



The Police Foundation
Improving policing for the benefit of the public



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Oxford
Policing
Policy
Forum

Policing and the Prisons Crisis

Report of the third Oxford Policing Policy Forum, which posed the question: *is there a role for the police in addressing the prison population crisis?*

All Souls
College,
Oxford

Present

Name	Organisation	Name	Organisation
Hilary Banks	Northamptonshire Police	Sally Ireland	JUSTICE
Dan Clacher	Police Standards Unit	Alison Liebling	Institute of Criminology, University of Cambridge
Nina Cope	Metropolitan Police Service	Martin Kettle	The Guardian
Julian Corner	Revolving Doors Agency	Kate Lloyd	The Police Foundation
Peter Dawson	Highdown Prison	Ian Loader	Centre for Criminology, University of Oxford
Malcolm Dean	Ex-Guardian	Juliet Lyon	Prison Reform Trust
Geoffrey Dear	House of Lords	Laura Morris	JUSTICE
Emma Disley	Centre for Criminology, University of Oxford	Abigail Plenty	Cabinet Office
David Faulkner	Centre for Criminology, University of Oxford	Stephen Rimmer	Metropolitan Police Service
Phillip Geering	Independent Police Complaints Commission	David Rose	The Observer
Stan Gilmour	Thames Valley Police	Neil Stevenson	Home Office
John Graham	The Police Foundation	Mark Simmons	Metropolitan Police Service
Julian Hall	Resident Judge, Oxford Crown Court	Enver Solomon	Centre for Crime and Justice Studies, KCL
Mike Hough	Institute of Criminal Policy Research, KCL	Peter Vaughan	South Wales Police
Christopher Jones	Churches Criminal Justice Forum		

The Oxford Policing Policy Forum

The Oxford Policing Policy Forum is a joint initiative of the Police Foundation and the Centre for Criminology at the University of Oxford. The Forum provides an opportunity for a wide range of stakeholders interested in policing to discuss fundamental issues under 'Chatham House' rules. The main purpose is to encourage informed debate rather than inviting an audience to listen to formal presentations. Participation is by invitation only (see list above). This Forum was chaired by Martin Kettle, and an introductory presentation setting out some key themes was given by Stephen Rimmer, Director of Strategy, Modernisation and Performance for the Metropolitan Police Service and ex-Governor of Wandsworth prison.

Introduction

For the first time in several years, there appears to be an emerging consensus that the prison population should not be allowed to continue to expand at the current rate. Penal reformers argue that many of the prisoners who suffer from problems of mental health and substance misuse should not be processed through the criminal justice system and that our prisons contain too many short term prisoners for whom a short spell in custody does them more harm than good. Yet, despite the energy devoted to trying to 'join-up' the criminal justice system, policy efforts to address the 'prison crisis' only ever take one step back. They are, in other words, directed primarily at trying to alter the behaviour of sentencers, without any reference to the processes through which increasing numbers of people come before magistrates and judges in the first place.

The third Oxford Policing Policy Forum sought to foster some joined-up thinking about the rise in the prison population and whether the police have any role in responding to it. The starting point for discussion was the obvious – but also fundamentally important and routinely neglected – observation that no one ends up in prison without having first been arrested and charged by the police. The

third Oxford Policing Policy Forum, therefore, addressed the question: *Is there a role for the police in addressing the prison population crisis?*

In raising this question for discussion there was no presumption that the answer would be categorically 'yes'. Instead, the question aimed to encourage a broader, joined up dialogue between a wide range of stakeholders – police officers, prison governors, probation officers, penal reformers, prosecutors, judges, magistrates, politicians and others interested in criminal justice – about the main drivers of the rise in prison numbers and what steps, if any, the police might take to arrest it. The Forum was split up into two sessions, the first addressing the causes of the crisis, and the second looking at potential roles for the police in addressing it; this report summarises the discussion that took place on the day.

What are the key drivers of the prison population crisis, and what role, if any, do the police play in this?

Although crime rates have been falling since the mid 1990's and court workloads have remained static since 1993, the prison population has increased substantially since then. Participants offered a variety of predominantly system-related reasons for this, including:

- Courts sentencing more people to prison for relatively more minor offences and for longer periods (although most recently less so)
- Increased investment in policing (there has been a 25% real increase to the police budget over this period, which accounts for two thirds of the financial allocation for the entire Criminal Justice System) and more people entering the CJS, stimulated in part by the Offences Brought To Justice target
- The impact of the 'Respect Agenda'
- An increase in recalls to prison
- Prison's failure to rehabilitate, which leads to more crime and more use of imprisonment (the revolving door syndrome)

- Less use of home detention
- The increasing aversion to risk of the courts and parole boards
- An increase in violent and sexual offences
- Under use of community penalties (partly due to lack of public confidence) and a tendency to use alternatives to custody as alternatives to other, lower tariff community penalties
- The absence of any consideration of incarceration capacity in sentencing decisions
- The existence of a growing security industry with a vested interest in expanding its market
- The introduction and increasing use of mandatory minimum sentences, indeterminate and extended sentences for public protection
- An increase in the use of suspended sentences and high-tariff community orders which if breached, often lead to incarceration
- Police behaviour

It was felt that these factors are not only interlinked, but tend to reinforce each other as well as generating an overall climate of punitiveness. In that climate, the police could not be expected to say anything that would make them appear 'soft' on crime, or to be taking a less hard line than Ministers. It was inevitable that each would reinforce the other's position.

Participants acknowledged that 'police behaviour' might play a minor role. Participants referred, for example, to the increased effectiveness of police investigations, increased investment in policing, greater police powers (and the willingness of the Government to give them these powers), police technology (e.g. number plate recognition technology affects arrest rates) and the use of disposals such as fines and supervision orders, which can eventually lead to prison sentences if not paid or adhered to. The main factor, however, was seen to be the role of policing targets, such as the Offences Brought to Justice (OBTJ)

target¹, which contribute to the 'net widening' process that draws more and more people, and particularly young people (so-called 'low hanging fruit'), into the criminal justice system.

The police are driven by a 'target' culture: targets are at the heart of how the police do business. Whilst targets generally encourage effective delivery and accountability, OBTJ and sanction detection targets have the unintended consequence of reducing police discretion to deal with minor offences selectively and informally. Most sanction detections² are a result of minor offences and this can alienate and criminalise young people from an early age. Targets are often short term and do not enable the police to think about the criminal justice system as a longer process that includes prison and eventual release.

How do we solve the crisis, and what role can the police play in this?

The point was made that the prison service and the police service were rarely viewed as taking part in a single process, with many people not seeing prisons as being part of the criminal justice system at all. Whilst the police are regarded very much as being the gatekeepers of the process, their role is often seen as one that only takes offenders up to the point of disposal and does not take into account the role of prisons. This lack of a joined-up perspective was seen as problematic, particularly as nearly everyone who goes into prison comes out again and will often be supervised whilst on parole by the police themselves. Since prisons are themselves criminogenic, contributing independently to re-offending, this lack of a more strategic, longer term perspective was seen as counter-productive in terms of crime reduction.

¹ An offence is said to have been brought to justice when a recorded crime results in an offender being convicted, cautioned, issued with a penalty notice for disorder or a formal warning for possession of cannabis, or having an offence taken into consideration (see <http://lcjb.cjonline.gov.uk/ncjb/39.html>)

² A Sanction Detection is a crime for which a person is charged, summonsed, receives a caution or other formal sanction. The Sanction Detection Rate is the percentage of the number of those crimes as a percentage of total recorded crime.

This failure on the part not just of the police but of other criminal justice agencies to think in a more joined up way about prison as an integral part of the criminal justice process, and about the role it plays in crime and disorder problems, makes the need for more effective partnership working vital. Participants generally felt that relevant partnerships, including Local Criminal Justice Boards (LCJBs) which are concerned with issues surrounding targets and efficiency and should therefore be thinking about prison at a more strategic level, were still not building relationships and working together in a sufficiently developed way. The separation of CDRPs and LCJBs was questioned and it was generally agreed that the reality of partnership work was highly complicated. For example, target setting in this context can often be divisive, as different agencies with different targets are often pulling in different directions, and separate accountability structures and resource issues can lead to conflict and scepticism about the potential efficiency and effectiveness of large scale criminal justice programmes. The police are much more accountable and visible locally than other criminal justice services, and their relatively exposed position politically makes it harder for chief and other senior officers to take up public positions in which they might appear 'soft on crime' or to be at odds with the government.

As well as high level strategic relationships between different agencies, there is also a need to focus on improving partnership working at a local level. There was recognition that whilst the police and the prison service have a limited relationship with each other, the partnership relationships of both services are dominated less by other criminal justice agencies and more by agencies involved with social issues such as health and education. This reflects the fact that both institutions play a similar 'social service' role, regularly dealing with issues surrounding drugs, alcohol and mental health, but often using a different vocabulary and sometimes making different assumptions. A broader debate is needed about the lower level crime that takes up a large proportion of many police officers' time. More of it could be dealt with outside the criminal justice

process, with a greater contribution from the youth service and from those providing, for example, pastoral care in schools.

A number of participants felt that agencies such as health and social services, perhaps related to a misplaced sense of professionalism, were failing to do their jobs properly and were turning to the police unnecessarily. This, they felt, could lead to the premature or inappropriate acceleration of often vulnerable people into formal criminal justice proceedings. A good example of this is where staff in residential homes call in the police to deal with relatively minor offences which, were they to occur in ordinary homes would be dealt with informally. Another example is where mental health patients are held in police cells, which are designated as supposed 'places of safety', rather than being referred to non-criminal justice facilities. In this way, the police end up being a backstop for a range of other agencies. Partly as a consequence of being a 24/7 service and partly as a result of their 'can do' attitude, the police are easily exploited by governments concerned to 'get things done', but this is not always without detriment.

There is also an over-arching concern about giving the police ever increasing responsibilities and hence powers whilst reducing the functions and undermining the powers of other, often more appropriate agencies. A good example is in relation to violent offender orders, where the police take responsibility for monitoring and supervision as the probation service has insufficient resources to do so themselves. With such a wide remit, from anti-social behaviour to terrorism and everything in between, and without a clear framework within which to select priorities, police forces are becoming increasingly at risk of suffering from a 'capability and capacity gap' and ultimately delivery failure. A clearer perception and a better public understanding are needed of the extent to which the police can realistically be expected to prevent or control crime.

On a more ideological level it was suggested that the aim of imprisonment in society needed to be re established (e.g. to punish, rehabilitate or keep communities safe) in order to start looking for more effective alternative sanctions, particularly given the changing demographic profile of the prison population, with prisons now holding increasing numbers of the most vulnerable people in society. It was agreed, however, that changing public and governmental attitudes towards the use of prison would be extremely difficult, as imprisonment still 'satisfies expressive and symbolic functions' (see the work of David Garland for more on this). The Bulger case in 1993 fixed the public's ideological barometer in terms of attitudes to punishment, and Michael Howard's 'prison works' speech that autumn set the tone for government policy. To this day, successive Home Secretary's have often spoken of incapacitation as the primary, if not the sole, response to crime. The Street Crime Initiative is a good example of the government following the populist 'tough on crime' rhetoric and building political capital by exploiting fear of crime and pressurising criminal justice agencies to put more people in prison.

The question was asked, however, as to whether this political rhetoric affected police behaviour, as it clearly did the behaviour of the courts. Some participants suggested that the symbolic importance of the police means that their opinions do contribute to reinforcing the punitive climate of public opinion, and that police opinions often reflect a police culture that sees officers measuring their success in terms of how many people they manage to lock up and for how long. This mentality may be slowly changing, but even the growth in restorative justice interventions, which were praised as being innovative and effective alternatives to custody, have become less popular amongst the police, who view them as being too 'fluffy'. It was noted that budgets in this area have been slashed. More widely, the police play the role of social engineers, who influence social attitudes and behaviour by defining acceptable behaviour in society; they effectively say 'we will allow you to do this, but not that'. As such, they affect who gets on to the criminal justice conveyer belt. But the police also play a welcomed reassurance

role, which helps to alleviate the public's fear of crime and feel safer in their communities, so the public may be more open to alternative ideas to the government's traditionally punitive rhetoric than is commonly supposed.

Having talked earlier about the problematic nature of police targets, it was noted that there are changes afoot, particularly in response to the criticisms surrounding sanction detection and OBTJ targets. The Home Office is already developing a more qualitative approach to target setting in the next Spending Review, with fewer headline Public Service Agreement (PSA) targets and more cross-cutting targets built around the aim of reducing crime. The greater focus on crime reduction and improving public confidence and satisfaction will help criminal justice and other agencies to focus more on outcomes rather than outputs. In terms of improving the scope for partnership working within a target driven culture, Crime and Disorder Reduction Partnerships (CDRPs) will also be given a smaller number of cross-cutting PSAs in 2008/09.

Having considered the problems related to partnership working, participants believed that it would be helpful to better understand each agency's role in reducing crime in order to improve the allocation of resources to meet crime reduction targets. Police and other agencies need a more coherent framework for establishing priorities so everyone is clear about what the priorities are and who takes responsibility for what. The case was made for increasing the visibility of prisons as an integral part of the criminal justice process.

It was generally felt that what is needed in order to change the current system is not just greater use of alternatives to prison, but more involvement and responsibility on the part of local communities for reducing crime and dealing with offenders. There are various initiatives which could help to inform a more community-based approach, such as restorative conferencing, community justice centres and community payback schemes. In the US, for example, the 'family justice centre' movement, which provides services to victims of domestic violence

in one location (e.g. lawyers, police, counsellors sharing information on mutual clients), has led to a dramatic drop in arrests and prosecutions³. Other examples mentioned include the community justice centre in New York⁴ and the Justice Re-investment initiative in Connecticut. The latter involves the delegation of decision making on the allocation of resources to local communities and has led to communities switching funding from incarceration to more upstream interventions in education, families and community projects⁵.

The police could help to increase public support for alternatives by openly supporting and encouraging new initiatives, working with partners to ensure their success, and giving re-assurance to the public that they will not be exposed to unreasonable or unnecessary risk. There is already a move towards increasing local accountability for decision making in the UK, and asking the public what they care most about, although some participants expressed the need for caution in this area, given the tendency towards punitive opinions and the fact that public priorities can often be ill informed. But the police must retain the ability to say 'no' at both the local as well as the national level as resources are always limited and they cannot deliver on everything (although it was recognised that saying 'no' to government is often politically difficult for the police, particularly without the support of other agencies).

Partnership working, although complex and difficult, is still key to achieving positive change, and the support of other agencies, not least those outside the criminal justice system, is vital if the police are to play a more prominent role in promoting local initiatives and moving the crime reduction agenda away from the use of custody and exclusive reliance on the criminal justice process.

³ The first UK Family Justice Centre opened in 2005. Find more details here: http://cms.met.police.uk/news/publicity_campaigns/domestic_violence/family_justice_centre

⁴ www.courtinnovation.org/index.cfm?fuseaction=Page

⁵ www.csgeast.org/crimreinvest.asp

Bearing this in mind, the recent split between the Home Office and the Ministry of Justice seemed to some to be counter intuitive and a potential risk to the success of the development of a more joined up approach across the criminal justice system. Some participants were concerned that the Home Office would become all powerful and the Ministry of Justice would fall down the pecking order in terms of influence. Others were more optimistic since the Ministry of Justice would now become an independent voice in Cabinet, giving it the potential to express its own ideas, listen to new voices, develop new relationships and institutionalise justice in government in the same way as control of the economy is institutionalised through the Treasury. It was felt that strong collective political leadership, and a combination of political will and professional skill, would all be important if these aspirations are to be achieved.

Major change can happen and it is vital to look overseas for models of good practice. In Canada, for example, the Youth Crime and Justice Act 2003 has led to a substantial decline in the number of young people appearing in court and a significant reduction in the use of custody, with no increase in the youth crime rate. After just one year, the proportion of young people entering the criminal justice system declined by 17 per cent and the proportion entering custody fell by 37 per cent. The new legislation is based on a set of clear principles with guidelines that set out which principles should be prioritised over others when they appear to conflict. The changes were made possible by firstly achieving public consensus about what the youth justice system should be for.

Perhaps progress was easier in Canada as the law and order debate was never quite as politicised as it is in the UK, but prior to the introduction of the new legislation they had one of the highest youth imprisonment rates in the world. This suggests that improving public relations, managing public expectations and developing an informed public debate about appropriate responses to youth misbehaviour and in particular the use of incarceration, which has been sorely missing in our own country, is paramount if real change is to be effected.

Conclusion

Prison overcrowding is a problem that cannot be solved in the short term. Even if there was an immediate change in sentencing legislation, it would be felt that it would still take at least five years for such changes to filter down into sentencing practice. But a start needs to be made somewhere, and recognising the links between the prison population and the police as the gatekeepers of the criminal justice system was considered to be at least one step towards in the right direction.

It was generally concluded that the current crisis has to be dealt with at an ideological level and not just at the level of institutional processing. A set of shared values needs to be developed across the criminal justice system, informed by a careful and robust analysis of how the current situation has been reached and how it might be fundamentally changed, rather than accepting that the prevailing rhetorical and political climate is fixed. Existing efforts to stimulate public debate and local accountability for crime reduction by developing a sense of common purpose and a shared responsibility for outcomes at a local level are all positive developments. Exhorting the police to publicise effectiveness of community penalties may also help to increase public confidence in them and hence their take-up. But finding a compelling narrative that will persuade the public to accept a greater degree of community involvement and responsibility, and so make possible a reduction in the use of custody and resort to the criminal justice process, is no easy task.

No substantial change in the present situation could be achieved without political leadership, and the position of the Ministry of Justice within government, including its relationships with the Prime Minister's Office and other government departments, will be crucial. Equally important will be its relationships with the police and other criminal justice services, including the National Criminal Justice Board. But significant progress can also be made locally, with professional

leadership and the confidence and support of the public, with new models being developed and tested in local communities leading to real and sustainable changes in public attitudes.

Kate Lloyd, July 2007