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EDITORIAL
COMMUNITY COURTS IN THE US AND THE UK

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The origins of the Liverpool experiment
The Community Justice Centre in Liverpool is an important experiment, and it has been discussed previously in this journal (Berman and Mansky, 2005). First announced in 2003, it started work late the following year in a conventional magistrates' court and moved into its own premises in September 2005. Its dedicated judge recently accepted an invitation to lecture on the experiment at Liverpool Law School, and that lecture is drawn upon in what follows (Fletcher, 2006). A similar but in some important ways different experimental 'community' court also opened in November 2005 in Salford, with magistrates rather than a judge in charge, and the two models will be watched with interest by a government intent on encouraging 'problem-solving' approaches to the delivery of justice.

The community justice centre was originally an American concept, and one which has been replicated widely since the establishment of the project which has caught the attention of British politicians, the Red Hook Community Court in New York, which opened after six years of preparation in 2000. Therein lies one important difference between the American initiative and the British one: Red Hook was planned over a period of years, as against the months of planning allowed to the Liverpool centre. Inevitably, this meant that some aspects of the North Liverpool Community Justice Centre took precedence over others. For example, the service to victims and witnesses, in the person of a "full-time victim and witness support worker" (Fletcher, 2006) has only recently been added to the complement of staff and services in Liverpool, and restorative interventions and community mediation (which have been integral to the Red Hook centre) have also waited until other aspects of the Liverpool centre were well-established. There is also some evidence that the establishment and priorities of the Liverpool centre have been driven by the central government departments concerned, rather more than by community demands and partnerships, which are emphasised in most discussions of Red Hook (Berman and Feinblatt, 2005; Berman and Fox, 2005). Indeed, the Liverpool centre is based in a former primary school in a deprived area which is short of other community facilities. Local community groups had expressed interest in taking the buildings over, but the court did so - and the school's swimming pool was demolished as part of the change of use.

Whereas Red Hook is a single, cohesive (albeit divided) neighbourhood in Brooklyn with a population of 11,000 (Lanier, 2005; Berman and Fox, 2005), "North Liverpool" is not an
entity for purposes other than the area of jurisdiction of the NLCJC: it comprises a number of local government wards with a total population of around 80,000 (Hartill, 2005/6). Some American advocates of community justice argue that it operates best at the neighbourhood level (Clear and Karp, 1999). In Liverpool, the strong local culture of not ‘grassing’ has made it a hard area for the CJC’s outreach strategies to penetrate, although the centre’s community engagement officer remains upbeat about the task (Brett, 2005). If, as in some working class areas, grassing is defined broadly to include any voluntary contact with the representatives of criminal justice agencies (Yates, forthcoming; Evans et al, 1996), community outreach seems likely to remain an uphill struggle.

**Early successes in ‘North Liverpool’**

Despite these concerns, the North Liverpool Community Justice Centre has had some early successes. The presiding judge, David Fletcher, was appointed in 2005 in a process which involved unprecedented community representation, and set about getting to know the area, making himself known by attending local meetings, and setting up reference groups of local residents to advise him on community problems. He has actively promoted community penalties as the solution to low-level disorder and crime, and has engaged with some offenders over a period of time, following up their progress in the ways pioneered during the implementation of Drug Treatment and Testing Orders in the UK (Turnbull et al, 2000; Woolf, 2002) and problem-solving courts in the US (Berman and Feinblatt, 2005).

The centre has engaged with existing statutory and voluntary agencies to ensure that offenders’ needs can mostly be met ‘on the spot’, including drug and alcohol services, housing, employment and legal advice, and tentative efforts are being made to engage more proactively with suspicious local residents. Given the timescale, these are impressive achievements. Much of the early success appears to have depended upon the judge himself: he is un-stuffy, relatively young, enthusiastic, even charismatic. Significantly, he has avoided making Anti-Social Behaviour Orders, preferring to rely upon community sentences (except in prostitution cases: see CJC 2005). Another factor has undoubtedly been the level of expenditure committed to the experiment by the three government departments involved in promoting it: the centre is extremely well-resourced, although figures are impossible to come by. European funding runs until December 2006, and it will be interesting to see whether or not the interim evaluation due this year will recommend using mainstream funding to guarantee its continuation. The US research suggests that community courts are more costly than conventional courts, but that they make up for this by making considerably less use of custodial remands and prison sentences (Kralstein, 2005). When they do send people to prison for breaching court orders, it is for longer than comparable courts would do, but overall there are still significant financial savings to the state (Berman and Feinblatt, 2005, p. 165).

Red Hook’s development was influenced by the concept of therapeutic jurisprudence (Wexler and Winick, 1996), a notion unlikely, on the face of it, to be very congenial to our current political masters in the UK, although it perhaps links with communitarian
aspirations for criminal justice, and it commands significant support in the USA. The advocates of therapeutic jurisprudence argue that the law is a social force with the potential for therapeutic or anti-therapeutic impacts on the people caught up in it (whether in criminal, divorce or mental health cases). The implications for the behaviour of judges include the possibility of seeing the law as a helping profession: judges are believed to have the potential to promote cognitive change in defendants, and to facilitate what the Americans call 'treatment adherence' by the ways in which they deal with individuals. This is facilitated by a judge's continuous involvement with a case, a process for which the NLCJC is ideally suited. Judge Fletcher is able to deal with the same defendants each time they appear, and (for example) to remind them of what was said last time they were in court. The therapeutic potential of judicial treatment of criminal defendants also depends upon how judges treat people, and limited observation of Judge Fletcher's work suggests that he takes considerable care to explain his decisions and their implications, and treats defendants with respect. Whatever one might think of the theory of therapeutic jurisprudence, it is difficult to dispute the potential benefits of a judge being more aware of social factors than judges typically are in the UK, or indeed of a judge taking an interest in the impact of his decisions upon the individuals concerned. The NLCJC remains strongly focused upon individual criminal defendants, however: the quality of life in its area has to do with wider issues of poverty, poor housing, unemployment and so on, and while a community court could address some of these issues, it does not appear to do so to any significant extent as yet in Liverpool. There are, however, precedents for this kind of judicial activism in the USA.

The other influence which has propelled community courts up the US criminal justice agenda is ‘broken windows’ theory, the commonsense but unproven idea that dealing decisively with minor nuisance offences and dilapidation is essential to improving demoralised communities. On this Leena Kurki has written:

"The broken windows theory has influenced community prosecution and community court approaches that emphasize attacking nuisance or quality-of-life crimes. The question remains, whether dispersing, arresting, and punishing homeless, drunk, poor, mentally ill, or loitering people is the right response to the social conditions of poverty, substance abuse, homelessness, and general apathy that are related to crime and deterioration of American inner-city neighbourhoods… there is no evidence that targeting quality-of-life crimes is the way to boost neighbourhood revitalization" (Kurki, 2000, pp. 248, 289).

In the absence of persuasive research, the relevance of ‘broken windows theory’ and its close associate, zero tolerance, to the courts in run-down, poor areas of the UK remains a matter of opinion.
Concerns about community courts

The American literature highlights a number of concerns about community courts in terms of civil liberties. They may widen the net of social control, criminalising anti-social behaviour which would otherwise have been unlikely to command official attention. They can also neglect due process, involving possibly unrepresentative spokespersons for the local community at the expense of defendants' rights. Conversely, they are sometimes "expert-driven" (Lanni, 2005, p. 380), falling into the very trap they are supposed to avoid, replacing magistrates with case conferences of professionals. Such case discussions need not involve a defence lawyer in all cases, although excluding them is clearly bad practice (Berman and Feinblatt, 2005). Some community courts have been located in mixed communities at the instigation of local businesses, and the main beneficiaries have been white, middle-class residents (Kurki, 2000). Some of these concerns are more relevant than others in the context of the Liverpool experiment.

The then Lord Chief Justice and a number of civil servants and politicians visited the Red Hook Community Justice Center in the period prior to the establishment of the NLCJC, and it is reasonable to assume that some of the pitfalls of American experimentation with community justice were taken into account in designing the Liverpool and Salford pilot projects. In some respects, it is too early to tell whether mistakes made in New York have been repeated in England, but there is evidence that some of them have been avoided. Due process concerns seem to be unjustified: indeed, the involvement of a judge in dealing with minor "quality of life" offences should offer additional safeguards, and most defendants are legally represented not only when they first appear in court but also at review hearings.

Further down the road, there may be concerns arising from an unduly cosy relationship between a single judge and his team, but this is not an issue which has been raised to date.

As for widening the net of social control, this is perhaps inherent in a project which is designed both to improve community confidence in the justice system and to reduce anti-social behaviour in a poor, run-down area. Community reference groups identify social problems which the criminal justice system can only ever partially address, such as prostitution and drug misuse, and the court responds in ways which are not normally open to conventional courts. This involves an element of net-widening, almost by definition. The question is whether this is a price the local community is prepared to pay for the promised (and arguably largely unwanted) benefits – and whether these benefits actually materialise. Opinion surveys in the areas served by the courts may throw some light on this.

The tension between community involvement and being “expert-driven” does appear problematic in Liverpool. As elsewhere,

“Although the community court model is billed as a reform that enhances popular participation, in reality the problem-solving judge and expert social service personnel retain control over most aspects of the criminal justice process” (Lanni, 2005, p. 383)
However, in Liverpool the team of ‘experts’ includes representatives of a number of voluntary agencies such as Victim Support and a drugs agency. The judge certainly remains in charge of sentencing, but receives the input of reference groups of local residents, including young people. The role of the judge is perhaps symptomatic of a top-down approach (New Statesman, 2003), but the Salford experiment led by magistrates offers an interesting comparator. The problem-solving meetings with which the judge begins each day have substantially reduced the requirement for pre-sentence reports, which means that informal discussions replace written reports. This might be problematic in some cases, but it has speeded up the sentencing process and freed probation officers and youth justice workers to spend more time with their clients. It is an innovation which should be carefully monitored, because it would be all too easy to argue for a reduction of the use of written reports in normal courts on the back of the experiment, and defendants’ rights would suffer.

**Victims of crime and community courts**

Another concern arising from the US experience is that community courts may have the unforeseen consequence of making victims of crime feel that they “have responsibilities”, in that

“their goal is to recover their capacity to fully function in the community. Recovery begins when the victim articulates the losses, intangible as well as tangible, and estimates the resources, financial and otherwise, needed to restore the losses” (Clear and Karp, 2000, p. 23).

The authors appear to anticipate that victims will become part of a network of mutual obligations – not a commitment many victims are likely to be willing to make under current circumstances. There is a danger that victims may be placed under new obligations that they are reluctant to commit themselves to, for good reasons. There is an unusually high rate of not guilty pleas in the area covered by the NLCJC, partly because of witness intimidation (Williams, 2005, p. 50). There is also some doubt about the extent to which the NLCJC has fulfilled the promise of its initial publicity in terms of making new services available to victims and witnesses, although a small number of specialist victim support staff, appointed early in 2006, may help to remedy this deficit.

**A brave experiment**

The government could certainly not be accused of having located the NLCJC in an area where middle-class residents would be most likely to benefit: it is in Kirkdale, and it covers a part of Liverpool with whole terraces of boarded-up housing, blighted by the local football club’s expansion plans and by the activities of entrepreneurs buying up property in anticipation of better times but leaving it derelict. Its territory covers some of the poorest electoral wards in the country. It is also a high-crime area. If the intention was to undertake the experiment in a challenging area, it was a good decision. However, one of the redeeming features of the area is its comparative wealth of community organisations,
making the servicing of the court somewhat easier than it might have been elsewhere, and 25 volunteers have been trained as mentors (Fletcher, 2006).

Judge Fletcher, in his recent lecture, bemoaned the complexities involved in a project which is being evaluated by three different government departments. It is unfortunate that little of this evaluative work has yet seen the light of day – but the forthcoming publication of a cost-benefit analysis will go some way towards remedying this omission. One of the problems with community courts in the USA is that they have not been extensively evaluated, and much of the literature has a rather evangelical tone (see for example Berman and Feinblatt, 2005 or Clear and Karp, 2000). Until objective research evidence becomes available, it is as well to remain sceptical about some of the claims being made for community courts. Nevertheless, the experiment is a brave one and an interesting one.

Also in this issue
This issue of the journal illustrates both the diversity of community justice and the liveliness of current debates about it. It also has a strongly international feel.

John Owen and Santi Owen discuss the ways in which ‘domestic’ violence has been dealt with over the centuries, and they argue that its criminalisation has inadvertently replicated the “theft of conflicts” (Christie, 1977) bemoaned by advocates of restorative justice. By making ‘domestic’ violence a crime against the state rather than against the moral norms of the community, we have missed opportunities to shame the perpetrators and to protect the injured parties. The authors enliven their argument by discussing the custom of ‘rough music’, giving an example of an abuser being publicly humiliated by his neighbours as a sign of communal disapproval and solidarity, and they go on to suggest that perhaps we need to find equivalent methods of shaming violators of such shared norms. The example comes from early modern England, and the authors compare it with current practice in Australia.

Shadd Maruna, in his article on the resettlement of prisoners, also draws upon restorative justice theory and calls for greater community involvement. He points out that the current collective forgetting of prisoners while they are away is unsustainable, and that the advent of the National Offender Management Service (NOMS) and the notion of the “seamless sentence” may offer an opportunity to make a fresh start in thinking about prisoner resettlement and rehabilitation. Community involvement and reparation offer constructive and active approaches to prisoner reintegration. Drawing upon recent experience in Northern Ireland and the US, he makes a strong argument for change.

Wendy Fitzgibbon and Roger Green also touch upon the changes envisaged with the advent of NOMS. Their paper may at first sight seem more parochial than the others, concentrating as it does on the completion (or non-completion) of the offender assessment tool, eOASys, in one English probation area. However, their small research project has major implications for practice in probation and related agencies. It shows how
poor assessment makes evidence-based practice all but impossible, and how actuarial risk assessment is in danger of falling at the first hurdle due to time and other pressures upon front-line staff. In particular, mentally vulnerable probation clients are ill-served by the constant turn-over of supervisory staff which is becoming so common, and their needs are unlikely to be met if the information held about them is never synthesised by supervising staff. Perhaps the one heartening aspect of this study is that it emphasises once again the importance of consistency and of the building of meaningful human relationships to successful supervision. Recent events suggest that this will require substantially increased resources, and that the move towards actuarial risk assessment may have led to a mistaken reduction in emphasis upon constructive relationships between probation workers and offenders.

Julian Buchanan’s article also focuses upon community supervision of offenders, taking a radical look at the assumptions underlying much drug treatment. He argues, with evidence, that prohibition itself causes major social harms. The link between drug misuse and crime is a complex one, and although there are obvious causal links in some cases, it is dangerous to ignore this complexity. Medical approaches to drug misuse conventionally ignore the social causes, and policy has followed this dominant discourse, to the detriment of more sophisticated approaches to rehabilitation (or, as Buchanan argues, in many cases to the ‘habilitation’ of people who have never had the experience of inclusion).

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DOMESTIC VIOLENCE AND ‘ROUGH MUSIC’: A CASE FOR COMMUNITY-BASED INTERVENTION.

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Abstract
In this article we are curious to illustrate and contrast some of the ways in which domestic violence has been managed over time and place. To develop this contrast we compare recent (primarily Australian) western material with historical examples taken from early modern England. The focus of this discussion will be how intervention into domestic violence has shifted from a decidedly community-based to an authority-based system of monitoring social relations. We argue, in seeing many respects of this trend reversed, that there are good reasons for a more localized and community-based treatment of Domestic Violence.

Introduction
Domestic violence is a serious issue. In Australia this seriousness is reflected, in part, by the on-going attention it receives from academics, public and community sector commentators, legal authorities and the police. Some of this attention, no doubt, can be taken as being stimulated by a recent increase in the awareness of domestic violence as a public issue. Likewise, it can be suggested that this increase in public awareness about the seriousness and prevalence of domestic violence can be attributed to the manner in which authorities have handled the very reporting of the problem.

Within the last 30 years authorities have responded to public concern with solutions in the form of legislation, policy, programs and procedures for dealing with domestic violence. In centralizing control and constructing parameters that define domestic violence governments act as ‘gate-keepers’ when it comes to legitimizing victim-hood, certain types of issue management, treatment and prevention. This is made evident, in part, by the oscillating trends in treatment and programs funded by government, as well as funding priorities for research, advocacy, support and treatment. What is also evident from many government and non-government funded research is the difficulty in measuring the
full extent of domestic violence. The real prevalence of domestic violence is usually estimated based on the absence of reporting figures using the recorded statistics as indicative of the ‘tip of the ice berg’.

The general trend, however, appears to suggest an increase in reported incidence of domestic violence. We are sceptical about what conclusions are to be drawn from recent statistical evidence, since it can be taken any number of ways. And this is precisely why we are sceptical. Does it, for example, tell us that reporting mechanisms have themselves improved, and thus the increase should be reflected as 1) that authorities now take the issue more seriously, 2) that reporting mechanisms are now more readily used, 3) that public servants are reporting the issue more. Or does it, on the other hand, tell us that 1) that domestic violence is actually on the increase 2) that victims are reporting 3) that more victims are reporting?

Literature has strongly focused on understanding the causes of domestic violence and strategies for its prevention and treatment. Our main concern lies within the domain of intervention. In particular, we are curious to illustrate and contrast the ways in which domestic violence has been managed over time and place. To develop this contrast we compare recent western material with historical examples taken from early modern England. In taking this approach we find it necessary to avoid the question of whether domestic violence has become of increasing or decreasing prevalence, or with the proposition that it has become more or less acceptable. Rather, the focus of our discussion will be how intervention into domestic violence has shifted from a decidedly community-based to an authority-based system of monitoring social relations. We argue, in seeing many respects of this trend reversed, that there are good reasons for a more localized and community-based treatment of domestic violence.

**Definitions**

Domestic violence has been at various times called ‘wife abuse’; ‘family violence’; ‘intimate partner violence’ or generally subsumed under violence against women. Historically it was often referred to as ‘wife beating’. The Australian Commonwealth Office for the Status of Women has defined domestic violence generally as the abuse of power perpetrated usually by men against women in relationships or after separation (PADV 2000). It is acknowledged that domestic violence includes forms of abuse ranging from physical to psychological means (ibid: 5). In contrast, legalistic definitions of domestic violence are limited to specific acts recognized under legislation. While it is understood that the violence occurs within the context of domestic or family home, the law mainly recognizes ‘actual’ or ‘threatened’ violence or harassment between married or de facto partners residing in the same household or who have lived together (Alexander 2002: 2). Violence between other members of a family is usually dealt with under different legislation, also harassment is not defined in domestic violence legislation even though many women experiencing domestic violence are also subject to various forms of harassment (ibid: 88-89). Under the law other forms of non-physical violence are excluded and not amenable through the law, such as financial deprivation, social
isolation, humiliation and denigration (ibid: 3). While Dobash et al (2000) acknowledge the spectrum of violence in interpersonal relationships encompassing infrequent incidences of violence to systematic partner abuse, it is the latter that they distinguish from other forms of violent crime. Thus, for Dobash et al domestic violence is “systematic and sustained violence meant to harm, intimidate, terrorize, and brutalize…[it] is those relationships characterized by systematic or severe violence, by injuries, by fear, by intimidation, and by various forms of intervention.” (2000: 4).

There are various pieces of literature, which contest the definition of domestic violence, and its predominately gendered nature (see Daniels 1997, Blackman 1989, Dobash & Dobash 1992, Pagelow 1981, Pahl 1985, Sampselle 1992 and Hester, Kelly & Radford 1996). For the purpose of this paper we define domestic violence as ‘acts of abuse occurring between intimate partners in a familial household’. Current research (PADV 2000a) establishes the following forms of abuse as prevalent in cases of domestic violence: physical, psychological, sexual, verbal, social and economic. We acknowledge that there are other forms of abuse and violence in the family (such as child abuse, sibling, inter-familial etc), in addition to emerging data on violence in homosexual relationships (see PADV 2000a).

Before engaging with issues of a more material nature we should like to make our theoretical blemishes a little more pronounced. Though these become clear enough at later stages of the piece, we consider it important to let readers know what to expect before they get there. Principally, the theoretical position hinges on the idea that communities have established moral norms and when allowed to, will defend that moral territory in a way they deem fair and appropriate. Underlying the notion of ‘appropriate’ are established norms which themselves rest on how communities define ‘justice’. This idea of ‘justice’ extends from a conception of individual actions (i.e. interpersonal or commutative) to something of broader political significance (social). We note that domestic violence, if conceptualized within these parameters, will no doubt then be considered along the lines of what sociologists and criminologists broadly define as ‘deviance’.1 ‘There is clearly something to this since, as we view it, domestic violence will, in most cases, constitute a breach of some kind of moral code. Though we concede this point to functionalism, we do so mindfully and with two key reservations; 1) that we are talking about dynamic communities (not homeostatic social formations), and 2) that we consider acts of domestic violence as deeply problematic rather than necessary for defining a community’s normative boundary.

**The Current Context**

Domestic violence is a recognized social problem, mainly understood as a gender specific issue (Naranch 1997:21) and has a considerable socio-economic impact on the community and the state (see economic costs to Australia in PADV 2003). In Australia, for example, all levels of government and non-government sector are involved in responding to domestic violence to varying extents, and there has been a wide range of interventions that have developed and refined over the years. The historical emergence and recognition
of domestic violence as a social problem has been aligned with the women’s movement in the west during the 1960s through to the present day (Dobash & Dobash 1992: 23-25). The situation in Australia mirrored this trend resulting in the current mix of government and non government sector responses to domestic violence (Strand Hutchinson and Weeks 2004). Direct interventions for domestic violence in Australia and other developed countries predominately include the areas of: housing and accommodation, social support services, legal remedies, law enforcement and public health (PADV 2003).

In Australia, shelters and refuges for women and children escaping domestic violence were initially established through networks of women’s activists and after many years of lobbying, refuges began to receive recurrent funding from the early 1980s (PADV 1999: 10). At present state and territory governments fund refuges under the Supported Accommodation Assistance Program (SAAP), in addition to public housing, community housing and Transitional Housing Programs. The non-government sector, predominately large church based charities, also provides a variety of housing programs and shelters for women and children who are forced to leave the family home due to violence. Over the years, increasing research into the diversity of women’s needs has led to a better understanding about the impact of domestic violence on various groups of women. Housing and other agencies are constantly striving to orientate their services to meet the range of new needs, while trying to manage the present demands on their services (ibid: 17).

Social support services include counselling for women and couples, specialist women’s services, income support and more recently group programmes for male perpetrators of domestic violence. Direct services (such as income support and state health services) and funding to non-government organisations to deliver these services and programmes are provided by Commonwealth, state and territory governments. In addition, church based agencies also provide some welfare and social support services to victims of domestic violence. These agencies fund their intervention programmes through a combination of government grants and fund raising activities.

While women’s shelters and women specific services grew out of the women’s movement, intervention for men has had a different history with the focus on perpetrator programmes only emerging in the last 25 years. A number of models for working with male perpetrators of domestic violence have developed in this time. There are generally five key approaches to working with perpetrators, which include: Insight models; Ventilation models; Cognitive Behavioural and Psycho Education models and Pro-feminist models (Edleson & Tolman: 1992). The different models draw on different explanations of domestic violence and have had enjoyed varied popularity over time. Research indicates that group programmes tend to have greater success; since these programmes draw on key aspects from each of the different models. In recent times in Australia the Pro-feminist approach to working with perpetrators has been favoured.
Legal responses to domestic violence have largely revolved around recognizing the issue as an act of criminal assault under the law. These have also extended to amendments by the Commonwealth Family Law Reform Act 1995, by way of acknowledging domestic violence in custody and family disputes, as well as providing protection orders for women and children (Alexander 2002: 57). Law enforcement is another area of intervention where the police implement the rights of victims of domestic violence while enforcing the responsibility of perpetrators under the law. Considering the crucial role of law enforcement and correctional agencies in implementing the legal interventions in domestic violence, governments reinforced the criminality of domestic violence by educating these agencies on the seriousness of the issue and the appropriate legal handling of the problem. This has resulted in domestic violence training for police officers, the establishment of specialist domestic violence units within the police force and the development of protocols for dealing with domestic violence.

Despite enhancements in the training of law enforcement officers and improved protocols at this level, it is understood that victims of domestic violence will often present at hospitals for injuries, at general practitioners and other health facilities for physical and mental health concerns. For these reasons, the government has also focused on developing public health policies for screening for domestic violence in hospitals, protocols for addressing domestic violence through the public health system and providing intervention through allied and community health facilities.

The inter-sectoral nature of domestic violence has led a number of countries with different systems of government to prefer interagency or co-ordinated models of service in the area of domestic violence. The domestic setting of this form of violence and the interpersonal relationships of parties involved makes domestic violence a particularly complex crime and social problem. In the current climate, once the issue becomes public and intervention is sought, the familial or domestic setting requires multiple agency involvement for the treatment, protection and support of the victim and children involved. Similar levels of cooperation are required in order to punish/rehabilitate the perpetrator through the criminal justice system, or through other forms of intervention. Agencies involved mainly include: police, social services, local judiciary, correctional services, women’s refuges and health service providers. A multi-disciplinary approach has been favoured in delivering effective intervention as it is deemed to provide the greatest consistency in policy and practice in addressing domestic violence for perpetrators and victims (PADV 2003b).

A number of internationally recognized approaches to inter-agency intervention in domestic violence are based on the Duluth Domestic Abuse Intervention Project (Edleson & Tolman 1992: 116). Other models have been based on this project; generally it aims to hold perpetrators accountable for their violence and considers confidentiality and privacy secondary to the victim’s safety. While in Britain, the Home Office was the leading agency for interdepartmental initiatives in domestic violence policy that reflected a move towards an interagency approach and support for localized responses rather than the
centralizing of interventionist services (PADV 1999: 26). Though there is wide government support for, and evidence to indicate, the interagency approach to dealing with domestic violence is most effective for perpetrators and victims, this approach is often stifled by the different levels of bureaucracy, various funding priorities of governments and their legal jurisdictions. These present a barrier to the co-ordination of services as it is expected that agencies funded by government are to work collaboratively; however this has been dependent on the commitment of individual workers, thus the approach is often unsustainable without a designated worker or agency facilitating the co-ordination of interventions (ibid: 27).

There are a number of domestic violence initiatives currently running in Australia which range from crisis interventions through to prevention and primary research. All levels of government have accepted the seriousness of the issue and developed polices and programmes to respond to the problem in the community. Research conducted into measuring community attitudes about domestic violence demonstrates a general disapproval of this form of violence (PADV 2000); however other government funded research has indicated the prevalence and increase of reported incidences of domestic violence in the community which has been taken (PADV 2003) as indicating a disjuncture between community perception and state definitions of ‘domestic violence’. Government in Australia plays a vital role in providing intervention; it also sets clear priorities for funding and future policy directions. Governments are increasingly the leading agencies in researching the various aspects of this social problem; they are also the main agency for collecting data and measuring the problem over time and consequently defining the parameters of the problem in law, policy and practice.

‘Rough Music’: A Historical Example

Having so far looked at the contemporary context of domestic violence, we will now turn our attention to an account of how domestic violence was often managed in early modern England. The early modern period marks a highpoint of customary regulation in British social life. During this period, few aspects of social life escaped the attention of custom. In contrast to many contemporary urban communities, customary norms regulated all kinds of social, legal and economic entitlement. Underpinning these norms was a popular consensus on how social life should be organized, the distribution of tasks and rights, and importantly, that community justice was served. Individual liberties were recognized and protected and communities operated to defend their notion of collective right and well-being.

Families were both public and private structures and played an active part in community life. As public structures, little differentiation could be made between households insofar as concerns the net function of contributing to the public good. As private structures, households deployed a range of livelihood strategies marking their internal and external rights and duties. Though a public-private distinction can be made, this does not detract
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from the expectation that such entities should conform to community norms about the standards of proper behaviour within and between families.

In the main, family, personal relationships and marital contracts were all subject to the discretion and will of the community. When community norms were broken, communities felt it necessary to reassert their values, both to maintain their collective rights, and to defend the rights of individual members. As the heart of social life, families, and the process of establishing a family, were regularly subject to accountability and intervention by the community, particularly when it was thought that popular conventions were broken.

One common form of reasserting customary norms in England was the practice of ‘rough music’ (see Thompson 1991). We are interested here to provide but a brief overview of the practice. Known to social historians also as “skimmington”, “riding the stang” and “lowbelling” (among others), “rough music” was a highly ritualized form of public humiliation. Consistent in the practice was a communal shaming of offenders involving mock parades, the burning and burial of effigies, and an ensemble of sound and noise amounting to the ultimate form of public harassment. One illustration of the practice describes “rough music” as “consisting of performances on cow-horns, salt-boxes, warming-pans, sheep bells, etc. intermixed with hooting, hallowing, and all sorts of hideous noises” (Malcomson 198: 105). Often accompanied by improvised instruments, such as kettles filled with stones or frying pans, the banging of doors and windows, the act of “rough music” was a hostile form of community discipline.

As an expression of popular sentiment, rough music was often exacted for offences relating to the family. According to Robert Malcomson, typical offences which resulted in rough music were “excessive wife beating (in these cases the women often staged the charivari), a marriage in which the wife was obviously the dominant partner, an old man contracting a marriage with a young woman”. And as Malcomson notes “these were all regarded as very unnatural or improper forms of behaviour” (ibid). The following extended passage, recorded in the mid-nineteenth century, illustrates rough music in action, and importantly, in response to a case of domestic violence,

“As soon as it was dark a procession was formed. First came two men with huge cow horns; then another with a large fish-kettle around his neck, to represent the trumpeters and the big drum of serious processions. Then came the orator of the party and then a motley assembly of hand-bells, gongs, cow horns, whistles, tin kettles, rattles, bones, frying-pans, everything in short from which more and rougher noise than ordinary could be extracted. At a given signal they halted, and the orator began to recite a lot of doggerel verses, of which I can remember on the beginning

There is a man in this place.
Has beat his wife!!
Has beat his wife!!!
It is a very great shame and disgrace
To all who [live] in this place
It is indeed upon my life!!

….I was told the noise was heard two miles off. After keeping this up for
near half an hour, silence was proclaimed, and the orator advancing hoped
he should not be obliged to come again, and recommended better conduct
for the future….it was believed to have the best moral effect on all
parties…I believe it to have been a more effectual remedy than appeals to
police magistrates….or even to the cat-o’-ninetails.” (cited in Gillis 1985:
132)

As a form of community intervention the art of ‘rough music’ was typically deployed when
members of the community had violated understood protocols of acceptable behaviour.
The intervention was, in many respects, a form of public discourse between the
offender(s) and members of the community regulated by the durability of custom. As E.P
Thompson has observed, “until the early nineteenth century, publicity was of the essence
of punishment. It was intended, for lesser offences, to humiliate the offender before her or
his neighbours, and in more serious offences to serve as example” (Thompson 1991: 480).
More serious offences resulted in community members drawing upon much the same
rituals, but with far greater effect. In the street theatre of condemnation the ultimate
punishment was a mock burial; “…To burn, bury or read the funeral service over someone
still living was a terrible community judgment, in which the victim was made into an
outcast, one considered to be already dead. It was the ultimate in excommunication”
(ibid).

A case for ‘community’

By aligning the management of domestic violence with community norms surrounding
domestic violence, offenders are subject to moral considerations that are otherwise absent
when managed exclusively by the state. We do not offer this suggestion as a perfect
solution, since it can be argued that in some instances domestic violence falls, for some
communities, within the limits of acceptable behaviour. We appreciate the cross-cultural
distinctions that can be made here regarding what is deemed to be acceptable and that
which is considered excessive. We also appreciate, and prefer, the view where all forms of
domestic violence are taken as running counter to the common good of a society.

This latter view, in our opinion, provides a sounder basis from which communities can
assert and defend collective notions of inter-personal justice. Where domestic violence is
taken as a crime against the state, as opposed to a crime against the victim and thus the
collective membership of the community, the enforcement of positive law marginalises the
restorative potential of moral or customary laws. Our concern is not against the
criminalisation of domestic violence. We, like many advocates in this field, endorse the
position that domestic violence should be treated as a serious breach of interpersonal
justice. However, we are mindful to note that such a claim does not necessarily entail that
the crime is against the state. To the contrary, we argue that domestic violence is a
crime against the common good, and thus transgresses the rights of the individual and community.

Several studies have asserted the importance of taking a 'holistic approach' to domestic violence. With few exceptions, however, this refers only to the way in which service providers and legal services should work together as a means of supporting the victim. Our approach to holism is somewhat different. Instead we understand holism as involving all agents. This approach, we argue, invites a different perspective on what rights and responsibilities are to be afforded to victims, offenders, communities and the state. It runs against the prevailing view, whereby the state mediates all parties; to the extent that it takes on the dual role of victim and protector. In this role the state charges the offender with an act of violence against itself, while with the actual victim it assumes the responsibility of post-incident support.

A recent example of this is the much-publicized case of Ingrid Poulson, whose estranged husband Phitkak Kongsom had killed their children, her father and himself during custody proceedings in September 2003. In brief, the series of events that led to the deaths are as follows.

In July 2003 Ingrid ended a six-year relationship with Phitkak who then made threats to kill himself and their children. Ingrid reported the threats to police but charges were not laid. Another incident (in August) involved Phitkak threatening to kill himself in front of Ingrid and their four-year-old daughter. Police were called out but they did not consider Phitkak suicidal. Days after this incident, Ingrid applied for an Apprehended Violence Order (AVO). Phitkak was referred for counselling but there was a 10 week waiting period; he also sought help from doctors for anxiety. The NSW Department of Community Services [DoCS] was also notified of the incidences but was under resourced and did not investigate the matter, instead it was reported in the media that DoCS closed the file on the family two days prior to the murders taking place. During the court hearing for the AVO in late August Phitkak expressed his anger to the magistrate based on a belief the magistrate was attempting to separate him from his family. Within hours of the AVO becoming effective, Phitkak had breached the orders by contacting Ingrid. The breach was reported to police. Two weeks later when custody proceedings began, Ingrid and her children were living at her father's house during this time. On the 13th September 2003 Phitkak had arrived at the house carrying a knife he had recently purchased. Ingrid recounted being raped that night by Phitkak and how she managed to dissuade him from using the knife by giving him hope of a reconciliation. When Phitkak left for work the next morning Ingrid asked her father to mind the children while she went to the police. During which time, Phitkak had called to speak to Ingrid and was told by his father-in-law that Ingrid was at the police station. When Ingrid returned to the house with police they found Phitkak had stabbed her father, their four-year-old daughter, 20-month-old son and himself. Amidst all of this there had been numerous threatening phone calls and one day prior to the murders Phitkak had sent letters to his family and friends requesting that his children's ashes be returned to Thailand (Phitkak's country of birth) along with his.
We accept that the case of Ingrid Poulson illustrates a minority of cases in domestic violence and the tragic limitations of the criminal justice system. If nothing else, however, it is important because (rare as it is) it highlights almost everything that we consider deficient in the current system. Research recently commissioned by the Australian Office for the Status of Women found that of the women surveyed who experienced domestic violence, 14% had reported this to the police or judicial system. This was slightly higher (16%) for violence perpetrated by non-partners. The report also recognized that reporting rates have traditionally been low for various reasons, and in many regards Ingrid Poulson can be considered alongside a minority of women who seek help through the criminal justice system (Mouzos and Makkai 2004: 102-106). This included reporting to police threats made by Phitkak to kill himself and their children in July, then another report to police when Phitkak threatened to kill himself with a knife; by this stage Ingrid may have sensed the increased danger of her situation and applied for an AVO. Consequently, Phitkak was referred for counselling and the family reported to the NSW Department of Community Services for intervention and support. However, the situation escalated leading to a breach of the orders, also reported to police. Finally, when Phitkak assaulted Ingrid the night before the murders, this too was reported to police. Each incidence of violence and threat of violence was followed by requesting assistance from appropriate state agencies and Ingrid went through the established protocols for obtaining protection for herself and her children.

It is not the intention here to highlight the systematic problems with the police, court staff and support services in dealing with this case. These failings are clear enough. Rather, what we want to focus on is the omission of the community in the debate about intervention in domestic violence. We see the value of community-based interventions as an alternative that can complement the state-based system in order to provide the best chance of a positive outcome for the victim, the children and offender.

Throughout the series of reporting to authorities what is apparent in hindsight was that Ingrid understood the level of danger to herself, her children and for Phitkak. However, testimonies given by police at the coroner’s court indicated an interpretation of the incidences as being less urgent than they really were. Research into women’s experience of male violence usually indicates that women often have a sense of the patterns of violence and behaviour of their partner and will disclose incidences of violence to family and friends more than to police or specialist services (85% compared to 15%) (Mouzos and Makkai 2004: 101). We are not drawing a long bow when we suggest that those closest to the victim (i.e. family and friends) could be in a good position to provide support. As many women use personal social networks for support, these networks and the community are disempowered when there is an over reliance on the state to be the sole protector and prosecutor in domestic violence. We are not advocating for the decriminalizing of domestic violence or reducing state support, rather, there is a point to encourage and support localized solutions allowing the community to express its disapproval of domestic violence and implement interventions. We have seen how
domestic violence is addressed through the current criminal system, state policies and procedures. The alternatives in the community-based approach need further attention.

Conclusions drawn from research into women's experience of violence concur that women are reluctant to report to authorities, however we should avoid translating this into a suggestion that women who experience domestic violence avoid seeking help. Instead, where possible they prefer to seek help through informal channels outside of the criminal/legal system (Mouzos and Makkai 2004: 98). Community-based interventions may provide a good alternative to the formal procedures of the legal and criminal systems, examples of community-based justice can be seen in the specialist/family court, the drug court programme or circle sentencing. These approaches to crime as a social phenomenon seek to remedy by reinforcing notions of the 'common good' rather than using punitive measures of the law. There have been reports of success in rehabilitating offenders, providing victims with reparation for the crime inflicted and reduced recidivism (Stubbs 2004: 9-11).

Another important element to this approach is the level of community involvement in monitoring, implementing and evaluating justice in their community. Therefore, community participation is not limited to community consultation about crime or surveying community attitudes towards violence before policy and legislation are developed (i.e. tokenism). A community-based intervention must genuinely engage local people to act to protect and share responsibilities for the members of that community.

Utilising and bolstering networks and existing community infrastructure as avenues for reporting is one way of minimizing the real and perceived disadvantages of reporting to police. A further benefit is that a community centre, for example, can provide a non-threatening environment to the victim and perpetrator to seek help. While programmes targeting male perpetrators are still evolving and some benefits have been documented, community-based intervention can complement this by placing greater responsibility on male perpetrators to confront their behaviour, its consequences on the family and community, while being supported to alter their cognitive and behaviour patterns.

**Closing comments**

Domestic violence represents a challenge that cannot be met by mere theorization. This is not to say, however, that re-thinking both the core and servicing dynamics of this problem cannot greatly improve outcomes for victims, communities and offenders. To the contrary, we have argued that there are conceptual elements surrounding domestic violence that heavily influence legal and community praxis. We have not sought to reconceptualise domestic violence itself, but to engage the theoretical basis that surrounds intervention into it. Hence we have introduced historical examples here as one way to explore different models of intervention. These examples serve to highlight two distinct approaches to intervention; notably, one era where domestic violence registered as an infringement against people and communities, and one era where domestic violence is handled as a crime against the state.
End Notes


2 Research in recent times has contributed to better understanding of the needs of women from Non English Speaking Backgrounds, Indigenous women, women living in rural and remotes areas, disabled women and women in homosexual relationships.

3 Notable non-government agencies providing intervention include Salvation Army, Anglicare, Uniting Care and Wesley Mission.


6 Domestic violence offence is defined in the Crimes Act 1900 (NSW), Domestic Violence (Family Protection Act) 1989 (Qld), Domestic Violence Act 1994 (Qld), Crimes (Family Violence) Act 1987 (Vic), Domestic Violence Act 1986 (ACT), Domestic Violence Act 1992 (NT).

7 Other important elements of the project include: shared philosophy on policies and practices amongst agencies; consistent approach through agency networks; development and monitoring of protocols; programmes for both victims and perpetrators and evaluation of outcomes of programmes. R. Busch and N. Robertson 91994), ‘Ain’t no mountain high enough (to keep me from getting to you): An analysis of the Hamilton Abuse Intervention Pilot Project’ in J. Stubbs (ed) Women, Male Violence and the Law, Institute of Criminology Monograph Series No.6, Federation Press, Sydney.

8 Commonwealth priorities for prevention and intervention are set in the evaluation reports on Phase 1 of the Partnership Against Domestic Violence, these include: PADV (2003), Community Awareness and Education to Prevention, Reduce and Respond to Domestic Violence Phase 1 Meta-evaluation Report, PADV, (2003), Working with Women affected by Violence: Phase 1 Meta-evaluation Report, PADV, (2003), Domestic Violence: Working with Men: Phase 1 Meta-evaluation Report. Full details see references.

9 Research in this area has been conducted by the Australian Bureau of Statistics (ABS) in the Crime and Safety Survey (2002), Women’s Safety Australia (1996). The Australian government also conducts research through the PADV initiative, while the federal and NSW state government have also been criticized for reducing or inadequately funding women’s peak bodies,
Domestic Violence and ‘Rough Music’: 
A Case for Community Based Intervention


12 Sydney Morning Herald, 13 July 2005, p.4.

13 Police reportedly said that Ingrid appeared more concerned for Phitkak than for herself or her children.

14 Reasons for not reporting to police after an incidence of domestic violence in order of frequency: Victim felt incident was too minor; dealt with it herself; keep issue private; fear of offender; shame and embarrassment; and did not think police could do anything. These reasons from the Mouzos and Makkai (2004) report also correlate to findings in the ABS (2002) survey Crime and Safety.


16 Mouzos and Makkai, (2004), also found that support from family and friends in domestic violence situations has a strong impact on the well being of victims and their decisions to seek help.

17 See Julie Stubbs, (2004), Restorative Justice, (full details in references) for a thorough overview and discussion of restorative justice in domestic violence. While the criticisms of restorative justice in domestic violence are valid, the concept could be developed further with proper resourcing. We are not advocating for polarised models of intervention between the criminal justice and restorative justice systems, rather any appropriate and effective intervention must consider the safety of victims, work towards rehabilitation and protect communities.
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WHO OWNS RESETTLEMENT?
TOWARDS RESTORATIVE RE-INTEGRATION

Dr Shadd Maruna, Queen’s University, Belfast

Abstract
Nils Christie famously described conflicts as “property”. In this essay, it is argued that re-integration is also “property” owned by communities and not resettlement agencies. Although the interest in resettlement among criminal justice agencies in recent years is to be welcomed, it should be remembered that the actual work of re-integration is done by ex-offenders, their families and other members of their communities. The basic components of a “restorative” model of re-integration are outlined.

Key Words resettlement, re-integration, restorative, reentry

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Introduction
In 1976, a young Nils Christie gave a brilliant plenary talk at the opening of Sheffield University's Centre for Criminological Studies which he titled “Conflicts as Property”. The talk was later published in the British Journal of Criminology (Christy, 1977) and went on to become one of the foundational pieces on which restorative justice has been based (see e.g., Auld, et al, 1997; Marshall, 1999; Morris, 2002). Although I will be nowhere near as profound, I would like to use Christie’s model as my starting point in this discussion of community re-integration of former prisoners.
Dr Shadd Maruna

Christie’s talk is most impressive considering just how audacious he was in introducing the “conflicts as property” theme. Although he had been invited to Sheffield to open a new institute for criminology, this is how he begins his talk: “Maybe we should not have any criminology. Maybe we should rather abolish institutes, not open them. Maybe the social consequences of criminology are more dubious than we like to think.” I can just picture the look on the faces of Tony Bottoms and the other Sheffield criminologists at this point. And if I were as brave a thinker as Christie, I might begin this discussion of ex-prisoner re-integration with a similarly unexpected argument that “Maybe we don’t need more resettlement projects, maybe we need less. Maybe the more agencies we have that are supposed to deal with the problem of re-integrating offenders, the less communities actually work to re-integrate offenders on their own.” But I won’t say that. Christie might, though (see also Bazemore and Erbe, 2004; McKnight, 1995).

At least, back in his 1976 talk, Christie argued that the State is made up of “professional thieves”. On this surface, this isn’t a terribly controversial point. Yet, Christie was not just talking about politicians stealing corporate donations or squandering tax payers’ money; he was interested in the ways in which the State steals “conflicts”. He writes:

Conflicts ought to be used, not only left in erosion. And they ought to…become useful, for those originally involved in the conflict. Conflicts might hurt individuals as well as social systems. That is what we learn in school. That is why we have officials. Without them, private vengeance and vendettas will blossom. [Yet] we have learned this so solidly that we have lost track of the other side of the coin: our industrialised large-scale society is not one with too many internal conflicts. It is one with too little (p. 1).

Christie argues that conflicts are valuable commodities that have been taken away from their rightful owners (victims, offenders and communities) and given over to lawyers, insurance companies, and the criminal justice system. He writes,

The big loser is us – to the extent that society is us. This loss is first and foremost a loss in opportunities for norm-clarification. It is a loss of pedagogical opportunities, …a loss of opportunities for a continuous discussion of what represents the law of the land (p. 8).

He goes on to sketch the beginnings of what has since become internationally recognised as a community-based, informal justice alternative to mainstream criminal justice.

Yet, if conflicts are property – that is, if conflicts present this crucial opportunity for community development that Christie claims they do (along with Durkheim, Braithwaite and others) – then what of re-integration? Is re-integration also property? And, if so, “Who owns re-integration?”
There is something wonderful about the verb “to re-integrate”. The State can be said to be in the business of “rehabilitating” or “reforming” offenders. The State, however, cannot be said to be in the business of “re-integrating” individuals. Professionals cannot re-integrate anyone no matter how much training they have. Ex-offenders can re-integrate themselves and communities can re-integrate ex-offenders. But the most that the State can do is to help or hinder this process (see McNeill, 2006). Re-integration happens “out there”, when the professionals go home.

**Words Matter**

This might be why the word re-integration is so little used today. In the United States, criminal justice professionals have agreed to begin using the term “offender reentry” and hardly ever talk about re-integration anymore. This term was chosen — through a very deliberate process initiated by the Clinton Administration’s National Institute of Justice — almost entirely for its lack of connotations. As a descriptive term, literally meaning the movement of persons from one situation (i.e. incarceration) to another situation (i.e. release), “reentry” conjures no particular images and can therefore be used to mean almost anything. In the United Kingdom, the favoured word has been “resettlement”, which likewise has a variety of possible meanings and interpretations. (Few dare to utter the word “rehabilitation” which still carries the stain of the “nothing works” backlash of the 1970s and 1980s). So, when politicians tell us that they are in favour of better funding for prisoner reentry or resettlement (as George W. Bush did in a recent “State of the Union” Address in the United States), it is never quite clear just what it is they are endorsing.

In his tremendous history of parole in the United States, Jonathan Simon (1993) argues forcefully for a need for a coherent theory in resettlement practices. Simon argues that, unlike in the pre-“nothing works” era of “therapeutic parole”, resettlement work today has no compelling narrative for what it does or how it works. That is, there is no clear theory behind how resettlement is supposed to work in today’s society beyond what Maloney et al call the “rather bizarre assumption that surveillance and some guidance can steer the offender straight” (Maloney, Bazemore and Hudson, 2001, p. 24).

This cynical view is shared by many of those on the receiving end of resettlement help as well. I received a funny letter the other day from a prisoner at a Welsh prison, which I will share with you:

Dear Dr Maruna:

I have read with great personal interest your article in Safer Society where you discuss resettlement of offenders. …I have contacted approximately seventy organisations that indicate they have involvement with resettlement, yet none of them seem able to offer any help and/or advice on just what they consider a resettlement plan to be. Someone from NACRO did offer some very brief thoughts, but unfortunately not what I was expecting from the major UK resettlement organisation. May I enquire,
Dr Shadd Maruna

most carefully, from your most learned self [The sarcasm is literally dripping off the page at this point] just where I may obtain appropriate guidance and information? Surely somewhere in the UK, there must be someone/somebody who has a vague idea of what they perceive to be an acceptable resettlement plan.

He finishes the letter with a postscript "I already have a copy of PSO 2300-Resettlement, along with Prison Rule 52-Resettlement", just so I don’t try to fob him off with the official bumf.

Unfortunately, I could not help him much. I told him that the UK Association of Chief Officers of Probation recently defined ‘resettlement’ as:

A systematic and evidenced-based process by which actions are taken to work with the offender in custody and on release, so that communities are better protected from harm and re-offending is significantly reduced. It encompasses the totality of work with prisoners, their families and significant others in partnership with statutory and voluntary organisations (cited in Morgan and Owers 2001, p. 12, italics added)

So, basically, resettlement is everything and nothing, and the only theory behind it is that it has to involve stuff that works.

The biggest risk about the use of meaningless words is that they run the risk of meaning different things to different audiences. The example I always give of this is what happened with the “reentry” discussion in the US. In 1999, the Clinton Administration had proposed a relatively large-scale effort to address some of the needs of people coming out of prison under the banner of the “Young Offender Reentry Initiative” (OJP 2001).

Somewhat remarkably, the Bush Administration upon taking office largely adopted Clinton’s plan – but the Bush team put its own spin on the idea. The Bush staff changed the name from the Young Offender Reentry Initiative to the “Serious and Violent Offender Reentry Initiative” (OJP 2002), and consequently toughened up the language of risk and control in their version of the proposal. Whereas the Clinton Administration’s call for proposals emphasised the problems of substance abuse, mental illness and stigmatization, the Bush Administration’s reworking focused on minimising the risks posed by the “most predatory” ex-convicts. To the Republican Party in the US, supporting “reentry” means keeping a tighter watch and a shorter leash on ex-prisoners.

Take, for just one example, the crucial issue of housing. Because of the breath-taking “one strike and you’re out” law in public housing upheld by the US Supreme Court in 2002, individuals with a single criminal conviction can be forcibly removed from and legally denied public housing and other forms of rent assistance (see Human Rights Watch, 2004). A policy like this would presumably fail to qualify under even the weakest definition of “resettlement” as it explicitly unsettles offenders leaving them homeless. As
such, one would presume the first effort of a sane reentry policy would be to repeal these and other post-conviction penalties denying housing to ex-offenders. Instead, reentry monies are used to create new halfway houses specifically for ex-offenders. Not quite prisons, but not quite the free world, these new forms of surveillance and control (often run by faith-based organisations) replace reintegration into the mainstream with something like ex-prisoner ghettos in the name of “reentry” (Allard, 2005).

And one need not venture as far as the US to find this sort of subtle linguistic trickery either. Consider the following textbox provided under the heading of “Good Practice: Safer Resettlement” from the Multi-Agency Public Protection Arrangements Annual Report 2001-2002:

Les, aged 56, was convicted of indecently assaulting a teenage boy he had befriended and plied with drink and drugs. He was sentenced to four years custody, assessed as a high-risk offender and put on the sex offender register. On his release he was placed under licence with condition that he stayed in a hostel. However, his behaviour at the hostel in targeting a younger resident led to recall to prison before any further offending could take place. As he came up for re-release … local beat officers were briefed about his history. After some minor concerns about his behaviour, a police officer witnessed Les with a boy who appeared to be drunk. The officer saw Les kiss the boy on the cheek. Les was immediately arrested and charged with indecent assault, an offence for which he was sentenced to eight years. The MAPP’s assessment, planning, close monitoring, information sharing and early intervention meant they were able to take swift, decisive action to minimise any risk this offender posed to the public (pp. 20-21)

One might be forgiven for thinking this is a fairly devastating ending to a horrible situation, but, instead, this is the case specifically chosen by the MAPP to show how good the resettlement system can be. The MAPP’s monitoring and decisive action allowed this individual to assault a young person badly enough to merit eight years in prison at the taxpayers’ expense, and this is “safer resettlement”?

Maybe so: after all, consider the use of recalls to prison in England and Wales over the last few years as prisons and probation move toward a resettlement model of offender management. Since 2001, the number of former prisoners on licence recalled to prison has jumped from under 2,500 to around 10,000 a year by 2005 (see Padfield and Maruna, forthcoming). Could this be safer resettlement too, as in the case of Les? Certainly, when the term is not defined and there is no theory behind how resettlement is supposed to work.

**Toward Restorative Re-integration**

Unlike resettlement or reentry, the word “reintegration” is fairly well defined and at least has a well-developed theoretical underpinning. If one wants a grounding in the principles
of reintegration, one need not look much further than John Braithwaite’s (1989) widely acclaimed book Crime, Shame and Reintegration, which has become something of a biblical text for the restorative justice movement. Here, reintegration is understood as involving more than just physical resettlement into society, but also a symbolic element of moral inclusion. It is in this restorative terrain – forgiveness, acceptance, (secular) redemption, and reconciliation – that the contemporary discussion of resettlement in the UK (and reentry in the US) seems to be the most silent. Yet, at least according to the theoretical work of Braithwaite and others, it may be that this symbolic/expressive realm may just be the most important element of the reintegration process in terms of recidivistic behaviour.

The problem is nicely summarised by Robert Johnson. Johnson (2002) writes, “released prisoners find themselves ‘in’ but not ‘of’ the larger society” and “suffer from a presumption of moral contamination” (p. 319). In the face of such social exclusion, he suggests, reintegration requires “a mutual effort at reconciliation, where offender and society work together to make amends—for hurtful crimes and hurtful punishments—and move forward” (p. 328).

Yet, what would such a restorative reentry look like in practice? I would argue that restorative re-integration would require four, key elements, outlined below.

1. **Restorative Re-Integration is Community-led**

   To say restorative re-integration needs to be community-led is almost a tautology. If reintegration is not community-based it is not re-integration, frankly. Yet, whereas resettlement is typically characterised by an insular, professionals-driven focus on the needs and risks of offenders, restorative re-integration would instead seek to draw on and support naturally occurring community processes through which informal support and controls traditionally take place (see e.g., Farrall, 2004). Citizens, not professionals, would be the primary agents of reintegration.

   To this end, what are sometimes known as “citizen circles” or “circles of support” involving community volunteers befriending a returning prisoner have been formed in a variety of contexts (Petrunik, 2002). This sort of community support, provided by members of various religious congregations, may help to explain some of the documented success of faith-based initiatives in prisons (Johnson and Larson, 2003). That is, the higher power at work in such interventions may have less to do with the religious content of the activities and more to do with the commitment and perseverance of volunteer members of the religious congregations in welcoming and integrating returning prisoners into their flock (Maruna and Toch, 2005). Such supports ideally begin before or during the individual’s incarceration and carry on post-release. Mentoring schemes (e.g., Newburn and Shiner, 2005) are another example of this non-professional, community-based approach to real re-integration. Likewise, efforts by NIACRO and other organizations to offer direct support and assistance to the families of offenders before and after incarceration in Northern Ireland are also central to restorative re-integration.
(Sullivan et al., 2002). After all, it is these family members (and not the over-worked probation officer with an over-stretched caseload) who will be counted on to do the real work of aiding and befriending the ex-prisoner upon release (Bobbitt and Nelson, 2004).

2. Restorative Re-Integration is Reparation-based

Whenever I talk about restorative reentry, the first thing listeners tend to assume is that this is some reference to restorative conferencing, and that restorative reentry must therefore involve bringing ex-prisoners face-to-face with their victims, victims’ family members or victims’ representatives in a mediation ceremony. This could certainly be a part of restorative reentry, and of course this sort of peace-making needs to begin almost immediately in any restorative framework (Marshall, 1999). The fact that so many victims are still angry, afraid or punitive toward their assailants 5-10 years after the event, at the point of the prisoner’s release shows just how much more work needs to be done in this regard in terms of healing the pain of the criminal event, apologising and making amends for these acts.

Yet, to make the word “restorative” synonymous with conferencing or mediation is to lose its richness and meaning. Central to the restorative model is the notion of ‘making good’ (Maruna, 2001; Wright, 1982) or ‘earned redemption’ (Bazemore and Erbe, 2004). Traditionally, this is won by actively making positive contributions to one’s community in a reparative fashion, and, indeed, often this abstract “wider community” is the primary victim of many of the crimes in our justice system.

These activities have been variously labelled as “civic community service” (Bazemore and Stinchcombe, 2004) or “strengths-based reentry” (Maruna and LeBel, 2003) to distinguish them from “community punishment orders” where community service is involuntary and intended to be punitive (no “soft option”). In civic community service work, individuals are offered an opportunity to volunteer their talents on projects meant to meet community needs, build community capacity and repair the harm caused by crime. The work is demanding, but not demeaning in the sense of “hard labour”. They take on leadership roles within these projects and often work side-by-side with volunteers from the wider community who are not involved in the criminal justice system. In short they act to show that they are more than the sum of their offences.

Examples of such projects abound in the United Kingdom and Ireland, but receive too little attention. With the support of groups like the Community Service Volunteers (Edgar and Talbot, 2005), the Inside-Out Trust (Culver, 2004), and the Restorative Prisons Project (Stern, 2005), thousands of prisoners already volunteer to repair wheelchairs, furniture, bicycles, audio-tape information for blind listeners, and other good deeds. Similar projects are at work in the community, where the most good can be done, with the help of groups like the London-based ‘Payback’ organisation. In one strength-based resettlement project, prisoners nearing release from H.M. Springhill Prison are travelling to Oxford on day release to act as “citizens advisors” (Burnett and Maruna, 2006) making their move from outcast to “good neighbour” complete.
Participating in these forms of positive volunteer work is thought to lead to a sense of hope, an orientation toward the future, and the willingness to take responsibility for their behaviour. Moreover, such demonstrations send a message to the community that the offender is worthy of further support and investment in their reintegration. Of course, former political prisoners in Northern Ireland have led the way in terms of taking on leadership positions at the highest reaches of government and society. There is no reason why this redemptive story should be consigned only to political prisoners. Ex-prisoners of all persuasions have similar leadership skills and abilities they could draw on in such roles.

3. Restorative Re-integration Should Be Symbolically Rich
In a restorative model, these contributions need to be recognised and publicly “certified” in order to symbolically “de-label” the stigmatised person. This is often the most difficult facet for audiences to accept. Resettlement has become an almost entirely technical subject (indeed, it has become a highly dull subject, in my opinion, as someone who reads a great deal of research on resettlement issues). The increasingly widespread discussion of the topic in recent years basically revolves around numbers of hostel placements, number of completed offender behaviour programmes, numbers of basic skill awards, and numbers of individuals leaving prison with employment, training or education programmes organised prior to release. The talk is about multi-agency co-ordination, provision of drug treatment and counselling, release plan development, and integrated case management. It is hardly mentioned that we are talking about individuals who have been temporarily banished from their communities returning from this acute state of shame and degradation.

Yet, drawing on Durkheim, David Garland (1990, p. 32) reminds us that “The essence of punishment is irrational, unthinking emotion.” Punishment is “an expressive institution – a realm for the expression of social values and the release of psychic energy”. We make quite an impressive show or ritual of punishment – from the drama of the courtroom to descending into the cells to prisoner uniforms, the barred windows, and ‘community punishment orders’. As a society, we have become masters of what are called Status Degradation Ceremonies (Garfinkel, 1956). Yet, when it comes to resettlement, we forego all such ritual and try to make the whole process as stealthy and unpublic as possible – here’s your bus pass, go get reintegrated. And it just does not work like that. If we are going to ritualise the process of exile, we need to do the same for the return.

A number of theorists have started to write about what “status elevation ceremonies” or “reintegration rituals” might look like (see e.g., Braithwaite and Mugford, 1994; Maruna, 2001). The very idea of such things sounds awkward and strange to us, as if we are almost more embarrassed by reconciliation than we are about retribution. Yet this is a dangerous mistake from a cultural, anthropological position.
4. Restorative Re-Integration Needs Eventually to Involve Wiping the Slate Clean

Perhaps the strongest form of symbolic de-labelling an offender could receive from the State is the chance to officially wipe the slate clean and literally alter his or her past as recognition of these forms of restitution and social contributions. This sort of permission to legally move on from the stigma of one’s own past is a key component of the amnesty process that has been central to peace and reconciliation processes worldwide. Something like official forgiveness and “de-labelling” is available for most ordinary criminal offenders though the Rehabilitation of Offenders Act. Yet, more use could be made of this important last step in the reintegration process for ordinary offenders. The past cannot be taken away, of course, and nothing can undo the harm that has been done. Convictions on the other hand are merely labels given by the State in the name of punishment, and equally these can be taken away in the name of reintegration, along with a restoration of the full civil rights, liberties and duties that all of us share.

Last Words

Of course, these four components are just the earliest sketch of what restorative re-integration is about, and clearly this is an idealistic vision of what a resettlement strategy might look like. Yet, at least it is that: a vision, a coherent narrative based on a tangible, indeed testable, theory of social behaviour. And, this might be just what has been missing from all of our considerable excitement around resettlement and reentry in recent years.

So, who owns resettlement? In restorative reintegration, like Nils Christie’s vision for restorative justice, re-integration needs to be given back to its rightful owners, back to communities and the ex-prisoners themselves. Is there a role for agency work in this? Of course there is. There is a role for the criminal justice system and even for George Bush and large-scale national efforts. Yet, the role of these groups would not be to “do” the reintegration. They cannot. The best they can do is to support, enhance and work with the organically occurring community processes of reconciliation and earned redemption.

The worst they can do is interfere with these or impede the process of reintegration through invasive, heavy-handed and stigmatising interventions. Such stigmatisation and segregation of ex-offenders is especially ironic when it goes under the name of improved “reentry” or “resettlement”.

Who Owns Resettlement? Towards Restorative Re-Integration
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Mentally Disordered Offenders: Challenges in Using the OASYS Risk Assessment Tool

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Abstract
This article examines the centrality of risk both within the Government's new proposals to tackle offending behaviour (Home Office 2004) and within the professional practice of probation officers within a large metropolitan area. The pre-occupation of the government with the potential dangerousness of mentally disordered offenders also provided a focus to this article. In order to explore these issues a small scale research project was undertaken into the use of eOASys as a risk assessment tool and whether it enabled practitioners to effectively identify those offenders who may potentially have mental health problems. The research also focused on whether this led to more effective and sensitive management of mentally disordered offenders and assisted practitioners to reduce their risk of re-offending and risk of harm to themselves or others.

The key findings include the need for more detailed eOASys assessments; the importance of a consistent and sustained relationships between offender and probation officer to aid assessments; cases with incomplete eOASys assessments were the cases with little supplementary information and lacked the detailed analysis of past information contained in case records; issues of race and gender; and stereotyping of mental health issues.

Key words: OASys; Probation; Risk; Mentally Disordered Offenders; Crime Reduction; Assessment.

Introduction
This research evolved out of a recognition by the authors that there is a process of net-widening (Cohen, 1985) evident in the techniques of risk assessment currently being deployed in criminal justice and mental health services. (Fitzgibbon, 2004; Prins, 1999; Hudson, 2003; Kemshall, 2003) and also in recent proposals for mental health legislation reform (Wadham, 2002; Peay, 2002).
There appears to be a dilution of the concept of serious mental illness which allows a wider definition of mental health problems and those from socially excluded backgrounds could thus be assimilated to this category and seen as dangerous (Fitzgibbon, 2004).

New risk analysis techniques widely used in probation and mental health services could be perceived as active in broadening the concept of dangerousness. Examination of the current risk prediction system used in the Probation Service (eOASys) illustrates how these risk assessment tools may spread the net of dangerousness yet fail to address the criminogenic needs of offenders effectively.

Understanding eOASys or OASys
The Government published a National Action Plan for Reducing Re-offending through greater strategic direction and joined up working (Home Office, 2004). The Action Plan states, among other objectives, one important Government manifesto commitment which is to ensure that punishment and rehabilitation of offenders are both designed to minimise re-offending. The National Action Plan identifies three areas, which need to be successfully addressed to attain its objectives (Home Office, 2004); they are communication, information sharing and risk assessment. This applies both at strategic development level and at the point of service delivery. The report states clearly that achievement in these areas is dependent on up-to-date offender assessments being carried out by prison and probation staff. The key assessment tool is the Offender Assessment System (OASys) described in the document as,

a risk assessment and sentence planning tool for identifying and classifying offender related needs, such as lack of accommodation, poor educational and employment skills, substance misuse, relationship problems, problems with thinking and attitudes and the risk they pose to the public, and for making plans to address these needs. (Home Office, 2004:4)

The Offender Assessment System (OASys) is a joint Probation and Prison Services initiative which was designed primarily to replace previously existing instruments, which failed to fully meet the requirements of the two Services. OASys consolidated the fundamental changes in values and professional practice that have occurred within the Probation Service, namely the focus on the protection of the public, the punishment of offenders, a decrease in crime and evidence based practice (Oldfield, 2002; Bhui, 2002; Robinson, 2001). The two main principles it incorporates are adherence to the 'What Works' agenda and the necessity to bring about a reduction in risk. In order to demonstrate effectiveness, which is defined in terms of the ability both to predict risk and to implement programmes of intervention aimed at reducing risk, OASys is an actuarial and dynamic assessment tool which utilises a 300 page manual containing guidance notes for assessors. This makes clear, from the outset, its basic premise:
The assessment of the risk posed by an offender, and the identification of the factors which have contributed to the offending, are the starting points for all work with offenders. (Home Office, 2002:1)

The IT based version (eOASys) of this tool was introduced during 2003/4, and the aim was to introduce this system across all prison establishments with a view to the Probation and Prison Services having full electronic connectivity throughout the country by the summer of 2005. The objective was to facilitate the exchange of information between Probation Areas and prisons. However due to problems with implementation and technology this ambition has not been fully achieved as yet.

Assessments using eOASys are generally commenced at the pre-sentence report stage and should be regularly reviewed and amended at each subsequent stage of intervention. The eOASys tool is meant to provide a means for continuous risk and criminogenic needs assessment and evaluation which follows an offender from the start of their interaction with the Probation and Prison Services through to completion.

**Researching eOASys**

The small-scale exploratory research project was carried out in a large metropolitan probation area over a three month period between December 2004 and February 2005.

The broad research aims were:

- To examine to what extent the eOASys system is improving the situation of mentally vulnerable offenders.
- To explore in particular the accuracy and effectiveness of the use of this assessment tool.

Permission was obtained for access to data from the area's Probation Research Unit and ethical approval for the research was given by the University of Hertfordshire and the Probation Service in question.

The research was conducted using a purposive sample (Mason, 2002; Patton, 2002) designed to examine those offenders' cases which had been subject to eOASys assessment and had the following special characteristics (Robson, 2002):

1. Offenders viewed as mentally unstable or personality disordered.
2. Subject to current or past mental health treatment/interventions.
3. Self-identified as having a number of symptoms of mental illness.
4. Conformed, via the eOAsys manual criteria in a number of the areas designed within the tool to alert the practitioner to mental health needs.
5. eOASys had been completed or partly completed on the case.
6. There had been probation officer involvement and offenders were from a range of different office locations within the probation area.
10 cases were randomly selected from an initial 24 cases using the probation area's Criminal Record and Management System (CRAMs) record database. This purposive sample comprised 2 offenders who were black, 3 white offenders and 5 offenders whose race/ethnicity were unknown. This was due to incomplete eOASys data. As Bhui (1999) has noted, Black and Minority Ethnic groups' needs in terms of the importance of not assessing or addressing factors such as mental disorder are often highlighted by research as an area of concern. Three of the sample were women offenders and all were over 18 years of age.

Naturally occurring documentary evidence, in the form of case records, reports and completed forms contained in the case files and eOASys forms was examined (Ritchie and Lewis 2004). Live cases were accessed as a way to understand their substantive content and reveal the usefulness of the eOASys tool not only to the practitioner but as a method of communication and information sharing as part of the Government's National Action Plan for Reducing Re-offending (Home Office, 2004).

The analysis of the selected cases focused on:

- Whether practitioners using this tool were able to identify those offenders who may potentially have mental health needs.
- If these needs were taken into account in needs and risk assessments.
- Did this then lead to more effective and sensitive management of their criminogenic needs and therefore more appropriate risk containment?
- How thoroughly and efficiently were the eOASys forms completed and in what detail?

Findings
The following section reports some of the key findings from the research.

No eOASys risk assessment
There was evidence in some cases, particularly those with transient officers, that service user had no full eOASys risk assessment nor had they any other form of risk assessment pre-dating the introduction of eOASys. This was despite mental health concerns being noted in the initial screening, where key factors like dual diagnosis, self harm or inability to conform to psychiatric treatment indicated a full risk assessment should be completed.

Lack of information
The majority of the sample had little supplementary information to reinforce or expand on the 'tick boxes'. Whilst eOASys allows for building in of “evidence”, in script form, into the tool the lack of this additional data on the form would support other research findings that when tick boxes are presented, assessors question their ability to clinically expand on the assessment and resort to 'just getting the job done' (Maynard-Moody et al., 1990).
Using existing case material
Many of the eOASys assessments failed to incorporate or expand on significant issues contained within the case file. For example, issues such as previous suicide attempts, psychiatric treatment, and domestic violence were often highly significant to risk levels but not mentioned or only procedurally included with little analysis. Often assessments made previously in reports (PSRs) were not included particularly if risk issues were regarding self-harm (also see Morgan, 2000). This was unfortunate as some of the most detailed casework in the files pre-dated the introduction of eOASys and perhaps should have been included for a more complete assessment.

eOASys could potentially be a significant aid to the transfer of information between officers but only if time is allocated to and spent summarising information present in the file and following up queries rigorously (Prins, 1999; Canton, 2004). One case had a Crown Court judge repeatedly requesting a psychiatric report which was never produced. The offence for which the offender was sentenced was of a less serious nature than the original charge. Neither of these occurrences was taken into account in the eOASys assessment of the offender. Additionally no account was taken of the suspected mental disorder and the case was managed with no reference to mental health agencies and with a number of internal transfers of supervisor. It appears to have been somewhat of a surprise to the offender’s supervisor when a local mental health professional approached the probation service to inform them that the offender had spent some time as an in-patient in a local psychiatric facility during the period of supervision.

Examples of harassment and obsessional behaviours, and being the victim of rape were also factors which were not followed through in the eOASys assessment and not therefore incorporated into the overall assessment or supervision planning concerning the case.

Many of the gaps in the case files occurred during transfer of cases between team members and a lack of thorough reading of case file materials before the eOASys assessment was completed was revealed through obvious gaps in the transfer of information or level of detail in the assessment. This was particularly significant in cases where as many as 5 probation officers had supervised one case over a 6 month period.

Although procedurally the eOASys was completed in the majority of cases examined, there were significant gaps in transfer of data from the case files. As Prins (1999) states information regarding cases and risk is often present but taking the time to assimilate and collate this information is often a low priority. Transfer of the data to the eOASys presumably is required if the risk assessment is going to be accurate and meaningful.

Professional relationship with the offender
Reading of case files revealed far better risk assessments were undertaken when there was a consistent and sustained relationship built up with one probation officer/case manager. Additionally breach and focusing on practical issues as opposed to the whole context of the mentally vulnerable offender’s behaviour also significantly increased when very short term work was done by varied staff.
Much of the work undertaken with offenders with mental health issues was sensitive and focused when there was time to build up a rapport with the officer involved. However where cases were quickly passed over to other team members procedural concerns, particularly regarding practical considerations and enforcement, appear to have become the sole focus of the work with those offenders with mental disorders.

Reviews
Regular reviews were also required in these cases. However there was rarely any evidence of these having been undertaken in the majority of case files examined.

Liaison with other agencies and the family
Liaison with other agencies and the family highlighted in other studies as key to risk reduction and containment in mentally disordered offenders (Rumgay, 2003; Moore, 1996) was also lacking in these cases. Few of the sample examined had any evidence of consistent and sustained interventions by case managers, or other agents. This is of particular concern if the probation service is to discharge its role in achieving the Government’s overall priority to reduce crime and protect the public.

Drugs & alcohol
A significant number (n.6) of the sample had alcohol and/or drugs related problems. This would support other research in this area of the heightened risk/vulnerability of those with mental health problems and substance misuse problems, for example, Applin and Ward (1998); Hills (1993).

Dual diagnosis
The significance of dual diagnosis in this sample with mental health problems was highlighted. Often the focus of the work was on the drug problem rather than a holistic treatment of both issues. This is borne out by other research, such as Applin and Ward, 1998, and may be due to inexperienced staff, and/or the presence of a drugs partnership locally and their approach to dual diagnosis. It could also be the existence of a ‘target driven funding regime’ which does not reward dual interventions (Mc Sweeney et al., 2004) or could even be fear of engagement with the mental disorder and its complexities.

Other mental health issues
Reading the case files there was repeated overlooking and ignoring of insignificant mental health issues. Some cases then degenerated into the ‘revolving door’ syndrome of short custodial sentences leading to loss of family ties, employment and housing. (Revolving Door Agency, 2002). The consequences escalating with the numerous petty offences leading one woman from a secure job, home and family to eventual homelessness, children taken into care and an inability to cooperate with even the smallest request such as keeping a Probation appointment. The only option then remaining was short repeated custodial sentences.
Race
Although inconclusive about issues of race, there was evidence in reading the files of stereotyping regarding mentally disordered offenders and those of minority ethnic origin, in particular the case of a Muslim Asian offender, which effected the focus of the work undertaken. This supports findings by Hudson and Bramhall (2005), which state that Asian ‘otherness’ is viewed negatively by some probation assessors. Supervision case records and eOASys information concentrated on possibilities of engagement, family details and superficial assessments of practical issues such as housing were common in this example. There was no evidence of using the strong family ties as a resource or positive aspect of the case and also no concentration on the offenders' mental health needs (findings echoed by Hudson and Bramhall (2005)).

Risk, release from hospital and prison
The sample highlighted significant issues regarding assessment in relation to risk (n.3), liaison with other agencies (n.2), (see Rumgay, 2003), and problems on release from hospital/prison (n.2), (see Mills, 2004; and NACRO, 1995). This would corroborate other research findings on mentally disordered offenders (Prins (1999); Gray et al. (2002)).

Suspect data collection and gender issues
What became apparent was that often eOASys assessments were inaccurate and defensive in that they erred on the side of caution to protect the case worker rather than exploring the material thoroughly for an accurate detailed picture. This was possibly due to lack of experience and exploration of the case files which did supply the materials required for a more informed assessment. As other research examining risk and mental disorder has indicated (Ryan, 1998) the gender of the assessor was found to be significant. Female assessors are more likely to rate patients more ‘risky’ than their male counterparts. This is of interest when one recognises the predominance of women in the probation service and other caring/social services dealing with those with mental health problems. The majority of these assessments were undertaken by women. Also the difference in ethnicity and race, which has been shown to influence risk assessment, heightening perception of risk in black mentally ill people (Prins, 1999; Bhui, 1999). Thus mental disorder could have been wrongly identified or over concentrated on as an indicator of risk concerns due to stereotypes which have previously been exposed as prejudicial or detrimental to the offenders being supervised (Peay, 2002).

Overall the findings of this research supported previous research findings on mentally disordered offenders (for example, Gray et al. (2002)). It is significant that many of the findings of this research cluster. Thus those cases with incomplete eOASys assessments were also the cases with little supplementary information and lacked the detailed analysis of past information contained in case records. Often omissions regarding ethnicity, family relationships and liaison with other agencies accompanied those cases with incomplete or inaccurate eOASys.
The more detailed eOASys assessments coincided with those cases with consistent and sustained relationship between offender and probation officer. These cases were more likely to have had regular case reviews completed, inter-agency working and a more holistic focus on the mental health issues of the offender in relation to their other problems.

**Discussion**

The Probation Service, which has been transformed in line with other Criminal Justice agencies, for example the police service and the prison service, places risk and public protection at the forefront of its practice and strategic management planning. It is envisaged that this process will be even more ‘seamless’ and will be pivotal in effective “end to end” management of offenders once the National Offender Management Service is fully operational (Halliday, J., 2001). A key feature of this process is the eOASys assessment tool which has been developed for use between both Probation and Prison staff.

However as Kemshall (2003) maintains there are limitations and failures of risk analyses as predictors of individual behaviour and potential sources of injustice if people are treated purely on the basis of membership of risk groups whose boundaries are necessarily socially constructed. In addition a feature of risk-based analyses is that in practice they are modified and mediated by more traditional professional casework skills of probation officers.

What this small scale study has illustrated is the importance of professional integrity and the need for experienced well trained staff when undertaking eOASys assessments, particularly on mentally vulnerable offenders. It has also shown that professional judgments, expertise and sensitivity are essential not just to complete the eOASys assessment proficiently but more importantly to provide the basis for appropriate and worthwhile interventions. Practitioners must be able to understand the significance of offender needs and be able effectively to prioritise interventions with all offenders, particularly those with mental health difficulties, in order to effectively monitor and reduce risk. Without this professionalism the usefulness and effectiveness of the eOASys assessment tool will be questionable.

One has to evaluate and reflect on the eOASys assessment tool within the wider context of the growth of information databases and the reliance on these rather than individual expertise within the penal system. As Aas (2004) states:

> Knowledge formats define how professionals within the system should think and act…probation officers have to fill out formalised risk assessment instruments and replace their individual and professional narratives with highly structured forms of communication]. (p.382)
Undue emphasis on risk assessment can distort or prevent the quality of care received by those with mental disorder with consequences that tragically increase their risk of re-offending and harm (Munro and Rumgay, 2000).

**Conclusion**

This research focused on the use of eOASys as an assessment tool and the question as to whether this tool leads to more effective and sensitive management of mentally vulnerable offenders and therefore more appropriate risk containment. What became apparent was that often these assessments were inaccurate and defensive due to lack of experience and exploration of the case files which did supply the materials required for a more informed assessment. This is supported by research by Robertson (1988); Kemshall (2003) and Kemshall and Maguire (2001).

One could speculate that with new enhanced accountability forcing practitioners (Kemshall, 2003), including those undertaking OASys assessments, the over prediction of dangerousness and potential risk will occur to those, like the mentally ill, who are more vulnerable and fulfil many of the criminogenic factors by virtue of their mental illnesses not their criminality, i.e. unemployment, homelessness, lack of support from family. All these factors were identified by the Social Exclusion Unit (2004) as factors contributing to mental health problems.

Are practitioners going to be assisted to utilise the eOASys tool given that it appears standardised assessment tools will ultimately replace the last residues of the ‘advise assist and befriend’ tradition? There seems little doubt that the strategies of risk-analysis and the orientation to public protection have transformed the work and character of the Probation Service (Kemshall, 2003; Oldfield, 2002).

The lessons from these findings will become increasingly important if professionals and other practitioners within Criminal Justice agencies are going to avoid risk adverse assessments based on prejudicial views about those with mental health problems and others (Hannah-Moffat, 2005).

OASys was introduced in an attempt to construct a common set of concepts, a shared vocabulary in which practitioners from a variety of professions can discuss risk (Canton, 2004 p.144). However such a risk assessment tool will only be effective if it leads to appropriate and sensitive support for mentally disordered offenders (Grounds, 1995). Coercion in psychiatric services (Laurence, 2003 cited in Canton, 2004) and emphasis on pure enforcement within probation practice (Hearnden and Millie, 2004 cited in Canton, 2004) will not only fail to secure compliance but will ostracise and alienate those mentally disordered offenders who most need support and respect to reduce their chances of re-offending and relapse. Only if eOASys is implemented within a context of shared cooperation with the mentally disordered offender in planning and negotiating risk management and within a professionally based rapport within which their behaviour is contextualised can any progress, in terms of risk reduction and prevention be achieved.
References

Mentally Disordered Offenders: Challenges in using the OASYS Risk Assessment Tool


Understanding Problematic Drug Use: A Medical matter or a Social Issue?

Dr Julian Buchan

Abstract
This paper questions the notion that problem drug use is essentially a physiological medical problem that requires coercive treatment, from which success is measured by way of drug testing to determine the abstinence from the drug. The article argues that the causes and solutions to problem drug use are as much more to do with socio-economic factors than physiological or psychological factors. In particular it explores the connections between the emergence and sudden rise in problematic drug use that occurred across the UK in the mid 1980s, with deindustrialisation and the decline of opportunities for unskilled non academic young people. Further the paper critically examines the notion of the ‘problem drug user’, in particular how those identified and labelled, are perceived and treated by wider society, and how this adversely impacts upon drug rehabilitation and social integration.

The Emergence of the UK Drug Problem
The widespread use of heroin that began in the 1980s changed the ‘landscape’ of drug use. Prior to the mid 1980s the number of known drug users was relatively small; in 1980 the total number of ‘addicts’ registered (notified) to the Home Office was 2,846; by 1987 the figure had risen sharply with over 10,000 people registered (Robertson 1987), and by 1996 there were over 43,000 registered (Buchanan & Young 2000). Unlike the drug misuser of the 1960s, the new drug user was young, unemployed, single, lived at home in a socially deprived area, and had few or no educational qualifications (Buchanan & Wyke 1987, Parker et al 1988). For the first time drug taking became associated with working class youth living in disaffected and isolated communities.

The extensive use of illicit drug use in the 21st century suggests the majority of young people in the UK have been exposed to their availability. Data from the 2002 British Crime Survey (Condon & Smith 2003) indicated just over one in four 16-24 year olds used an illicit drug during the previous year. A further UK study undertaken in 2003, involving 10,390 secondary school children, found that 23% of 15 year olds had taken illicit drugs in the past month, and 38% had taken them during the past year (NatCen 2003). It is
estimated there are currently between a quarter, and half a million problem drug users in England and Wales (Godfrey et al 2002), and the number continues to rise. Between 2002 and 2003 the total number of drug offences in England and Wales rose by 5% to 133,970, and Class A offences (heroin, cocaine, LSD and ecstasy) rose by to 6% (Kumari & Mwenda 2005:1).

Tackling the Drugs Problem

This rise in drug misuse in the 1980s understandably led to considerable concern amongst families, communities and agencies. The government responded with the ‘Heroin Screws You Up’ campaign designed to warn young people about the dangers of drug addiction. The campaign reflected populist fears and presented illicit drugs as ‘lethal, subversive, and alien’ (McGregor 1989:11). Pressure mounted for the police to tackle the drug problem. This was partly motivated by a desire to protect vulnerable youth from addiction, and a growing concern regarding increased levels of acquisitive crime (Jarvis & Parker 1989). As a consequence of the police response, the number of people dealt with for drug defined crimes rose sharply. In 1983 there were 23,895 drug defined offences, in 1995 there were 93,631 (Buchanan & Young 2000:127), and in 2002 over 137,000 were dealt with by the criminal justice system for drug defined crimes (Ahmed & Mwenda 2004). However, the vast majority of people arrested for drug defined cases has consistently related to people caught in possession of cannabis – many of whom could be classed as recreational drug users not problem drug users.

The sudden increase in problematic drug taking over the past two decades has led to considerable public/social concern. Marina Barnard’s research (2005) illustrates how problem drug use can seriously disrupt family life, causing stress, conflict and disruption. Neil McKeganey’s research (2004) identifies how drugs have affected the wider community and resulted in crime, prostitution, neighbourhood unease and anti social behaviour, while Godfrey et al (2002) identified economic costs per problem drug user in excess of £10,000 per year, and social costs of £35,000 per year. These personal, social and economic costs of problematic drug use have justifiably warranted social/public concern. However, as Ben-Yehuda (1994) has highlighted, there has been a moral panic (Cohen 2002) toward illicit drug taking more generally. The media supported by government policy over-reacted to illicit drug use and portrayed drug users as a threat to society.

Biko Agozino (2000) argues that these moral panics create marginalised groups such as the immigrant, or the Black person. He suggests these marginalised groups then become demonised, seen as inferior and are no longer welcomed members of society, instead Agozino suggests they are given an identity as the ‘Other’. This marginalisation of problem drug users adversely affects their self esteem and confidence, and negatively affects the way in which the non drug using population relates and responds to problem drug users (Buchanan 2004a). This isolation and fear has in part resulted in a number of new legislative measures introduced to monitor, control, punish and/or deter drug related activity. These included the Drug Traffickers Offences Act 1994, Criminal Justice and Public Order Act 1994, Crime and Disorder Act 1998, Crime (Sentences) Act 1997,

Since the mid 1980s the UK drug strategy has continued to be dominated by a prohibition agenda primarily concerned with reducing the supply of drugs and strengthening deterrence (HMSO: 1986). Drug prevention, treatment and rehabilitation have tended to have a lower priority and been relatively poorly resourced compared to prohibition strategies. For example, in 1997-98, 75 per cent of the £1.4 billion allocated was spent on drug law enforcement, compared to 13 per cent of the budget spent on treatment and rehabilitation programmes (JRF 2000). However, the National Treatment Outcome Research Study identified that for every £1 invested in drug treatment £3 is saved in reduced criminal justice costs (Gossop et al, 1998) and this has helped to give greater emphasis to treatment. While there has in recent years been an expansion in drug treatment for offenders under the Drugs Interventions Programme, Levenson (2004) has argued that this could inadvertently encourage drug users to commit crime in order to gain access to treatment that is otherwise in short supply.

This punitive approach reflects the government’s continued ‘war on drugs’. It is a campaign that separates illegal drugs from legal drugs (such as tobacco and alcohol) and inadvertently presents the former as inherently more dangerous and problematic. This bifurcation of drugs over-simplifies the complexities of present day recreational drug consumption (illegal and legal). Fiona Measham (2000 & 2004) has argued that use of legal and illegal substances is today just one of many choices available to young people. Her research suggests that the hedonistic pursuit of pleasure and risk taking amongst young people makes drug taking not an uncommon recreational choice. It has further been argued that a reductionist bifurcation which divides legal and illegal drugs is misleading:

‘The consumption of legal and illegal drugs for pleasure should be recognized as a highly complex social issue, but instead it has been presented within a reductionist framework. Within certain boundaries the government sees the use of legal drugs (primarily alcohol and tobacco) as wholly acceptable, whereas, the use of illicit drugs in any circumstance is seen as dangerous and harmful,’ (Buchanan & Young:2000:410).

This separation of socially acceptable and socially unacceptable drugs may mislead young people into thinking that certain legal drugs are less harmful to them than illicit drugs. In addition, the dangers posed by particular illicit drugs could be confusing because the classification of drugs under the Misuse of Drugs Act does not accurately reflect the ‘hierarchy of harm’ (Police Foundation 2000). Guidance from the government in respect
of drug policy and practice concentrates exclusively upon illicit drug, and is based upon the premise identified in the government’s 10 year drug strategy that: ‘All drugs are harmful and enforcement against all illegal substances will continue’ (HMSO 1998:3). This sweeping message has led to a ‘loss of credibility and trust… key factors when trying to assist problem drug users’ (Buchanan 2005:67). There is also the possibility that professionals could concentrate their efforts upon illicit drug use and fail to appreciate the dangers of legal drug taking (JRF 2000).

A further effort to deter illicit drug use has entailed the increasing use of random drug testing and pre-emptive measures. This has included drug testing of drug users subject to court orders; suspected drug users in the community; drug testing in the workplace and (more recently) random drug testing on school children. Back in 1987 Trebach recognised that a policy based upon the ‘war on drugs’ would inevitably begin to threaten civil liberties:

‘it will lead to serious invasions of our private life, ultimately leading to: the lands, the homes, the fields, the boats, the wallets, the pocketbooks, the bodies, the blood, and even the bodily waste of millions of free citizens throughout our vast country [USA]. It is all such a logical progression and it is all done for the good of our nation.’ (1987:214).

The increasing use of deterrent measures such as the drug testing of school children as a means of tackling drugs has been criticised by Royal College of General Practitioners (RCGP:2005) which described it as poor method for identifying and helping school children who use illicit drugs. It has been argued (Buchanan 2004) that drug testing has led to a preoccupation with the physical nature of addiction and encouraged unrealistic expectations of abstinence. The Drugs Intervention Programmes (DIP) locked into the criminal justice system tend primarily to perceive problem drug use as a physical addiction. DIP introduces coercive measures to ‘encourage’ the problem drug user to get ‘treatment’ to become drug free or face serious court sanctions. It also asserts a pace of change expected from the drug user that may be unsustainable; often there is a limited range of ‘treatment’ available, and a common problem is the failure to understand and most importantly address the underlying causes of problematic drug use (unemployment, poverty and social exclusion).

**Tough on Drugs, Tough on Drug Users?**

Since their arrival into mainstream life in the mid 1980s, drugs have been perceived as an enemy and a threat, referred to for example, as the ‘drugs menace’ and ‘recognising the enemy’ (Manning:1985), and more recently drug policy based upon enforcement has been launched with strong emotive language which refers to, ‘tough package of anti-drugs measures’ and suggest drugs ‘tear open families’ ‘blight whole communities’ ‘the vicious circle of drugs and crime’ and ‘drugs are a scourge on the world’. (Flint 2005:7). The discourse has been dominated by notions of fear and risk ,and has led to a strategy which is more concerned with the punishment, control and exclusion of drug users, rather than their
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care, rehabilitation and social inclusion (Buchanan 2004:394). The war on drugs manifests itself as a war on drug users (Buchanan & Young 2000:409) and this has helped to legitimise and institutionalise the marginalisation and social exclusion of problem drug users who are seen as ‘moral outcasts’ (McGregor 1990:82). This war on drug users gives problem drug users an enemy status, and creates additional barriers that make reintegration and recovery less likely.

A significant number of people have tried illicit drugs in the UK; estimates vary from 3.1 to 3.7 million people (Artha 2004, Condon & Smith 2003), and criminalising large numbers of otherwise law abiding people raises practical and ethical issues. Whilst most illicit drug use will go undetected those apprehended face the serious risk of acquiring a criminal record, which has major repercussion concerning freedom and opportunities particularly in relation to employment, travel and social integration (Klee et al 2002, Goulden 2004, Rolles & Kushlick 2004). The UK drug strategy continues to place the criminal justice system centre stage within drug treatment provision. Barton (2003) has argued that the Drug Treatment and Testing Order has provided a mandate for joint working between health and law enforcement agencies to coerce problem drug users into treatment, which Bewley-Taylor et al argue has ‘failed to fundamentally alter the scale and nature of the illegal drug market’ (2005:1). Further, a tough drug policy based upon the ‘war on drugs’ has created significant financial, social and health costs and resulted in a spiralling prison population.

Research by Mike Shiner and colleagues (2004) expressed concern regarding the use of enforcement to direct users into treatment. They found it was important that community drug services were not closely aligned with law enforcement and criminal justice, otherwise they were less likely to be used. Instead, they argue that policy and community responses should incorporate a stronger focus upon welfare-based rehabilitative activities that take into account the views of drug users. This is difficult because within the wider community, problem drug users have limited social capital, tend to be marginalised, and are separated by a ‘wall of exclusion’ (Buchanan 2005). Further, hostility towards problem drug users has made recovery more difficult and some drug users have accepted and internalised prejudicial remarks believing ‘the negative and harsh stereotypes imposed upon them’ (Buchanan 2004a).

It has long been argued (Raymond 1975; Wilkinson 2001) that enforcement measures have not only failed to curb the drug problem but have increased its magnitude and fuelled criminal activity. Drug prohibition has created new risks, that are often more damaging than those posed by the actual drug. Despite the failure of prohibition to demonstrate positive outcomes and with little scope for critical policy debate, considerable sums of money continue to be directed towards enforcement agencies (such as the £447 million Drug Interventions Programme). Pearson argued that debate about drug policy has been characterised by ‘an agitated paralysis’ (Pearson 1992:363). Any criticism of current drug policy is often discredited and characterised as subversive. More recently Parker suggested the difficulties in moving the drug policy debate forward are a result of: ‘The combination of
The connections between drugs and crime are not straightforward. Toby Seddon (2000) questioned the simple causal relationship that drug use leads to crime. He suggested a more complex set of relationships applied. This point is highlighted by Stevens et al (2005), who link crime and drug taking with social and economic deprivation. Susanne McGregor in her editorial of a special issue drugs journal examining the drugs crime connection, further highlighted the links with structural changes within society; ‘Throbbing throughout [This special issue on drugs and crime] is the underlying theme of the impact of deindustrialisation and the rise of the consumer market society which has created a class of losers and discarded youth who continue to provide new recruits to the ranks of problematic drug misusers’ (2001:315). Current dominant thinking in respect of problem drug use focuses upon drug testing, monitoring, accountability, enforcement and coercion, with an implicit preoccupation with physical dependence. Much greater understanding is needed of the social aspects which underpin and sustain problematic drug use. The evidence and arguments for seeing problematic drug use within a wider social context will be more fully explored in the following section.

The Problem Drug Use Legacy: A social issue not a medical condition

The economic recession of the early 1980s, exacerbated by Thatcherist monetarist policies and deindustrialisation, left many working class areas severely blighted by mass unemployment. McGregor (1989) noted that badly affected cities like Liverpool and Glasgow that once had a strong manufacturing base, became symbols of economic decline. In the mid 1980’s a study of young people and heroin use in the North of England (Pearson et al 1987a) found unemployment rates in excess of 40%. The extent and longevity of unemployment was unprecedented. Pearson suggested unemployment became so ‘scandalously high’ and access to housing so difficult, that it made it extremely difficult for young working class people to ‘fashion meaningful identities’ (Pearson 1987).

A study carried out in Sefton, Merseyside (Buchanan & Wyke 1987) to understand the extent and nature of drug use amongst probation ‘clients’ and make recommendations for drug policy and practice, identified long term unemployment and limited job prospects for young people as key factors. This work also identified that heroin was used by long term unemployed youth to help occupy ‘a void in identity, purpose and meaning’ (1987). In the early 1990s further research conducted with problem drug users in Bootle, Merseyside (Buchanan & Young: 1995) found that limited social and economic opportunities for young people made it difficult for them to move away from drugs. This study highlighted how heroin had become an alternative to employment for a group of young people excluded from a shrinking labour market. The difficult socio-economic climate in industrial based cities across the UK had detrimentally impacted upon young unskilled people who struggled to secure employment (Buchanan & Young 2000). This raised issues for young people seeking to make the transition to adulthood and independent living:
Whole communities were destabilized by mass long-term unemployment. In the 1980s, for the first time in the post-war period, a generation of school leavers who would otherwise have secured employment in apprenticeships, factories or semi-skilled positions, found themselves surplus to requirements. ... it was in this depressing environment that the youth of the 1980s attempted to make the transition to adulthood.’ (Buchanan & Young 2000:410-11

Unemployment and heroin emerged in the early 1980s as two major social problems affecting young people in de-industrialised cities across the UK. An important study based in Scotland involving 1,036 people (Peck & Plant 1986) made comparisons with data across the UK to examine the association between illicit drug use and unemployment. Peck and Plant’s investigation found that between 1970 and 1984 unemployment had risen from 2.6% to 13.1%, and that the rise in drug use was significantly and positively correlated with unemployment. Pearson et al. (1987a) research identified unemployment rates ranged between 43% - 66% in those areas where heroin was a significant problem. A study of drug users on the Wirral (Parker et al 1988), found the area with the highest rate of unemployment (33%) also had the highest rate of known heroin use. In this area 8.6% of all 16-24 yr olds were using heroin (1988:69). In the Sefton area of Merseyside Probation in 1986, research not only found connections between unemployment and drug use, but also identified links with crime - 37% of probation clients had a drug problem and 81% were believed to be committing crime as a direct result of their drug dependence (Buchanan & Wyke:1987). These links have been subsequently highlighted by Bennett (2000) and Bean (2002) who argued that the high cost of addiction makes criminal activity almost unavoidable.

These links between unemployment, drug use and crime resonated with American research many years earlier by Preble & Casey (1969). Their work in the New York ‘ghetto’ identified heroin, crime and unemployment as major social problems, and found that 43% of the respondents had been in prison at some point in their life. Preble & Casey argued that heroin was not a ‘euphoric escape’ from the psychological and social difficulties of ghetto life, but rather the pursuit of a highly structured demanding life. The busy lifestyle of the heroin user was also observed in a UK study by Auld et al (1984) who suggested heroin users became just as much addicted to the lifestyle as the drug.

In many areas across the UK where long term unemployment was high, drug misuse was ‘endemic’ (Newcombe & Parker 1991). The lure of drugs was described by Parker et al as hanging ‘over a predominantly deprived urban ‘underclass’ of unqualified, unskilled and unemployed young adults’ (1988:67) . Research with problem drug users in Bootle, Merseyside (Buchanan & Young 1995) found similar patterns - 40% had failed to complete their education, 78% did not have any qualifications, and 96% were unemployed.
Since the 1980s society has changed considerably (Hutton 1996), but opportunities for unskilled, non academic youth from disadvantaged backgrounds have remained limited at best, and a significant proportion continue to drift into problematic drug use which has become a huge well organised underground business that ‘employs’ thousands of people. Melrose suggests (2004) this marginalised group of young people is confronted by multiple disadvantage and an uncertain fractured transition from adolescence to adulthood, that make it difficult for them to avoid drugs. The position was further identified by the Audit Commission who identified that those most at risk of becoming problem drug users were young people from deprived areas with high levels of unemployment and economic inactivity (Audit Commission 2004).

**A Drugs/Crime Sub Culture**

Parker’s research (1988) suggested that once dependent, problem drug users became entrenched within a dominant drug sub-culture which further complicates strategies to tackle the problem. Indeed, to successfully maintain the 24/7 daily cycle outlined below necessitates a high degree of secrecy and isolation from the ‘legal’ world, while at the same time it requires the problem drug user to maintain useful contacts and acquaintances within a criminal ‘underworld’. The existence of a deviant sub culture in which crime and drugs play a key role was also identified in Burr’s (1987) anthropological study in Southwark. She argued that drug users became so immersed in a drug sub culture they would continue to use drugs regardless of any social intervention. A similar point was made by Peck and Plant in their study of unemployment and drug use in Scotland; they argued that even if jobs became available the legacy of drug misuse would be unlikely to be affected (1986).

The creation of a deviant sub-culture entrenched in crime and drug taking has led to tensions within communities. McKeganey’s (2004) study of a deprived area in Glasgow found that anti social behaviour, problem drug use and crime, dominated day to day community life and that hostility and blame was often directed towards drug users in the community. The identification of ‘undesirables’ within communities to whom hostility is directed was also explored by Barry Goldson who examined the attitudes and responses toward vulnerable young people who were labelled ‘criminals’ or ‘yobs’. He argued that such hostilities have unhelpfully led to harsher policy and practice responses (Goldson 2000). While these are important findings, if the drug problem is going to be successfully tackled it is important to better understand and appreciate the needs of the problem drug user, in particular the underlying political, legal, social and economic factors that make problem drug use more likely and those factors that make recovery and reintegration from a drug centred lifestyle so difficult.

In 1985 the Social Services Committee (SSC) recognised the related problems of unemployment and social deprivation and stated that drug services at the time were too medically orientated and needed to encompass a social approach (SSC:1985). Despite this acknowledgment, dominant theoretical approaches over the subsequent years have made scant reference to the social dimension of problem drug use (see for example Denning et
al 2004, Millar & Rollnick 2002, Di Clemente 2004). The connections between problematic drug use, poverty and social exclusion remain relatively unexplored; a point recognised by McGregor who also argued for drug policy and practice to take greater account of 'socio-economic environmental factors, instead of the tendency to stress personal responsibility and genetic predisposition' (1995:20). While physiological and psychological understandings have an important contribution, they fail to provide a comprehensive appreciation of the nature of the problem, which can sometimes lead to narrow policy and intervention strategies that internalise and pathologise drug dependence by taking little account of structural factors (Buchanan 2005). Attempts to tackle the drug problem in local communities by a combination of tough enforcement measures, drug education and drug treatment, have had little success (Foster 2000, Parker & Egginton 2004). These studies emphasised the importance of understanding and addressing the underlying social inequalities and deep rooted local cultures.

Criminal activity and social isolation are not unexpected consequences of a chaotic drug centred lifestyle. However, a significant proportion of problem drug users experienced exclusion and disadvantage prior to the onset of a drug habit (Buchanan 2005). Many problem drug users have had limited options in life, have lacked personal resources (confidence, social skills and life skills) and importantly have had few positive life experiences to recall or return to. The Social Exclusion Unit later acknowledged that they 'tend to be members of the most deprived and socially excluded communities' (SEU, 2004:11), while Foster’s work in the North East of England found that they had been 'forced out to the margins with no sense that their future will be any improvement on the present … a deadening experience' (2000:322). The association between problem drug use and enduring social disadvantage and exclusion has major policy and practice implications. For example, expecting a long term problem drug user to lead a constructive and fulfilling life is unrealistic if their entire adult life experience has been centred upon drug related activities. Therefore it may be more accurate to speak of habilitation rather than rehabilitation, or social integration rather than social reintegration as a significant proportion of problem drug users have no adult life experience of being part of mainstream society - ‘This makes living without drugs a very tough option indeed’ (Buchanan 2004:393).

Creating a Busy and Demanding Lifestyle

A significant proportion of problem drug users have a history of a disrupted childhood, low educational achievement and social exclusion which make steady employment difficult to secure and sustain. The Commission for Social Justice recognises that employment provides more than a regular income; it helps meet social and emotional needs, shape personal identity and provides social status within a network of relationships (Commission for Social Justice 1994). The impact of long term unemployment and social exclusion upon recovering drug users is graphically illustrated by one problem drug user: ‘No prospects for someone like me. I gave up years ago thinking I could get a job, I might as well reach for the moon’ (Buchanan 2005:127). Unable to secure routine, income, status and identity through employment a 24/7 drug centred lifestyle is able to provide a number of these functions. It should be acknowledged that problem drug use provides a purposeful, focused and routinised structure - the ‘daily cycle of problematic drug misuse’.
First a drug centred life style is able to provide an underground economy giving disadvantaged people access to income and goods that they would otherwise be unlikely to secure. They become ‘part of an elaborate and well developed alternative economy … [which] has become a major source of income and exchange of goods within deprived communities. The sale and purchase of stolen goods is the only way that many families are able to partake in the trappings of an affluent society’ (Buchanan & Young 2000:124).

Secondly, a drug centred lifestyle addresses the boredom and frustration of a daily existence with no employment and limited opportunities; ‘for many drug taking was an alternative to unemployment, boredom and monotony’ (Buchanan 2005:127). Thirdly, for those socially excluded this 24/7 existence provides similar demands and rewards to employment. Finally, and perhaps most significantly, problem drug use gives the individual a focus for the day, involving an all consuming and highly structured routine. While a drug centred life offers similar benefits to employment, it usually has damaging social and psychological consequences and leaves the problem drug user increasingly isolated and excluded. Those involved who are seeking to treat problem drug users by removing them from this highly structured activity will need to start thinking what they intend replacing it with, otherwise relapse will be almost inevitable.

Research by Klee et al 2002, Kemp & Neale 2005, and Foster 2005, has found that drug users face discrimination when seeking employment. Robertson (1987) acknowledged that problem drug users are frequently subjected to prejudice, and they seem to be afforded little protection from institutional discrimination (Buchanan 2005). No matter how physically free from drugs, nor how well motivated, recovered problem drug users must overcome personal, cultural and structural discrimination (Thompson 2001), a discrimination that is given legitimacy through the ‘war on drugs’;
'a growing hostility has developed especially in the UK and US towards problem drug users, resulting in legitimized marginalization and social exclusion. This structural discrimination has become a serious debilitating factor for many problem drug users, hindering opportunities for recovery' (Buchanan 2005:65-6)

**Conclusion**

Recovery and reintegration within wider society seems a long way off for many problem drug users. It is an enormous challenge for recovered problem drug users to re-enter (or enter?) mainstream society to find suitable accommodation, secure a place in further/higher education, find meaningful employment, develop a non drug using network of friends, establishing basic daily social routines and skills, such as shopping, cooking, budgeting, picking children up from school, going to the cinema, etc. What are seen as basic everyday tasks pose a real challenge for many recovering long term problem drug users. Many problem drug users have endured a difficult and disadvantaged childhood, have been immersed in a dehumanising drug centred lifestyle for most of their adult life, and have been subject to considerable prejudice and discrimination. If we are serious about addressing the drug problem agencies will need to concentrate their efforts on the social aspects of problematic drug use and be less preoccupied with addressing physiological aspects. There is an urgent need to develop services that are able to advocate on behalf of recovering drug users, tackle discrimination and begin understanding and addressing the underlying causes that cultivate, foster and sustain problem drug use.
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Restorative justice occupies a central position in the response to youth crime in Northern Ireland. The 'youth conferencing' model of restorative justice has much in common with the New Zealand family group conferencing system, but places more emphasis on the position of the victim. In Northern Ireland it was decided, for reasons of accountability, certainty and legitimacy, that the youth conferencing model should be a statutory part of the formal justice system.

The youth conferencing service was introduced in December 2003. It was initially available in Belfast before, in April 2004, being extended to include Fermanagh and Tyrone. The legislation establishes two types of conference: diversionary and court-ordered. A diversionary conference can only take place if the young person admits they have committed the offence and consents to the process. An admission or finding of guilt is necessary for a court-ordered conference. Both types of conference are intended to result in a recommendation to the prosecutor or court about how the young person should be dealt with.

The youth conference will usually consist of a meeting in which a young person is helped to reflect on their actions and offer some form of reparation to the victim. The victim is invited to attend, and speak with the young person, if they wish. The conference concludes by devising an action plan – an agreed contract with sanctions for non-compliance intended to address the needs of the victim, the young person and the wider community.

A major evaluation of the youth conference service has recently been published. This draws on a major piece of research in which 185 conferences were observed, structured interviews were completed with victims and offender conference participants and semi-structured interviews were undertaken with conference participants as well as with magistrates, police and staff from the Public Prosecution Service.

The report concludes that the implementation of youth conferencing in Northern Ireland is going well. Overall, participants report a high level of involvement and satisfaction.
with the process. The report argues that, whether or not the system is subsequently found to have an impact on re-offending, it can be argued to be of inherent value as it is generally seen to be a fair and helpful response to youth offending. The report does make a number of recommendations for improvement. These include amending the law to permit the use of a youth conference alongside a mandatory penalty. This would enable motoring offenders, who do face mandatory penalties, to benefit from the conference approach. The report concludes with a recommendation for continued research and monitoring, including an investigation of reoffending rates.

Welcoming the report, Northern Ireland criminal justice minister David Hanson MP said ‘Youth conferencing provides an inclusive and restorative approach to healing the harm caused by crime. It encourages young offenders to take responsibility for their actions and, for the first time, provides victims with a say in the outcome.’


**Restorative Justice in Practice**

Home Office Findings 274 discusses the findings from the second phase of the evaluation of three restorative justice schemes. These three schemes were funded by the Home Office under its Crime Reduction Programme from mid-2001 for two to three years. The schemes are CONNECT, which works with cases from two magistrates’ courts in Inner London, both between conviction and sentence, and after sentence. CONNECT offers a wide range of restorative justice services from indirect mediation to conferencing. Justice Research Consortium (JRC) works on three sites in London, Northumbria and Thames Valley, using conferencing as the sole method. REMEDI provides mediation services, both direct and indirect, in South Yorkshire.

The key points emerging from the evaluation include:

- The three schemes were generally well-implemented. Victims were prepared to become involved with the schemes, with participation levels very high when cases involved young offenders.
- In those schemes where participants were given a choice of approach, indirect mediation was more commonly chosen than direct mediation or conferencing.
- Where victim and offender met, key participants (victim, offender and their ‘supporters’) spoke for relatively equal proportions of time. Facilitators were rated as impartial and not dominant.
- In 60% of the observed conferences run by JRC the offenders admitted quite a lot or a lot of responsibility for the offence. Almost all offenders showed remorse and offered apologies. Only rarely did the offender and victim disagree significantly about the responsibility for the offence.
- JRC conferences also had a focus on the future and, in particular, on what the offender should do to avoid further trouble.
The report also suggests that national guidance might be required as restorative justice approaches for adult offenders are developed. These should cover the obtaining of details about the victim, the confidentiality of what is said in a conference, the extent to which the proceedings should be private and role of the facilitator. For more information see http://www.homeoffice.gov.uk/rds/pdfs06/r274.pdf

**Vulnerable and Intimidated Witnesses**

Home Office Online Report 01/06 examines the provisions made for vulnerable and intimidated witnesses following recommendations made in the 1998 report 'Speaking up for Justice'. The report identifies two main continuing problems. The first is that many victims are not properly assessed as vulnerable or intimidated. Secondly, even when victims are correctly identified their needs are often not met: special measures are not provided or incorrect or unhelpful steps are taken. For example, the report discusses the advantages and disadvantages of measures such as the use of CCTV, screens and video-taped evidence in court.

The report makes a number of recommendations. It suggests that vulnerable defendants should be entitled to the same measures as vulnerable witnesses. It also argues for improved training so that police and prosecution staff are better able to identify vulnerable and intimidated witnesses. The report also argues for greater awareness of some of the less frequently used special measures, for example pre-court visits, the use of pagers (so that witnesses need not wait in the court building) and the removal of wigs and gowns. The Witness Service emerges as the most effective agency in the evaluation and the report argues that further thought should be given to its role and funding. It suggests that the Witness Service could exist as a more formal link between the witness and all the other agencies, relieving pressure on the police and acting as a single point of contact for a witness. The report ends with the reminder that a successful court case relies not just on the conduct of the court proceedings but also on the investigation and pre-trial stage, and that the needs of vulnerable and intimidated witnesses must be considered at these points too. The report, authored by Mandy Burton, Roger Evans and Andrew Sanders, is available at http://www.homeoffice.gov.uk/rds/pdfs06/rdsolr0106.pdf

**Advocates for Victims**

The government has announced plans to give families bereaved through murder and manslaughter a greater say in criminal proceedings. From April 2006 a pilot victims’ advocate scheme will run at five crown courts: Old Bailey, Cardiff, Manchester Crown Square, Winchester and Birmingham. This project is the government's response to a consultation exercise about the experiences of bereaved relatives. For a full account of this consultation exercise see http://www.dca.gov.uk/consult/manslaughter/manslaughter_resp.pdf

Announcing the scheme, the Lord Chancellor explained that victims’ advocates would make a statement to the court outlining the effect that the death and its consequences had had on the bereaved family. These advocates will either be lawyers or representatives
chosen by the family and granted right of audience by the judge. Lord Falconer concluded 'This is something that the families of victims of homicide cases need to have. It will give them a voice within the court process - something they have wanted for a long time and something they have deserve.'

National Reassurance Policing Programme
Home Office Research Study 296 reports an evaluation of the National Reassurance Policing Programme (NRPP) in England between 2003 and 2005. ‘Reassurance policing’ stems from an initiative in Surrey intended to address the gap between the public perception of rising crime and the falling crime rate.

The outcomes sought by the NRPP are:
• Reduced anti-social behaviour and improved quality of life.
• Reduced fear of crime and improved sense of safety
• Increased public satisfaction with, and confidence in, the police
• Improved social capacity.

The policing approach of the NRPP can be summarized as:
• Targeted police activity directed at the crime and disorder which matters in the neighbourhood
• Community involvement in the identification of priorities and decisions about the action to tackle them
• Providing visible, accessible and familiar authority figures in the neighbourhoods, particularly police officers and police community support officers.

The evaluation draws on data from six NRPP sites which were pair matched with control sites. However, the report notes that a variety of policing approaches were evident in the control sites and, as a result, some NRPP sites may have had a harder task in achieving statistically significant change relative to their controls. Outcomes were measured using police statistics and, principally, through a telephone survey in each site.

Comparing results from all six trial sites against all six control sites, the evaluation demonstrates that the NRPP had a positive impact on crime, perceptions of crime and anti-social behaviour, feelings of safety and public confidence in the police. There was not a clear increase in social capacity, with measures such as the willingness of neighbours to intervene and increased voluntary activity showing no change.

The report outlines a number of implications for policy, practice and research. It argues that a national roll-out of neighbourhood policing can be expected to deliver improvements in crime levels, public confidence, feelings of safety, fear of crime and perceptions of anti-social behaviour. This approach needs to go beyond public meetings and could include, for example, street briefings, door knockings and ‘have a say days’. The evaluation also suggests that neighbourhood policing approaches alone are not sufficient to improve public confidence in the police across the board. The report identifies the
useful contribution that cost-benefit analysis could bring to the debate about neighbourhood policing, explaining that this could not be achieved in this evaluation because of the lack of agreement about how to account for factors such as fear of crime or low public confidence. The report, authored by Rachel Tuffin, Julia Morris and Alexis Poole is available at http://www.homeoffice.gov.uk/rds/pdfs06/hors296.pdf

**Positive Futures - Impacting on Young People’s Lives**

Positive Futures is a sports-based intervention programme for young people across England and Wales intended to help those living in some of the most socially deprived neighbourhoods find routes back into education, volunteering and employment. The recently published third Impact report describes a number of the project’s successes. For example:

- 109,546 young people have been involved in Positive Futures since 2002, with more than 46,000 currently involved in projects
- between March and September 2005, 736 young people have returned to full time education
- over 4,000 participants signed up for, or completed, training or awards
- 509 participants have been involved in volunteering projects and around 600 have secured employment
- 50 per cent of project partners identified lower levels of drug use as a result of Positive Futures.

Crime Concern, the national crime reduction agency, will take over responsibility for the management of Positive Futures from April 2006. Priorities for the next stage of Positive Futures include supporting existing projects, communicating the success of the scheme and expanding the project further with backing from the commercial sector and other partners. The full report can be found at http://www.drugs.gov.uk/publication-search/183400/pf-impact-report?view=Binary

**Forthcoming Events**

**Mental Health and Crime**

Nacro’s 6th Annual Mental Health and Crime conference will take place at the University of Nottingham Jubilee Campus on 12th and 13th September 2006. The conference aims to explore how services for mentally disordered offenders can be fully integrated with mainstream criminal justice and health and social care arrangements. For more information, contact Anne Richardson on 020 7840 6466 or email: anne.richardson@nacro.org.uk
BOOK REVIEWS

THE CRIMINAL JUSTICE SYSTEM AND WOMEN: OFFENDERS, PRISONERS, VICTIMS AND WORKERS (3RD EDITION)


This textbook is intended to give the reader a broad introduction to women in the criminal justice system: as offenders, as prisoners, as victims and survivors of crime, and as workers in the criminal justice system. These four themes provide the structure for the book and ensure a wide and thorough coverage of the key issues. A long list of contributors, mostly academics but also activists, criminal justice practitioners and journalists, are responsible for the 36 chapters.

The first section of the book deals with theories and facts about women offenders. The book begins with an examination of the criminal law and its impact on women. Subsequent chapters examine the contribution of feminism to criminology and explore trends in female criminality and contemporary explanations of women’s crime.

Women and prison are the theme of the second section of the book which has a strong focus on the significant links between gender, race and nationality. For example, in chapter 11, Bhavnani and Davis examine the impact of racism and sexism on women prisoners in the Netherlands, Cuba and the United States. Ross, in chapter 13, considers the reaction of Native American women to their treatment in custodial settings.

Key areas such as domestic violence, rape and the trafficking of women to work in the sex industry provide much of the material for the third section of the book. A number of chapters explore the experiences of women as victims and survivors of crime. The section begins with an introduction written by Karmen in which he offers three different paradigms for victimisation. The input on domestic violence includes a chapter by West discussing partner violence in same-sex couples and a contribution by Griggs, who has served as a police officer, about domestic violence committed against the wives of police officers.

The final section of the book is about the women who work in the criminal justice system. A number of these final chapters are about women working as police officers, including particular contributions about black women and lesbian police officers. In addition, the
work of women as judges and as correctional officers is discussed by Toobin and Belknap respectively.

Throughout the book, the editors’ feminist commitment to scholarship, research and good practice in criminal justice is evident. Some contributors explicitly discuss the way that, as feminist researchers, they approached their area of study. For example, Bhavnani and Davis discuss the way that their background as activists and campaigners (and, in the case of Davis, former high-profile prisoner) both obstructed and facilitated their research. The impact of sexism on criminal justice is considered alongside the impact of racism, homophobia and classism on women offenders, victims and workers. Three chapters specifically deal with contrasting experiences of lesbians: as victims of domestic violence, as serving police officers and on death row.

The economic and political consequences of globalisation are also discussed in more than one contribution to the book. Kempadoo writes about prostitution and the globalization of sex workers’ rights. She outlines the way that the sex industry and sex tourism provide income for poor women already labelled by racism and ethnic stereotype as ‘exotic’ and ‘primitive’. Sudbury cites the consequences of globalisation, along with the expansion of the private prison industry and the US ‘war on drugs’, as key factors in the rise in the number of women (and, in particular, young black women) in US prisons.

This is an American text and, as a consequence, the examples, statistics and references are almost all drawn from the US criminal justice system. This means that the book is of limited use to UK students and their teachers. Certainly this is not the place to look for information about the criminal justice system in the UK, for statistics about women in British prisons or for references to UK government policy or research. That said, each chapter does conclude with questions and discussion points many of which would be relevant to UK students of criminology or criminal justice.

In conclusion and despite the comments in the previous paragraph, this book does contain much interesting material. It is a good source of evidence and illustration about the position of women, as offenders, prisoners, victims and workers in the US criminal justice system. The book discusses an impressive range of issues and types of criminal behaviour and, as a result, illuminates and challenges British responses to such diverse issues as the under-representation of women in the judiciary and people smuggling operations bringing young women to the UK to work in the sex industry. Throughout the book, the commitment of the editors to fairness and just treatment for all women is evident.

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YOUNG PEOPLE IN CARE AND CRIMINAL BEHAVIOUR


Claire Taylor offers a comprehensive insight into the ideology, policy and the practice of looking after and educating young people in care in Britain today. Taylor's research is predominantly based on 39 un-structured interviews, which were conducted over a 12 month period. Questionnaires were administered at the end of the interviews, in order to establish some of the basic facts for each individual for example age and gender. Taylor's cohort was accessed via connections that she herself had previously made within the care system; other potential interviewees were located with help from the probation service. The interviewees, between them, had a wide and varied experience of a range of care options available to parents and local authorities and the experiences, both positive and negative, put into a framework of analysis. The thrust of Taylor's argument is the identification of the broader governmental drive towards greater social inclusion, as underpinning the recent policy initiatives which focus on the care, education and protection of vulnerable children.

The central research question Taylor seeks to ask and understand surrounds the issue of children in care engaging in a disproportionate amount of criminal behaviour as opposed to children who have never been in care. Taylor rightly points out that not all children are predestined to enter into a life of criminality and asks the question as to, what are the underlying factors that lead to desistance from criminal activity and those variables that deposit children and young adults at the revolving door of the criminal justice system. The answers to these questions are teased out, using empirical evidence from the interviews and an analysis of current policy.

Drawing heavily on Hirschi's theoretical explanations surrounding the notion of attachment, Taylor offers many extracts from the interviews to back up the claim that the stronger the emotional attachment to the career, (which can only be forged over a substantial period of time) the greater the chances that the child in question will have of not engaging in sustained criminal activity. Taylor points to the fact that the most vulnerable children in society are sometimes also the ones identified as committing large amounts of minor and summary offences. In this way Taylor draws the readers attention to a complex picture in which a child may be caught up in the larger structures of society, namely the social services and the criminal justice system whilst also having to navigate their way as, successfully as they can, through a difficult and painful adolescence, which is a time when young people need support as they themselves find their own identities. The interviewees often pointed to the fact that they don't care what they do because no one
else seems to care either. Damaged by a system that labels and abandons, some of Taylor's cohort, seemingly inevitably descend into a life of drug fuelled criminality. However, Taylor herself takes the brave step in disclosing her own experience of being in care and writes in a positive way about her respondents that come across in their interviews as being mature, emotionally stable and possess a clear sense of themselves and the space they occupy in society. Taylor’s self disclosure almost certainly adds credibility and a sense of affiliation to a deeply suspicious and vulnerable cohort group. In the same vein, Taylor sheds an insight and understanding to her study in a way which other academics who do not share the same experience would find a gap in their personal empathy hard to bridge. However, I feel it must be stressed that Taylor’s empathy in no way compromises her objectivity.

Taylor’s book is written in a very clear and unambiguous academic style that most undergraduates will find easily accessible. This in no way detracts from the value of the study Taylor has undertaken. On the contrary, it is her accessible writing style that provides a clear pathway which signposts to the reader the complex interplay between the structural factors such as the care system with its subsequent interrelated policies and the inner struggles that each interviewee has to negotiate within themselves on a day to day basis in order to survive. Taylor demonstrates clearly the disjointed nature of some of the current policy, for example, the contradictions between the Children (leaving care) Act 2000 and the Crime and Disorder Act 1998. She suggests that these pieces of legislation have goals and outcomes which directly contradict each other, leading to some unintentional and negative outcomes reported by the interviewees. Allowing children as young as ten to be tried as an adult in matters relating to criminal offences has resulted in the UK government being criticised by the United Nations Committee on the Rights of the Child (2002). Such legislation only exacerbates an already complicated and worrying social problem.

The focus of the book is clearly at the micro end of analysis, dealing with individual interpretations of the care experiences. However, it must be pointed out that Taylor often alludes to the obvious fact that there is much work needed to be carried out on the overall structure of the care system. Whether this is making sure that the appropriate adults are employed in residential care homes and as foster parents or that children are given enough time to forge proper relationships based on mutual trust and support with their foster parents of care workers these are variables that Taylor herself identifies as being of paramount importance in a young person’s life trajectory. Stability is clearly needed, being moved around, often miles from other support networks such as extended family, has an obviously detrimental effect on a child’s development as a human being. It is this neglect of the structural issues that renders Taylor’s work less holistic than it could be. Having drawn the readers’ attention to the phenomena that allows society to cognitively link children in care and criminal activity, Taylor’s overall analysis could be further augmented by a wider exploration of the complexities underpinning Sumner’s (1990) work on the notion of ‘censure’. The role of censure theory, exemplified in Colin Sumner’s work (1990) clearly demonstrates the power element central to the issue of labelling and self
fulfilling prophecies which result in an individual internalising these negative labels attached to them thereby resulting in negative behaviour which only consolidates an individual's feelings of negative self worth. Whilst explicit reference to wider criminological and sociological theory was made this could have been more fully developed. This oversight in Taylor's structural analysis remains my only criticism on what is undoubtedly a worthy addition to the field of not only criminology but also social work and child psychology.

References

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BOOK REVIEWS

DRUG TREATMENT: WHAT WORKS?


The What Works? literature in respect of offending behaviour is well established – some might say too well established! This book is an attempt to develop an understanding of What Works? in relation to drug treatment. It is openly based upon the belief that drug treatment does work, although the editors point out that due to the paucity of research it is unclear how or why treatment works.

This book offers a timely contribution to the literature on drug misuse given the expansion of drug treatment within the UK criminal justice system. Three chapters set the overall context for exploring issues in drug treatment: In Chapter 1 the editors provide an overview of drug treatment and what works? arguing for more research and outlining the focus and purpose of the text. In Chapter 11 Paul Hayes Chief Executive of the National Treatment Agency (NTA) outlines the role of the NTA which was set up in 2001, while in Chapter 4 Michael Gossop, Director of The National Treatment Outcome Research Study (NTORS) provides an engaging and informative overview of developments in treatment and explores their effectiveness. The book also picks up on a number of topical issues, some of which are revisited in other chapters. Philip Bean (Chapter 12) explores the delicate relationship between drug treatment agencies and criminal justice agencies arguing strongly that control needs to be exercised over the drug using offender, and if treatment is to succeed drug agencies will need to work alongside law enforcement agencies. This point is picked up by John Carver (Chapter 8) in a disproportionately long chapter (36 pages) in which he argues passionately for more rigorous and more frequent drug testing. A key benefit he claims is that ‘it cuts through the denial and dishonesty that is so much part of addiction’ (p.143) Longshore et al (Chapter 6) examine the nature of coercive treatment and suggest that ‘coercion is a multidimensional phenomenon’ (p.118) and rarely if ever, can a person engage with any programme entirely ‘free’ from coercion from one form or another. Drawing upon their experience in the US criminal justice system Tammy Anderson and Lana Harrison (Chapter 10) argue for the importance of drug treatment programmes for drug using prisoners, suggesting that therapeutic communities (TCs) have most success.

The remaining chapters address a range of loosely related issues. Joy Mott (Chapter 2) provides an informative overview of clinical prescribing guidelines for opioid dependence. Ken Checinski and Hamid Ghodse (Chapter 3) continue with the medical slant towards treatment that dominates this book. They provide a helpful but all too brief summary of assessment and intervention strategies with different types of drug users. In a very readable and informative chapter Colin Brewer (Chapter 5) examines pharmacological treatment versus psychological treatment and persuasively argues the benefit of methadone maintenance (MMT). Nicholas Seivewright et al (Chapter 7) usefully explore ‘treating
patients with comorbidites' (p.123) referring to the combinations of drug and mental health problems, or drugs and HIV or Hepatitis C, but the chapter is short and therefore only able to give superficial coverage of the issues. The chapter by Philip Bean and Andrew Ravenscroft (Chapter 9) interestingly examines the treatment and control of ‘therapeutic addicts’ - that is people who have become addicted as a result of being prescribed drugs for their medical condition. The final chapter by Joris Casselman (Chapter 13) looks at enhancing motivation and is again frustratingly short (6 pages) but it provides some useful bullet points in respect of the cycle of change and motivational interviewing.

This book contains some interesting chapters well worth reading. It raises some important issues regarding the criminal justice/drug treatment partnership, and some aspects of treatment provision, but the reader is left feeling somewhat frustrated by the lack of coherence, order and focus of the book. To some extent it has an interesting focus upon treatment in the criminal justice system – but then seems to wander away from this in various chapters. Given that the book includes chapters on dual diagnosis and ‘therapeutic addiction’, it is a serious omission that there are no chapters on drug using parents, drug users from Black Minority Ethnic groups, and no chapter that looks at alcohol problems.

At the outset the editors suggest the book seeks to:

‘examine the philosophy of treatment and show how treatment can be improved. If that means altering existing structures, then so be it, and if it involves new ways of working, then all to the good. Treatment cannot be seen as the province of those undertaking the programmes; it has wider sociological implications which require consideration’ (p.11)

While to some extent it achieves this aim, it does so with a particular bias. Disappointingly the book contains scant reference to issues of social disadvantage, discrimination or social exclusion which are experienced by the majority of problem drug users. These are arguably key issues that need to be addressed if drug treatment is to be successful, and if social reintegration is to become a reality. Instead the book sees drug addiction as ‘the problem’, rather than a solution to serious underlying social and/or psychological difficulties. The medical approach that dominates this text is illustrated by John Carver who argues that drug addiction is ‘a complex illness associated with compulsive and sometimes uncontrollable cravings for drugs’ (p.145). This is further reinforced by language throughout the book which refers to ‘addicts’, ‘substance misuser’ and ‘patients’ in need of ‘treatment’.

Despite the medical model bias and the omissions, this book brings together some excellent authors who examine some important issues and provide a number of worthy chapters. However, overall this is an uneven book that contains a series of variable chapters that don’t adequately relate or connect together in order or content.

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As with the first edition, focusing primarily on the Probation Service, the book attempts to answer two central questions: firstly, is it possible to explain and theorise around community penalties in ways that do not constantly have to make reference to prison? Secondly, why despite wholesale attempts to ‘toughen up’ community penalties do they remain to be seen as ‘soft options’ by the public – poor substitutes for the only ‘real’ punishment. In addressing these issues in the first edition the authors argued that the public were unlikely to accept without scepticism any attempt to blur the boundaries between prison and the community. In re-examining these questions this publication is timely given the challenges or opportunities (depending on your reading of the future of such penalties) presented by both the Criminal Justice Act 2003 and the implementation of NOMS.

In attempting to answer these questions the authors seek to explore and unravel the complexities of the development and role of community punishments in the criminal justice system, the ‘goals’ which community penalties seek to achieve and also how non-custodial penalties are presented to and perceived by the public. However, the books structure and particularly the lack of a coherent, unifying narrative serves to limit the opportunities for meaningful engagement with these questions.

Part 1 of the book considers the main political and penal policy developments that have resulted in the reconstitution of community penalties from alternatives to punishment, through alternatives to custody and latterly to community punishments. In this discussion the authors highlight the background to and disintegration of the Criminal Justice Act 1991 and also, in this edition, the construction of notions of the punishing ‘community’ under New Labour and implications of the Criminal Justice Act 2003.

In considering the development of community punishment, however the authors go beyond a simple recantation of the main policy developments and seek to provide an analytical and critical account of the development of punishment in the community which both deconstructs its representation as a coherent policy response to crime and argues that the development of punishment in the community has always essentially lacked what it presents as central; namely the necessary political will to send fewer people
to prison. Framing discussion of the development and role of community punishment in these terms offers the opportunity for the authors to go some way to drawing conclusions around the central questions posed in the book. However, this is an opportunity that is, I would argue, only partially taken due to the relative lack of a coherent narrative between the chapters which may have served to more coherently and explicitly make these links and draw relevant conclusions.

This lack of unifying narrative is also discernible in Part 2 which addresses what can be achieved by community penalties primarily through a consideration of the changing role and tasks of the Probation Service. This section begins with a chapter which presents a general overview of the intertwined areas of changes to the organisational structure and organisational ‘goals’ of the Probation Service before proceeding to examine the changing nature of some of its key ‘tasks’ including report writing, community punishment and development of notions of ‘help’ in probation discourse. The book then offers two chapters which seek to examine changing attitudes to offenders using sex offenders and young offenders as illustrative examples.

Again the discussions strength lies in its efforts to go beyond charting significant ‘change events’ to incorporate a more critical and reflective account of these processes than that which is usually offered. However, again these chapters tend to read as discrete, unrelated sections and opportunities to relate this analysis back to the book’s central questions and attempt some resolution of these issues are lost. Also, whilst I would agree with the authors’ assertion that it is necessary to provide historical narratives where essential to contemporary understanding I would suggest that these chapters tend to be weighted more towards the former than is necessary and at the expense of more detailed discussion of some more recent developments and their implications for practice. The chapter on report writing for example whilst providing a comprehensive overview of the shift from Social Inquiry Reports to Pre-Sentence Reports provides relatively little discussion of the implications for assessment and report writing of the shift to generic community sentences under the Criminal Justice Act 2003.

The book concludes with a section around the future of community punishment. Given the book’s central preoccupations one might expect this section to draw conclusions and attempt some resolution of the central questions by offering a discussion of how the implementation of NOMS, with its blurring of prison and community ‘boundaries’, may impact on public perception (and acceptance) of punishment in the community. However, the book’s often incoherent structure which lacks a unifying, analytical narrative means that a timely opportunity to answer these questions and further academic discourse in this area is largely lost and the reader is left to speculate about the future. In the final concluding words the authors offer two alternative ‘readings’ of the future; one where speed of change and lack of direction means that NOMS will come to be seen as nothing more than another ‘governmental disaster’ and another, more positive reading where NOMS is the vehicle for ensuring that community sentences become the ‘default option’
for many offences, a reduction in reoffending and the prison population. Given the authors assertion that they are not convinced that despite the recent shift in government policy that public attitudes have become any more liberal or tolerant - or indeed quite the opposite, it is left to the reader to conclude that they see the future of community penalties to be as turbulent as their past.

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GOOD COURTS: THE CASE FOR PROBLEM-SOLVING JUSTICE.


While in many ways this is a useful book for those interested in the community courts movement, it is also irritatingly partisan (having been written by two people prominent in the US Center for Court Innovation, which has done much to encourage the spread of community courts). On the one hand, they know what they are talking about – but on the other, they are not by any means impartial, try as they might to deal with common criticisms.

It has other faults: it is highly repetitive, and written in a journalistic and at times anecdotal style. The latter is less of a problem in view of the authors’ scrupulous provision of references and evidence (although a high proportion of the references are to newspaper and magazine articles).

The authors give a revealing account of the history of the community court movement in the USA. It was largely born out of dissatisfaction with existing institutions. Judges were bored with the routine processing of huge numbers of plea-bargains (trials are comparatively rare), lawyers were disillusioned at doing deals for a living, public confidence was low, and in particular, communities with high rates of crime and incivility were desperate for something to be done. Community courts concentrating on low-level crime and social disorder were, in many people’s eyes, worth a try.

They argue that problem-solving approaches to justice in the USA are no longer marginal: they argue that the new approach is on the verge of a breakthrough, largely because of the successes achieved to date. They sift the evidence, and concede that it is too early to claim causal links between reduced street crime, improved levels of compliance with court orders, and increased use of community penalties in the case of all-round community courts. However, the specialist drugs courts which are the longest-running type of problem-solving courts have been carefully researched, and they can show evidence of reduced recidivism (especially for offenders who complete treatment programmes, but also for those monitored by judges), overall financial savings to the state, and improved employment rates for those who complete treatment.

In a sense, it is churlish to criticise the authors for relying upon anecdotes, because these are vivid and illustrate the book’s arguments well and in most cases they are backed up by references to the research evidence. The chapter which consists entirely of four individuals’ ‘stories’ is helpful in fleshing out the book’s abstract arguments. The case
studies of community courts in different parts of the USA serve a similar function at a different level.

The authors also trace the intellectual origins of the community court movement, drawing upon the victims' movement, 'broken windows' theory, community policing, alternative dispute resolution and therapeutic jurisprudence. Although this part of the book is relatively uncritical, it is perhaps unfair to expect a robust critique of, for example, the broken windows hypothesis from those leading the thrust towards changes based partly upon it: why would they bite the hand that feeds them, when so many others have done so quite effectively? As they admit, problem-solving courts, like the American victims' movement, “have made alliances across the political spectrum” (p. 43) which sometimes doubtless involve some very uneasy bedfellows.

The book is good value (although cheaply printed) and it does address many of the concerns which have been and are being expressed about community courts; the dangers of judicial paternalism, the transgression of offenders’ rights, the co-option of community ‘leaders’ and victims’ organisations. In some cases, problem-solving courts which began with the help of funding from benefactors convinced the local authorities of their usefulness and received mainstream funding. Having the advocacy of people like the authors of this book behind them must have helped – but it provides a valuable source of evidence about the American arm of the community courts movement.

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