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Constructing Justice in an Island Community: Honorary Police and the Parish Hall Enquiry System in the Channel Island of Jersey

Helen M. Miles

Submitted to the University of Wales in fulfilment of the requirements for the
Degree of Doctor of Philosophy

Swansea University

November 2007

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SUMMARY

This thesis describes and evaluates an alternative to formal Court processing that is in regular everyday use in the Island of Jersey. The Parish Hall Enquiry system is of great antiquity and like the Honorary Police system upon which it depends, its origins lie in very long-established forms of communal organisation. Presided over by a Centenier (an elected, unpaid, parish official) in the local parish hall, the current system has evolved through 800 years of customary practice. The system operates within an open model that means almost anything and everything is possible when it comes to dealing with dispute resolution. Enquiries have no basis in statute law and sanctions levied at Parish Hall are not considered to be criminal convictions. As part of a prosecution process, the Centenier is empowered to enquire into the circumstances surrounding any offence committed within the boundaries of the parish, consider the facts presented, and either charge an offender to appear before an examining magistrate or propose an alternative sanction at parish level. The research suggests that Centeniers are able both to engage parties in serious and realistic discussion about offending and possible remedies and to encourage most offenders to take responsibility for their actions. Observation of the process provides evidence of considerable communication skills, and of reintegrative outcomes. Although sometimes criticised as an anachronism, the Parish Hall Enquiry has retained a high degree of resilience and support and a significant level of use as Jersey society has changed. It offers a very rare example of a traditional form of non-Court-based justice operating routinely in a modern context, and avoiding some of the problems associated with the formal criminal justice process.

DECLARATION AND STATEMENTS

DECLARATION

This work has not previously been accepted in substance for any degree and is not being concurrently submitted in candidature for any degree.

Signed Helen Miles

Date

STATEMENT 1

This thesis is the result of my own investigations, except where otherwise stated. Other sources are acknowledged by footnotes giving explicit references. A bibliography is appended.

Signed Helen Miles

Date

STATEMENT 2

I hereby give consent for my thesis, if accepted, to be available for photocopying and for inter-library loan, and for the title and summary to be made available to outside organisations.

Signed Helen Miles

Date

TABLE OF CONTENTS

Summary	ii
Preface	xiv
Acknowledgements	xv
Introduction	1
Chapter 1	
The Origins and Context of the Honorary Systems of Jersey	6
Introduction	6
The Role of the Fief	8
The Rise of the Parish	9
The Honorary Police	12
Officers of the Parish	15
The Effect of Social Change upon the Honorary System	24
The Operation of the Hybrid Model of Policing In Jersey	36
Conclusion	55
Chapter 2	
Research Strategy, Methods and Methodologies	56
Research Strategy	56
Data Gathering and Analysis	61
Observational Method and Methodologies	66
Evaluation of Victim Offender Mediation	81
Conclusion	82
Chapter 3	
The Parish Hall Enquiry	83
Introduction	83
Current Parish Hall Enquiry Practice	85
The Role of a Centenier	91

The Role of Local Knowledge in Understanding the Context of Offending	95
Discretion in Decision Making	100
Accountability	103
Independence	104
The Decision to Prosecute	106
Publicity	107
Legal Advice and Legal Aid	109
Other Key Players in the Parish Hall System	110
Chapter 4	
Process and Compliance with Procedural Guidelines and Statistics Relating to the Operation of the Parish Hall Enquiry System	119
Introduction	119
Biographical and Offence Data	120
Compliance with Guidelines and Codes of Practice	123
Parish Hall Enquiry Statistics	129
Conclusion	140
Chapter 5	
Components of Effective Practice in Community-Based Justice	142
Introduction	142
Core Correctional Practice	143
Effective Use Of Authority	144
Pro-Social Modelling	145
Problem solving	153
Effective Use Of Community Resources	155
Interpersonal skills	155
Conclusion	157

Chapter 6	
Community-Based Systems of Justice	159
Introduction	159
Traditional Justice	159
Indigenous Justice	160
Community Involvement	161
Informal Systems	168
'Modern' Community Justice	175
Incorporation of Traditional and Informal with Formal and Modern Systems	179
Conclusion	180
Chapter 7	
Restorative Justice in Jersey: Repair, Reconciliation and Reassurance	181
Introduction	181
Informal Justice	182
Restitution and Restoration	183
The Jersey Experience – everyday expressions of restorative justice	187
'Formal' Restorative Justice Service to Victims in Jersey	204
Evaluation of Victim Offender Mediation in Jersey	212
Conclusion	234
Chapter 8	
Reintegrative Shaming in Action	237
Introduction	237
The Theory of Reintegrative Shaming	237
Procedural Justice	242
RISE Experiments	244
Reintegration Ceremonies	247
Conclusion	284

Chapter 9	
Into the Abyss? An Uncertain Future for Community Justice in Jersey	285
Introduction	285
Community Values and Justice- Begotten Not Created	287
Notions of Crime and Punishment	288
Effectiveness in Context	291
The Potential Impact of Social Change	294
The Future of Policing in Jersey	295
The Future of the Parish Hall System	297
Conclusion	301
Appendices	304
Bibliography	359

LIST OF MAPS, DIAGRAMS, TABLES AND CHARTS

Map 1	Location of Jersey
Map 2	Location of parishes
Diagram 1	Community Justice Model (Karp and Clear 2002)
Diagram 2	Multiple Relationships of Interdependency in Jersey
Table 1.1	Total Spend and Percentage of Total Rate Allocated to the Honorary Police by Parish (2000-2001)
Table 1.2	Features of the divergent Jersey model of policing
Table 2.1	List of interviewees
Table 2.2	Number of Centeniers Interviewed
Table 3.1	Biographical data relating to Centeniers
Table 3.2	Occupation of self-employed Centeniers
Table 3.3	Previous occupation of retired Centeniers
Table 3.4	Occupation of Centeniers employed by an employer
Table 4.1	Gender of attendees (observation sample)
Table 4.2	Youths (aged 17 and below) or Adult
Table 4.3	First Offenders
Table 4.4	Previous attendance at Parish Hall Enquiry
Table 4.5	Deferred Decision Enquiries
Table 4.6	List of offences
Table 4.7	Parish in which the Enquiry heard
Table 4.8	Other honorary officer present during enquiry
Table 4.9	Is Parish Hall Enquiry leaflet available in the waiting room
Table 4.10	Decision to prosecute in the waiting room
Table 4.11	Centenier explained duties and practice at Enquiry
Table 4.12	Centenier read out Police Report
Table 4.13	Attendee asked for comments
Table 4.14	Voluntary attendance

Table 4.15	If charged, did the Centenier caution in accordance with Judges Rules
Table 4.16	If charged, did the Centenier explain notice of charge
Table 4.17	If charged, did the Centenier offer information about the Legal Aid scheme
Table 4.18	If charged, did the Centenier advise against legal advice
Table 4.19	Distribution of enquiries attended by the Probation Service
Table 4.20	Offences for Enquiries attended by the Probation Service
Table 4.21	First offenders appearing at Parish Hall Enquiry
Table 4.22	Percentage of offenders dealt with by either words of advice or a written caution at Enquiries attended by the Probation Service
Table 4.23	Main offence committed by offender who did not attend a Parish Hall Enquiry
Table 4.24	Youth Court disposals for offenders who did not attend a Parish Hall Enquiry
Table 4.25	Voluntary referrals to the Probation Service from Parish Hall Enquiries (2000-2004)
Table 4.26	Main offences for voluntary referrals
Table 4.27	Parish Hall Reconviction Information (Youth Attendees - 2002)
Table 4.28	Re-conviction information – Community Service and Binding Over Orders
Table 5.1	The extent to which Centeniers are clear about their role at Parish Hall Enquiry
Table 5.2	The level at which the Centenier reinforces pro-social behaviour
Table 5.3	The extent to which the Centenier shows optimism
Table 5.4	The extent to which the Centenier demonstrates appropriate use of praise
Table 5.5	The extent to which the Centenier demonstrates empathy
Table 5.6	The extent to which the Centenier demonstrates constructive use of humour
Table 5.7	The extent to which the Centenier attempts to use humour and other methods to restore attendees humour or esteem
Table 5.8	Additional problems acknowledged by the Centenier unrelated to this incidence of offending
Table 5.9	The extent to which the Centenier presents as a pro-social role model
Table 5.10	The extent to which the Centenier discourages and challenges anti-social behaviour

Table 7.0	The Extent to which the Parish Hall Enquiry System satisfies elements considered to be 'core' features of restorative justice.
Table 7.1	Victim status
Table 7.2	Age Group of Victims
Table 7.3	Did the victim consider the offence to be racially motivated?
Table 7.4	Level to which victims had been affected by the offence
Table 7.5	Did the victim feel that their opinion regarding the offence had been adequately considered
Table 7.6	Did the victim feel that their opinion regarding the offender had been adequately considered
Table 7.7	Did the victim feel that their opinion regarding the effect the crime had has been adequately considered
Table 7.8	Did the victim feel that they had been treated with respect during the restorative process
Table 7.9	Did involvement with the restorative process change the victim's views about the way offenders are dealt with in Jersey
Table 7.10	Did the conference encourage offenders to accept responsibility for their actions
Table 7.11	Did the victim consider that the intervention had made and impact on the offender
Table 7.12	Overall satisfaction with the restorative process
Table 7.13	Age group of offenders
Table 7.14	Offender place of birth
Table 7.15	Offence type
Table 7.16	First Offender
Table 7.17	Did the offender consider that the conference process was fair
Table 7.18	Did the conference process help the offender understand that their actions were wrong
Table 7.19	Did the conference help the offender understand the effects of their behaviour on the victim
Table 7.20	Did the conference help the offender to gain a better understanding of victims' feelings
Table 7.21	Did the offender show remorse
Table 7.22	Was offender participation in scheme worse than expected
Table 7.23	Did offenders feel that they had been treated fairly
Table 7.24	Did offenders feel that they had been treated with respect during the conference process

Table 7.25	Did involvement change offenders' views about way offenders are dealt with in Jersey
Table 7.26	Did offenders resolve to avoid further offending following the conference
Table 7.27	Has the offender re-appeared for similar offence (within one year of conference)
Table 7.28	Overall level of offender satisfaction with Restorative Justice process
Table 7.30	Relationship to either victim or offender
Table 7.31	Gender of participants
Table 7.32	Age group of participants
Table 7.33	To what extent have you been affected by the offence
Table 7.34	Did the conference impact on offender
Table 7.35	Was the participant opinion regarding the offence adequately considered
Table 7.36	Was participant opinion regarding the offender adequately considered
Table 7.37	Did participants feel that they had been listened to during contact with the restorative justice officer
Table 7.38	Did participants feel that they had been treated fairly
Table 7.39	Did participants feel that they were able to have their say
Table 7.40	Did participants feel that they had been treated with respect
Table 7.41	The extent to which participants were satisfied with the handling of the case
Table 7.42	Participation in agreement to repair the harm
Table 7.43	Was it beneficial to take part in this conference
Table 7.44	Did participants consider the offender has made amends
Table 7.45	Did the conference encourage the offender to accept responsibility for his/her actions
Table 7.46	Levels of satisfaction with restorative justice conference as a method of resolution
Table 7.47	Overall levels of satisfaction with restorative justice process
Table 7.48	Would participant take part again
Table 7.49	A typology for models of restorative justice
Table 8.1	Differences in levels of each dimension as observed in court and conference process (Sherman et al. 1999)
Table 8.2	Conditions of successful reintegration ceremonies and the extent to which the Parish Hall Enquiry process fulfils the criteria

Table 8.3	The extent to which disapproval towards the type of offence is expressed
Table 8.4	The extent to which disapproval towards the offenders actions is expressed
Table 8.5	The level of support shown towards offender by participants
Table 8.6	The level of respect shown towards the offender by the Centenier
Table 8.7	The level at which the offender is treated by supporters as loved
Table 8.8	The level of approval expressed towards the offender as a person
Table 8.9	The level at which it was communicated that attendee could put actions behind them
Table 8.10	The extent to which the Centenier discusses the consequences of the offence
Table 8.11	The extent to which the Centenier discusses punishment
Table 8.12	The extent to which the Centenier discusses prevention of further offences
Table 8.13	The extent to which the attendee is able to comment or correct the police report
Table 8.14	Level of attendee contribution to disposal
Table 8.15	The extent to which Centenier coerces the attendee into accepting a decision
Table 8.16	Emotional power of act description
Table 8.17	Degree of offender discomfort
Table 8.18	Attendee cried
Table 8.19	Attendees supporters cried
Table 8.20	The level to which attendees behave in a defiant manner
Table 8.21	Sullen or unresponsive
Table 8.22	Level to which attendee holds others responsible for actions
Table 8.23	Attendee accepts having done wrong
Table 8.24	Attendee appears remorseful
Table 8.25	Attendee apologises
Table 8.26	The level of forgiveness expressed towards the attendee by the Centenier
Table 8.27	The degree to which the attendee is forgiven for actions
Table 8.28	The level of stigmatising shame expressed
Table 8.29	The level of disapproval of the attendee as a person

- Table 8.30 The level of stigmatising names and labels used to describe the attendee
- Table 8.31 Frequency of shouting at attendee
- Table 8.32 The extent to which the attendee is treated as 'criminal'
-
- Chart 1 Parish Hall Enquiries attended by the Probation Service (1996-2004)

LIST OF APPENDICES

Appendix A – Oaths of Office

Appendix B – Prescribed Offences

Appendix C – Guidance Notes for Centeniers at Parish Hall Enquiries

Appendix D – Code on the Decision to Prosecute

Appendix E – Draft Memorandum of Understanding

Appendix F – Parish Hall Enquiry Observation Schedule

Appendix G – Time Period Aims for the Youth Court

Appendix H – Honorary Police Costing on the States of Jersey Police

Appendix I – Interview Guides

Appendix J - Letter to victim of offences dealt with at Parish Hall Enquiry

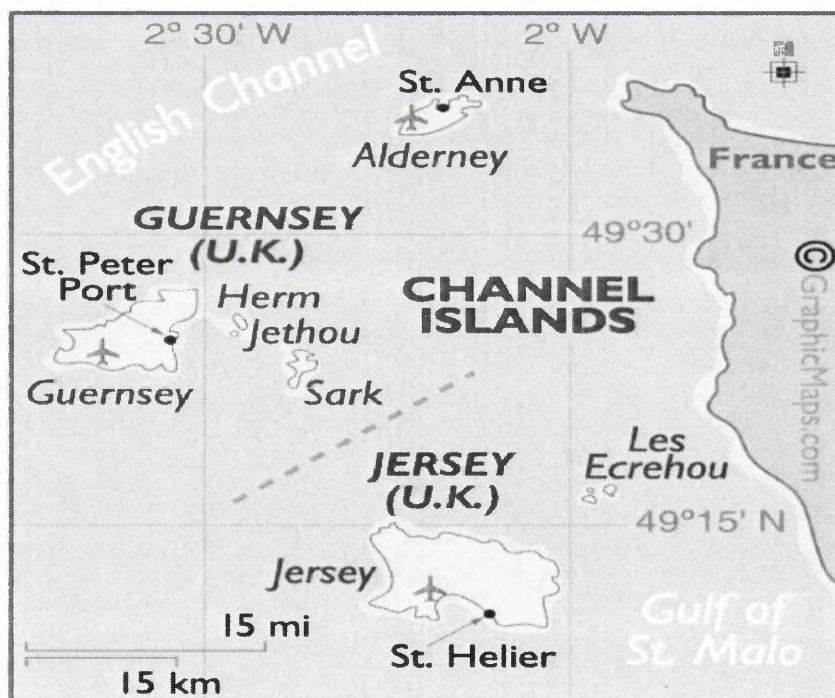
Appendix K – Progress Report to Centeniers – March 2004

Appendix L – Examples of Information Leaflets

PREFACE

The island of Jersey is the largest of the Channel Islands at 45 square miles with a resident population of over 85,000 people. Self-governing since 1204, it has never been part of, or colonised by, the United Kingdom, but is a remnant of the Duchy of Normandy. As a result its government and judiciary bear little resemblance to comparable institutions elsewhere in the British Isles. Until 1957 the official language was French, and much of the population spoke Jersey Norman French. However, the use of English is now almost universal with Portuguese and Polish the most common second and third languages. Despite this, many laws and some parts of court procedure remain in the French language. Legislation is proposed and debated by the States, the Island's government. Neither the European Union nor the United Kingdom government have the power to legislate for Jersey.

Map 1: Location of Jersey



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Firstly, I would like to thank my supervisor, Peter Raynor, for fearlessly accepting me as his student. I have been extremely lucky to have a supervisor who cared so much about my research and about Jersey. His optimism, wisdom, patient guidance and encouragement have been unstinting throughout my years as his student.

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I thank Her Majesty's Attorney General, the Comité de Connétables and the Centeniers' Association for giving permission to conduct this research and to all Centeniers who allowed observation of their practice at Enquiries.

Finally, I express my gratitude to my husband Richard, my parents and my children for their endless love and encouragement throughout this entire journey. Without them I would have struggled to find the inspiration and motivation needed to complete this thesis.

INTRODUCTION

BACKGROUND TO THE RESEARCH TOPIC

This research project was proposed by the Jersey Probation and After Care Service and funded by the Senior Officer Group of the Crime and Community Safety Strategy in 2001 to describe and document the Parish Hall Enquiry and the honorary system upon which it depends, in order to evaluate the role they play in the administration of justice in Jersey. The Jersey Probation and After-Care Service acted as managing agency for the research which was conducted with the approval of the Comité des Connétables and Her Majesty's Attorney General.

The research partnership between the University of Wales, Swansea and the Jersey Probation and After-Care Service goes back to 1996, when new risk assessment methods were introduced into the Service and the University was asked to help in validating them for Jersey and evaluating their use. From this developed a programme of research into the effectiveness of various sentences in reducing the risk of re-offending (for example, Miles and Raynor 2004). During the course of these activities it became increasingly clear that the Parish Hall Enquiry system was playing an important part in Jersey's response to offending; that it was the focus of various proposals for enhancement or reduction of its role (for example, in the Clothier Report of 1996); and that there was little documentation of exactly how it currently worked, and no systematic evaluation of its impact or effectiveness within the criminal justice system. There was also some confusion about its status, generated largely by those (such as Clothier) who appeared to regard it as a kind of low-level court, rather than in accordance with its locally accepted basis as part of a discretionary prosecution process.

Briefly, it appeared to a number of participants in the system that it would be useful to have available some objective research on the Parish Hall Enquiry. In keeping with the purpose of the study, my focus has been on what actually happens and on what participants in the process think of it, with considerable reliance on direct observation of enquiries and on interviews with those involved both in the enquiries and in the wider system. It was not my task to comment on what *should* happen, for example by making recommendations about how the role of the Parish Hall Enquiry should develop in the future; instead, my aim was to contribute to the evidence-base which might in due course help to inform decisions about the future by those properly empowered to make them. However, I hope that this thesis can illuminate the current and, by implication, the potential contribution of the Parish Hall Enquiry system to the maintenance of social peace and order in Jersey.

Wider Criminological Issues

An important research question to be answered by this study concerns the extent to which the personal communication which lies at the heart of the Enquiry process is, or is not, of the kind which is likely to have a positive impact on the future behaviour of offenders. To develop methods of addressing this I have drawn on the growing criminological literature on 'what works' in communicating with and supervising offenders. This evidence-based approach to criminal justice has been one of the major international developments of the last two decades, and I have been able to draw on international research about ways of encouraging and reinforcing more pro-social attitudes and behaviour (e.g. Trotter 1999; Cherry 2005), and about ways of making it more likely that offenders will genuinely regret their actions and want to make amends in future (e.g. Braithwaite 1989). In its turn, this study will contribute to the international evidence-base.

In most countries such participatory and restorative practices, and the organisational arrangements to support them, have to be developed from

nothing, or revived after falling into disuse. In New Zealand precedents were found in traditional Maori culture, and in Canada attempts have been made to revive practices based on the traditions of the original inhabitants before European colonisation (Griffiths and Hamilton 1996; Pratt 1996; Stuart 1996; Pranis, Stuart and Wedge 2003). Hardly anywhere in the literature are there examples of traditional locally-based participatory alternatives to formal court processing which survive in modern Western societies as an integral part of current criminal justice systems. The Jersey Parish Hall Enquiry, with its broad scope, long history and basis in voluntary service to the community, is therefore of great interest, and deserves to be properly documented and recognised. There is also a wider interest in how everyday social practices in small communities can often exercise effective social control in informal ways, reducing the need for formal intervention by the criminal justice system.

The Norwegian criminologist Nils Christie has pointed out how informal and restorative practices are particularly appropriate to situations where people will continue to inhabit the same communities after the issue has been dealt with, and he links this to discussion of the social structure of neighbourhoods and, interestingly, islands (Christie 2004). The formal criminal justice process is only one way of handling unwanted behaviour, and sometimes it is advantageous to have ways of dealing with crimes without creating criminals. This research, therefore, is concerned with the development and implementation of criminal justice in Jersey, but its findings will also contribute to the wider literature about the possibilities and limitations of such approaches.

The purpose of this thesis then is to present as full a picture as possible of the operation, achievements and problems of the Parish Hall Enquiry system. The thesis presents the key findings of the study in nine chapters, each containing a number of sections.

The first chapter explores the background of the honorary system upon which the Parish Hall Enquiry depends; its origins (in so far as these can be ascertained) and the contemporary context of operation in a hybrid policing system together with the role and process of the Parish Hall Enquiry itself.

Chapter two describes the multiple methods used throughout the research project.

The third chapter explains the contemporary context of operation and the role and process of the Parish Hall Enquiry itself.

Chapter four describes actual processes and considers how far the Enquiries comply with the guidelines that have been developed for their operation together with available quantitative information to demonstrate the scale and scope of their operation as revealed by official statistics.

Chapter five considers how far the conduct of the enquiries and the process of communication in them coincide with what is known about effective ways to influence offenders.

The sixth chapter examines the light that is thrown upon traditional, informal systems of community justice by the existing literature, both anthropological and criminological.

The seventh chapter carries this theme forward and draws on the work of Braithwaite and the theory of reintegrative shaming. These two chapters study and explore the role and views of the Centeniers and other 'key players' in the system and report in detail on the observational study of a large number of Enquiries.

The eighth chapter examines the implications of these ideas for restorative justice practice and how the Parish Hall Enquiry interconnects with international debates related to the role of local decision-making and informal practices which involve the wider community in processes of criminal justice. The final section of chapter eight considers the involvement of victims and the extent to which restorative components are in operation during Enquiries and the extent to which they resemble or differ from a selection of comparable practices in other jurisdictions.

The concluding chapter nine summarizes the key findings of the thesis and describes some of the pressures on the systems which are likely to affect its future operation. Overall, the Parish Hall Enquiry is seen as having considerable strengths and a number of desirable effects on the Island's criminal justice system, but also as needing attention in some areas, for example in relation to training and consistency. Some possible options for future development are explored together with a discussion surrounding what the Jersey system may offer other communities looking for solutions to their own crime problems.

Finally, a number of appendices cover technical aspects of the system and of the research, including relevant official guidance and research instruments.

CHAPTER ONE

THE ORIGINS AND CONTEXTS OF THE HONORARY SYSTEMS OF JERSEY

Introduction

This chapter describes the origins and history of the honorary system and the development and role of the Parishes. In particular, the continuing strength of the Parishes as social and administrative units represents an unusual survival of a traditional form of social organisation, and forms the basis of the honorary policing system of which the Parish Hall Enquiry is a part.

The study of the history of the establishment and the development of the community institutions poses certain problems for the researcher. Whilst there are a number of sources which document the history of the Island, there is very little written prior to 1996 either about the Honorary Police or the Parish Hall Enquiry system. References to the Honorary Police usually refer to the 'quaint custom' of parish policing and attempt neither to describe the origins of the system nor to evaluate its effectiveness as an important instrument of the maintenance of peace and social order in the parishes. The important role played by the Parish Hall Enquiry system in the administration of justice in Jersey is largely ignored. The absence of literature is in itself interesting. Despite the unique nature of the policing system and the rare example provided by the Parish Hall Enquiry, they both have escaped the serious attention they deserve in the literature. In recent years, the honorary system was afforded a section in publications on the subject of comparative policing (Mawby 1990, 1994) where the point is endorsed that further examination of the system would prove both interesting and informative.

There are two significant events that served to shape the history of Jersey and help to explain the unique and anomalous constitutional position that persists today. The first of these was the Norman Conquest in 1066 when Jersey remained part of the Duchy of Normandy 'in all respects, in its currency, in the administration of justice and in the interests the continental landowners had there' (Svvet and Stevens, 1981). The laws were the same as the laws of the remainder of Normandy and the Island retained the right of appeal to the itinerant Courts (Les Justices Itinerants) established under Rollo, the first Duke of Normandy during the 10th Century. Les Justices visited Jersey regularly and once every three years, 'Le Grand Seneschal du Prince' (Chief Justice) travelled to Jersey to oversee the administration and development of the judicial system.¹

The second significant event was the ceding of continental Normandy to France, in 1204. King John of England lost the Duchy of Normandy (which included the Channel Islands), to the French. At this point, the Island was presented with three choices: either to transfer sovereignty to France, to become independent or to remain and appendage of the crown of the King of England. Choosing the latter, the Island remained loyal to King John, and although ceding the title of Duke of Continental Normandy, the Island continued to use the title 'duc' to refer to the King. In return for this loyalty, King John granted the Charters that form the basis of the current constitutional privileges of the Island. He permitted the establishment of separate administrations and decreed that Jersey should self-govern according to established custom and law: essentially the customary law of Normandy. The Royal Court was established, having full jurisdiction of the King.² The system of law based on La Grande Coutume de Normandie was retained and together with the development and reinforcement of customary law, the Island of Jersey established itself as an autonomous 'appendage' to the English crown. It is this retention and development of customary law that is

¹ The office of 'Seneschal' still exists today in the smaller Channel Island of Sark, where the role is that of Judge and executor of the law.)

² This established system remains although the Privy Council has replaced the personal presidency of the monarch.

considered to be the principal factor in promoting its autonomy (Le Herissier 1974). The parliament of Jersey, known as the States (Les États) evolved gradually from the Royal Courts established by King John.

The Role of the Fief

The fief was of fundamental importance to the internal structure of Jersey. Along with the parish, in both its civil and ecclesiastical mould, the fief provided the basic framework for rural life. Fief and parish were major units of social cohesion and identity in a society whose inherent dislike for centralisation could be observed in its dispersed settlement pattern. (Kelleher 1994:16)

Honorary service in Jersey has its roots in a feudal system of social organisation underpinned by the existence of the 'fief'. As head of the Fief, the Seigneur was entitled to a number of 'privileges' such as the right to divide land in order to secure the performance of the services of prevot, sergent, bedel, halberdier or any other feudal service. Seigneural courts were convened regularly during the 18th Century in order to administer civil matters such as non-payment of rent or fines. Despite the considerable power of the Seigneur over his tenants, recourse to the Royal Court was often necessary because the Seigneural courts had no real power to enforce judgement. Many of the feudal rights afforded to the Island Seigneurs were abolished by enactment in 1966³ and the Courts fell into disuse.

In addition to the Seigneural Courts, the Ecclesiastical court exercised power over community members. This Court comprised Le Doyen (the Dean) who presided over the rectors of the other eleven parishes. One Greffier (Clerk of the Court) and two advocates were also sworn in as officials. The powers of the church court were derived from certain canons and ecclesiastical constitutions. These courts met primarily to adjudicate upon divorce matters although jurisdiction also extended to deal with a number of offences including blasphemy, adultery, recourse to witchcraft and drunken behaviour. Whilst the

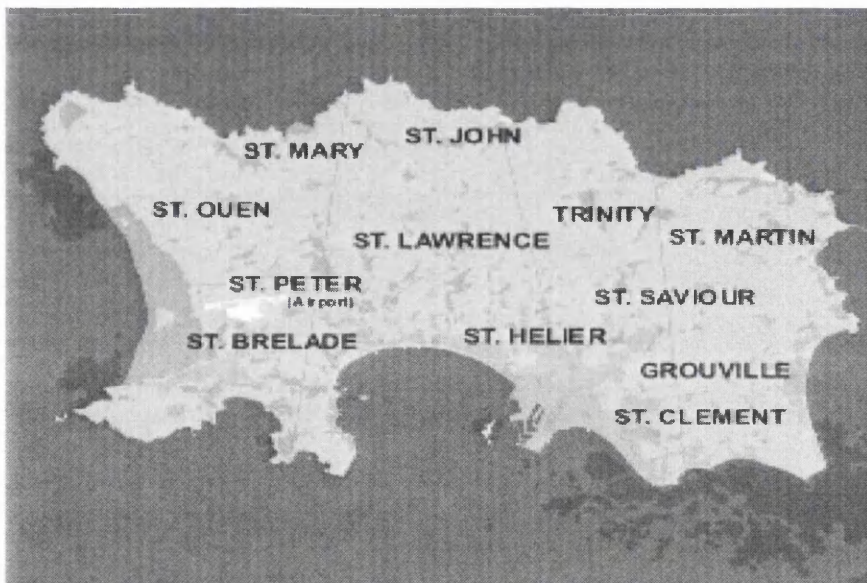
³ Seigneurial Rights (Abolition)(Jersey)(Law), 1966

Doyen could pass sentence, like the Seigneur he had no real power to enforce the order of his own court and Ecclesiastical courts often required the same recourse to the Royal Court to enforce judgement.

The Rise of the Parish

The organisational framework of the parish had evolved through a series of relationships of paternalism and deference to the King and the officials appointed by individual fiefs. The current twelve parish structure became established in the 12th Century and possibly earlier. Initially providing a framework for ecclesiastical organisation, it also provided a useful organisational unit of both civil and military organisation. The parish also became established both as a community and an entity in law (Kelleher 1994)⁴. Map 2 shows the location of each parish.

Map 2 – Location of parishes.



Despite the small geographical area of the island, from a cultural perspective, rather than becoming a single island-wide community, Jersey developed

⁴ See the Parish of St Helier v Manning 1982 JJ 183

unusually, as an island comprising twelve separate 'bubbles of governance' (Shearing 2001) each having considerable discretion to shape and control events that took place within parish boundaries. There was an important distinction between the rich and the poor parishioner. The rich (Les principaux) became eligible to rule their parish by virtue of their wealth and more specifically the size of their property and the rate paid thereon. Although many parishioners paid rates, only a few paid high enough to achieve 'principaux' status. This was important because being part of the 'principaux' gave automatic access to the parish governing body, 'l'assemblée paroissale'. This assembly not only set the rate according to the funds required to sustain the parish, but also determined who was permitted to vote in elections. All parish matters, including policing, were dealt with by a system of unpaid officers, elected and controlled by the 'principaux' of each parish.⁵

In an Island characterised by a lack of communal expression, the parish, as the only institutional representative of a collective identity, reflected the attitudes and responses of the rural population to change and possible threats to the traditional way of life (Kelleher 1994:59).

The role of the parish as the primary unit of social organisation in Jersey is of vital importance. Les assemblées paroissales and the Honorary Police formed a powerful political body, able to influence the direction of Island government.

The role of the Connétable and his officers reflected this strong interest in the affairs of the community. Their role was the administration and policing of the parish in paternalist fashion; keeping parish matters within parish hands. Recourse to the instruments of justice outside the parish, that is to the Royal Court was made only when totally necessary (Kelleher 1994:58).

⁵ This continues into modern times, where parish officials are elected to serve a term of office by the ratepayers of the parish. The distinction between rich and poor has eroded over time in that les principaux – the wealthiest landowners no longer take precedence over the 'ordinary' property owner.

Each of the twelve parishes has an internal structure designed to promote good stewardship. All positions are honorary⁶ and office holders are elected by the rate-payers of the respective parish. In addition to the Honorary Police, there are a number of other posts which are held by parishioners. These include Inspecteurs des Chemins, (Roads Inspectors), Procureurs des Biens Publics (Parish Treasurers) and Inspecteurs des Rats (Rates Assessors). The involvement of the community in this way ensures that decision making is kept at local level. In other jurisdictions all of these services would be provided by the state via paid functionaries.

The existence of the parish as a separate entity, independent of Island central control, is important to understanding the social and political circumstances which have allowed the systems of Honorary service to prevail into modernity. The dislike of centralisation pervades every aspect of Island life into the 21st century probably because the unit of social organisation and administration remains the parish. The pressure towards modernisation which is maintained by some business interests, and in particular the finance sector, encounters continued opposition from supporters of a traditional way of life, who are primarily resident in the country parishes.⁷

The law in Jersey has evolved from a system appropriate to an agrarian society to the complex classification necessary to underpin the requirements of an international finance centre.⁸ What is significant about this transition is the uncharacteristic absence of a process of industrialisation that is visible in almost all modern European societies. Throughout this transition process, reliance upon

⁶ Since 1998, the position of Connétable is entitled to remuneration according to the terms of the States' Members Income Act (1998) JERSEY R & O 9275

⁷ The continued public outcry at the suggestion of the Clothier panel (2001) to remove the right of Connétables to sit in the States by virtue of their office alone provides a contemporary example. This move was rejected in November 2004 when the house overwhelmingly voted in favour of the retention of the ex-officio role of the Connétables.

⁸For a discussion of Jersey's evolution into an offshore finance centre, see Hampton M in Baldacchino and Greenwood (1998:292-311)

customary law has ensured that the Honorary System proved remarkably resilient in a changing context. In addition, the political influence inherent in the system has given it some protection from outside pressure (Kelleher 1994).

The Honorary Police

Derivation of the Responsibility of the Parish for Policing

This section provides an account of the origins, role, powers and legal basis of the Island's honorary police, from the earliest records through to the Rutherford Report of 2002. It describes how their role has evolved over time, and how it has been affected by various constitutional changes, including the establishment of a paid police force.

La Police est, dans les îles, l'objet d'un respect universel. Cela tient à ce qu'elle est partout et qu'on ne la voit nulle part (Le Cerf 1862: 180).⁹

This quotation from a French commentator in the nineteenth century, invokes the essence of Honorary Policing in Jersey. Imperceptibly, the existence of an unpaid body of parishioners pervades community life; helping to maintain peace and social order across the island. It was this notion of unremitting watch that figured largely in Peel's creation of a paid police body in London in 1829 (Critchley 1967).

The system of policing within the parishes has changed little since its establishment by the French Kings in early times. Under the general supervision of the Attorney General, honorary officers provide an effective and powerful network of local knowledge that criss-crosses the Island. Authority is derived from the oath of office, sworn before the Royal Court. Whilst the Code of 1771 ratified the law, the powers afforded to the Honorary Police are predominantly

⁹ The Police in the Islands are the object of universal respect. Although they are everywhere, they are nowhere to be seen (author's translation).

customary in origin. Within the boundaries of their own parish the Connétable and the Centenier have the power of arrest and the right of entry to any premises, without warrant, to search for stolen property or prevent a breach of the peace.¹⁰ The Vingteniers and Officiers de Connétable are permitted to exercise these powers only in an emergency or when ordered to do so by the Connétable.

The development of parish policing is likely to have its origins in the form of community organisation established in the medieval period. Records from medieval assize court hearings from 1309 show the existence of juries of presentment – ‘Les hareles’ which were recruited on a parochial basis. (Rolls of the Assizes held in Court, 1309). These records suggest that the parish was responsible for forming a body of men to pursue wrongdoers, keep watch at night, and guard prisoners in custody and to ensure that suspects seeking refuge in the parish churches did not escape. On occasions, the entire parish could be fined for failing to bring offenders to justice (Le Herissier 1974:20).

Records from Les Justices Itinerants indicate that the 1331 ‘extente’ (census) of the Channel Islands was prepared on a parish basis from information provided by a twelve man jury. These early juries developed into parochial juries of preliminary investigation in criminal cases. This jury was known as ‘l’enditement’ which comprised twelve members of the Honorary Police belonging to the parish in which the alleged offence was committed. Whilst twelve Officers were summonsed to attend the hearing, a minimum of seven were required to hear the evidence or the accused was permitted to refuse the indictment. L’enditement would hear all the evidence, the Bailiff would sum up and the jury would retire to deliberate. One of two verdicts was possible. If the accused was

¹⁰ This customary power was abolished in December 2004 following the enactment of the Police Procedures And Criminal Evidence (Jersey) Law 2003

found to be 'more innocent than guilty', he would be released. If found 'more guilty than innocent', the accused was formally indicted and remanded to the Royal Court for sentence.

The accused had the right of appeal on the verdict to La Grande Enquête de Pays, an assembly of twenty four members drawn from the parish in which the offence was committed and the two neighbouring parishes. This right was prescribed in the *Suyte de Meudre of La Grande Coutumier du Pays et Duché de Normandie*.

Cette enquete doit ester fait par vingt et quatre loyaux hommes les plus preud'hommes et les plus creables du voisine, qui ne soyent pas soupeonneux ne par amour ne par haine (This enquiry must be made by twenty four loyal men, the most wise and credible in the neighbourhood, who are influenced neither by love nor hate).

Le Cerf observed that Jersey found it preferable to have a jury thus composed of men who 'connaissant les antecedents et la reputation de l'accusé, il peut apprecier en tout surete de conscience les circonstances de crime' (Le Cerf 1862:161). (Knowing the past history and reputation of the accused, can appreciate the circumstances of the crime). When the twenty four were assembled, the process of l'enditement was repeated. The jury retired and returned with a verdict. The accused was dismissed if four of the twenty four members moved for acquittal. If the Grande Enquête found the same as l'enditement then sentence, decided by the Bailiff and seven Jurats, was irrevocable.

These examples illustrate the centrality of the parish in deciding whether or not parishioners who had committed offences should be punished. Whilst the Bailiff and the Jurats had the power to sentence offenders, the power to divert from punishment lay with the members of the parish jury. It is clear that the use of parishioners in the administration of justice was commonplace from very early

times. Whereas the processes of l'enditement and La Grande Enquête were abolished in the nineteenth century, following claims of partiality, the power of the Centenier to hear cases remained unopposed until the late twentieth century.¹¹

Officers of the Parish

Each Centenier exercised a veritable magistracy, the Vingteniers and others are chosen amongst citizens of proven morality, each resident is thus protected without ever having to doubt that an over-zealous action is stimulated by the need from promotion or by the search for financial reward (Le Cerf 1862:185 (translation)).

The Office of Connétable

The Connétable is the principal officer of the respective parish and the head of the Honorary Police.¹² Prior to 1998 this office was honorary and unpaid. In addition to the policing and administrative functions, the Connétable represents the Parish in the States Assembly.¹³ A Connétable is elected by parishioners to serve a three-year term of office. At the end of that period he/she must seek re-election.

The precise origins of the office are unknown and there is speculation from numerous sources. The title Connétable does not appear in records as a parish official until 1462 (De Gruchy 1957: 153), although it is likely that the role was well established by this time. In 1495, an Ordinance of Henry VII required that the Connétables exercise police duties and that the Connétable of each parish be freely elected and chosen by the elders of the Parish.¹⁴

¹¹ L'enditement was abolished in 1863 following claims of partiality (1847- Report on Criminal Law)

¹² Legislation has been lodged to delegate this duty to the Chef de Police of the Parish.

¹³ The proposal by the Clothier Committee to remove the right of a Connétable to sit in the States Assembly by virtue of office alone was defeated in November 2004

¹⁴ A frequently heard anecdote about the honorary police is that they are the second oldest police force in existence after the Swiss Guard. The origin of this assertion is unknown. Research into the history of the Swiss Guard would suggest otherwise. In 1506, Pope Julius II invited the Helvetian soldiers to Rome where they passed through the Vatican to be blessed by the pontiff. In 1512, the pope bestowed upon the Guard the title of 'Defensores Ecclesiae Libertatis' (defenders of the freedoms of the church) and they were charged with protecting the Pope in his mission to save Christianity and Italy from the barbarians. These Jersey records show the existence of the Connétable well in advance of the papacy of Julius II which began in 1503.

Syvret and Stevens note that the role is difficult to equate; being neither the 'comes stabuli'- the keeper of the horse denoting high military rank in France, nor exactly the 'Constable' in the English sense, who was solely responsible for law and order prior to the introduction of a professional police force in 1829 (Syvret and Stevens, 1972: 15).

An alternative view of the origin is presented by Le Cerf who suggests that the role of Connétable is a remnant of the communal organisation introduced by the English Kings in the 14th Century. At that time the parishes were organised along military lines, having at their head a Connétable who commanded Centeniers who in turn supervised Vingteniers. The Connétable had as much civil as criminal jurisdiction. Later the creation of the parish militia relieved them of all but municipal duties. Kelleher concurs with De Gruchy that it is likely that the names of the parish officers, Connétable, Centenier and Vingtenier are military, relating to the units of military organisation mentioned in a 1337 document ordering the Warden, Thomas de Ferrers to raise arms.

Bois considers a more pragmatic origin, suggesting that the title was merely borrowed as 'a convenient title already in use in the two neighbouring countries with which the Island was closely associated' (Bois 1974:45). Whatever the origins of the title, the role of the Connétable has not changed since the fifteenth century. The 'father of the parish'¹⁵ is charged with ensuring the safety and responsibility of the parishioners and is personally responsible for ensuring the presentation of criminal cases before the Royal Court. The Connétable has a multiple role in the parish, the duties being formalised in the Code de 1771:

¹⁵ Only two women have held the position of Connétable, in the rural parishes of St Lawrence and St Brelade respectively

LES CONNETABLES sont tenus de faire rapport, et présenter en Justice toutes personnes contrevenant aux Ordonnances et Règlements établis pour le bon ordre dans la société, et d'assembler une fois le mois leurs Officiers, afin de se mieux enquérir des délits qui seroient commis, et de pouvoir connoître les délinquans, selon la teneur expresse du serment de la charge.

Ils ne continueront point en la charge, non plus que les Centeniers et Vinteniers, plus de trois ans, à moins qu'ils n'y soient élus de nouveau, et qu'ils consentent de l'exercer ; et après ledit terme, l'Officier du Roi s'adressera à la Cour, qui ordonnera une nouvelle élection selon l'usage¹⁶.

The notion of maintaining order in the community and pursuing wrongdoers was thereby enshrined in law together with the assembly of officers to enquire into the commission of offences. The establishment of a powerful network of local knowledge was necessary to achieve this mandate, a service that was provided by a team of subordinate officers.

The Office of Centenier

The Connétables are assisted by Centeniers; also elected by parishioners to serve a three-year term. Either retired from, or following another occupation, the Centenier acts in a voluntary, unpaid capacity, primarily performing duties associated with Parish Hall Enquiries and prosecution.¹⁷ The Centenier is also empowered to deputise for the Connétable in his absence. Originally each parish required one Centenier but this number has been increased by order of the Court depending on the size of the population of the parish.¹⁸ There are explanations found in historical works as to the origin of the term 'Centenier'. A French translation of the bible tells the story of 'Le Fils de Centenier de Capernaum' (Matthew 5, 8-13). An English translation recounts the story of the

¹⁶ [Translation: The Connétables are bound to report and present before the Court all who contravene the Orders and Rules established to maintain order in the community, and to assemble monthly their Officers in order to inquire into the commission of minor offences and to be made aware of wrongdoers, according to the terms of their oath of office. They will not serve longer than three years, (unless re-elected and if in agreement to serve) and after the said term, the Crown Officer will address the Court, who will order an election].

¹⁷ The establishment of the Police Court in 1863 formalised the authority of the Centenier to charge individuals and present them before a stipendiary magistrate for sentence. The Attorney General may initiate proceedings in his own right and may overrule Centeniers who refuse to exercise their discretion to prosecute.

¹⁸ See (Loi (1853) au sujet des Centeniers et Officiers de Police).

Centurion's son. Kelleher considers that the origin is likely to be military relating to the responsibility for one hundred men and the term Centenier was well known in France in this context (Kelleher 1994). The first references in official Jersey records exist as early as 1502 (De Gruchy 1957, Bois 1970).

Guizot however raises the possibility of a much earlier incarnation of the role. Citing the title of the 'Capitulaire de Louis Le Debonnaire' he notes the existence of the office of Centenier in France in 819.

Des vicaires et des Centeniers qui, bien plus par cupidité que pour rendre la justice, tiennent, tres-souvent des plaids et tourmentent ainsi trop la peuple (Capitulaire de Louis Le Debonnaire, 819. Baluze Tome 1 Col. 616 quoted in Guizot). (The vicaire and the Centeniers, more by greed than in order to deliver justice, hold gatherings and torment the community)

Other texts refer to ancient forms of community organisation which pervade modern social life in Jersey.

Que l'assemblée (conventus) se face selon l'ancienne coutume, dans chaque centene, devant la comte ou son envoye, et devant le Centenier (Lois des Allemands, t xxxvi, C.1 quoted in Guizot : 88). (The assembly gather according to ancient custom, in each certain, before the Count, his envoy and before the Centenier.)

It is interesting to note that in this context the Centenier is referred to independently of the Count or his envoy. Alternative texts quoted by Guizot describe the organisation of a feudal social life that, in parts, remains familiar to the Jersey parochial system:

Que le plaid (placitum) ait lieu de samedi en samedi, ou tel jour qu'il plaira au comte ou Centenier, de sept nuits, lorsqu'il y aura peu de tranquillité dans la province: quand la tranquillité sera plus grande, que l'assemblée ait lieu de quatorze au quatorze nuits, dans chaque centene comme il est ordonne ci dessus. Que les plaides se tiennent a toutes les calendes, ou tous les quinze jours s'il est nécessaire, pour examiner les causes, afin que la paix règne dans la province (Lois des Allemands, t xxxvi,C.1 quoted in Guizot : 88). (The 'pleas' will take place on a Saturday or whatever day suits either the Count of the Centenier, every week during times of unrest. When peace reigns in the province, the assembly will meet each fortnight. The assemblies are ordered to meet at least monthly, or every fortnight if necessary, until peace reigns in the province).

Free men were obliged to attend the gatherings whose principal business was to deliver justice.

Si quelque homme libre néglige de venir au plaid, et ne se présente pas au comte ou a son délégué, ou au Centenier, qu'il soit condamne a payer 15 solidi (Loi des Allemands t xxxvi C.4 cited in Guizot). (If any free man neglects to attend the gathering and doesn't present himself before the Count, his envoy or the Centenier, he will be convicted and fined 15 solidi.)

The accession of Charlemagne to the French throne made it more difficult for these community gatherings to survive in France. He increased his power by remodelling and rationalising the feudal systems of France. It would seem that this rationalisation never extended to Jersey, hence the office of Centenier as a relic from a time when a feudal regime dominated island life.

In the absence of any island-wide system of policing, the maintenance of peace and social order in the parish and the investigation of crime fell squarely on the shoulders of the Centenier who occupied a pivotal role in the parish. This task was often quite onerous, particularly in St Helier. Centeniers report being woken up several times a night to attend incidents. In parishes where there was more than one honorary officer, the most senior in terms of length of service became

the Chef de Police and was able to deputise for the Connétable in the States Assembly.¹⁹

The powers vested in the Centenier are customary, conferred via the oath of office, administered by the Royal Court as specified in the Code de 1771. The oath empowered the Centenier to seek out and control wrongdoers in order to prevent breaches of the peace arising principally from the over-consumption of alcohol.

You swear and promise by the faith and oath which you owe to God, that you will well and faithfully exercise the duty and Office of Centenier in the Parish of, you will keep and cause to be kept her Majesty's Peace, opposing and arresting all unruly and seditious persons, thieves, murderers and all others who disturb the Public Peace, and you will inform the Constable in order that they may be brought to justice to be punished according to their misdeeds, together with all who frequent taverns, drunkards, dissolute persons, harlots, blasphemers and all others who contravene the Rules and Orders of the magistrate which Orders you will keep and observe and cause to be kept and observed insofar as possible. You will not permit anyone in your parish to conduct a tavern other than those persons permitted and licensed from time to time, and you will have a special care, by your own diligence and that of your Officers, that the day of Sunday shall not be profaned by assembly at, or frequenting the said taverns or other places, contrary to the Orders in this matter, which Orders you will carry into due execution; you will make, and cause to be made, such inspections as may be necessary or as may be required of you; in particular you will cause a general inspection to be made, once every three months, in such places and houses in the said Parish as are suspect; you will conserve and further, as well as may be possible, the rights that appertain to the said Parish, acting, insofar as concerns the public wealth thereof by the advice and good counsel of the Principals, the Constable and the other Officers of the said Parish. You will assist the Constable to assemble the said Officers once each month and you will assemble them yourself when it shall be required of you, in order to consider such matters as may be necessary concerning all evil-doers and refractory persons and those who disobey the Orders of Justice so that the Court and the Queen's Officers may be informed thereof from time to time; you will execute the commands of the

¹⁹ This customary right was challenged in St Helier in 2004 and the Honorary Police (Jersey) Regulations 2005 were amended to provide for the Connétables to appoint a Chef de Police of their choice following consultation with the Honorary Police of the relevant parish.

Governor, or of the Lieutenant Governor, of the Bailiff and his Lieutenant and members of the Court, insofar as concerns their respective offices, (attending at the States when called upon to do so); and in all these matters you promise to do your loyal duty, on your conscience (Serment des Centeniers, Code de 1771).

The States Committee charged with the creation of new legislation has recently revised the oath to reflect the modern context in which the contemporary Centenier operates (reproduced in Appendix A). The new oath maintains the spirit to keep and cause to be kept the Queen's peace, but removes the outdated elements such as controlling the observance of the Sabbath and illegal tavern-keeping.

Bâtons De Justice

Each Centenier has the right to carry a staff of office, a small truncheon known as a baton. Oral testimony from a retired jurat reveals that the batons were created during the Napoleonic Wars when Jersey was under the governorship of General Don (1806-1814). He had brought to the island a group of labourers to assist in the construction of the roads. These men were not only troublesome but also low-paid, and petty pilfering of food was common. Following the alleged theft of a chicken by a labourer in St Peter, the parishioner had called in the Centenier and Vingtenier to investigate. Due to the fact that the Centenier wore no uniform, bore no identification and spoke only Jerriais, the alleged thief refused to acknowledge his jurisdiction and a fight broke out. Eventually, the army arrived were called to restore order. The commanding officer also refused to acknowledge the authority of the Centenier. The fracas developed into a near riot involving a number of parishioners. The matter was eventually reported to the Bailiff and the Lieutenant Governor, General Don who undertook to furnish a baton bearing the respective parish crest to each of the twelve Centeniers. Each Centenier would be required to produce the baton as proof of identity when attending incidents. At the beginning of the twentieth century, the batons became stylised: the Connétables' white ivory with a gold crown, the

Centeniers', white ivory with a silver crown, and the Constable Officers' were black wood with a silver coloured top.²⁰

Levée De Corps

An unusual duty that falls to the Centenier is the *Levée de Corps*. If a person were to die suddenly within parish boundaries, it is the customary duty of the Centenier to attend to ensure that there are no suspicious circumstances surrounding the death. By custom, the body cannot be moved without the Centenier's permission. Interviews reveal that Centeniers consider attendance at the scene of a sudden death to be one of the most difficult parts of their role, but also one of the most important in that they can provide a solid support network for the family. The levée is an ancient tradition that has its origin in the process of l'enditement. In times past, the Centenier was required to form a jury by calling upon the services of twelve Jersey born men (sic) to view the body with him. He would need a majority vote that there was no foul play before permitting the removal of the body. Oral testimony from a retired jurat suggests that the practice of summoning a jury was halted in the 1930's following the discovery of a body on the beach at St Aubin. As the Centenier tried to summon a jury, the rising tide continued to float the body up the beach, destroying any evidence of foul play. Following this incident, an agreement was reached that the formation of a jury was impractical and probably irrelevant. Practice was changed so that the Centenier was to elicit the permission of the Bailiff to move the body and if there were suspicious circumstances to inform the paid police immediately. Current practice is for the Centenier to contact the States Police and vice versa.²¹ The death should then be reported to the Viscount, in his capacity as coroner, who will order a post-mortem examination if considered appropriate. This power is enshrined in the Inquests and Post-mortem Examinations (Jersey) Law 1995 (Article 2).

²⁰ The Vingteniers were not entitled to the staff because their duties were the collection of fines, rates and branchage fees.

²¹ There is provision for the honorary police in St Saviour to report expected death at the parish hospital directly to the Viscount.

The Office of Vingtenier

Junior in rank to the Centenier, the Vingtenier was charged with the administration of a vingtaine, a sub-division of the parish for fiscal purposes. (In the parish of St Ouen, these sub-divisions are known as cueillettes). De Gruchy (1957) notes that the fiscal function was first recorded in 1462. The term Vingtenier was probably in some way associated with the surveillance of twenty families or homesteads. The origin however is likely to be military (Kelleher 1994). The Vingteniers assist the Centeniers by recording proceedings at Parish Hall Enquiry and in certain cases providing useful intelligence about attendees and the circumstances relating to the alleged offences.

Visite de Branchage

To the uninitiated, the business of the branchage may look like mere hedge trimming. Islanders, on the other hand, understand that it is at once evidence of social solidarity, part of the life of the countryside and a valued link with Jersey's rich and idiosyncratic past (Shiple 2004).

The Loi (1914) sur la Voirie requires that landowners and occupiers of property remove overhanging branches, hedges and trees from the public roads and footpaths. The 'Visite du Branchage' takes place in each Parish twice a year to ensure that householders with land bordering on public roads have undertaken the 'branchage'. The first Visite is between 1st and the 15th July and the second is between the 1st and the 15th September. The Connétable, assisted by the members of the Roads Committee and the Centeniers, will visit the all the roads of the parish accompanied by the Vingteniers in their respective vingtaines to ensure that the branchage has been completed. If the branchage has not been completed the occupier will be required to undertake the work and, if it is not carried out, the Parish may arrange for the work to be done and charge the occupier the cost of that work in addition to fines of up to £50 for infractions.

The Office of Constables Officer

The Officier de Connétable (colloquially known as a 'CO') is the most junior rank of the Honorary Police. The principal role is to assist the Centenier with the routine administration and policing of the parish including road closures for weddings, funerals and fetes and other parish occasions. Most parishioners entering honorary service will commence at this level which gives a basic grounding in the role of an honorary officer and offers the opportunity to gain experience and decide whether or not to progress through the ranks to Centenier or Connétable.

The Effect of Social Change upon the Honorary System

Between the 18th and 20th Century, only two statutes had affected the Honorary Police.

1804: *Loi Sur Les Assemblées Paroissiales* (Law relating to the Parish Assembly). This law confirmed the perpetual right of membership of the Parish Assembly even when no longer serving as a Centenier but removed this right from lesser ranks of the Honorary Police. It also gave Vingteniers and Officiers de Connétable the power of arrest within their own vingtaine.

1840: *Loi Sur Les Centeniers et Officiers de Police* (Law relating to Centeniers and Police Officers). This law increased the number of officers in each parish and delegated the power of the Centenier to the Vingtenier in cases of absence.

The Royal Commissioners

Until the beginning of the nineteenth century the concept and system of honorary policing in Jersey had not been questioned. At this time, there started to be considerable concern with the function of the parish system. This disquiet was principally experienced by English settlers who although economically

powerful found it impossible to precipitate change. Their inability to infiltrate Jersey institutions and consequent lack of political influence resulted in calls for reform. When the States refused to act, the newcomers wrote letters of complaint to the Privy Council. As a result, a major investigation into the state of the Criminal Law in Jersey was undertaken by visiting commissioners from England.

In 1847, the First Report into the State of the Criminal Law in the Channel Islands provided the first comprehensive account of the evolution of Jersey Law and examined the history of customary practice. The English Commissioners wrote unfavourably about the state of the law and were particularly critical about criminal processes.

It appears to us that scarcely any part of the criminal proceedings which we have described is such as to suit the present condition of the inhabitants of Jersey (p.xxxviii).

The strongest criticism was reserved for the informal, unprofessional nature of parish organisation and the lack of competence in police duties demonstrated by Centeniers. Describing it as 'almost wholly inoperative as a protective force' the report was disparaging about the role of the Honorary Police and recommended that it should be replaced by a paid force at the earliest opportunity. The Commissioners were critical of every aspect of the role of the Connétable, principally because they could not reconcile the duties with their understanding of the role as it applied to England.

The word 'constable' conveys to the English lawyers the idea of an authority much inferior to that which the constable, and, as acting for him, the Centenier, constitutionally possesses. The officers have functions partly resembling those of our police magistrates. They may, in certain cases, take bail from a party arrested where the offence does not amount to felony; they can also bind parties to keep the peace. In numerous cases they assume the exercise of a discretion which in England would not be thought compatible with the duties of a police officer (p xxxix).

Until the construction of parish buildings, investigations into offences would have taken place at the scene of the alleged offence. In cases of public order offences, the focus would have been on prevention rather than punishment. With the sole criminal tribunal being the Royal court only the most serious offences would have been referred. The Commissioners Report describes a process of a preliminary investigation which compares to the procedure of a Parish Hall Enquiry as we know it today.

In the case of an assault, the constable considers it part of his duty to inquire whether the assault has not been provoked by libel or slander if that is alleged. In some cases they consider themselves authorized to decide as to whether a Report shall be presented, that is, in effect, whether a prosecution shall go on. We do not consider that any of the latitude of authority arises from usurpation; for it seems clear to us that the whole is in the spirit of the ancient institutions, which imposed on the bas justiciers the duty of searching out crime and committing such offenders as they thought proper objects of prosecution. But we believe that this confusion of functions now produces very serious evils (p xxxix).

The recommendations put forward by the Commissioners were unsurprising. Both men were legal experts from England with limited understanding of the complex relationships and frameworks through which Jersey society had evolved. The Commissioners recommended that all duties connected with the 'preservation of the peace and the enforcement of the Criminal Law' be removed from all ranks of the Honorary Police whose primary focus should be towards municipal duties. A particular criticism was that of the political role of the Honorary Police and the Commissioners recommended that the paid force should be independent of the Parish Assembly.

Reaction to the 1847 report was characteristically slow. Despite the gross indictment on the character and composition of the Honorary Police, the customary practices continued unhindered for nine years before any enactment was introduced that had the potential to change the status quo. The

Commissioners Report raised a number of constitutional concerns for the Island which were considered to be more important than the application of the law and the implementation of the recommendations in the report.

The principal outcome of the 1847 report into the Criminal Law was a Law to create a paid police force in St Helier and a number of other Laws which established a criminal justice infrastructure:

- Loi (1853) Ordonnant L'organisation D'une Police Salariee a St Helier (Law to create a paid police force in St Helier);
- Loi (1853) Reglant le Nombre des Centeniers de St Helier et de St Martin et Augmentant les Pouvoirs des Officiers de Police (Law to control the number of Centeniers in St Helier and St Martin and to increase the powers of the Police Officers);
- Loi (1853) Modifiant la Practique Dans la Redaction des Depositions en Matieres Criminelle (Law to modify the practise of providing depositions in criminal matters);
- Loi (1853) Etablissant une Cour pour le Recouvrement de Menues Dettes (Law establishing a petty debts court);
- Loi (1853) Etablissant une Cour pour la Repression des Moindres Delits (Law establishing a Court for the control of minor offences, Police Court, latterly the Magistrates Court);
- Loi (1853) Modifiant la Procedure de la Cour Royale (Law to modify the procedure of the Royal Court)

It has been suggested that the Laws passed in 1853 may in some way be seen as paying lip service to the Commissioners report (Kelleher 1994). Although the laws were drafted and approved by the Privy Council, the actual implementation and enforcement was not automatic. Policing in the parishes was still very much the province of the Honorary Police. The Law provided for the establishment of a paid police only in St Helier and the uniformed Officers remained under the control of the Connétable. The paid police required the permission of the Connétable before crossing the boundaries into another parish. The real power within the system remained at community level and decisions about investigating offences, charging offenders, offering bail and the customary right of search continued to be made by the Centenier.

In 1861, a further Report prepared by Royal Commissioners reviewed the civil and ecclesiastical functions of the Island. Once again, the Commissioners were critical of the role of the Honorary Police and recommended that the institution be relieved of any duties regarding the maintenance of peace and social order. Once again, the recommendations were ignored and the Honorary Police continued unhindered for the next seventy three years.

Twentieth Century Challenges

Rapport Au Comite De La Défense De L'île Sur La Réorganisation De La Police Salariée (Report to the Defence Committe about the reorganisation of the paid police).

In 1934, the Connétable of St Helier wrote to the Defence Committee expressing his concern at the insufficient number of paid police available to patrol St Helier in an efficient manner (Police Committee Minute Book, 1922-1947). The Defence Committee consequently commissioned a report to investigate two distinct aspects of policing. Firstly to establish whether it was possible or desirable to provide the services of "experts" in the detection of crime and whether their services should be available on an island wide basis, when the

Connétables judged that their services were required. Secondly the report was required to examine whether it was expedient, whilst conserving the fundamental principle of the Honorary Police, to reorganise the Paid Police in accordance with the current needs of the whole Island.²² The Report acknowledges the various social changes that had taken place in the Island since the establishment of the paid force in 1853, particularly the rapid growth of new urban areas in hitherto rural parishes. It also addressed the question of state responsibility for the provision of policing as an alternative to reliance on the parish. Whilst acknowledging the 'great debt which generations of Jersey men owe to the Members of the Honorary Police who have served, and who are serving the States so well' (1934:14), it suggested that an Island-wide force was necessary in order to provide a professional source of policing from which all parishes would benefit.

The Committee proposed that the St Helier Paid Police Force should be abolished and replaced with an Island wide force over which the States should have direct control. However, it was also stipulated that Officers from the force would be available to the county parishes only at the request of the Connétable or Centenier of that parish and would be required to act in accordance with their orders within parish boundaries. Perhaps fearful of the rejection suffered by the Royal Commissioners, this Report was explicit in the view that 'there should be no interference with the authority of the Constable in his own parish' (1934:18).

As a corollary to the principal recommendations, the Report acknowledged that the prosecution of crime should remain the responsibility of the Attorney General and the Honorary Police and further that there should be as 'little modification as possible in the manner in which offenders against the criminal law are brought to Justice' (1934:21).

²² This term of reference has been mistranslated in a description published on the States of Jersey Police website which reads: "Examine whether it was expedient to retain the fundamental principal of the honorary system of policing" – this changes the sense dramatically.

In 1935 the States accepted the recommendations in principle but never acted upon them. However, three years later in 1938, the issue was still being discussed and there was much controversy over the proposal, predictably from within the country parishes. (Jersey Evening Post 15.2.1938) Once again the political power of the rural bloc prevailed; the principle was eventually rejected and the recommendations of the 1934 report were never enacted.

Policing During the Occupation

No written records appear to exist about the operation of the Honorary Police during the occupation years. The experience of Occupation had a profound effect upon the Jersey population and is well documented in a number of local publications (Harris 2000; Sanders 2005).

The Maxwell and Tarry Report

During the post-war period, the effectiveness and efficiency of the Honorary Police to maintain social order was again questioned. The Defence Committee commissioned a further report into Police Organisation in Jersey. Unusually, this request was made through the Home Office of HM. Government and the Secretary of State appointed a former permanent under-secretary and a HM Inspector of Constabulary to undertake the review.²³ The Defence Committee had requested that the review provide:

Expert advice and assistance as to the best method of reorganising the police system of the Island on a basis adapted to the peculiar conditions especially having regard to the Honorary Police system, and sufficient to the present day needs of the Island (Maxwell and Tarry 1950:5).

In spite of the 'peculiar conditions', Maxwell and Tarry provided a balanced commentary on the role of the Honorary Police in 1950. This report was supportive of honorary service and commended the work done to maintain peace and social order in the parishes. The role of the informal parish inquiry

²³ Constitutionally, Jersey shares a relationship with the monarch, not the British government.

was considered and the role of the Centenier in the adjudication of offences was examined.

As well as assessing the merits of the Honorary Police, Maxwell and Tarry successfully articulated the concerns that had hitherto been hinted at in previous reports about the role of honorary systems in modern societies. They addressed three specific areas: partiality, bias and the influence of parishioners upon the decision-making processes. They concluded that none of these posed a particular threat to effective policing.²⁴

We were assured that...strict impartiality is exercised, and that any favouritism would be strongly reprobated both by the honorary officers themselves and by the people who elect them to office (Maxwell and Tarry 1950:12).

The Maxwell and Tarry Report acknowledged the widespread view that the Honorary Police could no longer function as the primary provider of public protection and required the support of a paid force, with power to act on an island-wide basis to pro-actively detect and deter crime.

With regard to the Parish Hall Enquiry, Maxwell and Tarry do not express the same surprise as the 1847 Commissioners that the Centenier had a quasi-magisterial role. They concur with the 1934 report that the decision to prosecute should remain with the Centenier. Their concern is solely with the secrecy surrounding the 'sittings' which they assert may lead to unfounded allegations of bias and partiality on the part of the Centenier. They suggest that records should be posted in places that are publicly accessible showing complete details of all offenders attending at Parish Hall and those in receipt of on-the-spot fines. The Report was well received and a year later in 1951 the Paid Police Force (Jersey) Law was enacted to provide paid policing on an Island-wide basis. The

²⁴ This view is expressed by criminologists in other jurisdictions. Christie, a Norwegian, argues that the close and available proximity of the officers to the community, in which they serve, makes them more vulnerable and therefore less liable to influence. (Christie 1972)

new law did not address the role of the Parish Hall Enquiry and the recommendations to make the process more 'transparent' were never implemented. Following previous practice, the power to offer bail and charge offenders remained with the Centenier.

Tarry returned to Jersey in 1958 in order to inspect the newly formed Force. He considered that the quality of service was much hampered by the subordinate position of the Paid Police in relation to the Honorary Police. His recommendations for an enhanced role found little political support and with the exception of a name-change to the States' Police, the status quo was maintained in favour of the honorary service.

A further inspection some sixteen years later recommended the regularisation of the relationship between the two Police forces (Jersey Evening Post 1972). These recommendations achieved greater political support and in 1974 the Police Force (Jersey) Law was enacted. This extended the powers of the States' Police to the whole island without requiring the permission of the respective parish Connétables. However, the customary rights to offer bail, charge and search premises without warrant remained with the Centenier. This law confirmed the role of the States' Police as the primary provider of policing and obliged the Honorary Police to call for the assistance of the professional force to deal with 'prescribed offences', either in common law or offences against statutory enactment. (A comprehensive list of these offences is reproduced in Appendix B).

*Clothier Report*²⁵ (*The Report of the Independent Review Body on Policing Services in Jersey*).

Even though the origins of the Honorary Police fade gradually into the remote past, it is nevertheless easy to imagine how such an institution took root. What is remarkable is that it has survived in Jersey alone, to the present day (Clothier 1996:1).

In 1996 Sir Cecil Clothier chaired a panel of Islanders who were charged with reviewing the policing system to examine whether the powers of both Police Forces were sufficient to combat crime, afford sufficient protection to the public and assess the level of service provided. This would be the first review for a period of forty three years. The panel acknowledged that the economic structure of Jersey had changed considerably during the post war period and that these changes necessitated a more professional approach to policing than could be provided by the Honorary Police alone. The report concluded that whilst every witness declared that the Honorary Police should remain in existence the 'overwhelming burden of evidence ... was that the Honorary Police are outdated in both organisation and method' (Clothier 1996: 5).

A chapter of the Clothier report is dedicated to the functioning of the Parish Hall Enquiry. Acknowledging the antiquity of the institution, the report asserts that the Parish Hall Enquiry 'defies classification in any modern legal framework' (Clothier 1996: 16). The important aspect of informality is acknowledged, but little importance attached to the significance in crime prevention and user satisfaction. A total of eighteen points are made; out of which are formed eight recommendations for reform.

- i. The provision of an information leaflet about the powers of a Centenier at an Enquiry;

²⁵ This report has become known as 'Clothier One' following the publication of a further report by Sir Cecil Clothier into the machinery of the Jersey Government.

- ii. Guidance notes for Centeniers as to proper conduct should be expedited;
- iii. Formal training for Centeniers into the conduct of Parish Hall Enquiries;
- iv. The recording of cautions administered at Parish Hall should be made the subject of substantive law;
- v. Parish Hall Enquiries should be open to the public;
- vi. Centeniers should be prevented from conducting a Parish Hall Enquiry into offences that they have themselves investigated;
- vii. The role and jurisdiction should be extended to empower Centeniers to make findings of guilt;
- viii. Procedures at Parish Hall Enquiry should be revised, clarified and standardised across the parishes.

As a result of the Review, a working party was established to examine and where possible, implement the recommendations. However, only the first two administrative matters have been implemented.²⁶ The working party report published in 1997 rejected the recommendations that would change the traditional concept of the Parish Hall Enquiry from an informal inquiry conducted in private to a public hearing. No support was given to the recommendation that Centeniers should be empowered to find guilt because it was generally thought that this would elevate the Parish Hall Enquiry to the status of a Court. The Parish Hall enquiry is not a judicial process. The findings of the working party report clearly articulate the Parish Hall Enquiry as a process that allows a Centenier to establish the facts of a case in an informal, private setting. This Enquiry forms part of the prosecution process and the Centenier is required to decide whether there is sufficient evidence to formulate a charge and whether it would be in the public interest to bring the matter before a court.

As with all previous reports, the Clothier review recommended that the Honorary Police retained their role in the prosecution process. The power to charge

²⁶ The Code on the Decision to Prosecute and Guidance Notes for Centeniers were produced by the Attorney General in 1997

offenders, offer bail and the customary right of search without warrant remained the preserve of the Centenier.

Twenty First Century Challenge

The first report of the twenty first century report was conducted by Rutherford and Jameson in 2002. Whereas previous reports had concentrated solely upon policing matters, this review focused upon the criminal justice process and policies of the Island as a whole. The review board was asked to concentrate upon methods of preventing and addressing offending and recidivism. Rutherford consulted widely and concluded that:

The Parish and the process of Parish Hall Enquiries remains a cornerstone of the Island's approach to tackling crime and anti-social behaviour (Rutherford and Jameson 2002:9).

In spite of the acknowledgement of the primacy of the parish in the context of governance and social control within the Island, the Review notes that an important challenge is to achieve a 'workable' balance between the professional and lay members involved in the criminal justice process.

The Review describes the Parish Hall Enquiry as 'one of the most remarkable institutions to have evolved on the Island' and makes a number of recommendations aimed at enhancing the diversionary role of the Parish Hall Enquiry and the development of the role of the Centenier. In Rutherford and Jameson's view, the corollary to the enhancement of the role of Centenier at Parish Hall Enquiry is the abolition of the role in Court and the transfer of the power to charge to an independent prosecution service. This is one of the most contentious recommendations in the history of the honorary system. In June 2005, the Criminal Justice Policy consultation document eschewed this recommendation on the grounds of financial and human resource implications. The Home Affairs Committee also considered the existing arrangements for

prosecution by Centeniers, supplemented by the introduction in 1998 of professional prosecutors for complex cases, to be satisfactory.

A further recommendation is that there should be a specific Parish Hall Enquiry for youths, using lay panel members appointed at **parish** level. The Parish Hall Enquiry is an investigatory process, rather than a judicial body. If this were to change, it might be difficult to comply with the terms of the pending Human Rights (Jersey) Law. Any suggestion that a Centenier or a lay member might adopt a judicial role could compromise the right to a fair trial. This complexity does not occur at present because, as previously stated, the Parish Hall Enquiry is part of the prosecution process rather than any judicial one. Once the Human Rights Law is in force, attendees appearing before an Enquiry would have to accept the level, as well as the principle, of a fine; if they do not, they will have the option of appearing before a Court. The Home Affairs Committee makes the following policy statement regarding Parish Hall Enquiries:

The Committee supports their status as an investigatory rather than a judicial body. To do otherwise would compromise their traditional and valuable role in dealing with offenders outside the criminal justice system and in being able to meet the provisions of the Human Rights(Jersey) Law 2000 (Criminal Justice Policy Consultation Document 2005:62)

THE OPERATION OF THE HYBRID MODEL OF POLICING IN JERSEY.

Having described the key elements of the honorary system, the final section of this first chapter concentrates on the Island's current hybrid model of policing which involves both paid and honorary police. It explores the roles of both in dealing with offenders, how they interact, and the potential for disagreement about roles and responsibilities arising from the existence of thirteen police forces in a small area. I also describe recent attempts to resolve this through the development of a Memorandum of Understanding between the two forces.

The system of policing in Jersey is very unusual indeed and probably unique. It is unlikely that the social and political conditions that assisted its evolution and development could have existed elsewhere. In effect, the Island has thirteen independent police forces co-existing within an area of forty-five square miles; each one having a separate chain of command. It is therefore not surprising that this unique phenomenon provides significant challenges in operational organisation.

In most other modern states, the state police act as the gate-keepers to the Criminal Justice system. Their role is principally to detect crime, investigate offences and present offenders before an independent Court which will decide guilt or innocence and deliver punishment accordingly. State police organisations also have a role in crime prevention. The policing model in Jersey provides for the Honorary Police to perform some of these functions conjointly with the States' Police and some as the sole provider.

In the absence of any organised island-wide force prior to 1974, it was the norm for parishioners to contact the Honorary Police in their parish for assistance and to investigate crime. This persists in the country parishes where some older people still prefer the intervention of the Centenier to the uniformed presence of a Police Constable in 'his fluorescent Ford Escort attracting attention to himself and me' (field notes, December 2001).

The oaths cited in La Code de 1771 describe the key activities that modern societies would associate with a policing function but do not use the term 'police' to describe the individual honorary officers. It is unclear how the term 'police' applied in a Jersey context came into being. As already noted, the descriptive terms Connétable, Centenier, Vingtenier and Officier de Connétable are considered to be military in origin (Kelleher 1994; Le Herissier 1972). The term 'police' seemed to be used more frequently after the label was applied by the

Royal Commissioners in 1847 in the absence of any other useful comparator apart from the paid police in England. Over two hundred years later, the 1974 Police Force (Jersey) Law enshrined the duties of a police officer thus:

It shall be the duty of a Police Officer to the best of his powers to cause the peace to be kept and preserved and prevent all offences, whether common law or statutory against the person and property of Her Majesty's subjects and to take all such lawful measures as may be necessary for the purpose of bringing those offenders with all due speed to justice (Article 2).

Community Dimensions

The attribution of 'historical reasons' to the existence of the hybrid model of policing is not sufficient to explain the complex role that it plays in Jersey society. An understanding of the social context in which it operates is important to appreciating how this unusual role has developed over time. Questions regarding the effect that social changes have had upon the Honorary Police, and an examination of the factors which have shaped Honorary Police practice are essential to this understanding (Kelleher 1994, Le Herissier 1974).

In assessing the community dimensions of the role of the police in Jersey, I am faced with finding useful definitions of 'community'. These definitions are interchangeable. When Honorary Officers talk of their 'community' they are referring to the parish and the parishioners. The States' Police meaning is usually aimed to apply to the Island-wide community, particularly amongst officers who have tenuous connection with the island.

The level of community involvement in policing is higher in Jersey than in most other jurisdictions. Police involvement in the community also differs from other areas in that it is controlled both centrally via the state and locally via the parishes. In other jurisdictions it is possible to pinpoint the 'centre' of policing. In Jersey it is impossible to locate because it is decentralised thirteen times.

Neither the state, nor the parish, exercise complete control over the provision of policing.

Mawby (1994) suggests that officers with a greater affinity towards the area that they police are more likely to pay attention to the needs and role of the community. Because they are elected by parishioners, the honorary officers tend to have a far greater role within the parishes than the States' Police. In Jersey, everyone lives 'locally' but despite this, paid police officers retain a higher level of anonymity than their honorary counterparts and are therefore less available to the influence of community members. Their names and addresses do not appear in the local phone directory and their identity in Court can be withheld when giving evidence. Their level of community involvement appears to be far lower. Anecdotal evidence would suggest that a very small number of former or serving States' Police Officers are serving in an honorary capacity in any of the parishes (including procureurs des biens publics, roads inspectors and rates assessors). Until 2003, officers of the States' Police were recruited locally in order to comply with the stringent regulations surrounding the local Housing Laws. Locally-based senior officers worked their way through the ranks to Chief Officer level. This practice has now ceased and the Chief Officer of Police must be an Officer with a substantial experience at senior management level in a United Kingdom force. The current senior management team of the States' Police are mainly officers with a background of policing in England, Northern Ireland and Scotland. The impact that these senior managers have had upon the Jersey policing policies and procedures is profound. For example, the introduction of a Criminal Justice Unit, a greater focus on intelligence-led policing, and the development of a memorandum of understanding between the States and Honorary Police have changed the face of both paid and honorary policing in Jersey.

In other jurisdictions, the state police are accustomed to being the sole providers of public policing (Bayley 1985; Findlay and Zvekic 1993). The fundamental premise of policing in Jersey is the involvement of the community in policing matters. Due to the existence of the Honorary Police, States' Police work is constrained by a number of factors that simply do not exist elsewhere. The high level of community involvement in policing matters can cause significant operational difficulty. Research based on interviews with senior managers of the States of Jersey Police suggests that, in some quarters, the Honorary Police are considered to be outdated and an unwelcome intrusion into the business of 'real' policing. There are approximately equal numbers of Honorary Police and States' Police and although not under the direct control of the States Chief of Police, the Honorary Police form a huge reserve of officers to assist both on a day to day basis and in times of crisis. In other jurisdictions, problems of corruption have been raised when there is local influence upon policing matters. In Jersey there are structured mechanisms for making the police accountable. The traditions of honorary service ensure that the parish communities are involved in police decision-making at every level. The structure of election of honorary officers provides a safeguard together with the right of appeal to the Attorney General. Honorary Police are subject to the same formal complaints procedures as States' Police Officers (Police (Complaints and Discipline) (Jersey) Law, 1999).

Honorary Police Organisation

All honorary officers have the power of arrest within parish boundaries. At an operational level, if an Honorary Officer has cause to believe that a 'prescribed offence'²⁷ has been, or is about to be committed, the officer is obliged by law to request the assistance of the States' Police. Until December 2004, the Connétable and the Centenier were empowered with the customary right of search,²⁸ the granting of bail and the formal charging of any person with an offence.

²⁷ See Appendix B

²⁸ This power to search premises was revoked in December 2004 as a result of the enactment of the Police Procedures and Criminal Evidence (Jersey) Law. Searches must now be conducted under warrant.

The Connétable of each parish has a number of administrative duties and powers such as the granting and withdrawal of permits and licences. These include port d'armes, driving licences, dog permits, scaffolding and hoarding permits, road closure applications and Sunday trading permits. Permission is also required from the Connétable to hold social events within the parish.

The subordinate Honorary Officers perform a variety of policing functions to ensure the smooth running of the parish and ensure the enforcement of the orders of the Connétable. Officers are organised into duty teams, headed by a Centenier, who are usually on duty for one week in four. During the duty week, officers are on call twenty four hours per day and may be called upon at any time, day or night to attend incidents occurring within the parish. The duties are varied and include attending at Parish events to assist with the direction of traffic to facilitate social events, parish patrols, investigating road accidents, checks on unoccupied premises, searches for missing persons. Many of the tasks performed serve to improve the quality of life for the parishioners; duties that would seem insignificant and unnecessary to highly-paid, and highly trained officers in professional forces. Box one presents some examples of the duties performed by the parish police forces. For those who know and understand the system, the important feature is the sense that the parish police 'belong' to the parishioners. When a parishioner seeks assistance, it is offered without question. The examples illustrate the everyday common sense approach to community dispute resolution that is made possible by the continued existence of honorary systems.

By contrast, in other jurisdictions, the state police have neither the time, the resources nor the legitimacy to deal with incidents such as these. It would be unthinkable for an Inspector of the States Police to contemplate allocating paid,

professional Police Constables to such duties and yet tasks such as these, conducted out of concern and respect of parishioners, contribute greatly to the social cohesion of the parish. The capacity for parish people to deal with parish problems at parish level ensures that social control is not ceded to the state. Familiarity in this sense does not breed contempt; it fosters a level of social control that is a vital element of any strategy that aims to build safer communities. The lack of such an infrastructure in the United Kingdom has led to the indiscriminate imposition of Anti-Social Behaviour Orders in an attempt to reduce community disputes. The national newspapers are replete with examples of Anti Social Behaviour Orders aimed at controlling errant livestock, 'problem' families and warring neighbours.

Box One

The Dog Licences

During an evening visit to a Parish Hall Enquiry, the researcher observed the Duty Centenier present a female Constables Officer with a list of five parishioners who had not renewed their dog licences within the specified period. She was asked to visit their homes that evening to remind them to renew before the end of the month to avoid a financial penalty. The Centenier also asked her to observe the following consideration: she was to remember not to knock on any doors after nine o'clock so as not to unduly alarm the occupants. One parishioner on the list was an elderly lady known to the Centenier. He was particularly concerned that the CO takes special care during this visit.

Centenier: 'I know Mrs x, I've seen her some mornings on the common with her dog, but I haven't seen her with the dog for a while. I'm wondering whether the dog has died. If it has she will be very upset because she's had him for years. Check the front garden for toys and see if you get barking when you ring. If you don't see any signs of the dog, tread a bit carefully. Only ring once and if you don't get a reply, leave it and I'll go and see her tomorrow'.

The Deck Chair Attendant

During a visit to a local beach, a woman was shouted and sworn at by a deck chair attendant. Shaken by the incident, which had occurred in the presence of her young sons, she returned home and immediately reported the incident to the States' Police. The civilian support officer at Police Headquarters informed her that as no offence had been committed, no action would be taken. Dissatisfied with this response, the victim wrote a letter of complaint to the Jersey Tourism who administer the provision of beach facilities and faxed a copy to the duty Centenier. Immediately, the Centenier visited the owners of the deck-chair concession and asked them to accompany him to the beach to speak to the staff member involved. The attendant admitted the incident and apologised for his behaviour. The victim later received a written letter of apology from the attendant, the concessionaire and Jersey Tourism.

The Piano

A couple moved into a semi-detached house in an urban parish. Their neighbour was an accomplished pianist and the early-morning piano-playing was waking the family. Despite repeated requests to limit the piano-playing to daylight hours, the neighbour maintained daily practice, justifying the nuisance according to the 'I was here first' principle. The dispute soon escalated into a tit for tat battle which involved the couple turning up the volume of their television late at night. The situation was brought to the attention of the Centenier by another neighbour who had witnessed a verbal altercation in the street between the two parties. Wishing to avoid the potential for a more serious breach of the peace, the Centenier visited both neighbours to offer some words of advice. After listening to both sides of the dispute, the Centenier offered a simple but effective solution. He returned later that evening with a Vingtenier and two Constables Officers. By agreement, the piano was removed to the other side of her house against an outside wall where the sound of the piano could not be heard from next door. In return, the couple agreed to lower the television volume to normal levels.

The Cost of the Honorary Police

In 2004 there are approximately 240 serving Honorary Police officers in Jersey. (This number is approximated because a central record is not maintained). The Honorary Police are funded by the ratepayers of the respective parish. Table 1.1 shows the total spends and percentage of the total rate allocated to the Honorary Police by parish in 2000-2001.

Table 1.1 Total Spend and Percentage of Total Rate Allocated to the Honorary Police by Parish (2000-2001)

St Helier		St Saviour		St Clement		St Brelade		Grouville		St Peter	
£	%	£	%	£	%	£	%	£	%	£	%
56,243	24	20,913	9	28,925	12	18,900	8	6,476	3	20,830	9

Trinity		St Mary		St Lawrence		St John		St Ouen		St Martin		TOTAL
£	%	£	%	£	%	£	%	£	%	£	%	
8,239	4	9,400	4	15,340	7	9,547	4	11,291	5	27,318	12	233,422

(Review of the Relationship between the Parishes and Executive (Phase One) Report 2002)

In the years 2000-2001 the twelve parishes allocated the sum of **£233,422** to maintain the Honorary Police. The majority of the funds in each parish will go towards the provision and maintenance of the parish police car and equipment. This rose to £289,000 in 2003-2004.

In 2002, a report commissioned to investigate the relationship between the parishes and the States of Jersey made the following observations about the role of the Honorary Police and the role within their communities:

The Parish system relies to a large extent on honorary volunteers who receive no financial recompense for the duties they undertake and who are, as a result, helping to keep down the cost of administering government services in the Island. The Honorary Police is probably the best example of this. Were this function to cease, it is without doubt that the States' Police would have to significantly increase its staffing levels at a considerable cost to the Exchequer. From discussions with the Connétables and their officers one cannot help but be struck by their pride in the Parish tradition and their commitment to the local services they currently deliver. The Parish Connétable and his officers are close to their communities and are able to provide a personal and effective local service. It is important that sight is not lost of the value of the Parish within the Island's system of government. (Review of the Relationship between the Parishes and Executive - (Phase One) 2002: Paragraph 3.2).

The report further recommends that in order to keep the cost of policing to a minimum in Jersey it is vital that the honorary system throughout the Island is maintained and protected (paragraph 3.8)²⁹

The States of Jersey allocate few funds to the Honorary Police. In 2001 a retired States' Police Inspector was appointed as Honorary Police Training Co-ordinator to deliver a minimum of twenty-six weeks training per annum to Honorary Officers. This post is funded by the Home Affairs Committee which has agreed support for 2004. In future years, the funding of this post will be passed to the ratepayers. In addition, the States Police employ a number of clerical staff to administer the paperwork required to support the Parish Hall Enquiry system. Part of this process includes the deployment of uniformed staff to review evidence and make recommendations to Centeniers. In January 2005, a report was prepared by the States of Jersey Police to assess the cost of the Honorary Police on the States of Jersey Police. (This report is reproduced in its entirety at Appendix H). The document suggests that the total annual cost of administering the Parish System borne by the States Police is estimated to be

²⁹ The UK government introduced community support officers into London boroughs to combat anti-social behaviour. These officers start on a salary of £14,793 plus a weekend working allowance (Metropolitan Police Authority website 2005).

£142,163 per annum. This cost represents less than 1% of the total revenue budget available to the States of Jersey Police. It also includes some services currently provided to the Honorary Police that would still need to be provided if prosecution functions were to be transferred.

States' Police Organisation

Since the regularisation of the relationship between the two policing bodies in 1974, the States' Police have become the primary provider of 'policing' in the commonly understood usage of the term.

Whilst all States Officers have powers of arrest, they do not have the power to charge a person with an offence. These powers are expressly reserved for the Connétable and the Centenier. States' Police Officers are distributed between various ranks headed by a Chief Officer. As well as general policing duties, the States' Police are also required to provide a number of specialist services such as drug investigation, family protection, crime prevention, anti-terrorism and scenes of crime investigation. Since 1974 the States' Police are (usually) the first port of call in an emergency³⁰. The response that a member of the public receives to a call depends upon the nature of the crime reported and the availability of uniformed officers.

The Cost of the States' Police

Paid policing services are provided for the States of Jersey at a cost of £20,300,100 (net revenue expenditure, 2004). A total of 241 paid officers provide the Island with a comprehensive policing service (States of Jersey Police Annual Report, 2004). This will reduce to £19.85 million in 2005.

³⁰ Prior to 1974, the States' Police were permitted to operate in the rural parishes only with the express permission of the Connétable. It is still common for elderly residents in county parishes to call the Centenier to attend in the first instance.

Honorary and States' Police Liaison

Article 7 of the Police Force (Jersey) Law 1974 provides that the Chief Officer shall inform a Connétable as soon as may be of the details of any occurrence in his Parish which required action by the Force and of any investigations which are being conducted by the Force in his [sic] Parish. Similarly, the Connétable of each Parish is obliged to inform the Chief Officer of any occurrence (other than of a trivial nature) which required action by the Honorary Police. To facilitate good communication Duty Centeniers are invited to the weekly tasking meeting at Police Headquarters and there is a quarterly Honorary Police Liaison group meeting between a representative of the Honorary Police Association and a Superintendent of the States' Police.

Consensus

Not only is there a lack of consensus between States and Honorary Police, there is evidence of a lack of agreement between parishes. This leads to considerable frustration in the area of policy-making and implementation when the police authority cannot exercise any influence whatsoever over the practice of a particular parish. Whilst the States' Police may aspire to English national standards of practice, the parish structure tends to decentralize power and influence, making the imposition of uniformity and centralized systems difficult. Political autonomy both at parish and Island level means that community involvement in policy and practice cannot be underestimated.

The Memorandum of Understanding

An interim report into Parish Hall practice (Raynor and Miles 2003) suggested that there was no full agreement about the respective roles, responsibilities and functions between the States Police and the Honorary Police.

Relations between the two occasionally have the flavour of a territorial dispute and this is not consistent with the need for legitimate authorities to be seen to work harmoniously (2003:14)

Following discussions between the Honorary Police, States Police, Home Affairs and the Law Officers Department, a Memorandum of Understanding has been drafted and agreed by all parties. This document seeks to elicit a workable agreement that would preserve the unique nature of the rights and responsibilities of the Honorary Police whilst ensuring the provision of an effective policing solution across the island. The full text is reproduced in Appendix E. In order to formalise and clarify the role of the two forces, the guidance in the document attempts to define the 'liabilities' of the States Police, the Home Affairs Committee and the Honorary Police. The document acknowledges that members of the public who require a service from the police are able to contact the Parish Hall, the Centenier or the States Police, and sets out guidelines to follow for the control room. When despatching an Officer to deal with an incident, the Control Room staff have the option of allocating a States Officer or an Honorary Officer according to specified criteria. States Police are required to provide first response to incidents where there is:

- An immediate threat to public safety
- Injury
- Specialist investigation required
- Unusual political or media sensitivities

The deployment of Honorary Officers by way of first response is considered appropriate for:

- Non-injury road traffic accidents
- Noisy parties
- Neighbour disputes
- Minor Public Disorder
- Loose or escaped animals
- Minor Larceny

The Role of the Police Authority

In 1996 the first Clothier report recommended the creation of an independent body to form a Police Authority, responsible to the Defence Committee (now known as the Home Affairs Committee) to ensure that the island is provided with an effective policing service (Clothier 1996). This recommendation was examined and considered to be appropriate by the working party on policing (Wavell et al, 1997). In formulating their decisions, the working party considered the composition of a typical United Kingdom authority of seventeen members comprising nine politicians and eight independent members. The recommendations for the Jersey Authority was for a body of four states members from the Home Affairs Committee (who are not Connétables), two Connétables from the Comité des Connétables and three independent candidates to be selected through an open procedure involving both the Home Affairs Committee and the Attorney General. Appointments would be made by the States. The chairman (sic) would be an Independent member. The structure considered by the working party was the English tripartite framework of Chief Constable, the Police Authority and the Home Office. The working party considered this model to be relevant to Jersey with one caveat:

providing the necessary adaptations are made to meet local requirements; such as having two police services (Wavell et. al. 1997: 7).

The working party did not consider which adaptations were likely to have to be made although they did concede that:

This additional dimension will widen and complicate the commitment as the two services operate on common territory with a considerable measure of independence (Wavell et. al, 1997: 7).

As the first examination of Island-wide policing since the enactment of the Police Force (Jersey) Law in 1974, the Clothier One Report aimed clearly to create a body that could both modernise policing practice in Jersey and co-ordinate the

policing strategies and resources across all thirteen forces. The Review Body acknowledged that this task would not be straightforward and that the creation of a 'bespoke operational framework' for Jersey would be a challenging prospect. If the Jersey Police Authority was to follow the example of the United Kingdom, there would be potential for considerable confusion.

The working party state that the 'annual planning programme is the instrument by which Police Authority justify their resources'. The programme is designed to monitor and measure the delivery to the public of police services. An appendix of that Report sets out the procedure of the annual planning cycle. Some elements are immediately problematic. The setting of police objectives and performance indicators would be particularly difficult, given the organisational norms and expectations of the Honorary Police. The essence of honorary service is its 'honorariness', the sense of serving, helping, restoring the Parish and the parishioners. It is difficult to see how these qualities can be measured in order to formulate a business plan in order to set a budget and deliver a plan. Generations of ratepayers have ensured that the parish police continue to be adequately funded and resourced for parish duties.

In 2002, the Rutherford review noted that while a shadow Jersey Police Authority has been established, very little progress has been made in either the application of a more integrated model of policing or the establishment of a strong influential Police Authority able to achieve the vision of a modern and co-ordinated policing strategy across both the States and the Honorary Police forces.

Five years later the Police Authority has achieved very little success. This is because to all extents and purposes, the Authority exists in name only. It still lacks a statutory basis, no chair has been appointed and it has no staff. It has been looked after in its current, rather precarious, form by the Home Affairs Department (Rutherford and Jameson 2002: 96).

Rutherford and Jameson do not comment on the structure of the Police Authority; however it would seem that any organisation would require a six-part structure to take into account the unique constitutional and political situation of Jersey. Any structure would necessarily incorporate the Police Authority, the Chief Police Officer and the Home Affairs Committee but would also need the representation of the Attorney General, the Parish and the Honorary Police in order to reflect the complex interdependencies inherent in the Jersey system.

Rutherford highlights the urgency for the 'revitalisation' of the Police Authority by drawing attention to the legislative changes that will impact significantly upon both forces. The introduction of the Police Powers and Criminal Evidence (Jersey) Law (PPCE) and the Human Rights (Jersey) Law will require a comprehensive re-assessment of practice to ensure effectiveness and efficiency within modern statutory frameworks that have hitherto been of minimal importance in the Jersey model.

In July 2003, a report was presented to the States by the Home Affairs Committee to address the 'impasse' that had developed in the establishment of the Police Authority. The multiple factors that have influenced the decisions about the Police Authority and the options regarding future paths are outlined therein. The 'impasse' is further complicated by the uncertain position of the Connétables in the future ministerial government.

States' Police Accountability

Ultimately, the States' Police must work within the framework of the law and are accountable to the Home Affairs Committee, a body of democratically elected politicians. The Island does have a Police Authority but the function is currently not clear and has been described as 'ineffectual' in the 2002 Rutherford Review of the Criminal Justice Process in Jersey.

The States' Police are therefore currently dependent for funding and policy direction on the Home Affairs Committee. The close proximity of the State Police to their political masters can be a source of frustration.

Honorary Police Accountability

The Honorary Police model is one of paternalism: the Connétables act in what are understood to be the best interests of the parishioners. In contrast to other jurisdictions there is no consensus that responsibility for policing stays with the State and even less acceptance among a significant bloc, that the Honorary Police should be professionally organised with clearly defined roles and responsibilities. At island level, Honorary Officers are ultimately accountable to the Attorney General who is the titular head of the Honorary Police. At individual parish level, honorary officers are accountable to the parishioners and the *assemblées paroissiales*. As part of an honorary body, it is difficult to compel members to perform any task. Whilst certain standards of conduct are expected, there is nothing contractual to oblige officers to undertake training, performance review or appraisal. The Centeniers Association assert that there is an accepted need to have a basic level of training and there is discussion in progress about the provision of accreditation for officers who have undertaken training in specific areas. All officers of the Honorary Police are expected to abide by a disciplinary code specified by the Police (Complaints and Discipline) (Jersey) 1999 Law. Complaints against the Honorary Police may be investigated by an independent Police Complaints Authority comprising lay members appointed by the Island's government. The parish police belong to the parishioners and as long as members of the *assemblées paroissiales* continue to elect them, and the Attorney General agrees to approve their appointment, then tenure is guaranteed.

Progress towards an Island-Wide Approach towards Policing

A major recommendation of the Rutherford review was for an island-wide approach to policing. It is difficult to see how the thirteen forces can provide integration given the diametrically opposed philosophies that underpin their existence. Mawby construes the 'police' as 'an agency which can be distinguished in terms of its legitimacy, its structure and its function' (1990:3). These headings provide a useful framework within which to describe and evaluate the role of the Jersey model of twenty-first century policing. In Jersey, these elements necessarily function on two levels, on a parish level and on an island-wide basis. The following table 1.2 highlights the divergent nature of the Jersey model.

Table 1.2 Features of the divergent Jersey model of policing.

	Honorary Police	States Police
Legitimacy	L'Assemblée Paroissale based on customary law and practice. Unpaid volunteers elected by parishioners swear an oath of office before the Royal Court	States of Jersey under the direct control of the Home Affairs Committee. Officers are employed by the state. Powers based on statutory law. Oath of office is sworn before the Royal Court
Structure	Decentralised 12 times – organised on a parish basis. Organisational expectations are more informal and not prescribed by written rules and regulations.	Operate on an Island-wide basis. Organised centrally but operates locally within the 12 parishes. Organisational and operational expectations relating to patterns and conditions of employment and performance management. Officers are expected to be professional and specialised.

Function	Maintenance of peace and social order in the parishes. Investigate minor crime. Centeniers conduct Parish Hall Enquiries and utilise power to offer bail and charge offenders to appear before the Magistrates Court.	Investigation of offences. Prevention and deterrence of crime. Police community according to policing plan.
Accountability	The Parish – parishioners and rate-payers (electors)	The States of Jersey (employers)

Conclusion

This opening chapter has ‘set the scene’ and described the multiplicity of features that need to be taken into account in the forthcoming analysis and discussion of a complex system.

The following chapter concentrates on the research methods employed to collect, analyse and present the data presented in this thesis.

CHAPTER TWO

RESEARCH STRATEGY, METHODS AND METHODOLOGIES

Introduction

This chapter describes both the methods and the methodologies employed in this thesis. In terms of methods, this chapter describes the data sources, how data was collected and how they were organized. In terms of methodologies, this chapter explains the different theoretical approaches used to make sense of a diverse set of data. The chapter comprises four main sections, namely research strategy, data collection, data analysis, and the observation study. Finally, a short section describes the research methods used to evaluate the victim offender mediation scheme presented in chapter seven.

Research Strategy

This chapter contributes to the essential goal of the thesis, to describe and evaluate the operation and effectiveness of the Parish Hall Enquiry system, by explaining where the investigation began, how it proceeded and how the information collected was interpreted. This necessitated a research strategy broad enough to encompass the multiplicities of a complex system. Such a challenge resulted in the use and adaptation of several research methodologies including: case study, observation, ethnography, evaluation and grounded theory.

Methodological pluralism

The task was to glean new information about the Parish Hall Enquiry using induction methods to move from individual cases to a wider understanding of the system. The use of multiple methods ensures that data from one source is used to illuminate another, thereby promoting reliability and validity (Schroeder1991). In order to access the data required to answer the research

questions, I developed a pluralistic research strategy comprising a combination of methods. The diverse range of data collected and analysed in this thesis supports the integration of quantitative and qualitative methods, and the combination of the exactness of the quantitative methods combined with the strength and depth of the qualitative responses provided a fuller understanding of the experience of the Parish Hall Enquiry than could have been achieved using a single method.

Research Timetable

The first stage in negotiating access to the parish hall enquiries was completed three years before the fieldwork began in 1999. Due to the sensitivity of the research, permission was sought of the Bailiff, Her Majesty's Attorney General, the Comité des Connétables and the President of the Home Affairs Committee by the Chief Probation Officer.

Once consent for the study had been granted and funding secured, a research timetable was formulated. I attended a three day course in advanced project management methodology and further one day training in the use of project management software. This training was provided by the States of Jersey through my employment as a manager at the Probation Service. The skills learned during the training were invaluable and assisted in the management of a large quantity of information associated with the research project. Management of the project itself was assisted using the Microsoft Project package which enables the user to plan and manage multiple related projects and allocate resources accordingly. Information was regularly updated and I reviewed my progress monthly and set new objectives accordingly.

Advisory panel

An early task was to form an advisory panel of people with key roles from relevant criminal justice agencies. This group comprised the Chief Probation Officer, the Chef des Comité des Chefs, the States Police Inspector with

responsibility for the Criminal Justice Unit and the Executive Officer of the funding body, namely the Crime and Community Safety strategy (latterly the Building a Safer Society strategy). Each member was invited to participate via personal letter explaining the rationale of the research and their role within it. The panel performed a number of functions, not least as facilitators, to explain and promote the research to relevant parties. The sensitivities of the research were acknowledged by the panel who agreed that every effort would be made to handle situations in an appropriate manner. I provided written progress reports to members of the panel on a six monthly basis and the panel met yearly until the conclusion of the research project. Appendix K presents an example of a progress report presented to Centeniers to disseminate information about the research and request further participation. In addition, I designed an information leaflet for research participants in order to provide information about the background, aims and sponsorship of the research (Appendix L (a) and (b) provides examples of these documents).

Data Collection

Case study approach

The over-arching research strategy for this thesis is based upon a case study approach which is not aligned with a particular data collection method. Multiple sources of evidence are an intrinsic feature of case studies (Yin 1994; Robson 1993; Hartley 1994). In this project, the case study approach was either cumulative, aggregating information from various enquiries collected on different occasions, or narrative, using research findings in a narrative format to describe events as they happened.

Case selection

Sample selection cannot be claimed to be entirely random (enquiries were selected solely according to availability across the parishes) however it is important to note that nor were the samples 'information-oriented' to

demonstrate extreme or untypical cases. When selecting the examples for this study, I was conscious of Crawford's description of 'butterfly-collecting' or, in other words, selecting the best specimens for display that are 'pretty' or 'exotic' that would serve to advocate a particular approach rather than challenge the potential negative effects (Crawford 2002). I cast a wide net to ensure that the examples presented offer an honest and realistic view of observed experience of the Parish Hall Enquiry and a faithful representation of participant perspectives.

A number of issues affected the selection of enquiries. Due to the individual nature of the parish process across the twelve parishes, I decided to interview Centeniers who were in post during the period of the fieldwork; this individual interview was to be matched with at least one observation of their parish hall practice. Logistically, this proved quite difficult; Centeniers are on duty for one week in every four (one week in ten in St Helier). Whereas availability for interview was unproblematic, access to 'matched' enquiries was difficult and not achieved in all cases. In St Helier, this was less problematic but in some of the rural parishes, where 'crime' is rare, 'official'³¹ enquiries are less frequent. I resolved this by telephoning parish secretaries, asking them to alert me to enquiries being held by particular Centeniers, either 'official' or otherwise. Attendance at other enquiries was dependent entirely on my availability to attend on a particular evening.

Literature, Policy and Law

An ongoing task was to conduct a review of relevant documentary sources. Data collection fell into one of two categories: historical information relating to the honorary system and the Parish Hall Enquiry and international research material

³¹ The term 'official' in these cases refers to enquiries that have been generated by the States Police. 'Unofficial' enquiries arise as a result of honorary officers informally 'warning' parishioners to attend the Parish Hall to deal with a particular matter that may or may not have been reported to the States Police. The States Police frown on this practice and it has been largely removed by the introduction of the memorandum of understanding, although anecdotal evidence may suggest otherwise.

relating to traditional, community justice, informal and restorative justice practice in other jurisdictions.

Documents offer a useful means of data triangulation, supplementing and helping to counteract the potential biases of alternative data sources. As Yin (1994) has argued, the most important use of documents in case studies is to corroborate and augment evidence from other sources. In this study, policy documents, namely guidelines for Centeniers produced by the Law Officers, constituted a useful (and time-saving) source of evidence of the priorities established by the Attorney General for use within enquires, and a benchmark against which the behaviours of Centeniers could be measured. Compliance with these procedures is considered in the next chapter.

As noted in the opening chapter of this thesis, historical information in the first category was not only extremely difficult to source but often challenging to interpret, either due to the use of Jersey Norman French or due to a lack of corroborative evidence. Research in the Jersey library yielded very few texts that were relevant to the operation of the honorary system. There was no specific text dedicated to the description of the honorary system; references were generally made about 'quaint custom' and general, non-attributed assumptions were evident about the origins of the parish system and the officials. In the private library of the Société Jersaise, I fared a little better and managed to locate a number of texts written in 'proper' French, which gave a more full description of the operation of honorary policing in the early nineteenth century (Le Cerf 1862). In addition, Records of Les Justices Itinerants from the fourteenth century and the Loi et Règlements Passes par les États de Jersey (1771-1850) proved a helpful starting place from which to develop the chronology of important events presented in the first chapter.

Research at the Jersey Archive Service revealed little of interest with the exception of a St Helier Police Committee minute book. It should be noted that

the Jersey Archive is a relatively new undertaking for the island and discussion with the archivist suggested that parish documents were slowly being lodged in the archive as confidence grew in the service. The general paucity of information in this area was not surprising; it is only in recent years that the islands practices have started to be formally documented. Notwithstanding, many areas remain open to detailed research, description and evaluation. The most useful pieces of information, however, came from the collections of private individuals who were prepared to share a wealth of hitherto unknown information. The most significant of these was from a retired Jurat. Allusions to his private collection were made to me by two or three Centeniers although none of them had actually seen it. Fortunately, this collection did exist and I was able to access a number of very early works, including Guizot (1886), which enabled me to note the existence of the role of Centenier in France as early as the ninth century. The second useful contributor was a local advocate who provided private training notes and a hand written nineteenth century commentary about the role of La Grande Coutume de Normandie.³² Information from the sources described above has been presented in the first chapter of this thesis. This narrative provides the unusual historical and social background from which to explore the role of the honorary service and the Parish Hall Enquiry system in a contemporary context.

The second category of international information was easier to access via University libraries, journal articles, conference papers and internet search engines. A major focus for this thesis has been the extent to which the personal communication which lies at the heart of the Enquiry process is or is not of the kind which is likely to have a positive impact on the future behaviour of offenders. To develop methods of addressing this I drew upon the growing criminological literature on 'what works' in communicating with and supervising

³² Thanks to Advocate R Morris, Legal Adviser

offenders (Antonowicz and Ross 1994; Roberts 1995; McIvor 1995; Gendreau 1996; Liddle 2001; Andrews and Bonta 1998; Dowden and Andrews 2004). This evidence-based approach to criminal justice has been one of the major international developments of the last two decades, and I have drawn on international research about ways of encouraging and reinforcing more pro-social attitudes and behaviour (Trotter 1996, 1999, 2000; Cherry 2005), and about ways of making it more likely that offenders will genuinely regret their actions and want to make amends in future (Braithwaite 1989). The review of this literature is threaded through the thesis where it assists in the development of exploratory frameworks to explain the parish hall system in the Jersey context.

Action Research

Action research is a theme within qualitative research rather than a specific method, which is underpinned by an applied approach that evaluates a social situation, precipitates change and monitors the results of that change. A key principle of action research is collaboration with stakeholders in the change process. Although this approach is appealing, it was not suitable to meet the initial aims and objectives of this study. However, as the research progressed, action research methods became impossible to avoid, most particularly during the consultation with Professor Rutherford noted in the opening chapter and subsequent States of Jersey debates about the Criminal Justice System.

Data Gathering and Analysis

Ethnographic Approach

Ethnography is a research method 'borrowed' from social anthropology where understanding of a particular phenomenon is generated through experience of living within it. Ethnographies are considered interpretive because they follow inductive strategies that work toward generating understandings, rather than deductive strategies that test particular theories. Ethnographies are naturalistic

because they study social life in its natural setting, and record behaviours and events as they happen, in context (Marshall and Rossman 1995; Denzin and Lincoln 2000). What distinguishes ethnography from other forms of qualitative research is a focus on understanding culture. The goal of ethnography is to describe and analyze the patterns of behaviour, customs, and ways of life that are locally experienced, and to develop a holistic portrait of a cultural group, which incorporates both the views of the actors in the group and the researcher's interpretation of those views (Cresswell 1998). Results from this type of research enable description and analysis of a particular culture from which theories of social life can be constructed (Denzin & Lincoln 2000). Sociologists have also used this method to disprove stereotypical assumptions about a particular social phenomenon. The use of participant observation is a key tool in the ethnographic approach and was used to a large extent in this study.

Indigenous Research

My role as an indigenous researcher was of fundamental importance to this research. The nature of Jersey society is personality based. When indigenous local people meet me for the first time, they tend to ask for a surname followed by the parish of residence. In the case of a married woman, they will say 'you were the girl...' to discover the maiden name. It is quite usual to be asked for the name and occupation of your father (never your mother). If you are a female of a 'certain age', they will ask for these details of your husband and you are often introduced as 'the girl Smith married to John Jones'. A number of supplementary questions will test whether you qualify as friend or foe. Consideration of this information then seems to contribute to a trustworthy/dodgy label.

I was very fortunate to pass the test at a number of points. Firstly as an employee of the Jersey Probation and After Care Service, I was considered to be trustworthy. The Jersey Probation Service has had a close working relationship with Centeniers since its inception in 1937. Secondly, as a 'local'

girl, I am well versed in local institutions, politics, culture and language including the use of written French and Norman French. Thirdly, I was trained as an officer of the impôts which afforded me a detailed knowledge of the Jersey criminal justice and legal systems including the customary practices of the honorary system and the Parish Hall Enquiry. This training also included investigative interviewing and intelligence management which proved valuable during the fieldwork stage of the research. Finally, and perhaps most importantly, I have a family connection to the honorary system in the guise of my father-in-law who served as a Centenier for over a decade in a suburban parish. The following example demonstrates the idiosyncrasies of indigenous research: A Centenier greeted me at the Parish Hall in Jèrriais (the local Norman-French patois) and asked if I would mind conducting the entire interview that way. My Jèrriais is insufficient to maintain a serious research interview so I replied thus:

(In English): My father-in-law warned me about you!

Centenier: Who is your father in law?

Tony Miles

Centenier: Of course! How is he?

Retirement is suiting him.

Centenier: Do you want some tea?

That would be lovely!

The interview started ten minutes later (in English) with chocolate biscuits.

An interview with the retired Jurat produced similar apprehension on his part. I was asked a number of probing questions about my parentage, schooling, husband's occupation and parish of residence. Once again, my husband's occupation and my father-in-law came to the rescue and I left the house with a number of documents on loan from the retired Jurat's private collection, a wealth of 'stories' about previous honorary service and most importantly, the oral history of the 'bâtons de justice', hitherto undocumented.

These four criteria had an important influence on the responses to this research. At the beginning, as previously indicated, I was usually 'vetted' by the interviewees themselves. As Centeniers became familiar with my presence, I needed to remember to explain my background and familiarity with the honorary system and the terminology associated with the parish the criminal justice system. Centeniers are very wary of bad publicity and were keen to know why I was conducting this research. I have worked with 'non-local' researchers who have struggled to access, understand and interpret local information and elicit useful responses from research participants (Imperial College of Medicine 2000; States of Jersey 2004).

Bias

There are advantages and disadvantages to operating as an indigenous researcher. The validity and credibility of qualitative research findings can be protected by a commitment to a reflexive, self-critical approach (Woolgar 1988). This stems from the constructionist philosophy that versions of 'facts' are constructed according to existing stereotypes, values and norms. Whereas in this study, cultural and procedural understanding is valuable because the system is already understood within a relevant context, I recognised my role in the research process as having a direct influence on the participants and that the interpretation of the data is influenced by personal perspective and bias. During the fieldwork period of the research, between 2001 and 2004, the political situation between the States and the honorary police forces became extremely sensitive. I was required to exercise a considerable degree of political shrewdness in order both to deflect unhelpful and irrelevant attacks on the honorary police and to present a balanced view of activities. At one point, I halted observations because the political agenda overshadowed other matters, not only for Centeniers, but also for some attendees who used enquiries to start conversations about the political situation and criticise the management of the States Police. In order to minimise the impact of bias, the supervision process

provided by the University and, to a certain extent, the steering group went some way to ensure that nothing was taken for granted and that assumptions were challenged appropriately.

Validity

Validity is a goal rather than a product; it is never something that can be proven or taken for granted (Maxwell 1996: 86).

Maxwell defines validity as 'the correctness or credibility of a description, conclusion, explanation, interpretation, or other sort of account' (1996: 87). I focused on two types of question or types of understanding: namely, descriptive questions, which aimed to ascertain the operation of the Parish Hall Enquiry; and interpretive questions, which focused on the perceptions, feelings and attitudes of people towards the system.

Attempts were made to maximise the validity of description and interpretation. Interviews were not tape-recorded due to evidence of apprehension on the part of participants and the resources required for the transcription of a large quantity of information. Comprehensive contemporaneous notes and shorthand were taken during all interviews and fully written up within 24 hours of the completion of the interview. The absence of a verbatim record poses a threat to descriptive validity due to memory erosion. I attempted to overcome this by fully writing up notes and clarification with other interviewees in cases of doubt.

Open questions were asked to address the specific areas of interest with the overall framework of a focused interview, with the aim of maximising interpretive validity. The assurance of anonymity (as far as that can be anonymity can be achieved in Jersey) is also method of ensuring validity. There are some examples that have had to be omitted from this study in order to protect the anonymity of interviewees.

Another way in which descriptive validity was maximised was by means of the use of multiple sources of evidence, or 'data triangulation' (Denzin 1978). The term 'triangulation' is borrowed from navigation where it refers to the practice of establishing an exact position through the collection of multiple measurements. One of the advantages of using triangulation as a part of a multi-method research design is that it allows for greater confidence in the research findings than when a single method is used. As Yin has observed, 'any finding or conclusion in a case study is likely to be much more convincing and accurate if it is based on several different sources of information, following a corroboratory mode' (Yin 1994: 92). McIvor (1992) used triangulation as part of a mixed method design to evaluate the implementation of community service orders. She analysed data from case files and court reports and used questionnaires and interviews to establish the relationship between the schemes and offenders.

Observational Method and Methodologies

This section of the chapter presents the methods and methodology of the structured observational study, which was conducted during fifty one parish hall enquiries. Once permission was granted by all parties I was permitted to observe enquiries according to the discretion of the individual Centenier and the participants, and if, at any time, any party objected, I was to leave the room. In practice, this never happened, although on two occasions, I removed myself from enquiries due to personal friendships with two of the attendees.

I designed an observation schedule to assess a large number of static and dynamic factors about the conduct of the enquiry and the behaviour of the attendees. Biographical information was gathered from DAISy (data analysis and information system), the Jersey Probation and Aftercare Service Information System which manages the throughput of the enquiry system for youths. In the

case of adult attendees, this information was gathered from the handwritten police reports provided to the Centenier by the States Police.

The pilot observation schedule was divided into twelve sections, each with components designed to elicit particular information about the parish hall process. In order to assess areas of procedural justice, reintegrative shaming and restorative justice, this schedule was adapted from the observation schedule used to conduct the Reintegrative Shaming Experiments (RISE) in Canberra, Australia. The purpose of the RISE project was to apply evidence-based methods to the paradigm of restorative community policing. The process and results from this experiment are interesting because they provide a practical application of Braithwaite's (1989) theory of reintegrative shaming that does not exist elsewhere. This has relevance to the Jersey context where high levels of reintegrative shaming seem to be in operation across the system of honorary service. A further benefit of the adaptation of an existing measure is that it would permit useful international comparison at a later stage and also provide a benchmark for future observation within the Jersey Court system. The observation schedule used by RISE had already showed itself to be a robust and sufficiently sensitive measure of relevant factors and the reliability of these concepts in conferences has been widely noted (See Sherman, Strang et al. 1999; Harris and Burton 1997; Sherman, Strang et al. 2005; Strang, Sherman et al. 2006; Tyler et al. 2005). The RISE team focused on nine psychological mechanisms to assess the effectiveness of the court or conference process on recidivism. Observers at each conference or court hearing recorded on a Likert scale the level at which each mechanism was operation. I refined the indicators and scale to reflect the needs of this study. Examples of these indicators are provided in the form of case extracts in chapters six, seven and eight. The nine mechanisms under investigation are detailed below:

Emotional Intensity

Observers rated the emotional power of the description of the offence together with the engagement and responsiveness of the offender. They were also asked to record the degree of discomfort experienced by the offender and the extent to which offenders were threatened with violence or otherwise. In my study, I recorded the intensity of the description of the consequences of the offence by the Centenier and used defensive body language such as folded arms and inverted posture together with stammering and crying as a measure of discomfort with the process.

Procedural Justice

The RISE researchers examined correctability and process control through measuring the percentage of time an offender was permitted to talk during the process and the extent to which an offender was permitted to contribute to the disposition. A further scale addressed levels of coercion of the offender by either the magistrate or the facilitator. In this study, coercion was measured by observing the language used by the Centenier to encourage compliance with a particular decision.

Restorative Justice

The RISE team recorded five measures of restorative justice: the amount of discussion of the consequence of the offenders' actions, the type of offence and the extent to which reparation to both the victim and the community was discussed. Overall measures of restorative justice were also considered. This study adopted a similar approach with emphasis on the level to which restoration focused upon the parish where the alleged offence was committed rather than the wider island community.

Retributive Justice

The RISE research measured the operation of retributive justice according to principles of punishment, repayment to both the community and the victim. Additionally, the restoration of an offender's honour or self-esteem. Case extracts in this study illustrate the type of language and behaviour used by Centeniers to assess this dimension (for example: case extracts 24 to 27 in the fifth chapter). I also assessed which principle; either retributive or restorative was used by the Centenier in determining the outcome of each enquiry.

Reintegrative Shaming

Measures of reintegrative shaming include the level to which there is disapproval towards the offence itself and the offenders' actions. Levels of respect, support and love shown towards the offender by supporters were also considered together with a measure of how the offender was encouraged to put their actions behind them and 'move on'. Examples of indicators of reintegrative shaming in enquiries are included in case extracts in chapters seven and eight.

Stigmatising Shaming

For the purposes of the RISE experiment, stigmatic shaming was defined as disapproving of the criminal act but also treating the offender as a criminal. This variety of shaming communicates disapproval in a humiliating and degrading fashion. Indicators were devised to measure the extent to which this was happening in both court and conference settings. Researchers assessed the level of disapproval in the offender as a person, the level of stigmatising names and labels applied to the offender, the level of lecturing and moralising subjected and the extent to which the offenders was treated as 'criminal'. I applied a similar framework to this study and outlined a set of behaviours that would fulfil the criteria for each sub-category. Examples and case extracts are presented in chapter eight.

Defiance

The RISE team used three measures to ascertain the levels of defiance observed in the court and conference environment: the extent to which an offender behaves in a defiant manner, the degree to which an offender holds other people responsible for their actions and the extent to which an offender is sullen or unresponsive during the process. This study used identical measures. Indicators of defiance included arguing with the Centenier, blaming co-defendants and parents for outcomes. Levels of grunting, shoulder shrugging and looking out of the window were used as indicators of the level of sullenness and unresponsive attitudes. These behaviours were particularly easy to observe in teenaged attendees.

Apology

Maxwell and Morris (1993) concluded that in Family Group Conferences the minority of offenders who failed to apologise were three times more likely to re-offend than those who had made some form of apology for their behaviour. The RISE experiment identified measures to observe the extent to which an offender apologised: the extent to which the offender accepts having done wrong, the extent to which an offender was sorry or remorseful for their actions and the percentage of offenders who apologised. The form of apology was also noted: verbal, handshake, hug, pat on the back, kiss or another physical gesture. As with previous measures, I used similar criteria although I refined the indicator of sorrow and remorse to assess the level at which an attendee *appeared* to be sorry or remorseful. Whilst some attendees articulated their apology in earnest, in some cases, sincerity was lacking or completely absent.

Forgiveness

A similar structure to that of apology was used by RISE observers to recognise indicators of forgiveness: the amount of forgiveness expressed towards the offender, the degree to which actions are forgiven and the percentage of offenders who received forgiveness. Examples of the operation of forgiveness in this study are presented in the case studies in chapter eight.

A preliminary schedule comprising the elements listed above was piloted over five enquiry sessions. This piloting stage proved very helpful and I was able to refine the tool, discarding some components that proved of little value. Most importantly, the piloting phase revealed an area that had not been addressed by the observation schedule. During these pilot observations, it became clear to me that another important behavioural aspect was in operation that was not included in the measures of restoration or reintegration. Pro-social modelling behaviours were prominent in enquiries and a further section was added to the schedule to measure the level to which the Centenier demonstrated these. In addition a section was added to measure any additional problems encountered by participants that were acknowledged by the Centenier.

Each section defined behaviour categories to be recorded prior to commencing the main observational sessions. The schedule combines nominal, ordinal and scale data according to individual components. A system of open coding, as described by Cresswell (1998), was employed to categorise the data. During the open coding stage, five categories were developed based upon the predominant themes emerging from the data. These categories are restorative justice, reintegrative shaming, pro-social modelling, procedural fairness and participatory justice. Each of the open codes was further broken down into the indicators that defined a particular behaviour.

For example: indicators of a pro-social modelling approach seek evidence that:

- the attendee is addressed by his/her correct name;
- the Centenier is on time;
- the Centenier uses communication skills to develop some empathy with the attendee;
- the Centenier is optimistic that the attendee can learn from the experience and change behaviour in the future;
- the Centenier is positive;
- the Centenier is clear about the alleged offence and that the consequence of breaking the law discussed;
- the Centenier challenges anti-social attitudes;
- the Centenier uses praise for positive behaviour;
- the Centenier presents as a pro-social role model.

These indicators are more fully explained in the case extract examples presented in chapter five.

The consistency and reliability of my coding of data was assessed during five enquiries by my supervisor at the beginning of the fieldwork phase of the research. We both observed the same enquiries and individually rated the sections and then compared schedules and discussed our conclusions. Inter-observer reliability was considered to be high with sound agreement between the separate observations. It is acknowledged that in some of the fifty one structured observations there may have been human error in failing to observe aspects of a particular behaviour. This potential difficulty was minimised by using a specific and unambiguous rating scale. For the behavioural observation, either a 'yes' or 'no' response, or a simple Likert scale is used to rate the behaviour. Each component was given a different definition according to the observed behaviour (the observation schedule is reproduced in Appendix F).

Participant Observation

Participant observation is a fluid term used to describe a number of research methods. In this study, it implies data collection through the course of everyday social interaction with as many stakeholders as possible, concerned with the Parish Hall Enquiry System. A minority of the data was gathered as a total participant, usually whilst representing the Jersey Probation and After Care Service. When employed in this role, the professional function took priority over an observational role. On other occasions, I was a total observer, scrutinising the process from a chair squeezed wherever there was available space. It is acknowledged that the presence of the researcher, whether as a total participant or as an observer, may have an effect on the behaviour of those present. Another potential drawback to participant observation is desensitisation where the researcher is so familiar with the context of the research that behaviour is expected and therefore overlooked or ignored.

Participant reactivity

Participant reactivity has been noted in a number of research studies. Zegoib, Arnold and Forehand (1975) demonstrated that mothers under observation tended to show a higher level of interaction, patience and warmth with their children. Gittelsohn et. al. (1997) discovered higher levels of reactivity during the early stages of their research which settled following multiple observations. They conclude that reactivity can be controlled by repeat observations in order to enhance internal validity. In this study, multiple observations were possible in some cases of deferred decisions. A social facilitation effect was noticed on a few occasions and there was an element of artificiality in some of the observations, more usually when parents were trying to portray their children in a positive light. This was usually challenged by Centeniers or the Probation representative.

Participant reactivity and researcher effect was particularly noticed **within** parishes when Centeniers were interviewed weeks and even months apart. Often the Centeniers had discussed the content of the interview amongst themselves. This had some effect on future interviews. One Centenier said, “actually, I wouldn’t have done that before but we have talked about it and now I do”. Another was particularly proud that he would have prosecuted but could now see the value in keeping the case at parish hall. At the beginning of one interview, following the introductions and before the first question, the Centenier said “I’m definitely a ‘hostage of the community’, most definitely”, a term taken from Christie (1982) that I had used to formulate a question to elicit information from Centeniers about their close proximity to their parishioners in an attempt to assess any potential for corruptibility.

Results

The results of the observational study were entered into a SPSS dataset and analysed using cross tabulation features of the package. Results are presented in this format at key points throughout this thesis. Although humanist and phenomenologist perspectives might criticise this methodology for being rigid and lacking depth, behaviour was reduced to more simple units of behaviour to facilitate measurement and classification.

The following sections of this chapter describe a more ‘holistic’ view to the gathering of data using methods that complement the observational study.

Interview And Case Study Approach

Techniques associated with a grounded theory approach (note-taking, coding, memoing, sorting and writing) were used to underpin participant interviews. This is a general research method developed in sociology usually associated with Glaser and Strauss (1967). This approach uses constant comparison to identify themes and variables, from which theoretical perspectives arise. Glaser and Strauss however are clear that such an approach is not an appropriate method for accurate description and that the descriptive parts of grounded

theory serve to illustrate concepts. A grounded theory approach was important at the outset of this research because it does not involve hypothesis testing. The constant emergence of new information after each interview continued until saturation point was achieved.

The grounded theory approach did not work so well in this study in the area of literature review. Glaser and Strauss caution against background reading that may influence the coding of data. The literature review undertaken for this study was not conducted in isolation, rather it was an ongoing task throughout the study period, and I expanded the review accordingly as literature became relevant to the themes emerging from the interview and observation work. Constant comparison remained a core process and the literature in itself became data. Often, theories emerged from the interviews and observations that had no comparison in the literature.

A total of ninety four participants were interviewed for this study (Table 2.1).

Table 2.1 List of Interviewees

Role	n
Centeniers	48
States of Jersey Police Officers	10
Police Legal Advisor	1
Magistrate	1
Jurat	1
Honorary Police Liaison Officer	1
Director of Home Affairs	1
Minister for Home Affairs	1
Executive Officer – Home Affairs	1
Deputy Agent of the Impôts	1

Educational Welfare Officer	1
Chief Probation Officer	1
Probation Staff	5
Restorative Justice Officer	1
Attendees at Parish Hall Enquiry	20
Total	94

The initial response to written requests for interview by attendees at enquiries was disappointing. In order to increase the number of adult attendees at parish hall, three hundred leaflets requesting interview were included with Notices of Intended Prosecution during the spring of 2003. This also elicited a very poor response from attendees, with only ten respondents. This may suggest that attendees are satisfied with their experience at the Parish Hall, or at least do not have strong views which they are motivated to share with a researcher. Information from the Office of Her Majesty's Attorney General would suggest that very few complaints are received. In an attempt to further extend the sample, I also distributed leaflets at Parish Halls and placed requests for interview on the States of Jersey intranet site. This elicited a further ten responses. The findings concerning attendees' views presented throughout this thesis are based on face to face interviews with ten respondents, telephone conversations with a further ten attendees and informal conversations with attendees before and after enquiries. Of these responses, all but one provided similar experiences of satisfaction. This poor response for research participation is not untypical of Jersey and researchers in other areas encounter similar problems in attracting research subjects. An explanation of the reasons for this apparent lack of interest is not within the remit of this research but could nonetheless prove interesting.

Interview schedule

Piloting of interview schedules

I conducted five pilot interviews with Chefs de Police in February 2002. The purpose of pilot interviews was to test out and refine specific questions with a view to maximising the validity of interpretation (Maxwell 1996). The piloting of schedules indicated that a number of draft questions added little value to data collection; piloting also generated a number of more useful alternatives. The experience also drew my attention to the importance of explaining as clearly as possible the purposes of the research: particularly in making it clear that I would not be making recommendations about what should happen, but rather trying to establish how the enquiry system operated and to assess the range of attitudes towards it.

Interviews lasted between forty five minutes and two and a half hours and were mainly conducted on a one-to-one basis. (In two cases, the States of Jersey Police requested chaperones.) In order to encourage conversation and facilitate discussion, questions were loosely ordered into a list of areas to be covered in no particular order. This semi-structured approach drew out a considerable amount of information about diverse aspects of the honorary system. In order to put participants at ease, I conducted the majority of interviews at a time and venue chosen by the interviewee. The Centenier is the main player in the Parish Hall Enquiry system. The Chefs de Police (the senior Centeniers) were the first to be interviewed in order to compare and evaluate levels of commonality and variance within parishes of the perceived role and function of the honorary police and the operation of parish hall enquiries within their respective parishes. At least three Centeniers were interviewed from each of the parishes (Table 2.2).

Table 2.2
Number of Centeniers Interviewed According to Parish

Parish	n
Grouville	4
St Brelade	4
St Clement	4
St Helier	6
St John	3
St Lawrence	5
St Martin	3
St Mary	4
St Ouen	3
St Peter	4
St Saviour	5
Trinity	3
Total	48

Lasting between one and a half and two hours, each interview gathered qualitative information and biographical data. The interviews were semi-structured around a set of key themes including:

- The role of the Centenier within the parish in the maintenance of peace and social order
- The exercise of discretion in decision making
- The relationship with other key players in the Parish Hall Enquiry system
- The identification of challenges to the practice of being a Centenier and to the Parish Hall Enquiry System

A combination of contemporaneous and subsequent note-taking was used to record the interviews. Most interviewees seemed comfortable answering the varied questions about their experience of the Parish Hall Enquiry. Most

Centeniers had not been asked before and were happy to share their experience. Some were brutally honest and open.

As noted above, a small number of organisations with an influential stake in criminal justice had been identified: namely, the States Police, Customs and Excise, the Home Affairs Department, the Law Officers, the Magistrates and the Probation and After Care Service. The collection of data in relation to these stakeholder groups was essentially qualitative, reflecting a desire to access their particular experiences and perceptions of various aspects of the Parish Hall Enquiry. It was therefore decided to endeavour to conduct focused interviews with relevant individuals which would be tailored to their specific areas of expertise. Given limited resources, I restricted my contact with these agencies to one or two key individuals who would have experience of the Parish Hall Enquiry. With the exception of the Chief Probation Officer, this proved surprisingly difficult; most of the other interviewees in an external department had not actually experienced an enquiry. Two exceptions to this were police officers who had attended in a private capacity as either an alleged offender or as a parent.

Interviews were, as intended, tailored to the specific areas of expertise of interviewees. The States Police guide focused on their unique perspective on the role of the Centenier to charge and the role of the parish Hall Enquiry system as an instrument for the administration of justice. The Magistrate's guide concentrated upon the impact of the enquiry system on the business of the Court and the Law Officers' upon the history and development of the guidelines on the decision to prosecute and the conduct of parish hall enquiries.

In respect of Patton's (1990) typology of qualitative interviews, the majority fell somewhere between the general interview guide approach and the standardized, open-ended interview. Whilst questions were in most cases carefully worded and followed a logical sequence, the arranged format was not

always followed religiously. For example, questions aimed to ascertain procedural detail generally became redundant within the same parish after a number of interviews which converged on the same account and were not repeated for the sake of following a standardized format. This degree of standardization did not prevent me from probing in some depth when a particularly interesting or unusual response to a standardized question was elicited or from asking for specific examples of Centeniers' practice. I also took the opportunity to enrich the data by concluding every interview by asking interviewees the 'magic wand' question: If you had a magic wand and could change anything, what would the Parish Hall Enquiry system be like?

Quantitative Research Methods

The collection and collation of relevant statistics quoted in this study necessitated a quantitative approach to data manipulation. The main body of quantitative information is presented in the following chapter. Rutherford and Jameson (2002) noted the lack of a comprehensive set of criminal justice statistics in Jersey.

It is extraordinary that a small and prosperous Island has lagged so far behind most jurisdictions with respect to information systems across the policy terrain (2002:94)

Statistics presented in the following chapter then can only represent what is known about young people under the age of 18 attending 'official' enquiries. The data that *are* available from the information systems of the Jersey Probation and After Care Service are considered to be sophisticated, robust and reliable (HMI Inspection Report 2005). Unusually for Jersey, the data collection, collation and manipulation methods were designed specifically to provide management information and performance reporting against standards. I developed the design of these systems as part of my role as Research and Information Manager and I was fortunate to be able to further develop the system to

incorporate the necessary requirements for this study. This information has also been used throughout the thesis for triangulation purposes.

The Evaluation of the Victim Offender Mediation Scheme

This final section outlines the evaluation of the Victim Offender Mediation scheme which in practice is fed by the Parish Hall Enquiry System. This information was gathered using questionnaires furnished to every participant in the scheme during the first 18 months of operation. I designed separate questionnaires for victims, offenders and other participants in the conference process. These were distributed by the restorative justice officer at the conclusion of the conference addressed to me in my capacity as the Research and Information Manager at the Probation Service. The initial response rate for these questionnaires was 70% which rose to 100% because I followed up nil responses with a telephone call. On three occasions where basic skills were found to be a problem, assistance was given in the completion of the form. The structure of the questionnaire was based upon Home Office research instruments used by Miers et al (2001) and adapted accordingly to the Jersey context. As with the adaptation of the RISE questionnaire, this would provide opportunities for international comparison should the need occur at a future date. In addition to questionnaire data, I observed two restorative justice conferences in their entirety followed by individual interviews with participants and victims. Detailed analysis of this information has been presented in chapter five. Examples of interview guides and initial contact with victims are included in appendices I and J respectively.

Conclusion

Evaluation is primarily concerned with determining the merit, worth or value of an established policy or planned intervention (Clarke 2000:3).

Evaluation is a type of policy research, designed to assist future decision making. Evaluation does not aim to replace decision makers' experience and judgement, but rather offers systematic evidence that informs experience and judgement. Evaluation strives for impartiality and fairness. At its best, it seeks to represent the range of perspectives of those who have a stake in the system (Weiss, 1972). This aspect became particularly relevant to this research as time progressed. At the beginning of the research period, evidence about the operation of the Parish Hall Enquiry was anecdotal. A state police led agenda suggested that the system was defunct and unfit for purpose. Early findings, developed using evaluative techniques were able to provide, for the first time, empirical evidence about the effectiveness of the system.

This chapter has described the mixed methods used throughout the study to describe and evaluate the role of the Parish Hall Enquiry system. The following chapters of the thesis will describe and illustrate the system in greater depth, presenting results and findings achieved through this multi-modal approach to knowledge construction.

CHAPTER THREE

THE PARISH HALL ENQUIRY

Introduction

This chapter describes the Parish Hall Enquiry itself: its history, procedures and powers; the options available to it in dealing with different offences; and the role of the key players in the process, particularly that of the main protagonist, the Centenier. The chapter also includes a short illustrative case study of a typical Enquiry and extracts from case examples.

Is it a bird, is it a plane? - A problem of definition.

Parish Hall Enquiry refers to the process of preliminary investigation conducted by a Centenier to ascertain whether there is sufficient evidence to suggest that an offence has been committed and whether or not it is in the public interest to prosecute the alleged offender for that offence. In all but the most serious offences³³, offenders will be invited to attend at a Parish Hall Enquiry to have the circumstances of the offences reviewed by the Centenier. The Parish Hall Enquiry has no legal definition and it is *not* a Court. Enquiries are usually held in the evening, attendance is voluntary and the attendee can at any time request that the case be heard before the Magistrate. If a person warned to attend at Parish Hall Enquiry does not attend, the Centenier may choose to issue a summons to appear before the Magistrate unless the offence is considered to be so trivial as to be a waste of court time.

The precise origins of the Parish Hall Enquiry are unclear. The term 'Parish Hall Enquiry' is a misnomer in that enquiries made by the Centenier can be made anywhere within the boundaries of the Parish and at a 'designated place'

³³ For example: serious offences of violence, drug importation and supply

prescribed by Law³⁴. 'Parish Hall' enquiries may be conducted on the roadside or in parishioners' homes. Reference to the Parish Halls came only after their respective construction in the late 19th and early 20th centuries, when alleged offenders would be warned to attend the Parish Hall to see the Centenier on the same night as the alleged offence took place.

Until the mid nineteenth century the process of dealing with offenders at parish level within the community was not considered to be unusual nor undesirable. As mentioned briefly in the opening chapter, the Royal Commissioners sought to erode the power of the parish and recommended the introduction of centralised control mechanisms. Raising questions about the propriety of a system with no legal framework, they called for the abolition of all honorary policing functions including the Centenier's Enquiry. Contrasting the honorary systems with their own professional processes led them to suggest that informal structures were riddled with partiality and bias.

Later reports acknowledged the primacy of the parish. These reports do not consider Jersey in terms of a single island-wide community, rather twelve separate 'bubbles of governance' (Shearing 2001); each having considerable discretion to shape and control the events that take place within parish boundaries. Following successive failures to implement recommendations, the authors of the later reports would have been acutely aware of the need to situate potential reforms within a framework that fitted within the honorary traditions. If not, as Kelleher so aptly puts it, the country would 'triumph' and anything that threatened the sacred institution of honorary service would be rejected by the powerful rural bloc (Kelleher 1994).

Since 1934, the reports differ in that they have mostly been commissioned as a response to concerns raised by the States' Police to successive Defence

³⁴ Police (Jersey) Law 1974 'designated place' refers to the States' Police Station

Committees³⁵, prompted by biennial inspections conducted by English Inspectors of Constabulary who may have neither understood nor appreciated the finer points of the honorary systems. These concerns seem to be based upon the operational difficulties presented by the existence of 13 police forces co-existing within a 45 square mile area. The potential benefits of community involvement in dispute resolution were not considered.

The private, informal nature of the Parish Hall Enquiry has changed little since its evolution in medieval times. Despite reports and recommendations for reform, the Parish Hall Enquiry continued along traditional lines. The process neither affected, nor had been affected by social change in any tangible sense. The fact that it had no definition in law or clear role vis a vis court diversion did not seem to be of great importance.

Current Parish Hall Enquiry Practice

Following the Clothier One report in 1996, Guidance Notes for Centeniers at Parish Hall Enquiries were prepared by the Attorney General (See Appendix C). An analysis of adherence to this guidance is provided in the penultimate chapter of this thesis. The Guidance Notes state that the purpose of the Enquiry is for the Centenier to decide:

- I. Whether there is sufficient evidence to justify a charge
- II. If so, whether it is in the public interest to prosecute or whether the matter can be dealt with in some other way at the Enquiry; and
- III. If the matter is to be dealt with at the Enquiry, the appropriate method of disposal.

The Enquiry is not a judicial process. It constitutes a private hearing and it is a matter for the discretion of the Centenier as to whether an attendee may be accompanied by any other person. The results are not published in the widely

³⁵ The political body responsible for the provision of paid policing services

read local newspaper or reported in the frequent local radio and television broadcasts. The Criminal Justice Unit at States' Police Headquarters records the outcome of the Enquiry by facsimile following the enquiry. These outcomes are recorded by the unit for administrative purposes. Outcomes do not constitute criminal convictions and information about alleged offences is not passed to the police national computer. Outcomes are regarded as a 'Parish Hall Sanction'. This record of sanctions can be produced at subsequent Enquiries and Court appearances within the Island. There is no requirement to declare these sanctions on job applications or visa requests. The Rehabilitation of Offenders (Jersey) Law does not apply to sanctions meted at Parish Hall because they are not recognised as criminal convictions.

Most cases appear before the Centenier on a reference from the States of Jersey Police but other Honorary Officers of the parish, Customs and Excise Officers, Agriculture and Fisheries Officials and Education Welfare Officers and even members of the public can refer alleged offenders to the Centenier for Enquiry.

Duties of the Centenier at Parish Hall Enquiry

The Centenier is required to consider the facts of each case and decide whether or not it is in the public interest to prosecute the offender. The Centenier outlines the facts of the case as they have been presented and the attendee is asked whether or not he/she agrees with their interpretation. If the attendee does not agree that the facts of the case are an accurate representation of the incident, the Centenier is required to formally charge the attendee and remand the case to the Magistrate's Court for trial. The Centenier is not empowered to decide guilt. In arriving at a decision, the Centenier is to have regard to the guidelines issued by the Attorney General contained in the Guidance Notes for Centeniers and the Code on the Decision to Prosecute. (Appendices C and D respectively)

Observation of the process of Parish Hall Enquiries would suggest that in usual circumstances, every attempt is made to prevent the attendee from entering the formal system (unless of course, they wish to do so). The Parish Hall Enquiry is a participatory forum and there is much negotiation between participants about the circumstances of the offence and the appropriate sanction. The Centenier has a number of options available:

No further action: the Centenier may offer 'words of advice' to the attendee and no further action is taken regarding the offence. There is often an element of reparation or restoration attached including letters of apology or compensation to a victim. The Centenier is not empowered to order compensation, simply request it.³⁶

Written Caution: the Centenier may issue a written caution as an alternative to prosecution when, with reference to the Code on the Decision to Prosecute, it is decided that it is not in the public interest to bring a charge.

Financial penalties: where the offence is admitted, the Centenier may impose fines, with the consent of the attendee up to £100 for certain statutory offences.

Voluntary Supervision: the Centenier may invite attendees to place themselves under the supervision of either the Probation Service or the Alcohol and Drug Service on a voluntary basis. This may involve drug and alcohol education, victim awareness, restorative justice initiatives, employment and training support, bereavement counselling as well as a programme of intervention designed to prevent further offending. If the attendee breaches this voluntary contract, either by failing to comply with the requirements or by re-offending, the Centenier may decide to prosecute.

³⁶ The Centenier has no role in the administration of civil justice between an alleged offender and a victim. The Centenier is limited to taking into account the offer of compensation in reaching his decision about a particular sanction.

The Pitstop scheme: the Centenier may use this scheme for young people who have committed a motorcycle motoring offence. The scheme aims to teach young people to ride motorcycles safely and responsibly. Successful completion of this scheme usually results in a written caution as an alternative to prosecution.³⁷

Deferred decision: the Centenier may defer the decision to prosecute to a later date. The attendee is invited to enter into a voluntary contract with the Centenier to stay out of further trouble for a fixed period of time. The Centenier may also recommend other elements such as a curfew or reparation to the victim. At the conclusion of the deferment period, the Centenier is required to make a decision as to whether prosecution is appropriate. He may use the behaviour demonstrated by the attendee during the deferment period to inform this decision.

Charge and bail for a Court appearance: the most important power that a Centenier has is to formally charge and bail an attendee to appear before the Magistrate in the relevant Court. Unlike the position in other jurisdictions, the States of Jersey Police do not have this power.³⁸

It is important to appreciate that all the above options, except the last, are consensual i.e. they can only be adopted with the agreement of the attendee. It is equally important to realise that the Attorney General reserves the right to bring prosecutions directly and also has the statutory power to direct a Centenier to bring a charge where for whatever reason the Centenier had chosen not to prosecute.

³⁷ 'Pitstop' closed in 2005 when it was replaced by a new scheme run by the Youth Action Team. The key difference with the new scheme is that it is accessible to all young people and not solely for young offenders.

³⁸ Ref Article 3(2) Police Force(Jersey) Law 1974

The process and informality of a typical Parish Hall Enquiry for a motoring offence is best illustrated by means of an example: Box two describes a typical parish hall hearing for a motoring offence.

Box Two

Circumstances of the offences

An inexperienced driver, late at night, misjudged a corner and crashed into a wall causing considerable damage. Uninjured, but shaken by the incident, the driver allowed a passenger in the car to reverse the vehicle and drive home. A witness to the accident reported the registration number to the States' Police who invited the driver to attend the States' Police Station the following day with driving licence and insurance documents. During interview, the Police Constable gathered sufficient evidence to report the driver for the following offences:

Driving without due care and attention,
Permitting a person with no insurance to drive a motor vehicle,
Failing to stop and report an accident.

After interview the driver was invited to attend a Parish Hall Enquiry in the parish where the offences occurred.

Process and Outcome

The paperwork was processed by the States' Police and passed to the Duty Centenier. The recommendation from the States' Police was that the driver should be charged with all the reported offences and that the passenger should be similarly charged with driving without insurance and failing to stop and report an accident.

The driver was accompanied to the Enquiry by a parent, the passenger and the passenger's mother. The driver was visibly anxious and upset and expressed considerable remorse. The driver accepted travelling too fast to safely round the corner. The driver and the passenger apologised for their careless actions. The

driver and the parent also explained that they had visited the victim to apologise and offer to repair the damage. The Centenier had verified this information. Similarly, the passenger accepted that in the heat of the moment, he had panicked. He knew he wasn't insured to drive the car but felt that the driver was so shocked he just wanted to get home as soon as possible. Both apologised for leaving the scene without contacting the Police.

The Centenier was sympathetic to the circumstances:

"I know that bend, and it is awful. I am just glad that neither of you were hurt. I am very pleased that you have sorted out the wall with [the victim]. Well done for doing that. The Police recommend that I charge you for court, but I don't really want to do that. You have learned your lesson the hard way. If you are prepared to accept a written caution, I am happy to deal with it here and that will be the end of it. You can put it all behind you now and stop worrying."

Apart from the attention to the details of the offences, the Centenier was also interested in the circumstances of the attendees. As the cautions were written, the Centenier chatted comfortably about places of work, achievements etc.

Centenier: "I see you are working for [xx]. That's a good job, are you doing the Certificate in [xx]?"

Driver: "Yes, I'm at college, two nights a week. It's a good course, hard, but it will be worth it."

Centenier: "Good for you. Keep it up".

[Pause]

Centenier: "Right, that's it then. Pin that in a prominent place [the caution slip]. All done now. In the nicest possible way, I hope I never see you again!"

The Centenier shook hands with all present and wished them well.

THE ROLE OF A CENTENIER

This section of the chapter is based on the interviews carried out with a number of Centeniers. It discusses their views about their role in Parish Hall Enquiries. In particular, there is an exploration of their views about the usefulness of local knowledge, the use of discretion, and the opportunities presented by the potential flexibility of the Enquiry process.

Biographical Information

The stereotypical picture of a Centenier is that of a middle-aged male, Jersey-born, dyed-in-the-wool farmer with a long family tradition of honorary service. The following biographical information gathered from interviews with Centeniers suggests that a 21st Century Centenier is somewhat different!

Table 3.1
Biographical Data

	Frequency	Percent
Born in Jersey	17	35
Raised in Jersey	20	42
Female	3	6
Aged Over 50	26	54
Previous Honorary Service as Vingtenier or Constable's Officer	43	90
Entered Honorary Police directly as Centenier	5	10
Family Tradition of Honorary Service	15	31
Employed by Employer	14	29
Self-Employed	25	52
Retired	9	19

Table 3.1 shows that 35% of Centeniers interviewed were Jersey born with 42% being raised in Jersey. Whereas 90% of interviewees had served previously as either a Vingtenier or a Constable's Officer, only 31% stated that they had a family tradition of honorary service. Very few officers entered directly as a

Centenier with no previous exposure to parish policing (10%). 25 Centeniers (52%) were self-employed in a variety of occupations:

**Table 3.2
Occupation of Self-Employed Centeniers**

	n
Agriculture/Horticulture	4
Civil Emergency Management	1
Construction Trade	6
Estate Agent/Landlord	2
Firearms Dealer	1
Finance	5
Notary Public	1
Property Developer	2
Quantity Surveyor	1
Taxi Driver	1
Wildlife Management Consultant	1

A further 9 (19%) of Centeniers were retired, once again from a variety of occupations:

**Table 3.3
Previous Occupation of Retired Centeniers**

	n
Airline Pilot	2
Compliance Manager	1
Prison Officer	1
English Solicitor	1
School Teacher	2
Air Traffic Controller	1
Banker	1

The remaining 14 Centeniers (30%) interviewed were employed by an employer:

Table 3.4
Occupation of Centeniers Employed by an Employer

	n
Compliance Management	1
Banking	3
Nursing	1
Civil Service	2
Caretaking	1
Conveyancing	1
Residential Home Management	1
Trade Union Organisation	1
IT Management	1
Trust and Company Management	2

It is worth noting that over half (57%) of Centeniers employed by an employer are working in the finance industry, mainly in compliance, trust and general banking.

Centeniers and Discretion in the Parish Hall Enquiry

If the Connétables are the fathers of the parish, the Centeniers are the uncles (Centenier – suburban parish).

All Centeniers reported that their desire to serve the community prompted them to join the honorary police. There is an important distinction to make here between ‘community’ and ‘parish’. It is interesting to note that the parish rather than the wider island community is considered to be the focus of their support. With the exception of one Centenier who operated in St Helier by virtue of ‘mandataire’ status,³⁹ all interviewees were both resident and rate-payer in the parish where they served. This parochial insularity reflects the unusual cultural perspective towards ‘community’ that has developed in Jersey as a result of the independence of the parish from central island control. Despite its small

³⁹ ‘Mandataire’ refers to people who do not reside in the parish of St Helier but who are representatives of a company that is registered for rating purposes within the parish.

geographical area, residents are more inclined to identify with their particular parish of residence rather than any centralised notion of community.

I am a staunch believer in the honorary system. I live in the parish but I work outside. I enjoy life in the parish and felt that I could give back something and help maintain the peace and quiet. I am a traditionalist and this is as close to the real Jersey as it gets – the honorary system is important (Centenier with four years service).

Whereas ambiguity is present in other areas, Centeniers are unequivocal in their expressions of support for the parish:

Why did I become a Centenier? That's easy. I was born in the parish, my parish. It is a community duty for me to serve. My job as a Centenier is to help my parishioners (Centenier with fourteen years service and family history of honorary service).

The community focus of these responses is clear. In many modern jurisdictions, this sense of community has all but disappeared. Increases in crime and social unrest can be attributed to the 'death' of community through the disintegration of informal support networks and the reduced dependence upon extended family and community groups. Whilst Jersey has suffered this decline to some extent, multiple relationships of interdependency exist and remain strong including the presence of extended family, residential immobility, low urbanization and strong religious influence. The main focus for these relationships is the parish.

This insularity is further illustrated by a question about the physical location of parish hall enquiries. Centeniers were asked to comment on the (fictitious) possibility that Parish Hall Enquiries would be heard at a central location in St Helier. Centeniers would be required to hear enquiries for offences that had been committed in other parishes. Only one Centenier expressed the opinion that such a centralised system was desirable. All other interviewees noted that the lack of parish knowledge and the potential loss of local parish identity would be a significant barrier.

The whole idea of the honorary police is that it is our community; a centralised system might make it easier for the States Police to administer but it would be impersonal, a factory conveyor belt of people. Parochial affairs should stay within the parish. Hold them all in town? What an appalling idea! (Centenier with six years service).

The Role of Local Knowledge in Understanding the Context of Offending

The Honorary police claim to have an intimate knowledge of the community in which they operate. Community members know and understand the idiosyncratic behaviour of certain citizens and eccentricity is accommodated. According to 2001 census records, the Jersey community comprises fewer citizens who are locally born and educated than ever before. Census data show that one-third of the Island population live in St Helier. The adjacent parishes of St Saviour and St Clement have a population density of four times the average of the other parishes and although they represent one fifth of the Island's land area, they accommodate more than half of the population. It is unlikely therefore that the Honorary Police have the intimate knowledge of their parish community as they did in years gone by, particularly in the densely populated urban parishes.

The practice of the application of local knowledge in decision-making at enquiries has been observed, being noted as particularly pertinent to the decisions made where road traffic offences have been committed. The satisfaction of the parties seems to rest upon an accurate understanding of the ingredients of the offence. More particularly, it was not the offence itself that precipitated discussion, but the context of the offence.

One Size Does Not Fit All

The States Police perceive that a centralised location would maximise the strengths of the Enquiry system by introducing a standard format enquiry. One officer insisted that the Parish Hall Enquiry system perpetuated a 'postcode lottery' citing inconsistency of sanction as a significant weakness. The States

Police would prefer to see a matrix to standardise outcomes using a list of 'gravity factors' along the lines of those issued to the Association of Chief Police Officers in the United Kingdom by the Home Office. They perceive that this would greatly improve public perception of the system and go some way to controlling the discretionary powers of the Centenier. These guidelines would encourage greater consistency in decision-making across the parishes. They assert that greater consistency would foster a higher level of confidence in the system. Assessment would be based on the seriousness of the offence and the number of previous parish hall sanctions or Court convictions. In practice, the Decision Sergeant in the Criminal Justice Unit is already operating along the lines of a similar matrix using similar criteria to formulate a recommendation for the Centenier. Concern has been expressed by the States Police that Centeniers do not always follow the recommendations. Centeniers are required to record their decisions in writing and return a pro-forma to the criminal justice unit at police headquarters for recording in the OPEN database. If the States Police do not agree with a decision, they are able to refer the matter to the Attorney-General for consideration.

The trend for 'consistency' can be interpreted as a desire for centralisation. This may also be a consequence of a managerialist approach to the administration of justice. The erosion of discretion of Centeniers is part of this trend. Centralisation would take offenders away from the community they offend against. The risk is that any shift towards centralisation, from parish based administration of justice to a central state-run service would result in more punitive measures and a consequent increase in the number of people charged to court. Attendees will be objectified as 'offenders' and will automatically be categorised into 'types' and manipulated as 'risks' (Nellis 2001). This would not only impact upon the social and cultural customary practices of Jersey society but also impact heavily upon the financial resources required to administer a more formalized system.

This desire for centralisation might also be seen as an attempt to control, monitor or restrain the extraordinary power of the Centeniers and the Connétables of the respective parish. The maintenance and development of informal social networks is important. Knowing one's neighbour ensures that primary community control is maintained rather than resort to state control (Braithwaite 1989). These networks are very effective at building safer communities; knowing who to ask for help, knowing that assistance will be offered, without question, any time of the day or night. These are neither nostalgic nor romantic ideals. In other jurisdictions, creeping damage is being done to social systems capable of exerting informal control over behaviour. In Jersey the honorary systems of support and peacekeeping remain relevant to a significant number of the population.

Critics of informal systems such as the Parish Hall Enquiry argue that individualized outcomes should be proportional and consistent. The context of offending however is often conveniently ignored in attempts to introduce consistency into informal systems (Braithwaite 2002). Roche argues that 'proportionality and consistency belong to a punishment paradigm that restorative justice disavows' (2003:38). Restorative justice advocates would argue that participant satisfaction is a more appropriate measure (McEvoy et al. 2002: 469 cited in Roche 2003: 38).

Agreements are incomparable both with other agreements and traditional court-imposed sentences as they represent the result of the negotiations of a unique combination of people affected by a unique crime (Roche 2003:38).

Discretion in Decision Making

In the context of this research, the way in which Centeniers used their judgement to act upon the information provided, both written and oral, to make

decisions was considered to be of significant interest. Gelsthorpe and Padfield offer the following definition of discretion:

Discretion refers to the freedom, power, authority, decision or leeway of an official, organisation or individual to decide, discern or determine to make a judgement, choice or decision, about alternative courses of action or inaction (Gelsthorpe and Padfield 2003:3).

Centeniers reported that the considerable potential for the exercise of discretion was the single most important factor in the discharge of their duties. Most Centeniers stated that they had 'enough' discretion to exercise the appropriate authority when required.

Discretion is important. This is not a job where you are being assessed all the time. A states police officer often has to take things one step further or they are up before the inspector. It doesn't matter how long it takes me to deal with something, nor how, because I am accountable to the parish (Centenier – urban parish).

Levels of discretion grow with experience. We have more discretion than the states police **not** to report offences and turn them into 'crimes'. I have the power not to charge and that is huge and important (Centenier – suburban parish).

Nils Christie, the Norwegian criminologist, who has written extensively about the place of informal procedures in criminal justice, makes a similar, important point about the concept of crime:

Crime is not a 'thing'. Crime is a concept applicable in certain social situations where it is possible and in the interests of one or several parties to apply it (Christie 1982:74).

Other Centeniers acknowledged that levels of discretion were constrained by a number of factors, notably a framework of guidelines and legal procedures which militated against the use of the Parish Hall Enquiry in the administration of

justice. Consistency was also mentioned in the context of discretion. Many Centeniers commented that the reasons for the exercise of discretion needed justification in order to raise public confidence. Centeniers interviewed with at least five years honorary service all reported that they had experienced a rise in the level of constraint placed upon their decision making.

When exercising discretion, we are always accountable to the A-G. In this day and age you have to cover your back. We have lost some of the beauty of turning a blind eye. Now, we need to think 'what if...' (Centenier – urban parish)

Attempts to limit the discretionary powers of Centeniers have been observed by key players in the criminal justice system (Guidance Notes, Code on the Decision to Prosecute, States Police Force Orders, Time Period Aims and Magistrates Training Notes). These seem to have the aim of establishing clear rules according to specific criteria for the forum of hearing particular cases.

There is an expectation to charge offenders according to States Force orders in respect of the following offences:

- Grave and criminal assault
- Common assault resulting in injuries to the victim
- Breach of bind over where the offence is similar
- Possession of Class A drugs
- Persons on probation
- Offences whilst on bail
- Where the offender has previously failed to attend a Parish Hall Enquiry
- Persistent offender, i.e. similar offences in the past 12 months
- Assault on Police

(Force Orders 30/4/03)

It has also been observed that in certain cases, charges that had been laid under this policy were later reduced or dismissed in court due to insufficient evidence. Introducing standards of practice according to mechanistic rules can inhibit good practice. Strict adherence to this policy means that opportunities for informal dispute resolution at parish level are affected. Victim impact in such cases can be high and victims may be left with a sense of injustice. Later sections of this report discuss interviews with victims who state that satisfaction is high when offences are dealt with at Parish Hall level and even higher in cases where there has been Victim Offender Mediation.

Decisions or choices then, are in practice much constrained, by formal and legal rules and also 'by social, economic and political constraints that act upon the exercise of choice' (Gelsthorpe and Padfield 2003:3). In Court, sentences are made following a tariff intended to ensure proportionality and consistency. Punishment is expected to be proportional to the seriousness of the offence and the offenders' level of responsibility in the act. Legal precedent is also used to maintain consistency. This tends to suggest that such constraints mean that 'discretion is a myth' (Baumgartner 1992, cited in Gelsthorpe and Padfield 2003). Centeniers however, appear to have more discretion than people imagine. Firstly they have a duty to uphold the law; secondly Centeniers claim that they have the duty to protect, nurture and develop the community and promote the interest of the parish. There is a duality between enforcement and assistance. The discretion available to the Centenier means that the public interest can take precedence over the enforcement role. An offence may pass the 'evidential test' but the 'public interest' in terms of community realignment and development can be prioritised.

Flexibility

The flexible and practical implementation of the law is a key feature of the work of the Centenier at Parish Hall Enquiry. This has been demonstrated in other

research into traditional, informal systems (Stevens, 1998). Many issues which would fall outside legal standards of relevance in court can become the subject of scrutiny in enquiries. What is known about the attendee, the family, school, residential circumstances can all be taken into account when applying the 'public interest' test. Other factors that influenced Centeniers were the observed personality or character of the attendee, parents, other honorary officers' knowledge of the attendee and their supporters. Centeniers' view of fairness and perceptions of remorse all featured in the decision-making process.

In practice, the Centenier is able to exercise considerable discretion and a suspension of 'rules'. This is frequently demonstrated at Parish Hall where longer term rehabilitation and reintegration are seen to be preferable to retribution. Box three provides one such example. In this case, guidelines are set aside in order to gain a longer term beneficial effect than a short term punishment.

Box Three

A young person was reported to the police for stealing money to purchase 13 grams of cannabis resin.⁴⁰ Taking the Attorney General's Guidelines into account, the Decision Sergeant appropriately recommended that the young person should be prosecuted. When the family attended for the Parish Hall Enquiry it became clear to the Centenier and the probation representative that this case was not straightforward. Following a recent family bereavement, the young person had found solace in alcohol and cannabis; school attendance and quality of work had suffered. The Centenier was very patient and sympathetic to the circumstances of this very sad case. He shared his own painful experience of bereavement at a similar age. Following a lengthy discussion of the risks of such a strategy, the young person and his family were offered the benefit of a voluntary supervision for a six month period to be supervised by a specialist in

⁴⁰ Attorney-General's guidelines 1/97 for dealing with drug offenders state that the maximum permitted quantity of cannabis for consideration of the case at a Parish Hall Enquiry is 7grams.



mental health and drug counselling at the Probation Service. This sanction was offered as an alternative to a court appearance. The Centenier focused upon the potential positive outcomes of a successful completion.

Centenier: I don't want to punish you, you are suffering enough. I think we can help and we would like you to help us to help you.

Six months later, the young person returned to the Parish Hall for the follow-up enquiry. The Centenier admitted that he barely recognised the person standing in front of him. The young person was talkative and smiling. All but one appointment offered by the Probation Service had been attended, and the young person had managed to secure some employment. Unfortunately, towards the end of the supervision period, there had been a further minor motoring offence in another parish (dealt with at parish hall level).

The Centenier expressed his disappointment and disapproval for the further offending but was full of praise for the progress made during the voluntary supervision.

The Vingtenier noticed the family seated in the waiting room and went to speak to the young person and the family. He was also full of praise for the progress made. 'I used to work with... [] ... would have been really proud that you have turned this around, really proud of you'.

Gelsthorpe and Padfield (2003) discuss the work of Liebling and Price (1999) and draw upon the argument that 'norms of reciprocity exist between the enforcer and the enforced which result in rules being suspended in the interest of long term interests' (Gelsthorpe and Padfield 1999:18). They refer to 'unexercise of power' in a prison setting and explore the links between formal and informal power. Similarly, the example presented above is an illustration

that tends to suggest that Centeniers have comparable opportunities to 'unexercise' power over parishioners.

Fear of Disrepute

Most Centeniers who were unsure about a particular course of action after consultation with the Chef de Police stated that they would seek advice from either the Legal Adviser, the Magistrate or in some cases, the Attorney General. This was noted particularly where Centeniers were considering departing from the recommendation made by the Decision Sergeant at the Criminal Justice Unit. Centeniers expressed the fear of disrepute, on both an individual and collective basis.

Accountability

The constraining of the Centeniers' discretion seems to have more to do with issues of accountability and managerial control than any public concern for consistency of practice. During the five year period of this research, very few complaints about the practice of Centeniers at Parish Hall Enquiry have been noted by the Attorney General. The Jersey Police Complaints Authority investigates complaints made against any Police Officer. In 2003, the Authority supervised the investigation of thirty complaints. The Authority does not investigate all complaints made nor does the Authority make the distinction between honorary and States Officers so accurate presentation of the figure regarding Centeniers is not possible. In 2004, forty three complaints were investigated by the States of Jersey Police, five of which were for criminal conduct. When matters refer to an honorary officer, the complaint is referred to the Attorney General who refers the complaint to the Connétable of the respective parish for comment. The most common complaint with regard to the Parish Hall Enquiry seems to be that of Centenier's fining outside of their statutory power or acting in a high handed manner.

Independence

Centeniers conducting enquiries state that the decisions that they take are made on a consensual basis. The States Police express concern that consent is not always truly informed due to a lack of process by the Centenier and a lack of understanding by the attendees.

The principle of independence suggests that the reviewer of a case should be independent of the investigating officer. This operates well in Jersey where all cases are independently reviewed by the Centenier. It was recommended and implemented as a result of the first Clothier report that Centeniers should cease the practice of conducting a Parish Hall Enquiry where they have previously investigated the incident. Observational evidence suggests that great strides were made to avoid a conflict of interest in this area. In extreme circumstances, a Centenier from a neighbouring parish may be asked to deal with a particular case in order to ensure impartiality. There are a number of mechanisms inherent in the system that affords an intrinsic level of accountability.

There seems to be a widespread misapprehension that the Parish Hall Enquiry is a judicial process and not all interviewees agreed that the Centenier is independent. A Senior States Police Officer expressed the following view:

They are all part of the community, but the job they do sets them apart from the community, because they have power over them. There are huge integrity issues. They are not independent. Under Human Rights, you will never be able to justify members of the same policing body adjudicating upon offences committed within the same parish. The election argument doesn't hold water. They are elected by very few. I have a horrible prejudice against elected officials who have too much scope to make decisions. Influence is present even if they deny it.

Her Majesty's Attorney General, the titular head of the honorary police, does not share this perspective:

I do see a difference between the Honorary Police officers and police officers, and I know that there is a view that it is important to see an Honorary Police officer as identical to States' police officers. But one of the strengths of Honorary Police officers is that they are not States' police officers: they are apart from that system, and that is why they should be able to look at a case and decide that the States' police have become too close to it and they may be, in a particular case, hounding a particular individual, or the evidence just is not there, whatever it happens to be. That is the strength of the system, or it ought to be (HM Attorney General 2006).

If the Centenier has power over the attendee, it can only be exercised by mutual consent. The ultimate power is therefore held by the attendee who has the right to disagree and request hearing by a formal Court. Even after the Enquiry, decisions can be referred to the Attorney-General by the attendee. In practice, this seems to be a rare occurrence. Decisions made by the Centenier (with the exception of laying a charge) are made on a consensual basis. In the United Kingdom, prosecutors are required to take into account 'any lines of defence'. Centeniers are not bound by this in their decision-making. As previously discussed, the fact that an offence is admitted does not mean that there is sufficient evidence to warrant prosecution. The issue of informed consent is also important. It is not agreed by the States Police that there is sufficient understanding of the process to give truly informed consent. Very little coercion was observed. Although there were examples of uneven compliance with guidelines most attendees were informed that they may disagree with the decision of the Centenier and opt for a formal Court hearing. The process was seen to be governed by bargaining and compromise through a 'process of deliberation, justification, and persuasion, not a process of direction' (Roche 2003: 83). Some attendees admitted that they were prepared to accept the decision of the Centenier because they did not want the publicity, inconvenience, embarrassment, potential loss of earnings of a court hearing.

The Decision to Prosecute

In cases where the Centenier had some discretion in the charging process, the decision to charge was never observed to have been taken lightly. Often it involved soul-searching, discussion or an apology for being obliged by law to lay a charge (Case extract one).

Case extract one

Offence: Dangerous Driving

Mother: We are quite concerned at the way he rides.

Centenier: The young are immortal

Father: He thinks he is

[The Centenier listened to the circumstances of the offences and 20 minutes of discussion ensued amongst the family about the potential consequences of the offences]

Centenier: Given the serious nature of the allegations, it has to go to court because I feel that is beyond my powers of punishment. I'm sorry about that. A £50 fine wouldn't make the point. I really don't like taking people to court especially young people but blocking the traffic and crossing the central reservation was not a clever move. If it was more minor, I would have dealt with this by way of a deferred decision. I'm sorry; I don't think I really have much choice. It is something that I am not prepared to deal with here'

Dad: What is going to happen to them in Court?

Centenier: The Youth Panel often give the benefit of the doubt. But they are not a pushover either. Expect a fine, and I think that they will want to impose a short disqualification.

Even in cases where the Centenier had no discretion according to the law, justification for the charge was always explained and the attendees were given the opportunity to raise any issues of concern. Often attendees were anxious about appearing before the magistrate and the Centenier was able to explain the

court process and answer general questions to prepare attendees for the experience.

Case extract two demonstrates an example of a practical solution sometimes offered to attendees in order to facilitate their appearance in Court.

Case extract two

Offence: Illegal Entry

Centenier: I'm charging him to appear in Youth Court next week. You need to be there at 2.30 pm.

Mum: I don't drive. I'll have to get him home at lunchtime and then get the bus. Do I have to be there?

Centenier: Yes, he is under 16 so you must attend. I now have to warn him for the first possible date after he has been charged and the Youth Court sit in the afternoon.

Mum: I've also got to pick up my younger children from school at 3pm. I don't know what to do.

Centenier: Is there anyone you can ask?

Mum: No. I'm on my own apart from my parents and they don't know about this.

Constables Officer (female): It's OK. I'll pick up your two with my two and bring them home with me. You can pick them up when you are finished at Court.

Centenier: And if you want, I can pick you up from home and then pick him up from school on the way into town.

Publicity

Whereas the media provide the Jersey public with a link to the Courts, the Parish Hall Enquiry is a private forum and neither the process nor the results are reported. In other jurisdictions, publicity is an important accountability mechanism. Protection of privacy has some support in law. The need to respect private life is enshrined in the European Convention on Human Rights; press

and public may be excluded where their presence interferes with private life of any party (Art 6 European Convention on Human Rights). The media generally argue that any person who is convicted of an offence relinquishes this right to privacy. Attendees at Parish Hall Enquiry may only be identified if a charge is laid. Even though attendees may admit to the commission of offences, they agree to accept an informal sanction which is not recognised in law as a criminal conviction. The Enquiry is part of a prosecution process; the media are therefore not permitted to report upon proceedings.

Public dissemination of personal details of persons appearing at parish hall was recommended in 1950 by Maxwell and Tarry and again in 1996 by Clothier. On both occasions this recommendation was rejected in favour of the maintenance of the private hearing. It is clear from interviewees that media presence would have prevented the kind of discussion which the process depends upon. Interviews with attendees showed that most preferred the privacy and that the principal concern about being charged to Court was not the potential sentence but the fact that they would be 'named and shamed' in the widely read local newspaper. Some were observed to ask the Centenier how to avoid this. This shaming mechanism was observed to be particularly strong amongst local women. One female attendee, a senior manager in the finance industry, reported that she would have done anything to avoid the details of her offence being reported in the local media. This would have resulted in censure at work and her good reputation and that of her employer would have been tarnished. A number of participants interviewed had not told their friends or family that they had committed an offence. By contrast, one interviewee, a temporary resident, stated that because nobody knew him in Jersey, it wouldn't have made any difference. When asked if it would have made a difference to him if the details of his offending were to be published in a newspaper near to his home he stated 'my ma wouldn't be best pleased, so yes, it would'.

Voluntary Attendance

Although attendance at a Parish Hall Enquiry is described as 'voluntary', failure to attend (despite frequent reminders) is likely to result in a summons. The threat of formal prosecution and potential conviction is outlined in the Notice of Intended Prosecution. One attendee commented: 'It didn't feel like an invitation, and I had no intention of turning it down'.

Legal Advice

Guidance notes for Centeniers note that:

An Attendee is entitled to be accompanied by a lawyer should he so wish. It is a matter for the Centenier's discretion what part the lawyer is allowed to play at the Enquiry. The lawyer is there primarily to advise his client (4.01).

In practice, few Advocates attend at Enquiries although it was noted that many Centeniers stated that they had received telephone calls from legal advisers in advance of the Enquiry to discuss the likely outcome of the Enquiry or to offer a character reference. One attendee stated that he had phoned his Advocate in advance of the Enquiry for a motoring offence and been advised to 'be prompt, polite, and take a cheque book'. It was also not uncommon for Centeniers to advise *against* legal representation due to the potential cost to the attendee. This was usually observed in cases where the attendee had indicated a potential guilty plea to an uncomplicated case. One Centenier considered that it would be a 'waste of money' to engage an Advocate and recommended that the attendee should prepare a 'little speech' to deliver to the Magistrate. In one case, the probation representative considered it necessary to write to the attendee recommending that legal advice be sought prior to the Court appearance.

Legal Aid

In Jersey, Legal Aid is not funded by the state. It is a service provided by the legal profession in Jersey at their own expense so that offenders who cannot

afford a lawyer or are unable to obtain one, can do so. This 'pro bono' service is provided on a rota basis by lawyers who have been qualified for less than fifteen years. The scheme is administered by the Acting Bâtonnier. This is a voluntary post filled by an advocate or solicitor for a two year period. Any person charged with a criminal offence may apply for Legal Aid where the offences carry a substantial risk of a custodial sentence or a risk of loss of livelihood or which is likely to incur a fine exceeding £500. Because the Parish Hall Enquiry occurs as part of the prosecution process, Legal Aid is therefore not available from the Acting Bâtonnier. It was observed that information about legal aid was not always forthcoming during enquiries where a charge has been laid. The researcher noted on some occasions that Centeniers did not know the name and contact details of the current Bâtonnier. Such a lack of attention to basic details such as these risks criticism from formal authorities about adherence to human rights principles. It is therefore important to the continued reputation of the system that training and guidance is provided for Centeniers to avoid conflict.

OTHER KEY PLAYERS IN THE PARISH HALL ENQUIRY SYSTEM

In this section I explore the roles and views of other key players in the criminal justice system, in so far as these relate to the main focus on the Parish Hall Enquiry. The discussion covers the five office-holders and organisations that exerted some degree of influence over the Parish Hall Enquiry during the period during which the research was undertaken. They were:

- The Attorney General
- The Court
- The States of Jersey Police
- The Probation and After Care Service
- The Home Affairs Committee

Their views are important in illustrating the part which the Enquiries are seen to play in the system, and as examples of some of the current disagreements about their usefulness and future role.

The Role Of The Attorney General

As the titular head of the Honorary Police, the position of the Attorney-General is central to the operation of the system. In practice, the Attorney-General has no day to day input into the activities of the Honorary Police. The role is, however, instrumental in the preparation of guidelines and directives, the investigation of complaints and the general promotion of Honorary Police activities.

The Role Of The Court

The Magistrate has exerted considerable influence over the function and filtering of cases appearing at Parish Hall, particularly regarding youths. This reach has also extended to States' Police policy and procedure.

The Magistrate stated in the widely read local newspaper that he wished to reduce the number of 'unnecessary parish hall enquiries' (Jersey Evening Post, December 2001, December 2002). The subsequent composition of the 'A' and 'B' lists of the names of young offenders accelerated the passage of a number of youths into the Youth Court for offences that previously would have been dealt with at Parish level. Automatic charging reduces the possibility for creativity and innovation and increases the rigidities in the system.

Research undertaken by the Probation Service suggests that this policy also led to a rise in the number of offenders charged to appear before the Youth Court. The Probation Service prepared Social Enquiry Reports on 94 Youths in 2003 who were charged directly to the Youth Court at Police Headquarters without the benefit of attendance at Parish Hall Enquiry. This represented an increase of

40% on the 2002 figure of 67. 39% of Offenders who were charged directly for court without appearance at Parish Hall were dealt with by either a fine or a Binding Over Order. There is an argument that these could have been heard at Parish Hall level where the same outcome could have been attained without the attraction of a criminal conviction. The use of hitherto unavailable empirical data, more fully presented later in chapter four, prompted serious questions about the role of diversion, the overuse of the Youth Court and the apparent disuse of the Parish Hall Enquiry. Meetings between the Chief Probation Officer and the Magistrate have since resulted in the preparation of a discussion document which outlines the criteria for referral to the Court.

During a training session for Centeniers, the Magistrate expressed concern over 'inconsistencies' of four areas: the slow speed of the process, the seriousness of offences being dealt with by Centeniers, the antecedent history of offenders dealt with at parish level and the excessive length of deferred decisions. These concerns greatly influenced the practice of Centeniers who are sometimes less willing to deal with matters at Parish Hall level for fear of criticism by the Magistrate. In addition, the Magistrate has produced time period aims in order to refine the system (reproduced in Appendix G). Adherence to these aims has impacted upon Parish Hall Enquiry practice in a variety of ways, not least a rise in the number of enquiries held at States Police Headquarters.

Fast Track Policy

As a result of the production of the time period aims, a fast-track policy was introduced for drink-driving cases. This reduced the length of time between offence and first court appearance considerably but under the previous system, offenders who reserved their plea at Parish Hall could use the period of time prior to the Court date to obtain advice, thereby appearing in Court for the first time with a firm plea.

The Magistrate is of the opinion that the fast track principle should apply to other offences where the Centenier has no discretion. He is also of the opinion that public order cases should be dealt with by a financial penalty in Court and not at Parish Hall level: 'Our culture is far too lax about public order, binding over orders are now not applicable for public order'. If this were to be the case, many of the benefits of informality that are considered to be effective in community building and promoting a reduction in further offending may be lost.

Referral Back

Currently there is no mechanism to allow referral of cases back to Parish Hall Enquiry where there may have been a change of circumstances relating to the charge. Such a mechanism may prove useful to avoid criminal conviction whilst ensuring that the offence is officially sanctioned. This facility may result in a reduction of the number of automatic prosecutions for co-accused according to current guidelines.

Advice and Guidance

Centeniers report that advice from the Magistrate is highly valued. As mentioned in the previous section, Centeniers are encouraged to discuss cases with the Magistrate directly where there is uncertainty over a course of action. The Magistrate is supportive of the Centenier's role and the principle of the Parish Hall Enquiry when applied to certain offences and circumstances. For motoring offences, the general test is that of whether the offence is so serious that the Court is likely to impose disqualification. The Magistrate has also shown himself to be most supportive of creative and innovative solutions to offending proposed by Centeniers for youths who would likely have received Binding Over Orders from the Court.

The Role of The States Police

Ten Officers upward of the rank of Sergeant were interviewed to formulate an opinion of the value of the Honorary Police and the Parish Hall system from the

States Police viewpoint. The results of these interviews reveal a divergence of opinion, across and within ranks, as to the purpose of a Parish Hall Enquiry and the role of the Centenier.

The following observations about changing practice were made:

A year, 18 months ago, we were looking to parish hall them. Now the guidelines are that anyone who has committed an offence should be charged. We are also seeing more written cautions given here. There is also the DIC fast track policy. Before we would parish hall them. Now the Courts want them fast-track. The Centeniers come at 6pm and they won't refer to Parish Hall from PHQ. Some give written cautions. It is the same as a Parish Hall Enquiry but without the process. But if **they** can give a written caution here, why can't the Inspector do it. The Centenier's Association agreed to that; it's the thin end of the wedge, they were silly to agree. If this carries on, it will be the end of the system; we are hardly going to send anyone to parish hall any more (Custody Sergeant).

The change in practice may have come about since the introduction of the computerised case management system. Levels of bureaucracy seem to have increased, possibly resulting in a rise in the numbers of offenders charged.

First offenders. We didn't used to put them to Court. We would historically put them to parish hall. The system is now more complicated due to the paperwork and CJU (Custody Sergeant).

I was called to the police station to charge a first offender and I wasn't really sure that it was the right thing to do. The Sergeant said 'come on Centenier, it'll be much easier. I need to get all these loose ends tied up tonight' (Centenier – rural parish).

It would seem that a number of factors have combined to bring about a change in the way that offenders are diverted into the Parish Hall Enquiry system. The 'traditional' approach, prior to 2003, was to verbally warn offenders to attend an Enquiry in the appropriate parish. Since the implementation of the computerised system, the process has become more formal and offenders are required to submit their personal details to the officer who in turn prepares an electronic

report. Staff at the Criminal Justice Unit review the evidence, prepare a case file and generate a Notice of Intended Prosecution which invites the offender to attend at a Parish Hall Enquiry. The impact of Police bail, introduced under the Police Procedures and Criminal Evidence (Jersey) Law 2003, upon the continued use of the Parish Hall Enquiry, particularly for adults, remains to be seen. It is possible that it will further erode the role of the Centenier's Enquiry in the parishes.

In contrast to other jurisdictions, the States Police are not empowered to charge individuals to appear before the Court. It is possible that the various tensions will intensify as well as a potential re-opening of the gulf between the States Police and Honorary Police as the former take on 'national' ideas and standards that do not fit neatly with the traditional Jersey approach. It is also possible that practices will change through a process of 'drift' rather than conscious decision, as an unintended consequence of computerisation.

Organisational Norms and Expectations

Organisational norms and expectations differ between the States and the Honorary Police. There is some evidence to suggest that the 'evidential test' is given greater weight than that of the 'public interest'. There is also the belief that the power to charge should be removed from the Centeniers:

They [the Centeniers] have no training in law. Their job is to assess evidence. On what basis? How can they make these decisions? It needs professional qualification, not on some irrelevant grounds, the potential for influence is always there and it is not right. There is a lack of professionalism. It is no longer acceptable to have this buffer, with the honoraries as the guardians of the criminal justice system (Senior Manager, States of Jersey Police).

All cases submitted to the Criminal Justice Unit are reviewed by the 'Decision Sergeant' who will make a written recommendation to the Centenier about where the case is processed. This recommendation is usually based upon a

combination of factors including the gravity of the offence and any previous offending. Centeniers report that although this preliminary indication is helpful, it has little influence over any final decision, preferring to make up their own minds about the nature and context of the offence after having heard the facts and relevant information from those present at the Enquiry.

The Role Of The State

Criminal Justice Policy Formulation

Following the publication of the Rutherford and Jameson report in 2002 the Home Affairs Committee has been actively developing a criminal justice policy for Jersey. A number of key players have participated in focus groups and seminars relevant to particular areas of policy. The Criminal Justice Policy consultation document recommends the continued use of the Parish Hall Enquiry system as an appropriate intervention. The newly formed Youth Action Team intends to make use of the informal nature of the Parish Hall Enquiry System to further its aim of providing an effective early intervention service for children and their families. The State has a role to play in striking a balance between the professional and traditional approaches, and ensuring that they cooperate to the benefit of the community.

Although the Committee agrees with the sentiment expressed in the Rutherford Report in terms of the benefit of enhancing the Parish Hall Enquiry system, these are outweighed by the inherent dangers in tampering with a tribunal that works successfully as a diversionary tool. There has been evidence of a continuing tendency to by-pass the Parish Hall Enquiry for certain offences and in the case of some persistent offenders. For the system to work effectively there must be appropriate balance and good decision making on the part of Centeniers (Criminal Justice Policy Consultation Document 2005:61).

The Role of the Probation Service

Unlike the Probation Service in England and Wales, the Jersey Probation and After Care Service is an agency of the Royal Court of Jersey. The Probation Service has been in existence in Jersey since the 1930's and has a long history

of involvement at Parish Hall level. Officers attend all enquiries where youths are involved to offer assistance to the Centenier in his or her decision making. The Service also offers non-statutory supervision of offenders referred by Centeniers, restorative justice conferencing, administration of the Pitstop scheme and support to Centeniers. The Parish Hall Enquiry is considered by the Service as an important tool in the armoury of reducing offending behaviour and protecting the public from crime. The System is considered as a model of good practice and the Probation Service strives to uphold the system through detailed research and evaluation of process and outcomes.

The Probation Service have developed, over a number of years, a comprehensive database of information relating to Parish Hall Enquiries (for youth offenders) and produce an annual report which provides a useful digest of youth offending statistics (Jersey Probation and After Care Service 1984-2006).

Officers of the Probation and After Care Service have offered assistance to Centeniers at Parish Hall Enquiries since the 1950's. In the main, advice and support is offered to youths although Centeniers continue to refer adults to the Service for voluntary supervision.

Voluntary Supervision has been offered by the Probation service since the mid 1960's when a need was identified to offer young people who had committed more serious offences an alternative to a court appearance. The Probation Service agreed to offer a period of intervention, on a voluntary basis, to address the needs of the young person and reduce further offending behaviour. The scheme proved successful with high levels of satisfaction and support from Centeniers together with low rates of recidivism. The Probation Service continues to offer Voluntary Supervision to appropriate young people and adults. The breadth of intervention has expanded considerably in recent years to meet

complex needs. The child and family enter into a voluntary contract with the Centenier to comply with the Probation Service during a specified period of months. An individual programme is designed according to the needs of the person. This may involve drug and alcohol education, victim awareness, restorative justice initiatives, employment and training support, bereavement counselling as well as a programme of intervention designed to prevent further offending. If the person breaches this voluntary contract, either by failing to comply with the requirements or by re-offending, the Centenier may decide to prosecute. Voluntary Supervision agreements have shown themselves to be very successful with low rates of re-conviction. Other disposals at Parish Hall have equal success. 'Words of advice', written cautions and deferred decisions show low levels of re-sanctioning and re-conviction across the parishes (Jersey Probation and After Care Service, 1999- 2006).

Conclusion

This chapter has been broad in scope and described the roles and responsibilities of the organisation and individuals who operate within the Parish Hall Enquiry System.

The following chapter assesses the extent to which procedural guidelines and procedures are complied with and presents further quantitative data about the breadth and depth of the Parish Hall Enquiry process.

CHAPTER FOUR

PROCESS AND COMPLIANCE WITH PROCEDURAL GUIDELINES AND STATISTICS RELATING TO THE OPERATION OF THE PARISH HALL ENQUIRY SYSTEM

Introduction

This chapter reports on some of the main findings of the structured observation study and presents general statistics to demonstrate the scope of the system. The first section concentrates on descriptive data about the enquiries, those attending them and the offences they admitted. I then provide data on a number of aspects of the enquiries which are, or should be, covered by published rules and guidelines, in particular the Attorney General's Guidance Notes (See Appendix C). Levels of compliance with some aspects of the Notes varied considerably. The second section of this chapter presents statistics about the operation of the system during the four year period of the fieldwork for this research study.

Although in excess of three hundred enquiries were observed during the research period, this section of the report describes what has been learned from a *structured observation* of fifty one parish hall enquiries conducted across the Island by twenty eight different Centeniers. Firstly, information was gathered to assess the extent to which guidance notes for Centeniers provided by the Attorney-General were followed. Examples from enquiries are provided to illustrate some of the factors. It should be noted however that in order to protect the identity of attendees, victims and supporters within a small community, some key details have been omitted or generalised to guarantee anonymity.

Biographical and Offence Data

Tables 4.1 to 4.7 illustrate the attributes of the observation sample. Biographical and offence data were collected from written police reports and Probation Service records.

Table 4.1

Gender of Attendees

	Frequency	Percent
Male	40	78.4
Female	11	21.6
Total	51	100.0

Table 4.2

Youth (aged 17 and below) or Adult

	Frequency	Percent
Youth	36	70.6
Adult	15	29.4
Total	51	100.0

Table 4.3

First Offenders

	Frequency	Percent
Yes	31	60.8
No	20	39.2
Total	51	100.0

Table 4.4
Previous attendance at Parish Hall Enquiry

	Frequency	Percent
Yes	22	43.1
No	29	56.9
Total	51	100.0

Table 4.5
'Deferred Decision' Enquiries

	Frequency	Percent
Yes	1	2.0
No	50	98.0
Total	51	100.0

Table 4. 6
Offences

Offence	Frequency
Allowing to be carried in TADA vehicle	2
Art 15(1) RTL - Leading cows without due care	1
Article 15 – (Driving without due care and attention)	2
Breach of the peace	1
Break and Entry	1
Common Assault	1
Contest Parking Fine	3
Construction and Use Offence	1
Cruelty to an animal	1
Dangerous Driving	2

Larceny Servant	1
Larceny Shop	4
Malicious Damage	3
Using a Mobile Phone whilst driving	1
No Insurance	2
No Licence	2
Permitting no insurance	1
Possession of Cannabis	6
Purchasing Alcohol Underage	2
Purchasing Alcohol for an Underage Person	1
Resisting Arrest	1
Speeding	4
Taking and Driving Away	3
Underage Drinking	3
Windscreen Insurance Disc Infraction	2
Total	51

Table 4.7

Parish in which the Enquiry heard

	Frequency	Percent
St Helier	8	15.7
St Saviour	2	3.9
St Clement	1	2.0
Trinity	3	5.9
St Brelade	8	15.7
St Peter	3	5.9
St Lawrence	10	19.6

Grouville	2	3.9
St Martin	1	2.0
St John	5	9.8
St Mary	3	5.9
St Ouen	5	9.8
Total	51	100.0

Compliance with Guidelines and Codes of Practice

Tables 4.8 to 4.17 present data relating to the level of compliance with the Guidance Notes for Centeniers at Parish Hall Enquiries. Together with the Code on the Decision to Prosecute, these notes provide the only written guidelines with which Centeniers are *expected*, but not compelled, to comply.

Attorney General’s guidelines (4) state that ‘Enquiries are not held in public. The Centenier should at all times be accompanied during the Enquiry by another police officer’. Table 4.8 shows that this particular guideline is generally followed. In addition to the ‘official witness’ element to the enquiry, it was observed that the additional officer often played a role in other areas such as reinforcing pro-social behaviour, problem-solving, confirming social norms and parochial expectations of appropriate behaviour. For example, during an Enquiry for a public order offence, a Vingtenier was observed to propose and organise boat fishing for trip for the attendee and his father in order to get him “off the pier for a change”. Constables’ Officers were also observed (particularly in rural parishes) to provide the Centenier with background information about some of the attendees. “We took his mother home twice last week, drunk after work” or “I have told him off lots of times on his board in the precinct and he’s still doing it. He was there with the egg-throwers as well”.

Table 4.8

Other Honorary Police Officer present

	Frequency	Percent
Valid yes	47	92.2
no	4	7.8
Total	51	100.0

Length of Enquiries

Enquiries ranged from seven minutes to thirty five minutes long with an average of seventeen minutes. The observation schedule was applied to a total of fourteen hours of enquiry time. The number of days elapsed between the date of the offence and the date of the enquiry ranged between fourteen and one hundred and twelve, with a mode of thirty one and a mean of forty six.

Provision of Information to Attendees

Guidance Notes for Centeniers at Parish Hall Enquiries (2) states that 'every person formally warned to attend at an Enquiry, (hereinafter after referred to as 'an attendee') shall at the Parish Hall be given an opportunity of seeing the information leaflet about Enquiries'.

Parish Hall Enquiry leaflets were available in the waiting rooms for 57% of enquiries. Practice across the parishes varied considerably in this regard. In St Helier, both documents are affixed to the wall in the waiting room. The Code on the Decision to Prosecute is only available in English although Parish Hall Enquiry leaflets are available in a number of languages. The Parish of St Mary operates the practice of a Constable's Officer explaining the leaflet to each attendee before being seen by the Centenier. In other parishes, I could not locate the leaflets.

Table 4.9

Is Parish Hall Enquiry leaflet available in the waiting room?

	Frequency	Percent
Yes	29	56.9
No	22	43.1
Total	51	100.0

Attorney General's Guidance on the decision to prosecute was noted as less frequently available in the waiting room (35% of enquiries).

Table 4.10

Decision to prosecute in waiting room

	Frequency	Percent
Yes	18	35.3
no	33	64.7
Total	51	100.0

Procedural Integrity

The Centenier fully explained his/her duties and the purpose and process of the Enquiry in less than half of cases (43%). Where there was no explanation, the attendee had either attended at a previous enquiry or was asked if they understood the process by the Centenier.

Table 4.11

Centenier explained duties and practice at Enquiry

	Frequency	Percent
Yes	22	43.1
No	23	45.1
Previous Enquiry attendance	6	11.8
Total	51	100.0

The Guidance Notes require that the attendee be told in “brief terms” what is the offence alleged to have been committed. The style of the Enquiry varied; some Centeniers always read the police report and others preferred to hear the facts of the case from the perspective of the attendee, clarifying any areas of concern with further questions. The introductory statement from most Centeniers was usually: “can you tell me, in your own words, why you are here”.

Table 4.12
Centenier Read Out Police Report

	Frequency	Percent
Yes	24	47.1
No	19	37.3
N/A*	8	15.7
Total	51	100.0

* no formal police report was available in these cases. Evidence was presented or articulated from other sources, either by letter from a member of the public or via oral evidence from another elected honorary officer.

Table 4.13
Attendee Asked for comments?

	Frequency	Percent
Yes	44	86.2
No	7	3.8
Total	51	100.0

Table 4.13 suggests that a very high level of participation is expected from the attendees by Centeniers. Attendees were observed to discuss the offence, the context of the offending and other factors that may have contributed to the act. Mostly, attendees took responsibility for the offences and accepted having done wrong.

Table 4.14

Voluntary attendance (*this category was applied when the Centenier announced at the beginning of the enquiry that he/she was not intending to take the case to Court).

	Frequency	Percent
Yes	22	43.1
No	18	35.3
'No discretion'	3	5.9
n/a*	8	15.7
Total	51	100.0

In a third of cases, the Centenier did not explain to the attendee that attendance was voluntary and that any decision reached could be rejected and presented before the relevant Court. Interviews with attendees where this occurred did not reveal this to be problematic for them, although it is undesirable from a legal point of view. Most stated that they were happy for the Centenier to deal with the case at Parish Hall because they were “guilty”. When asked if it would have made a difference to their decision to accept the Centenier’s sanction, most respondents replied in the negative. One male interviewee stated that he would have been prepared to go to Court but only if he could be certain it would reduce the fine which he felt was excessive.

The Charging Process

Table 4.15

If charged, did the Centenier caution in accordance with Judges’ Rules?

	Frequency	Percent
Yes	11	21.6
not charged	40	78.4
Total	51	100.0

Table 4.16

If charged, did the Centenier explain notice of charge?

	Frequency	Percent
Yes	10	19.6
No	1	2.0
not charged	40	78.4
Total	51	100.0

Tables 4.15 and 4.16 suggest that a high level of attention was paid to following the correct procedure during the charging process. All attendees who were charged were cautioned appropriately. The Notice of Charge was explained in detail in all but one case. The Centenier also explained the location of the courtroom, the likely procedure of the hearing, the possible involvement of the Probation Service and the Viscount. Most attendees asked what was likely to happen in terms of sentence. Most Centeniers were clear that they could not be “absolutely sure” but usually offered informal advice as to the potential level of the fine in the case of motoring offences. Attendees were also warned to expect disqualification in some cases. All attendees were asked if the Court appointment offered was convenient with many apologies from the Centenier about having to take time off work or school to attend. It was also made clear to attendees by the Centenier that any failure to attend might result in an arrest order by the Court and a consequent visit from an officer of the Viscount.

Legal Aid

The Guidance Notes (8.02) state that the Centenier should inform the attendee of the availability of the Legal Aid Scheme at the point of charge.

Table 4. 17

If charged, did the Centenier offer information about the Legal Aid scheme?

	Frequency	Percent
Yes	7	13.7
no	4	7.8
not charged	40	78.4
Total	51	100.0

Table 4.18

If charged, did the Centenier advise against legal advice?

	Frequency	Percent
Yes	3	5.9
no	8	15.7
not charged	40	78.4
Total	51	100.0

Table 4.18 illustrates the cases where the researcher noted that Attendees were advised *against* seeking legal advice (either privately or from the Legal Aid Scheme). Attention to the explanation of procedural matters such as these is important to ensure that the parish hall system complies with human rights principles. In one particular case, it was noted that despite protestations by the probation representative, the Centenier refused to acknowledge that legal advice was prudent. The representative consequently felt it necessary to write independently to the attendee with details of the Bâtonnier and the suggestion that legal advice should be sought in advance of the Court hearing.

PARISH HALL ENQUIRY STATISTICS

This section of the chapter presents a broad overview of trends noted at Parish Hall Enquiries during the four year field work period of this study. This data is

taken primarily from Jersey Probation and After Service research and information databases. It has been widely acknowledged that the interpretation of criminal justice statistics is complex in Jersey due to the diverse systems operating within the criminal justice system and the Probation Service is considered to be an agency that has invested significantly in information systems in order to monitor and evaluate practice (Heath, Raynor and Miles 2002; Rutherford and Jameson 2002; HM Inspectorate of Probation 2005).

The Probation Service operates a sophisticated, computerised case management system that records various biographical and criminological data relating to youths attending at Parish Hall Enquiries. These records date back to 1984. As previously noted, officers from the Probation Service attend Parish Hall Enquiries concerning young people aged between thirteen and seventeen years. Seventeen year olds have been included in this system since 1994 as a result of legislation which brought seventeen year olds into the jurisdiction of the former Juvenile Court. In certain cases, Centeniers request the attendance of the Probation Service to assist with adult attendees. This is usually in cases where the attendee is socially disadvantaged or excluded and requires a social work service to address a particular difficulty.

Since January 2004, the Probation Service have adopted new methods of counting enquiries and now include all offences committed by children whereas previously only the more serious offences were recorded. Minor motoring offences, speeding and construction and use offences⁴¹ were hitherto excluded from the statistics. Following concerns raised in other quarters about the perceived rise in the level of youth crime, the Service has adopted an all-encompassing recording policy in line with other agencies. Any increase therefore may not indicate that there has been a rise in crime, being rather a result of a more sophisticated and sensitive method of measurement used

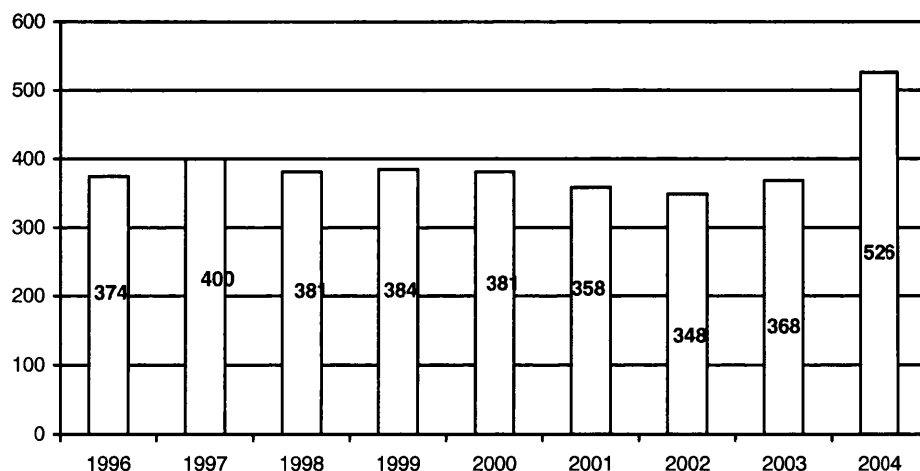
⁴¹ Construction and Use offences are committed when defective vehicles are driven on a public road.

across the criminal justice system. These changes follow Home Office amendments to 'counting rules' that have been adopted by the States of Jersey Police in order to fulfil their contractual obligations with the United Kingdom forces that permit them access to national police databases. *It is therefore unhelpful to make concrete comparison with statistics gathered in previous years without acknowledgement of these changes.* Reconviction data has been provided by the States Police from Police National Computer Records and manual records that are maintained by the Probation Service.

Parish Hall Enquiries Attended by the Probation Service 1996-2004

The Parish Hall Enquiries attended by the Probation Service in 2004 increased considerably from 368 in 2003. This represents an overall increase of 43%.

Chart 1
Parish Hall Enquiries attended by the Probation Service 1996-2004



The following table 4.19 shows the distribution of Enquiries attended by the Probation Service in respect of youths across the parishes for 2003 and 2004:

Table 4.19

Distribution of Enquiries attended by the Probation Service

Parish	2003	2004
PHE - St. Helier	236	312
PHE - St. Saviour	67	56
PHE - St. Clement	21	28
PHE - St. Brelade	18	48
PHE - St. Peter	7	15
PHE - St. Lawrence	6	23
PHE - St. John	5	0
PHE - Trinity	4	1
PHE - St. Martin	2	10
PHE - St. Ouen	2	21
PHE - Grouville	0	12
Total	368	526

The highest numbers of enquiries take place in St Helier, the island's capital where the majority of crime is detected. Table 4.19 requires careful interpretation. Although percentage rises are high, actual numbers in some cases are quite small. For example, the rise from 2 cases to 10 cases in St Martin represents an actual increase of 400%. A large rise in numbers in a particular parish usually tends to suggest that an incident has taken place involving a number of youths who have been arrested together. In this particular case, six youths were warned to attend the Parish Hall Enquiry following a particularly rowdy beach party to celebrate the end of GCSE examinations. Another explanation for an unusual rise in numbers may be the practice of 'hot spot' policing. The States of Jersey Police and their honorary colleagues are increasingly using this method to respond to residents' concerns about anti-social behaviour, and the presence of high numbers of police in a particular area invariably results in a higher number of referrals to the parish hall.

With this in mind, it is perhaps more useful to examine the seriousness of the offences dealt with during Enquiries. Of particular note is the rise in minor offences dealt with in 2004. The States Police have introduced a highly effective intelligence led policing model and Operation Focus initiatives have served to suck in a great deal of hitherto unrecorded offending to the official statistics. It is for this reason that a rise in the number of Parish Hall Enquiries should not be interpreted as a rise in the rate of crime per se, rather an indication of differing policing methods

Table 4.20
Offences for Enquiries attended by the Probation Service

Parish Hall Enquiry Offences	2000	2001	2002	2002	2004
Assaults	34	16	25	32	36
Drug Offences	16	25	16	15	34
Larceny	79	80	83	71	81
Motoring Offences	111	96	118	123	181
Breaking/Illegal Entry	9	19	6	7	10
Fraud/Forgery	4	2	0	1	4
Disturbing the peace	29	23	19	31	55
Drunken Behaviour	20	15	18	19	21
Taking & Driving Away	7	11	17	11	15
Damage to property	27	47	20	27	35
Sex Offences	0	0	1	0	0
Obstructing the Police	4	6	11	7	24
Licensed premises	28	8	7	13	14
Receiving	5	6	5	4	8
Hoax/Annoying telephone calls	3	1	0	1	4
Fire Service Law	4	2	2	3	0
Offensive Weapon	1	1	0	1	4
Protection of animals	0	0	0	2	0
Total	381	358	348	368	526

The highest percentage rises are to be found in the category of obstructing police (243%); drug offences (126%); receiving (50%) and motoring offences (47%).

Location is also a factor. Rises are particularly prominent in parishes where a high police presence has been targeted at the 'hot-spots' identified according to the intelligence model. Most of these are in the urban parishes and therefore seem to be generating a higher level of attention to minor offending than in rural parishes. The type of offending detected across the parishes tends to confirm this hypothesis. Whereas the offence of Speeding was detected evenly across the parishes, of the 22 offences of Obstructing Police, 18 (82%) were detected in the Parish of St Helier. A similar pattern emerges with public order offences: of 55 public order offences, 69% were detected in St Helier. The same follows for drunken behaviour, where the majority of alcohol related offending seems to be detected in town: 19 of 21 offences of this nature (90%).

Table 4.21
First Offenders Appearing at Parish Hall

Parish	2001	2002	2003	2004
PHE - Grouville	5	3	0	5
PHE - St. Brelade	11	19	9	29
PHE - St. Clement	14	21	12	17
PHE - St. Helier	140	120	144	142
PHE - St. John	0	2	2	0
PHE - St. Lawrence	4	2	4	9
PHE - St. Martin	3	0	0	1
PHE - St. Ouen	3	2	1	8
PHE - St. Peter	9	7	4	6
PHE - St. Saviour	28	31	38	19
PHE - Trinity	2	0	1	0
Total	219	207	215	236

The number of first offenders appearing across the parishes has remained relatively constant over a four year period with the exception of St Ouen and St Brelade where there are large increases over a one year period. Not unsurprisingly, areas of both these parishes were identified as 'hotspots' in 2004 due to residents' complaints about nuisance behaviour. In the case of St Ouen,

this figure was exacerbated by a serious offence of animal cruelty which involved a number of youths.

Table 4.22

Percentage of offenders dealt with by either words of advice or a written caution at Enquiries attended by the Probation Service.

1997	1998	1999	2000	2001	2002	2003	2004
40%	51%	53%	53%	72%	75%	64%	51%

In 2004, 51% of Enquiries resulted in the young person being cautioned or given and absolute discharge. This is a 7% decrease on the 2003 figure of 64% and a 21% decrease on the 2002 figure. This continued decrease suggests that Centeniers are becoming less tolerant of criminal behaviour, possibly as a result of increased persuasion from the States Police and the Magistrate to change traditional practice and conform to managerial demands for consistency. Deferring the decision to prosecute for a period of months remains popular with Centeniers and was used in 23% of Enquiries (24% in 2003). At the conclusion of the deferment period, the Centenier will either take no further action or issue a written caution.

In 2003, 18 % of cases were charged to Court from Parish Hall. In 2004 this figure reduced to 10%, suggesting that the filtering process is in operation at Police Headquarters rather than in parish halls. The Probation Service prepared 95 Social Enquiry Reports in 2004 on Youths who were charged directly to the Youth Court by the Centenier at Police Headquarters without the benefit of attendance a Parish Hall Enquiry.

Table 4.23**Main offence committed by offenders who did not attend a Parish Hall Enquiry**

Main Offence	2002	2003	2004
Assaults	22	22	21
Larceny	7	12	15
Breaking/Illegal Entry	10	8	10
Damage To Property	6	6	10
TADA	9	14	8
Obstruct Police	0	1	7
Drunken Behaviour	2	7	5
Motoring	3	8	4
Disturbing the peace	0	2	4
Drug Offences	2	2	4
Breach of court order	0	2	4
Receiving	2	2	2
Drink Driving	1	6	1
Fraud/Forgery	2	0	0
Annoying Telephone Calls	0	1	0
Arson	1	0	0
Bomb Hoax	0	1	0
Total	67	94	95

The main increases are represented by public order offences, particularly obstructing police and damage to property. Once again, the focus on intelligence led policing of 'hotspots' may have led to an increase in these areas and may suggest that Centeniers are less inclined to use the restorative benefits of Enquiries when dealing with these offenders.

Table 4.24**Youth Court disposals for offenders who did not attend a Parish Hall Enquiry**

	2002	%	2003	%	2004	%
Bind-Over Standard	12	20	26	28	23	24
Bind-Over Drug Awareness	1	2	0		0	
Fine	6	10	10	11	7	7
Probation Order	29	48	38	40	42	44
Community Service	10	17	11	12	8	8
Youth Detention	2	3	4	4	10	11
Other Sentences	7	0	5	5	5	2
Total	67		94		95	

A third of offenders who were charged directly for Court without appearance at Parish Hall were dealt with by either a fine or a Binding Over Order. It is possible that these could have been dealt with at Parish Hall level using a period of voluntary supervision or a deferred decision where, arguably, the same outcome could have been attained without the attraction of a criminal conviction.

Table 4.25**Voluntary referrals to the Probation Service from Parish Hall Enquiries (2000-2004)**

	Voluntary Referrals to the Probation Service				
	2000	2001	2002	2003	2004
'Pitstop' programme - under 18yrs	2	8	11	2	0
Voluntary Supervision *- under 18yrs	23	16	22	25	38
Sub Total - youths	25	24	33	27	38
Voluntary Supervision - adults	4	-	2	1	0
TOTAL	29	24	35	28	38

Table 4.25 indicates the relatively constant nature of referrals for voluntary supervision of youths and a reduction for adults. The Probation Service has

always offered this service to the parishes but the take up has dwindled significantly over the 20 year period since records began in 1984. When questioned about the decline in the use of voluntary supervision for adults, most Centeniers felt that whereas in previous years “it had to be probation”, they were now more confident in negotiating access to other helping agencies such as the alcohol and drug service, mental health practitioners, educational welfare service, citizens’ advice or family nursing and home care services.

Table 4.26
Main offences for voluntary referrals

	2000	2001	2002	2003	2004
Assaults	6	3	4	4	10
Larceny	8	1	4	8	5
Damage To Property	3	1	5	5	4
Drunken Behaviour	4	5	3	1	4
Breaking/Illegal Entry	0	3	2	2	3
Drug Offences	1	0	0	0	3
T.A.D.A	0	0	0	1	2
Animal Cruelty	0	0	0	0	2
Public Order	1	2	1	3	1
Obstruct Police	0	0	0	1	1
Underage Drinking	1	1	0	1	1
Motoring	1	0	3	0	1
Receiving	0	0	0	0	1
Sexual Offences	1	0	2	0	0
Total:	27	16	24	26	38

In some fora, public perception of the parish hall system is that it exists to deal with minor offences and that serious offences are automatically referred into the Court system. Table 4.26 shows that this is not the case. Offences committed which result in a referral for voluntary supervision include assaults, public order, drug offences, theft and sexual offences. Successful completion of a period of voluntary supervision does not result in a formal conviction and therefore this option is attractive in rehabilitative terms. As previously noted, any reduction in

the categories of offences that can be dealt with at parish hall through amendments to force orders will affect a powerful incentive for compliance with the reparative, rehabilitative and restorative components of supervision .

Table 4.27
Parish Hall Reconviction Information (Youth Attendees – 2002)

Sentence	Re-sanctioned at Parish Hall within 12 months of sanction	Reconvicted in a Court within 12 months of sanction
Written Caution	13%	5%
Words of Advice	13%	3%
Deferred sentence	20%	1%
Voluntary Supervision	23%	23%

Table 4.27 shows the low re-sanctioning or reconviction rate of disposals delivered by the Centenier at Parish Hall Enquiry. Very few attendees are re-sanctioned or reconvict within twelve months. A noteworthy statistic is the automatic referral to Court of attendees who fail to comply with the terms of a voluntary supervision condition. Nonetheless, a success rate of 77% compliance is promising and in excess of the compliance with statutory probation supervision (Jersey Probation and After Care Service, 1998-2006).

Table 4.28
Re-conviction Information – Community Service and Binding Over Orders

Sentence	Reconvicted in a Court within 12 months of sentence
Binding Over Orders	16%
Community Service	16%

Source: Community Sentences in Jersey, Risks, Needs and Rehabilitation (Miles and Raynor 2004)

Tables 4.28 show re-sanctioning and reconviction information from Court sentences. Once again, caution should be exercised in the interpretation of this data (cases are not directly comparable because they are not randomly allocated between Parish Hall and Court). The comparison is nonetheless interesting as those subject to Court orders seem to reconvict at a higher rate than those dealt with by cautions or deferred decisions at parish hall level.

Conclusion

This chapter has examined the adherence to procedural guidelines at Parish Hall Enquiry and in some cases, found a worrying lack of compliance. Although this did not appear to be problematic for attendees, this risks criticism from statutory agencies who work within managerial frameworks guided by human rights legislation, data protection principles and freedom of information policies.

The statistics presented demonstrate the wide span of the system in terms of dealing with youth offenders. It is necessary here to add a word or two about the lack of information available to appropriately analyse information about adult offenders. Although I was given access to States Police information for parish hall enquiries for adults, it has not been possible to extract this information into any valid, reliable format due to the primitive design of the historical database. Attempts by a multi-disciplinary team of information technology practitioners and statisticians during the preparation of the Rutherford and Jameson report managed to extract only very general data about adult offenders from this database. What is clear from this data however is that the Parish Hall Enquiry system administers justice to considerably more attendees than the Court system (Rutherford and Jameson 2002). Although it would be unwise to overstate the point, small scale re-sanctioning and reconviction information also tends to suggest that many adults are rehabilitated successfully (Jersey Probation and After Care Service 1996-2006; Raynor and Miles 2001; Miles and Raynor 2004; Raynor and Miles, forthcoming).

The following chapter concludes the evaluation of participant behaviour during the parish hall process, focusing upon what is known to be effective in reducing recidivism.

CHAPTER FIVE

COMPONENTS OF EFFECTIVE PRACTICE IN COMMUNITY- BASED JUSTICE

Introduction

This chapter reports on the parts of the observational study designed to evaluate the extent to which practice at Parish Hall Enquiry by Centeniers complies with what is known about effective practice with offenders. The presence and effectiveness of a number of factors considered to be important in reducing the likelihood of re-offending are incorporated into the observation schedule reproduced in Appendix F. These factors include indicators of pro-social modelling and the level of attention paid to external factors and additional problems associated with the offence, the offender, the victim and the community.

Gendreau (1995) and Ross and Ross (1995) were amongst the first to discuss effective models of offender rehabilitation. Their research was stimulated by exasperation with the widely held 'nothing works' view attributed to Martinson (1974). Ross and Fabiano (1995) researched a large number of offender treatment programmes in North America and Canada, most of which were found to be unsuccessful in terms of reducing reconviction and some of which actually appeared to increase recidivism. In particular, there was a single key element that every successful programme had in common; the inclusion of techniques aimed at having an impact upon offenders' capacity to think effectively. Other important elements included interventions to increase reasoning and problem-solving skills, the development of alternative interpretations of social rules, and methods to lessen impulsivity.

Antonowicz and Ross (1994) identified a number of factors relating to the efficacy of the programmes. These included the targeting of criminogenic needs, the responsivity principle, role-playing and modelling appropriate behaviour and the provision of social cognitive skills training. Their research suggested that the cognitive-behavioural approach worked best when the focus was on behavioural and social techniques including modelling appropriate behaviour, role-playing, reinforcement and cognitive restructuring. They concluded that the best chance for successful rehabilitation would result from the implementation of interventions based upon a cognitive-behavioural model that targeted criminogenic need, not necessarily to well-motivated or low-risk offenders.

Gendreau (1995) drew particular attention to the principle of 'responsivity'. He identified the importance of matching the approach to the learning style and personality of the offender and matching the skills of the practitioner with the demands and needs of the intervention. Similarly, Trotter (1990) had adopted an interesting approach to the principle of responsivity, changing the focus from the offender to the practitioner. He argued that practitioners who display a high level of pro-social orientation are much more likely to lower the levels of recidivism in their clients than those officers who are oriented in a more empathetic way.

Broadening the research conducted in North America, British research addressed the 'risk principle' (Chapman & Hough 1998; Underdown 1998). This principle suggests that the intensity of an intervention should be appropriate to the level of risk. For example, an offender deemed to be at low risk of re-offending should not be subject to an intensive intervention programme.

Core Correctional Practice

Whilst much research from North America and Britain in the 1980s and 90's focused upon effective practice in a programme environment, interest is now developing in the operation of 'core correctional practice' by individual

practitioners. This refers to the operation of a set of skills considered likely to produce a reduction in recidivism. There is much evidence to suggest that effective core correctional practice is likely to have a significant role in reducing recidivism (Trotter, 1996, 1999, 2000; Andrews, Zinger et al 1990; Dowden and Andrews, 2004; Cherry 2005). Existing literature identifies five dimensions considered to be effective in offender rehabilitation (Andrews and Kiessling, 1980):

- Effective use of authority
- Pro-social modelling
- Effective use of community resources
- Problem solving
- Interpersonal skills

These are mainly based on social learning theories of criminal behaviour. These five dimensions are summarised and developed below using examples from the study by way of illustration.

Effective Use of Authority

Referred to as a 'firm but fair' approach to working with offenders by Andrews and Carvell (1998), this style of interaction requires consistent application of rules. Compliance is sought through positive reinforcement rather than stigmatisation. Studies suggest that judgemental attitudes, blame and punishment are related to less favourable outcomes (Trotter 1996; Lipsey 1992; Gendreau 1995). A measure of this dimension is provided by the level to which a Centenier is clear about his/her role in the Enquiry. Table 5.1 shows that the majority of Centeniers were clear or very clear about their own role during the Parish Hall Enquiry.

Table 5.1

The extent to which Centeniers are clear about their role at Parish Hall Enquiry

	Frequency	Percent
unclear	1	2.0
not really	6	11.8
clear	3	5.9
very clear	41	80.4
Total	51	100.0

The balance between the enforcement of the law and the promotion of pro-social outcomes was often difficult, most particularly when Centeniers were considering laying a charge. Nonetheless, Centeniers demonstrated clear boundaries about what was negotiable and what was not.

Pro-social modelling

Pro-social modelling refers to the process of demonstrating, encouraging and reinforcing positive behaviour.

The pro-social approach involves workers identifying and being clear about the values they wish to promote and purposefully encouraging those values through the use of praise and other rewards. It also involves appropriate modelling of the values the worker seeks to promote, and challenging anti-social or pro-criminal expressions and actions (Trotter, 1999: 19).

Pro-social approaches at Parish Hall appear to be effective because they allow the discouragement and challenge of anti-social attitudes in a positive way in a familiar community environment (rather than a court room or police station). (Miles and Raynor 2005a). Other studies suggest that judgemental attitudes, blame and punishment are related to less favourable outcomes (Trotter 1996; Lipsey 1995; Gendreau 1995).

Based upon social learning theory, pro-social approaches rely upon the belief that people are influenced by behaviour observed in others and by the positive and negative reinforcement of their own behaviour (Trotter 1996). Analysis of responses and observation showed that Centeniers display the type of pro-social behaviour that some research has shown to be effective in reducing re-offending and the establishment of safer communities (Andrews and Bonta 1998; McGuire 1995; Trotter 1996, 1999).

A key feature of a pro-social approach is the use of empathy to sustain motivation to reduce the level of satisfaction and rewards for criminal behaviour. The following extract from a case example demonstrates some of the essential elements of pro-social behaviour modelled by a country Centenier during an enquiry regarding malicious damage and serious animal cruelty.⁴²

Case extract twenty one

Centenier: I have watched you grow up over the years and I am really disappointed. You all live in a beautiful parish, with space to run around and really good neighbours.

[To attendee one]: How many neighbours would put up with your drumming, admittedly you are very good at it. I've heard you from down the road but I've never had anyone phone me to complain.

[To attendee two]: Motorbikes. What a lucky boy you are. Privileged. Privileged to have an open, private space to ride your motorbike. People *have* complained to me about the noise and I have always stood up for you; I tell them that it keeps you out of trouble. And look what you do....Parishioners are all entitled to a quality of life. All entitled to leave property on their property, locked up or otherwise. What about your Dad's plants and tools? What would happen? He has the right to leave stuff and know that it will still be there when he comes back.

⁴² The early parts of this transcript have already been presented as Case Extract 6 in chapter five.

To your credit, you eventually all came up with the truth. But look at the embarrassment and shame you have caused your families. Everyone in this parish knows who you are and what you have done.

[To parents]: What started as a foolish prank ended up as a complete disaster. Have they learnt anything from this?

I have lain in bed worrying about ruining your kids' lives. The recommendation from the States Police is to take this to Court. They would have a criminal record. For animal cruelty. They would have to declare that on job applications, visa application. At the age of 13 and 14, I will have ruined their life. People often get more upset at a conviction like that than if they had assaulted a person.

I have thought long and hard about this, I want to deal with this here. I've spoken to the magistrate and the Probation Service. These are our boys, our future. I am very pro the youngsters of the parish. So, I am going to defer the decision for six months with a 3 month curfew between 9pm and 7am. If there is a special occasion and they are going with you, please call me.

[To attendees]: But that is not all I want you to do. I want you to learn a bit more about the harm you have caused the animals. I have spoken to Mr x [one of the victims] and I would like you each to spend a day with him, on the farm from 5 in the morning to 6 at night. Individually, not as a group.

If any of you re-offend, this will come back to haunt you and you I will have to take you to Court. Be squeaky clean, keep out of the way, and walk away from trouble. It's going to be hard but you have to do it. If you have any problems, anything at all, tell your parents and me and we can do something. You need to pick your friends carefully. The choices you make now have big implications. It takes a brave man to walk away from trouble but we all want to help you do just that.

What is noteworthy about this example is that the Centenier has no formal training in social work or behaviour modification. His 'performance' is automatic, spontaneous and unrehearsed.

Trotter (1999) identifies four areas that are important to a positive outcome:

- Identification of positive or pro-social comments and behaviours
- Rewarding those comments and behaviour with praise
- Participants in the process present themselves as pro-social role-models
- Challenge anti-social or pro-criminal comments and behaviour.

All of the above were clearly demonstrated in varying degrees by Centeniers during the Parish Hall Enquiry process.

Table 5.2
The level at which the Centenier reinforces pro-social behaviour?

	Frequency	Percent
a little	3	5.9
n/a	2	3.9
a lot	17	33.3
high level	29	56.9
Total	51	100.0

Case extract twenty two

Offence -Dangerous driving
 Attendee: I'm really sorry, I've never been in trouble in my life and I won't be again. I'm so sorry. I'm silly I will admit that.
 Dad: I bought him the car for his birthday but made him pay the insurance to give him a sense of responsibility. He has been a prat. This will do him good; bring him back down to earth so to speak.

Centenier: We need to help him see that he can't carry on like this. Someone might get hurt. There is a time and a place to drive like a lunatic, on the cart track, not in a multi-storey. It's always the other person who gets injured. I'm going to provide you with a written caution. Are you happy to accept this?

Attendee: Thank you. Thank you. I'm happy to accept this. I am guilty. I'm so sorry.

Centenier: Thank you for taking this matter so seriously. I can see you've made an effort with your appearance, you look very smart. I wish everyone was as concerned about what they have done. Thank you. Good luck for the future.

An optimistic outlook is considered by Trotter (1994, 1999) and Cherry (2005) to be an important feature of a pro-social modelling approach. Whilst some Centeniers expressed despair privately with colleagues before enquiries, their approach towards the attendee was usually optimistic and the enquiry was seen as a shared experience with the Centenier expressing optimism for future desistance from offending. Table 5.3 suggests that most Centeniers are eternally optimistic!

Table 5.3

The extent to which the Centenier shows optimism

	Frequency	Percent
little pessimistic	4	7.8
n/a	1	2.0
cautiously optimistic	8	15.7
highly optimistic	38	74.5
Total	51	100.0

Case extract twenty three

Offence - Allowing oneself to be carried in a stolen vehicle

Centenier: I've had a good chat with your Mum and the Probation Officer and I'm not convinced I'm happy to deal with this tonight. I need you to prove to me and to your Mum that you can stay out of trouble. Because you are starting a job tomorrow and want to apply for the army, I'm going to give you a chance to prove yourself. I'm going to defer this for three months. If I get a report that you have caused trouble, you will be back here and straight to court. Use this time to get yourself sorted out. I wish you every success, I know you will succeed. Please prove me right.

The demonstration of praise is considered to be an important way of reinforcing pro-social behaviour. Table 5.4 suggests that a third of Centeniers did not praise attendees at all. This outcome is surprising given that a very high level of other pro-social behaviour was noted.

Table 5.4

The extent to which the Centenier demonstrates appropriate use of praise?

	Frequency	Percent
not at all	17	33.3
inappropriate	2	3.9
n/a	3	5.9
a lot	5	9.8
highly appropriate	24	47.1
Total	51	100.0

Table 5.5

The extent to which the Centenier demonstrates empathy?

	Frequency	Percent
not at all	3	5.9
a little	7	13.7
n/a	2	3.9
a lot	10	19.6
high level of empathy	29	56.9
Total	51	100.0

Table 5.6

The extent to which the Centenier demonstrates constructive use of humour?

	Frequency	Percent
not at all	1	2.0
inappropriate	4	7.8
n/a	6	11.8
a lot	11	21.6
highly appropriate	29	56.9
Total	51	100.0

Spontaneous use of humour can makes attendees feel as though they are being treated as a person rather than a 'criminal' and this in turn can have a constructive outcome. It can assist in the restoration of self-esteem. Centeniers were also observed to use humour as a method of lightening the atmosphere at the end of the enquiry.

Case extract twenty four

Centenier: 'Nice haircut, that'll save you combing it'
--

In some cases, the humour used was considered to be anti-social and inappropriate:

Case extract twenty five

Deferred Decision Enquiry - Possession of cannabis.
Centenier to attendee: All OK. No further offending?
Attendee: Fine
Centenier to parent: Has he been cutting the grass and doing the washing up, generally helping out to make up for all the trouble he's caused?
Parent: He's calmed down a lot.
Centenier: Must be taking a better class of drug!
Attendee: [Silence]
Centenier: Joke
Parent: I'm glad **you** think so.

Table 5.7

The extent to which the Centenier attempts to use humour and other methods to restore attendees humour or esteem?

	Frequency	Percent
not at all	11	21.6
a little	4	7.8
n/a	3	5.9
a lot	11	21.6
much discussion	22	43.1
Total	51	100.0

Table 5.7 implies that Centeniers paid attention to restoring attendees' sense of humour and self esteem either through the use of spontaneous humour or through non-offence focused discussion.

Case extract twenty six

Offence: Speeding – (Mature Student)

Centenier: Sorry I can't fine you here. You were going too fast. In case I don't see you before court, think about your finances being that you are a student. Let the magistrate know; he realises the parable of blood and stones so make sure he knows you are a student.

Centenier: Have you got your exam timetable with you?

Attendee: No

Centenier: If you don't appear your arrest will be ordered. Should you find you have an exam, phone and tell me very quickly what's going on and we will re-arrange the dates. We do our best not to muck up people's lives. There we are (hands him the notice of charge) you are now officially 'the accused' – Attendee: not 'Sir' any more then (laughs)

Centenier: I'm afraid not! And you are now entitled to legal aid!

Many attendees were embarrassed to be appearing at an Enquiry and most Centeniers took the time at the end of the Enquiry to put the experience into perspective, encouraging attendees to 'forget all about it' or 'move on'.

Case extract twenty seven

Centenier: Don't look so sad and worried. Most of the great and good end up before a Centenier at some point in their lives. I've seen all sorts of people here over the years. This isn't the end of the world.

Problem-solving skills

This approach involves the demonstration of concrete problem solving skills. A two-pronged problem solving strategy should focus on community/interpersonal issues such as employment, housing and financial difficulties and also on personal/emotional problems. This approach also has value in what Maguire and Raynor (2006) describe as the development of 'discrepancy'. In other

words, a method of highlighting the disparity between an offender's aspirations and their current situation. As offenders become aware of the divergence, a problem solving approach serves to develop concrete plans in order to achieve realistic outcomes. During the course of discussion at enquiries, many additional problems were acknowledged and tackled by Centenier. These ranged from anti-social friends to problems with parents, neighbours, peer group pressure and bullying at school (See Table 5.8). Importantly, Centeniers were observed to be solution-focused and usually offered practical advice and emotional support with an offer of future contact to assist with any difficulties. This shared approach to problem-solving usually required the involvement of the wider family, school and other community members.

A focus on the individual and viewing the individual as the problem rather than focussing on the client in the family and social context seems to be related to poorer outcomes (Rubin 1985; cited in Trotter 1999: 41).

Centeniers were also observed to use their role in the community to facilitate successful problem-solving approaches to promote pro-social practices such as caring for others and consideration for one's neighbour.

Table 5.8

Additional problems acknowledged by Centenier unrelated to this incidence of offending

	Frequency	Percent
Anti-social peers	6	11.8
Attitudes to authority	3	5.9
Employment	2	3.9
Family problems	8	15.7
Impulsivity	1	2.0
Language	2	3.9
Other	3	5.9
Total	25	49.0
None	26	51.0
Total	51	100.0

Effective use of community resources

Important elements of effective practice involve interagency cooperation and research suggests that practitioners should be collaboratively involved in the management of the offender together with external service providers (Dowden and Andrews 2004; Cherry, 2005). Due to their role in the community and their pivotal role in the prosecution process, Centeniers have access to many statutory and voluntary agencies. Where there is evidence of alcohol or drug abuse, the Centenier is able to refer the attendee to the Alcohol and Drug Service, either by suggesting attendance during a deferment period or as part of voluntary supervision by the Probation Service. The Centenier requests regular progress reports from these agencies and a final meeting with the attendee before making any decision about sanction. Similar referral to statutory organisations such as mental health services, citizen's advice bureau and educational welfare services can be made by Centeniers. Referral to parish resources or voluntary organisations such as Sea Cadets and Scouting were also recommended during discussions about constructive use of leisure time.

Interpersonal skills

Relationship building skills are considered to be one of the most important elements in core correctional practice. This assumes that a positive influence in behaviour is more likely to be achieved where communication is open, warm and enthusiastic. Table 5.9 reinforces this point. Three quarters of Centeniers demonstrated pro-social behaviour throughout the whole of the Enquiry. The remaining quarter demonstrated elements at some point during the process.

Table 5.9

The extent to which the Centenier presents as pro-social role model

	Frequency	Percent
Demonstrates elements of pro-social behaviour	13	25.5
Persistently pro-social throughout enquiry	38	74.5
Total	51	100.0

Table 5.10 suggests that Centeniers discourage and challenge nuisance behaviour. Most Centeniers have a 'can-do attitude' and use creative and innovative solutions to parish problem-solving on a daily basis. Recourse to the law is often unnecessary. It is possible that these shared processes have been unconsciously at work for so long within the honorary system that they might offer some explanation of the high levels of social order within the rural parishes.

Table 5.10

The extent to which the Centenier discourages and challenges anti-social behaviour

	Frequency	Percent
a little	2	3.9
n/a	10	19.6
a lot	10	19.6
high level	29	56.9
Total	51	100.0

A 'do as you would be done by' pro-social attitude emerged as a theme during interviews. Attendees mainly reported being treated with respect and courtesy⁴³. Enquiries were never observed to be hurried and sufficient time was given to understand the nature of the offence and the context with time for explanation and apology. Following a tricky enquiry, a particular attendee wrote to the

⁴³ Some attendees expressed disquiet at the waiting time to see the Centenier on the evening of the enquiry. Most parishes offer a 'first come, first served' system with all attendees expected to attend at the same time. It should be noted that the same system operates in Magistrates and Youth Court where offenders are requested to report at either 1000 or 1430 where cases are usually dealt with in list order.

Connétable of the parish to commend the Centenier for his pleasant attitude. The attendee stated that he considered it a pleasure to pay the fine.

Conclusion

It would be an exaggeration to suggest that all enquiries demonstrated all elements of effective practice with offenders. Examples of poor practice were observed, but it is stressed that these were rare and usually resulted from inexperience of the law and formal procedure. (One particular case involved the attempted issuing of a written caution where there had been a denial of the offence and a contradiction of the facts of the case).

Some Centeniers receive no formal or compulsory training into how to conduct an enquiry. They tend to learn 'on the job' through observation of enquiries. (During the observation phase of this research, it was usually evident when an official had previously served as a Constable Officer or a Vingtenier; their comfortable, flexible attitude gained through years of observation of Centeniers was apparent together with their unique technical knowledge of obscure local laws.) It is clear that a synthesis of personal qualities is used in order to provide a flexible, adaptable service that is acceptable to attendees. The communication, negotiation and mediation skills of some Centeniers are noteworthy and potentially unpleasant scenes were observed to be diffused in a matter of minutes without recourse to the power of arrest. This seemingly 'natural' pro-social orientation of most Centeniers raises some interesting questions about the nature of the role. Does the presence of these individual qualities predispose pro-social people to put themselves forward for honorary service? Is it necessary to be a particular 'type' of person to be an effective Centenier? Whilst the answers to these questions do not fall within the remit of this particular piece of work, future research in this area may prove enlightening.

The following chapters change direction slightly and bring sharp focus upon what is known about informal community based systems and how this knowledge can provide a context in which to situate the experience of similar processes in Jersey.

CHAPTER SIX

COMMUNITY-BASED SYSTEMS OF JUSTICE

Introduction

This chapter examines the light that is shed upon traditional, informal community-based systems for the maintenance of social order and peace by the existing anthropological and criminological literature. Later chapters will analyse the reintegrative and restorative implications of these ideas and how, together, they provide a theoretical context for the phenomenon that is the Parish Hall system.

The chapter is divided into four parts: the first defines and describes features of traditional justice; the second part considers the role of informal justice in encouraging collective responsibility; the third part refers to the recent preponderance of community justice themes in the literature, particularly prevalent in North America. Finally, there is a brief discussion about the feasibility of incorporating informal mechanisms for the administration of justice with the formal state systems.

Traditional Justice

The term traditional justice has two meanings: in the 'modern', westernised (Eurocentric) sense, it has come to refer to a state-controlled system of criminal justice comprising a legislature, enforcement practice and judiciary that is hierarchical, usually adversarial and punitive. 'Traditional' is a misnomer in that the structured mechanisms for justice represented by the modern state are far-removed from the processes in place in indigenous, primarily tribal, communities based on informality. For the purposes of this chapter then, 'traditional justice' refers to the indigenous, non-state based justice that is present in mainly rural communities which have survived attempts at modernisation by colonial influences. The analysis of informal justice is taken to mean indigenous systems which may or may not sit alongside a system of formal state justice. 'Community-based' refers

to hybrid systems which are underpinned by the state in terms of either funding or function but resourced by community members who have certain autonomy to make decisions.

Indigenous Justice

There is a strong tradition of research in criminology about how behaviour is regulated in practice, and the various reasons and processes which lead people, most of the time, to comply with the law. Legal theory is concerned with legislature, judiciary and enforcement agencies. 'The law' features as a discrete sub-system, removed from society where dispute resolution is handled by unfamiliar people in strange places. Most behaviour however is regulated by informal processes and everyday interactions which convey social expectations and discourage norm-violating behaviour (Hirschi 1969). The main function of a formal system is to take over where informal systems fail, but in any society the main sources of peace and order lie in the efficacy and strength of informal systems.

Accounts of systems of traditional justice usually describe features that exist in close-knit communities where members are known to each other (Stevens 1998; Fallers 1969; Gibbs 1963; Gulliver 1963). Roberts (1979) examines some of the mechanisms used by traditional communities to keep social peace and maintain order. A key theme is the belief that order and continuity can be established without recourse to a formal legal framework. Law does not have to be interpreted by taking for granted some centralized state organisation which can remove redress from victims and isolate offenders. The presence of rules, courts and sanctions is not essential to effective forms of social control.

In any small closely knit community where people find themselves in continuing face to face relations, the threat of exposure to ridicule, disgust, provoking feelings of shame and remorse must represent an important mechanism of control (Roberts 1979:40).

Disputes and conflicts are considered normal behaviours and do not indicate a malfunction in society. This means that disputes are not viewed as a conflict between the relevant parties but of collective concern to the whole community. Conflict is perceived to have integrative qualities and therefore the potential to be a constructive activity. The conduct and effectiveness of dispute resolution processes are dependent upon the make-up and beliefs and norms of society in which disputes take place. Resolution may take various forms to maintain order in society, for example: the channelling of conflict into ritual warnings to wrongdoers, attempts to shame, ridicule, withdrawal of association and co-operation, settlement directed discussion, physical coercion, revenge, compensation or restoration.

Community involvement

In most tribal systems, there is a high level of community involvement with a focus on the restoration of social peace rather than the determination of guilt or innocence. The process is voluntary and sanctions are based on agreement. Enforcement is achieved through social pressure rather than physical coercion. Gulliver (1963) has described the informal methods of the Ndendeuli community of Southern Tanzania. The preferred method of dispute settlement was by community discussion. Third parties join in as either disputants or supporters. Gulliver describes these as members of an 'action-set'. After the establishment of the facts to the satisfaction of both parties, the discussion continues until settlement is achieved. The Ndendeuli refer to socially accepted rules and the importance of maintaining the harmony of the community. In achieving settlement, the possibilities for bargain and compromise are crucial to the process.

This characteristic introduces an element of flexibility which provides leeway for successful negotiation. Were the rules clear-cut, one avenue of compromise would be unavailable (Gulliver 1963:128).

There is a current re-emergence of tribal society and traditional justice systems in some countries (Vicenti 1995 and Melton 1995). In post-conflict societies such as

Burundi, Somalia, western court-based justice is not considered to be appropriate to achieve healing and traditional courts have been established to engage the community in debate to establish truth, and to identify victims and offenders (Dexter and Mtahombaye 2005). In these countries, the formal structures have either collapsed or been rendered ineffective and indigenous systems have replaced the formal legal system. It is estimated that 80% of Burundians take their cases to the traditional 'bashingantahe' system rather than the formal justice system.

In Rwanda, Gacaca courts are based on community participation and reconciliatory practices. They are chaired by 'inyangamugayo' – lay 'judges' who are elected from the community and who decide upon sentence (Harrell 2003).

Recent studies of communitarian practices in indigenous societies such as Papua New Guinea and in Nigeria are described as 'vibrant and resilient' (Banks 1999; Elechi 1999).

Collective responsibility

For centuries, 'circle sentencing' has been in operation in a large number of Canadian Aboriginal communities (Stuart 1996). This involves community meetings to deal with family and community issues that are deemed to be the cause of crime. The circle comprises victims, offenders and their respective supporters. Importantly, any member of the community is welcome to participate in the circle. One or two people are selected to act as 'keepers of the circle' who facilitate proceedings, mediate disagreement and guide the circle in the decision making process. Hearings are based on the principles of mediation, traditional peacemaking processes and the desire for consensus. At the outset 'keepers' outline the purpose of the circle and issue guidelines to the members.

Speak from the heart, remain until the end in the circle, allow others to speak by speaking briefly, and respect others by not interrupting and by recognising the value of their contribution (Stuart 1996).

At the end, the circle is closed by summarizing the proceedings, outlining the next steps and thanking all present for their participation. Supporters of this method of dispute resolution highlight the total community involvement as a particular strength.

Consensus

Navajo traditional justice methods are based on concepts of freedom and the belief that one individual does not have the right to impose his will upon another. Disputes are settled by the victim approaching the perpetrator and asking for the wrong to be made right. If settlement cannot be reached, the victim may approach a community leader (the peacemaker) and request a 'peacemaker process'. As with the circle sentencing in Canadian communities, the process is non-confrontational and involves family and community members. The peacemaker guides the process, working towards a resolution and agreeing an action-plan to settle the dispute.

The following passage neatly identifies the areas of difference between western and indigenous paradigms of justice.

Every tribe had its own institution for resolving problems. A 'court' in many cases, never really existed. But among Indian peoples murders did occur, property was stolen, adultery was committed, and other transgressions against the social order occurred. We Apaches had a context against which the transgression could be read, interpreted and resolved. We did not centralize all of our remedial powers into one institution. Rather, we would involve different elements of our society. – the chief, the warrior societies, the families, the clan, the medicine man and so on – in the resolution of the problem. Laws were not made by an institution such as a legislative body but by the normative power of the entire society. Each individual knew what was prohibited, where the prohibition came from, who would be empowered to decide corrective action, who would administer corrective action and what the corrective action would be (Vicenti, 1995 document not numbered).

Indigenous justice is underpinned by customary laws, procedures and practices within a holistic approach that promotes dispute resolution and healing. The modern western paradigm is adversarial in nature and conflict- oriented with

representation by strangers as opposed to extended family. The focus is upon individual human rights as opposed to a reparative responsibility to the victim and the community as a whole.

Traditional methods such as those highlighted above were outlawed in 1892 when the Bureau of Indian affairs imposed a Western-style court system. This court criminalized many Indian practices such as polygamy, bride price and consultation with medicine men. Paid police officers replaced clan leaders and judges replaced the community in the administration of justice. This had the effect of weakening the effectiveness of families and clans to police themselves. After decades of conflict, the Navajo returned to their traditional practices. Navajo Peacemaker Courts were formally established in 1982. These are considered to be 'court-annexed systems of popular justice'. They are organized by community leaders who preside over a traditional Navajo trial, held in the community where the dispute arises (Zion 1983; Bluehouse and Zion 1993; Yazzie and Zion 1996).

As with Canadian Aboriginal and the Navajo examples, illustrations from New Zealand demonstrate the similar beliefs that justice promotes family responsibilities and the primacy of community involvement (Maxwell and Morris 1998; Consedine 1999; Miers 2001). Traditional practices encompass restorative principles that presume collective responsibility for offending and restoration. The traditional practices disappeared from everyday use in the aftermath of colonization by the British in 1840. Colonialism required that the law deal with individuals and did not encompass the notion of community responsibility. Describing traditional practices as comprising 'quaint customs', the British quickly sought to impose English forms of justice and punishment upon the indigenous population. The Maori people were forced to renounce their cultural heritage and institutions in return for the 'gift of civilisation'.

Third Party intervention: arbitration, adjudication and mediation

The bilateral nature of a conflict can be removed by the intervention of a third party. This person acts as a go-between to allow disputants to reach settlement carrying information between parties or by taking an active part and promoting settlement. In certain cases, this person acts as an umpire, assisting the disputants to arrive at a solution. Roberts (1979) refers to two types of umpire: the arbitrator and the adjudicator:

- The arbitrator is invited by disputants to manage a particular dispute. Traditional arbitrators are usually chiefs, elders or influential persons from the community and know both parties to the dispute ;
- The adjudicator derives authority from office in the community, intervening to impose a decision by virtue of that office. Decisions made in traditional fora are more likely to incorporate a flavour of bargain and compromise which consider the underlying factors that have led to the dispute and importantly any factors that may predispose a successful restoration of harmony.

Many tribal communities operate a system of 'moot' under a variety of different names and procedures. These aim to bring the disputing parties together to reach an agreement. A mediator is chosen by the complainant to conduct proceedings and ensure fair play. The aim of the moot is to reach an agreement between all parties. Importantly there is no attempt to attribute blame but to achieve consensus through mediation. The moot takes place promptly and is held in informal surroundings. For example, the Kpelle people of Liberia allow observers to take part in the proceedings. The Kpelle moot system operates alongside courts that are used for cases of assault and theft. Importantly, the court only hears cases where 'the litigants are not linked in relationship after the trial' (Gibbs, 1963). The courts are felt to be too authoritarian in style and restrict the opportunities for full and frank discussion provided by the moot.

Adjudication versus negotiation

Roberts (1979) also argues that there is no reason why decision-making should be rule-based in a system where the ruler and the adjudicator have power to enforce their decisions.

It is not a question of the presence or absence of rules in a particular kind of process but of the way in which rules are *used* (1978:182).

Rules are decisively applied during adjudicatory processes and indecisively during negotiatory processes.⁴⁴

What do we gain by insisting that particular arrangements should be characterised as 'legal' whereas others should not? (1978: 204).

In Uganda, the Soga legal system existed alongside a national system of law imposed by the British (Fallers 1969). The system was manned (sic) by the indigenous Basoga and functioned within, and beside, the British system of Magistrates and Higher Court. Allocation of cases depended upon the ethnicity of the parties. Africans went to Soga courts and Indians and Europeans were referred to the British Courts. Serious offences, such as murder and rape were automatically tried by the British Courts regardless of ethnicity. Appellate jurisdiction was exercised by the British Magistrates although rarely used. Despite the uncharacteristic lack of administrative control by the British, the Soga system was constrained by a number of regulations and ordinances. During the hearing of a dispute, traditional judges do not rule out testimony on the basis of strict rules of evidence. Fallers (1969) refers to 'fact-mindedness' in his descriptions of arguments and decisions in Soga law:

⁴⁴ Over time, evidence suggests that the Parish Hall system has moved from negotiatory to adjudicatory processes in attempts to enforce the rule of law.

Basoga in court very seldom talk about the law – about the reach of concepts of wrong. They talk about the ‘facts’ – about what happened- without articulating the legal significance of these events (Fallers 1969:320).

Once the negotiation process has ended, a ritual confirming acceptance of the judgment by the parties and the community, and reintegration of the offender back into the community, is usually performed. Channelling conflict into ritual permits a controlled release of anger and the potential for a win-win situation with neither side losing face. The extent to which the Parish Hall Enquiry process constitutes a ritual will be discussed in the chapter five.

Ostracism and exile

In some communities, such a ritual may involve removal from the community rather than re-integration. The use of ostracism and a withdrawal of co-operation are also able to demonstrate an effective means of control within established communities. Ostracism is less likely in communities where there are high levels of interdependency. In indigenous societies, there may be reliance upon a particular person’s skill for the survival of the community and if those skills are removed then the consequences of the loss may be worse than those created by the initial offence.⁴⁵ This is not unknown in Jersey where key skills and trades have to be imported from outside the Island. In addition to ostracism, the fear of supernatural intervention is widespread amongst traditional societies.⁴⁶

⁴⁵ Jersey has a strong tradition in the use of ostracism and exclusion as a means of maintaining social peace. ‘There’s a boat in the morning’ means just that in an island community. The use of the ‘BOTLI’ (Binding over to leave the island) is commonplace and the Magistrate uses it to exclude ‘undesirables’ from the Island. Voluntary exile via the BOTLI is usually applied to people who have no established connections with the Island and for whom voluntary deportation is preferable to a custodial sentence. It is unlikely that its use would exercise a significant level of control over local residents.

⁴⁶ Although Jersey has a strong tradition of witchcraft and sorcery, recourse to the supernatural in modern times is not considered an effective method of social control. Anecdotally, some immigrant Madeiran nationals demonstrate increased susceptibility to the role of superstition, curse and sorcery.

Despite obvious cultural differences, some of the mechanisms employed by the tribal communities I have described are relevant to Jersey but not evident in present-day western theory and practice. These elements will be considered in the context of the Parish Hall Enquiry system in chapter five.

Informal Systems

This chapter has so far considered the elements of traditional systems that are outwardly tribal in nature. By no means all 'traditional' systems of justice exist in communities that can be described as 'tribal'. Informal systems exist in modern societies. An example of a system based on feudal organisation operating in a modern context similar to Jersey is presented by the smaller Channel Island of Sark (Hawkes 1993). Although part of the bailiwick of Guernsey, Sark has the power to introduce legislation and orders to regulate its own affairs. This right was reaffirmed as recently as 1951 under Royal Seal.⁴⁷ Controversially, the Island of Sark has recently refused to repeal the death penalty and a number of other ratifications to European Law have been refused.

The island of Sark has six hundred inhabitants rising to one thousand during the summer months. As is the case in Jersey, the laws of the Island of Sark Law are based upon 'la coutume', ancient customary law based upon Norman Law dating from before the days of William the Conqueror. Law and Order is maintained by the two Sark Constables. Two officers, the Connétable and the Vingtenier, are elected by Chief Pleas⁴⁸. The Vingtenier is junior in rank to the Connétable; however the duties are identical. Both positions are honorary, although a small honorarium is available to compensate for loss of earnings. Both Constables have the power of arrest and a duty to present offenders before the magistrate. This magistrate is

⁴⁷ ' Chief Pleas may make ordinances as heretofore, for the maintenance of public order and for the regulation of the local affairs of the Island' Reform (Sark) Law, 1951

⁴⁸ The governing body of the Island

known as the Seneschal. The post holder is appointed by the Seigneur⁴⁹ to serve a term of three years. The Seneschal's court, which deals with both civil and criminal matters, was established in 1675 after a patent of Charles II abolished the court of Jurats elected by the people. The Seneschal is empowered to sentence offenders to 3 days and 2 nights in Sark jail (a two berth brick-built building). In addition, the Seneschal is empowered to impose fines of up to £1000 and imprisonment of up to two months which must be served in the neighbouring island of Guernsey. The system of preliminary investigation available through the Parish Hall Enquiry in Jersey does not operate in Sark and offenders are brought directly before the Seneschal's court which convenes in the Island Hall.

Enforcement of the order of the court is the duty of the Prevôt, also appointed by the Seigneur. Duties include the collection of fines and the supervision of prison sentences. This latter responsibility includes feeding the prisoners and transferring offenders to the Guernsey prison authorities. Although traditionally entitled to keep the fine-monies, the Prevôt is now paid a small retainer for the service provided.

The Sark system provides a rare, probably unique example of a pre-modern justice system in everyday use. There are obvious parallels with the Jersey system⁵⁰ although the enforcement officers are appointed by Chief Pleas rather than by election of the ratepayers.

The importance of informality

Christie (1977, 1982, 1983, and 2004) has highlighted how informal and restorative practices are particularly appropriate to situations where people will continue to inhabit the same communities after the issue has been dealt with, and he links this to discussion of the social structure of neighbourhoods and, interestingly, islands.

⁴⁹ Seigneur – a hereditary position as head of the Island's governing body

⁵⁰ The rank of Centenier is absent in Sark. Although established in 1581 by Jerseyman Edward de Carteret during a bid for independence (Hawkes 1993:99) the Jersey structure that he imposed was revoked and the office of Centenier never reinstated.

The formal criminal justice process is only one way of handling norm-violating behaviour, and sometimes it is advantageous to have ways of dealing with crimes without creating criminals. Christie, who has written extensively about the place of informal procedures in criminal justice, makes an important point about the concept of crime:

Crime is not a 'thing'. Crime is a concept applicable in certain social situations where it is possible and in the interests of one or several parties to apply it (Christie 1982:74).

Christie (1982) describes the role of the 'lensmann' as an 'ancient and highly active' institution operating in Norway. These persons (usually male) perform numerous civil duties but are also tasked with controlling crime. They live in the district and the role has traditionally passed from father to son. Their ability to act effectively is dependent upon their popularity, although it is not clear from the available literature whether or not they are chosen for the position by members of their own community. The lensmann would argue that there is no crime in his valley because his definition of 'crime' is inapplicable where members of his own community merely get drunk and cause a bit of trouble. The traditional role of the lensmann has now eroded and the posts are more professionalized than in times past. The lensmann is required to be professional and attend training college. They are now well-paid and highly organised⁵¹

Participatory Justice

The operation of participatory justice is also a key theme in the literature about informal justice. Participatory justice involves 'conflict handling' and 'conflict participation'. It changes the focus from the outcome to the process. It does not presuppose that a conflict requires resolution. It sees conflicts as objects that can be owned, which have intrinsic attributes and values. This describes the concept of the present-day definition of social capital. In the contemporary justice system, the

⁵¹ For a contemporary description of the lensmann see www.politi.no

victims' conflict – loss, anger, pain - is 'stolen' by a state that grades the sense of loss and gives it a professionalized value (Christie, 1977).

Strengthening participatory justice would however, clearly strengthen tendencies to pay tribute to local values. Justice would not be quite as equal from neighbourhood to neighbourhood as it is supposed to be today. Participation in justice will in other words strengthen the survival ability of local values... subcultures, native populations, completely other ways of thinking and acting, all this has probably become exterminated to a greater extent during the last 30 years than ever before in the history of our globe.. Diversity in social arrangements has become heavily reduced. Participatory justice might turn out to one of the essential elements in the protection of diversity, and thereby also of values in danger of extermination (Christie 1977:111).

Christie discusses conditions for a low-level of pain infliction that will ultimately result in a higher level of social peace. Elements of all these are inherent in the role of the Honorary Police. He specifically discusses the use of power and levels of vulnerability of those that wield it. Christie argues that the appropriate use of power creates the conditions for a low-level of pain infliction. In some societies, the localisation and informality inherent in 'horizontal justice' could be an invitation to corruption or to the persecution of unpopular social groups.

Community integration gives weak parties within a sub-system a chance of making their misery known, and also of establishing protective coalitions (1977:111).

Direct election of local law enforcement officials may increase their sense of accountability to the community, but this can lead to increased punitiveness where community attitudes are strongly punitive, as we see in parts of the United States. In Jersey, however, the expectations of electors and the traditions of the honorary system tend to favour fairness, impartiality and a problem-solving approach, and this helps to control some of the risks associated with informal systems such as corruption and populism. In addition, the formal system is fully functional and can act as a check on errors in the informal system. The Centenier has considerable

power to punish but this power is controlled to a certain extent by his role and position in the community. The office creates a high level of vulnerability. A Centenier is elected from within the parish in which he serves (or must be a rate-payer in that parish). Given the size of Jersey, 9 miles by 5 miles, and the division by 12 parishes, he/she will live within a 4-mile radius of **all** the parishioners. This close and available physical proximity to the community increases the level of vulnerability. The Centenier is very much, in Christie's words, 'a hostage of the community'.

Horizontal and Vertical Justice

Christie (2004) develops his earlier arguments presented in the 1970's and 1980's in his recent book. His concepts of horizontal and vertical justice are particularly relevant to the Jersey situation and offer some explanation for the competing perspectives revealed by this research. Horizontal justice refers to a process where social norms are created through social interaction; through gossip and discussion, social groupings and shared decision-making at a local level. Attention is paid to the past, but concern for the future is important. Similar acts may be given different meanings within each different group (in the Jersey case, the parish). The relevance of a particular decision is not governed by law and there are no pre-defined solutions to dealing with disputes. An open-minded approach ensures that all factors that are considered relevant to the parties concerned are taken into account in order to create a consensus. Compensation is more important than punishment.

Vertical justice functions according to the principles of formal law. With written rules and precedents, cases are treated equally according to rules. Factors which would be considered relevant to the offence in an informal setting can be considered irrelevant:

This type of justice [vertical] is reached by establishing limitations on what can be taken into account; otherwise equality could not be established in this setting. This is in sharp contrast to horizontal justice where the question of relevance is decided among the participants in the process (Christie 2004:77).

The main risk inherent in informality and the horizontal approach is that some carelessness or casualness about formal legal rights can creep into the system. Some might argue that these are inherent weaknesses of informal processes, and that they should therefore be replaced by more formal processes. Braithwaite describes the neoclassical tradition as 'a systemizing of punishments by jurisprudential professionals so that they reflect the desert of defendants' (1999: 7). This model militates against any attempt by communities to deal with crime outside of a formal justice system due to the risks of unpredictability.

Informal community involvement in crime control risks both expressive oppression and excessive leniency by do-gooders. Community justice is unpredictable, inconsistent and unjust (Braithwaite 1989: 7).

Neo-classicists would argue that the ideal is a professionalized justice system that is measured to deliver neither more nor less than offenders deserve. This removes any contributory factors to the offence other than the act itself.

The crime- the sin, becomes the decisive factor, not the wishes of the victim, not the individual characteristics of the culprit, not the particular circumstances of the local society (Christie 1977: 45).

The honorary system and communitarianism are clearly in conflict with this approach.

Community-based and hybrid systems

An example of a hybrid system where horizontal and vertical justices co-exist is provided by Japan where state-funded functionaries provide policing services to a society where the principle of voluntary involvement in community affairs is strong.

Reliance on family and local community for welfare is expected and public expenditure on welfare is low. As in Jersey, welfare payment serves to provide a safety net in place of a universal provision. Levels of crime in Japan are low. The Japanese example of neighbourhood police posts provides an international comparison for Jersey.

In rural areas the 'Chuzai-sho', rural police posts, are staffed by officers who are appointed and paid to perform the policing task. The officer relies upon personal knowledge of the local neighbourhood and occupants to perform his duties, most of which are unrelated to investigating crime. The urban equivalent of the Chuzai-sho, the Koban, has many parallels with the Parish Hall and residents use the building as a community resource. The police based at the Koban provide a number of services that are not linked solely to the detection and investigation of crime. Advice on issues such as housing, employment neighbourhood disputes, poverty and refuse collection is offered.

The Japanese police are service-oriented. They spend much time and energy providing assistance and services to the general public. They are constantly supplying information to people lost or trying to find particular premises; and they search for young runaways and provide a regular counselling and guidance service at the police stations and by telephone. People are encouraged to bring any problems at all to the police (Mawby 1990:113).

The Japanese Koban officers are nicknamed 'omawari san' or 'Mr Walkabout'. They spend much time on patrol talking to the public. They have considerable discretion to 'no crime' minor incidents or take informal action against offenders. Bayley offers the interesting analogy of the postman:

A koban is an active force in community life; it is not simply a passive source of police assistance....An American policeman is like a fireman, he responds when he must. A Japanese policeman is more like a postman; he has a daily round of low-key activities that relate him to the lives of the people among whom he works (Bayley 1976:91).

'Modern' community justice

It is interesting that the contemporary community justice literature describes systems that have been created artificially according to best practice principles taken from traditional societies and tailored to provide 'community justice' in a modern context from within a paradigm that is considered to be 'new' .

Community justice is a new approach to crime that explicitly includes the community in criminal justice processes. It is expressly concerned with improving the quality of community life and the capacity of local communities to prevent crime and to effectively respond to criminal incidents when they occur (Karp and Clear 2002: xiii).

Chapters one and two have described the history and operation of the honorary system and the Parish Hall Enquiry and together with some contemporary examples presented in this chapter in operation in Sark, Norway and Japan, this would suggest that the community justice paradigm is not 'new' but a 're-branding' of principles that have been long-established in many modern societies .

Mobilizing neighbourhoods

There are a number of proponents of the establishment of programmes that adopt community justice values in the 21st century. (McCold 1999; Wachtel 1998; Umbreit 1994; Umbreit et al 2001; Karp and Clear 2002; Bazemore and Schiff, 2005). All have something to say about the role of the community in the administration of justice and the literature is replete with examples of programmes which aspire to engage the community and specific neighbourhoods in dispute resolution. (See accounts of BARJ project (Schiff 1998); Ohio Night Prosecutor's Program (Palmer 1975); Vermont Community Reparative Boards (Karp 2002); Ventura County, Oregon (Karp, Lane and Turner 2002) and Boston's Operation Nightlight (Corbett 2002).

Community justice emphasizes strategies that repair damage or solve problems in order to restore communities. Community justice emphasizes strategies that integrate marginal members of the community at risk for further criminal behaviour. Ultimately, the success of community justice is predicated on the development of community capacity and community satisfaction (Karp, Lane and Turner 2002:31).

These principles are echoed by Martin (2002), referring to the establishment of community justice initiatives in Oregon, USA. They provide a useful classification of a number of core principles that are required to create, maintain and develop safe communities:

- The active collaboration of citizens, elected officials, and public and private service agencies in community governance;
- A focus of preventing social problems rather than curing them;
- Recognizing and building on community strengths and assets;
- Involving community members in defining and resolving problems before they escalate to crises;
- Repairing harms done to victims of crime and their communities;
- Holding offenders accountable and improving their competency to be productive community members (Martin 2002:138).

Jersey is in the fortunate position of not having to recreate artificially these community justice values, having maintained systems of honorary service for many hundreds of years. The honorary systems have worked for centuries to promote the development of employment opportunities, education and training, the reinforcement of positive behaviours and pro-social modelling. These are all areas that 'What Works' theorists recognise as crucial to reducing recidivism and the establishment of safer communities (Andrews and Bonta 1998; McGuire 1995; Trotter 1999). Braithwaite (1989) offers the following insight about low crime communities which is very relevant to the Jersey context:

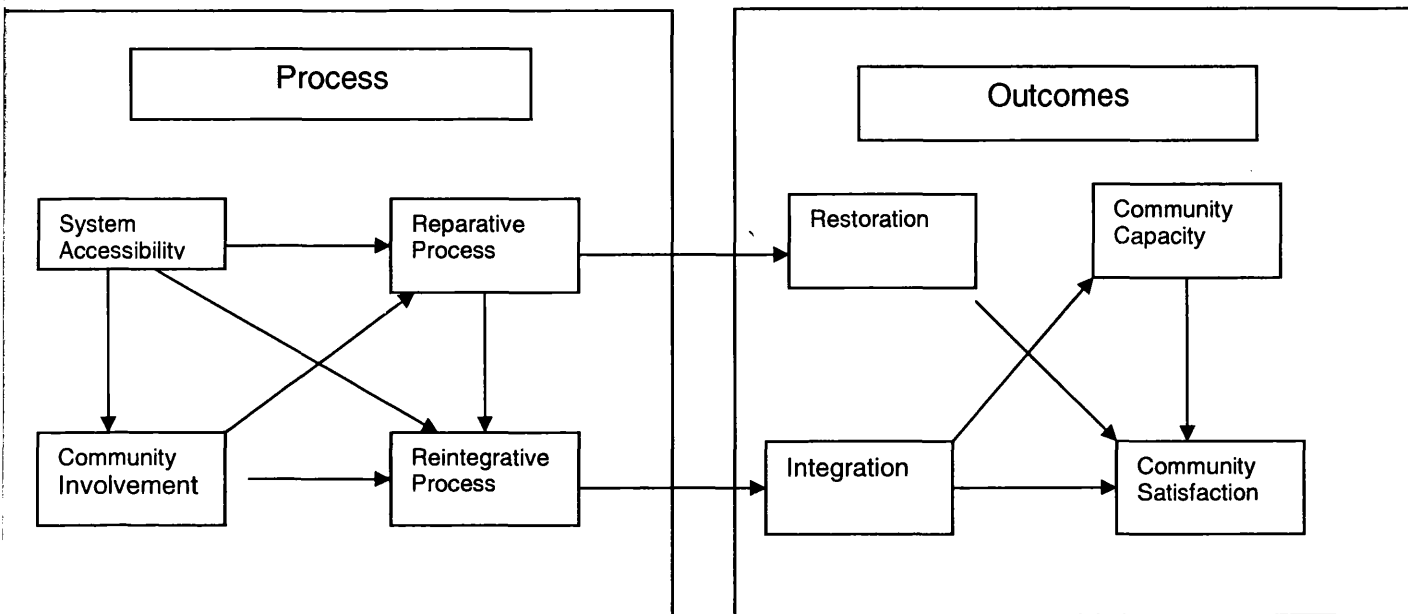
Low crime societies are societies where people do not mind their own business, where tolerance of deviance has definite limits, where communities prefer to handle their own crime problems rather than hand them over to the professionals (Braithwaite 1989:8).

Karp and Clear (2002, 2004) define the principles of the community justice model across the related 'domains' of process and outcome. In the process domain, successful models of practice should be accessible, involve the community and ensure satisfactory reparation and re-integration. A number of theoretical constructs are necessary to facilitate this type of effective community justice practice. These include:

- Accessibility – interventions should be located within close proximity to stakeholders;
- Flexibility – if necessary, interventions should operate outside of normal working hours and there should be a range of appropriately qualified staff;
- Informality – any service should meet individual need and be able to respond to particular circumstance;
- Stakeholder participation - affected parties should be able to take part in the decision making process;
- Community partnership- the extent to which the state based and local organisations come together to provide effective, relevant, local intervention;
- Reparative decision-making – identification of needs to the victim and the wider community and the extent to which opportunities for reparation are offered and enforced;
- Victim reparation- victims should be satisfied with the restitution or reparative task;
- Community reparation- this can include community service but should also focus upon educational development , family support and a reduction of criminal opportunity ;
- Norm affirmation- offers opportunities for the expression of local standards of acceptable behaviour through the establishment of community support networks.
- Competency development – provision of mentoring services, employment and educational opportunities.

The relationship between these factors within each domain is summarised in Diagram 1.

Diagram 1: Community Justice Model (Karp and Clear 2002)



Of particular interest in the context of this research are the outcome domain and the concept of community capacity, also referred to as community efficacy or the ability of a particular community to maintain peace and social order without recourse to the imposition of formal law and procedure. The structure of social relationships in most tribal communities is often indistinguishable from a legal system in itself and so this capability is taken for granted in most tribal societies where there are shared values and close clan relations and kinships. In modern societies, where interdependencies are weaker, it would seem that a sense of community has to be created before the process can function adequately. This may explain why most of the examples in the literature surrounding 'new' programmes of community justice concentrate very much on the *process* of community justice and pay less attention to the description of the *outcomes* of these principles.

Incorporation of traditional and informal with formal and modern systems

Finally, it is interesting to consider the feasibility or otherwise of combining these informal, traditional and community-based models of justice with more formal court based systems. There are a number of difficulties that would militate against incorporation. The first problem arises from the lack of a separation of powers between judicial and executive functions of government. In most modern states (with the notable exception of the Bailiwick of Jersey) these institutions are entirely separate. In traditional communities, chieftainship is associated with both functions and there is often a close personal relationship between the governing bodies and the governed. Secondly, traditional systems tend not to distinguish between civil and criminal matters. In formal, Eurocentric systems, the distinction between criminal and civil matters is made and there are separate standards of evidence and set procedures for each. In 1999 a study commissioned by Penal Reform International made the following comment about the modernise/traditionalise dichotomy:

What should be the main concern of those writing on this subject is not whether a predilection for things old or new can be exposed but which system provided the most appropriate solutions in what types of cases, and how each system's comparative advantages can be enhanced and disadvantages minimised (Penal Reform International 1999).

The main conclusions of the study suggested that existing traditional and informal mechanisms should **not** be incorporated into formal state systems. It also made a number of recommendations which have relevance to the current function of the Parish Hall Enquiry system:

- The jurisdiction of traditional systems should **not** be heavily restricted;
- Formal legal representation before traditional and informal justice forums is not necessary;
- State organisations should **not** interfere with the appointment of 'informal arbitrators' within a particular community;

- Human rights education should be an integral part of any assistance offered to informal systems;
- Some form of self-regulation of systems should be considered which also might undertake training and research functions;
- There is an urgent need for research into traditional and informal systems operating within particular countries. Criteria should be developed in order to assess the effectiveness of informal systems before and after interventions employing participatory techniques

Conclusion

It is clear from the examples presented in this chapter from the anthropological and criminological literature that the form and function of 'community justice' can have different manifestations. However, the main themes of community involvement, collective responsibility, reparation and reintegration through participation are evident to varying levels according to the individual context of each intervention.

The following chapter develops the ideas about the role of community from a communitarian perspective and addresses a particular aspect of community justice, restorative justice.

CHAPTER SEVEN

RESTORATIVE JUSTICE IN JERSEY: REPAIR, RECONCILIATION AND REASSURANCE

Introduction

This research study interconnects with international debates and research related to the role of local decision-making, informal practices and community involvement in the criminal justice process. Throughout the world industrial societies are beginning to consider the means by which criminal justice has become the business of the State and the professionals to the exclusion of the community and often of the victims. As rapid social change threatens to weaken social bonds and create societies of strangers, criminal justice authorities are seeking to re-engage communities, to involve offenders and (if they wish) victims in active participation in resolving the consequences of unwanted behaviour or reducing the chances of further crime. Over the past forty years, an international restorative justice movement has steadily emerged, designed to engage offenders themselves in restorative discussions and reparative action in order to undo some of the harm caused by their offending. Criminologists have written about restoring some decision-making power to those directly involved and to their communities (e.g. Christie 1977), and many jurisdictions are now adopting a variety of restorative justice practices with the active support of international organisations such as the United Nations (United Nations 2000, United Nations 2002). Usually one aim of such practices is to provide, in appropriate cases, a cost-effective, locally-based and problem-solving alternative to the formal court process and conventional sentencing. Some legal

scholars and criminologists are now arguing that the criminal courts themselves should become more problem-solving in their approach. This would mean being more actively involved in developing and supervising plans for offenders to address their difficulties and construct more law-abiding lives, in the way that some drug courts have done. This is sometimes described as 'therapeutic jurisprudence' (c.f. McGuire 2003).

This chapter comprises four sections. The first will consider the light that is shed upon the process of restorative justice by the criminological literature. As there is a vast amount of research and writing which is relevant to the operation of restorative justice across international jurisdictions, in the first section, I shall summarise the key ideas, values and debates that are most relevant to the restorative practices in Jersey. The second section describes the expression of restorative justice in Jersey, breaking down the key areas of difference from other initiatives. The third section presents a description and an evaluation of the recently introduced victim offender conferencing initiative, with an analysis of its evolution and a discussion about preliminary results. The final section will consider to what extent the Parish Hall system can be considered 'restorative' when compared to other initiatives.

Informal justice

The study of informal justice has shown that effective dispute resolution involves the bringing together of interested parties as opposed to the separation of the offence, the offender, victim and the community in which they all exist (Christie 1977, 2002, 2004). The move to a more 'restorative' focus has arisen out of dissatisfaction with the way modern criminal justice has failed to meet the needs of individuals, victims or offenders. As described in chapter three, most tribal or pre-modern societies demonstrate the use of restorative practices as a means of maintaining order and keeping social peace. Most of the features noted in the literature surrounding traditional justice are apparent in the restorative justice literature and many examples of restorative justice practice in a modern context

are inspired by the practice of informal community justice (Moore and O'Connell, 1994, Maxwell and Morris 1996, Galaway and Hudson 1996, Cayley 1998, Consedine 1995, Johnstone 2002, Roche 2002, 2003).

Restitution

Barnett (1977) is generally recognized as having introduced the term 'restorative justice' into the literature. He proposed a paradigm based upon 'pure' restitution in which an offence would be construed as perpetrated against an individual victim and never against the state. Victimless crimes would therefore no longer be considered crimes (Christie 1977).

Restoration

Howard Zehr (1990) created a comprehensive model of restorative justice. He remodelled the elements of participatory and community justice into an 'alternative justice paradigm' by focusing the concept of retributive and restorative justice through two contrasting 'lenses'. Drawing on Christie's notion of the infliction of pain and the theft of individual conflict, he defines retributive justice as defining a crime as a 'violation of the state, defined by lawbreaking and guilt'. The experience of crime portrayed through a restorative lens is transformed.

Crime is a violation of people and relationships. It creates obligations to make things right. Justice involves the victim, the offender and the community in a search for solutions which promote repair, reconciliation, and reassurance (Zehr 1990:181).

Zehr defined a restorative justice 'yardstick' where initiatives were measured against five questions:

- Do victims experience justice?
- Do offenders experience justice?
- Is the victim-offender relationship addressed?
- Are community concerns being taken into account?

Is the future being addressed? (Zehr 1990: 230-231).

Illustration of his model came from the examination of Victim Offender Reconciliation Programmes (VORPs) in the United States, which focussed heavily on face to face victim offender mediation. Meetings are organised to give the offender the chance to make voluntary reparation to the victims. It can include an apology and an explanation for the offence. Importantly, the offender has to listen to the victim's own experience of the offence and the consequences of it. The VORPS that Zehr describes aimed to decrease reliance on formal justice. Most developed through a communitarian backlash against the perceived inadequacy of the retributive paradigm (Umbreit 1985). In the United States, a number of schemes operate at different levels throughout the formal justice system. One example is the Night Prosecutor's Program in Ohio which offers mediation services as an alternative to formal court processing (See Palmer 1975;). Although these are seen as a useful alternative to formal court processing, VORPS are sometimes criticised due to a lack of community involvement in dispute resolution (Zehr 1990).

There are a number of examples of restorative measures operating in the United Kingdom. The use of compensation orders began in 1972 under the Criminal Justice Act. Community Service Orders also began in 1972. These are considered to be restorative measures although the victims do not benefit directly. Most schemes involve working on local community projects. Later legislation provided by the Crime and Disorder Act (1998) allowed for the imposition of Reparation Orders. Young offenders are ordered to carry out work to benefit either the victims (if the victims agree), or to benefit the community (if the victim refuses participation).⁵²

⁵² The Criminal Justice Act (2003) introduced a statutory basis for restorative justice through police cautioning

More recently Marshall developed Zehr's five point criteria and suggested the widely accepted definition of restorative justice as 'a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future' (Marshall 1998:5). This perspective considers three central elements of restorative justice: process, stakeholders, and outcome.

Conferencing

McCold provides a useful chronology of international restorative practice developments between 1970 and 1995. He identifies four models of conferencing:

Mediation models: community mediation, victim offender reconciliation programmes, victim offender mediation;
Child welfare conferencing models: social welfare family group conferences, family group decision-making;
Community Justice Conferencing models: youth justice conferences, Police conferences, victimless conferences, community conferences;
Circle Models: peace circles, sentencing circles, healing circles.
(McCold 1999:1-2)

Each of these models is well documented and the 1990's were characterised by a burgeoning academic literature about the promise of restorative justice as a panacea to individual and community troubles (Moore and O'Connell 1994; Walker 1994; Wright 1996; Thames Valley Police 1997; Marshall 1998; Pranis 1998; McCold 1999). Many hundreds of experiments with restorative justice are in place internationally and at the beginning of the new century, the reach of restorative justice had extended to corporate, political and global ills (Braithwaite 2000, 2002, 2002a; Braithwaite and Roche, 2001; Braithwaite and Strang 2001).

Recipes for restorative justice?

'Restorative justice' is particularly difficult to define because it comprises variable practices at different stages of the justice process. Criminologists have

theorised and demonstrated practices that can operate within both community justice models and criminal justice systems, both formally and informally. Restorative justice can function within a diversionary capacity prior to a court appearance, or following a court disposal. Increasingly, restorative processes are being employed in civil organisations such as schools and workplaces. The capacity of restorative justice in dispute resolution is also evidenced by its application to alleviate political discord and promote national reconstruction (Roche 2003, Drumbl 2000). The lack of consensus about a definition gives rise to much confusion and both advocates and critics of restorative justice alike may be referencing different conceptualisations. Crawford and Newburn (2003) question whether restorative justice is a process or an outcome. Braithwaite and Strang (2001) suggest that restorative justice involves 'a commitment to both restorative processes and restorative values' (2001:2). Others widen the boundaries and suggest that restorative justice should be defined as a set of ideas that challenges conventional ideas about crime and criminal justice (Johnstone 2002).

Restorative justice in its modern context then, assumes several principles aimed at empowering victims and building communities. Restorative justice seeks to ensure that the victim is at the centre of the process. The primary goal is to make good and repair the harm done by crime to the stakeholders, usually assumed to be the victim, the offender and the community. Offenders must accept responsibility for their actions before restoration can take place. By replacing the state with a human victim, offenders are able to reflect upon the actual harm caused, both to the victim and to the community. The process is inclusive, and may extend to whole community involvement. Successful outcomes are measured by stakeholder satisfaction with the process and outcome rather than adherence to a prescribed tariff. Conventional criminal justice theory and the official retributive frameworks of police, court and prison tend not to encompass reparative and restorative values and are thus considered less able to achieve restorative goals. In the formal court system,

there is a plaintiff and a defendant and therefore a winner and a loser. Court based decisions are based upon legal principles and rules of evidence, judges' rules and precedent.

The Jersey experience – everyday expressions of restorative justice

As evidenced in previous chapters, in Jersey 'restorative justice' is by no means a new concept. The Jersey system is interesting in that it provides an indigenous example in a modern society. Centeniers, through the Parish Hall Enquiry system have for centuries been demonstrating processes and practices that have more recently been defined as 'restorative justice' in modern societies. However, the Jersey Parish Hall Enquiry system is set apart from the other models described in the literature for a number of reasons.

For ease of presentation, I have grouped these features under the following headings: the Parish Hall Enquiry system begins and ends in the community; the Parish Hall Enquiry system exists outside the criminal justice system; the Parish Hall Enquiry system is in everyday use as an alternative to a court appearance, for adults and youths; the Parish Hall Enquiry system is mainly resourced by the community, not the state; and the Parish Hall Enquiry system is not as victim focussed as other initiatives. I describe each feature and, where possible, try to locate it within existing restorative justice themes.

The Parish Hall Enquiry system begins and ends in the community

Practical expressions of restorative justice seek to recognise that crime is more than an offence against the state. They aim to consider the impact on victims and others involved, be they family, friends, peers or members of broader networks of interdependencies. They also endeavour to explore how communities can assist in the processes of restoration and conflict resolution. Implicitly, they seek to curtail and limit the role of criminal justice professionals, preferring to empower victims, offenders, family members and others as partners in the justice process (Crawford 2002).

As previously noted, the Parish Hall Enquiry forms part of the prosecution process. Alleged offenders have their cases heard by elected community representatives who decide the outcome. In this way the community preserve the responsibility of the 'public interest' and decision-making is not ceded to the state. Restorative practices are intertwined with everyday life. The system is highly legitimate because wide community involvement is necessary to the continuance of the system.

Crawford also notes:

Justice should be about citizens deliberating over the consequences of crimes and how to deal with them, as well as how to prevent their recurrence. Such a vision of justice seeks to restore the deliberative control of justice to citizens (Crawford 2002).

Jersey has managed to maintain community involvement in the deliberative control of justice for many hundreds of years and consequently, it requires little or no 'restoration'. Over and above deliberative control, community involvement provides opportunities for establishing and upholding parish and Island norms and the construction of shared values. Parish Hall enquiries offer the attendees the concrete opportunity to accept responsibility for their actions. It is a forum where participants can exchange 'stories' and provide 'sentimental education' (Rorty 1998:167-85 cited in Roche 2003). Community participation is high, and parishioner proximity to the parish based political system ensures that parishes are able to mitigate the effects of structural inequalities that have the potential to divide the community and encourage offending behaviour.

Critics express concern about accountability, proportionality and consistency in community settings. In Court, sentences are made according to a tariff intended to ensure proportionality and consistency. Disposals are supposedly proportional to the seriousness of the offence and the offenders' level of responsibility in the act. Legal precedent is used to maintain consistency. Critics of informal and restorative justice argue that individualized outcomes should

also be proportional and consistent. Themes of proportionality and consistency also lead Roche to raise concerns about the accountability of restorative justice programmes. Most restorative advocates would agree with monitoring but argue that participant satisfaction is a more appropriate measure (McEvoy et al 2002).

Agreements are incomparable both with other agreements and traditional court imposed sentences as they represent the result of the negotiations of a unique combination of people affected by a unique crime (Roche 2003:38).

Roche (2003) also raises concerns about accountability in restorative justice programmes which seem to be particularly relevant to community-led justice although some of these do not appear relevant to Jersey. In other jurisdictions there is evidence that indigenous people and ethnic minorities are less likely to be referred to programmes.⁵³ Others have noted that offenders were only admitted when they were likely to be able to make restitution to the victim. In Canada, La Prairie (1999) noted that as in Jersey, people with previous convictions (or previous parish hall enquiry sanctions) may be systematically excluded from the system.⁵⁴

The Parish Hall Enquiry system exists outside the criminal justice system

Centeniers and other participants are able to address a greater range of issues in enquiries than would ever be possible in Court due to legal and procedural

⁵³ Referral to a Victim Offender Mediation programme should be less of a problem for Jersey because only the Centeniers have the power to charge. In the case of youth enquiries, the paperwork is also passed to the Probation Service, (or the Children's Service for children aged below 12 years). Once a particular case has been identified by the Probation Service, the Restorative Justice Officer contacts the Centenier to talk about the advantages in advance of the Enquiry. In addition, a number of Centeniers have been trained to undertake Victim Offender Mediation conferencing and all conferences include the participation of a parish Centenier (not necessarily the Centenier who deals with the case) to provide a parish perspective. It would appear that referrals to Victim Offender Mediation are as high as they can be for cases that are heard at Parish Hall Enquiry.

⁵⁴ This has been demonstrated to some extent in Jersey through the development of the A + B lists provided by the Magistrate and the constraints of Force Orders.

constraints.⁵⁵ Because the process is extralegal, lawyers are excluded from the process and whereas criminal justice 'professionals' are sometimes present (usually Probation Officers), these participants may only offer advice and assistance to Centeniers when requested to do so. The final decision to prosecute an attendee remains with the Centenier.

This extrajudicial existence raises questions about the relationship between formal and informal mechanisms of restorative justice systems. McEvoy (2002) has considered this topic with the Northern Irish context.⁵⁶ The recent review of criminal justice in Northern Ireland refused to endorse schemes that exist outside the formal system which purport to deal with criminal activity and concluded that community-based schemes should be accredited by government and that referrals should not be made by the community so that the 'state retains ultimate responsibility for criminal justice' (Criminal Justice Review 2000: 226). Contrast this with the following from Rutherford and Jameson when reviewing the criminal justice system in Jersey:

The Parish Hall Enquiry is one of the most remarkable institutions to have evolved on the Island. The Parish Hall Enquiry, in modern parlance, seeks the localised resolution of criminal events outside the formal processes. It is envisaged by this Review that the diversionary role of the Parish Hall Enquiry be re-asserted. In particular, consideration should be given as to how the powers to defer cases might be used more extensively to allow the emergence and development of a variety of new possibilities. These possibilities include the expansion of the restorative justice project which commenced in March 2002 and which is designed to complement the work of Parish Hall Enquiries (Rutherford and Jameson 2004: 100).

⁵⁵ Any 'legalization' of the Parish Hall Enquiry is resisted by Centeniers. The recommendation by Sir Cecil Clothier in 1996 that the enquiry process should take on the status of a court was unanimously rejected (Wavell 1997).

⁵⁶ The main critiques of informalism noted by McEvoy concern the idealization of community as harmonious and consensual – based on the notion of 'community' as a consensual and congruent majority, experiencing little conflict. This tendency to romanticise denies the existence of undesirable elements of 'community'. For Jersey, it seems that definitions of 'community' are indiscernible from notions of parochialism.

A Managerialist Agenda

The restorative practices demonstrated through the Parish Hall Enquiry operate outside the formal justice system. This has a number of advantages including the protection of the community from a managerialist ideology which has been observed to undermine the application of effective restorative justice practice in other jurisdictions. McEvoy and Mika address the concern that community-based restorative justice suffers 'technical and evaluative failure' arising from a demand for measurable outcomes rather than the human aspects of restorative processes.

Despite its claim to 'benign empiricism and rationality' (Muncie 2002), the narrow focus on measurement, audit and cost benefit analysis which characterizes much evaluation in the criminal justice system has profound impacts upon the way in which we think about crime and social harm more generally...it may have the effect of limiting experimentation, favouring 'outputs' over 'outcomes', and skewing practice to fit performance indicators, curtailing staff discretion and diminishing real effectiveness in favour of what is easily measured (McEvoy and Mika 2002:552-553).

As previously noted, the parish hall process has suffered to some extent from a state-led managerial approach to the administration of crime. The decentralised existence of the system however has allowed parishioners to mount a robust resistance and so far, the anomalies in the system have proved effective in the deflection of attempts at colonization and professionalization by the state. Reliance upon parish-based resource streams in terms of participation and funding ensures that the system remains at a safe distance from state control.

Another widespread criticism of community-based justice based upon informality expresses the view that it is 'impossible', due to the absence of communities able to maintain such systems in modern, industrialized countries (McEvoy and Mika 2002). Much of this critique is based on arguments that community justice is fallacious because programmes are explicitly created and

funded by the state (cf. McEvoy 2002). The Jersey experience also appears to be an exception in this respect.

Criticisms of restorative justice

Johnstone (2002) lists a range of 'deleterious' consequences of the operation of restorative justice which also seem to have limited application in the Jersey context:

A trivialisation of evil, a loss of security, a less fair system, an undesirable extension of police power, an erosion of important procedural safeguards, unwelcome net-widening, or a weakening of already weak parties (Johnstone 2002: 7-8).

Many of the criticisms of restorative justice seem not to apply to Jersey because its existence outside the system is not marginalised. Morris (2002) highlights several further criticisms of restorative justice. I have applied these criteria to the Jersey context:

The use of restorative justice leads to the erosion of legal rights.

This criticism suggests that restorative justice lacks procedural safeguards to protect the legal rights of offenders. In countries where restorative justice programmes have been introduced via enactment, there are statutory guidelines for the regulation of practice. Most permit legal advice at some point in the process. The Parish Hall Enquiry is non-statutory; attendance and participation is with mutual consent. Where agreement about the facts of an offence cannot be reached, the offender is necessarily charged for Court where all the legal 'safeguards' are available.⁵⁷

⁵⁷ However, this neither guarantees the quality of legal representation nor the provision of legal aid in cases where offenders are unable to pay.

The existence of restorative justice results in net-widening

The net of social control in Jersey is already very wide indeed. All offending behaviour is considered to be unacceptable and even very minor transgressions will be referred to a Parish Hall Enquiry. The island has an unusually high ratio of enforcement officers per head of population (1:200) and parishioners therefore stand a high chance of being detected committing even minor offences.⁵⁸ Recently, the States Police have taken steps to introduce a 'net-narrowing' approach in order to reduce the number of offences heard at parish hall, preferring the use of fixed penalty notices for minor offences (States Police Annual Report 2005). This has more to do with attempts to reduce an administrative burden than a deliberate endeavour to reduce the number of detected offences.

Restorative justice fails to 'restore' victims and offenders

There is much evidence in an international context to show that victims who have experienced a restorative justice process show high levels of satisfaction with the outcome, in terms of the reparative task undertaken and in a reduction in levels of fear. Results of the Jersey research are presented in the following section but similar outcomes have been observed with over 90% of participants declaring satisfaction with the process. Although small, the conferencing initiative has low levels of recidivism which is promising for future research. The same is true for people receiving other sanctions at parish hall level. Although reducing re-offending is not an explicit objective of restorative justice, it is an expressed aim of the parish hall system and the behaviours observed by Centeniers incorporate elements of good practice that have been shown in other countries to be effective in the prevention of further offending (cf. McGuire 1995; Trotter 1999).

⁵⁸ There is tension between statutory agencies and the honorary police over accurate recording of 'crime' and parish 'problem-solving'. Official statistics relate only to cases reported to the state police. Without doubt, there is a parochial 'black economy' of offending behaviour that is resolved in the parishes and thus hidden from the official picture. This raises difficulties for state agencies trying to get accurate information for policy development.

Restorative justice results in discriminatory outcomes

The criticisms noted in international jurisdictions surrounding the exclusion of indigenous people from restorative justice have less relevance for Jersey. Internationally, there is evidence to suggest an under-representation in conference and over representation in Courts and prison (Blagg 2001; Daly 2001). Discretionary referral to programmes has also been noted as problematic in Canada (La Prairie 1990). The Parish Hall Enquiry system filters cases into or out of the Court system and the only 'test' for entry is that there is evidence that an offence has been committed. Sanctions can only be made with the agreement of the offender and for statutory offences at least, financial penalties are regulated by law. The same cannot be said for common law offences and differences in outcome do occur. Desert theorists seek relevance, proportionality and consistency. The extent to which individualised outcomes can be described as discriminatory depends upon the perception of the individual involved. The lack of evidence regarding differential access for different social groups in Jersey is a particular aspect of the Jersey system which would benefit from further investigation.

Restorative Justice extends police powers

Whilst this may be evident in experiments conducted in Australia, the United Kingdom and the United States, the paid police in Jersey play a very minor role in the operation of the Enquiry system and in effect, the system itself represents an important check upon state police powers. The existence of the Centenier as the gatekeeper to the formal criminal justice system ensures that the buffer between the police and the community is maintained. Whilst the state police may propose certain courses of action, their recommendations are often ignored.

Restorative justice does not address power imbalance

Morris suggests:

Within a restorative framework, power imbalances can be addressed by ensuring procedural fairness, by supporting the less powerful, and by challenging the more powerful (Morris 2002:608).

High levels of procedural justice were observed during this research and evidence will be presented in the following chapter. The electoral system goes some way to regulating power imbalance. On occasions, Centeniers have been removed from office by parishioners disillusioned with their performance. The danger of overexertion of power in the private setting of the parish hall is nonetheless real, and there are few procedural safeguards to guard against racism, sexism or ageism in informal settings. Observations over many years have shown that in some cases, the conduct of Centeniers has left much to be desired but the same could be said with the Court system where miscarriages of justice are not uncommon. In this study, this area does not seem to be a problem to attendees who did not express feelings of being subjected to prejudice or power imbalance.

The Parish Hall Enquiry system is in everyday use as an alternative to a court appearance, for adults and youths.

In contrast to many systems, the Parish Hall Enquiry is not a creation, rather an evolution. It is an ancient community practice that has developed over many centuries, adapting to suit the needs and expectations of successive generations. The continued existence of such an indigenous system in a modern, cosmopolitan society such as Jersey makes it very unusual indeed. As Johnstone notes:

Restorative justice survived as the routine response to 'crime' only in the dwindling, distant, 'simple societies' studied by social anthropologists (Christie 1977; Roberts 1979) and to some extent oriental societies such as Japan (Braithwaite 1989). (Johnstone 2002).

From the perspective of an indigenous researcher, this is an amusing contradiction. The population of Jersey is neither 'dwindling' nor is the society 'simple' yet the Parish Hall Enquiry system remains the conventional response to dealing with unwanted behaviour. It is a highly developed system which is adaptable and flexible and it is of fundamental importance to the administration of justice. Everyday methods of dealing with offending behaviour in Jersey are often inherently restorative as a by product of a close-knit, socially cohesive society. Bottoms (2003) has argued that the social mechanisms of restorative justice rely upon the underlying assumption that 'meso-social' structures must exist in a society in order for restorative approaches to achieve desirable results. He asserts that these structures, characterised by multiple relationships of interdependency are more likely to exist in pre-modern societies and less likely in modern, contemporary societies. He concludes that without such structures a 'blanket delivery of restorative justice ...is always likely to achieve modest or patchy results in contemporary societies'. Perhaps, Jersey may provide the example which proves the exception to the rule.

The Parish Hall Enquiry system is mainly resourced by the community, not the state

As previously noted in the opening chapter, the parish hall system is funded by the community via annual rate payments which contribute towards the upkeep of parish halls and the expenses of the honorary police. Resources are not only financial, they are mainly human and many community members put themselves forward for election for vacant posts. Where there is state-funding of the system, the sums are very small and serve to maintain an administrative framework in order that cases can be effectively distributed to the appropriate parish. In addition to this small sum, a Restorative Justice Officer is funded by the state in order to facilitate victim offender conferencing. The rationale, or lack thereof, for that particular appointment will be discussed in later sections. Support by the parishioners for the Parish Hall Enquiry system ensures that

there is a 'buffer' between the community, the courts and the state. This provides a balanced approach and tends to provide a safeguard against over-punitiveness. The arguments about power imbalance are noted; however there are safeguards in the system to prevent this. The system is highly legitimate and members of the honorary police perceive their role as a duty to the parish. Whereas the state recognises the considerable monetary savings realised by a voluntary service of this nature, it is not perceived as a cheap alternative, rather an inherent and important part of the administration of the island:

The Parish system relies to a large extent on honorary volunteers who receive no financial recompense for the duties they undertake and who are, as a result, helping to keep down the cost of administering government services in the Island. Were this function to cease, it is without doubt that the States' Police would have to significantly increase its staffing levels at a considerable cost to the Exchequer. From discussions with the Connétables and their officers one cannot help but be struck by their pride in the Parish tradition and their commitment to the local services they currently deliver. The Parish Connétable and his officers are close to their communities and are able to provide a personal and effective local service. It is important that sight is not lost of the value of the Parish within the Island's system of government. (Review of the Relationship between the Parishes and Executive - Phase One Report, 2002: Paragraph 3.2)

In most countries, state-funded restorative initiatives are the norm; usually as a result of legislative enactments that create the possibility for restorative justice programmes. There are significant costs to the state attached to the establishment of restorative measures, including training, advice and supervision of volunteers in addition to administrative infrastructures required for monitoring and evaluation. It is fair to say that if Jersey were required to design and implement a similar, suitable system for the administration of justice, it would cost the taxpayer many millions of pounds with the undesirable further effect of the growth of the public sector.

The Parish Hall Enquiry system is not as victim focussed as other initiatives.

Initiatives in other jurisdictions have been designed to recreate core restorative values, the main one being the centrality of the victim to the process. Individual victims are not usually present at parish hall enquiries and the victim perspective is mostly assumed and presented by Centeniers. On occasions, the Centenier may have spoken to the victim and in all cases, will have had access to any written witness statements. What is interesting is that the focus is not always solely directed at the victim (in the legal sense) rather towards other parties who have suffered as a result of the offence. During the observation study, this was particularly noted at enquiries where the offending behaviour of youth attendees had distressed their parents and families. On rare occasions, the Centenier was observed to ignore victim needs entirely despite having conducted a 'textbook' enquiry demonstrating a restorative and reintegrative focus towards the offender.

Case Extract Four

Centenier: I think you should write a letter of apology to the shop concerned for the damage you caused to the window.

Parent: Should we get in touch and offer to pay?

Centenier: I don't get embroiled with the victim stuff. If they want to recoup the money, they'll have to take out a civil action against you. It's unlikely because their insurance will pay up.

Because enquiries take place in the parish in which the offence was committed, reparation tends to be parish-focused⁵⁹. This can include repairing the damage caused to individual victims but also offering service to the wider parish through tasks such as sweeping the churchyard, building the parish bonfire or washing

⁵⁹ On some occasions, the victim or the parish may nominate a charity for reparation which takes place outside of the parish.

up following the old folks Christmas party. Importantly, these tasks are performed together with other parishioners, usually lower ranks of the honorary police or the church wardens, and are therefore less likely to become stigmatising 'punishments'.

Since 2002, the Victim Offender Mediation scheme has provided opportunities for face to face conferencing options to victims who wish to meet with offenders. Conferences have provided direct reparation to individual victims and businesses. The implementation of this scheme will be described in the following section of this chapter.

To What Extent Is The Parish Hall Enquiry System 'Restorative'?

Given the multiplicities of the Parish Hall Enquiry system, it is difficult to situate it entirely within any specific paradigm. Nothing in the restorative justice literature fits exactly but together these ideas provide a theoretical context for the operation of the Parish Hall Enquiry. The fundamental purpose of the Parish Hall Enquiry is for a Centenier to decide two things: whether there is evidence to suggest that an offence has been committed and if, so whether it is in the public interest to prosecute. Any other function is necessarily secondary to this legal role. The operation of restorative practice is therefore a by-product of this primary purpose. Legal procedure apart, the Parish Hall Enquiry system is able to expose many facets. Pranis (2000) offers the fitting description of a 'kaleidoscope'. To decide to what extent these processes are 'restorative' it is useful to compare features with those that are considered to be the mainstay of restorative justice. Many authors have identified 'core' features (Polk 1994; McCold 1999; Zehr 2000; Graef 2001; Johnstone 2002). I have selected those suggested by Daly (2005) because they offer some concrete criteria rather than aspirational ideals or values. She identifies six core elements:

Table 7.0 - The Extent to which the Parish Hall Enquiry System satisfies elements considered to be 'core' features of restorative justice.

Elements	Extent to which the Parish Hall Enquiry satisfies the criteria
<p>1. It deals with the penalty (or post penalty), not fact-finding phase of the criminal process</p>	<p>In jurisdictions where Restorative Justice is part of a legislative framework, it operates within a dominant criminal justice process and agents of the state, or courts decide the disposal. In Jersey, the state does not have the power to prosecute crime. Enquiries form part of a community-based prosecution procedure and 'fact-finding' is crucial to the process. This means that all circumstances leading up to, during and after the commission of the offence have relevance to the outcome. Enquiries can therefore never be confined to penalty or post penalty.</p>
<p>2. It normally involves face-to-face meeting with an admitted offender and victim and their supporters, although it may take indirect forms.</p>	<p>Enquiries expect attendance and participation from the alleged offender and usually supporters to establish the facts of the case. It is unusual for the victim to attend at a preliminary enquiry. Once an offence is admitted, a Centenier may defer a decision about prosecution in order for the offender to make amends, either indirectly or through a face to face conference.</p>
<p>3. It envisions a more active role for victim participation in</p>	<p>A role for the victim is not explicit (unless victim offender mediation is offered). It is</p>

<p>justice decisions</p>	<p>unusual for the victim to attend in person at the Parish Hall Enquiry. (Some Centeniers stated that they may permit access providing they feel that risk of violence towards the offender is minimal). Given the close-knit nature of the rural parishes, the Centenier may well be acquainted with the victim and therefore aware of any impact. This is far less likely in the urban parishes.</p>
<p>4. It is an informal process that draws on the knowledge and active participation of lay persons (typically those more affected by an offence), but there are rules circumscribing the behaviour of meeting members and limits on what they can decide in setting a penalty</p>	<p>Attendees are invited to attend at Enquiries. There is considerable evidence that the process includes high levels of participation from participants. Local knowledge is highly valued in the decision making process. Attendees are required to agree with any outcome. Guidelines for the conduct of parish hall enquiries are available.</p>
<p>5. It aims to hold offenders accountable for their behaviour, while at the same time not stigmatizing them, and in this way it is hoped that there will be a reduction in future offending</p>	<p>High levels of reintegrative behaviour are demonstrated by all participants. Stigmatisation and punishment is low. Recidivism (measured by either the level of re-sanctioning or re conviction) is low.</p>
<p>6. It aims to assist victims in</p>	<p>This is not an expressed aim of the enquiry</p>

recovering from crime	process, but apology and reparation to victims is expected. It seems that the victim is able to get involved as much as the Centenier permits. Victim support organisations have, in the past, challenged the intervention of the Centeniers accusing them of heavy-handed tactics and re-victimisation (domestic violence cases specifically). What is certain is that the Centenier is able to ask the opinion of the victim before, during and after the Parish Hall Enquiry and to take those views into account when deciding upon an appropriate sanction
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It is clear that whilst meeting some of Daly's criteria, the Parish Hall Enquiry falls short on others, most particularly victim focus and avoidance of fact-finding stage of the criminal justice process. In terms of informality, participation and accountability however it scores highly.

Representation and reality

With particular regard to the representation of restorative justice as the solution to state-based punitive justice, Daly identifies certain 'myths' about restorative justice that have arisen in the rapidly increasing academic literature. Two are particularly relevant to the context in which Jersey operates.

Restorative justice is the opposite of retributive justice;
Restorative justice uses indigenous justice practices and was the dominant form of pre-modern justice (Daly 2002:56).

Firstly, she questions the validity of 'characterising restorative and retributive justice in dichotomous, oppositional terms'. Analysis of the central themes and critical issues surrounding restorative justice are often presented using a dichotomous approach (Zehr 1990; Graef 2001). This perspective is appealing

because it serves to simplify a complex array of definitions but this implicitly assumes that retribution can take no place in restorative practice. For many advocates of restorative justice, it is a case of one thing or the other. Restorative justice is inherently 'good', whereas anything that demonstrates retribution, punishment or stigmatisation is 'bad'. The reality is likely to be somewhere in between, and during the observational study, I have noted that attendees engage in a number of behaviours that would not be considered purely restorative. Punishing the crime and repairing the harm are not mutually exclusive. Elements of retribution, rehabilitation and restoration tend to be a facet of most enquiries.

Secondly, Daly claims that it is a falsehood to suggest that restorative justice employs indigenous justice practices and was the dominant form of pre-modern justice. Advocates of restorative justice suggest that this was the typical way of resolving disputes until state-based punitive systems were established in the twelfth century (Van Ness 1993; Zehr 1990; Braithwaite 1989). Daly is particularly scathing of this perspective, claiming that advocates of restorative justice conveniently resort to sentimental epithets and nostalgia in order to conjure up a rosy picture of 'temps passé' and in so doing neglect to mention the less savoury elements of pre-modern justice such as exile, amputation and execution. However, it is clear that there has been a revival of traditional methods of dispute resolution around the world, particularly in Australasia and North America, where traditional communities prevail.

This raises certain questions in countries where indigenous systems exist. Is it better to keep restorative justice practice separate or should it be hybridised into modern systems? Should there be a dependence on the peculiarities of the indigenous system or should restorative justice programmes be specially constructed without reference to traditional practice to avoid the negative aspects of indigenous justice? Maxwell and Morris make the following point about the system in New Zealand:

A distinction must be drawn between a system, which attempts to re-establish the indigenous model of pre-European times, and a system of justice, which is culturally appropriate. The New Zealand system is an attempt to establish the latter, not to replicate the former (Maxwell and Morris 1993:4)

This has important implications for European countries where traditional communities are mainly extinct and traditional systems of informal dispute resolution no longer exist. Daly seems to deny the compatibility of indigenous and contemporary justice and thus suggests that effective community-based restorative justice is impossible. For Jersey however, this 'myth' seems to be a reality. The justice practices of Jersey are rooted in ancient Norman customary law that pre-date the accepted twelfth century benchmark and many of the ancient indigenous practices that comprised pre-modern justice pervade into modernity. The pre-modern honorary system and the Parish Hall Enquiry remain the cornerstone of the administration of justice in contemporary Jersey.

Walgrave (2002) explores the relationship between informal and formal procedures and considers to what extent the procedures and practices of restorative justice can be merged effectively with legal constraints and court based systems of punishment. This has particular relevance for the Jersey context where, as explained in earlier chapters, an idiosyncratic judicial system based on customary law from before the twelfth century has the potential to produce misunderstanding and trigger confusion at every juncture.

'FORMAL' RESTORATIVE JUSTICE SERVICE TO VICTIMS IN JERSEY

This second part of this chapter describes the background and implementation of victim offender conferencing in Jersey. This will include an evaluation of the impact of the introduction of the scheme conducted in 2004.

Restorative programmes in other jurisdictions have been introduced into the justice system as a result of research and policy update and, in most countries, as a result of successive legislative enactments. The victim movement has also been prolific, particularly in North America and the United Kingdom where organisations such as Victim Support have worked to raise the profile of the victim in the criminal justice process. The situation in Jersey is different. There have been no enactments, nor regular victim surveys. The first victim survey in Jersey took place in 2004 (Rogan 2005), two years after the establishment of the restorative justice mediation project. The initiative was introduced into Jersey in 2002. This was linked to the Crime and Community Safety Strategy (latterly the Building a Safer Society Strategy known as BaSS) via objectives to look after the victims of crime and to re-integrate offenders and prevent re-offending. This was not based on a particular feeling of victimisation in Jersey and it is not clear that victims were expressing dissatisfaction with the current system. There was no scoping study, nor any research into whether victims of crime would benefit from such a system. This initiative was suggested to BaSS by a States Police Inspector upon his return from a conference in Thames Valley.

Establishment of the scheme

A part-time restorative justice officer was appointed and trained in the Thames Valley method of conferencing (Thames Valley, 1997). The post is managed by the Jersey Probation and After Care Service under the supervision of the Assistant Chief Probation Officer. The effective implementation of the conferencing scheme presented a number of difficulties. The stated intention was to complement and build on the practices that are already established and successful in Jersey society.⁶⁰ It was vitally important to engage Centeniers in the process at an early stage. Honorary Police, particularly Centeniers, have for many years been practicing 'restorative justice initiatives' under the aegis of the

⁶⁰ It is interesting to note that despite being a State police led initiative, the States Police are never involved in the conference process, they do not facilitate conferences and VOM is never recommended by the Decision Sergeant.

Parish Hall Enquiry system. Documentation and promotional material stated clearly that conferencing was not intended to replace one traditional and successful justice initiative with a 'foreign import'. This ad hoc introduction of 'foreign' practice is common in Jersey, where there is little connection between research, evidence-based practice and policy.⁶¹ Often, initiatives are suggested because they seem like a 'good idea'. It is only later that potential difficulties are revealed and unexpected consequences happen due to incompatibility with traditional systems.

Since the inception of the initiative in 2002 the dedicated Restorative Justice Officer has conducted thirty five face to face conferences and over ninety indirect initiatives such as mediating compensation payments and facilitating letters of apology. This work has been conducted at Parish Halls, in schools and at HM Prison La Moye.

Conferencing seeks to assure that the victim is at the centre of the process. The primary goal is to make good and repair the harm done by crime to the victim, the community and the offender. Offenders must accept responsibility for their actions before restoration can take place. By replacing the state with a human victim, offenders are able to think about the actual harm they have caused, both to the victim, themselves and to the community. The process is inclusive, and may extend to whole community involvement. The following extract demonstrates some of the features of a restorative justice conference in Jersey. The conference will usually take place within four weeks after a Parish Hall Enquiry.

⁶¹ The notable exception to this is the Jersey Probation and After Care Service where evidence led practice and policy is well-documented and internationally acclaimed.

Box Four

Restorative Justice Conference

Three youths appeared at a country Enquiry regarding the alleged offence of taking and driving away of a golf buggy and of malicious damage to the course. The Centenier had deferred his decision for three months. Following the Enquiry, the boys had agreed to take part in a restorative justice conference. The Centenier had also requested a curfew from 8pm to 8am.

The conference comprised the three youths (Andrew, Ben and Charlie*) with one parent each to support them. The manager of the golf course was present as was the green keeper. A Centenier was present from the relevant parish.

The following is a précis of the discussion taken from contemporaneous research notes:

Restorative Justice Officer (RJO): Thank you for coming today. I know it has been difficult co-ordinating babysitters and taking time of work. .. Everybody will have the chance to talk. We are not here to decide what is good or bad but to repair the harm that has been done. In your own words, tell us what happened. The police report covers the facts but there is always more to it than that. Let's start with Andrew:

Andrew: I was supposed to be in the house, but I went out and we ended up taking the buggy.

RJO: Can you tell us a bit more. What were you thinking?

Andrew: I thought it was good fun

RJO: How did you feel?

Andrew: I was happy, we were having fun. We didn't think that we would get into trouble.

RJO: What are your thoughts since then?

Andrew: We shouldn't have done it

RJO: Who do you think has been affected by your behaviour?

Andrew: The golf club

RJO: Ben, tell me what happened

Ben: The same as him.

RJO: Imagine that we don't know any of this. What were you thinking?

Ben: It was quite fun, I wasn't nervous.

RJO: How do you feel now?

Ben: Dunno, I don't like the curfew.

RJO: Charlie, you don't live in the parish. Can you tell me how you came to be here?

Charlie: It was Andrew's birthday and I was sleeping over

RJO: How did you feel?

Charlie: Funny. I got a buzz out of it. I was just thinking that I didn't want to crash it.

RJO: How do you feel now?

Charlie: I wish I hadn't done it.

RJO: What effect has this had on you?

Charlie: I'm not allowed to stay out late or to sleep over with friends.

RJO to Manager: Would you like to explain how this offence has affected you?

Manager: It has had an effect on our elderly members who are not able to get around the course without a buggy. It could also have affected you. If it had toppled over you could have been killed. That is as important to us as what you did. You are very fortunate not to have hurt yourselves. How would you feel if someone damaged your property? I really hope you learn from this. The

Centenier has really been good. The result has helped you by not going to Court. When you say 'I wish I hadn't done it', I hope it's not because you got caught but because you realise the effect on others.

Green Keeper: I actually drove into work and apprehended one of you. I rang the manager and asked him 'do I tell him off and let him go or call the police'. It just went from there. I'm responsible for repairing the damage that you caused: the four flags and the sprinkler heads that you ran over. The damage to the green is superficial but I can only re-iterate: I have this recurring dream about the buggy at the bottom of the sixth. If it had gone in at the top, I shudder to think what might have happened. The positive thing is that all the damage seems to have stopped. There is one thing I'd like to know: where did you find the buggies?

Charlie: In the hall

Green Keeper: Did you drive the buggy into the bunker

Andrew: Yes

Green Keeper: I see, there's always been an element of doubt as to whereabouts you got them from.

RJO: Be honest boys, you are not going to get into further trouble for telling the truth, even if it is something that you have not mentioned before

Boys: [further discussion of details of offence]

RJO: I am now going to ask your parents how this has affected them.

Andrew's parent: We are pretty disappointed. We can't believe he would have done it. They have all learned their lesson. This has affected a lot of people. The hardest thing is that you think your kids are doing well and then you find this out.

Ben's parent: They went out to have some fun. I think they have learned their lesson. I get a call from the police. I was shocked that they had gone out at that time of night. The hardest thing is the trouble and upset they've caused to other people.

Charlie's parent: I thought Charlie was sleeping over at a friend's house. I was still in bed when I got the call from the police. I was upset and shocked and wanted to know what was going on. I had to find babysitters so that I could go the police station. I was very angry with them and in a panic about the damage he'd done. I'm really trying to keep a close eye on him now. The curfew has helped. I know they've found it hard especially as all their friends know that they're on a curfew. It's a lesson to be learned. They shouldn't have done it. It's a curfew for us too. We have to be in by 8pm. If I say let's all go out, it's not really a punishment.

Centenier: Things like this affect just about everybody. The police are diverted to sort out problems, you, your parents, friends, brothers, sisters, staff here and even the members. Centeniers have a very difficult decision to make. In this case, court would have been an easy option. You come, charge, bail, youth court. The Court has a range of powers but work to a tariff. For an offence like this you would probably have got a bind over – a go away and don't do it again. This is harder, and because it is, it is likely that you **won't** do it again. So we Centeniers think that this sort of thing is a good idea. We want you to learn, not set you up to fail. You are all on a curfew and the Constables Officers and Vingteniers have been checking up on you. So it is important that you work through the process, we still have the option to take you to Court at the end of the deferred decision.

RJO: Do you think that you need to do something to repair the harm?

Andrew: I'm sorry for what I did and I've sent them a letter saying so

Ben: Sorry for the damage I've caused

Charlie: We're all really sorry for what we did.

Green Keeper: We think that you guys should come and work on the golf course for two days each to see the work that goes on here. It is tenant land, not just for golfers but for walkers and parishioners and people who overlook it. Lots of people enjoy it. I think you would enjoy the work.

Parents: Excellent idea. I think they **need** to do it.

RJO: I am proud of you boys. Proud that you have chosen the hard road. It was a brave decision to come here today and I do respect you for doing this. Your parents should be proud.

After discussion between all parties, the three boys paid £50 each towards the damage that had been done. They all gave letters of apology to the golf club. They also agreed that as a way of making amends, each boy would work for two days each in the summer holidays from six o'clock in the morning until two o'clock in the afternoon.

Green Keeper: Six o'clock is very early so set your alarm clock

Parent: They managed to get out of bed that early to do it in the first place!

Centenier: Make no mistake; I'll know if you're not there. I live right on the first tee!

RJO: Is there anybody else who would like to say anything at all?

This has helped bring matters to a close. Thank you all for coming. I wish you all well.

The Restorative Justice Officer kept in touch with the green keeper who was 'delighted' with the work the boys had put in. He stated that the boys had worked extremely hard and seemed to thoroughly enjoy the experience. In fact one has asked how old he would have to be to get a summer job there.

EVALUATION OF VICTIM OFFENDER MEDIATION IN JERSEY

As part of the overall research study into the role of the Parish Hall Enquiry, I was invited to evaluate the role of the victim offender mediation scheme and consider to what extent the scheme met its stated objectives to minimise the harm through support to victims, invest in young people in order to reduce the likelihood of future criminal and anti-social behaviour and to reduce re-offending (cf. Rogan 2001).

All victims, offenders and participants are surveyed by written questionnaire within seven days of completion of the conference. These questionnaires were distributed following the conference in a self addressed envelope to the Research and Information Manager at the Jersey Probation and After Care Service. A fuller explanation of research methodology will be presented in chapter six. Briefly then, information presented here is gathered from twelve victims, seventeen offenders and thirty five participants at victim offender conferences. Analyses of results show the following:

Victim Information

All twelve victims agreed to take part in a face to face conference following a personal approach either at home or at business premises. When selecting representatives from business, the Restorative Justice Officer tries to ensure that the person most affected by the offence is able to attend the conference. In some cases, this is the manager, in others, the security officer or the employee who discovered the offence. Both corporate and individual victims are treated

equally in terms of method regarding the offer of a conference approach. Tables 4.1 and 4.2 demonstrate the biographical information from the victim sample. A further six victims were visited and offered victim offender conferencing. Four of those declined a face to face approach. In those cases the Restorative Justice Officer organised work for the National Trust in the parish where the offences took place. In two further cases, victims declined all approaches from the Restorative Justice Officer. In these cases, the offenders also worked for the National Trust in the relevant parish. When questioned about the rationale for this, the restorative justice officer stated that she wanted to ensure that the parish benefited even if the victim expressed disinterest. She also stated that she didn't want to 'let the offender down' having motivated them to take part in the conference process.

Table 7.1

Victim status

	Frequency	Percent
Individual	5	41.7
Business	7	58.3
Total	12	100.0

Table 7.2

Age Group of Victims

	Frequency	Percent
under 18	2	16.7
26-35	1	8.3
36-54	2	16.7
corporate victim	7	58.3
Total	12	100.0

The following Table 7.3 shows that no victims considered the offending behaviour to be racially motivated. In at least one case however, the restorative

justice officer, following dialogue with the offender, concluded that race was a causal factor in the offence.

Table 7.3

Did the victim consider the offence to be racially motivated?

	Frequency	Percent
no	12	100.0

Eight victims expressed the opinion that they had been affected highly or moderately by the commission of the offence. There was no difference between corporate and individual victims.

Table 7.4

Level to which victims had been affected by the offence

	Frequency	Percent
Very much	5	41.7
Quite a lot	4	33.3
A little	3	25.0
Total	12	100.0

I was interested to discover whether victims were comfortable with the conference process and it is pleasing to note that high levels of satisfaction were noted (See Tables 7.5 to 7.9).

Table 7.5

Did the victim feel that their opinions regarding the offence had been adequately considered?

	Frequency	Percent
yes	12	100.0

Table 7.6

Did the victim feel that their opinion regarding the offender had been adequately considered?

	Frequency	Percent
yes	10	83.3
To some extent	2	16.7
Total	12	100.0

Table 7.7

Did the victim feel that their opinion regarding the effect the crime had has upon them been adequately considered?

	Frequency	Percent
yes	12	100.0

Table 7.8

Did the victim feel that they had been treated with respect during the restorative process?

	Frequency	Percent
Valid All of the time	12	100.0

Table 7.9

Did involvement with the restorative process change the victim's views about the way offenders are dealt with in Jersey?

	Frequency	Percent
Valid yes	10	83.3
no	2	16.7
Total	12	100.0

One of the victims interviewed had previously been a victim of an offence. This may explain why views were changed as it is likely that this respondent will have experienced the 'conventional' system.

Overall, victims expressed satisfaction with the conference as a method of resolution. Where there was dissatisfaction, this related to a perceived lack of punishment for the offence.

Ten victims considered that the conference intervention had made some impact upon the offender.

Table 7.10

Did the conference encourage offenders to accept responsibility for their actions?

	Frequency	Percent
yes	9	75.0
no	1	8.3
Don't know	2	16.7
Total	12	100.0

Also, ten victims considered that the conference intervention had made an impact on the offender

Table 7.11

Did the victim consider that the intervention had made an impact on the offender?

	Frequency	Percent
yes	10	83.3
no	1	8.3
wait and see	1	8.3
Total	12	100.0

Overall, there was a high level of satisfaction demonstrated by victims with the restorative justice process as a whole. Where dissatisfaction was expressed, it related to a perceived lack of offender punishment.

Table 7.12

Overall satisfaction with the restorative justice process

	Frequency	Percent
Very satisfied	7	58.3
Satisfied	3	25.0
Dissatisfied	2	16.7
Total	12	100.0

I also asked victims to describe, in their own words, the perceived effect of the conference upon the offender. Their observations generally focussed upon the previously unrealised impact of the offence upon the victim:

He realised the impact on our business, his family and how this could affect any future employment or career prospects.

I think that all the offenders have realised that what began as a prank ended up affecting a number of people including their families and friends. The value of the damage caused by them shocked them. If they had to repay the amount, it would have ruined their parents. Also, had they been older, they would have probably gone to prison.

Other, less positive comments were also noted:

For offenders that are genuinely sorry, it's good but for some, I still believe in a short, sharp shock as in ten years ago.

A similar question was asked about the impact of the offence on the victims themselves. These observations focussed on the sense of closure that the conference provided.

It helped me to get on with my life and move on.

It now feels like the matter has been finished with and can be put out my mind at last.

The most positive aspect was to get together and tell him how I really felt and actually being listened to.

Again, some dissatisfaction is noted:

He didn't seem very remorseful and he hasn't really tried to regain our trust. His behaviour will not change at school. He is so young; he couldn't be punished enough for what he did.

The conference had no effect on them. I sincerely hope that it doesn't happen again, and to be honest, I prefer them to be as far away from me as possible.

The crime by children is still not repaid by the parents, or their insurance. Damage to property should be covered and paid for by the parent insurance.

Offender Information

This section refers to data gathered from seventeen offenders. A further five were approached but declined. The restorative justice officer chose not to proceed with a further two cases where the offender had expressed a desire to participate. One case related to an offender with chaotic heroin use; in this case the officer felt that the potential for harm to the victim in terms of inconvenience and lack of sincerity outweighed any positive benefit. In a further case, an adult offender with a child victim was refused participation in line with Service Child Protection Policy.

The offender sample comprised seventeen offenders with the following characteristics:

Table 7.13
Age Group

	Frequency	Percent
under 18	15	88.2
18-25	2	11.8
Total	17	100.0

As evidenced, by Table 7.13, most offenders are young. There have been considerable difficulties in engaging adult offenders to take part in victim offender mediation. Anecdotal evidence suggests that adult cases take longer to process. They may also commit more serious offences which are less likely to be dealt with at parish hall level where information and referral for conferencing is facilitated by the presence of a probation service representative. Again, anecdotally, the process of the formal criminal justice system tends to militate against participation due to lengthy remand periods. (A small number of offenders have seen participation as a 'double punishment', seeking closure for themselves rather than restoration to the victim.)

In an attempt to better serve victims whose offenders have been dealt with by the Court, in July 2006, the Probation and After Care Service began to deliver a victim impact programme to **all** offenders receiving a supervision order, in both custodial and community settings. The restorative justice officer is an integral part of this programme and attends to talk to the offender about restorative opportunities. It is hoped that this 'blanket approach' will increase the uptake of conferencing or indirect reparation where it has not been possible through the Parish Hall system.

Table 7.14
Place of Birth

	Frequency	Percent
Jersey	14	82.4
England	2	11.8
Other	1	5.9
Total	17	100.0

Contrary to a populist view of offenders as ‘outsiders’ the majority of offenders were born and resident in the island (see Table 7.14). Offenders had committed a range of offences including two serious grave and criminal assaults, high value fraud and larceny.⁶² The malicious damage caused in one case amounted to tens of thousands of pounds (Table 7.15).

Table 7.15
Offence type

	Frequency	Percent
Assault	4	23.5
Fraud	1	5.9
Malicious Damage	2	11.8
Theft	10	58.8
Total	17	100.0

First offenders and repeat offenders were evenly represented (Table 7.18). This is a pleasing observation because it suggests that Centeniers are considering the individual nature of the offending rather than being overly influenced by policy change and direction from key players in the criminal justice system.

⁶² It should be noted here that following a policy change regarding the automatic charging of offenders who commit grave and criminal assaults, conferencing is no longer an option at parish hall level.

Table 7.16**First Offender**

	Frequency	Percent
yes	8	47.1
no	9	52.9
Total	17	100.0

Process

Akin to victim perception, offenders considered that the process was fair and importantly, educative, and informative, helping them to understand the impact of their behaviour from a victim perspective (see tables 7.17 to 7.21).

Table 7.17**Did the offender consider that the conference process was fair?**

	Frequency	Percent
All of the time	14	82.4
Most of the time	3	17.6
Total	17	100.0

Table 7.18**Did the conference process help the offender understand that their actions were wrong?**

	Frequency	Percent
Strongly agree	14	82.4
Agree	3	17.6
Total	17	100.0

Table 7.19**Did the conference help the offender understand the effects of their behaviour on the victim?**

	Frequency	Percent
Strongly agree	16	94.1
Agree	1	5.9
Total	17	100.0

Table 7.20

Did the conference help the offender to gain a better understanding of victims' feelings?

	Frequency	Percent
Strongly agree	9	52.9
Agree	7	41.2
Total	16	94.1
No response	1	5.9
Total	17	100.0

Table 7.21

Did the offender show victim remorse?

	Frequency	Percent
Strongly agree	7	41.2
Agree	9	52.9
Total	16	94.1
No response	1	5.9
Total	17	100.0

During the initial home visit to the offender to discuss participation, the restorative justice officer notes that many express fear at meeting the victim. To encourage participation, the officer uses motivational interviewing techniques and pro-social modelling approaches to encourage participation. (See Trotter 1996 and Cherry 2005). No offenders considered that participation was worse than their initial expectations.

Table 7.22

Was offender participation in scheme worse than expected?

	Frequency	Percent
Disagree	12	70.6
Strongly disagree	5	29.4
Total	17	100.0

Offenders also felt that they had been treated fairly and with respect (see tables 7.23 to 7.24).

Table 7.23

Did offenders feel that they had been treated fairly?

	Frequency	Percent
All of the time	15	88.2
Most of the time	2	11.8
Total	17	100.0

Table 7.24

Did offenders feel that they had been treated with respect during the conference process?

	Frequency	Percent
All of the time	15	88.2
Most of the time	1	5.9
Total	16	94.1
No response	1	5.9
Total	17	100.0

Table 7.25

Did involvement change offenders' views about way offenders are dealt with in Jersey?

	Frequency	Percent
yes	14	82.4
no	3	17.6
Total	17	100.0

Involvement with the scheme revealed a high level of change in offenders' views about criminal justice in Jersey.

Perhaps predictably, all offenders resolved to desist from further offending following the conference:

Table 7.26

Did offenders resolve to avoid further offending following the conference?

	Frequency	Percent
Strongly agree	12	70.6
Agree	4	23.5
Total	16	94.1
No response	1	5.9
Total	17	100.0

It is important to recognise the very small size of this sample, however recidivism statistics maintained by the Jersey Probation and After Care Service suggest that only two out of the seventeen offenders who participated in a conference, had either been re-sanctioned in parish hall or re-convicted in a Court within two years of the conference (Table 7.27).

Table 7.27

Has the offender re-appeared for similar offence (within one year of conference)?

	Frequency	Percent
yes	2	11.8
no	15	88.2
Total	17	100
Total	17	100.0

Table 7.28

Overall level of offender satisfaction with Restorative Justice process

	Frequency	Percent
Valid Very satisfied	9	52.9
Satisfied	8	47.1
Total	17	100.0

I also asked offenders to describe, in their own words, their reasons for agreeing to take part in the conference. Their observations are mainly focussed around the desire to apologise:

I felt guilty and wanted to say sorry.

I thought that I needed to sort out what happened and say sorry.

I wanted to apologise and show how sorry I was for what I did.

Offenders were also asked to describe the effect of the conference:

I was scared but when I got there it was friendly. I saw the effect I had had on others and it gave me a chance to apologise.

It has taken a weight off my shoulders. Bringing people together has helped with my feelings of shame and guilt.

Similar to victim responses, the most positive aspect of the conference for many offenders was the sense that they had been forgiven for their actions:

The most positive thing for me was the victim telling me that he understood that I was sorry.

Being listened to and listening and again to be able to say that I was sorry.

It made me feel better that the victim understood why I did it.

The overall effect of the conference process upon offenders was noted:

It has taught me to consider others more.

The conference showed me how serious what I did was.

It had a good effect on me because I am now getting help to change my behaviour.

Participant Information

The same type of data was collected via questionnaire from the other participants in the conference. The written responses received were usually more comprehensive than those provided by the offenders and this section includes a broad selection of the main themes. In addition I conducted informal interviews with victims, parents, Centeniers and the Restorative Justice Officer.

Tables 7.30 to 7.34 present biographical information about the participant sample. The majority of contributors came from within the parent group, either as supporters of the victim or the offender. Teachers present were supporters of the victim. Centeniers were there to represent the views of the parish.

Table 7.30

Relationship to either victim or offender

	Frequency	Percent
Parent	19	54.3
Teacher	3	8.6
Friend	3	8.6
Other relative	1	2.9
Other	3	8.6
Centenier	6	17.1
Total	35	100.0

Table 7.31

Gender of participants

	Frequency	Percent
Female	16	45.7
Male	19	54.3
Total	35	100.0

Table 7.32

Age Group of participants

	Frequency	Percent
under 18	3	8.6
18-25	1	2.9
26-35	4	11.4
36-54	24	68.6
55+	3	8.6
Total	35	100.0

Table 7.33

To what extent have you been affected by the offence

	Frequency	Percent
Very much	9	25.7
Quite a lot	12	34.3
A little	7	20.0
Not at all	7	20.0
Total	35	100.0

Table 7.34

Did the conference impact on offender?

	Frequency	Percent
Valid yes	33	94.3
no	1	2.9
not sure	1	2.9
Total	35	100.0

Most participants considered that the conference had some effect on the offender. It is interesting to note that where this was not thought to be the case, it came from the school teachers. The same is true for the following tables (7.35 to 7.40) where most, but not all considered that they had been treated fairly, with respect and that their views had been adequately considered.

Table 7.35

Was participant opinion regarding the offence adequately considered?

		Frequency	Percent
Valid	yes	31	88.6
	no	1	2.9
	To some extent	2	5.7
	Total	34	97.1
	No response	1	2.9
Total		35	100.0

Table 7.36

Was participant opinion regarding the offender adequately considered?

		Frequency	Percent
Valid	yes	32	91.4
	To some extent	2	5.7
	Total	34	97.1
	No response	1	2.9
Total		35	100.0

Table 7.37

Did participants feel that they had been listened to during contact with Restorative Justice Scheme?

		Frequency	Percent
	All of the time	29	82.9
	Most of the time	5	14.3
	Total	34	97.1
	No response	1	2.9
Total		35	100.0

Table 7.38**Did participants feel that they had been treated fairly?**

	Frequency	Percent
All of the time	33	94.3
Most of the time	1	2.9
Total	34	97.1
No response	1	2.9
Total	35	100.0

Table 7.39**Did participants feel that they were able to 'have their say'?**

	Frequency	Percent
Valid All of the time	30	85.7
Most of the time	3	8.6
Some of the time	1	2.9
Total	34	97.1
No response	1	2.9
Total	35	100.0

Table 7.40**Did participants feel that they had been treated with respect?**

	Frequency	Percent
All of the time	33	94.3
Most of the time	1	2.9
Total	34	97.1
No response	1	2.9
Total	35	100.0

Despite misgivings by some participants, all were satisfied with the conference.

Table 7.41**The extent to which participants were satisfied with the handling of the case**

	Frequency	Percent
Very satisfied	24	68.6
Satisfied	10	28.6
Total	34	97.1
No response	1	2.9
Total	35	100.0

Most expressed satisfaction with levels of participation in reparative agreements and considered it beneficial to take part in the conference. The exception came about as the result of a perceived lack of punishment (Table 7.42).

Table 7.42
Participated in agreement to repair the harm?

	Frequency	Percent
yes	24	68.6
no	1	2.9
To some extent	8	22.9
Total	33	94.3
No response	2	5.7
Total	35	100.0

Table 7.43
Was it beneficial to take part in this conference?

	Frequency	Percent
yes	31	88.6
no	1	2.9
Don't know	2	5.7
Total	34	97.1
No response	1	2.9
Total	35	100.0

Participants were less convinced that offenders had made amends for their actions or been encourage accepting responsibility for their actions. The 'time will tell' approach was most prevalent amongst the teachers and all the parents of the victims.

Table 7.44

Did participants consider that the offender has made amends?

	Frequency	Percent
yes	26	74.3
no	2	5.7
Time will tell	7	20.0
Total	35	100.0

Table 7.45

Did the conference encourage the offender to accept responsibility for his/her actions?

	Frequency	Percent
yes	30	85.7
no	1	2.9
Don't know	4	11.4
Total	35	100.0

Levels of satisfaction were moderately high with the conference.

Table 7.46

Levels of satisfaction with restorative justice conference as a method of resolution

	Frequency	Percent
Very satisfied	24	68.6
Satisfied	8	22.9
Very dissatisfied	1	2.9
Neither satisfied nor dissatisfied	1	2.9
Total	34	97.1
No response	1	2.9
Total	35	100.0

No dissatisfaction was seen with the restorative justice process as a whole and all agreed to participate in a conference again, (if only to point out the value of the birch and other forms of corporal punishment).

Table 7.47

Overall levels of satisfaction with restorative justice process

	Frequency	Percent
Very satisfied	23	65.7
Satisfied	12	34.3
Total	35	100.0

Table 7.48

Would you participate in conference again?

	Frequency	Percent
yes	35	100.0

Participants were asked to describe in their own words, the effect of the conference on the offender. The principal feature is the effect that the talking process has upon developing an understanding of the consequences of their actions and the opportunity to apologise:

He has a better understanding of the effect of his actions on others. He showed true remorse.

Having met the victim, I felt that my son was able to apologise to her personally and explain to her that it was a really stupid thing he had done and to explain to her that it wasn't deliberately done to her. Just being involved and talking to everyone has made a difference.

It gives people the chance to meet the victim and apologise, which is very hard.

The reconciliation of the victim and the offender was a positive experience for all of us present

I was again very impressed by the way the victim's valid anger was diffused and changed to real concern for the future improvement for the culprit- who also felt he could now move forward 'forgiven'.

Where there was negative feeling about the conference, participants seemed to have difficulty in accepting an apology and they tended to use existing knowledge about an offender to predict future behaviour.

Leopards don't change their spots.

Easy for him to sit there and say that now. He hasn't improved at school.

Time will tell. I'm not holding my breath.

Participants, mainly Centeniers, also articulated their views clearly over the difference between these types of resolution compared to a Court appearance:

It puts the offender under a lot of pressure to discuss things. That wouldn't happen in Court.

She could have just gone to Court and just sat here without having to face the victim or the family.

He has learned a valuable lesson without having to go through the courts. Court would have been too easy.

It was so much more productive than a court hearing and sentence. Good will come from it.

Very positive. Better than dragging a teenager through the Courts.

These results suggest a promising start to the victim offender conferencing in Jersey. In comparison with other jurisdictions, the conferencing initiative has not particularly transformed justice in Jersey. That is not to say that it has been unsuccessful. The levels of satisfaction of victims, offenders and participants in the conferencing process are very high. This suggests that the scheme has met its original aim to complement rather than replace service to victims at parish hall level.

Conclusion

This chapter has summarised some of the surfeit of literature relating to the operation of programmes which demonstrate elements of restorative justice. In spite of concerns expressed about the value of a dichotomous approach, I have identified relevant dimensions in Table 7.49 in an attempt to outline a typology of models of restorative justice operating across various jurisdictions either in a common law or statutory framework (cf. Dignan and Cavadino 1996).

Table 7.49

A typology of models of restorative justice.

	Traditional		Restorative Justice Measures	
Dimension	Formal Court Systems	Jersey Parish Hall Enquiry System	Victim Offender Reparation Models : (i.e. New Zealand, Family Group Conferencing Wagga Wagga, VORPS)	Sentencing Circles
Philosophy of model	Retribution through punishment. Consistency Tariff based	Reintegrative shaming of offenders. Individualised Tariff based for certain statutory offences	Reconciliation of victim and offender through mediation. Empowerment of victims	Reintegrative shaming of offenders. Victim reintegration and Community reparation.

Existence based on statutory enactment or customary law	Statutory enactment	Customary law	Statutory enactment	Customary law
Hybridised system or separate	Separate Based on law	Hybridised	Separate	Separate
Scope of operation either inside of outside a formal Criminal Justice System	Inside	Outside	Inside	Outside
Indigenous system or reconstructed following traditional principles		Indigenous	Reconstructed	Indigenous (restricted to indigenous ethnic population)
Operation by professionals or by volunteers	Professionalized	Elected volunteers	Professionalized	Volunteers
Role of the Victim	Restricted, other than as a witness	Usually absent. Victim perspective provided by Centenier. Victim involvement is vital to conferencing approach.	Present	Present
Focus of reparation(parish beneficiary/victim)	Compensation to victim according to a tariff	If reparation is considered, usually the Parish	Victim	Victim and community

Some of the main differences between other models and the Jersey system can be seen in the areas of professionalization and the role of the victim.

Finally, there is evidence that the Parish Hall Enquiry offers more than a Court appearance in terms of satisfaction with disposals, and a greater understanding of the ingredients and consequences of the offending behaviour and more concrete solutions to recidivism. The restorative approach involves participants more fully in a practice that they are able to understand and influence, in terms of both process and outcome. As previously noted, the Parish Hall system suggests that principles of retributive and restorative justice are reconcilable.

The next chapter presents further evidence from the observational study and addresses a particular aspect of community justice, reintegrative shaming.

CHAPTER EIGHT

REINTEGRATIVE SHAMING IN ACTION

Introduction

This chapter draws on the work of Braithwaite and the theory of reintegrative shaming developed in *Crime, Shame and Reintegration* in 1989. The chapter is divided into four sections. The first will briefly outline Braithwaite's theory of reintegrative shaming. The second considers the literature on procedural justice and the impact that the perception of fair process has upon the satisfaction of the parties involved in dispute resolution. The third considers the practical application of the theory in an international context through the Reintegrative Shaming Experiments (RISE) conducted in Canberra, Australia. The fourth and final section presents evidence of the level of reintegrative shaming and procedural features displayed during the Parish Hall Enquiry and considers to what extent these features comply with the conditions put forward by Braithwaite and Mugford (1994) that are considered to be conducive to successful reintegration.

The Theory Of Reintegrative Shaming

The theory of reintegrative shaming is closely linked to the theories of restorative justice that were discussed in the previous chapter. Braithwaite suggests that societies that have low crime rates are those which operate successful shaming processes. He draws on the Japanese example where despite rapid post-war modernization; the society has remained stable with low crime rates. Braithwaite claims that this success is attributed to the accepted wisdoms of apology, forgiveness, reparation and reintegration. He believes that current court-based strategies in westernised societies actually do more harm than good. Law breakers are stigmatized, humiliated and punished in a way that

offers little hope of redemption, thereby directing offenders towards negative subcultures.

Braithwaite highlights six key concepts important to understanding how the theory operates in society: interdependency, communitarianism, shaming, reintegrative shaming, stigmatization and criminal subcultures.

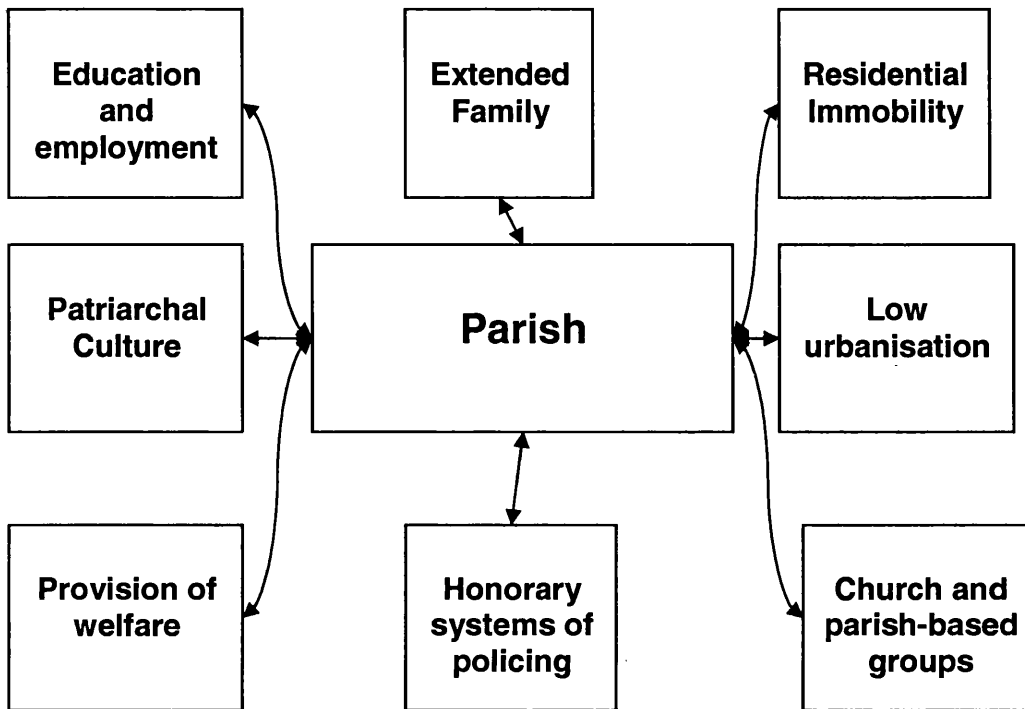
Interdependency and Communitarianism

Interdependency refers to the capacity of an individual to access and take part in activities which are dependent upon others and, in turn, upon which others are dependent, but not necessarily directly. Examples of interdependent relationships would be education, employment and family. Without interdependent communities, it is unlikely that conditions for effective shaming will be present. Braithwaite concludes that individuals are more susceptible to shaming when they are in multiple relationships of interdependency.

In communitarian societies individuals are densely enmeshed in interdependencies which have the special qualities of mutual help and trust....A communitarian culture rejects any pejorative connotation of dependency as threatening individual autonomy (1989:100).

Some suggest that communitarian societies no longer exist in a modern context (Roberts, 1979, Johnstone 2002). The parish based nature of Jersey provides a rare example of a modern westernised society that can still demonstrate communitarian principles of interdependency. Jersey would seem to possess all of the necessary mechanisms to ensure effective social control (Cohen 1985). The centrality of the parish as the unit of social organization provides the foundation for most of the other attachments. Diagram 2 shows the multiple relationships of interdependency which are evident in Jersey including the presence of extended family, residential immobility, low urbanization, strong religious influence and social groups.

Diagram 2: Multiple Relationships of Interdependency in Jersey



Shaming

Definitions of shaming differ according to different discourses. Braithwaite defines shaming as follows:

All social processes of expressing disapproval which have the intention or effect of invoking remorse in the person being shamed and/or condemnation by others who become aware of the shaming (1989:100).

Shaming works effectively if the community believes that behaviour is criminal and deterrence from offending is more likely to occur when the fear of shame from family and friends is greater than the fear of formal punishment. Where a consensus about acceptable behaviour is lacking, the impact of shaming as a

means of control is much reduced. Drug taking and homosexuality are two such examples. Braithwaite observes that in societies where shaming techniques rather than punishment are used, crime rates are low.

Shame is more deterring when administered by persons who continue to be of importance to us; when we become outcasts we can reject our rejectors and the shame no longer matters to us (1989:55).

As demonstrated from the evidence presented in previous chapters, Jersey is in the fortunate position of not having to recreate systems which incorporate shaming into the justice system. Most Western societies do not possess the necessary community frameworks to prevent crime and deviance. Informal networks are becoming increasingly rare and inexpensive methods of social control such as gossip and scandal become impotent when the bonds of community become weak.

Reintegrative Shaming

Love the sinner, hate the sin... (Anon)

Re-integrative shaming refers to the process of condemning unacceptable behaviour whilst respecting the offender as a person. In other words, making offenders feel ashamed of what they have done rather than who they are.

Reintegrative shaming means that expressions of community disapproval, which may range from mild rebuke to degradation ceremonies, are followed by gestures of reacceptance into the community of law-abiding citizens (1989:55).

In order to be reintegrated back into the community, offenders must show remorse, apologise to victims and repair the harm they have caused. The deterrent effects of shame will be stronger in individuals who have multiple

relationships of interdependency in the community. As with all advocates of restorative approaches, Braithwaite (1989) endorses the belief in the power of the community to exercise social control.

Crime is best controlled when members of the community are the primary controllers through active participation in shaming offenders, and, having shamed them, through concerted participation in ways of reintegrating the offender back into the community of law-abiding citizens (Braithwaite 1989:8).

Stigmatisation And Criminal Subcultures

Labelling theories of crime suggest that labelling and responding to people who commit offences as 'criminal' has negative consequences and in some cases, can actually increase offending behaviour. Attempts at social control become a cause, rather than an effect of deviance (Tannebaum 1938; Lemert 1951; Becker 1963).

Braithwaite's theory identifies labelling as stigmatising and therefore an obstacle to successful rehabilitation.

Reintegrative shaming controls crime, stigmatization pushes offenders towards criminal subcultures (Braithwaite 1989: 12).

Stigmatising shaming labels an offender as 'bad' or 'deviant' in a way that offers little chance of redemption. Stigmatisation can have a negative, alienating effect. A particular consequence of stigmatization is the attraction to criminal subcultures which encourage an offender to 'reject the rejectors' in order to maintain self-respect.

Procedural Justice

Tyler (1990) considers why people comply with law. By measuring levels of deterrence, disapproval and morality, he argues that compliance with the law is more related to the perceived legitimacy and morality of enforcement agencies than to instrumental concerns such as peer pressure or deterrence. The reintegrative paradigm also fits Tyler's (1990) theory of procedural justice which suggests that when offenders are treated in ways that they perceive to be fair, regardless of the sanction they receive, they will be less likely to re-offend.

Sunshine and Tyler (2003) hypothesise that people support and cooperate with law enforcement agencies for reasons of 'moral solidarity' and that they are therefore more likely to identify strongly with officials who represent and reflect shared values and identities. They consider the importance of three types of support:

- Compliance with the law
- Co-operation with the police
- Willingness to empower the police with discretionary authority (2003:153).

Sunshine and Tyler demonstrate that the perception of moral solidarity influences people's views in all three areas. This suggests that communities cooperate with enforcement agencies when there is a perception that they are acting in the best interests of the community and affirming social norms. The honorary police, as elected members of the parish force, should accordingly share high levels of cooperation. The honorary police operate within a relational model which supposes that authority is derived from their 'ethical character', which is measured by the fairness or otherwise of their behaviour towards other community members (Tyler and Lind 1992).

The hypothesis that people are influenced more strongly by the operation of procedural justice when their status in the community is brought into question is

of particular relevance to the parish hall system and the operation of the honorary police within parishes.

People will be influenced most strongly by procedural justice issues when they are most concerned about their social identity and their status in the community. This suggests that people of intermediate status ...should place particularly strong weight on whether they think the police follow fair procedures (2003:156)

Of equal interest to the Jersey context is the operation of 'distributive justice'. This theory assumes that people are concerned with the fairness of the outcomes they receive. This theory suggests that communities are more willing to legitimate institutions such as the police when fair outcomes are delivered.

People are proud to belong to, and to be respected by, groups whose authorities follow fair procedures (2003:155).

Tyler is referring to structures of state policing but the argument is equally valid as an explanation for the continued support of the honorary police and the Parish Hall Enquiry system.

People will be more willing to support legal authorities insofar as they view these authorities as reflecting the group's normative and ethical values, as demonstrated by the manner in which they exercise their authority (Sunshine and Tyler 2003:155).

Critics of the system are less likely to be found from within the indigenous population. Other researchers have noted that procedural fairness is less likely to be associated with a willingness to accept decisions where there is little identification within society (Huo, Smith, Tyler and Lind 1996, cited in MacCoun 2005).

Perception of unequal treatment is the single most important source of popular dissatisfaction with the American legal system (Sarat 1977: quoted in Sunshine and Tyler 2003).

This statement refers to a system very far removed from the Jersey institutions; however, a similar perception pervades popular opinion in Jersey. Perceived unequal treatment undermines the effectiveness of procedures. There is evidence, mainly from this study, that honorary police act in a manner considered by most, to be fair. There are criticisms of the consistency and fairness of honorary police *procedures*, but those criticisms are usually not indigenous and tend to be based on anecdote developed to build a populist political platform in the media. On balance, the evidence presented here supports a perception of fairness.

The remaining sections in this part of the chapter will examine the practical application of Braithwaite's theory and procedural justice in Jersey, with some international comparisons.

Reintegrative Shaming Experiments (RISE)

The most significant piece of research to date which tests Braithwaite's theories in practice, is the Reintegrative Shaming Experiment in Australia (RISE) which began in the Australian Capital Territory in 1995 (Sherman, Strang, Barnes and Braithwaite 1999; Sherman, Strang and Woods 2000). The RISE experiment conducted in partnership between the Australian National University and the Australian Federal Police was the largest field experiment conducted in Australia. The experiment sought to compare the effects of a standard court process with that of a conference approach for four types of offence: driving whilst impaired through alcohol, youth property offending against personal victims, youth shoplifting offences against corporate victims and violent offences committed by offenders under the age of thirty.

There were three central hypotheses:

1. Offenders and victims would find conferences to be 'fairer' than a court appearance

2. The conference approach would result in less recidivism than the court process
3. The cost of the conference approach would be no more, perhaps less than the cost of a court appearance

Offenders were randomly allocated to either a prosecution process or to a conference pathway.

RISE is based upon Braithwaite's theory that when a community condemns a wrong but allows an offender to repay his debt to the community (and particularly the victim) as a condition for forgiveness, the offender will be less likely to commit further offences than when he carries the permanent stigma of a criminal record gained through a court appearance. For the purposes of this section, I am going to present evidence about the first hypothesis: that the offenders and victims would experience a greater degree of fairness in the conference approach. Systematic observation of both conferences and court appearance by independent observers trained by the RISE team showed differences in a number of areas, all of which will have impacted upon an offender's perception of the fairness of the process. Table 8.1 illustrates the range of dimensions observed.

Table 8.1
Differences in levels of each dimension as observed in court and conference process
(Sherman et al. 1999)

Dimension	Court	Conference
Time and effort given to justice		Greater in conference
Number of participants		Greater in conference
Emotional intensity		Greater in conference
Procedural Justice		Greater in conference
Restorative Justice		Greater in conference
Retributive Justice	Greater	
Reintegrative shaming		Greater in conference
Stigmatic shaming		Greater in conference

Apologies	None	Greater in conference
Forgiveness		Greater in conference
Discussion of drug and alcohol problems		Greater in conference

The RISE team noted that the conference approach can have a more positive effect than a court appearance upon a number of mainly psychological factors including perceived fairness.

Recently, Tyler has applied his hypotheses about procedural justice to the RISE experiments. Both court and conference approaches were found to increase support towards law enforcement and reduce rates of recidivism when reintegrative shaming and procedural justice were seen to be in operation. These processes were found to be more likely with a conference approach than by a standard prosecution process.

Tyler et al conclude:

The strength of the impact of conferences depends upon their ability to effectively lead offenders to feel both fairly treated and to feel that their ties to others have been registered through reintegrative shaming. The real power of conferences is engaged when they create the desired and desirable psychological conditions leading to rule following. These were procedural justice and reintegrative shaming (2005:31).

Importantly, procedural justice and reintegrative shaming have been shown to have a long term effect on attitudes.

People who feel that the law is legitimate and that breaking the law would cause problems with people they cared about were later less likely to break the law (2005:36).

For conferences, where there were high levels of free choice, high participation and low levels of moral condemnation, these were all features of procedures that encouraged participants to feel that conferences were fair.

Reintegration Ceremonies

The fourth and final section of this chapter considers the extent to which the Parish Hall Enquiry process fulfils the criteria for effective shaming. Five years after the publication of *Crime, Shame and Reintegration*, Braithwaite and Mugford published a paper which drew upon observational studies of community conferences in New Zealand, out of which they hypothesised fourteen conditions that were conducive to the successful reintegration of offenders into their communities. These features are directly compared with conditions considered by Garfinkel to induce 'moral indignation' and therefore degradation (Garfinkel, 1956). In particular, they identified two structural features, namely the selection of ceremony participants and the possibility for interaction with victims, as important to achieving a successful outcome. I have taken these fourteen conditions and employed them as a framework from within which to compare and contrast these with features of the Parish Hall Enquiry process.

The left hand column of Table 8.2 below is taken from Table 1 (Braithwaite and Mugford 1994:143). The right hand column includes a brief narrative about the extent to which the Parish Hall Enquiry fulfils each condition.

Table 8.2

Conditions of successful reintegration ceremonies and the extent to which the Parish Hall Enquiry process fulfils the criteria.

Conditions of successful reintegration ceremonies	Extent to which Parish Hall Enquiry process fulfils each condition
The event, but <i>not the perpetrator</i> , is removed from the realm of its everyday character and is defined as irresponsible, wrong, a crime	Enquiries are held in the parish where the offence was committed; this will usually be less than two miles away from the scene of the crime and never more than four miles away.

<p>Event and perpetrator must be uncoupled rather than defined as instances of a profane uniformity. The self of the perpetrator is sustained as sacred rather than profane. This is accomplished by comprehending: (a) how essentially good people have a pluralistic self that accounts for their occasional lapse into profane acts; and (b) that the profane act of a perpetrator occurs in a social context for which many actors may bear some shared responsibility. Collective as well as individual shame must be brought into the open and confronted.</p>	<p>Centeniers tend to adopt a problem solving approach that encourages both individual and community responsibility for offending and rehabilitation. There is clear focus on future behaviour.</p>
<p>Coordinators must identify themselves with all private parties – perpetrators, their families, victims, witnesses – as well as being identified with the public interest in upholding the law.</p>	<p>Centeniers are elected representatives of the parish in which the alleged offence was committed. In this context, they are well placed to address all relevant facts, whether considered to be 'legal' or not.</p>
<p>Denunciation must be both by and in the name of victims and in the name of supra-personal values enshrined in the law.</p>	<p>Despite the absence of the victim, the process is perceived as highly legitimate and Centeniers demonstrate victim awareness.</p>
<p>Non-authoritative actors (victims, offenders' families) must be empowered with process control. The power of actors normally authorized to issue denunciations on behalf of the public interest (e.g. judges) must be decentred.</p>	<p>High levels of participation permitted from interested parties other than the victim who is usually absent or peripheral to the process. The process is characterised by negotiation and the Centenier seeks high levels of consensus.</p>
<p>The perpetrator must be so defined by all the participants (particularly by the perpetrator himself) that he is located as a supporter of both the supra-personal values enshrined in the law and the private interests of victims.</p>	<p>High level of acceptance of responsibility and gestures of apology observed. Low levels of defiance.</p>

<p>Distance between each participant and the other participants must be closed; empathy among all participants must be enhanced; opportunities must provide for perpetrators and victims to show (unexpected) generosity toward each other.</p>	<p>Centeniers report that the success of the system relies upon reintegrative principles that operate to draw the attendee back into the community.</p>
<p>The separation of the denounced person must be terminated by rituals of inclusion that place, him, even physically, inside rather than outside.</p>	<p>The operation of forgiveness mechanisms during enquiries facilitates inclusion, usually conditional upon some form of reparation.</p>
<p>The separation of the victim, any fear or shame of victims, must be terminated by rituals of reintegration.</p>	<p>Achieved through conferencing or indirect reparation with particular attention paid to the monitoring, facilitation and enforcement of outcomes.</p>
<p>Means must be supplied to intervene against power imbalances that inhibit either shaming or reintegration or both</p>	<p>The attendee retains the right to reject the process and outcome of an Enquiry and have case heard before a magistrate. The operation of stigmatising shaming was observed to a lesser extent.</p>
<p>Ceremony design must be flexible and culturally plural, so that participants exercise their process control constrained by only very broad procedural requirements.</p>	<p>Enquiries take place anywhere within parish boundaries. A flexible, innovative, needs-based approach is observed.</p>
<p>Reintegration agreements must be followed through to ensure that they are enacted.</p>	<p>Agreements are followed up by the Centenier. There is a high use of deferred decision with a follow up enquiry to ensure that conditions have been met.</p>
<p>When a single reintegration ceremony fails, ceremony after ceremony must be scheduled, never giving up, until success is achieved.</p>	<p>An ideal that is infrequently reached due to the imposition of formal guidelines and force orders.</p>

The ceremony must be justified by a politically resonant discourse.	The relevance of politically resonant discourse is not an area that would concern Centeniers whose discourse is largely that of 'common sense'.
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(Adapted from Braithwaite and Mugford 1994)

Each of the points summarised in Table 8.2 is examined in more detail below, including specific examples from fieldwork. In particular, comparisons are drawn with formal court processes to illustrate the reintegrative nature of the parish hall system.

The event, but not the perpetrator, is removed from the realm of its everyday character and is defined as irresponsible, wrong, a crime

The Centenier has the power to hold an Enquiry into alleged wrongdoing anywhere within parish boundaries. An alleged offender attends at a Parish Hall which will be less than two miles away from the 'scene of the crime'. The 'perpetrator' is heard in informal, familiar surroundings that lack the pomp, ceremony and enhanced security of the Court environment. Centeniers were observed to separate the offence from the offender and whilst highly disapproving of the attendees' role in the commission of the offences, they are equally highly supportive and respectful of the attendees as people. Tables 8.3 to 8.6 clearly illustrate the operation of this reintegration mechanism during the enquiry process.

Table 8.3

The extent to which disapproval towards the type of offence is expressed.

	Frequency	Percent
not at all	2	3.9
a little	3	5.9
n/a	1	2.0
a lot	11	21.6
Highly disapproving	34	66.7
Total	51	100.0

Table 8.4

The extent to which disapproval towards the offenders' actions is expressed.

	Frequency	Percent
not at all	5	9.8
a little	3	5.9
n/a	1	2.0
a lot	9	17.6
Highly disapproving	33	64.7
Total	51	100.0

Table 8.5

The level of support shown towards offender by participants in the enquiry.

	Frequency	Percent
unsupportive	2	3.9
grudging support	2	3.9
n/a	2	3.9
supportive	19	37.3
highly supportive	26	51.0
Total	51	100.0

Table 8.6

The level of respect shown towards the offender by the Centenier.

	Frequency	Percent
Little respect	3	5.9
Respectful	12	23.5
Highly Respectful	36	70.6
Total	51	100.0

In most cases, the Centenier was observed to show high levels of respect for the offender as a person.

Case Extract Five

SPEEDING – 60 mph (Jersey speed limit is either 30 or 40 mph)

Prior to enquiry

Centenier A to Centenier B: Joe * is in next. His dad is a Centenier in St X

Centenier B: Whoops!

Centenier A: And he's a rally driver

[Laughter]

During Enquiry

Centenier A: Hello Joe how are you

Joe: I've got it coming, I know.

Centenier A: What were you thinking of. That road is not long enough for 40 let alone 60. I've got to charge you because of the speed.

Joe: Yeah, I know

Centenier B: How old are you?

Joe: 35, Thought I'd have grown out of it by now.

Centenier A: Prepare a little speech in mitigation for yourself when the magistrate asks if you have anything else to say. Probably best not to mention your rally driving.

Joe: Yeah, OK, thanks. Nice to see you again Centenier. How's the family...

Centenier A: Have you told your Dad yet? [Handed notice of charge]

Joe: No, I've been putting that off. He's going to say I'm a right prat. See you in court, as they say [laughs]. Do you think the fine is going to be a big one?

Centenier: Well you were going at 60 and it's not for the first time.

Centeniers admit family and friends to Enquiries, any of whom may sit alongside the attendee. (In a Court environment, supporters are required to remain in the public gallery, seated behind the offender who occupies the dock, which is usually situated at a lower level than that of the judge.) Support and respect for the attendee as a person (whilst condemning the offence) are also maintained by supporters, thereby creating an atmosphere where a longer term change in behaviour is far more likely. Tables 5.7 and 5.8 show the high levels of support directed at attendees during Enquiries. Apart from a physical presence in a courtroom, it is difficult for supporters to express themselves during a formal judicial process. Parish Hall Enquiries encourage participation and support is usually verbal but sometimes physical.

Table 8.7

The level at which the offender is treated by supporters as loved.

	Frequency	Percent
grudging support	1	2.0
n/a	13	25.5
supportive	6	11.8
highly supportive	31	60.8
Total	51	100.0

Table 8.8

The level of approval expressed towards offender as a person.

	Frequency	Percent
not at all	3	5.9
a little	1	2.0
n/a	3	5.9
a lot	14	27.5
Highly approving	30	58.7
Total	51	100.0

Event and perpetrator must be uncoupled rather than defined as instances of a profane uniformity. The self of the perpetrator is sustained as sacred rather than profane. This is accomplished by comprehending: (a) how essentially good people have a pluralistic self that accounts for their occasional lapse into profane acts; and (b) that the profane act of a perpetrator occurs in a social context for which many actors may bear some shared responsibility. Collective as well as individual shame must be brought into the open and confronted.

When the crime is constructed as the bad act of a good person, uncoupling event and perpetrator, a well-rounded discussion of the multiple accountabilities for the crime does not threaten the ceremony as an exercise in community disapproval (Braithwaite and Mugford 1994:146).

The problem-solving approach adopted by most Centeniers focuses upon the offence itself and strategies for making amends and preventing recurrence. It is taken for granted that this is a community rather than an individual responsibility.

Case extract six

Centenier: At the end of the day, this is not a hanging offence. **We** can put this behind **us** and move on. I want to resolve this to everyone's benefit. I am going to defer this decision for three months so that you can talk to the Restorative Justice Officer.

Case extract seven

Centenier: Please use your Voluntary Supervision wisely. I know why this is happening, and that you are trying to defend your Mum. But we all want to help it stop. Try and get this sorted out, stop taking the law into your own hands. You can phone me if you want and I'll come round and sort it out. Tell your Mum, a teacher, your probation officer, anyone you can trust, but don't react like this again, or we'll have no choice but to send you to Court and nobody wants that.

Opportunities for ‘uncoupling’ are frequent during the parish hall process, without removing the responsibility for the commission of the offence. Importantly, there is a clear focus on future behaviour and in over 94% of observations it was noted that the Centenier and other participants communicated very clearly that the attendees could put past behaviour behind them and look to a positive future (See Table 8.9).

Table 8.9

The level at which it was communicated that attendee could put actions behind them

	Frequency	Percent
very negative outlook	1	2.0
little focus on future	2	3.9
much focus on future	11	21.6
very positive outlook	37	72.5
Total	51	100.0

Coordinators must identify themselves with all private parties – perpetrators, their families, victims, witnesses – as well as being identified with the public interest in upholding the law

In Jersey the ‘coordinators’ are the Centeniers, elected police officers of the parish in which the alleged offence occurred. The Centenier must exercise the ‘public interest’ test and take into account a number of factors during the decision making process. The terms of the oath sworn before the Royal Court ensure that Centeniers identify strongly with the public interest in not only upholding the law but the maintenance of peace and social order:

You swear and promise by the faith and oath which you owe to God, that you will well and faithfully exercise the duty and Office of Centenier in the Parish of, you will keep and cause to be kept her Majesty’s Peace, opposing and arresting all unruly and seditious persons, thieves, murderers and all others who disturb the Public Peace, and you will

inform the Constable in order that they may be brought to justice to be punished according to their misdeeds, together will all who frequent taverns, drunkards, dissolute persons, harlots, blasphemers and all others who contravene the Rules and Orders of the magistrate which Orders you will keep and observe and cause to be kept and observed insofar as possible (Serment des Centeniers, Code de 1771).

Centeniers are in the unique position of being able to affirm the social norms and standards of acceptable behaviour of the parish during enquiries. An explanation of the impact of offences is considered, not only upon the victims, but also upon the parishioners.

Case extract eight

Centenier: I have watched you grow up over the years and I am really disappointed. You all live in a beautiful parish, with space to run around and really good neighbours.

[To attendee one]: How many neighbours would put up with your drumming, admittedly you are very good at it. I've heard you from down the road but I've never had anyone phone me to complain.

[To attendee two]: Motorbikes. What a lucky boy you are. Privileged. Privileged to have an open, private space to ride your motorbike. People *have* complained to me about the noise and I have always stood up for you; I tell them that it keeps you out of trouble. And look what you do....Parishioners are all entitled to a quality of life. All entitled to leave property on their property, locked up or otherwise. What about your Dad's plants and tools? What would happen? He has the right to leave stuff and know that it will still be there when he comes back.

To your credit, you eventually all came up with the truth. But look at the embarrassment and shame you have caused your families. Everyone in this parish knows who you are and what you have done.

Denunciation must be both by and in the name of victims and in the name of supra-personal values enshrined in the law.

The role the victim plays in the Parish Hall Enquiry process is not straightforward. The victim is neither central nor even essential to the process. Where an offence has a victim, it is unusual that the victim will be present during the Enquiry. The Centenier has access to witness statements and in certain circumstances will be known to the victim or vice versa. In every case the Centenier will be familiar with the location of the offence. During victim offender mediation, all victims who were approached expressed a wish to participate in the process and levels of victim satisfaction were very high. Victim perspectives were examined in more detail in the previous chapter. As previously noted, the private victim perspective is matched by the public perspective of the parish expressed by the Centenier. Observations suggest that where reparation to the victim is discussed, reparation to the parish is also considered. Table 8.10 shows that in over 80% of cases where there was no victim offender mediation the Centenier discussed the consequences of the offence, but not necessarily the consequences for the victim. Concern with addressing past behaviour was matched by discussions about changing future behaviour.

Table 8.10

The extent to which the Centenier discusses the consequences of the offence.

	Frequency	Percent
not at all	5	9.8
a little	1	2.0
n/a	2	3.9
a lot	5	9.8
much discussion	38	74.5
Total	51	100.0

The following extract refers to a case where the attendee had allowed himself to be carried with a group of friends in a stolen vehicle. The Centenier makes no reference to the owner of the stolen vehicle; it would seem that this Centenier construes the victim of the offence to be the parents.

Case extract nine

Centenier: You seem to have a problem with your choice of friends.

Attendee: Yes

Centenier: Have you seen them since

Attendee: No, not really

Centenier: Everyone in that car was stupid. We could have been looking at people killed.

Parent: We have been in a serious car accident before. You know what that is like.

Centenier: Part of my job as a Centenier is to go and tell people that their loved ones have died. It's a horrible job. What would it have been like if I had had to go and tell your parents that you weren't coming home?

Attendee: [silence]

Centenier: Do you care?

Attendee: I do... [Starts to cry]

Centenier: Have you learnt from this?

Attendee: Yes

Centenier: What have you learnt?

Attendee: Not to follow the crowd. It wasn't fun.

Centenier: You were bleeding lucky to come out with no injuries. You need to be more selective of your friends. You are not stupid. Far from it. You can make decisions in the right way. I've had a chat with Mum and Dad and the Probation Officer and I'm not happy to deal with this tonight. I need you to prove to me and your parents that you can stay out of trouble. I'm going to defer my decision for three months. Use this time to get yourself sorted out. I wish you every success. I know you will succeed. Prove me right.

Non-authoritative actors (victims, offenders' families) must be empowered with process control. The power of actors normally authorized to issue denunciations on behalf of the public interest (e.g. judges) must be decentred.

In typical Court processes, interested parties such as the victim or offenders' families have little control over events. The facts presented must have legal admissibility and opinion is considered to be irrelevant. Court-based approaches tend to be retributive and focus on punishing the offender. The victim is usually absent or peripheral to the hearing. The community is represented by the state and the procedure is characterised by adversarial rather than negotiated processes. By contrast, the open nature of the parish hall process ensures that all interested parties can participate. Anything and everything is possible to assist the dispute resolution process. In some cases, the Centenier acts as a mediator, either conveying information between the parties or taking an active part to promote settlement. Table 8.11 illustrates the lack of focus on punishment demonstrated by Centeniers.

Table 8.11
The extent to which the Centenier discusses punishment.

	Frequency	Percent
not at all	33	64.7
a little	6	11.8
n/a	1	2.0
a lot	5	9.8
much discussion	6	11.8
Total	51	100.0

The focus was very heavily upon the prevention of further offences (Table 8.12)

Table 8.12
The extent to which the Centenier discusses prevention of further offences.

	Frequency	Percent
not at all	3	5.9
a lot	6	11.8
much discussion	42	82.4
Total	51	100.0

Court appearances often result in sentences which involve little opportunity for victim involvement and a 'bitterness effect' as a result of the perceived unfairness of the proceedings. In essence, it appears that offenders experience Court processes as something done **to** them, in which their role is essentially passive, whilst parish hall processes require them to participate more, think more and take more responsibility for the offence. Table 8.13 shows that Centeniers sought either agreement of the facts of the case or a detailed discussion in over three-quarters of cases.

Table 8.13
The extent to which the attendee is able to comment or correct the police report.

	Frequency	Percent
not permitted	6	11.8
police report not read out	6	11.8
agreement sought	5	9.8
detailed opinion sought	34	66.7
Total	51	100.0

Attendee contribution to disposal was observed to a lesser extent (Table 8.14). This tends to suggest that whilst the attendee is able to take part in the process of the Enquiry, the Centenier remains in control of the disposal. In some cases, the Centenier will have little discretion in terms of certain statutory offences.

Table 8.14**Level of attendee contribution to disposal**

	Frequency	Percent
none	23	45.1
small contribution	4	7.8
n/a	2	3.9
moderate contribution	4	7.8
high level	18	35.3
Total	51	100.0

Genuine reintegration cannot occur if an attendee is forced or manipulated to agree with a decision imposed by the Centenier. The majority of Centeniers did not demonstrate coercive behaviour in order to encourage the attendee to agree with their decision. The flavour of bargain and compromise seemed to ensure a sense of 'fairness' felt by all participants. Table 8.15 shows the low levels of coercion observed.

Table 8.15**The extent to which Centenier coerces the attendee into accepting a decision.**

	Frequency	Percent
no coercion	38	74.5
Gentle persuasion - I could take this to court but...	6	11.8
Moderate coercion - if this goes to court etc...	2	3.9
Centenier required to charge	4*	7.8
Coerced into pleading guilty	1	2.0
Total	51	100.0

*one case of disputed facts.

The perpetrator must be so defined by all the participants (particularly by the perpetrator himself) that he is located as a supporter of both the supra-personal values enshrined in the law and the private interests of victims.

Adherence to this condition of reintegration is usually achieved by acceptance of responsibility for the offence together with a gesture of apology and a display of remorse. Few attendees considered that they were not responsible for their actions.

The emotional power in the description of the offence can influence the levels of guilt, shame and remorse felt by the attendee which can in turn affect the level of responsibility the attendee is prepared to take for the alleged offence. Braithwaite recommends creating emotional intensity in the description of the offence to assist the shaming process. Table 8.16 shows that where the Police Report was read, the emotional power of the description was of high intensity in two thirds of cases. Emotional power is achieved through changes in tone of voice, body language and silence.

Table 8.16
Emotional Power of act description

	Frequency	Percent
Low intensity	2	3.9
Moderate	11	21.6
Police report not read	6	11.8
Quite high	16	31.4
High intensity	16	31.4
Total	51	100.0

Table 8.17 shows that most attendees experienced some discomfort during either the description of the offence or the discussion that followed. In three

cases, attendees were physically uncomfortable when required to listen to the facts of the case presented.

Table 8.17
Degree of attendee discomfort

	Frequency	Percent
very little	16	31.4
moderate	20	39.2
hot under the collar	12	23.5
squirming	3	5.9
Total	51	100.0

Crying is a measure of the emotional intensity of the Enquiry process. Three quarters of offenders did not cry but the remaining quarter were either on the brink of tears or crying when faced with either the facts or the consequences of their alleged offences.

Table 8.18
Attendee cried

	Frequency	Percent
Yes	2	3.9
No	40	78.4
Nearly/ brink of tears	9	17.6
Total	51	100.0

Supporters were slightly more likely to cry, particularly mothers, both of adult and youth attendees. Often, it was the sight of their mother crying that elicited a similar response in their children. Centeniers were observed to use this to their advantage to reinforce the consequences of the offending.

Table 8.19

Attendee's supporters cried

	Frequency	Percent
Yes	3	5.9
No	35	68.6
Nearly/ brink of tears	4	7.8
no supporter	9	17.6
Total	51	100.0

Case extract ten (youth offender)

Offence: Taking and Driving Away
Centenier: Just turn around and look at your Mum crying. Stop giving her a hard time; she's had enough to put up with over the years without you giving her any more hassle. Grow up!

Case extract eleven (adult offender)

Offence: Breaking and Entry
Female Centenier focused on the impact to the victim of this offence and the effect on others. Adult attendee's mother sobbed throughout.
Centenier: Just look what effect this has had on your mother. She is so ashamed of you and so am I. I don't want your mum in tears like this.

The majority of attendees displayed very little or no defiance during Enquiries.

Table 8.20

The level to which attendees behave in a defiant manner

	Frequency	Percent
No defiance	29	56.9
Little defiance	14	27.5
N/A	1	2.0
much defiance	6	11.8
Highly defiant	1	2.0
Total	51	100.0

When there was defiance, it sometimes came from the supporters:

Case extract twelve

Offence: Purchase Alcohol Underage

Parent tried to shift blame onto pub: This was a joint workout. My youngest got served 5 pints. He hardly looks 14 let alone 15

Centenier challenged this: Why do you let him go to the pub? Your sons put that licensee at risk of losing his licence.

Table 8.21

Sullen or unresponsive

	Frequency	Percent
unresponsive	4	7.8
sulking	9	17.6
switched on	9	17.6
highly responsive	29	56.9
Total	51	100.0

Some attendees, (usually youths) displayed varying degrees of disdain and disinterest in the process. Centeniers were observed to handle sulking and moodiness in a variety of ways:

Case extract thirteen

Offence: Larceny shop

Centenier: What are you going to tell me about this?

Attendee: Dunno

Centenier: What are you planning at GCSE?

Attendee: Dunno

Centenier: What are your dreams for the future?

Attendee: Haven't thought about it

The Centenier went on to explain in lengthy, painstaking detail the repercussions of theft and the mistrust involved etc.

Attendee: You're wasting your breath! You *won't* see *me* again

Centenier: If I had a pound, my love, for everyone who has told me that, I would be a very rich man!

Case extract fourteen

Attendee: Look, sir, they let us get really drunk

Centenier: That is not mitigation. You are very, very fortunate that no-one was injured in that crash.

Attendee: How many of these [written cautions] can I get before I go to Court

Centenier: It is not a case of how many times you get away with things at Parish Hall. This is a shot across your bows. My job is to establish whether an offence has been committed and whether prosecution is in the public interest. In this case, it is my opinion that it is not. This is a first offence and you are young. Next time, you may not be so lucky.

Parish hall processes encourage attendees to take responsibility for their actions. Court appearances by contrast, often detract from this responsibility (Christie 1993; Garfinkel 1956) and offenders are encouraged to portray themselves in the best possible light in order to mitigate the details of the offence. Table 8.22 shows the level to which attendees considered that other people were responsible for their actions.

Table 8.22**Level to which attendee holds others responsible for actions**

	Frequency	Percent
not at all	29	56.9
a little	10	19.6
n/a	1	2.0
a lot	6	11.8
Completely	5	9.8
Total	51	100.0

Table 8.23 shows that over three quarters of attendees accept wrongdoing in some way. Table 8.24 shows that whilst accepting responsibility attendees were slightly less likely to show remorse for their actions (66%). Table 8.25 shows that most apologised for their actions.

Table 8.23**Attendee accepts having done wrong**

	Frequency	Percent
does not accept	5	9.8
reluctant acceptance	6	11.8
accepting	5	9.8
freely accepts	35	68.6
Total	51	100.0

Table 8.24**Appears remorseful**

	Frequency	Percent
No remorse	5	9.8
very little remorse	12	23.5
remorseful	9	17.6
very remorseful	25	49.0
Total	51	100.0

Table 8.25

Attendee Apologises

	Frequency	Percent
yes	36	70.6
no	15	29.4
Total	51	100.0

The role of remorse and apology was important to the Centenier when exercising the public interest test. In cases where there was little remorse or apology, attendees were more likely to be charged for a Court appearance. The following example is unusual in that defiance, lack of remorse and absence of apology to this level was not widely observed in Enquiries. The Centenier in this case has very many years of experience and is widely recognised for his patience and tolerance of young people.

Case extract fifteen

Offence: Purchasing Alcohol Underage and Causing a Public Nuisance by Urinating

Attendee arrived at the enquiry without his parents but with a co-accused. Appalling attitude towards drinking and was generally argumentative and arrogant with the Constable's Officer and the Centenier.

Centenier: Do you realise that the cashier could lose his job?

Attendee: He never asked me my age.

Centenier: That does not make it right.

Attendee: Does in my book.

Centenier: You were breaking the law and not only getting yourself into trouble but also the shop and the cashier.

Attendee: So?

Co-accused to attendee: For God's sake, shut up. Just say sorry. You're making this really bad

Centenier: You should take a leaf out of your friend's book

Attendee: Yeah, yeah.

Centenier: Right, that's it. I'm going to let the Court decide what to do with you. I had thought that I was going to deal with it here but because of your attitude to this and the fact that you committed the urinating offence so soon after the alcohol one, I am going to charge you. I want you back here next week with a parent.

Attendee: Shit... I don't want to get charged for this.

Centenier: You have already been here once this year. And your attitude is too blasé. I think you have a problem with drink and drugs. We are sick and tired of your behaviour. You can't carry on like this and I am going to let the Court decide. I can't punish you in the pocket as I would like to, dock your money so you can't buy booze, or cannabis for that matter. You can't even be bothered to apologise or take any responsibility for your actions. I am disgusted with you.

Two weeks later, the attendee appeared before the Youth Court where he was fined heavily for both offences.

Distance between each participant and the other participants must be closed; empathy among all participants must be enhanced; opportunities must provide for perpetrators and victims to show (unexpected) generosity toward each other.

Self-deprecating gestures from either side can facilitate reintegration (Braithwaite and Mugford 1994:152)

In the main, because victims are not usually present at the initial enquiry, gestures of reintegration during the Enquiry are provided by the other

participants, usually family and friends but also other parish officials.⁶³ It is the Centenier however who is the main actor in enhancing empathy and ensuring that the victim perspective is at the forefront of the process. The operation of empathy is acknowledged by 'What Works' theorists as an essential component of rehabilitation strategies (Trotter 1999). These ideas will be considered in a later chapter concerning process and compliance.

Court appearances often deny any of the interested parties in an offence the opportunity to make reconciliatory or reintegrative approaches. The following example highlights the capacity of the parties to show spontaneous generosity towards each other.

Case extract sixteen

Possession of Cannabis

Constables Officer informed the Centenier that the teenage attendee had been taken home drunk before and involved in a firework throwing incident. He also recognised him as a regular fisherman on the pier.

Centenier to Parent: Do you think that a drug awareness session will do him any good?

Parent: I don't think anything will make a difference now. He will never touch drugs as long as he lives after all this. A member of our family is a registered addict and we are well aware of the harm it can do. We are keeping him on a very tight rein.

Probation Officer: How does he occupy his time after school?

Parent: Surfing, surfing, surfing... When there is no surf he goes fishing

Constables Officer: I've seen him on the pier fishing.

⁶³ . Where there is victim, Centeniers will invariably request letters of apology or other means of indirect reparation as part of the disposal.

Parent: Yeah, he's well into fishing. We used to have a boat but had to sell it a while back. His brothers are all into it too.

Constables Officer to attendee: Keep out of trouble and if it's alright with your parents, I can take you out with my boys on our boat to do a bit of bass fishing.

Parent: That would be good

Constables Officer: I'll see you sometime soon to sort it out.

Centenier: I've decided that I am going to defer my decision for three months to see whether you can keep out of trouble. You have to agree to that of course.

What do you think?

Attendee: OK

Centenier: Remember your face is known in this parish. All the patrols will know that you are on a deferred decision so you will have to keep your nose clean. Go away and stay out of trouble and come back in three months. Enjoy the fishing.

Levels of empathy and generosity between a victim and a perpetrator are illustrated in the following example. This is taken from a report prepared by the conference co-ordinator during a conference to deal with a grave and criminal assault:

Conference report extract one

We started off with Jane [the offender] who came across as extremely remorseful and admitted that she has got a big problem controlling her anger. As the conference went on, Jane became very upset when she realised how the assault had affected everyone.

Chantelle, [the victim] was very quiet and reserved sitting with hunched shoulders at the beginning of the conference. As time went on and everyone had spoken she became more relaxed. Chantelle's parents said that they were very proud of the way their daughter had handled the assault and that the whole

family had been badly affected including very close extended family members. Chantelle's father said that he realised what a bright girl Jane was and that he would hate to see this go to waste. He offered to pay for her to attend a martial arts course to control her anger and channel her strength into something positive. Jane thanked him for the offer and agreed it would be a good idea. Another supporter of the victim then stated that there would be no need to worry about payment because he would sort it out...

Chantelle's body language throughout the conference changed. At the start, she was bent over with no eye contact and spoke extremely softly. As time went on she sat up straight and spoke clearly and confidently, maintaining eye contact with Jane. At the end of the conference Jane and Chantelle left the room talking together and both sets of parent commented on what a success they felt the conference process had been.

*Names changed

The separation of the denounced person must be terminated by rituals of inclusion that place, him, even physically, inside rather than outside.

The operation of forgiveness during enquires is one method of facilitating inclusion. Centeniers have been observed to be very adept at 'drawing a line under the offence and encouraging attendees to 'move on'.

Case extract seventeen

Offence: Malicious Damage

Attendee: I am very sorry, it was a complete accident.

Centenier to parent: What do you think I should do with him? Have you discussed this? Does he always behave like this?

Parent: No he's generally very good. I think he is genuinely very sorry about this; it's shaken him up a bit.

Centenier: I don't really want to send you to court and give you a criminal record. If you accept a written caution you won't have to disclose it. The last thing you want is a record at your age. What do you want to do?

Attendee: A marine biologist

Centenier: Don't let this hold you back. I understand what happened. Now pin that on your fridge (the caution slip) and go and be a marine biologist.

Wonderful!

Case extract eighteen

Offence: Larceny Shop

Centenier: The value of goods only £25 but it is not so much the value of what you took, it's the dishonesty. This gets serious. Who is going to employ you if you carry on like this? We don't want the slippery slope. Before you know it, you're alienated, no friends, no job. The police want you to go to Youth Court but I am prepared to deal with it here. I don't want there to be a second time. Don't do it again. Go and be a great teacher. Put all this behind you.

Case extract nineteen

Offence: Tampering with a Motor Vehicle

Deferred decision enquiry.

Centenier: I have had a sparkling letter from the Probation Service about your voluntary supervision. I am very pleased to deal with this. You have done very well. I'm pleased with you.

Forgiveness is an important part of reintegration and high levels were observed.
(See Tables 8.26 and 8.27)

Table 8.26**The level of forgiveness expressed towards the attendee by the Centenier**

	Frequency	Percent
not at all	3	5.9
very little	5	9.8
n/a	2	3.9
a lot	8	15.7
Highly forgiving	24	47.1
Conditional on completion of reparation/deferred decision	9	17.6
Total	51	100.0

The attendee as a person is shown forgiveness, but also there is forgiveness for their actions (see Table 8.27). Interestingly, forgiveness was offered (in terms of a lesser sanction such as 'words of advice' or a written caution) as an outcome of a successful reintegration measured by either completion of a reparative task or appropriate behaviour during a deferment period.

Table 8.27**The degree to which attendee is forgiven for actions**

	Frequency	Percent
not at all	3	5.9
very little	5	9.8
n/a	2	3.9
a lot	8	15.7
Highly forgiving	23	45.1
Conditional on completion of reparation/deferred decision	10	19.6
Total	51	100.0

The separation of the victim, any fear or shame of victims, must be terminated by rituals of reintegration.

Reintegration, for the victim, is achieved by ensuring that decisions and agreements are monitored. Most informal sanctions are conditional upon the completion of reparative tasks, direct or indirect, and the flexibility of the deferred decision means that Centeniers are able to encourage compliance. It would appear that in the Jersey context, the 'ritual' of the Parish Hall Enquiry is more often focussed upon the reintegration experience for the offender rather than the victim. This is a particular idiosyncrasy of the Parish Hall Enquiry and it does not fit with the philosophical argument that meeting victim needs should be the central goal of justice.

Means must be supplied to intervene against power imbalances that inhibit either shaming or reintegration or both.

The Centenier is in a position of power in that their role is to decide whether or not to proceed with a prosecution. The enquiry process permits the opinions of interested parties and this goes some way to mitigating the potential negative effects of power imbalance. The presence of an independent third party, usually a member of probation staff, is not always a guarantee of intervention against poor practice.

The opposite of reintegrative shaming is disintegrative shaming or shaming that stigmatises the attendee. Stigmatising shaming labels an offender as 'bad' or 'deviant' in a way that offers little chance of redemption. Naming and shaming policies are examples of stigmatising shaming. The following example transcribed from fieldwork notes describes an enquiry where high levels of stigmatising shaming by the Centeniers were countered by attempts at reintegration by the Probation Officer.

Case extract nineteen

Offence: Possession of Cannabis (this offence was committed the day after the attendee had been placed on a deferred decision with a condition of 20 hours community work on the cliffs in another parish for motoring offences).

During the first enquiry the attendee's mother has spoken up for her son; how well he was doing at school, how a court appearance would affect his future chances of employment , how this offence was out of character etc..

Centenier: I know what youngsters can put their parents through. Whatever punishment is dished out to you is nothing compared with what you have done to your mum. You owe her a big bunch of flowers or chocolates. I'm using the powers that I have of discretion, this is pushing them very far – however I think that because you were honest – I don't like what went on, which is why I want you to work in that area. You are very young. I've had your Advocate on the phone to give you a character reference. Here is one chance; whether you take it is up to you. I want you to work for 20 hours in the parish, clearing up the mess you made. This is going to be all positive.

The attendee was asked to return to the parish hall the following week to talk about the work task and bring his exam timetable.

However, the following night the attendee was arrested in another parish and reported for possession of a small amount of cannabis and speeding. He was warned to attend at an enquiry in that parish in one month's time.

As arranged, the attendee was seen at the parish hall in the first parish to organise the reparation. Prior to the enquiry, the Probation Officer informed the Centenier of the new offences in the neighbouring parish. The Centenier was not best pleased but still wanted the parish work to go ahead.

The Centenier asked how things had been since their last meeting. The attendee answered 'fine'. The Centenier asked his mother if there had been any problems and she answered 'no'. During this enquiry however she was uncharacteristically quiet. The countryside work was arranged and again the Centenier offered them the opportunity to admit the further offending: 'Is there anything else at all that either of you wish to tell me?'

Attendee: no

Mother: no

After the enquiry, the Centenier was angry: I have never seen anything more blatant. They are sticking two fingers up at me and I am not happy about this

Three weeks later, the attendee and his mother attended at the second enquiry to deal with the drug offending and speeding. Also in attendance were two Centeniers from the first parish, in the back room so the attendee did not see them. They had attended in order for him to explain the re-offending and the reasons for not admitting it at the previous enquiry.

The Centenier dealt with the enquiry as normal, offering a deferred decision with attendance at a drug awareness course as an alternative to a court appearance. Both accepted.

He then invited the Centeniers from the neighbouring parish to join him. The attendee went pale and looked like he was going to be sick. He mouthed 'oh shit' to his mother.

What followed was an uncomfortable tirade during which the attendee was called, amongst other things, a liar and a 'waste of space'.

Centenier A: If I had my way, you would have been in court as soon as this offence was committed but Centenier B persuaded me otherwise. I have been proved right. I knew it was a mistake.

Centenier B: I made it quite clear that I was sticking my neck out for you and this is what you have done. What makes it ten times worse is the fact that you didn't have the guts to own up to it, either of you, when I saw you last. I knew what you had done and gave you every opportunity for you to say something but you didn't. Do you think we are all stupid? You will still do those hours because the parish shouldn't lose out, but if there is anything, anything else, I will have you in court. No more chances. Do you understand? [Silence] Do you understand?

Attendee: Yes [close to tears]

Mother: Yes

In an attempt to restore the situation, whilst the Centenier was writing out the deferred decision paperwork, the Probation officer asked the attendee about his exams and hopes for next year. The attendee stated that he is an artist and sitting AS levels. (The school in question would have suspended the attendee if a drug conviction was forthcoming).

Probation Officer: You have got a lot to lose. Don't throw it all away because of this. I see lots of young men at parish hall who have done silly things without really thinking. I can see you are embarrassed and upset about this but it's not the end of the world even if it feels a bit like it at the moment. I look forward to seeing you next term and sharing your good news about the exams. Prove these gentlemen wrong!

Three months later – Deferred decision hearing

Attendee returned to the parish hall for the deferred hearing.

Centenier: Dare I ask? How are things?

Mother: Settled down a lot, he's passed his exams. He did very well. And he's got a girlfriend who seems to keep him calm.

Probation Officer, Constables Officer and Centenier all offered congratulations at exam results.

Centenier: I've had letter from Alcohol and Drug service to say that you completed the course.

Probation Officer: I haven't seen you at work lately. Are you still there?

Attendee: Yes

Mum: Well tell them the good news

Attendee: I've been promoted to supervisor, in charge of five staff

Probation Officer: Well done! I'll look out for you next time I'm there. I might get extra chips!

Centenier: OK, I'm happy that it's all over and done with as far as I'm concerned. Clean slate now. I do have to charge you with the speeding. You will probably get a small fine.

Tables 8.28 to 8.29 demonstrate levels of stigmatising shaming measured by assessing the levels of disapproval about the attendee as a person, the level of stigmatising names of labels used to describe the attendee, the levels of moral lecturing to which the attendee is subject and the extent to which the attendee is treated as a 'criminal'.

In most cases, levels of stigmatising shaming were very low, with only two cases demonstrating high levels as described in case extract nineteen. The fact that the Parish Hall Enquiry does *not* publicly shame offenders may assist in the maintenance of order. Interviews with attendees at Parish Hall suggest that the omnipresent threat of Court and the consequent publication of the offender's personal details in the widely read local newspaper provide a particularly strong incentive to conform to the sanction of the Centenier.

Table 8.28

The level of stigmatising shame expressed

	Frequency	Percent
Not at all	48	94.1
Moderate	1	2.0
High level of stigmatising shame	2	3.9
Total	51	100.0

In common with previous examples, Centeniers were able to separate the offence from the offender and condemn the act, whilst maintaining support for the actor. Table 8.29 shows that in 94% of cases, there was no disapproval shown of the attendee as a person.

Table 8.29

The level of disapproval of the attendee as a person

	Frequency	Percent
not at all	48	94.1
a little	1	2.0
a lot	1	2.0
Highly disapproving	1	2.0
Total	51	100.0

The effect of stigmatising names and labels is to some extent culturally specific. The descriptive quality of the epithets depends upon the individual Centenier. The extent to which such epithets can be deemed stigmatising is largely a matter of individual opinion. Descriptions ranged from 'silly billy' or 'wally' to 'bloody tosser' and 'dickhead'. Many attendees volunteered less emotive expressions to describe themselves: "I've been a prat". Table 8.30, 8.31 and 8.32 show that name-calling, verbal bullying, stigmatising and stereotyping were not common features of enquiries and that even when this negative aspect was in operation, there was little actual shouting or raised voices. This suggests

that the enquiry process does not encourage degradation and humiliation despite the private nature of the gathering.

Table 8.30

The level of stigmatising names and labels used to describe attendee

	Frequency	Percent
None	38	74.5
Low - mild - prat etc.	9	17.6
Moderate - swearing	4	7.8
Total	51	100.0

Table 8.31

Frequency of shouting at attendee

	Frequency	Percent
none	49	96.1
isolated 'don't do it again'	2	3.9
Total	51	100.0

Table 8.32

The extent to which the attendee is treated as 'criminal'

	Frequency	Percent
not at all	49	96.1
moderate	1	2.0
highly stereotyped	1	2.0
Total	51	100.0

Ceremony design must be flexible and culturally plural, so that participants exercise their process control constrained by only very broad procedural requirements.

The parish hall process certainly permits flexibility. Procedural requirements are extremely broad in that they are governed by guidelines rather than legislative frameworks. Cultural pluralism is an historical feature of Jersey society and observations suggest that parties are able to access the process without fear, hatred or partiality.

Reintegration agreements must be followed through to ensure that they are enacted.

A particular strength of the parish hall process is the extent to which sanctions are tailored to suit the parties and that they are reviewed by the Centenier. Letters of apology are delivered to the Centenier who will deliver them to the victim in person. The use of the deferred decision ensures that tasks must be completed to a satisfactory standard before the Centenier makes a decision about prosecution. The flexibility inherent in the system means that agreements can be designed to meet individual needs, not only of the victim, but (more frequently) the offender, with the aim of the prevention of further offending: voluntary supervision, indirect reparation, direct reparation, financial compensation, basic skills, alcohol and drug information, victim offender mediation. Parish records provide many examples of tasks performed by attendees: sweeping the churchyards, clearing paths of rubbish, assisting at parish events.

The following example, from a letter from a Probation Officer to a Centenier following a period of voluntary supervision outlines the actions taken and the successful outcome:

Case extract twenty

The Duty Centenier

Dear Centenier

Re: Miss A

Age: 15 years

Miss A was placed on a deferred decision for Tampering with a Motor Vehicle. Two weeks later, for an offence of Taking and Driving Away with others she was placed on a further deferred decision with voluntary supervision

Thus Miss A has been on voluntary supervision for four months. She has kept to the terms of her supervision. She has come to see me on a regular basis and worked with me. Unfortunately, during our work it was discovered that Miss A's basic skills are poor.

(I would not want the following reported again in front of Miss A as she is very sensitive about it. Her writing skills are so poor that she is unable to spell her second name. I feel this has been instrumental in her being very unwilling to attend school. In fact, I feel that school has become such a trial for her that, due to her lack of skills, it has been like going to school with one arm tied behind her back.)

Her problems at school have now been discussed between the various agencies, as her non-attendance was causing her mother to fall out with her and request her admission into care. At a school meeting with Miss A and her family, various proposals were put forward and to my knowledge Miss A has been in school every day bar one since that time.

Miss A has remained out of trouble since the period of deferment. She is aware that she can come to see me on a voluntary basis if she wishes to. Her mother has been advised by the Children's Service to contact Family Therapy if she needs help in the future.

I hope the above is helpful.

Yours sincerely

Assistant Probation Officer

When a single reintegration ceremony fails, ceremony after ceremony must be scheduled, never giving up, until success is achieved.

There is much confusion about the place of the Parish Hall Enquiry process in relation to for 'persistent offenders'. There is no accepted definition of persistence and while some Centeniers are prepared to permit several parish halls enquiries according to the gravity of the alleged offence before bringing a charge, others see the process as a one and only chance. This is one area where inconsistent practice across the parishes and amongst different Centeniers attracts particular criticism. The magistrate and States Police force orders also play an important role in the decision making process of the Centenier. The magistrate has been openly critical of Centeniers who 'over-use' the Parish Hall Enquiry. In recent years, the he has exerted considerable influence over the function and filtering of cases appearing at Parish Hall. The introduction of time period aims, a fast-track policy and the A + B priority lists of young offenders have accelerated the passage of a number of offenders into the formal system.

The ceremony must be justified by a politically resonant discourse.

The Enquiry process has been in existence for centuries and attempts to erode the system have, so far, been resisted. Braithwaite offers the following insight about low crime communities which is very relevant to the Jersey context:

Low crime societies are societies where people do not mind their own business, where tolerance of deviance has definite limits, where communities prefer to handle their own crime problems rather than hand them over to the professionals (Braithwaite 1989:8).

One of the reasons for the survival of the honorary systems and the continued use of the Parish Hall Enquiry is the high level of support they receive from within the rural parishes where there is less attention paid to state policing and procedures. It is also clear that the political structure of the island ensures that rural parishes are well represented in the States assembly.

CONCLUSION

This chapter has described the features of reintegrative shaming outlined by Braithwaite, introduced the idea of procedural justice mechanisms and provided concrete examples of reintegrative shaming and procedural features that are in everyday use at parish hall enquiries. The following, final chapter, concludes the thesis and discusses a future role for the enquiry process as criminal justice policy develops in Jersey.

CHAPTER NINE

INTO THE ABYSS? AN UNCERTAIN FUTURE FOR COMMUNITY JUSTICE IN JERSEY.

Introduction

This final chapter brings together the main conclusions from the evaluation of the Parish Hall Enquiry System as it currently functions in Jersey. In particular, I summarise what this evaluation reveals about the nature and functioning of the Parish Hall Enquiry in context. Two contexts are particularly important. One concerns international research on community justice, in relation to which information about the Parish Hall Enquiry represents a unique addition. The other concerns the criminal justice system of Jersey itself, which is currently subject to review and reforms. This chapter includes a discussion of community values and justice; notions of crime and punishment; conceptions of justice; effectiveness in context; the potential impact of social change; the future of the hybrid policing model, and the future and potential of the Parish Hall Enquiry to continue in its role as contributor to social order and community cohesion in Jersey.

Earlier chapters of this thesis have addressed the key features of the system through:

- Description of the Parish Hall Enquiry System in detail and presentation of descriptive and evaluative information in order to situate the system within a social and historical context;
- Description of the process of the system demonstrating the high quality of communication by Centeniers and levels of participation permitted by attendees;

- Demonstration of the capacity of the Parish Hall Enquiry System to generate flexible solutions, including restorative approaches and reparative measures;
- Presentation of statistical data to document the throughput and level of activity in the system;
- Presentation of empirical data to show that Parish Hall Enquiry practice contains elements of restorative justice, reintegrative shaming, and pro-social modelling, and evaluation of the extent to which these are likely to have a more positive impact on offenders' behaviour than procedures in which these are absent.

In spite of some variation in performance and some uneven compliance with guidelines, the Parish Hall Enquiry system deals successfully and appropriately with a wide range of offending and makes a very useful contribution in this role. The Parish Hall Enquiry is in effect the conventional response to offending behaviour in Jersey. The system operates within an open model that means that a wide range of options is available when it comes to dealing with offences and dispute resolution. Centeniers recognise the benefits of informal justice and every attempt is made within the Honorary System to prevent offenders entering the formal court process. The model presumes that reintegration is best achieved through a process that begins and ends in the community, not in the formal justice system. In other jurisdictions, interventions are located within the criminal justice system (Anti-Social Behaviour Orders, Referral Orders, Caution Plus, Final Warnings and Restorative Justice Initiatives). What is unique about the Parish Hall system is that it exists *outside* the formal criminal justice system. It is organised and mainly resourced by the community. It 'defies classification in any modern legal context' (Clothier 1996:16).

Community values and justice- begotten not created?

A crucial difference between the Jersey system and those in other jurisdictions is the way in which the model has evolved as a result of hundreds of years of community development which have strengthened interdependencies and community cohesion, and *not* by following specific policies of re-integration and restoration. In Jersey *all* offending behaviour is considered to be unacceptable and the Parish Hall Enquiry system ensures that the community has an opportunity to articulate disapproval. Centeniers report that the success of the system relies upon reintegrative principles that operate to draw the attendee back into the community. The fact that attendees must discuss their behaviour at the Parish Hall for the parish in which the offence was committed is a first step in this process. In Jersey, this will never be more than two miles away from the scene of the alleged offence. The island is fortunate to have been able to maintain the community conditions that make reintegrative shaming possible. As noted in the third chapter, the effect of social change on many modern communities has been to create clusters of strangers where reintegrative processes are difficult to establish and shame has little effect on social control.

This thesis demonstrates that the honorary system and the role of the Parish Hall Enquiry are important because they both foster a sense of community and interdependence that is crucial to the establishment of a safe society through the long term prevention of crime. Such familiarity breeds social control and may go some way to explaining the low levels of crime in Jersey compared with other jurisdictions of a similar size. Gossip and scandal are popular pastimes in small communities and Jersey is no exception. Public scrutiny of private events is part of the cultural thread. Public humiliation through the shaming techniques of the local media is much feared. Social life however is changing, and the implications of change are discussed further below.

Notions of Crime and Punishment

Christie (1982) advocates the need for changes to the formality of the conventional justice system and a move to a less 'painful', dispiriting experience for victims and offenders alike. He offers the following relevant observation:

Crime does not exist. Only acts exist, acts often given different meanings within various social frameworks (Christie 2004:3).

Finding a suitable definition for the notion of 'crime' in Jersey is particularly problematic. Acts which are considered criminal will vary according to the history and cultural definition of a given community. In Jersey an act which occurs in a particular parish is given the definition of 'crime' according to the specific response of the investigating officer (honorary or States). For example: a young person detected skateboarding on a pavement in the country parish of St Ouen by an honorary officer is unlikely to be warned to attend at a Parish Hall Enquiry. Young people detected performing a similar act in the parish of St Helier are likely to be invited to attend at the Town Hall, and that act therefore becomes an official 'crime' statistic. The statistics chapter of this study refers to the seriousness of the offences dealt with at parish level and suggests that care should be taken with the interpretation of official crime and disorder statistics. Christie also notes that an insufficient knowledge about how a particular community functions can lead to the over-application of the term 'crime' to what is considered normal behaviour.

Interestingly for the Jersey context, he asserts that social distance permits and encourages an atmosphere of over-punitiveness and is one of the conditions responsible for the stronger use of the penal system. A 2001 global survey of prison populations revealed Jersey's prison population rate per 100,000 inhabitants was shown as being 150. The mean prison population rate for Europe is 140 per 100,000 of population, significantly lower than the corrected

prison rate for Jersey (208 per 100,000)⁶⁴. Only 25% of European states have a prison population of 170 per 100,000 or greater. It should also be noted that Jersey's rate is significantly higher than rates in most "microstates" where Jersey tops the table over Guernsey, 115; Isle of Man, 85; Gibraltar, 60 and Monaco, 40 (Home Office 2001).

Closer analysis of the Jersey figure however reveals that the majority of prisoners were not locally resident at the time of the offence and there are a high number of either United Kingdom residents or foreign nationals serving long sentences for drug trafficking offences. Of further interest to this concept of social distance is the statistic that reveals Jersey has one of lowest number of prisoners serving sentences of less than 6 months. Custodial sentencing declined from 602 in 1989 to 216 in 1995, and has remained at between 170 to 250 sentences each year since that time. Custodial sentences of less than 6 months represented 91% of all sentenced admissions declining to 54% in 2001. In November 2004 only 6 prisoners were serving sentences of less than 6 months and all of these had previously been subject to a community penalty which they had breached by failing to comply or through further offending (Heath and Miles 2005). In June 2006 another "snapshot" revealed 8 prisoners serving less than 12 months of whom only 3 were serving less than 6 months and only 1 was aged less than 18 years (Miles 2006). At one end of the spectrum, the honorary system adopts a 'healing' approach to crime and social control, and at the other, we see a harsh sentencing policy which places Jersey's prison population at the top end of the European scale.

As previously discussed in chapter six, Christie's concepts of horizontal and vertical justice are particularly relevant to the Jersey situation and offer some explanation

⁶⁴ 208 is the corrected rate for Jersey in 2001. It is based on an average daily prison population in Jersey together with the number of prisoners sentenced in Jersey but held in United Kingdom prisons.

for the competing perspectives revealed by this study. Horizontal justice refers to a process where social norms are created through social interaction; through gossip and discussion, social groupings and shared decision-making at a local level. Vertical justice functions according to the principles of formal law. Christie considers that the main risk inherent in informality and the horizontal approach is that some carelessness or casualness about formal legal rights can creep into the system. The Clothier One Report (1996) identified some examples of this in Parish Hall Enquiries, though without being specific about how often they were believed to occur. They included lack of clarity about whether facts alleged were actually admitted; failure to explain the attendee's right *not* to be dealt with at the Parish Hall level; and failure to ascertain whether the attendee had made an informed choice to be dealt with at the Parish Hall rather than going to Court. I have described some examples of these and similar problems observed during this study, and I support Clothier's suggestion of more training and familiarisation with guidelines to ensure more consistent attention to these matters. Examples of inherent weakness such as these might lead to the suggestion that informal processes should be replaced by a more structured, formal process. This thesis tends in an alternative direction: the advantages of informal processes in terms of positive influence on offenders suggest a policy of retaining and improving them rather than allowing them to fall into disuse. Formal processes may appear to offer a more consistent approach to rights, but this is often offset by the offender's lack of engagement or understanding.

In some societies, the localisation and informality inherent in 'horizontal justice' could be an invitation to corruption or to the persecution of unpopular social groups. Direct election of local law enforcement officials may increase their sense of accountability to the community, but this can lead to increased punitiveness where community attitudes are strongly punitive, as we see in parts of the United States. In Jersey, however, the expectations of electors and the traditions of the honorary system tend to favour fairness, impartiality and a problem-solving approach, and this helps to control some of the risks associated

with informal systems. In addition, the formal system is fully functional and can act as a check on errors in the informal system. Human rights concerns stem from the interpretation of Article 6 which affords the right to a fair trial in the determination of a person's civil rights and obligations, or any criminal charge (European Convention on Human Rights 1950). The Parish Hall Enquiry forms part of the prosecution process and occurs before a charge takes place; in cases of disagreement, an attendee has recourse to the Court system. This study therefore suggests that concerns about the protection of human rights in the Parish Hall Enquiry system are understandable in principle, but in practice should not be exaggerated, and can be to a large extent controlled by improvements in guidance and training.

Effectiveness in context

There are no criminal justice utopias to be found, just better and worse directions to head in (Braithwaite and Mugford 1994)

Participant interviews reveal a high level of satisfaction with the Parish Hall Enquiry process. The reconviction data presented in the statistics section of this report suggest that rates of recidivism following Parish Hall Enquiries are low although it is important to reiterate that no randomised controlled trial was conducted. It can be said that in the criminological sense at least, the Parish Hall Enquiry system provides a better direction, combining elements of best practice that other countries are busily trying to recreate.⁶⁵

A comprehensive approach to the question of effectiveness must take into account not only the impact of the Parish Hall Enquiry system on criminal justice but also its contribution to maintaining the credibility and relevance of the

⁶⁵ In 2000 the United Nations Congress on the Prevention of Crime and the Treatment of Offenders proposed a draft resolution entitled 'Basic principles on the use of restorative justice programmes in criminal matters'. This resolution recommends the development of restorative justice programmes in all member states and was implemented formally in 2002.

honorary system. If Jersey has a flourishing voluntary sector and a strong tradition of honorary service then there is a strong argument for furnishing it with a small amount of money to maintain the benefit. The cost to the taxpayer is low (only 1% of the annual States Police budget is required to underpin the honorary system). The parish rate-payer absorbs the cost of premises and human resources are provided at no cost by honorary officials. It is true that a relatively small amount of public money could be saved by abolishing the Parish Hall system but I would argue strongly that crime would not be managed as effectively. If the Parish Hall Enquiry and the prosecuting role of the Centenier were to cease, the States of Jersey would be required to fund a replacement at considerable cost. The social cost of losing the honorary system would be high, and its value to the parishes in terms of the administration of justice and community development is inestimable. It is clear that that a proper face to face encounter makes people more ashamed of their behaviour and is more likely to encourage desistance, particularly for less experienced offenders. Traditional face to face communities and processes have collapsed in many countries and expensive, technological and impersonal systems are necessarily being created to fill the void, with little evidence of success.

The Chief Officer of the Jersey Probation and After Care Service made the following observation in response to the suggestion by the States Police that fixed penalty notices should be issued in place of Parish Hall Enquiry hearings for motoring offences:

If you want to tax the public, then administrative fining and postal justice is the way to do it. If you seriously want to change someone's behaviour in the longer term, then a face to face approach which expresses disapproval for that behaviour in an informal setting where full and frank discussion is possible is more likely to work (Chief Probation Officer, Jersey Probation and After Care Service, private email correspondence).

Organizing and running enquiries is often more time consuming than taking cases to court, without incurring the same costs. The comparative costs and

benefits (including participant satisfaction and reconviction rates) would suggest that the system has proved its worth. It would seem to be unwise to reduce the role of such a system unless it can be shown that it is ineffective. This is clearly not the case.

Recent social and policy changes in Jersey have tended to reduce the role of the parish and increase the role of the state in community affairs. My research suggests that this is not necessarily desirable in the criminal justice field, and I would suggest a cautious approach to policies which are likely to reduce the role of the Parish Hall Enquiry. In this connection, all the parishes where honorary policing is seen as an expression of grass-roots community service have expressed some concern about what they see as attempts by the States Police to erode the powers and discretion of the Parish Hall Enquiry.

In practice, informal systems have often shown themselves to be effective means of social control and the observation study has shown that elements of an effective Enquiry should have the capacity to reduce further offending behaviour. Court appearances by contrast, often result in sanctions which involve little opportunity for victim involvement and a 'bitterness effect' as a result of the perceived unfairness of the proceedings. In essence, it appears that offenders experience Court processes as something done to them, in which their role is essentially passive, whilst parish hall processes require them to participate more, think more and take more responsibility for the offence. The main advantage of a non-judicial Parish Hall Enquiry system is that it can provide a local, timely, inclusive, sensitive, needs-based, independent forum to deal with a wide variety of norm-violating behaviour and social disorder.

The potential impact of social change

Modernity means to a large extent a life amidst people we do not know and never will come to know (Christie 2004:77).

Jersey has experienced considerable changes in the post war period. From an Island that was economically dependent upon agriculture, it has become one of the foremost financial centres in the world. Finance is now the cornerstone of the Island's economy and much of the skills and expertise to maintain its prominence have been 'imported'. This is also evident in public administration and criminal justice agencies. When the composition of the traditional community starts to erode, the impact of gossip and scandal has a lesser effect. Newcomers may feel less incentive to comply with community norms, primarily because they do not understand them and have less long-term investment in maintaining social peace. The extent to which this influx of 'strangers' will further erode the power of the traditional organisational structures remains to be seen. Baldacchino and Greenwood (1998) present evidence of the role of two competing paradigms at work in small island communities. The first, 'common sense' logic, is presented by established expertise from other jurisdictions, policy makers and bureaucrats. The second 'good sense' is presented as 'a haphazard collection of intuitive, local, traditional ideas'. Common sense is therefore seen as powerful and legitimate whereas good sense is viewed as primitive and eccentric and therefore illogical and inefficient. Where the two paradigms clash it is 'common sense' that usually prevails. This has not always been the case in Jersey but the influx of expertise from other jurisdictions has the potential to threaten this status quo and makes local and traditional ideas seem antiquated and outmoded. It may not be the case that Jersey community is resistant to change; it is perhaps reluctant to change for change's sake.

The knee-jerk reaction against change of many who value island identity, culture and 'way of life' is largely the result of seeing change imposed from the outside, or seeing outside models uncritically accepted by islanders (Baldacchino and Greenwood 1998:25).

Kelleher (1994) has shown the cohesive strength of the island community, particularly in the rural parishes. Jersey had the ultimate communitarian environment. Many of the interdependent structures are becoming weak and some are in danger of dissolving completely. The farming industry is a case in point. Historically, the breeding ground of many honorary officers, most farms have disappeared and those that remain are dependent upon immigrant, itinerant labour for their survival. Either Portuguese or Polish nationals on a short contract basis provide the majority of farm labour.

There is evidence of a reduction in the reliance on the parish for service delivery and welfare provision. Despite a public outcry in 2004 against the proposal to remove the Connétables from the States Assembly, this suggestion has been reasserted as part of proposals to reform the States of Jersey (States of Jersey 2006). In addition to this step, it is proposed that the existing parish structure will be dismantled for voting purposes and that the island will be divided into between three and six electoral 'constituencies' together with the abolition of the parish deputies.

THE FUTURE OF POLICING IN JERSEY

There is strong evidence to suggest that the institution of the Honorary Police is threatened by the changing structure of Jersey society which means that primary, parish-based systems of control are under strain. It is becoming increasingly difficult to recruit parishioners to honorary roles. The economic upturn of the Island offers some explanation as to why this should be so. High cost of living and rates of inflation contribute to a high proportion of adult employment and a particularly high level of women in the labour market. The old industries of agriculture and fishing have mostly disappeared. Quite often, parishioners simply do not have the spare time to devote to honorary service.

Recruitment and retention of honorary officers is cited as the single most important challenge facing the parochial system by those who operate within it. Population demographics may provide an insight into the apparent decline in parishioners able to offer themselves for honorary service. Census records show that in 2001, 82% of the working age population were economically active; of these about 6 out of every 7 were either working full time for an employer or were self-employed). The economic activity rate in 2001 compares with a rate of 77.5% for the working age population in 1981 (States of Jersey 1981-2001).

Bayley poses some interesting questions about the effect that economic development has had on crime prevention and on the distribution of responsibility for social discipline between the state and the community. He also questions whether social control over behaviour is greater or less in developed countries. Jersey is highly developed in a number of ways but still retains a number of traditional institutions, and the honorary system exercises a high level of control in a number of areas.

Are communities more or less willing to shoulder responsibility for preventing indiscipline in developed or underdeveloped countries? It is interesting that worldwide attention to 'community policing' originated in developed countries. This may not be because less developed countries didn't have it, but because they hadn't thought to call it by a new name (Bayley 1985, cited in Mawby 1994:9).

The future for the model of honorary policing is the subject of much controversy. The change of focus towards enforcement rather than prevention is a factor. In the case of the States' Police, central government accepts responsibility for the provision of service and the control of standards. Matters of Health and Safety, Human Rights and Public Liability legislation hitherto irrelevant to voluntary organisations, are serious issues that require careful consideration by the Comité des Connétables.

The ideal is that both States Police and Honorary Police should be mutually supportive. The 'Memorandum of Understanding' detailed in chapter two goes some way to achieving this ideal. Allowing decision-making to remain with the community helps to ensure a focus on the long term goals of rehabilitation and reintegration rather than the short term demand for punishment and retribution. The States Police have a role to detect and investigate crime whereas the Centenier, the elected community representative, decides at which point in the justice system an offender should enter, if at all.

THE FUTURE OF THE PARISH HALL SYSTEM

This section looks to the future; it considers some possibilities for the development of the Parish Hall Enquiry system and examines potential threats to the continued existence of honorary service in Jersey.

Since 2002, there is evidence to suggest that the traditional role of the Centenier's Enquiry is being eroded by modern attempts at reform in order to achieve measurable outcomes. Rutherford and Jameson (2002) observed that the Parish Hall Enquiry is 'withering on the vine'. Their recommendation that the role of the Parish Hall System should be strengthened has been echoed by the Jersey Probation and After Care Service and is a fundamental pillar of a newly formed Youth Action Team whose remit is to focus upon early intervention initiatives to prevent future offending.

Over a period of forty years, the process which was so clearly initiated and controlled by a Centenier has seen the transition from the complete non-involvement of the state to open intervention in order to promote what is considered to be 'fairness', 'justice' and 'consistency'. Attempts to achieve procedural uniformity and consistency run the risk of undermining the flexibility and responsiveness to the circumstances of the individual case which appear to

be essential components in the system's current effectiveness. The requirement to take an increasing range of cases direct to Court risks diminishing the role of the Parish Hall Enquiry. In addition, some high-profile individuals in the criminal justice system have been particularly active in seeking to reduce the Enquiry's powers and discretion.

The cult of managerialism is partly responsible for many of the criticisms levelled at informal systems. Nellis (2001) makes the following observation about the 'ubiquity' of managerialist ideology in criminal justice structures.

Managerialism's primary emphasis on economy, efficiency and effectiveness tends to supplant other organisational value systems. It fosters a level of control and an expectation of obedience, emphasising the following of procedures rather than personal discretion and professional autonomy (which may limit the expression of ordinary human qualities such as kindness and empathy) (2001:33).

In practice, we have heard reports that police officers sometimes tell victims or witnesses that a particular offender will be charged with an offence. Centeniers report being put under pressure to charge offenders. This reduces the status of the Centenier to that of a rubber stamp endorsing the decisions of the professionals without appropriate scrutiny. Nellis refers to this process as 'minionisation' (2001:33). In certain cases, this haste to charge has resulted in unfortunate consequences for alleged offenders who were later acquitted due to a lack of evidence. Automatic charging for certain offences according to Force Orders may have weakened the position of the Centeniers in the system. Police bail may well be seen to have the same effect, making the Parish Hall Enquiry unnecessary. In 2006, there was a further push by the States Police to add a number of offences to Force Orders. This stemmed from criticism by the Magistrate about the time taken for offences to reach the Court system. Nellis, again, has something pertinent to tell us about the 'time squeeze' effect of such managerialist ideology. This effect occurs in the pursuit of efficiency as a result of an 'audit culture' that is concerned solely with measurable effectiveness. This

has the result of reducing the time available to produce positive results in the informal system. The very many positive benefits of an independent enquiry, conducted after a 'cooling off period' by an elected parish officer, at a neutral place, away from the security and uniforms of the police station would be lost in such cases. It should also be noted that many other jurisdictions in many industrialised countries around the world are currently seeking to rediscover the benefits of informal systems which have been allowed to fall into disuse. Often this is happening because modern, high-cost systems of law enforcement and adjudication are not fully delivering the levels of satisfaction and community safety expected by the public.

Whereas previously it was almost automatic to warn **all** alleged offenders for Parish Hall Enquiry (except for the most serious offences), it is now increasingly common practice for Centeniers to deal with offenders at States Police headquarters. This practice has the effect of bypassing Victim Offender Mediation opportunities and other possibilities for informal reparation. In Jersey the Victim Offender Mediation scheme has generally failed to attract offenders after a court appearance with the majority of conferences taking place at Parish Hall level on a voluntary basis.

It is somewhat ironic that whilst elements in Jersey are attempting to reduce the role of community involvement, England and Wales and other jurisdictions are seeking to raise the level of community participation in the central functions of the criminal justice system (Cavadino, Crow and Dignan 1999). In the United Kingdom much has been made of the Anti-Social Behaviour Order (the ASBO), Referral Orders and Acceptable Behaviour Contracts. It has been suggested that legislation should be introduced to implement them in Jersey. The following quotation describes the use of Referral Orders and the Youth Offender Panel in the United Kingdom. Although these operate within a penal context as a sentence of the court, the parallels with the Parish Hall Enquiry are clear:

Referral orders may be made for a minimum of three and a maximum of twelve months... During this period, the case is referred to a 'youth offender panel' managed by the local youth offending teams. Panels seek to agree a 'contract' with the young offender, involving activities for the duration of the order... Importantly, panels consist of at least two community volunteers, one of whom will lead the panel meeting, together with a YOT member. The intention is that the panel meetings will be held in locations as close as possible to where the young person lives and from which the community panel members will be drawn. Panels are designed to provide a less formal context than court for the offender, the victim, their supporters and members of the community to discuss the crime and its consequences (Crawford, 2002).

Other researchers have noted:

Youth offender panels are potentially one of the most radical aspects of the entire youth justice reform agenda (Dignan and Marsh, 2001).

Fortunately for Jersey, the Parish Hall Enquiry is far from 'radical' and the community involvement at local level afforded by the honorary system has been on our agenda for the last 800 years. The Parish Hall Enquiry system demonstrates that the restorative outcomes expected by the introduction of a raft of measures in England and Wales as a result of the enactment of the Crime and Disorder Act and the Youth Justice and Criminal Evidence Act can be achieved by the community without recourse to complex, expensive, professional organisational frameworks. This thesis suggests that the introduction of new formal systems of legislation and orders is unnecessary and likely to be counter-productive when the informal systems and voluntary contracts can be shown already to be effective and efficient.

Rutherford and Jameson stated: 'Beyond doubt, the status quo is not sustainable' (2002:97). I am not sure that this is the case. The Jersey model represents a mixed economy of policing in which Parish and State co-exist combining the features of policing expected in a modern state with a traditional system of volunteers who possess greater powers than their paid, professional,

counterparts. Until recently, traditional arrangements in Jersey have enjoyed some protection because it is difficult to change policies and practices in a system in which power is widely dispersed and consensus for change difficult to achieve. However, both the honorary system and the Parish Hall Enquiry are now in a transitional phase. Changes to the composition of the States Assembly and the potential for a reduced parochial power-base suggest that they are in danger of being modernised out of existence. Both are under threat unless people are prepared to keep the system going and, more importantly, make decisions that will nurture and protect it.

Conclusion

In October 2005, the States debate that was fully expected to approve the Criminal Justice Policy adapted from the Rutherford report was cancelled due to the transition process to ministerial government. When the 'new' States reconvened, the newly appointed Minister for Home Affairs re-presented the policy for approval. At this point, the social affairs scrutiny panel singled out the policy for closer inspection and announced the investigation into the power of the Centenier to charge offenders. The outcome of this investigation remains to be seen, but many witnesses, including the Magistrate, expressed their support for the retention of the role.

Any proposal to reduce the role of the Centenier would be politically highly sensitive, controversial and difficult. There are many other areas of criminal justice which are urgently in need of reform and in relation to which there is a general consensus of opinion... I come out in favour of the Centeniers remaining in the system as prosecutors in the lower courts (Le Marquand 2006).

During the same hearing, Her Majesty's Attorney General expressed his support for the honorary system.

I think honorary service is a wonderful Jersey thing. I think it is a wonderful Jersey thing. It is not just that you can get something done for

nothing instead of paying for it. That has to be a good thing; but it is about community. It gets people engaged in the community. That is such a positive. It is such a plus, that we should be doing everything we can to encourage that (Bailhache 2006).

Notwithstanding these expressions of support from key individuals, the informal, reintegrative discourse is slowly changing to that of enforcement and the relaxed nature of the Parish Hall Enquiry is often portrayed by the States Police and the media as undesirable. Informality is equated with a lack of attention to Human Rights and restoration is presented as less favourable to retribution. Jersey is suffering, for the first time in its history with a budget deficit and difficult decisions regarding the provision of public services are required. There are inevitable conflicts of interest between ministries and a managerial discourse is becoming more prominent. The administrative cost to the public of the Parish Hall Enquiry system has been cited as an area of concern and so it remains vulnerable to manipulation by those who control limited resources.

It is important that attempts to modernise and formalise the system do not undermine the traditional arrangements which are already more effective and efficient than some formal criminal justice processes. This research on the effectiveness of the Parish Hall Enquiry and the honorary system suggests that it could be more realistic to expand their role. Jersey has a low cost system into which more could be diverted. For example, it is possible that raising the threshold of speeding offences which can be dealt with by Centeniers could reduce costly court time. Given the success of the Victim Offender Mediation initiative described in chapter four, there is also potential to consider how Enquiries might usefully deal with more serious offences, particularly those involving breach of trust, public order and more serious offences.

The informal nature of the Parish Hall Enquiry and the Honorary System upon which it depends have maintained order and upheld peace in Jersey for nearly 800 years. The system operates within an open model that means that almost

anything and everything is possible when it comes to dealing with dispute resolution at a local level. It is clear that the way in which the Parish Hall System incorporates retributive, rehabilitative, restorative and re-integrative justice according to individualised and contextual needs makes it very unusual indeed. Some of the pressures to which it will need to respond are noted, but overall it clearly has the potential to remain a fundamental part of Jersey's system of criminal justice, and perhaps, with appropriate modification and political support, to play a larger role than at present. In particular, it is important not to assume that because an institution is ancient, it must therefore be archaic and unsuited to modern needs: tradition and adaptability can be a very effective combination.

APPENDICES

Appendix A

Oaths of Office

Serment Des Connétables

Vous jurez et promettez, par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez la Charge et Office de Connétable en la Paroisse de vous garderez et ferez garder la paix de Sa Majesté, vous opposant, et saisissant de fait tous Mutins, Séditieux, Larrons, Homicides, et toutes autres personnes qui interrompent le cours de la paix publique, lesquels vous présenterez en Justice pour être punis selon leurs méfaits ; ensemble tous hauteurs de Tavernes, Yvrognes, Paillards, Putains, Blasphémateurs, et tous autres qui contreviennent aux Ordonnances, et Commandemens du Magistrat, lesquelles Ordonnances vous garderez et observerez, ferez garder et observer, autant qu'il vous sera possible ; vous ne souffrirez en votre Paroisse, qu'aucune personne tienne de Taverne, autre que ceux établis et licenciés de tems en tems ; et aurez soin spécial par vous, et par vos Officiers, que le jour du Dimanche ne soit profané, par hantise, ou fréquentation auxdites Tavernes, ou autres lieux, contraire aux Ordonnances sur ce faites, lesquelles vous mettrez en due exécution ; vous chercherez, et ferez chercher toutes fois et quantes qu'il sera nécessaire, ou que vous en serez requis ; notamment vous ferez chercher générale, une fois en trois mois, en tous lieux et maisons de ladite Paroisse qui vous seront suspectes ; vous conserverez et procurerez autant qu'il vous sera possible, les droits qui appartiennent à ladite Paroisse, vous réglant en ce qui concerne le bien public d'icelle, par l'avis et bon conseil des Principaux, et autres les Officiers de ladite Paroisse ; lesquels Officiers vous assemblerez, ou ferez assembler par le moyen de vos Centeniers une fois le mois pour aviser aux choses dont il seroit besoin concernant ladite Paroisse, et enfin qu'ils aient à déclarer tous malfaiteurs, refractaires, ou désobéissans aux Ordonnances de Justice pour que vous en informiez la Cour, et les Officiers du Roi de tems en tems ; vous exécuterez les Mandemens de Monsieur le Gouverneur, ou de Monsieur le Lieutenant Gouverneur, de Monsieur le Bailly, ou de Monsieur son Lieutenant, et de Messieurs de Justice, en ce qui sera de leur Charge respectivement, assistant aux Etats du Pays lorsque vous en serez requis ; et de tout ce, promettez faire votre loyal devoir, sur votre conscience.

Serment Des Centeniers (Revised)

Vous jurez et promettez, par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez la charge et l'office de Centenier en la Paroisse de; vous garderez et ferez garder la paix de Sa Majesté, vous opposant à, et saisissant de fait, tous ceux qui tentent ou commettent toute façon de crime, de délit ou de contravention, dont vous informerez le Connétable, afin qu'ils soient présentés en Justice pour être punis selon leurs méfaits, vous conformant en ceci aux instructions de Monsieur le Procureur Général de la Reine; vous conserverez et procurerez, autant qu'il vous sera possible, les droits qui appartiennent à ladite Paroisse, vous réglant en ce qui concerne le bien public d'icelle, par l'avis et le bon conseil des Principaux, du Connétable et des autres Officiers de ladite Paroisse; vous assisterez le Connétable à assembler lesdits Officiers régulièrement, et les assemblerez vous-même lorsqu'il vous en réquerra pour aviser aux choses dont il sera besoin concernant ladite Paroisse; vous exécuterez les mandements de Monsieur le Lieutenant Gouverneur, de Monsieur le Bailli, de Monsieur son Député et des Juges et Jurés-Justiciers de la Cour Royale en ce qui sera de leur charge respectivement; et de tout ce, promettez faire votre loyal devoir, sur votre conscience.

Serment Des Vingteniers

VOUS jurez et promettez par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez la charge de Vingtenier de la Vingtaine de..... en la Paroisse de.....; que vous ferez tous bons et loyaux Ajournements et Records, et assisterez le Connétable, ou Centeniers, lorsque vous en serez requis ; et ferez tous autres devoirs qui dépendent de ladite charge.

Serment Des Officiers Du Connetable

VOUS jurez et promettez par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez la charge d'Officier du Connétable de la Paroisse de.....; que vous assisterez ledit Connétable, ou Centeniers, toutes fois et quantes que vous en serez requis ; et ferez tous autres devoirs qui dépendent de ladite charge.

Appendix B

Prescribed offences

Common Law Offences.

1. Abduction.
2. Abortion.
3. Affray
4. Arson.
5. Assaults of every description, except minor assaults.
6. Bigamy.
7. Blackmail and cognate offences.
8. Breaking and entering with intent; illegal entry with intent.
9. Breaking prison.
10. Concealment of birth.
11. Conspiracy.
12. Frauds of all kinds; e.g. embezzlement, false pretences, forgery, falsification of accounts, etc.
13. Homicide of every description.
14. Inciting to commit crime.
15. Kidnapping.
16. Larceny of every description, except of a trivial nature.
17. Libel.
18. Malicious damage, except damage of a trivial nature.
19. Obscene publications.
20. Offences within the exclusive jurisdiction of Her Majesty.
21. Perjury and cognate offences.
22. Perversion of the course of justice.
23. Receiving, hiding or withholding stolen property.
24. Robbery.
25. Sexual offences of all kinds.

PART II STATUTORY OFFENCES.

Offences against the following enactments: -

1. Borrowing (Control) (Jersey) Law, 1947.
2. Children (Jersey) Law, 1969 – Part XII.
3. Civil Aviation Act, 1949 (Channel Islands) Order, 1953.
4. Civil Aviation Act, 1971 (Channel Islands) Order, 1972.
5. Copyright – “Loi (1913) au sujet des Droits d’Auteur”, and “Loi (1908) au

sujet des Droits de Compositeurs”.

6. Cremation (Jersey) Law, 1953.
7. Currency Offences (Jersey) Law, 1952.
8. Dangerous Drugs (Jersey) Law, 1954.
9. Decimal Currency (Jersey) Law, 1971.
10. Depositors and Investors (Prevention of Fraud) (Jersey) Law, 1967.
11. Diseases of Animals (Jersey) Law, 1956, Article 36(2).
12. Distilleries, Loi de 1860 sur les
13. Droit Criminel, Loi (1895) modifiant le
14. Drugs (Prevention of Misuse) (Jersey) Law, 1964.
15. Exchange Control Act, 1947 (Channel Islands) Order, 1947.
16. Explosives – “Loi (1884) sur les Matières Explosives”.
17. Explosives (Jersey) Law, 1970.
18. Firearms (Jersey) Law, 1956.
19. Fire Service (Jersey) Law, 1959, Article 17.
20. Gambling (Jersey) Law, 1964.
21. Geneva Conventions Act, 1957.
22. Genocide (Jersey) Law, 1969.
23. Hawkers and Non-Resident Traders (Jersey) Law, 1965, Part III.
24. Hijacking Act 1971 (Jersey) Order, 1971.
25. Immigration (Jersey) Order, 1972 (1971 Act)
26. Impôts, Loi (1845) sur la régie des, Article 18.
27. Licensing (Jersey) Law, 1974, Article 84.
28. Liquid Fuel, Control of, (Jersey) Regulations, 1974.
29. Marine etc. Broadcasting (Offences) (Jersey) Order, 1967.
30. Mental Health (Jersey) Law, 1969, Articles 43, 44 and 45.
31. Merchandise Marks (Jersey) Law, 1958.
32. Merchant Shipping Acts.
33. Milk (Sale to Special Classes) (Jersey) Regulations, 1974.
34. Motor Traffic (Jersey) Law, 1935, Article 50.
35. Motor Traffic (Third Party Insurance) (Jersey) Law, 1948, Article 17.
36. Motor Vehicle Duty (Jersey) Law, 1957, Article 15.
37. Official Secrets (Jersey) Law, 1952.
38. Patents (Jersey) Law, 1957.
39. Places of Refreshment (Jersey) Law, 1967, Article 16.
40. Post Office (Jersey) Law, 1969.
41. Printed Papers (Jersey) Law, 1954.
42. Prison (Jersey) Law, 1957, Articles 22 and 27.
43. Rassemblements Tumultueux, 1797.
44. Registered Designs (Jersey) Law, 1957.
45. Restriction of Offensive Weapons (Jersey) Law, 1960.
46. Road Traffic (Jersey) Law, 1956, Articles 11(1), 16, 28 and 29(2).
47. Telecommunications (Jersey) Law, 1972.
48. Tokyo Convention Act, 1967 (Jersey) Order, 1969.
49. Trade Marks (Jersey) Law, 1958.

Appendix C

GUIDANCE NOTES FOR CENTENIERS AT PARISH HALL ENQUIRIES

Preliminary

1. No person shall be warned to attend a Parish Hall Enquiry (“an Enquiry”) unless it reasonably appears to a Centenier or other police officer that an offence may have been committed.

2. Every person formally warned to attend at an Enquiry (hereinafter after to as “an Attendee”) shall at the Parish Hall be given an opportunity of seeing the information leaflet about Enquiries.
 - 2.01 Leaflets in English, French and Portuguese are to be available to Attendees.

3. The purpose of an Enquiry is for the Centenier to decide:
 - 3.01 whether there is sufficient evidence to justify a charge;

3.02 if so, whether the public interest requires a prosecution or whether the matter can be dealt with in some other way at the Enquiry; and

3.03 if the matter is to be dealt with at the Enquiry, the appropriate method of disposal.

4. Enquiries are not held in public. The Centenier should at all times be accompanied during the Enquiry by another police officer.

4.01 An Attendee is entitled to be accompanied by a lawyer should he so wish. It is a matter for the Centenier's discretion what part the lawyer is allowed to play at the Enquiry. **The lawyer** is there primarily to advise his client.

4.02 A juvenile Attendee (ie those under 18) should, unless impracticable, be accompanied by a parent or guardian.

4.03 A mentally ill or mentally handicapped Attendee should be accompanied by a relative, guardian or other person responsible for his care or custody.

4.04 It is a matter for the discretion of the Centenier as to whether an Attendee may be accompanied by any other person.

Procedure at Parish Hall Enquiry

5. At the Enquiry the Centenier should introduce himself and explain the purpose of the Enquiry (as set out at paragraph 3. above). The Attendee should first be told in brief terms what is the offence alleged to have been

committed. Where the Centenier is in any doubt as to whether the Attendee has a sufficient understanding of the English language, he should arrange for an official interpreter to be present.

6. The Centenier, who shall have read the report of the incident, shall consider such other material as he thinks fit including hearing from the Attendee. The Centenier will normally reach his decision based upon the police report and witness statements before him without the need to resort to the oral hearing of witnesses.

6.01 Having considered the material before him, the Centenier shall decide whether there is sufficient evidence to justify a prosecution or whether the Enquiry should be adjourned to allow further information to be gathered. In either case, should the Centenier ultimately conclude that there is not sufficient evidence to justify a prosecution, the Enquiry shall be ended and no further action taken against the Attendee.

6.02 In such cases, all records of the Enquiry shall show that there was insufficient evidence of an offence. The Centenier shall ensure that all records of the Enquiry are returned to Police Headquarters within 14 days from the date of the Enquiry.

7. If the Centenier concludes that there is sufficient evidence to justify a prosecution, he shall then go on to determine whether the public interest requires a prosecution or whether it would be appropriate for him to deal with the case outside the Court system. In reaching his conclusion both in relation to paragraph 6. and this paragraph the Centenier shall have regard to the guidelines issued by the Attorney General and contained in the **Code on the Decision to Prosecute.**

8. If the Centenier concludes that the public interest requires a prosecution he shall so inform the Attendee. The Centenier shall proceed to charge the Attendee and caution him (or caution him again if he has previously been cautioned) and warn him for Court on the first available date.

8.01 The Centenier should be mindful of the fact that anything said by the Attendee whilst not under caution is not admissible in evidence against him.

8.02 The Centenier should inform the Attendee of the availability of the Legal Aid Scheme and explain to him the procedure for obtaining Legal Aid if this is required.

8.03 Having charged the Attendee the Centenier should normally -

8.04 warn him for his attendance at Court; or

8.05 admit him to bail in such sum as the Centenier may reasonably determine pending his appearance at Court.

9. If the Attendee admits the offence(s) the Centenier should inform him that he is satisfied that there is a prima facie case sufficient to enable a prosecution to be brought and inform the Attendee of the offence(s) of which he is so satisfied. He should then inform the Attendee that he is nevertheless willing to deal with the matter at the Enquiry and ask him if he is prepared to be dealt with by the Centenier at the Enquiry.

9.01 If the Attendee indicates that he is prepared for the Centenier to deal with the matter the Centenier should state the possible options available to him

and make clear to the Attendee that a record of a fine or written caution will be kept by the police and may be made available on a future occasion to a Court or a Parish Hall enquiry, although it will not amount to a "*conviction*".

10. If the Attendee does not admit the offence(s) the Centenier cannot proceed to deal with him or her at Parish Hall enquiry and the Centenier should normally take the matter before the Magistrate's Court.
11. If the Attendee admits the offence(s) he should do so in writing by signing a form supplied to him by the Centenier. He should then be asked whether he has anything to say by way of excusing the offence(s) after hearing which the Centenier shall determine the appropriate course of action.
12. The options open to a Centenier where he has decided to deal with the matter himself are to:
 - 12.01 impose a fine where a statute so enables him;
 - 12.02 issue a written caution;
 - 12.03 defer his decision (possibly in conjunction with voluntary probation);
 - 12.04 take no further action (although this may well involve words of advice, verbal caution, warning, etc.)
13. It is important that the Centenier should have regard to Attorney General's Directive 1/97 which spells out the consequences of the various options referred to above in terms of the records maintained at Police

Headquarters. In the case of 12.03 the Attendee must be brought back to Parish Hall Enquiry at a later date. On that occasion, depending upon what has transpired in the meantime, the Centenier may decide to take the Attendee before the Magistrate's Court or to proceed by way of 12.02 or 12.04 of paragraph 12. above.

14. A Centenier must record in writing the reasons for a decision not to prosecute. This must make clear whether there is insufficient evidence or whether there is sufficient evidence but the public interest is in favour of the matter being dealt with at the Enquiry in one of the manners described in paragraph 12, rather than a prosecution. If the latter is the case the Centenier must record the reasons for the decision that it is not in the public interest to prosecute. The Centenier shall ensure that the written record is returned to Police Headquarters within 14 days from the date of the Enquiry.

Notes

- (a) A Centenier may, if asked to do so, give advice or counsel to any Parishioner or fellow citizen about domestic or other problems. In this respect a Centenier has neither more nor less right than any other person, although his or her position as Centenier will naturally lend authority to the advice given. Centeniers may give advice or counsel at the Parish Hall if persons choose to seek them out there or at any other time and place which may be convenient. Centeniers should never give the impression that in advising or counselling they are exercising a judicial function, neither should they purport to make a judgment binding on any person in matters brought to their attention. Centeniers have no civil jurisdiction.
- (b) A Centenier must bear in mind the importance of keeping the victim of an offence informed. Accordingly, it is the responsibility of the Centeniers'

Association, in conjunction with the States Police, to ensure that arrangements are in place to inform the victim of the outcome of a Parish Hall enquiry including, if the decision at the enquiry is not to charge the alleged offender, a brief statement of the grounds for the decision. This should be taken from the reasons recorded pursuant to paragraph 14 above.

.....

H.M. Attorney General

Ref: 205/3/3/5(1/97) MCB/AJB 10th January, 2000.

Appendix D

CODE ON THE DECISION TO PROSECUTE

1. Introduction

1.1 The decision to prosecute (i.e. to charge) an individual is a serious step. Fair and effective prosecution is essential to the maintenance of law and order. Even in a small case a prosecution has serious implications for all involved - the victim, a witness and a defendant. Centeniers are to apply the Code to ensure that they make fair and consistent decisions about prosecutions.

1.2 The Code contains important information for those who work in the criminal justice system and the general public. It helps Centeniers to play their part in ensuring that justice is achieved.

2. General principles

2.1 Each case is unique and must be considered on its own. There are, however, general principles which apply in all cases.

2.2 The duty of the Centenier is to make sure that the right person is prosecuted for the right offence and that all relevant facts are given to the Court.

2.3 Centeniers must be fair, independent and objective. They must not let their personal views of the ethnic or national origin, sex, religious beliefs, political views or sexual preference of the offender, victim or witness influence their decisions. They must not be affected by improper or undue pressure from any source.

3. The Code tests

3.1 There are two stages in any decision to prosecute. The first stage is the **evidential test**. If the case does not pass the evidential test it must not go ahead no matter how important or serious it may be. If the case does pass the evidential test the Centenier must decide if a prosecution is warranted in the public interest.

3.2 The second stage is the **public interest test**. The Centenier will only start or continue a prosecution when the case has passed both tests. The evidential test is explained in section 4 and the public interest test is explained in section 5.

4. The Evidential test

4.1 Centeniers must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each defendant on each charge. They must consider what the defence case may be and how that is likely to affect the prosecution case.

- 4.2 A realistic prospect of conviction is an objective test. It means that the Magistrate, a jury or bench of Jurats properly directed in accordance with the law is more likely than not to convict the defendant of the charge alleged.
- 4.3 When deciding whether there is sufficient evidence to prosecute, Centeniers must consider whether the evidence can be used and is reliable. There will be many cases in which the evidence does not give any cause for concern. There will, however, also be cases in which the evidence may not be as strong as it first appears. Centeniers must ask themselves the following questions:

Can the evidence be used in Court?

- (a) Is it likely that the evidence will be excluded by the Court? There are certain legal rules which might mean that evidence which seems relevant cannot be given at a trial. For example, is it likely that the evidence will be excluded because of the way in which it was gathered or because of the rule against using hearsay as evidence? If so, is there enough other evidence to ensure a realistic prospect of conviction?

Is the evidence reliable?

- (b) Is it likely that a confession is unreliable because (for example) of the defendant's age, intelligence or lack of understanding?

- (c) Is the witness's background likely to weaken the prosecution case? For example, does the witness have any dubious motive that may affect his or her attitude to the case or a relevant previous conviction?

- (d) If the identity of the defendant is likely to be questioned, is the evidence about this strong enough?

4.4 Centeniers should not ignore evidence because they are not sure whether it can be used or is reliable. They should, however, look closely at it when deciding if there is a realistic prospect of conviction.

4.5 Where Centeniers have concerns over the possible exclusion of evidence, they should consult and be guided by the advice of the Police Legal Adviser.

5. The Public Interest test

5.1 In 1951, Lord Shawcross (Attorney General for England) made a classic statement on public interest which has been supported by Attorneys General ever since:

“It has never been the rule in this country - I hope it never will be - that suspected criminal offences must automatically be the subject of prosecution” (House of

Commons Debates, Volume 483, column 681, 29 January 1951).

5.2 The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. In cases of any seriousness a prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. Although there may be public interest factors against prosecution in a particular case, often the prosecution should go ahead and those factors should be put to the Court for consideration when sentence is being passed.

5.3 Centeniers must balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender. Some factors may increase the need to prosecute but others may suggest that another course of action would be better. The following lists of some common public interest factors (both for and against prosecution) are not exhaustive. The factors which apply will depend on the facts in each case.

Some common public interest factors in favour of prosecution

5.4 The more serious the offence the more likely it is that a prosecution will be needed in the public interest. A prosecution is likely to be needed if -

- (a)** a conviction is likely to result in a significant sentence;

- (b)** a weapon was used or violence was threatened during the commission of the offence;

- (c)** the offence was committed against a person serving the public (for example, a police officer, prison officer or a nurse);

- (d)** the defendant was in a position of authority or trust;

- (e)** the evidence shows that the defendant was a ringleader or an organiser of the offence;

- (f)** there is evidence that the offence was premeditated;

- (g)** there is evidence that the offence was carried out by a group;
- (h)** the victim of the offence was vulnerable, has been put in considerable fear or suffered personal attack, damage or disturbance;
- (i)** the offence was motivated by any form of discrimination against the victim's ethnic or national origin, sex, religious beliefs, personal views or sexual preference;
- (j)** there is a marked difference between the actual or mental ages of the defendant and the victim or there is any element of corruption;
- (k)** the defendant's previous convictions or cautions are relevant to the present offence;

- (l) the defendant is alleged to have committed the offence whilst under an order of the court;

- (m) there are grounds for believing that the offence is likely to be continued or repeated (for example, by a history of recurring conduct); or

- (n) the offence, although not serious in itself, is widespread.

Some common public interest factors against prosecution

5.5 a prosecution is less likely to be needed if:

- (a) the Court is likely to impose a very small or nominal penalty;

(b) the offence was committed as a result of genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);

(c) the loss or harm can be described as minor and was the result of a single incident (particularly if it was caused by a misjudgment);

(d) there has been a long delay between the offence taking place and the date of the trial, unless -

- the offence is serious;
- the delay has been caused in part by the defendant;
- the offence has only recently come to light; or

- the complexity of the offence has meant that there has been a long investigation;

(e) a prosecution is likely to have a very bad effect on the victim's physical or mental health (always bearing in mind the seriousness of the offence);

(f) the defendant is elderly or is (or was at the time of the offence) suffering from significant mental or physical ill-health (unless the offence is serious or there is a real possibility that it may be repeated). Centeniers must balance the desirability of diverting a defendant who is suffering from significant mental or physical ill-health with the need to safeguard the general public;

(g) the defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution simply because they can pay compensation);
or

(h) details may be made public which could harm sources of information, international relations or national security.

5.6 Deciding on the public interest is not simply a matter of adding up the number of factors on each side. Centeniers must decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

The relationship between the victim and the public interest

5.7 Centeniers act in the public interest and not just in the interests of any one individual. But, Centeniers must always think very carefully about the interests of the victim, which are an important factor when deciding where the public interest lies and, accordingly, whether a prosecution should be brought.

Young offenders

5.8 Centeniers must consider the interests of a youth when deciding whether it is in the public interest to prosecute. The stigma of a conviction can cause very serious harm to the prospects of a young offender or a young adult. Young offenders can sometimes be dealt with at a Parish Hall Enquiry without the need for a Court appearance. However, Centeniers should not avoid prosecuting simply because of the defendant's age. The seriousness of the offence or the offender's past behaviour may make prosecution necessary.

6. Charges

6.1 Centeniers should select charges which -

- (a)** reflect the seriousness of the offending;
- (b)** give the Court adequate sentencing powers; and
- (c)** enable the case to be presented in a clear and simple way.

This means that Centeniers may not always continue with the most serious charge where there is a choice. Further, Centeniers should not continue with more charges than are necessary.

6.2 Centeniers should never go ahead with more charges than are necessary simply to encourage a defendant to plead guilty to a few. In the same way they should never proceed with a more serious charge simply to encourage a defendant to plead guilty to a less serious one.

7. **Accepting guilty pleas**

7.1 Defendants may want to plead guilty to some, but not all, of the charges. Alternatively they may want to plead guilty to a different, possibly less serious, charge because they are admitting only part of the crime. Centeniers should only accept a defendant's plea if they think the Court is able to pass a sentence which matches the seriousness of the offending. Centeniers must never accept a plea just because it is convenient.

8. **Power of the Attorney General to overrule a Centenier's decision**

8.1 Members of the public should be able to rely upon decisions taken by Centeniers. Normally, if a Centenier tells a person that there will not be a prosecution that is the end of the matter. However the Attorney General is the ultimate authority in respect of all prosecutions in the Island and has the power to overrule a Centenier's decision not to prosecute. In exercise of this power he may direct a Centenier to lay a charge. Where appropriate Centeniers should inform a person whom they have decided not to charge of this possibility.

8.2 Similarly the Attorney General may direct a Centenier not to proceed with a prosecution which has been commenced.

9. **Conclusion**

9.1 Centeniers form part of the Honorary Police. They are answerable to the Attorney General.

9.2 The Code for Centeniers is designed to make sure that everyone knows the principles which Centeniers apply when carrying out their work. Centeniers should take account of the principles of the Code when they are deciding whether to charge a defendant with an offence. By applying the same principles Centeniers are helping the criminal justice system to treat victims fairly and to prosecute defendants fairly and effectively.

9.3 The Code is issued by the Attorney General and is available from all Parish Halls and:

The Law Officers' Department

Morier House

St. Helier

Jersey. JE1 1DD.

9.4 It is also available at the States of Jersey Police Headquarters.

.....

H.M. Attorney General 10th January, 2000.

Appendix E

DRAFT MEMORANDUM OF UNDERSTANDING

CALLS TO THE STATES POLICE FROM THE PUBLIC

THE ROLE OF THE HONORARY POLICE

BACKGROUND

- 1.1 Members of the public who require a police service are at liberty to ring either their Parish Hall, their Parish Duty Centenier or the States Police Control Room. When the former occurs attendance is at the discretion of the relevant Parish and there are existing guidelines which set out those issues which must be referred to the States Police irrespective of who first became aware of the incident. The guidelines in this document relate only to those cases in which a caller chooses to report a matter direct to the States Police. It is not possible for this memorandum to cover all eventualities. Personnel, both States and Honorary, will continue to use common sense and discretion in appropriate cases.

- 1.2 The guidance in this document is intended to ensure that the liabilities of the States Police, the Home Affairs Committee and the Honorary Police are adequately defined.

CONTROL ROOM PROCEDURE

- 2.1 When calls are received at the Police Control Room staff will assess whether, in the context of the incident, the time of day, and the availability of the Honorary Police, a response from Honorary Police would be appropriate.

- 2.2 Whilst it is not possible to offer a definitive list, the States Police should provide first response in the following cases:
 - Where there is an immediate threat to public safety.
 - Where injuries are involved.
 - When an urgent response is required.
 - Where specialist investigation skills are likely to be required.

- Where there are unusual political or media sensitivities.

2.3 Notwithstanding that a States Police Unit has been deployed to an incident the control room should in addition consider the deployment of an Honorary Police Unit to provide backup or support.

2.4 If Honorary Officers are available in the appropriate Parish the Control Room should normally utilize them by way of first response in respect of appropriate incidents which could include the following:

- Non-injury road traffic accidents
- Noisy parties
- Neighbour disputes
- Minor public disorder
- Loose or escaped animals
- Minor Larceny

2.5 Control Room staff will make a decision about the appropriate levels of response and ensure that the caller is aware of the nature of the response. In the case of Honorary Police response the Control Room will then contact the relevant Duty Centenier or senior officer in a mobile unit and provide the necessary details.

3. **COMMITMENT OF THE HONORARY POLICE**

3.1 The Honorary Police undertake to advise the Control Room of their general availability. In particular they will inform the Control Room when they have a mobile unit immediately available in a particular parish and similarly advise Control Room when that mobile goes off duty.

3.2 On receipt of a request for assistance from the Control Room, the Duty Centenier or senior officer in a mobile unit will give an assessment of the capability of the honorary police to attend the particular call. If it is agreed that honorary officers can attend they will:

- Accept responsibility for the incident
- Attend the incident as soon as practicable.
- Report arrival at the scene to the States Police Control Room.
- Form an initial assessment. If the incident is more serious than first thought the Control Room will be informed.
- Act in accordance with the law and the relevant code of practice.
- Do their best to provide a high standard of service.
- Report the outcome to the Control Room who will arrange for any follow up as necessary.
- Submit all relevant reports in a reasonable time.

4. **ACCOUNTABILITIES**

- 4.1 All honorary officers are accountable for their performance and conduct to the Connetable of the parish in which they are operating. States Police officers are accountable to the Chief Officer within the terms of the relevant law.
- 4.2 The officer in charge of the Control Room is responsible for maintaining a full audit trail of reported incidents from the receipt of the initial information to the point at which a result is recorded.

5 **REVIEW**

- 5.1 This M.O.U. will be reviewed by the Home Affairs Committee and the Comite des Connetables after three and six months from the date of its adoption and thereafter annually.

18th March 2004

Appendix F

Parish Hall Enquiry Observation Schedule

Ref :		
Date of PHE:		
Parish:	Centenier:	
Date of Offence :	Date of Enquiry:	
Officer:		
Participants :	CO/ Vingt. Parents: Mum / Dad Step-parents Extended family Friends Victim States Police	Child Care Officer Teacher Youth Worker Other professional Other
Time commenced:	Time ended:	Total Minutes:
Is AG's guidance on the decision to prosecute available in the waiting room ?	Yes/No	
Is the Parish Hall Enquiry leaflet available in the waiting room ?	Yes/No	

<p>PROCEDURAL INTEGRITY</p> <p>Did the Centenier</p> <p>Explain duties and practice of Centenier</p> <p>Read Police Report</p> <p>Ask for Comments</p> <p>Explain that decision can be rejected and case heard by Magistrates Court</p> <p>If charged:</p> <p>Caution</p> <p>Explain Notice of Charge</p> <p>Offer information about Legal Aid</p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>																					
<p>EMOTIONAL INTENSITY</p> <p>Emotional Power of act description</p> <p>Emotional Responsiveness of offender</p> <p>Emotional Engagement of offender</p> <p>Degree of offender discomfort</p> <p>Frequency of shouting at offender</p> <p>Violence or threats</p> <p>Offender cried</p>	<p>How emotionally intense was the description of the consequences of the offence by the Centenier.</p> <table border="0"> <tr> <td>Low intensity</td> <td>1 2 3 4 5</td> <td>High intensity</td> </tr> <tr> <td>Unresponsive</td> <td>1 2 3 4 5</td> <td>Very responsive</td> </tr> <tr> <td>Switched off</td> <td>1 2 3 4 5</td> <td>Aware</td> </tr> <tr> <td>Very Little</td> <td>1 2 3 4 5</td> <td>'Squirming'</td> </tr> <tr> <td>None</td> <td>1 2 3 4 5</td> <td>Throughout PHE</td> </tr> <tr> <td>None</td> <td>1 2 3 4 5</td> <td>Throughout PHE</td> </tr> <tr> <td><u>Yes/No</u></td> <td></td> <td></td> </tr> </table>	Low intensity	1 2 3 4 5	High intensity	Unresponsive	1 2 3 4 5	Very responsive	Switched off	1 2 3 4 5	Aware	Very Little	1 2 3 4 5	'Squirming'	None	1 2 3 4 5	Throughout PHE	None	1 2 3 4 5	Throughout PHE	<u>Yes/No</u>		
Low intensity	1 2 3 4 5	High intensity																				
Unresponsive	1 2 3 4 5	Very responsive																				
Switched off	1 2 3 4 5	Aware																				
Very Little	1 2 3 4 5	'Squirming'																				
None	1 2 3 4 5	Throughout PHE																				
None	1 2 3 4 5	Throughout PHE																				
<u>Yes/No</u>																						
<p>PROCEDURAL JUSTICE</p> <p>Percentage of time offender speaking</p> <p>Offender able to comment/correct police report</p> <p>Offender contribution to disposal</p> <p>Extent to which offender is coerced into accepting Centenier's decision</p>	<table border="0"> <tr> <td>minutes</td> <td></td> <td>% of total PHE</td> </tr> <tr> <td>Not permitted</td> <td>1 2 3 4 5</td> <td>Permitted</td> </tr> <tr> <td>No contribution</td> <td>1 2 3 4 5</td> <td>High level</td> </tr> <tr> <td>No Coercion</td> <td>1 2 3 4 5</td> <td>Much Coercion</td> </tr> </table>	minutes		% of total PHE	Not permitted	1 2 3 4 5	Permitted	No contribution	1 2 3 4 5	High level	No Coercion	1 2 3 4 5	Much Coercion									
minutes		% of total PHE																				
Not permitted	1 2 3 4 5	Permitted																				
No contribution	1 2 3 4 5	High level																				
No Coercion	1 2 3 4 5	Much Coercion																				

RESTORATIVE JUSTICE

To what extent did Centenier discuss:
 Consequences of offence
 Making reparation to victim
 Making reparation to community/ parish in which offence occurred
 Overall, how much discussion about reparation occurred

Not at all	1 2 3 4 5	Large
Not at all	1 2 3 4 5	Large
Not at all	1 2 3 4 5	Large
Not at all	1 2 3 4 5	Large

RETRIBUTIVE JUSTICE

To what extent did Centenier discuss:
 Punishment
 Repayment to the community
 Repayment to the victim
 Prevention of further offences
 Restoration of offenders humour or esteem
 Centenier uses which philosophy (retribution or restoration) to determine sanction.

Not at all	1 2 3 4 5	Large
Not at all	1 2 3 4 5	Large
Not at all	1 2 3 4 5	Large
Not at all	1 2 3 4 5	Large
Not at all	1 2 3 4 5	Large

Retribution Restoration Elements of both

REINTEGRATIVE SHAMING

Disapproval towards type of offence
 Disapproval towards offenders actions
 Level of support towards offender
 Level of respect towards offender
 Level at which the offender treated by supporters as loved
 Level of approval expressed towards offender as a person
 Level at which it was communicated to offender that they could put actions behind them

Very Little	1 2 3 4 5	Highly disapproving
Very Little	1 2 3 4 5	Highly disapproving
Unsupportive	1 2 3 4 5	Supportive
Disrespectful	1 2 3 4 5	Very respectful
Unloved	1 2 3 4 5	Loved
Very Little	1 2 3 4 5	Highly approving
Negative outlook	1 2 3 4 5	Positive outlook

<p>STIGMATISING SHAMING</p> <p>Level of stigmatising shame expressed Level of disapproval in the offender as a person Level of stigmatising names and labels used to describe offender Level of moral lecturing to which offender is subjected Extent to which offender is treated as 'criminal'</p>	<table> <tr> <td>Low</td> <td>1 2 3 4 5</td> <td>High</td> </tr> <tr> <td>Low</td> <td>1 2 3 4 5</td> <td>High</td> </tr> <tr> <td>Low</td> <td>1 2 3 4 5</td> <td>High</td> </tr> <tr> <td>Low</td> <td>1 2 3 4 5</td> <td>High</td> </tr> <tr> <td>Very Little</td> <td>1 2 3 4 5</td> <td>Great</td> </tr> </table>	Low	1 2 3 4 5	High	Low	1 2 3 4 5	High	Low	1 2 3 4 5	High	Low	1 2 3 4 5	High	Very Little	1 2 3 4 5	Great												
Low	1 2 3 4 5	High																										
Low	1 2 3 4 5	High																										
Low	1 2 3 4 5	High																										
Low	1 2 3 4 5	High																										
Very Little	1 2 3 4 5	Great																										
<p>DEFIANCE</p> <p>Level to which offender behaves in a defiant manner Level to which offender holds others responsible for actions Sullen or unresponsive – a 'Kevin'</p>	<table> <tr> <td>Very little defiance</td> <td>1 2 3 4 5</td> <td>Highly defiant</td> </tr> <tr> <td>Low level</td> <td>1 2 3 4 5</td> <td>High level</td> </tr> <tr> <td>Unresponsive</td> <td>1 2 3 4 5</td> <td>Highly responsive</td> </tr> </table>	Very little defiance	1 2 3 4 5	Highly defiant	Low level	1 2 3 4 5	High level	Unresponsive	1 2 3 4 5	Highly responsive																		
Very little defiance	1 2 3 4 5	Highly defiant																										
Low level	1 2 3 4 5	High level																										
Unresponsive	1 2 3 4 5	Highly responsive																										
<p>APOLOGY</p> <p>Offender accepts having done wrong Appears remorseful Apologises:</p>	<table> <tr> <td>Reluctant acceptance</td> <td>1 2 3 4 5</td> <td>Freely accepts</td> </tr> <tr> <td>Very little remorse</td> <td>1 2 3 4 5</td> <td>Highly remorseful</td> </tr> <tr> <td colspan="3">Yes/No</td> </tr> <tr> <td colspan="3">Verbal</td> </tr> <tr> <td colspan="3">Handshake</td> </tr> <tr> <td colspan="3">Hug</td> </tr> <tr> <td colspan="3">Pat on back</td> </tr> <tr> <td colspan="3">Kiss</td> </tr> <tr> <td colspan="3">Other</td> </tr> </table>	Reluctant acceptance	1 2 3 4 5	Freely accepts	Very little remorse	1 2 3 4 5	Highly remorseful	Yes/No			Verbal			Handshake			Hug			Pat on back			Kiss			Other		
Reluctant acceptance	1 2 3 4 5	Freely accepts																										
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Yes/No																												
Verbal																												
Handshake																												
Hug																												
Pat on back																												
Kiss																												
Other																												
<p>FORGIVENESS</p>																												

<p>by Centenier</p> <p>Level expressed towards Offender Degree to which forgiven for actions</p> <p>Expression of forgiveness made by Centenier:</p>	<p>Very little forgiveness 1 2 3 4 5 Highly forgiving</p> <p>Very little forgiveness 1 2 3 4 5 Highly forgiving</p> <p>Verbal Handshake Hug Pat on back Kiss Other</p>
<p>PRO-SOCIAL MODELLING</p> <p>by Centenier</p> <p>Is clear about role at PHE Shows Empathy Constructive Use of Humour Shows Optimism Uses Praise Reinforces pro-social behaviour Discourages and challenges anti-social behaviour/comments Presents as pro-social model</p>	<p>Unclear 1 2 3 4 5 Very clear</p> <p>Very little 1 2 3 4 5 High level of empathy</p> <p>Very little humour 1 2 3 4 5 Appropriate use</p> <p>Pessimistic 1 2 3 4 5 Highly optimistic</p> <p>Very little 1 2 3 4 5 High level of praise</p> <p>Very little 1 2 3 4 5 High level</p> <p>Very little 1 2 3 4 5 High level</p> <p>Anti-social 1 2 3 4 5 Pro-social</p>
<p>SUBSTANCE ABUSE</p> <p>Is there evidence of alcohol/ drug abuse</p>	<p>Yes/No</p>
<p><u>ADDITIONAL PROBLEMS</u> acknowledged by Centenier</p>	<p>Anti-social friends Attitudes/ Orientation to authority Boredom Domestic Violence Education Employment Family problems Financial Gambling Health Housing Impulsivity</p>

	Lack of confidence Language Low Self-esteem Other Poor use of leisure time Relationships Temper Control
Notes:	

Appendix G

TIME PERIOD AIMS FOR THE YOUTH COURT APRIL 2004 VERSION

(A) Police Investigation - aim completion as soon as possible

- (1) In all cases other than routine motoring cases the investigation should be fast tracked.
- (2) In complex investigations a Centenier should be informed at an early date of the existence of the investigation so that a Centenier can make a decision as to whether the youth should be presented at an early date before the Youth Court on some of the charges.

(B) Identification of cases which should go directly to the Youth Court - aim as soon as possible

- (1) The States Police should identify as soon as possible those cases in relation to which an early decision should be made by a Centenier as to whether the case should go directly to the Youth Court without going through a Parish Hall enquiry.
- (2) Those cases which should go directly to the Youth Court shall be presented before that Court at the earliest possible date.

(C) Parish Hall enquiry - aim within 3 weeks from the decision to go to a Parish Hall enquiry

- (1) Subject to (2), the date for a Parish Hall enquiry shall not be more than 3 weeks from the decision to go to a Parish Hall enquiry.
- (2) The Probation Department need two weeks' notice of a Parish Hall enquiry in any parish other than St. Helier. In relation to St. Helier the notice needed is one week

(D) From Parish Hall enquiry to Youth Court - aim next sitting of the Youth Court

A case which goes from a Parish Hall enquiry to the Youth Court shall be first presented at the Youth Court on the next regular sitting on a Tuesday morning unless the Greffe has given notice that the first presentation should be on some other occasion.

(E) To Royal Court paper committal - aim 6 weeks

- (1) First Presentation Adjourn 2 weeks for jurisdiction.
- (2) Second Presentation Hear prosecution version of facts and provisionally decide to send up. Adjourn 4 weeks for paper committal.
- (3) Third Presentation After 6 weeks send up.

(F) To Royal Court after old style committal - aim 16 weeks

- (1) First Presentation Adjourn 2 weeks for jurisdiction.
- (2) Second Presentation Hear prosecution version of facts and provisionally decide to send up. Adjourn 4 weeks with a view to paper committal.
- (3) Third Presentation Old style committal requested. Fix date for pre trial review within 2 weeks in preparation for old style committal.
- (4) Fourth Presentation Conduct pre trial review and fix date for old style committal within 4 weeks.
- (5) Fifth Presentation Hear old style committal and find prima facie case if appropriate and adjourn for transcripts for 4 weeks.
- (6) Sixth Presentation Commit after 16 weeks.

(G) To trial in custody - aim 7 weeks

- (1) First Presentation Adjourn 2 weeks for plea.
- (2) Second Presentation Not guilty or reserved plea fix date for pre trial review within 2 weeks in preparation for trial or grant a further short adjournment for consideration of plea.

- (3) Third Presentation Conduct pre trial review and fix date for trial within 3 weeks.
- (4) Fourth Presentation Trial within a total of 7 weeks unless a further short adjournment has been granted under (2) in which case the trial date is put back accordingly.

N.B. In the event of the trial not commencing upon the first trial date the new trial date shall be fixed for within 2 weeks from the first trial date. However, in the event of the trial commencing but not being completed upon the first trial date the date for the continuation shall be as soon as possible within 1 week from the first trial date.

(H) To trial not in custody - aim 8 weeks

- (1) First Presentation Adjourn 2 weeks for plea.
- (2) Second Presentation Not guilty or reserved plea fix date for pre trial review within 2 weeks or grant a further short adjournment for consideration of plea..
- (3) Third Presentation Conduct pre trial review and fix a date for trial within 4 weeks.
- (4) Fourth Presentation Trial within a total of 8 weeks unless a further short adjournment has been granted under (2) in which case the trial date is put back accordingly..

N.B. In the event of the trial not commencing upon the first trial date the new trial date shall be fixed for within 2 weeks from the first trial date. However, in the event of the trial commencing but not being completed on the first trial date the date for the continuation shall be as soon as possible within 1 week from the first trial date.

(I) To sentencing after trial in custody - aim 9 weeks

As (G) except 2 weeks from trial for S.E.R. etc. makes sentencing within 9 weeks.

(J) To sentencing after trial not in custody - aim 12 weeks

As (H) except 4 weeks from trial for S.E.R. etc. makes sentencing within 12 weeks.

(K) To sentencing on guilty pleas in custody - aim 4 weeks

- (1) First Presentation Adjourn for 2 weeks for plea.
- (2) Second Presentation Guilty adjourn 2 weeks for S.E.R.
- (3) Third Presentation Sentence after 4 weeks.

(L) To sentencing on guilty plea not in custody - aim 6 weeks

- (1) First Presentation Adjourn for 2 weeks for plea.
- (2) Second Presentation Guilty adjourn 4 weeks for S.E.R.
- (3) Third Presentation Sentence after 6 weeks.

(M) Application for adjournment of trial

All applications to a Magistrate. If the application is granted then pre trial review is conducted again.

(N) Summary

Aim

- | | |
|--|----|
| (1) Date for Parish Hall enquiry
weeks | 3 |
| (2) Parish Hall enquiry to Youth Court
week | 1 |
| (3) Royal Court paper committal
weeks | 6 |
| (4) Royal Court old style committal
weeks | 16 |

(5)	Trial in Custody weeks (Continuation within 1 week or new date within a further 2 weeks)	7
(6)	Trial not in custody weeks (Continuation within 1 week or new date within a further 2 weeks)	8
(7)	Sentencing after trial in custody weeks	9
(8)	Sentencing after trial not in custody weeks	12
(9)	Sentencing guilty plea in custody weeks	4
(10)	Sentencing guilty plea not in custody weeks	6

(11) All applications for adjourned trial to Magistrate.

(13) For cases (3) to (10) which go via a Parish Hall enquiry the time period aim is increased by 4 weeks. For cases (3) to (10) which do not go via a Parish Hall enquiry the time period aim is increased by 1 week. This means that all aims are within 17 weeks from the completion of the investigation except Old Style Committal to Royal Court with Parish Hall enquiry - 20 weeks and there should not be any of these.

Appendix H



STATES OF JERSEY POLICE

P.O. BOX 789

JERSEY

SUBJECT: Honorary Police Costing on the States of Jersey Police

DATE: 12th January 2005

O.I.C: Chief Inspector J. Sculthorp

Sir,

1. This report identifies the approximate cost of services provided to the Honorary Police by the States of Jersey Police.
2. The Criminal Justice Unit is the provider for the vast majority of these services and a table is provided below to identify these areas.

2.1

Task	Comment	Cost
Criminal Justice Unit		
Witness Warning Clerk/ Victim Notification	Magistrates/Royal Court. Notification to victims.	£ 24384
Decision-Maker.	Recommendations on cases. Advice to Centeniers.	£ 49979
Disclosure Clerk.	Criminal prosecution. Cases to defence	£ 24384

	lawyers.	
File Preparers.	Preparation of files for court copies to other agencies on behalf of Centenier. Letters to Centeniers and victims etc.	£ 11940
Tape Librarian.	Showing tapes to Advocates on behalf of Centenier.	£ 4347
Conviction Checks.	Charged/Reported persons.	£ 3710
Vetting.	Checks on Honorary Officers.	£ 6838
Maintaining C.O.P's.	Updating of information on system.	£ 7208
Administration of arrest orders	Process of orders and updating of records.	£ 280
Victim Notification.	Letters sent to victims of crime.	£ 280
Sudden death administration.	Process of reports and updating of records.	£ 883
P.N.C conviction checks.	Early return of driving licence.	£ 738
P.N.C	Provision of breach of order paperwork	£ 3014
P.N.C	Discharge of Community Service Order.	£ 300
P.N.C	Conviction Records. Copies for Centeniers at Court.	£ 3276
Advice	Prosecution/Data Protection advice given to Honorary Police.	£ 2570
Administration of Prosecution Service.	Letters to A.G./ Law Officers,/Centeniers and meetings etc	£ 4413

1. Process clerk.	Letters and case papers to Centeniers. Letters to other agencies and defendant. Updating of records.	£ 22049
2. Total Cost		£ 170.593

3. Other areas in which the SOJP provides a service to the Honorary Police are weekly tasking group meetings, quarterly meetings with Senior Officers, Professional Standard Department investigations, custody of Honorary Police prisoners, communications training, breath test equipment calibration, Force Messenger service and Fleet Manager service. The below table is a breakdown of these services.

3.1

Tasking Meetings		
Local Intelligence officer.	14 packages for Honorary Police prepared weekly by the LIO and his attendance at the meeting.	£3730.
Crime Analyst.	Crime Analyst's preparation and attendance at meeting.	£3399.
Chair Person.	CSB Inspector's preparation and attendance at meeting.	£2870.
Special Events.	Events Planning Officer attendance at meeting.	£1065.
Refreshments at Meeting		£ 516.
Senior Officers Meeting		
Quarterly Meeting with Honorary Police	Attended by Superintendent and 3 X C/Inspectors.	£ 1146.

Professional Standard

Dept' Investigations		
Investigations.	<i>In 2004, 5 cases were</i> investigated by the department. Includes Inspector & Sergeants Hours.	£ 5136.
Custody		
Prisoners	Process Honorary Police prisoners. Custody Sergeant and gaoler. Average time in cell is 6 hours. In 2004, 53 prisoners were detained.	£ 3968
Supervising Police Constable.	Constable to shadow Honorary Officer.	£ 1857
Communications		
Honorary Police radios were purchased from money allocated in a Capital vote.	Training of Honorary Officers and ancillary matters.	£ 3000.
Breath Test Equipment.		
	Initial purchase of 11 Units (some Parish's purchased their own radios).	£ 4950.
	Twice yearly calibration and downloading of units.	£ 526.
Force Messenger Service.		
	Delivery of confidential paperwork to the Parish's. This figure does not take in to account the	£ 1872

	depreciation of the vehicle and the running costs.	
Fleet Manager		
	Ordering of vehicles for several Parish's. Maintenance of lighting/ siren system.	£ 500
Total		£ 34.535
Grand Total		£ 205.128

4. Further research has been undertaken in to the cost of services provided to the Honorary Police by the SOJP. The above figures are a more accurate representation of that cost.

5. In addition to the above tables the I.T department is developing software that will enable the parishes to receive live iLog incidents and open entries. The Force Control Room on a daily basis contacts Centeniers to inform them of incidents in their Parish and updates them as to the result of the incident. As and when the Honorary Police are on patrol then the FCR also acts as their control room. At this present time it is not possible to quantify the cost of these services.

6. Other than parking tickets, fixed penalty notices do not exist in Jersey. Thus the administration of the Parish system costs the States of Jersey Police £142.163

J.Sculthorp
Chief Inspector
Operational Support

Appendix I

Interview Guides

Attendee Interviews

PART A – sanctioned at PHE

Name
Date of Birth
Gender
Local/non-local
Occupation
Offence
Sanction
Parish

How did you find out that you had to go to Parish Hall Enquiry

What happened when you got there ?

- Who did you meet, see
- Were you given a leaflet
- Did you read the notices on the board in the waiting room

How did the Centenier introduce himself

- Did you understand what a Centenier does

Did he or she explain why you were there.

Did he read out the police report

- Were you able to make comments about the report

Did you have any questions

- Were they answered to your satisfaction

Did the Centenier tell you that your attendance was voluntary

Did you consider going to court instead of being dealt with by the Centenier

- Why not

Did the Centenier tell you that the Parish Hall Enquiry was private and that your name wouldn't go in the paper ?

- Did it/ would it have made a difference if he had

Do you think the Parish Hall Enquiry should be held in public

- How would you have felt if your name had gone in the paper

What did you think about the sanction

- Were you able to comment/ change/ discuss
- Did you feel pushed into accepting his decision
- In what way..

Did Centenier tell you that your sanction was not a conviction

Do you feel that you were treated

- Fairly
- With respect

Would you be embarrassed to appear before the same Centenier again

Your offence was committed in the parish of

Would it have made any difference to you to go another parish for the Parish Hall Enquiry or go to Police Headquarters or Fort Regent ..

Did it matter that the Centenier lives in the parish of

At the end of the Parish Hall Enquiry did you feel that you could put it all behind you ?

Did you feel forgiven ?

Did you ever feel frightened, anxious, embarrassed, ashamed ?

Was there anything about the Parish Hall Enquiry that made you feel

- Better
- Worse
- The same

Other comments

PART B – Attendee charged to Court

Did you feel that your offence warranted a court appearance

Did the Centenier explain why he decided that you should go to court?

Where were you charged

If Parish Hall Enquiry, did the process help/hinder your court case
In what way..

Did the Centenier explain

- Court process
- Legal aid
- Likely outcome

Were you frightened, anxious, embarrassed, ashamed about going to court

Did the Centenier say/do anything to reassure you

Would you have preferred to be remanded directly to Court from the Police
Station without going to the Parish Hall Enquiry .

PART C – Comparison of experience at Court and Parish Hall Enquiry

What was the difference between the Court and Parish Hall Enquiry

If you committed a further offence, how would you prefer to be dealt with..

- Why

How long did you have to wait to be heard at Court

Did you understand what was happening

How did it make you feel to have your offence dealt with in public.

What about your name in the JEP

Victim Interviews

Name
Date of Birth
Gender
Local/non-local
Occupation
Offence
Parish

How has the offence affected you ?

Did you know that the person who offended against you was dealt with at a Parish Hall Enquiry ?

Do you know what a Parish Hall Enquiry is ?

How do you know?

Were you kept informed of progress/ result ?

Has contact been made by Centenier, other Hon Police/ States Police to discover how the offence has affected you ?

Were you given the opportunity to make comments or take part in the Parish Hall Enquiry ?

Would you have liked the opportunity to comment or take part ?

Why ?

Has the offender apologised, directly or indirectly?

Are you happy that the case was dealt with by Parish Hall Enquiry ?

What would you like to have happened ?

Centenier Interviews

Date :

INTERVIEW SCHEDULE – (CENTENIERS)	
CRN :	PARISH:
Name :	
Place of Birth:	
Educated in Jersey:	
Other Occupation :	
Length of residence in Jersey :	
Resident/ Ratepayer in the Parish:	
Family :	
Term of Office – how long How were you recruited?	
Why Centenier ?	
How did you learn to be a Centenier ?	
Do you consider yourself to be a 'policeman' or a community leader ?	
What do you see as the most important part of the 'job' of Centenier ?	
How has it changed over the years ?	
What is the most difficult aspect of your role ?	
How much autonomy and discretion do you think you have ?	
How do you see your relationship with the States Police ?	
How do you regard information and instructions about the system from the AG-s and the Magistrate ?	
What sort of advice do you seek from Centeniers in other parishes, or other agencies such as the Legal Adviser, Probation Service etc.	
Are there any negative impacts or outcomes of a PHE	

<p>What do you think the system is trying to achieve? Why conduct a PHE ?</p>
<p>How do you see your role at PHE – a judge, a mediator, arbitrator</p>
<p>Why not charge everyone to Court ? If there was no PHE , what would there be?</p>
<p>Do you ever feel pressure from the States Police to behave in a particular way ?</p>
<p>Are you obliged to follow their recommendations, either written or invitation to charge?</p>
<p>What do you think that Centenier's have retained the right to charge?</p>
<p>Of those that attend at your PHE's; how many of them, approximately, are known personally to you ?</p>
<p>What do you think non-natives make of the system ?</p>
<p>What about people who don't speak English ?</p>
<p>Are you a 'hostage of the community' – Does this make you vulnerable to influence from Parishioners.</p>
<p>Why do you think that the system has survived so long ?</p>
<p>Where do you see the challenges coming from ?</p>
<p>If you were able to make changes to the Honorary system, what would they be ?</p>
<p>Notes:</p> <p>Have you ever had to attend a PHE yourself for an offence</p> <p>Do you have any religious calling to this sort of community work</p>

Appendix J

Letter to victim of offences dealt with at Parish Hall Enquiry

Name
Address
Parish
Post Code

Date

Dear

With the approval of the Comité des Connétables, the Jersey Probation Service is sponsoring a study of people's experiences of the Parish Hall Enquiry System. Enclosed with this letter is a leaflet providing a short description of the research project and its main aims.

An important part of the research involves gaining the views of people who have been affected by offences that are later dealt with at Parish Hall Enquiry. Recently, (your property was damaged, stolen, etc..) by a person whose case was later dealt with at a Parish Hall Enquiry.

With your agreement, I would like to ask a researcher to contact you to seek your views about the Parish Hall Enquiry system; whether you were given the opportunity to take part in the process and to what extent you feel it appropriate that the matter was handled in this way.

If you do not wish to be interviewed, please complete the pro-forma below and return it to the Probation Service within seven days of receipt of this letter.

Yours sincerely

Helen Miles (Mrs)
Research and Information Manager

I do not wish to be contacted by the researcher.

Name:

Signed

Appendix K

Progress report to Centeniers

EVALUATING THE PARISH HALL ENQUIRY

Progress Report – March 2004

I would like to thank all Centeniers who have taken part in the evaluation research of the Parish Hall Enquiry System. An interim report was prepared for the steering group in October of last year. This report was later revised into a lengthy article which has just been published in the February 2004 edition of the Jersey Law Review.

The research focused upon a number of key areas:

- Historical study of Jersey documents relating to the honorary system;
- Observation of Enquiries;
- Face to face interviews with 43 Centeniers, 10 States of Jersey Police Officers, the legal adviser, the magistrate, a Jurat, the director of Home Affairs, the deputy agent of the impôts and an educational welfare officer;
- Written feedback from 46 attendees at Parish Hall Enquiries.

Emerging Findings

- High levels of satisfaction with the Parish Hall Enquiry process among both offenders and victims;
- The capacity of Centeniers to engage attendees in serious and realistic discussion about offending and possible remedies;
- Clear evidence that the process engages most offenders in taking responsibility for what has happened. Court appearances, by contrast, are more likely to lead offenders to feel and behave like passive recipients of other people's decisions;
- High levels of "pro-social modelling" by Centeniers and other honorary officers at Enquiries – i.e. both encouraging and demonstrating positive and responsible attitudes, assumptions and behaviour. (This has been identified in the international research literature as a critical component of effective work in the rehabilitation of offenders);
- Very low cost and therefore high cost-effectiveness;
- A lack of consensus between some of the parties involved in the criminal justice process about the purpose of a Parish Hall Enquiries;

- The vulnerability of the system to attempts by key individuals to influence and change practice in a way which sometimes does not build on the strengths of the system, and can inadvertently weaken it.

Ongoing Research

The final evaluation report is due to be published at the end of October 2004. The research so far suggests a need to address some further questions:

- Do attempts to achieve procedural uniformity and consistency within the Parish Hall Enquiry system run the risk of undermining the flexibility and responsiveness to the circumstances of the individual case which appear to be essential components in the system's current effectiveness? (Does the requirement to take an increasing range of cases direct to Court risk diminishing the role of the Parish Hall Enquiry?)
- What steps are needed to adapt the Parish Hall Enquiry to the social changes which are occurring in Jersey society and are likely to accelerate in the future?
- How and by whom can policies be developed for the Parish Hall Enquiry system as a whole in a context where parishes have traditionally operated autonomously.

I would be very pleased to talk more about any of these issues with Centeniers.

Statistics

We have compiled a comprehensive statistical database containing information about young offenders appearing at Parish Hall Enquiries and Youth Court between 1998 and 2003. The same information will shortly be available for adult offenders. A full statistical appendix will be included in the final report.

Interviews with Attendees

Interviewing attendees at Parish Hall has been a particular problem. Despite sending out 300 requests for interview, very few people came forward to talk about their Parish Hall Enquiry "experience". In order to reach a broader spectrum of people, I am about to "advertise" on the States of Jersey intranet system for research subjects who have attended a Parish Hall Enquiry within the last two years.

Observations

Subject to the consent of the participants, I am particularly keen to observe some Enquiries where the attendees have **not** been warned to attend by the States Police. (School damage, educational welfare cases, minor neighbourhood disputes etc..) If you are holding an enquiry of this nature, please contact me at the Probation Service on 833904 or at h.miles@gov.je

Conclusion

So far, the evidence is clear that the Parish Hall Enquiry deals very successfully with a range of offending. Many other jurisdictions are currently seeking to rediscover the benefits of informal systems that have been allowed to fall into disuse. It is therefore somewhat ironic that the traditional role of the Centenier's enquiry is being eroded by modern attempts at reform in order to achieve measurable outcomes! I hope that this research will help to maintain our traditional practices and at the very least provide an evidence base from which future decisions about changes to the system can be made.

Helen Miles

Research and Information Manager, Jersey Probation Service

Appendix L

Examples of leaflets

- a. Information for Participants*
- b. Request for Interview*
- c. Restorative Justice – General Information*
- d. Restorative Justice- Information for Offenders*
- e. Restorative Justice- Information for Victims*

S P O N S O R S H I P :

The research is conducted with the approval of the Comité des Connétables and the sponsorship of the Jersey Probation and Aftercare Service. The research is expected to take three years to complete and is funded by the Crime and Community Safety Strategy. A steering group has been established comprising members of the above-mentioned agencies together with representatives from the Centeniers Association and States of Jersey Police.

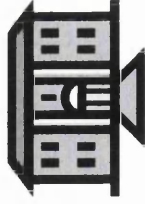
Mrs Helen Miles, Research and Information Manager, Jersey Probation Service will be conducting the research under the supervision of Professor Peter Raynor of the University of Wales, Swansea.

All interviews and observations will be conducted with participants' consent.

JERSEY PROBATION AND
AFTERCARE SERVICE
JERSEY
TEL: 01534 833933
FAX: 01534 833944
E-MAIL: PROBATION@GOV.JE

**RESEARCH
INTO THE
PARISH
HALL
ENQUIRY**

**REQUEST FOR
INTERVIEW**



JERSEY PROBATION AND AFTERCARE
SERVICE
JERSEY
TEL: 01534 833933
FAX: 01534 833944
E-MAIL: PROBATION@GOV.JE



B A C K G R O U N D :

The Parish Hall Enquiry in Jersey is of great antiquity but in regular everyday use as an alternative to an appearance at the Magistrate's Court.

Very little has been written about people's experience at a Parish Hall Enquiry and this research aims to discover your views about the way in which your case was handled.

On behalf of the Crime and Community Safety Strategy and the Jersey Probation Service, research is being conducted to document and evaluate the current Parish Hall Enquiry system.



R E S E A R C H :

Every experience at Parish Hall Enquiry is unique and the research manager is keen to speak to you about your own experience at the Parish Hall Enquiry.

The research is being conducted on an island-wide basis and a cross-section of people attending enquiries in all the parishes will be interviewed.

The interview will seek your views about the way in which your case was dealt with and how you feel about the process of the enquiry and the decisions reached.

The interview will take no more than half an hour and will take place at a time and place convenient to you.

The details of the interview will be confidential and your identity will be protected.

T A K I N G P A R T :

If you would like to participate in the research, please contact Helen Miles at the Jersey Probation Service to arrange an interview either by telephone on **833904** or via e-mail at **h.miles@gov.je**

If you would prefer to make a written submission, please address comments to:

Research and Information Manager

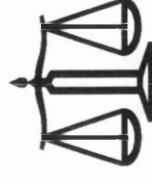
Jersey Probation Service

PO Box 656, 13-15 Don Street

St Helier,

Jersey

JE4 8YT



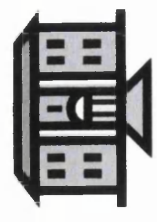
RESEARCH INTO THE PARISH HALL ENQUIRY

S P O N S O R S H I P :

The research is conducted with the approval of the Comité des Connétables and the sponsorship of the Jersey Probation and Aftercare Service. The research is expected to take three years to complete and is funded by the Crime and Community Safety Strategy. A steering group has been established comprising members of the above-mentioned agencies together with representatives from the Centeniers Association and States of Jersey Police.

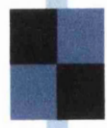
Mrs Helen Miles, Research and Information Manager, Jersey Probation Service will be conducting the research under the supervision of Professor Peter Raynor of the University of Wales, Swansea. All interviews and observations will be conducted with participants' consent.

Information for participants



JERSEY PROBATION AND
AFTERCARE SERVICE
JERSEY
TEL: 01534 833933
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SERVICE
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B A C K G R O U N D :

Throughout the world, policy-makers and researchers in the field of criminal justice are showing an increasing interest in alternative forms of dealing with crime. The research literature has suffered from an absence of studies of traditional forms of justice in everyday use in Europe, possibly because these are presumed not to exist.

The Parish Hall Enquiry in Jersey is of great antiquity but in regular everyday use as an alternative to formal court processing. Like the Honorary system upon which it depends, it has its origins in very long-established forms of community organisation.

Although sometimes criticised as an anachronism, it has retained a high degree of resilience and a significant level of use as Jersey society has changed.



A I M S :

The Parish Hall Enquiry offers a very rare, possibly unique, example of a traditional form of non-Court-based justice operating routinely in a modern context.

The research will focus upon a number of key areas:

- An historical study of Jersey documents relating to the Honorary system
- A review of international research material on traditional and restorative justice
- A survey of practice and processes before, during and after the Parish Hall Enquiry
- An observational study of Parish Hall Enquiries in all country and town parishes (Subject to the consent of participants)
- Interviews with all Centeniers
- Interviews with other persons involved in the process of the Parish Hall Enquiry (Other Honorary Police, States Police, offenders and victims)
- Interviews with those who have a key role in the functioning of the Honorary system (The Bailiff, Attorney General, Connétables)
- Interviews with others whose views may be informative (Chief of Police, Probation Officers, Child Care Officers)

It is important to note that the research will focus on what actually happens in Jersey and not what **should** happen. It aims to establish the role the Parish Hall Enquiry plays and how those who operate within it would evaluate the system.

A particular benefit of the research will be the documentation and evaluation of traditional justice in Jersey and a clearer picture of the strengths and weaknesses of the Parish Hall Enquiry system.

It is hoped that the study will serve as a useful contribution to the evidence base from which any future decisions about changes to the system can be made.



Building on Good Practice

Restorative Justice is not a new concept. Centeniers, through the Parish Hall Enquiry system, have for many years been practicing Restorative Justice initiatives.

Examples include mediating in neighbourhood disputes and arranging for young people to apologise to victims and repair acts of vandalism. It is not intended to replace one traditional and successful justice initiative with one from overseas. The intention is to complement and build on the practices that are established in our society.

Similarly, we would hope that the Courts do not place more youths on Probation solely in order to partake in Restorative Justice. Research shows that a Probation Order can be an ineffective sentence for those who do not need such supervision, e.g. because their risk of re-offending is low.

In summary we would urge Centeniers and Courts to dispose of cases in the usual way.

The Jersey Probation and After-Care Service is confident that Restorative Justice can build on the promising work that already exists at Parish Hall Enquiries.

It offers victims, offenders and the community an opportunity to resolve conflict by recognising and the impact of offending and repairing the damage caused.

Restorative Justice

General Information



Should you have any further enquiries please contact the Restorative Justice Officer at:

**Probation and After-Care Service
P.O.Box 656
13-15 Don St
St Helier
Jersey
JE4 8TY**

**Tel: 833933
E-mail: m.cutland@gov.je or
c.rose@gov.je
Fax: 833944**

An initiative by the
Jersey Probation and After-Care Service

A key aim of the Jersey Probation and After-Care Service is to recognise the needs of victims throughout its work.

From February 2002 a pilot scheme will begin whereby victims of crime can, in appropriate cases, either meet the people who have committed offences against them or make their views known to them through a Restorative Justice Officer (R.J.O.) appointed by the Probation Service.

The aim of the Project is that victims receive explanations and apologies from the offender who will be encouraged to make reparation for the harm caused.

What is Restorative Justice?



Restorative Justice is based on several principles which differ from those of more formal criminal justice systems.

- The process attempts to be as inclusive as possible with the victim in particular given the opportunity to play a more active role. This is important as victims report greater satisfaction with the criminal justice process when they have been included in the process and have received information, explanations, apologies and / or reparation.
- The main goal of restorative justice is not punishment but producing an agreement between the victim and offender whereby the offender can make amends for the harm caused to the victim and the community.

- Offenders accept responsibility for their actions as a precondition to addressing the harm they have caused.

- Proceedings and agreements are voluntary for all parties.

What does RJ offer Victims?



- An explanation as to why the offender chose them.
- An opportunity to ask questions of the offender and to explain how the crime has affected them.

- An apology and some form of reparation, if appropriate.

- International research has demonstrated that a Restorative Justice process leads to high rates of victim satisfaction and a reduction in the fear of crime.

...and the Offender?

- An opportunity to own the responsibility for their offence.
- Greater awareness about the effect of their crime on the victim.
- A chance to reassess their future behaviour.
- An opportunity to apologise and/or offer appropriate reparation e.g. repairing damage or cleaning graffiti.

How is it going to work?



The Restorative Justice Officer will initially work in cases involving young offenders who are either on a Probation Order or on Voluntary Supervision from Parish Hall Enquiries.

In such cases where there is an identifiable victim, the R.J.O. will read the case papers and speak with the offender in order to explain the potential of Restorative Justice and the different options available.

Where the offender has acknowledged responsibility for the offence and has indicated a willingness to meet with the victim, the R.J.O. will contact the victim and explain the choices available.

Where both parties indicate a willingness to meet and this is thought to be appropriate by the R.J.O., a meeting can be arranged either with just the parties or with the parties and their families.

Alternatively, where either of the parties do not wish to meet or it is thought inappropriate to do so, the R.J.O. can, with the agreement of the parties, meet the offender and victim separately in order to pass on concerns, the impact of the offence and possible ways to repair the harm.

Progress can be relayed to the Courts and Centeniers in the usual way.



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