

# British Society of Criminology

## 'Sending More People to Prison than Gaddafi's Libya.' An Alternative to a League Table Approach to Understanding Sentencing Trends and Differences between Jurisdictions

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### Abstract

Should the news that the incarceration rate in England and Wales in 2003 was greater than that of any other country in Western Europe as well as Colonel Gaddafi's Libya, make us want to rethink sentencing policy? It was in these terms that 'Newsnight' (BBC2, 26 February 2003) presented the issue of imprisonment in England and Wales, referring to the prison rate per 100/000 of population and the league tables based on this data. England and Wales were top of the league in western and southern Europe<sup>2</sup> - the implication being that prison was overused in England and Wales.

In this article I argue that the use of a penal league tables is a misleading guide to penal practice. This paper deals with the inadequacy of the league table approach and offers an alternative methodology to understand sentencing and penal practice across jurisdictions.

Penal populations, remand prisoners aside, derive from sentencing decisions made in courts about individual offenders. Therefore discussions about the use or apparent overuse of imprisonment is foremost an issue of sentencing practice and policy. Thus it is the detail of sentencing decisions that needs to be understood rather than aggregate statistics if the question of prison overuse is to be answered.

From research conducted comparing sentencing practice in Finland, Norway, California, China and England and Wales it is my conclusion that a comparative understanding of sentencing practice requires a different approach from that based on prison league tables. A different methodology is proposed which takes account of the sentencing system, judicial culture, socio-political and cultural context, and the interdependencies in the criminal justice system.

I describe a methodology adopted by colleagues and myself<sup>3</sup> to study comparative sentencing practice and discuss a comparative sentencing framework (Table 5) that incorporates a sensitivity to cross-jurisdictional differences, and provides a means by which scholars and policy makers will be able to understand and compare sentencing practice in other jurisdictions.

## **Introduction**

The 2003 British Criminology Conference in Bangor focused on the theme of ‘The Challenge of Comparative Crime and Justice’. I interpret this challenge for academics as threefold.

Firstly, we need to understand what is happening elsewhere and this requires having access to data and insider knowledge of what happens in other jurisdictions. Fieldwork, interviews and participant observation are methods that might help reduce the likelihood of arriving at naive conclusions or ones that are wrong. If there is not a common language you will also need a good interpreter. Successful interpretation requires two necessary conditions: a linguistic competency in the two languages and the ability to translate meanings, and, an awareness of the criminal justice system and crime situation in the countries being compared. Thus linguistic competency and system knowledge are important to help avoid the potential misuse and misunderstanding of terms, titles, labels and processes.

Secondly, we need to develop methodologies, frameworks and paradigms that bring into play ideas, concepts and common definitions that allow meaningful comparisons of the observed contrasts and similarities. Nelken cites the importance of ‘legal culture’ as a conceptual building block for comparative analysis (Nelken, 2002: 191). In Table 5 colleagues and I have set out a framework of factors that we think will determine sentencing decisions in practice and this includes aspects of the legal culture and the legal process as well as other contextual factors that we think will provide a helpful insight into the way different jurisdictions sentence criminals.

Thirdly, we need to develop theories and paradigms for making sense of the identified similarities and differences. The broad-brush thesis of globalisation, harmonisation and convergence are examples of notions that have currency in comparative criminology.

One thing that is apparent from previous comparative work was that understanding what happens elsewhere is not easy and has been described as ‘skiing up hill’.<sup>4</sup> For instance, one complexity is illustrated by the homophones phenomenon. That is, what might sound the same in policy documents and conference papers, turns out to be different when looked at in practice. Hence our choice of the title for our book, *Penological Esperanto and Sentencing Parochialism*,<sup>5</sup> to capture the way scholars and policymakers talk about what is an apparently common phenomenon but in practice turns out to be a very different animal.

An example of this is seen in our analysis of the cross jurisdictional expansion of community penalties in the 1990s. Similar rhetoric was evident in documents and conference discussions in places as distinct as California, England and Wales and Finland. In digging deeper it became apparent that community service in Finland was literally an alternative to custody and could only be given after an offender had received a prison sentence, whereas in 1990 England and Wales and California it was part of an expansion of intermediate sanctions which led to a mushrooming of varieties and new forms of community sanctions in England and Wales<sup>6</sup> but did not take off to the same extent in California.

When we scan the horizon of distant places with the aim of incorporating good ideas from elsewhere we need to tread carefully amongst the details of what happens in practice. Cross-jurisdictional analysis, like early social anthropology is prone to ethnocentricity, but offers the potential for insight and greater understanding if we get it right. To get it right we need detailed observation and critical comment on what happens elsewhere.

Aldous and Leishman in their analysis of Japanese policing<sup>7</sup> point out that western criminologists fail to exhibit the same kind of scepticism when analysing crime and policing in Japan that they would routinely bring to bear when writing about their own countries.

A type of selective scepticism is apparent, as Michael King points out, by ‘those who approach comparative work with a critical or ideological goal in mind. They see in the system of other countries better, fairer or more efficient ways of solving problems or managing people than occur within their own homeland. For them the interest lies in using observations of other cultures to highlight and, often, expose to critical attention the defects of their own country’s laws and legal system’ (King, 1997: 119). Sometimes this is done on a sound basis and leads to insights that promote debate and reform. At other times it is done on a selective basis to provide lobby material for campaigns at home. This can lead to misunderstanding as pressure group material is adopted by students or journalists as if it were objectively collected and comprehensively presented data.

This selective scepticism is most apparent in the use of indicators of differences between jurisdictions as presented in a league table format. Misunderstanding based on oversimplification of information contained in such tables is compounded when these league tables are used as part of a campaign for change by lobby groups, campaigners, politicians, academics and policy makers by presenting them as if they were ‘indicators of civility’. Let me discuss two such apparent indices.

The first is the analysis of global progress by adding up the number of regimes around the world that have abandoned the use of capital punishment. This is assumed to be a good thing, (c.f. Zimring at BSC conference 2003). But not much analysis is required to show that in some South America countries the death penalty is not permitted by the constitution but this does not prevent the use of death squads by political groups and at time by governments. The formal legal situation can give a misleading impression of the realities of social order and penal sanctions if the informal realities such as death squads are left out of the account. Another such apparent index of civility is the prison population rates expressed in the form of a league table.

## **Index of Civility - The Use of Prison Population League Tables**

'New figures expose UK's overuse of prison' claimed NACRO in February 2003,<sup>8</sup> referring to England and Wales. Commenting on the latest figures comparing prison numbers around the world, NACRO spokesman Richard Garside wrote:

These figures highlight the scale of the challenge that confronts the government as it tries to develop a more rational and targeted approach to prison....

The UK has the second highest imprisonment rate in the EU after Portugal. Compared with the rest of the world, we lock up more people than do China, Saudi Arabia and Turkey, and we have an imprisonment rate similar to Burma and Libya.

Do these league tables of prison rates add to a rational and targeted prison policy? One of the countries referred to by Richard Garside is Libya with a prison population rate of 127/100,000, but comparing crude prison rates would not capture the full picture or even a key difference between Libya and the UK. I quote from an Amnesty International report (19 February 2002):

... In 2001 death sentences were imposed on at least eight people convicted of criminal charges...

On 16 February... Abdullah Ahmed Izzedin and Salem Abu Hanak, were sentenced to death before a People's Court in Tripoli following an unfair trial. At the same trial, scores of others received sentences ranging from 10 years' to life imprisonment... They were among 152 professionals and students arrested in and after June 1998, on suspicion of supporting or sympathizing with the banned Libyan Islamic Group...(which is) not known to have used or advocated violence. Amnesty International considers all those detained solely for the peaceful expression of their political beliefs to be prisoners of conscience.

Following their arrests, the accused were held in incommunicado detention until the opening of their trial in March 2001, during which time their whereabouts remained unknown. They were deprived of the right to have legal counsel. Relatives were only granted access to visit them in prison, several months after the opening of the trial. No investigation into allegations of torture during detention raised by some of the defendants is known to have been carried out.

What are we therefore to conclude when the public's attention is drawn by the lobby groups to the selective penal practice elsewhere? How useful are comparative prison population rates for understanding the differences between jurisdictions on matters of sentencing policy? It would seem to me that a meaningful comparison of penal sanctions between the UK and Libya would have to take into account that fact that Libya uses the death penalty and engages in practices that would be regarded as unacceptable in the context of the human rights culture of the UK. To draw attention

only to differences in rates of imprisonment between Libya and the UK would distort rather than add to a comparison of sentencing reality.

## **Some of the Problems of Comparative Analysis of Sentencing Not Addressed by League Tables on Prison Use**

The cross-European league table approach makes more sense in football where there is some agreement on goal size, ball weight, and numbers in a team, pitch length and rules. No such consistency exists in the world of comparative prison data and therefore we are often not comparing like with like.

Is the data used to calculate the tables collected on the same basis in each country? Obviously there is a question of the comparability of the data used. Prison populations in England and Wales include remand prisoners who would not show up in a study of state or federal prison populations in the USA.<sup>9</sup> Sometimes it comes down to whether an institution is called a prison.<sup>10</sup>

Roy Walmsley, compiler of the World Prison Population List (fourth edition) for the Home Office wrote:

The list has a number of weaknesses. It lacks information on 17 independent countries and figures do not relate to the same date. Comparability is further compromised by different practice in different countries, for example with regard to whether all pre-trial detainees and juveniles are held under the authority of the prison administration, and also whether the prison administration is responsible for psychiatrically ill offenders and offenders being detained for treatment for alcoholism. People held in custody are usually omitted from national totals if they are not under the authority of the prison administration. (Walmsley, 2003; 6)

Another problem is when population rates are confused with the absolute numbers. *Nacro News* claims that in England and Wales we lock up more people than China. Not so, as China's prison population is estimated at 1,428,126 compared to 72,669 in England and Wales.<sup>11</sup>

My point in this paper is not to explore the difficulties of presenting comparable data. My point is that prison rates compared with population size is a very crude and misleading indicator of sentencing differences between jurisdictions.

## **Prison Population Rates: Are We Comparing Like with Like?**

An index or table that compares prisoners per 100,000 of population is unlikely to be comparing like with like. Firstly, because demographic variables other than size of the population are likely to have an impact on both crime and the response to it. A population with a higher proportion of elderly or female citizens is likely to have a lower crime rate than a more youthful population with a higher proportion of males to females. Some populations are less crimogenic and therefore it is not difficult to

imagine a community of elderly people with less crime than the same population of younger people.<sup>12</sup>

Secondly, comparative figures should take account of the crime problem that a jurisdiction is confronting in terms of the amount and types of crimes in a jurisdiction.<sup>13</sup> Are we comparing similar crime profiles or are we looking at untypical situations as in Rwanda where the prison population of 112,000 includes 103,134 held on suspicion of participation in genocide (Walmsley, 2003: 2).

Exposure to crime as assessed by the extent of crime or risk of being a victim of crime is a vital element if meaningful comparisons are to be made between countries about the relative use of different types of sanctions.

How much crime are citizens exposed to? This seems one element of a more useful basis for comparison than prisoners per head of population. People are not sent to prison for no reason. Comparing the chances of being sent to prison in Finland and England and Wales, the risk of being a victim would be one factor that would be likely to effect the saliency of the crime of burglary and the likely response to it. Table 1 shows the number of domestic burglaries recorded in Finland and England and Wales. Why does this matter when comparing sentencing decisions? This matters because the reporting and recording and clear up rate and diversion rate affects the profile of cases that reach the court and will hence shape the range of seriousness of cases and consequently the sentencing patterns of the respective jurisdictions.

**Table 1: Crimes Recorded by the Police: Domestic burglary<sup>14</sup>**

	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>
<b>England and Wales</b>	581,985	501,593	473,349	442,602	402,984
<b>Finland</b>	10,311	10,436	10,291	9,763	9,264

However, we know that comparisons based on police data on the extent of crime is not always reliable because of non-reporting and non-recording of crimes. In England and Wales we can assess risk of specific crimes thanks to the British Crime Survey (BCS), with an estimated 991,000 domestic burglaries, including attempts, taking place in the 12-month period 2001/02 in England and Wales. Thus we know that approximately less than 70% of burglaries are recorded in England and Wales and this goes up to 90% when the burglary is with loss.<sup>15</sup> Is this the same proportion in other jurisdictions we are making comparisons with e.g. Finland or Libya?

Exposure to crime can be evaluated in terms of a citizen's exposure to risk. There is some limited comparative information on this. The International Crime Victimization Survey (ICVS) shows that Finns were four times less likely to be a victim of a burglary than were British households. ICVS also shows that the English and Welsh much more frequently take measures against risk of burglary, such as burglar alarms and special locks, than the Finns (van Kesteren *et al*, 2000: 216), and while 39% of

the English and Welsh respondents perceive burglary as likely or very likely in the coming year, only 19% of the Finns did this (averages for the surveys of 1989, 1992, 1996, and 2000; calculated from van Kestern *et al*, 2000: 210).

While the quantity of crime and exposure to crime is an issue, so is the difference in the seriousness of crime. The example from Rwanda cited above is an example. What is the distribution of offences dealt with by the courts in terms of the proportion of crimes assessed in terms of relative seriousness, e.g. 'how many robberies compared with theft cases?' The distribution of the seriousness of offences experienced by victims and dealt with by the court is likely to have an effect on sentencing decisions.

Differentials of crime patterns in terms of range and proportion of serious to less serious crime is likely to be a factor influencing sentencing decisions. Recognising these interdependencies within the criminal justice system is crucial for comparative sentencing work. The seriousness of cases reaching the courts could be a result of case screening. In order to identify any differences in sentencing practice, the overall pool of cases available needs to be assessed. Sentencers' actions will be affected by the nature and type of cases that come before them. This is in turn determined by the activities of police, prosecutors and actions that divert or screen out cases. All cases must start with the initial reporting and recording of an offence to the police. The role of law enforcement is vital as the front line definers of cases as is their role, along with the prosecutors, in screening out cases that will determine the profile of cases arriving in the courts. In England and Wales the police cautioning rate and the Crown Prosecution Service (CPS) discontinuance rate would have to be looked at, just as in Scotland the Procurator Fiscal fines act as a filter to divert otherwise guilty defendants from going to court.<sup>16</sup>

Another factor when comparing sentencing use is the proportion of recidivists being sentenced. Where sentencing law requires recidivist offenders to be sentenced more severely it will be important to know of the proportion of repeat offenders being sentenced by the courts.

To overcome some of these difficulties we adopted the methodology of focusing on a comparison of sentencing practice and trends based on contrasting specific offences. This approach - comparing only specific offences - was used by Langan and Farrington<sup>17</sup> in their comparison of crime and sentencing trends in the USA and the UK. But we did not use aggregate data as did Langan and Farrington but probed into the judicial culture by examining sentencing decisions in more depth in the case of burglary.

## Methodology for Understanding the Use of Imprisonment - Start with the Judges

Our study focused on judicial culture and the way judges went about sentencing burglars. As prison population is primarily determined by sentencing decisions<sup>18</sup> we thought it would be informative to compare sentencing practices in Finland and England and Wales so as to explain the reasons for the differences between these jurisdictions, particularly in terms of cardinal and ordinal proportionality. The methodology sought to avoid some of the difficulties identified above by comparing the same offence in different jurisdictions. We chose to compare domestic burglary.

Our aim was to look at ‘law in action’ rather than ‘law in books’. Hence, we started with the judges not only because of their experience and awareness of the technical and legal aspects of sentencing law, but also as everyday practitioners who would absorb the world-taken-for-granted assumptions about the wider significance of sentencing in society.

We held focus groups with 108 judges: 57 in England and Wales and 51 in Finland. We asked them to look at five burglary sentencing scenarios and compared their responses and comments. We chose burglary because it is a relatively specific offence that would help cross-cultural comparison. The scenarios were of a household burglary to which a 24-year-old male defendant pleads guilty. Other aspects of the offence, offender, and victim are set out in Table 2.

**Table 2: Burglary Scenarios: Offence and Offender Factors in Cases 1 to 5**

Case no.		1	2	3	4	5
<b>Offence Factors</b>	Day or night	D	N	D	D	N
	Occupants present	No	Yes	No	No	Yes
	Damage and disorder	None	More than average	Average	Average	Average
	Planning	No	Serious			
	Stolen goods	Food	Jewels	TV	TV	TV
	Value	<£10	£5000	£300	£300	£300
<b>Offender factors</b>	Previous convictions	None	3	2	1	None
	Previous sentence type	N/A	Prison	No mention	Community sentence	N/A
	Other offender characteristics	Out of work, wife very ill			Heroin user	



We asked the judges what type of sentences, in general would they give to the burglars in five scenarios we sent them, and followed up with a series of questions to probe their reasoning and assumptions. Thus we asked about the current tariff and guidelines, the nature of the harm caused by residential burglary, the information they needed to give a more detailed sentence, usefulness of having more information about the victim, sentencing objectives (rehabilitation, retribution, deterrence, denunciation, restitution and incapacitation), the punitive element in the range of sentences available and what would encourage them to make greater use of community sentences.

The answers from the judges in England and Wales to the question of what type of sentence they would give to the burglar in one of the five scenarios (Case 3 A standard burglary case) is set out in the Table 7 in the appendix.

### **Comparative Findings: Judges' Sentences for Burglars in Finland and England and Wales**

The methodology we adopted was chosen so as to give an insight into the judicial culture and in particular the judges' world-taken-for-granted views when sentencing burglars. The burglary scenarios were prompts to focus the judges discussion on something concrete. We used qualitative data from the judges' comments to help explore the assumptions of judges when sentencing. However, the focus on the type and length of sentence they would give for each scenario allowed us to contrast the differences in sentences given. i.e. an insight into both ordinal and cardinal proportionality. This allowed for comparisons as set out in Tables 3 and 4.

The aggregate figures for the judges in both jurisdictions of Finland and England and Wales were compared in terms of the ranking of the sentence severity (illustrating the ordinal proportionality between the 5 cases,) and the punitive levels (showing cardinal proportionality) are set out in Table 3 and 4.

**Table 3: Ordinal Proportionality: Rank Order of Sentences by Focus Group Judges in England and Finland**

	<b>England &amp; Wales</b>	<b>England &amp; Wales</b>	<b>Finland</b>	<b>Finland</b>
	<b>Sentence</b>	<b>Severity rank of penalty</b>	<b>Severity rank of penalty</b>	<b>Sentence</b>
<b>1 Least Severe penalty</b>	Probation order, community service order	Case 1	Case 1	Suspended sentence
<b>2</b>	17 months prison	Case 4	Case 5	Suspended sentence
<b>3</b>	18 months prison	Case 3	Case 4	4 months prison/CSO

<b>4</b>	23 months prison	Case 5	Case 3	4 months prison/CSO
<b>5 Most severe penalty</b>	44 months prison	Case 2	Case 2	10 months prison

**Table 4: Cardinal Proportionality: Average Length of Custodial Sentences and Ranges in Cases 2-5 in Months**

	England and Wales			Finland		
	Average	Minimum	Maximum	Average	Minimum	Maximum
<b>Case 1</b>	n/a	n/a	n/a	n/a	n/a	n/a
<b>Case 2</b>	44.4	30	84	10.3	6	15
<b>Case 3</b>	18.3	6	36	4.2	1	8.5
<b>Case 4</b>	16.6	6	30	4.1	1	9
<b>Case 5</b>	23.6	9	36	5.5 <sup>a</sup>	3 <sup>a</sup>	11 <sup>a</sup>

<sup>a</sup> These prison terms will normally result in a suspended sentence in Finland

Table 4 shows the he differences in cardinal proportionality and the more lenient sentences given in Finland. The ranking of cases as measured by severity of sentences given by the judges was less predictable. In Table 3 we see that Case 5 was ranked second in terms of the severity of the sentence by judges in England and Wales but as fourth in Finland. This was a consequence of the higher significance in Finland to the fact that the offender was a first offender. In England and Wales, under the principles established by the Criminal Justice Act 1991<sup>19</sup> a greater weight was given to offence seriousness.

### **Making Sense of Cross-Jurisdictional Sentencing Decisions: A Comparative Methodology**

The use of scenarios around a concrete focus on one type of crime allowed for comparisons to be made based on holding constant the individual case factors to do with the crime, the offender profile and the victim's response. Thus some comparative data was available about attitudes to the purpose of sentencing burglars in Finland compared with England and Wales and the different types of penalties that would be given i.e. an insight into ordinal and comparative proportionality. But did this explain the differences between the levels of punitiveness between Finland and England and Wales? To do this we needed a methodology that identified the contextual realities within which judges operated. Hence comparisons of sentencing practice need to focus on the judicial culture and the context as defined by: the sentencing system; the influence of the criminal justice process interdependencies that determines the types of cases that arrive in court to be sentenced; and the broader socio-legal context within which the judges operate. The institutional and cultural context is important when looking at sentencing variations.

The legal system is a variant, not only in terms of the broader principles of adversarial or inquisitorial justice, but also in terms of important details such as the differences in the definition of crimes. In Finland, Norway and China burglary is covered by the general notion of theft in contrast to England and Wales with a specific legal definition of burglary, which is further refined by the terms dwelling-house, non-dwelling house and aggravated burglary. David Nelken quotes another example from Japan where, ‘assaults that result in death are classified as assault, not murder (Nelken, 2002: 188).

Furthermore, it seems apparent that criminal justice systems have their own traditions, cultures and ways of dealing with crime. They have their own histories that are in part a product of the contingencies of public events that come to shape criminal justice policies, such as the murder of the infant James Bulger in England in 1993. The historical background to the evolution of the sentencing system and its current political symbolism is a vital contextual dimension to sentencing. Thus specific histories rather than generalized assumptions are a vital for an analysis of sentencing cultures.

Table 5 sets out some of the key determinants and contextual factors that help to explain the variations between jurisdictions on matters of sentencing. This list of factors emerged from an attempt to make sense of the variations in sentencing practice that we had observed in our comparative studies.

### **Table 5: Comparative Analysis - Key Sentencing Factors <sup>20</sup>**

#### **Sentencing System**

- Legal definitions of offences
- Range of penalties available and their usage in different levels of criminal courts
- Sentencing law and guidelines: legislative and formal regulation of sentencing decisions
- In built checks: appeal against sentences
- Sentencing and penal policy
- Sentence deductions and enhancements – influence of pre-trial procedures and post trial decisions on sentencing, e.g. relevance of plea bargaining, sentence discounts and post sentence surveillance and early release

#### **Judicial Culture: The views of those who make sentencing decisions and the information they regard as salient**

- Perceived harm of a specific crime or crime in general
- Balancing the competing objectives of sentencing in practice
- Case specific information on offence, offender and victim
- Status and experience of the sentencing judges and their degree of autonomy on matters of sentencing
- Perception of the effectiveness and credibility of the sentencing options

#### **Criminal Justice System Interdependencies: Inter-agency impact: decisions affecting sentencing made by the non-sentencing agencies**

- Impact of law enforcement – front line definers of cases
- Impact of diversion and case screening
- Resources
- Inter-agency trust, co-operation and information systems

## Crime and its Socio-Cultural and Political Context

- ❑ The risk of crime: the extent and fear of crime
- ❑ Cultural and political significance of crime
- ❑ Interdependencies within the system of formal and informal social control

## Sentencing System

A non-contextual comparison of the distribution of sentences in different jurisdictions is difficult for at least two reasons. Firstly, the array of penalties is rarely identical. The choice between different sentence options is a factor that will influence the distribution of penalties given by the courts. UK judges have a much wider array of penalties to draw on than is available in most other jurisdictions. This is especially true of Finland where the options are prison, suspended prison, a fine, or community service in lieu of a prison sentence. This in itself makes sentence comparisons difficult and requires that data on prison numbers should be complemented by data on the use of other punishments to give a clearer picture of the total use of all types of sentences. In England and Wales this should include data on the use of fines, conditional discharges and community penalties, all of which are used in greater numbers than imprisonment by the magistrates and judges when sentencing. Use of other sentences; while might be increase in prisons ignores changes in other sentences e.g. recent focus on prison increase ignores the rise in the use of community sentences and fall in use of fines in England and Wales .

Secondly, because sentence time is not a standard unit across jurisdictions. Sentence times do not represent a common unit of penalty nor does it have the same significance across jurisdictions. Prison sentence ‘time’ in country A is not the same as ‘time’ in country B. Assessing and comparing punitiveness must try to take into account these variations in the meaning and measurement of 'prison time'. Sentence discounts, deductions and enhancements complicate comparison. Typically, a prison term served is not the same as the sentence given by the courts; and rules governing this are not constant across Europe. Table 6 illustrates the difference between Finland and England and Wales.

**Table 6: Sentencing System Variations: Time Given and Time Served**

Case no.		1	2	3	4	5
Sentence given by court	England/Wales	Probation order/ CSO	44 months prison	18 months prison	17 months prison	24 months prison
	Finland	Suspended sentence	10 months prison	4 months prison/ CSO	4 months prison/ CSO	Suspended sentence

<b>Sentence typically Served</b>	<b>England/Wales</b>	24 m probation, 80 hours CSO	22 months prison	9 months prison	8.5 m prison	12 months prison
	<b>Finland</b>	12-24 m probationary time	200 days prison	60-80 days prison or 120 hours CSO	60-80 days prison or 120 hours CSO	24 m probationary time

In England and Wales prisoners sentenced by the courts to under 4 years are automatically released at the half way stage of their sentence, i.e. a 12 months sentence means 6 months is served in prison.<sup>21</sup> Since our field research was conducted an additional early release provision called Home Detention Curfew (HDC) was introduced. This allows for the earlier release of prisoners through a home curfew scheme monitored by electronic surveillance. Since 1999 all prisoners serving sentences of 12 months or more but less than 4 years were eligible unless they had been previously recalled to custody or were violent or sex offenders. The early release period was initially given to prisoners within 60 days of their release date; extended to 90 days and then 135 days in July 2003.<sup>22</sup>

Thus a comparison of sentencing systems to evaluate relative punitiveness is complicated by the differences between time given by the court and time served. Direct comparisons of time and punitiveness are also complicated by the role of plea bargaining. A comparison of sentences for theft is likely to be misleading if in one of the jurisdictions plea bargaining leads to robbery cases being ‘down charged’ to theft for defendants who are prepared to plead guilty to a lesser charge. Thus some sentences for theft are in reality a result of a crime of robbery. In England and Wales, with a prosecutor case load of just under two million cases per year,<sup>23</sup> the processing of cases through the courts depends on most defendants pleading guilty, although this is not as a result of plea bargaining but by the discount for a guilty plea in England and Wales.

Crude prison data does not take into account the influence of sentence discounts. In England and Wales judges and magistrates are required by law to be taken into account when an offender pleads guilty. Criminals who do not contest their guilt in the courts are entitled to be considered for a sentence discount, which will normally result in a sentence reduction of one third. Hence, ‘time’ may not have a standard meaning or significance when comparing jurisdictions.

## **Judicial Culture**

How judges perceive their role and interpret their responsibilities when sentencing was the focus of our study and has been reported elsewhere.<sup>24</sup> One aspect of the judge’s role will depend on the dynamics between the judiciary and other agencies. To what extent do judges trust the appraisals of offenders by other agencies? In England and Wales the probation service are responsible for pre-sentence reports in

the courtroom prior to sentencing. The issue of credibility is related to the relative status of the professionals and the agencies.

Perceptions of reliability and trust between agencies in the criminal justice system will vary across time and jurisdictions. In England and Wales we asked judges to comment about the credibility of community penalties and quality of the pre-sentence report prepared by the probation service. The judges' views varied between localities on the reliability and effectiveness of probation service pre-sentence reports. In one court the judges had detected an increased confidence in the way the probation service were monitoring community penalties and the quality of the pre-sentence reports. Judges in one Crown Court Centre commented:

Judge 1: I think one thing that we are all reassured about is that the probation service really have got their act together about keeping these things properly monitored. I'm quite confident that if a guy doesn't do the work, he ends up back in court. Well much more than previously. The National Standards that have been introduced I think have a much better effect. And when I tell a defendant, if you don't do it properly and you don't turn up, you're going to come back to court, that's what does happen.

Interviewer: *Do you have confidence in the Pre-Sentence Reports these days [1999]?*

Judge 1: Generally yes. Much more than we used to I think.

Judge 2: It's the fact that reports are now written without all the dreadful gobbledegook that they used to.

Judge 3: You still get the occasionally gobbledegook.

Judge 4: They don't quite come so frequently with unrealistic recommendations.

The relationship between the agencies of the criminal justice system and their perceptions of each other is likely to have profound influences upon the way sentencing decisions are made and might be a factor to explore when comparing sentencing options and practice across jurisdictions. There are two aspects of this interrelationship: the first, is the organisation of the system of justice and who does what; the second, is the degree of inter-agency confidence and trust. David Nelken points out, '...at any given time there continues to be important and systematic differences in criminal justice, whether this be regarding the relationship between law and politics, the role of legal and lay actors, levels of leniency, degrees of delay, and so on' (Nelken, 2002: 185).

## **Criminal Justice System Interdependencies**

League table comparisons of the use of prisons in different jurisdictions rely on the aggregation of the outcome of courtroom decisions based on individual cases. Is one jurisdiction more punitive if a higher proportion of all burglars sentenced go to prison? The answer is we do not know from the raw data because the courts might not be seeing a similar range of burglary cases. Sentencing decisions are not made in a vacuum. They are part of a series of decisions made by a number of participants following a crime. For instance, in one jurisdiction all burglary cases are reported and all the burglary crimes that are solved by the police are prosecuted. If this is compared

to a jurisdiction whereby less serious burglaries are filtered out by actions such as: the public's reluctance to report crimes to the police, the use of diversion strategies by police or prosecutors, the resulting set of burglars being sentenced in the courts will have very different features. In the second jurisdiction the burglary cases are likely to be the more serious ones, and if other aspects of the sentencing system are the same or similar, the result will be that it appears that prison appears to be proportionally favoured in one jurisdiction.

There are many aspects of a criminal justice system which means that one part of the system is dependent on cases dealt with by other agencies in the system. Without an understanding of these interdependencies it is possible to reach overly simplistic conclusions. This is especially true about the sentencing stage which is at the back-end of the system.

The distribution of resources is another aspect of how one agency in the criminal justice system is likely to be affected by others either upstream e.g. prosecutor screening or downstream e.g. lack of drug assessment places. In our research<sup>25</sup> judges in England and Wales commented on the unpredictability of available places in community sentence programmes and drug assessment centres. Where assessment centres were not available or full, judges could not request an assessment on the offender even when they thought this might help inform their final decision on sentence. In Finland the lack of medical and psychiatric personnel contributed, in post-war Finland not going down the path of individualised sentences based on a treatment approach to crime.

A comparison of sentencing practice between jurisdictions will inevitably be determined by the availability of resources. Third world countries do not have the tax base or GDP to be able to offer the range of penalties and the conditions for their implementation that would be considered standard in a more affluent society. Even within relatively affluent societies, as we saw in the previous section, the choice of sentence is influenced by the confidence of the judges in how they are carried out by the probation service, but is also influenced by resources and what is available to the courts.

A criminal justice system requires a degree of cooperation and information exchange. This is particularly evident as case files and offender information is forwarded from police to prosecutor to defence counsel to judge to correctional system.<sup>26</sup> The system depends on cooperation and information exchange. The accuracy and extent of data on offender information systems, provided by the police, prosecutor, probation and prison services used for sentencing purposes will vary. Increasingly we hear the demand from government and practitioners for new technology to provide system-wide information assumes that the agencies can agree a format of input and processing of data that generates down-the-line data that is both accurate, detailed and current.<sup>27</sup>

Despite the official objective to achieve joined-up government and inter-agency cooperation it is very obvious when looked at in more detail that most systems suffer from a degree of 'discordance' – a lack of shared goals, procedures and information. This was particularly evident in the responses to a survey conducted in California<sup>28</sup> based on 294 replies from county officials responsible for the criminal

justice system on California: District Attorneys, chiefs of police, chiefs of probation, presiding judges, public defenders and sheriffs. Bureaucratic divisions, rivalries over budget and relative power issues were some of the dysfunctional aspects of the working relations between agencies. This might be more apparent in the USA because of the governmental and political process is far more fragmented than in Europe.

However, the reply from one district attorney conveyed another crucial aspect of the dynamics between the agencies that derives from the adversarial principles of justice. He wrote:

It is misleading to analyse California's criminal justice system in other than the most general manner. No detailed analysis of such a system is likely to be productive because no such system exists. Rather, the agencies that this survey groups together are independent systems themselves and the agencies are not designed for cooperate with the other agencies to reach a common goal – or at least the common goals implied in this survey.

Police-prosecution agencies have common goals and these agencies cooperate to achieve such goals. Criminal defense agencies (and the private criminal defense bar) and the courts do not cooperate to achieve common goals with the prosecution-police agencies, other than to follow the procedures of the courts in the prosecution of criminal defendants.

Legal traditions and the constitutional law in the United States provide that the system of prosecution shall be *adversary*, rather than cooperative or inquisitorial. Because of the 5<sup>th</sup> and 6<sup>th</sup> Amendments the defendant and his attorney are independent of the courts and prosecution and owe no duties of cooperation into the investigation of crime. Although since *Mapp v. Ohio* the courts have increasingly regulated practically all aspects of prosecution. Nonetheless, neither the prosecution agencies nor the courts can be termed an arm of the other as perhaps in some European systems. Each agency is protected by the doctrine of separation of powers. (Davies, 1993: 60-61)

This clearly illustrates an important dynamic within a criminal justice system; the degree of cooperation allowed and the extent to which different jurisdictions vary in this regard.

This point leads on to another major dynamic that influences sentencing decisions, either directly through legislation or indirectly via shared cultural views. The political process and 'law and order' issues vary in significance as is apparent when comparing a district attorney in San Francisco standing for election to office; a general election campaign in the UK where crime is one of the top items on the political agenda; to Finland during an election and the relative absence of law and order issues.

## **Crime and its Socio-Cultural and Political Context**

The significance of crime and crimes vary across jurisdictions. Societal influences shape sentencing policy and decisions. Prison league tables do not take into account the variations in attitudes towards specific crimes such as burglary, or to crimes in general.



### ***Risk, extent and fear of crime***

One of the first tasks of scholars of comparative sentencing is to try to assess the risk and perceived risk of being a victim and the attitudes regarding the seriousness of different types of crimes.

These perceptions and attitudes are not the same in all jurisdictions. The climate of public opinion about crime in general and specific crimes may come to shape the expectations of those responsible for sentencing. Other factors being equal it would seem plausible to suggest that those societies where particular crime is regarded as more serious and is more prevalent the sentencers are likely to reflect this by using more severe sanctions.

With regard to the fear of crime in England and Wales the British Crime Survey (BCS) asked respondents how worried they are about various crimes: 51% said they were very worried or fairly worried about burglary: in contrast to 39% for physical attack, 41% for mugging and 29% for rape (Simmons, *et al* 2002: 83).

The BCS asked victims to assess the seriousness of different crimes on a scale of 0 to 20. Burglary with loss scored 9.3. This is higher than theft of personal property (4.7), common assault (6.3), or domestic violence (8.4). Only robbery (9.1) and wounding (10) scored higher than burglary (Simmons, 2002: Table 2.03). The nature of the impact identified by the judges in England and Wales was confirmed by the survey with respect to residential burglary: 'In 81% of domestic burglaries with entry reported in 2001/02 interviews, the interviewees reported that they had been emotionally affected' (Simmons, 2002: 34)

The International Crime Victims Survey (ICVS) gives some support to the notion that domestic burglary may be more gravely viewed by the victims in Britain than in Finland. On a gravity scale of 1 to 3, burglary was slightly more serious in the opinion of respondents in England and Wales (the values were 2.6, 2.4, and 2.4 for the years 1992, 1996, and 2000 respectively) than in Finland (2.3, 2.1, and 2.1) (van Kesteren *et al*, 2000: 192).

The fear, risk and the perceived harm of crime may become articulated into generalised community concerns in a society and might provide the basis for political mobilisation and action and I have noted previously in this article the different level of public concern about crime issues at general election times in the UK and Finland.

### ***Cultural and political significance of crime***

We cannot assume a homogeneous response to specific crimes or to crime in general across jurisdictions and cultures. Burglary has a different cultural significance in different countries (see above).

The fear of crime in general and the related concerns about the breakdown in law, authority and order - is another cultural dimension that may shape political attitudes to crime and sentencing. Hence the need to put sentencing within the context of the cultural representations of crime and the political mobilisation around issues to do with crime. Specifically the need is to look at the media portrayal of crime and the significance of crime in political campaigning and elections. Is there a distinctive law

and order culture and are moral panics an aspect of the general cultural climate with regard to crime?

The influences on this are complex but will include political mobilisation of opinion and media stories as well as the personal experience of crime. Also law enforcement practice, by focusing on different type of crime will determine whether routine non-alarming crimes rather than crimes regarded as more threatening, will shape popular imagery as to the nature of the crime problem.

However, it is important to be wary of attributing the public's crime concern solely to the manipulation of crime statistics or media induced moral panics. An awareness of crime is also provided by interpersonal and personal experiences of crime. The public are influenced by, but are not totally dependent on media sources for their knowledge and their personal experience of crime. In England and Wales the Sentencing Advisory Panel commissioned a survey to ascertain public attitudes about burglary. The public in the sample were asked about their sources of information regarding their knowledge about the local incidence of burglary. Whereas 72% identified local newspapers, 64 % also agreed with the statement that the source of information was from 'friends, relatives, colleagues and neighbours' (Russell and Morgan, 2001: 14).

Sentencing plays a particularly significant role in the link between the public's perception of crime and their generalised anxieties. The sentencing stage represents the formal pronouncement on the degree of 'wrongfulness' of the act and the appropriate response will act to re-assure those individuals involved directly in the case which includes victims, witnesses, offenders, criminal justice participants and of course their neighbours, friends and others who hear about the outcome of a local case. Thus localised collective impressions are formed about the system. Is it seen as soft or hard on criminals? Are the interests of the criminal put ahead of the victim or public?

The formal statement pronounced by the judge at time of sentence is the one chance for the system to formally denounce the criminal act and reassure the law-abiding public. Thus in addition to the offender-instrumental objectives of sentencing such as deterrence, rehabilitation and incapacitation there are other concerns which focus on the victim and public. The sentence is in part an attempt to reconcile these different aspirations. However, when judges concentrate primarily on the rehabilitative consequences of the sentence for the offender, they run the risk of increasing public anxiety that the system is not concerned with the interests of the law-abiding citizen.

Sentencing decisions are intrinsically linked to the emotive, irrational and cathartic aspects of responding to crime that manifest at times in moral panics. The cause of the moral panic is not necessarily a consequence of media distortion but of a wider anxiety that has resonance in local communities. Public reaction to sentencing decisions can act as a weather vane of public concerns about the threats to social authority (c.f. Hobbes) and shared social norms (c.f. Durkheim). Social order cannot be taken for granted. Social order is achieved at a number of levels. I wrote elsewhere:

...This is achieved directly, at times through the coercive arm of the law, but also indirectly through the consequences for public morality of the

community-level debates inspired by crime and our response to it. Public morality is not a fixed object but requires continual redefinition. The social construction of morality is inevitably bound up in the social processes by which we come to define and identify people as antisocial. The special form of regulatory norms we use to do this, the criminal law, is inevitably linked to our perceptions and moral interpretations of current, concrete events, circumstances, and behaviour. The business of the criminal law is just one, albeit conspicuous, thread in the tapestry of public morality. (Davies, 1993: xxv)

Crime is a socially sensitive phenomenon such that the significance of crime in each jurisdiction, in terms of perceived harm done, requires an empirical assessment rather than an assumption of a universal and homogeneous response to crime. Researchers should not assume all societies have the same response to a specific offence. Attitudes to abortion or child killing is an example that divides peoples and jurisdictions. Crime is an issue intricately linked to a society's notion of its values, in particular those to do with how anti-social behaviour should be regarded and responded to. The seriousness of an offence and what works (as punishment) in Texas cannot be assumed to be the same in China or Scandinavia.

#### ***Interdependencies within the system of formal and informal social control***

The effect of informal mechanisms of social control should be considered: traditional and close knit communities might resolve lower level crime by informal local measures and therefore only more serious cases being left to the formal criminal justice system. To understand the purpose of sentencing criminals it is important to explore the links between the formal and informal mechanisms of social control in a society and the role played by the agencies of civil society such as the family, churches, local community, schools, voluntary groups and associations.

Social compliance to social rules varies with cultures. David Nelken makes the point about the 'difficulty of distinguishing criminal justice from social control more broadly. The exceptionally low crime rates in Switzerland and Japan, for example, can only be understood in terms of such interrelationships' (Nelken, 2002: 177).

Finland with a population of 5.2 million is a smaller and more homogeneous society than England and Wales with a population of 52 million people. Other factors being constant, the larger, socially heterogeneous, multi-cultural and more differentiated societies will give a more prominent part to the formally agreed and articulated rules of formal justice systems where the primary concern will be with due process. The response to crime will be left to the formally approved agencies rather than the informal cultural processes because there are less shared cultural assumptions in common.

It would be true to say that both England and Wales and Finland are undergoing a period of change that generates pressure for greater convergence and integration because of membership of the European Union. At the same time as our study shows there are still considerable differences in the way these two relatively affluent and democratic societies with well developed health, welfare and education systems respond to the crime of burglary.

## Conclusion

The use of prison league tables does not provide a sound basis for understanding the differences between jurisdictions on matters of sentencing. I have argued in this paper for a more holistic approach to defining and understanding variations in sentencing practice within the context of the judicial and legal realities, and the context shaped by the criminal justice and social system of a country.

To say there is over-use of imprisonment, or under-use, is to assume there is an optimum prison population target. Should we assume that one country has the correct number of prisoners and that comparisons can demonstrate over or under use of imprisonment? Looking at prison populations elsewhere in the world will not generate a target figure for an optimum prison population.

The size of the prison population is not a *sui generis* phenomenon. Prison populations are the result of a process of sentencing that is shaped by a number of complex processes and are the product in England and Wales of over a million individual decisions by judges and magistrates in response to individual case factors and offender profiles.

To compare prison populations without discussing the nature and distribution of crime, or the processing of offenders through the criminal justice system, can lead to unjustifiable conclusions about the appropriateness and frequency of use of penal sanctions.

Imprisonment is an issue of individual sentencing decisions within a context shaped by sentencing systems, judicial cultures, interdependencies in the criminal justice system, and the socio-cultural and political context of crime.

Hence a methodology that takes into account the complexities and cultural context - as outlined in this article - is required if we seek to understand variations in sentencing and penal practice around the world.

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**Appendix**

**Table 7 – Judges Sentencing Decision for Case 3: A Standard Burglary, [England and Wales] n=51**

**Offence:** A burglary of a residential property in daylight whilst it was unoccupied as the residents were at work. A TV was stolen of £300 value.

**Offender:** The defendant has two previous convictions for non-dwelling burglary in the last two years. He pleaded guilty.

**Victim:** Professional couple who were both in their mid-40s. They are annoyed at the intrusion in their home and the subsequent inconvenience of claiming under insurance for the loss of the TV.

	<b>Court B</b>	<b>Court C</b>	<b>Court D</b>	<b>Court E</b>	<b>Court F</b>	<b>Court G</b>	<b>Court H</b>	<b>Court I</b>	<b>Court J</b>	<b>Court K</b>	<b>Court L</b>	<b>Average</b>
<b>Judge 1</b>	custody 24 m	custody 24 m	custody 18 - 20 m	custody 12 m	<b>culp</b>	custody 9 m	custody 12 m	custody 15 -18 m	custody 18 -24 m	custody 18 m	custody 15 m	
<b>Judge 2</b>	custody 18 -24 m	custody 18 - 24 m	custody 15 - 18 m	custody 18 -24 m	custody 12 -18 m	custody 15 m	custody 12 m	custody 24 m	custody 18 - 24 m	custody 15 m	custody 12 -18 m	
<b>Judge 3</b>	custody 36 m	<b>custody 12 - 24 m/ CSO</b>	custody 12 m	custody 24 m	custody 18 m	custody 18 -24 m	custody 15 m	custody 15 -24 m	custody 18 m	custody 15 m	custody 18 m	
<b>Judge 4</b>	custody 18 -24 m	custody 12 m	custody 21 -30 m	custody 18 m		custody 15 -18 m	custody 6 m	custody 18 m	custody 18 -21 m	custody 15 - 21 m	custody 18 m	
<b>Judge 5</b>		<b>custody 24 m/ CSO</b>		custody 18 m				custody 18 m		custody 24 m	custody 15 m	
<b>Judge 6</b>				custody 18 -24 m								
<b>Judge 7</b>				custody 18m								
<b>Judge 8</b>				custody 15 -24 m								
<b>Average N=50</b>	<b>25.5</b>	<b>18.6</b>	<b>18.25</b>	<b>18.94</b>	<b>16.5</b>	<b>15.38</b>	<b>11.24</b>	<b>19.2</b>	<b>19.88</b>	<b>18</b>	<b>16.2</b>	<b>18.1</b>



Key: / = or alternatively      **Bold** = cusp case      m = months      Where a judge has indicated a range e.g. 36 - 48 the midpoint has been used in the calculation of the courts' average i.e.42. Where a judge has indicated a sentence length in a cusp case in the possibility of prison then this is included in the average. Where no sentence length is given the judge is excluded from the average sentence length calculations. Thus the average is based on N = 50.

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## Notes

<sup>1</sup> Ealing Law School, TVU.

This paper is based on research from several comparative sentencing projects in California, Finland, Norway, China and England and Wales. I would like to thank the Nuffield Foundation for their support of the pioneering work with the judges in England and Wales, The Scandinavian Research Council for Criminology for support of the fieldwork in Norway and Finland, and the Department of Justice in California for the Senior Fellowship in the Bureau of Criminal Statistics. Much of this paper derives from the collaborative work conducted with Jane Tyrer (BCUC) and Jukka-Pekka Takala from the Finnish Ministry of Justice, Helsinki. I would especially like to thank him for compiling Tables 2, 3, 4 and 6. Finally, the burglary research with judges is being replicated in the Peoples Republic of China by Anqi Shen, a doctoral student at TVU. I believe this to be the first such study with judges in China and I would wish to thank her for providing a non-western view of the issues of comparative analysis.

<sup>2</sup> Walmsley, 2003: 5. Prison population rate in England and Wales is 139/100,000.

<sup>3</sup> Davies, Takala and Tyrer, 2004.

<sup>4</sup> Source: Davies, Takala and Tyrer 2004.

<sup>5</sup> Davies, Tyrer and Takala, 1996.

<sup>6</sup> Particularly since 1997.

<sup>7</sup> Aldous and Leishman, 2000.

<sup>8</sup> *Nacro News*, 12 February 2003: <http://www.nacro.org>.

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<sup>9</sup> Defendants awaiting trial will not normally be held in state prison but in sheriff of city gaol facilities.

<sup>10</sup> Walker, Collier and Tarling, 1990.

<sup>11</sup> Walmsley, 2003.

<sup>12</sup> ‘The CIA has noted that 16 of the world’s 25 youngest countries – in which the average citizen is a teenager – have suffered civil conflict since 1995. The median age of a person in Liberia is 16.6 years, in Sierra Leone it is 17.9 and in Palestine 16.8. Japan has the world’s oldest population, with a median age of 41.3 years....Paul Hewitt, an official at the Social Security Administration in Washington, and an authority on the effects of ‘youth gluts’ on triggering conflict agreed there were a parallels. “Youth is a key factor in crime and in triggering rebellion,” he said. Of course there are other factors too – such as sense of grievance about unemployment – but a disparity in age could be a valuable indicator of an imminent breakdown in order.’” Hellen, N., *Sunday Times*, 17 August 2003: 12.

<sup>13</sup> A point demonstrated by Ken Pease (1994).

<sup>14</sup> Source: Barclay and Tavares, 2002: 12.

<sup>15</sup> *Criminal Statistics England and Wales 2001/2*, Table 3.08.

<sup>16</sup> A fine *in lieu* of prosecution.

<sup>17</sup> Langan and Farrington (1998) compared burglary, robbery, assault and vehicle theft.

<sup>18</sup> Other populations such as remand prisoners were not discussed.

<sup>19</sup> The Criminal Justice Act 2003 gives a greater role to offender-instrumental goals within a retributive framework. This follows the recommendations of the Halliday report, *Making Punishments Work*, 2001. The CJA 1991 gave a greater focus on the seriousness of the offence rather than the risk and needs of the offender.

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<sup>20</sup> Source Davies, Takala and Tyrer, 2004.

<sup>21</sup> The Criminal Justice Act (CJA) 2003 will change sentence-time.

<sup>22</sup> CJA 2003 will change the system of early release and introduce a new type of sentence for short-term offenders known as 'custody plus'.

<sup>23</sup> In 2000 in England and Wales, the magistrates' courts completed 1,911,600 cases; the Crown Court 95,300 cases. Of those who were convicted, the overwhelming majority are not found guilty as a result of a trial but plead guilty. In the Crown Court the guilty plea rate for burglary is 73 per cent. (Johnson, 2001: 2-4).

<sup>24</sup> Davies and Tyrer, 2003 and Davies, Takala and Tyrer, 2004.

<sup>25</sup> Davies and Tyrer, 2003.

<sup>26</sup> In England and Wales the Home Office unit, Criminal Justice Information Technology (CJIT), has developed an integrated information system to enable criminal justice professionals in criminal justice organisations (CJOs) and others such as defence lawyers and barristers to share electronically and securely case file information in the form of case-specific documents (such as charge sheets), information in other formats (such as video clips) and information of wider interest (such as court listings). It is also intended to be capable of providing automatic updates (for example, court results) into linked systems and will support the Government's objective of enabling victims of crime to track the progress of their case online by 2005. CJIT: <http://www.cjit.gov.uk/home.html>

<sup>27</sup> See Auld report 2001.

<sup>28</sup> Davies, 1993.