the ‘routine activity approach’ to crime rate analysis. This is his third edition of this book, in which he has re-worked and developed some of his original concepts noted in the first and second editions (1994,1998). These additions include offender decisions, selling of stolen goods, ‘white-collar’ crime and the concept of crime science; a theme which Felson endeavours to communicate throughout this text.

This book offers a useful and accessible perspective into crime in everyday life. In particular, it is clearly written and Felson works hard to encourage the reader to engage in extended discussions and activities outside the text. In this sense Crime and Everyday Life would be useful for students who are new to this discipline. This is because Felson interestingly crystallises and asserts some of the ‘fallacies’ or untruths about crime, by inviting the reader to think hard about their own experiences in everyday life. In this way Felson is able to provide some explanations about the origins and causes of crime based on human behaviour and social environments. This text is a manifesto for crime science, suggesting that the phenomena of crime can be examined precisely and systematically, almost as if under a microscope. I would warn however, that Felson’s focus is entirely on situational crime, whereas crimes like domestic violence, sexual and racist crime are overlooked in this text.

Felson uses the ‘chemistry of crime’ as a manner of understanding the journey of the criminal act, which in turn can help us to understand how offending can and might be reduced. He suggests that the routine of everyday life punctuates certain crime opportunities, thus enabling an offence to take place much more readily. Moreover, the absence of ‘guardians’ or protectors against crime is also an important element to Felson’s approach. Here the offender and victim relationship or interaction is perhaps over simplified; the presence or absence of bystanders or ‘guardians’ can determine whether or not a crime is committed. It is these crime opportunities that enable the process. Felson advocates that if the scientist can detect these opportunities or ‘niches’, thus criminal activity can be reduced. In part this colludes with victim blaming discourses and the so-called demand for young people to be subject to curfews, ‘It aims to protect the local community from anti-social behaviour instigated by groups of young people at night.’ 1 This is linked to the UK Government’s Street Crime Initiative (2002).

Felson to some extent rejects the exploration of the criminal mind or social explanations for crime. However, through this text we are invited to consider social situations where crime can take place, which can appear contradictory. But what Felson is asking the reader or crime scientist to do is to put themselves ‘into the mind of a criminal’. Instead of the situational and psychological insights, Felson stipulates this as a list of tasks, a
mechanical process in which they occur in succession within a larger system of processes or activities. Yet this science is surely embedded in both psychology and sociology?

Most interestingly, Felson’s chapter on marketing stolen goods provides an insight into this behaviour. This example highlights the problems that everyday life can be almost encouraging people to steal and in turn, buy stolen goods. It can be argued that even traditional high street shops almost invite people to steal; goods are openly on display and opportunities can and do arise for an offence to take place. This is perhaps explained by geography and proximity to appropriate outlets to market stolen goods.

Felson’s later chapter reinforces the notion of ‘local design’ or urban planning. This tries to fuse the perspectives offered earlier in this text. The very spaces human beings design and create can and will contribute to the crime opportunities Felson readily expresses in this book. If we can understand how and why crime is structured in modern everyday life, it can according to Felson assist us in crime prevention. Yet as Felson himself suggests, crime is complicated, but I feel further more complicated with the rejection of theory or perspectives to think about crime and its outcomes. Despite this Felson is persuasive by serving to realign our thinking about the complexities of situational crime. I would, however, be interested to observe how Felson would react to crimes committed by the state.

Victoria Knight, De Montfort University.

Notes
1 http://www.crimereduction.gov.uk/youth18.htm
CONFRONTING CRIME: CRIME CONTROL POLICY UNDER NEW LABOUR


This publication is a welcome and timely contribution to the continuing debate around the development of criminal justice policy under New Labour and develops a particular focus on the impact of the Criminal Justice Bill 2002 (as it then was) within a range of key areas including: drug-dependent offenders, sex offenders, nuisance offenders, court procedures and sentencing. The contributions from both academics and practitioners emerge from a Cambridge Crime Policy Conference in 2002 and meetings of the Cambridge Sentencing Policy Group that met throughout the same year.

The book opens with a lively introductory chapter from the editor Michael Tonry which seeks to set the scene in terms of providing a brief overview of current debates around the rise in punitive populism and a rapidly escalating prison population at a time of apparently reducing crime levels; David Garland's contribution to this criminological discourse is drawn upon here and at other times by other contributors to this publication. The theme is developed into a critique of the alleged relationship between policy making and an evidence based understanding of what works within criminal justice. Briefly, but effectively, Tonry challenges the idea that the Criminal Justice Bill 2002 is grounded within evidence based policy making and instead offers alternative rationales which emphasis the continuing primacy of the judiciary and the political realities as interpreted by the current government. The reader is drawn into the discussion and looks forward to a more detailed analysis in subsequent chapters.

The focus on policy making is somewhat dissipated in Chapter Two which examines drug dependent offenders and 'Justice for All'. The early content of the chapter includes a useful and succinct overview of the relationship between offending and drug use and provides some clear thinking in what are frequently muddied waters. However the subsequent discussion of policy initiatives within the White Paper is somewhat constrained by the parameters set by the authors which are primarily the efficacy of coerced treatment and the implementation and public support issues that might arise from the government's approach. What is missing is a broader based policy discussion about the relationship between the apparently competing agendas of criminal justice and public health/social policy; what about, for example, the developing risk that sentencers will view custody as an opportunity for a period of detoxification that is not available within the community? The allocation of resources to a criminal justice response surely requires a consideration of public health priorities?

Chapter Three begins with a refreshing debunking of recent myths regarding the nature and extent of the threat posed by sex offenders and questions the rationale for the proposals contained within the Criminal Justice Bill 2002, preferring instead the strands of thought that have given rise to the sex offences White Paper, ('Protecting the Public'
What follows is a persuasive argument for an approach to sex offenders that reflects the inherent complexities within which sex offending is recognised as a complex and multi-faceted phenomenon that requires a range of strategies including treatment programmes and multi-agency management (Page 66). The uncertainties of risk assessment and prediction are evidenced and criticisms of risk management as a process and incapacitation without treatment are levelled. The concluding section includes some interesting suggestions for the development of a more evidence based and comprehensive approach to policy making; this could have been usefully developed further.

The discussion of nuisance offenders in Chapter Four is predicated on the assertion that there has been a poor fit between existing police and court responses to the accumulation of relatively minor anti-social behaviour which has a major impact on individuals and communities. As policing and sentencing has traditionally been geared to what the authors describe as 'one-off events', cumulative anti-social behaviour has largely been bypassed by the criminal justice process. Anti-Social Behaviour Orders are, within this argument, a response to the failure of existing legal sanctions to deal with cumulative harm. There then follows a discussion of ASBOs with some references to isolated case histories. As is often the case with edited collections, the parameters for this discussion vary considerably from the earlier chapters. The complexities of offending which suggested a multi-faceted response to sex offenders are not mirrored in the discussion of anti-social behaviour. The authors do not engage with issues of Human Rights, proportionality and rehabilitation and appear to be community rather than offender orientated. An alternative view might locate the nuisance offender as part of a troubled community in which a process of restoration has some value.

In contrast Human Rights considerations move closer to centre stage in Chapter Five which mounts a powerful critique of the implications of the White Paper 2002 with regard to process and evidence within the court system. The much heralded 'better deal for victims and witnesses' is contrasted with the gap between existing legal protections and their availability in reality; concerns are expressed about the implications of police officers having authority to impose bail conditions before charge; changes in terms of admissibility of evidence and double jeopardy raise questions about fair trials and Human Rights. The authors bemoan the absence of a principled approach and the ascendancy of a 'crime control' model of justice at the expense of due process.

Similar themes are picked up in the following chapter on Sentencing Guidelines in which Neil Hutton identifies the difficulty of constructing sentencing guidelines when the sentencing process has divergent aims and no primary or unitary rationale. Having identified a simple set of features that underpin an effective system of sentencing guidelines, he concludes that, when measured against this, the arrangements within the Criminal Justice Bill are severely wanting with the relationships between the Court of Appeal, Sentencing Advisory Panel and Sentencing Guidelines Council confused and opaque.
In a less critical chapter on Sentence Management the authors identify existing opportunities for sentencers to play a role in the oversight of court outcomes, particularly DTTOs and cautiously welcome the extension of judicial oversight to include Suspended Sentence Orders within the Criminal Justice Bill 2002. Their chief concern rests with the potential duality of role that sentencing and sentence management implies although in fact probation officers, within a different arena, juggle potentially conflicting roles within the breach and enforcement process.

Slightly out of context, Chapter 8 asks whether sentencing in England and Wales is institutionally racist. In fact the authors reject the term ‘institutional racism’ as unhelpful and refer to Macpherson’s much quoted definition as ‘artless, almost incoherent’. Having established their starting point the authors then review some of the literature to identify that processes within the criminal justice system are institutionally racist but that the use of this term ‘obscures rather than advances understanding of racial disparities in sentencing’ (page 178). This is a challenging chapter which finishes with a series of proposals designed to reduce disparities; these are radical and run the risk of encouraging a knee jerk rejection from policy makers. Chapter 10 retains a similar hard hitting approach and sets out a series of measures which would, if implemented, have the effect of reducing the prison population. Given current indications from the Home Office that the prison establishment is about to reach capacity, these proposals may seem timely but again it could be argued that their range and breadth go well beyond current policy making realities.

Sandwiched between these two chapters Jenny Roberts and Michael E. Smith consider the arrival of custody plus and minus and raise a series of pertinent questions about the blurring of the distinction between custodial and community sentences and the possible consequences from a sentencing perspective. Their analysis echoes the concerns expressed in preceding chapters regarding the absence of a clear rationale and along the way the authors cast some cautious doubts about the nature of the claims being made in support of the What Works evidence base. What emerges is the degree of uncertainty and risk associated with radical sentencing shifts and the possibility for unintended consequences to raise their potentially ugly head.

This book was conceived before the publication of the Carter review and does not seek to grapple with broader policy making issues associated with the management and governance of the justice system. Readers will need to go elsewhere to examine the progress of managerialism and new public management. However within the parameters set this book is a stimulating and robust analysis of some of the recent developments and successfully combines contributions from academics and practitioners/managers to engage the reader in what is generally a lively and well informed debate.

Simon Feasey, Sheffield Hallam University