

SUPPLEMENT

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Race on the Agenda

Trust & confidence in the criminal justice system

Transformative
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ROTA uses the term Black, Asian and minority ethnic (BAME) to refer to all groups that are discriminated against, including (but not exclusively) people of African, Asian, Caribbean, European and Eastern European, Irish, Greek, Turkish, Jewish, Roma and South East Asian descent, as well as refugees and asylum seekers. In Supplement, the terms Black and minority ethnic (BME), Black, Asian and minority ethnic (BAME), Black, minority ethnic and refugee (BMER) and Black, Asian, minority ethnic and refugee (BAMER) may be used throughout the publication by different contributors, in keeping with their own professional usage within the continuum of race equality.

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Foreword

In some desperation I sometimes tease friends with a challenge: “Tell me a good news story!” “Mmm...,” they reply. Or: “My grandson sang beautifully at his school concert”. Yes, that is all very well, but I have a deep need to hear about new ways of addressing racism in the UK. I do believe that, in ROTA’s Transformative Justice Project, I may have found the good news I seek.

Contrary to expectation, ROTA shows us that there are many ideas being tried out which are likely to develop new and genuine trust and confidence by citizens in their police. Strong trust and confidence is good for all UK communities: poor and very rich, Black and White, Muslims and Jews, and many others. Recent surveys of inner cities reveal that only 20% to 40% of people from Black, Asian, mixed race or other minority ethnic backgrounds have trust and confidence in the police, compared to 40% to 60% levels for White citizens.

Other surveys show that these minority groups are more likely to be victims of crime. With less trust and confidence from the people whom the police have to rely on to report crimes and to provide evidence, it is inevitable that clear up rates will be lower than they could. A lot of criminals who could be put behind bars are free to commit more crimes... and that’s bad for all citizens.

This is the business case for police to address racism. How sad then that disparities in stop and search and in employment of police officers are frighteningly worse now than at the end of the Stephen Lawrence Inquiry.

The Transformative Justice Project highlights some straightforward ways of addressing the indirectly racist outcomes of ‘race-neutral’ systems and tactics. Women have recently moved up the ranks in the police. We now have two women Chief Constables and many at or above the glass ceiling of Commander. But where are the Black faces — or Asian or Muslim? There were four at Chief Officer level at the end of the Stephen Lawrence Inquiry 12 years ago. I’m told there were nine 2 years ago. Now there are none.

Inequalities in 2011/12 have been downgraded to the gap between women and men, and between the poor and the very rich. Denial of the anger-creating suppression of the hopes and opportunities of people from Black and Asian backgrounds has to stop. Let’s hope that even the deniers can be led by the work of ROTA and others to see that dealing with racist outcomes can be satisfying, successful, and good for them and their families, too.

Dr Richard Stone was a panel member of the Stephen Lawrence Inquiry as Adviser to Sir William Macpherson. He is a Patron of Race on the Agenda (ROTA).

Introduction

In November 2011, the trial of two people accused of killing Stephen Lawrence will commence. The period between Stephen's death in 1993 and this new trial has witnessed a range of issues in how Black, Asian and minority ethnic communities are viewed and treated by the police. The fact that no convictions were made for the crime – a 1996 trial acquitted one of the accused, Gary Dobson, of murder – has only added to the startling revelations in the landmark Stephen Lawrence Inquiry. Writing in 1999, Macpherson lamented the lack of progress made since Lord Scarman's 1981 call for urgent action to end racial discrimination before it "threatens the very survival of our society".

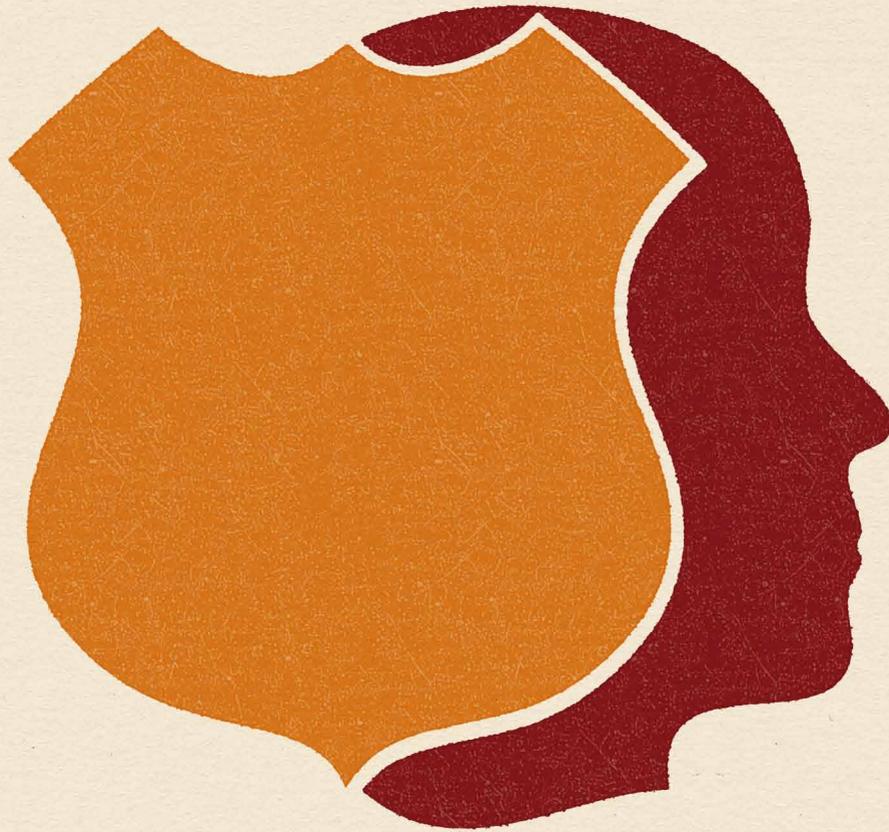
As we approach the outcome of the trial, it is timely to consider the evolution of police-community relations within the framework of trust and confidence and to ask: what has changed, what protections are in place, and how much further do we have to go to improve trust and confidence?

This Special Edition of Supplement touches on the legislative developments within the 18 years since Stephen's murder, focusing on trust and confidence between BAME communities and the police. Such an appraisal is especially pertinent when contemplating the reform proposals made by the Coalition Government in the area of criminal justice, discussed here by StopWatch and Elizabeth Frimpong.

These articles respectfully shine light on the tensions inherent in policing reforms in the areas of stop and search and the move towards elected Police and Crime Commissioners.

Analysing levels of community trust and confidence in policing is fraught with complexities and contentions. Trying to pin down precisely what trust and confidence means, factoring in a significant variable such as race, and hoping to arrive at a quantifiable measure is an infinitely difficult task. Dr Karim Murji's article takes a pragmatic approach, using real examples whilst considering a range of conceptual and methodological difficulties in measuring trust and confidence. Lynne Townley builds on and unpicks the developments in policy since Stephen Lawrence and evaluates the statutory initiatives applied to improve and increase levels of community confidence. This is balanced with contributions by Simon Fulford and Elena Noel, which describe two established and effective voluntary sector interventions focused on person-centred victim and perpetrator approaches to fostering trust and confidence.

By the end, we find that while achieving trust and confidence is a winding road, filled with potholes and detours, there is no shortage of work being done to improve trust and confidence, with the ultimate goal of fair, safe and equal treatment of all people regardless of race, creed, colour or background.



Drilling down: trust, confidence & ethnicity

Dr Karim Murji

Trust is vital to social and civic life. Indeed the lack or decline of trust and how it can be enhanced in fostering community relations and networks has been prominent in political debates in the past decade. But trying to specify precisely what trust means is a complicated matter. As Kenneth Newton points out: “trust is a contested term not easily distinguished from other similar ones”. He even says that “there is no point in defining the essence of trust, because it has none”.¹ There is no shortage of quite abstract academic literature on the meaning of trust. Yet the debate becomes even more complex when considering the extent to which ethnicity or race shapes or influences trust relations –

whether between individuals and communities or the public and institutions. Ethnicity is clearly significant in societies structured by race where Black people and other related minorities are most often at or nearer to the bottom of social and economic inequalities.²

To bring together a discussion of trust alongside some of its race dimensions, I take a pragmatic approach by considering some real world examples, with the intention of raising some issues for policy and practice. The basis for this will be an examination of some conceptual and methodological issues at stake in considering trust and confidence. The examples I use are mainly based on the police, particularly in London. As some of the data I draw on is specific to the police, it means I do not deal with variations across the criminal justice system as well as across the UK and beyond.³ However, the issues raised here about measuring and enhancing trust and confidence are likely to have a wider application.

The reasons why trust and confidence are crucial issues for the police in their dealings with ethnic and racial minorities in London and elsewhere are quite widely known. Over many decades there have been many instances of ‘over-policing’ and ‘under-protection’ of minorities, most notably through the use of police powers on the one hand, and on the other hand, their failure to protect groups subject to victimisation because of their ethnicity and race.⁴

In 1999, the Stephen Lawrence Inquiry marked a watershed moment in addressing these issues.⁵ But since that inquiry, many concerns have been raised about the over-representation of BME groups in stop and search, not least in relation to anti-terrorist legislation, as well as gun and knife crime, and the DNA database, among other issues.⁶ So while the Stephen Lawrence Inquiry prompted new levels of police activity against race and hate crime, along with a large number of other changes in policy and practice, there are also doubts about both how effective this has been and whether the initial focus following the inquiry has been sustained.⁷ This brief history provides a snapshot of why trust and confidence in the police are important indicators of their legitimacy with BME populations and how there has been variable and uneven progress.

Fostering trust

Trust is a slippery idea. It is a matter of degree rather than fixed. For instance, think about whether you trust a colleague, a friend or the government. For most people the answer is unlikely to be either 'yes' without any qualification or just an emphatic 'no'. You may trust them on some things and not others. You may trust them at some times and not others. Trust is contextual and perhaps issue-based. So while it is possible to measure something called trust or confidence, exactly what is being measured is not a straightforward matter. Furthermore, trust in its social and political variants may be quite different, where the former is more interpersonal and horizontal, while the latter is more of an institutional and vertical relationship. This is related to, but not the same thing as, the distinction between 'thick' and 'thin' forms of trust. 'Thick' trust is based on personal knowledge of an individual, while 'thin' trust is based on general information about social groups and situations.⁸

These comments are just part of why it presents a challenge to policy. Consider for example how we can make sense of some young people's views about the police use of

stop and search powers. When asked whether they trust the police to do it fairly, they may respond in terms of anecdotal experiences — whether their own or ones they have heard. These often bring out their perceptions of rude and unfair behaviour by the police in their encounters with young people. Such experiences and feelings are hard to pin down. Do they express a lack of faith in the institution of policing itself? Or are they specifically about the ways in which some police officers behave at some time and in some places? Is it the law itself that is unfair? Or is it the way the police implement it?

Conversely, for some police officers these tales can be regarded as 'urban myths', sustained by their repetition rather than any basis in direct experience (though in passing it can be pointed out that the police have their own 'war stories' and myths). So there is a perception among some police officers that the accounts of young and Black people about the police's overuse and misuse of stop and search powers are often unhelpful, fail to provide a rounded picture of what happened, or fail to appreciate the context in which the police were acting. The difficulty with these diametrically opposed 'black and white' tales is, paradoxically, that both sides could be right at the same time. The key to this may be how encounters and experiences are understood contextually. If the police viewpoint tends to 'individualise' each event and fails to see the bigger picture, the other side of the coin — from the viewpoint of some Black people — tends to 'collectivise' the experience, seeing it as part of a bigger picture in which Black and young people are often at the receiving end of unfair and unjust treatment.

There is a good deal of policy that shows that senior police officers understand that fair treatment in each and every instance is a key to legitimacy — 'every encounter leaves a trace' is a key phrase used in police circles. The challenge for senior officers is whether they can ensure fairness 'on the ground' and in conflict situations. This is about more than the usual and oft-lamented gap between policy and practice. It is about the consistency of the relationship between policy and practice



and the ways in which these things have (to some extent) to shift with each other, rather than just a 'top down' model in which practice is meant to always comply with policy. This point shows one difficulty of building and maintaining trust where a good deal of careful work can be undermined by a single bad encounter or story in the media.

On particular issues, notably gun crime, and especially through Operation Trident in London, the police can claim to have built trust with Black communities previously suspicious of them.⁹ Trident has brought about concerted police action in the form of working groups and public meetings, as well as law enforcement. This has undoubtedly had some effect on trust and confidence. But among whom does it apply? It is significant to observe the police and some of their advisers on race and gun crime speaking about communities in the plural, thereby acknowledging that there is not a single Black or BME community.

However, this plurality raises a question about who the police have built trust and confidence with. Is the trust that has been achieved among Independent Advisory Groups and their members (who work quite closely with the police) equivalent to trust among the many ordinary people who do not have access to inside knowledge about police operations and thinking? In other words, my point is that

it is easier to think of trust in interpersonal and face-to-face relationships as opposed to generalised or institutional forms.

As most, perhaps all, of the Race and Trident advisers are of BME origins, do they speak for or represent particular communities? As few of the advisers are widely known or public figures, and their names and roles are not generally open to public scrutiny, there are reasons to question whether good working relationships built up with a relatively small group of people over a period of time (and even this has not always been the case¹⁰) is a means to building trust and confidence among BME communities.

In any case, a corporate approach to equalities is not enhanced when there are 'mini turf wars' between special interest groups each seeking to defend 'their' interest. For instance, when the Metropolitan Police consulted on the idea of a cross-cutting advisory group, the Race Advisors were not the only ones to see this as a dilution of their issue, in much the same way that defenders of the former Commission for Race Equality argued that the creation of the Equality and Human Rights Commission would mean less of an emphasis on race specifically. Whatever the validity of this viewpoint, the balance between the particular and the general is as unclear here as in the instances mentioned earlier.

Measuring confidence

How else can we gauge how well the police are doing on trust and confidence? Here despite focus groups and other qualitative methods, the overriding measure has been through numbers and surveys. Quantification, the dominant means of assessing performance across the public and voluntary sectors since the 1990s, is familiar to anyone who works in the sector. To some extent, through league tables and scorecards, it has even become commonplace public knowledge. In the criminal justice system, public confidence became a critical indicator for the police and other criminal justice agencies in 2009 when the Labour Government made it the single performance measure for the police.

However, this was scrapped by the Coalition Government that took power in May 2010. Nonetheless, whether a target is used to drive performance or not, confidence is important for the police and the criminal justice system for wider reasons. It encourages public cooperation and helps to make public bodies more responsive to public demands. In this context, the data that exists is of interest.

Based on a Public Service Agreement (PSA) indicator, and measured via the British Crime Survey (BCS), the confidence question asks people how well the police and local authorities are working together to deal with crime and anti-social behaviour. While this focuses on partnership working, other BCS questions seek to gauge public confidence in the police alone by asking how well they are dealing with the things that matter locally. These measures, as well as the similar Public Attitudes Survey (PAS) carried out by the Metropolitan Police Service (MPS) (but with a bigger sample than the BCS), provide the quantitative basis to gauge confidence in the police.

Before looking at these in more detail, we should note the move from talking about trust to measures of 'how well' the police and other agencies work together or deal with local issues. These measures of confidence and satisfaction are open to the same sorts of questions and qualifiers as those about trust, though perhaps with less of the baggage that the word trust carries. Most of what is known about trust relates to interpersonal relationships. While it is also appropriate at the individual level, confidence is a more useful term when considering relations to institutions such as government and the criminal justice system.¹¹ Confidence in an institution or a service provider is about an expectation that people will be treated well, whether they have direct experience or not. It provides an approximate guide to the degree of trust people have of a service. The BCS and the PAS also measure satisfaction, which is more a gauge of the service that people have received.



These categories, terms and differing questions provide answers that can be read and presented in different ways. In the 12 months to September 2009, the BCS shows that 49% of people felt that the police and local council were dealing with the crime issues that mattered locally.¹² At 51% the figure for the MPS is a bit higher than the national average. But the MPS itself uses another measure and question in its PAS, asking how well the police are doing in your area.

This 'good job' measure produces a figure of 61% agreement. The police and the local council working together receive a lower confidence rating than the police alone. But the response to a question of whether the police alone are doing a 'good job' could be an assessment of the MPS as a whole or locally – and if the latter, what people think of as local. This is part of a complicated issue about how perceptions of the work of the MPS (or any other force) function in general and in particular. I cannot delve into these numbers further other than to indicate how questions and responses lead to the differences just shown.

Race and confidence

To focus on the issue of race and the views and experiences of BME communities, the results from the BCS look surprising in the context of 'over-policing' and 'under-protection' mentioned at the outset. The BCS reports that people of BME backgrounds were more likely than White people to express confidence in the police and council dealing with crime matters locally. Similar trends emerge in questions about perceptions of the police, with 57% of people from BME backgrounds saying their local police did an excellent or good job compared to 53% of White people. However, despite having a more positive perception of the police than White people, people of BME backgrounds are less likely to agree that the police would treat you with respect. Indeed people of both White and BME origins express a significant degree of doubt about how they might be treated by the police. Research by Tom Tyler has been prominent on this point. While noting that there is a big gap in levels of trust in the police in the USA among Whites and African Americans, Tyler's work – based on asking people about their attitudes – maintains that trust is most influenced by people's judgements about how fairly people think the police use their powers. This 'procedural' model suggests that process is more important than whether the police are effective in crime control. It therefore provides a powerful impetus for the police to act with the highest standards, which may, in turn, be reflected in public willingness to cooperate with them.¹³

Turning to crime victims and their satisfaction (and leaving aside the question of how satisfaction relates to trust) with the police, the Metropolitan Police, like other major urban forces, focuses on the gap in satisfaction levels between White and BME victims. Here there is a more conventional race gap with White victims reporting higher levels of satisfaction with the police. In the 12 month period to September 2009, there was a 5.9% gap nationally between the levels of satisfaction expressed by White and BME victims. The MPS shows how this varies according to crime type and age, among

other factors. They acknowledge that their demeanour – such as treating crimes seriously and being supportive – is among the factors that enhance people's sense of satisfaction.¹⁴ This again provides support for Tyler's procedural model, which suggests that the police should focus on fairness and dealing well with people and situations, since it may be as important a factor in public evaluations of the MPS as whether they solve the crime. In other words, to enhance trust and confidence they have to show trustworthiness, in the literal sense of being worthy of trust and in the practical sense of being reliable and responsible. Having trust and confidence in the first place may itself be important in people's levels of satisfaction with them when they do come into contact with the police.

These observations lead on to what the 'drivers' of confidence are and indicate what the police can do to increase it. An advantage of this line of thinking is that it focuses attention on what the police can do practically, unlike things like a general sense of unease or insecurity about lack of social cohesion that the police can do little about. To the extent that such feelings contribute to the fear of crime, there is an ongoing debate about whether and how the police can deal with fear itself. From its PAS data the MPS has developed a model in which overall trust and confidence is shaped by four main factors: perceptions of how effective the police are; how fairly they are perceived to be acting; the police's level of engagement with communities; and people's concerns about crime and disorder in their locality. The view of how good a job the police are thought to be doing relies largely on perceptions of their engagement, fairness and effectiveness – all things that fold and flow into confidence.¹⁵

Conclusion

I have sought to indicate some conceptual and methodological difficulties in grasping and measuring trust and confidence – and to look at some of the qualitative and quantitative bases for this. Bringing race/ethnicity into the picture complicates this further as it highlights the gap between qualitative feelings and quantitative measures. In these, evidence of the lack of faith in, and distrust of, the police among people of BME origins is not hard to come by. Yet surveys such as the BCS report higher levels of confidence among BME groups. Furthermore, some research suggests that trust and confidence are connected more to attitudinal factors rather than demographic and sociological categories like race.¹⁶ At the same time, other evidence indicates that the extent to which racial and ethnic minorities feel or express trust and confidence is linked to the size of minority populations – and that as the size of their population increases so too does a sense of trust.¹⁷

The knotty issues brought up around defining and measuring trust and confidence are multifaceted and cannot easily be unravelled. But what does it mean practically for policy and for practitioners? The pursuit of fairness inside and outside the police matters because it should be an aim for any public body. At the same time, whatever measures exist to assess how well they are doing on trust and confidence have to be treated as ‘drivers’ to do better. They also have to be critically interrogated for their underlying assumptions. Both measures of quality and quantity matter – as do the general and the particular, and the institutional and individual levels. An either/or spotlight on only one side of these matters is not a recipe for progress.

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1 Newton, K. (2007). Social and political trust. In R.J. Dalton & H.D. Klingemann (Eds.), *Oxford Handbook of Political Behaviour*. Oxford: Oxford University Press.

2 For a discussion of the relationship between ethnic (in)equality and trust, see Eisenberg, A. (2007). Equality, Trust, and Multiculturalism. In F. Kay & R. Johnston (Eds.), *Social Capital, Diversity, and the Welfare State*. Vancouver: University of British Columbia Press.

3 See Ministry of Justice. (2010). *Public Confidence in the Criminal Justice System*. Retrieved from <http://www.justice.gov.uk/publications/docs/confidence-cjs-british-crime-survey.pdf>

4 For a summary of this history see Chapter 1 in McGhee, D. (2005). *Intolerant Britain? Hate, Citizenship and Difference*. Maidenhead: Open University Press.

5 Macpherson, Sir W. (1999). *The Stephen Lawrence Inquiry: Report of an inquiry by Sir William Macpherson of Cluny*. London: The Stationery Office.

6 For a summary see Bennetto, J. (2009). *Police and racism: What has been achieved 10 years after the Stephen Lawrence Inquiry report?* London: EHRC.

7 For instance see Runnymede Trust & Rollock, N. (2009). *The Stephen Lawrence Inquiry 10 years on an analysis of the literature*. London: Runnymede Trust., and Hall, N., Grieve, J., & Savage, S. P. (Eds.). (2009). *Policing and legacy of Lawrence*. Cullompton: Willan.

8 Newton, 2007.

9 See http://www.met.police.uk/scd/specialist_units/trident_trafalgar.htm

10 See Hall, Grieve and Savage, 2009.

11 Newton, 2007.

12 Home Office. (2009). *Home Office Statistical Bulletin 11/09 – Crime in England and Wales 2008/9*. All subsequent BCS data is from this source. Retrieved from <http://rds.homeoffice.gov.uk/rds/pdfs09/hosb1109vol1.pdf>

13 Tyler, T. (2005). Policing in black and white: ethnic group difference in trust and confidence in the police. *Police Quarterly*, 8, 322 – 342. For further development of this model see Hough, M, et al. (2010). Procedural Justice, Trust, and Institutional Legitimacy., and Jackson, J. and Bradford, B. (2010). What is Trust and Confidence in the Police? *Policing: A journal of policy and practice*, 4(3), 241 – 248. Jackson and Bradford argue that expressing ‘confidence’ in the police condenses a complex set of inter-related judgements.

14 Metropolitan Police Service. (2010). *Satisfaction gap between white and BME victims of crime, report to the MPA*. Retrieved from <http://www.mpa.gov.uk/committees/sop/2010/100304/09/>

15 Stanko, E. & Bradford, B. (2009). Beyond measuring ‘how good a job’ the police are doing. *Policing: A journal of policy and practice*, 3(4), 322 – 330.

16 See Myhill, A. & Beak, K. (2008). *Public confidence in the police*. Retrieved from <http://library.npia.police.uk/docs/npia/public-confidence-in-the-police.pdf>

17 This is drawn from Soroka, S., et al. (2007). Measuring and Modelling Trust. In Kay, F. And Johnston, R (Eds.), *Social Capital, Diversity, and the Welfare State*. Vancouver: University of British Columbia Press.



Policing the Big Society

Dr Michael Shiner
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In policing, the tension inherent in the localism model is crystallised in stop and search. The police have been ordered to cut bureaucracy and hand responsibility back to communities and citizens. What the Government wants to achieve with this, explains Nick Herbert, Minister of Justice for Policing and Criminal Justice, is to “exchange a costly form of bureaucratic accountability, which can be disproportionate in what it seeks to achieve relative to the burden that it imposes, for a stronger democratic form of accountability where the forces are accountable to elected individuals who have to answer for their performance and the way in which they conduct their policing”.¹ But shifting

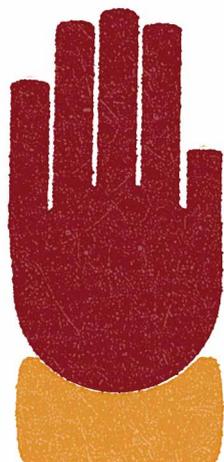
decision-making powers from the centre to ‘local communities’ does not automatically settle problems of democratic accountability, transparency, equality and rights. The Government has introduced changes to the monitoring of stop and search which will result in communities having less information on which to hold the police to account for their performance.

Changes to the Police and Criminal Evidence Act (PACE) code of practice, made earlier this year, see an end to the recording of stop and search and a reduction in the data collected on stop and search. Herbert claims that cutting all recording of stop and account will save 450,000 hours of police time per year, and reducing the recording of stop and search will save another 300,000 officer hours a year. This conjures up visions of officers, freed of ‘red tape’, getting on with the real job of fighting crime. Sounds good? The trouble is the figures don’t add up, and the claims are simply bogus. Worse, they ignore the fact that such cuts will reduce police accountability and damage community relations at a time when social tensions are likely to be exacerbated by deep public spending cuts.

When we break down the figures, it is clear that government estimates hugely exaggerate the time taken to record police stops. On average police officers conduct roughly two recorded stop searches or stop and accounts per month. Even if we accept the Government's grossly inflated estimates of how long recording takes, the proposed changes would save individual officers an average of around half an hour a month or 7 minutes a week. Our own estimates suggest a figure of less than half this. While actual savings promise to be minimal, the costs for policing, in terms of lost public trust and confidence, may prove high. Added to which, increasing numbers of forces are introducing handheld devices to record stops which cut paperwork while preserving accountability.

The changes will remove five pieces of information from stop and search forms, including name and address of the person stopped; outcome of the stop (fixed penalty notices, arrest, etc.); and any injury caused. Without this data, it will be much harder for the police and communities to determine how effectively stop and search is being used; whether it is targeting the right places and people; and to assess the validity of allegations of harassment and abuse.

Take the case of Ken Hinds, who won a judgment against the British Transport Police last year after being arrested for observing a



youth getting arrested. It later emerged that despite his work with police to tackle gang violence and to monitor stop and search practices, Hinds had been stopped himself over 100 times in the last twenty years. If name data is dropped from the forms it will be impossible to verify experiences like this.

The proposed reforms ignore critical lessons from the recent past. The recording of stop and account has been required since 2005 and was introduced because of the clear community concerns about the abuse of stops that emerged from the Inquiry into the death of Stephen Lawrence. These concerns have not gone away. Only last year, the Equalities and Human Rights Commission found that, nationally, Black people were at least six times more likely and Asian people around twice as likely to be stopped and searched as White people.

Stop and search may be a useful tool to fight crime, but it is not a race-neutral one. Uncontrolled and unmonitored stop and search can lead to stereotyping and discrimination, criminalizing and alienating minority communities. This is why accountability and transparency lay at the heart of the Stephen Lawrence Inquiry. An interview conducted with young people from the Second Wave youth project in South-East London shows that many young people strive to feel safe in spite of the police, rather than with help from them.² Law enforcement agencies must recognise the possibility that the costs of stop and search will start to outweigh the benefits, and that certain tactics may no longer be promoting the aim of creating a safer society for all.

Theresa May has stated that “the police service must accept a transfer of power over policing from Whitehall to communities”. Those communities who bear the brunt of stop and search tactics must also have their share of influence here. Without proper monitoring of these tactics, however, how can anyone be expected to reach an informed opinion about them?

For some, the most persuasive evidence that the Government has got it wrong may come from the police themselves. Several police forces, including the London Metropolitan Police Service — the biggest user of stop and search nationwide — have decided to keep using the full stop search form with all the information and hold a wide public consultation on the recording of stop and account. This decision recognises the importance of community scrutiny of stop and search and the operational value of stop data. It also highlights the politically motivated nature of the proposals.

With only around one-in-ten stop searches ending in arrest there is plenty of room for efficiency savings through better use of the power. This can be achieved by ending unfair and unproductive stops and searches of Black and Asian people and by ensuring fewer, but more effective, interventions. Detailed stop data is crucial to this end because it provides the basis for rigorous oversight and scrutiny, which increases both fairness and effectiveness.

The proposals on stop and search are part of the Government's localism agenda, but while claiming to give local communities a greater say in how they are policed, ministers are curtailing the information that is required to achieve this. It is also telling that the proposals are being pushed through without the normal public consultation. It is worth recalling that the PACE was introduced precisely to end the ‘postcode lottery’ that saw wildly varied powers and recording standards used by police forces across the country. Minimum standards provide a basic guarantee, and the equalities agenda should not be abandoned in the name of local control.

In the current climate of deep public spending cuts, which has already seen disorder in the streets of London, nobody, least of all government ministers, can afford to be complacent about trust and confidence in the police. What is required is more, not less, public accountability. While it is encouraging that some police forces are planning to maintain their recording of stop

and search, the Government should follow their lead and drop this ill-conceived proposal that threatens to do real damage to police - community relations.

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1 See <http://www.publications.parliament.uk/pa/cm/cmtoday/cmstand/output/deleg/dg01110202-01.htm>

2 See <http://www.runnymedetrust.org/events-conferences/econferences/ethnic-profiling-in-uk-law-enforcement/the-report/young-people-and-section-60/young-people-s-experiences-of-stop-and-search.html>



Trust and confidence in the criminal justice system: learning from South Africa

Simon Fulford

Khulisa is a Zulu word which means ‘to nurture the child’. In our view, nurturing is directly linked to trust and confidence and, while it is most often seen as an act between individuals (parent/child, teacher/pupil, employer/employee, etc.), we also believe that it applies on a community level. In this article, I will try to illustrate the links that we, as Khulisa, make between these concepts and how we apply them in the criminal justice system.

Khulisa was founded in South Africa in the mid-1990s when the country was facing an exploding violent crime epidemic. Post-apartheid, no one had guessed that once freedom had been won for non-White South

Africans the communities that had fought so hard to rid themselves of oppression would, in a sense, turn on themselves. Euphoria came coupled with an understanding that much of the social fabric had been decimated by brutal and racist apartheid policies. In an attempt to reconnect individuals with their heritage and cultural roots, Khulisa was born in Johannesburg’s Leeuwkop Prison. Our initial work with offenders was based on stories recorded by historian Credo Mutwa, harnessing the morals, values and life lessons embedded in traditional African tales. We soon added the philosophy of ‘ubuntu’, which loosely translates to mean ‘a person is a person through other people’. Subsequently, the redemptive power of restorative justice also became a key ethos of Khulisa.

Pro-social personal values and behaviour, ‘ubuntu’ and restoration are now the main concepts that underpin all our work. Not only do these help to develop understanding, restitution and acceptance between victims, offenders and their communities, they also help foster trust and confidence in both an individual’s ability to change and the community structures that support all people affected by crime.

In many ways, Khulisa takes a person-centred approach to building trust and confidence, changing communities one life at a time. Our models are based on the view that many people caught up in the criminal justice system have come from chaotic, abusive, neglected or under-resourced family or community environments where nurturing, trust and personal confidence have often been in short supply.

In essence, our approach is to enable (e.g. nurture and support) individuals to come to terms with certain aspects of their lives and to (re)build their trust in both themselves and others. We believe that this is a vital, if complex, step towards sustainable rehabilitation and/or building resilience in vulnerable individuals.

Expanding this process to the community, 'ubuntu' and restorative practices play their part in fostering trust amongst individuals and the institutions and people that support them, be these charities, churches, courts or companies.

From our research, backed up by a multitude of international studies which show the same, the rationale behind taking an integrated, systemic approach to crime prevention and rehabilitation takes account of the complexities that lead to offending behaviour. Youth and young adults feature prominently both as offenders and victims, demonstrating the victim/perpetrator cycle. High levels of unemployment among both offenders and victims point to the need for community intervention programmes for skills development and job creation. The majority of offenders and their victims know each other, highlighting the inherent need to rebuild trust and confidence for those affected.

An important factor in bringing our programme models to the UK was the need to 'prove' this 'African' approach, given that the standard development model is for the 'West' to export its solutions to the 'South'. In other words, we had to gain the trust and confidence of National Offender Management Service (NOMS) and the Home Office, individual prisons and local police, let alone the communities with whom we wanted to work. We had to demonstrate that something they did not know, and that on the surface looked a little different, was an effective way of preventing crime and rehabilitating offenders.

While our therapeutic techniques are all based on universally accepted methodology (Cognitive Behavioural Therapy, Coping Skills Treatment, Dynamic Model of Guilt, Motivational Enhancement Therapy, etc.) we approached a highly qualified local evaluator, Dr Nicola Graham-Kevan from the University of Central Lancashire, to independently evaluate our UK pilot work. Her initial findings demonstrate significant statistical improvement in participant coping skills and empathy, personal distress, anger management and aggression. Longitudinal studies will hopefully assess the wider impact on communities and recidivism. More importantly, the efforts we have taken to conduct these evaluations have demonstrated our willingness to open ourselves up to outside scrutiny and to build relationships of trust with a number of our key stakeholders.



Currently, our work in the UK is focused on developing effective prison and community-based offers of our Silence the Violence programme and ongoing support structures, based on our learning of what works and the aforementioned need to develop trust and system. From a systemic perspective, mutual trust between offenders and prison staff, NOMS and the voluntary sector, charities and their communities and, finally, communities, police and the offenders returning to their midst is essential. While not being idealistic or naive about the difficulties and challenges inherent in this work, without trust and confidence embedded as integral parts of all of these relationships, real change and delivering the Government's 'rehabilitation revolution' will be short-lived at best and ineffective or possibly counter-productive at worst.

Khulisa is proud to be demonstrating what we call a 'reverse development model', bringing tools for addressing violence in communities to the UK that have been extremely successful in Africa. We believe that as the UK looks to embolden a sense of community with the concept of a Big Society, many more lessons could be learned from the spirit of 'ubuntu' and other 'African' or 'developing world' approaches that foster trust and confidence. These are not only applicable in the criminal justice sector but also are more widely aimed at social regeneration. With BAME communities in particular, building on cultural heritage and the innovative application of such themes could play a significant contributory factor.

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Can democratic accountability increase BAME trust and confidence in the police?

Elizabeth Frimpong

The Police Reform and Social Responsibility Act was passed into Law on 15th September 2011. The Act has an emphasis on making the police more accountable, in addition to the aim of ensuring that the public are better informed with regular information about local crime. The Act also introduces the concept of democratic accountability and explains the process by which a Police and Crime Commissioner will be elected for each police authority by 2012. The process is designed to enable the police to target the priorities of local communities as opposed to targets set by Whitehall. A Police and Crime Panel will be implemented for each police service in order to advise and monitor the work of the

Commissioner. While there is hope that these measures will increase trust and confidence between the public and the police, there are various issues which must be considered regarding the needs of BAME communities.¹

BAME trust and confidence in the police: key issues

The quest for high levels of public confidence across all criminal justice matters should be the aim for any public authority, whether a person has been in contact with a service or not. However, many interweaving dynamics underpin the varying perceptions people hold about the police. These are informed by a number of factors including how a previous case may have been handled; the perceived and experienced effectiveness and fairness of any process; and whether there is meaningful community engagement. Acknowledging these perceptions and experiences can help to provide a wider understanding of public confidence in the police and may lead to improving community involvement on issues of crime.

The decision in 2010 by the Coalition Government to scrap indicators and measuring around confidence is problematic, specifically with regards to monitoring performance. Nevertheless, there are broader facets to explore when considering the aforementioned Act and its potential to garner greater levels of trust and confidence. For instance,

police responses to disclosures of sensitive information have sometimes negatively affected BAME communities and specific services for women. Evidence from two of ROTA's keystone projects, Restoring Relations Hate Crime Project and Female Voice in Violence, has respectfully highlighted how some police services have been unable to protect citizens from reprisals or handle cases with appropriate gender sensitivity when dealing with gang-related sexual violence or hate crime.

A discussion around the ability of police services to respond also brings about other considerations. On the one hand, it could be argued that the Act will allow the police to respond more adequately to the requirements of local needs, as the devolvement of powers will mean decisions are made closer to where they matter. This will require an inclusive approach as expectations among different ethnic groups are varied. Although this may add to already complex policing requirements, it is critical to ensuring that all local communities feel 'protected and respected'. In addition, the larger police services have become, the more distant and less responsive they can appear to be.² Consequently, in crimes where BAME people suffer disproportionately, such as hate crime, this perceived distance, alongside wider issues of 'under-protection', can alter the trust communities have in the police's ability or willingness to respond.

Furthermore, the overall treatment of ethnic minority groups in comparison to their White counterparts has been a contentious issue for many BAME people in their interactions with the police. The 'over-representation' of BAME people in stop and search is a more obvious example of this. It's not surprising to see that Home Office data indicates that BAME people feel that they are not afforded equal levels of fairness and respect by the police.³ If BAME people perceive they are on the receiving end of unfair treatment, one outcome of this may be a reduced likelihood of BAME people engaging with the police in dealing with matters around local crime and policing. While greater accountability may result in

more trust in the police to tackle crime, for many BAME groups this will only be achieved through increasing efforts to engage in a fair and equitable manner

Democratic accountability: barrier or opportunity?

With this in mind, we can now consider what can be done directly to increase trust and confidence in the police. It is important to consider whether the election process will act as a lever for more engagement or a barrier preventing BAME groups from having their say.

The process enabling local communities to vote for an elected commissioner may appear to be a fair method for incorporating public preferences of each local area. However, as previously discussed, low confidence in the police, coupled with lack of engagement, inclusion and involvement, may prove to be a barrier to participation of BAME groups. In turn, this may prevent BAME communities from choosing a commissioner who they feel will be best placed to represent their needs. With the new concept of democratic accountability, BAME communities will need to be assured that there is something new and different about local policing in order to be engaged.

Home Office evidence suggests that community engagement and better communication with the local public will increase confidence and trust in the police.⁴ The plans for information to be given to the community on local issues of crime may encourage more engagement. It has been



proposed that further research will need to be done to identify the most effective way of engaging BAME groups in neighbourhood policing.⁵

The Act also suggests that a reduction in bureaucratic practices will ensure that the police will be more readily available to meet the diverse needs of different communities. Yet instead of considering the needs of different BAME groups or proposing a tailored approach to engaging members of these communities, the Act adopts a one-size-fits-all approach.

Although the publication of crime data seeks to ensure better communication between the police and local community, it could also be problematic. It will need to be considerate of crimes, such as hate crimes, that may disproportionately affect BAME groups.

It is also worth acknowledging that certain parts of the Act may negatively impinge on BAME engagement. There are few BAME people in high level public leadership roles or as high ranked police officers, and thus, less chance that they will be in a position to run in an election. It is paramount that elected commissioners are able to represent the needs of diverse communities.

Recently, the 'Don't Snitch' campaign used posters to encourage Black members of the community not to report crimes to the police. While such campaigns are not representative of the views of all ethnic groups, they illustrate how campaigning can impact trust and confidence. More importantly, they provide anecdotal evidence of a persistent lack of confidence in the police. On the other hand, 'Don't Snitch' supports the argument for greater police accountability and thus, the notion of elected commissioners.

Conclusion

The Police Reform and Social Responsibility Act offers a broad and general solution to addressing public trust and confidence in the police. The notion of greater police accountability highlights a complete change in policing across the country. Nonetheless, the Act may overlook the underlying issues relating to the lack of confidence from BAME groups. Without specific approaches for addressing the lack of confidence felt by BAME groups, the Act runs the risk of continuing to exclude BAME groups from engaging with police structures. Similarly, less engagement may result in a decrease in the level of confidence in the police. A reliance on the old methods of community engagement may not be appropriate. Strategies must be carefully tailored to the needs of BAME groups.

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¹ Home Office. (2011). *Police Reform and Social Responsibility Bill*. Retrieved from <http://services.parliament.uk/bills/2010-11/policereformandsocialresponsibility.html>

² Hough, M. & Roberts, J. V. (2004). *Confidence in Justice: An International Review*. London: Home Office., cited in Jackson, J. & Sunshine, J. (2007). *Public Confidence in Policing: A Neo-Durkeimian Perspective*. *British Journal of Criminology*, 47, 2, 214-233.

³ Home Office. (2009). *Improving public confidence in the police: a review of the evidence*. Retrieved from <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/horr28/horr50-report?view=Binary>

⁴ Ibid, 2009.

⁵ Home Office. (2010). *The Equality Impact Assessment Report: Policing in the 21st Century: Re-connecting the police and the people*. Retrieved from <http://www.homeoffice.gov.uk/publications/about-us/impact-assessments/eia-policing-21stcentury?view=Binary>

Improving community confidence in the criminal justice system: an overview of recent policy initiatives

Lynne Townley

The issue of community confidence in our criminal justice system (CJS), and the CJS' ability to cope with the demands placed upon it, is well-documented and longstanding. For many years the issue went very much hand-in-hand with concern over apparent widespread civil disengagement within the BME (Black and Minority Ethnic) community. In 1981, in his report on the Brixton disorders of that year, Lord Scarman, noted that "racial disadvantage is a fact of current British life... Urgent action is needed if it is not to become an endemic ineradicable disease threatening the very survival of our society..." In 1999, the Macpherson Report on the murder of Stephen Lawrence referred to Lord Scarman's 1981

recommendations and concluded that "it is a sad reflection upon the intervening years that in 1998 - 99 those extracted words have remained relevant throughout both parts of our Inquiry".¹

The report of the Stephen Lawrence Inquiry went on to conclude that there was a clear need to re-establish trust between BME communities and the police in the wake of the failed investigation into the racially motivated murder of Stephen Lawrence.² The report was also clear that a demonstration of fairness was not sufficient to achieve the trust and confidence of BME communities, unless it coincided with a vigorous pursuit of openness and accountability not just by the Police Services but also across the CJS as a whole.³

In the decade since the Stephen Lawrence Inquiry, the issues of community engagement, liaison and accountability have been incorporated into the core business of all CJS agencies, namely the Police, Crown Prosecution Service (CPS), Her Majesty's Courts Service (HMCS), Probation and Youth Offending Teams. In successive Public Service Agreements, the Government has been consistent in reiterating that it is committed to delivering a more effective, transparent and responsive criminal justice system both for victims and the public.⁴



Specific performance targets and objectives relating to public confidence have also been put in place in all CJS agencies. The Police, as the largest CJS agency, dedicate considerable resources to general community liaison projects and neighbourhood policing. The police have also built up a network of Independent Advisory Groups which have advised on a number of specialist thematic areas over the last ten years. Additionally, CPS areas have set up dedicated community liaison panels.

In recent years, the CPS panels have become increasingly specialised. For instance, groups are now dedicated to discussing particular types of crime (such as hate crime and crimes relating to anti-social behaviour). An example of this focused approach to community liaison is the Hate Crime Scrutiny Panel established by CPS London in May 2008.⁵ This development is indicative of the general trend by CJS agencies to employ a more focused approach towards community engagement by concentrating on issues that tend to cause most concern to the public. As a result of the lessons learnt over the past 10 years, agencies can now focus their already scarce resources where they are likely to have the most impact on community confidence.

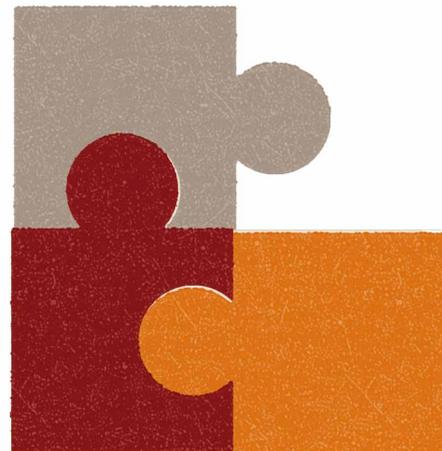
Setbacks followed by a re-invigoration of policy

There have been successes and some setbacks over the past 10 years for the CJS and its agencies. We have undoubtedly progressed on from the high profile cases involving miscarriages of justice during the early 1990s and from the systemic failures as highlighted by the Stephen Lawrence Inquiry. However, a number of recent high profile cases have indicated that operational failures can still happen, and that CJS officials can sometimes misunderstand situations and consequently fail to serve communities. There is still room for improvement, and while it is unfortunate, it must be remembered that it only takes one high profile failure to undo the benefits of years of sustained work.

By way of example, let us consider the murder of Banaz Mahmood. Banaz was the daughter of a family of Iraqi Kurdish refugees. In 2006, she was raped and murdered by members of her family in horrific circumstances. The murder was labelled an 'honour killing' by prosecutors because the motive for the crime was the loss of family honour occasioned when Banaz had entered into a relationship with a man not approved of by her family, following her failed arranged marriage. While Banaz's father, uncle and another male relative were later convicted of her murder following an extensive and successful police investigation, individual police officers were criticised for their earlier dealings with Banaz, who had made contact with the police to report concerns about her safety prior to her murder.

From 2005 until the day before her murder in 2006, Banaz had made contact on five separate occasions with police officers and staff from the Metropolitan Police Service and the West Midlands Police. She had informed officers that she was in fear of her life from members of her family. No action was taken to address the risk to Banaz's safety, and she returned home to her family. A later investigation into the case by the Independent Police Complaints Commission found that there was a lack of awareness within the police forces about the trigger factors of domestic violence and the impact that cultural issues could have on outcomes. Police forces were also advised to develop awareness through training and community partnerships.⁶

Hence, it is apparent that ten years on from the Stephen Lawrence Inquiry, there still exist challenges for CJS agencies in respect of the service that they provide to the many and increasingly diverse communities in modern Britain. The Government has responded to ongoing need to improve in this area by commissioning reviews of policing and community confidence in 2008. The resulting Green Paper by Sir Ronnie Flanagan recommended a substantial review of policing, placing emphasis on delivering on local priorities and giving the public a greater say in what they can expect from their local police team.⁷



In her review of community confidence in the CJS, Louise Casey recommended a similar focus on issues of local concern and reported that the public were, in general, disillusioned with the service provided to it by the CJS as a whole.⁸ In response, the Government renewed its pledge to increase public confidence in the CJS and launched a Green Paper, 'Engaging Communities in Criminal Justice', in April 2009.⁹

This paper echoed the findings of the Macpherson Report, namely that the delivery of justice needed to be more transparent, more responsive and accountable. It also repeated one of the key findings of the Macpherson Report that justice must not only be done but also be seen to be done. Against that background, the Paper outlined a number of initiatives designed to increase public confidence in the CJS, including a further roll-out of a pilot scheme, known as the 'Community Justice Approach', that was already operating in a number of areas. This initiative concentrated on crimes involving anti-social behaviour and focused on how offenders could make amends for their offending by way of Community Payback Schemes, asset recovery, reparation and restorative justice. The Paper also recommended an enhanced role for the CPS in the overall CJS community engagement strategy by way of the introduction of dedicated 'community prosecutors'.

The 'Community Justice Approach'

Over the past few years criminal justice agencies in North Liverpool and Salford, and in 11 other selected areas in England and Wales, have been piloting a so-called 'Community Justice Approach' to tackle, deal with and attempt to reduce the kind of offending which causes most concern to local communities. Based on eight principles, the 'Community Justice Approach' was developed by the Red Hook Community Justice Centre in New York. Following fact-finding visits by delegates from the various CJS agencies to the Centre, the principles (set out on page 28) were adopted in the designated pilot sites. The 13 pilot sites were selected due to their levels of deprivation, the extent to which residents were concerned about crime and their population size.

The eight principles of Community Justice ³⁰

Courts connecting to the community.

There should be significant liaison between the courts and the local community so that the community is able to put forward its views, and the court has a view of the wider context of the crime.

Justice seen to be done.

Better information about the criminal justice services so that local people have an opportunity to put forward their views on the way offending is tackled. Compliance with the court's orders or other penalties should be seen and recognised by the community.

Cases handled robustly and speedily.

Harnessing the combined potential of a range of agencies working together, meaning increased speed and ensuring offenders begin sentences promptly.

Strong independent judiciary.

Enabling the judiciary to lead the problem-solving approach and maintain oversight of offenders' progress after sentence.

Solving problems and finding solutions.

Making use of a range of available service providers in order to tackle the underlying causes of offending. Problem-solving can operate both at a community level – tackling safety concerns raised by local people – and when dealing with individual offenders at court.

Working together.

A team approach to decision making and dealing with offenders. Ensuring that a range of agencies, necessary for problem-solving, are available to the court, delivering an end-to-end service to offenders, victims and the community.

Repairing harm and raising confidence.

Seeking the views of the community on what projects should be carried out by offenders on unpaid work. These unpaid work projects should then be badged once completed so that the community can see what has been achieved.

Reintegrating offenders and building communities.

Improving social bonds and cohesion within the community. Developing pathways to support the reintegration of offenders back in to their community.

In all of the areas where this model has been implemented, the CJS agencies work hand-in-hand with other organisations, support services and community groups to solve the problems caused by offending in the local area. In North Liverpool, the magistrates' court and all the other CJS agencies are located in the same building, the North Liverpool Community Justice Centre. Dedicated courts are presided over by district judges trained in the principles of community justice.

The Government has indicated, however, that due to spending cuts across the public sector and the resulting need to curb expenditure, such an intensive and very local approach to community justice as operated in the pilot sites will not be rolled-out in all areas of the country. In future, resources will be focused on areas of greatest need, and different models will be applied to different areas depending on local needs and circumstances. Whether there will be a knock-on effect on public confidence in areas where a less intensive community justice model is put into operation will remain to be seen.



Enhancing the role of the CPS: community prosecutors

The 'Community Prosecutor' initiative was rolled out in 49 pathfinders sites by the CPS to coincide with the launch of the Green Paper in April 2009. A 2007 survey had indicated that only 24% of members of the public could identify the CPS as one of the agencies making up the end-to-end criminal justice service.¹¹ The Government identified this as a weakness in its strategy to improve community confidence. Under the Green Paper proposals, the creation of specialist community prosecutors was viewed as fundamental to the long-term success of any local 'Community Justice' model.

Community prosecutors will prosecute in their local magistrates' court and will operate within a specified geographical area. They are expected to liaise with the police and other local agencies in order to develop an expertise in dealing with the types of crime that most impact upon their local communities, such as crimes resulting from anti-social behaviour. While experience has shown that these kinds of crime tend to have the most impact on local communities, many of these crimes (such as low level public order and criminal damage offences) tend to fall into the category of high volume crime to which the least resources tend to be dedicated. The knock-on effect in relation to public confidence is perhaps obvious. Community prosecutors aim to seek to address this issue. They will be available to advise the police on early stages of investigations, to prepare cases for court and to provide assistance for victims and witnesses. Community prosecutors will also be the public face of the CPS, representing the service at multi-agency and community events. This ambassadorial role is designed to raise the public profile of the CPS as it operates within the CJS.

The community prosecutor structure has now been in place for one year. The overall commitment of the CPS to community confidence was underlined by the appointment of a national Community Liaison Director in January 2010. The Director is currently co-ordinating an evaluation of the 49 community prosecutor pathfinders sites, and a full report on the initiative is scheduled for this summer. Initial findings have indicated that there is still a lack of understanding locally as to the role of the community prosecutor, and that there are significant inconsistencies between areas as to how the current structure operates.

Recently, the CPS Community Liaison Director has also identified a further issue which will need to be addressed if levels of community confidence are to be maintained. It has become apparent that while CJS agencies have responded to previous criticisms and built up good channels of engagement with BME communities, a rising number of other 'hard to reach' groups are currently disengaged from the CJS. These are the young, the economically deprived (the bottom 20% of society in financial terms – called 'low income families' by Government), White minority communities, disabled communities and the elderly at local level. Bridging this gap is likely to be challenging and will place yet a further burden on already limited 'Community Justice' resources.

Conclusion

While the CJS agencies have undoubtedly made inroads into addressing the issue of community confidence in the years since the Macpherson Report, it is apparent that many challenges still exist. These challenges are likely to become greater in a climate of dwindling resources and reduction of budgets across government departments. It is clear that if the achievements of the past decade are to be sustained, any future government will need to ensure that the issue of community confidence is kept at the forefront of the CJS policy strategy. New initiatives will also need to be kept under constant review and refreshed if they become obsolete or no longer fit for purpose.

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- 1 Macpherson, Sir W. (1999). *The Stephen Lawrence Inquiry: Report of an inquiry by Sir William Macpherson of Cluny*. London: The Stationery Office.
- 2 The Inquiry concluded that the operational failings of the police in crucial aspects of their investigation into the murder were compounded by institutionalised racism, which was endemic within the Metropolitan Police force.
- 3 Macpherson, 1999.
- 4 HM Treasury. (2009). *PSA Delivery Agreement 24: Delivering a more effective, transparent and responsive Criminal Justice System for victims and the public*. Retrieved from www.hm-treasury.gov.uk/d/pbr_csr07_psa24.pdf
- 5 Crown Prosecution Service. (2009). *Capital News*, 58.
- 6 Independent Police Complaints Commission. (2008). *Independent Investigation – Executive Summary: Contact between Banaz Mahmood and the Metropolitan Police Service and the West Midlands Police September 2005 – January 2006*. London: IPCC.
- 7 Flanagan, Sir R. (2008). *From the neighbourhood to the national: policing our communities together*. Retrieved from http://police.homeoffice.gov.uk/publications/police-reform/Policing_GP/
- 8 Cabinet Office. (2008). *Engaging Communities in Fighting Crime: A review by Louise Casey*. London, Cabinet Office. Retrieved from www.cabinetoffice.gov.uk/crime.aspx
- 9 The Ministry of Justice, The Home Office and Office of the Attorney General. (2009). *Engaging Communities in Criminal Justice*. London: The Stationery Office.
- 10 Berman, G., Rampel, M., and Wolf, RV (Eds). (2007). *Documenting Results: Research on Problem-Solving Justice. A Collection from the Centre for Court Innovation*. New York: Centre for Court Innovation Press.
- 11 Ministry of Justice. (2007). *Confidence in the Criminal Justice System: What lies beneath?* Retrieved from www.justice.gov.uk/publications/docs/criminal-justice-system-report.pdf



Rebuilding trust through restorative justice

Elena Noel

Over the years I have asked myself, ‘what is justice to those affected by hate crime, who, by the very acts perpetrated upon them, are left feeling excluded and marginalised from their community? When these very acts are underpinned by messages of ‘you don’t belong’, or ‘you are not wanted here’ – what does this mean for the individual’s sense of belonging?’

The themes of fairness, justice, equality and anti-discriminatory practice very much underpin the ethos that defines restorative justice approaches to building trust and confidence. Partnership working, community cohesion, empowerment and engagement

are tools that help practitioners fulfill our mission. However, sometimes the voice of those directly affected gets lost in the bureaucratic processes of the system. To make matters worse, a lack of regular case updates on progression and outcomes can lead to feelings of re-victimisation and bewilderment for those undergoing a case in the criminal justice process.

Case study Race hate crime

Catherine¹ and her partner, Black tenants in their 50s, were experiencing racial abuse from a White male neighbour for many years. Catherine and her partner had reported incidents for many years and saw no difference to the situation. Over this period, they had experienced harassment from a previous and existing neighbour. She now felt the professionals she had reported incidents to did not believe her claims and had not logged all her reports. She became quite resolute in her decision to not fill any further incident logs, despite numerous requests from her landlord and the police. Through this experience, Catherine and her partner developed a deeply ingrained mistrust of agencies ‘who merely talk’ and a total lack of belief that their circumstances would change. Catherine said: “Elena was it really worth all the time it took logging incidents to see no action taken?” She described the very graphic toll upon her health and how her

home felt like her prison and a source of daily and nightly torment, racial abuse, noise and threats.

This led me to ask myself: ‘what is justice in this context? How could I address her issues of alleged institutional abandonment and injustice and restore her faith and confidence enough to report incidents and to see the value of keeping a written log?’ Showing empathy to her situation and actively demonstrating I heard her concerns, I achieved success in explaining to her how the Local Authority and criminal justice system worked. It was also necessary to describe some of the legislation and information sharing protocols and the importance of evidence gathering. A new agreement was made to keep a log for a few weeks. Trust was slowly built as we worked closely with other agencies to successfully stop the perpetrator from causing further harm and re-victimisation.

Sadly, because many clients feel let down by the system, and because appropriate methods of engagement are not always applied, we may not ever know how many people have experienced Catherine’s story. Reporting is especially low in LGBT communities and less established BME communities who do not have English as a first language. Clients are sometimes confused as to why their case ended up with no further action (NFA), when they and others gave credible witness statements. Some have no awareness that for some years now it is the Crown Prosecution Service and not the police who decide whether a case proceeds to court based on available evidence.

For those who have been through the court process where the case reached an unexpected outcome, a feeling that justice was not done often remains. Thus, anger, anxiety and fears about future reprisals lay uppermost in the minds of those harmed. This can fuel a lack of trust and increasing tensions in the community.

Building trust and confidence through mediation and restorative justice approaches

Restorative justice approaches can be of benefit to individuals and communities in addressing conflict and monitoring tensions. Those who use a restorative approach do not necessarily want to take legal action. Their aim is more often to seek peaceful living and gain answers as swiftly as possible. The restorative justice joint mediation session is a voluntary, non-judgemental and confidential process where those experiencing the harm and those who cause it meet with the mediator in a neutral space to explore and reach a resolution.

Those experiencing harm are able to share the impact of the incident upon them and those close to them. Through the process, they are given the chance to understand why they were targeted and are given assurances that the incidents will stop. This process may not always be achieved through the court process. Justice is very personal to the individuals concerned. In the 15 years I have been a practitioner, the outcomes and written agreements from joint mediation sessions where those who have been affected by harm and those who caused it have chosen to meet—and where the perpetrator is involved in the solution—could not be predicted in advance. No outcomes are ever the same.



Seeing the process of respectful, future-focused dialogue achieve the desired outcomes for the parties involved still remains captivating and enlightening. Both parties, especially those who experienced the harm, have described the restorative process as an empowering one. For those who have caused harm, coming face-to-face with those harmed is never easy. Mediation is therefore not a ‘soft option’. For this reason, hate crime mediation remains very challenging work.

Reporting hate crime is important, providing a true reflection of what is occurring in neighbourhoods and estates. If success is to be achieved, service delivery to those affected needs to engender trust and community confidence, especially for those reporting for the first time. Early intervention and prevention is essential in building trust and confidence. Multi-agency partnership models have been effective in this arena as well.² Mediation can also play a critical role in this process, where appropriate, alongside necessary provisions such as respect for confidentiality and regular updates.

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Tenets of restorative justice

- The multi-agency partnership model (used by Southwark Mediation Centre) is effective in preventing further victimisation and assisting those harmed to feel safe in their home and community²
- The right questions will be asked
- Confidentiality will be respected
- Any incidents reported are logged and investigated. Tenets of restorative justice work are believed, and not treated as a nuisance – so trust and confidence can be built
- Regular updates are given by mediators or court staff about case progression and outcomes
- Where cases are NFA or court action dropped, people will be given the reason why, with the opportunity to ask questions
- Ask what additional support may be needed, e.g. counselling, housing support etc., and to signpost to appropriate organisations
- Offer mediation (where appropriate)
- Where mediation is not applicable or not engaged by one of the parties, those harmed and those causing the harm to be made aware of anti-social behaviour and harassment protocols and other legally enforceable measures that can be considered/taken

¹ Catherine not real name of client, used to protect client identity.

² Interim best practice findings from extensive research by Mark Walters, PhD Student, Oxford University, into the Hate Crimes Project, Southwark Mediation Centre, London 2010.

SUPPLEMENT

Supplement is a biannual publication for London's Black, Asian and minority ethnic (BAME) communities and the BAME voluntary and community sector, focusing on a topical policy and practice area to share knowledge, raise awareness and highlight good practice.

The Transformative Justice Project is a cross-sector, multi-agency partnership established to address hate crime in the community through the principles of restorative justice.

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Race on the Agenda

Race on the Agenda (ROTA) is a social policy research organisation that focuses on issues impacting on Black, Asian and minority ethnic (BAME) communities. As a BAME-led organisation, all ROTA's work is based on the principle that those with direct experience of inequality should be central to solutions to address it. Our work is actively informed by the lived experiences of BAME communities and their organisations.

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