



## **Punishment and Reform: What Works to Protect the Public and Stop Crime?**

MJW was launched in the summer of 2009. It is an independent campaign aimed at highlighting the cost and ineffectiveness of short-term prison sentences and improving public confidence in community sentences. MJW is a Community Interest Company and receives no public funding. We provide:

- an authoritative and credible voice in the public debate, harnessing the power of experts and opinion-formers from both within and outside the sector, including representation from victims
- evidence that robust and demanding alternatives to custody for less serious offences can be highly effective at reducing criminal behaviour and lessening fear of crime as well as offering big savings to taxpayers

MJW's campaign is open-minded and rests on rational, evidence-based research some of which we have directly commissioned, and on other independent sources. We have recently undertaken a National Commission of Enquiry, entitled "*Community or Custody – which works best?*" which was designed to explore the value and effectiveness of intensive community sentences, with a particular focus on Intensive Alternatives to Custody. The final report, published in September 2011, was widely reported and well received for shining a light on the issues. The Report directly answers many of the questions posed by the 'Punishment and Reform: What Works to Protect the Public and Stop Crime?' consultation. <http://communityorcustody.com/National%20Enquiry%20-%20Final%20Report.pdf>

MJW recommends that a *presumption against the use of prison sentences of less than six months* should be built into sentencing guidelines, following the new legislation in Scotland.

### **Q6. How can we better inform the public and the media in what is most effective in reducing crime (i.e. a justice communication challenge?)**

To build confidence around community sentences, it is vital that both the public and victims are aware of what has happened to the person that offended against them. The Together Women Project in **Bradford** successfully deploys women who have completed the programme to speak at events or in the media and explain what it entails. The programmes in Manchester (IAC) and Leicester (CJDT) both used the 'Local Crime: Community Sentence' (LCCS). This allowed for probation officers, together with magistrates, to inform the public of what they do. They considered that this work made a positive impact, with figures showing audiences shifting their position substantially from custodial to community sentencing. In a recent study, the majority, 64%, of attendees who initially supported the use of prison changed their minds after the session.

#### **MJW recommends that:**

- All programmes must develop initiatives such as the Local Crime Community Sentence to educate and inform the wider community about the work they do to punish and rehabilitate offenders
- A marketing campaign to promote greater public confidence in reforms is designed to reduce our present excessive reliance on the use of prison.
- A piece of work should be commissioned from an independent creative agency "*An Easy Guide to Community Sentencing*" - written in layman's language with case studies and victim and offender stories. Such a guide should be made available to all criminal justice agencies, including magistrates, courts probation service and police, as well as victims, offenders, their families, volunteers, and the wider community.
- Reparation must be a central part of an intensive community sentence. Offenders should understand the impact of their crimes on their communities and victims and work to restore damage caused.
- Victim-awareness activities should be included in all community orders and the option of Restorative Justice Conferencing should be available to all courts.

## Q11: What lessons can be learnt from local schemes and pilots that can be rolled out and applied nationally?’

Extensive research conducted in the course of the MJW National Enquiry showed that there are effective schemes up and down the country that deliver robust community sentences which are both effective at reducing re-offending and cost effective in providing financial savings. Please see: (<http://communityorcustody.com/National%20Enquiry%20-%20Final%20Report.pdf>)

Every community alternative to custody visited by the Enquiry revealed that such sentences can be robust, demanding and strict. They set high expectations and respond swiftly when an offender breaches his or her conditions. The Intensive Alternative to Custody (IAC) model in **Manchester** is exemplary. IAC orders are a minimum of twelve months or as long as two years. The orders are characterised by intensive interventions that occupy the offender five days a week, alongside a private sector-led community outreach service, which monitors behaviour and enforces compliance seven days a week and round the clock. Coupled with enhanced electronic monitoring arrangements – or ‘tagging’ – for curfew orders, this service controls behaviour to a much greater degree than other forms of community supervision. The outreach service can respond immediately to non-attendance and other violations of the order, placing additional checks on behaviour, and is able to take action in the evening and at weekends when the risk of re-offending can be highest.

In the Leicester Criminal Justice Drugs Team, each offender is closely monitored for evidence of continued or escalating substance misuse. The delivery team work very closely with the police and alert them immediately if they suspect such behaviour is serious enough to lead to further criminal activity. This close relationship with the police is a critical part of improving compliance at all the projects that the Enquiry visited. The understanding that criminal behaviour will not be tolerated among offenders serving their sentence at the Leicester CJDT project is critical in instilling a culture of personal responsibility that most offenders have previously not experienced.

Overwhelming evidence was also presented to the Enquiry which described how offenders often find prison far easier than completing an intensive community sentence. Indeed prison was seen as a break in many cases from a chaotic and destructive lifestyle. The level of activity required under such programmes and the focus on compliance make an alternative to custody a far tougher prospect than prison. The Enquiry was concerned to hear that the tough nature of these orders can sometimes lead to unintended consequences. Offenders have been known to breach the terms of their sentences so that they are sent to prison instead. Providers of effective community sentences need to find ways to work with offenders to understand the order and to see it as an opportunity to reform. Enforcement can only work if the offender is motivated to change.

The Enquiry found that victim reparation is an effective mechanism to make offenders face up to their crimes and the consequences of their behaviour. Offenders at the Leicester CJDT project stated that understanding the crime from the victim’s perspective helped turn their lives around. Restorative Justice (RJ) is one of the most effective ways of increasing victim satisfaction with the criminal justice system and enhancing victim involvement in a system which can at times seem to marginalise them. RJ has received an overwhelmingly positive response from victims who have had it available to them and offenders alike.

### **MJW recommends that:**

- Community sentences work best if they target the individual needs of the offender in a fully integrated way, rather than following a crude one-size-fits-all approach. The effectiveness is acknowledged in a report, ‘Order of the Courts’ from the Centre for Social Justice. Good examples are the IAC in Manchester and the Together Women Programme in Bradford
- The *Intensive Alternative to Custody* model must be more widely adopted so that it is available to sentencers throughout England and Wales. The one-stop-one model pioneered by the *Together Women Programme* (TWP) in Bradford must also be more widely adopted, and applied not just to women, but to other groups of offenders. This is confirmed by the Magistrates Association in the recent motion passed at their AGM: *It applauds the Government’s efforts to implement the Corston Report and to reduce the prison population of vulnerable and non-violent women who nevertheless re-offend repeatedly and calls for a pilot of an intensive ‘alternative to custody’ programme, specifically for such women, as the next step to implementing the Corston recommendations.*

**Q16. What more can be done to break down the barriers to achieving greater public confidence in alternatives to custody?**

Magistrates, district judges and local communities must be fully informed about intensive community sentences in their area. It is clear that the public is not convinced that alternatives to custody are effective. If we are going to see a real shift away from short prison sentences and towards greater use of community alternatives, this lack of public confidence needs to be addressed. The media when reporting on community alternatives too often fail to base their commentary on evidence of what works to reduce re-offending but instead concentrate on false perceptions. There is a need to challenge politicians and certain sections of the media, who focus on populist sound bites and not sensible policies. The idea that prison works because it locks up criminals and prevents them committing crime is simplistic and unhelpful.

It is essential that the local judiciary are made aware of what effective community alternatives can achieve. The MJW National Enquiry revealed that members of the judiciary were often unaware of the community alternatives - and what they entailed - available in their areas. An increased effort is now needed to enhance awareness and understanding, through a range of regular visits to programmes for the judiciary to see the options available to them, as well as through pre-sentencing reports which could highlight when an offender is suitable for a particular order (as recommended by the Rethinking Crime and Punishment Initiative: <http://www.rethinking.org.uk/PDFs/SBReportMagis.pdf>) Magistrates must also be more vocal in raising awareness of options which they would like to have at their disposal.

Ensuring local magistrates are kept up to date with the successes of community alternatives in their area and are aware of the options available to them should be a priority for effective alternatives to custody. This need for better understanding has led us to take the view that the Government must provide a statutory requirement and framework for the delivery of awareness programmes for the judiciary, including regular visits to community alternatives in their area. While effective programmes are active in approaching the judiciary, it is important that sentencers also accept their responsibility to develop an appreciation, and an input into the effective delivery of community alternatives in their locality.

Sentencers should develop confidence in community alternatives through regular updates on an offender's progress. Judges and magistrates need to make greater use of progress reports to ensure that they receive regular updates on an offender's progress and can be confident that the sentence is working to rehabilitate him or her. Encouraging such interaction between community alternatives and the judiciary will lead to closer working and provide programmes with an added impetus to succeed and strengthen their reputation. The 'Local Crime: Community Sentence' project run by the Probation Service and the Magistrates' Association continues to show that public engagement enhances the confidence in such sentences.

**MJW recommends:**

- A statutory requirement and framework for magistrates and judges to familiarise themselves with all community sentences available in their area by including visiting them on a regular basis.
- Judicial oversight during the sentence must be maintained and where appropriate offenders should attend court for regular progress reviews.
- Those in charge of each programme must ensure that the local judiciary is informed about its outcomes and effectiveness and where appropriate, inform victims and the local community.
- The Probation Service should develop their communication departments so as to increase the positive media coverage of successful community sentences, particularly in the local press

**Q18. How do we deliver lower re-offending rates in an age of reduced public finance?**

There is a growing body of evidence that reconviction rates following community sentences are consistently lower than following short custodial sentences. The most recent research is listed here at <http://makejusticework.org.uk/recent-publications>. The Matrix Knowledge Group (2008) has provided evidence that alternatives to custody can be more effective at reducing re-offending, and better value for money, than basic prison sentences. For example, adult community-based interventions such as residential drug treatment and surveillance with drug treatment have been shown to be more effective at reducing reoffending than prison. In the case of women, in 2008 just 31% of women on community sentences were reconvicted within a year compared to 64% on short custodial sentences. Subsequent research commissioned

by MJW (Matrix 2009) examined the impact of the wider costs to the criminal justice system of responding to a crime, the healthcare costs of treating the victim of a crime, the victim's financial cost of a crime, and the pain and suffering experienced by the victim of a crime. For example, residential drug treatment and intensive supervision with drug treatment produce significant cost savings to society when compared with custody.

- Diverting one offender from custody to residential drug treatment would save society approximately £200,000 over the lifetime of the offender
- Diverting one offender from custody to intensive supervision with drug treatment would save society approximately £60,000 over the lifetime of the offender

The significant difference between short custodial sentences and community-based alternatives can be ascribed to the lack of time and resources available in prison to focus on behaviour, attitudes, employment, education, family relationships and community ties. In the case of mentally ill offenders there is a particularly strong case for diverting people who commit minor offences from short prison sentences to community-based rehabilitation. Research by the Sainsbury Centre for Mental Health (2009) shows that for each offender diverted from prison and who receives a quality mental health care within the community, an average of £20,000 can be saved in crime related costs alone.

### Q21. What challenges are there in payment by results models delivering a more cost-effective way of reducing re-offending?

The challenges are well documented. MJW acknowledges that in an altered economic landscape, there is an imperative to explore alternative economic models and the increasing significance of Social Return on Investment in making criminal policy decisions. We broadly support progressive innovation, and keenly await the evaluation of Social Impact Bonds and Payment by Results.

In 2012, Make Justice Work, together with partners, is proposing to run an event to model how the payment by results system might work and to explore how these and related issues might be addressed.

MJW is working with Alasdair Liddell and Greg Parston for the design and facilitation of this event. Alasdair is a former national Director of Planning for the NHS; Greg was a founder director of OPM (the Office for Public Management). Both have extensive experience in system reform and the introduction and modelling of new incentives and have led and been involved in the design and conduct of similar events. The project will involve a one-day design workshop based on the 'hypothetical' model. Hypotheticals bring together a group representing all the key interests in the service area under review – in this case, for example, NOMs, community service providers, offenders, victims, community representatives, social finance, MOJ policy officials, voluntary agencies. For the purposes of the event, participants adopt a role similar to their real life role, and respond to questions and challenge from a facilitator or 'moderator' about how they would behave under a new system of service payment incentives – payment by results –, and how they would react to the response of other participants. It is then possible to develop a propositional 'model' of the likely interactions of participants and transactions between agencies, based on the actual behaviours and positions taken on the day. This would enable MJW and participant agencies to construct a clear understanding of how the opportunities of a new system might be maximised, how its challenges might be overcome and how its perverse effects might be avoided. A report of the event and its recommendations will be published.

### Q30. How can we ensure that the interests of victims and witnesses are properly protected?

Firstly, by making Restorative Justice, Community Resolution and Community Justice the default position, and the starting point for the criminal justice process and embedded then throughout the system. Secondly, by engaging with the views of victims and gaining their confidence in alternatives to custody. MJW is presently working with Victim Support to develop a programme of activities throughout 2012 to gain in-depth knowledge and understanding of the views of victims of lower level crime.

#### **MJW recommends:**

- Reparation must be a central part of an intensive community sentence. Offenders should understand the impact of their crimes on their communities and victims and work to restore damage caused and victim-awareness activities should be included in all community orders and the option of Restorative Justice Conferencing should be available to all courts.