THE SCOTTISH
ASSOCIATION FOR THE
STUDY OF OFFENDING

The Scottish Journal of Criminal Justice Studies

The Journal of the Scottish Association for the Study of Offending

Volume 20, October, 2014

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Criminal Justice Studies

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SASO is Registered Charity No: SC008124.

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Volume 20, October, 2014

CONTENTS

EDITORIAL BOARD

EDITORIAL

Welcome to the twentieth volume of the **Scottish Journal of Criminal Justice Studies**.

You will recall that SASO consulted with members earlier this year on whether or not to retain a hard copy Journal in the light of increased printing and mailing costs. There was clear support across our members for moving from a hard copy to an online format, which will save the Association considerable costs. So, from now on, the Journal will appear in your inbox rather than through your postbox.

In years past, the Journal has included written versions of key SASO Annual Conference presentations which are also invariably available as slides or as audio files on the SASO web-site. Given the move to an online format, the Journal will contain embedded links to conference presentations and, where available to presentations given at Day Conferences and Branch meetings, that Branch secretaries consider to be suitable to a wider audience.

The Journal will continue to contain original articles on matters of crime and justice which, hopefully, are of interest to our members. It will also continue to publish the Chairman's annual report.

In this first on-line edition there are articles by Dr Sarah Armstrong and Diane Wills on the use of circles of support and accountability for sex offenders in Scotland, and by Emeritus Professor Mike Nellis on the use, and challenges, of electronic monitoring in Scotland. Also included in this volume is the prize-winning SASO student essay by Maureen McBride, PhD student at the University of Glasgow, on responses to sectarianism.

Copies of the 44th SASO conference programme, speaker biographies and conference presentations are available here: http://www.sastudyoffending.org.uk/archives/255-reforming-justice-reforming-scotland-saso-44th-annual-conference-2013

The Journal continues to be keen to publish articles on matters of interest to the Scottish criminal justice community. I would particularly like to encourage articles from practitioners, and those with practice experience, which inform the realities of work in criminal justice. Contributors are asked to send articles (in word format) to the Editor (michele.burman@glasgow.ac.uk). All articles will be reviewed by two members of the Editorial Board.

Circles of Support and Accountability (COSA) in Scotland: Practice, Progress and Questions

Dr Sarah Armstrong (University of Glasgow) and Diane Wills (Plymouth University)

Introduction

Circles of Support and Accountability (COSA) 'are an innovative, volunteer-based means of supervising sex offenders, usually upon release from prison' (Nellis, 2009: 23). Volunteers are recruited from the community, trained and then meet as a group with, thereby forming a 'circle' around, the 'core member', the person with sexual convictions. This model has been in operation in various parts of England and Wales since the early 2000s and more recently has become available in Scotland through the work of Sacro (http://www.sacro.org.uk/). In this article, we introduce the COSA concept and its development in the UK and in Scotland, and summarise research we conducted in Fife to evaluate its progress so far.[i] We also identify some key issues around COSA including the role of communities in criminal justice, sustainability issues, the challenges of evaluation in this area and possible future directions of Circles in Scotland.

Some of the key questions that have been raised include: Does COSA address a clear need (or is it surplus to services already available, or target a population that does not require its assistance)? Does it work to reduce future offending and help prevent victimisation? Is it safe for members of the public to work directly with those at risk of sexual offending? Is it cost efficient and sustainable? This brief article covers many of these questions, referring to a large body of research developing around COSA.

COSA, A Potted History

Circles of Support and Accountability originated in the mid 1990s in Canada to address the typically extreme social isolation and risk of continued offending of some people with sexual offence convictions, particularly those whose victims were children. These original circles were set up by members of the Mennonite religion in Ontario and operated where an offender was completing a sentence and thus exiting all forms of criminal justice supervision and control. Gradually, the Canadian Circles came to receive support from the Canadian Correctional Service (CSC), which has set up circles in most provinces.

Word of the Canadian Circles (originally called just Circles of Support; 'accountability' was added on at their emergence in the UK) spread through Quaker churches to the UK, and in the early 2000s the Home Office funded several pilot schemes based in England run by a range of organisations and using different delivery models (Nellis, 2009). The Lucy Faithfull Foundation operated COSA on a regional

[i] This summary draws substantially on our report, *A Review of the Sacro Fife Circles of Support and Accountability* (2013), available online from the Sacro website at: http://www.sacro.org.uk/services/criminal-justice/circles-support-and-accountability . We are grateful to Sacro for its permission to use this work and for its support generally.

basis, setting up a circle wherever in the UK it was requested, recruiting and training volunteers on location. An alternative approach was modelled by a pilot collaboration between Thames Valley Probation and the Quaker Church, which set up a local COSA office and site that served people with sexual convictions settled in the area (Nellis, 2009). The Thames Valley Probation/Quaker church pilot eventually merged with a pilot run by Hampshire Probation forming the largest COSA operation in the UK. This COSA scheme, now called Circles South East, recently published its ten year review (Circles South East, 2012). Circles South East also spun off an independent training and accreditation body called Circles UK which now operates internationally advising on setting up COSA in, for example, New Zealand and Central and Eastern Europe, Asia as well as within the UK.

There have been some informal Circles operating in Scotland, where community-based mentors (often through churches) have been recruited to support an isolated offender, but there have been no central government funded pilots as was the case in England and Wales (Nellis, 2009). In 2008, in response to requests from Sacro among others, the Scottish Government commissioned a feasibility study of establishing Circles pilots in Scotland (Armstrong et al., 2008). Although that study reported high levels of support for the idea among statutory agencies and the voluntary sector, the Government declined at that stage to fund them. One of the reasons given for this was the need of allowing the recently implemented MAPPA arrangements to bed in before introducing new schemes for dealing with a concerning form of offending (MacAskill, 2008; Armstrong and Wills, 2013).

In the late 2000s, Sacro launched its own pilot in partnership with Fife Council, Fife Community Safety Partnership and the Fife and Forth Valley Community Justice Authority. The Fife COSA has been running for around five years and was evaluated in its fourth year by the Scottish Centre for Crime and Justice Research (SCCJR) (Armstrong and Wills, 2013). That report noted that there had been no new convictions among the core members and identified other positive areas of practice. Following this review, in 2014 Sacro launched a formal COSA service making it available to any locality in Scotland in a similar approach to the Lucy Faithfull Foundation regional model.

COSA are now a widely known initiative in the UK among those working with perpetrators of sexual offences (COSA are included in general textbooks on working with sex offenders, e.g., Brayford et al., 2012). Some key features of COSA in the UK are, first and unlike in Canada, they are used with offenders who remain under criminal justice control such as licence conditions and active probation supervision (Armstrong and Wills, 2013: 12-13). Generally, COSA are embedded in MAPPA, the multi-agency public protection arrangements that allow statutory agencies to collaborate and co-manage those who present a risk of serious offending (Russell and Darjee, 2011). Second, and consistent with the way Circles are run throughout the UK, participation remains *voluntary*: only those offenders who choose to participate are included in a circle. This is the case so far though research has given voice to the occasional suggestion by social workers and probation officers that COSA ought to

be available as a compulsory measure (e.g. Armstrong et al. 2008, Armstrong and Wills, 2013).

Organisation of COSA

The defining, and sometimes controversial, feature of COSA is the use of volunteers drawn from the surrounding community to work with people who typically present a real risk of sexual reoffending. Volunteers regularly meet with, support and confront core members. They assist them with and model positive social interactions and they also challenge a core member's concerning thoughts and behaviour patterns. COSA has been identified as a restorative justice approach (C. Wilson et al., 2010), and also has been described as a 'public health' model of working with high risk offenders, by addressing their risk while in the community and focusing on holistic and reintegrative strategies rather than exclusionary ones (Kemshall, 2007).

COSA might be thought of as not one but a set of circles (according to Elliott et al., 2013: 8, referring to the Canadian approach): '(1) an inner circle of four to six professionally-facilitated community volunteers who act as a supportive community to whom the Core Member agrees to be accountable; and (2) an outer circle of professionals (e.g., therapists, probation, law enforcement) who provide expert guidance on areas including, but not limited to, offender behavior, offender management principles, the legal and criminal justice contexts.' There is also generally a professional organisation to support COSA involving a full time paid Coordinator, and possibly supported by administrative staff, who oversees all the circles and liaises between circle members and statutory agencies.

Circles often have two phases, an intensive first phase in which the members of a circle (the volunteers and core member) first meet and get to know each other. Meetings during the first phase are frequent (generally weekly) and closely monitored by the Coordinator. As a rapport develops the circle moves into a second phase, where meetings may be less frequent and additionally involve social outings. The ideal lifespan of a circle is often given (e.g. in the Circles UK training handbook) as around 18 months, but many circles run beyond this, and not unusually members may continue to meet long after a circle is deemed to have ended. The average duration of a circle, for example, in the Circles South East region was 15.9 months with the longest active circle lasting over five years (Circles South East, 2012: 45).

Research on COSA

It is often pointed out that there have been no large scale evaluations of COSA that use experimental methods (i.e. randomised controlled trials) (e.g. McKartan et al., 2014; Elliott et al., 2013).[ii] One reason for the lack of large scale research is that the numbers of people involved in sexual offending and therefore in COSA is, thankfully, very small. However, now that COSA have been in systematic

[ii] Though the applicability of such models of evaluation for community based interventions was questioned in Armstrong et al., 2008.

use in a number of areas, particularly in the UK and Canada, for over a decade a large number of smaller scale studies have accumulated a research base including around 100 core members over 10 years in the Circles South East project (Circles South East, 2012), and 150 core members over 15 years (in 18 different sites) in Canada (C. Wilson et al., 2010). Taken together, this research offers some consistent findings on the profile of core members and volunteers, the reoffending patterns of core members and the views of volunteers and circle members.

As to participant profile, core members have engaged in particularly concerning and serious forms of sexual offending, often involving contact offences against children (C. Wilson et al., 2010). For example, the core member profile of the 10-year anniversary study of Circles South East (2012) comprised predominantly older (the average age was 48 years), male offenders who had committed contact sexual offences (80.5%), mainly against children (86.2%). Reflecting the severity of their offending, nearly 80% of core members had received a custodial sentence. The same study noted 65 of 71 core members were assessed at MAPPA level 2 or 3, levels at which offenders are considered to require active, multiagency involvement due to a high risk of reoffending.[iii] In the Canadian research the group of offenders participating in circles also ranked high on risk scales (R. Wilson, et al., 2005).[iv]

Given the risk profile of core members, research on outcomes of participating in a circle are highly reassuring. Reoffending rates, defined as either the rate of re-arrest or reconviction, for those involved in circles have been shown to be lower compared to those not participating in circles in both English and Canadian research. Unlike a comparison group, the Circles South East (2012: 54) study found that 'no Circles South East core member was reconvicted of a violent offence' nor 'a new contact sexual offence'. 'Overall, the reconviction data for Circles South East remains very positive – the key finding being that no Circles South East core member has been convicted of a contact sexual offence since being involved in a circle' (Circles South East, 2012: 45). Early Canadian research (R. Wilson et al., 2005) found that 60 offenders who participated in circles had significantly lower rates of general reoffending than a matched comparison group of 60 offenders who did not participate in circles. The circles participants also had a 70% reduction in sexual recidivism in contrast to the matched comparison group (3 cases of recidivism in the COSA group compared to 10 cases in the non-COSA group) and a 57% reduction in all types of violent recidivism and an overall reduction of 35% in all types of recidivism (Id.). Where further sexual offending did occur, these offences were reported to be less severe than prior offences by the same individuals (Id.).

[iii] Its three levels of risk from 1 (lowest) to 3 (highest) have implications for the intensity with which an offender is monitored. At levels 2 or 3 an offender is considered to be at high enough risk of causing serious harm to require regular supervision and involvement of statutory agencies.

[iv] The Canadian research measured risk using two tools: the Static-99, a tool for measuring violent or sexual reoffending risk using static risk factors and Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR) (see R. Wilson et al., 2005).

In addition to reoffending outcomes, the feasibility study for Scottish COSA pilots picked up on several other ways that people talked about the success of circles in the existing research (Armstrong et al., 2008). For offenders, positive impacts of circles included their ability to boost self esteem which in turn aided coping skills against reoffending or facilitated development of social relationships and employment. For volunteers, there was an expressed sense of taking back control of community safety and being able to directly influence a serious and damaging kind of offending. For staff of circles projects as well as statutory agencies, there was a morale boost in having an auxiliary service able to carry out some of the activities known to be linked to desistance (social support, employment, confidence, etc.) but which were beyond the remit or resources of official actors. These outward rippling effects of COSA are potentially significant and deserving of research in their own right (as pointed out also in McKartan et al., 2014).

COSA in Fife

A brief reprise of the SCCJR review of the Fife COSA scheme helps give a more detailed sense of how they work and what issues arise in their operation, particularly in the context of Scotland. The review conducted by Armstrong and Wills (2013) collected data on all four circles in operation at the time. It sought to capture the state of progress over the Fife scheme's four years, offering some insight into its potential for affecting reduced reoffending but also documenting its process and operation. At the time of the research half the circles had been well established, meeting for at least two years; the other half were relatively new with one in its very early Phase I stage and the other just about to enter into Phase II. The Sacro Fife COSA was set up based on the Circles UK model and began operating its own circles in 2010. Although the Fife Circles project is not yet accredited by Circles UK, their staff have undergone training from and use the handbook of Circles UK. There is a full-time paid Coordinator, clear links to MAPPA and a recruitment strategy and training programme run as recommended in the handbook. One interesting aspect of this COSA, compared to those run in England, is its relatively rural setting in which core members are likely to be dispersed across a wider, less densely developed (and serviced by public transport) area than in the COSA south of the border.

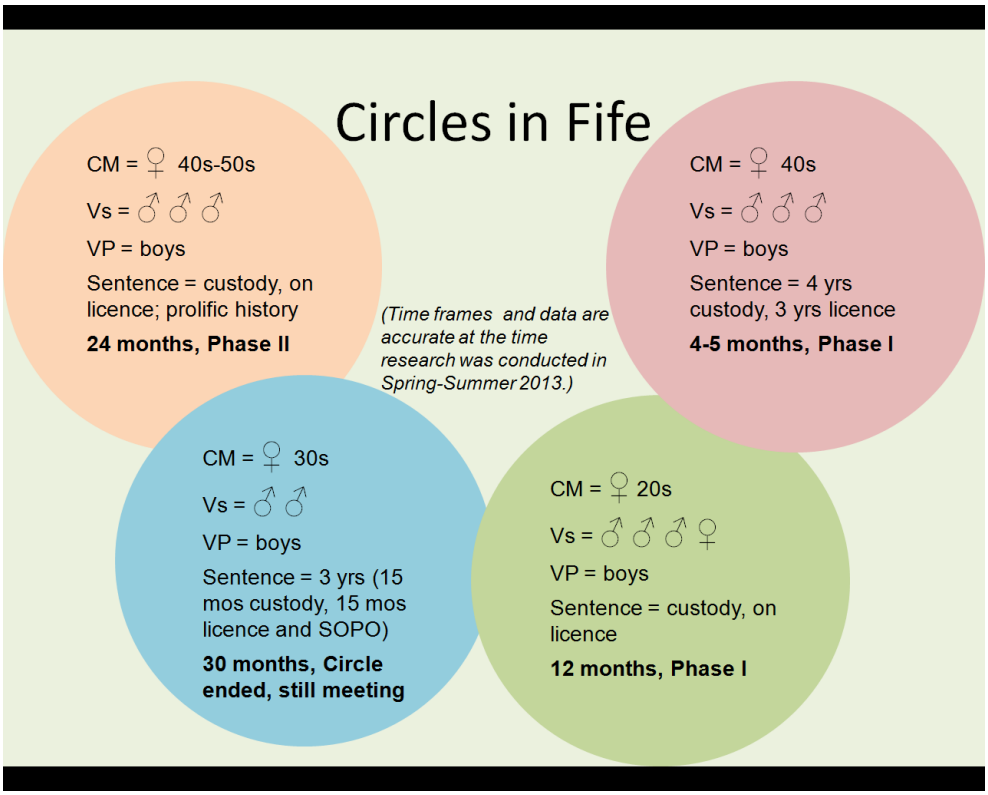
Fife Circle Profiles

The membership of these circles broadly matched the typical membership of the circles in England. The core members were all men, all having been convicted of an offence against a child (and in all but one cases a contact offence) and were rated at MAPPA risk level 2. All were also socially isolated – in one case the circle's volunteer members were the only social contact the person had aside from meetings with Criminal Justice Social Work. Not surprisingly, the core members reported sometimes quite significant mental health issues including depression as well as problems with alcohol. None was in paid work. A number of the core members reported experiences of sexual abuse as children.

Confidence and self esteem issues were raised in most interviews. The age range was quite varied in Fife, from early 20s to early 50s, with a median in the mid 30s. Research on English circles also suggests that intellectual/learning disabilities are an issue for a significant portion of core members (Armstrong et al., 2008); this issue was not probed in the Fife research. Nevertheless, it was clear in the profiles of all the core members that a number of risk factors for continued offending were present.

Contrasting with the core members, volunteers were mainly women. The lack of male volunteers was noted by core members as a perceived weakness of the programme, though this was emphasised mainly in those circles which were still in their early phase of meetings. The longer tenured circles where the volunteer base was all women reported a strong sense of a group bond. The recommended number of volunteers is between four and six, and all four of the Fife circles, not unlike those reported to researchers in England (Armstrong et al., 2008), struggled to maintain this level. Most of the circles operated on a regular basis with three volunteers, and one circle effectively had two volunteers as the third was on long-term sick leave. Interestingly, and in line with the Circles South East experience, volunteers tended not to be complete lay members of the public. Most had some experience either working or volunteering with the socially marginalised and/or were also students in related fields (psychology, criminal justice).

Figure 1 Circles in Fife (2013)



CM= core member, V = volunteer, VP = victim profile

Fife Circle Activities

Activities in the Fife Circles appeared to be a function of the specific needs of the core member and

capacities of the volunteers. Some examples of activities and engagement included:

- Meeting for coffee
- Introducing a core member to cycling as a hobby
- Helping fill out a job application
- Showing how a self-checkout till works
- Connecting a core member to an appropriate support group (e.g. mental health) or volunteer opportunity
- Being available for a phone call to support a core member through a crisis

These activities were in addition to the regular meetings all circles engaged in. Meeting minutes were an important tool of communication with the COSA Coordinator and others in the 'outer circle' (Police, Criminal Justice Social Work). These activities and meetings formed the process of how support and accountability actually played out in each group and convey how these two functions are to a large extent entwined.

Stakeholder Perspectives[v]

Given the small number of circles running and thus limited amount of data on outcomes, the emphasis of the review was on how the circles were perceived to be functioning by those involved: core members, volunteers and the staff and statutory agency officials forming the outer circle. For volunteers, the entangled nature of support and accountability roles of the circle were among the main points raised as in this excerpt:

> *"I don't adhere to the view that [support and accountability] are separate, I think in practice and conceptually they are the same thing anyway. Because being accountable just means that you're taking responsibility for what you're doing, you're being held responsible and I think we're best able to do that by him trusting us ..... Because [volunteers] knew the routines and moves and activities of the core member, they can recognise the signs, and also the core member can be honest enough with them, expose things against their will even, without realising it because they don't have this guard up."*

Motivations for participation was another interview area, and preventing future victims was a common response to this question:

> *"I feel really positive about the whole process, it's been really valuable, I do feel that my hour a week has really given something back, I do feel it's about protecting children, but really stopping some quite dangerous behaviour in society and that's something that feels really*

[v] All quotations are taken from Armstrong and Wills (2013).

worthwhile."

Finally, a particular finding in the Fife COSA study was the view shared in a number of volunteer interviews that COSA helps manage but cannot cure the core member:

> *"No miracle has happened. He's not 'cured'. There is no cure available for him. However I think that he manages it full stop, and that's pretty much as good as it's going to get for him."*

For **core members**, after an initial period of uncertainty for some about their value, the circle came to be perceived as a crucial element of keeping them "safe" from offending by allowing them to imagine a different identity and future for oneself, one which was not inevitably tied to negative labels and behaviours:

> *"I would say the circles have helped and I've always said if it wasn't for the circles I'd be back in prison without a doubt.... Because I know I would because when I came out of prison my attitude was I don't care, I'm doing it again. I don't care what anybody thinks of me, it's who I am, I'm an evil person, but the circles helped me understand you're not an evil person, you've done an evil thing, but you're not an evil person."*

Weekly meetings provided the core member a 'safety valve' as one volunteer put it, a space in which it was allowed to talk about concerning thoughts and feelings. This space was created by the sense of trust and friendship the core member developed in the volunteers:

> *"I've gained friendship. ___ and ___ are both friends as well as support us. And that's great. Because the only friends I've ever had in my life have been work colleagues. For me that's a whole new thing, friends that aren't work colleagues, a whole new concept for me."*
>
> [What has the circle changed for you?] "*Maybe more talking about how I feel about stuff and that....And maybe honesty as well. Not pretending things are a certain way, I don't know, like pretending that you're alright and stuff when maybe you're not alright....It's helping."*

Crucial to the sense of trust and opening up was the fact that volunteers were not being paid or required as part of their jobs to attend a circle. This made core members feel first of all that the volunteer was choosing to be a part of the relationship and second the relationship was not dominated, as it was felt to be with regard to **police and social work**, by a sense of focusing only on offending behaviour and the negative triggers in one's life. This was also recognised by these agency officials, as one Criminal Justice Social Worker stated:

> *"…it's a genuine relationship, knowing exactly where the boundaries are and knowing that the core member is a really vulnerable person…and it's like keeping an eye on a close friend because they are maybe vulnerable and susceptible to maybe doing really horrible things, but*

at the same time they feel really engaged in that process and they're 100% committed to it."

Fife Findings

The findings from the review of the Fife COSA were similar to those found in other research. There were no new convictions of the core members during the period of their participation in a circle. The number of circles studied is very small (four), however, and so it cannot be concluded with any statistical confidence that a core member's participation was the decisive factor in this. That said, more than one core member expressed the belief that the circle was the primary mechanism standing between him and criminal conduct. In addition, the profile of core members is similar to that found in other places, with a predominance of child victims and contact offences. This suggests both that circles tends to be used with a particularly damaging kind of offending profile and one where there is real risk of reoffending. Interviews of stakeholders including volunteers, social work, police and local authority funders was almost uniformly positive, and enthusiastically so. Those who had the most direct or long lived experience of COSA tended to be the most vocal in their enthusiasm. These stakeholders were in consensus in the view that COSA provided support to and actively complemented the activities of MAPPA and the statutory agencies rather than provided an intervention on its own. Key questions raised in the review related to volunteer recruitment to manage numbers and gender balance; anticipating changed Circle dynamics of working with a different core member profile (e.g. one with adult victims); and addressing financial sustainability of the scheme which currently is funded on annually renewable basis.

Progress, Promise and Questions

Despite the lack of 'gold standard' controlled and large scale trials of COSA, accumulating international evidence establishes a reasonably reliable basis for concluding that COSA support the aims of managing the risk of a very concerning group of people. It is difficult to see any support for the hypothesis that risk of this group would be lower in the absence of a circle. In addition, despite initial fears over victim safety and boundaries, there have been no reported major incidents involving the safety of a volunteer. However, the lack of research specifically on volunteers is a large gap in the research base. Finally, the police and probation services who have had direct experience of working alongside a circle are highly supportive of COSA; this is a clear finding in the Fife research but has also been found in the English and Canadian work as well. Armstrong et al. (2008) did hear from highly sceptical probation officers though notably these views came from those who had not themselves worked directly with a core member. The concerns raised by the sceptics include the use of COSA as a cheaper and privatised form of probation/social work, and the limited ability of non-professionals to manage boundaries with highly complex and often manipulative categories of offender.

Still, COSA seems to produce fans wherever its work is directly encountered, and this is an interesting finding in itself. The research we have been involved in in Scotland suggests that in addition to the lack of new offence convictions among core members, COSA seems to be welcomed by statutory agents and viewed as an opportunity of increasing their ability to manage risk. COSA, with its restorative justice ethos, contrasts with the more explicitly danger/deficit focused risk management approaches that emerged in Scotland (and the wider UK) in the mid 1990s.

There has been an attempt to tie COSA to a theory of change elaborated in the Good Lives model (McKartan et al., 2014, referencing Ward and Maruna), or in desistance theory (e.g. Circles South East, 2012 foreword by Fergus McNeill). However, this is a bit of a post hoc construction of a programme that started life as the simple act of one church to deal first with the isolation and hopelessness of a single offender in Hamilton, Canada, and then a second one in Toronto: 'From these two acts, which mirrored the "radical hospitality" espoused by the Christian Gospels, sprang what has since become a world-renowned project embraced by faith and non-faith groups alike.' (Correctional Service of Canada, 2012).

The origins of COSA in faith communities, and the original volunteer profile of mainly retired people recruited through church networks has given way to a different kind of volunteer base and organisational model and, as noted above, theory of change. The volunteer profile increasingly is dominated by those with past experience or future careers in criminal justice (e.g. psychology students; students account for around 30% of Circles South East's current volunteer cohort, Circles Southeast, 2012). And, in addition, volunteers are professionally recruited and have the benefit of discrete COSA organisations to support and train them. These developments have without question produced a standardised level of volunteer competence and prioritised safety issues, and have also streamlined coordination of Circles with formal monitoring processes. This increasing professionalization of the organisation that oversees volunteers does make one wonder about the extent to which COSA can any longer be considered a grassroots, community led movement for social change. These organisational developments, along with the possible effects of COSA for those beyond the Circle should be a priority of future research.

Additional questions for COSA include considering where else it might be applied and its long-term sustainability. Circles have tended to emerge in places where there is openness to reintegrative models of justice – in Canada, south east England, New Zealand, Minnesota, and now Scotland – and their future may depend on a continuation of these values. Under a conservative federal government in Canada, funding for Circles is being cut (all 18 Circles running in Halifax are reportedly having funding terminated: http://www.hcc-cosa.ca/cosahalifax/2014/03/04/cosa-funding-cut/). McKartan et al. (2014: 6) point out that: 'Whilst CoSA is a volunteer delivered intervention, it is not cost free' estimating a cost per circle in England between £7,900 and £9,800, excluding the costs of volunteers.

More hopefully, the Circles model is being used beyond the area of sexual offending to address other kinds of crime victims and perpetrators. It also is being used beyond criminal justice to support, as one example, those with mental health issues (http://www.circlesnetwork.org.uk). So there is the constant pressure of financing Circles, on the one hand, but the growing interest, on the other, in expanding them to new places and new groups of people.

It has been difficult as researchers not to get caught up in the genuine enthusiasm surrounding COSA. In an area such as sexual offending where the news that tends to get reported reflects the most grim aspects of the field, COSA has opened up a space in which hope and communities are given central roles and where money is being invested not in cutting people off from but restoring them to communities. There is a need for more, and more independent, research on this model but it is a welcome change to evaluate an approach that seeks simultaneously to heal perpetrators of serious harm while preventing future victims.

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Penal Innovation and the Imaginative Neglect of Electronic Monitoring in Scotland

Professor Mike Nellis

Introduction

In Scottish debate on the community supervision of offenders in the first decade of the 21st century there was a tendency, consistent with the country's long established tradition of "penal welfarism", for seeing "mentoring" (a synecdoche for personalized supportive work) and "monitoring" (ditto, for impersonal regulatory work) as incompatible opposites (Barry 2000). Abstractly, in extremis, "mentoring" and "monitoring" are indeed oppositional, but depending on the particular practice techniques used, and the overarching purpose of combining them, they can be rendered complementary in ways that can be coherent to policymakers, practitioners and offenders themselves. Unlike other social work clients, offenders cannot be helped to desist, or crime victims protected, without some blend of "mentoring" and "monitoring", (dubbed "care" and "control" in the past). Operationally, in Scotland, practice always has been blended, but the simplified way in which aspects of professional debate on community supervision in Scotland has been discursively framed has limited the range of imaginative penal possibilities with which electronic monitoring (EM), in particular, could have been associated.

In essence, the conceptually exaggerated contrast between "mentoring" and "monitoring" has meant that monitoring of a remote electronic kind has seemed singularly repugnant and alien in Scotland, compared to forms of offender supervision that were premised on the importance of "getting personal", making relationships in effecting behavioural change (McIvor 2004). This was particularly true in the profession - criminal justice social work (and its main academic champions) – that, had they but realized it, had most to gain from actively shaping the way EM was used, as equivalent professions in mainland Europe, notably in Scandinavia, were doing from 2000 onwards. Belatedly, there are now tentative signs of attitudinal changes towards both existing radio frequency (RF) EM, currently used for curfews on both adult and young offenders, and Global Positioning System (GPS) satellite tracking, used for monitoring movement – which may be introduced in Scotland - but nostalgia for purely personalised forms of supervision still remains in play.

There are indubitably aspects of EM technologies (which have powerful commercial champions) which it is reasonable to fear, and never any guarantees that they will reduce the use of imprisonment (Nellis 2014a; Kilgore 2014). This danger, however, is precisely why the use of EM needs to be actively shaped as a public service, and subordinated to moral, political and professional purposes loftier than mere monitoring and surveillance. Digitized information and communication technologies, of which EM is a particular form, customized for use in criminal justice, are now so integral to the structures and cultures of twenty-first century western life that they cannot be wished away in any

reckoning on future forms of governance. The challenge of shaping these technologies in ethically and politically acceptable ways should not be shirked (in any context, not only criminal justice) for otherwise they are likely to be shaped in uncongenial ones.

Nuno Caiado (2012) has rightly said of EM technology that its potential should neither be exaggerated nor minimised, but seen as something that creates distinct and hitherto unavailable possibilities in offender supervision. Technology cannot by itself effect major transformations in penal practice, but EM is not so inherently insignificant that it can – or should - only ever be used as a mere stand-alone "add-on" to the existing supervisory repertoire. Its potential is greater than this. The finely calibrated forms of spatial and temporal regulation which EM enables mean that the onerousness of control imposed over a given day, or month, or six month period, can easily be varied to suit other supervisory requirements or obligations. Short-term, or episodic, locational surveillance can be tailored to disrupt patterns of criminal behavior, integrated with other interventions, and subordinated to social work purposes. Or, indeed, it can be made relentlessly punitive, accomplishing nothing more than the rigid enforcement of rules about movement.

The problem with EM in Scotland is not, in fact, the impending probability of its excessive, punitive use. Quite the contrary. A nexus of institutional forces in Scotland has mostly operated to render EM strategically inconsequential (when it need not have been): although numbers may well rise again, its overall use is less now (2014) than in 2008-09 and it has been actively ignored by too many – if not all - sentencers, managers and practitioners in the "penal-welfare complex". Until recently, even as digital technology became more commonplace in commercial, governmental and everyday life, there has been a marked lack of deliberation in official, professional and public debate on the ways that EM could have been constructively used to address pressing penal problems in Scotland. This chapter will be concerned with this "imaginative neglect" – Scotland's failure to make more of a useful penal innovation.

The English Roots of EM in Scotland

In the late 1990s, Sweden, the Netherlands, and England and Wales all introduced national electronic monitoring (EM) schemes for some adult offenders, the former two incorporating it as a measure within their existing probation services, the latter having it delivered by three commercial providers under contract to central government, and presenting it as modern, superior and punitive supplement, even a rival, to existing forms of community supervision. Initially piloted in England under a Conservative government, EM-curfews were enthusiastically embraced by their New Labour successors in 1997, and rolled out nationally (as both sentence and a means of early release from prison) in 1999. Scotland piloted EM-Restriction of Liberty Orders (RLOs) in the early days of New Labour in three sheriff courts between 1998-2000, using the English model of private sector service

delivery – Geografix running Aberdeen and Peterhead, GSSC/Reliance running Hamilton - and a similar legal framework: English curfew orders could last for a maximum of six months, Scottish RLOs for twelve, but both set a 12-hour maximum limit on the daily period of home confinement (Nellis 2006).

In first pitching the RLO to sentencers and professionals, the then Scottish Home Affairs Minister Henry McLeish had echoed English views of it as "a tough, credible community sentence" which uniquely allowed offenders "to maintain domestic responsibilities, employment or training in the community *while severely restricting their freedom to engage in other activities"* (McLeish 1998). He affirmed EM's "potential to link punishment with crime prevention" by using periods of home detention (which need not only be overnight) to disrupt known patterns of offending, and assured the courts of swift responses from the monitoring centre if violations occurred. Unlike English ministers he did not overtly portray EM as superior to social work (probation) with offenders, but even in Scotland, the "monitoring" aspects of EM-RLOs were thought sufficiently different from the "mentoring" aspects of criminal justice social work to warrant location outside local authorities, in the private sector, under contract to central government.

The official evaluation of the pilots had been lukewarm (Lobley and Smith 2000; Smith 2001) but the post-devolution Scottish Executive remained committed to it. In their first public consultation on EM they invited comment on the undeniably controversial question of public or private sector service delivery (Scottish Executive 2000). Local authority respondents to the consultation, ostensibly welcoming of EM, were content with a private sector location, rightly reckoning that EM would be more easily marginalized if placed there. When EM was rolled-out nationally in 2002 security company Reliance was awarded the £14m contract. The Scottish Executive has required contractors to employ an experienced criminal justice social work manager in a senior role, to engage with sentencers and other criminal justice personnel, to raise awareness of EM's potential, and indeed to take the lead on initiating public-private collaboration around it. In Iain Johnston (2002), and later Norman Brown, Johnston's deputy and successor in Reliance – who initially stayed on to work for outsourcing company Serco under the Executive's second EM contract, let in April 2006 - they found able spokesmen for a creative, integrated approach to EM and social work, (although "integration" was not an explicit official requirement in the early years).

Both Reliance and Serco had monitoring centres in East Kilbride, which had 24/7 oversight of all tagged offenders in Scotland. Staffing levels were built up over time to approximately 85, with full-time workers predominant in the Central Belt, where most orders were made; part-time workers in more rural areas; and retained (paid per job) staff in the Highlands and Islands, where fewer orders were made. Johnston[1] and Brown recruited monitoring officers (who both install equipment and staff the centre) for their "people-skills" and while little is known about their "working credos" in

comparison to their English equivalents (see Hucklesby 2011 for the latter) they can manifestly deal sensitively with offenders and their families. The Scottish contractor's operations are also tightly accountable to the Scottish Government, via real-time access to the contractor's data on all tagged offenders, monthly performance audits and regular meetings with managers.

The Limited Use of EM

Table 1 depicts EM use in Scotland since the start of the second contract in 2005. 2008-09 was the high point for both stand-alone RLOs and early release Home Detention Curfews (HDC). Except for increased EM use in parole licences (although numbers remain low)[2], all other uses of EM have declined and remain negligible. RLO and HDC use will be explored below, for the attitudes they reveal towards EM.

Table 1.

EM Type	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
RLO	965	1016	1054	1184	1069	935	897	1084
Probation	100	120	135	219	294	327	92	4
HDC	0	1312	2156	2121	1908	1836	1965	1915
Licence	5	5	5	18	26	25	20	30
DTTO	0	0	1	0	0	0	0	0
ISM	0	37	25	28	30	10	18	5
Bail	82	113	40	0	0	0	0	0
CPO	0	0	0	0	0	0	2	11
Total	**1152**	**2603**	**3416**	**3570**	**3327**	**3133**	**2994**	**3049**

Source: Scottish Government

***Electronically* Monitored RLOs**

From the outset, there have been major regional (and inter-regional) disparities in the use of EM (as indeed with other forms of community supervision) which seem to reflect both differences in sentencing habits in Scotland's 41 sheriff's courts, and attitudes towards EM itself. Between January and December 2003 sheriff's courts in the large cities of Glasgow and Edinburgh made 53 and 14 RLOs respectively, while smaller places like Dundee made 105, Hamilton 194 (the only one of the original pilot sites to sustain high numbers) (Reliance 2003). The equivalent figures in the April 2010-March 2011 period were Glasgow 66, Edinburgh 41, Dundee 118, Hamilton 107, Dunfermline 82, Kirkcaldy 73; Livingstone 65 and Airdrie 49. Some comparable small towns made less than 10, some only 1 (Serco 2011:4). The use of EM as a condition of probation in the same period showed a different but still variable distribution: Glasgow 44, Hamilton 36; Dunfermline 30; Dundee 29; Kirkcaldy and Livingstone both 16; and Edinburgh 7. Nationally, 930 RLOs were made in the period in question, a 21% decline over two years: the 321 probation orders with an EM requirement made in this period represent a 43% increase – which suggested increasing support for more integrated approaches.

Variations in attitude towards EM in different criminal justice social work departments, expressed via recommendations in social work reports – quite possibly pre-attuned to what sheriff's expect - may also help explain these regional disparities. The surest sign, however, that sheriff attitudes towards EM (and/or its association with the private sector) lie behind these geographical variations is the fact that a change of sheriff can result in an increase or decrease in its use: in a remote rural area of Scotland with negligible night-time police cover and where no RLOs had ever been made, a new sheriff found them an apt punishment for drunk and disorderly offenders whose presence at home was otherwise uncheckable. Another, if he makes an RLO longer than 2-3 months asks for a progress report: "*Usually I will look at the order then and if there have been no breaches or new offending I will relax the hours or allow nights off as a way of bringing the order to a successful conclusion and rewarding compliance"* (personal communication, Sheriff Frank Crowe, 8th September 2014). How widespread such sensible practice is, and whether or not it can be generalized, is unknown.

Some sheriffs avoid RLOs because social workers advise against them because of adverse home circumstances, while other sheriffs use them regardless of social work opinion. Renfrewshire Alcohol and Drug Partnership (2014) claim (anomalously, given the legal requirement for social enquiry reports in imprisonable cases) *"that it is common for sheriffs to make RLOs without assessment from social work [which] means that home suitability and offender motivation is not assessed or considered in any degree".* If this is true elsewhere, it may help explain Deuchar's (2012) finding that EM-curfews, as currently used, (at least in his small, localized sample), often do harm in the lives of young offenders and their families. Young men who "comply" with EM by staying at home during specified hours, but who may also invite rowdy and inebriated friends to join them there create unwarranted stress for other family members, and while this does not invalidate the intervention it does point up the need for more human engagement than stand-alone orders require.

In Scottish RLOs, but not English EM-curfews, tagged offenders can also be prohibited from a specified location (enforced by one or more transceiver on site) for up to 24 hours per day, for a maximum of 12 months. This little used power - less than 10 per year up to 2011 - mostly protects domestic violence victims (plus once banning someone from a shopping centre). Other imaginative uses of EM include a) using it to break up a group of young Glasgow women who routinely offended together, and b) a Highlands and Islands sheriff authorising the progressive reduction of curfew hours month by month if the offender showed compliant behavior (Serco 2011:8).

Audit Scotland's (2008) evidence that the cost of EM-RLOs – £9000 over 12 months (though few lasted that long) - was significantly higher than other forms of community supervision (a probation order (£1,283), a community service order (£2,205), a Drug Treatment and Testing Order (DTTO - £11,727) and a supervised attendance order (£442) may have confirmed social work perceptions that stand-alone EM was never value for money, especially if it was not used to replace a six month prison

sentence, costing £15,964 in the same period. Discretionary EM conditions in Drug Treatment and Testing Orders (DTTOs) (not included in English DTTOs) have hardly ever been made – only one between 2006-12 (personal communication, Scottish Government, 19th April 2013).

Social workers have understandably had trouble reconciling the idea of stand-alone, punitive RLOs with their professional conceptions of effective practice – firstly cognitive behavioural, and later, desistance-based, approaches. EM as a requirement in a probation order made greater sense, especially as, unlike stand-alone RLO's, any decision to breach was theirs, not the monitoring company's – and if other aspects of probation supervision were going well social workers were reluctant to breach "mere" violations of curfew. Those sheriffs who embraced EM, however, usually preferred the stricter approach to breach required in stand-alone orders, if not necessarily the government's own breach criteria. Thus, a small group of "special sheriffs" (as they have become known to the monitoring company, although they may not be acting in concert with each other) have insisted upon specifying their own, more stringent, breach criteria – an arrangement to which government has deferred, allowing the contractor to provide distinct data-sets on offender compliance to the sheriffs who request them.

Home Detention Curfew

Home Detention Curfew, the electronically monitored early release of short-term (under 4 year) prisoners for periods between 14 and 135 days, depending on the length of sentence, was introduced by the Labour government's Management of Offenders (Scotland) Act 2005, becoming operational in July 2006. This is nearest Scotland has got to using EM in a strategically consequential way. It was presented by government as a means of tapering-down security levels for released prisoners, facilitating offender reintegration without jeopardizing public protection - a genuine-enough penal rationale, although (as in England) this disguises its manifest "safety valve" role as a means of urgently reducing pressure on overcrowded prisons. Decisions to release, based on risk assessments (and some formal exclusions), were taken by prison governors, as were recall decisions, which were appealable to the Parole Board (which has found against recall-decisions in a third of cases). In March 2008 HDC was extended to 180 days, and also to some longer term (over 4 year), determinate sentence prisoners, where the rationale of graduated release made more sense.

By December 2009, 7000 short-term prisoners had experienced HDC; the average daily population was approximately 400. Just over 75% completed the monitoring period successfully; only 1% had been reconvicted of a new offence resulting in custody. Numbers declined a little as increased risk aversion set in among prison governors, and as those recalled from HDC (who were denied a second chance to be released on it) reduced the proportion of short-term prisoners who were eligible for it. The Scottish Prison Service's (2010) operational review observed that the recall rate (1 in 4) was

twice that of England and Wales, and recommended incentivizing the longer HDC periods (progressively reducing curfew hours after successful completion of the "first third" in order to sustain compliance in the later period).

Sentencers, already uncomfortable with automatic early release after 50% of a sentence is served, were even less happy with HDC, insisting that reduced time inside and further discretionary release mechanisms were unfair to victims, witnesses, the public and themselves. The Sheriffs' Association further questioned the efficacy of HDC risk assessment: "Regularly sheriffs are surprised to find a person in court having been recently sentenced and released on Home Detention Curfew ….. The extent to which regard is had to the record of the offender and the offence in making the decision for early release is not known" (quoted in Roden 2012). There is some cogency to the "unfairness" critique - the Scottish Prison Commission (2008: 3.43) accepted it - but it would carry more weight if sheriffs were less willing to use short custodial sentences, reducing receptions at "the front end" of the penal process so that the executive faces less pressure to reduce it at "the back end" (Armstrong et all (2011).

Some offenders may prefer the impersonality of remote monitoring to face-to-face involvement with social workers but, even more so than with stand-alone RLOs, the absence of personal support and assistance for released prisoners on HDC, particularly over longer periods, has seemed problematic. A former prison governor has suggested "there should … be consideration of the requirement for work, training or community payback" while on periods of HDC (Spencer 2009:4:15). Families who have experienced strain when prisoners are released early have asked Families Outside (2012) for support, which suggests there is indeed unmet need. Includem (2014), a not-for-profit youth justice organization, for whom Norman Brown worked after leaving Serco, briefly established a voluntary support scheme – there was no legal mandate for anything else - for 16-18 year old offenders released on HDC in two local authorities. The schemes were short-lived, but the principle was sound.

EM and the Penal Reduction Agenda

Unlike the preceding Scottish Labour administration, the Scottish National Party (SNP) which came to power in 2007 (leading a coalition) was alarmed by Scotland's high rates of imprisonment (141 per 100,000, up from 118 ten years earlier), akin to England and Wales in the European league tables. The new justice minister, Kenny MacAskill established the Scottish Prison Commission, chaired by his Labour Party friend Henry McLeish, to address this. The resulting report (Scottish Prison Commission 2008) insisted that the size of a country's daily prison population was a political choice, not an inevitable response to fluctuating crime rates, and proposed reducing Scotland's from almost 8000 at the time to 5000, over ten years, primarily by finding better community alternatives to the short, ineffective, under six month custodial sentences that comprised the bulk of prisoner numbers. It said

little on the potential of EM, despite suggesting that Scotland might usefully learn on penal matters from Scandinavian countries (where EM is used wisely). In its own reflections on "managing increasing prisoner numbers" in the same year, Audit Scotland (2008:9) specifically noted (neutrally, without commendation) Sweden's constructive use of "intensive supervision with EM".

"Progessive", liberal-left Scotland welcomed McLeish's report, and its "penal reductionist" vision was adopted by the SNP government. A hopeful future seemingly beckoned, although the professional and penal reform bodies who debated the issues remained convinced that EM warranted no significant place in the creation of alternatives to short custodial sentences, oblivious to the creative ways in which offender supervision could incorporate it. The Scottish Consortium on Crime and Criminal Justice (2008:13-14), for example, a longstanding campaigner for a more rational approach to penal matters (and a staunch opponent of privatisation), signally ignored EM in its suggestions for improving community sanctions, seeing far greater potential in structured deferred sentences and reforms to summary justice, particularly fiscal fines.

Neither Scottish Labour nor Conservative Parties were supportive of McLeish's agenda, least of all on the matter of abolishing under six month custodial sentences. Penal reductionist ideals were sustained in reports by the Prisons Inspector and penal reform bodies, but McLeish failed to stir the imagination of criminal justice social work and never commanded the collective assent of the sheriffs. It became a hard agenda for government to pursue, made no easier by the tendency of the tabloid press and Conservative Party spokespersons to deride any moderately progressive penal reform as a manifestation of "soft touch Scotland", even when, in August 2008, the daily prison population first passed the "crisis point" of 8000 – a point which would have been reached earlier had it not been for HDC (Adams 2008).

The Criminal Justice and Licencing Act 2010 was intended to implement McLeish's reforms, although the most that had been won in parliamentary debate was the abolition of under three month custodial sentences. The Community Payback Order (CPO), a compendium of previous supervisory orders, was introduced as the replacement for such measures, although it need not be an alternative to custody in every instance. EM, however, ceased to be a specific requirement in a CPO (despite having been a possible requirement in a probation order), and became instead a "restricted movement requirement" that could only be imposed for breach of a CPO. Official opinion varies as to why this legislative change occurred, particularly as the integrated use of probation-with-EM had been increasing in the immediately preceding years. Confusingly, and despite ambiguity in the legislation, an RLO can be made alongside a CPO, but this is not the exact equivalent of the earlier probation order with EM, in that powers of breach lie with the contractor, not the social worker. It is currently unclear how often such joint orders, which at least create a pretext for communication between G4S and social workers, are made. "Restricted movement requirements" however, have, unsurprisingly

given sheriffs' variable attitudes towards EM, been rare – 11, from only six different courts in 2012-13 (personal communication, Scottish Government, 19th April 2013).

Despite supportive signals from central government, and endorsement by the penal reform network, the McLeish report "largely failed to engage the public in the rational debate that had been hoped for" (Wilson 2014:194). Government capacity to pursue penal reductionism had already faded by the time the Commission on Women Offenders (2012) reported, and although this briefly revitalized it (and set in train plans to "redesign" the delivery of criminal justice social work (Scottish Government 2012)) its radical ambitions were soon tempered by the "old elites". The mainstay of the Angiolini report was a proposal to close HMP Cornton Vale, to confine only a bare minimum of serious women offenders in a new, smaller prison, and to replace custody with a national network of local "community justice centres" more suited to the 8 out of 10 women given prison sentences of under six months. Because of the high numbers of women remanded in custody, it recommended that EM-bail be reconsidered, (an earlier three-site pilot in 2004-07 having deemed it not cost-effective (Barry et al 2007). It did not recommend EM as a sentence, not even in the new "composite sentence of imprisonment" (part custody, part community support) that it proposed for both genders. Its tentative support for a "problem-solving approach" which addressed offenders' social and psychological needs did not encompass EM, even though, among other things, offenders can use staying in, or even being tracked, to solve "the problem" of distancing themselves from peers who may otherwise be a bad influence on them.

While the redesigning of "community justice" was specifically triggered by Angiolini's report – in essence, more centralised control over localised criminal justice social work - it also reflected an unfolding "public service reform" agenda in Scotland, whose later phases were shaped by recession and the inevitability of budget cuts and financial retrenchment. One strand of this agenda, consolidated by the Christie Commission (2011), had been the "'integration' of public services through collaboration and partnership working, to offer better 'joined up' services, and cut down waste and failure due to duplication and fragmentation of effort" (Mair 2013:114). This concern with fragmentation might conceivably have encouraged the government, while the third EM contract was being drawn up in 2012, to question the outsourced ("English") model of service delivery, and bring EM "in-house" as part of the proposed reconfiguration of community justice. Christie, however, whilst unsupportive of new public service "privatization", treated already outsourced services as "partnership agencies" (which is indeed how G4S sees its EM service), and the government did not demur: the recent increase of "integration-talk" in both strategic and operational matters, which has affected debate on EM, does nonetheless reflect the Commission's wider influence.

Explaining the Imaginative Neglect of EM in Scotland

A proper understanding of why EM has strategically failed as a penal innovation in Scotland requires attention to the broader context of criminal justice, penal and public sector reform. The advent of a devolved Scottish Parliament in 1999, and a strongly Blairite, Scottish Labour-led coalition government, initiated major changes in institutional frameworks at both national and local level, with a 100 new institutions being created between 1998-2008, including 32 youth offending teams, 11 local criminal justice boards, specialist domestic violence and drug courts, Community Justice Authorities and the Risk Management Authority – as well as EM in the private sector (McAra 2008). Amidst the swirl of institutional reorganization, EM was easily relegated in importance: local managers had enough administrative change to contend with, without also having to consider how this new, strange and largely unwanted measure, with its private sector hosts, might be aligned with existing practices.

In an influential account of Scottish developments in both juvenile and adult criminal justice, McAra (2008) depicts this turbulent period as one in which an enduring political commitment to penal welfarism was significantly weakened as an organising political principle. The highly managerial ethos of the New Labour government, she claims, eroded the influence of the established "elite policy networks" with whom the Scottish Office had traditionally worked (directors of social work, the judiciary, the Crown Office and key academics), and opened it up to modernizing and punitive English influences. EM was quintessentially emblematic of this trend, but interestingly, McAra does not even mention it – possibly because the manifest early failure of EM to significantly change sentencing or supervision implies requires some nuancing of her "de-tartanisation" thesis. The old policy elites, in fact, neutralized many English penal challenges quite early on, openly and successfully resisting major innovations, (such as a Sentencing Council, although that has eventually been legislated for) and accommodating just sufficient degrees of change in penal infrastructure – EM *became available* but wasn't used much - to forestall serious transformation in the status quo.

The more general neutralization of progressive penal innovation is apparent in the muting of McLeish's and Angiolini's radical proposals. The starkest instance of it regarding EM was the effective undermining of New Labour's attempt to introduce the English "anti-social behavior" agenda – deeply at odds with Scots' welfare-based responses to young offenders - into Scotland in 2004. Here, this included the use of EM-curfews – a "movement restriction condition" - as a mandatory requirement in an Intensive Supervision and Monitoring (ISM) programme for young offenders. Legislation was duly passed, but anti-social behavior orders and dispersal orders never gained the credence they achieved in England, while the Children's Hearings (a very powerful "old elite"), after a stand-off with central government, and aided a little by the ISM evaluations (Khan and Hill 2007; Boyle 2008), forced the use of MRCs in ISMs to become discretionary, and then hardly ever used them (see Table 1).

It might be argued with hindsight that all central government in Scotland since 2002 has misjudged the kind of leadership and governance necessary to gain and sustain acceptance of EM as a penal innovation. Although formal responsibility for promoting it with other agencies (and sentencers) lay with government, operationally the task was devolved to the commercial contractor, a private sector voice to which public sector audiences (and sentencers) – interested individuals excepted - were never likely to be receptive. Government documents persistently underestimated what was required for EM to be taken seriously: the first National Criminal Justice Plan, created by the new National Criminal Justice Board to develop and explain policy on community safety, sentencing and reducing reoffending (Scottish Executive 2004: para 33) noted existing and upcoming uses of EM but made no attempt to develop discourse that imagined it differently from the English vision of a stand-alone punishment, or to show how "mentoring" and this kind of "monitoring" might be creatively combined. Neither the Social Work nor the Prison Inspectorates in Scotland have examined the operation of EM, despite this being one area from which the Scottish government might usefully have learned from experience in England and Wales[4]. It is similarly strange that the Scotland's Institute for Research and Innovation in Social Services (IRISS), which has done much good work on the inter-agency integration of many social care services, has never been commissioned by central or local government to examine the integration of EM and social work.

The National Advisory Board on Offender Management, created in 2006 to secure expert guidance on policy, to ascertain "what works" and set new targets for reducing reoffending was similarly lax. While EM figured little, internationally, in the "what works" literature, Bonta et al's work (1999) was suggestive of "potential" to anyone interested in the integration of EM-curfews and social work, and it was lack of interest in gathering evidence, rather than lack of evidence itself, that initially kept EM off the Scottish offender management agenda. When the empirical debate shifted from cognitive behavioural approaches to (mentoring-friendly) desistance-based approaches, EM was again easily sidelined, although Hucklesby's (2008; 2009) research showed how some offenders were induced by even stand-alone tagging to consider desisting, without necessarily having the social capital to actually do so.

The contractor's depiction of EM as a form of control which could, if used in a social work context, serve rehabilitative purposes as well as punitive ones was not disingenuous, but never fully eclipsed the punitive inflection that had been placed on stand-alone EM by the government from the start. Tainted thus, criminal justice social work could never properly "own" EM. Lucy Adams, a senior reporter at The Herald gave consistently intelligent press coverage to tagging and, at least, balanced the more negative coverage in the tabloids, but even The Herald's own editorials were ambivalent towards EM, rarely connecting it to the penal reduction agenda which it otherwise endorsed. The sheriffs who did not use EM because it seemed insufficiently punitive were patently indifferent to

research (albeit not homegrown) which convincingly showed that home confinement had its own "pains", distinct from imprisonment (Payne and Gainey 1998; Vanhaelemeesch and Vander Beken (2012) – as well as benefits, ranging from greater self-discipline and strengthened relationships with partners, parents and children (which, although EM creates the occasion of proximity, may not be the effect of EM alone).

All this added up to a deep cultural refusal to deliberate imaginatively on what a versatile, disruptive technology like EM might contribute, via improved community supervision, to penal reduction. It not only confirmed the institutionalized impasse which inhibits progressive penal innovation in Scotland, but also suggested professional reluctance to engage with the ethics of technological change, or to understand the stakes in not doing so; even the recent emergence of a "digital strategy for justice" oddly fails to mention EM (Scottish Government 2014)[5]. Given the impasse, it may be that some constituencies avoided "wasting time" wondering if EM could be better used, knowing there was no chance it would be. And all the while, Scotland's penal future has remained as prison-centric as it has always been, with an anticipated daily population projection of 9500 by 2020 (Scottish Government 2011). Nothing in the increasingly influential desistance agenda has – or could – have checked this planned expansion; on the contrary, the Scottish Prison Service has latterly co-opted desistance discourse to help reinvent imprisonment as a defensible and useful institution (McConnell, Carnie and Mehta 2013). Such re-purposing does not preclude "penal reductionism" but it gives sentencers a clear sense of what they can expect from a prison sentence – perhaps more so, at the moment, than from a community sentence – and is likely to make the use of imprisonment more popular.

Re-Imagining EM: Towards GPS Tracking and Sobriety Bracelets

Few professionals in Scotland have been aware of other EM technologies apart from the RF devices used to enforce RLO's. The Cosgrove Committee (2001:59-65) saw value in using EM with sex offenders, but recognized that better technology - seemingly GPS tracking of offender's movements and the monitoring of specified exclusion zones (recently emerged in the USA) – was probably worth waiting for. Notwithstanding earlier support for the GPS tracking of sex offenders (since 2007) from the Scottish Conservatives (2012), Alec Spencer's (2009: 4.15-18) report on the absconding of a violent offender from an open prison formally renewed interest in it: he noted the anomaly of having no EM on formerly high risk offenders on home leave from open prisons, while routinely using HDC on lower risk prisoners. The Scottish Government's response (2010:9) was lukewarm, but after another sex offender attempted to murder a woman a few days after being paroled from prison more serious attention was given to it – and was cautiously welcomed by the liberal media (*The Herald* 4th May 2012).

In 2010, the Violence Reduction Unit (VRU) in Strathclyde Police had become aware of remote

alcohol monitoring (RAM) in the USA – in particular, the SCRAM sobriety bracelets marketed by Alcohol Monitoring Systems Ltd – as a possible means of working with convicted offenders whose repeated violence was triggered by alcohol-use. In the absence of legal powers to order its compulsory use, the VRU anticipated using it on a voluntary basis, as a "conduct requirement" in a CPO, with offenders who believed that an ankle-worn device which transdermally monitored their drinking (or its absence), and uploaded data to a monitoring centre at regular intervals, would, alongside adequate social support, help them maintain sobriety. The was the first formal consideration in Scotland given to using EM therapeutically, rather than simply as a sanction, but despite the VRU's respected reputation for successful innovation, the government (despite 70% of assaults known to accident and emergency departments being alcohol-related) were discouraging, possibly because Serco's contract (the provider at that time) did not permit a rival company to provide EM in Scotland. An initial small pilot project involving the VRU and HMP Barlinnie had very limited success, because despite clear recognition that released prisoners who volunteered to wear the SCRAM device would need social support to sustain their commitment to wearing it, the actual level of support offered was still insufficient to achieve this, and the majority of the sample removed or disregarded the bracelet (Goodall 2013).

Prison and Police Service interest in GPS and RAM (and, interestingly, a media that was open-minded about them) was hard for the government to ignore. Its third EM contract requirements specified that any new provider would need the capability to deliver both technologies, should the government decide to introduce them. G4S, which had recruited Norman Brown from Includem, won the contract in 2012 and took over Serco's workforce in April 2013, moving the monitoring centre from East Kilbride to the same premises from which G4S already ran its prisoner escort service in Uddingston. Given that more was potentially expected of G4S in terms of technological innovation, the contract's much reduced cost - £13m over five years, compared to the £30 million awarded to Serco for the previous five years - was significant, reflective of falling technology costs. This presumably reduced the unit cost of RLOs from the Audit Commission's (2008) figure of £9000 per year.

The Scottish Government began taking forward the GPS/RAM agenda within their wide-ranging consultation document on "the future direction of the electronic monitoring service", which was open for comment between October-December 2013 (Scottish Government 2013; Robertson 2013a). It aimed to ensure that the EM "is delivering maximum possible benefit in the way we manage our offender population, in order to reduce reoffending" (MacAskill 2013). None of the consultation's twenty-one questions raised the option of public sector provision of EM, as the original consultation had at least done; it took for granted that the "electronic monitoring service", would be delivered commercially. It outlined how GPS tracking might be used with high-risk sex offenders, with perpetrators and victims of domestic violence, with defendants on bail, and – reflecting developments

in England - with persistent and prolific offenders (whose movements could be correlated with new crime scenes) on either a compulsory or *voluntary* basis. It also canvassed the potential of RAM - which was also being trialled in London) (Robertson 2013b).

For all proposals it explained likely costs, conceded that GPS still had some technical limitations, invited comment on what legislative changes the various measures might entail (premised on compatibility between various forms of location monitoring and the European Convention of Human Rights), and promised more detailed business cases depending on which options were ultimately pursued. Continuing the established Scottish practice of using England and Wales as a reference point in thinking about EM - it sought comment on south-of-the-border plans to develop a tag with both GPS and RF capability, and also to pursue "maximum roll out" of GPS tracking on a wide range of offenders (possibly with a view to seeing this decisively rejected in Scotland). It also sought opinion on the ostensibly mundane and uncontroversial English practice of "assisted compliance" with EM, the use of an "electronic reminder service" using texts and "call scheduling software" to remind tagged defendants and offenders of impending appointments with courts, social workers and monitoring officers.

The Changing Parameters of Scottish Debate on EM

The consultation showed clear signs of a new government commitment to integrating EM with support from statutory and voluntary organisations, albeit in a collaborative rather than a holistic manner. It conceded there were unsatisfactory aspects to EM's current use in Scotland, seeking opinion on what barriers there may have been to its wider use. The responses to this particular question were not generally insightful (which may reflect reticence about attributing blame in a public document - rather than lack of an opinion). Taken together, however, the forty-eight responses represent a wide, but partial, range of contemporary Scottish opinion on EM. There may be other opinions, unsought or held back, and significantly, sheriffs made neither a corporate not an individual response. Without giving the government a clear signal on the future of EM they nonetheless suggested, collectively, that the "imaginative neglect" of EM in Scotland was dissipating at last.

Local authority responses – which often came from multi-agency bodies, rather than criminal justice social work alone – mostly now recognized the limitations of stand-alone EM and supported its integration in social work. Argyle, Bute and Dunbartonshire's Criminal Justice Partnership (2014:3), for example, regretted the "continuing reluctance to see [EM's] advantages in support of other constructive interventions in community justice", while North Strathclyde (2014:1) and Lanarkshire Community Justice Authorities (2014:1) conceded that "a new dimension of incorporating the Private Sector" into partnership working was needed, tacitly acknowledging that this had not occurred before. Falkirk Council (2014:1) suggested that "G4S … nominate an individual staff member as a contact

person for each council area". The Scottish Association of Social Workers (SASW - 2014) actually expressed support for bringing EM into the public sector, to make assessment and integrated use of it easier, but seeing GPS as relevant only to the "critical few" among high risk sex offenders, and possibly, again on a small scale, in a domestic violence context. Scottish Women's Aid (2014), in a very sophisticated critique, conceded potential merit in GPS – as indeed did the Scottish Working Party on Women's Offending (2014) - but argued that services for abused women might be better improved by other kinds of resource. In respect of young offenders, both Includem (2014) and (outside of the consultation) the Centre for Youth and Criminal Justice (Orr 2013) challenged the continuing resistance towards EM-movement restriction conditions, especially if their inclusion within social support packages could help reduce the use of secure residential care.

Scottish penal reform bodies, such as Howard League Scotland (2014), remained sceptical, recognizing that EM could have been used better in the past, but wary of using new forms of it without better evidence of effectiveness. The National Organization for the Treatment of Abusers (NOTA 2014) understood that GPS tracking need not interfere with treatment regimes for sex offenders, but recommended support for the families of offenders who were monitored in this stressful way. Sacro (2014) was open to pilot schemes for all the government's possible uses of GPS tracking, and to exploring both voluntary and compulsory uses of alcohol monitoring. Somewhat surprisingly, Positive Prisons (2014) (representing an ex-offender voice) countenanced the English model of "a widespread roll-out" of GPS, and the replacement of RF EM, on the somewhat idiosyncratic grounds that tracking seemed in principle less discriminatory than restriction to a single place, which was sometimes denied to particular offenders for reasons beyond their personal control. The Law Society of Scotland (2014) and the Information Commissioner's Office (2014) warned of tracking's impact on personal privacy, doubted the legality of constant, real-time mapping of an offender's movements and its correlation with his/her proximity to crime scenes, and questioned its compliance with ECHR rulings on offender rights and data protection.

Police Scotland (2014:3) welcomed all the new forms of EM being mooted by the government (except the *voluntary* use of GPS with prolific offenders, which it considered inefficient), but openly accepted that "Article 8 of the Human Rights Act 1988 is a barrier to greater use of electronic monitoring" adding, however, that "this must be balanced with the level of offending, threat, risk and harm posed". The police had clearly been influenced by ongoing developments and debates on GPS tracking in England, and envisaged similar developments here, making their case in terms of both effective crime reduction and resource savings. They pointedly pitched themselves as a more plausible manager of EM technology because they were already a 24/7 service in a way that criminal justice social work was not.

In recognition of Scotland's endemic problems with alcohol, there was a general willingness to pilot

sobriety bracelets as a treatment measure. NHS Ayrshire and Arran (2014) favoured their voluntary use, thereby "enhancing self-management of risk". NHS Greater Glasgow and Clyde (2014) agreed, but anticipated technical, social and legal problems with its implementation, and considered that other treatments may actually be more cost-effective. Renfrewshire Alcohol and Drug Partnership (2014) also believed "that money might be better spent" on expanding existing services. Borders Alcohol and Drugs Partnership (2014:14) strangely declared that "the use of remote alcohol monitoring potentially directs the systemic problem of Scotland's relationship with alcohol towards individuals and ignores the culture around alcohol which needs to be addressed via a whole population approach" a fair criticism that could nonetheless be made of any individualized social work intervention.

At the beginning of 2014, when the consultation had ended, 710 offenders were daily subject to EM in Scotland, 97% on unintegrated stand-alone orders, 84% on unimaginative, conventional night-time curfews (Brown and Griffiths 2014; see also G4S 2014). The collective impression given by the responses to the consultation suggest that a range of Scottish agencies are now open to something different, and better attuned to technological realities, and possibilities. Whether criminal justice social work can seize the moment and give the necessary leadership for shaping this new sensibility into a useful penal strategy remains to be seen.

Conclusion

It must also remain a matter of concern that Scotland's commercially-based delivery structure for EM emulates that of England and Wales (and thus may be perceived as having the potential "to go the same way", perhaps under a government of different hue to the SNP). The so-far divergent trajectories of EM-use in the two countries have reflected variations in political culture and in the dynamics of their respective criminal justice systems and, realistically, this may continue (Mair and Nellis 2013). But England and Wales sets a bad example: it has long been the largest EM scheme in Europe, with 14,000 people per day on RF EM (in February in 2014), disconnected from probation. Its Ministry of Justice is currently directing a major, and somewhat secretive, upgrade from "obsolete proximity tags" to a combined GPS/RF-based system for vastly increased numbers of offenders, alongside the mass privatisation of the probation service and the growing use of GPS tracking on a voluntary basis, to aid desistance, in police/probation Integrated Offender Management projects (Nellis 2014)[6]. There is nothing to learn from here, except perhaps the voluntary use of GPS. The present Scottish government seems genuinely open-minded in respect of EM's future, not wedded to any one approach, but it remains curious that its EM consultation – conceived and undertaken while the independence campaign was well underway – still canvassed opinion on *all* the English GPS developments, that Police Scotland responded warmly to all but the voluntary use of EM, and that the future delivery of EM is clearly to remain within the private sector despite the upcoming redesign of criminal justice social work creating the perfect moment to consider bringing it in-house. Why does

Scotland remain so fascinated by the English EM agenda, when the use of EM in Scandinavia, a region which progressive Scotland aspires to resemble, would be a far more inspiring and sensible option?

This is the challenge for criminal justice social work – to claim EM for itself, as part of a wider professional engagement with digital technology, and all the acknowledged ethical challenges that such engagement poses (Reamer 2014). The likelihood of Scotland ever emulating the Finnish approach to penal reductionism – which did not rely on EM - is not great, given that indigenous penal reform organisations have long articulated a home-grown version of it, to no avail. Sweden (since 1998), Denmark (since 2005) and Norway (since 2008) have all used RF EM to modernize their state-based probation services, rather than outsourcing it to the private sector. All have used it as a component in an intensive supervision programme, initially for lower risk offenders than would have been considered appropriate in Britain, and initially for very short periods, building up over time as public confidence in the measure grew, to the present six month maximum. Sweden has cautiously claimed reduced reoffending rates from it (Marklund and Holmberg 2009). Denmark, a comparably-sized nation to Scotland (approximately 5m people) but with only 73 per 100,000 of its citizens imprisoned, and a daily prison population of just over 4000, now has a presumption that all offenders under the age of 25 who are sentenced to "conditional custodial sentences" of under six months (which can be served in the community) will do so on EM. 60% do so, and this helps to maintain the low daily prison population – half that of Scotland – that Denmark has already achieved (personal communication, Annette Esdorf, Danish Government, 4th April 2014).

Neither Denmark, nor Scandinavia generally, has fully solved the penal reduction problem, but it has shown that EM can be subordinated to legitimate social work aims and used to create viable alternatives for under six month custodial sentences. A Scottish version of such a sentence would necessarily be different – but the precise forms in which "mentoring" and "*electronic* monitoring" could be usefully combined here are long overdue for serious debate. So too are viable social work uses of GPS tracking and sobriety bracelets, which have not thus far been adopted in Scandinavia: Sweden uses GPS to monitor young offenders on home leave from residential care, Finland uses it to monitor the perimeters of open prisons (Nellis and Bungerfeldt 2013; Nellis 2014b). Building on Reamer's (2014) vision of a digitally sophisticated (but still humanistic) social work, Scotland could aspire to develop new, more obviously rehabilitative, forms of EM, as recently speculated upon by Jones (2014). There is already a small Scottish company, New World Security Solutions Ltd, developing biometric tagging - life-sign monitoring and automated slow-release medication - for medical and (potentially) criminal justice use (McConnell 2013), and criminal justice social work might usefully reflect whether, and why, or not, such technologies must forever lie beyond the pale of therapeutic jurisprudence. There is, of course, no ultimate "solutionism" to be found in EM itself, the

term Evgeny Morozov (2013) aptly uses to mock the techno-utopian evangelists of all things digital, but there is more to be found in it than Scotland has yet cared to discover.

Some Scots, overenamoured of what 'mentoring" alone can achieve, will doubtless welcome the fact that EM use has been effectively stifled and neutralized, and may simply prefer it to fail, whatever its potential for good. However, against the backcloth of a longstanding inability to reduce the use of custody in Scotland (even for women) – it rose to 146 per 100,000 in 2013 - the abdication (certain individuals notwithstanding) of so many Scottish penal constituencies from either principled or pragmatic engagement with EM's potential represents not only a failure of penal imagination, but also a failure of moral imagination, a failure to shape available technology in the service of justice, to deploy it for the common good. The political difficulty of creating substitutes for short prison sentences which sheriffs would actually use properly, and not netwiden, is not to be underestimated (Tombs 2006) – but it must be tried, giving equal prominence to intensive supervision and to the potential of EM.

While the private contractors are, in themselves, expressly not to blame for the underuse of EM in Scotland, the widespread sense among others in the criminal justice system that a commercial institution is inimical to their traditions does play a part in this, and has meant that the "practice wisdom" which has accumulated among the long-serving staff of G4S (and its predecessors) has never been properly capitalized upon. At the very least – here and now, within the framework of the present contract – there needs to a better, deeper dialogue with G4S about the constructive uses of EM, the onus being on sheriffs and social workers to start it, perhaps with central government encouragement to do so. But this is not a long-term solution. The fact that even an SNP government sees EM's future in the private sector remains problematic, limiting the extent to which meaningful integration with social work will ever occur, risking a future in which some approximation to the English approach to EM might yet be attempted. For EM to make the modest but significant strategic contribution it could to improving community supervision and reducing Scotland's prisoner numbers - something which itself requires greater political will than has been evinced so far - there must be a decisive break with English models of outsourcing, and the accommodation of EM within an innovative public sector. This should mean within criminal justice social work, but it may in practice mean within, or in conjunction with, Police Scotland, who have given much greater thought to the potential of various EM technologies than any social work organization to date, and may become an important advocate of its use in the future.

Notes

1. Iain Johnston formed his own EM company, Monetor and considered bidding against his former employer, Reliance, for the second Scottish contract, because of the constraints its "security company" ethos placed on his vision of a more social work-oriented use of EM. This was unsuccessful and, like several enterprising "first generation" EM managers in Europe,

he subsequently enjoyed a career as an international EM consultant, capitalizing on the steady global expansion of this new technology.

2. There is only limited knowledge in the public domain about the use of EM in parole licences and within Multi-Agency Public Protection Arrangements (MAPPA). One such case was subject to a Significant Case Review when the offender in question committed murder. In the subsequent report, the fact of his being tagged and curfewed seemed as though it were a very minor, inconsequential element in the panoply of support services which were wrapped around him; no clear purpose was given for its use and none of the numerous recommendations made suggested how EM might have been used differently, or better (South West Scotland Community Justice Authority Area (2012). Under the headline "Gavin Boyd was freed to murder Vicki McGrand" a tabloid newspaper which reported on the case at the time of his trial made it sound as though Boyd's wearing of a tag was the most significant aspect of his post-release supervision, implying that this had been a misjudgment (The Daily Record 6th June 2010)

3. The new legislation makes complex amendments to earlier legislation, a common enough occurrence, but with the effect that the Restricted Movement Requirement which may be made following a breach of a CPO is done so under legislation which predates the existence of EM in Scotland - namely sections 227ZC(7)(d) and 227 ZE of the Criminal Procedure (Scotland) Act 1995 (personal communication Sheriff Frank Crowe 8th September 2014). There is probably a case for a clearer, more streamlined and more publicly accessible presentation of the legislative base for EM in Scotland

4. Two joint inspections of EM have taken place in England and Wales, led by probation but involving court and police inspectorates as well. Under the imaginative but unusual titles of A Complicated Business and It's Still Complicated (Criminal Justice Joint Inspection 2008; 2012) both reports highlighted the difficulties of integrating practice (and indeed management) across the private-public sector interface from a multiplicity of sites - courts, prisons, local probation services and youth justice teams as well as central government itself. The second report noted with regret that recommendations for improving integration made in the first had mostly not been implemented, further confirming that it was a difficult thing to accomplish, even where personal goodwill existed on both sides of the divide. Although the conclusion was not explicitly stated – because Inspectorates are only mandated to comment on operations, not on policy - it was impossible to read these reports without inferring that the public–private divide itself was an obstacle to good practice, and that EM service delivery arrangements in England and Wales were not fit for purpose. Chances are the equivalent situation in Scotland is less administratively complicated than that in England and Wales, but only an inspection of practice in Scotland will show how easy or hard integration is across the public-private sector divide, and what feasible remedies might look like.

5. Although The Digital Strategy for Justice in Scotland is addressed to all "justice organisations" in the state, voluntary and private sectors, and goes beyond the mere digitizing of information and interoperable systems for sharing it to encompass "safeguarding the rights of citizens and users", the Electronic Monitoring Service is not mentioned in it, further attesting to the "imaginative neglect" of EM within the Scottish Government, however inadvertent. It is doubly ironic that EM is not even listed in this otherwise well-thought out document, let alone considered, when, more than other penal measures, digital technology is the essence of it. Quite arbitrarily, data-producing technologies such as live video conferencing between defence agents and imprisoned clients, and body-worn CCTV cameras as used by street-level police officers are readily understood as "digital", while the location monitoring of convicted and released offenders is, apparently, not. (See Nellis (2015) for the emergent digital "framing" of EM in England and Wales).

6. The plans for a vast expansion of GPS tracking in England and Wales, at an estimated £3bn expenditure over nine years, may in practice become something much more modest, because of a belated realisation in the Ministry of Justice that their early plans to normalize the compulsory use of GPS tracking with large numbers of offenders were too ambitious and,

indeed, misconceived as an effective means of community supervision (Nellis 2014a; 2015).

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Acknowledgements Professors Cyrus Tata and Neil Hutton, Dr Beth Weaver, Mary Munro, Sheriff Frank Crowe, Tom Halpin (Sacro) and Norman Brown (G4S) all made helpful comments on earlier drafts of this paper. All judgments and any errors are mine alone.

SASO Prize Winning Student Essay

Can new legislation succeed in wiping out the sectarian problem in Scotland?

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Sectarianism has become an increasingly topical subject in Scotland over the past few years, with the police, politicians and media commentators decrying supposedly sectarian behaviour as the 'scourge'[i] of Scottish society and seeking to implement new ways to tackle the problem. The most high profile strategy thus far has been to introduce specific anti-sectarian legislation into the criminal code in relation to behaviour at football, with the cost of setting up a new Football Co-ordination Unit for Scotland (FoCUS) almost equalling the total funding given to community projects dealing with the issue (many of which would likely have been given similar funding for community projects more generally anyway)[ii]. Whether this development can impact positively on the rates of sectarian-related crimes and behaviours remains to be seen and is the subject of much debate. In Scotland, sport is one of the key cultural sites where political, national and ethno-religious identities are played out, and sectarianism is often conflated with football-related disorder. Consequently, it has been argued that football supporters are made 'scapegoats' for a wider social problem (Bradley 2006).

A particularly important part of the current debate centres on the definition and interpretation of sectarianism. The Scottish Government was unable to decide on a definition and as a result the implementation of the Offensive Behaviour at Football and Threatening Communications (OBTC) legislation relies heavily on the individual interpretation of police officers, procurator fiscals and judges. Of course, all laws are open to judicial interpretation to some extent, but the lack of clarity around what may or may not constitute offensive or sectarian behaviour makes this more of an issue. Recent incidents highlighted in the media emphasise the tensions involved in this process, with judges dismissing cases brought under the new law as a result of differing opinions on whether certain acts can be deemed sectarian.[iii] This throws up questions of legitimacy and credibility of the Act, and has contributed to a growing sense among some football supporters that they are being unfairly targeted and 'criminalised'. Seen in the wider context of increasing regulation within society (Dixon and Gadd 2006, Waiton 2012) and a tougher approach to hate crimes, legislating against what is considered to be unacceptable behaviour raises questions around freedom of speech and expression. Parliament's decision to target this new legislation solely at football supporters has been contentious. Critics have

[i] Roseanna Cunningham, Scottish Government Community Safety Minister, claimed that sectarianism is the 'scourge' of Scottish society and this choice of language is regularly replicated in media coverage

[ii] FoCUS was given a £2 million set-up budget while the total funding for community projects (37 different projects) was approximately £2.6 million over two years.

[iii] In April 2013 a case brought to court under the OBTC Act resulted in a Celtic supporter being found not guilty of singing a song supposedly glorifying a terrorist organisation. Referring to the legislation, the presiding Sheriff added: "Somehow the word 'mince' comes to mind."

questioned why the law is not extended to all sporting events where there are large crowds, and suggested that this is a sign of a class-based legal system in which the educated middle classes attending rugby matches or other sporting events are not subject to the same scrutiny as football supporters, who are more likely to come from a working class background. As such, questions of inequality and class must be central to any analysis. It is important to note that the content of the OBTC Act does not specifically mention sectarianism, although the government's rhetoric when discussing the legislation, particularly when it was at bill stage, makes it clear that the focus is on tackling sectarian-related behaviour at football. The reasons for, and the consequences of, this lack of clarity will be explored throughout this paper.

Overview of study

There is a dearth of studies on the issue of sectarianism in Scotland, as compared to, for example, racism and gender discrimination. This study is among the first to consider football-related disorder and sectarian behaviour in relation to the new OBTC Act. The aims of the study are as follows:

- To analyse the new legislation by considering the motivations for its introduction it, what it specifically introduces that did not exist in previous legislation, and issues around implementation
- To explore how the Act may affect the work of the criminal justice system when dealing with issues such as football-related disorder, sectarian behaviour and hate crime
- To assess the argument that the introduction of the new legislation, and the ways in which it has been enforced thus far, could be considered the 'criminalisation' of football supporters in Scotland
- To explore wider social issues such as the role of the state in regulating society
- To consider issues of class and inequality within this framework

Qualitative semi-structured interviews were carried out with eight key stakeholders: two academics, an anti-sectarianism worker, two MSPs, a representative from Police Scotland, a Senior Civil Servant at Scottish Government and a journalist. Interview data was analysed using thematic analysis, with key concepts of critical discourse analysis, to identify key themes and patterns. The importance of language in the debates around sectarianism in general, and discussion relating to the new legislation, has been noted. Fairclough developed the connection between social structures and discourse, and argued that a critical analysis of texts can help us to identify how groups or individuals are represented and often stereotyped (Smith and Bell 2007: 82). The linkage between discourse and the norms and values inherent in social structures is further outlined by Hall, who comments that:

> "*We are born into a language, its codes and its meanings. Language is therefore…a social phenomenon. It cannot be an individual matter because we cannot make up the rules of*

language individually, for ourselves. Their source lies in society, in the culture, in our shared cultural codes, in the language system – not in nature or in the individual subject" (1997: 34).

This view supports the views of many critics of the new legislation who argue that the increased focus on the types of language which are regarded as 'acceptable' or 'offensive' is a worrying trend in contemporary Britain.

Can Sectarianism be defined?

Various stakeholders have criticised the OBTC Act because it does not define sectarianism or clarify what might be considered sectarian behaviour. That said, there is similar disagreement among scholars on how the phenomenon can be defined, with some suggesting that the use of the term itself is problematic. Gerry Finn argues that "'sectarianism' is capable of so many interpretations as to be unhelpful" (2003: 904) and Graham Walker echoes this sentiment by stating it "is doubtless an over-used and too casually used concept" (2001: 53). In Scotland, it is generally understood to be religious sectarianism relating to tensions between Catholics and Protestants (Skeide, 2010: 28). Steve Bruce suggests that sectarianism can be characterised as "a widespread and shared culture of improperly treating people in terms of their religion" (2004: 4). Coreen Walsh attempts to define the origins of sectarianism in a recent study and argues it can be described as "a system of attitudes, actions, beliefs and structures – at personal, communal, and institutional levels – which always involves religion, and typically involves a negative mixing of religion and politics" (2009: 14). Rosie and McCrone (2000) question what is meant by 'Catholic' within a Scottish context. They note that there are various elements associated with Catholicism, including specific doctrinal beliefs, religious practice, schools, culture or politics – for example a belief in the legitimacy of a united Ireland (200). Of course, 'Protestant' is also a complex term, with varying traditions within the different Protestant denominations, but the ambiguity over what 'Catholic' means in terms of the current debates on sectarianism is particularly important. This is largely because Catholics in Scotland, particularly Irish Catholics, have traditionally been the victims of religious-based discrimination (Finn 2000, Bradley 2006); however as this paper will show, this discrimination has been about more than just religion, with ethnic, cultural and other social factors coming into play. Moreover, McKerrell (2012) points out that the differences between the Catholic and different Protestant traditions – for example the role of the Church itself, the Papacy, transubstantiation, the individual relationship with God – rarely if ever enter the debates on sectarianism. This suggests that a particular view of sectarianism which is defined as being about Roman Catholics and Protestants, is somewhat lacking.

It is also insufficient to point to a 'clash' between Protestants and Catholics in Scotland because this neglects the specific historical relations between the two religions, particularly mistreatment towards the Irish Catholic immigrant community. Finn argues that this popular definition of sectarianism:

> "*avoids any identification of causality, neglects any analysis of social and political power within Scotland and implies equal culpability for prejudice between majority and minority communities*" (1990: 5-6).

In short, it is not enough to define the problem as simply religious, nor is it sufficient to deem both sides 'equal', because this ignores the historical patterns of inequality and oppression in Scotland and Ireland. Moreover, much of the political and media discussion of sectarian behaviour among Scottish football fans often focuses on their expression of 'Irish' identities, what Walker calls "a popular culture of the Irish Question" (2001: 53). Such identities may be somewhat rooted in religion, but there are undoubtedly political, racial, cultural and social factors at play. Indeed, Finn suggests that use of the term 'sectarian' to explain away certain behaviours is geared towards helping:

> "*retain the myth of Scotland as a democratic and egalitarian society, free from the stain of racism. Much that is claimed to be sectarianism is better described as anti-Irish racism*" (1990: 5-6).

Joseph Bradley points out that "the words "Catholic" and "Irish" are essentially interchangeable in the West of Scotland" (2008: 98), further complicating any attempt to define sectarianism in relation to Scotland. The centrality of Irish identity to the concept of sectarianism is emphasised by Kelly, who argues that that for some, "having a stated position on Irish politics….is sufficient condition to be labelled sectarian" (2010: 2). This all leads to what he terms "an apolitical and culturally naïve version of sectarianism" (3). There is no doubt that the lack of consensus on what sectarianism means will impact upon the current debates on sectarianism and ultimately influence the effectiveness of the new legislation. This is particularly salient given that examples of cases brought under the OBTC Act thus far are often for expressions of what could be called 'political sectarianism', support for extreme political groups such as the IRA, UVF or Palestinian Liberation Organisation.

Sectarianism in Scotland – background

Religious animosity in Scotland can be traced back as far as the sixteenth century, but most accounts focus on the period from the 1840s onward, when mass immigration of Irish Catholics resulted in tensions with the native Scottish (predominately Protestant) population. There was a significant Irish population before then and an anti-catholic narrative running throughout the eighteenth-century, however the nature of this narrative was changed with larger-scale immigration of Irish Catholics, who it has been contended were generally located in 'segregated villages', mostly around the central belt (Devine 2000: 101). Until relatively late in the twentieth- century, Catholics from Irish backgrounds suffered discrimination in the economic, political and social spheres as well as being disproportionately victims of religious-motivated violence (MacMillan 2000, Walls and Williams 2003). It is important to note that not all Irish immigrants were Catholic and Scotland had an

indigenous Catholic population. However, as previously noted, the terms 'Irish' and 'Catholic' became interchangeable. Criticisms of Irish Catholics were often racial in nature, with one report commenting that "In immigration-era Scotland, the Catholic religion was racialised" (Nil by Mouth Report, 2005: 31). According to Kidd (2003), the arrival of Irish Celts, at a time of 'obsession' with racial classification, was regarded in some quarters as a threat to the native Scottish 'race'. In this respect, "racialism added a gloss of scientific respectability to nativist and sectarian opposition to Irish Catholic immigration" (883). This feeds into Finn's argument about the interlinking of sectarianism and anti-Irish racism. Religious discrimination against and stereotyping of Irish Catholic immigrants became a common feature of Scottish society, particularly in the West of Scotland.

The anti-Catholic discrimination that permeated Scottish society for many years has arguably contributed to the development of a particular 'outsider' identity amongst the immigrant community, posited against the dominant Scottish Protestant identity. Indeed, Colley (1996) argues that British national identity was anchored to an "uncompromising Protestantism" by defining itself against the Catholic 'other' (18). The role played by Scotland in historical events such as the colonisation of Ireland further complicates the sense of identity amongst the Irish diaspora (Bradley, 2006: 1192). This historical context is crucial; it contextualises the sectarian problem within a specific system of social relations, illustrating how this may affect many people's sense of identity in contemporary Scotland. However, politicians and other public figures that rush to label and condemn certain behaviours as 'sectarian' largely overlook this. The failure to consider historical factors has three important consequences, all closely linked. Firstly, it leads to the implication that in terms of discrimination and expressions of identity, both sides are 'equally bad', whilst in fact, if one examines the underlying forms, Irish Catholic descendants have generally been the victims of such discrimination. Secondly, it somewhat de-legitimises the 'Irishness' of many 'Scots-Irish' (including Irish Protestants), and their right to consider themselves "in some way Irish and not "typically" Scottish" (Bradley 2008: 101). Thirdly, a lack of historical context throws up confusion around what can be considered a 'sectarian' act. There is a general tendency to throw together various expressions of identity such as songs, flags and other symbols as examples of sectarianism, without a proper examination of the historical context involved. This will be discussed further in the following section which looks at how sectarianism is played out in contemporary Scotland, particularly within the realm of sport. The historical relations between Celtic and Rangers football clubs are inextricably linked to the religious, socio-economic and racial tensions resulting from reaction to the immigration of Irish Catholics to Scotland. However, there is little consensus on whether this is a genuine problem warranting specific legislative intervention.

Is sectarianism still a problem in contemporary Scotland?

Towards the end of the twentieth-century there was a general consensus that anti-Catholic

discrimination was a 'thing of the past', with intermarriage between Catholics and Protestants now commonplace and various studies suggesting equality in terms of employment and educational prospects (Bruce 2006). According to Devine (2000), the economic context of the 1980s onwards helped to redress the problems of inequality, as privatisation and market trends meant that senior management was often not of Scottish origin, therefore having far less interest in what school prospective employees came from, or pursuing anti-Catholic policies. Scholars such as Steve Bruce argue that the renewed attention on sectarianism in Scotland sparked by James MacMillan's 1999 lecture on anti-Catholic bigotry (and the subsequent publication of *Scotland's Shame*) served only to mislead the public about a problem that no longer really existed. High-profile incidents such as the murder of teenager Mark Scott[iv] were regarded as isolated incidents carried out by individuals whose bigoted motivations and attitudes were not reflective of the vast majority of Scottish people. However, in 2011 the problem was deemed serious enough to warrant specific attention from the criminal justice sphere. Various events contributed to the decision by the Scottish Government to introduce legislation directly targeting supposed sectarian-related behaviour, including the infamous 'Shame Game' between Celtic and Rangers in March 2011, the attack on Celtic manager Neil Lennon by a Hearts supporter during a match and, most notably, the fact that various high-profile Catholic figures closely associated with Celtic Football Club received death threats, bullets and parcel bombs. Such incidents questioned the credibility of the argument that there is no problem of sectarianism in Scotland, although whether or not it is confined to a fringe element is less clear.

The majority of empirical based research and statistics available suggests that sectarianism, specifically anti-Catholicism, is merely a historical issue which has little relevance in contemporary Scotland - a so-called 'sectarian myth' (Bruce 2004). Why, then, did the Scottish Government call an emergency summit and attempt to rush through as a priority legislation tackling this issue, after a few years of little notable policy interest from the SNP in the area? Much of this has to do with the fact that despite the arguments outlined above, there is still a perception in contemporary Scotland that sectarianism is indeed a pressing social problem. And there is some evidence to support this claim. In a small qualitative study of discrimination in the workplace in Glasgow, Finn, Uygan and Johnson (2008) found that religious discrimination was still a factor in twenty-first-century Scotland. Drawing on six focus groups with younger workers (aged 26 years and under) and Primary Education undergraduates and interviews with trade union officials, the study revealed that anti-Catholic attitudes persist in some areas, albeit in a subtler, 'underground' form than the direct discrimination of past decades. While this study was small, and its findings therefore not generalizable, it does offer relatively recent evidence of sectarian discrimination in Scotland. As part of a larger study of

[iv] Mark Scott was a young Celtic fan murdered in 1995 in a sectarian-fuelled attack by Jason Campbell, a UVF-supporting Rangers fan, because he was wearing a Celtic top on the way home from a football match

disadvantage among those of Irish descent in Britain, Walls and Williams (2003) conducted 72 in-depth interviews with Protestants and Catholics in two areas in Glasgow. Seven of the 39 Catholic respondents reported personal experience of discrimination at work. Furthermore, economic disparity between Catholics and non-Catholics was a reality until relatively recently, and Walls and Williams highlight the fact that the majority of Catholics over the age of fifty in the West of Scotland "have lived their lives at an economic disadvantage, probably now irreversible" (2003: 765). Devine notes that this has been changing rapidly over the last two decades. In 2001, Catholics were still more likely than Protestants to work in lower status jobs. Older Catholics, aged 55+, are behind their Protestant counterparts and have higher than average levels of long-term sickness and disability, but among those between 18 and 34 the gap has closed dramatically. Devine's analysis also states that Catholics are no longer under-represented among Scotland's managers, senior officials and professionals. (2008: 202-203). Yet it is only by taking into account this wider social and historical context that we might begin to arrive at an understanding of the situation today, including any lingering effects of historic discrimination.

While much of the literature does indeed highlight a negative legacy, it rarely has manifested itself in the form of violence. Holligan and Deuchar's (2009) qualitative study of fifty young people in Glasgow aged 16-18 years suggests that there is not a direct link between sectarianism and violence. Their study does provide evidence to support the continuing problem of sectarianism, for instance through the normalisation of sectarian language and humour and the role of older male family members, suggesting that even if sectarian-related violence is rare, sectarianism does appear to form part of the West of Scotland masculine identity, as does territorial violence. Clayton (2005) argues that sectarian attitudes and behaviours are generally only identified at football matches, suggesting that the problem is limited to a form of 'football sectarianism' as opposed to a serious social problem, which is in keeping with Bruce et al's (2004) argument of 'tribalism' or what is also sometimes referred to as '90 minute sectarianism'.

Rosie and McCrone (2000) make an important distinction between sectarianism and discrimination, stating that the latter is far easier to measure because it is "behavioural" whereas sectarianism "occupies a much more shadowy corner: it's about attitudes and prejudices" (p. 200). Similarly, McKerrell (2012) argues that "the key context for understanding sectarianism is not statistical, structural or societal; the key context where sectarian actors have their most significant agency is cultural" (370). In this view, statistical analyses have an important role to play, but they "do not offer insights into *how sectarianism means*" – essentially, it may be possible to identify and measure how many sectarian-related incidents take place but says nothing about the level of sectarian attitudes or motivations behind them. A study on hate crime legislation raises questions around whether it is safe to treat the use of racist language or symbols as "conclusive evidence the of racial (or religious)

'hostility' required by section 28 (of the Crime and Disorder Act 1998) when its use is viewed from the subjective position of an offender who has assimilated and articulated attitudes prevalent in his or her community" (Dixon and Gadd 2006: 312). It is crucial to question whether those accused of sectarian behaviour or offences understand the meaning (which itself is contested) behind particular words, symbols or slogans used, and if these are reflective of hardened sectarian attitudes. As has been seen, central to the criticisms of the new legislation is the fact that the Scottish Government failed to agree upon a clear definition of sectarianism and therefore what may be deemed a sectarian act. As a result, the first year of the legislation saw various instances of sheriffs dismissing cases because of the difficulty in establishing whether or not certain behaviours could be considered sectarian.

Much of this uncertainty could be attributed to debates around what can be considered 'acceptable' identities. The 'Irish question' is central to the identity of many Scots, and the role of Scotland in Irish history and politics – including colonisation, the Great Famine and more recently during the 'Troubles' with the presence of British Army in Northern Ireland – adds a further dimension to the question of identity. Bradley (2006) suggests that for the Irish diaspora in Scotland this has resulted in the development of an 'outsider' identity. Walker (2012) suggests that "there needs to be due awareness of the emotional support that a slice of the Protestant community in Scotland lends to the Unionists/Loyalists of Ulster, and of the continuing commitment to the goal of a 32 County Ireland that is central to the Celtic supporters' culture" (376). Notwithstanding the conflation of Nationalist and Republican tendencies with Celtic supporters, this is an important point about the political nature of sectarianism which is often neglected. Political context is crucial, particularly in relation to the upcoming referendum on Scottish independence as the way in which the government deals with the supposed sectarian problem will impact on the type of 'Scotland' it envisages post-independence. This is because the SNP have stated that they want Scotland to be a progressive, self-sufficient country that displays inclusiveness and tolerance. However, there is a risk that the chosen methods may result in the alienation of some sections of society. Walker also alludes to the importance of class when considering the nature of sectarianism. He argues that traditionally in Scotland (particularly in the west) Labour attracted the bulk of working class voters, including those from an Irish Catholic background, and as such "held the respective Orange and Green passions in check" (377). Devolution and the subsequent rise of the Scottish National Party changed the political landscape dramatically, and as such a space was created for the development of these identities. The fact that Labour remains essentially a unionist party and the nationalist tendencies of many Irish Catholic immigrants does not always translate to support for Scottish nationalism, further highlights the complexity of political identity. The Scottish National Party's response to growing 'Orange' and 'Green' identities and cultures when expressed through football has been to delegitimise them, as these are not in keeping with what they regard as appropriate 'Scottish' values and behaviours. Consequently, the 'celebration' of these identities in particular ways – through symbols, flags and songs – are regarded as offensive

and criminalised through the new legislation.

Criminalisation of football supporters

Sport, particularly football, can play an important role in the construction of social identities. Identifying with a specific team can help to develop a sense of shared identity with one particular group; with fellow supporters defining themselves collectively in terms of what they are (Giulianotti and Armstrong, 2001: 267). This does not necessarily have negative connotations; however it is often the case in sports that this shared identity is differentiated from the 'other', as "people define themselves through understandings of what they are not" (ibid: 267). In this sense sport can "reflect social tension and cleavages" (Bradley, 2008: 96) and become an arena in which tensions are played out, either through violence or symbolic expressions of identity such as certain flags or songs. According to MacClancy, this understanding and classification can be achieved either "latitudinally or hierarchically" (1996: 2), lending weight to the argument that significant power relations are at play between 'those at the top' and the somewhat marginalised football supporters.

The Scottish Government's attempts at tackling what it perceives as unacceptable conduct amongst football supporters can be viewed in the wider political context in the UK, as at present there seems to be a growing tendency towards developing and refining laws to deal with what are considered 'hateful' words or behaviours. Waiton (2012) cites as an example the fact that the Public Order Act of 1986 is being used more flexibly against extremist groups, with serious repercussions for free speech. The Scottish Government also introduced specific 'hate crime' legislation in recent years through the Offences (Aggravation by Prejudice) (Scotland) Act 2009. According to Waiton, the introduction of the Racial and Religious Hatred Act (2006) and the Terrorism Act (2006) has meant that "the connection between words and actual violence has been collapsed further" (61). The same concerns can be applied to the new Offensive Behaviour at Football legislation, as a strong focus is on controlling what kind of language can be used – for example banning songs celebrating extreme political groups such as the IRA or UVF. The notion of criminalising speech, which also includes the policing of social media posts for distasteful comments, is concerning to many critics. Within this framework it is also useful to consider the emphasis on 'political sectarianism', which seems to be a key focus of the new legislation. As Waiton points out, this was "rarely if ever" mentioned by politicians when they were introducing the legislation (47), and therefore throws up questions about whether the government could be seen to be misleading the public about the true objectives of the legislation, because to admit to targeting political expression raises broader questions about human rights. It is far easier to justify such measures when they are apparently pursuing a group that is routinely vilified.

The 1970s and 1980s saw a sense of 'moral panic' over supposed football hooligans, developing

within the wider social and political context of the Conservative Government targeting 'deviants' such as youth gangs, trade unions and the infamous case of 'black muggers' in London (Hall et al, 1979), culminating in the Public Order Act (1986). Such legislation was designed to control behaviour which was seen as being at odds with the 'values' of the dominant social group. Some scholars suggest that this period saw the development of an increasingly marginalised white working class (Webster 2008, Treadwell and Garland 2011) whose values and behaviours were often derided. Increased regulation of football supporters continued under New Labour, a period in which using legislation to tackle perceived social problems became common policy. However Waiton notes that the end of the 20th century saw a shift away from the previous 'policing the crowd' approach towards controlling other types of behaviour including offensive banners and songs. The Offensive Behaviour at Football Act is an example of the trend towards criminalising what is offensive, which of course is subjective as what one person finds offensive may not have been intended that way or may be perceived very differently by another individual. This raises serious questions about what constitutes an act of 'offensive behaviour', a decision which has been left to the discretion of police and sheriffs with apparently little guidance.

Research Findings

'Legislation won't win hearts and minds'

Interviewees were asked about their opinions on the extent to which legislation and the OBTC Act in particular could help to 'wipe out' the sectarian problem, a problem that all but one agreed still existed. Most were lukewarm at best in their responses and even those in favour of or involved in the creation of the legislation stressed that it is only part of the solution, with education mentioned by everyone as a far more valuable strategy. The anti-sectarianism worker suggested that "the truth is it is the hearts and minds you have to win and you're not necessarily going to win that through legislation". Those interviewees hostile to the Act went further, with comments such as "a bad law is worse than no law at all". The criticisms of the legislation were wide-ranging – it was generally felt that it is too broad and ambiguous, and perhaps 'trying to do too much'. Unsurprisingly, the attempt to 'rush through' the Act was believed to have caused problems due to a lack of debate and scrutiny, especially over certain sections. This led to accusations that the law was 'knee-jerk' and ill-considered, which could backfire on the government and create serious problems with implementation. This was said to be the key reason for the well-publicised hostility from various corners including from sheriffs. Critics also argued that the wording of the legislation was "unfortunate", particularly concerning the ambiguity of the word 'offensive'. This is because 'offensive' is open to different meanings and interpretations, which raises concerns that the law could be used for minor offences, open to potential abuses of power from the police. It was argued that the law causes confusion, because football supporters are not clear on what they allowed to do, what

songs they are allowed to sing and what banners with political slogans may result in them being arrested. Legislation is supposed to give greater clarity; therefore the fact that the law does not define what is offensive was a real source of concern to some interviewees, with one politician commenting:

> *"So they've brought in the legislation to show that they're doing something, but they can't actually say what it is that they're trying to get at other than they don't like football fans expressing opinions that some other people might consider to be offensive"*

This also raises questions about the targeting of football supporters, a theme that is explored further later in the discussion.

Some interesting points were raised regarding the broader issues of the role of legislation in society. One of the interviewees, a law academic, suggested that labelling a 'problem' is sometimes helpful, even if the specific legislative powers might already be covered elsewhere, because "it isn't just how lawyers use the law but how the public sees it" that is key. In this view, legislation is not just functional but can be an important tool in provoking public debate on a given subject, and raising the profile of important social issues. As a result, people become more self-aware and start to think more about their behaviour. Other examples cited by interviewees included drink driving and domestic abuse, which have become increasingly socially unacceptable in recent decades partly as a result of high-profile legislation. A Police Scotland representative interviewed suggested that in some respects it could be considered more damaging to be charged with the OBTC Act than with Breach of the Peace legislation. Therefore, the Act could be seen as 'sending a message', with the notion that being charged or threatened under its provisions has value in itself, impacting positively on behaviour. Conversely, others believed it does not have the ability to change attitudes, and attempts to do so can have negative consequences. One academic critical of the Act claimed that there are real dangers in 'legislating against what you think' and various interviewees raised concerns over civil liberties, although it was suggested that the freedom of speech debate has been 'hijacked' to a certain extent, being used to defend or excuse a lot of behaviours that are unacceptable. Again, an interesting comparison can be made with Dixon and Gadd's study on 'The Criminalisation of Hate'. The authors argue that the 'deterrent effect' sought by using such legislation to 'send a message' is outweighed by the "unnecessarily criminalisation of already marginalised and relatively disadvantaged people" (2006: 324) – a theme that will be explored further in this paper.

Sectarianism – impossible to define?

Unsurprisingly, the general consensus was that sectarianism is a difficult concept to define, and most respondents offered rather broad explanations that go beyond the narrow religious-based definition, such as a general "fear of difference". There was an acceptance that since organised religion is undoubtedly declining in importance in today's society and individuals' links to faith are seemingly

loosening, it would be inadequate to confine definitions of sectarianism to religious conflict although often sectarian behaviours are carried out "in the name of religion". It was pointed out that although in the context of Scotland (and the wider framework of Britain and Northern Ireland) sectarianism is predominately between Catholics and Protestants, there are various different examples internationally such as conflict between different sects of Islam in Iraq and rising sectarian tensions in Egypt and Syria. Indeed, it was suggested that since sectarianism in Scotland has never reached such levels of open conflict or violence, the problem is often exaggerated:

> *"It's not that people are getting beaten up all over the place for their religion. People aren't burning down Catholic and Protestant churches, there aren't political parties forming around religious identity."* (Interview with academic)

Interestingly given the Scottish Government's failure to debate or define political sectarianism, all interviewees emphasised that recognising the political nature of what is often termed sectarianism in Scotland is crucial if we are to reach a genuine understanding of the issue. Religion and politics are interlinked in this context, and it is often difficult to distinguish between the two when it comes to expressions such as songs, banners and marches. It was felt that the political aspect of sectarianism is downplayed, often wilfully, by politicians and the media and that people use different definitions to suit themselves and their own agendas. That is because openly targeting political expression through legislation is likely to provoke a public backlash as it could be viewed as an attack on human rights. Therefore, it would be in the Government's interests to mute discussion of the political aspect of sectarianism. The specific historical context in relation to sectarianism in Scotland, most notably the immigration of Irish Catholics, was frequently referred to, however the ethnic element was rarely mentioned and sectarianism seemed to be regarded as quite separate from racism. This became apparent by the third interview, so it was directly addressed in future interviews.

'Still gets discussed around the dinner table, but you wouldn't see it in the factories now'

As discussed in the literature review, there is a lack of consensus amongst the academic community as to whether sectarianism can be deemed a feature of contemporary Scottish society. Only one interviewee in this project, an academic, felt that it was not a significant problem; most respondents agreed that it still exists in various forms despite becoming less significant in recent years. It was suggested that the issue has been trivialised by some people, although interestingly the majority of interviewees who said they believed it was still a problem gave examples of issues such as anti-Asian racism, poverty and discrimination based on gender which they believed were more salient. All agreed that it is less of a problem than in the past, particularly declining in the structural sense. Interviewees gave various examples of how sectarian discrimination occurred in areas such as employment in the recent past – for example particular media outlets, legal firms and local councils not employing

Catholics – however it was stressed that, based on their personal and professional experiences, this is not something that happens in twenty first century Scotland. When asked about the ways in which sectarianism manifests itself, most participants mentioned marches, possibly influenced by the fact that interviews were carried out during the peak of marching season. Marches were generally depicted in a negative manner, described as 'depressing', 'outdated' and not reflective of the communities that they purport to stand for, although an academic with experience researching different marches pointed out that not all marches are the same, something which she felt was rarely acknowledged in public discussions or by the media, helping to sustain the generally negative image of marchers. One MSP pointed out that he believed the number of marches has increased in recent years[v] and are taking place in areas outside the West of Scotland where they didn't previously, which is at odds with notion that sectarianism no longer exists or is in decline.

Responses generally supported the argument set out in the literature review that although we may no longer see overt examples of sectarianism in Scotland, sectarian prejudices remain and can be identified in more subtle underlying forms. Most agreed that attitudinal sectarianism was still an issue – for instance, it was suggested that intermarriage between Protestants and Catholics was evidence that the problem no longer existed but one interviewee pointed out that people still refer to these at times as 'mixed marriages' (the anti-sectarianism worker) and another (an MSP) admitted that "you'll still get some people quite upset about somebody in their family marrying someone from the other side". Again, these comments were based on a combination of the interviewees' personal and professional experiences. Interestingly, interviewees felt that it is important to distinguish between people having particular attitudes and actually acting on them, and this distinction is important when considering whether and in what way you legislate against this issue. This distinction – that having a prejudice is not the same as acting on it – was emphasised less clearly by the interviewees who supported the legislation; for instance, a Scottish Government employee discussing the motivations for and objectives and of the new law commented on a problem with the 'old attitudes' of certain football fans. It is often suggested that sectarianism is a 'generational' problem, however the fact that 60% of the 700 people per year arrested for sectarian offences in Scotland are under the age of 30 would suggest otherwise (Scottish Government Report, 'Religiously Aggravated Offending in Scotland 2010-11' November 2011). This raises questions about youth culture in general, and also the influence of older relatives in terms of 'passing on' attitudes. Indeed, the role of older male family members was considered by Deuchar and Holligan (2009) as a key factor in the prevalence of sectarian behaviour among youths. Therefore, it is crucial to consider why young people are seemingly increasingly engaged in sectarian behaviour, which leads onto exploring issues around identity.

[v] I was unable to locate statistics to show whether or not there has been an increase in the number of marches

Unacceptable Identities

An interesting theme that emerged from the interviews was the different ways in which participants considered the issue of identity in their analysis of football-related disorder and sectarianism in Scottish society. As previously noted, 60% of recorded sectarian offenses in Scotland are carried out by young people. In relation to sectarian behaviour at football, the 'Green Brigade' (the most prominent 'ultras' group and arguably one of the main targets of the new legislation) is made up of predominately young people. If we are to believe that sectarianism is a pressing social problem, particularly amongst youths, where do these sectarian attitudes come from? The values and opinions that we develop are passed down through generations, with beliefs and family cultures often handed down to us. One interviewee (a journalist) suggested that the prevalence of sectarian attitudes amongst young people can partly be attributed to the legacy of discrimination and injustices towards certain groups, because "grievances travel". This point was also acknowledged by the anti-sectarianism worker interviewed, however he argues that is important to question our personal and national histories to find out what is real because taking for granted the history told by parents and grandparents, or through songs, can lead to the development of identities that are not rooted in reality.

It is important to consider the reasons why young people might be seeking an identity, aside from the general search for a personal identity as part of the developmental stage of adolescence. It is worth noting that the 'clampdown' on the flags, banners and songs at football grounds in Scotland is not limited to those which focus on Irish or British politics or history. Indeed, banners celebrating Israel, the Palestinian Liberation Order and the Basque movement are examples of what has been targeted thus far. This suggests that wider political expression, particularly a 'politics of resistance', is at play. Events such as the London riots of 2011 raise the question whether there is a sense of disenfranchisement, particularly among those from poorer backgrounds who are somewhat detached from a society that emphasises individualism and materialism. Tom Devine has commented that "the de-industrialisation of many areas of lowland Scotland has spawned a generation of young men in the post-religious era seeking an identity" (*Sunday Herald*, 24 April 2011). Again, the decline of religion in our lives is referred to, as well as the wider economic and social changes that young people are facing in twenty-first-century Scotland. Time and space do not permit a detailed analysis of this, however it is worth noting that in an increasingly fragile and uncertain world there is what could be described as a 'crisis of identity', in particular, a 'crisis of masculinity', amongst young men (Mac an Ghaill 1994). This may have some influence on the motivations of some people (particularly young men) to embrace specific identities. Cultural and social change as a result of deindustrialisation and secularisation has led to an erosion of employment-based identities and masculinities, eliciting different forms of masculinity such as those expressed at football matches. This theme will be explored further in future research.

The idea of identity crisis was discussed to some extent in the interviews. For example, one politician acknowledged that "a lot of people don't have an identity and if it wasn't this they'd find something else, I suspect". However, most interviewees shared a sense of disdain when discussing the reasons why some football supporters, particularly those supporting Celtic and Rangers, choose to express the particular identities that they do. Celtic Football Club was formed by an Irish Catholic immigrant with the intention of supporting the immigrant community, and to this day is regarded as symbolising Irishness, Catholicism and Republicanism. In contrast, Rangers Football Club is seen to represent a Protestant-loyalist identity and, along with some other Scottish football clubs, developed an anti-Catholic identity in response to the expression of 'Irish' identity through Celtic. Irishness is clearly central to both identities; indeed, the connection between Scotland and Northern Ireland is sustained partly through supporters of either side of the 'Old Firm' travelling to Glasgow from Northern Ireland on a weekly basis (Burdsey & Chappell, 2003: 6), impacting upon the tensions between the pro-Irish, Republican identity of the Celtic supporters and the anti-Irish Loyalist identity of the Rangers supporters. While this obviously varies significantly amongst different fan groups, there is undoubtedly a "strong minority for whom that is their main thing" within the respective supporters. There was a notion that these identities are somehow not valid – particularly due to a lack of knowledge of the politics and history involved, often referred to as 'ignorance'. An interviewee from Police Scotland used the word "schizophrenic" to describe the identity espoused by members of the Green Brigade because "their politics" makes little sense given their youth and the fact that most of them were not born in Ireland. Of course, it is important to note that these are the views of elite interviewees and could be interpreted as class-based.

Without the space necessary to examine concepts such as social identity theory, it is worth recalling that as discussed in the literature review, group identities are often strongest when this shared identity is posited against an external 'other'. In some cases, 'otherness' is achieved hierarchically; for instance, by attaching a label of inferiority to a minority group. The minority group may challenge the hegemony of the dominant group but "their acceptance within a given society is subject to the actions and attitudes of the majority group" (Burdsey & Chappell, 2003: 5). It is therefore particularly important to consider how, through sport, the distinctiveness of the minority identity can be disregarded, demeaned and disempowered (Bradley, 2008: 97). A consequence of this is often the strengthening of such identities against a perceived external threat. What is particularly interesting about the case of football supporters in Scotland in general, and particularly 'Old Firm' fans, is the fact that this marginalisation and ridicule does not only apply to what would traditionally be considered the 'minority' group. Some interviewees suggested that Celtic supporters from Catholic and/or Irish backgrounds may feel their minority identity to be under threat especially as a result of poor treatment historically, however it could also be argued that the supposed 'majority' identity has also been attacked due to fact that 'Britishness' is often not regarded as a particularly positive identity.

This was a point raised by some of the interviewees and reflected the personal opinion of one. One politician participating in the study stated that he dislikes seeing Rangers supporters flying the Union flag at matches, although he did not specify why when probed, and an academic with an interest in the subject suggested that the negative portrayal of religious marches serves to undermine any notions of a positive Protestant identity. Again, there is a sense through these examples that what used to be acceptable expressions of British nationalism are now represented in a negative manner.

Clearly there are a range of opinions on what expressions of identity are acceptable, and some contradictions are evident within the responses of some interviewees. For example, the politician cited above also stated that he strongly supported the promotion of multiculturalism "rather than trying to make everything one grey norm". In this sense, differences should be encouraged, not just tolerated. The anti-sectarianism worker interviewed stated that there is a need to accept and respect the existence of different identities in Scotland, including an Irish identity, Britishness and Orange culture, and be wary of attempts to marginalise these in favour of an overarching 'Scottish' identity. He comments that "the Saltire does not trump the Union flag or the Tricolour". An interesting comparison can be made between treatment of Old Firm supporters and supporters of the national team. For instance, Alex Salmond declared in his acceptance speech that the songs sung mainly by Celtic and Rangers supporters had no place in modern Scotland because they were fixated on battles fought centuries ago:

> *"I will not have people living in fear from some idiotic 17th Century rivalry in the 21st century. And I will not have Scotland torn apart by the memory of battles that no-one alive fought in, and by confected rivalry between faiths that long ago united in the ecumenical movement*" (Alex Salmond, May 2011).

Yet it was pointed out by several interviewees that the SNP still celebrate the anniversary of Bannockburn each year, commemorating a battle that no-one alive fought in. A similar point can be made regarding which songs football supporters are allowed to sing. Scotland supporters frequently sing 'Flower of Scotland', which does contain anti-English sentiment, yet Celtic supporters could be arrested for singing 'Boys of the Old Brigade' which contains lines of a similar nature. This corresponds to the argument put forward by John Kelly, who claims in his analysis of media coverage that condemnation of fans based on their lack of historical and political knowledge does not extend to supporters of the national team, who sing of 700-year old battles against the English (2010: 10). It also supports Finn's (2000) argument that there exists a 'national myth' portraying Scotland as a tolerant, egalitarian society free from racism. Moreover, an MSP interviewed argued that since the OBTC Act is designed to cover discrimination in all forms at football matches, the fact that Scotland supporters at a recent Scotland vs. England friendly sang an openly homophobic song[vi] they should technically be subject to the same sanctions as any other football fan. Yet such songs are generally portrayed as

[vi] "We hate Jimmy Hill, he's a Poof" is a Scottish football chant about the English Football personality

harmless and nothing more than 'banter', lending weight to the argument that the government and police are targeting certain fans and not others. It also suggests that Scottish nationalism is considered to be more acceptable than Irish or British nationalisms and raises the question of whether the condemnation of expressions of British and Irish culture would be tolerated if they were directed towards any other ethno-religious group. The peculiarity of an explicitly nationalist Government legislating against particular expressions of nationalism, particularly Irish and British nationalism, was not lost on those respondents critical of the legislation. Discussing issues around identity produced arguably the most interesting data, and questions raised included "where do you draw the line in terms of expressions of identity?" and "what is acceptable and what isn't?" This leads onto another common theme, that football supporters have become scapegoats for the sectarian problem due to the ways in which they express particular identities at football matches, and that there is a process of 'criminalisation' going on.

Criminalisation of football supporters

Sectarianism and football in Scotland are undoubtedly conflated in spite of a lack of clear evidence to suggest that football is the main arena in which sectarian prejudices and tensions are played out. A lack of clear evidence is a wider problem when attempting to understand the nature of sectarianism in Scotland and indeed the effectiveness of the new legislation. Central to the justifications put forward by the government throughout the debate about the OBTC Act is that sectarianism and football-related disorder and violence (again, two concepts that are frequently made out to be the same thing) are closely related by the media and politicians to issues such as alcohol abuse and domestic violence. One MSP critical of the legislation pointed out that although there has been an undeniable increase in domestic violence rates around the dates on which Celtic-Rangers matches were played, no distinct link had been made between physically attending the game and committing domestic violence, nor was it shown that those people would not have committed domestic violence anyway. Indeed, with domestic violence rates peaking at times such over the festive period, suggesting a causal link between football and wider social problems can be dangerous. It is also important to note that the reported domestic violence rates may reflect policing practices. Similarly, a report in the Sunday Times at the time that the government was trying to push through the OBTC legislation pointed out that 85% of sectarian crime is not football-related (15 May 2011). Why, then, do the two seem to be inextricably linked?

The connection between football and sectarianism was a cause for debate in this research. Some interviewees argued that sectarianism does generally manifest itself in football now, while others strongly believed that football is merely an 'easy target', a convenient scapegoat for a problem which is much more deep rooted in Scottish society than certain people would care to admit. It was felt that to equate sectarianism with football was to neglect crucial historical context, with one MSP

commenting that:

> "*Religious division in Scotland didn't start with the creation of Celtic Football Club. You know, I think there was a thing called the Reformation in about 1560 where people started to go at odds with one another on this issue*…" (Interview with Opposition MSP).

The Sunday Times report referred to above also stated that according to conviction statistics, Catholics are still six times more likely to suffer sectarian attacks than Protestants (15 May 2011). This lends weight to the argument that sectarianism runs far deeper than football, and that anti-Catholicism should be considered a root cause of sectarianism in Scotland. As such, targeting football supporters specifically in the name of 'tackling sectarianism' seems unfair and lends weight to the argument that there is a process of 'criminalisation' of football fans going on. Many critics, including one MSP and one of the academics interviewed for this research, argue that the debate on sectarianism has been used as an excuse to 'go after' football supporters who have subsequently been made scapegoats for a wider social problem, Arguably, it is easier to identify (alleged) sectarian behaviour at football grounds than it is to decipher subtle forms in the workplace or the housing market. As such, football supporters could be described as an easy target for a government looking to show strength on a social issue that nobody is likely to disagree with, because they express their identities (which are deemed to be sectarian) in a public manner.

'Old Firm' fans in particular as a group are often vilified and typecast as alcohol-fuelled bigots, with little reference to the fact that there are various different types of supporters. Indeed, although it is fair to say that football supporters do tend to hail from the working classes more so than those attending rugby matches, for example, the argument that as a group they are working class and less educated could be described as patronising. One academic interviewed pointed out that fans are sometimes portrayed as not having the capacity to understand that their behaviour might be offensive, interestingly including by those who are supportive of them and critical of the legislation. However, others suggested that football is simply a forum to behave in a way that you would not normally, and the behaviours often known as 'tribalism' are relatively harmless and not worthy of criminalising. As previously noted, Scottish football is strongly associated with expressions of identity which are particularly strong amongst minority groups such as the Green Brigade at Celtic Park and those who promote a loyalist, Ulster-scot identity at Rangers. It could be argued that through the perceived criminalisation of football supporters, the legislation has actually 'breathed life' into these extreme groups. Several interviewees suggested that the treatment of such groups has resulted in 'making martyrs' or 'heroes of the oppression', with moderate fans becoming more supportive of those who hold extreme views because they do not like the way that these people are being treated by the authorities. One politician commented that there was a sense of solidarity amongst fans against criminalisation:

> "*People who wouldn't have wanted to be associated with some of the elements at Ibrox who sing the songs that they sing, and were getting that football club a reputation…but they wouldn't want to see those people being criminalised for having the views that they have"* (Interview with MSP).

This could be linked to a growing backlash against increasing regulation in society, which leads on to the final theme identified from the data – the type of society that we have become.

Role of the state in policing lives

Participants' discussions of the legislation, specifically the arguments made that it perhaps represents an attack on freedom of speech and freedom of expression, raised some interesting points on the wider role of government in legislating and policing society. Most interviewees acknowledged a shift towards a more regulated society, in which the authorities dictate how we should behave and how to be a good citizen, which has developed particularly since the election of New Labour. Those critical of the legislation frequently used the terms 'political correctness' and 'PC brigade'. One academic and one MSP interviewed suggested that a consequence of so many politically correct policies is the advent of a more easily offended, vulnerable and fragile society, which can be seen at an individual and group level. The academic argued that the development of 'state-approved identities' causes divisions to form and encourages people to be offended based on mistreatment towards their 'group' and to 'tell on each other'. As such, elevating an issue like sectarianism creates problems as opposed to solving them. The issue of class was raised by the same academic, who suggested that for working class people in particular the development of being 'encouraged to be offended' is at odds with the traditional working class identity:

> *"I mean, today we're meant to report everything to the police, but historically especially from a working class perspective, telling the police on your neighbour or fellow supporter would be seen as fairly despicable, whereas today that's encouraged and seen as being a good citizen"* (Interview with academic).

However, this notion of a 'victim identity' was contrasted by views from other interviewees, including the Police Scotland representative, the Civil Servant and another academic, who regarded a focus on protecting members of the public, and particularly victims of crime, as a positive development. For example, the Civil Servant interviewed stated that the Government are trying to implement a more victim-centred approach to the criminal justice system in general. When discussing the 'Threatening Communications' aspect of the OBTC Act, which focuses on sectarian and offensive behaviour online, he argued that if a threat is made against someone it does not really matter whether the perpetrator had the capability or intention of carrying it out, the impact on the victim is the same. There has been an interesting shift in relation to this emphasis on 'victims' and 'victim mentality' – it

was not so long ago that those who complained about sectarianism were dismissed by the media and politicians and accused of being paranoid and politically-correct, particularly Irish-Catholics and Celtic supporters (MacMillan 2000, Finn 2000). Now we are arguably drifting towards a more politically-correct society, a development that has been top-down, and sectarianism has quickly moved from being 'not a problem' to 'one of the biggest problems we face' in Scotland.

The role of the police was a particularly contentious issue. All interviewees accepted that under the new legislation the police have an important part to play in terms of establishing what is acceptable or expected behaviour. Because any instance of alleged sectarian behaviour 'has to be seen in context of event', the decision on whether to arrest an individual could depend on the police officer present and whether or not he or she was offended or believed the behaviour would be 'offensive to a reasonable person'. In relation to behaviour at football matches, it is important to point out that there is no list of songs or banners that have been deemed unacceptable. As such, an individual could use particular language on one occasion without threat of arrest yet could be charged on another occasion. The Police Scotland representative stressed that offensive behaviour is only criminalised if there is a risk to public order; therefore concerns over freedom of expression are unfounded. However, he also conceded that disorder does not actually have to occur – for example, if it could be argued that disorder 'might' have occurred had police not been in a particular sections of a football ground to prevent riots. The opposition MSP relayed examples of police mistreatment that he became aware of as a result of his work with some constituents. He cited frequent complaints of intimidation by police towards football supporters, including identifying individuals at football matches and arresting them at a later date through a process of dawn raids. This raises questions about whether we are increasingly becoming a 'surveillance society', and indeed surveillance equipment was viewed very differently by interviewees either supportive or critical of the law. Those in favour of legislation, including the Police Scotland representative and Scottish Government Civil Servant, considered the use of handheld cameras at football matches as useful tool in collecting evidence. Conversely, critics regarded it as infringing on civil liberties, targeting individuals with a view to trying to get them collectively to behave in a way that is 'approved' by the state. The fans' concerns over the role of the police have had significant consequences, as the relationship has been damaged since the legislation was introduced and there is a great deal of tension, particularly with certain groups of fans such as the Green Brigade who believe they are being targeted. There is some evidence to suggest their concerns are not unfounded. One MSP gave an example of a match that he attended (which did not involve Celtic or Rangers) when the abusive behaviour of a small group of fans meant that they could have been charged under the OBTC Act. The police chose not to take action, commenting that it was not the 'type' of behaviour they were 'after', suggesting that there are particular behaviours amongst particular fan groups that are the target of this legislation. The journalist interviewed pointed out that "in any situation in society in general, the police require the willingness of the people to be policed."

Whether this tension will have significant impact on the success or failure of this legislation remains to be seen.

Conclusion

The central argument of the analysis of the interviews is that the lack of consensus identified in the literature review regarding how to define sectarianism and to what extent it remains a pressing problem in contemporary Scotland, as well as the ability of legislation such as the OBTC Act to meaningfully challenge social problems such as sectarianism. Those interviewees who were broadly supportive of the legislation focused more on the positive motivations for such a law in terms of how it is designed to help make a 'better' society and protect the public from unacceptable and offensive behaviour. However, it could be argued that targeting football supporters who express particular types of identities supports the argument that the debate on sectarianism fails to adequately address the structural and historical causes but instead emphasises the poor 'values' of some individuals. There is a clear denial of the legitimacy of these identities in twenty-first-century Scotland, as even those respondents who opposed the legislation and believed that there is an unfair process of criminalising football supporters going on suggested that fans could help themselves by not singing particular songs in public. Given that these were largely the views of elite interviewees this is perhaps not surprising, as power relations are at play helping to marginalise and delegitimize what could be seen as the 'outgroup' – in this case football supporters. That an explicitly nationalist SNP Government decrying expressions of national identities, whilst encouraging expressions of Scottish nationalism is a further complicating factor.

Public debates on sectarianism have evolved over time, from what was considered a tolerance (through denying the existence) of religious bigotry (particularly anti-Catholicism) and a suggestion that the problem was exaggerated by 'paranoid' groups, to a universal condemnation of (alleged) sectarian behaviour. This research has shown that sectarianism is increasingly conflated with football in Scotland, with the consequence that particular supporters are vilified and held responsible for a social problem, being targeted specifically under the OBTC legislation. How the legislation is used over the coming years is an area of great interest, and will continue to influence the debates on wider social issues. The findings from this dissertation suggest the need for a greater examination of the reasons why particular identities are expressed at football matches, as opposed to simply introducing legislation to attempt to 'get rid' of them. My own future PhD research intends to look in more depth at issues regarding the identities of young people in twenty-first-century Scotland, including notions of masculinity in a society that has been de-industrialised and secularised and is arguably increasingly insecure.

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SASO Chairman's Report, 2012-2013

Introduction

I am pleased to be able to report another busy and thriving year for the Association. We held a well attended and interesting annual conference, and our active branches enjoyed full programmes throughout the year. I am grateful to all of you who have contributed to the success of SASO; a great deal of work goes into ensuring its continuing success.

Annual Conference

For our national conference, we returned to Dunblane Hydro Hotel from Friday lunch-time to Saturday evening. We had decided to explore issues of gender and its impact on criminal behaviour.

The conference title was "Gender, Crime and Justice" and enabled us to examine justice from the perspective of victims, offenders and wider society. Our conference chair was the Crown Agent, Catherine Dyer, who guided us skilfully over the two days and brought her own experience and views to the conference. The opening keynote speaker was The Rt Hon the Baroness Corston: *The Corston Report – A Review of Women with Particular Vulnerabilities in the Criminal Justice System*. Baroness Corston had been planning to attend the conference in person, but a family wedding prevented her from doing so. Instead, she kindly agreed to deliver her address pre-recorded from London, including answering some relevant questions. This was a first for a SASO conference, and worked very well. She was followed by Professor Marianne Hester, Head of the Centre for Gender and Violence Research, University of Bristol: *Who does what to whom? Gender and Domestic Violence Perpetrators.* The afternoon concluded with a presentation from Kirsty Pate of the Willow Project: *Women, health and offending: the experience of the Willow Project.*

Before the conference dinner, a reception was kindly hosted by the eight Community Justice Authorities. Councillor Peter McNamara, their lead Convener, welcomed the delegates to the conference. Our after dinner speaker was The Rt Hon The Lord Carloway, the Lord Justice Clerk. We also awarded the SASO annual essay prize to this year's winner, Caitlin Gormley, for her essay entitled *The social construction of crime cannot be understood without considering the power relationship generated by social division.*

On Saturday morning the SASO Memorial Lecture in memory of Sheriff Principal John McInnes was delivered by Sheriff Daniel Scullion. We were delighted that members of John McInnes' family were able to join us for the Memorial Lecture. Daniel Scullion, who had been a member of the Angiolini Commission on Women Offenders, spoke about the work and conclusions of the

Commission. This was followed by Pragna Patel of Southall Black Sisters: *Honour Based Violence*. The final session of the morning was a practitioners' panel which examined *Programmes to Assist Women in the Criminal Justice System* , comprising Mary Beglan and Kate Richardson from the 218 Service run by Turning Point Scotland, Rory MacRae on the Caledonian System, Jane Richardson from the Scottish Prison Service and Lucy Florquin from Streetwork.

After lunch, a women offenders sentencing exercise involving all the conference delegates looked at four case studies, and led to some lively discussions. Our final two speakers of the conference were Detective Chief Superintendent John Carnochan: *Gender and Violence* and the broadcaster Lesley Riddoch: *How community perceptions of women within the Criminal Justice System are influenced through the media.*

As in previous years, there were a number of exhibitions by third sector organisations and Community Justice Authorities. I am grateful to all those who worked so hard to plan and deliver such a successful conference, in particular our administrator, Irene Cameron.

Branches

While the national conference is our single largest event, throughout the year our local branches provide a wide variety of lectures, debates and day conferences. These provide excellent opportunities for a range of people involved or interested in the criminal justice system in Scotland to meet and to discuss topical issues of note. The Glasgow Branch continues from strength to strength under the energetic chairing of Sheriff Rita Rae QC. Their programme began with a debate on the issue of corroboration and concluded with an excellent day conference on technology and crime. In between they heard lectures on Orders for Lifelong Restriction, Diversionary Projects, Female Genital Mutilation and Offender Profiling.

The Edinburgh Branch chaired by Sheriff David Mackie met six times and studied such varied topics as Managing Prolific Offenders, Estimating the Economic and Social costs of Crime, Addictions, Children's Hearings, Criminal Justice Social Work, and Criminal Justice Research. Likewise, the Dumfries and Galloway Branch, chaired by Bill Milven, met seven times throughout the year and heard presentations on the impact of crime and its victims, working with ex-offenders, discovering desistance, prisons, domestic abuse and violence against women, and community payback orders. Their final event of the year was a visit to Kilmarnock Prison. SASO Council are supporting the re-establishment of branches in other parts of Scotland too. Branch programmes for 2013-14 are similarly full and interesting.

Council

I am grateful for the continuing support of the Council of SASO to oversee the Association and to consider its future developments. Without the active support of the members of the Council, SASO would be unable to deliver such high quality events. I am particularly indebted to Bill Milven in his first year as our honorary Treasurer, and for the ongoing support of our administrator Irene Cameron.

Journal

Volume 19 of The Scottish Journal of Criminal Justice Studies was published by SASO in August 2013. I am grateful to Professor Michele Burman for her excellent work in editing the journal and to the Editorial Board for their advice and support. SASO is currently reviewing what is the best format for publishing our annual journal.

Conclusion

SASO is a unique organisation which brings together such a wide range of people with interests in the criminal justice system in Scotland. 2014 will be an important year for Scotland, with the major debates and voting on the constitutional future of the nation. I look forward to another successful year for SASO as we make our contribution to the study of offending and to helping to shape policy and practice in criminal justice in Scotland.

David Strang
Chair SASO
November 2013

SASO - Objects, Membership, Office Bearers, and Branch Secretaries

The formal objects of the SASO are: "to initiate, encourage and promote as an independent Scottish body, study and research by all means into the causes, prevention and treatment of delinquency and crime, and to co-ordinate and consolidate existing work of that and the like nature, and to give publicity to such work, and to secure co-operation between bodies, association or persons engaged in any research or work or activity having objects similar or akin to those of the Association".

The Association is managed by a Council. There are branches in Aberdeen, Dumfries, Dundee, Edinburgh, Fife, Perth, Glasgow, Lanarkshire, and in Orkney & Shetland. Each branch carries out its own programme of meetings and local conferences. The Association organises a residential conference each year on the third weekend in November. It is Scotland's main criminal justice conference and attracts distinguished speakers from both within and outwith Scotland.

The basic aim of the Association, both nationally and locally, is to create a common meeting ground for the many professional groups and individuals interested in the field of crime and criminology. The membership is drawn from the Judiciary, the Legal Profession, the Police, the Prison Service, Social Work Services, Administrators, Academics, Teachers, Reporters to Children's Panels, Children's Panel Members, Doctors, Clergy, Psychologists, Prison Visiting Committees, Community Justice Authorities, Central and Local Government. It provides an opportunity for an exchange of views by its members, enabling them to explain their own problems and to appreciate the problems of others engaged in related fields. SASO has no agenda other than to make possible and encourage purposeful dialogue within the Scottish criminal justice system in ways which will contribute to its improvement.

Through study groups and conferences, communication between the professional groups is encouraged and individual members gain the opportunity to meet experts in different fields of study, and to discuss with them matters of mutual interest. In the working parties it is possible for the members to contribute their own specialist knowledge or experience. Among the most valuable results of membership are the opportunity to meet and know others with whom it may be necessary to make contact during the course of one's professional life, and the consequent building of trust and confidence between members.

Membership

SASO has around 400 members. Those wishing to join should contact the Administrator, Irene Cameron, Association Management Solutions, PO Box 2781, Glasgow, G61 3YL
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