

THE MAGISTRATES' ASSOCIATION
JUDICIAL POLICY AND PRACTICE COMMITTEE

Local crime, local justice – Policy Brief

THE ISSUES

Magistrates had their origins in local communities and for most of their history a link to a local community has been an essential prerequisite for the selection of magistrates.

Were there to be a Bill of Rights enacted, the Magistrates' Association believes that the right of courts to decide upon guilt or innocence and to take the lead in sentencing matters should remain paramount. Within this right is the important right of an individual to be tried by other members of the community. This absolute right for indictable offences has been strongly defended in recent years, even for complex fraud cases and cases expected to last a considerable length of time, to the extent that Section 43 of the Criminal Justice Act 2003 has not yet been brought into force.

The issue has been less well rehearsed for summary offences and less important either way matters. As a result, it has become accepted, almost without debate, that a District Judge (Magistrates' Court), sitting alone, may hear trials in the Magistrates' Court.

At its Annual General Meeting in 2007, the Magistrates' Association passed a resolution that trials should always be heard by a bench of magistrates that may include a District Judge (Magistrates Court) as well as justices of the peace, sitting as a court of three. This would restore the important right of an individual to have a finding of guilt or innocence decided by more than one person who has considered the evidence. The considerable training that all magistrates now undertake should mean that no case heard in the magistrates' court would be too complex for any magistrate to be able to make a decision on guilt or innocence.

The Association firmly believes that summary justice should be rooted in communities, along with actions both to try to prevent offending requiring such justice, and to deter re-offending. The magistrates' courts have an essential part to play in delivering justice locally in an open democratic and participative manner.

As magistrates have links to communities, this would help ensure that all trials in the magistrates' courts were heard by those who had a link to the community where the crime was committed. This change in no way undermines the position of District Judges (Magistrates' Courts) but rather recognises the more important right of equality before the law that is already enshrined in the European Convention.

We are aware, of course, that different meanings are given to the terms 'community' and 'local' by different agencies — and, indeed, that these concepts differ from place to place. However, the base line is that crimes which affect those who live and work in an area should be dealt with in courts located in that area.

Community Justice

Magistrates' courts should form a key focus for community justice. Magistrates deal with all summary crime cases brought to court, a significant percentage of either-way criminal offences as well as family matters and certain other civil cases. Magistrates' courts have always had a strong link to their local areas — however in recent years that link has been weakened as control has moved from Magistrates' Courts' Committees (MCCs) which were closely linked to local authorities, to HMCS, an agency within the Ministry of Justice.

As in so many other areas of public life, the arrival of greater mobility in society has changed the nature of communities. Consequently, magistrates deal with matters ranging from those where local knowledge is a vital part of the understanding of the case being dealt with to those where such knowledge is unnecessary.

Nevertheless, as the move by some local authorities to develop Community Justice Panels (often linked to the notion of restorative justice) and the government's own initiative relating to community courts (where North Liverpool and Salford remain the best known examples) exemplify, there is an important role for criminal justice to be seen to be closely involved in and with local communities.

Much of the crime dealt with in magistrates' courts has resulted from offenders who live in communities committing offences on others who live in the same community. Frequently, the level of offences is highest in our most socially deprived communities, as the advent of crime maps is making very clear. Other communities may be specifically targeted, eg. Shopping centres which are targeted by shop-lifting gangs from outside the area.

The criminal justice system belongs to the people it serves. Magistrates drawn from local communities are such people. Magistrates' courts also operate in an open and transparent manner that is another important feature of a criminal justice system in a democracy.

Community Impact Statements/Crime Mapping

Community Impact Statements (CIS) compiled by the police serve a purpose in informing courts of the impact on the local community of certain offences but risk raising the expectations of the community to unacceptable levels and we would question the cost effectiveness of preparing CIS where alternatives, such as crime mapping, may produce a more reliable and cheaper alternative in staffing costs. The current development of crime mapping as an alternative to CIS allows the prosecution to draw the attention of the sentencing bench to the offence pattern in a specific location and is a cheap and effective tool that is less likely to be challenged in court by defence solicitors than a subjective community impact statement (CIS).

Magistrates who are members of their local communities should also have other means of determining the impact of low level crime on a community. For that reason, courts should be responsible for the punishment of all offenders. CIS has no impact on a determination to use an out of court disposal that totally ignores the impact on the community.

Knowledge of the locality and engaging with the public

Magistrates are drawn from communities in a way that district judges (magistrates' courts) (DJ (MC)s) are not. The Magistrates' Association believes that the magistracy should be representative of society in the same manner as juries now are. Accordingly the Association believes that it is highly desirable for the local bench to reflect and be representative of the local community and for the local bench to have a good understanding of local issues and concerns. However, we believe it may be possible for such knowledge and understanding to be developed post appointment if the person putting them forward demonstrates that they have done some research on the area in which they hope to sit and a willingness to develop such knowledge. Ensuring magistrates are drawn from all areas and especially those with high rates of crime would bring greater understanding of the effect of crime on the community. However, no magistrate or DJ (MC) can be insensitive to the effects of crime on communities. Court closures have separated courts from communities and the time has come to take courts *back into* communities which might also be an effective way of understanding the effects of crime on localities. Community involvement with the courts could be addressed by returning courts to a more local setting.

Community Engagement

The Magistrates in the Community (MiC) project already provides opportunities for judicial engagement with communities, whether it be schools, neighbourhood schemes, local councils, employers etc. Suggestions for making community engagement part of standard training may be effective as long as it does not demand more time from those who may be already stretched with existing commitments.

There should be a budgeted marketing programme for community engagement to ensure consistent national and local awareness and to encourage communities to become involved.

Local authorities and other bodies should be sensible to the need to promote the magistracy and all its functions, to the whole community they serve. As noted above, the Magistrates' Association through its Magistrates in the Community (MiC) project and through association with Local Crime, Community Sentence (LCCS) and the Mock Trial Competition has helped to introduce the role of the court in society and the involvement of citizens in administering justice to a wide audience within its limited funding.

Keeping the public informed

The Magistrates' Association has pioneered work on involving communities in understanding the criminal justice system. Magistrates in the Community and LCCS are well structured, well regarded and well used methods of communication.

Historically, the media also have a significant part to play as it is often media output on which the public opinion is based. Despite the demise of the local press, the development of new technologies makes it easier than ever to communicate accurate outcomes from the decisions of courts. The planned pilot of an internet scheme is welcomed, and more use should be made of new technology to communicate more effectively with all types of communities. More use might be made of Neighbourhood Watch, the Local Pastor Scheme, Local Housing Associations etc and for example, as a two way communication channel to

allow outcomes to be reported to local neighbourhoods as well as collecting evidence of crime and anti-social behaviour.

Use of courthouses

HMCS now accepts the principle that there should normally be a court within no more than one hour of travel by public transport. To meet this target would certainly mean a review of the effectiveness of a policy of maximum courtroom utilisation since many rural areas and small towns do not need even one courtroom functioning five days a week. When magistrates' courts were a local government function, courtrooms could be used for other purposes when not in use as courts. If HMCS could be convinced to pilot a rural 'courtroom hire scheme' or co-location of services (such as for example the public library) in one building, including court services, in association with a district council, then the advantages of *taking justice to the community* rather than the present model of *the community to justice* could be tested.

KEY RECOMMENDATIONS

- Crime committed in communities on members of that community and by members of the community should be dealt with by local magistrates sitting within that local community.
- Trials should always be heard by a bench of magistrates that may include a District Judge (Magistrates Court) sitting as a magistrate as well as justices of the peace, sitting as a court of three.
- All trials in magistrates' courts should be heard by those with links in the community.
- Magistrates' courts should continue to be the key focus for community justice.
- All Community Engagement programmes need to be co-ordinated to ensure a consistent national and local awareness and to encourage communities to become involved.
- Local authorities and other bodies should be sensible to the need to promote the magistracy, and all its functions to the whole community they serve.
- Those who prosecute should not determine individual sentences (as is the case when a conditional caution is used)
- Courts should be responsible for the sentencing of all offenders.

Taken from *Engaging Communities in Criminal Justice (09/52)*, *Evidence submitted to the All Party Parliamentary Group Inquiry into Justice in Communities (09/37)* and *Rights & Responsibilities (09/43)*