

COMMUNITY JUSTICE, RISK MANAGEMENT AND THE ROLE OF MULTI-AGENCY PUBLIC PROTECTION PANELS

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Abstract

This paper discusses recent developments in the 'risk management' of known sexual and violent offenders in the community, including the work of Multi-Agency Public Protection Panels (MAPPPs). It considers the extent to which such developments can be understood as one facet of a growing trend towards 'community justice' and an extending network of community justice programmes. In doing so it explores the significance of different interpretations of community justice as a concept and a strategy, from idealistic formulations which emphasize social inclusion and positive involvement by local communities, to those which see it as largely risk-focussed and exclusionary, linked to the pervasive concerns about insecurity which have come to characterize late modernity. It is noted that the involvement of local citizens in the social control of sex offenders has so far been limited mainly to vigilantism and campaigns to expel them, and that criminal justice agencies have generally tried to 'manage' their risk secretly, avoiding debate or the release of information; however, the 'populist challenge' unleashed by the Sarah Payne case cannot now be ignored, and some attempts have recently been made to develop constructive dialogue about the nature and levels of risk and to involve community members in decision-making and even the support of sex offenders. The article draws at various points upon empirical research conducted by a team including the authors (Maguire et al 2001).

Introduction

At first sight, it may appear that the work of multi-agency public protection panels ('MAPPPs') has little in common with the notion of 'community justice'. As presented by its most idealistic advocates, the latter offers a vision of the near future in which representatives of local communities made up of well-informed, engaged and empowered citizens respond cooperatively to local problems of crime and disorder, where possible adopting an inclusive and restorative approach, and applying principles of fairness and respect for human rights. In this vision, state, voluntary and private agencies work

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together in partnership, and engage in regular dialogue and genuine consultation with ordinary members of the community. By contrast, although demonstrating cooperative partnership work, MAPPPs – at least, until very recently - have generally operated in near secrecy, have tended to involve only members of state agencies, and have paid little heed to principles such as restoration or social inclusion. Moreover, wherever local ‘communities’ have become ‘empowered’ to the extent of playing a part in the business in which MAPPPs are engaged – the risk management of known sexual and violent offenders – the outcomes have usually ranged from campaigns to expel such offenders from the area, to harassment or outright vigilantism.

However, the picture is not so simple, and the connections and parallels between the work of MAPPPs and the more familiar forms of local crime control that are usually associated with ‘community justice’ – most obviously, the activities of the multi-agency ‘community safety partnerships’ which have been established throughout the country under the Crime and Disorder Act 1998 - are closer than it may appear. Indeed, it is argued that consideration of recent developments in the public protection arena can contribute significantly to general debates about community justice.

The main aims of this paper are to describe and comment upon these developments, with a focus on some core themes of relevance to both academic and policy debates about the nature and future of community justice. One theoretical approach which will later inform the discussion is the argument of some critics that, despite the idealistic rhetoric, the current ‘mainstreaming’ of community justice forms and practices does not reflect a positive mobilisation of communities and a revival of ‘community values’: on the contrary, it is better understood as a set of defensive and largely exclusionary reactions to the deep sense of insecurity and uncertainty produced by ‘late modernity’ and its associated phenomena of globalisation and social fragmentation – reactions driven, above all, by the pervasive notion of ‘risk’. Understood within this framework, the public protection activities described in this paper can be seen as a core manifestation of ‘community justice.’

Another important theme to explore will be the growing recognition of government that, despite the general preference of professional agencies to conduct ‘risk business’ among themselves, both a widespread distrust of ‘experts’ and populist demands for a greater say by ‘the community’ in how to respond to crime (also features associated with ‘late modernity’) make it necessary to cede some of the professionals’ control of information and strategy even in areas as sensitive as the management of sex offenders.

The paper draws to some extent upon the findings of a Home Office research project (Maguire *et al* 2001) which examined in close detail the working practices of public protection panels in six police force areas in England and Wales. It is structured as follows. It begins with a brief policy background to the development of MAPPPs and research-based descriptions of their main working practices, the key practical difficulties they have faced, and recent attempts to improve their organisational structure and

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consistency of practice. This is followed by an account of the implicit challenge to their style of public protection work which emerged suddenly in the summer of 2000 in the form of 'populist' action after the murder of Sarah Payne (and again in December 2001 following the conviction of Roy Whiting), and of government responses to the demands for more public involvement. We then attempt to situate the above developments within a broader sociological framework, including a discussion of their relevance to different interpretations of the concept of community justice.

MAPPPs

Background and context

Multi-Agency Public Protection Panels have evolved as a significant feature of recent developments in the community management of high-risk and 'potentially dangerous' sexual and violent offenders in England and Wales. The key feature of such panels is the formal partnership at a local level between police forces, probation services, social services, housing and other agencies for sharing information on offenders, carrying out risk assessments, determining levels of risk and classifications of dangerousness, and developing, implementing and monitoring risk management plans (Maguire *et al* 2001). At a policy level, the emergence of MAPPPs has been influenced by a number of broader developments in the crime field which have occurred not only in England and Wales, but in the United States and many other countries. Most notably, these include:

- a growing concern with the extent and impact of child sexual abuse (Grubin 1998) reflected in both policy and legislative trends towards increased control and surveillance of sexual offenders in the community (Hebenton and Thomas 1996, 1997).
- the increased use of risk classifications in crime control and the increased deployment of exclusionary and preventative measures for those classified as high-risk or 'potentially dangerous' (Feeley and Simon 1994; O'Malley 1998; Young 2000; Garland 2001).
- a higher priority accorded to the victims of crime and to 'public protection', particularly from those offenders likely to commit offences resulting in serious physical or psychological harm (Kemshall and Maguire 2001; Kemshall 2001a).

The 1990s saw a series of significant legislative and policy initiatives in relation to both sexual and other kinds of violent offenders. First of all, much greater powers were given to the courts to 'incapacitate' such offenders through the use of longer preventative custodial measures sentences (Criminal Justice Act 1991; Crime (Sentences) Act 1997). Secondly, measures were introduced to allow the extended monitoring and surveillance of sexual offenders in the community, particularly after release from prison, through greatly lengthened license periods and strict registration requirements. The Sex Offenders Act 1997 established the arrangements for a Sex Offender Register, designed to keep track of the whereabouts of sex offenders for at least five years after their conviction or release from prison (Plotnikoff and Wolfson 2000). To this was added the right of the police (under the Crime and Disorder Act 1998) to apply to the courts for a Sex Offender Order,

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which could be given to offenders convicted prior to the Sex Offenders Act as well as to newly convicted offenders. The main provisions of this Act, which are outlined in Figure 1, include the use of 'negative conditions' to control behaviour, for example a requirement not to visit a certain area or approach certain people. Breach of a Sex Offender Order is punishable by a maximum of five years imprisonment. The Criminal Justice and Court Services Act 2000 strengthened both the prohibitive conditions and the registration requirements, in particular requiring notification for foreign travel and increasing police powers for finger printing and photographs.

Figure 1: Provisions for Sex Offender Orders

- a Sex Offender Order is available to a chief officer of police from a magistrates' court if there is reasonable cause to believe that the defendant 'has acted' in such a way that an order is necessary to protect the public from the offender;
- negative conditions or 'prohibitions' can be attached to the Orders as thought necessary to achieve protection of the public, (e.g. restricting access to potential victims, or access to particular places);
- an offender subject to an Order has to register under the Sex Offender Act 1997 within 14 days of the order being made (this allows for retrospective registration of offenders);
- Orders run for a minimum of five years;
- offenders can appeal to the Crown Court against the Order being made, and to the magistrates' court for variation or discharge; and,
- breach of a Sex Offender Order can carry up to a five year custodial penalty upon indictment.

(from Copley, 1997; Power, 1998 and reproduced from Kemshall 2001a)

The cumulative impact of these initiatives has been the development of what Connelly and Williamson (2000) term a 'community protection model', whereby high priority is given to community safety, based on incarceration, exclusion or, at the very least, intrusive community measures, for those offenders considered to pose a risk to the public. Although offences of non-sexual violence have not been ignored, by far the greatest attention has been focussed upon sex offending. A key element in the community protection model has been formal mechanisms of information exchange, initially between police and probation, but rapidly encompassing other agencies such as housing, health and social services. Whilst such arrangements were often informal and ad hoc in origin, the requirement for formal risk assessments of sex offenders in both police forces and probation services, together with increased accountability for the appropriate community management of those judged high-risk, resulted in local initiatives to formalise them (e.g. West Yorkshire). These included the setting up of early forms of multi-agency public protection (or 'risk management') panels, governed by joint protocols to allow routine data exchange.

Working practices and main obstacles

The two main functions of MAPPPs - now laid down in s67 and s68 of the Criminal Justice and Court Services Act 2000 as the joint statutory responsibilities of the police and probation services - are the risk assessment and risk management of 'relevant' sexual and violent offenders (in essence, virtually all sex offenders and those violent offenders sentenced to a year or more in custody). Risk assessment involves the classification of offenders into three main risk groups, 'low', 'medium' and 'high' (although it has now become common practice to add an extra 'very high risk' category for the small number of offenders who are seen by all concerned as highly dangerous and warranting urgent and sustained action). All relevant offenders should be provisionally classified at an early stage, although the level may be changed as a result of discussion at a panel meeting or the receipt of new information.

Risk management generally involves the formulation, implementation and review of a plan for each individual offender. Depending upon the level of perceived risk, this may range from no action beyond an occasional case review, through routine police or probation home visits, to covert police surveillance or the seeking of a Sex Offender Order to restrict the offender's movements.

At the time of the research conducted by Maguire et al (completed in 1999 but not published until 2001), both of these functions were less well defined by government, and were clearly interpreted in very different ways in different areas. Many areas were also experiencing difficulties in coping with the volume of cases. The research showed in some detail how, despite positive intentions, both police and probation found it hard to find the most effective way of managing what was for both (and especially the police) a fairly new and ill-defined kind of activity, increasingly large in scale, for which they had few powers, limited resources and little official guidance, but carried a high degree of responsibility if anything went wrong. The findings will not be reproduced in any detail here, but the following gives a flavour of the main picture that emerged:

- Practices and procedures varied widely in almost every respect, including the identities, roles and influence of the partner agencies involved; the risk assessment instruments used; the 'filtering' (or not) of cases coming to the panel; the names of panels; whether or not they were 'tiered'; whether they were based centrally or on divisions; whether meetings were held regularly or ad hoc; the level of seniority of staff attending; the quality of chairing, minute-taking and case monitoring; procedures for reviewing cases; and the extent to which panels' work was overseen by senior management committees (if these existed).
- All areas faced rapidly rising numbers of cases to deal with, and all were experiencing resource problems in a field for which none of the partners had received additional funding.
- Panels in some areas were 'swamped' on occasion with too many cases for risk assessment, allowing insufficient time for proper consideration of all of them. Such problems were alleviated elsewhere by tight 'gate-keeping' systems whereby cases were

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assessed more thoroughly at the 'screening' stage and referrals to high level panels were made only where this would clearly generate 'added value'.

- Difficulties were experienced in maintaining effective risk management over sustained periods, especially where low and medium risk offenders were concerned. More generally, little systematic thought had been given to how best to 'risk manage' offenders over long periods, especially when they were not under formal license: most areas relied on periodic home visits or surveillance from police officers, or reports or observations of suspicious behaviour.

The main recommendations put forward were that much more standardisation and consistency should be encouraged; that resourcing for public protection work should be more clearly designated within agencies, and that partner agencies should pool some resources to provide dedicated coordinators to service pre-panel work and/or to act as chairs; and that more attention should be given to the managerial oversight, monitoring and accountability of public protection systems: this was seen as essential to the production of defensible decision-making in a difficult and controversial field of activity.

Since the research was conducted, considerable efforts have been made to address some of these problems, notably by the Home Office Dangerous Offenders Unit, which was set up to develop policy, advise local areas and spread good practice. In 2000, too, legislative steps were taken to increase consistency across the country. With effect from 1st April 2001, Multi-Agency Public Protection Panels (MAPPPs) were formally named and their duties placed on a statutory footing by sections 67 and 68 of the Criminal Justice and Court Services Act 2000. According to the Initial Guidance from the Home Office, these sections seek to:

increase public protection by building upon the existing interagency procedures a statutory duty on police and probation to make joint arrangements for the assessment and management of the risks posed by sexual and violent offenders, and other offenders who may cause serious harm to the public. The purposes of the new arrangements are to consolidate and develop existing work and to promote best practice and consistency (Home Office 2001:1).

Although still in the early stages of implementation, these sections importantly place a joint duty on police and probation to establish MAPPPs and provide statutory powers for their operation. The guidance attempts to grapple with key practical difficulties (as identified by Maguire *et al* 2001) such as the identification of the 'critical few cases which require additional action or resources', the appropriate membership of the panels, consistency of decision making, and resource allocation (particularly for risk management plans).

The 'populist' challenge to MAPPPs

In addition to the major practical, organisational and resource problems they have faced in managing not only their own development but the rapid growth in numbers of registered sex offenders (to 110,000 across England and Wales at the end of 2001), MAPPPs have also had to prepare themselves for hugely increased public and media scrutiny, most notably linked to the high profile resettlement of paedophiles such as Sydney Cooke or the death of a child at the hands of a sex offender. The murder of Sarah Payne in the summer of 2000 stimulated intense media debate about the appropriate monitoring of paedophiles and led to calls for 'Sarah's Law' (a UK version of the American 'Megan's Law'), whereby the local community would have a right to be informed of the names and addresses of people with convictions for sexual offences. It also led to a campaign by the *News of the World* to 'name and shame paedophiles'. The campaign, which resulted in public disorder and vigilante action (some against wrongly identified people) in several towns, was eventually suspended after protests from police and probation that such media attention and its aftermath only served to drive offenders 'underground'.

The demands for a Sarah's Law have continued, rekindled especially in December 2001 by the revelation that the man convicted for the murder of Sarah Payne, Roy Whiting, was on the sex offender register and known to the local MAPPP. However, the media coverage appears to have become more measured, and both sides of the argument for community notification have begun to receive more considered thought¹. Home Office Ministers have generally argued that a Sarah's Law would be 'unworkable'², particularly as offenders might merely move their activities to another area where they would not be known, a situation exacerbated by the 110,000 offenders currently on the register and the impracticability of providing all parents with useful information on all offenders. Important and difficult practical questions are also beginning to be considered, such as what information might be given out, to whom, and in what form; about which kinds of offenders, and of what level of risk; and how might parents and communities be supported to respond appropriately to the information they are given. These are crucial issues if any future Sarah's Law is not to become a vigilante's charter, and if community notification is not to become community retribution.

A key consideration is that, although the media headlines and concerns have been mainly about 'predatory paedophiles', such offenders represent a relatively small proportion of the 110,000 people currently on the Sex Offender Register: a large proportion of offenders against children have committed offences only within their own household, while many others on the Register are not 'paedophiles' at all, having offended only against adults. Such differences would have to be taken into account in deciding whether general

¹ See, for example, www.bbc.co.uk/news 'Do we need a 'Sarah's Law?' (13/12/2001), with Michelle Elliott the director of Kidscape arguing that it would work for the most dangerous paedophiles, and those such as Harry Fletcher of the National Association of Probation Officers arguing that it would fuel vigilante action and lead some offenders to avoid registration.

² See, for example, the remarks of Beverly Hughes at www.bbc.co.uk/news 'Sarah's Law Unworkable' 13/12/2001.

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community notification is justifiable or appropriate. Under Megan's Law, for example, the actual addresses of offenders are disclosed only in 'high risk' cases; similarly, while high risk offenders trigger 'active dissemination' – ie personal visits by a law enforcement officer to at least ten homes either side of their location and the targeted release of information to 'vulnerable entities' such as local nurseries, schools, day care centres, youth groups, etc - low risk offenders are subjected only to 'passive release of information', meaning that the individual seeking information has to take the initiative.³

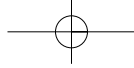
The debate about Sarah's Law is clearly indicative of the polarisation between 'professional' (for example police and probation) views of sex offender risks - which see them as best dealt with through closed professional systems of low public access - and the views of ordinary people, who tend to see such risks as largely under-regulated by such systems and requiring the direct action of those most exposed to the risk (Walters 2001). In this sense, MAPPPS as presently constituted and operated do not have a transformational role, either in respect of offenders or communities. Rather, they adopt a pragmatically re-integrative and management function - for example how to resettle the offender into the community without public disorder, how to limit crime opportunities for the offender and thus reduce risk, and how to implement multi-agency risk management plans that make risks acceptable. In other words, MAPPPS have not bridged the professional-community divide on risk, and see their role as managing community access and knowledge of sex offenders (particularly 'paedophiles'), rather than as one of engaging or educating communities about the community management of high risk offenders.

There are, however, several signs of change - or even, some might say, moves towards a truer form of 'community justice'. Both in legislation in 2000 and in announcements following the conviction of Roy Whiting in December 2001, the government has made a number of concessions to the demands for more local community involvement in the risk management of sex offenders. These fall well short of notification of names and addresses, but are nevertheless important. Interestingly, too, the government has begun to encourage schemes whereby selected members of the community are encouraged to offer structured support to sex offenders, as opposed to focusing purely on exclusion.

First of all, the Criminal Justice and Court Services Act 2000 placed a responsibility upon MAPPPS to complete and publish annual reports of their activities, although these will not identify or discuss individual cases. The reports, which will first appear in June 2002, have to include:

- A summary of the respective roles and responsibilities of the agencies represented on the MAPPP
- An outline of the arrangements made for protecting the public, including specific arrangements for high risk offenders

³ In order to minimise the risk of vigilante action, active dissemination is supported by the provision of literature and advice, emphasis being placed upon 'responsible use of information' and 'childhood sex abuse prevention'. For further information, see www.parentsformeganslaw/communityapproach 'Understanding Your Local Law Enforcement Agency Role, Your Role and the Role of Parents for Megan's Law In Helping To Manage Sex Offender Notifications in Your Community.'



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- A description of the strategic management arrangements, demonstrating that work is monitored and evaluated
- Where relevant, examples of the way disclosure has been used to assist public protection
- Statistical information on:
 - The number of registered sex offenders in the area at March 31st
 - Numbers of offenders convicted for breaches of registration requirements
 - Numbers of Sex Offender Orders applied for and secured
 - Numbers of offenders formally risk assessed and processed
 - The cost of the local arrangements

(Home Office 2001:4).

Secondly, in December 2001, the Home Secretary announced that representatives of local communities (as yet it is not known how they will be appointed) will be allowed to sit as members of MAPPPs, and thus to have a say in the formulation of plans for resettling and managing the risk from both sexual and violent offenders. They will not, however, be permitted to reveal details of individual offenders or their whereabouts to other community members.

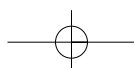
The other notable development is the growth of interest in efforts to provide more social support for sex offenders. The challenge to effective resettlement and rehabilitation presented by social exclusion and the social isolation of sex offenders has long been recognised, with harassment and hounding seen as key issues. As put recently by a paedophile himself:

In order for a sex offender to succeed he needs secrecy, isolation... He needs to feel unwanted, pathetic, of low self-esteem, unloved, self-pitying and rejected by 'normal' adults.⁴

The 'Circles of Support' initiative to combat such social isolation was originally imported from the USA via the Wolvercote specialist clinic for sex offender treatment.⁵ In brief, the initiative recognises that many sex offenders are social isolates and provides a 'circle' of supportive people to whom the offender can turn once released from either prison or a treatment centre. Such circles are made up of volunteers with whom the offender will have significant contact (for example local church leaders, mentors etc). In addition to social support, the volunteers are trained to provide relapse prevention help and to identify 'warning signals' for risky behaviour. They will also inform the statutory authorities if the risky behaviour appears to warrant it. At present there are two pilot schemes in the UK and long-term evaluation of the programme here is awaited.

⁴ 'Stephen', quoted at www.bbc.co.uk/news 'Paedophiles may go underground', 13/12/2001.

⁵ Donald Finlayson of the Wolvercote clinic has been instrumental in setting up Circles of Support in the UK.



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A further initiative is 'Stop it Now', supported by an alliance of key voluntary and statutory agencies working with child sexual abuse. This initiative recognises that most child sexual abuse is not perpetrated by 'monsters' or strangers, but by people children know. The initiative is a combination of education, awareness raising and a helpline to offer 'advice and support to people who suspect abuse and to those seeking help to stop their own abusive thoughts and behaviour' (Stop it Now leaflet). Stop It Now claims that pilot projects in the USA have shown that abusers do come forward and benefit from treatment programmes, and that the awareness raising does result in more people able to recognise child sexual abuse. However, there is as yet no long-term evaluation in the UK.

Both these initiatives recognise that sex offenders are present in communities (and always will be) and aim to broaden the responsibility for 'policing' them beyond the traditional boundaries of statutory agencies like police and probation and beyond the standard range of 'risk management' techniques of police visits and occasional covert surveillance. Circles of Support, for example, combines reintegration and support with community surveillance. Stop It Now places some responsibility for dealing with sex offenders within the wider community, as well as offering treatment for those prepared to self-disclose. Importantly, both seek to redress the demonisation of sex offenders and to offer constructive community based techniques for their long-term management. If the principles of community justice are ever to operate to a significant extent in the area of sexual offending, it is likely that they will do so effectively only if such approaches are pursued.

Community Justice, Public Protection and Late Modernity

Having outlined recent developments in 'public protection' in terms of policy and practice, it is now time to try to place them within a broader theoretical framework – specifically, in keeping with the focus of this journal, their relationship to the significant changes in modes of social control and crime control which have been associated with the concept of 'community justice'. This section first raises some general questions about the concept and its associated practices, and summarises some sociological explanations for their emergence. We then return specifically to MAPPPs and how they may fit into the picture.

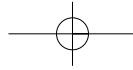
Community justice: philosophical ideal or product of the risk society?

Clear and Cadora (2001) have usefully described community justice as (alternatively) a philosophical ideal, a distinct strategy in the management of crime control, and a type of programme. Those who advocate it as a *philosophical ideal* usually describe its key features as including concerns with locale, neighbourhood, community values, the empowerment and engagement of the citizen, cooperation, problem-solving, an emphasis on restorative rather than retributive justice, and reintegration of the offender into the community (see, for example, Braithwaite 1989; Etzioni 1994; Van Ness and Strong 1995; Hope 1996;

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Clear and Karp 1999; Cadora and Clear 2001). Community justice as a *strategy* is generally associated with efforts to reduce crime problems – in most cases, involving relatively minor but frequent offending - in ‘high crime areas’, by means of environmental crime risk management (including CCTV surveillance), targeted crime prevention or policing programmes, and a variety of ostensibly more ‘inclusive’ interventions such as community policing and mediation schemes (Stenson 1993; Hughes 1998). Most notably in England and Wales, the Crime and Disorder Act 1998 established the framework for localised and holistic (or ‘multi-pronged’) policy initiatives aimed at reclaiming threatened public spaces and re-establishing community values and the quality of life in threatened neighbourhoods (Goldblatt and Lewis 1998; Stenson and Edwards 2001). As a type of *programme*, probably the key ingredients are inter-agency partnership and the targeting of specific crime problems, offenders or locations. These elements are to be found in virtually every project launched under the crime and disorder plans which have to be drawn up by every local authority in England and Wales under the Crime and Disorder Act (see, for example, Crime Concern 1998; Hough and Tilley 1998, 1998a).

However, as many commentators have noted, this superficially attractive set of ideals and its associated strategies and programmes are dogged by major dilemmas and contradictions, including those between universal principles and local cultures, between inclusive and exclusive practices, and between informal and formal methods of social control (see, for example, Faulkner 2001; Clear and Cadora 2001; Wright 2001:128-52; Johnstone 2002; Williams, introduction to this volume). There are also serious doubts as to how much meaning notions like ‘shared community values’ retain in western societies at the beginning of the 21st century. As noted in the introduction to this paper, an alternative view of community justice is that it is much more a product of *fear* than of positive community feeling and that its primary mode of thinking is defensive and exclusionary. In sociological terms, what has come to be known as community justice can be seen as a response to the challenge to contemporary crime management posed by the conditions of ‘late modernity’ – in other words, by the economic and social transformations brought about by globalisation and the replacement of the Keynesian welfare state with a post-Fordist workfare state. In brief, post-Fordist economies operate without a significant welfare net and the flexible, highly skilled workforce required by such globalised and competitive economies excludes low-skilled and traditional labour (Jessop 1993). As Stenson and Edwards (2001:73-4) express it, the ‘multi-skilled professionals’ of the advanced capitalist state are ‘increasingly segregated from peripheral, casualized, low-or no-income communities’. The latter are increasingly viewed primarily as generators of crime and consequently become the target of programmes in which crime control is a paramount aim. Moreover, especially in the poorest areas, the notion of ‘community’ itself has become more problematic, as social ties between groups and individuals become increasingly diverse and fragmented; ‘civil society’, too, has been shrinking and individual citizens have become more detached from local politics and communal activities (Giddens 1990, 1991; Crawford 1997; Hughes 1998; Lash 1990). The social policy concerns of social solidarity and conflict management are thus effectively displaced to the crime control arena (Rodger 2000) and subsumed into a set of overriding concerns about *risk and*



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insecurity, spawning what Shearing has called a 'risk-focused approach to the governance of security' (2001: 208).

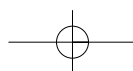
A key practical feature of this risk-driven approach is its 'situational focus', which diverts attention away from individuals and from policies of inclusion:

This situational focus is not simply a future-oriented strategy. The focus within this approach is not on persons per se but on modifying the situations within which they act to encourage behaviour that is consistent with the end of security. The world is conceived as an assemblage of sites to be modified to encourage more appropriate action from people whose natures are accepted as given. Persons and their propensities are accepted as they stand. Attention is not only directed away from a concern with the past but from future-oriented strategies that seek to rehabilitate people (Shearing 2001:209).

Garland has likewise described the 'new infrastructure' of community justice as localised, 'preventative partnerships' (2001: 17), carrying a dual function of exclusion of 'risky' others and the inculcation of a sense of self-risk management within local communities. Security replaces both punishment and rehabilitation as a key outcome.

In practice, then, 'community justice' may be very different from the 'philosophical ideal' outlined above. Although they may be combined with some transformative or rehabilitative elements, the more exclusionary kinds of intervention tend to predominate. Indeed, it has been argued that some of the core techniques of community justice, such as environmental crime prevention, lack a 'human dimension': rather, they are underpinned by a 'logic of risk' (Ewald 1991) or an 'insurance concept of crime control' (Reichman 1986), in which hazard reduction strategies such as 'profiling', zero tolerance and surveillance are emphasised, the 'net' of control is constantly widened, and individual rights become increasingly ignored. As Garland (2001) puts it, public protection has been elevated to a fundamental right of citizens, and communities have been encouraged to be both risk averse and risk intolerant, resulting in a re-conception of the relationship between the offender and society. The rights of offenders are seen as 'fundamentally opposed to those of the public', and rights can be over-ridden in the name of reducing risk (Garland 2001: 180). Similarly, the interests of victims and offenders are seen as at odds, and the divide between the law-abiding 'us' and the 'dangerous other' has widened.

Finally, and somewhat ironically, in areas of high social fragmentation, community justice practice may be largely limited to local cooperation between formal state agencies, acting on behalf of, but without any meaningful engagement with, their mainly 'disconnected' local citizens – except, perhaps, as targets for the latter's dissatisfaction when the agencies appear to have 'failed'. Equally, even in areas which generate a stronger sense of community, fear of crime and a general sense of insecurity (further products of the uncertainties of late modernity) can stifle the positive aspects of community mobilisation,



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and the dominant values can become the very reverse of inclusivity and restoration. Vociferous groups of discontented residents may demand or instigate more and more repressive approaches to crime control, and community justice may become a synonym for intolerance, social exclusion and, in extreme cases, vigilantism (MacKenzie 1998; Rodger 2000, Walters 2001).

MAPPPs in context

In contemporary western cultures, the crime control activity described in this paper – the risk assessment and management of sexual and violent offenders – is one of the least likely to be associated with inclusive and restorative models of community justice and genuine citizen involvement. However, given that it has so far consisted largely of ‘risk business’ performed in secret by partnerships of professional agencies interspersed by outbursts of emotionally charged communal activity, it is clearly of central relevance to the more critical interpretations of community justice outlined above.

Several features of the work of MAPPPs reflect key elements of the new forms of crime control identified by social theorists. First of all, it is essentially risk focused (if not a harbinger of some new, risk-centred ‘postmodern’ penal form - see Kemshall and Maguire 2001) and concerned above all with security. Indeed, MAPPPs can be seen as a manifestation of what Pratt (1995) has called an ‘informative system’ in which the exchange of risk knowledge becomes the key mechanism by which some groups control (and exclude) others. This is what Ericson and Haggerty (1997) have called the ‘logic of risk’, a pervasive justificatory discourse that underpins the key activities of criminal justice agencies: risk assessment, intelligence, information gathering, data and knowledge exchange.

Secondly, the work of MAPPPs has been essentially exclusionary in nature. It has tended to be ‘inclusive’ only to the extent that attempts are made to ‘place’ offenders within particular communities, but to date little effort has been made to assist them to become integrated within those communities nor to play a fuller part in community life. If anything, of course, the aim has been to keep offenders *away* from many aspects of ordinary community life, as they might exploit the contact with people who do not know of their background.

Thirdly, by dint of the exceptionally high level of inter-agency data exchange now allowed in this area, MAPPPs exhibit an increased informality and permeability of ‘systems’, resulting in net-widening and less attention to the exercise of formal rights and procedures.

To this extent, then, MAPPPs can be placed within what Stenson and Edwards (2001) have called an emerging advanced liberal system of crime control in which reclaiming public places, actuarial justice, and community justice are emphasised. These trends are underpinned by a concern with what they term ‘local governance’, a concern with the regulation of local risks, local threats to public spaces, and local preservation of

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community safety emerging from the collapse of welfarism and the increase in problematic, 'under-privileged' areas in the late modern era (Rodger 2000).

However, the one commonly identified major element of such systems that MAPPPs have so far *not* displayed to any degree is an increased role for the views of communities in the operation of justice. In the particularly sensitive area of sexual offending, the divide between 'us' and 'them' has become so wide that anyone to whom the label 'paedophile' becomes attached is in danger of serious physical attack. This has had important implications for the style of 'community justice' that is practised in this area of offending, as it has encouraged the erection of unusually high barriers between the work of professional agencies and the 'local community'. Fearing vigilante action, MAPPPs have tried to conduct their work almost in secrecy, and disclosure of information of any kind has generally been an option of last resort (Maguire *et al* 2001). However, the Sarah Payne murder and subsequent events have now brought the issue of risk management firmly back to public notice, and it is unlikely that the professionals will be allowed to continue in a similar fashion: they will have to take much greater account of 'community' views and feelings and release more information.

The fear of many commentators is that this will lead to even more exclusionary activity. At the same time, however, it ironically holds the possibility of having the opposite effect. As noted earlier, there are signs of some efforts to tap into more positive veins of community life, not only through attempts to inform people more honestly about the nature and levels of risk actually faced, but through initiatives to involve ordinary community members in decision-making or even in the practice of resettling offenders – possibilities that did not exist when secrecy was seen as one of the prime objectives. A prime example of the latter is developing 'circles of support' around registered sex offenders in order to leave them less isolated (and consequently less dangerous) within their local community. Of course, whether such initiatives – which can be seen as moves away from the risk-focussed (and ultimately exclusionary) approach represented by MAPPPs, towards a more idealistic and inclusive version of 'community justice' – ever bear any fruit, or are swept aside by a stronger negative tide unleashed by the empowering of the community, remains to be seen.

Conclusion

MAPPPs can be understood as one growing facet of community justice concerned almost entirely with the exclusion of danger and the displacement of risk from communities troubled by the insecurities and anxieties of late modernity. In addition to their risk assessment and management of known sexual and violent offenders, MAPPPs have been acutely aware of the depth of public feeling against the presence of any such offenders (however low or high the 'objective' risk) and have consequently been concerned to manage their interface with communities, in particular to control and limit disclosure about the whereabouts of sex offenders.

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Whilst inclusive and restorative principles and respect for individual rights are an important part of the rhetoric of community justice (though, arguably, quite rare in its practice, even in relation to much less serious forms of anti-social behaviour), these have so far been little in evidence in this field of activity, whether practised by MAPPPs or by local residents. Importantly, too, whilst the idealistic form of community justice and its underpinning philosophical aims encourage community partnership, openness and dialogue in local community crime management, this has not been the case in the work of MAPPPs. Partnership has been largely restricted to local state agencies, and a closed professional expert system of risk management has evolved. However, the current arrangements have recently come under serious challenge as a result of the Sarah Payne case and the accompanying demands for community access to full information about local sex offenders. This has produced some small shoots of genuine community involvement in decision-making (albeit likely to be limited to carefully chosen individuals) and even some small initiatives around the provision of community support to offenders (albeit harnessed, unsurprisingly, to the overriding community surveillance objectives of MAPPPs). The most optimistic proponents of community justice as a philosophical ideal will see in these developments the signs of genuine progress towards their goals. At the same time, however, the spectre of vigilantism continues to haunt the work of MAPPPs, and although recent legislation has increased public scrutiny and access, many of the professionals involved are likely to continue 'until proven wrong' (or, at least, until compelled to change their practice) to regard the community as a 'threat' rather than a partner in this area of crime management. It is difficult to predict the next developments in such a sensitive and fast-moving policy area, but they will clearly be of significance for both theory and practice in the wider field of 'community justice'.

References

- Braithwaite, J. (1989) *Crime, Shame and Reintegration*. NY: Cambridge University Press.
- Clarke, R. (1995) 'Situational Crime Prevention', in M. Tonry and D. Farrington (eds.) *Building a Safer Society: Strategic Approaches to Crime Prevention* Vol. 19: 91-150. Chicago: University of Chicago Press.
- Clear, T. and Cadora, E. (2001) 'Risk and Correctional practice', in K. Stenson and R. R. Sullivan (eds.) *Crime, Risk and Justice: The Politics of Crime Control in Liberal Democracies*, pp. 51-67. Cullompton: Willan.
- Clear, T. and Karp, D. R. (1999) *The Community Justice Ideal: Preventing Crime and Achieving Justice*. Chicago: Westview Press.
- Cobley, C. (1997) 'Keeping Track of Sex Offenders: Part One of the Sex Offenders Act', *The Modern Law Review* 60(5): 690-99.
- Connelly, C. and Williamson, S. (2000) *Review of the Research Literature on Serious Violent and Sexual Offenders*. Crime and Criminal Justice Research Findings No. 46. Edinburgh: Scottish Executive Central Research Unit.
- Crawford, A. (1997) *The Local Governance of Crime*. Oxford: Clarendon Press.
- Crawford, A. and Jones, M. (1995) 'Inter-Agency Cooperation and Community Crime Prevention', *British Journal of Criminology* 35(1): 17-33.
- Crime Concern (1998) *Reducing Crime in High-Risk Neighbourhoods: A Manual for Action*. London: Crime Prevention Agency.
- Cross, B. (1997) 'Partnership in Practice: The Experience of Two Probation Services', *Howard Journal of Criminal Justice* 36(1): 62-79.

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- Davidson, S. (1976) 'Planning and Co-ordination of Social Services in Multi-Organisational Contexts', *Social Services Review* 50: 117-137.
- Ericson, R. V. and Haggerty, K. D. (1997) *Policing and the Risk Society*. Oxford: Oxford University Press.
- Etzioni, A. (1994) *The Spirit of Community: The Reinvention of American Society*. New York: Touchstone.
- Ewald, F. (1991) 'Insurance and Risk', in G. Burchell, C. Gordon and P. Miller (eds.) *The Foucault Effect: Studies in Governmentality*, pp: 197-210. Chicago: University of Chicago Press.
- Faulkner, D. (2001) *Crime, State and Citizen: A Field Full of Folk*. Winchester: Waterside.
- Feeley, M. and Simon, J. (1994) 'Actuarial Justice: The Emerging New Criminal Law', in D. Nelken (ed.) *The Futures of Criminology*, pp. 173-201 London: Sage.
- Garland, D. (2001) *The Culture of Control: Crime and Social Order in Contemporary Society*. Oxford: Oxford University Press.
- Gelsthorpe, L. (1985) *The Community Service Volunteers/Kent Initiative*. Report IV. London: Community Service Volunteers.
- Giddens, A. (1990) *The Consequences of Modernity*. Cambridge: Polity Press.
- Giddens, A. (1991) *Modernity and Self-Identity*. Cambridge: Polity Press.
- Goldblatt, D. and Lewis, P. (1998) (eds.) *Reducing Reoffending*. London: Home Office.
- Grubin, D. (1998) *Sex Offending Against Children: Understanding the Risk*. Police Research Series Paper, 99. London: Home Office.
- Hebenton, B. and Thomas, T. (1996) 'Tracking Sex Offenders', *Howard Journal of Criminal Justice* 35(2): 97-112.
- Hebenton, B. and Thomas, T. (1997) *Keeping Track? Observations on Sex Offender Registers in the U.S.* London: Home Office.
- Home Office (1997) *Community Protection Order-A Consultation Paper*. London: HMSO.
- Home Office (2001) *Initial Guidance To the Police and Probation Services on Sections 67 and 68 of the Criminal Justice and Court Services Act 2000*. London: Home Office.
- Hope, T. (1996) 'Community Crime Prevention', in M. Tonry and D. Farrington (eds.) *Building a Safer Society: Strategic Approaches to Crime Prevention*, Vol. 19. Chicago: University of Chicago Press.
- Hough, J.M. and Tilley, N. (1998) *Getting the Grease to Squeak: Research Lessons for Crime Prevention*. Crime Detection and Prevention Series Paper 85. London: Home Office.
- Hough, J.M. and Tilley, N. (1998a) *Auditing Crime and Disorder: Guidance for Local Partnerships*. Crime and Prevention Series Paper 91. London: Home Office.
- Hughes, G. (1998) *Understanding Crime Prevention: Social Control, Risk and Late Modernity*. Buckingham: Open University Press.
- James, A. and Bottomley, K. (1994) 'Probation Partnerships Revisited', *Howard Journal of Criminal Justice* 33 (2) 158-168.
- James, A. and Raine, J. (1998) *The New Politics of Criminal Justice*. Cheshire: Longman.
- Jessop, B. (1993) 'Towards a Schumpeterian Welfare State? Preliminary Remarks on Post-Fordist Political Economy', *Studies in Political Economy*, 40: 7-39.
- Johnstone, G. (2002) *Restorative Justice: Ideas, Values, Debates*. Cullompton: Willan.
- Kemshall, H. (1996) *Reviewing Risk: A Review of Research on the Assessment and Management of Risk and Dangerousness: Implications for Policy and Practice in the Probation Service*. London: Home Office Research and Statistics Directorate.
- Kemshall, H. (1998) *Risk in Probation Practice*. Aldershot: Ashgate.
- Kemshall, H. (2001a) *Risk Assessment and Management of Known Sexual and Violent Offenders: A Review of Current Issues*. Police Research Series 140. London: Home Office.
- Kemshall, H. (2001b) *Leicester, Leicestershire and Rutland Public Protection Panel: An Evaluation*. A Report Prepared for the Leicester, Leicestershire and Rutland Public Protection Panel. Leicester: DeMontfort University.
- Kemshall, H. (2001c) *Risk, Social Policy and Welfare*. Buckingham: Open University Press.

Community Justice, Risk Management and the Role of Multi-Agency Public Protection Panels

- Kemshall, H. and Maguire, M. (2001) 'Public Protection, Partnership and Risk Penalty: The Multi-Agency Risk Management of Sexual and Violent Offenders', *Punishment and Society* 3(2): 237-264.
- Lash, S. (1990) *The Sociology of Postmodernism*. London: Routledge.
- Liddle, A. M. and Gelsthorpe, L. (1994a) *Inter-Agency Crime Prevention: Organising Local Delivery*. Police Research Group: Crime Prevention Unit Series, paper 52. London: Home Office.
- Liddle, A. M. and Gelsthorpe, L. (1994b) *Crime Prevention and Cooperation*. Police Research Group: Crime Prevention Unit Series, paper 53. London: Home Office.
- Maguire, M., Kemshall, H., Noaks, L., Wincup, E. (2001) *Risk Management of Sexual and Violent Offenders: The Work of Public Protection Panels*. Police Research Series paper 139. London: Home Office.
- Nash, T. (1999) *Police, Probation and Protecting the Public*. London: Blackstone Press.
- O'Malley, P. (1998) (ed.) *Crime and the Risk society*. Aldershot: Ashgate.
- Plotnikoff, J. and Woolfson, R. (2000) *Where Are They Now? An Evaluation of Sex Offender Registration in England and Wales*. Police Research Series, Paper 126. London: Home Office.
- Power, H. (1998) *Sex Offenders and the Crime and Disorder Act 1998*. Workshop at the Crime and Disorder Act Conference, The Scarman Centre, Leicester University, Leicester, 19th November 1998.
- Power, H. (1999) 'The Crime Disorder Act, 1998: Sex Offenders, Privacy and the Police', *Criminal Law Review*, pp: 3-16.
- Power, M. (1994) *The Audit Explosion*. London: Demos.
- Pratt, J. (1995) 'Dangerousness, Risk and Technologies of Power', *Australian and New Zealand Journal of Criminology* 29: 236-254.
- Reichman, N. (1986) 'Managing Crime Risks: Toward An Insurance Based Model of Crime Control', *Research in Law, Deviance and Social Control* 8: 151-172.
- Rodger, J. (2000) *From a Welfare State to a Welfare Society: the Changing Context of Social Policy in a Postmodern Era*. Basingstoke and London: Macmillan Press.
- Shearing, C. (2001) 'Punishment and the Changing Face of Governance', *Punishment and Society* 3(2): 203-220.
- Stenson, K. (1993) 'Community Policing as a Governmental Technology', *Economy and Society* 22 (3): 373-89.
- Stenson, K. and Edwards, A. (2001) 'Rethinking Crime Control in Advanced Liberal Government: the "Third Way" and the Return to the Local', in K. Stenson and R. R. Sullivan (eds.) *Crime, Risk and Justice: The Politics of Crime Control in Liberal Democracies*, pp: 68-86. Cullompton: Willan.
- Van Ness, D. and Strong, K. (1995) *Real Justice: Restorative Justice Theory, Principles and Practice*. Cincinnati: Anderson Publishing Co.
- Walters, M. (2001) *Acid Row*. London: MacMillan.
- Wright, A. (2001) *Policing: An Introduction to Concepts and Practice*. Cullompton: Willan.
- Young, J. (2000) *The Exclusive Society*. London: Sage.