rethinking
CRIME & PUNISHMENT

What do the public really feel about non-custodial penalties?

This paper looks at the feelings people have about prison and non-custodial sentences. Drawing on work conducted by the Centre for Social Marketing at the University of Strathclyde, it focusses specifically on how the public responds to seven key arguments that are often deployed to promote acceptance of increased use of non-custodial sentences.

The key findings include:

- Crime is an emotive issue producing feelings of anger, bewilderment and frustration that there is not a better way of dealing with offenders

- At first people found the idea of non-custodial sentences hard to grasp and a soft option

- The high financial cost of prison, the rising prison population and the humanitarian costs did not lead people to think that prison should be used less; people want the state to do what is necessary to keep them safe

- Community service had positive associations, as had curfews and tagging once they were explained

- People accept that some types of offender require different treatment, particularly those suffering from mental illness and drug dependency and women with small children

- Statistical arguments about the effectiveness of non-custodial sentences had much less impact than arguments about the values and principles underlying them: paying back, making good and learning "how good people live" resonated strongly.

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"It certainly is about punishing people, but it is also trying to rehabilitate them so they can learn from the mistakes they made"

The Methods

Twelve focus groups were conducted across Scotland and England quota-sampled by age, gender and newspaper readership ('broadsheet', 'bluetop' and 'redtop'). Various stimulus materials were used to trigger discussion, including newspaper articles and show-cards containing words and phrases relating to non-custodial sentences and representations of the seven arguments.

Feelings about punishment

Feelings about crime and punishment were both contradictory and complicated. Crime was a deeply emotive issue for people, particularly those who had lived in the same area for many years and perceived its fabric being eroded by vandalism, burglary, drug and street crime and a general "loss of neighbourliness". To some extent these feelings were wryly recognised as unrealistic nostalgia for the golden 'Dixon of Dock Green' age. Nonetheless, many felt society was trapped in an irreversible decline which criminal justice institutions were powerless to stop. These views led to feelings of anger and bewilderment which translated, at the most immediate level, into a demand for tougher, harsher responses to crime. However, many respondents also perceived that simply punishing people was not enough.

There was a frustrated feeling, among the more liberal respondents in particular, but also among harder line tabloid readers, that there had to be a better way of doing things; sentencing had to prevent crime and tackle its causes, otherwise it did no more than "take bad people off the streets for a while":

"*It's all very well taking out your anger or revenge on someone who's committed a crime, but if that doesn't then stop ten other people from doing the same crime, then it's a complete waste of time*"

"*It certainly is about punishing people, but it is also trying to rehabilitate them so they can learn from the mistakes they made*"
(Males, 18-34, Blue-top, Dunstable)

For respondents who perceived crime primarily as a problem of individual deficiencies, this translated into a feeling that punishments needed to instil the "right values" of morality and discipline, and to tackle the problem of "bad families, bad parenting". For more liberal-minded respondents who tended towards structural explanations for the causes of crime, it meant education, diversions for young people, and jobs. At the same time, the notion that criminals should have access to services and opportunities ahead of "honest, hard-working folk" felt iniquitous. The overwhelming feeling for many respondents was one of frustration at being able to recognise the contradiction in these views, but being unable to see a way to resolve them.

Feelings about non-custodial sentences

Immediate responses to the concept of non-custodial sentences tended to be negative, for two main reasons. First, respondents found the concept hard to grasp. The range of options it covers, some of which were unfamiliar, rendered it weak next to the simple and powerful symbol of prison. Immediate responses were to define non-custodial penalties in terms of what they do not, rather than do, represent – "you don't go to prison", "you are not in custody". The difficulty was compounded by the proliferation of options covered by the term 'non-custodial sentences'. Secondly, non-custodial penalties have a soft image – "getting away with it", "easy on the individual" and "the easy way out" were common immediate reactions.

However, further discussion revealed a more complex picture and a number of benefits emerged, which varied slightly with the different types of sentences. 'Community service' was the best known of the different penalties presented to respondents, and although initially derided as "criminals getting away with it by doing a bit of gardening", it also had positive associations. "Helping other people", "cleaning graffiti off the wall" and "clearing out canals and things" resonated with respondents' concerns about the crime that most upset them – that which eroded the quality of life in their local neighbourhoods. Community service also has the emotionally satisfying symmetry of making offenders "put back into the community what they've taken out" (Female, 35-54, Blue-top, Newcastle), as well as the potential to instil values such as discipline, a taste for hard work, and a sense of pride:

"*A lot of them probably haven't worked before and now they've got a little job...*"

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"There's no point in putting somebody in a building just to punish them, and let them come out no better"

"They might get a little bit of enjoyment from the job and they might get a bit of pride from what they are doing."

"Self-esteem them up."

"If they've done nice flowers."

"Yes and then a little toerag comes along and pulls all their flowers out they might think God..."
(Females, 18-34, Red-top, Newcastle)

Some of the newer non-custodial sentences such as curfew and tagging were less familiar. However, when these were explained, respondents welcomed the idea of restricting liberty and privileges, as well as the capacity to impact on an offender in a personally meaningful way:

"I can imagine it might embarrass youngsters to think that they are tagged. "

"Yes, if they had to be tagged and home at six o'clock, that would be hard for a young person not to be out every night with their friends"
(Females, 55-74, Red-top, Dunstable)

Response to arguments about custodial and non-custodial sentences

(i) The high cost of prison
Messages about the cost of prison (e.g. 'It costs £25,000 to keep one person in prison for a year') were largely counter-productive. At face value, they had a compelling force ("But most people don't earn that a year!" Female, 55-74, Red-top, Dunstable), but this shock did not translate into a demand for less use of prison. Instead, the price tag simply reinforced the popular view that prisons were full of unnecessary luxuries, and provoked the retort that "they should take away the televisions". More considered discussion revealed that respondents were not necessarily angered by the notion that punishment costs a lot of money, recognising that essential public services are expensive. In this context, financial arguments about prison risk being interpreted as government excuses to cut costs. Respondents did not want the state to spend less (or necessarily more) on prisons – rather, they wanted the state to spend what was necessary to keep their communities safe.

"It doesn't matter that they've got a colour telly. As long as they come away with a better character than when they went in, as far as I'm concerned that's good value for money"
(Male, 55-74, Broadsheet, Edinburgh)

(ii) The rising prison population
Messages about the size of the prison population were unconvincing. Firstly, unlike the cost message, the figures in themselves had little intrinsic emotive power, as few respondents had a meaningful yardstick; what size should a prison population be? Secondly, there was a flaw in the inherent assumption that the public would be shocked by a high figure. For many respondents, the high figure symbolised that something was being done, and if anything fuelled a demand for an even larger population:

"You know if there is only 75,000 out of all those millions of people in this country, it is not a very high number is it? It just shows how few people get caught."
(Female, 35-54, Blue-top, Newcastle)

This high figure also reinforced the perception that serious crime is prevalent and must be getting worse if the prison population is projected to rise.

(iii) The ineffectiveness of prison
Messages about the ineffectiveness of prison had some resonance for respondents. Respondents saw a futility in constantly recycling career criminals, for whom the occasional jail sentence was a mere 'occupational hazard', through the prison system. A recurring plea from many groups was for the need to "break the cycle of crime".

"There's no point in putting somebody in a building just to punish them, and let them come out no better"

"There should be a place for re-education. Surely prisons are to re-educate?"
(Males, 55-74, Broadsheet, Edinburgh)

The argument 'prison is an expensive way of making bad people worse' was particularly resonant as it also captured the notion of a critical point in an offender's career when they could harden into a career criminal or be turned back onto the straight and narrow. Respondents were receptive to the idea that keeping a petty or first-time offender out of prison could serve as

"Facing the victim', that's going round somebody's house and repairing the door you kicked in or mending the window or something."

"a second chance", providing that the offender demonstrated the capacity for improvement.

(iv) The humanitarian cost of prison
Humanitarian arguments triggered surprisingly harsh responses from many of the groups, including broadsheet readers. They were interpreted as pro-offender and, by extension, as anti-victim, triggering cynical and angry comments about the criminal justice system being in the hands of "too many do-gooders and human rights people". Unpacking of these responses revealed that respondents believed, firstly, that prison should have a humanitarian cost, in the sense that the offender should endure hardship and suffering, just as the victim had; and secondly, that hardened offenders were unlikely to be emotionally troubled because they were "unlike normal people" to begin with.

(v) Some offender sub-groups require different treatment
Although humanitarian arguments in general were unconvincing, arguments that specific offender sub-groups should not be imprisoned had more resonance. Respondents did readily discriminate between different types of offender and different offending circumstances. The most salient distinctions made were being between the hardened criminal and the first time offender and between the deliberate offender and the offender not in full possession of their faculties, particularly the mentally ill and the drug-user driven to offend by the demands of their addiction. Almost all respondents, including tabloid readers, adopted 'liberal' positions on the issue of drug crime, and felt strongly that drug users should be treated rather than punished. There was also a feeling that while women offenders per se should not be treated differently from men, the damage likely to be inflicted on children by having their mother in custody might argue against imprisoning the mothers of young children.

(vi) The effectiveness of community sentencing
Statistical arguments about the effectiveness of community sentences (eg. 'Probation is more effective than prison – 20% more effective in reducing re-offending') had little meaning for respondents. Respondents were sensitive to the highly politicised nature of the crime debate, and regarded any use of statistics as spin. A few respondents were also quick to point out that this was potentially a meaningless 'apples-and-oranges' comparison.

"*But what's behind that? Who are put on probation? Are they youngsters with a drug problem that can be pushed in a different direction? They are obviously not hardened criminals, well I would think.*"
(Female, 35-54, Blue-top, Newcastle)

(vii) The values and principles of non-custodial sentences
While arguments about the effectiveness of non-custodial sentences had little impact, arguments about the values and principles underlying them ("Paying back to society", "Offenders should apologise to their victim", "Community sentences help offenders to make amends to the victims of their crime") resonated strongly with respondents. They talked of the importance of "making good the damage" to victims and society, both in a financial and an emotional sense, and of the victim's need for what one respondent described as "closure". They also responded warmly to the idea that, in facing up to the consequences of their crimes, offenders might learn other values such as hard work, respect, and an appreciation of "how good people live".

"*Facing the victim', that's going round somebody's house and repairing the door you kicked in or mending the window or something.*"

"*And you try and sort of heal the pain, or whatever. 'Get it off my chest.*"
(Males, 35-54, Broadsheet, Newcastle)

The concept of 'restorative justice' was introduced into the group discussions at this point. Interestingly, despite none of the respondents having previously heard the term, it evoked an immediately positive response:

"*I don't know what it means…A good word…Like a second chance*"
(Female, 18-34, Red-Top, Newcastle).

'Justice' summarised notions of fairness and truth, while 'restore' was interpreted as putting things right, fixing the damage or righting a wrong. These were the very values respondents wanted their criminal justice system to embrace.

"There is a need to address the weak image of non-custodial sentences. Our research suggests that this is unlikely to be achieved with statistical claims"

Conclusions

The research lends further support to the notion that, despite appearing superficially punitive, public views and needs regarding sentencing are complex and sophisticated. It demonstrates the importance of understanding what punishment, and the language surrounding it, really means to people, the importance of getting beneath the opinion polls.

Barriers to increased acceptance of non-custodial sentences are plentiful but not insurmountable. Firstly, there is a straightforward awareness-raising task. For example, many respondents in our research knew little about curfews and tagging, but were interested in and positive about their potential use as non-custodial sentences.

Second, the research sheds light on what might convince the public that non-custodial sentences can deliver as well as, if not better, than prison. The findings suggest that non-custodial sentences fulfil for the public important symbolic and emotional functions: they can embarrass and shame (the youngster curfewed in the house; the hard man picking up litter in the park), and are able to offer a 'second chance' to offenders to prove, and improve, themselves. Notions of 'paying back', 'facing one's victim' and 'restorative justice' have particular power and resonance.

Third, there is a need to address the weak image of non-custodial sentences. Our research suggests that this is unlikely to be achieved with statistical claims about re-offending rates. Instead, there is a need to emphasise the values that underpin non-custodial sentences, and to create powerful narratives and exemplars which illustrate their potential. It was notable in the focus groups that when people could relate abstract arguments about non-custodial sentences to real-life stories they had read or heard about in their own communities, the discussion came to life. Labelling is also likely to have a small but important role to play here. 'Non-custodial sentence' is an imprecise and empty phrase; it also reinforces the notion of custody as the normal response to crime. Consideration should be given to building a single concept of 'community penalty' or similar, and to communicating this clearly.

Fourth, certain messages are more resonant with the public than others. The ineffectiveness of prison, and in particular the futility of recycling hardened criminal through the prison process seem to strike a chord. On the other hand, messages about the humanitarian cost of prison risk being labelled 'pro-offender', and economic and numerical arguments are not compelling. In essence, people did not seek fewer or more offenders in prison, or a bigger or smaller prison budget, but they seek to feel safer.

Most importantly, there is a need to ensure that non-custodial sentences really are capable of delivering the benefits valued by the public and other stakeholder groups. In marketing terms, it is pointless to focus on promotion if the product is poor. For the public to be emotionally persuaded that non-custodial sentences work, they must work in reality. Widespread and high quality provision of non-custodial sentencing options is needed, backed by the resources to make this happen.

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