

The Parish Hall Enquiry: A community-based alternative to formal court processing in the Channel Island of Jersey

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Abstract The Parish Hall Enquiry system in Jersey is of great antiquity and, like the Honorary Police system upon which it depends, its origins lie in very long-established forms of communal organization. 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. Enquiries have no basis in statute law and sanctions levied at Parish Hall are not considered to be criminal convictions. The centenier is empowered to enquire into the circumstances surrounding any offence committed within the boundaries of the parish, adjudicate upon the facts presented, and propose an appropriate penalty.

Keywords centenier, community justice, informal dispute resolution, Jersey, Parish Hall Enquiry, traditional justice

Introduction

This article describes the background and process of the Parish Hall Enquiry, drawing on the first two years of a five-year research project. The reasons for the research are two-fold. Firstly, the Parish Hall Enquiry plays an important role in the administration of justice in Jersey but is insufficiently documented within the island and hardly known elsewhere. Most of the literature on informal and restorative justice draws its concrete examples from traditional practices of indigenous people within the developing world or in formerly colonised countries. For example, two recent international collections and a Home Office research overview continue this pattern, and there is often the assumption that the development of restorative justice in modern societies depends on the adaptation of traditional practices

drawn from elsewhere (Galaway & Hudson, 1996; Marshall, 1999; Johnstone, 2003). The Jersey example by contrast offers a very rare, possibly unique opportunity to study a system of informal, locally based justice which is indigenous, at least 800 years old, and still playing a central role in island affairs.

Background

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 being the most common second language.¹ 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. The Jersey system of law, based on *La Grande Coutume de Normandie*, ancient Norman Law, has been retained and, together with the development and reinforcement of customary law, the island of Jersey has established itself as an autonomous 'appendage' to the English crown.

Until the last half of the 20th century, Jersey was essentially a rural society. The island was best known for the Jersey cow and the Jersey Royal potato. Tourism became an increasingly important industry between the two world wars and grew considerably in the postwar 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.

Perhaps because of the speed of these changes, Jersey has retained many of the characteristics of its rural past: for example, the 12 parishes are still the centres of much of the island's administration. Despite the very small geographical area, each has its own elected police force, decides upon and administers benefits claims, maintains its roads, organizes refuse collection and so on. The tradition of honorary service is strong with most administrative and judicial functions relying upon unpaid elected volunteers at both parish and island levels.

Recorded crime in Jersey is low. Levels have remained fairly constant since 1992 with approximately 6000 crimes recorded each year. There are a further 1000 recorded incidents of public disorder (Rutherford & Jameson, 2002). In the region of 5000 offences are dealt with each year across the parishes. These include motoring offences, malicious damage, public order, theft and minor assaults.

Police organization

Police organization in Jersey is very unusual. There are 13 police forces: one is a professional paid policing body and the other 12 consist of honorary officials, elected from within the community on a parish basis. The paid, state-appointed, professional body known as the States of Jersey Police Force began on an island-wide basis in 1974. Prior to then, the primary provision of policing came entirely from within the community on a parish basis from a body of honorary officials known locally as the Honorary Police.

This Honorary Police service has its origins in ancient community organization. The primacy of the parish and its role as the principal unit of social and political organization within the island has allowed it to survive into modernity. From a cultural perspective, rather than becoming a single island-wide community, Jersey has developed as an island comprising 12 separate 'bubbles of governance' (Shearing, 2001), each having considerable discretion to shape and control the events that take place within parish boundaries.

Officers are elected by, and from among, the ratepayers of the parish. Honorary police are supervised by the Attorney General, and provide an effective and very 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 îles l'objet d'un respect universel. Cela tient à ce qu'elle est partout et qu'on ne la voit nulle part.² (Le Cerf, 1862, p. 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.)

The senior members of the Honorary Police in any one of the 12 parishes are known as 'centeniers'. There are currently 52 centeniers. Only four are women, but they range from 30 to 70 years old and have otherwise been elected from a wide cross-section of the community. A centenier requires no specific qualifications for the role other than the desire to serve the parish. Most also hold other occupations and may be nurses, farmers, bank managers, accountants and taxi drivers. Within the boundaries of their own parish the connétable and the centenier possess 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.

A centenier has considerable power within parish boundaries and despite the informality of the system there are some safeguards against misuse of power. The electoral process offers some protection to parishioners who may propose alternative candidates to serve the three-year term of office. All officers of the Honorary

Police are expected to abide by a disciplinary code specified by the Police (Complaints and Discipline) (Jersey) Law. Complaints against the Honorary Police may be investigated by an independent Police Complaints Authority comprising lay members appointed by the island's government.

Interviews with centeniers suggest that they consider power to be controlled by their role and position in the community. Given the small geographical area of the island, and the division by 12 parishes, a centenier usually resides within a four-mile radius of the parishioners that he or she serves. The centenier is in many ways, 'a hostage of the community' (Christie, 1982, p. 86). This close and available physical proximity to the community may increase their levels of vulnerability and thereby serve to moderate the potential for the misuse of their extraordinary powers.

The most important power that a centenier has is to charge and bail offenders to appear before the magistrate. Unlike other jurisdictions, the States of Jersey Police do not share this privilege. Anyone 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 offences committed.

The Parish Hall Enquiry

In all but the most serious offences, offenders will be invited to attend at a Parish Hall Enquiry to have the circumstances of the offences reviewed by the centenier. 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. 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:

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

The term 'Parish Hall Enquiry' is to some extent 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' on the same evening as the alleged offence took place.

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 Criminal Justice Unit at States Police Headquarters records the outcome of the Enquiry. 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 on 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 recognized as criminal convictions.

The States of Jersey Police are not an essential component in the operation of the system. Other honorary officers of the parish, customs and excise officers, agriculture and fisheries officials and education welfare officers, can refer alleged offenders to the centenier for Enquiry.

The role of the centenier at the 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 formally charge the attendee and 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 of 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, he or she will be returned to the centenier who may choose to present the offender before the relevant court. In 2002, 85 per cent of youths required to undertake voluntary supervision completed their orders without re-appearing before a centenier within 12 months (Jersey Probation and Aftercare Service, forthcoming);

- *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. Probation service statistics show that only 1 per cent of youths placed on a deferred decision in 2002 were subsequently remanded to the youth court for failing to be of good behaviour during the deferment period (Jersey Probation and After Care Service, 2003);
- *Charge and bail for a court appearance* – The centenier may charge the attendee and remand on bail to appear before the magistrate in the relevant court.

The process and informality of a typical Parish Hall Enquiry is best illustrated by means of an example.

Case Study

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, and 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 will 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 apologized for their careless actions. The driver and the parent also explained that they had visited the victim to apologize and to 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 was not insured to drive the car but felt that the driver was so shocked he just wanted to get home as soon as possible. Both apologized 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 recommended 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 importance of informality

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 organization. The presence of rules, courts and sanctions are not essential to effective forms of social control. Disputes and conflicts are considered to be 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, p. 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 organization 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 the 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, p. 8)

Data emerging from the research project show high levels of re-integrative shaming and pro-social modelling by centeniers. There is a fine balance between effective shaming and stigmatizing influence; Braithwaite & Mugford (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 almost entirely 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 will recognize as crucial to reducing re-offending and the establishment of safer communities (McGuire, 1995; Andrews and Bonta, 1998; 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, p. 8)

The model has not evolved as a result of specific policies of re-integration, but rather as a result of hundreds of years of community development that 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 the parish where 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.

Conclusion

In Jersey, the Parish Hall Enquiry is the conventional response to offending behaviour. 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. 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, restorative justice initiatives). What is unique about the Parish Hall system is that it exists *outside* the formal criminal justice system. It is organized and resourced by the community. It 'defies classification in any modern legal context' (Clothier, 1996, p. 16). The Jersey model 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 can be achieved by the community without recourse to complex, expensive, professional organizational frameworks.

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 fact that it has no definition in law or clear role vis à vis court diversion does not 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 inquiry is being eroded by modern attempts at reform in order to achieve measurable outcomes.

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 industrialization that is visible in almost all modern societies. Throughout this transition process, reliance upon customary law has ensured that the honorary system proved remarkably resistant to change. In addition, the political influence inherent in the system has given it a great deal of protection from outside pressure (Kelleher, 1994). 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 skill and expertise to maintain its prominence have been 'imported'. When the composition of the 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 no long-term investment in maintaining social peace. The extent to which this influx of 'strangers' will further erode the power of the traditional organizational structures remains to be seen. This uncertainty makes it all the more important to study and document the

informal system as it now stands so that properly informed decisions can be taken about its future role in Jersey society. It is also useful to consider whether other modern societies where informal systems have fallen into disuse might have something to learn from what still happens in Jersey.

Notes

- 1 Citizens of Portugal and Madeira first settled in Jersey during the 1970s to work in both the agricultural and tourism industries. The 2001 Jersey census shows that 6 per cent of the Jersey population consider themselves to be Portuguese or Madeiran, with 79 per cent of non-English speakers citing Portuguese as their main language.
- 2 Translation: 'The Police are, in the islands, the object of universal respect. This is because they exist everywhere yet are seen nowhere'.

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