

Evaluation of the Parish Hall Enquiry

First Interim Report prepared for the Jersey Probation Service and the Crime and Community Safety Strategy

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Introduction

This interim report is based on the first two years of a five year research project commissioned by the Jersey Probation Service and the Crime and Community Safety Strategy to document and evaluate the role of the Parish Hall Enquiry system.

Research Objectives

Throughout the world, policy-makers and researchers in the field of criminal justice are showing an increasing interest in alternative processes for 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. The Parish Hall Enquiry thus offers a very rare, possibly unique, example of a traditional form of non-Court-based justice operating routinely in a modern context.

The research aims to establish the role the Parish Hall Enquiry plays and how those who operate within it would evaluate the system. A particular benefit 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.

Research Progress

This report is based upon research undertaken in a number of key areas:

- An historical study of Jersey documents relating to the honorary system.
- A review of international research material relating to traditional, informal and restorative justice.
- An observational study of 48 Parish Hall Enquiries in urban and rural parishes
- Interviews with 43 *Centeniers*
- Interviews with 10 Officers of the States Police
- Interviews with the Police Legal Advisers, the Magistracy and a Jurat
- Interviews with 2 Honorary Police Liaison Officers, the Director of Home Affairs and Educational Welfare Service
- Examination of written feedback and interviews with 46 attendees at Parish Hall Enquiries
- Examination of written feedback and interviews with 12 victims

Historical Context of the Parish Hall Enquiry

Until the last half of the 20th century, Jersey was essentially a rural society. Tourism became an increasingly important industry between the two world wars and grew considerably in the post war years. However, during the last 25 years the financial services industry has overtaken both agriculture and tourism to become the principal force in the Jersey economy. Jersey has evolved into a highly successful, very wealthy, offshore finance centre with money deposits in excess of £135 billion. The Island is now reliant on the income produced from this industry to fund its infrastructure.

Honorary service in Jersey has its roots in a feudal system of social organisation underpinned by the existence of the “fief”. The organisational framework of the parish evolved through a series of relationships of paternalism and deference to the King and the officials appointed by individual fiefs. The current parish structure became established in the 12th Century. 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).

Despite the small geographical area of the Island, from a cultural perspective, rather than becoming a single Island-wide community, Jersey developed unusually, as an island comprising twelve separate “bubbles of governance” (Shearing 2001); each having considerable discretion to shape and control the events that take place within parish boundaries. All parish matters, including policing, were dealt with by a system of unpaid officers, elected and controlled by the ‘principaux’ of each parish.

“ 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 should not be under-estimated. 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. *Les assemblées paroissiales* and the honorary officers continue to form a powerful political body, able to influence the direction of Island government.

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. What is significant about this transition is the uncharacteristic absence of a process of industrialisation that is visible in almost all modern societies. Throughout this transition process, reliance upon 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).

Honorary Police Organisation

The Honorary Police service has its origins in ancient community organisation. Officers are elected by and from among, the rate-payers of the parish. Honorary Police are supervised by the Attorney General, and provide an effective and powerful intelligence network that criss-crosses the island. Each parish has a body of honorary officers responsible to the *Connétable*, the elected head, of the respective parish. Their jurisdiction does not extend outside the boundaries of that parish, except in extraordinary circumstances. Officers swear an oath before the Royal Court undertaking to maintain peace and order in their parish and to bring wrongdoers to justice.

The following quotation from the French commentator, Le Cerf invokes the essence of Honorary Policing in Jersey:

“La Police est, dans les iles l’objet d’un respect universel. Cela tient a ce qu’elle est partout et qu’on ne la voit nulle part”¹ (Le Cerf 1862: 180)

Imperceptibly, the existence of an unpaid body of volunteers pervades Island life helping to maintain peace and social order in the parishes. (It was this notion of unremitting watch that figured largely in Peel’s creation of a paid police body in London in 1829)

¹ Translation: “The Police are the object of universal respect. This is because they exist everywhere and yet are seen nowhere”

The Parish Hall Enquiry

For the purposes of this report, it is useful to summarise the characteristics of a Parish Hall Enquiry although these will be familiar to many readers. Any person reported for committing any offence in Jersey will ultimately meet with a *Centenier* who will decide what action is to be taken in respect of the alleged offence. In all but the most serious offences, offenders will be invited to attend at the Parish Hall of the parish in which the offences were committed, to have the circumstances of the offences reviewed by the *Centenier* of that parish. "Parish Hall Enquiry" refers to the process of preliminary investigation conducted by a *Centenier* to ascertain whether there is sufficient evidence to prove that an offence has been committed and whether or not it is in the public interest to prosecute the alleged offender for that offence (Attorney General Directive 1/97).

The Parish Hall Enquiry has no legal definition and it is not a Court of Law. Enquiries are 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 purpose of the Enquiry is for the *Centenier* to decide :

1. Whether there is sufficient evidence to justify a charge.
2. 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
3. If the matter is to be dealt with at the Enquiry, the appropriate method of disposal.

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 in which the offence took place. “Parish *Hall*” enquiries may be conducted on the roadside or in parishioners’ homes. Reference to the Parish Halls came only after their construction in the late 19th and early 20th centuries, when alleged offenders would be warned to attend the Parish Hall to “see the *Centenier*”.

The Enquiry is 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 read local newspaper. The outcome of the Enquiry is recorded by the Criminal Justice Unit at States Police Headquarters. This does not constitute a criminal conviction, but is regarded as a “Parish Hall Sanction”. This record is produced at subsequent Enquiries and Court appearances within the Island. There is no requirement to declare these sanctions on job applications or visa requests. Sanctions meted at Parish Hall are not covered by the Rehabilitation of Offenders (Jersey) Law because they are not recognised as criminal convictions.

The States of Jersey Police are not an essential component in the operation of the system. Alleged offenders can be referred to the *Centenier* for Enquiry by other Honorary Officers of the parish, Customs and Excise Officers, Agriculture and Fisheries Officials and Education Welfare Officers. Approximately 5000 offences are dealt with each year across the parishes. These include motoring offences, malicious damage, public order, theft and minor assaults.

The role of the *Centenier* at Parish Hall Enquiry

The *Centenier* is required to adjudicate upon 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 remand the case to the Magistrate's Court for trial. The *Centenier* is not empowered to decide guilt. In usual circumstances, every attempt is made to prevent the attendee from entering the formal system.

The Parish Hall Enquiry is a participatory forum and there is much negotiation between all the parties 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.
- Written Caution - The *Centenier* may issue a written caution as an alternative to prosecution.
- Financial penalties - The *Centenier* may impose fines up to £100 for certain statutory offences.
- Voluntary supervision orders – The *Centenier* may place offenders (usually young offenders) under the supervision of either the Probation Service or the Drug and Alcohol service. Upon successful completion of a supervision programme, the offender returns to the Parish Hall, usually after a three to six month period where the *Centenier* issues a written caution as an alternative to prosecution. (This is an important part of the process because it reinforces the positive behaviour through praise for a successful completion.) However if the attendee re-offends or does not attend appointments at the relevant agency, they will be returned to the *Centenier* who may choose to prosecute.

- 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 results in a written caution as an alternative to prosecution.
- Deferred Decision - The *Centenier* may defer the decision to a later date. This tends to be used in conjunction with other conditions such as paying compensation or writing a letter of apology. At the conclusion of the deferment period, the *Centenier* will either take no further action or issue a written caution.
- Charge and bail for a Court appearance. - The most important power that a *Centenier* has is that to charge and bail offenders to appear before the Magistrate . Unlike other jurisdictions, the States Police do not share this privilege.

The importance of informality

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. The general picture emerging from this is that most behaviour 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.

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 Parish Hall Enquiry operates within an open model that

means that almost anything and everything is possible when it comes to dealing with dispute resolution.

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. The presence of rules, courts and sanctions are not essential to effective forms of social control. Disputes and conflicts are considered normal behaviours and do not indicate a malfunction in society. The handling of disputes is dependent upon the make-up and beliefs and norms of society in which disputes take place.

“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).

Braithwaite (1989) also endorses the belief in the power of the community to exercise social control. Applying his model of conditions conducive to “reintegrative shaming”, Jersey would seem to possess all of the necessary mechanisms to ensure effective social control. The centrality of the parish as the unit of social organisation provides the foundation for most of the other attachments. Multiple relationships of interdependency are evident including the presence of extended family, residential immobility, low urbanization, strong religious influence and social groups.

“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)

Data emerging from the research project shows high levels of re-integrative shaming and pro-social modelling by *Centeniers*. There is a fine balance between effective shaming and stigmatising influence. Braithwaite (1994) develops this at length. The very 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*.

Whilst largely oblivious to Braithwaite et al., systems of honorary service in Jersey 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 re offending and the establishment of safer communities (Andrews and Bonta 1998; McGuire 1995; Trotter 1999).

" 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)

The model has not evolved as a result of specific policies of re-integration but as a result of hundreds of years of community development which have given interdependencies Teflon-like strength. All offending behaviour is considered to be unacceptable and the Parish Hall Enquiry system ensures that disapproval is articulated. *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 the attendee must attend at the Parish Hall 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 crime.

Finance is now the cornerstone of the Islands economy and much of the skill and expertise to maintain its prominence has 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 able 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.

Emerging findings

The following points are an attempt to summarise the main findings which are so far emerging from the interviews with *Centeniers*, attendees and others and the observations of the enquiry process in practice. All these will be covered in more detail in the final report, which is also likely to identify additional points, but the main themes are emerging clearly enough at this stage to be worth summarising in this report. These include:

- High levels of re-integrative shaming (see above) used by *Centeniers*.
- High levels of satisfaction with the process among both offenders and victims.
- The capacity of most *Centeniers* to engage parties 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 (Christie 1977; Walker 2000; Sherman, Strang, Barnes and Braithwaite 1999).

- High levels of “pro-social modelling” 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 rehabilitative work with offenders – see for example Trotter, 1999)
- 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 purposes of 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.
- A tendency for the process and function of the Parish Hall Enquiry not always to be explained to participants. This does not attract criticism from attendees but risks doing so from other parties in the criminal justice system.

Conclusion

Overall, then, the evidence so far supports the view that the Parish Hall Enquiry deals successfully and appropriately with a wide range of mostly minor offending and makes a very useful contribution in this role. In effect, the Parish Hall Enquiry is the conventional response to offending behaviour in Jersey. *Centeniers* assert that every attempt is made to prevent offenders entering the formal court system. 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, Acceptable

Behaviour Contracts, Referral Orders, 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 resourced by the community. It “defies classification” in any modern legal context (Clothier 1996:1).

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 has continued along traditional lines. The fact that it has no definition in law or clear role vis à vis court diversion doesn't seem to be of great importance to the attendees. However, there is some evidence emerging 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).

In this context, the research so far suggests a need to address some questions which mainly concern the articulation of the Parish Hall Enquiry system with the wider criminal justice system. For example:

- 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 systems current effectiveness ? (For example, does the requirement to take an increasing range of cases direct to Court risk diminishing the role of the Parish Hall Enquiry ?)
- Is there full agreement about 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.

- What steps would need to be taken 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 in a context where parishes have traditionally operated autonomously ?

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. Jersey may have an almost unique opportunity to integrate the benefits of traditional, informal community justice into a modern criminal justice system in a way which both promotes effectiveness and saves public money. This would represent a considerable benefit, not only to the Island itself but to other jurisdictions looking for solutions to their own problems. Consequently it is intended that the results of the Jersey study will be fully disseminated in the international criminological research literature. A number of requests have already been made to publish material arising from the study.

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