Reinvesting in Communities:
Community Justice as a Viable Solution to Mass Incarceration.

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Abstract

Over the years, there has been a paradigm shift from penal welfarism to 'punitive populism' in the UK, and a consequence of this has been an increased use of imprisonment. It has been recognised that high imprisonment rates disproportionately affect the most deprived communities, and this study outlines the detrimental impact that this has upon their economic viability, reputation, cohesion and strength of networks. This study demonstrates that community justice is a potential solution to these problems; as such an approach aims to improve communities by getting people to become more engaged with the criminal justice system (CJS), reintegrating ex-prisoners, and by focussing upon areas such as housing, employment, education and health, and not simply individual offenders. The ways that justice reinvestment initiatives have been used in the US are also outlined in this study, to demonstrate that no new monies are required to fund community justice. Although there are a number of obstacles that will have to be overcome, including support for 'tough on crime' policies, a 'decline in community' and fear of crime, this study proposes that if the public are made aware of the wider benefits that such an approach could bring, then community justice provides an opportunity for real changes to be made to the CJS and communities throughout the UK.

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<u>Introduction</u>

> The three greatest causes of human misery throughout the ages have been famine and pestilence, war and the criminal justice system.
> (Hulsman, 1976, cited in Wright, 2003, p3)

Imprisonment rates in the UK have risen dramatically in recent years, at great social and economic cost. This dissertation is thus concerned with exploring whether community justice and, more specifically, 'justice reinvestment' (JR), is an appropriate alternative for dealing with offenders who do not pose a serious risk to the public.

Chapter one will review penological developments in the US and the UK that have resulted in the re-emergence of punitive sanctions, and the ways in which politicians and the media have fuelled the public's concern with dangerousness and risk. Current penal policy will be examined, and research which illustrates the link between imprisonment rates and social deprivation will be outlined, before the consequences of rising imprisonment rates are considered in order to explain why a new approach may be appropriate. Finally, this chapter will discuss the paradigm shift, from 'new punitiveness' back to a penal welfare approach.

Chapter two will examine potential solutions to the over-reliance on imprisonment in the UK, namely community justice and JR. A summary of the philosophy underpinning the concept of community justice will be given, with particular reference to the work of Clear (2000; 2007) and Nellis (2000; 2005). A more specific community justice philosophy by Duff (2001) – who argues that punishment is communicative in function – will then be outlined. A number of features of the community justice approach will also be examined, including the impact that it can have on the wider community and the ways in which it can be used to reintegrate ex-prisoners into society. The more specific concept of JR, and the recent interest that has been shown in this concept, will then be outlined.

Chapter three will provide examples of community justice in the US and the UK. It will begin by outlining JR initiatives in Connecticut, Deschutes County, and Maryland, and then a project that has been introduced in Gateshead (which explores the ways in which a JR strategy could be introduced in the UK) will be examined. The Scottish Criminal Justice System (CJS) has already been influenced by community justice philosophy, and this will be illustrated by referring to the welfare-based approach of the Scottish Children's Hearings System (CHS). Finally, this chapter will discuss the use of community justice centres and community courts (which aim to address underlying causes of offending behaviour and issues that exist in the community). The Red Hook Community Justice Centre in New York and the North Liverpool Community Justice Centre will be examined in order to evaluate this approach.

Chapter four will examine the feasibility of introducing a community justice approach, in the UK, by outlining a number of obstacles that this form of justice will have to overcome. The impact of contemporary penal discourse on public views of crime and criminal justice, and the problems that this has created for those advocating community

justice will be described (along with the ways in which these views could be changed). Theories that advocate the use of imprisonment will also be investigated. Reference will then be made to a study carried out by the Joseph Rowntree Foundation, which suggests that there has been a 'decline in community', the implications of which will be considered. The issue of 'fear of crime' will then be discussed (and the role of media in fuelling this fear) before Mathieson's (2001) theory on an 'alternative public space' is outlined. Finally, the practical implications of a community justice approach and the problems inherent in multi-agency partnerships will be considered.

The method of this dissertation is a literature-based approach. A selection of writings on the increasing use of imprisonment and, more specifically, a wide range of texts on the philosophies underpinning community justice and JR, have been examined. Reports, consultations and statistics published by the UK and Scottish governments have also been studied. Although there was scope for empirical research, this methodology was deemed appropriate as JR is relatively new, and as increasing interest in this concept (and community justice in general) has been shown in recent years, it is thought that the theories underpinning community justice should be examined in order to explore their usefulness, and how they can be applied to the real world, for as Walliman (2004, p18) states: 'actions…are based on theories…our understanding of virtually everything is founded on concepts and theories.'

Chapter 1

Before discussing the consequences of rising imprisonment rates, it is important to outline, briefly, penological developments in the US and UK that have resulted in the re-emergence of punitive sanctions and the 'reinvention of the prison'. The welfare approach to penality, or 'penal welfarism', is said to have collapsed in the 1970s, and since then there has been a shift in penal policy and significant changes in prison practices, parole, probation, sentencing laws and crime discourses (Garland, 2001b, p14).

Penal welfarism involved using individualised solutions, indeterminate sentencing, and advocated solutions based in the community. Although many who criticised correctionalism aimed to *reduce* the use of imprisonment, protect prisoners' rights and reduce the power of the state, this movement 'ultimately ushered in policies that did quite the opposite' (Garland, 2001b, p53). In the 100 years leading up to the 'attack' on correctionalism in the 1970s though, the rehabilitative and welfare-based approach was establishing itself as having an important role in the criminal justice system (CJS) (Garland, 2001b) and it could therefore be argued that a new philosophy, which has the same underlying principles, is required in order for the use of imprisonment to be reduced and for the aims of penal welfarism to become an important part of the CJS again.

It should be noted that it was not critical literature alone that resulted in the demise of penal welfarism, as a number of other factors contributed to this, including cultural factors such as the politicisation of crime policy and a new focus on control, social order, security and the victim (Garland, 2001b).

Bennett (2008) outlines the political underpinnings of increased levels of imprisonment in the UK, and argues that there is a concern with 'dangerousness' in relation to criminal justice, and that the media and politicians have had a prominent role in shaping this 'culture of fear'. Although the aim of the CJS was once to rehabilitate offenders and to use imprisonment sparingly, there is now an emphasis on minimising risk through 'an expansion of the apparatus of control' (Bennett, 2008, p2). Consequently, the media-fuelled concern, if not obsession, that the public and politicians have with dangerousness has increased fear of crime and legitimised punitive criminal justice responses. For example, the public are said to believe that prisons are 'brimming' with dangerous offenders. However, there is no meaningful evidence of this as Home Office statistics show that 'the majority of those imprisoned do not present a high risk to the public' (Bennett, 2008, p6).

Furthermore, Garland (2001b) explains that policy decisions are no longer primarily influenced by researchers and professionals, but rather by public opinion and political advisers. When two parties dominate the political system (as in the UK), they may become locked in a 'political arms race' and, consequently, feel that they must be seen to be tough on crime (UK Parliament, 2008), which can be illustrated by simplistic and provocative statements such as:

> The public are sick and tired of a sentencing system that does not make any sense. They read about dangerous, violent, sexual and other serious offenders who get off lightly, or are not in long enough.
> (Home Office, 2002, cited in Bennett, 2008, p6).

This illustrates the point that if community justice is to be accepted by the public, then meaningful steps must be taken in order to reduce the obsession with dangerousness and risk (with co-operation from politicians and the media). This issue will be discussed in more detail later in this report.

The paradigm shift from penal welfarism to 'new punitiveness' or 'punitive populism' is exemplified by the increased use of imprisonment in the UK and elsewhere, particularly the US. For example, the average daily prison population in Scotland increased by 22% from 1998/99 to 2007/08 (The Scottish Government, 2008a), and even though recorded crime rates are at their lowest level in 30 years, the prison population is expected to reach 9,600 by 2018/19 if policies remain as they are (BBC News Website, 2010). This is a significant increase from the current figure of 7,630 (King's College London Website, 2010b). Commenting on this, Justice Secretary Kenny MacAskill stated that more offenders should receive community penalties rather than short term prison sentences, as Scotland's dependency on imprisonment means that 'the Scottish Prison Service is diverted from working with the more serious offenders to reduce the risk they pose to the public' (The Scottish Government, 2010). Furthermore, prison population rates have also grown rapidly in England and Wales: in 1992 the prison population rate was 88 per 100,000 of the population and is currently 153 per 100,000 (King's College London Website, 2010a) Although these figures are startling, the dependency on incarceration is apparently greater in the US as it has the highest imprisonment rate in the world: with 753 per 100,000 of the population in prison (King's College London Website, 2010c).

The practical problems arising from this dependency on imprisonment in the UK – such as severe overcrowding and huge financial costs – have, surprisingly perhaps, not led to a concerted search for solutions to reduce the use of imprisonment (The Scottish Prisons Commission, 2008). For example, in December 2007, it was announced that the UK government were planning to build an additional 10,500 prison places which would include the building of three 'Titan Prisons' (which each house around 2,500 prisoners), the estimated cost of which was £2.3 *billion*. The government justified this by stating that these new prisons will 'combine the best aspects of smaller prisons with the efficiency savings of centralised support services' and that there will be a focus on individual needs and strong interactions between prisoners and officers (Ministry of Justice, 2008, p5).

Although plans to build three 'Titan' prisons have now been abandoned, there are still plans to dramatically increase the prison capacity and thus the government is still trying to 'build its way out' of the problem (The Commission on English Prisons Today, 2009, p13). If more prison places are created then surely there will be *less* focus on the individual and *weaker* interactions between officers and prisoners as such institutions are too large for individual services to be delivered effectively (Wisconsin Council on Criminal Justice, 1972, cited in Toch, 2005).

Conversely, Scotland's new prison inspector, Hugh Monro, stated recently that he supports the government's plan for community penalties to be used in favour of imprisonment for low-risk offenders as '[t]he feeling from governors, staff and prisoners themselves is that short sentences don't work' (The Herald Scotland, 2009), and it is recognised that if the CJS continues to rely so heavily on imprisonment, more prisons will *have* to be built and may ultimately become as overcrowded as today's prisons (The Scottish Prisons Commission, 2008). The Commission on English Prisons Today (2009, p37) have also criticised plans to introduce more prison places as present levels of spending on imprisonment cannot continue in the current financial climate and '[p]recarious global economic conditions combined with the crisis our penal system faces makes demands for a smaller, more effective and cheaper system…imperative'.

A defining issue regarding mass imprisonment is that of the incarceration of whole groups of people rather than individual offenders (Garland, 2001a), and those who live in poor areas with high levels of unemployment, bad housing and poor educational opportunities have a much greater chance of being caught up in the 'carceral net' of the justice system (Foucault, 1977; Stern, 1989). This can be illustrated by Houchin's (2005) research, which was concerned with the links between imprisonment rates and social exclusion in Scotland. This research was based on all prisoners in a Scottish prison on the 30th June 2003, and their 'housing types' were categorized into eight groups: with 'A' being the most affluent housing type and 'H' being the poorest. It was found that 28.4% of the prison population lived in type 'H' housing, compared to only 10.2% of the general population. Furthermore, at the time of this research, the Scottish imprisonment rate was 129 per 100,000. However, for all men from local authority wards with a Scottish Index of Multiple Deprivation (SIMD) score of over 70 (if a ward scores over 60 on the Index it is classified as being seriously or acutely deprived), the imprisonment rate rose to 953 per 100,000.

This research reveals that high rates of imprisonment can be used as an indicator of social deprivation in a community just as much as low employment rates or short life expectancy and, therefore, intensifying tough criminal justice responses is not likely to be effective (Houchin, 2005). Moreover, although crime is widespread and committed by people from different social backgrounds, the prison population clearly does not reflect this and it has been argued that this is because the justice system shows an acceptance of inequality by '[punishing] the poor for their poverty' (Stern, 1989, p43).

Similarly, Wacquant's (2001) theory of 'deadly symbiosis' proposes that, for many African Americans (particularly young men), the prison and the ghetto exist in a symbiotic relationship that performs the functions of containment and exclusion. The ghetto is a prison and the prison is a ghetto, and many African Americans spend much of their lives moving back and forth between the two. It is said that they live in 'the first genuine prison society of history', which is illustrated by the fact that, in a number of states, the imprisonment rate of African Americans is ten times greater than that of European Americans (Wacquant, 2001, p121). Although concerned with the American experience of black people and the prison system, this theory could also be used to explain why a large proportion of the prison population come from a few deprived areas

in the UK, as it has been shown that young working class men frequently move between deprived communities and prison, like young black people in the US. In other words, it could be argued that the prison and deprived communities have become a single system that contains and excludes groups of people, particularly young working class males. Garland (2001b) states that prison serves a function, in late modern societies, of segregating populations that are considered problematic, leaving those who are more affluent with greater freedom from censure and regulation.

Prison may actually *encourage* future delinquency due to factors such as a lack of meaningful work, corruption, abuse of power and the 'arbitrary power of administration', as these factors may cause many prisoners to feel a great deal of injustice and anger. Consequently, these prisoners may begin to see the CJS itself as being the 'guilty party', and thus be encouraged to commit future acts of crime (Foucault, 1977, p266). Furthermore, the institutionalised control that prisoners experience may result in them becoming used to the routine of imprisonment and thus the chances of them leading a law-abiding life on release could be reduced (Goffman, 1991; Irwin and Owen, 2005). Such theories can be supported by the Social Exclusion Unit's (2002) statement that the cost to society of re-offending by ex-prisoners is approximately £11 billion per year.

Although it *is* recognised by the state that many deprived communities are associated with higher rates of crime and imprisonment – as they have developed responses that are 'targeted and intelligence led' – these responses have been criticised because, rather than being used to tackle the social problems that contribute to high levels of offending, they are simply used for the police to meet state-imposed targets for arresting offenders (Allen et al, 2007, p17).

It has been established that imprisonment is often concentrated in the most deprived communities. This is clearly problematic as high rates of imprisonment can be detrimental to aspects of the community that are essential to the quality of life and safety of its residents, including: employment rates; housing occupancy; cohesion; and strength of networks (Allen et al, 2007), for, as Travis (2005, pxvii) states, 'we have forgotten the iron law of imprisonment – they all come back'. It is therefore important to address the impact that mass incarceration has on communities.

There are many meanings of the word 'community', so a definitional note should be made. Throughout this report, the word 'community' will refer to a geographical location that has set boundaries and is distinguishable from other neighbourhoods. Broader definitions of community which take into account social and family networks and relationships, and the impact that imprisonment has on this aspect of the community will also be considered (Travis, 2005).

 It has been suggested that some communities suffer the negative consequences of 'tough on crime' policies more than others (Travis, 2005). For example, the economic viability of communities that experience high rates of incarceration (and 're-entry') is affected in a number of ways as the family of a prisoner may lose a source of income, and thus debt can accumulate. Consequently, there is greater competition for social service resources

and, when they return, prisoners have poor employment prospects, which impacts upon other agencies. In other words, 'individual-level effects add up to a significant community-level impact' (Travis, 2005, p291).

According to labelling theory, when a person is labelled as a 'criminal' (due to an encounter with the justice system), this stigmatisation may actually encourage them to continue their deviant behaviour (Burke, 2005). Travis (2005) suggests that high rates of imprisonment can also affect a *community's* identity as its residents may be stigmatised for living there, which can be damaging to their life chances as well; that is to say, imprisonment can stigmatise the *whole* community. For example, Clear et al (2001, cited in Travis, 2005) found that the stigma prisoners experienced often extended to their friends and family, who consequently became withdrawn from the community. Furthermore, due to the stigmatisation that high incarceration communities experience, the reputation of the area as a good place to work and live could be affected negatively (Clear et al, 2001). It is argued therefore, that initiatives which enable greater community involvement with criminal justice processes may be less stigmatising and, thus, less damaging to communities with high rates of offending.

High rates of incarceration can also impact upon the *legitimacy* of the CJS in a community, as many ex-prisoners have negative views of the police, the CJS and the law, and often distrust the system after being imprisoned. Furthermore, where incarceration is a common experience, the criminal law may have a less deterrent effect (Travis, 2005). This can be demonstrated by examination of re-offending statistics in Scotland which suggest that, even if a deterrent effect does exist in areas with high levels of incarceration, it is 'small and probably negligible' (Houchin, 2005, p73). Since 'an individual's perception of police legitimacy will play a role in the success or failure of interactions with that institution' (Tyler, 1998, cited in Travis, 2005 p294), this is clearly problematic and illustrates the importance of restoring faith and trust in the CJS in communities that have been damaged by concentrated incarceration.

Although some may argue that neighbourhoods can be improved by incarceration as those committing crime are removed, which stops residents (if only temporarily) from being victimised (Zedlewski, 1987, cited in Clear et al, 2001) this argument is too simplistic. An 'ecological' perspective, such as Rose and Clear's (1998 cited in Clear et al, 2001), places more emphasis on the *social* context and suggests that high rates of incarceration destabilise neighbourhoods. 'Formal' and 'informal' social controls exist in communities and both play an important role in controlling criminal behaviour. Formal social controls stress compliance with behavioural norms, through *state* power, while informal social control processes seek to achieve compliance with localised, community-oriented norms (Rose and Clear, 1998, cited in Travis, 2005). According to Rose and Clear's (1998, cited in Tucker and Cadora, 2003) 'coercive mobility hypothesis', high rates of incarceration can weaken the social, political and economic bonds in a community, which are all important mechanisms for informal social control. In other words, high incarceration rates in concentrated areas can actually increase levels of crime, making these neighbourhoods *less* safe. Such work builds upon Shaw and

McKay's (1942 cited in Clear 2007) social disorganisation theory, which states that, when informal social controls are weak, crime flourishes.

A number of studies have tested this hypothesis, and although there are methodological limitations pertaining to all of them (and though some did not find a correlation between high rates of incarceration and levels of crime), they all found that processes of informal social control were negatively affected by incarceration (Clear, 2007). For example, imprisonment destabilises families and relationships – important agents of informal social control – partially due to the fact that there is a 'gender imbalance', caused by high incarceration rates of men. Also, the removal of large numbers of men (many of whom are fathers) can negatively impact upon children in a number of ways, and these 'ripple effects' collectively harm the community and put pressure on social services (Braman, 2002 cited in Travis, 2005). By analysing the impact that incarceration has at a neighbourhood level, the potential for a new approach involving community-level responsibility for criminal justice is clear.

Despite the challenges for both the UK and Scottish Governments in reducing the use of imprisonment (and the stark differences in opinion on how to achieve this) there does appear to be a paradigm shift from incarceration and punitiveness to penal welfarism. In a paper published by the Ministry of Justice (2007) it was recognised that short-term sentences are ineffective for reducing rates of re-offending and, that there should be more focus on rehabilitation and treatment programs, with strong support for schemes that involve participation of the community. There are plans to increase the use of community sentences, as it is recognised that, if offenders are given productive work, then this will benefit the wider community. For example, in 2006, local authorities in England and Wales benefited from 6.5 million hours of unpaid work through community sentences, which is equivalent to about £35 million worth of work. It should be noted however, that there is still an emphasis on 'monitoring' and restricting offender's liberty, as it is stressed that offenders dealt with in the community will receive 'no less of a punishment' and if they breach their penalty it is ensured that 'prison places [will be] available' (Ministry of Justice, 2007, p3). Although there is support for a welfare-based approach, it appears to be set in a different context than previously as there is a strong commitment to control and managing/monitoring risk: thus, penal-welfarism is now conceptualised in the context of a *different* political culture (Garland, 2001b).

A recent report by the Scottish Prisons Commission (2008) shows a clear commitment to reducing levels of imprisonment in order to achieve more *equality* and better *social welfare*. It has been noted that '[t]he Government refuses to believe that the Scottish people are inherently bad or that there is any genetic reason why we should be locking up twice as many offenders as Ireland or Norway' (The Scottish Government, 2007) and it is recommended that imprisonment is only used for those who pose a serious threat to public safety and for those who have committed an offence that is too serious to warrant the use of any other form of punishment. There is also a commitment to community justice and it is recommended that a 'National Community Justice Council' (NCJC) (made up from a number of individuals from different agencies for 'multi-agency' co-operation) is established to provide the courts with community payback options –

'constructive ways to compensate or repair harms caused by crime' – and to improve the services that are available to ex-offenders for reintegration into the community (The Scottish Prisons Commission, 2008, p4).

These recommendations have been acknowledged by the Government, as the Criminal Justice and Licensing (Scotland) Bill – which proposes that community payback orders are used in lieu of short-term prison sentences – is currently going through the Scottish Parliament (The Scottish Government, 2009b). Furthermore, in order to ensure that the community service system is improved, the Government has announced that an additional £9.5 million will be used to fund this system (The Scottish Government, 2009a).

Although the *main* principles underlying the penal-welfare approach have not changed, it is now being handled differently, with debates currently taking place regarding the use of community justice and JR, which will be examined in greater detail in the following chapters.

Chapter 2

According to Clear (2007), programs that focus on individual offenders will only reduce the use of imprisonment marginally, and in order to address the problem of rising incarceration rates, the well-being of *communities* must become the main objective of the CJS. As Stern (1989, p68) observes, '[t]he punishment-hunger of the British psyche requires no further feeding' and throughout this chapter, potential solutions to the over-reliance of imprisonment in the UK will be examined. First, the concept of community justice and the philosophy behind this approach will be outlined.

There are three penal discourses prevalent today: 'punitive-repressive'; 'surveillant-managerial'; and, 'humanistic-rehabilitative'. Community justice is said to have emerged largely from the latter discourse – which is based on a belief that individuals can be helped (practically and emotionally) and educated to stop their offending behaviour (Nellis, 2005, p47) – and is associated largely with the communitarian and abolitionist traditions in criminology (McLaughlin and Muncie, 2006).

It should be noted, however, that there are a number of versions of community justice and, as it is such a broad paradigm, there is no single definition that encompasses all the ideas contained within it. Nonetheless, it can be said that, central to this paradigm is the idea that 'promoting community life' should be the main goal (Clear, 2007, p194), and there are elements essential to this approach, including that: there is restoration; there is an emphasis on maintaining and reintegrating offenders in their communities; and (where possible) 'ameliorative' sanctions are used instead of punitive sanctions such as imprisonment (Clear, 2007). According to Nellis (2000, cited in McLaughlin and Muncie, 2006), this approach opens up more opportunities in comparison with other forms of justice, and it is hoped that it will help to create safe 'inclusive communities' by providing a solution to the problems of social exclusion and mass imprisonment.

It is also hoped that, through community justice, individuals will obey the law because they see the *moral* value of doing so and will have a genuine concern for the safety of their community. This is known as 'voluntary co-operation' and it has been said that the CJS cannot achieve this ideal alone. For example, if individuals only obey the law because they are coerced, then they are co-operating *only* for their own good – and not their community's (Clear and Karp, 2000).

Community justice and JR are 'philanthropic' inasmuch as they challenge us to consider the condition and background of the offender. In the example of deprived communities that experience high rates of incarceration, those advocating a community justice approach may perceive offenders from these communities to be victims themselves because of the conditions in which they live. This approach could therefore be described as a 'philanthropic endeavour' as it is ultimately trying to tackle the underlying causes of crime and to reduce the harm caused by punitive sanctions (Payton and Moody, 2008). Similarly, Nellis (2005, p34) argues that community justice is the best philosophy for implementing a more 'humanistic' justice system; a 'belief system predicated on the absolute moral worth of all human beings.'

A comprehensive community justice philosophy is outlined by Duff (2001, cited in Clear, 2007), who argues that crime prevents community members from pursuing the 'goods' of freedom, autonomy and privacy, and thus there should be a communal response to crime, where offenders are held accountable by community members. Punishment is therefore seen as being communicative in function as the harm that their crime has caused should be communicated to the offender and, in turn, the offender should seek to communicate their remorse to the community. The aim of this approach is to achieve a 'liberal political community' (Duff, 2001 cited in Clear, 2007, p193).

To be put into *practice*, there must be a set of obligations that the offender, the victim, the community and the state share. For example, the offender must recognise the harm that their crime has caused and should apologise to the victim (or the community) for this harm; the community should recognise the harm that has been suffered by the victim and should try to address this through methods of 'victim support'; and, the victim has a duty to assist in the prosecution of the offender and should treat them as a fellow citizen once they have paid their debt through their punishment (Duff, 2001 cited in Clear, 2007). Concerns have been raised about the role of the state in this process, and it has been asked why the state – through the formal CJS – is given the role of 'administering censure', rather than those who are more directly affected by the crime, that is, the victim and the community. For example, censure does not necessarily require 'hard treatment' and may be achieved more successfully by approaches such as community action or restorative justice. However, it might be argued that for certain crimes the power to censure wrongdoing should be taken away from the community and passed on to the state, but, reaching an agreement on the point at which the state should intervene may be problematic in a community justice approach (Duff, 1996, cited in Wright, 2003, p8).

As Duff (1996, cited in Wright, 2003, p7) argues, in order for a system of punishment to be justified, it must be shown that it 'does more good than harm', and that there are no alternative practices available that could result in an equal (or greater) amount of good at no higher cost. In this sense, community justice can be justified as there are many ways in which such initiatives have the capacity to do more good than the punitive sanctions that are being used excessively by the CJS (by, for example, improving the quality of life for community members), and it has also been demonstrated that this can be achieved at much lower costs than imprisonment (which will be discussed in more detail later in this report).

The ways in which punitive policies and high levels of incarceration impact upon a community have already been outlined: this illustrates the need for an approach that will *restore* communities' mechanisms of informal social control and strengthen their norms and values. Since housing, employment, education, and health are all important sources of this form of control, in order to improve public safety and quality of life it is crucial that they are made a focus of community justice (Clear, 2007). This is particularly important in relation to people from disadvantaged neighbourhoods, as they are often 'stuck' in these places (since they cannot afford to move to a more desirable location) and can become 'isolated politically, socially and economically' (Clear, 2007, p70).

It should be noted however, that it is not only the detrimental impact of punitiveness and high levels of incarceration that illustrate the need for a community justice approach. For example, the Joseph Rowntree Foundation conducted a survey on the 'social evils' that the British public feel dominate today's society, and, although there were methodological problems (as the sample of participants was not wholly representative of the British public), it was found that one of the main concerns that participants had was that there is a greater sense of 'individualism' in Britain today – as many people do not regard themselves as being part of the wider society – and that there has been a 'decline of community'. In other words, people feel that community members are becoming increasingly isolated from one another and, consequently, the well-being of members has been negatively impacted upon (Watts, 2008, p3). The findings support the argument that a community justice approach is required that will strengthen communities and their values in order to produce long-term benefits for the whole of society, rather than an approach that concentrates simply on offenders and victims.

Community justice is a 'localised' form of justice that involves working partnerships between a number of agencies and organisations in the community in order to enhance informal social control and community cohesion (Pakes and Winstone, 2005), which is to say that it is a 'multi agency approach'. This is because community justice aims not to rely exclusively on professional expertise within the CJS, but instead utilizes the valuable resources that already exist in communities and the problem-solving abilities of citizens themselves (Clear and Karp, 2000). As Travis (2005, p304) states, 'communities have enormous untapped resources', and if local authorities and the public are made aware of this potential, then the possibilities for localised solutions to offending are vast.

A number of benefits of a more localised approach are outlined by Stern and Allen (2007) including that: such an approach is more likely to be understood and trusted by local people, which will create more confidence in the CJS; work to deal with individual offenders can be integrated with programmes that will benefit their families and the wider community; local authorities will be given more of an incentive to tackle offending behaviour and reintegrate ex-offenders if they are given this responsibility (and thus the ways in which funds are spent will become more effective); and, people will have clearer and more meaningful knowledge about crime in their area (and what is being done to tackle it) as more accurate information about local areas and their needs will be obtained for policy making. This greater understanding could increase support for community penalties and could help tackle an 'inappropriate fear of crime' (Stern and Allen, 2007, p46).

Furthermore, that there are only a relatively small number of deprived communities which have high levels of incarceration (and offending) is advantageous to community justice as this means that initiatives do not need to be introduced on a large scale throughout the whole of the UK (Clear, 2007). It can be argued however, that, although a number of people who live in communities, which are not recognised as being 'disadvantaged', suffer from the same problems as those who do live in disadvantaged

areas, they may not fully benefit from community justice as they are unlikely to be subject to community justice initiatives.

If the imprisonment of an individual is inevitable (and it is agreed in the community that it is the most appropriate sanction for them), the reintegration of ex-prisoners is also a crucial element of community justice as these individuals face a number of challenges in refraining from a life of crime when they are released. A case study by Anderson (2001) illustrates the difficulties that can arise in the transition from a life of crime to legitimate, law abiding behaviour – even with the best intentions. In this case, a 17 year old boy, Robert, was imprisoned for assault on a rival drug dealer. When he came out of prison, he wanted to earn money in a legitimate way and so he started up a small business and attended university. However, Robert was often mocked by his old friends who were still in the drug trade and he also felt that he was alienated from 'the system' due to his status as an ex-prisoner. The tensions that exist between life in communities (with high rates of crime) and the CJS are illustrated by the fact that Robert, unable to maintain his credibility in the usual manner (by threatening violence), struggled to get by on the street, yet violence on his part would jeopardise his freedom by breaking his parole conditions. Although this case is an American example, it can be said that many ex-prisoners in the UK face similar problems, which highlights the importance of the role of the state *and* the community in helping such people turn their lives around.

The problems that ex-prisoners experience when reintegrating with their communities are clear, and it is important that we do not just look at the ways in which the CJS could reduce the 'desistance process' in order to reduce levels of offending. Rather, it has been said that we should think about the ways in which the system can be challenged in order to 'bridge the gap' between society and ex-offenders, between 'us' and 'them' (Travis, 2005, p268). This is why restoration and reintegration are important elements of community justice (Clear, 2007).

For example, abolitionists criticise the CJS for further criminalising and stigmatising offenders by relying heavily upon imprisonment and punishments which focus on retribution and 'disintegrative shaming' (McLaughlin and Muncie, 2006). Reforms to the CJS can therefore be rationalised on the basis that if ex-prisoners are to be successfully reintegrated into society, then they (and their family) should be afforded the *opportunity* to lose the stigmatisation associated with imprisonment, that is, 'permission to legally move on from the past' (Maruna, 2001, cited in Travis, 2005, p261). As Travis (2005) states, with less stigmatisation ex-offenders may be able to find work more easily and become more engaged with members of their community which, in turn, could result in lower levels of recidivism.

The idea that is fundamental to these proposals is that the labeling process which stigmatises those labeled 'offenders' should be reversed when they have served their sentence and stopped their offending behaviour (Erikson, 1962, cited in Travis, 2005). However, although these sentiments are commendable in theory, they are more difficult to realise *practically* and the CJS cannot accomplish these goals alone. Therefore, in

order to successfully lower levels of recidivism, there must be greater levels of public involvement (Travis, 2005).

The success of community justice initiatives will also depend on the condition of the public sector in areas such as housing, education and health. Since these services are currently under-funded (in comparison to most countries in Europe), an increasing prison population is likely to continue if funds are not diverted (Downes, 2001), which is illustrated by the point that 'governments that provide more generous welfare benefits will also have lower incarceration rates, while those with less generous welfare programs will have higher incarceration rates' (Beckett and Western, 2001, p39). This is a good reason why approaches that concentrate on the welfare of communities – such as the US model of JR – should be considered, as it involves using the funds spent on incarceration in more productive ways through the application of community-based initiatives (Allen, 2007), and by addressing the resettlement needs of those released from prison (Ross, 2008). In other words, through JR, no new monies are required to fund community justice initiatives (Clear, 2007).

In the UK, interest in JR began with the International Centre of Prisons' (ICPS) research on 'restorative prisons', which noted that improved outcomes for victims, communities and offenders cannot realistically be achieved by incarceration alone, but in the way in which individuals from deprived communities are educated, employed, and housed, and the quality of health care they receive. A clear issue that this research raised was that local authorities have no influence over the public funds spent on imprisonment and probation (despite the impact that this sanction has on a local authority's services). Since this project, the ICPS has been examining a more localised approach to criminal justice and asks whether a redirection of resources, from the CJS, to educational, social and health programmes, may have a more effective impact, through JR (Allen, 2007).

According to Allen (2007, p5), there are crucial elements of JR, including: that particular *places* and not just individual cases are improved by policies and initiatives; and, that strategic plans are adopted that aim to prevent future crime and recidivism by 'collecting and analysing data to inform decisions about how and where best to allocate public funds'. Criminal justice practices which involve unproductive spending must be identified and adapted in order for savings to be made (Tucker and Cadora, 2003). For example, it has been suggested that savings could be made if non-violent offenders received community sentences rather than imprisonment and if policies were introduced to reduce the number of people sent back to prison for parole and probation violations (Ross, 2008). A portion of these savings could then be set aside in a separate fund (Tucker and Cadora, 2003) and, once areas most in need of investment have been identified (areas which have high rates of offending and imprisonment) through geographical mapping techniques (Ross, 2008), these savings can be 'reinvested' into programs designed to tackle issues concerning health, education, employment and public safety (Tucker and Cadora, 2003). It is thought that, by giving local authorities ownership of these funds, there will be more incentive for them to create alternative solutions to offending for longer-term benefits and future savings (Allen, 2007), and

since these funds are *not* being spent on imprisonment, the 'collateral damage' from the use of incarceration will be prevented (Clear, 2007).

JR is not solely about redirecting funds that are currently spent on incarceration; it is also concerned with the devolvement of responsibility and accountability to local level, so that solutions to community problems might be sought in the communities themselves. It has been said that we should be asking the question 'what can be done to strengthen the capacity of high incarceration neighbourhoods to keep their residents out of prison?' rather than 'where should we send this individual?' (Tucker and Cadora, 2003, p4).

There has been clear interest in a more localised approach to criminal justice and the concept of JR recently throughout the UK. For example, in a report by the Commission on English Prisons Today (2009), it is recommended that criminal justice become more localised and, it is recognised that if the use of prison is reduced then these funds can be reinvested in communities and local solutions through JR. It is suggested that something similar to Scotland's Community Justice Authorities (CJAs) could be set up throughout the UK as 'local strategic partnerships' comprised of representatives from a wide range of policy areas (such as health, criminal justice and education) to facilitate and oversee JR initiatives (The Commission on English Prisons Today, 2009, p56).

The House of Commons Justice Committee (2010, p112) has also shown a commitment to JR and recently published the report 'Cutting Crime – The Case for Justice Reinvestment'. The committee recognises that a long term, problem-solving approach is required for 'victimised communities, as well as offenders and their families [to] benefit from…targeted support', and that JR should be considered in order to address the following issues: that all parts of the CJS are currently not pursuing the same goals; and agencies *beyond* the CJS have the potential to play a role in reducing imprisonment and recidivism rates. They recommend that a national JR fund is created that will move resources from the CJS to local areas, and argue that the money intended for the construction of Titan prisons should be put into this fund (The House of Commons Justice Committee, 2010).

The localised and flexible nature of community justice and JR means that there are a number of different initiatives and programmes that could be introduced throughout the UK as part of this philosophy, and the following chapter will illustrate the ways in which this approach has already been put into practice, with particular reference to the UK and the US.

Chapter 3

Community justice is a trend that has been growing over the years and, throughout this chapter, examples of the community justice approach in practice will be outlined, including: North American examples of JR, the Gateshead JR project, the Scottish CHS, and community justice centres.

Firstly, it should be noted that a wide number of restorative justice practices have emerged over the years and, although it is recognised that restorative justice is an important element of the community justice paradigm (Nellis, 2000), it is beyond the scope of this report to outline examples of this specific approach and instead, more general community justice approaches will be focussed upon (many of which entail elements of restorative justice).

JR in Practice

Connecticut

A number of initiatives, introduced throughout the US, demonstrate ways in which the concept of JR can actually be put into *practice*. For example, in Connecticut, a JR strategy was introduced in order to tackle a growing prison population (which was growing at the fastest rate in the US), and a vast budget deficit. Legislation was introduced to reduce levels of recidivism and the number of parole and probation violations, and of the $30 million saved from this strategy, nearly $13 million of it was reinvested into community-based initiatives. Since this strategy was implemented, the prison population and levels of probation violations have decreased significantly and there has also been a reduction in levels of crime (Justice Reinvestment Website, 2010).

Deschutes County

A JR strategy was implemented in 1997, in Deschutes County, Oregon, enabling the county to supervise juveniles in community-based programs. The funds that were previously used for sending juveniles to state institutions were allocated to the county, which enabled them to fund local programs to supervise youths, and any surplus funds were invested in preventative care. However, if juveniles were sent to state institutions, then Deschutes county assumed the cost of incarcerating them (Tucker and Cadora, 2003).

This local financial responsibility resulted in a reduction of the number of youths in custody (Allen, 2007). Throughout this initiative, Deschutes County have focused on using community programs such as landscaping parks and building homes, and through such services, juveniles have learned skills whilst giving something tangible back to their community. In addition to this, Oregon has saved approximately $17,000 per case by granting Deschutes County state funds and this money has been reinvested in schools, parks, healthcare, and libraries (Tucker and Cadora, 2003). It should be noted, however, that many of the factors that contributed to the success of Deschutes County's community

justice approach – demographics, support from elected officials, values of residents and county leaders, and so on – may be difficult to replicate in other places (Martin, 2002).

Maryland

Maryland also adopted a JR strategy to deal with young offenders by introducing 'Multi-Systemic Therapy' (MST) – a method that aimed to reduce youth re-offending rates by concentrating on a number of factors including education, family, peers, and the community. After 59 weeks of this approach, re-arrests were reduced by a considerable 43% according to a study carried out by the Department of Justice. Furthermore, since MST only cost $9,000 per youth (and the average cost of putting a youth in an 'out-of-state facility' in Maryland is $100,000), the cost benefits of such an approach are clear to see (Ross, 2008).

Gateshead

In 2005, the ICPS began a project with Gateshead Council in the UK to explore ways in which funds could be diverted from incarceration and used to enhance public safety in areas in need of resources. Although there were limitations to the research (as the prison service could not provide accurate information on the postcodes of where offenders lived before and after they were sent to prison), geographical mapping techniques revealed that the majority of offenders lived in the most deprived areas of Gateshead. Based on this, the ICPS recommended a more devolved approach for working with offenders, and, in 2006 the Council made plans to engage local community members to enable their greater involvement in deciding how to manage their neighbourhoods. A commitment has also been made to ensure effective co-operation between agencies and for the local authority to have a greater role in supervising offenders (Allen et al, 2007). Although this project has led to a more localised approach to justice, there has been a lack of support for full reinvestment in Gateshead (from incarceration to community justice approaches) (Australian Human Rights Commission, 2009). Nonetheless, it is a significant step towards a community justice approach being implemented throughout the UK.

It is interesting to note that, although the term 'justice reinvestment' may be relatively new in the UK, the *concept* is evidently not. For example, Stern (1989) states that in 1983, the Department of Health and Social Security – which was responsible for juvenile crime policy – decided to provide money for voluntary groups, to initiate alternative programmes for juveniles, instead of spending these funds on incarceration. This initiative was regarded as highly successful and all interested parties had to run the schemes jointly, with targeted programmes and continual co-operation with the courts. Reverting back to such a 'multi-agency' approach will be fundamental to the success of any community justice initiatives introduced in the UK today.

The Scottish Approach

It can be said that the community justice paradigm already has a major influence on the CJS in Scotland, through the CHS, which is a unique system that not only deals with

young people who offend, but also children who are at risk. The CHS advocates a welfare-based approach, as protection and care issues are considered alongside a child's offending behaviour, in order to try to resolve underlying causes of delinquency (The Scottish Executive, 2004).

An important feature of the CHS is that it is focussed on the community as hearings are based locally with Children's Panel members selected to represent their own communities. In 1996, local governments in Scotland were reorganised and the number of Children's Panels increased from 12 (at regional levels) to 32 (at more local levels) (The Scottish Government, 2008b). This localised approach means that members have a better understanding of the needs of the children in their area and also of the wider community which they can consider when making decisions about a child's welfare (The Scottish Executive, 2004).

However, there are significant differences between the levels of support and quality of training that CHS members receive in different local areas. Indeed, it has been suggested that an 'over-dependence on local support' has resulted in unclear accountabilities, a lack of common standards and a lack of leadership both across the system and locally. This is why many have advocated a more centralised approach that would reduce bureaucracy and provide clear standards and accountabilities (The Scottish Government, 2008b, p7). Arguably, such issues could be applied more generally to community justice as variations and inconsistencies could emerge between the services that local authorities provide. Despite such practical issues, the CHS has been highly praised worldwide and, if a successful system is in place that recognises the importance of considering welfare issues and of a localised approach for children, then it could be asked why we are not aspiring to a similar system for adult offenders in the UK.

Community Justice Centres

In 1999, Travis developed the idea of 'reentry courts' to address the issue of the reintegration of ex-prisoners in their communities. He recommended the use of community service and restorative justice programs in these courts, for assistance to be provided to the families of prisoners, and for judges to keep up to date with the progress of individuals during their period of supervision (Travis, 2005). These ideas are essentially the same as those which underlie 'community courts' and 'community justice centres' and the use of this type of court will now be examined.

Red Hook Community Justice Centre (RHCJC)
Community courts and community justice centres have been described as 'problem solving courts' that are 'both therapeutic and [hold offenders] accountable' (Nolan, 2009, p13). They contrast with traditional courts as they aim to reflect the issues and interests of the whole community (Rottman, 1996). For example, in New York, the RHCJC focuses upon reparation and rehabilitation, and a number of services (such as social services and community outreach programs) are made available to offenders, victims, and community members. All court proceedings are heard by a single judge, and the centre aims to identify any underlying causes of offending behaviour through a multi-agency approach.

The success of this centre has been clear to see, as, compared to the 50% of defendants who comply with sanctions imposed upon them in a nearby court in Brooklyn, 75% of defendants have been shown to comply with sanctions imposed upon them by the RHCJC, and re-arrest rates for drug offenders decreased by 29% when they took part in drug treatment programs at the centre (The Young Foundation, 2008). Concerns have been raised, however, that such courts often fail to confront a number of problems that the community suffers, such as those involving schools and run-down properties (Clear, 2007). Nonetheless, this type of initiative could still play a valuable role in a wider community justice approach and this is being recognised in the UK.

North Liverpool Community Justice Centre (NLCJC)
The NLCJC was established in 2005 and has been described as a 'one-stop shop' that aims to tackle crime in the local area. It comprises: a court (with a single judge); criminal justice agencies; agencies within the local authority such as the housing association; and a number of other services that aim to tackle offending behaviour and problems in the community. The views of local residents – about how to deal with offenders – must be taken into account by the centre, which gives the local community a sense of 'ownership' and responsibility (Nellis, 2005). As such, 'offending behaviour' may be extended to include a number of issues that affect the community, for example, prosecutions for environmental offences (McKenna, 2007). The fact that there is not solely a focus on offending behaviour demonstrates that the main concern of the centre is the wellbeing of the whole community.

The Ministry of Justice has praised the multi-agency approach of the centre and its use of problem solving meetings (which can be held when the judge thinks that there are underlying problems that are contributing to an offender's behaviour). Although it is too early to fully assess what impact these meetings have had on recidivism rates, case studies have shown that offenders have been more compliant with their sentence due to greater levels of personal engagement with the court (McKenna, 2007).

As previously outlined, public engagement is fundamental to the success of a community justice approach. However, Rottman (1996) states that community members may not be willing to participate due to a lack of knowledge about the court system. This has been a problem for the NLCJC as, although they have arranged a number of events in the community to raise awareness about their activities, research has shown that public confidence in the CJS has not increased, and that they have not encouraged a great number of people to become involved with the centre: they have 'only succeeded in engaging community members who were already active' (McKenna, 2007, pvii). This is a problem that could be experienced throughout the UK if community centres or courts are introduced and it has been suggested that in order to achieve community engagement, events to raise awareness of their activities must be ongoing (McKenna, 2007), and courts need to be seen by communities as a useful resource for change. In other words, 'if there are to be community-focused courts, there must be court-focused communities' (Rottman, 1996, p51).

It is clear that the American approach to community justice has been a source of inspiration to the UK. However, there are huge cultural differences between the UK and the US (Nolan, 2009), thus, in order for community justice initiatives – based on US models – to be successfully introduced throughout the country, initiatives will have to be adapted to suit the needs of individual communities (Nellis, 2005). With regard to community justice courts, Nolan (2009) has argued that if courts similar to those in the US are introduced in the UK, the cultural disposition of different communities (and countries) must be considered. For example, when youth courts were piloted in Scotland, in Hamilton and Airdrie, Sheriffs were encouraged to get to know the defendants and to become more interactive with them – in a similar fashion to judges in US problem solving courts. However, many Sheriffs did not feel comfortable with this and kept communication to a minimum. One judge commented that it was not 'really part of the judge's job to get too close to the accused' (Nolan, 2009, p124).

Although there are issues pertaining to many of the approaches outlined, it is important to note that there is no 'standard formula' for community justice, as the design and method of approach will be dependent on the needs and nature of the community (Clear and Karp, 2000). However, there are concerns about the feasibility of a more localised form of justice being introduced in the UK, as there are a number of obstacles that community justice will have to overcome; these issues will be the main concern of the following chapter.

Chapter 4

Throughout history, in Western societies, there has been a 'culturally embedded impulse to demonize' anyone who has committed a crime (Travis, 2005, p253), and it is evident that changing people's attitudes towards offenders and the CJS will be a huge challenge to the implementation and acceptance of community justice as – like hanging and transportation in the seventeenth and eighteenth centuries – prison has 'symbolic value' as an expression of the 'deepest disapproval' of society (Stern, 1989, p95). It serves as an 'expressive release of tension and a gratifying moment of unity in the face of crime and insecurity' (Garland, 2001b, p142).

Contemporary penal discourse has become increasingly populist and involves 'tough on crime' policies with a new focus on victims. Garland (2001b) states that emotion has become more influential over policy than intellect, and that any concern shown for offenders can be portrayed as being an insult to victims of crime. This 'us versus them' paradigm could be a significant issue for those advocating community justice, as the public may not support an approach which aims to help offenders (by tackling underlying causes of crime) and reintegrate them into their communities.

This can be illustrated by Immerwahr and Johnson (2002, cited in Travis, 2005, p295) who revealed that, although residents in communities with high rates of incarceration may understand the challenges that prisoners face when returning to their neighbourhood, and believe that reintegration should be supported by the community, they have strong views about the need for those not abiding by the law to be *punished*, and 'their belief that people can change conflict[s] with their desire to limit public and personal safety risks in their community'. This is why it is important that community members be made aware that, by reducing the use of imprisonment, savings can be diverted into welfare programs.

Furthermore, people who currently receive short-term sentences and have multiple needs are said to be among those whom judges are least confident about imposing community sentences upon, and there are concerns that even if judges are encouraged to use these sentences, the most vulnerable people will still end up in prison (Honeyman and Corner, 2008). However, it can be argued that, if community justice initiatives were in place, then judges could be more confident that such individual's needs could be addressed in the community.

Since politicians often appeal to the electorate by appearing to be 'tough on crime', there are concerns that if a community justice approach is introduced, *local* politicians may use this tactic and thus localised justice could become more punitive (Stern and Allen, 2007). There have also been concerns that community justice will result in 'net widening' and early intervention (Nellis, 2000). The way in which Anti Social Behaviour Orders have been used illustrates this issue, as some local authorities have been very 'enthusiastic users' (although it should be noted that this policy was driven by central government) (The Commission on English Prisons Today, 2009).

It is understandable why many advocate imprisonment for persistent criminals who never learn their lesson, and, research has found that, in Scotland, people tend to be intolerant of repeat offenders (The Scottish Prisons Commission, 2008). However, just because someone is a recidivist does not mean that they are dangerous or that tough crime policies are the solution. For example, in California, a man was sentenced to 25 years in prison for stealing a pizza under the 'three strikes and you're out' policy. Such tough crime policies have been likened to 'killing a housefly with a bazooka' as by trying to solve a problem, collateral damage is caused (as previous chapters have demonstrated) (Clear, 2007, p57).

It has been argued though, that people support punitive policies because they feel that they do not have any influence over criminal justice and feel isolated from the system (The UK Parliament, 2008), thus, if people become more *involved* in criminal justice through initiatives in their own communities, they will have more confidence in the system and it will become less punitive. Furthermore, Ian Loader claims that research shows that when people are given more information about crime or criminal justice in their area, they tend to become more tolerant and less attached to punitive solutions: when people think about crime locally, they become more *engaged* in the discussion about crime as it concerns the place that they live (The UK Parliament, 2008).

This illustrates the importance of people being given information, about the benefits of a community justice approach, in order for it to be accepted. The forthcoming general election is an ideal opportunity for local debates and discussions to take place on whether the country can afford to carry on with the current system, and since the country has recently been in its worst public spending crisis since 1945, such a debate would be timely (The House of Commons Justice Committee, 2010).

Prison inspector Hugh Monro recently said: 'I have spoken to a number of prisoners, particularly younger ones, who have found a community sentence more demanding [than imprisonment]' (The Herald, 2009), and if the public were made aware that such sentences are not a 'soft option' then, perhaps, support for more punitive responses will decline. There may already be a shift in this direction, as a recent survey found that the public lack confidence in the ability of imprisonment to rehabilitate and 84% of participants supported compulsory work being carried out by offenders in the community. It has been suggested that as long as innovations coincide with what the public think is fair regarding punishment, and are shown to save money whilst having a *visible* impact on communities, then the public should respond favourably (The Young Foundation, 2008).

According to incapacitation theories, imprisonment is beneficial as, put simply, 'people who are behind bars cannot commit crimes' (Clear, 2007, p35), and there could be opposition to a localised approach to criminal justice by those who believe that imprisonment serves a role in reducing crime. There may be some truth to this assertion: for example, economists such as Kessler and Levitt (1999 cited in Clear, 2007) state that, in California, crime has been reduced as a result of tougher sentencing. However, Clear

(2007) argues that crime *does* still occur, as someone else simply replaces the individual in prison and, once an individual is released, there is a significant chance that they will re-offend.

Nonetheless, such work reinforces a deep-seated belief that imprisonment acts as a deterrent and, although this may be true for many individuals, the evidence to support this argument is inconsistent. Furthermore, for people from disadvantaged communities, imprisonment is often not perceived to be much of a 'step down' and therefore loses its deterrent effect in areas where community justice is needed the most (Clear, 2007); some may actually feel that they *gain* something from going to prison if their lives are so bad on the outside (Stern, 1989). Imprisonment will only provide a short-term solution to someone's problems, and this is arguably why community justice initiatives are required in deprived communities, to ensure that prison does not become a more desirable location than their own community.

Zimring and Hawkins (1988 cited in Clear, 2007) argue that, if incapacitation theories are correct, there should have been a significant drop in crime levels in the US from 1971 (as the prison population grew substantially), but there was no such reduction and, despite high levels of incarceration, rates of crime (excluding lethal violence) in the US are relatively similar to many European countries (Zimring and Hawkins, 1997 cited in Downes, 2001). If incarceration really has succeeded in reducing crime through deterrence and incapacitation – arguably the main goal of its use – then the huge increases in the prison population should have had a substantial effect on crime rates, but it has only had a modest impact (if reductions can be attributed to incarceration at all) (Jacobson, 2005).

In their survey on 'social evils', the Joseph Rowntree Foundation found that participants felt that there has been a decline in the values (which guide behaviour) that people share as many members of the public were said to have 'a lack of tolerance, compassion and respect' towards others (Watts, 2008, p1), for, as Mauer (2001, p9) has noted, 'the more stratified a society, the easier it becomes for the well-off to advocate greater pain for the less fortunate'. There were also concerns that there is a greater sense of 'individualism' and a 'decline in community' in Britain today. For example, one participant stated: '[s]ociety has changed, it is a lot more selfish and 'me, myself and I'' (Watts, 2008, p3).

Although this may support the argument that a community justice approach is required to restore shared values and strengthen communities' cohesion, these concerns may actually be an *obstacle* to community justice because, if people no longer feel that they belong to a community, then a community justice approach – that is dependent upon participation, understanding, and a commitment from community members – may not be accepted and could thus be unsuccessful. In other words, it can be asked: how can a community justice approach be successful if the whole *concept* of 'community' is questionable in today's society?

Furthermore, history has shown that getting community members to engage with one another (particularly over a long period of time) can be very difficult indeed, and some

rational choice theorists have stated that, when people are more concerned about their own lives, and less about the welfare of their community, co-operation in a community justice approach is unlikely (Clear and Karp, 2000). There is, arguably, still potential for community justice, as a citizenship survey carried out by Muntan and Zurawan (2004, cited in Pakes and Winstone, 2005) found that within broad localities, some degree of 'community spirit' still exists.   Also, 'while self interest yields short-term benefits, cooperation achieves the greatest long-term gains' (Axelrod, 1984, cited in Clear and Karp, 2000, p25), which stresses the importance of people being made *aware* of the advantages that can be gained by co-operating with their community.

Although the term itself is ambiguous (Williams et al, 2000), *fear* of crime could also be a significant obstacle to the successful implementation of a community justice approach, despite a decline in levels of recorded crime since the 1990s (Garland, 2001b). British Crime Surveys indicate that although fear of crime is widespread, 'public alarm is often disproportionate to the incidence of crime' (Furedi, 2006, p2), which is to suggest that fear of crime itself is but part of a more pervasive 'culture of fear'.
Such high fear of crime has contributed to rising rates of incarceration as it has resulted in an emphasis on 'containment of danger' and security (Garland, 2001b, p12), and could clearly be an obstacle to the implementation of a community justice approach as the public may be fearful of offenders, potential recidivists, within the community. Furthermore, it has been noted that high fear of crime and levels of victimisation are – like levels of imprisonment – often concentrated in areas of deprivation (The UK Parliament, 2008), which further supports the idea that funds should be reinvested into these areas for local solutions to the problems of crime and fear of crime.

As mentioned previously, writers such as Rose and Clear (1998 cited in Travis, 2005) have cited the importance of informal social controls as mechanisms for crime control. However, fear of crime and an obsession with risk in today's society is said to have diminished the influence of 'taken-for-granted norms' and informal relations (Furedi, 2006, p5), which is clearly problematic as community justice initiatives aim to promote social cohesion in communities and, thereby, *strengthen* informal controls. Overcoming this obstacle in areas with high levels of incarceration could be particularly challenging as incarceration can increase social isolation in communities (Clear, 2007), and fear of crime may become intensified when 'social isolation has become pervasive', that is, when there is a lack of social cohesion (Furedi, 2006, p5).

It has been demonstrated that the media play a prominent role in fuelling the fear of crime and inciting public support for tough policies. A study by Williams and Dickinson (1993, cited in the Commission on English Prisons Today, 2009) revealed that, during one month, 65% of stories in British newspapers were about violent crime, despite the national rate of violent crime standing, at the time, at 6%. Also, in a recent article in the *Daily Mail* – about a chief constable who advocated the use of community sentences instead of imprisonment – it was stated that his views contradict those of the Scottish public, and that such sentences are 'soft' and would 'allow violent thugs including wife beaters, house-breakers, drug dealers and knife carriers to remain at liberty' (Roden,

2010, p20). By using such emotive language, it is clear to see how articles such as this incite public support for incarceration.

Moreover, no matter what strategy is put in place in order to reduce the problems caused by incarceration, there will always be the issue regarding the 'extreme case', that is, whenever someone placed in the community commits a violent crime, the whole strategy will be questioned and people will advocate the use of imprisonment to prevent similar cases in the future. This is why it is important that the public be made aware that no matter how many 'extreme cases' imprisonment may prevent, the *social cost* of mass incarceration is far greater and thus outweighs the benefits of prison (Clear, 2007).

Mathiesen (2001, p33) has suggested that, in order to limit the growth of prisons, an 'alternative public space' in policy should be created that: is free from the power of 'media coverage' (so that the success of policy development is not dependent on this); restores grass-roots movement's feelings of worth; and, restores intellectuals' sense of responsibility to policy development. If such an 'alternative public space' was established, community justice initiatives could be developed without media influences. Although this is laudable in theory, it may be more difficult to establish in practice as the media is the only form of communication that politicians and researchers have of communicating policies and ideas to the public (The UK Parliament, 2008), and, for the majority of people, the mass media is their primary source of knowledge about criminal justice (Cavendar, 2004 cited in the Commission on English Prisons Today, 2009).

It has been stated previously that JR will enable funds to be reinvested into deprived communities where resources are required the most. However, Young (2003, p393) has criticised the concept of social exclusion that is conveyed by many criminologists as he states that the notion that people are either 'excluded' or 'included' is false as people may move in and out of exclusion or inclusion throughout their lives, and many cultural criminologists (Ferrell et al, 2008) have argued that criminal behaviour is often expressive and is committed for pleasure and excitement. Furthermore, Young (2003) states that the problems that the 'underclass' are described as experiencing (such as economic insecurity and poverty) are, overall, more prevalent throughout other areas of society that are considered 'secure' compared to the minority of areas described as 'excluded'. This is because a number of changes, such as employment insecurity, pressure for both partners to work, changes in the domestic sphere and, more recently, the 'credit crunch', have all created problems for the 'normal majority'.

It is also argued that 'precise' areas of concentrated disadvantage are not always easily identifiable, and that deviant norms and values (that are said to result in crime) are shared throughout society, to a greater extent than is suggested by social isolation theorists. For example, many describe a number of peripheral estates in Glasgow as being extremely disadvantaged and hopeless, contrasting the rest of the city both economically and culturally (Young, 2003). However, in a critique of this concept, Mooney and Danson (1997) state that the levels and proportions of deprivation and poverty found in many of these estates do not directly relate to the amount of attention they receive as being 'hopeless', and that throughout the Strathclyde region poverty is significantly widespread. They state that the social groups and specific areas that are most in need

must be more adequately defined. It could therefore be asked: if funds are reinvested into areas of concentrated deprivation through JR, is there a danger that the same problems which exist throughout society (but in less concentrated ways) will be overlooked? This is why specific areas and groups throughout society (and not simply areas with poor reputations) should be identified, in order for community justice to be successful throughout the entire country.

For a localised approach to criminal justice to be successful, simplicity is crucial, and concerns have been raised that a move towards community justice could result in a system that involves a 'complex proliferation of pilot schemes [and] partnerships' (The Commission on English Prisons Today, 2009, p47). There have also been concerns that different agencies (such as the probation service and the voluntary sector) within the community justice movement may struggle to agree on a 'common good', and perspectives on the priorities of a community justice approach may differ (Taylor, 1997, cited in Nellis, 2000). For example, currently, in England and Wales, there are approximately 900 NGOs and statutory bodies and, due to the commissioning process, those who aim to provide a service to people within the CJS are often competing with each other rather than sharing ideas and co-operating (The Young Foundation, 2008). This lack of co-operation would be problematic as multi-agency partnerships are crucial to the success of community justice.

Furthermore, the amount of power the community is *actually* given may pose a serious issue for community justice. In other words, are the government 'sharing power' or simply 'allowing the community to supplement…government power?' (Bazemore, 1998, p348). If the former is more accurate, this could be detrimental as a community's involvement can be enabled or constrained by the amount of discretion that local residents are granted by the formal system.

<u>Conclusion</u>

It seems appropriate that Clear (2007, p117) has described the experience of high levels of incarceration in disadvantaged communities as 'death by a thousand little cuts', as it has been shown that incarceration has a negative impact on communities in a number of ways. For example, by increasing competition for social services resources and by reducing the employment prospects of ex-prisoners, imprisonment levels can impact upon the economic viability of a community. High rates of incarceration may also result in whole communities becoming stigmatised, and the legitimacy of the CJS can be undermined, as many ex-prisoners come to distrust the CJS, and the law may lose its deterrent effect where incarceration is a common experience. Importantly, Rose and Clear (1998 cited in Travis, 2005) have outlined the ways in which high levels of incarceration can destabilize neighbourhoods (making them *less* safe) by weakening communities' social, political, economic, and family bonds, which are all important mechanisms of informal social control.

It is important to note that this report is not advocating the *abolition* of prison. However, if we are stating that there are too many people in prison, then what *is* an appropriate number? (Jacobs, 2001, p167). Based on this, it is argued that imprisonment should only be used for those who pose a threat to public safety and for those who have committed an offence that is too serious to warrant any other form of punishment (The Scottish Prisons Commission, 2008). In other words, it should be used as a last resort.

Imprisonment is an extremely costly form of punishment, and this expenditure is clearly not producing any long-term benefits in communities with high rates of imprisonment, crime, and deprivation. As Mathiesen (2001, p32) argues, the detrimental impact that current penal policies are having is a just reason for 'mustering resistance against [them]', and this resistance could, potentially, come in the form of a community justice approach.

The ways in which this approach may improve public safety and quality of life have been outlined. It has been stressed that community justice will utilize the valuable resources that already exist in communities, and will focus upon areas such as housing, employment, education, and health, and not simply individual offenders. It has been stated that 'promoting community life' is central to the community justice paradigm, and it is hoped that by encouraging and enabling community members to become more involved in CJS processes, and by providing a potential solution to the problems of social exclusion and high levels of imprisonment, this approach will help to create safe, 'inclusive communities', and will restore faith and trust in the CJS. The case study by Anderson (2001) illustrated the difficulties that ex-prisoners can experience when they are released, and, as the imprisonment of some individuals is inevitable, an important element of community justice is the reintegration of ex-prisoners into their communities, although this will require greater levels of public involvement, and support of the CJS.

It has been demonstrated that such an approach does not require additional funding as, by use of JR, funds that are currently being spent on imprisonment can be reinvested into

community-based initiatives. For example, if criminal justice practices which involve unproductive spending are identified and adapted, the savings that are made from this process can be diverted into areas in need of investment. By redirecting the public funds spent on incarceration, this approach is also concerned with the devolvement of responsibility and accountability from central government to a more local level.

A number of examples of community justice in practice have been outlined, including US examples of JR and the project that is currently underway in the UK, in Gateshead. Although this project is, arguably, a significant step towards JR approaches being introduced in the UK, there has been a lack of support for full reinvestment in Gateshead, and concerns can therefore be raised that this will also occur throughout the country if similar projects are introduced. In order to address this issue, it is suggested that further research be conducted to investigate the specific ways in which criminal justice funds can be diverted from central government to local authorities, and the full financial implications of a JR approach being introduced throughout the UK.

The CHS in Scotland has also been cited as an example of community justice, as this system entails a welfare-based and localised approach in which the needs of communities, and the needs of children from these areas, are considered by Children's Panel members. This system has been criticised for having unclear accountabilities and a lack of common standards, which are potentially the same issues that could emerge in a community justice approach. Nonetheless, this is a structure that could facilitate the introduction of a wider community justice approach in Scotland. Community justice centres have also been examined, and although they have received praise for their greater levels of engagement with offenders, and for considering the wellbeing of the whole community, it has been demonstrated that many community members are not actively involved with these centres. This is why it has been recommended that if they are introduced throughout the UK, then events to raise awareness of their activities and to engage community members must be ongoing.

Many community justice approaches are based on US models and, as Nolan (2009) has argued, if such models are to be introduced in the UK, it is important that the cultural dispositions of different communities are considered. As the design of community justice approaches will depend on the needs of individual communities throughout the country, they must be flexible and able to adapt.

It has been shown that there are a number of obstacles that community justice will have to overcome. For example, 'tough on crime' policies and a new focus on victims may discourage the public from supporting an approach which aims to help and reintegrate offenders. It has been suggested that this can be overcome by people becoming more involved in criminal justice in their own communities, and by being made aware of the wider benefits that a community justice approach could bring. The forthcoming general election presents an ideal opportunity for discussions on this matter. It is recommended that further research is conducted, to explore the public opinion of community justice and JR, and whether it is likely that such an approach will be accepted in the UK. The point that there appears to be a 'decline in community' is also a potential issue, although this is why people should be made aware of the advantages to be gained by co-operating with

their community. Fear of crime could be a significant obstacle also, and as the media have had a prominent role in shaping this fear, it has been suggested that an 'alternative public space' for policy-building is created, free from the power of the media, although this may be difficult to achieve practically.

There are other practical implications that should also be considered. For example, it has been argued that problems that people from communities experiencing high levels of incarceration are described as having are in fact widespread, and not confined to precise locations. This could make it difficult to identify areas that are in need of community justice initiatives, and in order to address this issue, it is suggested that further research is conducted to adequately identify social groups and specific areas throughout the UK that are most in need of a community justice approach. Also, concerns have been raised that a 'multi-agency' approach may involve agencies with different priorities and, thus, a lack of co-operation could hinder progress. The amount of power that the government actually *give* to communities is also a potential issue for community justice.

Rothman (1971, p295) wrote that, 'we have been gradually escaping from institutional responses, and one can foresee the period when incarceration will be used still more rarely than it is today.' Although Rothman's (1971) hopes for a reduction in the use of incarceration is still far from being achieved, it can be argued that community justice is our best opportunity to bring about real changes, to the CJS, and to communities in the future and, as Clear (2007, p208) states, '[t]he change in direction will take single-mindedness and nerve. But a true realist would say we have no other choice.'

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