

CENTRE FOR CRIMINAL JUSTICE STUDIES

ELEVENTH ANNUAL REPORT

1998-99

INTRODUCTION

The Centre for Criminal Justice Studies has been established since 1987. Its object, as set out in its Constitution (see *Appendix 1*), is the pursuit of research and study into all aspects of criminal justice systems. This remit, as undertaken by the Executive Committee (see *Appendix 2*), has in practice included the encouragement of postgraduate students and research projects, and the arrangement of seminars and conferences. The Centre's members comprise both lawyers and non-lawyers, and its work is generously assisted by an Advisory Committee, which consists of academics and practitioners in relevant fields of experience (see also *Appendix 2*).



This Annual Report provides a résumé of some of the activities of the Centre from 1 October 1998 to 30 September 1999. Research output, postgraduate supervision and conferences have continued to predominate in our work during this period. Session 1998-99 saw the highest number of postgraduate research students who completed their theses. In addition

the class of MA (Criminal Justice Studies) graduands was also the largest since the course started in 1993. The MA scheme is highly acclaimed within the UK and has also developed an international reputation. It is, we believe, distinct from criminology based programmes by nature of its interdisciplinary balance between law and social sciences and its interplay between theoretical perspectives and close links with professional interests.

Our staff have continued to feature prominently through their research output in academic and public debates in criminal justice and criminology. Amongst the research work undertaken this year was the publication of a report on 'Victim Contact

Work in the Probation Service' (see *Appendix 5* for order details and *Appendix 6* for this and other research working papers), as well as books and papers in the field of criminal law, human rights, miscarriages of justice, policing and victimology. Several of us have also worked with the Home Office, Home Affairs Committee of the House of Commons and the police to develop Internet policy.

Our public seminar programme for the coming year is set out in *Appendix 3*. Looking back to 1998-99, we hosted in March 1999 at the College of Ripon and York, St. John. York the British-Irish Law and Technology Association's annual conference. The main conference theme was *Crime, Criminal Justice and the Internet*. Prominent speakers included Geoff Hoon (then Minister at the Lord Chancellor's Department), Nadine Strossen (President, American Civil Liberties Union) and Keith Akerman (Chair, ACPO Computer Crime Committee). Several of the conference papers have been published in a Special Issue of *International Review of Law Computers and Technology*, (vol. 13, no, 2), edited by Dr David Wall. A number of other important events were held, including a conference on *Distraction Burglaries against Elderly Victims* in August 1999, as well as our very full public seminar series (see *Appendix 4* for details). The University of Leeds also played host in September 1999 to the Society of Public Teachers of Law Annual Conference. Our involvement (both in convening and contributing papers) in the Criminal Justice Panel was substantial; offers of themes and papers for the 2000 event (to be held at the University of London) would be most welcome.

Reflecting the standing of researchers within the Centre, we have also received invitations to many outside institutions and events, ranging from the University of Cambridge to Houston, Texas. In turn, we would welcome applications from visiting scholars to spend some time here in Leeds (see *Appendix 7* for details of how to apply).

A further development has been the foundation of the Leeds Criminal Defence Liaison Group in autumn 1998. The Group consists of a mixture of legal practitioners and criminal justice academics, meeting relatively informally to discuss recent controversies and developments in the criminal justice system.

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THE WORK OF THE CENTRE

APPENDIX 1: CONSTITUTION OF THE CENTRE FOR CRIMINAL JUSTICE STUDIES

APPENDIX 2: MEMBERSHIP OF THE CENTRE

APPENDIX 3: SEMINAR PROGRAMME FOR 1999-00

APPENDIX 4: CONFERENCE PROCEEDINGS 1998-99

APPENDIX 5: CENTRE RESEARCH PAPERS FROM THE CCJS PRESS

APPENDIX 6: WORKING PAPERS

APPENDIX 7: VISITING SCHOLARS

THE WORK OF THE CENTRE

A Research projects

The following substantial research projects are currently in progress:

Client and Practitioner Perceptions of Legal Service Delivery

David Wall in collaboration with Hilary Sommerlad of Leeds Metropolitan University is conducting research into client and practitioner perceptions of need in relation to quality performance indicators for legal aid delivery. This project is being funded by the Law Society of England and Wales and seeks to compare differences and similarities between practitioner and client perceptions of quality legal services.

Commercial Victims and Political Violence

Following the IRA bombings of the City of London in 1992 and 1993, action was taken by the Government to stabilise the insurance market so as to ensure that cover remained available for commercial properties. Clive Walker received a grant from the Airey Neave Trust (£16,500) to research into the working of the arrangements. Martina McGuinness was appointed as full-time research student and mainly researched the political and reinsurance aspects of the project. Clive Walker has concentrated on the security aspects. The final report of this research has now been submitted to the complete satisfaction of the funding body. Martina, now located at the University of Leicester, is about to produce her PhD thesis and then we then wish to explore the possibility of a monograph on the subject by the end of 1999.

Comparative Community Safety

Adam Crawford's research into crime prevention and community safety has recently developed a significant comparative dimension. In 1998 he was commissioned by the Northern Ireland Office to write a report on comparative community safety structures and to evaluate community safety structures and policies in Northern Ireland. Both reports will be published as part of the Northern Ireland Criminal Justice Review. In addition, he has developed a continuing involvement in developments in France notably through contacts at the Institut des Hautes Etudes sur la Sécurité Intérieure, in Paris. He has contributed to a number of conferences on such themes in France over the past year and is developing a research network to explore further funding opportunities.

Devolved Justice: Aboriginal Alternatives to Criminal Justice

The Foundation for Canadian Studies has funded David Wall (in collaboration with the Centre for Canadian Studies) to explore the increased use of the aboriginal justice circle in Canada. Based upon fieldwork conducted in Canada in 1998, it first considers the issue and mechanisms of devolving justice and then seeks to understand whether devolved justice methods constitute access to, or exits from, justice.

Family Contact Centres and Parents in Conflict

Clare Furniss is engaged in a three year project, funded by the Nuffield Foundation, which aims to evaluate the services provided by different types of family contact centres in England, Wales and Scotland. There are now well over 200 contact centres in this country, run by different organisations in different ways. The main aim of contact centres is to "provide a place where parents can have contact with their parent(s) in a safe, neutral place where no other viable option exists" (NACCC, 1994). In brief, the objectives of this project are: (a) to assess the parents' views of the facilities provided at different types of centre; (b) to examine the reasons for the families' referral to the centre and to reflect upon whether the contact centre's services can help to address or minimise problems lying behind the referral, and which required the attention of other support services; (c) to monitor the changes in contact arrangements following referral to the centre, both in the short term and on a longer term basis, and to ask parents to reflect upon whether the services provided by the centre had any effect on these arrangements; (d) to examine the referral process, looking at referral guidelines, screening policies, and family preparation; (e) to explore resource implications of referral of families to a contact centre and to highlight improvements which could be made in the provision of this service; and (f) to compare the provision of services in England with that in other countries. The project's methodology incorporates both quantitative and qualitative methods. As well as a literature survey, there will also be a postal / telephone data collection to look briefly at the sorts of other services, if any, provided for families with similar problems to those who commonly attend a contact centre.

New Public Management and the Administration of Justice in the Magistrates' courts

The project, funded by the Lord Chancellor's Department, addresses the impact of the changes brought about by the Police and Magistrates' Courts Act 1994, especially in relation to: the alteration of Magistrates' Courts Committee Areas; membership of

MCCs and the conduct of their business; the role of the Justices' Chief Executive. More specifically it explores the restructuring of the magistrates' courts in England and Wales and the impact of the role of the Chief Executive of the amalgamated Magistrates' Courts areas. The research team comprises Ben Fitzpatrick, Peter Seago and David Wall.

People Trafficking, Organised Crime and Criminal Justice: EU Responses

Jo Goodey has been awarded a Marie Curie Individual Research Fellowship by the European Commission to undertake research for a two year period from February 2000 on 'People Trafficking, Organised Crime and Criminal Justice: EU Responses'. For the duration of the Fellowship she will be based at the United Nations Office for Drug Control and Crime Prevention in Vienna.

Police National Legal Database Consortium

A team from the West Yorkshire Police has established a wide-ranging database of legal information for police officers. The Centre for Criminal Justice Studies acts as auditors of the data, and Clive Walker is the principal grant holder, the co-ordinator and the primary researcher. The success of our work has encouraged interest from other police forces, and a similar agreement to provide advice was made in late 1995 with the British Transport Police. Income of over £5000 has been generated. A number of academic papers have arisen from the research for the police, for example, "Internal cross-border policing" (1997) 56 *Cambridge Law Journal* 114-146.

Policing the Virtual Community 1999-2000 - Home Office

This project being researched by David Wall surveys existing police and security forces to look at current Police initiatives into existing strategies for the policing of the internet - The findings will initially be for police use only, although it is anticipated that publication clearance will be given after a period of time has lapsed. In addition to providing a tool which will develop good practice, the broader findings of this work will also act as a pilot project for future research funding that will be sought by a consortium which includes academics and Government agencies from both the UK and also the USA.

Reporting of Criminal Proceedings in Scotland and the Contempt of Court Act 1981

This project was originally funded by the Leverhulme Trust. The study was directed by Clive Walker with the assistance of a full-time research officer. The aim was to investigate the frequency and nature of orders under sections 4 and 11 of the Contempt of Court Act 1981 which in some way restrict or postpone the reporting of Crown Court proceedings. A survey of 8 courts was undertaken. A report was prepared, and a full version of the findings has been published. Further fieldwork research is now being carried out in Scotland (where the courts have agreed to keep a record of relevant cases). More recent work has involved study of the new audio-visual media (satellite and internet) and their possible impact on court reporting, and some papers have been published. Wider publication in the form of a book together with Ian Cram has been agreed with Oxford University Press.

Restorative Justice

Related to his victim/offender mediation research Adam Crawford is developing a research programme into 'restorative justice'. This connects with the forthcoming publication (with Jo Goodey) of an edited collection, *Integrating a Victim Perspective within Criminal Justice* (Ashgate, 2000), which brings together leading international commentators to consider issues relating to victims and criminal justice and the place of restorative justice. He has written a chapter (with Todd Clear) for an edited collection arising from the Second International Conference on Restorative Justice for Juveniles held in Fort Lauderdale in 1998. The collection, edited by Bazemore, G. and Shiff, M. will be entitled *Community and Restorative Justice: Cultivating Common Ground* (Anderson Publications).

The Introduction of CCTV Cameras into Several Areas of Leeds.

Nick Taylor is conducting a project considering the introduction of CCTV cameras into public spaces in certain locations in the Leeds area. This is part of a postgraduate degree scheme at the University of Hull. The research will consider the objectives, design and operation of these schemes and the question of how and why the areas of Chapeltown and Harehills have been chosen as sites for CCTV.

The Theft of Electronic Services 2000 - DTi Foresight Initiative

This "blue skies" project being researched by David Wall will explore the criminological implications of the shift in patterns of electronic goods consumption from the consumer durable towards the concept of electronic service delivery. Particular focus will be upon the provision of "free kit" to those who undertake a long-term tie-up with the service provider. Although these marketing ideas are not entirely new, the threat lies in the sheer volume and breadth of anticipated electronic services which will greatly proliferate as new information and communications technologies develop. Consequently, they will increasingly become targets for criminals. It is anticipated that the shift in emphasis from the consumer durable to the consumer service itself, will affect both the architecture and also patterns of particular types of theft by creating new patterns of offending and new offender and victim profiles whilst destroying existing ones.

UK Law Online: The UK Legal System on the Internet

(<<http://www.leeds.ac.uk/law/hamlyn/>>)

This project has been funded during the past year by the Hamlyn Trust (£12000). It was conceived by Clive Walker, but the production of materials owes a great deal also to Yaman Akdeniz. The main object is the raising of public awareness, appreciation and understanding of the English, Scots and Northern Ireland Legal Systems ("UK Legal System") by use of the medium of the Internet. The project will involve the creation of a world wide web page, initially at the Leeds Law Faculty, and this web site will promote the UK Legal System on the Internet. We will try to educate the public as to the nature and availability of their legal system by providing complex legal information in a comprehensible way. The users will have direct access to our team by electronic mail, but the project is not intended for individual legal advice. Rather we intend to offer generalised education and the improvement of knowledge

on important legal issues. The work is reported at Walker, C., and Akdeniz, Y., (1998) "UK Law Online: the legal system on the Internet", *Amicus Curiae* (1998) 11, 6

Victim/Offender Mediation

Adam Crawford is continuing to write up the findings from the ESRC funded research into Victim/Offender mediation in England and France, with particular regard to differences in legal culture. He has a number of forthcoming articles on the subject. More recently he has explored the research study's empirical findings in relation to subsequent socio-legal developments in both countries. The final report submitted to the ESRC was graded by external assessors as 'outstanding'.

Victim Contact Work and the Probation Service

Adam Crawford and Jill Enterkin have published a report of the full findings of the Nuffield Foundation funded research into victim contact work in the Probation Service. The research considered the implications of the 1990 Victim's Charter's obligation upon Probation Services to contact the victims, or their families, of life sentence prisoners and those who have committed 'serious violent or sexual offences', prior to any consideration of the offender's release to enquire whether they: 'have anxieties about the offender's release (particularly when it may be appropriate to meet these anxieties by imposing restrictions on where the offender lives, works or goes)'. The fieldwork focused on the practice response to the Victim's Charter requirements of two Probation Services: West Yorkshire and Northumbria, both of which have in place nationally recognised, coherent and yet different models of victim contact service delivery. Feedback meetings were held in March 1999 in both research sites to which all of those interviewed in the course of the research were invited. The final report was submitted to the Nuffield Foundation in June 1999 and the report of the full findings was published in July 1999. The report has significantly informed the deliberations of Her Majesty's Inspectors of Probation (HMIP) who have conducted a thematic inspection into victim contact work in the probation service. The HMIP will publish their report in the spring of 2000. Papers from this research were presented at the British and American Society of Criminology conferences in 1999 and at a CCJS meeting in late 1999. These explored some of the ambiguities and tensions in translating well-intentioned policy initiatives concerning the needs of victims into the delicate balance of criminal justice, notably that between the state and the offender, are being explored. They are currently writing up the findings for publication in academic and practitioner journals. They are particularly exploring the impact of victim contact service upon victims, the management of offenders and the probation service.

Young Migrants and Crime

In November 1998, Jo Goodey was awarded a European Science Foundation grant for 1999-00 to undertake developmental research with a six-country EU team on 'Young Migrants and Crime'. Dr Goodey is the project leader. To date the team has met in Leeds, Freiburg (Germany) and Malaga (Spain), and is in the process of writing an application for EC Framework V funding to undertake extensive and long-term fieldwork in the six countries from 2002.

B Postgraduate students

(a) Study facilities

There are three postgraduate student annexes (one for taught course students and two for research students, all with computing and social facilities. Within the Law Library, there is a special Criminal Justice Studies Room (including most of the Kenneth Elliott collection), as well as three computer clusters.

(b) Postgraduate research degree schemes.

The Centre wishes to encourage applications from anyone wishing to pursue research into the criminal justice system. This subject may be taken to include, for example, the judiciary, the prosecution system, the police and policing authorities, the prison and probation services, the courts and the judiciary, criminology and penology, criminal law and terrorism, victims and mediation. Any relevant research topic in these or related areas will be considered. A number of possible areas of research have been considered with our Advisers and can be suggested on request, but applicants are not precluded from devising their own proposals. Comparative studies will be considered. The work of students may be assisted by practitioners in our Advisory Committee or by other contacts in the field. Formal instruction in research methodology is provided as a standard training package, and joint supervisions in interdisciplinary subjects can be arranged. Some scholarships are available, and the Centre has been recognised as a Mode B institution for the receipt of E.S.R.C. scholarships (Mode A application pending).

The relevant degree schemes on offer (all by research and thesis only) are as follows:

Master of Arts (M.A.) - one year full-time or two years part-time;

Master of Philosophy (M.Phil.) - two years full-time or three years part-time;

Doctor of Philosophy (Ph.D) - three years full-time or four years part-time.

The entrance requirements common to all three schemes are that applicants must normally possess a good honours degree, but those with professional qualifications or substantial professional experience will be considered. The detailed regulations governing the above degree schemes are available on request.

(c) Current postgraduate research students

Healey, Dominique, B.A. - The Treatment of Criminals in China, with Reference to Chinese and International Concepts of Individual Human Rights and Freedoms (Ph.D., October 1993, part-time)

Pocsik-Haslewood, Ilona, LL.M. - Probation in Transition (Ph.D. December 1994, part-time)

Barton, Patricia LLB., M.A. - Police Accountability, Consumerism and Commercialism (Ph.D., October 1995)

Demir, Huseyin, The role and treatment of political parties (Ph.D., January 1997)

Akdeniz, Yaman, M.A. - Governance of the Internet (Ph.D., January 1997)

Toor, Sunita, B.A., M.A. - Social and Criminal Justice Responses Towards Female Juvenile Delinquents from Different Ethnic Groups (Ph.D., October 1997)

McGrath, Linda, LL.B., - Hearsay Evidence in Criminal Cases (Ph.D., October 1997)

James, Annabelle, LL.B. - Post Appeal remedies for Miscarriages of Justice (M.A., October 1998)

Hamin, Zaiton, LL.B., LL.M – Combating computer-related crimes in Malaysia (Prov PhD, October 1998)

Altiparmak, Kerem, BL., MA – Responsibility for the violation of human rights by non-State armed groups (Prov PhD, February 1999)

Coban, Ali, LL.B., MA – Protection of property rights within the European Convention on Human Rights and other international documents (Prov PhD, March 1999)

Hazlett, James, LL.B – Law and participation in sport (MA, September 1999)

Kerr, Iain, LL.B., MA – Legal governance of Internet Commerce in the United Kingdom with reference to the European Union and international organisations (Prov PhD, October 1999)

Diaz Gude, Alejandra, The application of restorative principles to criminal justice (Prov PhD, October 1999)

Trevino, Anthony, LL.B – Religious liberty and legal duty (MA, November 1999)

(d) Postgraduate research degrees awarded to Centre students

- *Ph.D.*

Ford, Lindy C., M.Sc, B.Sc. - Homelessness and Persistent Petty Offenders (Ph.D., 1993)

Laing, Judith, LL.B. - Mentally Disordered Offenders and their Diversion from the Criminal Justice System (Ph.D., 1996)

Boland, Faye, B.C.L. - Diminished Responsibility as a Defence in Ireland Having Regard to the Law in England, Wales and Scotland (Ph.D., 1996)

Wade, Amanda - Children as Witnesses (Ph.D., 1997)

Ellison, Louise, LL.B. - A Comparative Study of the Rape Trial within Adversarial and Inquisitorial Criminal Justice Systems (Ph.D., 1997)

Okoye, Cyril, B.A., M.P.A. - Cross-Cultural Perspectives on the Social Disorganisation of Prisons in Canada and the U.K. (Ph.D., 1998)

English, James, LL.B., - The Rise and Fall of Unit Fines (Ph.D., 1998)

Palfrey, Terry, B.A., - The Development of an Inquisitorial System in Fraud Investigation and Prosecution (Ph.D., 1999)

Gammanpila, Dakshina, LL.B., M.A. - The Police Surgeon: Principles and Practice (Ph.D., 1999)

McGuinness, Martina, MBA, - Political Violence and Commercial Victims (Ph.D., 1999)

Mukelabai, Nyambe LL.M. - The Relationship Between Universal Human Rights Doctrine and Basic Rights and Freedoms in Zambia (Ph.D., 1999)

Matassa, Mario B.A., M.A., Dip. Res. Methods - Unravelling Fear of Crime in Northern Ireland (Ph.D. 1999)

- ***M.A. by Research***

Acharya, Neena, LL.B. - The Police and Race Relations (M.A., 1993).

Ghosh, Saumya, LL.B. - A Comparative Study of Some Exceptions to the Hearsay Rule with Special Reference to England and India (M.A., 1993)

Harrison, Bronwyn, B.A. - The Development of Juvenile Cautioning and its Implications for Police Practice and Procedure (M.A., 1993).

Davies, David Ioian, LL.B. - Identification Evidence (M.A., 1994)

Moraitou, Areti, LL.B. - The Law and Practice in Relation to Fingerprinting by the Police with Respect to England and Greece (M.A., 1994)

Joliffe, Paul, LL.B. - The Use of Interpreters in Magistrates' Courts (M.A. 1995)

Ogden, Neil, LL.B. - The Private Security Sector (MA, 1995)

Murray, Jade, LL.B. - A Study of Post-Appeal Procedures for Dealing with Miscarriages of Justice (MA, 1996)

Akdeniz, Yaman, LL.B. - The Internet: Legal Implications for Free Speech and Privacy (M.A., 1996)

Gagic, Leanne, B.A. - A Study of Young Women Whose Mothers are in Custody (M.A., 1997)

Ali, Shaukat, LL.M. - Provocation as a Defence to Murder (M.A., 1997)

McCracken, Michael, LL.B., - The Banking Community and Paramilitary Money Laundering (M.A., 1999)

Kerr, Iain, LL.B. - Legal Regulation of the Internet (M.A., 1999)

(e) Postgraduate taught courses

The students who graduate in December 1999, from the 1998-99 course are as follows:

MA Criminal Justice Studies

Aki Bassi	Emma Irving	Anjyla Sharma
John Blake	Theodora Kari	Liza-Jo Starling
Fergal Davies	Hawinder Kaur	Claire Taylor
Melanie Dickenson	Kevin Parry	Rana Zoabi
Kelly Drewery	Tim Rhodes	
Nathan Franklin	Ceri Shallcross	

The students studying in 1999-00 are as follows:

MA Criminal Justice Studies

Helen Atkinson	Fozia Mir	Richard Padwell
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Anne Duncan

Jean Morgan

Alan Walsh

Graeme Lawson

Chris Moore

Sally Watson

Robert McNichol

Malcolm Padwell

Julia Wilcox

THE PROGRAMMES OFFERED IN 1999-00 ARE AS FOLLOWS.

CRIMINAL JUSTICE STUDIES

M.A. (Criminal Justice Studies)

Objectives: To enable students to acquire new theoretical perspectives on, and wider knowledge about, criminal justice systems as well as a grounding in research methodology and the capacity to undertake research projects.

Duration: 12 months full time; 24 months part time. Note that some of the courses offered can be taken as free standing units with later accreditation.

Entry requirements: A good honours degree in law, social sciences or related subjects.

Contents (to amount to 120 credits):

The compulsory courses are:

1. Criminal Justice Research Methods and Skills (20 credits)
2. Criminal Justice Process (20 credits)
3. Criminal Justice Policies and Perspectives (20 credits)
4. Dissertation of up to 15,000 words (40 credits)

The optional courses (students must select 20 credits):

5. Policing I (10 credits)
6. Policing II (10 credits)
7. Political Violence and Criminal Justice Systems (10 credits)
8. Victims and Victimology (10 credits)
9. European Aspects of Criminal Justice (10 credits)
10. Forensic Process (10 credits)

11. Theories of Crime and Punishment (10 credits)

12. Gender, Race and Crime (10 Credits)

13 Negotiated Study (10 or 20 credits)

Diploma in Criminal Justice Studies

Duration: 9 months full time, 18 months part time. Note that some of the courses offered can be taken as free standing units and later accreditation can be granted.

Entry requirements: A good honours degree in law, social sciences or related subjects. Persons without degrees but with professional qualifications or experience will be considered.

Contents: Students select from the courses listed for the M.A. scheme. There is no compulsory course or dissertation.

Certificate in Criminal Justice Studies

Duration: 9 months part time. Note that some of the courses offered can be taken as free standing units and later accreditation can be granted.

Entry requirements: A good honours degree in law, social sciences or related subjects. Persons without degrees but with professional qualifications or experience will be considered.

Contents: Students select from the courses listed for the M.A. scheme. There is no compulsory course or dissertation.

CONTEMPORARY ISSUES IN CRIMINAL JUSTICE

MA in Contemporary Issues in Criminal Justice

Entry requirements

Same as for Criminal Justice Studies programme

Objectives

To provide a forum for the analysis and discussion of contemporary issues in criminal justice and to enable students to develop analytical and research skills in connection with criminal justice issues, including to encourage and enable practising lawyers to reflect on problems which they frequently encounter, to research the issues arising from these problems and to think and write about these issues in a structured way.

Content

The compulsory modules are:

- Contemporary Issues in Criminal Justice: This module requires distance learning and attendance at 8 seminars throughout the year.
- Negotiated Study in Criminal Justice: There will be supervision for work-based projects which would be negotiated between students and tutors and would normally arise out of their work experiences.
- Dissertation

Other modules can be chosen from the Criminal Justice Studies programme (above)

Bar Council and Law Society CPD points available

Certificate in Contemporary Issues in Criminal Justice

Entry requirements

Same as for Criminal Justice Studies programme

Objectives

Same as for above MA.

Content

Contemporary Issues in Criminal Justice; Negotiated Study in Criminal Justice (see above)

Bar Council and Law Society CPD points available

CRIME PREVENTION AND COMMUNITY SAFETY

MA in Crime Prevention and Community Safety

Entry requirements

Same as for Criminal Justice Studies programme

Objectives

To enable the student: to analyse critically current debates (such as surrounding the Crime and Disorder Act 1998) relating to crime prevention and community safety; to show an understanding of recent developments in crime prevention; to evaluate the assumptions about the causes of crime and the nature of human behaviour and social relations which infuse crime prevention theories and policies; to become more aware of the complex relationships between politics, policies and practices within the field; and to examine research issues and to be able to write about them in a structured way.

Content

The compulsory modules are:

- Crime Prevention and Community Safety: This module requires distance learning and attendance at 5 seminars.
- Negotiated Study in Criminal Justice: There will be supervision for work-based projects which would be negotiated between students and tutors and would normally arise out of their work experiences.
- Dissertation

Other modules can be chosen from the Criminal Justice Studies programme (above)

Bar Council and Law Society CPD points available

Certificate in Crime Prevention and Community Safety

Entry requirements

Same as for Criminal Justice Studies programme

Objectives

Same as for above MA.

Content

Crime Prevention and Community Safety; Negotiated Study in Criminal Justice (see above)

Bar Council and Law Society CPD points available

POLICING STUDIES

MA in Criminal Justice and Policing Studies

Entry requirements

Same as for Criminal Justice Studies programme

Objectives

1. To provide a forum for the analysis and discussion of issues in relation to policing and its relation to criminal justice
2. To enable students to develop analytical and research skills in connection with policing issues, including to encourage and enable criminal justice professionals to

reflect on problems which they frequently encounter, to research the issues arising from these problems and to write about these issues in a structured way.

Content

The compulsory modules are:

- Policing I and Policing II: This module requires distance learning and attendance at a number of supervision sessions
- Negotiated Study in Criminal Justice: There will be supervision for work-based projects which would be negotiated between students and tutors and would normally arise out of their work experiences.
- Dissertation

Other modules can be chosen from the Criminal Justice Studies programme (above)

Bar Council and Law Society CPD points available

Certificate in Policing Studies

Entry requirements

Same as for Criminal Justice Studies programme

Objectives

Same as for above MA.

Content

Policing I and Policing II; Negotiated Study in Criminal Justice (see above)

Bar Council and Law Society CPD points available

C. Relevant papers and publications by members of the Centre during 1998-99

(a) Administration of Criminal Justice: Courts, Court Procedure and Court Personnel

Bell, J., 'The French pre-trial system' in Walker, CP and Starmer, K, (eds), *Miscarriages of Justice: A Review of Justice in Error* (London: Blackstone Press, 1999)

Cram, I., (1998) 'Free speech, fair trials, lawyers and the media - an overview of recent developments' *Legal Ethics*, 1(2), 117-122

- Cram, I., (1999) 'To review or not to review' *New Law Journal*, 149, 1468,1470
- Cram, I., (1999) Book review: Feintuck, M., *Media regulation, public interest and the law Public Law*, Aut, 573-574
- Cram, I., (1998) 'Automatic reporting restrictions in criminal proceedings and Article 10 of the ECHR.' *European Human Rights Law Review*, 6, 742-753
- Cram, I., (1998) 'Publish and damn.' *New Law Journal*, 148, 1748,1787
- Fitzpatrick B., (1999) "The Right to a Hearing - *Osman v UK*", [1999] *Journal of Civil Liberties* 146
- Fitzpatrick, B. (1999) "Disclosure: Principles, Processes and Politics" in *Miscarriages of Justice: A Review of Justice in Error* (eds., Walker C and Starmer K) 1999 London: Blackstone p. 151
- Fitzpatrick, B., Wall, D., and Seago, P., (1999) "Magistrates, Management, and Modernisation", Paper presented to the Annual Conference of the Socio-Legal Studies Association, University of Loughborough
- Fitzpatrick, B., Wall, D., and Seago, P., (1999) "Magistrates, Managers, and Modernisation", School of Law, University of East Anglia
- Sommerlad, H. and Wall, D.S. (1999) *Legally Aided Clients and their Solicitors: Qualitative perspectives on quality and legal aid*, Research Study No 34, London: Law Society.
- Sommerlad, H.L. and Wall, D.S. (1998) Client and Practitioner Perceptions of Quality in Publicly Funded Legal Services, *Fourth biennial meeting of the working group on the comparative study of the legal professions*, International Institute for the Sociology of Law, Onati, Spain, 12-15th July.
- Sommerlad, H.L. and Wall, D.S. (1998) Paper to the Legal Aid Session, *Fourth biennial meeting of the working group on the comparative study of the legal professions*, International Institute for the Sociology of Law, Onati, Spain, 12-15th July.
- Sommerlad, H.L. and Wall, D.S. (1998) Client and Practitioner Perceptions of Quality in Publicly Funded Legal Services, SLSA Conference, Manchester Metropolitan University, 15-17 April.
- Walker, C., and Akdeniz, Y., (1998) "Virtual democracy" *Public Law*, (1998, pp.489-506)
- Walker, C., (1999) Response to Cabinet Office, *Modernising Government* (Cm.4310)
- Walker, C., (1999) 'The Criminal Courts and the Citizen' at Cyberspace 1999: Crime, Criminal Justice and the Internet (14th BILETA Conference, College of Ripon and York St. John, York)

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(h) General issues

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D. Seminars and Continuing Education

CENTRE FOR CRIMINAL JUSTICE STUDIES

Public Seminar Programme 1998/9

Tuesday 22nd September 1998 - 4.00 p.m.:

The Frank Dawtry Memorial Lecture

"No More Excuses for Crime"

Rt. Hon. Jack Straw, M.P., Home Secretary

The full transcript of the Home Secretary's speech was published in the Tenth Annual Report 1997-98

Wednesday 28th October 1998 - 1.00 p.m.:

"Policing Masculinities: A View from the Street"

Louise Westmarland,

Department of Criminology, University of Teesside

In this paper a number of theoretical approaches to the study of masculinity are explored using empirical examples from a recent ethnographic study of operational policing. As it has been argued in the past that women officers are differentially deployed in the police- segregated horizontally and vertically by something which has been described as a 'cult of masculinity' (Smith & Gray 1983), to what extent this can be supported using observations from the street is debated. In addition, the way masculinities are 'maintained' by men (Brittan 1989), often with some difficulty and reinforced in certain specialist departments such as the 'cars, guns and horses' is analysed using examples from extensive observations of various police duties and activities.

Tuesday 8th December 1998 - 6.00 p.m.:

In Association with the North Eastern Branch of the British Society of Criminology

"The Evaluation of Crime Prevention and Community Safety"

Professor Nick Tilley, Crime and Social Research Unit, Nottingham Trent University & Home Office Police Research Group

Most, if not all, interventions in criminal justice are concerned with changing human behaviour. They are intended to make a difference. It is hoped that one or more person will behave other than they would have done without the intervention. Whereas most science is concerned with identifying and understanding regularities, evaluation research is fundamentally concerned with change, and with efforts to engineer it in a predictable and consistent way.

There are various approaches to evaluating interventions. Criticisms have been made of the use made of the quasi-experimental method. 'Realistic evaluation' describes an effort to formulate an alternative evaluation methodology. This retains a commitment to scientific method and to efforts to maximise objectivity. It is, thus, not a retreat from the serious ambitions of the architects of quasi-experimental evaluation to provide a robust evidence-base for developments in policy and practice. It just construes this effort in different and, we think, better ways (Pawson and Tilley 1997).

'Realistic' Evaluation research is concerned with finding out what outcomes are produced by interventions, how they are produced, and what is significant about the varying conditions in which the interventions take place. The term 'mechanism' is used to describe the way in which an intervention produces its outcome. The term 'context' is used to describe the salient conditions for the mechanism (or mechanisms) to be triggered. The term 'outcome pattern' is used to describe the sets of effects brought about by the mechanisms triggered in salient contextual conditions. Putting context, mechanism and outcome pattern together is the real trick. The product of a piece of realistic evaluation is the development or refinement of what can be called a 'context, mechanism, outcome pattern configuration', or 'CMOC' for short. The CMOC is produced in answer to what we construe as the crucial question of evaluation, 'What works for whom in what circumstances?'

The presentation explored the application of realistic evaluation to various community safety and crime prevention projects.

For further discussion of 'realistic evaluation' and its implications for evaluation research see Pawson, R. and Tilley, N. (1997) *Realistic Evaluation* (London: Sage).

Tuesday 16th February 1999 - 5.30 p.m.:

"Crime Prevention and Neighbourhood Change: The Burley/Hyde Park Area of Leeds as a Case Study"

Penny Fraser, Research and Development Officer, NACRO

In her presentation Penny Fraser reported on the initial findings of research conducted by NACRO into crime prevention initiatives in two high crime neighbourhoods, one of which was the Burley-Hyde Park area of Leeds and the other

being the North Benwell area of Newcastle. The presentation focused upon the findings with regard to the Leeds research site. The aims of the crime prevention projects in Burley-Hyde Park were (i) to co-ordinate and promote crime prevention activity by engaging all section of the community in efforts to reduce crime and fear of crime and develop a strategy involving local people and agencies; (ii) to address racial harassment; (iii) prevent burglary and (iv) address youth disaffection through the employment of a detached youth worker. The findings suggest that whilst some of the projects were more successful than others, collectively they appear to have had a beneficial impact upon the neighbourhood. Recorded domestic burglaries in the area decreased during the life of the project from 1996 to 1998. The impact upon peoples fears of being burgled and being the victims of other crimes such as racial harassment was less clear.

The full findings of the research are now published as Fraser, P. (1999) *Community Safety, Community Solution: Tackling Crime in Inner City Neighborhoods* (London: NACRO) and copies are available from NACRO, priced £12.50.

Wednesday 3rd March 1999 - 1.00 p.m.:

"Regulating Big Brother: The Legal Control of CCTV" **Nick Taylor**, Centre for Criminal Justice Studies, University of Leeds

Over the past decade the use of closed circuit television cameras (CCTV) as a means of crime prevention and detection has grown enormously. The omnipresent gaze of the cameras is now fixed on the town centre of every major British city, in addition to a number of residential schemes and a huge number of private schemes. It has been shown that CCTV can be an effective deterrent to crime in particular circumstances. However, the use of CCTV does undoubtedly impact upon civil liberties such as the right of privacy, the freedom to assemble and the right to a fair trial. It is essential therefore, that when such technology is being used the public is safe in the knowledge that it is legally regulated to the extent that it is used for specific purposes and is adequately controlled in respect of how information is gathered, stored and used. At present the use of CCTV in Britain remains wholly unregulated. There is little doubt that this position breaches the provisions of the European Convention on Human Rights. Given the passage of the Human Rights Act 1998 which brings the provisions of the European Convention into domestic law, some form of legal regulation will be necessary. It may be that the Data Protection Act 1998, which is designed to cover the collection of visual images as well as other forms of data collection, will satisfy the requirements of the Human Rights Act. Certainly it will affect the present use of CCTV schemes. However, this paper concluded by recognising that the Human Rights Act provides a minimum standard of rights to be attained, and with regard to the use of CCTV, greater protection was needed than can be offered by the bureaucratic demands of the Data Protection legislation.

Tuesday 9th March 1999 - 5.30 p.m.:

The Frank Dawtry Memorial Lecture

'The Policing of Risk' **Professor Richard Ericson**, Green College,
University of British Columbia, Canada

This paper expanded upon some of the ideas set out in Professor Ericson's recent book (co-authored with Kevin Haggerty) entitled *Policing the Risk Society* (Oxford University Press, 1997). Drawing upon the Canadian experience, but extending this to developments in the UK, it was suggested that in the emerging risk society, the police are first and foremost 'information brokers', and only secondly are they 'police officers'. Risk is not just about change, it is also about institutional classifications and technologies. There has been a proliferation of forms and types of information gathered. Only 3% of police time is spent on traditional 'crime work'. In most cases, the police are primarily concerned with brokering information gathered for insurance firms and other agencies. The police have become enmeshed within complex networks of communication. As a consequence, there has been a change in the meaning of information for policing. Originally information was used primarily as a means for crime fighting. Increasingly, however, information has become an end in itself.

The presentation examined different aspects of police involvement in the 'risk society', considering the use of surveillance technologies and the collection of data on securities, careers and different social, ethnic age and gender groups. It was argued the police organisations have been forced to develop new communications rules and technologies to meet external demands for knowledge of risk.

Tuesday 16th March 1999 - 5.30 p.m.:

'Anti-Racist Policing: Rhetoric or Reality' **Dr Ben Bowling**, Institute of
Criminology, University of Cambridge

This paper drew upon some of the implications of Dr Bowling's published work (*Violent Racism*, Clarendon Press, 1998) for Anti-Racist Policing in the light of the public inquiry into the murder of Stephen Lawrence. It explored the definition of 'institutional racism', suggesting that the Scarman Report of 1981 had set out an important definition which the police had largely ignored. The Stephen Lawrence Inquiry definition was therefore not actually new. What appeared to be new was both the emerging concept of 'anti-racist' practice and the changing context in which the Inquiry's recommendations had emerged. This optimistic context includes: the Human Rights Act 1998, the Review of 1976 Race Relations Act; the long-overdue establishment of a Greater London Police Authority; and the Crime and Disorder Act 1998. In this context there appears to be real prospects for radical reform of which the Racial and Violent Crime Task Force is but one expression. There remain important obstacles which need to be overcome by managerial change; cultural change, law reform, political action and by greater accountability and representation.

A summary of Ben Bowling's research into violent racism and his recommendations arising from it which were submitted as evidence to the Stephen Lawrence Inquiry are located at: <http://www.law.cam.ac.uk/crim/iochpg.htm>

Tuesday 25th May 1999 - 2.00 p.m.:

"The Work of the Coroner"

David Hinchliff, HM Coroner, West Yorkshire E Division

Based on his experience as a Coroner for a number of years, David gave the audience an overview of the work of the Coroner and how it fits with policing and medical institutions.

APPENDIX 1

CONSTITUTION OF THE CENTRE FOR CRIMINAL JUSTICE STUDIES

(as amended, 1 May 1997)

Object of the Centre

1. The object of the Centre shall be to develop, co-ordinate and pursue research and study into, and the dissemination of knowledge about, all aspects of criminal justice systems.

Membership of the Centre

2.1 Any member of the academic staff of the Department of Law may be a full member of the Centre.

2.2 Other individuals may be appointed to full membership of the Centre by the Council on the nomination of the Executive committee. Membership of the University is not a prerequisite of appointment to full membership of the Centre.

2.3 Associate members may be appointed by the Director on nomination of the Executive committee for a fixed term of up to three years. Membership of the University is not a prerequisite of appointment to associate membership of the Centre. Associate members shall normally be concerned with the pursuit of a programme of research and shall be provided with suitable facilities by the Centre. Any further rights or duties (such as in relation to teaching) shall be the subject of specific agreement.

Administration of the Centre

3.1 The Centre shall be administered by a Director, a Deputy Director and an Executive Committee.

3.2 The Director and Deputy Director, who shall be appointed by the Council on the nomination of the Head of the Department of Law after consultation with members of the Centre, shall each normally hold office for a period of five years, and shall be eligible for immediate re-appointment.

Administration of the Centre

3.3 The Director shall be responsible to the Executive Committee for the running of the Centre and the representation of its interests. The Director shall have regard to the views and recommendations of the Executive Committee and the Advisory Committee. The Director shall be assisted by up to two Deputy Directors.

3.4 The Executive Committee shall consist of the Director and the Deputy Director(s) together with the Head of the Department of Law (ex officio), the Chair of the Advisory Committee (ex officio), and up to six others who shall be appointed by the Director, Deputy Director and Head of the Department of Law.

3.5 The Executive Committee shall meet at least twice a year, with the Director acting as convenor. Special meetings may be held at the request of any member of the Executive Committee. All full members shall be entitled to attend meeting of the Executive Committee.

3.6 Minutes of the meetings of the Executive Committee shall be presented by the Director to the following meeting of the Department of Law.

3.7 There shall be an Advisory Committee appointed by the Executive Committee which shall formulate advice and recommendations and which shall consist of:

(i) all members of the Executive Committee;

(ii) up to three persons who shall be members of the teaching staff of the University of Leeds other than the Department of Law whose activities or interests have relevance to criminal justice studies;

(iii) up to twenty persons who shall be practitioners in criminal justice systems (or other appropriate persons).

3.8 The Advisory Committee shall meet once a year, with the Director acting as convenor. Special meetings may be held at the request of the Executive Committee.

Amendment to the constitution

4.1 This constitution may be amended by the Council (or any committee acting with authority delegated by the Council) on the recommendation of the Department of Law and the Executive Committee of the Centre.

APPENDIX 2

MEMBERSHIP OF THE CENTRE

1. Executive Committee

Professor Clive Walker (Director)

Dr Adam Crawford (Deputy Director)

Dr David Wall (Deputy Director)

Mr Peter Seago (Chair of the Advisory Committee)

Professor Sally Wheeler (ex officio Head of Department of Law)

Mr Ben Fitzpatrick

Ms Clare Furniss

Dr Jo Goodey

Mr Alan Reed

Dr Javaid Rehman

Mr Nick Taylor

2. Advisory Committee

Mr Peter Seago (Chair, University of Leeds)

Dr Jan Aldridge (University of Leeds)

Mr R Daly (Governor, HMP Armley)

Mr Dickie Dickenson (Chief Crown Prosecutor)

His Honour Judge Ian Dobkin

Dr Douglas Duckworth (Chartered Psychologist)

Professor Michael Green (University of Sheffield)

Mr Colin Grimshaw JP (Police Authority of West Yorkshire)

Mr Keith Hellawell (UK Anti-Drugs Co-ordinator)

Mrs Penelope Hewitt (Stipendiary Magistrate)

Mr Richard Holland (Chief Executive, Leeds Magistrates' Courts)

Professor Edgar Jenkins (University of Leeds)

Emeritus Professor Norman Jepson

His Honour Judge Geoffrey Kamil

Lord Justice Paul Kennedy

Mr Geoff Kenure (West Yorkshire Probation Service)

Mr K Lawrence (West Yorkshire Police)

Mr Peter McCormick (Solicitor)

Miss Anne E. Mace (Chief Officer, West Yorkshire Probation Service)

Mr R Mansell (Barrister)

Mr G Moore (Chief Constable, West Yorkshire Police)

Professor Ken Pease (University of Huddersfield)

Rt. Hon. Lord Merlyn Rees

Professor Carol Smart (University of Leeds)

APPENDIX 3

SEMINAR PROGRAMME FOR 1999-00

SEMINAR PROGRAMME - SEMESTER ONE 1999/2000

For further information contact Adam Crawford ☎ (0113) 2335045

Wednesday 20 October 1999 - 1.00 p.m.:

"Family Group Conferencing in New Zealand and Reconvictions: Findings from a Six Year Follow up Study"

Professor Allison Morris, Institute of Criminology, Victoria University of Wellington, New Zealand

Tuesday 2 November 1999 - 5.30 p.m.:

"Police Officers' Lies and Deceptive Tricks"

Jennifer Jackson, Department of Philosophy,
University of Leeds

Wednesday, 10 November 1999 - 2.00 p.m.:

The Anne Spencer Memorial Lecture

"The Policing of Domestic Violence"

Maria Wallis, Assistant Chief Constable of Sussex and ACPO Spokesperson on Domestic Violence

Tuesday 30 November 1999 - 5.30 p.m.:

"Victim Contact Work in the Probation Service: Paradigm Shift or Pandora's Box?"

Dr Adam Crawford, Centre for Criminal Justice Studies and **Dr Jill Enterkin**, Goldsmith's College, University of London

Wednesday 26 January 2000 - 1.00 p.m.:

In Association with the Centre for the Study of Law in Europe

"Policing, Security and the Transformation of Politics "

Professor Neil Walker, Law Department, University of Aberdeen

SEMINAR PROGRAMME - SEMESTER TWO 1999/2000

Seminars will be held in the Brian Hogan Seminar Room, Law Annexe, 21 Lyddon Terrace, unless otherwise stated.

For further information contact Adam Crawford ☎ (0113) 2335045

In Association with the Centre for the Study of Law in Europe

Wednesday 26th January 2000 - 1.00 p.m.:

"Policing, Security and the Transformation of Politics"

Professor Neil Walker, Law Department, University of Aberdeen

Wednesday 16th February 2000 - 1.00 p.m.:

"Sentencing and Financial Crime: The Difficulties of Today and the Experiences of Victorian Society"

Sarah Lowrie, Department of Law, University of Leeds

Wednesday 8th March 2000 - 1.00 p.m.:

"Implications of the Human Rights Act for Criminal Justice"

Professor Clive Walker, Centre for Criminal Justice Studies, University of Leeds

Wednesday 29th March 2000 - 1.00 p.m.:

"Policing the Night-time Economy: Bouncers, Bobbies and the Interactions of Violence"

Stuart Lister, Researcher, University of Keele

Tuesday 4th April 2000 - 5.30 p.m.:

"The Conception and Evaluation of Leeds Domestic Violence Cluster Court"

Michelle Grundy, Applied Criminology, Huddersfield University

Wednesday 10th May 2000 - 1.00 p.m.:

"Towards a Sociology of Homicide"

Dr. Hazel May, Department of Sociology and Social Policy, University of Leeds

APPENDIX 4

CONFERENCE PROCEEDINGS 1998-99

CYBERSPACE 1999: *Crime, Criminal Justice and the Internet*

Annual Conference of the British and Irish Legal Technology

Association (BILETA)

College of Ripon and St John, York, 29-30 March 1999

Conference report by Bela Chatterjee,

University of Brunel, Uxbridge

The 14th Annual BILETA Conference, Hosted by the Cyberlaw Research Unit, Centre for Criminal Justice Studies, University of Leeds, proved to be an ideal way to spend the half term holiday. Rather than build a series of greying sandcastles on a windswept beach, I chose, like any other discerning academic who was interested in the cutting edge developments of Crime, Criminal Justice and the Internet, to head for York, and immediately settled into the laid back vibe of the city. Without doubt, BILETA was where it was at, as the conference was replete with dynamic and diverse panels promising the very latest in research in areas such as Artificial Intelligence, Cybercrimes, Cyberlaw issues and Criminal Justice issues. The conference format provided a mixture of panel sessions, workshops and plenary speakers to address a broad spectrum of issues using a wide range of techniques. I found this strategy particularly useful as the different learning and teaching environments helped to encourage a vibrant dialectic, reflective of the vast intricacies of cyberspace and its many legal implications. In addition to this, it was encouraging to see a broad spectrum of conference participants - international business and commerce as well as academia were represented - a coalition that I think it is vital to encourage in order to promote a fuller understanding of cyberculture and cyberlaw. In an area that crosses so many borders, it is particularly important that the focus for academics remain broad without compromising on the depth that specialist knowledge provides. I found from listening to non-academic papers that there is a vast resource of specialist knowledge

out there that has very valuable and relevant implications for legal research in the field of cyberspace. Like Haraway's cyborgs flirting with future technologies, there could be some very fruitful couplings here, hopefully emerging from the environment that BILETA has helped to create. Encouraging also was the participation of postgraduate students alongside the more established academics. By ensuring that postgraduate voices were heard in the forum, a transgenerational as well as transdisciplinary dialogue was achieved. Postgraduate students are often carrying out cutting edge research, and it was particularly pleasing to see BILETA offering them the opportunities to be a part of what is a rapidly expanding field of legal interest.

The plenary speakers, Geoffrey Hoon MP and Nadine Strossen, gave very interesting speeches that provided focal points for the conference. I found Ms Strossen's paper especially interesting as it provided an American perspective on Civil Liberties issues and the Internet. Humorous and informative, she provoked many new thoughts which I am sure will be discussed long after the conference has finished, as, indeed, did many of the other panel papers. The panel presentations were equally informative and entertaining - only at BILETA can you learn about the latest viruses, bugs and system hitches presented with the help of the latest software and graphics. And only at BILETA can you fully appreciate that other famous conference focal point, the legendary conference dinner. Its fame preceded itself, and rightly so. Following a decadent wine reception in a truly beautiful oak timbered hall, the conference guests feasted on a splendid spread and creme brulée, with further wine to compliment the meal - but of course... Following this there was a late bar, and it is a testament to the dedication and enthusiasm of the conference participants as well as the quality of the speakers that the panel sessions the following morning were so well attended. As befitting for a cyber conference, all the papers were transferred to CD ROM, with later updated versions posted on the conference's internet website (<http://www.leeds.ac.uk/law/BILETA99/homepage.htm>). I feel that the decision to publish the papers in this way was very innovative, as increasingly the internet and CD formats are part of academic and business life. Many law journals are now electronic, and it is reassuring to see that BILETA is taking a lead in what will surely be common practice in the future.

The conference staff were very helpful and friendly, making the participants feel welcome in their temporary home, and David Wall, the conference organiser, ensured that everything ran smoothly with a great deal of humour, sharp tailoring and aplomb. The conference was, as well as being informative, actually a great deal of fun. Many new alliances were forged, networks woven and e-mails fired. When BILETA travels to Dublin for next year's conference, I am sure that along with many others, I shall be booking my place on the plane, looking forward to catching up on the newest innovations, and dreaming of creme brulée with a cyber topping.

THE DEVELOPMENT OF A MULTI-AGENCY STRATEGY TO PREVENT AND DETECT DISTRACTION BURGLARIES AGAINST ELDERLY VICTIMS

University of Leeds, 26 August 1999

The event focused on the research funded by the Home Office and supported by the Police Research Crime Reduction Unit at Bramshill into the detection and prevention of these types of burglaries. The project leader is Detective Superintendent Brian Steele, West Yorkshire Police. The conference attracted interest not only from police representatives but also the crime prevention, social services and utilities sectors.

MAGISTRATES' AND COURT CLERKS TRAINING

Peter Seago organised and directed the Annual Court Clerks Conference, Crown Hotel at Scarborough. January 1999. The conference included talks by Professor Clive Walker on the Human Rights Act 1998 and by Professor Di Birch on 'Recent Developments in the Law of Evidence'. Approximately 65 clerks attended of which the majority were from West and North Yorkshire, but an increasing number from much further afield.

The University once again organised the training for all new magistrates in West Yorkshire. The new magistrates attend residential courses at the end of their first and second years on the Bench. The courses for the first year were directed by Richard Holland (Justices' Chief Executive of Leeds Magistrates Courts) and the second year by Peter Seago.

Peter Seago through the School of Continuing Education organised and directed a residential conference for magistrates who had been on the Bench for more than seven years. Approximately 55 magistrates attended. Included in the programme was an excellent session on basic information relating to drug offences given by Sgt Blythe from the Detective Training School in Wakefield

CONFERENCE REPORT 1998-99: *Second World Conference on New Trends in Criminal Investigation and Evidence, 10-15 December 1999.*

The International Network for Research on the (law of) Evidence and Procedure (INREP), gathered for the second time in the Netherlands at the International Exhibition and Congress Centre in Amsterdam, to promote interprofessional discussion between scholars and practitioners from all over the world. The five day Conference, organised by the Director of INREP, Dr. J.F.Nijboer (Leiden University/Court of Appeals Amsterdam), was divided into a number of workshops where focus could be placed on ranging aspects of evidence, from the reliability of witness testimony to the use of artificial intelligence. Our department was represented at the Conference by final year Ph.D research student Linda McGrath, who presented a paper on *Hearsay Evidence; Proposals for Reform* and chaired a workshop in Procedure on Evidence. INREP will meet again in 2003 in Belgium. For further information on INREP, contact Linda McGrath on Lawlaom@lucs-01.novell.leeds.ac.uk. A Book of Proceedings including most of the papers presented at the Conference, will be published in March 2000.

CRIMINAL JUSTICE PANEL, SPTL CONFERENCE 1999,

UNIVERSITY OF LEEDS

Final programme

Session 1: Fraud and Deception

This first session will take as its key-note the laws relating to fraud and deception, and the reforms suggested by the Law Commission (see especially *Fraud and Deception*, Consultation Paper 155, 1999).

Weds. 15 Sept.: FRAUD AND DISHONESTY

2.00-2.10 Welcome and Panel business

Professor Clive Walker, University of Leeds (Convenor of Panel)

2.10-2.45 "The Law Commission's programme"

Stephen Silber, QC, Law Commission

2.45-3.45 "The Law Commission Consultation Paper on Fraud and Deception"

David Ormerod, University of Nottingham

3.45-4.00 Break

4.00-4.30 Other aspects of fraud and dishonesty

"Serious fraud trials"

Dr Paul Robertshaw, Cardiff University

Session 2: Postgraduate papers

As an experiment for this Panel, we are offering a second session for postgraduate student papers. These are intended to be short papers (around 20 minutes) and will not all be based around any single theme. But the session is designed to allow postgraduate students to network and to air their research findings. Scholarships are available to assist with the costs of attendance. We have only two papers this year, but it is hoped this can expand in the future.

Weds. 15 Sept.: POSTGRADUATE SESSION

4.45-5.15 "The Criminal Cases Review Commission: (In)justice and (In)efficiency"

Annabelle James, Leeds Metropolitan University

5.15-5.45 "Insider Computer Misuse: Legal Quagmire in Cyberspace"

Zaiton Hamin, University of Leeds

Session 3: The Borders of Crime

This third session is entitled "The borders of crime" and is to focus on trends within criminal justice which have blurred the boundaries between criminal and civil, public and private.

Thurs. 16 Sept.: THE BORDERS OF CRIME

9.00 –9.25 "Situating the Crime and Disorder Act 1998 and New Labour's Criminal Justice Policies"

Dr Adam Crawford, University of Leeds

9.25-10.10 "Anti-social behaviour orders"

Paul Cain, University of Manchester

10.10-10.45 "Law, order and the increase in state intervention in the 1990s"

Kiron Reid, University of Liverpool

10.45-11.00 Break

11.00- 12.00 "Managing dangerous people"

Dr Judy Laing, University of Cardiff

CONVENOR: PROFESSOR CLIVE WALKER

✉ **Centre for Criminal Justice Studies, University of Leeds, Leeds LS2 9JT**

💻 **law6cw@leeds.ac.uk** ☎ **0113 2335022**

FORTHCOMING EVENTS

‘Insecurity and Safety in the New Millennium’

A Colloquium, University of Leeds

23rd March 2000

Provisional Programme

9.30 a.m. Registration and Coffee

9.50 a.m. Welcome and Introduction

10.00 a.m. Plenary Session

Zygmunt Bauman - ‘Unsafety, Uncertainty and Insecurity’

11.00 a.m. Coffee

11.15 a.m. Workshop Sessions

Insecurity Across Europe

Chair: Jo Shaw

Juliet Lodge

Philip Cerny

Mark Webber

Community Safety

Chair: Tim Newburn

Adam Crawford

Sandra Walklate

Gordon Hughes

Assessing/Predicting Risk

Chair: Barbara Hudson

Peter Morrall

Claire Valier

Neil Stanley

12.30 pm. Lunch

1.30 p.m. Plenary Session

Sebastian Roché ‘The New Governance of Insecurity in France’

Hans-Jörg Albrecht ‘Migration and Insecurity’

3.00 p.m. Coffee

3.15 p.m. Workshop Sessions

Researching Safety

Chair: Richard Sparks

Les Moran

Judy Heather

Anne Corden

Migration & Insecurity

Chair: Hans-Jörg Albrecht

Jo Goodey

tbc

Technologies, Risk & Policing

Chair: David Wall

Tim Newburn

Clive Walker

Kate Williams

4.30 p.m. Plenary Session

Jock Young - 'Light Communities and Insecurity: Difference and Tolerance'

5.30 p.m. Colloquium End

APPENDIX 5

CENTRE RESEARCH PAPERS FROM THE CCJS PRESS



**Recent publications also available through the Centre for Criminal
Justice Studies:**

VICTIM CONTACT WORK AND THE PROBATION SERVICE:

A Study of Service Delivery and Impact

Adam Crawford *and* Jill Enterkin

This book reports upon the findings of an 18 month study of victim contact work in two Probation Services analysing the manner in which the Victim's Charter requirements to contact victims of serious crimes, both post-sentence and pre-release, have been realised in practice. It explores the value and impact of the Victim's Charter requirements upon the Probation Service. This research is the first major study of this important but controversial service. The study, funded by the Nuffield Foundation, draws upon interviews with victims, service providers, probation officers and service users.

CONTENTS (pp. 102 + iv) - PRICE £10.00- 1999 - ISBN 0-95-110323-7

THE RENEWAL OF CRIMINAL JUSTICE? New Labour's Policies in Perspective

edited by Adam Crawford and Clive Walker

This book contains the proceedings of the Tenth Anniversary Conference of the Centre which was held on the 22 September 1998. With the passage of the Crime and Disorder Act 1998, and the flurry of discussion papers that have emerged, both from the Home Office and from the Lord Chancellor's Department, are we now witnessing the "Renewal of Criminal Justice"? The book brings together contributions from Jack Straw, Geoff Hoon, Rob Allen, John Abbott, David Jessel, Ben Emmerson and Kier Starmer, amongst others. This book explores current developments in criminal justice and seeks to put these New Labour policies in perspective. In particular it focuses upon changes to the courts, policing and community safety.

CONTENTS (pp. 65) - PRICE £8.00 - 1998 - ISBN 0-95-110322-9

THE ROLE AND APPOINTMENT OF Stipendiary MAGISTRATES

Peter Seago, Clive Walker and David Wall

In 1993 the Royal Commission on Criminal Justice recommended that there should be a more systematic approach to the role of Stipendiary Magistrates. In response, the Lord Chancellor announced, in October 1994, the establishment of a Working Party in pursuit of the Commission's recommendations. This research report was commissioned by the Lord Chancellor's Department to inform the deliberations of the Working Party. This research presents an important profile of Stipendiaries and their place in the Magistrates' court.

CONTENTS (pp. 178) - PRICE £10.00 - 1996 - ISBN 0-95-110321-0

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APPENDIX 6

WORKING PAPERS

The probation service, victims of crime and the release of prisoners

Adam Crawford, University of Leeds & Jill Enterkin, Goldsmiths College

The Victim's Charter 1990 imposed upon the Probation Service an obligation to contact certain victims of crime (initially limited to the victims of life sentence

prisoners) with a view to preparing release plans for prisoners, taking into consideration, where relevant, any anxieties or concerns that the victim may have regarding the release (Home Office 1990). Probation Circular 61/1995 extended this to include the victims of 'serious violent or sexual offences', requiring initial contact to occur within two months of sentence. This necessitates Probation Services to provide victims with information about the custodial process and post-release supervision and obliges the Probation Service to seek victims' views about release conditions. Implementation of these obligations by local Probation Services has proceeded both hesitantly and unevenly (Nettleton *et al.* 1997). This was borne out by the results of the Home Office's brief national survey of practice in 1997 which suggested that only a handful of coherent programmes had been introduced alongside a plethora of ad-hoc developments (Home Office 1997). This was, perhaps, unsurprising given the absence of unambiguous guidance from government and the lack of designated funding for the implementation of the new duties.

Recent research funded by the Nuffield Foundation explored the attitudes and experiences of victims, service providers, probation officers and other 'users' of victim contact work in two Probation Services - West Yorkshire and Northumbria - both nationally recognised as having in place coherent, and yet different, models of victim contact work (see Crawford and Enterkin 1999). The research, based on those involved in 80 cases (evenly split between the two sites), was concerned to explore established practice rather than attempt to provide a representative reflection of the apparently uncoordinated efforts around the country.

The research revealed that victims value and benefit significantly from good quality and well-delivered victim contact services. High levels of victim satisfaction were recorded in both of the Probation Services studied. When asked to describe their overall level of satisfaction with the service they had received 70% of victims indicated that they were at least 'satisfied'. Moreover, 45% of victims declared themselves to be 'very satisfied'. This is a notably high figure both with regard to victim satisfaction given the novelty of the work and in comparison with the findings of social research into other services for victims (Hoyle *et al.* 1998; Sanders 1999).

For victims the most tangible and highly valued element of the victim contact service was the provision of timely and good quality information about the offender's sentence and custodial process. Of the victims interviewed 48% identified this as the most important aspect of the service. In explaining their needs, victims consistently described three categories of information that were of interest and value to them: simple factual information about the offender's custody (such as relevant dates in the offender's sentence and his/her prison location); contextual information (such as daily prison routines and the types of treatment programmes available in prison); and, explanations of criminal justice processes, procedures and terminology, (such as the parole system and life sentencing). They wanted this information delivered in a timely and accurate manner from a credible, authoritative source and most of the victims interviewed considered the Probation Service an acceptable and even a desirable source of such information.

By necessity, managing victims' expectations constitutes a key element of victim contact work. Victim contact services inherit cases some time after the offence took place and typically following the processing of those cases by other criminal justice

agencies. Consequently, victims may hold misunderstandings about the criminal justice process and the sentencing of their offender, sometimes fuelled by potentially misleading advice provided earlier by other criminal justice agencies. Some victims described feeling as if they had been 'picked up' by victim contact services after having been 'dumped' by other agencies, occasionally some considerable time earlier. Hence, victim contact workers must often negotiate around concerns arising from victims' experiences at earlier stages in the process.

One particular concern for victims was the discrepancy between what they considered as substantial information and the information that victim contact workers are allowed to supply. Probation circular 61/1995 states that 'information about the prisoner's precise location or treatment programme while in custody should not be disclosed' (Home Office 1995: para. 9). Victims were often disappointed and annoyed with these restrictions.

In some instances, victims' disappointment could be ameliorated by victim contact workers' efforts to offer reasoned explanations for these limitations and of the complex workings of the criminal justice system. Nevertheless, the imposition of restrictions on the provision of simple factual information to victims was potentially problematic not only because victims were frustrated and angered by it, but also because their drive to discover information sometimes led them to other, potentially unreliable, sources. A number of victims felt that the lack of information about their offender's activities during his/her sentence, particularly with regard to any treatment they might have received, made it difficult for them to assess precisely how anxious they should be. In some instances, information which could not be provided might actually have eased their concerns. As such, victim contact work can serve to remind victims of their anxieties and their secondary status within the criminal justice system.

For 16% of victims the most important element of the victim contact service was the opportunity to contribute to an official report to be put to decision-makers when considering any conditions of release for the prisoner in their case. A larger number (23%) identified their own experience of contributing to a report as the single most positive aspect of the victim contact service that they had received. Nevertheless, the purpose and use of information provided raised many problematic implications for victims, as well as those charged with the responsibility for collecting the information.

Through victim reports, victims sometimes sought specific conditions, particularly with regard to exclusion zones. Such conditions, if attached to an offender's release, offered tangible expressions to victims of their anxieties being accorded official recognition. Conditions tended to be limited to preventing the offender from approaching or seeking to approach his/her victim(s) and restricting the offender from specific and limited geographical areas, most typically this would be the road on which the victim(s) home is located. This was often seen by victims as an important outcome of contributing to a victim report and left some feeling more secure as a consequence. However, a significant number of others were sceptical about the significance and impact of such a report but were not necessarily deterred from contributing by this view, instead participating on the 'off-chance' of having an impact.

The incorporation of victim input into the post-sentencing process, pre-release planning and post-release supervision presents significant challenges for Probation Services. It provides useful information for probation officers which can, and does feed into risk assessment, offender management and Probation Services' wider agenda of 'public protection' through post-release supervision. Throughcare probation officers who use victim reports were generally positive, saying they were helpful to risk assessment and offender management. However, some expressed serious and specific reservations about the potential of victim reports, given the lack of confidentiality, to increase the risk to victims. This was seen as having negative ramifications for 'public protection'.

The issue of confidentiality emerged from the research as one of the most contentious issues. The legal right of offenders to access information about their case effectively precludes any guarantees of confidentiality being extended to victims' reports. However, there remains no satisfactory policy to deal with very realistic concerns voiced by victims and probation officers alike about the safety of victims who might be perceived as having impeded an offender's release or restricted their freedom through a victim report.

One of the research sites sought to ameliorate victims' desires for confidentiality through reassurances that every effort would be made to protect victims' interests, the other site was explicit as to the lack of confidentiality. Instead victims were told that their reports would most likely be seen by the offender. While this latter policy provides no greater 'protection', as such, it can avoid victims' disappointment and would seem to be a more realistic and honest premise from which to work. Clearly, this contentious issue has significant implications for the efficacy of integrating victims into criminal justice processes.

The research suggests that there is a pressing need for government to reconsider the appropriate uses of victim input. While most prison probation officers interviewed were uncertain, and generally hesitant about, using victim information directly with offenders, it is clear that in some instances victim reports are being used not only to manage offenders both in custody and upon release but also to challenge their offending behaviour. It is clear that the information provided by victims in the course of victim contact work may be of use to the Prison and Probation Services in assessing risks of reoffending and rehabilitation work. However, it is incumbent upon government to set out clear guidance as to what constitutes appropriate and inappropriate use of such information. Moreover, victims need to be given clear and unambiguous choices as to whether they wish the information provided to be used in certain ways. In integrating victims and taking account of their concerns within criminal justice careful consideration needs to be given to the manner in which such initiatives may disturb the delicate balance between state and the offender and to ensure that victims' needs are not distorted by the needs and demands of criminal justice itself (Crawford and Goodey 2000).

Moreover, there needs to be a wider examination of how victim contact work by the Probation Service connects with other initiatives for victims in and around the criminal justice system. All too often victims are only considered relevant in so far as they relate to narrow core responsibilities of agencies, with little regard to the relation between the victim and criminal justice as a systemic whole. Attention tends to focus

upon narrowly construed service delivery and 'customers' of a particular segment of criminal justice at a given time and place within the process, rather than upon cross-cutting, horizontal accountability and responsibilities.

It appears that the full implications, of the Victim's Charter requirement, for offenders, the Probation Service and victims of crime have been given insufficient thought. To what extent should victim contact work be concerned with the priorities of: offender management; offender rehabilitation; risk assessment; victim recognition; victim satisfaction; victim input; transforming probation work and the attitudes of individual probation officers; or the instrumental purposes of government in wanting, or being seen, to do something for victims? It is only after addressing these fundamental issues that Probation Services can begin to come to terms with how best to deliver a limited and complex service which can otherwise serve falsely to raise victims' expectations, leaving some ultimately disappointed. It is hoped that Her Majesty's Inspectors of Probation's thematic inspection report into victim contact work to be published in the spring of 2000 will confront and begin to address some of these issues.

Copies of the full research report can be obtained from the Centre for Criminal Justice Studies, University of Leeds, Leeds LS2 9JT, (0113) 233 5034. Price £12.00 inc. p&p.

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Applying the principles of restorative justice to a post-conflict situation in Northern Ireland

Fergal F. Davis B.C.L.

This work is the product of research conducted in the pursuit of the

MA (Criminal Justice Studies) degree at the Centre for Criminal Justice Studies

1. Introduction

It has been observed that the length of 'The Troubles' is difficult to assess. (Bloomfield: 1998, para.2.1) What is certain, however, is that Northern Ireland has been in a state of conflict for a considerable part of the past thirty years. Recently a 'Peace Process,' has developed which it is hoped will bring about an end to this conflict. In order for this to succeed there must be some form of reconciliation between the divided communities of Northern Ireland. (Reynolds: 1999) The purpose of this paper is to examine one possible method of bringing about an accommodation with the past, and as a result of this, achieve reconciliation between the communities of the North. The method proposed is that of a Truth and Reconciliation Commission (TRC). Such a Commission would examine human rights abuses by all sides in the conflict; paramilitary, military, government and non government in an attempt to allow the people of Northern Ireland to move forward to an agreed future. The title of this work refers to a 'post conflict situation' since it seems unlikely that a thorough investigation of the above organisations would be possible in any other circumstances.

To begin with it will be important to consider the goals of a TRC. To achieve this international examples will be outlined. Having established the goals of a TRC the article will then move on to consider applying those principles and goals to the Northern Irish situation. The feasibility of an amnesty system will then be considered. Amnesties have been central to many of the TRC's around the world. The possibility of providing amnesties for those who testify in Northern Ireland may prove contentious and this will be discussed. In section five the difficulties which a TRC would face will be considered. These difficulties range from the technical problems of establishing jurisdictional and time limitations on the inquiry to the possibility of political manipulation and legal challenge. It is hoped that having given due consideration to all of these factors it will be possible to draw some conclusions on the feasibility and desirability of establishing a TRC in Northern Ireland.

2. Truth & Reconciliation Commissions ('TRC's')

This section aims to give a brief introduction to some international models coupled with an examination of the goals and concepts behind truth commissions. It will then be possible to apply that information to Northern Ireland in an attempt to develop an outline understanding of what is being proposed.

2.1 International Models

TRC's have been used in a wide variety of countries. The most renowned examples include Argentina, Chile, El Salvador and South Africa, the latter being one of the most recent and most documented examples. However, Commissions have also been employed in Uganda, Bolivia, Uruguay, Germany and elsewhere. (Bloomfield: 1998, para. 5.37) The success of these TRC's has varied greatly. The 1974, "Commission of Inquiry into 'Disappearances' of People in Uganda Since the 25th of January, 1971," is largely regarded as being unsuccessful. It is said to have, "had little impact on the practices of the Amin government," (Hayner: 1994, p612) and can largely be discounted as a model to be followed. The Argentine model was more significant. Here it was felt that,

"Argentina needed to bury its past *as well as to condemn it*, and many citizens felt that years of trials would undermine the fresh sense of community Alfonsín's victory had produced."(my emphasis) (Steiner & Alston: 1996, p1094)

Argentina employed a TRC and followed this with prosecutions of those implicated. The report of the Argentinian Commission, *Nunca Mas*, was, "enthusiastically received."(Hayner: 1994, p615) In many countries, "people may be generally aware that killing, torture, and disappearances are taking place, they may know little of their extent or details."(Steiner & Alston: 1996, p1098) At the very least the Commission ensured that this was not the case in Argentina.

2.2 Understanding, not Vengeance, Reparation not Retaliation.

South Africa involved, "creating democracy out of autocracy."(Maginnis: 1999) It is true that trials were possible after World War II,

"but in South Africa the transition...occurred through a negotiated settlement. The new government remained reliant on the very institutions and personnel that had committed human rights violations..."(Sculer: 1999)

In these circumstances prosecutions may be difficult or impossible. However, it was felt that, "the truth concerning human rights violations... cannot be suppressed or simply forgotten. They ought to be investigated, recorded and made known."(Omar) This desire not to ignore past human rights violations is central to all TRC's. The philosophy is one of, "commissioning the truth."(Mansfield: 1999) It is important to uncover the truth for a number of reasons. International Human Rights Law imposes an obligation on states to investigate such violations. (Hayner: 1994, 611) Moreover, it appears that victims demand the right to know. Mandela has noted that, "we recall our terrible past so that we can deal with it, forgiving where forgiveness is necessary – but never forgetting."(Mandella: 1999, *The Guardian*) Amnesty International, also, commented that,

"provisions for investigating past violations should be ensured in order to determine individual and collective responsibility and to provide a full account of the truth to the victims, their relatives and society."

(Steiner & Alston: 1996, p1088)

It appears clear that a mechanism to uncover the truth about a country's past human rights record has the support of international law, non-government organisations, some governments and many victims. A TRC may be the best such mechanism by which to recognise the past. The aim of a TRC is to uncover the truth so as to allow an accommodation with the past. A TRC allows society to *acknowledge* the truth by producing a fair and accurate record of the nations past. (Hayner: 1994, p607)

2.3 A TRC for Northern Ireland

That human rights abuses have occurred in Northern Ireland is undoubted. In South Africa, and many other countries that have availed of TRCs, the human rights violators were,

"not 'defeated,' though a political stalemate opened the way for negotiation... There were no foreign powers that attained victory and the conflict resembled a civil war without conclusive military defeat." (Libenberg: 1996, 130)

A similar situation exists in Northern Ireland where any settlement will be the product of negotiations. For this and other reasons, which will be discussed later, it may not be possible to prosecute those who committed human rights violations. A TRC may be a preferable method of attaining the truth.

The TRC in South Africa criticised the ANC and other non-government organisations for, "killing civilians during their military operations." (Whitelaw: 1998) A similar commission would undoubtedly criticise paramilitaries for their activities. It has been stated that,

"where so much of the violence was clandestine, to know the nature of the crime was the essential first step to overcoming its legacies." (Donnelly: 1993, p52)

In Northern Ireland many of the violations have been clandestine. Questions persist including alleged army intimidation of nationalist sporting activities, (Donegan: 1999, *The Guardian*) Bloody Sunday, RUC collusion in the deaths of solicitors, (Clarke: 1999, *The Sunday Times*) the 'Disappeared' victims of the IRA. (McDonagh: 1999, *The Observer*) and other episodes too numerous or too litigious (McPhilemy: 1999) to mention. In other cases the 'truth,' may be known, or felt to be known. However, acknowledging the truth, - even if views that are widely held are shown to be true - establishing a fair record of the past, and admitting what has happened may prove a useful part of the 'healing process.' In a society where the truth about so much is not known and allegations and rumour persist the goals of a TRC, set out above, would be useful.

3. Independent Inquiries in Northern Ireland.

Northern Ireland does have a history of *ad hoc* inquiries. These inquiries examined single issues or events and a series of reports have been compiled. These inquiries will be examined in a number of ways. Firstly, the ability of these inquiries to act as an alternative to a TRC will be considered. Secondly, the existence of these inquiries coupled with increasing calls for new inquiries will be scrutinised and finally this *ad hoc* approach will be compared to that of a TRC.

3.1 Ad Hoc Inquiries and the Truth.

The series of *ad hoc* inquiries in Northern Ireland has had varying degrees of success. The Widgery Inquiry into the events of Bloody Sunday never satisfied the nationalist community of Derry and evidence regarding its inadequacies continues to surface today. (Kearney: 1999, *The Sunday Times*) There is a body of opinion in nationalism, which feels that, "most of the inquiries have been less than satisfactory." (Reynolds: 1999) However, recently, there have been a number of new inquiries. Lord Saville was commissioned to re-examine the events of Bloody Sunday, (Walker: 1999, p170) an Independent Commission on Policing has been established (deBreadun: 1998, *The Irish Times*) and there have been calls for further inquiries into other areas. These inquiries remain *ad hoc* in nature. They are not as far reaching as TRC's which see, "truth as the widest possible compilation of peoples perceptions, stories, myths and experiences..." (Krog: 1998, p16) Despite this they may have the capacity to bring about reconciliation in the North.

An inquiry into a single event can bring about a change, which runs deeper than appears possible at first. The 'Stephen Lawrence Inquiry' is an example of this (MacPherson: 1999). An inquiry into the police handling of a race related murder in London has had far-reaching consequences for police forces in Britain. (Campbell: 1999 *The Guardian*) Michael Mansfield QC was involved in the Lawrence Inquiry and advocates the introduction of a TRC in Northern Ireland. He admitted that the Lawrence Inquiry had, "started off with a relatively limited objective...and it blossomed into something much bigger and it grew." (Mansfield: 1999) The ability of a single-issue inquiry to have such an impact is interesting. An inquiry into Bloody Sunday for example could have such an impact. Mansfield conceded this and suggested that,

"recent statements by Wilford and so on have opened up a new arena, here, one that probably wouldn't have been opened up... Namely the extent to which there is another form of racism...an anti-catholic racism, in which any catholic is regarded as 1) a republican and 2) possibly a member of the IRA..." (Mansfield: 1999)

The statements referred to are those of Colonel Wilford, who commanded the Parachute Regiment on Bloody Sunday. Colonel Wilford, "launched an intemperate attack on... most Northern Irish catholics by branding them closet republicans." (Pallister: 1999, *The Guardian*) Mansfield is suggesting that the inquiry can now examine the extent to which there was anti-catholic sentiment in Northern Ireland generally and the armed forces in particular. If the inquiry was to take such an approach, it might reassure nationalists who feel victimised, but it would hardly lead to reconciliation with the unionist community. Due to the nature of the conflict and the divisions in society, it is difficult to imagine an inquiry into a single event, which could examine the faults of both communities in a way they found acceptable. A TRC on the other-hand examines everyone's roles in the conflict. The South African TRC provided answers about police brutality, (Schuler: 1999) but it also examined the role of the ANC in, "murders of black policemen, slogans inciting people to kill, as well as stories of torture and executions in ANC camps." (Krog: 1998, p124) To examine incidents of importance to one side of the conflict and not the other would not assist in a process of reconciliation since it would only reveal part of the truth.

Another way in which single issue inquiries could act as alternatives to a TRC is that they may provide an alternative forum in which people can tell their stories. It appears that this may be happening in the North. The Patten Commission (Patten: 1999) once stated that, "at this stage it is very much a listening exercise..." (deBreadun: 1998, *The Irish Times*) Moreover, community groups in the North argued that public meetings of the Commission would, "give people the opportunity to have their say"; these organisations are co-ordinating, "...open days when local people can give their views on policing, *their experience* of it and their aspirations for the future." (Blaney: 1998, *The Irish News*) (my emphasis) The Patten Commission was established to consider reform options for the RUC, its role and function is not that of a forum for listening to grievances but rather to listen to suggestions. As one observer pointed out,

"Although the meeting did involve some people getting up and telling their stories it didn't have anything like the function or structure of the TRC hearings." (Hegarty: 1999)

The commission has provided a useful function in allowing people to relate their histories; however, it was not equipped to provide answers in the way that a TRC would be. It may reform the RUC but it cannot, "deal with all violations in a way which would ensure that we put our country on a sound moral basis." (Krog: 1998, p5 quoting Omar) The limitations of attempting to use a forum designed for one purpose in a different context are again exposed as unsatisfactory.

3.2 A Desire to be Heard.

The previous paragraph has argued that the Patten Commission was used as a forum for relating past experiences. The forum was not entirely suited to this role. What remains of interest, however, is that this may display a willingness and a desire to uncover the truth and recall the past. Further evidence to support this view can be found in recent calls for a series of new inquiries beyond those already established. Between 3 August and 18 August 1999, there have been reports calling for three new inquiries. An inquiry into the 'Springhill Massacre,' of 9 July 1969 has been sought. (Unsworth: 1999, *The Irish Times*) On 5 August 1999, the Irish government announced an inquiry into the Dublin and Monaghan bombings of 1974. (Devine: 1999, *The Belfast Telegraph*) On 18 August 1999 an independent inquiry into the death, "of a man shot dead in Belfast 30 years ago," was called for by his family. (*The Irish Times* 2) Furthermore, Sinn Fein have suggested an, "independent official inquiry, with full powers to summon witnesses and to examine relevant documentation, into the murder of defence solicitor Pat Finucane," and an, "examination of the degree of collusion between British Intelligence agencies and loyalist paramilitaries in killings of nationalists attributed to loyalists." (Sinn Fein: 1998, p4) From all of this it can be deduced that there is an interest in uncovering the truth about the past in the North. Some have stated that what is needed is, "a huge thick block wall erected between the past and the future...." (Maginnis: 1999) It does not appear likely that that will happen.

3.3 Ad Hoc Inquiries or a TRC?

The ability of *ad hoc* inquiries to act as alternative to a TRC is limited. These inquiries, necessarily, examine single issues and may not be able to provide the

answers that a TRC would. Victims have shown, through their calls for new inquiries and their desire to express their views at alternative forums, that they wish to tell their stories. Single-issue inquiries will only satisfy the victims of the particular events they inquire into. The advantage of a TRC is that they are often seen as, "fulfilling the important step of formally acknowledging a long-silenced past." (Hayner: 1994, p600) Other inquiries may uncover some of the truth but much of the past will remain silent. A further difficulty arises from the issues examined. Many of the new inquiries mentioned above are of relevance to the nationalist community. While Sinn Fein have called for a series of new inquiries, the Ulster Unionist Party have stated the wish that a wall to be erected between the past and the future. (Maginnis: 1999) If the new inquiries are perceived to be concentrating on issues of nationalist concern then they will not assist in fostering co-operation and reconciliation between the communities. The ideal forum for discovering the truth about such violations is a body designed to fulfil that function, in other words a TRC. However a TRC can only emerge from the wider political process. (Bloomfield: 1998, para.3.18) If it proved impossible to reach a consensus on establishing a TRC, then a series of *ad hoc* inquiries would be preferable to no inquiry at all. At least in uncovering the facts about some of the past a great deal of the truth might be uncovered, as the Lawrence Report displayed. The past is vital to Irish society and an accommodation with it, however limited, is required. For these reasons a TRC is considered the ideal proposal, but in the absence of any such body these other investigations should be supported.

4. Prosecutions or Amnesties.

Some TRC's have acted as a fact finder, the publication of the report being followed by prosecutions, others have avoided prosecutions and offered immunity to those identified as having violated human rights. This is a difficult issue since it involves balancing pragmatism with principle. The pragmatic approach suggests that without the offer of immunity to those who testify parties will ignore the TRC and therefore its fact-finding role will be hampered. On the side of principle, it is argued that violations of human rights cannot go unpunished. This is a serious dilemma.

4.1 Amnesties- the International Experience.

Internationally there have been different approaches to the issue of amnesties. In Uruguay a plebiscite was held with an eighty per cent turn out; fifty three per cent of those voted in favour of granting amnesties to the old regime. (Donnelly: 1993, p54) In Argentina, following the publication of *Nunca Mas*, the government established that the military would be prosecuted. (Steiner & Alston: 1996, p1094) In Chile it was felt that pursuing,

"forms of justice other than prosecuting the crimes of the past, such as vindicating victims and compensating their families, could be achieved more fully." (Steiner & Alston: 1996, p1107)

To that end a commission was established and an amnesty was granted. South Africa on the other hand offered immunity to, "political criminals prepared to earn it by testifying as prosecution witnesses at subsequent trials." (Robertson: 1999, p254) South Africa felt that it was better to deal with the past and move forward. A further advantage of amnesties is that they may assist in the fact-finding element of TRC's since those guilty of violations may be more willing to reveal their actions if an amnesty is available. If the, "real mission of is getting the truth and offering victims compensation," (Leman-Langlois: 1999) then the granting of amnesties may be inevitable. Indeed the South African Constitutional Court stated in *Azanian Peoples Organisation (AZPO) and Others v. the President of the Republic of South Africa* (1996),

"the truth might unfold with such an amnesty, assisting the process of reconciliation and negotiation. Further, the Court noted that such an amnesty was a crucial component of the negotiated settlement...."

However, it is obvious that there is no agreed approach for TRC's to take in relation to the issue of amnesties. As a result of this, other arguments will have to be considered.

The granting of amnesties has been criticised by many. They are, "excused as an exercise in *real politik*...", however, "what cannot be countenanced is any attempt to dress up expediency as justice...." (Robertson: 1999, p255) This is to suggest that by granting amnesties a TRC is a denial justice. Amnesty International has supported the establishment of inquiries into human rights violations but states firmly that, "those...accused of human rights crimes should be tried and their trials should include a clear verdict of guilt or innocence," the organisation is not opposed to post-conviction pardons. (Steiner & Alston: 1996, p1088) It is also suggested that there may be an obligation to prosecute.

"Crimes against humanity are established as offences which may be committed at times of comparative peace as well as internal or international war, while war crimes, for their part, may be committed during internal conflict...." (Robertson: 1999, p302)

These definitions appear to include the situation, which has existed in Northern Ireland and as a result of this international law, may have a bearing on the amnesty issue. The new International Criminal Court established 17 July 1998, has jurisdiction over crimes against humanity and war crimes as defined above. (Robertson: 1999, p304) However, the statute establishing the International Criminal Court will not become law until, "sixty days after it has been ratified by sixty nations, an event not likely to occur until well after the year 2000." (Robertson: 1999, p339) As a result of this the International Criminal Court is unlikely to have a bearing on the granting of amnesties at a Northern Ireland TRC. It has been suggested that the International Covenant on Civil and Political Rights require States to, "investigate serious violations of physical integrity – in particular, torture, extra-legal executions, and forced disappearances – and to bring to justice those who are responsible." (Steiner & Alston: 1996, p1091) Despite these views, the possibility of granting amnesties might not be impossible. The South African model is favoured by many who oppose

amnesties *per se* on the grounds that it is, "not so much an amnesty as a form of plea bargain...." (Robertson: 1999, p254) By requiring those who receive amnesties to act as prosecution witnesses in future trials, the South African TRC appears to have reached an acceptable balance between the two approaches. It is possible, therefore, to provide a form of limited amnesty without forsaking the need for justice.

4.2 A History of Amnesties in Northern Ireland.

The principle of granting amnesties as a method of advancing a political resolution to Northern Ireland's conflict is not new. The Northern Ireland Prime Minister, Chichester Clarke, announced a broad amnesty on 6 May 1969. (Bell: 1993, p92) It is clear that this amnesty had little impact since the conflict escalated dramatically in the following years. However, the principle of amnesties has been accepted. More recently there have been a number of amnesties incorporated into the present peace process. These include an amnesty for those engaged in the decommissioning of paramilitary weapons and those revealing the whereabouts of the graves of Northern Ireland's 'Disappeared.' Legislation, in both the UK and the Republic, provides that those transporting weapons for the purposes of decommissioning can be given immunity from prosecution on the condition that the decommissioning body is informed in advance. Furthermore,

"enshrined in the arrangement is the idea that none of the material will be forensically tested, so paramilitaries handing over weapons will be guaranteed they are not landed in Court for old offences."

(Thornton: 1998 *The Belfast Telegraph*)

This system acknowledges that in order to facilitate decommissioning an arrangement must be made with the paramilitaries. It is an acceptance of pragmatism over principle. A similar amnesty system was introduced to assist in the recovery of the bodies of the 'Disappeared.' (Thornton: 1999a, *The Belfast Telegraph*) The decommissioning and 'Disappeared,' legislation display a willingness to apply amnesties in order to assist the progression of the political process. Given this willingness the application of an amnesty system to a TRC might prove acceptable.

The existence of these amnesties has not been without controversy. The British and Irish governments were described as *naïve* for granting these amnesties. Some Unionist politicians have stated that they have, "huge objections," to the amnesty provisions in the legislation. (Maginnis: 1999) The Unionist spokesman, Ken Maginnis has expressed,

"sympathies with the twelve or fourteen families...[but] I don't think the rights of those... families... were such that the rights of society as a whole should be undermined." (Maginnis: 1999)

This returns to the original dilemma faced when offering amnesties in these circumstances. A balance must be struck between truth and justice. In the above cases that balance may not have been struck. By granting an amnesty, society expects something in return. In South Africa the balance was achieved by requiring that the truth be told and that those receiving an amnesty be compelled to act as prosecution

witnesses in any future trials. It was these requirements that established the moral balance in South Africa's amnesty system. That moral balance may be lacking from the present amnesty regimes in the North.

4.3 A Northern Ireland TRC and Amnesties.

If a TRC were to be established in Northern Ireland, the issue of amnesties would be central. Opposition to amnesties is likely to be strong. Maginnis stated quite clearly that he was of the opinion that prosecutions were vital if the criminal justice system was not to be undermined. He argued that,

"if somebody does something wrong they have a duty to society...whatever the circumstances...[and]...should be hauled before the courts and tried for that crime, even if...[they are]... going to be released prematurely."(Maginnis: 1999)

This acceptance of the early release is an attempt at balancing the need to uncover the truth with the requirement of justice. It is a view which is similar to that of Amnesty International who have stated that,

"those ...accused of human rights abuses should be tried...Although Amnesty International takes no position on *post conviction* pardons, where it is deemed that such a measure would be in the best interests of national reconciliation..."(Steiner & Alston: 1996, p1088)

It is apparent, that there is strong support for prosecutions regardless of the punishment later received. A determination of guilt or innocence appears central to this view.

It has already been shown that amnesties may be acceptable to those opposed to amnesties *per se*. The South African model is particularly useful in this regard. Rather than providing a blanket amnesty South Africa ensured that those who applied for amnesties earned them. This model appears to have the qualified support of Geoffrey Robertson who could be described as a strong proponent of the promotion and protection of human rights. But Michael Mansfield argues that,

"the whole process of individually picking off people with evidence, its going to take too long and actually its unrealistic, because...where are you going to get the evidence from?" (Mansfield: 1999)

This is the central problem for a proposed TRC followed by prosecutions, or indeed a system of prosecutions without any inquiry. The evidence needed to discover the truth is not readily available. Information regarding Government activities may be unavailable due to legislation; paramilitaries will not forward the information if they risk a prison sentence for even admitting membership of an illegal organisation. In many ways,

"it will sometimes be necessary to choose between truth and justice. We should choose truth...Truth does not bring back the dead, but releases them from silence."(Krog: 1998, p23)

What is important to remember, at this point, is that the choice is not simply between truth and justice. The South African model provides an acceptable balance between the two.

5. Difficulties for a TRC in Northern Ireland

The difficulties posed by the introduction of an amnesty to facilitate the fact-finding element of a TRC have already been outlined. Those difficulties, while considerable, are not insurmountable. Other difficulties remain. This section outlines some of those difficulties and possible remedies.

5.1 The Time Period to be Reviewed.

There is a connection between history and modern political developments in Ireland and this would pose difficulties for any TRC. The Argentinian TRC covered a period of seven years (1976 to 1983), in Chile a longer period was examined (11 September 1973 to 11 March 1990). (Hayner: 1994, Table 1) The longest period examined by a TRC to date was in South Africa. At the time some felt that the Commission had an impossible task since it was the first such inquiry,

"...to investigate nearly four decades, and to look not only at disappearances, as in Chile, but at other gross violations such as murder, kidnapping, torture and severe ill treatment."(Krog: 1998, p6)

Despite such concerns, the South African TRC was able to conduct its investigations and produce a report. A TRC in Northern Ireland would have to investigate a period, which at least covered the Troubles. The difficulty with this is that a date for the beginning of the Troubles is difficult to establish. Other, more concrete, dates will have to be considered.

Mansfield argues in favour of an investigation back to 1921, the foundation of the State. The advantage of such a date is that it does not appear as arbitrary as a date in the 1960s attempting to establish the beginning of the troubles. An obvious disadvantage, however, is that it involves a period of nearly eighty years. That is double the period examined in South Africa. But investigations of events so long ago are not without precedence, Nazi war crimes trials being one example. However, these are single case involving a limited number of issues and are also notable for their evidential difficulties. As a result, Mansfield argues in favour of 'living memories' but describes 1921 as a, "cut off point."(Mansfield: 1999) This would facilitate a review of events dating back that far *if* people with living memories of those events chose to contact the TRC. This is because it is,

" important for people who are living lives... and the anger and the angst of the living memory is actually still... coursing the veins of the memory... to exorcise that in such a way that they feel there is a release...."(Mansfield: 1999)

This is a possible compromise between an arbitrary cut off date, which may attract criticism, and an investigation whose terms of reference are too broad to allow a thorough investigation. If people have memories and pain that dates back to the foundation of the State then that can be dealt with. Naturally the evidence would have

to conform to the living memory rule and must be acceptable to the Commission, however, the TRC retains the ability to examine such events if that proves necessary. The wording of any 'living memory' clause in a TRCs' terms of reference would require careful consideration, however it is suggested that a cut off date of 1921 with a limiting phrase requiring actual living memory, it could be described as a form of *locus standi*, provides the necessary balance.

5.2 Jurisdictional Issues.

The conflict in Northern Ireland has not been limited to the six counties, the island of Ireland or indeed the islands of Britain and Ireland. On many occasions the troubles have taken on an international dimension. Bombings on mainland Britain have been a feature of the conflict. Explosions have also occurred in the Republic of Ireland. Violence associated with the Northern Ireland situation has also erupted in Europe. In 1980 the IRA shot a British Army Colonel in, what was then, West Germany (Bew & Gillespie: 1993, p138). The Gibraltar incident of 1988 involved the shooting dead of, "three unarmed IRA members on 'active service' ... by the SAS...." (Bew & Gillespie: 1993, p211) Beyond Europe, however, there have been allegations that governments have supported paramilitaries in the North. Most notably, in 1972, Colonel Gaddafi claimed to have supplied weapons to, "the Irish revolutionaries who are fighting Britain." (Bew & Gillespie: 1993, p53 quoting Gaddafi) Therefore, a TRC concerned with events in Northern Ireland may be required to examine some external issues.

A number of problems arise if a TRC is to examine events outside Britain and Ireland. Firstly the TRC would require the support and co-operation of foreign governments. This may not be forthcoming. Secondly, it broadens even further the scope of the inquiry. Examining a time period of eighty years, even if it has been limited to a degree by the living memory clause, will prove difficult. For the inquiry to also have to consider international aspect may make the TRC unworkable. Mansfield suggests that the TRC limit itself to examining incidents that actually occurred in Northern Ireland. At the same time he acknowledges that evidence may need to be gathered from abroad, since people may now be living outside Northern Ireland, so that a TRC would, "have tentacles that reached globally but...what you are concentrating on is the incidents that have occurred there..." (Mansfield: 1999) This approach may limit the scope of a TRC unnecessarily. As with the review back to 1921 people and organisations abroad may have evidence and opinions, which would be useful to a TRC. By granting a TRC the *possibility* of examining incidents that occurred outside the North the process of reconciliation may profit. In South Africa the TRC examined gross violations which occurred beyond its territory. This was described as 'the State Outside South Africa', and examined the involvement of South Africa in violations beyond its borders. (Report of the TRC South Africa, Volume 2) In Northern Ireland a review of paramilitary activity abroad would also be required. It has already been argued that the support of those organisations would be necessary to ensure success for even a limited TRC. If that support was forthcoming, due to the incentive of amnesties, a review of the international aspects of the conflict may be possible. It is accepted that to incorporate international aspects of the troubles into the scope of a TRC will increase the difficulty of the exercise, however, to exclude them is to exclude the grief of those in Britain and Ireland particularly, and those abroad who have been involved. As a result it is proposed that a TRC could review the

international dimensions of the Irish conflict. It must be remembered that such a review is conditional on those victims from outside the State, with 'living memories,' coming forward. It is suggested that, again, this provides an acceptable solution to this difficult issue.

5.3 Political Manipulation of a TRC.

A further concern is that any TRC in Northern Ireland would face political manipulation. Commissions of this sort cannot serve the purpose for which they have been established if they are manipulated. (Reynolds: 1999) The attitude of Northern Ireland politicians has often been questioned. Some assert that, "the politicians of Northern Ireland are less interested in peace than in victory." (Hoggart: 1999, *The Guardian*) In these circumstances it may be extremely difficult to ensure the TRC is protected from such manipulation. Maginnis has suggested that Sinn Fein attempted to manipulate the Patten Commission and stated that they had, "succeeded up to a point." Despite this he acknowledged that the, "Commissioners were probably...and hopefully sophisticated enough to see through the nonsense...." (Maginnis: 1999) Others were more convinced of the ability of the Patten Commission to avoid manipulation. (Reynolds: 1999) The Patten Commission appears to have been faced by the problem of manipulation and it appears to have overcome these difficulties. It remains inevitable that after a prolonged conflict, which has engendered mistrust, that manipulation of the truth would be a major concern.

There were fears of manipulation of the TRC in South Africa also. Some feared that political parties would use the TRC as a public relations exercise. After all,

"politicians are opportunistic enough to realize that a political party can get more mileage out of a very public, highly moral forum than out of any number of mass rallies."(Krog: 1998, p101)

However in the end the Commission was able to produce an unsparing report which, "said the white regime made no distinction among its various opponents...but the commission also held the ANC and other opposition groups responsible...."(Whitelaw: 1998) Manipulation need not be successful. Any TRC is likely to face such attempts. What is important is that the Commissioners are aware of the danger and through that awareness avoid the problem. Maginnis doubts that paramilitaries and their political representatives will admit their past blameworthiness. (Maginnis: 1999) It is true that such groups may be slow to forward the truth and to admit their past faults. Given that the ANC were able to accept their responsibility, other groups might also be convinced. It is true that it would take a major change in mindset, however, a TRC may prove such a catharsis. If immunity is on offer, the truth may be forthcoming. Since a TRC does not declare guilt or innocence, but simply uncovers the facts, those involved may be more willing to reveal the truth. Finally if a TRC is viewed as balanced and fair, it may assist in bringing those organisations forward and uncovering the truth.

5.4 Legal Challenges.

A further difficulty is that a TRC is highly likely to encounter a series of legal challenges. The Saville Inquiry into the events of Bloody Sunday has already

encountered such problems. Soldiers of the Parachute regiment have taken legal action to safeguard their anonymity at the tribunal. (BBC) Other similar examples include the present threat of legal action by unionist politicians against the Secretary of State for Northern Ireland's decision that the IRA had breached but not broken its cease-fire in August 1999. (Mullin: 1999a *The Guardian*) The issue at stake is not that the right to legally challenge the workings of a TRC, it is that any perceived stalling of the process would damage the process of reconciliation. Again, the South African TRC faced legal challenges, for example the *AZPO* case, which challenged its right to grant amnesties to those who violated human rights. It has been noted already that, despite these challenges the TRC there was able to reach a conclusion and produce a report. A TRC will be, "shouted down... there will be campaigns... it will be ridiculed...[but]...that doesn't mean you shouldn't try." (Mansfield: 1999) It is possible for a TRC to overcome these difficulties. The Saville Inquiry should not be abandoned simply because it has been challenged. If it is felt that a TRC is the best forum for discovering the truth about past human rights violations, as has been suggested, and if it is necessary to uncover the truth before reconciliation can occur, then it is necessary that a TRC be prepared to take the time required and answer its critics with a fair and balanced report. It can succeed in doing this in spite of legal challenges.

6. Conclusion

This article has proposed the introduction of a TRC in Northern Ireland. It has been shown that a variety of models has been employed in different parts of the world. The South African model, as the most recent, the broadest and the most developed model has been, largely, used as a prototype for the North. To this end it has been suggested that a TRC must be established to review past human rights abuses in the province. This is necessary to provide an unbiased, independent review of the past, which can allow the communities of Northern Ireland to move forward. The TRC proposed would review a lengthy period of history. The South African TRC reviewed a period of forty years, however the present proposal involves an investigation of up to eighty years of history. This may appear excessive but it is argued that a cut off date of 1921 is clear and definite and does not involve an arbitrary decision as to when the troubles began. Moreover, the length of time being reviewed is compensated for by the inclusion of a 'living memory' clause. This provides a balance between the need to examine Northern Ireland's past with the requirements of expediency and efficiency. The TRC should have authority to investigate events, which occurred beyond the territories of The United Kingdom and the Republic of Ireland. The international aspects of the conflict and the desire not to exclude victims who may wish to come forward and tell their stories necessitate such a wide jurisdiction. The role of the South African TRC has been identified as a precedent for such an investigation. Finally the TRC proposed would grant limited amnesties to those involved. This is felt to be necessary to facilitate the fact-finding function of a TRC. Without such amnesties it is difficult to imagine a TRC in Northern Ireland uncovering much of the truth about so many covert and subversive activities. The amnesty system outlined is not too general and does accommodate justice as well as the truth. By following the South African amnesty approach Northern Ireland could satisfy international law and provide justice. Those seeking amnesty would have to give evidence in later cases, if any such cases were to arise, and in doing so would affirm their commitment, and society's commitment, to the rule of law.

It would, however, be naïve to suggest that a TRC would be broadly accepted. For a TRC to be established, it would require cross party support as part of a negotiated settlement. Such support does not appear to be in existence. The Unionist Party appears to want to build a wall between the past and the future. (Maginnis: 1999) Sinn Fein has called for a series of inquiries but have not proposed a TRC. Reynolds agrees that reconciliation is required but looked to the implementation of the Belfast Agreements to achieve that. (Reynolds: 1999) When considering a TRC it is important to remember that it is not an alternative to other elements of the process. Unionists' point out that gun-related violence in South Africa remains a major problem and argue in favour of decommissioning. (Maginnis 2: 1999, p14) On the other hand, Martin McGuinness of Sinn Féin believes that if,

"...you effectively remove the reasons why people rise up in arms, then the issue of how you remove all the guns from Irish politics becomes very straight forward."(DeBreadun: 1999 *The Irish Times*)

A TRC is not an alternative to decommissioning or the Belfast Agreement, it is an element of a negotiated settlement designed to review the past and uncover the truth.

A TRC for Northern Ireland provides the best method of uncovering the past and allowing an accommodation with it. It ensures an unbiased review, which should assist in a lengthy process of reconciliation. However, at present the prospect of a TRC being established in Northern Ireland does not look promising. Neither the Governments nor the mainstream parties in the North have made proposals of this sort. In light of this alternatives must be pursued. The possibility of *ad hoc* inquiries in Northern Ireland providing a viable alternative to a TRC has been discussed. It is felt that the ability of such inquiries is severely limited by their terms of reference and role. In spite of these criticisms such inquiries provide the best alternative available. As with the Lawrence Inquiry in Britain, such inquiries can have an impact beyond the individual case under review. If these inquiries in Northern Ireland were to go ahead, they could have a number of effects. They could reveal a great deal of the truth and provide a form of accommodation with the past in so doing. They could result in greater calls for further inquiries, as is already happening. They could even result in calls for a broader inquiry similar to a TRC. The only other alternative is to ignore the past, which means turning away from reparation for victims and better understanding in society.

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THE PROFESSIONALISATION OF JUSTICE IN LOCAL CRIMINAL COURTS

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Introduction

During the next century it is likely that the stature of the concepts of localism and laity will continue to diminish as the criminal courts become more centrally administered and more professionalised. Traditionally, the involvement of lay people and their proximity to the local community have been crucial features of the persona of these courts. At Crown Court, for example, they are exemplified by the jury and in the magistrates' courts by the justices of the peace. Yet, both institutions are currently being challenged, whether through changes to mode of trial rules or through the growth in the numbers and roles of court professionals. Given that it is the summary courts which handle the vast majority of criminal proceedings in England and Wales, this paper will focus at that level and will examine the data from a study conducted by the authors of the role and appointment of stipendiary (paid) magistrates (Seago, *et. al.*, 1995; 2000).

The professional magistracy and its challenge to local laity

The majority of judicial actors in the summary criminal courts are lay magistrates, who, in January 1998, numbered a record high of 30,361 (Raine, 1989; Skyrme, 1991). However, the lay magistrates are now complemented by over 90 permanent stipendiary magistrates and a further 90 or so acting stipendiaries (part-time, temporary appointees). This paid, professional, judicial office originally developed as a response to the failure in the system of lay justice in London from about 1740 and in the provinces (in Manchester) from 1813, but the cohort of judicial professionals remained quite small until recent years.

During the past two decades three factors have contributed to the gradual re-emergence of provincial stipendiaries. The first was the increasing workload of the

summary courts and the incapacity of many areas to recruit sufficient lay justices. The second factor was a heightened political concern about court delays (Le Vay, 1989; Narey, 1997). The third factor was the Administration of Justice Act 1973 which simplified the mechanisms for permanent appointments and also enabled the appointment of temporary, visiting stipendiaries.

These factors will be given added impetus by recent legislation. First, the role of stipendiary magistrates in the youth courts has been expanded by section 48 of the Crime and Disorder Act 1998. Next, the Access to Justice Act 1999, section 78 and schedule 11, will unify the Metropolitan and Provincial stipendiary benches by granting to all stipendiaries jurisdiction within every justice of the peace commission area. This creation of a national judicial cadre follows the *Venne Report* (Lord Chancellor's Department Working Party, 1996) and the Lord Chancellor's Department consultation paper, *Creation of a Unified Stipendiary Branch* (1998: para. 15). A further signal of the growing status of the stipendiary is the grant of a new title – District Judges (Magistrates' Courts). There will also be a mechanism for standardisation of judicial practices through a Senior District Judge (Chief Magistrate). Finally, the 1999 Act allows for the greater use of acting stipendiaries ("Deputy District Judges (Magistrates' Courts)").

As a result of all of this encouragement, the number of stipendiary magistrates has grown significantly (Lord Chancellor's Department, 1999). There are proposals to raise the Provincial figure to 60:

Table 2: Number of stipendiary magistrates since 1989

<i>Year</i>	<i>Provincial stipes.</i>	<i>Met.stipes</i>	<i>Acting stipes.</i>
1989	17	48	Not available (66 in 1991)
1994	32	46	90
1999	45	48	95

Whilst the overall totals of stipendiary magistrates remain relatively small, a major concern has been the perception that they undermine the local and lay characteristics of summary justice. The first arena of conflict might occur if it could be shown that stipendiary magistrates act as thinly disguised government placemen - the agents of central executive prosecution or sentencing or courts policies. In the second arena of conflict, established values would be compromised if the professional judges began acting in the interests of legal professionals rather than the local public. In the third arena of conflict, established values might be compromised in a geographical sense if power is centralised.

Our studies revealed that the presence of stipendiary magistrates has as yet not been sufficiently influential outside London to make a major impact on the workings cultures or administrative procedures in magistrates' courts. Furthermore, stipendiary magistrates were shown to share the values and concerns of their lay brethren – for example, an emphasis upon common sense and local experience rather than policy or doctrine. Neither is their diet of work distinctive (aside from the "sensitive" extradition hearings before the Chief Metropolitan Stipendiary Magistrate). It is true that both Metropolitan and Provincial stipendiaries are generally more expeditious than lay justices. However, this saving in time arises mainly from the mathematically simple fact that stipendiary magistrates preside alone and have no need to confer. Furthermore, stipendiary magistrates are experienced and legally-trained professionals, and so tend to spend less time being advised by the clerk and may also be better able to curtail excessive advocacy.

The policy of local laity

The concept of geographically sensitive justice is troublingly vague, but lay magistrates do view themselves as representing and understanding the locality and its customs and values (Brown, 1991: 111-112). By contrast, as already described, stipendiary magistrates will have a nation-wide commission throughout England and Wales under the Access to Justice Act, 1999, and the supposition is that stipendiary magistrates are less socially reflexive than lay magistrates. A counter-argument to the assertion of lay localism is that localism is itself much diluted in contemporary times, with, for example, a diminishing number of magistrates' courts sites. In any event, is local justice consistent with good quality justice? The arguments for it seem to revolve around concepts such as trial by one's peers, as well as the benefits of local knowledge and sensitivity to local needs. More generally, all recent major studies have supported the continuance of a fundamentally lay and local system as a democratic and educative "bridge" between the public and the courts. Yet the criticism of unequal treatment arises whenever local differences do markedly emerge (Alugo, *et. al.*, 1996:329).

The wholesale replacement of the lay magistracy is not, and never has been, government policy. The exclusive employment of stipendiary magistrates would be more expensive and would dilute the fundamental principles of citizenship and democracy. Equally, the extinction of stipendiary magistrates seems highly impracticable, as a significant number of Benches would find it impossible to appoint sufficient lay justices or to administer unwieldy Benches of over 700 justices. So, the consensus seems to be a compromise between legality and local laity. A strong rhetorical emphasis at the summary level rests upon "community", as articulated through lay involvement, but the lay judiciary must work within a framework of legal formality, represented by training and professional assistance through clerks. One might then depict the stipendiary as a further form of complementary compromise to community involvement - dealing with cases or case-loads which lay justices find too hot or too heavy to handle.

If local laity is to be retained, then an important agenda for the future is accountability, but that concept is not addressed in any of the recent policy papers. One might then conclude that the driving force behind the growth of the professional magistracy is the bureaucratic objectives of the New Public Managerialism. The

opposition, from lay magistrates has also been pitched at an ideological level, but it is equally an ideology in which the relationship with the community is one way and paternalistic. Nevertheless, the appendage of a professional magistracy does call into question the justifiability and working of local justice and may expose at the same time the strength of the ideology as well as the weaknesses of its application.

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GHOSTS IN THE MACHINE:

Computer misuse within the organisation

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The rapid growth of the internet during recent years is now legend, as are its social, educational, organisational and commercial benefits. However, the increasing dependence upon information systems by many major infrastructural organisations has made them more vulnerable to computer-related harms - the term "harm" is used here because misuse is not necessarily contrary to criminal law. Yet, much of the debate over computer related harm has tended to concentrate upon the individual and where the debate has included organisations these threats have, for the most part, tended to be perceived as coming from without, rather than within. This article draws upon ongoing research into computer related harms within the organisation and it will seek to map out some of the issues relating to cyber-threats from within the organisation.

One of the main obstacles to developing an understanding of misuse within the organisation is obtaining reliable data. On the one hand, organisations tend, for a variety of reasons, to be reluctant to admit that they have been the victim of an attack. This could be because of the corporate fear of the negative commercial impact of adverse publicity in terms of lost market share, or that they lack faith in law enforcement capabilities, or that they favour civil, rather than criminal, remedies. Alternatively, organisations might find it easier to claim for losses through insurance, or just simply pass on the costs directly to their customers. Furthermore, misuse is also hard to detect, never mind regulate (Wall, 1998), because individual motivations are very diverse in nature. Computer misuse within the organisation can be motivated by revenge, malice, intellectual challenge, thrills, anger with management, personal problems such as gambling debt, drug-taking or investment losses, greed/ financial gain; frustration, dissatisfaction with, or protest against, their employers. In addition, the organisation's employees, themselves, may have been targeted by outsiders to help in the commission of computer-related crimes or telecommunication offences. In *R v Pearce* (unreported), for example, the defendants were employees of a mobile telephone company who, working with an outsider, were held to be guilty of unauthorised access having conspired to obtain data from the employer's customer accounts in order to instigate a phone cloning scam.

On the other hand, reports of misuse tend to confuse potential and actual harms. Indeed, there is some evidence to suggest that this confusion could be a deliberate ploy by the burgeoning cybercrime industry to secure trade and, in some cases, public funding. The little empirical information about misuse that does exist points in one direction, towards a general increase in harms from both outside, but also from inside the organisation (Hamin, 1999). However, whilst most jurisdictions have some form of criminal (anti-hacker) legislation to deal with external threats to the organisation, the law relating to the insider threat within those same jurisdictions is less easily definable, often combining criminal, civil and common law with employment regulations. So, the insiders present a considerable legal dilemma, particularly as, indicated above, they tend to be persons with legitimate access to the computer system. These persons might include current and former employees, temporary workers, on-site contractors, consultants, partners and suppliers.

Such threats have always existed and the literature on the sociology of work is replete with examples. Sociologists will remember Taylor and Walton's (1971: 219) fabled account of industrial sabotage, where a disgruntled worker who, upon being sacked from a confectionery manufacturer, wrote a colourful expletive in half a mile of Blackpool rock. What is different, however, with the insider cyber-threat is not that it is new, but rather the potential scale of both the harm that can be effected and also its implications. Take, for example, the Nick Leeson affair which brought down the Barings Bank and, in doing so, ultimately contributed to the downfall of some of the Far-Eastern Tiger economies.

In addition to the potential scale of harms that can occur has been an increase in the overall level of motivations that underlie threats to the organisation. In the race to rationalise capital and make organisations more economic, effective and efficient, organisations would appear to have shown little regard for the management of the change that information and communications technologies have upon their employees. Particularly with regard to the acceleration of the deskilling and re-skilling process (Wall and Johnstone, 1997; Braverman, 1976). This "permanent revolution" has simultaneously decreased job security and it has also diminished the workers "bond with their employers" (Ulsch, 1998).

Of course, recent patterns of media reporting have concentrated upon the more sensational examples of insider attack, however, in practice most examples are more mundane. So, at this latter end of the spectrum of insider misuse, one can see, for example, the cumulative financial impact of employees mis-using the office computer for private work, sending personal electronic mails, playing computer games or surfing the Internet and so on. These activities largely result in an overall loss of resources and productivity. Towards the other end of the spectrum, however, lie the more onerous threats, such as input or output data manipulations (data-diddling); theft of confidential information or trade secrets (economic espionage); cyber-fraud (siphoning funds from one account to another); cyber-blackmail (holding data hostage); cyber-vandalism/ revenge (Hamin, 1999). These more serious threats can actually damage the organisation and threaten its existence.

The law and the resolution of conflict with regard to insider threats, other than those which clearly fall under the ambit of criminal law, as suggested earlier, can be fairly ambiguous. Even the criminal law is not often so clear, for example, in the UK case *DPP v Bignall* [1997] (Crim LR 53, 1998), the Court of Appeal held that accessing the Police National Computer (database) by the police defendants did not constitute an unauthorised access, contrary to the Computer Misuse Act 1990. This was because the defendants had a general authority to access the database, even though they had used the database for private and unauthorised purposes. Similarly in *R v Gregory Michael Brown* (1996, 146 *New Law Journal* 209), it was held that access into the Police National Computer by the police defendants for other purpose than policing was not an offence under section 5(2) of the Data Protection Act 1984 (before amendment s.161, Criminal Justice and Public Order Act 1994), on the grounds that there was no evidence that the defendants had made any actual or tangible use of the information obtained from the computer. Such decisions send out very mixed messages when it is clearly in the public interest to protect sensitive information from misuse.

In conclusion, the new information and communications technologies are creating not just a new patterns of work, but also new associated patterns of offending which challenge many of our traditional perceptions of crime and crime prevention. Of particular concern is the continued focus upon the external rather than internal threat. Consequently, a shift is required in the way we both seek to understand, but also deal with, internal threats such as computer misuse within the organisation.

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APPENDIX 7

VISITING SCHOLARS

Leeds as a research centre of excellence

The Centre for Criminal Justice Studies

The Centre welcomes applications from scholars interested in the opportunity to utilise research facilities and make research links with Leeds in any aspect of criminal justice and related criminological research.

The Centre was established in 1987 as a research-based interdisciplinary unit attached to the Economics, Social Science and Law Graduate School. There are seven full-time members of staff at the Centre, both lawyers and criminologists, who are dedicated to its primary goal of research excellence in all aspects of criminal justice and related criminological issues. Full-time staff are supported by the Executive Committee and an Advisory Committee which consist of academics and practitioners in relevant fields of expertise. As a small, specialist unit, the Centre is highly

productive, with its members engaged in a wide variety of academic and funded research. The Centre has a substantial body of postgraduate students at MA and PhD level, regularly hosts talks by external speakers and stages seminars and conferences; one recent example being its organisation of the Socio-Legal Studies Association's 1995 Conference.

Funded and other research projects now under way or recently completed include: Victim and offender mediation and reparation in comparative criminal justice cultures: a comparison of England and France; The administration of legal aid in the magistrates' courts: access to criminal justice; Research into the reporting of court proceedings; Family contact centres; Political violence and commercial victims; The role and appointment of stipendiary magistrates; An evaluation of transfer for trial in the magistrates' courts; The imprisonment of TV licence evaders; The local governance of crime: Appeals to community and partnerships; The impact of race and racism on boys' fear of crime: research into victimisation, masculinities and racism. In the context of these projects, strong links have been built with criminal justice and criminological institutes in Canada, USA, France and elsewhere.

The University of Leeds

The University of Leeds has an international reputation for research excellence and is among the top ten research universities in the UK. The research base is maintained through funding from UK Research Councils, industry, central and local government, departments, the European Union and a variety of health-related charities. New interdisciplinary research centres focus on the University's expertise in particular subject areas. Research Schools have been established to encourage interdisciplinary research and collaboration.

The City of Leeds

The City of Leeds is a prosperous, commercial, industrial and manufacturing city, and is also the cultural and sporting centre for much of the region. It is "an old city with a young outlook". In the City Centre, modern offices have developed alongside fine old buildings like the Town Hall and the Corn Exchange. Impressive new shopping precincts complement traditional Victorian arcades, and have created a fine regional shopping centre. The city has a blossoming 'cafe culture' which is mirrored in its thriving 'youth' scene of clubs and bars. Leeds is also a 'green' city, proud of its parks and open spaces.

Visitors to Leeds are impressed by the range of different leisure facilities. There are lively audiences for all kinds of films, concerts and plays. There is a thriving local music scene, including the world famous Leeds International Pianoforte Competition and the Grand Theatre which is the home of Opera North. The new West Yorkshire Playhouse is the home of one of the leading provincial theatre companies. Leeds City Art Gallery offers a wide variety of exhibitions and also houses the new, internationally famous Henry Moore Centre for the Study of Sculpture. If you are an active sportsperson you will find many sporting facilities both in the University and the City. For the spectator, Headingley is the home of Yorkshire County Cricket Club and Leeds Rugby League Club; Leeds United play at Elland Road.

The Yorkshire region

The Yorkshire region around Leeds is easily accessible by road and rail, with excellent links to London, Manchester, and Scotland. Within easy reach of Leeds are many areas of outstanding natural beauty - the Yorkshire Dales and the Pennines, the North York Moors and the Vale of York. The ancient city of York is only 30 minutes away.

Details of Programme for Visiting Scholars

Applicants

Applicants for Visiting Scholar status should be persons (whether academics or professionals, full-time or part-time) who have schemes of academic research which can appropriately be conducted at the Centre for Criminal Justice Studies. Generally, we expect that the Scholar will be a full-time member of another University. We would encourage applications from both experienced and younger scholars. Visits will normally be limited to a maximum of one semester but may also be arranged for a period of weeks. We hope that visiting scholars will participate in our academic life as much as possible, for example, by engaging in discussions or joint projects with Centre members and by the presentation of papers about their own research within the Centre's seminar programme. Those visiting on a long term basis can be considered for Associate Membership of the Centre.

Facilities for applicants

Subject to available resources, we can provide the following facilities

Office space - two rooms are normally available for visiting scholars in one of our Annexes

Computing facilities are made available in our Annexes and in the Law Library computer clusters. The Centre provides a growing range of facilities and training for all its members. Email is heavily used by staff and students and our use of the World Wide Web is rapidly gaining pace. All members of staff have a networked PC on their desks and students have access to 50 PCs within the Faculty of Law itself, as well as access to open clusters all over the University campus. The Faculty has its own Computing Technician.

Library - Leeds University Library is one of the largest University Libraries in the United Kingdom, with a stock of over 2.3 million volumes. It supports the University's research and teaching across a full range of subjects (arts and social sciences, science and engineering, medicine and dentistry). The Library's main subject collections in relation to Criminal Justice are split between the Brotherton Library (Governmental Papers and Social Sciences) and the Law Library. The Law Library is part of the main University Library, but has been housed in the Law Department

building since 1958. It provides comprehensive coverage of U.K. and Irish legal sources, and good coverage of Commonwealth, United States and European Law. In 1973 the Library was officially designated a "European Documentation Centre". The holding of criminal justice materials is growing rapidly in line with the expansion of the Centre.

Class attendance may be permitted on a non-credit, unregistered basis, subject to the consent of the Centre member teaching the course. Those wishing to obtain credits may be able to register for our Certificate or Diploma programmes, subject to their meeting the usual admissions requirements and subject to the payment of the normal fee.

Accommodation: Within the campus, as a Visiting Scholar you will become part of a close academic community. While recognising that you will appreciate the luxury of work afforded by an intensive period of research, you can also be assured that you won't be left in academic or social isolation. Above all the Centre can be described as a cooperative and friendly unit. Visiting Scholars should also note that the Centre offers the usual facilities of a staff common room with access to food, retail and leisure facilities just minutes from its front door. As well as providing a congenial working environment, the University may be able to assist visiting scholars with University housing during the summer months, and advice and assistance can be provided at all times.

Application procedures

Initial contact - We suggest that Visiting Scholars should first consult on an informal basis with the Director of the Centre or with other members of the Centre to determine the availability of places and the appropriateness of their research plans.

Form of application

Applications can be made any time of the year (note that teaching terms are between October to December, February to March, and April to May. Applications should include at least the information on the attached proforma.

Reference: We require a letter of reference from your current head of department or employer. Please submit your letter of reference along with this application. If that is not possible, please ask your referee to post it directly to us at the address below.

Further information: The University of Leeds has the following world wide web address: <http://www.leeds.ac.uk/>. Specific inquiries and completed application forms may be directed to:

Professor Clive Walker

Centre for Criminal Justice Studies

University of Leeds

Leeds LS2 9JT

Tel: (+44) (0)113 233 5012

Fax: (+44) (0)113 233 5056

E-m law6cw@Leeds.ac.uk

APPLICATION PROFORMA
VISITING SCHOLAR PROGRAMME

PERSONAL DETAILS

NAME OF APPLICANT

POSTAL ADDRESS

TELEPHONE

FAX

E-MAIL

CITIZENSHIP

DATE OF BIRTH

PLACE OF BIRTH

ENGLISH LANGUAGE ABILITY:

TOEFL SCORE: _____ or

NATIVE ENGLISH SPEAKER: _____

CURRENT POST:

(Please attach a separate sheet showing education, employment, and publication record.)

DETAILS OF VISITING SCHOLAR PROGRAMME

DATES OF PROPOSED VISIT:

FACILITIES LIKELY TO BE REQUIRED BY YOU:

LINKS AND CONTACTS, IF ANY, WITH MEMBERS OF THE LEEDS FACULTY:

SHORT SUMMARY OF PROPOSED RESEARCH:

(please provide a fuller explanation of not less than 500 words and including purpose, methodology, and likely publications on a separate attached sheet)

SIGNATURE OF APPLICANT:

DATE