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EDITORIAL

This is the tenth volume of the Scottish Journal of Criminal Justice Studies.

In this issue, our branch generated article was initially aired at a meeting of the Edinburgh Branch in November, 2003.

We again reprint the content of posters that were on display at the Annual Conference, and this year the full text of the main presentations are published instead a Conference Report.

In the final section, we reprint a note on the Objects and Membership of SASD, list the Associations’ Office Bearers and Branch Secretaries together with a note on how to start a new Branch, and publish our Chairman’s Report.

In future volumes of the Journal, I hope to continue to publish as articles those papers presented at Branch Meetings or Day Conferences that Branch Secretaries think are worth offering to a wider audience. Original articles will also be considered for publication. There is no copy deadline. Branch Secretaries are invited to send suitable articles to me (in Word2000 – or earlier versions - or in .rtf format) by attaching them to an email to me.

Jason Ditton
INTERNATIONAL REVIEW OF VICTIMOLOGY

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The Editors welcome contributions. Please write to Joanna Shapland, Department of Law, University of Sheffield, Crookesmoor Building, Conduit Road, Sheffield S10 1FL, U.K. (j.m.shapland@sheffield.ac.uk). Instructions for contributors are at http://www.sheffield.ac.uk/~islp

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The Irish Juvenile Justice System has until recently been based, as was once the Scottish system, primarily on the Children Act, 1908. This legislation was for its time extraordinarily liberal and innovative, being based on the concept of rehabilitation of the offender, early intervention and segregation from the adult criminal population and the effects of being labelled as a criminal. It had however been showing its age for some time, having been amended and supplemented in a piecemeal fashion by, for example, the Children Act, 1941, the Children (Amendment) Act, 1957, the Prisons Act, 1960 and the Child Care Act, 1991. In addition, various pieces of criminal legislation have provisions specifically aimed at juveniles (e.g. the Criminal Justice Act, 1984 and the Criminal Justice (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1984) while other legislation is used extensively, but not exclusively, for dealing with juvenile offenders (such as the Criminal Justice (Community Service) Act, 1983 and the Probation of Offenders Act 1907). In tandem with this rabbit’s warren of legislation various schemes, such as the Juvenile Diversion Programme, were in operation on a non-statutory basis.

The Children Act, 2001 serves both to consolidate and update many of these measures or put them on a statutory footing as well as introducing restorative justice and other innovative concepts to the Irish Juvenile Justice System. The essential thrust of the legislation is both to rehabilitate offenders and divert them from crime. This is achieved by spreading the responsibility and supports across the child, the parents or guardian, the criminal justice agencies and the health boards.

The Act will raise the age of criminal responsibility from 7 to 12 years. There will also be a rebuttable presumption that a person between the ages of 12 and 14 is incapable of committing a criminal offence because they did not have the capacity to know that the act or omission was wrong (as opposed to knowing that the act or omission was wrong).

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1 Children Act, 2001, s. 52 (1).
2 Children Act, 2001, s. 52 (2).
Family Conferences under Irish Legislation

Family conferences under the 2001 Act come in a variety of forms and may result from differing chains of events.

Family Welfare Conference

Part 2 of the Children Act, 2001 provides for the holding of Family Welfare Conferences. These result either from the Health Board being directed to hold such a conference following the child being charged with an offence where the court feels that it would be appropriate for a care or supervision order (under the 1991 Act) to be made and seeks the advice of the Health Board on the issue, or where the Health Board decides of its own volition that a child requires some sort of protection which it is unlikely to receive unless a court makes an order under Part IVA of the Act of 1991 (which was inserted by the 2001 Act). The function of the family welfare conference is to decide whether or not the child is in fact in need of this care or protection. If it decides in the affirmative then it recommends that the Health Board apply for an order under Part IVA of the 1991 Act. It may in the alternative make such recommendations to the Health Board as it sees fit, including that it should apply for a care or supervision order under the 1991 Act.

The Health Board appoints a chairperson to convene the family welfare conference and those who may attend include the child, their parents, guardian or guardian ad litem, other relatives of the child, officers of the health board and any other person who in the opinion of the co-ordinator, after consultation with the parents or guardian of the Health Board, would make a positive contribution to the conference. Any of these persons may be excluded if the co-ordinator feels that their presence is not in the best interests of the child. The family welfare conference regulates its own procedures and it is up to the co-ordinator to ensure that any information required by the conference is made available to it.

Although the family welfare conference may make specific recommendations as to what order, if any, should be made, it appears from a

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3 Children Act, 2001, s. 77 (1).
4 Children Act, 2001, s. 7 (1) (b).
5 Children Act, 2001, s. 8.
6 Children Act, 2001, s. 9.
7 Children Act, 2001, s. 10.
literal reading of the statute that the Health Board may apply either for an order under Part IVA of the Act of 1991 or a care or supervision order or simply "provide any service or assistance for the child or his or her family as it considers appropriate", although this latter course of action must be with regard to the recommendations of the conference. Where the conference was convened following a direction of the Children Court, the Health Board must communicate with the Court that it is applying for a particular order, or, if it is not, its reasons for not doing so and the details of any assistance it has or intends to provide to the child and its family and any other action it intends to take with respect to the child. It is then open to the court to dismiss the charge against the child on its merits if it considers it appropriate to do so.

Conference - Diversion Programme

A conference may also be held under the provisions relating to the Diversion Programme under Part 4 of the Act. This Part puts onto a statutory footing a scheme that has been in operation since 1963. The aim of the scheme is to deal with juvenile offenders in a way that avoids labelling them as criminals and putting them through the formal criminal justice system. To this end, rather than formally charging the offender, a formal or informal caution is issued to the offender, the child is placed under the supervision of a juvenile liaison officer (JLO) and a conference, attended by the child, family members and other concerned persons, is convened.

This is dependent on the offender "accepting responsibility for his or her criminal behaviour" and the offence in question not being one which is excluded by virtue of its serious nature. When the caution is being administered the victim of the crime may be present if they have already expressed a view on the child’s criminal behaviour prior to the decision on admission to the programme. If the victim is present there is to be a discussion amongst those present about the child’s criminal behaviour. The member of the Garda Síochána administering the caution may invite the child to apologise orally and/or in writing to the victim and to make financial

8 Children Act, 2001, s. 13.
9 Children Act, 2001, ss. 13, 77 (2) and (3).
10 The difference between them is that a formal caution is issued in a Garda Station while an informal caution is normally issued in the child’s place of residence. The type of caution to be issued depends on the Director (of the Diversion Programme)’s opinion as to the seriousness of the child’s behaviour: Children Act, 2001, s. 25.
11 Children Act, 2001, s. 18.
12 Children Act, 2001, s. 47 (c).
reparations to the victim. Where a child has received a formal caution they are placed under the supervision of the JLO for 12 months, and where an informal caution is issued this period is 6 months. This period of supervision terminates when the child is subsequently found guilty of an offence.

Once the child is under supervision, a conference may be held following the written recommendation of the JLO, the consent of the Director and the child’s parent or guardian, and the receiving of the views of the child concerned as well as their victim. The decision of the Director is to be based on the report to him of the JLO, their belief that a conference would assist in preventing the child from committing further crimes, the views of the victim, whether the victim would attend or not, the interests of the community in which the child resides as well as any other matters the Director feels are relevant. It is a pre-requisite of the holding of the conference that the child and their parent or guardian indicate that they will attend it.

The purpose of the conference is to bring together the child, their parent or guardian and such family members, relatives and other appropriate persons, together with the facilitator in order to

(i) determine why the child got involved in the behaviour leading to them being admitted to the Programme,
(ii) discuss how those present or any other person could help prevent the child being further involved in such behaviour, and
(iii) (where this is relevant), review the child’s behaviour since they were admitted to the programme.

In addition it may serve to mediate between the child and their victim and to address the concerns and interests of the victim. Formally its primary function could be regarded as the drawing up of an action plan.

Once it is decided to hold the conference, the Director will then appoint a facilitator to convene it (the JLO or another member of the Garda Síochána). The child is entitled to attend, as are the parent, guardian or

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14 Children Act, 2001, s. 27.
15 Children Act, 2001, s. 30.
16 Children Act, 2001, s. 29.
17 Children Act, 2001, s. 31.
other relative, although their attendance is subject to the facilitator being of the opinion that they would make a positive contribution to the conference. Interestingly, once the facilitator is of such a mind, the conference cannot go ahead in their absence once they are invited, although it would appear that the failure of the child to attend would not have such a consequence.\textsuperscript{18} The facilitator may also invite other persons they feel would make a positive contribution including representatives of the health board, the probation and welfare service and the child’s school. They must invite the victim and any friends or relatives that the victim wishes to be present, unless the facilitator is of the opinion that their presence would hinder the conference.

The facilitator may also invite anyone else requested by the child or their family as well as anyone involved in research into conferences or their equivalent outside the State.\textsuperscript{19} Once the conference is convened, the facilitator may exclude anyone whose presence is not in the best interests of the conference or the child.\textsuperscript{20} It is the function of the conference to consider whether the period and level of supervision of the child should be altered in the light of such matters as the education, training and employment of the child, their leisure time activities, their relationship with their family and the local community, their attitude to being supervised, their progress under supervision and their attitude towards their criminal behaviour and in particular to the victim of the behaviour.\textsuperscript{21} The parents or guardians of the child, together with the child and anyone else present at the conference may formulate an action plan for the child.

This must be agreed unanimously by all at the conference, with the caveat that the disagreement of a person may be disregarded where the facilitator regards it as unreasonable. The matters that may be provided for in an action plan include the child apologising to the victim, making reparation to the victim (although the section would also seem to allow the reparation being made by their parent or guardian), getting involved in "appropriate" sporting or recreational activity, attending school or a place of work, being home at specified times, staying away from specified place (s) and / or persons. Once it is agreed, the facilitator has to draw up the action plan in a language that the child understands and have it signed by the child (where possible), the chairperson and one other person present.

\textsuperscript{18} Children Act, 2001, s. 32 (1) and (2).
\textsuperscript{19} Similar provision under Scottish legislation.
\textsuperscript{20} Children Act, 2001, s. 32 (3), (4), (5) and (6).
\textsuperscript{21} Children Act, 2001, s. 38.
The persons present at the conference may then appoint one or more of them to implement and monitor compliance with the action plan. The facilitator must then appoint a date for a conference to review the action plan.\textsuperscript{22} It is not necessary that an action plan be agreed.\textsuperscript{23} After the conference has been held, the facilitator then conveys to the Director the terms of any action plan agreed, the matters which were discussed at the conference, the views of those present as well as those of persons unable or unwilling to attend and makes their recommendation as to whether the level or duration of the supervision should be varied.\textsuperscript{24} The Director then makes a decision on this matter.\textsuperscript{25}

The admission to the Programme of a child in respect of criminal behaviour constitutes a bar on prosecution for this behaviour\textsuperscript{26} and any acceptance of responsibility for this criminal behaviour, the behaviour itself or the child’s involvement in the programme for that behaviour shall not be admissible as evidence in any civil or criminal proceedings.\textsuperscript{27} In addition, any information, statement, or admission made in the course of the conference or the contents of any report of the conference shall not be admissible in any court.\textsuperscript{28}

**Family Conference**

Part 8 of the Children Act, 2001 (Proceedings in Court) provides for the holding of a family conference where the child has been charged with an offence in any proceedings and has admitted responsibility for their criminal behaviour.\textsuperscript{29} If the court feels it is desirable that an action plan should be formulated at a family conference and the child, as well as their parent or guardian or other relative, agree to attend and participate in the conference, the court may direct the probation and welfare service to convene a family conference. The court will then adjourn the proceedings until the conference has been held and may direct that the conference consider such matters relating to the child as it feels appropriate.\textsuperscript{30}

\textsuperscript{22} Children Act, 2001, s. 39.
\textsuperscript{23} Children Act, 2001, s. 40.
\textsuperscript{24} Children Act, 2001, s. 41.
\textsuperscript{25} Children Act, 2001, s. 42.
\textsuperscript{26} Children Act, 2001, s. 49.
\textsuperscript{27} Children Act, 2001, s. 48.
\textsuperscript{28} Children Act, 2001, s. 50.
\textsuperscript{29} As Walsh, D., in “A Sourcebook on Juvenile Crime and the Criminal Justice System in Ireland”, a forthcoming publication of the Department of Justice, notes, this could include where the child is found guilty after pleading not guilty. Further, there is no requirement on the court to consider the holding of a family conference as an option.
\textsuperscript{30} Children Act, 2001, s. 78.
The purpose of the family conference is the same as a conference under the Diversion Programme. The probation and welfare officer must invite the victim of the criminal behaviour to the conference. The provisions relating to those who are entitled to attend are the same as those for conferences under the Diversion Programme. The family conference then convenes in an effort to formulate an action plan for the child. The provisions relating to the formulation of an action plan at a family conference are the same as those for a conference under the Diversion Programme. The probation and welfare officer then submits the action plan to the court if one was devised, but may also apply for an extension to the time to make an action plan, or alternatively may inform the court that no conference was held and it is unlikely that one would be held. The court may approve or amend the plan, setting a date for review of compliance with the plan and then order that the child comply with it and be supervised by a probation and welfare officer.

Where approved, the action plan must be in a language that the child can understand. Where no action plan was made, the court may devise its own action plan or alternatively resume the proceedings against the child. Where an extension is applied for, the court may grant it or again, may resume the proceedings. If the child fails to comply with the action plan the probation and welfare officer may apply to the court to resume the proceedings, and the court will do so if satisfied that the child has without reasonable cause failed to comply with the plan. At the review of the action plan, the court may resume the proceedings and may dismiss the charges if it is satisfied that the child has complied with the plan.

As with a conference under the Diversion Programme, any information, statement, or admission made in the course of the conference or the contents of any report of the conference shall not be admissible in any court. However, as Walsh notes:

"The family conference is much more firmly rooted in the criminal process, but incorporates a substantial measure of restorative justice methodology."
Comparison with Children’s Hearings

As with the Hearing system, the adjudication and disposition of the child’s case are separated. It could be argued however that the Irish system is somewhat more integrated with the judicial process than the Scottish one. The Irish system also differs in that there is less frequent review of the cases / action plan and it is only the chairperson / facilitator / probation and welfare service who may call for interim review, and this takes place when it is felt that the action plan is not being complied with rather than for any other reason e.g. that subsequent events would have the effect that the action plan agreed is no longer suitable as opposed to not being complied with. The Scottish system on the other hand allows a child or any relevant person to require a review of the supervision requirement from 3 months after the imposition of the requirement.  

A different attitude is taken under both systems with regard to the involvement of the community concerned. There is greater room for input from the community under the Irish system, as the interests of the community are to be taken into account when determining whether a conference under the Diversion Programme is to be held and the child’s relationship with the community is supposed to be taken into account in determining the duration of supervision. In theory, representatives from the community could also be invited to attend a conference, and perhaps a practice will develop of doing so.

The Scottish system could be regarded as scoring higher in this respect as the members of the panel are lay persons (though not necessarily representatives of the community concerned) while community representatives may also be invited, in contrast to the Irish conferences which are likely to be more heavily populated by those who are directly or indirectly employed by the State, towards whom the child may have a less than open predisposition. It is submitted that any advantage that the Scottish system has over the Irish one in this respect is outweighed by the absence of

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42 Under s. 32 (3), as the list is not exhaustive. This section applies also to Family conferences under Part 8. Similarly, it would be open to the co-ordinator of a Family Welfare Conference under Part 2 to invite representatives of the community: s. 9 (1)(f).
43 Rule 13 (d) of the Children’s Hearing (Scotland) Rules, 1996 allows ”any other person whose presence at the hearing may in the opinion of the chairman be justified by special circumstances” to be invited.
a specific requirement to take the interests of the community into account as although the Hearing may consider "any other relevant information" the emphasis is on the interests of the child rather than those of the community.\textsuperscript{44}

The systems are also similar in that the child has a right to attend the conference / hearing and the views of the child are to some extent taken into account. The views of the child receive greater attention in the Scottish legislation, but although its specifies that age and maturity must be taken into account, there is no reference to the impact the level of maturity of the child has on the extent to which their views must be taken into account.\textsuperscript{45} On the one hand, the Irish system could result in mere lip-service being paid to the views of the child, or on the other it could be seen as simply being more flexible.

The Irish system uses a more heavily delineated system that the Scottish one, having three separate forms of conference, each precipitated through a different system at different stages of the criminal justice process. This could be interpreted as being over-complex, or alternatively more targeted.

The Irish system does not envisage an appeal from the decision of a family welfare conference or that of a conference under the Diversion Programme though the action plan of a family conference is subject to approval of the court. The Scottish system allows appeals to the sheriff on the grounds of referral, but the supervision requirement does not appear to be subject to review.

**Other Irish Initiatives**

**Garda Special Projects**

Garda Special Projects are a non-statutory attempt to tackle vandalism, public disorder and alienation between the Gardaí and young people in Local Authority housing areas. They form a partnership between the Gardaí, the Probation and Welfare Service, youth service organisations and local communities. The projects are proposed initially by the youth service organisations in tandem with the local community and the Garda Síochána. The Garda Community Relations Service then evaluates the projects and

\textsuperscript{44} Children (Scotland) Act, 1995, s. 16.
\textsuperscript{45} Children (Scotland) Act, 1995, s. 16.
submits them to the Department of Justice, Equality and Law Reform for approval for funding (with the money coming out of the funds allotted to the Garda Síochána).

The projects are managed by an advisory committee made up of youth services, local Gardaí, members of the Probation and Welfare Service and local community. There are currently 35 such projects in operation around the country. The schemes are characterised by being principally concerned with working with the offenders who have been referred by the Garda juvenile liaison officer. The nature of the intervention can vary from one scheme to another. For the most part they involve the provision of leisure and recreational activities combined with counselling and literacy/numeracy coaching aimed at the personal development of the individual. A review of these projects in 2000 concluded that the projects have a positive impact on young people and are worth retaining.

**Arrest Referral**

The North Inner City Drug Task Force is currently evaluating an arrest-referral programme targeted at young drug users. Arrest referral programmes involve the use of arrest referral workers who are present in the Garda station. When someone is arrested they are interviewed and assessed. They are then referred - on the basis of the assessment - on to (or sometimes merely provided with information on) a variety of services ranging from drug rehab clinics to sporting activities. It will be interesting to see the results of this project as experience in the U.K. has been that the target group is one that does not respond quite so well to this type of initiative.

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46 Walsh, D., "A Sourcebook on Juvenile Crime and the Criminal Justice System in Ireland", a forthcoming publication of the Department of Justice.


48 Drug Task Forces involve members of community, voluntary groups and elected officials working with Government agencies to come up with new and more effective programmes of education, awareness, prevention and treatment to combat drug abuse.
"Copping On" Crime Awareness Initiative

The Copping On initiative was developed by the Youthreach programme in an effort to reduce the incidence and risk of offending amongst early-school-leavers. It aims to do so by bringing to young people an awareness of the consequences of offending, improving the relationship between young people and the Gardaí and providing a framework for the target group to understand and critique the criminal justice system. It differs from the diversion programme in that it generally deals with groups of young people rather than dealing with them on a one-to-one basis.

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Producing Order from Disorder

by

Lord Woolf, The Lord Chief Justice of England and Wales

Introduction

It is with diffidence that I address you this morning. I have to admit my knowledge of the Scottish criminal justice system is modest but what I do know of the system indicates it is significantly better than the system south of the border although we have problems in common such as prison overcrowding. I hope this will make what I have to say of some relevance.

I propose to use my allotted time by:

1. First taking you on rapid voyage round the house of horrors that we have managed to create by our present approach to sentencing in England and Wales, this is certainly a situation of disorder.
2. I then identify what I believe to be the principal explanations for this situation being created.
3. Finally, I try to identify what we should be doing in England and Wales to rectify that situation – that is by creating order. As to this I believe we may have the best opportunity in nearly 50 years to do something about it.

Before embarking on that task I emphasise that my remarks are not intended to be critical of those engaged in the criminal justice system in England and Wales, let alone Scotland. On the contrary, I admire highly what our police, our Prosecution Service, our Court Service and judiciary, our Prison Service and Probation Service are achieving in extraordinarily difficult circumstances. The present situation is not due to any default on their part. It is due to the fact that they have been implementing a long-standing approach to criminal justice, for which they are not responsible, which has created the current position.

The father of criminology, Sir Leon Radzinowicz, wrote a book at the age of 92 in which he stated that, "no meaningful advance in penal matters can be achieved in contemporary democratic society so long as it remains a topic of
political controversy instead of a matter of national concern." I suppose you have to reach that age to recognise what should be glowingly obvious.

Another of his remarks was that, "much good can be achieved in promoting progress and readjustments in the penal system, not so much by putting on the agenda of reform huge, ambitious schemes of "reconstruction" but by coming to grips with a series of much more limited and much more precisely defined topics in response to certain obvious, yet not adequately satisfied needs."

As to the first of those remarks of Sir Leon, it is my view that my jurisdiction has suffered too long from sentencing being a topic of political controversy and now the time is ripe for it to become a matter of "national concern". I do however detect almost perceptible signs that there is a convergence taking place between the politicians as to what should be the approach to criminal justice. This could result in greater order.

As to Sir Leon’s second remark; although I am of the opinion that what needs to be done could significantly improve the present situation, what is involved is a refocusing of the criminal justice system rather than its "reconstruction".

**The Current Position in the UK – the Horror Story**

There have been at least three recent reports relevant to sentencing in England and Wales, each of which makes extremely depressing reading. Each report describes a situation where it is quite apparent that our present sentencing policies are not working. They are failing to deliver what should be the primary role of the criminal justice system – the protection of the public by reducing crime.

Let me start by telling you some worrying facts about the position, facts which have now become commonplace. There are, as at 7 November 2003, over 74,243 prisoners within our prison system (an increase of approximately 30,000 in the past 10 years). England and Wales imprisons a larger proportion of its population than any other country in the European Union – by September 2002 137 people in every 100,000 were in custody (I

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1 By far the most important, was the Halliday Report, *Making Punishments Work: Report of a Review of Sentencing Framework for England & Wales*, published in July 2001. The second was a report produced by the Social Exclusion Unit of the Cabinet Office and finally, there was a report issued by the Public Accounts Committee.
note that the equivalent figure for Scotland is 129). There is a particularly disturbing trend in the UK in relation to the female prison population which has risen by over 50% in less than three years.

The average cost of a prison place in the UK is £36,258 per year. Overcrowding is excessive, despite a building program (since 1995) which has cost £1.28 billion and has produced 12,000 extra places. Because the system is overcrowded, prisoners are once more being kept in police cells, the costs of which amount to no less than £300 per night (providing an interesting perspective on the costs of our rooms here).

Almost 3/5ths of all prisoners in England and Wales are re-convicted within two years of their release. For younger prisoners and those serving short prison sentences, the reconviction rates are even higher. The expense caused by re-offending by ex-prisoners is staggering. A re-offending ex-prisoner will, on average, be recorded as responsible for crime costing the criminal justice system £65,000. While a significant sum in itself, this cost is a fraction of the actual expense caused by re-offending since recorded crime accounts for only 1/4 to 1/10 of total crime.

75% of prisoners leave prison without a job, 30% leave prison homeless, 50% of prisoners have poor literacy skills, 65% have poor numeracy skills and are usually unemployable. Those re-convicted will have received a further three convictions within two years, 70% of prisoners are not released to education, training or employment.

From what appears in the Annual Report, published by your Prison Inspectorate in September this year, there are obvious parallels between the position in Scotland and that south of the border. The Inspector referred to your prison population reaching an all time high of 6,723 in May last year. This is a lower but similar rate of increase to that in England.

As Dr McLellan makes clear, you are also suffering from the affects of chronic overcrowding. This has an impact on vulnerable prisoners, access to work and re-education. In Scotland, as in England and Wales, there are plans to improve and increase accommodation as well as to build new prisons but as Dr McLellan also notes this will not solve the problem since the new buildings will simply replace old buildings and in any event will not keep up with the expected increases in prison numbers.
These shortcomings are particularly unfortunate because there is now clear statistical evidence that, if prisoners have a home and a job to go to on their release, it is very much less likely that they will re-offend. It is also extremely depressing that these shortcomings should arise at a point in time at which the prison service has developed considerable skill in education, training and tackling offending behaviour in order to reduce the likelihood of a prisoner re-offending after release. They are also given resources and time to enable them to tackle substance abuse for example. What is needed is the elimination of the causes of the offending. For example, especially in the case of short sentences deprivation of liberty cannot be expected to eliminate the causes of drug addiction. Unfortunately, the combination of overcrowding, the lack of resources and an inability to release a prisoner back into the community with the necessary support, means that, all too often, either the education and training and or treatment is not provided or, if it is, it is wasted because of lack of continuity either within prison or on return to the community.

The problem of overcrowding in prisons is a cancer eating at the ability of the prison service to deliver. It is exacerbated by a large number of prisoners who should not be there, the most significant group being those who are sentenced to less than 12 months imprisonment. It is now accepted on all sides that prisons can do nothing for prisoners who are sentenced to less than 12 months. In many of those cases, the prisoners could have been punished in the community. If prison was what was called for, the most appropriate sentence would be one of no longer than one month, to give the offender the experience of the "clang of the prison door".

I hope you will agree that the situation I have just described is deeply depressing – not unfairly described as a horror story. It is made more depressing because it has been brought about despite a remarkable deluge of legislation. As to that legislation, I share the distaste expressed in the preface to the 2002 Archibald when it states:

"there have now been 85 statutes dealing with crime and criminal justice since the beginning of the 1980s...How much of it was necessary? How much was based on research evidence? How much was cost effective? A further question might be added: How much has survived? The answer to the majority of these questions is very little. The ever increasing pace of legislative change on the field of criminal justice is a scandal."
As is pointed out, by the 2003 Archibold, the legislation still continued. Included in that legislation is the Criminal Justice Bill, which is just finishing its passage through Parliament. As you are about to hear, the provisions on sentencing contained in the Bill I welcome apart from one particular provision which I regard as singularly unfortunate. This is the statutory guidelines for murder which increase the tariffs substantially for reasons it is difficult not to attribute to political motivation of the sort that that Sir Leon disapproved.

The Impact and Causes of Prison Overcrowding

The fact that the situation in the UK is so unsatisfactory is surprising. We have, in relation to many areas of offending, identified constructive ways in which to tackle offending behaviour on the part of a substantial number of those convicted of criminal conduct. I have already referred to the positive effects of education, training and providing accommodation and employment on release. In addition, our Probation Service can today play a much greater role in assessing the risk of an offender re-offending. We also have a prison service that is capable, if given the opportunity, of not only warehousing prisoners but of sending them back into the community better equipped to avoid re-offending.

Undoubtedly, what has gone wrong is connected with overcrowding in our prison system. It is a central problem which makes progress virtually impossible. If the number of prisoners that the courts are sending to prison is in excess of the number that the prisons can both accommodate and deal with constructively, then you have only three choices. (1) You build more prisons to accommodate the number of prisoners being sent to prison, or (2) you reduce the number of prisoners being sent to prison (or you both build more prisons and reduce the number of prisoners) or (3) you continue to send more prisoners to prison than the prisons can accommodate and accept the consequences. There is, I suggest, no further option. In practice there is no real alternative to the 2nd choice.

On the judges’ behalf, I am prepared to accept some of the blame for increases in the prison population. (You cannot say I’m not objective!). Judges on occasion impose imprisonment when they should not have done so and impose higher sentences then they should. However, there are relatively few cases where the sentences imposed are higher than the going rate (the going rate being the sentence which is appropriate for the criminal
conduct of the particular offender). But, if it is the going rate that is the problem, why do the judges not reduce the going rate? In order to answer that question it is necessary to understand how the present going rate has become increasingly punitive over recent years.

The fact is there has been continuous upward pressure, and very rarely any downward pressure, on the level of sentences. The upward pressure comes from public opinion and the media, the government of the day and Parliament. I suspect that when, usually in response to a sensational crime, Parliament, at the behest of the Government, increases the maximum sentence for that crime, it is not generally appreciated that this will have an effect on the going rate for all sentences for that crime and indirectly for other crimes as well. When the maximum sentence is increased, the judiciary, as their guideline judgments show, take that as an indication that Parliament wishes all sentences for that offence to be increased. This increase then has an indirect effect on other offences because of the need to keep sentencing for different, but similar, offences in proportion with each other.

Thus, when Parliament doubled the maximum sentence for cases of death by dangerous driving, sentences for all such cases were pushed up and there was a knock-on effect on sentences for dangerous driving cases without death as an aggravating factor. Indeed, in my recent guideline judgment I referred to the gap that had arisen between the maximum sentences for the two offences and I had to indicate my support for an increase in the maximum sentence for the less serious offence to address the anomaly. My reasoning being if you have terrible driving resulting in someone being maimed for life the gravity of the crime is not much less serious than if death had resulted.

In addition, Parliament has, also at the behest of the Government, increased the proportion of the sentence served in prison and the period during which an offender can be recalled to prison. It has also provided for extended sentences and mandatory and minimum terms both of which have an upward effect on the prison population though the motive for imposing them is to protect the public.

Finally, the fact that the Attorney General can and does appeal against unduly low sentences has a direct and indirect upward effect – directly, on the individual sentence referred by the Attorney and, indirectly, on other sentences for the same and similar offences. The increasing number of
guideline judgments and Attorney General’s appeals also have a damping effect on the sentencing judges’ discretion to depart from the guideline because of the particular circumstances of the defendant in the case. Sentencing does not always have to be consistent with some hypothetical norm or general rule.

If sentences have increased in this way, should not the judges now decrease all sentences because of the conditions in our prisons? Our judges, when sentencing in individual cases, can and should take into account the situation within the prisons, but I doubt whether action reducing sentences across the board can be taken by anyone other than Parliament. However, it is possible that Criminal Justice Bill now going through Parliament will provide the means of turning back the tide.

My own experience, when issuing recent sentencing guidelines in respect of domestic burglary, confirms this. I suggested no more than a change of emphasis in relation to burglaries by first time offenders where there were no aggravating features, but my guidelines prompted a howl of outrage from the media which interpreted them as a general amnesty for all burglars which was far from being the case.

The burglary guidelines were contained in a judgment in the cases of William James McKinerney and Stephen James Keating. The court appreciated the sensitivity of saying anything which indicated a less punitive view of the appropriate sentences for domestic burglaries. However, there had previously been public consultation as to the recommendations of the Sentencing Advisory Panel which we adopted in general. The problem arose in relation to low level burglaries committed by first time domestic burglars and for some second time domestic burglars. For those the Panel and the Court recommended a community sentence unless there were one of the identified aggravating features.

The response was surprising because we had tried in our judgment to set out our reasoning with particular care. We had explained that all burglaries were serious and the shortcomings and the reality behind a prison sentence of 12 or for that matter 18 months. We indicated the downside of a short prison sentence. It can result in the offender losing their home and the fact that 2/3rds lose their job and over 1/5th face financial problems and over 2/5ths lose contact with their family. We laid particular emphasis on the report of the Social Exclusion Unit which indicated that there were real dangers of mental and physical health deterioration and prisoners being introduced to drugs.
We, therefore, in respect of domestic burglaries displaying most of the features of the standard domestic burglary but additionally one of the "medium relevance factors" suggested a community sentence should be imposed, "subject to conditions that ensures that the community sentence is (a) an effective punishment and (b) one in which offers action on the part of the Probation Service to tackle the offenders criminal behaviour and underlying problems such as drug addiction. We added, if, and only if, the court is satisfied the offender has demonstrated by his or her behaviour that punishment in the community is not practical should the court resort to a custodial sentence."

The reason I draw attention to the guidelines which are dealing with less serious burglaries (all burglaries are serious) is because in relation to the graver offences, the new guideline in fact increased the sentence. However, that this is the position was entirely ignored by the majority of the media. The general nature of the reporting suggested that we were recommending that no burglar should ever be sentenced to prison again.

I draw attention to this episode, not because of any personal concern but because it does illustrate the difficulty that the judiciary will have in persuading the media to cease encouraging the public to demand imprisonment for longer and longer periods. The unfortunate fact is that we were advocating in the appropriate cases community punishment, this was regarded as a complete let-off.

Here, rethinking is necessary. It is, therefore, opportune that thanks to the support of the Esmee Fairbairn Trust, under the direction of Rob Allen, there is being conducted a programme of research which is entitled "Rethinking Crime and Punishment". As part of the project Lord Coulsfield, as you know, is conducting his independent inquiry into "Alternatives to Prison". It is due to report by the summer of 2004 and I have little doubt that the report will be of considerable value. In the meantime, there has been published results of research conducted by the Open University that analyse how the media shape public knowledge about and attitudes towards different types of sentencing. The results do not make encouraging reading. Here are some examples:

"Almost all respondents regarded the criminal justice system with contempt and cynicism. It stood accused of being ineffective and soft on crime at a moment when crime was perceived as not only on the increase but spiralling out of control."
"Sentencing and sentencers were one of informants' greatest area of ignorance."

"Community sentencing (like collecting rubbish or wiping out graffiti) is seen as "soft" and as a "joke" that doesn’t work."

"The punitive rhetoric expressed by informants is articulated in a emotive terms and tends to be passionately felt rather than necessarily rationalised or thought through carefully."…"Punitive attitudes are often articulated through the language and phrases of tabloid and mid-market newspapers."

However, they do think about "the idea of alternatives to imprisonment for many crimes".

"Viewers' knowledge and attitudes appear to be shaped more by fictional media…coupled with their personal experience."

Without awaiting the Coulsfield Report, it is clear that considerable work needs to be done to educate the public as to the value of community sentences.

We must improve public confidence - convincing the public that there are meaningful alternatives to long prison sentences by the us of, in appropriate cases, community penalties. This is probably the biggest challenge that faces us today. Yet despite the responses to which I have just referred, other studies do indicate that when the members of the public are told the facts of a particular case and particular offender they normally suggest similar or less punitive sentences than our judiciary would impose.

Unfortunately, the popular media's campaigns that are damaging to public confidence are often not based on the facts. It is extraordinarily difficult to obtain the support of the popular media for more rational sentences.

A change of rhetoric from all the principle political parties could change the situation. Irrefutable evidence that alternatives to imprisonment, in the right cases, do achieve better results could also help. We need a campaign to win hearts and minds.
New Approach

I turn to the new approach.

1. The new approach must be holistic. We need to involve all the principal agencies, including the police, the prosecution, the courts, the judiciary, the Probation Service and social and medical services. We have to continually remind them and the public that the Home Office itself is projecting a prison population of between 91,400 and 109,600 prisoners by 2010. A further quantum leap in the prison population which there are no plans to accommodate. We need to abandon the approach of the Mikado. We should not conclude that if the punishment fits the crime this means that the situation is "an object all divine".

2. There needs to be a rethinking of the emphasis we place upon punishment. Punishing the guilty is no more than a part of a sensible objective for a criminal justice system. More important is the broader purpose of achieving greater protection of the public. Punishment contributes to this objective but does no more than that. If the punishment also unnecessarily contributes to overcrowding, then it should be regarded as counter-productive. We need to keep repeating the message that this country has now the highest imprisonment rate in the European Union at 139 per 100,000, taking over from Portugal which has an imprisonment rate of 131 per 100,000. That our prison population is 45% higher than Germany and 63% higher than France. That the increases in the women population is even more dramatic. We also have to stress the cost.

3. The police and prosecution and the courts must work together. The Attorney General is committed to involving the prosecution more in the sentencing process. The shape of prosecutions can be influenced in part by the need to obtain, not only the conviction of the offender but a sentence after conviction which properly reflects what protecting the public requires. The objective of the prosecution in framing charges and in the conduct of the case in addition to obtaining a conviction should be achieving an outcome which will reduce the likelihood of the defendant committing further offences. When the judge is considering the appropriate sentence, with a view to achieving this objective, prosecution counsel should give any assistance which is appropriate.
4. The technology that is being introduced into the courts must make it possible for judges to continue to be involved in the cases of offenders who they have previously sentenced if this would be appropriate. This is particularly valuable in the case of offenders who have problems relating to substance abuse.

5. A more proactive approach to sentencing must be recommended by the new Sentencing Guidelines Council when the Criminal Justice Bill becomes law. The Guidelines issued by the Council should assist judges to focus in and determine sentences only on what is most likely to protect the public by making reoffending less likely.

6. We must look at new initiatives abroad and where appropriate here.

It will be useful if I expand my comments by making the following additional remarks:

**Criminal Justice Bill**

Despite my concerns as to the impact of the constant flow of legislation relating to criminal justice, I do accept that if the existing problems are to be solved, it is essential for Parliament to take the lead. The Criminal Justice Bill has now almost completed its controversial passage through Parliament. It is a massive Bill containing 314 sections and 34 schedules. Its provisions in relation to the trial process are much more controversial than those contained in Part 11 which deals with sentencing which I generally welcome.

The Bill sets out in statutory form the purposes of sentencing and this has much to commend it. The relevant clause of the Bill [125] provides as follows:

(1) Any court dealing with an offender, in respect of his offence, must have regard to the following purposes of sentencing. They include:
   a) the punishment of offenders,
   b) the reduction of crime (including its reduction by deterrence),
   c) the reform and rehabilitation of offenders,
d) the protection of the public, and

e) the making of reparation by offenders to persons affected by their offences.

I might have chosen a different order of priorities but I endorse the purpose. In addition, the Bill sets out the approach to be adopted by the new Sentencing Guidelines Council. We already have a Sentencing Advisory Panel and under the Bill this is going to continue to exist. The Panel appears to me to be the equivalent of your Sentencing Commission, of which Lord MacLean is Chairman. It has a similar broad membership. It has produced excellent advice to our Court of Criminal Appeal, based upon which that Court has issued guidelines from time to time. (Including the guidelines on burglary to which I referred earlier).

The Council is now going to make the guidelines rather than the Court of Appeal. The advantage of this is that it avoids the necessity of waiting for suitable appeals to arise to give an opportunity to pronounce guidelines. It also enables a more systematic approach to be adopted. I very much hope that in due course we will have a sentencing guideline code which will give a new direction to sentencing across all the courts in England and Wales. In performing its role the Council is required, by statute, to have regard to:

i) the need to promote consistency in sentencing

ii) the sentences imposed by the courts for offences to which the guidelines relate

iii) the cost of different sentences and their relative effectiveness in preventing re-offending

iv) the need to promote public confidence in the criminal justice system

v) the views communicated to them by the Sentencing Advisory Panel.

Those considerations are not exclusive but I would like the guidelines to expressly require the Council to have to take into account the facilities and resources that are available for dealing with offenders both in the community and in the prisons. Similarly, I would welcome a statutory statement that the Council should make guidelines which will result in the prisons being less overcrowded. If the Council was required to produce guidelines that would result in a match between the number of prisoners and the size of the prison accommodation, this would, in itself, be a most
positive move. However, the reference to the cost of different sentences and their relative effectiveness is very helpful.

What I hope the Council will do is assist in taking questions as to the level of sentencing out of the political arena. In my jurisdiction, unfortunately, there has all too often been competition between the parties as to which can be toughest on crime and too little attention has been paid to addressing the causes of crime. The fact that guidelines will, in future, be set by an independent body whose members are either judges, who I appoint, or experts, who ministers appoint, under a structure created by Parliament may well deter politicians from regarding the level of sentencing as being a subject from which they can make party political capital. If this happens it could be in itself very salutary.

The Bill also contains many provisions extending the range of community orders. A power which the Bill contains to which I attach importance is the power that enables a court to review a community order that it has made from time to time. It is my belief that a judge’s involvement in supervising community orders could make them, not only more effective but more acceptable to the public. With modern technology, the judge who originally made the order could have regular reviews of the progress of an offender and ensure that the order continues to address the problems of that particular offender.

**A problem solving approach**

In New York, they have been piloting with considerable success, community courts such as the Red Hook Community Justice Center that are also known as problem-solving courts. At Red Hook, they seek to solve the neighbourhood problems like drugs, crime, domestic violence and landlord and tenant disputes by using a single judge who has an array of sanctions and services at his disposal at the Court. They include community restitution projects, on-site training, drug treatment and mental health counselling. The court’s reach goes beyond what happens in the court. It reaches out into the community and engages the community in achieving Justice. I found my visit inspiring and was particularly impressed by the way that the outlook of the community towards its court had been transformed by its problem solving approach. The tackling of the problems of minor offenders prevents them becoming serious criminals. In sentencing the court takes account of community needs. I am delighted that plans are now moving ahead to establish two pilot courts in England.
On a smaller scale, Drug Treatment and Testing orders in England and Wales, as in Scotland, are already seeking to achieve part of what is being achieved at Red Hook. The order was introduced in October 2000 and the reports are encouraging. The distinctive feature of the orders is again the continued involvement of the sentencing judge through review hearings. The judge tracks the offender’s progress. It is found that the involvement of the judges maintains the motivation of those who are the subject of the orders. They respond to both the deterrent effect and the approbation they receive when they make good progress.

The involvement of the judge is not only good for the offenders, but also it is good for the judges themselves. Their involvement means that they obtain valuable experience as to how to use the orders most effectively. They appreciate that the programs are long term and that progress can be slow with an ever-present danger of relapse. When an offender fails, it does not mean that the program should be abandoned. It is often more effective to return an offender to the order so that they can renew their attempt to break their addiction. Encouragingly, the number of orders terminated for failure to comply with the requirements is now running at 29%.

The Drug Treatment and Testing Order should provide a model for the community penalties which our new legislation promises. The wider the range of penalties the better. The Criminal Justice Bill makes a number of alterations. Of those set out in our new Bill, it is my belief that ‘community service minus’ offers the greatest potential. Community service minus is a form of deferred sentence. It should enable our courts to adopt a similar approach to that of Red Hook. By offering to defer sentence, the court can provide an incentive to the offender to address his offending behaviour by, for example, becoming involved in a Restorative Justice program. The more tools that are available to the judge the more likely that further offending can be reduced.

The Bill provides a vision of what might be achieved by diverting offenders from crime without burdening our prisons. However, the vision has no hope of fulfilment unless our Probation Service is to be funded on a different scale from what is now proposed. All the new programs, whether they relate to new or existing community punishments or the supervision of offenders after prison, depend on the close engagement of the Probation Service. Community punishments will be shunned by judges and rejected by the public if they cannot rely on that supervision taking place. However, the Probation Service, because of a lack of resources, is finding it difficult to fulfil even its present obligations.
The Probation Service is being forced to focus its activities in a manner which means that sentencers are not obtaining the help that they need. With greater funding, there is little doubt that the Probation Service could be far more effective than it is able to be at the present time. Unless this lack of resources is tackled the reforms will be of little value. The whole credibility of the Government’s programme of reform of hangs on the resources it is prepared to provide for the Probation Service.

Here again there are lessons to be learnt from other jurisdictions – I am particularly impressed by the use of home detention in New Zealand. The scope available today to create a virtual prison by electronic means opens up potential to break the vicious circle by which ever-increasing expenditure on prisons reduces our ability to tackle the causes of offending.

This is very positive news. Positive news which is confirmed by an article to which my attention has been drawn in the New York Times (9 November 2003). The article paints a glowing picture of New York drug courts and points out that 18,000 non-violent drug offenders have volunteered to participate in the court monitored treatment in lieu of incarceration and have saved an estimated 254 million dollars in prison related expense.

On a much smaller scale, in England the holistic approach has been achieving success in relation to prisoners being released back into the community from Canterbury. A combination of the differing agencies in the criminal justice system, including the police working together and work by prisoners themselves in the prison mean that when a prisoner is released in many cases, he has accommodation and a job to go to and he will be provided with support he needs. Achieving this degree of preparation for release is demanding on resources, but the results fully justify this. It is made more difficult because of the churning within our prisons but it is a glowing example of what can be achieved.

**Conclusion**

There are, therefore, reasons for hope. Hope for those who are victims of crime committed by repeat offenders, hope for those who are trying to achieve remarkably high standards within our justice system against all the odds and hope for those offenders who could become useful citizens contributing positively to the community in which they live. We need to move in a different direction and I believe we now have an opportunity to do so.
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Risk Factors for Criminal Behaviour: A Psychological Perspective

by

David Cooke

Henry Menken opined "There is an easy solution for every human problem, neat, plausible and wrong." When it comes to criminal behaviour we have been bedevilled by simple explanations and simple solutions. Following the Newcastle riots some years ago, I was struck by the explanations given. In something of a role reversal, an archbishop claimed the riot was caused by unemployment whereas a senior politician put forward a theological explanation, saying the riot was caused by evil. Simplistic explanations make good headlines. Recently the Observer noted "diet of fish ‘can prevent’ teen violence. New study reveals that the root cause of crime may be biological, not social". It is not just the press. Politicians have sloganised about being "Tough on crime and tough on the causes of crime"; but what are the causes of criminal behaviour, can they be identified? This is not a simple question. Those of us who work with offenders know that the causes of crime are complex; the risk factors are manifold.

Today I want to focus on psychological risk factors. There is considerable individual variation in the propensity to commit criminal acts; even within high risk communities there are the law abiding as well as the lawless; individual variation such as this is the domain of psychological explanation. In this talk I will describe some recent research on psychological risk factors for crime; I will discuss the implications that findings have for interventions designed to reduce offending.

I hope to make four broad points. First, a psychological perspective can inform approaches to prevention and treatment that are designed to reduce offending or reoffending. Second, the range and diversity of psychological risk factors mean that any intervention strategy must be diverse in its approaches, and diverse in its targets. Third, if we are to be effective we need to move towards evidence-based practice so that resources are targeted where they are most effective.

The literature on psychological risk factors for crime is extensive thus I have had to be highly selective in the studies that I have chosen to illustrate my
points: I have chosen central studies in the area, and some other studies that I hope will intrigue you.

**The Diversity of Criminal Behaviour**

One of the fundamental problems that we face when we attempt to understand the roots of criminality is the sheer diversity of criminal behaviour, from minor offences, such as parking on a yellow line through sex offences, drug offences, acts of violence, even to murder. To expect a simple explanation to explain the complexity and diversity of such human behaviour is untenable. Even if we merely consider one form of crime e.g., murder, the diversity of psychological processes may be evident. The murders which have come to typify the problems of Glasgow are frequently the result of a potent cocktail of drunkenness, macho values and the availability of knives. This contrasts with murder driven by instrumental goals such as a desire to control the supply of drugs in an area, or even the murders committed by Thomas Hamilton, which were probably driven by thoughts of paranoia, revenge and sadistic pleasure. Clearly, therefore, if we are to understand criminal behaviour we must move from mono-causal explanations towards more sophisticated models of understanding human behaviour.
Above is a conceptual model that outlines the domains that we should consider when exploring the psychological risk factors — perhaps even causes — of criminal behaviour. At the bottom of the diagram is the criminal event and linked to this are the proximal, or immediate, causes of this event. These include individual personal factors such as the thought process, the motivational and emotional states of the offender, at the point of committing the criminal act. Thus, a proximal cause of the criminal event may be a particular type of thinking, for example, the sex offender who believes that the nine year old girl wants to have sexual intercourse with him or the aggressive youth who thinks that someone is looking at him with malignant intent. Or indeed, the mugger who believes that it is acceptable morally to rob a passer-by to feed his drug habit. But a criminal event comes about, not only because of the psychological processes experienced by the individual, but also because of the context in which the individual finds them self. This might include the situation they are in, for example, the sex offender who lives near a school and who has his sexual fantasies reinforced by watching children passing to school on a daily basis. Or it may be the availability of a weapon in a situation which changes what might have been a minor assault into a murder.

These are the immediate or proximal causes of offending, however, it is important, if we are to obtain a full understanding, to consider more distal risk factors. If we examine the diagram it is possible to identify domains of risk factors that need to be considered, including hereditary; early environment and upbringing; and personality characteristics; as well as the socio-economic and demographic status of the offender; the current living circumstances and, perhaps crises and stressful events in their life. I will now consider what the research literature tells us about these different domains of risk factors.

The Role of Hereditary

It is perhaps unfashionable, perhaps even dangerous to ask what is the role of genetic pre-disposition in relation to criminality? It is a truism that human behaviour is a consequence of both our biological inheritance and our environmental experiences, and the complex inter-play between these two sources of variation. When it comes to criminal behaviour there is clearly evidence that both hereditary and experience have roles to play. Our understanding of the inter-play between hereditary and environment, the so called nurture/nature debate can be informed by two types of research, namely adoption studies and the study of twins. Twin studies consider the
effect of environment and hereditary by examining differences amongst twins — both identical and non-identical twins — raised either within the same family or apart. Adoptive studies work in a similar fashion by examining behavioural outcomes for those who have been reared apart from their biological parents. For example, studies consider the criminal records of adopted sons in relation to the criminal records of both their biological parents and their adoptive parents.

Meta-analytic studies provide a way of combining all the information from a number of empirical studies in order to better estimate the impact of a risk factor. Meta-analytic studies have the advantages over traditional methods that by combining a large numbers of studies they provide a more accurate estimate of the impact and importance of the different effects. A recent meta-analytic study has clarified the impact of the effect of nature and nurture in regard to anti-social behaviour (Rhee & Waldman, 2002). This meta-analysis included fifty-one studies. Overall it found that genetic effects accounted for 41% of the variability in anti-social behaviour; whereas 59% of the variation could be attributed to environmental factors. Thus, as with all human behaviour, a component can be attributed to biological predispositions and a proportion can be attributed to environmental effects. It is important to emphasise that this type of research is not saying that there is a gene for crime per se, however, there are likely to be links to criminal behaviour through personality variables.

It is now well established that there are genetic influences on key personality variables. If someone is impulsive, callous, sensation seeking and lacks anxiety – all personality traits that are known to have a biological basis — then they are at a higher risk of committing criminal behaviour than other individuals. Clearly, if individuals with these traits are put in a criminogenic environment – perhaps an environment where criminal behaviour is regarded as normal — they are more likely to engage in such behaviour. Therefore it is best to think of genetic predispositions as acting as vulnerability factors which have no effect in the absence of the environmental triggers; When the appropriate environmental triggers are present, the vulnerability increases the likelihood that someone will engage in such behaviour.

A compelling example of the effects of gene-environmental interaction on criminality comes from a recent study published in the premier scientific journal, Science, (Caspi et al., 2002). Caspi and his colleagues were concerned with the interplay between a genetic pre-disposition and environmental factors. It has long been recognised that there is a link
between levels of the neuro-transmitter mono-amine oxidase and individuals’ propensity for violence. Caspi et al (2002) examined the genotype which affects the level of mono-amine oxidase. They targeted this particular genotype because it had been identified as being important in the genetic make up of a famous violent Dutch family. They found that individuals who had low MAOA genotype, and who were subject to maltreatment as children, were at a much higher risk of having conduct disorder (3 times as high with a high MAOA genotype) and had a dramatically increased risk of violent criminality in adulthood (10 times as high with a high MAOA genotype). Here we have clear evidence that genes are not deterministic, but that the complex interplay between life experiences and genetic risk factors increases the probability that people will engage in conduct disorder and violent criminal behaviour as adults.

Perinatal Risk Factors

It has long been established that there is a link between environmental factors and risk for criminal behaviour. Perhaps what has not been so well recognised is that environmental influences can impact even from the first trimester of development. There is widespread evidence that links perinatal risk factors with later criminality; these factors include exposure to lead, early malnutrition, low birth weight, maternal substance abuse during pregnancy, and indeed, smoking during pregnancy. One compelling study of the effect of early malnutrition was published recently (Neugebauer, Hoek, & Susser, 1999). This study examined the Dutch Hunger Winter 1944/5. In essence this was a natural experiment which came about when the German Army blockaded food supplies to the Netherlands in order to punish the Dutch for assisting the Allied invasion of Europe.

The German army selectively subjected different areas of the Netherlands to nutritional deficiency with the western Netherlands being subjected to severe nutritional deficiency, the north and south Netherlands being subjected to moderate nutritional deficiency. The study followed up 100,054 men who were born during the famine. These men were assessed at the age of 18 years while being inducted into National Service in the military. The time and place of birth for these men were known and, therefore, it was possible to determine whether their mothers would have been subject to maternal nutritional deficiency while they were pregnant. It is noteworthy that this study examined the prevalence of antisocial personality disorder — a form of disorder closely associated with criminality — and found that mothers who had been subject to severe maternal nutritional deficiency during the
first, and/or second, trimester of pregnancy had a significantly increased risk of having sons who suffered from antisocial personality disorder. The researchers estimated that the risk of having antisocial personality disorder doubled, if the mother had been subjected to maternal deprivation during the first or second trimester of pregnancy.

It is also noteworthy that no effect of nutritional deficiency could be found if it occurred during the third trimester of pregnancy. This suggests, therefore, that there may be neurological damage during this critical developmental period. This fits with results found in relation to other insults on the growing foetus, namely that of smoking during the pregnancy. There have now been a number of studies in Denmark, Sweden and New Zealand in which cohorts of individuals have been followed up for a long period of time. In these studies it has been found that smoking is a risk factor for stable anti-social behaviour and violence in male offspring. Again the evidence suggests that the critical period is during the first and second trimester of pregnancy. It may be thought that smoking does not have a direct causal impact because excess of smoking may be associated with other anti-social behaviour in the mother, however, when statistical approaches are used to control other risk factors, including maternal alcohol consumption during pregnancy, socio-economic disadvantage, parental criminality, poor parenting practices, parental and family problems, the effect of smoking still persists. These results have clear implications for prevention.

**The Effects of Early Upbringing**

There can be little doubt that criminal behaviour, as with all human behaviour, can be affected by our experiences in the early periods of life. As Philip Larkin put it:

They fuck you up, your mum and dad.
They may not mean to, but they do.
They fill you with the faults they had
And add some extra, just for you.

Both cross-sectional and longitudinal research over the last 20 years has clearly established the links amongst early experiences and a propensity to engage in criminal behaviour. Cathy Widom (1989) carried out, what is now a classic study, in which she looked at the association between child abuse and risk for future criminal behaviour. After 20 years, she followed up children who had been officially identified as being abused or neglected and then examined how many of them had been arrested as juveniles or adults.
She matched the abused children to other non-abused children taking into account other major risk factors for criminal behaviour. She was able to illustrate that those who are abused had an elevated risk of re-offending. For example, whereas 6% of the controls had been arrested for violent crimes, 9% of the abused or neglected children had been arrested for criminal behaviour either in adolescence or in adulthood. What is important about this study is that it not only illustrates the effect that abuse has on risk for criminal behaviour, but equally because it demonstrates that only a small proportion of those abused went on to engage, or at least, to be arrested for violent crime.

The meta-analytic studies in this area illustrate that there are some factors, such as lack of parental supervision, that have a strong effect on future re-offending, whereas factors such as marital conflicts and parental criminality have a medium effect, and perhaps surprisingly, factors such as harsh discipline, parental separation and poor parental health have only a weak association — but nonetheless an association — with future offending.

Longitudinal research has clarified the importance of early experiences by allowing researchers to identify different pathways to criminality. Three common pathways have been identified, these include the life course persistent offender, the adolescent limited offender and the exclusive substance abuse offender. The life course persistent offenders are those that should be of particular interest to the criminal justice system. It is noteworthy that the onset of their difficulties is early, often they can be observed engaging in aggressive and concealing behaviours during nursery school and the early years of primary school. The key risk factors are hyperactivity, impulsivity and attention problems; probably as a consequence of these characteristics, they often have poor peer relationships being ostracised by their peers.

Unsurprisingly, they often have academic difficulties. A number of studies suggest that 5% of men are life course persistent and 1% of women are life course persistent offenders. There is compelling evidence now that these life course persistent offenders, although small in number, are responsible for a high proportion of all crime. Their importance lies in the fact that life course persistent offenders are responsible for most of offending. In a recent study Kratzer and Hodgins (1999) followed a large (15,117) cohort of individuals born in Sweden in 1953. Of this birth cohort 6.2% of the men were life course persistent. This group was responsible for 71% of violent offences and 70% of all offences. This is something all police officers know; targeting
these individuals can have a dramatic effect on crime rates in a particular area.

"Criminal Personality"

The next area of variation and individual differences that is commonly considered is personality. In psychology it is well recognised that human personality tends to vary along five major dimensions. These "Big 5" personality dimensions have been described as Neuroticism, Extroversion, Openness to Experience, Conscientiousness and Agreeableness. People vary in the extent to which their personality may be described in terms of each of these dimensions, from low through average to high levels. What effect does personality have on risk for criminal behaviour? I put the term "criminal personality" in inverted comas advisedly because I am not arguing there is such a thing as a criminal personality type. However, there is no doubt that personality features affect the risk that an individual poses in regard to criminal behaviour. For example, if someone is impulsive, or callous or grandiose, or if they are reckless or fearless – all personality characteristics – then the likelihood that they will engage in criminal behaviour is enhanced.

Psychologists generally distinguish between temperament, which entails the basic characteristics that individuals present in their relationships with others in the early part of their life, and personality, which is the result of the interplay between basic temperament and experience. There is increasing evidence that early temperament is fundamental in predicting the personality expressed by people in adulthood, and further, it is clear that some of these temperamental features are linked to risk of offending in adolescence and adulthood. So what is the link between early temperament, adult personality and criminal behaviour; is "the child father of the man"?

A famous longitudinal study called the Dunedin Longitudinal Study (Moffit & Caspi, 2001) studied the temperament of children aged 3 years old. They did this by observing how the children reacted to play activities with strangers. By careful observation they were able to distinguish amongst three basic temperamental types. The first, the well-adjusted children, were capable of self-control, they were adequately self-confident and were not upset when new people entered the room. The second group, the under-controlled, were impulsive, restless, negativistic and distractible. The third group were inhibited: they were socially reticent, fearful and easily upset by strangers.
When these children reached the age of 21 years they were once again assessed by the longitudinal study. On this occasion they were asked to report any offences that they had committed. The self reports of their offending behaviour was used to develop a measure of variety of offending. What was intriguing about this study was that the children who were described as under-controlled at the age of 3 had substantially more offences than those either described as being well-adjusted or inhibited in terms of their temperament. So it would appear, therefore, when it comes to criminal behaviour, to some extent, "the child is father of the man".

It is impossible to consider "criminal personality" without considering psychopathic personality disorder. Psychopathic personality disorder is a form of personality disorder characterised by three broad sets of traits. These are first, an arrogant and deceitful inter-personal style, second, deficient affective experiences, for example, an inability to feel guilt or experience empathy, and third, an impulsive and irresponsible behavioural style. In recent research, my colleague Christine Michie and I, have demonstrated that these symptoms clustered together in a systematic way and using 6,000 cases from 12 countries we were able to demonstrate that the pattern of symptoms can transcend cultures (Cooke & Michie, 2001).

Psychopathy is an important construct as it is linked to offending generally, and violent offending, in particular. In a recent study in HM Prison Barlinnie we were able to demonstrate that a measure of psychopathy, namely, the Psychopathy Checklist Revised (Hare, 1991) was a useful predictor of whether individuals were likely to return to prison. We assessed 250 prisoners and followed them up after their release by examining Scottish Criminal Records for up to 4 years subsequent to their release (Cooke, Michie, & Ryan, 2001). It was noteworthy that those who scored highly in terms of psychopathy were up to 4 times as likely to be returned to prison with convictions for violence within 2 years, as compared to those with average scores on the PCL-R. Thus, it would appear that a measure of personality is a useful predictor of likelihood of re-offending, in this case, reoffending in a violent manner sufficient to merit a prison sentence.

**Interplay between the Individual and Situational Factors**

Too often psychologists and psychiatrists focus on the individual factors that increase the risk of criminal behaviour while paying scant attention to the interplay between the individual and his situation. At its simplest level studies have shown that the outcome of violent events may well be linked to
contextual variables. Felson & Steadman (1983) found the difference in terms of outcome between assault and homicide was often predicated by whether the victim pulled out a weapon or not. Those who pulled a weapon were more likely to be killed. There is little doubt that culture can affect the influence of violence and this was very clearly expressed by Glasser (1987) when he described growing up in the Gorbals.

"We grew up with violence. It shimmered and bubbled and boiled over in the street, in the close, outside the pub...sometimes in gang raids from adjacent slums...more often violence to settled private accounts, transgressions of code, the spilling over of grievance...it was so closely intertwined with every day life... Its occurrence like rain and cold and frequent shortage of food, was recognised with equal fatalism."

Glasser describes a culture in which violence was normal and children were taught that violence was a normal and an acceptable approach to solving problems.

Altering situational determinants of violence can clearly affect the level of violence in institutions; I was first made aware of this when I had the good fortune to work in the Barlinnie Special Unit. The Barlinnie Special Unit was set up in order to deal with many of the more violent men within the Scottish prison system. What was striking about the Special Unit was that men with histories of extreme violence were maintained within the prison system with very little violence occurring. For example, in one study Cooke (1989) it was estimated that 131 assaults would have been expected within the Barlinnie Special Unit whereas only 2 occurred.

There can be little doubt that situational factors in the community can increase the risk of people being violent. This is well illustrated by a recent study carried out by the MacArthur Risk Group. They found that psychiatric patients who were discharged into communities with high levels of violence were much more likely to engage in violent behaviours than those discharged into communities with low levels of violence (Silver, Mulvey, & Monahan, 1999). I was intrigued by the police exercise at the Peebles Conference which used a practical approach designed to alter the culture that promotes violence within a community.
Individual Personal Factors

Moving from situational contextual factors, the next area to consider is individual personal factors. Traditionally these proximal risk factors — what goes on inside the person’s head immediately prior to the criminal event — have been the primary focus of psychologists and psychiatrists trying to understand criminal behaviour. When we are working with people who commit crimes we are often interested in a range of personal variables including their psychological symptoms, their perceptual and cognitive processes, their motivational state and their fantasies. I will look at each of these briefly.

The perceived association between mental illness and violence is part of the folklore and can be traced back to biblical times and beyond. However, there has been a tendency to overestimate the impact of mental disorder on violence. Douglas and Hart (1999) carried out a meta-analytic study and found that the risk of violence amongst those suffering from psychotic disorders was about twice the risk of those not suffering from such disorders. Thus, there is a modest but reliable impact of mental illness on risk of violence. It is noteworthy that the Reed Report concluded "the best predictor of the future offending among mentally disordered people is the same as those for the rest of the population – previous offending, criminality in the family, poor parenting, etc". (Reed (1997, p. 4).

A great deal of systematic research has indicated that offenders may vary from non-offenders in terms of perception and cognitive processes. This is particularly common amongst violent offenders. These cognitive and perceptual difficulties are not those generally measured by intelligence tests but rather they relate to problems in inter-personal and social reasoning. Thus with offenders it is not only what they think, but how they think, which can be the problem. They act without thinking and are less likely to consider the impact of their behaviour on others. Also, they may experience cognitive distortions; this is a typical feature of sex offenders. If you talk to rapists many of them will not perceive that what they are doing as being wrong or heinous. They may make self-justifying statements or statements that minimise their behaviour such as "she was asking for it", "all women are slags anyway", "she shouldn’t have dressed like that if she didn’t want to be raped". These problems in thinking have become the focus of interventions.

Other personal factors can be important. An offender’s fantasy life appears to be particularly important in a range of sexual crimes, for example, an
individual may have deviant sexual fantasies to do with having sexual relationships with children. These fantasies may lead him to seek out opportunities such as going to children’s playgrounds, running children’s play groups or living near a school in order to act out his fantasies. The sexual offender may have fantasies about degrading, controlling and humiliating women and may seek to gratify these fantasies, either within relationships, or by seeking victims in other settings.

When it comes to sexual offending, there is considerable evidence that the fantasy life plays an important part in the development and maintenance of sexual offending. The most extreme example of this may be found in the case of sexual homicide. In a series of case studies, MacCulloch, Snowden, Wood, and Mills (1983) described the link between fantasy and offending in the following way "a pattern of sadistic fantasies that, in repetition – compulsion fashion, were played out repeatedly – initially in fantasy only, later on in behavioural mock trials, and eventually in assaults".

McCulloch et al (1983) go on to explain the process by which an individual will stalk women and obtain sexual gratification from doing so. After a while this particular behaviour no longer elicits the required level of arousal and thus he moves to more dangerous behaviour such as tracking women, touching them, gradually moving on to rape and even murder. McCulloch et al (1983) indicated that murders which were often "inexplicable" may be a consequence of fantasies regarding degradation, control and humiliation. These crimes, being driven by internal circumstances, are often harder to understand.

It is only in recent times that systematic studies have shown the importance of violent fantasies in regard to certain types of the more serious violent crimes. The McArthur Study (Grisso, Davis, Vesselinov, Appelbaum, & Monahan, 2000) systematically examined the violent fantasies amongst a large group of discharged psychiatric patients. They considered the frequency, intrusiveness, vividness and escalating nature of day dreams about physically hurting others. They found that this was an important predictor of future violence. In a smaller scale study in Barlinnie Prison (Cooke, Michie, & Ryan, 2001), where we studied 250 inmates, we found that these violent fantasies were an important predictor of future offending.

I hope I have demonstrated that psychological risk factors are diverse and wide-ranging and that it is important to understand how many types of factors lead to criminal behaviour. Many routes lead to the final criminal act.
Implications for Treatment, Management and Prevention

The important question, is what are the implications of this research for prevention and rehabilitation efforts, or should I say habilitation? Because of time constraints I can only look at a few examples of what has been shown to work. In the last two decades there has been a burgeoning of the literature which demonstrates that properly implemented programmes can have a significant impact on re-offending. If we consider pre-school programmes perhaps the classic one is the Perry Preschool Program. This programme was a form of parent education targeted at the parents of 3 -4 year olds. The intervention lasted between 1 and 2 years and it was a properly conducted experiment in that individuals were randomly assigned to either the treatment programme or normal parenting. "The principle hypothesis of the programmes was that good preschool programs can help children in poverty make a better start in their transition from home to community and thereby set more of them on paths as becoming economically self-sufficient, socially responsible adults" (Welsh, 2003, p. 377).

One hundred and twenty-three children were randomly assigned to either the programme group or the control group. These children were selected from high risk families, 40% of the families had parents who were unemployed; 49% were on social assistance; 47% were single parents, many of whom had not completed their basic education. The treatment essentially was educational in form, designed to assist parents develop their child’s cognitive and social skills. Training was provided through weekly home visits. As you may imagine this was an expensive programme and the cost per participant was around $12,000. However, a cost-benefit analysis indicated that the expenses saved to the criminal justice system, the victim costs, the social service cost, and the extra contributions in tax made by the children who had been treated, was approximately $88,000 per participant.

The children were followed up at 27 years of age and it was noticeable that those treated had half the number of arrests in their lifetime compared to others. There were five times as many chronic offenders in the control group than in the treated group. The monthly earnings of the treatment group were substantially higher, as was the home ownership level, and the school completion rate. So, even a simple intervention of this nature appears to have had a dramatic effect, not only in terms of the individual’s offending behaviour, but also in terms of broader aspects of their lives.
"Substantial and wide ranging economic benefits (improved health, increased educational achievement, higher earnings, savings to the criminal justice system) are produced from the use of primary prevention programmes. Participating members of the programmes, tax-paying citizens, government and potential victims of crime are indeed indirect beneficiaries…” (Welsh 2003, p. 350)

It would appear, therefore — from this and many other studies — that early intervention can have a cost savings when the broad impact of such programmes is taken into account. There is increasing evidence, however, that treatment of offenders in adulthood can also have an effect. (Loesel, 1998) reviewed a large literature in relation to re-offending. In his meta-analytic study he included all correctional treatments that were available, including both the effective and the ineffective. Overall he found that the net effect of offender treatment was the reduction in recidivism of around 10%-12%.

While this may not appear to be a large effect, if you are running an organisation such as the Scottish Prison Service then I am sure a 10% reduction in recidivism would be welcomed. However, when the effect is considered more broadly there are significant savings in terms of incarceration costs, investigation costs, court costs, legal fees and medical fees for victims. It is noteworthy that Loesel was considering all treatments not just the best treatments. If the better treatments are considered then the effects can be significantly greater. Andrews et al (1990) found that programmes which complied with three principles, the risk, the need and the responsivity principles had, on average, an effect of reducing re-conviction by 30%. The risk principle posits that interventions should be directed at only those of high risk, not those of low risk, the need principle posits that you should target the crimnogenic need i.e., the psychological characteristics of the individual that drives their offending, and the responsivity principle posits that you should deliver the programme in a way that is acceptable to the offenders.

When programmes comply with these principles their impact on general offending is rather substantial; reducing reconviction by 30% on average. However, when it comes to other problems such as treating sex offending, violent offending, or treating psychopathic offenders, the programmes are much less effective and a great deal of work needs to be undertaken in order to formulate, test and evaluate programmes for these specific groups or problems. I should note that the Scottish Prison Service has been very active
and forward looking in introducing programmes that conform to the risk, need and responsivity principles. Their rigorous accreditation process ensures that the programmes are delivered to a high standard.

There is now a burgeoning literature on offender treatment programmes and there is no longer any excuse to implement programmes that are not based on good evidence. (Welsh, Farrington, Sherman, & MacKenzie, 2002) put it this way "Anecdotal evidence, program favourites of the month, and political ideology seemingly drive much of the crime policy agenda in the US… Just as new medicines have to be evaluated and shown to be effective before they are approved for general use, the same should apply to crime prevention methods" (p. 350). I think there is no doubt that what applies in the United States may also apply in our own country and there is a considerable need to ensure that programmes are evaluated, and resources are directed only at those programmes that are based on evidence.

In conclusion, a psychological perspective helps us to see the diversity of offenders. There is no one-fits-all solution to criminal behaviour. There are promising examples of prevention and rehabilitation programmes and our endeavours can only be enhanced by a greater rapprochement between research, policy and practice.

References


Owen Dudley Edwards on Public Attitudes to Order and Disorder

by

Sally Kuenssberg

The final contribution to the conference was a *tour de force* by Owen Dudley Edwards, Reader in History at Edinburgh University. In a speech of outstanding range, originality and power, he delivered a stirring wake-up call for a Sunday morning.

He began with some reflections on what he had found a happy and valuable conference, enlivened by the Minister for Justice who had spoken from her own experience rather than ‘civil service cliché’ and the Lord Chief Justice who had not been afraid to reveal ‘the human being behind the office’.

He explained that the point of studying history, ‘the fourth dimension of time’, is to discover what to be a human being means, to recognise precedent but more importantly to enable people to learn from experience. ‘History is comforting’, simply through bringing the knowledge that others have gone through it too. Quoting with glee from an unfashionable poet, he referred to Longfellow’s image of ‘footprints on the sands of time’ and, by association, to Robinson Crusoe’s shock at finding Friday’s footprint on the sand and realising that he was not alone.

Turning then to the main theme of order and disorder, he introduced a range of examples to illustrate the concept that sometimes public disorder is necessary to achieve ‘a truer order’, as in the USA in 1968 where black people had asserted their civil rights under the constitution by resisting segregation. He described how the public in different countries had been encouraged by leaders such as Daniel O’Connell, Gandhi and Martin Luther King, to work towards a more just society through marches, sit-ins and careful non-violent disorder until eventually politicians have no choice but to recognise the will of the majority.

On the other hand, he pointed out the danger of allowing demagogues to lead public opinion, citing the intervention of Governor George Wallace in the US election of 1968 who by splitting the vote allowed Richard Nixon to gain office. Standing on a platform of ‘law and order’ Nixon had introduced
much more repressive policies, against ‘coddling criminals’ and demonising figures of public hate. He argued that Nixon’s subsequent impeachment and disgrace had demonstrated how such political cynicism could rot the moral fibre of those who used it, the direct result of exploiting the law and order issue.

Moving nearer the present, he also illustrated the risks to politicians elected in opposition to a repressive regime who then choose to ignore their mandate and court the press. Faced with such political cynicism, electors who prefer to believe in the values of idealism and compassion may quickly withdraw their support.

The public, he argued, may ‘read’ the tabloids for entertainment but, unlike many politicians, do not take seriously what they say. On the other hand, he mentioned the influence of local newspapers which can perhaps play a greater role than the national press. Though the quality of newspapers is worsening simply because they no longer have to deliver the news, the power of local papers may be more enduring.

Reflecting on the ‘public’s’ role in order and disorder, he cited examples such as the Porteous riots in 18th century Edinburgh or the growth of non-conformity in Ireland where repression of belief had led to defiance of authority and the law.

Moving finally to the secularisation of Scotland in the 20th century, he argued that the decline in spiritual values means searching for new foundations of respect for law and order. Ending as he had begun with a reference to the conference, he wondered whether the importance of small beginnings and co-operation within communities, as illustrated during the police exercise, could be a first step towards building up mutually regarding and compassionate societies.
Conference Posters

Police Restorative Cautions by Kerry Morgan and Blake Stevenson, Criminal Justice Research Team

The twin pressures for greater victim involvement and the perceived failings of the current systems to prevent further crime, particularly youth re-offending, are giving rise to several growing trends:

- increasing separation between informal police warnings where police discretion determines that no further action is required, and formal police warnings or restorative cautioning which marks the offender’s entry, however structured, into the criminal justice system;
- a growing perception that traditional police recorded warnings are often inadequate, with limited impact, inconsistency in delivery and subject to repetition;
- an accelerating shift towards greater formalisation and structuring of police recorded warnings, and their transformation into more restorative practices which require offenders to recognise their offending and its impact upon victim and community;
- The growing presence of victims or victim surrogates at the point of cautioning;
- An increasing use of intervention, for example education, drug advice and anger management, as part of the restorative package;
- a growing involvement of agencies other than the police in the follow-up to cautioning.

Although many of the changes are in their earliest stages, this investigation into police recorded warnings and restorative cautioning practices is indicative of the changes that are underway.

Aims
This study examines the prevalence, use and effectiveness of current Police Recorded Warnings, and the existence and use of any Restorative Warning practices within the juvenile and adult criminal justice system in Scotland. It will also look at the use of restorative cautioning in other countries in the UK, and internationally. Its main aim is to develop guidance for the police in Scotland on the further development of a commonly agreed, high quality, effective Restorative Warning system. The findings will feed into the Scottish Executive’s work to improve the effectiveness of Scotland’s Youth Justice and Criminal Justice system.

Methods
Qualitative interviews will be undertaken with representatives of each Scottish Police Force, SCRA and other relevant bodies.

Findings
This research is currently ongoing
Apex Scotland: Employability and reduced offending
by Bernadette Monaghan, Director Apex Scotland

The aims of this report are to present a profile of the client group accessing Apex Scotland services and to demonstrate the relationship between employability progression and the reduction in re-offending.

By using information gathered from the Apex Management Information System and data returns Scottish Criminal Records Office from a sample of 486 Apex clients who had received employability support, the report was able to highlight a 37.5% reduction in the number of offences and a 45.5% reduction in the number of offenders with 1 or more convictions.

The report recognises the simplicity in the methodology used but asserts the results to be an encouraging start to a process which Apex Scotland is using to measure the effectiveness of its work and more evidence that employment is the single most important factor in desistence.
Evaluation of the Pilot Youth Courts in Scotland
by Susan Wiltshire, Gill McIvor and Alex Christie

The youth court in Scotland (commenced June 2003) is for 16 and 17 year old persistent offenders, with some flexibility to include 15 year olds where deemed appropriate. This will complement and build on the existing Youth Crime Strategy, with access to intensive programmes to tackle repeat offending and to enhance community integration.

Aims
• to reduce the frequency and seriousness of offending through targeted and prompt disposals
• to promote social inclusion, citizenship and personal responsibility
• to establish fast-track procedures for offenders appearing before the Youth Court
• to enhance community safety by reducing the harm caused to victims of crime and providing respite to those communities which are experiencing high levels of crime
• to examine the viability and effectiveness of existing legislation in servicing a youth court and to identify whether legislative and other changes may be required

Methods
Phase 1: Construction of baseline against which the impact of the youth court in the pilot area can be evaluated, comprising a local community ‘before and after’ survey of people resident within the youth court jurisdiction.

Phase 2: An assessment of the youth court process during the first six months with a view to highlighting any changes that might be required to enhance its operation. This will involve a qualitative analysis of relevant documentary material from a variety of associated criminal justice professionals; court observation; interviews with key stakeholders, and young people sentenced in the court and their families.

Phase 3: Process and outcome examination of the youth court to determine its influence on sentencing practice and effectiveness in reducing offending. Methods comprise the collection of data from court and social work records; court observation; interviews with key stakeholders, and offenders with youth court orders; youth justice worker questionnaires; outcome comparisons with similar offenders in other sheriff summary courts. Costs of the youth court will be established and compared with the costs of similar cases in other courts.

Results
Research in progress.
Serious Violent and Sexual Offenders: The Use of Risk Assessment Tools in Scotland by Sarah Campbell, Monica Barry, Hazel Kemshall and Gill McIvor.

The report of the MacLean Committee on serious violent and sexual offenders (Scottish Executive, 2000) identified a need for further research into risk assessment and recidivism. Research was commissioned in response on the use of risk assessment tools in Scotland.

Aims
The main aims were to conduct an audit of risk assessment instruments currently in use with serious violent and sexual offenders, to describe how they were being used and to assess how much progress had been made with the validation of risk assessment instruments for use in Scotland.

Methods
A range of research methods were employed in the study. These included a literature review, an audit of existing risk assessment tools currently in use in Scotland, interviews with staff involved in the use of risk assessment tools across a range of agencies and professional groups, and an investigation of the use of tools in inter-agency contexts.

Findings
- Various approaches to risk assessment were being adopted among different professional groups working in different settings across Scotland
- Professionals expressed concern about the absence of risk assessment tools for use with young people, women and mentally disordered offenders
- Opinions were divided as to whether it was feasible or desirable to implement a common approach to risk assessment across different disciplinary groups, though a greater degree of consistency was considered desirable

Sentencing decisions have a profound impact not only on offenders, but also on their families, on victims and their families, and on public confidence in the criminal justice ‘system’. In this wider context, social enquiry reports (SERs), which are written by social workers for the purposes of assisting sentencing in the Scottish courts, are of particular interest. The overall aim of this project is to explore the process of communication between the two professional groups concerned in the use of social enquiry reports for sentencing purposes – social workers and sheriffs. Given that sheriffs and social workers have different professional tasks, perspectives and responsibilities, there may be important differences in the ways that SERs are constructed, read, interpreted and employed.

Utilising a range of qualitative methods including participant-observation, in-depth interviews and focus groups we hope to conduct an in-depth exploration of these processes. Two research sites have been identified and within each the research will comprise of two distinct phases. First, an observational study will be conducted with social workers in two sites examining the routine production of the SERs. Secondly an observational and interview-based study with sheriffs, examining the interpretation and use of the SERs in sentencing.

By developing an empirically grounded understanding of the processes of producing and interpreting social enquiry reports, the project hopes to assist in the development of effective communication between sentencers and the social workers who aim to assist them.
By Kerry Morgan, David Lobley and David Smith.

The Witness Service was initiated in Scotland in 1996 following a successful bid by Victim Support Scotland to fund 3 pilot Witness Service projects in Ayr, Kirkcaldy and Hamilton Sheriff Courts. An evaluation report based on 18 months of research concluded that if an advice and support service were provided in Court, witnesses, and particularly prosecution witnesses, would make use of it. It was subsequently agreed that the service should be rolled out nationally and that responsibility for service delivery would remain with Victim Support Scotland.

Aims
The main aim of the evaluation was to assess the effectiveness of the Witness Service in providing support and assistance to witnesses across Scotland, 5 years after the positive evaluation of the initial pilot schemes. It was also intended that the evaluation would identify issues relevant to the extension of the service to the High Court, due to take place in the summer of 2003.

Methods
Six sample Courts, Glasgow, Kilmarnock, Kirkcaldy, Linlithgow, Alloa and Oban, were selected to ensure coverage of a range of Courts and geographical areas.

Qualitative methods, in particular, depth interviews formed the basis of the evaluation. The coordinators for each Court were interviewed, as were other staff of the service, 36 volunteers and 111 witnesses. Sheriffs and staff from all the relevant agencies were also interviewed to obtain their views of the service.

Findings

- The Witness Service has some contact with virtually all witnesses who attend Sheriff Courts. In the 6 month period of the evaluation over 30,000 contacts were recorded nationally.

- Brief, friendly contacts providing basic information, advice and reassurance are what most witnesses want, rather than emotional support.

- Many witnesses found the experience of attending Court frustrating and uncomfortable.

- The extension of the service to the High Court was seen as the next logical step.
Branch Generated Article

Criminal justice, social work an the crystal ball

by

Duncan MacAulay, ADSW President

I am delighted to have been invited to address this meeting of the Edinburgh branch of the Scottish Association for the Study of Delinquency as part of this year’s programme of seminars here in the Old College, of the University of Edinburgh. I should also say that having seen the eminence of your other speakers, I am somewhat in awe. I am also acutely aware of having to follow such an expert speaker in Richard Holloway.

The past few weeks have been a difficult time for social work, particularly here in The Sherrifdom. The O’Brien report into the death of Caleb Ness criticised child protection practice and systems at almost every level in all agencies involved in his short life. My director resigned within a week of the report being published. He is a man who devoted 36 years of his life to public service, and many many children were protected by his unstinting devotion to ensuring that children’s safety was paramount in social work services. The consequences of his resignation have been, and will continue to be, far reaching. I was not sure until very recently that I would be able to fulfil this commitment, and I apologise in advance if I seem somewhat distracted. We have also had the resignation of the director in Borders leaving us without directors in two of the largest authorities.

By way of introduction and before I attempt to wipe away any mists that may have formed in my conceptual crystal ball, I hope that you will allow me to briefly remind you about the role and function of the Association of Directors of Social Work.

I understand that this may be the first time a president of the Association of Directors of Social Work has addressed this association. Being president is a great personal privilege. I have been invited to talk on many topics and I have been fortunate to learn many new things in so doing. I am no expert in Criminal Justice, unlike many of you here. But I shall do my best to gaze into the ball and reflect its pictures to you.
This year the Association entered its 34th year and I am the 27th person to be the president. I should say at this point that my day job is Chief Social Work Officer and Head of Social Work Operations in the City of Edinburgh Council. In essence, I now carry the professional responsibility for all social work services here in the City. Such is the pace of change in my profession, that it may be of interest to you to know that only 2 former presidents remain working in Local Authority Social Work. Indeed, in England, the average length of stay in a director’s post is 3 years. Such circumstances lead to instability, and a consequential lack of enduring leadership of the profession.

Against this background then what I hope to achieve through my address to you this evening is to briefly look back across the developing years of social work; and then move on, with the aid of a few overhead illustrations, to outline the extent of the criminal justice social work that is undertaken in Scotland. I will then focus on the current debate and speculate on the future of social work in the national policy context.

In Scotland we have seen many significant changes in the social work profession since the inception of ADSW. From its humble beginnings in a pub in Edinburgh in 1969, the Association was part of the emergence of social work as a generic task in the early 1970’s, built from the diversity of childcare officers, mental health officers, probation officers and others. More recently, ADSW has contributed to key national debates on Care in the Community, changes in Child Care law and the development of specialist approaches to the social work task, not least the significant changes that have occurred in criminal justice social work over the last decade.

With the changes that local government reform brought in 1996, the Association has continued to grow in confidence, being involved in, and leading on, major legislative changes such as the Adults with Incapacity Act, the Mental Health Bill and Free Personal Care. And of course we will continue to be involved in such initiatives for example, in taking forward the recommendations of the Child Protection Audit as it plots out the future of children’s welfare over the next 3 years, and last, but by no means least, the Scottish Executive’s Community justice strategy.

Social Work, in all of its many guises, is a profession that I am extremely proud to be a part of. To live in a country that aspires to the social inclusion of all its citizens is to live in a country that must, by that definition, hold the values of social work at its very core. Social work has historically been central to the themes of social inclusion, tackling poverty and deprivation
and community regeneration. The political rhetoric has assured us that we were at the heart of the government agenda in Scotland.

Whilst it is unlikely that social workers are going to win any popularity contest, many who use our services and benefit from our skills and enthusiasm value our work. I am continually impressed by our staff. We do get things right in the vast majority of cases.

We have in the past sought to determine our professional identity in keeping with the political ideology and ethos of the day. Today, that means targets, outputs, performance indicators, best or added value. We have wondered how appropriate this is in public services. Surely, Social work requires us to be fluid, flexible, to improvise and empathise with others – does this sit well with policy driven targets? And what of measurable outcomes in extreme and dynamic situations? How do we measure a shift from deep despair to less despair? How do we audit the renewed spirit of an abused child? Yet measure it we must.

So against that broad picture of social work, I would now like to turn my attention to criminal justice social work. As you will be aware, Criminal Justice Social Work Services in Scotland are provided by local authorities who indeed occupy a unique position in the criminal justice system in this country and worldwide.

There is no separate probation service in Scotland. The Social Work (Scotland) Act of 1968 abolished the probation service and made local authority generic social work departments responsible for work with offenders. In effect, social workers became responsible for delivering services across childcare and community care alongside those people who offend. It is true to say that offender services had to compete along with other high priority case demands. In 1991, largely due to a perceived ineffectiveness of generic social work in relation to offenders, central government introduced national standards and objectives for the delivery of criminal justice social work services. The government provided 100% funding to local authorities for these services to be delivered. This in turn effectively required local authorities to review the way that services were delivered and in short, most Councils began the move away from generic social workers to a dedicated work force of criminal justice social workers, with ring fenced funding provided from the Scottish Office.
Since local government reorganisation in 1996, community sentences were provided and managed by criminal justice social work services in the 32 local authorities. Following the publication of the Scottish Executive’s "Community Sentencing-Tough Options" consultation paper in 1998, a number of options were proposed for changing the way that the criminal justice social work services were delivered. One of these was the concept of a national service; another was the concept of a Consortia of Councils working together in a more formal way. The outcome was that local authorities reached agreement with the Scottish executive on a way forward to deliver services for criminal justice social work. These services were restructured in 2002 into 11 mainland groupings plus the islands. Locally, there now exists the Lothian and Borders Criminal Justice Social Work Consortium comprising The City of Edinburgh, Midlothian, East Lothian, West Lothian and Scottish Borders Councils. This local arrangement is, of course, coterminous with the Lothian and Borders Sheriffdom.

Let me take a moment to consider the context in which we operate in terms of criminal justice social work. The sheer scale of the services we provide across the country are immense.

In particular I want to look at three of the core service areas, namely Social Enquiry reports, Probation and Community Service. I want to focus on the use of assessment, and community based sentences by the Courts. As you will clearly see, there has been a significant increase in these areas of our work. In 1999 - 2000, Scottish courts requested 36,383 SERs and this has increased steadily over the last four years to 44,377 in 2002-2003. Similarly, in respect of Probation work, Scottish courts imposed 7,451 probation orders in the financial year 2002-2003 compared with 5,897 in 1999-2000. It is the same story in respect of the use of community service. 7,205 CSOs were imposed in 2002-2003, compared to 6,281 in 1999-2000. Interestingly, the use of Supervised attendance orders has remained unchanged in the 3 years that the Scottish Executive has collated statistical returns. So do these figures in turn mean that the use of imprisonment has declined? Not so.

With 129 prisoners for every 100,000 of the general population in 2002, Scotland had the third highest rate of imprisonment in Western Europe. This is despite Scotland having amongst the widest range of community sanctions available anywhere in the world. Over the ten years to 2002, the average daily prison population increased by 17%; by 58% for the female prison population, almost four times the growth for the male population (up15%), and by over 27% for the average daily remand population.
The average daily prison population in 2002 was the highest annual level ever recorded. From 2001 – 2002 the average daily prison population increased by 4% - by 11% for the average daily female prison population. There was also a further increase of 3% in the number of long term adult prisoners including recalls in 2002 (those sentenced to 4 years or more) and a slight increase of 1% in the number of short-term adult prisoners excluding fine defaulters (those sentenced to less than 4 years). Though the number of receptions for fine default fell, the fine default population still makes up a large number of prison receptions in Scotland. Moreover, while longer prison sentences for serious crimes of violence and drug crimes have contributed significantly to the high numbers of people in custody, it is important for us all to note that 83% of all custodial sentences were for 6 months or less for offenders who pose no serious threat to the public.

As of last week, the prison population in Scotland was 6,742. In this Sherrifdom Criminal Justice Social Workers are responsible for supervising 300 people on post-sentence licences. The Criminal Justice Scotland Act 2003 also places significant additional responsibilities on us whereby we will have a statutory duty to extend our throughcare responsibilities to an additional 380 serving prisoners.

Yet politicians at both local and national level continue to talk tough on crime. Public perceptions about crime and sentencing appear to be based largely on media reports and political statements. The majority of people believe that crime levels are rising and this in turn contributes to increased fears about crime. Despite considerable evidence to the contrary from police statistics and crime surveys, people believe that crime is increasing rapidly. In a System Three poll conducted in March 2002 almost half of those interviewed in a survey for the Scottish Parliament thought that there was a lot more crime now than five years ago, while just over a quarter thought that there was a little more. (March 2002 "Public Attitudes Towards Sentencing and Alternatives to Imprisonment" - Commissioned by the Justice Committee of the Scottish Parliament). The same survey also showed that the public know very little about crime and the sentencing options available to the courts. Only one person in one hundred said that they knew a lot about the range of sentences available to Scottish courts.

Public perception of alternatives to custodial sentences is important and this is largely dependent on what the public, see, read and hear. Personal experience is also an influencing factor. I believe there is a need to present more information and facts about alternative sentences to which the public
can relate, and, increase their knowledge of the effectiveness of these alternatives.

I have no doubt that all of us here are interested and committed to the current debate on alternatives to custody. Since the late 1960s there have been two enduring criminal justice policy concerns in Scotland: alternatives to prosecution and alternatives to custody. Arguably the 1980s and 90s saw a rapid expansion in the use of alternatives to prosecution. More recently, the focus has shifted to alternatives to custody and related reforms. Indeed we have seen a number of major reviews of our criminal justice system.

- Sheriff McInnes’ review of the summary justice system (forthcoming)
- Andrew Normand’s report on ‘Proposals For The Integration Of Aims, Objectives And Targets In The Scottish Criminal Justice System’
- the Scottish Prison Service document on partnership working, ‘Making A Difference’, the Scottish Executive’s ‘Prisons’ Estates Review’
- and the report ‘Short Term Sentences: Report to the Criminal Justice Forum’

ADSW has responded to the opportunity to contribute to these reviews where appropriate. Similarly, ADSW has been keen to work alongside the Justice 1 Committee’s review of Alternatives to Custody Inquiry. The Justice 1 Committee’s remit was to investigate the use and effectiveness of community sentencing as an alternative to imprisonment. Specifically,

- what currently exists,
- level of service provision,
- effectiveness, and
- allocation of community penalties.

The Committee reported in March 2003. Can I remind you of some of the Justice 1 Committee’s recommendations? In respect of the appropriate use of custody, the Committee recommended that:

- community disposals should be actively promoted and resourced as an alternative to short term prison sentences,
- the issue of imprisonment for fine defaulters should be addressed since the Committee believes that very few people should be sent to prison for fine default,
people should not be remanded in custody unless they represent a danger to the public or there are concerns that they will breach conditions of bail, and

* the number of women in Scotland’s prisons who do not necessarily require to be there as they do not represent a danger to the public should have adequate residential and non-residential places available in a ‘Time-Out Centre’

In respect of Community Disposals Available In Scotland, emphasis was given to:

* further developing pre-court measures such as police warnings, diversion from prosecution schemes and restorative justice and mediation schemes, and
* while there may be scope for further ‘new’ court based community disposals, the priority should be to make more efficient use of existing sanctions.

ADSW has been fully supportive of these recommendations.

I want to say that ADSW also welcomed the Justice 1 Committee’s concerns:

* that the work of criminal justice social workers is weighted more towards information processing and paperwork than the restorative justice and counselling elements of their jobs, and
* about the short term nature of funding for services which precludes strategic planning and the ability to retain valuable staff.

In the build up to this year’s national elections, First Minister, Jack McConnell pledged a radical overhaul of the criminal justice system, with the announcement of a proposal to create a new single Correctional Agency. I understand the word Correctional has now been dropped. This would include prison, and community sentences. The First Minister announced this as a proposal to strengthen our criminal justice service. In one organisation will be the uniformed prison staff, and Community Correctional Officers supervising tough and effective sentences in the community.

ADSW was both surprised and concerned at this announcement. The idea of a "national probation service", almost identical to a Correctional Agency, was first proposed as an option in the "Community Sentencing – The Tough
Option "consultation paper in 1998. Following wide consultation, this was rejected. The Scottish Executive agreed that local authority social work departments were the organisations best placed to deliver these services. Arrangements for groupings of local authorities, in which criminal justice social work services come together for planning and delivery of service, are now just over one year old. Nevertheless, the last Scottish Parliament’s Justice 1 Committee in its ‘Alternatives to Custody Inquiry’ and the present Scottish Government have argued that further change is necessary.

Arguably, the concept of a Single Agency could remove criminal justice social work services from local democratic accountability, placing control in a new arms-length agency similar to the Scottish Prison Service. Recent reports from Audit Scotland, the Scottish Parliament Justice Committee and the Scottish Parliament Audit Committee have complimented the contribution of local authority criminal justice social work services. None of these bodies made any recommendations for a structural change as now proposed. Within the last few months we have seen the passing of the Criminal Justice (Scotland) Act 2003, which gives enhanced powers and duties to local authorities to provide services during and after periods of imprisonment. That said, the political partnership agreement has indicated that the idea of a single agency will go to consultation. This will allow ADSW an opportunity to inform the debate, and to ensure that evidence is brought forward to allow proper conclusions to be reached.

It may be that Scotland could learn valuable lessons from other jurisdictions, such as Finland, which have drastically reduced their prison populations and ADSW has taken note that the Community Justice Department (Scottish Executive) is seeking information on the effectiveness of community disposals in comparative jurisdictions and with a view reporting back to the successor Justice Committee on that outcome.

However, there are also lessons to be learned from closer to home. Rod Morgan, HM Chief Inspector of Probation for England and Wales suggested in his recent address at the McLintock lecture in Edinburgh last month, that Scotland should be cautious of moving down a road which has been taken already by criminal justice sentencing policy in England and Wales. The new Criminal Justice bill currently going through parliament will replace curfew orders and all other community sentences with a single unified community order. This will include a menu of options ranging from drug treatment and offending behaviour courses to electronic monitoring. The idea is that the court will be able to design a non-custodial package of measures that suits a
particular offender. Professor Morgan takes the view that if these forms are to succeed in reducing prison numbers they must be explicitly targeted at those who would otherwise go to prison. Over the last ten years, probation workloads have silted up with low risk offenders who, ten year ago, would have been fined. What’s more, the government needs to talk up the effectiveness of tough community sentences and send clear message to sentencers that prison should be used as an absolute last resort. It is of concern to hear that Professor Morgan anticipates that one of the outcomes of this additional legislation would be to significantly increase the prison population by 2008.

This leads me to an important juncture. - I want to consider the agenda in relation to Youth justice.

The 1968 Social Work (Scotland) Act introduced the Children’s Hearings System aimed at diverting the vast majority of young people who offend aged up to 16 years (or 18 if they are already in the system) from criminal courts. Some of these children appear before a Children’s Panel made up of lay members. The system is characterised as a justice system designed not only to deal with children who commit offences but also as a system of justice for children in which their welfare – "the best interests of the child" – is the primary concern.

There is considerable current debate about the future of the Children’s Hearings System, particularly its ability to deal with the more serious and persistent young offenders. The debate is essentially about whether the Hearings System requires to be better resourced and Panels given more options in relation to such young people or whether there is a need for separate Youth Courts. An experimental Youth Court has been established in Hamilton.

In the meantime, ring fenced funding has been given to Councils to enable them to target services to young people who are offending. Particular emphasis has been given to persistent offenders and a range of programmes and other initiatives have been put in place linked to the Children’s Reporter and the Children’s Hearing. In my own Council, some £1.2 million is now dedicated to the task and there is strategic corporate approach in place, which involves the main criminal justice agencies. Many of the interventions that have already been put in place are in partnership with the independent sector.
So, what of the current policy context and where do we go from here?

The last Justice 1 Committee hoped that the reconstituted Committee under the new Parliament would move into a second phase of the ‘Alternatives to Custody Inquiry’, which would focus on some of the more fundamental questions about what can reasonably be expected from sentencing and what prison should be for. Nevertheless, the new Government in Scotland has announced a range of measures related to many of the recommendations made during the first phase.

The developments of most direct relevance are the Executive’s recent establishment of a judicially led Sentencing Commission and its intention to "publish proposals for consultation for a single agency to deliver custodial and non custodial sentences with the aim or reducing re-offending rates".

The remit for the Sentencing Commission as stated in ‘A Partnership for a Better Scotland’ is to review sentencing and make recommendations on:

- the use of bail and remand
- the basis on which fines are determined
- the effectiveness of sentencing in reducing re-offending
- the scope to improve consistency in sentencing the arrangements for early release from prison, and supervision of short term prisoners on their release

Other Government policy commitments of importance include the further development of specialist courts by using the model of drug courts across Scotland, where they are needed, and by rolling out Youth Courts where they are needed, subject to successful evaluation. Commitment is also made to improving the range and quality of the sentences available to the courts by:

- extending the availability of Drug Treatment and Testing Orders
- extending reparation by offenders
- expanding the role of restorative justice
- improving the quality of prison programmes
- reducing the number of offenders sent to prison by more use of Supervised Attendance Orders.

Albeit that there will always be competing demands on resources, ADSW looks to the Executive to invest more resources in community disposals, specifically:
• to ensure that there is adequate and consistent provision of programmes across Scotland,
• for restorative justice both in the context of diversion from prosecution and as part of programmes which support community disposals,
• in bail schemes to address the number of people on remand where bail would be appropriate,
• for women offenders in order to avoid women being sentenced to prison due to a lack of alternative facilities,
• into criminal justice social work, and
• to ensure that all community sanctions are adequately evaluated and that the outcomes of these disposals are collated to present an overall picture of the effectiveness of community disposals in Scotland.

Criminal Justice Social Work Services are an integral part of the criminal justice system in Scotland. These services are underpinned by an extensive statutory base which defines the responsibilities and powers of local authorities. We are committed to working alongside the other key stakeholders in the criminal justice system toward the overall objective of promoting safer communities.

ADSW is committed to promoting the integration of common aims and objectives of agencies across the criminal justice system whilst at the same time having pride in the distinct contribution that social work can make. It is important to say that ADSW recognises that local authority social work services cannot operate in isolation from other parts of the criminal justice system and it is important that we continue to encourage collaborative work across the various criminal justice agencies, and with other partners who have an interest in the development of an effective criminal justice social work service in Scotland.

For our part ADSW has a number of issues to take forward. We need to consider how the capacity and effectiveness of the 11 Council Consortia groupings can be improved.

Whilst the notion of a single agency is still conceptual and much consultation will have to take place, it is important to think about how communication and collaborative working between the Scottish Prison service, criminal justice social work services and other parts of the criminal justice system can be improved. Similarly there is a need to link and integrate criminal justice services with other council services. But perhaps one of the most important issues that ADSW is considering is the call for a more radical approach to prison sentencing and community sentencing.
Current policies concentrate on what might be done about short-term prison sentences, the remand population, female offenders and fine defaulters. The problem here, however, is twofold. First the familiar one that increased availability and use of alternatives to custody has run alongside decreased use of the fine and increased use of imprisonment. Second, that attempts to restrict the use of short prison sentences could have the effect of increasing sentence lengths.

Another central issue concerns the question of effectiveness. There is a need for realism about what sentences – community or custodial – can and cannot be expected to achieve. The recent policy proposals in Scotland are all premised on the erroneous assumption that sentencing systems can have a significant impact on reducing reoffending. They cannot. In addition, there is no evidence that changing organisational structures will directly affect either levels of punishment or levels of crime. Other modes of social control and welfare provision in the community are what work to reduce criminality. As far as imprisonment is concerned, the international evidence indicates that it is only by making clear cut policy choices that levels can be significantly reduced. ADSW will work to achieve that end.
Introduction

Recently described by the Forensic Science Service (FSS) of England and Wales as a ‘21st Century Crime Fighting Tool’ (Home Office 2003a), the use of DNA in support of the investigation of crime is said to have been the most significant advance in forensic science since the introduction of fingerprinting in the 19th Century (Her Majesty’s Inspectorate of Constabulary 2000). The DNA profiling of biological material obtained from crime scenes and individual suspects, and the searching of these against a collection of the profiles held on police databases, has rapidly become a routine aspect of forensic practice in many criminal jurisdictions across the world. A recent survey conducted by Interpol of its member states showed that 77 states perform DNA analysis, out of which 41 operate a national DNA database, and over-two thirds of those who do not currently operate a DNA database have plans to do so (Interpol, 2002).

Despite this global spread there remain important variations in the local legislative, organizational and financial supports provided by different governments for the collection and retention of DNA samples from both crime scenes and criminal suspects. These variations are likely to become more important as the internationalization of policing generates additional demands for the standardization of technologies for DNA profiling and the simultaneous searching of databases from more than one criminal jurisdiction. Some European groups already meet regularly to discuss the potential obstacles to this future globalization of forensic investigation. For example, the European DNA Profiling Group (EDNAP) has existed since 1988 with the aim of establishing systematic procedures for data-sharing
across the European community (Martin, 1998); the Standardization of DNA Profiling in the European Union (STADNAP) group exists to promote co-operation across the EU in order to utilize DNA profiling to detect ‘mobile serial offenders’ (Schneider and Martin 2001); and the European Network of Forensic Science Institutes (ENFSI) (2003) has similar ambitions to standardize forensic practices in support of policing across the whole of the EU. However, the kinds of operational issues that will arise in the future for a number of police forces wishing to share intelligence information across the EU are already visibly prefigured in the current arrangements that exist to make possible the linkage of collections of forensic DNA profiles across jurisdictions within the United Kingdom.

The arrangements for forensic DNA databasing in the UK differ across three main jurisdictions. In England & Wales the National DNA Database (NDNAD), operated by the FSS on behalf of the Association of Chief Police Officers, comprises a collection of genetic profiles taken from individuals suspected of involvement in crimes and from crime scenes themselves. In Scotland a national DNA database, operated by the Police Forensic Science Laboratory Dundee (PFSLD), and funded by three police forces (Tayside, Fife, and Central Scotland), contains permanent records of the genetic profiles of convicted persons submitted by the eight police forces of Scotland. The Scottish national DNA Database remains a distinct entity but exports ‘copies’ of its profiles to the NDNAD. Forensic Science Northern Ireland operate a DNA database on behalf of The Police Service of Northern Ireland and this remains a discrete collection with no exporting of data to the NDNAD (although current practice allows the NDNAD to be interrogated on behalf of the Police Service of Northern Ireland1). The reach of forensic DNA databasing, as an investigatory tool, across the United Kingdom is therefore afforded by certain data-exchanging arrangements which exist between these distinct jurisdictions.

Since 2001 there have been important differences in the legislative provisions which govern the conditions under which the police can obtain, use and store genetic samples in different parts of the UK. These differences,

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1 The police DNA database of Northern Ireland is operated by Forensic Science Northern Ireland and contains approximately 50,000 entries. The laboratory has not obtained the relevant certification from the United Kingdom Accreditation Service to allow its profiles to be added to the NDNAD. The Government reported to the House of Commons on 30th June 2003 (Written Answers, pt.3. Hansard, column 11w) that ‘steps are in hand to carry out quality checks on the Northern Ireland data with a view to adding all the profiles from that database to the National DNA Database’. 

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which designate the circumstances under which it is legitimate to obtain DNA, and the categories of person from whom the police can retain profiles and samples, produce practical and operational issues for the administrators of both databases. This, in turn, affects the types of cross-national coverage that are available to each country. These differences are the focus of this article which seeks to provide a comparison between the legislative and financial supports for the forensic use of DNA in Scotland and in England & Wales as well as a consideration of the issues which arise from data-sharing across both jurisdictions.

DNA databasing in Scotland and England & Wales

The NDNAD, implemented in 1995, is the biggest and most successful forensic DNA database in the world. It contains the genetic profiles of over two million individuals and by 2004 aims to hold the profiles of the entire ‘active criminal population’ currently estimated at 2.6 million people. The two million profiles currently held on the NDNAD are made up from samples taken across the whole of the UK (excluding Northern Ireland) but the vast majority of this genetic collection is made up of samples obtained by the 43 police forces of England & Wales. This systematic collection of DNA by the police in England & Wales has been aided by targeted funding from the Home Office in the form of the ‘DNA Expansion Program’ which has provided approximately £200 million to increase the database to its current size. The story of the success of DNA sampling and databasing within policing comprises a complex set of developments in science and information technology, alongside changes in legislative and judicial provisions (for a detailed discussion of this history see: Johnson, Martin & Williams, 2003).

The NDNAD is now an established part of police investigation in England & Wales and is seen as a central resource for reducing crime as well as detecting it. FSS statistics from 2001/2 show that the NDNAD produced over 58,000 intelligence matches between samples collected at crime scenes and individuals already on the database (Forensic Science Service, 2002). The importance of this intelligence tool for policing has recently been outlined by the government in the Police Science and Technology Strategy (Home Office 2003b) which places the NDNAD as central to scientific police resources. The Government has encouraged the growth of the database with financial and legislative support and future plans, to extend police powers to sample individuals’ DNA, will expand the potential use of the NDNAD further.
The success of the database in Scotland is no less impressive when compared with the NDNAD. The PFSLD database has, up to August 2003, issued 6,151 intelligence matches\(^2\). The database averages roughly 300 matches per month and in August 2003 recorded a hit rate of 74.15%. Yet the development and growth of DNA databasing in Scotland has been remarkably different to that of the NDNAD. In England & Wales, the DNA expansion program has funded both the laboratory costs and the recruitment of new personnel to collect and organize DNA sampling from volume crime scenes. However, police forces in Scotland have received no such targeted support. As a result, the Scottish database comprises a smaller DNA collection of both crime scenes and criminal suspect profiles than that of England & Wales (its collection, in August 2003, comprised 137, 949 criminal justice profiles). Whilst the size of the Scottish database reflects the relative size of the population (in August 2003 it contained 137,949 profiles from a population of 5 million inhabitants) it nevertheless holds a lower population proportion than that of England & Wales. Whilst the Scottish Executive has welcomed DNA profiling in the Criminal Justice System there exists no dedicated DNA expansion program in Scotland. The Executive has given small amounts of money to individuals forces to encourage DNA profiling (for example, in 2001, £800, 000 to Strathclyde Police\(^3\)) and this has produced growth in both profiling and match results. Furthermore, resources made available by the Executive to construct a forensic laboratory in Strathclyde in order to reduce dependency on the PFSLD may reduce processing costs and allow more profiling to be undertaken.

It is somewhat misleading to think of the database figures for England & Wales and Scotland as representing separate and distinct sets of records. The permanent collection held on the database in Scotland – which is a collection of profiles derived from convicted offenders and unmatched crime scene stains – is included on the NDNAD. Scotland currently export all of their criminal justice profiles, and all those crime scene profiles which do not match any sample held in Scotland, to the NDNAD. This means that the local collection of Scotland becomes linked to the greater power of an ‘engine’ which covers England, Scotland and Wales. The PFSLD send approximately 3,500 profiles per month to the FSS for inclusion on the database in Scotland, along with his helpful and constructive comments about this paper generally.

\(^2\) We are grateful to Tom Ross, of Tayside Police, for the statistical information regarding the database in Scotland, along with his helpful and constructive comments about this paper generally.

\(^3\) The Strathclyde Police Annual Report shows that £800, 000 from the Scottish Executive allowed 800 extra samples per month to be collected from crime scenes, with a match rate of 50%. See: http://www.strathclyde.police.uk/news/2001/06/news_231_010614.html
NDNAD. Once those profiles are entered by the FSS they can be speculatively searched across the entire database, allowing CJ samples obtained in Scotland to be compared to all profiles obtained in England & Wales. Similarly, all crime scene stains submitted by the PFSLD can be compared to all criminal justice profiles submitted by the police forces of England & Wales.

Along with their submissions to the FSS the PFSLD request the removal of 2,500 CJ profiles from the database each month. This amount represents the number of individuals from whom samples were taken and who, subsequent to police investigation, have not been subject to judicial proceeding, or against whom there have been no judicial findings of guilt. These samples and profiles are removed from the national DNA database of Scotland at the same time that they are removed from the NDNAD. The removal of these profiles from the database in Scotland accounts, in part, for the slower growth rate of its collection. Since 2001, the police in England & Wales have been authorized to retain any profile from the NDNAD once it has been legitimately obtained during the course of an investigation, whilst in Scotland the police do not have the authority to retain samples and profiles from those who have not been convicted of a recordable offence. The destruction of these samples and profiles means that two-thirds of the DNA profiles generated in Scotland each month are destroyed.

The destruction of these samples and profiles must be undertaken by the sample holder – the laboratory which carried out the DNA profiling – and all records must be expunged from both the PFSLD database and the NDNAD. There is a window period of approximately 7-12 months when the DNA profiles of unconvicted persons in Scotland are stored and routinely searched on the NDNAD. This is the period between the beginning of an investigation and its outcome in the courts. The different powers to retain DNA samples and profiles across Scotland and England & Wales are just one example of the distinct legislative contexts in which DNA databasing operates. These different legislative provisions arise from the discrete social and political contexts of each jurisdiction and impact upon the operation of each criminal justice system.

**Legislative distinctions**
The legislative provisions for both obtaining DNA from individuals during the investigation of a crime, and retaining the profile generated from it on a searchable database, differ across the UK. These differences are expressed
through distinct Acts of Parliament which apply within national boundaries. In the case of Scotland its legislation, first enacted in the London Parliament, has since been reconsidered by the Scottish Executive in Edinburgh. Distinctions created by legislative provisions fashion the conditions under which data-sharing between police forces can take place. They are therefore important distinctions and they are rooted in the earliest considerations of the use of DNA to support criminal investigations (in the late 1980s and early 1990s) when specially appointed national commissions published specific recommendations for the incorporation of DNA profiling into our criminal justice systems. These were the Scottish Law Commission’s ‘Report on Evidence: Blood Group Tests, DNA Tests and Related Matters’ in 1989, and the Royal Commission on Criminal Justice in England & Wales which published its final report in 1993.

It is important to recall the central differences which emerged from these early considerations of forensic DNA. Both commissions focused on the essential need to allow the police to use genetic technology in a ‘balanced and proportionate’ way that would ensure the protection of individual rights and civil liberties as well as maximize the potential for criminal detection. Both commissions also placed great emphasis on the potential for DNA testing to exonerate individuals during police investigations, coupled with the idea of DNA as a definitive forensic method which could incorporate high statistical probabilities of certainty (and thus a form of ‘objectivity’) into legal proceedings. However, they differed in how this technology should be translated into practices for policing. Whilst the idea that extending the power of the police to carry out DNA sampling could ensure a fairer balance between victims and suspects in the criminal justice process, the types of powers which the police should be given remained controversial.

The Scottish Commission argued that ‘an innocent person has nothing to fear from the testing of a sample of blood or other body matter [and] the result of such tests may well prove his innocence’ (Scottish Law Commission, 9). The Royal Commission in England & Wales, using an almost identical argument, recommended that ‘DNA profiling is now so powerful a diagnostic technique and so helpful in establishing guilt or innocence, we believe that it is proper and desirable to allow the police to take non-intimate samples (e.g. saliva, plucked hair etc) without consent from all those arrested for serious criminal offences’ (Royal Commission, 16). In many ways both commissions reflected the growing desire of both police and Government to utilize DNA more frequently within the criminal
justice system and to exploit its maximum potential. Yet the recommendations made by the two commissions were strikingly different in relation to how they imagined the actual procedures for the collection of samples by the police. As we can see, the Royal Commission recommended that non-intimate samples be allowed to be taken by the police without the consent of an individual arrested for a serious criminal offence. Translated into legislation - the 1994 Criminal Justice and Public Order Act - this was crucially figured to allow the police to take non-intimate samples without consent from all those charged with any recordable offence.

One key component of the 1994 legislation in England & Wales was that a swab taken from the inside of the mouth was reclassified from its previous status as ‘intimate’ to its new status as ‘non-intimate’, thus obviating the need for professional medical intervention in its collection. Such a sample has, from this point onwards, been taken by police officers in England and Wales without consent when an individual has been charged (not arrested) with any recordable (not serious) offence. The Scottish Commission had made a strikingly different recommendation. In considering the balance needed to enable DNA to work effectively in the criminal justice system, and the rights and ‘bodily integrity’ of the individual, they proposed that the power to take samples without consent ‘should not include anything which involves going inside a person’s body’ (Scottish Law Commission, 12).

The recommendations of the Scottish Law Commission did not find their way into law and the 1995 Criminal Procedure (Scotland) Act allowed for the taking of a mouth swab (alongside the less contentious hair and nail samples) without consent, with the authority of a rank no lower than inspector, from any person who has been arrested and is in police custody. The 1995 legislation in Scotland was enacted in the same year that both the Scottish database and the NDNAD went live and followed the legislation in England & Wales by one year. Yet the context for obtaining samples was immediately different between Scotland and England & Wales. Since 1994 the police in England & Wales have been able to sample DNA without consent at the point at which individuals are charged with a recordable offence. Proposals introduced into the 2003 Criminal Justice Bill for England & Wales seek to extend that power to sample without consent at the point of arrest. The argument offered by Government for such a measure is that taking fingerprints and samples as early as possible from an individual allows the police to establish or verify identification quickly as an aid to investigation.
The power to obtain DNA samples without consent at the point of arrest has been in force in Scotland since 1995. In the 2003 Criminal Justice (Scotland) Act this power has been altered so that police constables may take DNA samples at the point of arrest without, as was hitherto the case, obtaining the authority from a higher ranking officer. The proposals to introduce DNA on arrest in England & Wales have attracted some criticism, not least from the Parliamentary Joint Committee on Human Rights who have criticized the Government’s erosion of the balance between state and individual rights:

The power to take fingerprints and samples without consent was conferred in the Police and Criminal Evidence Act 1984 in terms which provided a carefully articulated balance between the perceived need for police to have new powers and the provision of protection against abuse of powers […]. Since then, the carefully struck balance has been steadily shifted in favour of the police […]. The range of purposes for which samples could be taken has been steadily extended. The procedural safeguards have been progressively relaxed (Joint Committee on Human Rights 2003).

This ‘re-balance’ has also been described as disproportionate to the legitimate investigation of crime, with the human rights group Liberty stating that the power to take DNA at the point of arrest is a way of establishing a universal database by ‘back door’ methods and is wholly unbalanced in favour of the police: ‘If there is any significant evidence that someone is involved in a crime, these very personal markers can already be taken. This simply treats everyone who has ever been wrongly arrested as guilty by implication’ (Liberty, 2003).

**Differences and accommodations**

The preoccupation with a balanced and proportional system for allowing the police to utilize DNA has remained central to social, ethical and legal debates across the UK. However, these issues have been legislated for in different ways across England & Wales and Scotland. The differences between what is considered balanced and proportionate legislation across national jurisdictions is not necessarily contentious. One would expect different nations to possess distinct legislative provisions across the whole of their respective criminal justice systems. Yet the variations between Scotland and England & Wales have to be accommodated because of the arrangements for the common databasing of DNA in the NDNAD. It is these arrangements for data-sharing which allow discrete national collections to be combined in order to increase the scope of potential criminal detection.
across larger geographical areas. With the movement to incorporate the database of Northern Ireland into the NDNAD this scope will increase further.4

The arrangements which exist in the UK at the present time may prove to be the prototype of a widening accommodation for national differences should there ever be, as some groups such as STADNAP and Interpol hope there might, a European wide DNA database. For those who would seek such a database the current arrangements in the UK highlights some of the procedural subtleties that need to be observed if combining DNA profiles from different jurisdictions in one central database is to be successful. At no other time during the short history of DNA databasing in the UK have these differences been more pronounced.

The current arrangements for police forces across England & Wales and Scotland to obtain and retain DNA samples and profiles are remarkably divergent. As noted above, changes introduced in England & Wales in the 2001 Criminal Justice and Police Act permit the police to retain all sample and profiles taken during the investigation of any recordable offence regardless of the procedural outcome of that offence. In Scotland all profiles and samples must be destroyed subsequent to the end of an investigation which does not result in a conviction. In England & Wales, following the 2001 legislation, the issue of the retention of innocent individuals’ DNA has become central to debates regarding the proportionality and balance of police uses of the NDNAD. In a recent judgment by the Lord Chief Justice of England & Wales, in the consideration of a case brought under the European Convention of Human Rights (Articles 8 & 16) where the appellants claimed that the retention of their DNA by the police breached their right to privacy and unlawfully discriminated against them, it was ruled that any such interference with individual rights was proportionate and that the current law is properly balanced.5

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4 The potential for increased cross-national coverage to greatly aid criminal detection is tempered by the fact that the vast majority of crimes are detected locally. The Scottish database, for example, matches 60-80% of its monthly crime scene stains with profiles held on its own database and, therefore, is not highly dependent on the NDNAD.

5 Case last heard in: The Queen on the application of Marper and Another and The Chief Constable of South Yorkshire before The Lord Chief Justice of England & Wales, Court of Appeal (Civil Division), September 2002.
Yet, it is important to remember that the introduction of the 2001 legislation in England & Wales was created by a situation which began with the failure by the police to remove from the NDNAD a number of profiles of those individuals who had been cleared, after legitimate investigation, of all charges. This problem was caused by the lack of an adequate system to remove profiles and was officially recognized by an HMIC report conducted by Blakey (Her Majesty's Inspectorate of Constabulary 2000). One result of the failure to adequately keep the NDNAD records updated was a positive identification between crime scene stains with CJ profiles that should not have been present. The police, acting on these matches, subsequently secured convictions which were (in R v Weir & R v B) overturned in the Court of Appeal⁶. The quashing of these convictions raised general issues about the balance of justice and particular issues regarding the merits of retaining all DNA samples obtained during investigations. In 2000 Blakey had recommended that ‘in the general interest of crime detection and reduction perhaps the time has come to revisit the legislation to consider whether all CJ samples, provided they have been obtained in accordance with PACE [the Police and Criminal Evidence Act 1984], should be retained on the NDNAD to provide a useful source of intelligence to aid future investigations’ (Her Majesty's Inspectorate of Constabulary 2000: 18). The 2001 legislation in England & Wales secured that recommendation in law.

The context for this change in legislation in England & Wales has implications for the situation in Scotland. The proposal to retain the DNA of innocent individuals has been made by members of the Scottish Executive and was put forward for discussion in debates prior to the enactment of the Criminal Justice (Scotland) Act 2003. So far, the Scottish Executive has resisted the move towards the retention of the DNA of those other than convicted offenders. Yet Scotland has never experienced a case, like those mentioned above, whereby an individual suspect is identified, and convicted, using a DNA ‘match’ from a profile illegally held. The PFSLD provide assurances that before any match is made available the legitimacy of the CJ sample is checked in order to verify that it is legally held. Yet the illegality of the samples in England & Wales which led to the identification of those who had committed serious crimes was not viewed, at least by the media and by government officials, as a set of procedural problems that ought to be rectified but as a failure of the criminal justice system to secure convictions of individuals deemed violent and dangerous. It remains to be

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seen if any such argument could emerge in Scotland to change the legislative provision regarding the retention of innocent persons’ DNA.

There is one other crucial difference between Scotland and England & Wales in the arrangements for databasing DNA and that concerns the procedures for retaining samples which are given voluntarily. In both jurisdictions DNA samples can be obtained by the police during ‘Intelligence Led Mass Screening’ where DNA samples taken from a ‘relevant’ population are employed as an investigative device. Such samples are given voluntarily, with consent, and are used to eliminate (and potentially identify) individuals by comparing their DNA to a profile taken from a crime scene. The difference across England & Wales and Scotland is in the types of consent that can be obtained from volunteers.

In England & Wales consent to allow the police to use a DNA sample given voluntarily must be obtained in two distinct ways: the police must first seek the consent of an individual to allow them to use a DNA sample for the purposes of the particularly investigation in which it is taken; secondly, consent can then be obtained to have that profile loaded onto the NDNAD. In England & Wales providing consent to have a voluntarily sample put on the database is irrevocable. In Scotland, under new legislation in the Criminal Justice (Scotland) Act 2003, provision is now in place to allow consent to be given for a profile to be loaded onto a ‘volunteers database’. One protocol of the consent arrangements in Scotland is that it may be withdrawn at any future time and the individual may have his or her profile removed from the database.

The volunteers’ database in Scotland is not in existence at the present time but a working party will shortly be appointed by the Association of Chief Police Officers in Scotland to consider the specific arrangements for its operation. Questions which will need to be addressed regarding this database are: will the voluntary profiles be exported to the NDNAD and be speculatively searched; and will the voluntary samples constitute a separate database or (as in England & Wales) will they be incorporated into the main criminal database? If the profiles are sent to the NDNAD then an interesting distinction would be created between those individuals in Scotland who could revoke their consent and request to be removed from the database and those in England & Wales who could not. If those voluntary samples are not sent to the NDNAD then what protocols for access would exist should the police forces of England & Wales request to search them? It is the practicalities of these questions which may necessitate the inclusion and
open searching of those samples on the NDNAD despite the local arrangements governing how they were obtained.

Conclusion

The current arrangements for the exchange of information between the Scottish database and the NDNAD might not appear to be problematic if one thinks of the NDNAD as a larger search engine into which the data from Scottish forces is entered. However, specific issues are raised by these practices of data exchange because of the differences in the legislative provisions under which they were obtained. As noted above, the law in England & Wales was altered to extend the provisions for the retention of DNA from unconvicted individuals and this was born out of an organizational failure to keep adequate records. Regardless of any arrangements in Scotland, which would seek to prevent the positive identification on the database with a profile that was illegally held, all profiles obtained in Scotland are held on the NDNAD. Whilst it is only possible to speculate on the potential for a failure in record keeping to occur that would allow a match to be obtained using a profile that should have been destroyed, the recent history of the database shows this to be possible. It is this possibility which raises a central problem in databasing DNA profiles obtained across different legislative contexts.

Other practical issues and considerations arise from the inclusion of DNA profiles obtained in Scotland on the NDNAD. When a profile is generated from a crime scene in Scotland and is entered onto the national DNA database of Scotland it can be checked against all those CJ profiles obtained from convicted offenders. However, when that same crime scene profile is included on the NDNAD it is speculatively searched against the whole collection of CJ profiles which includes those who are innocent of all crimes. An important distinction is therefore raised by the ability of the Scottish police to search a register of innocent English and Welsh citizens but the inability of the police forces of England & Wales to do this in Scotland. There is therefore an imbalance in the types of power extended to different police forces and their ability to access information held in a central UK collection.

These differences may be removed if further pressure is exerted, as it already has been, on the Scottish Executive to extend the powers of the police to enable the retention of innocent people’s DNA. In the Justice 2 Committee of the Scottish Parliament, which considered the last Criminal Justice Bill in
Scotland, members stated: ‘it may be beneficial to consider, at this stage, the inclusion of provisions to enable the retention of DNA samples, legitimately obtained from suspect or accused persons via the normal statutory process, following a not guilty or not proven verdict, or a case being marked no proceedings.’ That provision was not subsequently included in the legislation and there are no current plans to introduce it on another occasion. Yet, given the declared success of such provisions in England & Wales, the question of extending DNA retention in Scotland will not disappear. It will be interesting to see how Scotland copes with the potential of such a measure.

Acknowledgements

We are grateful to The Wellcome Trust who provided generous funding for the research project ‘Genetic Information and Crime Investigation: Social, Ethical and Public Policy Aspects of the Establishment,Expansion and Police Use of the National DNA Database’ of which this paper is a part. We would like to acknowledge the participation of various key stakeholders, across the police & forensic science community, who have contributed to that research. And we are indebted to the critical and constructive appraisal of our work by our colleagues: Christopher Asplen, Robert Dingwell, Keith Fryer, Paul Martin and Paul Roberts.

References


Interpol (2002) *Global DNA Database Inquiry: Results and Analysis*, Interpol DNA Unit.


Reviews

Women Who Offend
Edited by Gill McIvor. Jessica Kingsley Publishers, 2004,

Reviewed by Jan Nicholson.

This edition is produced as part of the ‘Research highlights in Social Work 44’ series and brings together a number of key contributors in the field of women, crime and criminal justice. This superb volume provides a very pertinent range of perspectives and issues and is specifically aimed at developing a comprehensive knowledge base on women and crime for all professionals working in this area including social workers, probation officers, and policy makers. The 13 chapters are subdivided into three distinct sections: Female offending and responses to it, Women in the criminal justice system and Contemporary issues.

In part one Loraine Gelsthorpe provides an overview of women’s pathways and involvement in crime outlining some of the biological, psychological, and sociological theories as well as offering insight into the views of the women themselves. Gelsthorpe shows that while a range of ‘causal’ factors have been presented from time to time (not least the largely feminist inspired links to structural positions and lifestyle in society), the problems of using ‘male-based’ prediction instruments should not be overlooked.

Michele Burman discusses in some depth the numbers and nature of women’s offending but warns as ever on the pitfalls of relying on the ‘official’ data. Despite this Burman reflects on the usefulness of the historical perspective in highlighting the enduring pattern over time of women’s marginal involvement both in terms of volume and seriousness – a pattern which, according to recent figures, appears to be changing both in the UK and in some other western jurisdictions.

On policy transformation, Jacqui Tombs discusses the ineffectual response of the Inter Agency Forum set up to ‘resolve at a local level the issues identified in the joint Prisons and Social Work Inspectorate’s Inquiry into Female Offending’. The author criticises generally, the failure of the Scottish government’s stated policy towards decarceration. Following this theme
Carol Hedderman raises the paradox of rising female prison population in England and Wales in conjunction with new legislation specifically intended to reduce the use of custody! Hedderman also tackles the evidence for ‘rising female crime’.

In part two the reader is offered an insight into the punishment of women by Judith Rumsgay who outlines the invisibility of females in ‘male-centred’ community supervision programmes. Her review of services for females concludes that, ‘What happens to women should be permitted to contribute to the mainstream of criminal justice debate.’ In the same vein Gill McIvor discusses the controversial use of CSOs for women and the reluctance of sentencers to impose these on female offenders, possibly as a result of bias in pre-sentence reporting. McIvor anticipates that the renaming of community service to ‘community punishment’ will serve to reinforce the notion that it is more particularly suited to young men.

Nancy Loucks’ chapter on her research in Scottish prisons confirms the chaotic lifestyles of the majority of female offenders, and reinforces notions of the role of poverty outlined in Tombs chapter. Concurring with writers such as Carlen, Stern and Covington, on the ‘male-centredness’ of prison programming, Loucks also confirms the different problems and requirements of females and the lack of response by the CJS in redressing these, despite the overwhelming evidence of the need for reform. Loucks is in no doubt that prison can create more problems than it will solve. The following chapter by Christine Wilkinson enlarges on this theme outlining some of the problems faced by women offenders on release from prison. Wilkinson’s chapter includes a critical discussion of some of the Halliday recommendations and, again recognising the social exclusion of this group, a multi-agency approach to release is discussed.

Concluding the second section, Ruth Chigwada-Bailey responds to the lack of attention in criminological writings to the experience of black women, arguing that issues of class, race and gender combine to create even greater inequality for black women within the CJS, which contributes consequently to their over-representation in prison.

The final section of the text deals with some current issues. Hazel Kemshall’s contribution outlines the inherent difficulties in assessing risk and dangerousness of female offenders and questions the appropriateness of using ‘male-based actuarial tools’ given the rarity of serious female offending. Highlighting the lack of research in this area, Carol Hedderman
provides an overview of the criminogenic needs of women. She examines a range of factors including previous offending, antisocial attitudes, drugs, employment, finance, education and weak social ties and reviews a number of studies to evidence the implications of cognitive behavioural programmes for women.

Margaret Malloch focuses on illegal drug use, the implications for drug users, and the process of criminalisation of women coming into contact with the CJS. This chapter raises issues on the impact of intervention, via community-based provision, on the work of probation officers and social work services.

In the final chapter Batchelor and Burman discuss the difficulties of working with girls and young women in the CJS. The lack of appropriate, targeted interventions and programmes for these groups have once again resulted in overuse of custodial responses. The authors highlight the amplification of the ‘problem’ of young women and once again an ‘effective gender-responsive’ approach is advocated.

This text has much to recommend it, not least the significant inclusion of Scottish perspectives which are sadly, if unsurprisingly, lacking from other academic works in this area. This is a comprehensive presentation of research which is informative and resourceful and though aimed at professionals it is also a useful resource for serious students of this field. Clearly expressed throughout is the continuing need to consider the wide-ranging implications for women in the criminal justice system as distinct from those for male offenders, emphasising the validity of a gender-based approach to dealing with women who offend.
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The SASD – Objects, Membership, Office Bearers, Branch Secretaries and Starting a new Branch

Objects

The formal objects of the SASD are: "to initiate, encourage and promote as an independent Scottish body, study and research by all means into the causes, prevention and treatment of delinquency and crime, and to co-ordinate and consolidate existing work of that and the like nature, and to give publicity to such work, and to secure co-operation between bodies, association or persons engaged in any research or work or activity having objects similar or akin to those of the Association".

The Association is managed by a Council. In addition, there are branches in Aberdeen, Dumfries, Dundee, Edinburgh, Perth, Glasgow, Lanarkshire, and in Orkney & Shetland. Each branch carries out its own programme of meetings and local conferences. The Association organises a residential conference each year at Peebles on the third weekend in November. It is Scotland’s main criminal justice conference and attracts distinguished speakers from both within and outwith Scotland.

The basic aim of the Association, both nationally and locally, is to create a common meeting ground for the many professional groups and individuals interested in the field of crime and criminology. The membership is drawn from the Judiciary, the Legal Profession, the Police, the Prison Service, Social Work Services, Administrators, Academics, Teachers, Reporters to Childrens’ Panels, Childrens’ Panel Members, Doctors, Clergy, Psychologists, Prison Visiting Committees, Central and Local Government. It provides an opportunity for an exchange of views by its members, enabling them to explain their own problems and to appreciate the problems of others engaged in related fields. SASD has no agenda other than to make possible and encourage purposeful dialogue within the Scottish criminal justice system in ways which will contribute to its improvement.

Through study groups and conferences, communication between the professional groups is encouraged and individual members gain the
opportunity to meet experts in different fields of study, and to discuss with them matters of mutual interest. In the working parties it is possible for the members to contribute their own specialist knowledge or experience. Among the most valuable results of membership are the opportunity to meet and know others with whom it may be necessary to make contact during the course of one’s professional life, and the consequent building of trust and confidence between members.

Membership

SASD has around 500 members. Those wishing to join should contact the Administrator, Carol McNeill, 56 Ava Street, Kirkcaldy, Fife KY1 1PN. 01592 641951 fifepublicity@ukonline.co.uk

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Conference Organiser: Sally Kuenssberg, 6 Cleveden Drive, Glasgow G12 0SE. 0141 339 8345

Journal Editor: Jason Ditton

Journal Assistant Editor: Michele Burman
Branch secretaries

Aberdeen
Laura Sharp, 23 Anderson Drive, Aberdeen AB10 1WP  
petandlsharp@btopenworld.com  
Chairman, Sheriff KA McLernan

Dumfries
Amanda Armstrong, Westpark House, 3 Rotchell Road, Dumfries DG2 7SP  
01387 250292 amandajane@dsl.pipex.com  
Chairman, Bill Milven

Dundee
Contact: Sheriff Frank Crowe, Sheriff’s Chambers, Sheriff Court House, 6 West Bell Street, Dundee DD1 9AD  
Sheriff.F.R.Crowe@scotcourts.gov.uk

Edinburgh
Bernadette Monaghan, APEX, 9 Great Stuart Street, Edinburgh.  
0131 220 0130 bm@apexscotland.org.uk  
Chairman, Sheriff Andrew Lothian

Fife
Vacant

Glasgow
Jackie Robeson, SCRA, Ochil House, Springkerse Business Park, Stirling  
01786 459557 jackie.robeson@childrens-reporter.org  
Chairman, Sheriff Rita Rae

Kilmarnock
Contact: Sheriff Seith Ireland, Sheriff’s Chambers, Sheriff Court House, St Marnock Street, Kilmarnock KA1 1ED  
SheriffWSIreland@scotcourts.gov.uk

Lanarkshire
Jim O’Neill, Scottish Prison Service, Room 332, Carlton House, 5 Redheughs Rigg, Edinburgh EH12 9HW james.o’neill2@sps.gov.uk  
Chairman, Sheriff Gibson

Perth
Helen Murray JP, 191 Oakbank Road, Perth PH1 1EG  
01738 621 044 eilidhmurray@blueyonder.co.uk  
Chairman Sheriff Fletcher

Orkney and Shetland
Tommy Allan, Nordhus, North Ness, LERWICK, Shetland ZE1 0LZ  
01595 690749 T.Allan@virgin.net
Chairman’s Report, 2002-3

General
This year has been another excellent year for the Scottish Association for the Study of Delinquency (SASD). It continues to thrive as a valuable meeting ground for all those interested in the Scottish criminal justice system and I am very grateful for all the hard work which many people throughout Scotland put in to make SASD a success.

Conference
The Conference is Scotland’s main criminal justice conference. The 2002 Conference continued in the fine tradition, first established by Evelyn Schaffer, of conferences which are friendly, productive and provocative and which send everyone away thinking what they might do to improve things. The theme of the 2002 conference was sentencing. It was ably chaired by the Lord Justice Clerk, Lord Gill, who, to our great pleasure, became our new Honorary President in the course of the Conference. The Conference got off to a wonderful start on the Friday evening with an after dinner speech by the new Solicitor General, Elish Angiolini. It was both witty and informative about the way forward for the Crown Office. On the Saturday morning, there were two important keynote speeches, one from the Deputy Minister for Justice, Dr Richard Simpson, the other from Nicola Padfield of the Cambridge Institute of Criminology. In the afternoon, the Conference, in groups chaired by Sheriffs, considered sentencing problems through imaginary cases invented by Sheriff Lothian. This was followed by Professor Hutton who spoke on sentencing and public opinion. On Sunday morning, Sheriff O’Grady spoke with fresh, first hand knowledge of the new drug courts.

Branches
It has been a good year for the Branches. They are a vital means of bringing together all those involved in the criminal justice system in a locality. Our membership is 428. Last year I reported that the membership was 500. Since then the membership list has been reviewed to remove members who are not currently paying subscriptions. So this does not represent a damaging fall in our membership. We are, of course, delighted to welcome all comers not simply members to our meetings and we get some very good attendances indeed. I would like to do a brief tour round the Branches.
Under the Chairmanship of Sheriff Andrew Lothian, and with Bernadette Monaghan as Secretary, Edinburgh continues to provide a first rate lecture series with excellent attendances. In Glasgow, Sheriff Brian Kearney has gone into well deserved retirement as Chairman after building up a thriving Branch. Carol Kelly has also retired as Secretary after her appointment as a Sheriff. I am very grateful to both of them for the huge amount of work they put into the Glasgow Branch. They have been replaced by Sheriff Rita Rae as Chair and Jackie Robeson as Secretary. Glasgow continues to provide a superb programme of debates, lectures and a very well attended day conference.

This year the day conference was chaired by Dame Elizabeth Butler-Sloss. Dumfries has again continued to flourish, addressing key local issues and mounting a very good day conference. This year the Chairman, Miller Caldwell had to resign on health grounds. The thriving Branch owes much to him and we shall miss him greatly. In his place we welcome Bill Milven of the Dumfries and Galloway Police and we also welcome Amanda Armstrong as the new Branch Secretary.

A very enthusiastic initial meeting was held in Perth in March and, with Sheriff Michael Fletcher as Chairman and Eilidh Murray as Secretary, there is now a full programme of lectures and meetings in Perth. Sheriff McLernan has revived the Aberdeen Branch as Chairman, with Laura Sharp as Secretary. Alex Davidson continues to run our Branch in Lanarkshire and we are very grateful to him. Thanks to Sheriff Frank Crowe, we now have a Branch in Dundee again. Sheriff Canavan has held an initial meeting to establish a branch in Greenock and Sheriff Seith Ireland plans to start a Kilmarnock Branch early next year.

It has thus been a very successful year for reviving or setting up new branches. In the SASD Council we devoted some time to discussing how we could help the branches and we prepared a pack of useful information and guidance on setting up a new branch. A brief note on this follows, and any member who is interested in setting up a new branch is very welcome to have the pack which gives further detail, and includes an offer of initial funding and lists of useful contacts. Any member is also very welcome to get in touch with me to discuss setting up a new Branch. Next year I would hope to report the setting up of a few more new branches. They do, I believe contribute significantly to the improvement of communication and understanding within the criminal justice system and I am very grateful to all those who put in so much work to running them.
Working Parties
There have been no major working parties this year but a small group met to draft the Association’s comments on Sheriff Normand’s report of his Criminal Justice System Objectives Review. We are also looking at what we might do on the question of information exchange within the criminal justice system. This is a difficult but important issue.

Finance
It is a great pleasure to report that the Association’s finances remain healthy and for this we owe much to our Treasurer, Alasdair McVitie, who will be reporting more fully shortly.

Thanks
I have already mentioned and thanked all those who work so hard to make the Branches a success. I would also like to thank all the members of the Council for their contribution: Dan Gunn, the Vice Chairman, for all his support; our new Secretary, Margaret Small; Sally Kuenssberg who has taken on the major task of running the Conference; Jason Ditton who produces an excellent and very professional Journal for the Association; Carol McNeill, our very efficient administrator who keeps the whole organisation running smoothly throughout the year and deals with all the conference bookings – a huge task. A special thanks to Alexandra Kirkpatrick who is not able to be here because of family illness but who has again provided much wise advice during the year. My warm thanks to all of them.

Conclusion
To conclude, another excellent year and I am sure next year will be equally so.
Starting a new branch

The Council of SASD is very keen to encourage the establishment of new local Branches of SASD. Local Branches and local Branch activities are the life blood of the Association. The Council recently had a full discussion on what it could do to help and has prepared a pack of material for any member or group of members wanting to set up a new local Branch.

If you are interested in setting up a new Branch, do get in touch with SASD’s Chairman, Niall Campbell, or the Secretary, Margaret Small. Our names and addresses are in the Office Bearers section of this report. We will be very glad to hear from you and to discuss what we can do to help. The SASD has funds which can be used to help new branches get started. For instance, it may be necessary to spend money on initial publicity material. We can provide membership lists so that a new branch knows which members live within its area. We can also provide names and addresses of the criminal justice agencies, organisations and individuals in the area who might be interested in becoming involved in a local branch of SASD. Membership forms for recruiting new members and copies of the programmes of other branches to suggest ideas for new Branches can be provided. We can put you in touch with the office bearers of other Branches who can discuss with you direct how to set up a new branch.

SASD can make an important contribution to improved communication within the criminal justice system and it is one of the declared aims of the Association to do this. An increased number of lively local Branches is one of the most effective way for the Association to make its contribution to the important aim of improved communication within the criminal justice system in Scotland. Do not hesitate to get in touch with us if you would like to start a new Branch.