

Criminal Justice Alliance Response to Justice Committee Inquiry: Crime reduction policies: a co-ordinated approach?

About the Criminal Justice Alliance

The Criminal Justice Alliance (CJA) is a coalition of 71 organisations - including campaigning charities, voluntary sector service providers, research institutions, staff associations and trade unions - involved in policy and practice across the criminal justice system.¹ The CJA works to establish a fairer and more effective criminal justice system.

Introduction

1. The Criminal Justice Alliance welcomes the opportunity to respond to this timely consultation. Crime is falling and concern about crime is reducing amongst the public. This is therefore an important opportunity for cross-party consensus on the need to curtail costly and ineffective use of prison, move away from 'tough vs soft' political rhetoric on criminal justice and to implement reforms to would continue to reduce crime whilst maintaining public safety.
2. Below we outline the CJA's ambition for uptake of justice reinvestment principles, and go on to outline some areas where there is growing evidence of impact in terms of crime reduction and other positive outcomes, principally restorative justice and problem solving in the courts.
3. A recent ICM poll conducted on behalf of the CJA confirms that the public do not see crime prevention as primarily the work of 'criminal justice' related agencies of policing and prisons. Rather the public see this as the responsibility of a wide range of departments, institutions. When asked where government should invest resources to prevent crime, the majority of respondents chose jobs and the economy (64%), followed by drug addiction programmes (51%), more police (47%), parenting programmes (41%), mental health care (26%) and building prisons finishing last (15%).² Furthermore, prison building was the least popular place to direct resources amongst all social groups and amongst all age groups, showing a consensus among voters that this is a waste of public money if the aim is to prevent crime.

¹ Although the CJA works closely with its members, this submission should not be seen to represent the views or policy positions of each individual member organisation. For a full list of the CJA's members, please see <http://www.criminaljusticealliance.org/organisations.htm>.

²More details on CJA website: <http://www.criminaljusticealliance.org/>

Cross-departmental priorities to cut crime & Justice Reinvestment

1. The criminal justice system cannot reduce crime or cut reoffending on its own; the involvement of wider agencies, such as Health and Housing, alongside families and local communities, are critical. For this reason the Criminal Justice Alliance supports a ‘justice reinvestment’ approach that gives local communities much greater responsibility (including fiscal) for justice. This would build on key reports including LGiU report *Primary Justice*³ and earlier Justice Select Committee report *Cutting crime: the case for justice reinvestment*.⁴
2. It is welcome that the Ministry of Justice has allowed the justice reinvestment pilots in Greater Manchester and London to continue, which could offer useful learning on the process of establishing such schemes and the economic and social benefits they accrue. In London in the first year of the pilot, savings of £950,000 were secured which can be ploughed back into further initiatives to reduce reoffending. In Greater Manchester £2.6 million of savings have been achieved.⁵ The Criminal Justice Alliance supported these pilot and their aims, as they builds on growing UK and international evidence for justice reinvestment.⁶ We would like to see the MoJ consider the merits of a continued justice reinvestment approach and a commitment to roll out these pilots if they prove successful.
3. The existing evidence for Justice Reinvestment is promising. Analysis in North East England found that in 2005 Magistrates in Gateshead incurred over half a million pounds worth of costs in sending just over a hundred individuals to prison, on average for a few weeks (Allen et al 2007). A more recent study found that it cost the taxpayer £2.5 million in 2009/10 to send non-violent and non-sexual offenders from the London borough of Lewisham to prison for periods of less than a year. The authors concluded that funds that could be made available to local agencies to prevent reoffending through a process of justice reinvestment are therefore considerable. (Lanning et al 2011)
4. Prison, which is administered through central budgets without scrutiny of cost-effectiveness, should be reviewed in light of fiscal climate. We believe that a proportion of prison budgets could be held at local level to ensure greater fiscal accountability. A starting point would be for Local Authorities and/or Police and Crime Commissioners to have more budget responsibility for short-term prison places and remand prison places. If the same authority that is responsible for crime prevention is also responsible for some part of prison costs, they would most

³ LGiU and APPG Local Government Group, *Primary Justice*
<https://member.lgiu.org.uk/whatwedo/Publications/Documents/APPG%20report%20Primary%20Justice.pdf>

⁴ Justice Committee (2009) *Cutting crime: the case for justice reinvestment*
<http://www.publications.parliament.uk/pa/cm200910/cmselect/cmjust/94/94i.pdf>

⁵ Ministry of Justice (November 2012) Justice reinvestment pilots: first year results
<http://www.justice.gov.uk/information-access-rights/transparency-data/justice-reinvestment-pilots-first-year-results>

⁶ House of Commons Justice Committee (2009) *Cutting crime: the case for justice reinvestment*
<http://www.publications.parliament.uk/pa/cm200910/cmselect/cmjust/94/94i.pdf>

likely focus on prevention and cheaper, community based alternatives. This has proven to be effective in reducing the youth custodial estate and could be replicated amongst certain adult offenders. We have made this argument in relation to women on remand who often experience some of the most complex needs in relation to housing, health and wellbeing.⁷

<http://www.guardian.co.uk/law/2012/aug/02/vulnerable-people-remand-prison>

Problem Solving in the Courts

1. As well as the potential for justice reinvestment, there are key points where contact with the criminal justice system should be used as an opportunity to signpost and/or divert people into appropriate support ensuring greater social justice outcomes that are yet unrealised. For example, Mental Health Liaison and Diversion Schemes established following Lord Bradley's report. These schemes allow people with mental health problems to be diverted out of criminal justice and into health services where appropriate; and for those who cannot be diverted to be supported from point of arrest through to resettlement in the community, as it is essential that there is the same access to treatment and support as would be expected in the community. The MoJ should continue to work closely with the Department of Health to ensure the promise of Liaison and Diversion is realised in practice.
2. Alongside diversion, we think much more can be achieved through more problem-solving in the courts, where the evidence base (particularly from the US) is growing. The most well known archetypal problem solving court is the Red Hook Community Justice Court in New York. This court brought together a range of housing, social welfare, and health agencies (public, voluntary, and private sector) which provided services to address the issues that were contributing to repeat low level offending in the community served by the court. Over the past two decades, the "problem-solving court" movement has grown exponentially in the US.⁸
3. The concept and approach has also gained increasing credence in the UK. Over the last few years for example Dedicated Drug Courts have been established on a pilot basis in West London and Leeds Magistrates' Courts. In 2009 the government launched two specialist mental health courts in Brighton and Stratford. More recently last year, Her Majesty's Courts Service has been exploring whether the approach could be broadened into regular magistrates courts. A number of recent evaluations have outlined the potential of the approach, including:
 - Craig Jones, (November 2011) *Intensive judicial supervision and drug court outcomes: Interim findings from a randomised controlled trial*, Crime & Justice Bulletin; Nov2011, Issue 152.
 - HMCS (March, 2011) *HMCTS Problem Solving Pilot: Post Implementation review*
 - Jane Kerr et al, (January 2011) *The Dedicated Drug Courts Pilot Evaluation Process Study*, Ministry of Justice Research Series 1/11.

⁷ <http://www.guardian.co.uk/law/2012/aug/02/vulnerable-people-remand-prison>

⁸ http://www.courtinnovation.org/sites/default/files/What_Makes_A_Court_P_S.pdf

Transforming Rehabilitation - extending support to short sentence prisoners

4. The Criminal Justice Alliance strongly welcomes the focus of resources on short term prisoners who currently get no support on release from prison and who have very high reoffending rates. A renewed focus on rehabilitation with mentors could help cut crime and make communities safer. However, in order for this to work successfully, it will be important to ensure the proposed penalties for non-compliance with the rehabilitation are sufficiently flexible, moderate and graduated to avoid costly and unnecessary recalls to custody; and to maintain confidence in Community Orders among magistrates who may be attracted to the new short sentence for those who could be given either option.
5. The *Story of the Prison Population* published by the MoJ shows the impact of policy changes on prison numbers. One of the largest increases was within the recall population following legislative changes which made it easier to recall prisoners, and the Criminal Justice Act 2003 which lengthened licence period for most offenders.⁹ The rapid growth in the recall population began in 1999, reflecting changes in the law in 1998 which extended executive recall to medium-term sentences (12 months to less than 4 years). Although not directly comparable, this gives us some indication extending licence periods to all of the 50,000 short sentenced prisoners is likely to impact on prison numbers by increasing the number of low risk, nonviolent offenders in prison. This could be a worrying development so these proposals will require care to avoid unintended consequences with human and financial cost. The Impact Assessment published alongside the Offender Rehabilitation Bill acknowledges there will be costs of £25-£30 million associated with breach of new rehabilitation requirements.¹⁰
6. In order to ensure the use of recall to custody is a genuine 'last resort', as much more flexibility should be built in to ensure more appropriate support is tried first. A system of warnings should be first included and opportunities for extended or additional support, before any recall to custody.
7. New short sentences plus rehabilitation should not replace the focus on using community orders where appropriate for non-violent offenders. There is a danger that new short term prison sentence plus additional supervision becomes an attractive option to the court when a community sentence would have been as, if not more, effective and robust. Community sentences remain a more cost effective way of punishing crime, providing reparation whilst maintaining links with family, employment and housing. Despite resettlement support after prison, it is much easier to avoid disrupting all these factors simply for a prison spell of a few weeks.

Transforming Rehabilitation - payment by results and the voluntary sector

8. The changes to offender management represent a significant change in the structure of the delivery of criminal justice services. Without any results from pilots to date, there has been little time to build up the evidence base as to the likely costs and effectiveness of different approaches and interventions. It has also

⁹ <http://www.justice.gov.uk/downloads/statistics/mojstats/story-prison-population.pdf>

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/199804/offender-rehabilitation-bill-impact-assessment.pdf

been difficult to explore any perverse incentives or unintended consequences that may be created and look at how they can be addressed. A policy paper published by KPMG states, with regards to payment by results, that there may be “a ‘bleeding edge’ in getting it right, as both the customer and the provider explore how to manage complex risks and rewards and the boundaries of cross-government and multi-year spending are transcended”¹¹.

9. The CJA supports the shift of focus from processes to outcomes that underpins the move towards payment by results, but would emphasise that the implementation of this model needs to be given careful consideration to ensure that it is effective in meeting the needs of all offenders and allows a diverse range of providers to participate in the delivery of services, including smaller voluntary sector organisations. The experience of the Work Programme has shown this was not the case, and learning from what did not work should inform the Transforming Rehabilitation proposals. We would also highlight the importance of recognising the specific needs of minority groups within the criminal justice system, including women, those from black and minority ethnic communities, those with learning disabilities and difficulties, and young adults. Prisoners’ families are, in addition, another group whose needs and whose potential contribution are often overlooked.
10. In terms of PBR and transforming rehabilitation the strongly held view across the sector is that the use of the binary measure of reoffending would have led to disincentives to work with people with the most complex and entrenched needs. A more helpful measure that incorporates frequency and seriousness of offending is now the preferred option which we welcome. Evidence shows that desistance from crime can be a slow process, often with progress made initially in reducing the frequency of reoffending. However, there will still need to be close monitoring of the roll-out of PBR to that support is reaching people who need it.
11. It is anticipated that the voluntary sector will largely sub-contract from private prime contractors i.e. the lead providers. Experience from the Work Programme suggests that despite being included in contract bids, organisations from the voluntary sector have struggled to get referrals from prime contractors. In a survey undertaken by NCVO, it was found that many sub-contractors were concerned about the sustainability of their contracts due to a lack of referrals.¹² In addition, in a report published by three homelessness charities involved in the Work Programme, it was found that sub-contractors were not being used to effectively provide specialist support to those who required it, despite being included in the original bid for the contract.¹³ St Mungo’s, for example, is a charity that provides specialist support to homeless people. In 2012, the organisation left the Work Programme after not having received a single referral in nine months. In the context of probation services, this raises concerns that the diverse needs of offenders may not be met if prime contractors are reluctant to refer on to their voluntary sector sub-contractors. The National Council for Voluntary Organisations also found that some sub-contractors under the Work Programme were simply not being paid for referrals received.¹⁴

¹¹ p.13: Downey, A., Kirby, P. and Sherlock, N. (2010) *Payment for Success: How to shift power from Whitehall to public service customers*, London: KPMG.

¹² National Council for Voluntary Organisations. (2012). *The Work Programme: Perceptions and Experiences of the Voluntary Sector*. London: National Council for Voluntary Organisations.

¹³ Homeless Link, Crisis & St Mungo’s. (2012). *The Programme’s Not Working: Experiences of Homeless People on the Work Programme*. London: Homeless Link, Crisis and St Mungo’s.

¹⁴ National Council for Voluntary Organisations. (2012).

12. To facilitate greater levels of involvement from voluntary sector, an element of the payment will need to be guaranteed, to ensure organisations with limited reserves are able to provide basic services to offenders without having to borrow capital (with little capital likely to be available anyway from sources other than social finance until there is a successful track record for payment by results schemes in the criminal justice system). The CJA also suggests that prime contractors should simply grant fund the very small organisations further down the supply chain (for example organisations with a turnover of less than £500,000).
13. In the initial stages of roll out of transforming rehabilitation, it will be essential that there is an open culture across the development of payment by results. Data must be openly available, and not retained by individual providers, and research and assessment on what works must also be openly available to allow providers to learn from each other. There should also be rigorous assessment by the Ministry of Justice of the contents of proposals ahead of contracts being awarded that ensures that what is being proposed is consistent with what existing evidence shows to work in reducing recidivism. While flexibility must be retained to allow innovation, this need not allow potential providers to pursue approaches that have already been demonstrated not to be beneficial in reducing reoffending. In this context, proposals for a NICE-equivalent for criminal justice¹⁵ should be re-examined to assess whether an independent body to assess the evidence in support of different approaches could have benefits in driving good practice. This transparency in data and availability of research will better allow small organisations who don't have resources to undertake such work.

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¹⁵ Howarth, D. (2009) 'NICE for justice? Putting the evidence into criminal justice policy' in Collins, J. and Siddiqui, S. (eds.) *Transforming Justice: New approaches to the criminal justice system*, London: Criminal Justice Alliance.