

The Role of Criminal Justice Centers in Assisting the Knowledge and Capacity of Public Prosecutors: The Northern Ireland Experience

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Introduction

I would like to thank the organisers for the invitation to speak this morning at the conference. The subject of the conference - the modernisation of public prosecution offices - is one that is very relevant to the jurisdiction that I come from - Northern Ireland. You heard yesterday about the changes that are being made to the prosecution service in England and you also heard that in Northern Ireland we are presently developing a new public prosecution service which is to take responsibility for all prosecutions in Northern Ireland. Public prosecution is indeed quite a new concept within the anglo-saxon tradition. It may seem strange to you to hear this - but until today we have operated under a system where the police - and not designated public prosecutors - were responsible for the vast majority of prosecutions. One of the consequences, however, of the Good Friday Agreement in 1998 which was signed by all the parties to the Northern Ireland conflict was that there would need to be new institutions which would command the confidence of all parts of the community. An international commission was set up to examine the issue of policing and a further Criminal Justice Review was established. This review recommended that a new public prosecution service be founded which would take responsibility in future for all prosecutions.

The subject of this session is to examine the role that criminal justice centres can play in the development of public prosecution services. In the time I have I would like to give some examples of the work that our criminal justice institute at Queen's University Belfast is playing in the development of the Northern Ireland system. But first a few words about the role of the public prosecutor.

The role of the public prosecutor

Until recently the role of public prosecution in the anglo-saxon tradition has been limited simply to deciding whether to initiate or continue prosecutions and to conducting prosecutions in the courts. This meant that public prosecutors took little responsibility for crime prevention other than through conducting specific prosecutions. This traditional concern with conviction and punishment of the guilty can be justified as it vindicates the rule of law, satisfies the public's desire for retribution and may deter the defendant and others from illegal activity.

Increasingly, however, it is considered that public prosecutors must play a more central role in the reduction of crime and not merely in the prosecution of crime. This is because it is recognised that prosecution and conviction may not lead to crime reduction. Within the last decade, the emphasis in criminology has turned towards looking at 'what works' and it is being realised that there is a need to consider remedies beyond prosecution, conviction and sentencing by a court. Early interventions avoiding court may work better at reducing crime than prosecuting offenders in court. Confidence is being placed in a new 'restorative justice' approach to punishment away from the pure retributive, deterrence and rehabilitative approaches. In the case of young people, for example, it is recognised that it may be more effective to bring offenders face to face with the victims of their offending behaviour and for them to agree to make reparation to them without processing them through the courts.

But if prosecutors are going to be given a new and expanding role in the criminal justice system, not only making decisions to prosecute or not in all cases but also whether to divert cases out of the court system, it is vital that these decisions are taken fairly and consistently and that there is public confidence in the decision making processes. Prosecutors also need to know which cases are suitable for diversion out of the court system and which are not; for example, what remedies in relation to which particular offenders are likely to work best to prevent re-offending and in what circumstances. Criminal justice centres can play a very important role in helping prosecutors establish public confidence and in providing knowledge about remedies work.

The Northern Ireland example

I would like now to take some examples of this from my own jurisdiction, Northern Ireland. The Criminal Justice Review that recommended the new Prosecution Service believed that prosecutors should be responsible for taking a restorative justice approach towards young offenders. A statute was enacted enabling young persons who admitted their offence to be offered the opportunity of attending a youth conference. A plan would there be agreed as to how the young person should address his offending behaviour. This could involve treatment for anger management or for drugs and it could involve making reparation to the victim. Prosecutors take a leading role in the implementation of this scheme as they decide ultimately whether to refer young persons to a youth conference or to proceed instead by prosecution. They also have to approve any plan that is agreed at the conference in order for it to operate. The aim over time is to extend this youth conference programme to adults as well.

Because of the Northern Ireland conflict, however, one difficulty has been that in many areas policing has not been undertaken by the state police force – now entitled the Police Service of Northern Ireland - but by local paramilitaries. Young people have been subjected to brutal and violent punishment beatings. To counter this local communities have tried to establish local restorative justice schemes and the idea now is that public prosecutors should be able to refer young persons to these community schemes as well as to the statutory youth conferences which are administered by the state Youth Justice Agency.

This is a radical new vision for trying to reduce low level youth crime in Northern Ireland. But there are certain requirements on prosecutors to make it work. First of all, it requires that there be confidence across the political divisions in the new prosecution service. Local community groups will not be willing to report offenders unless there is confidence in the prosecutors. During the Northern Ireland conflict, prosecutors were seen within some communities as participants in the conflict. In the new era of peace it is vital that there is confidence in prosecutors to apply the law even-handedly and impartially. Secondly, to make effective decisions in particular cases that succeed in preventing crime, prosecutors need to know that the plans they approve will actually help to prevent re-offending.

Our criminal justice research institute at Queen's University Belfast is playing a leading role in the evaluation of the new Public Prosecution Service and in the youth conference schemes. The new Service has set up an independent evaluation board to monitor the changes with representation from our research centre on the board. The

board is examining issues of effectiveness and efficiency as well as community confidence. To build public confidence in the new Service the Criminal Justice Review recommended that as well as a community outreach strategy, the new Service should participate in an equity monitoring scheme whereby decisions are monitored in terms of their impact on particular categories of people, for example their community background, gender, ethnic origin, sexual orientation and disability. Criminal justice researchers within the Institute are currently helping to advise on how this scheme can be made to work.

In addition our Institute is directly involved in the evaluation of the youth conferencing scheme. The youth conference was piloted at first in certain parts of Northern Ireland and the evaluation has consisted of interviews with all the participants in the process including victims and offenders. The aim is to report on the satisfaction levels of participants with the plans agreed and to follow up on their effectiveness. The research will take some years to complete and it will be some time before it will be possible to evaluate how successful the plans have been in reducing re-offending. But it is hoped that this information should prove useful to prosecutors deciding which kinds of plans work best.

Conclusion

I have tried to provide one positive example of the role a criminal justice centre can play in helping public prosecutor services to command public confidence and to provide knowledge to public prosecutors. Centres can help prosecutors directly in their decision making and crime prevention strategies but ultimately prosecutors must be accepted by their communities if their decisions and strategies are to help in crime prevention. Here too criminal justice centres as independent research institutes can play an important role.