

A CASE STUDY OF AN ENGLISH COMMUNITY COURT

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Abstract *This article reports on the results of case study research into the implementation and operation of a community court in an English city. The research was premised upon an understanding of the likely challenges posed by the introduction of a new modality of ‘doing justice’, as represented by community courts, with their more therapeutic and restorative orientation and procedural differences to ‘mainstream’ summary justice. It uncovered a number of implementation difficulties, including the unintended consequences of decisions about the location of the court’s jurisdiction; a lack of ‘joined up’ policy as conflicting initiatives served to undermine the court’s operation; and the resistance of practitioners which limited the capacity of the court to engage in the teamwork requisite for community courts. The article discusses these difficulties in the context of a critical understanding of government policy-making, with its emphasis more upon political and ideological symbolism than pragmatism. It suggests that in pragmatically taking forward the community court idea, serious thought nevertheless needs to be given to the appropriate location of problem-solving within the criminal process, and to the need for consistency in the more individualized approach of the community court, since both issues underpinned some of the difficulties uncovered by the research.*

Keywords *community courts; therapeutic justice; problem-oriented courts.*

Introduction

This is a case study of the introduction of a community court in one English city, hereafter referred to as Northtown. Northtown’s community court was part of an initiative instituted by the Labour government in 2007, following the piloting of such a court in North Liverpool in late-2004 (Department of Constitutional Affairs, 2006), and in Salford in 2005, operating out of a mainstream magistrates’ court, as Northtown’s does. The Northtown court was established alongside ten others, the intention being to contribute to best practice, with a longer term view of mainstreaming community justice principles into all magistrates’ courts by the end of 2008 (Donoghue, 2011). This target was later pushed back to 2012 (Office for Criminal Justice Reform, 2009), and abandoned on the fall of the Labour government in 2010, although the Coalition government shares an interest

in community justice (Ministry of Justice, 2010), and the case study therefore remains relevant.

The research aimed to examine the introduction of a new way of 'doing justice' into a well-established culture of criminal justice, on the understanding that this might encounter resistance. It also sought to contextualize this within a wider understanding of the policy-making process. Overall, then, the research adopted a critical stance towards the introduction of the Northtown community court. In what follows we provide a summary of some key findings, followed by a concluding discussion. We begin, though, with some scene-setting.

The idea of a community court

The community courts is one of a stable of innovative problem-oriented courts, whose emergence attests to what Berman and Feinblatt (2005) call a quiet revolution in the way justice is done, which picks up on discontent with the established system. In particular, according to advocates of problem-oriented courts, the criminal courts have become dumping grounds for social problems not dealt with elsewhere (Mansky, 2004), delivering little more than 'revolving door' justice, and failing to solve the chronic problems that propel defendants towards criminal choices, and that do harm to victims and communities in the process.

According to Berman and Fox (2009: 11), community courts promote 'the idea that the justice system should do more than simply process cases – it should actively seek to aid victims, change the behaviour of offenders and improve public safety in our neighbourhoods.' This translates into a focus on those committing less serious offences, who have problems that need solving, and an openness to this evidenced by an inclination to plead guilty. These offenders are ripe for 'therapeutic jurisprudence' (Wexler and Winnick, 1996), a paradigm that first emerged in the US, requiring the liberal injection of 'psy' knowledge (Moore, 2007) into the courtroom, to understand and manage criminal motivation. This was especially justified by the belief that it is the physical court appearance that provides the key therapeutic moment to effect behavioural change. It would be wrong to suggest that 'psy' knowledge was entirely absent from the court before the advent of therapeutic jurisprudence, but what is different about problem-solving justice and the community court is that different actors are expected to line up behind this therapeutic end as a team, collaborating towards problem-solving. This requires a change of mind-set, including the abandonment of the traditional 'courtroom lore' (Carlen and Powell, 1979) of adversarial roles, and a more active judicial role in orchestrating problem-solving, through their engagement of the defendant and other courtroom players. The orientation is future-oriented (Blagg, 2008), not past-oriented, as is conventionally the case.

Turning to victims, the community court seeks to balance therapeutic and restorative justice (Blagg, 2008). The community court is supposed to contribute to the healing process, by acknowledging the victim's status as a victim, and by acknowledging their right not to be a victim (Shapland et al., 2006). Finally, in contrast to conventionally remote adversarial justice, community courts should be seen as community resources. Ideally they

should be physically located within the neighbourhood, co-located with other public services so that the court is perceived as just another feature of the local governance landscape. The court's role is to contribute to local community safety, by addressing those less serious, low-level persistent problems that significantly impact upon community quality of life.

Community courts first appeared in 1993 in Midtown, New York (Berman & Feinblatt, 2001); whilst the most widely publicised, Red Hook, opened its doors in 2000. Since then, the idea has spread, particularly through the advocacy of the entrepreneurial US-based Centre for Court Innovation (Berman and Fox, 2009). UK Home Secretary David Blunkett and Lord Chief Justice Woolf both visited Red Hook (Home Office, 2003), and suitably impressed, they set about translating Red Hook into the English context, through the policy developments described at the beginning of this article. The experience of this translation in Northtown is discussed below.

Researching Northtown Community Court

Methods

The research comprised eight months of participant observation, from November 2007 to June 2008, during which time the operation of the community court was documented, and key participants were opportunistically interviewed. Bodies involved in the governance of the court were also observed during this period, and documents associated with the project (meeting minutes, strategy papers) were also gathered and analysed thematically. Additionally, from January 2008 through to March 2009 more formal semi-structured interviews were conducted with key participants, with the structuring of the interviewing being informed by emergent themes drawn from the initial analysis of the observational data and documents.

Court operations

Northtown community court was neither purpose-built nor located in the neighbourhoods it ostensibly served. It operated for one morning each week out of the magistrates' court, adopting that court's associated paraphernalia, from airport-style security controls on entrances, to the traditional layout of courtrooms. This was not the 'up close and personal' style deployed in some community courts, and indeed the defendant's knowledge of the court depended largely upon what she had been told by others: magistrates were inconsistent in reminding defendants they were facing a community court.

Cases listed for the community court were previewed at an informal pre-court meeting, in which a police and probation officer earmarked cases they considered suitable for problem-solving. These were then brought to the attention of the court's legal advisor, thence to the presiding magistrates or district judge, although observations showed that this did not guarantee a subsequent problem-solving meeting.

After defendants pleaded guilty, and having heard representations from the prosecution, magistrates occasionally engaged defendants directly, to probe circumstantial factors

underpinning their offending behaviour. On the basis of such enquiry, magistrates might then propose a problem-solving meeting, which if accepted required an adjournment and a reconvened hearing. Such meetings took place in a separate room, comprising the offender, a police representative, a probation officer, and a worker from a third sector advisory service operating within the court. These meetings reflected the court's therapeutic rationale, intended to identify offending-related problems and putative solutions. On reconvening, these deliberations and associated recommendations were communicated to the court normally by the probation officer, and normally accepted, before sentence was passed. For many of the magistrates the problem-solving feedback ensured in the words of one interviewee that "the sentence is the best that one could possibly do". The legal advisor was sometimes less impressed, on one occasion laughing at the recommendation of a conditional discharge, reminding the court that "this is a Class A drug case!" (Court observation notes).

Problems with Northtown community court

As expected, the implementation of the court was not straightforward. In what follows we explore thematically some key difficulties.

The court's jurisdiction

To establish the court's territorial jurisdiction, the managing body for the project, the Local Criminal Justice Board (LCJB), organised a meeting involving representatives of Northtown's neighbourhood renewal⁶ wards. On the basis of discussions, two areas were selected, according to the project manager because these areas "most clearly wanted it" (interview notes). While this fits the arguments of those advocating that such courts be 'owned' by their local communities, the selection of these two areas imposed structural constraints that had significant consequences for the court's operation.

Typically, neighbourhood renewal areas have higher than average levels of crime, anti-social behaviour and other indicators of social malaise which make them fit the ideal typical profile of the kind of locality, like Red Hook, where community courts might be established. In this instance, however, one area experienced crimes that were predominantly youth-related, yet these lay beyond the jurisdiction of the court. Consequently, the problems that most vexed this community were not those addressed by the court, and this problematized the court's relevance to this particular area.

The other area was more appropriate in so far as the offending occurred therein was mainly by adults, yet there were still difficulties, because its crime problem was more about *offence rates* than *offender rates* (Bottoms, 2007). In other words, the main 'eligible' crime problems were associated with its status as the core of Northtown's night time economy (NTE), used more by outsiders than locals. This has two main consequences. Firstly, it meant that court business was disproportionately taken up with

⁶ Neighbourhood renewal areas were the focus of New Labour's area-based urban regeneration programme, the National Strategy for Neighbourhood Renewal. Additional funds were made available to localities in which the 88 most deprived English local wards were located.

NTE-related offences (drunk and disorderly behaviour, other public order offences, and drug possession), which also restricted the available sentencing options (see below). Secondly, since a large proportion of the defendants were outsiders (nearly 70%, n=222), the wider restorative and community-oriented principles of the community court held rather less resonance.

In its idealized form, the community court serves as a catalyst for community development, because it is using its resources to address long-standing chronic problems, and because it has some social capital in its relationship with local populations that endows it with legitimacy. But in this case the main problems of one area lay beyond its jurisdiction, while those of the other afflicted non-residential spaces, committed mostly by non-residents. There was, therefore, no firm base on which to build therapeutic and restorative ends, and this was further hindered by the physical remoteness of the court from these areas, and by the use of a panel of unfamiliar magistrates, rather than charismatic and recognizable figures such as Red Hook's Judge Calabrese.

The wrong problems

Following on from the above, the court's caseload consisted mainly of NTE-related offences. Between May 2007 and May 2008 47% of all cases consisted of possession of drugs (18%, n=77), drunk and disorderly (16%, n=68), and Section 4 public order offences (13%, n=57). The next most common offences, namely common assault (8%, n=35), drunk driving (8%, n=34) and Section 5 public order offences (6%, n=27), may also have been predominantly NTE-related.

Such a caseload is not particularly amenable to problem-solving. Firstly, sentencing guidelines restricted the choice of sentences to low-tariff options such as fines (37%, n=119) and conditional discharges (19%, n=61) where problem-solving appeared less relevant. Secondly, the offenders were not necessarily the recipients of the sort of 'revolving door' justice that community courts were established to deal with. Their offending evidenced the recurrent problems of the NTE more than *revolving door* justice, and these problems were arguably more the domain of problem-oriented preventive policing than problem-solving justice. This therefore imposed a structural constraint on the court that made it hard to build any sort of problem-solving momentum, as 'fitting' problem-solving cases were the exception rather than the norm.

Speedy Justice

It is well established that criminal justice has multiple, contested ends, most famously crime control and due process (Packer, 1968), and bureaucratic efficiency (King, 1981). Courts have been long-criticised for slowness, and the national *simple speedy summary justice* initiative (Department for Constitutional Affairs, 2006), which was introduced to address this, arrived at the same time as the community court. Whilst a faster process was an explicit aim of the community courts pilots in England, and a claimed virtue of such courts operating in the US, this initiative may have exerted pressures that resulted in the court's deviation away from its intended community justice pathway. The court only sat for one morning a week, and when there was a risk of 'overflow' into the afternoon

session this caused tension: hence there was some informal pressure to hurry through cases. Evidence of this may be found in cases that had been earmarked for problem-solving, but that were not subsequently sent on this route. In contrast to other community courts, where s.178 reviews had been successfully employed to monitor the progress of those appearing before the court (McKenna, 2007; Mair and Millings, 2011), in Northtown no such reviews were used, quite possibly because they were regarded as absorbing precious court time. Thus, the prioritization of bureaucratic efficiency over therapeutic effectiveness served to constrain the court's realization of its community justice goals.

Diversion and performance management

The court's workload increased sharply over its first six months, before declining sharply thereafter. One reason for this, discerned by the court steering group, was the growing use of penalty notices for disorder (PNDs) by local police, which were also an element of the *simple speedy summary justice* initiative. Pressure on the police to make good use of PNDs came also from a 2002 Public Service Agreement⁷ (PSA) target for an increase in the numbers of 'offences brought to justice' (OBTJ): PNDs are a quick and easy way to do this, to 'drive performance up'.

The effect for the court was the diversion of cases, because 'eligible' offences for the court were also those for which PNDs could be issued. This therefore deprived the court of much of its business, although since these offences were generally NTE-related, it is unlikely that they were especially amenable to the kind of therapeutic problem-solving envisaged by court practitioners. Nevertheless, the decline in the numbers of cases coming to court did not look good, or help the cause of those seeking to establish its wider legitimacy.

This tension between issuing PNDs and taking cases to court was recognized by the Department for Constitutional Affairs (2006: 40):

To achieve [simple speedy summary justice], we need to engage with the judiciary, criminal justice practitioners, communities and the public in general about where the balance lies between simple and immediate responses to low level misbehaviour and fast, efficient and modern court processes.

Arguably, however, this was 'trumped' by the performance pressure of the PSA target. The court steering group sought to mitigate this by asking local police to "look beyond the immediate outcomes" (steering group meeting, March 2008), to push more cases towards the court. Performance pressure, however, was likely to win out over appeals to joined-up practice.

⁷ Public Service Agreements are managerialist tools used to clarify central government departmental priorities and targets in their periodic funding settlements reached with the central finance department, the Treasury.

Informalism

Formally, problem-solving was supposed to occur within the court. However, there were some barriers to this that emanated from bureaucratic and cultural pressures, and because the sentencing tariff for 'eligible' crimes effectively prioritised non-problem-solving disposals (e.g. fines and conditional discharges) over ones that appeared more suitable (e.g. community sentences). In the presence of such barriers, a number of informal routes appeared, which allowed some problem-solving to take place even if it was not a formal part of the court process or subsequent sentence. A representative of the third sector advisory service, for example, noted in interview that:

[If] one of us has identified something I would generally not ask for a problem-solving [meeting] but I would usually indicate to the probation officer that I would at least be seeing that person as a [advice service] support mechanism [after sentencing].

This informal approach, which recognizes the court's limited capacity for problem-solving sentences, was endorsed by others, such as this police officer:

The very low level offenders, your drunk and disorders, your section fives, they were never going to reach probation, they would never get any intervention work done. We can't make the court give them anything like unpaid work because of the tariff system. They'd normally get a fine or a conditional discharge – that's the norm. Whereas now, a lot of them are highlighting problems and [the court advice service] are running with a lot of these problems and trying to help them out, and I think that's what we should be doing.' (interview notes)

In another example, a probation officer told us how one defendant, who was not offered a problem-solving meeting but whose offending was a response to her neighbours' racist behaviour, was, on the recommendation of the court-based officer, subsequently visited by neighbourhood police officers. They succeeded in persuading her that the police do take racially-motivated crimes seriously and that she would be better advised to contact them than take matters into her own hands.

The point here, then, is that through the partnership infrastructure that enveloped the court, problems were identified and addressed through less formal means. Such action partly compensated for the problem-solving limitations of the court, but also evidenced 'mission creep' amongst partner agencies.

The resistance of defence solicitors

Defence solicitors perhaps had the biggest ideological shift to make to accommodate the principles of the court. In adversarial justice the normative ideal is for the defence to uphold the liberty of their client, securing the least intrusive sanction for them if not getting them off altogether. Participation in community courts, however, requires them to acknowledge the legitimacy of problem-solving, with its prerequisite of a guilty plea, and

its inclination to understand mitigation in terms of background causal factors, which are more the province of non-legal forms of expertise.

Northtown defence solicitors were not well inclined to make this shift, and their resistance was evidenced in different ways. Firstly, the few who participated in the research (via self-completion questionnaires) were dismissive of the court, variously describing it as “pointless”, “misguided”, and “an unnecessary waste of time and money”. Observation of court proceedings also uncovered instances where they endeavoured to transfer their client’s case to another court due to its “complexity” or the need for a “legal application”. On other occasions they managed to change what had been an anticipated guilty plea into a not guilty plea, leaving the prosecutor unprepared and unable to proceed with the case, and the magistrate annoyed by the delay.

They also undermined the court in more subtle ways. Observed courtroom gossip revealed that they had tried to put their clients off the community court by intimating that the likely result of problem-solving meetings would be a higher tariff sentence. The story was relayed of a defendant being told by their solicitor to “watch out for the probation officer because she’s only in it to keep her job”, and that “if you get her she’ll up-tariff” (interview notes). This was further supported in one case when the defendant became agitated when the idea of a problem-solving meeting was mooted. This was because, as she told the court, her solicitor had told her to request a solicitor if probation were to be involved.

Judicial ambivalence

Many magistrates were clearly enthusiasts for the court, but the same could not be said for the district judge. Whilst nominally a supporter of the court, his actions revealed a different picture. As one participant uttered in interview “one minute he’s enthusiastic, the next minute he sabotages it!” The district judge was never observed to explain to defendants that they were facing a community court, and appeared reluctant to step outside of convention. Thus his inclination was to talk at defendants, rather than to them; and he always ordered fine payments, whereas magistrates were more prepared to negotiate payment terms. He was also no great fan of problem-solving, preferring to represent this, on the rare occasions of its use, as “a chat with probation” (court observation notes).

He was also prepared to alter the purposes of problem-solving meetings. In one case of a young female appearing before the court on charges of theft, her solicitor argued in mitigation that this was committed under duress, following threats from third parties, whom the defendant did not wish to name for fear of reprisals. The judge referred this case for problem-solving, but stipulated that he wanted to hear, following the problem-solving meeting, the names of these alleged third parties. When the defendant subsequently failed to provide this information, the judge was irritated, and made it clear when deciding on sentence that “I’m not going to pay this claim of harassment much credence” (court observation notes). The resultant community order with unpaid work suggests that he was as good as his word.

Therapeutic hierarchy

In this initiative, problem-solving was achieved by the combined endeavours of representatives from the police, probation, and the third sector advisory service, involving the collection and sharing of information that illuminated causal conditions underpinning the offending behaviour. Traditionally this is something that falls within probation's domain of expertise, but given the low-level offending involved, this is something that the probation service is encouraged to back off from, concentrating its resources instead upon high-tariff and high-risk offenders. However, this was an area to which the probation representative staked a strong claim. This can be understood as the professional reclamation of an orientation that has been lost or at least undermined in wider probation service reforms. Problem-solving is more like 'help' (Bottoms and McWilliams, 1979) than it is like public protection, but it caused difficulty by effectively marginalising other participants and forms of expertise.

For example, the pre-court meetings were briefly suspended because of disagreements over the police representative's use of the word 'intelligence' to assess cases for problem-solving. These tensions surfaced in an operational group meeting where a probation representative objected to the word because it appeared overly police-directed and "technical", rather than "welfare-driven" (meeting observation notes). Notwithstanding the legitimacy of the word in policing discourse, this probation representative considered it an illegitimate form of knowledge. The scenario illuminates the tensions that can result from cultural clashes, and the territoriality that can motivate agency representatives to assert sovereignty over a particular domain of expertise.

Similar politics were at work in another example, this time involving the assertion of sovereignty over the problem-solving meetings themselves. Observations showed that the police and court advisory service participants had only 'bit parts' to play, with the probation representative dominating proceedings. Indeed, if the advisory service volunteer was not in the court at the time the case was adjourned for a problem-solving meeting (because they were staffing an advice desk in the waiting area), the meeting would take place without them. In an interview, one advisory service volunteer rationalised their marginal role by claiming that probation were "experienced at these interviews", although this sounded rather like a convenient *ex post* justification for probation's dominance, perhaps serving the end of conflict-avoidance (Crawford, 1997).

Concluding discussion

The research reported here indicates that the problem-solving justice administered by Northtown community court fell short of the idealized vision of community courts projected by others. In particular, there was not much problem-solving; court procedure remained relatively formal and diverged little from normal summary justice; the teamwork ethos was constrained; and sentence review powers remained unused. Why was this case? We offer the following explanations.

Firstly, the goals of problem-solving justice were constrained by the wider policy context. The *speedy justice* initiative prioritized bureaucratic efficiency and served as a disincentive

to engage in more intensive casework. It also starved the court of eligible cases as performance pressure diverted cases towards police-issued PNDs. Additionally, the rigid sentencing framework restricted the opportunities for sentencers to administer therapeutic sentences. Consequently, despite the aspirations of its architects, the Northtown case study illustrates the absence of 'joined up government' from this part of New Labour's governmental project.

Secondly, it is clear that there was some cultural resistance to problem-solving justice. Defence solicitors were the most disinclined to 'play ball', but the district judge was also far from enthusiastic, while the probation representative was defensive about the incursion of others into their therapeutic domain. This resistance has been uncovered in other studies: Spinak (2003) and Malkin (2003) both found it amongst defence solicitors, and Miethe et al. (2000) found a judge whose hostility clashed with the 'organisational rhetoric' of the court. Such resistance evidences a lack of the buy-in that Berman and Fox (2009) identify as a critical success factor for the operation of community courts.

There are different ways of understanding this resistance or lack of buy-in. In the US, for example, where community courts have thrived, they have generated from bottom-up initiatives (Berman and Fox, 2009) in a cultural context that Mirchandani (2008) suggests is particularly receptive to principles of therapeutic justice. The lack of buy-in evidenced in Northtown could therefore be put down to the 'forces of conservatism' emanating from 'provider interests' who may feel threatened by this new modality of justice. 'Provider interests' are often scapegoated for blocking policy changes, particularly in managerialist discourse (Clarke and Newman, 1997), but we should be mindful of attributing all this to self-interest. The fact that US-based research studies have found resistance in such an apparently receptive context suggests that some of this may also evidence more deep-seated contestation.

Thirdly, we would suggest that the limitations of the Northtown community court were in part attributable to the unintended consequences of the misguided decision to locate the court's jurisdiction in the chosen localities. The youth-related concerns of one locality were disqualified from the court's jurisdiction, while the NTE-related concerns of the other were more about recurrent problems affecting the non-residential community than they were about 'revolving door' justice and its obvious impact on residential communities. The Northtown experience shows that problem-solving justice is not necessarily a one-size-fits-all solution.

Taking a further step back, we would argue that there were limitations in the pilot initiative that brought the community court to Northtown. Although supposedly a pilot – and thus a technology of principled evidence-based policy (Boaz and Nutley, 2009) – it was clear that policy-makers were committed to mainstreaming community courts before awaiting the results. Mainstreaming carries with it two sets of difficulties. Firstly, embedding problem-solving justice within summary justice threatens to bring about what Mair and Millings (2011: 100) refer to as 'the worst case scenario', whereby 'community justice is rolled out in a fragmented way, with initiatives taking on parts of the North Liverpool model that are cheap or easy to implement, and its strengths are dissipated.' In

Northtown, the use of existing city centre facilities and summary procedures certainly militated against the production of the kind of distinctive community justice that emerged from North Liverpool.

Secondly, the desire to mainstream community courts evidences a particular approach to policy-making. McLaughlin et al. (2001) refer to New Labour's 'permanent revolution' policy-making style, which manifested in its early years as 'initiativitis' (Blair and Evans, 2004). Underpinning this style was a mentality that emphasized politics and ideological principle over pragmatism (Randall, 2003). David Blunkett's enthusiasm for community courts, for example, stemmed to a large degree from their resonance with his third way communitarianism, articulated through the notion of civil renewal (Blunkett, 2003). In this vision of governing through communities (Rose, 1999), the courts were to become more responsive to local communities, and communities were to become more responsabilised in identifying local problems and participating in putative solutions, though as we have seen this vision was not realized in Northtown. Politically, community courts were initially devised as one part of the armoury for the highly populist crusade against anti-social behaviour (Mair and Millings, 2011), which included the kinds of 'low-level' crimes that fell within the purview of the court. Through their capacity for greater responsiveness, moreover, they were also a possible solution to the growing problem of declining public confidence in criminal justice, which became a strong political theme in New Labour's criminal justice reforms in the 2000s.

It is arguably the case, then, that at the national level rather more attention was paid to the symbolic political and ideological appeal of community courts than to their pragmatic application: more symbolic than practical policy-making. This is no revelation, since it is widely recognized that the instrumentally rational ideal of policy-making is much more a representation than a reality (Hill, 2005). However, in suggesting that pragmatic considerations should have received more attention we do not wish to imply that the problems evidenced by Northtown community court could have been managed away by such things as better resourcing and training, more joined-up policy and obtaining a stronger buy-in from those involved. Rather, as the case of Northtown illustrates, in giving attention to pragmatic considerations about *making the community court work*, one inevitably encounters more weighty normative matters.

Berman and Fox (2009) describe problem-solving justice in terms of a shift from standardized justice to individualized justice, but individualization raises issues of fairness and consistency. In Northtown, for example, those offending in the localities covered by the court had the opportunity to receive problem-solving justice that others did not; and within the operation of the court, this prospect depended to some extent on the prior discretionary identification of a case as 'problem-solvable', and possibly also on judicial whim. Bartels's (2009) suggestion, that eligibility for problem-solving be determined through the use of a proper risk-assessment tool merits some consideration here, but this would depend a great deal on the quality of the information that informs it.

Although there may be concerns about the outcomes of individualized justice, it is important to balance these with an appreciation that outcomes are not the only measures

of justice. Recent work on procedural justice (Tyler, 1990) suggests that it can play a significant role in enhancing trust, co-operation and compliance, all of which can increase the prospects for problem-solving. Frazer's (2007) research showed that defendants were more likely to be compliant with sentences because they thought that community court judges were fairer and more trustworthy. In a similar but more prosaic way, Mair and Millings (2011) found some defendants to be appreciative of the fact that they were not treated poorly by the judge. These potential advantages of the community court should not be lost sight of.

There is a debate to be had about the proper place of problem-solving. Our findings about informalism showed that there was some 'mission creep' as problem-solving extended beyond the court: but arguably this is a good thing, particularly if problem-solving is inconsistently used within the court. Problem-solving is now an important and acknowledged part of neighbourhood policing, and it may be fairer (Bartels, 2009) and less harmful to attempt problem-solving here than to wait for the therapeutic moment in the courtroom. Certainly this 'external' problem-solving was a strength of the multi-agency community service side of the North Liverpool model, whilst Auburn et al. (2011) have shown that third sector advisory services can problem-solve for friends and families as well as for defendants. And as we have seen in the case of NTE-related offences in Northtown, some issues are anyway more eligible for problem-oriented policing, with its wider repertoire of responses, than for problem-solving justice.

In summary, then, Northtown offered a limited translation of problem-solving justice through its community court. The empirical research provided an understanding of this in terms of the combination of a lack of joined-up policy, cultural resistance, and unintended consequences. Some of these factors were manifest, moreover, because of a governmental policy-making style that placed more emphasis on the symbolic appeal of community courts than on the practical application. In considering their practical application, however, we are forced to engage with normative concerns. Hence the outcome of this research is not simply to suggest how community courts such as Northtown's can work better, but rather to identify the thorny issues that must be addressed by those seeking to make a reality of community courts and problem-solving justice in England.

In terms of reflection upon the research undertaken for this article, we must acknowledge the limitations. Northtown is not necessarily representative of community courts operating elsewhere, although we think the issues we discovered there connect well with a number of strong undercurrents in criminal justice policy and practice, as outlined above. Many of the issues we uncovered related to particular features of Northtown's establishment, and the crime-related issues occurring therein. The social relationships, moreover, might be expected to vary in other geo-historical contexts. With regard to research design, whilst we were able to observe practitioners in action, and to talk with them retrospectively about their actions, we were not able to penetrate every corner of the research site. Defence solicitors were hard to engage, although their resistance was easy to discern. More awkwardly, we were unable to shed light on exactly how 'eligible' problem-solving cases were sorted for attention prior to court hearings, and how and why

some of these were then filtered out by magistrates and the district judge. This returns us, finally, to the issues raised by individualized justice and the particular danger of discriminatory practice in what amounts to largely discretionary problem-solving.

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A Case Study of an English Community Court

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