

## **Does it matter? Reflections on the effectiveness of institutionalised public participation in the development of sentencing policy**

*Rob Allen and Mike Hough*

### **Introduction**

The contributions to this volume make it clear that there is a significant trend towards increasing public participation in sentencing policy in many countries in the world. Handled well, this should lead to greater public trust in justice. Mis-handled, public opinion can exercise a dire impact on penal policy. The aim of this chapter is to assess how best to achieve positive and constructive community engagement in penal policy. We take it as axiomatic that “community engagement” is a two-way process, involving on the one hand, the provision of information and education, and on the other, a genuine responsiveness to what people think about justice. How this is best done involves not only substantive decisions about the right balance to strike in informing and responding, but also the building of the right institutional framework to allow for effective community engagement.

In considering these questions, we draw heavily on England and Wales as a case study. This is not because we have solved the main problems of community engagement, but because, quite clearly, we have not. The recent history of penal policy in that country – over the 12-month period from January 2006 – provides some clear lessons on how *not* to engage with the public on issues relating to penal policy. One might argue that very special circumstances applied at the time. The Labour administration was suffering badly in the polls, in the aftermath of the Iraq War. Tony Blair was serving out his last term as Prime Minister, struggling both to regain public confidence and to recover the prospect of some sort of political “legacy”. In hindsight it may look like an atypical year. From our viewpoint, and at the time of writing, it represents in exaggerated form the sort of risks that democratic governments often run of losing the initiative over penal policy. We hope that, despite our domestic preoccupations, some of the reflections may have a wider resonance for readers from other countries.

We start by outlining the place that public opinion holds among the various drivers of sentencing policy. We then describe a series of events in England and Wales in 2006 that had the effect of locking the Labour government into an ever tougher stance on sentencing. In essence, these were all forms of failure in the criminal justice system that in other circumstances would have posed much less significant political difficulty. However, the fact that they happened to occur within a few months of each other – and at a particular stage in the life of the

This is a preview. Not all pages are shown.

- 4 We certainly do not wish to make light of the tragedies that followed incompetent probation supervision. But there is a political reluctance to accept that the supervision of offenders on release from prison can *never* control all risks.
- 5 <[www.crimeinfo.org](http://www.crimeinfo.org)>.

## References

- Allen, R (2002). There Must be Some Way of Dealing with Kids: Young Offenders, Public Attitudes and Policy Change. *Youth Justice* 2(1): 3.
- Allen, R (2003). Attitudes to Punishment: Values, Beliefs and Political Allegiance. *Criminal Justice Matters* No 52.
- Ashworth, A and Hough, M (1996). Sentencing and the Climate of Opinion. *Criminal Law Review*: 761.
- Blair, T (2006). Letter from the Prime Minister to the new Home Secretary, John Reid, <<http://www.homeoffice.gov.uk/about-us/news/pm-letter-home-sec-150506?version=2>>.
- Bridges, A (2006). *An Independent Review of a Serious Further Offence case: Damien Hanson & Elliot White*. London: HM Inspectorate of Probation.
- Carter, P (2003). *Managing Offenders, Reducing Crime*. London: Prime Minister's Strategy Unit.
- Coulsfield, Lord (2004). *Crime Courts and Confidence*. London: Esmée Fairbairn Foundation.
- Department for Constitutional Affairs (2007). *Voting Rights of Convicted Prisoners Detained within the United Kingdom*. London: Department for Constitutional Affairs, <<http://www.dca.gov.uk/consult/voting-rights/cp2906.pdf>>.
- Downes, D and Morgan, R (1997). No Turning Back: The Politics of Law and Order into the Millennium. In M Maguire, R Morgan and R Reiner (eds), *The Oxford Handbook of Criminology*. 4th ed, Oxford: Oxford University Press.
- Esmée Fairbairn Foundation (2004). *Rethinking Crime and Punishment: The Report*. London: Esmée Fairbairn Foundation.
- Giddens, A (1990). *The Consequences of Modernity*. Cambridge: Polity Press.
- Giddens, A (1991). *Modernity and Self-identity*. Cambridge: Polity Press.
- Home Office (2001). *Making Punishment Work: Report of a review of the sentencing framework for England and Wales* ("The Halliday Report"). London: Home Office.
- Home Office (2005). *Respect Action Plan*. London: Home Office, <<http://www.homeoffice.gov.uk/documents/respect-action-plan?view=Binary>>.
- Home Office (2006). *A 5-year Strategy for Protecting the Public and Reducing Re-Offending*. London: Home Office.
- Hough, M et al (2003). *The Decision to Imprison*. London: Prison Reform Trust.
- Prime Minister's Strategy Unit (2007). *Building on Progress: Security Crime and Justice*. London: HMSO.
- Social Exclusion Unit (2001). *Reducing Re-Offending by ex Prisoners*. London: HMSO.
- Tyler, TR and Huo, YJ (2003). *Trust in the Law: Encouraging Public Cooperation with the Police and Courts*. New York: Russell-Sage Foundation.