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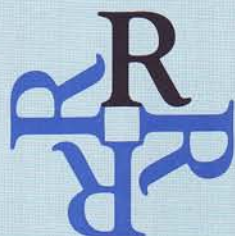
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ZERO TOLERANCE CAN DAMAGE RELATIONSHIPS

Aidan Wilcox, a criminologist, explains why he believes that ZTP can undermine police legitimacy and worsen that all important police-community relationship.

So-called zero tolerance policing (ZTP) is popular with the media, certain politicians and apparently the people of Cleveland, where it is being practised. Part of the reason for its popularity is the sharp falls in crime that are associated with it and the resonance that the no-nonsense 'clip round the ear' style of policing has for many people. In this article, I explain why I believe ZTP may in fact be bad news.



ZTP means stopping, searching and arresting. Does it really work?

WHAT IS ZTP?

Zero tolerance is an order-maintenance style of policing which involves stopping, searching and arresting people for minor infractions of the law such as loitering in groups and begging.

It is a strategy associated with Wilson and Kelling's 'broken windows theory', which claims a direct causal link between apparently trivial delinquency and a breakdown of law and order on a massive scale [e.g. their research showed that if one window is broken in a building, the rest are likely to be smashed within days]. They argue that social disorders (begging, loitering etc.) create fear. This fear leads to changes in residents' behaviour (such as staying in at night) which reduces social control and therefore contributes to the emergence of more serious crimes.

"Zero Tolerance is almost by definition short termist because it relies on reducing crime quickly to satisfy public opinion and secure public support."

I am not questioning the existence of a 'developmental sequence' between disorder and crime (in fact there is some evidence for it). What I do question is their controversial solution to the problem – ZTP. Rather than asking why some people are 'disorderly', Wilson and Kelling propose a crackdown on minor offences, a crime-control police response to a problem of the breakdown of relationships.

DOES IT 'WORK'?

Since the introduction of ZTP to New York in 1994 the murder rate has more than halved, to under 800 for

the first time in 30 years; other serious crimes are also down. There are a number of reasons why ZTP may only have played a small part in this welcome reduction. For instance, an extra 7000 officers were hired in NY, the police administration was overhauled so that summonses and arrests required less paperwork, computerised and up to date crime mapping was introduced and much of the city benefited from economic regeneration.

In Cleveland (UK), where ZTP was also introduced in 1994, the results are less spectacular: a decline of around 20% in some crimes (e.g. burglary). It is even less impressive when one considers that crime in this country has fallen by around 10% in the past two years. It is not helpful, then, to consider just the short term effects on the crime rate. In the rest of

this article I outline the main objections to a policy of zero tolerance.

SHORT TERMIST

Zero tolerance is almost by definition short termist because it relies on reducing crime quickly to satisfy public opinion and secure public support. The emphasis put on the 'figures' creates tremendous pressure to achieve the 'right result' – in NY and Cleveland this resulted, for example, in 'down-criming' assault to harassment or even finding 'extra' crimes when the rate was too low.

(CONTINUED ON PAGE 2)

The stress on quantity (of crime) also militates against activities such as community consultation and collaboration which build trust and improve relationships with the community, since these would initially result in an increase in reported crime as people feel more confidence in the police.

CRIMINAL RECORD AND EMPLOYMENT

One of the most compelling arguments against ZTP is the adverse consequences it can have on citizens' ability to gain legitimate employment. ZTP results in more people being brought into the formal criminal justice system for minor offences. The problem is that convictions for even minor offences or cautions results in a police record. The consequences of economic marginalisation faced by those with a criminal record are well documented. Given that the inability to gain legitimate employment is a strong predictor of involvement in crime, this seems a very short term 'solution' indeed.

DISCRETION AND JUSTICE

The very name 'zero tolerance' is a misnomer. The police cannot enforce all the laws all the time, let alone against 'quality of life' offences such as begging, for which a legal definition may not even exist. The Audit Commission estimates that for

every police officer on duty there are 18,000 people, 77 miles of road and 23 pubs. ZTP can thus only ever be selective enforcement, forcing the police to exercise discretion as to where and how to apply Zero Tolerance

This can easily lead to abuses of justice. If the police treat unequally those who are relevantly the same, or equally those relevantly different, then

discretion is abused and justice is not served. There is, for example, anecdotal evidence from NY that ZT is concentrated in black and Hispanic neighbourhoods.

LEGITIMACY

Recent criminological research has looked at how the decisions and actions taken by criminal justice agencies, including the police, affect

their perceived legitimacy and how this in turn impacts on crime. Sherman's (1993) theory of defiance maintains that defiance (i.e. recidivism) occurs when the offender:

- considers the sanction to be unfair (arbitrary, discriminatory or excessive);
- is poorly bonded to the sanctioning agent (e.g. police) and/or society;
- defines the sanction as stigmatising the person, not the act;
- and refuses to acknowledge the shame of the sanction.

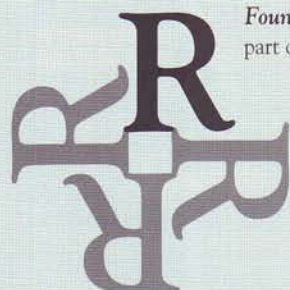
In its application to certain geographical areas and, by implication, certain social or ethnic groups, ZTP can be discriminatory or arbitrary. By encouraging coercion, it can also be excessive. According to Sherman's criteria, ZTP may therefore encourage defiance, and hence recidivism.

CONCLUSION

The nature of contemporary policing calls for a more holistic approach than ZTP can offer. The other two main developments in policing – community policing and problem oriented policing (POP) offer more scope for increasing both police effectiveness and legitimacy. Community policing recognises that ordinary citizens have a contribution to make to the policing of their community and seeks to make them partners in the protection of social order. POP adopts a proactive and problem solving approach to tackle the problems underlying individual incidents (crimes). The key to the legitimacy of the police is the quality of their relationship to the community, offender, victim and ordinary citizen alike. ZTP does not address this relationship and instead offers a short term salve whose long term consequences may be to worsen the problem.

Aidan Wilcox is a criminologist who currently works as a research officer on the parole process for Oxford University. This article is based on the MPhil dissertation that he wrote last year at Cambridge University.

WHO WE ARE



The *Relational Justice Bulletin* is a quarterly publication by the **Relationships Foundation**, a Cambridge-based charity, as part of its *Relational Justice initiative*.

Relational Justice is a fresh approach to crime and punishment. Rather than looking at crime solely as an offence against the state, it sees it as a breakdown of relationships between offenders, victims, families and the community.

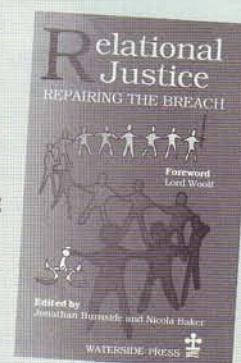
The concept was developed by the **Relationships Foundation** in the early nineties. It first gained public exposure with the publication of the book *'Relational Justice: Repairing the Breach'* (Waterside Press, 1994), which was welcomed by Lord Woolf as 'a radical new approach which anyone with any concern about the criminal justice system needs to be aware of'. Since then, it has been shown to have wide implications for policy and practice.

The *Relational Justice Bulletin* has been launched as a platform for discussion of the ideas at the heart of **Relational Justice** as well as exchange of good practice across the system.

You are warmly invited to join the growing number of professionals and practitioners who are already receiving it (see subscription form on the back page), and to contribute your own ideas and experience.

The **Relationships Foundation** is a registered charity dedicated to developing new 'relationships-based' approaches to social, economic and political issues.

Your help would be welcome in publicising the *Relational Justice Bulletin*. Free A5 leaflets are available for your use. You can request copies on the form on the back page.



Relational Dynamics in the Probation Service

Imogen Brown, of the Probation Service, discusses how a good officer-offender relationship is crucial to successful supervision and reduces recidivism.

Research within the Probation Service has recently focused on the methods which can be shown to contribute to effective supervision. Whilst this has led to greater clarity about the principles which underpin good practice, less attention has been paid to the more intangible role of the officer-offender relationship.

*'This positive relationship can motivate an individual to enter into an alliance with the officer and participate in a process even if not convinced of its effectiveness.'*¹

The nature of this relationship was one focus for my own recent study of 19 offenders on probation. All cases had been suggested by their officers as demonstrating significant change during the course of supervision. All 19 either described themselves, or were described by their officers, as starting supervision in a state of personal crisis. Offenders used phrases such as: 'I was at absolute rock-bottom'; 'I was down, I was depressed, I wanted to kill myself, I didn't think I would pull through'. Officers described them as '.... feeling totally useless'; '...[in] utter turmoil'; 'In bits, upset and confused'. The offenders had low expectations of probation making any difference to them. Problems relating to drugs, alcohol, aggression, mental health, and relationships, featured heavily in their lives.



lonely person with very few friends I think that we had got to the stage where he would have liked to have seen me as his mate as well as officer and it was very difficult at times to keep within the boundaries.'

To what extent did this relationship effect the changes that were evident in this small sample of offenders' lives, 12 or more months after the start of the order? The changes themselves covered a range of success: 68% had not reoffended to the officers' knowledge, and of those who had the severity or frequency was less. Other changes clustered around them achieving control over alcohol or other drugs, taking responsibility for their lives, increased self-esteem or self-dependence, changes in attitude and improved relationships.

Whilst the majority of officers attributed the means of change to the offender or to factors outside the supervisory relationship, offenders themselves were more likely to give their officers the credit for effecting change. Officers typically said:

'[He] keeps saying that I am the one that's made the difference. I keep telling him that he's the one that's made the difference. I cannot summarise what I have done. I've not done anything different with him than I've done with others that have failed.'

Offenders, on the other hand, tended to say:

'[She] helped me with all [my problems]. Without her I think I'd have been back in prison. [She's] given me a conscience ... drumming things into my head; going over and over things.'

Asked to describe what they thought to be the most important qualities in a probation officer, most offenders referred to 'listening qualities': understanding, approachability, empathy. Qualities relating to trust also featured highly: inspiring confidence, trustworthiness, honesty, truthfulness. Offenders also described the value they had derived from the relationships: friendliness, advice and guidance, motivation, support and help.

COMPLEX INTERACTION

The sample of offenders studied was not, and was not intended to be, a typical sample of the probation caseload. It was deliberately chosen in order to explore, from the perspective of both offenders and officers, those features of individual

supervision which contributed to successful outcomes. What became clear during the course of the study was the way in which the relationship between the two parties underpinned each stage in the course of supervision.

- The establishment of the relationship was crucial to a full assessment;
- motivating the offender to change frequently occurred through the officer delivering a meaningful message to the offender when s/he was ready to receive it;
- persuading the offender to undertake the work depended on insight as to what methods the offender might respond to;
- supporting the offender through lapse or relapse frequently resembled an act of friendship;
- and final disengagement from supervision had to be carefully managed as any ending of a relationship.

Change does not occur in a vacuum: it is a complex interaction between the offender, the officer and the range of interventions deployed. The trust offenders felt enabled them to engage with the work officers required them to do; on the officers' side the encouragement, reinforcement and praise offered – qualities which offenders identified

as friendship – are precisely the same qualities which have been demonstrated to enhance the chances of a successful outcome through 'pro-social modelling'.²

If evidence based practice is now to become the key to effective supervision, the

findings of studies such as this and Rex (1997)³ should not be overlooked when devising new structures for service delivery.

"The relationship between the two parties underpinned each stage in the course of the supervision."

Dr. Imogen Brown has conducted and managed research for the West Yorkshire Probation Service for nine years, and is a visiting fellow of the Probation Studies Unit in Oxford.

¹Chapman, T. and Hough, M (1998) *Evidence Based Practice: A Guide to Effective practice*. London: Home Office.

²Trotter, C. (1993) *The Supervision of Offenders: What Works*. Sydney: Victorian Office of Corrections, Australia.

³Rex, S. (1997) *Offenders and their Supervisors' Views of Probation: Help within a Restrictive Framework*. Paper presented to the British Criminology Conference.

FRIENDSHIP AND TRUST

Overwhelmingly, offenders interviewed described the relationship they had with their officers as one of friendship and trust:

'Someone I could talk to'

'We had a lot in common'

'I could trust her; she was supportive'

'She treated me like an equal'

Officers, on the other hand, rarely spoke of the relationship as one of friendship; they referred more often to a 'professional', 'working', or 'worker-client' relationship, whilst acknowledging the fine balance which needed to be maintained:

'Very warm, still professional – he knew I was boss, he saw me as someone on his side, a friend. But I could still challenge him within that – it wasn't that cosy.'

'I think I had to be very careful the relationship with [him] did not exceed what it should. [He] was such a

Putting Relationships First: EFFECTIVE INTER-AGENCY PARTNERSHIPS

Anita Gibbs, a Probation Studies Research Officer, discusses the importance of principles and good practice for inter-agency work.

Inter-agency arrangements for crime prevention and work with offenders in the 1990's are characterised by market-led principles and contract-based arrangements. Consequently, few representatives from statutory non-profit or community organisations identify the development of positive, mutually beneficial and equality based relationships as the foundation for effective co-operation and good practice.

This piece briefly explores lessons from research into inter-agency partnerships between the probation service and voluntary sector organisations highlighting common problems; principles for partnerships; and good practice.

COMMON PROBLEMS

Inter-agency arrangements are both rewarding and challenging for those brave enough to participate. Some of the relationship dynamics of such arrangements were explored when I interviewed 65 statutory, voluntary and community representatives involved in probation partnerships in 1994 and 1995. Common problems emerging from these interviews as well as in the literature include¹:

- **Problems of Working-Together.** Representatives often hold stereotypical views and assumptions about each other, some based upon ideological differences or the nature of the work being undertaken. Others are based upon historical differences about which agency should occupy key roles and high status positions. Inevitably,



disagreements occur, often revealing a poor level of knowledge about the contributions of different organisations.

- **A Lack of Clear Vision, Sense of Purpose of Clarified Responsibilities.** Representatives are delegated to represent their organisations, often without a clear sense of contribution and with conflicting priorities about whether they should represent the combined inter-agency unit or their own organisation. Relationships on this basis tend to become superficial, with the strongest commitment to the inter-agency unit being from those community members who have less of an agency agenda to influence them.
- **The Impact of the Contract Culture.** This can lead to anxieties for staff about de-skilling, privatisation, loss of jobs and diminishing resources. When this happens inter-agency representatives will become more guarded; less willing to share their knowledge and skills; and more likely to be rigid about adhering to contracts. The introduction of competition for funding seems more likely to decrease co-operation and any sense of equality between different agency representatives.

- **Dominance by One or More Bodies.** In my own study, the probation service was expected to be, and in most cases was, the dominant partner or agency. However, the role was often a domineering one, with some groups likely to be marginalised. The imposition of definitions and the lack of consultation by the probation service were features which were disliked by other agencies participating in inter-agency arrangements.

"Inter-agency arrangements are both rewarding and challenging for those brave enough to participate"

INTER-AGENCY PARTNERSHIPS: UNDERLYING PRINCIPLES

At the beginning of any inter-agency arrangement I would suggest a number of principles which should be adopted, to demonstrate that relationships are of prime importance, rather than being seen as an added bonus if they do happen to work out following the achievement of goals or efficiency gains.

Firstly, respect and empathy, combined with honest communication, will convey that people are valued and will be listened to. Representatives need to make efforts to appreciate the diverse contributions given by different groups, even when there may be ideological, or other areas of disagreement. Inter-agency representatives and other groups taking part in partnership arrangements need to recognise the opportunities for learning and the benefits to be gained from sharing skills and knowledge, which are usually for a common purpose, beyond the needs of the individuals who participate.

Secondly, a willingness to negotiate, compromise and be accountable, which may need to involve a greater willingness, from some of the more dominant parties, to relinquish or share their power.

Thirdly, whilst equality is an ideal principle, in reality some groups or people within inter-agency arrangements will have greater levels of

responsibility (e.g. statutory members) and decision-making power. However, this does not mean that a commitment to encourage equality of opportunity and fairness cannot occur, or that in practice the sharing-out of responsibilities and decisions should not occur amongst the members of the inter-agency unit.

Ownership and commitment to the inter-agency arrangement are also important principles, particularly when agency representatives have their own agency priorities on their mind. For an arrangement to be fully effective all parties must adopt the common vision and demonstrate long-

term interest. Commitment can be expressed in many ways: through time spent with other representatives; through the tasks undertaken; through a willingness to do work of a differing nature to normal agency tasks and by taking a keen interest in the work and ethos of other organisations.

INTER-AGENCY PARTNERSHIPS: GOOD PRACTICE

There is a need to establish a guide of good practice for inter-agency work; indeed there are a number of such guides including the recent Home Office (1998) publication 'Guidance on Statutory Crime and Disorder Partnerships'. I would like to summarise 'good practice' between statutory bodies, such as the probation service, and community groups, the voluntary sector and other statutory agencies:

- **At an early stage establish a common vision, set of clear principles and agreed priorities.** Agencies need to recognise a dual or multi-responsibility for the vision and priorities. They may develop these into a range of tasks which are specific to particular representatives participating in the inter-agency arrangement. It is vital that agencies, having agreed a common purpose, 'own' it, and that individuals who act as representatives for an organisation are also fully committed to the common purpose. Within agreed priorities it is also important to clarify specific responsibilities of management and establish clear lines of accountability.
- **Clarify ideological, historical, and practice areas, where disagreements are most likely to pose a threat to effective co-operation.** When negative conflict does occur, the inter-agency unit needs to have a clear framework for dealing



with it. Conflict resolution will be assisted by a willingness to negotiate, compromise and allowing plenty of opportunity for informal and formal dialogue. If the principles mentioned in the previous section have been adopted, then the conflict resolution will be a constructive experience for the people involved and should lead to a more productive arrangement for all the agencies involved.

- **Agencies need to be willing to pool their resources;** whether it be financial, or the use of personnel, equipment or any other type. Aligned to this representatives will need to take time educating one another about the resources on offer and the benefits of pooled efforts, as well as their limitations. Team-building activities will help build positive relationships which are unique to the inter-agency unit, and time spent planning and reviewing the work will consolidate the initial enthusiasm and interest of the individuals involved.

• **It is vital that genuine opportunities for participation and consultation occur,** not only with all the groups involved in the inter-agency arrangement, but also with those who might have a short-term or subject specific contribution to make on an *ad hoc* basis. People also need to feel their ongoing support is required by their colleagues and is counted as

worthwhile. By consulting them on a regular basis this will be conveyed. The stronger and better resourced agencies need to take some responsibility in supporting the smaller and less well resourced groups.

CONCLUSION

I have tried to suggest that inter-agency partnerships need not be based on competitiveness and the dominance of one or two statutory bodies. Rather, they can be based upon positive and open relationships,

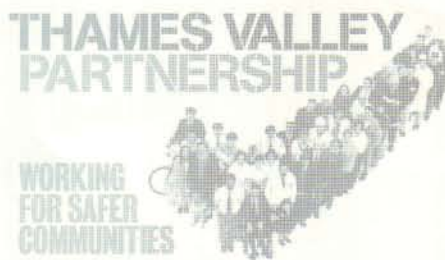
as well as a commitment to equality. Inter-agency partnerships are not just the political flavour of the month, they are the future basis of many employment initiatives between statutory organisations and voluntary sector or non-profit groups. Thousands of employees and volunteers from these groups will have no choice but to work-together. I believe that they will benefit more at both a practical and an emotional level if they adopt a relational model as their basis for such work.

Dr. Anita Gibbs is a Research Officer at the Probation Studies Unit, Centre for Criminological Research, Oxford. She was formerly a probation officer and has also been a volunteer for victim support and a community mediation scheme in Bristol.

¹ Gibbs, A. (1996) *Probation Partnerships*. Bristol University: Unpublished PhD Thesis.

Partnership Makes the Difference

Mary Phillips explains how a ground-breaking multi-agency partnership in Thames Valley has led to much better through-care for young people sentenced to detention.



Traditionally, through-care for young people sentenced to detention has been the Cinderella of the Youth Justice Services – patchy at best!

This was certainly the case in Thames Valley in 1994, where research showed strong evidence of local variation in the services provided. There was also mounting concern that things were going to get worse, not better. The numbers of young offenders in custody were rising year on year, whilst the main services involved (i.e. Probation Service, Prison Service and Social Services) were all facing local reorganisation as a result of a reduction in funding.

In 1996, statutory and voluntary services working with juvenile offenders within the Thames Valley came together to look at ways in which services could be improved. This was the start of the *Thames Valley Resettlement of Juvenile Offenders Project*, involving both senior managers and experienced practitioners from the Probation Service, Prison Service and Social Services.

ENHANCED TRUST AND RESPECT

Three years on, the scheme is deemed a great success by all participants, with evidence of a much better through-care service now being provided.

How did we do it? The introduction of a Reception into Custody Form has been the key point around which the project has revolved, and the process that has facilitated the improved

service. However, what has really made the difference has been the enhanced level of trust, respect, communication and co-operation between the professionals involved.

Key to this has been the multi-agency training, jointly planned and jointly presented by 'grassroots' practitioners, addressing joint concerns such as self-harm and the lack of information at the time of entry into the custodial system.

What became apparent from the early training sessions was a real lack of understanding as to the restraints on each service. Each had preconceived ideas about the services available, who was responsible for what, and what could be realistically achieved. Through the training, an understanding of each service's limitations has come about. Time and time again, we see new willingness to work together and find ways around the issues and problems.

We also discovered that, in 1995, there was still a great deal of stereo-typing amongst the different professionals working with young people in custody – one of 'horns' (prison officers as seen by social workers) and of 'sandals' (social workers as seen by prison officers). There is no doubt that, without the joint training, this would have continued because of the lack of real communication between the Prison Service and the Youth Justice/Probation Services.



POPULAR DEMAND

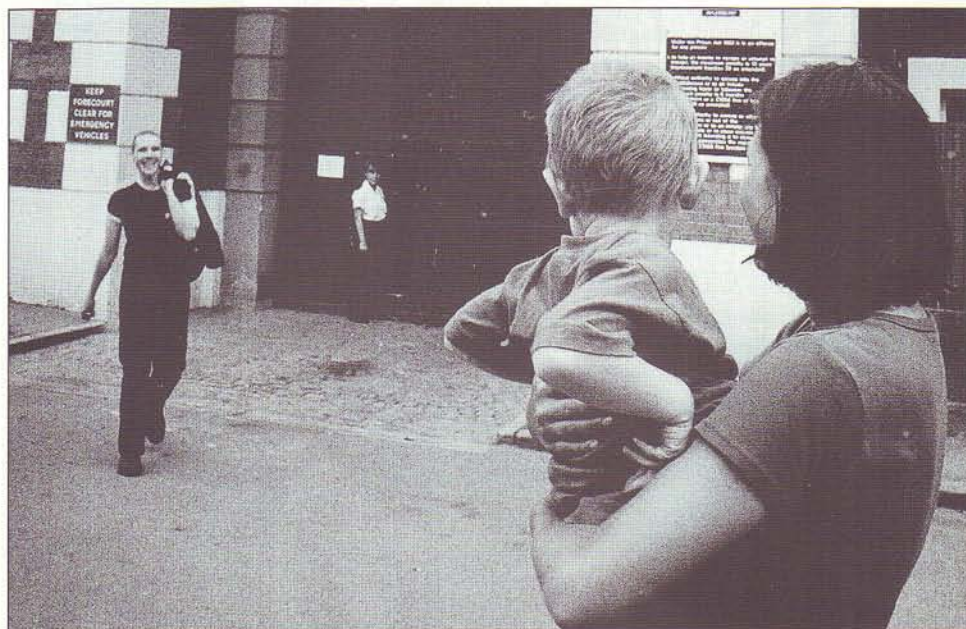
Three years on, the continuing enthusiasm and commitment shown to the project by senior managers and by practitioners (all very busy people wary of 'time-wasting' bureaucracy) is a clear sign that the scheme is proving of real benefit to those involved. This has been confirmed by the independent evaluation carried out by Oxford University in 1997.

Another clear evidence of success is the way the programme is continuously expanding by 'popular demand':

- 'Best Practice Guidelines' and a 'Directory of Resources' have been published and already updated once;
- the training programme has been developed further to address other areas of concern such as Women in Custody, Substance Misuse, and Mentally Disordered Offenders';
- an 'Exchange Placement' scheme has been successfully set up to give practitioners further opportunities to understand the differences between the services;
- new partners are involved, such as private escort agencies in order to enhance the transport of juveniles;
- the project has formed positive links with the employment services in order to enhance the employment opportunities upon release.

It is too early yet to judge the ultimate impact the scheme is having, such as re-offending rates. There is, however, no doubt that the service provided to offenders has improved significantly as a result of this multi-agency partnership. It is also highly relevant in the context of the recent Crime and Disorder Act (July 1998), which requires a case management approach to convicted prisoners, both during and post sentence. This is why it has already attracted the interest of the Chief Inspector of Prisons and the Youth Justice Board. It has a great deal to offer to the emerging Youth Offending Teams and should be promoted to them as best practice.

Mary Phillips is the Community Safety Director at the Thames Valley Partnership, where she has been seconded by Social Services. She was previously a Youth Justice Manager in Berkshire.



Why Relationships Are Key

David Faulkner explains why policy makers and practitioners need to take notice of the lessons learnt through the Thames Valley project.



C rime committed by children and young people has become a major national issue during the last five years, after a period of relative confidence – some people would say complacency – during the 1980s.

A quarter of all crime that is traced to an offender is committed by young people aged under 18; the cost may be as much as a billion pounds a year; and a small number of offenders are responsible for a large volume of crime. Persistent or serious young offenders can attract feelings of dislike, fear and even hatred from those who are affected by – or just hear about – the offences they have committed. They have been characterised by the media in the language of animals, as rats or vermin.

Only a small proportion of young offenders are sentenced to custody, but the numbers have been increasing since 1993. More than twice as many young people aged under 18 are now in Prison Service custody compared with five years ago. This is the group with the highest rate of reconviction of any form at court disposal – up to 80 or 90 percent within two years.

Custodial sentences are often welcomed for the protection they give to the public and for the respite they provide to the offenders' neighbourhoods and local communities. A period out of circulation can provide some benefit to the young people themselves if it provides an opportunity to think about themselves and their families, about what they have done and what the future may hold for them, and about how they might change the direction of their lives. Any protection to the public will be short-lived if that opportunity is not taken, especially when it is realised that the period of custody is rarely more than a few weeks.

UNDERSTANDING AND COMMUNICATION

Any attempt to work constructively with young people – in custody or anywhere else – involves knowledge, understanding and communication. Knowledge of the young person's situation and background; understanding of his or her experience, character and outlook; and communication both with the young person and between those who hold the necessary information and who have the relevant responsibilities for his or her supervision, safety and care.

Communication is especially important, and difficult, where young people in custody are concerned. A wide range of professions, agencies and individuals will be involved – often the whole range of those concerned with social care – and the young person's own history is likely to be complicated, confused and often affected by personal misfortune or tragedy. For all the impression of confidence and aggression which they may have given when committing their offences, they are likely when first in custody to be vulnerable, confused and frightened. They have to overcome these feelings and to have some sense of stability and confidence in those around them, before they can begin to think responsibly about their future.

NATIONAL SIGNIFICANCE

The project described by Mary Phillips resulted from the recognition that the conditions necessary for this work were not being satisfied for young offenders sentenced to custody in the Thames Valley. Although on a limited scale, and with quite simple conclusions, it is significant in three important respects:

- It arose from the shared concern of local practitioners and the local voluntary organisations, working in partnership and backed up by the academic skills of a university.
- Although the problems were complex and difficult, the solutions were simple and practical.
- The situation which the project discovered is likely to be replicated in other parts of the country, and the solution which it found may be suitable for more general application.

The problems of

juvenile crime and juvenile justice are rightly the subject of national initiatives and national debate. Those initiatives, and that debate, rightly range much wider than the treatment of young offenders in custody. But the lesson to be learned from this project is that the protection of the public, and the reduction of re-offending depend ultimately on the relationships – the understanding, communication and commitment – of those directly involved.

David Faulkner CB is a fellow of St John's College, Oxford and a senior research associate at the Oxford Centre for Criminological Research.

This article was first published as the foreword to the September 1997 evaluation report on the Thames Valley "Resettlement of Juvenile Offenders in Custody" project. It is reproduced here with the kind permission of David Faulkner and Mary Phillips.



Relational Justice

BULLETIN

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Thinking Relationally about Justice

Julian Rivers, lecturer in law, outlines the dangers of extreme liberalism and communitarianism, suggesting that relational thinking is a safer middle ground.

In 1978 a group of neo-Nazi demonstrators indicated their intention of holding a demonstration in the streets of Skokie, a suburb of Illinois almost entirely populated by Jews, including holocaust survivors and relatives of victims.

An attempt by the local authority to ban the march was struck down as an illegal and unconstitutional restriction on the neo-Nazis' right to freedom of speech and the demonstration duly took place.

In the literature of modern political theory, the Skokie case often sets the stage for the debate between liberals and communitarians about the nature of justice. In broad terms, liberals such as John Rawls, Robert Nozick and Ronald Dworkin argue that justice requires the equal protection of a sphere of individual liberty, such that a legal space is created within which each individual can live out his or her own vision of the good life. The state and its laws must be neutral on what is worth doing, restricting themselves to upholding the framework of rights that preserves individual freedom. This type of account dominates the jurisprudence of the US courts, hence the solution in the Skokie case. While we might find the views of neo-Nazis abhorrent, they have the right to air those views, because we are each better off in being able to say what we please, free from the "tyranny of the majority".



RIGHTS AND DUTIES

Communitarian thinkers such as Charles Taylor, Michael Sandel and Michael Walzer respond by reasserting the significance of communities in the self identification of people. We are not atomised individuals pursuing our own selfish ends independently of everyone else, but we are who we are because we belong to certain families, towns, religious organisations, clubs, nations etc. The solution in the Skokie case failed to respect the Jewish residents as people with a particular history and culture that made them what they are.

Liberals treat social obligations as binding only because each individual member has the right to consent to being bound. Communitarians respond by denying the primacy of rights as units of a theory of justice and insisting that we are bound to perform certain duties because having those duties makes us us. Justice should not be

understood primarily in terms of rights we as individuals hold against society, but as general duties imposed on us by virtue of our self-constituting membership of various groups.

Both liberals and communitarians have their moderate supporters, but taken to extremes each is equally dangerous. The tendency of liberalism is toward social disintegration, with each person fighting – or litigating – his or her corner. Families and nations can collapse this way. But extreme communitarianism denies the unique significance of the individual, as he or she is submerged into the collective consciousness of current culture.

JUST RELATIONSHIPS

The significance of thinking about justice in terms of relationships is that we are left with a constant reminder of this tension between the individual and the collective. A relationship requires commonality – a common language, common values, common goals. But at the same

time, it can only flourish if each individual has something distinctive to contribute. If the parties were to lose their distinctiveness by being merged into a single will and mind, there would be no relating to be done. Just relationships are structured around sets of individual rights that protect and reward the unique contribution of the individual and around common duties that each has to fulfil to further the joint enterprise that is the purpose of the particular relationship. And one might add that flourishing relationships live off the virtues that make us assert our rights gently and fulfil our duties willingly.

So a relational solution to the Skokie problem might start with the general right to freedom of speech, but would be more willing to restrict that right to have regard for the deeply hurtful – even terrifying – impact of particular speech on particular people in particular places. The fact that it is better to have such views aired and refuted does not mean they have to be aired to, and refuted by, the victims of their implementation.

The Relationships Foundation is thus on the right theoretical track when it seeks to think relationally about justice. For a constant focus on the nature of just relationships enables us to steer between the excesses of liberal and communitarian political thought.

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