

The Dynamics of Innovation and Influencing Change in Probation and Criminal Justice

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Introduction

By way of introduction, my name is Hannah Graham, and I work as a criminologist and lecturer in the Scottish Centre for Crime and Justice Research at the University of Stirling in Scotland. It is my pleasure to be here at the 3rd World Congress on Probation, to learn from the insights shared by delegates and speakers, and a joy to be able to speak to you today. Thank you to our Japanese hosts for their thoughtful hospitality and a well organised Congress.

This presentation briefly considers the nature and impact of innovation in criminal justice contexts, with a focus on probation and community justice. It encompasses a focus on the ethics and aims of innovation. It is important to acknowledge that this presentation draws upon international research and a few publications on ‘innovative justice’^{2 3} (Graham and White, 2014, 2015, 2016; White and Graham, 2015) which I have co-authored with my colleague in Australia, Professor Rob White. This presentation is also informed by aspects of a forthcoming (December 2017) Special Issue on ‘Innovation’ in the *European Journal of Probation*, a journal and a Special Issue of which I have the privilege of being an Editor (see Graham, 2017).

Some of the things I want to discuss today are of conceptual nature, and my thinking on this is more exploratory than it is explanatory, perhaps raising more questions than answers. However, these can be interpreted quite differently in their application, and they carry practical real-world implications. Given the international practice wisdom and variety of experience in the room, I am interested in hearing the insights and feedback of others, so please do ask questions, speak to me at the conference or email me afterwards.

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² Graham, H., & White, R. (2015) *Innovative Justice*, London: Routledge.

³ Graham, H., & White, R. (2016) Chapter 17 ‘The Ethics of Innovation in Criminal Justice’ (pages 267-281) in Jacobs, J., & Jackson, J. (eds.) *The Routledge Handbook of Criminal Justice Ethics*, London: Routledge.

Public calls for criminal justice reform, including probation service reform, as well as calls for broader public service innovation continue to saturate public, professional and academic discourses in many jurisdictions – in the press, in parliaments, in public debate, and among practitioners and policymakers. Yet, while support for positive change in principle may be widely observed, it is not matched by a similar level of consensus regarding the forms, the functions and directions such desired changes might take in practice, and why. There is a sense of ‘What do we want? Innovation. When do we want it? Now’, yet little shared consensus of how and why. Innovation in probation and community corrections is pioneered and understood amid plurality and complexity. For those looking for definitive answers, I am afraid this talk will not involve prescriptions of ‘what works’ in innovative justice, because these remain under-researched and contested.

There is a list of questions and gentle problematisations I have been starting to explore, which I will share here, but by no means answer in a definitive way! They are part of a forthcoming editorial article (Graham, 2017). These questions include: What do we mean by innovation in criminal justice, and who or what is being reformed? What makes advances in criminal justice just? Innovative according to whom and to benefit whom (evidence, expertise and experience)? How can we know whether an innovation is advancing innovative justice or innovative punishment? Why is innovation often used to describe something that is new? What is the relationship between innovation and influencing change at different levels, from individual to societal? How might an innovation not only promote community and civic engagement, but be more transformative in renewing the civility of civil society towards people with criminal convictions, ‘returning citizens’? How do innovative initiatives engender and build trust, cooperation, perceptions of procedural justice and legitimacy? How can we sustain and mainstream innovation? What are the opportunities and challenges of mainstreaming innovation, and what happens if a penal expansionist logic of ‘more’ (carrying a risk of net-widening) overtakes a penal exceptionalist logic of ‘better’ (for one and all)?

I also wish to challenge a common assumption that appears in the way many people may speak. Just because something is new does not necessarily mean it is innovative. When asked to define innovation, many definitions focus on the new. But this raises other important questions about ethics and about the histories, pre-conditions or pre-cursors or foundations that are needed for innovation in probation and community justice to thrive. What are the fundamentally important values and foundations of probation that need to be kept and built upon in environments preoccupied with pursuit of new interventions and programmes (in other words, what probation values and cultures are important pre-conditions for innovation to flourish)? Also, some of the most important supports for desistance from crime and community reintegration involve things that all human beings need to live in community: a house or safe place to live, an income or source of money and resources, positive human relationships, work and meaningful activities. Is the realisation of these things necessarily innovative? For example, in some Scandinavian countries, criminal justice services and facilities are designed around a principle of

normalisation, which is interesting to think about – what is the relationship between normalisation (advocating and supporting offenders to live normal routines and lifestyles to realise independence in the community) and brokerage approaches where services available to all citizens work with offenders, and the pursuit of pioneering innovation and change?

In this presentation, using Graham and White (2016), I want to briefly explore a way in which innovation in criminal justice contexts can be analysed in a more systematic fashion. Specifically, after describing ‘social innovation’ as the central concept of interest here, we can test its possibilities by analysing it in terms of what Siedman (2010) calls three types of strategies for change, which encapsulate different attempts to influence change:

1. amelioration,
2. disruption and transformation, and
3. accommodation.

This means reflecting on the extent to which creative and pioneering forms of innovation may be used not only to benefit the people directly involved, but also the extent to which they ameliorate, disrupt and transform, or accommodate larger scale processes of mass supervision in the field of probation and community corrections and mass incarceration or hyper-incarceration in the field of prisons and custodial corrections.

The three types of strategies differ in scope and temporal dimensions of the change and reform which they seek to produce. Pragmatic and participative in style, ‘*ameliorative*’ ideas and approaches seek to realise improvements in the here-and-now, helping those most affected by crime and punishment (Siedman, 2010). Conversely, ‘*accommodation*’ ideas and approaches involve a certain level of acceptance of existing penal cultures and practices which, in part, produce mass incarceration or hyper-incarceration, while incrementally seeking their adaptation to achieve more positive, or at the very least less harmful, outcomes. This type of ‘solution’ may not immediately appear to be innovative or to differ from normative approaches, yet it has the capacity to realise incremental change from the inside (Seidman, 2010). By way of contrast, ‘*transformative*’ ideas and approaches reject and disrupt the *status quo*, and often entail alternatives to and/or extensive relinquishment of existing orders of penal power and social stratification. This type of strategy is less predictable in its impact: it may spark revolutionary and wide-reaching effects which make it difficult to return to what was before, or it may amount to utopian but unrealised visions which do little to mobilise the actions needed to realise them, either in part or in their totality (Seidman, 2010). These three strategies are not mutually exclusive, as a moderate degree of overlap and hybridisation exists.

The Importance of Aims and Ethics – Avoiding Innovation as ‘Decorative Justice’

One of the core arguments from our research (Graham and White, 2014, 2015, 2016) that I wish to highlight here is to argue that, in contemporary criminal justice systems and penal cultures, innovation is not morally or politically neutral. Not all that is new or seeking to influence change in criminal justice is effective, ethical or just, underscoring a critical need to analyse what is considered to constitute innovation in probation and community justice – above and beyond consideration of novelty, popularity, visibility or managerialist notions of efficiency. In other words, not all that is ‘innovative’ is necessarily good or just (Graham and White, 2014, 2015). Just because something is ‘not prison’, does not mean it is innovative or good. Questions about the forms and functions (‘what’, ‘where’ and ‘how’) of innovation in criminal justice should not be divorced from questions about its architects and beneficiaries, including their intentions and ideologies (‘who’ and ‘why’). What are the collateral consequences of innovation?

Attention needs to be drawn to issues of power and politics in considering which ‘innovative’ justice initiatives are genuinely predicated on a logic of change and reform, and those which may paradoxically support the status quo or mask the sources and effects of the penal problems they are supposed to resolve. In considering the place of the arts and creativity in prisons, Cheliotis (2014) considers instances of ‘decorative justice,’ where positive and even innovative arts and creative initiatives might be serving implicit purposes of decorating conditions, systems and regimes which are not positive or innovative. The need to avoid ‘decorative justice’ is relevant to discussions of the ethics of innovation in probation and community justice as well. In light of this, I wish to highlight the aims of social justice and social change as integral to the notion of innovation in probation and *community* justice being considered here, alongside more common aims of service-level and systemic change within the field of criminal justice.

Re-defining Understandings of Innovation and Change in Criminal Justice to Include and Emphasise Social Innovation and Social Justice

There has not yet been enough critical analysis within criminology and penology on the meanings of innovation, as well as its immediate and collateral consequences. Practitioners, practice leaders and policymakers are often compelled to describe something new as ‘innovative’, but perhaps, together, we need to problematise this and be more critical about it.

While terms such as ‘innovative’ and ‘creative’ are increasingly used to describe an array of new developments in criminal justice, I want to introduce an emphasis on *social innovation*. This is similar but different to the more widely used general term ‘innovation’, which carries multiple connotations deriving from its intellectual origins in business and entrepreneurship and science. There need to be constraints to the entrepreneurial flair when we are talking about

community sanctions and measures or prison, as we are mostly still talking about punishment. There also needs to be restraint in the correctional impulse to change people as the focus of ‘innovation’. Please do not misunderstand what I am saying here: there is some value in psychological correctional rehabilitation; however, this needs to be complemented by consideration of other forms of rehabilitation and reintegration, namely social, legal or judicial, and moral and political rehabilitation (see McNeill, 2012). What role might innovation play in advancing these?

Social innovation (SI) is premised on being a response to a need, problem or issue of social justice. Examples include food poverty, homelessness and lack of affordable housing, sexism and gender inequality, cyber-bullying, lack of infrastructure in war zones, sanitation issues, or climate change. The Stanford Center for Social Innovation (2013) defines social innovation as:

A novel solution or pioneering approach to a social problem that is more effective, efficient, sustainable, or just than present solutions and approaches, and where the value and benefits of these are social in the sense of collective.

Social innovation in criminal justice and community contexts has the capacity to result in change and produce social value beyond the individual personalities and organisations that might have been instrumental in instigating or initiating it (Stanford Center for Social Innovation, 2013; Grimm et al., 2013; Graham and White, 2015). Similarly, in articulating what is meant by ‘social value’, Phills, Deiglmeier and Miller (2008: 39) explain that it is ‘the creation of benefits or reductions of costs for society – through efforts to address social needs and problems – in ways that go beyond private gains... [these benefits] may accrue to both disadvantaged or disenfranchised segments of society or society as a whole.’ Swapping the term ‘social problems’ for the alternative of ‘social needs’, Murray, Caulier-Grice and Mulgan (2010: 3) define social innovation as:

New ideas (products, services and models) that simultaneously meet social needs and create new social relationships or collaborations. In other words, they are innovations that are both good for society *and* enhance society’s capacity to act.

What may be considered ‘good for society’ is likely to be open to interpretation and contested. However, these definitions are used here because they are relational and humanitarian in their orientation in responding to social problems and needs and their orientation towards processes of social change. These definitions are useful because they also allow us to consider not only crime as a social problem potentially warranting social innovation as a response, but also to consider the proliferation of punishment – mass supervision, mass surveillance, mass incarceration – as social problems and social harms potentially warranting social innovation as a response.

Social innovations, as such, are exceptionally diverse in the forms and functions they may take. They often involve community groups, social enterprises, cooperatives, charities and civil

society organisations in their implementation; however, private firms and public institutions are increasingly partnering with others to enable social innovations to thrive. Social innovations often recognise and involve citizens and civil society, inspiring peoples' interest and mobilising their time and resources, in ways that State/government policies may struggle or fail to do so. In jurisdictions and cultures where individualism is more prominent than the collective, this type of approach to innovation may be more counter-cultural than in jurisdictions with a more collective culture centred around groups, participation and belonging.

Innovations are more often nested in what is increasingly being referred to as 'eco-systems' of social innovation in recognition of the constellation of factors, relationships and actors that are often involved. Social innovations can be local or structural, ranging in scale and impact from 'grassroots'-level initiatives which tend to assist vulnerable people or particular communities of interest, through to systemic initiatives which are catalysts for fundamental shifts in attitudes, values, strategies and policies, organisational structures, markets and economies, and systems (Bureau of European Policy Advisors [BEPA], 2011).

In essence, social innovation is responsive, participatory and solution-focused in nature (Graham and White, 2015). At every level of analysis, it is concerned with ethical and sustainable change. The aforementioned definitions emphasise the pursuit of social innovation as being premised on the acknowledgement of some kind of social problem or need. Social innovation can be harnessed to serve community or collective interests, with its responses amenable to being aimed towards the immensely popular but imperfect ideal of reducing recidivism rates, without necessarily posing a challenge to the dominance of public protection agendas.

Now I wish to turn briefly to some potential examples to illustrate what I am talking about. The examples that I offer here and by no means definitive or in-depth, and these are explored in more detail in our book, *Innovative Justice* (Graham and White, 2015) and other publications (Graham and White, 2016; White and Graham, 2015).

The first example is to consider innovative education and digital social innovation technology initiatives which engage different groups of people (e.g., youth, elderly, or prisoners) in response to issues of inequality and discrimination, such as exclusion from or discrimination in labour market participation (work) and digital society. In a prison context, in the US, a non-profit initiative called The Last Mile⁴ (2015) trains male and female prisoners as computer programmers, giving them access to cutting-edge technology, business education and work skills, and supporting their reintegration and post-release employment prospects in the fields of entrepreneurship, business and digital industries. It has drawn high profile attention (a White House visit, as well as from Facebook founder Mark Zuckerberg and others) to the cause of prisoner reintegration and resettlement, the *personal and social* impact of in-prison career

⁴ The Last Mile <https://thelastmile.org/>

training, and the need for people with convictions to gain work upon re-entry. In Europe, a similar new initiative with prisoners, ‘Code 4000’⁵, has started. These initiatives are prison-based. What might be an equivalent for probation and community justice, and how might digital social innovation involving people with criminal convictions be configured in a community setting?

Some innovative social ventures succeed precisely because they are tailor-made for people in prison or community sanctions and measures. A key example of this is new forms of arts or employment-based social enterprises which aim to assist community reintegration and desistance processes (see Lindahl, 2007; Graham, 2015b). However, many other social ventures are effective because access to and participation in them is open to a diverse variety of people in the community, including but certainly not limited to people with convictions. Examples of this are the networks of people involved in community time bank initiatives. Time banking is ‘a unique transaction based system for mutual aid and assistance that fosters economic opportunities, social inclusion, community self-help and enhances civic engagement among often marginalised community members’ (Marks, 2012: 1230). Importantly, it can also enhance civic engagement among more influential actors and agencies in civic society. Time banks can be based on a ‘person-to-person’ model or a ‘person-to-agency’ model (Murray *et al.*, 2010: 201), the latter of which can involve all sorts of stakeholders (e.g., including individual citizens, social housing services, local authorities, transport services, schools, trades and commercial services) and time volunteered can become a substitute or form of co-payment alongside money for things like bus fares or rent in social housing. There are existing time banking initiatives involving children, young people and families involved with youth justice and child welfare services (see Drakeford and Gregory, 2010; Marks, 2012), as well as with prisoners and other people within the criminal justice system (Gregory, 2012).

The area of correctional industries and work (paid or unpaid) initiatives for prisoners, probationers or parolees illustrate the need to differentiate creative and effective ideas and approaches that, when taken on face value, appear similar, but upon closer reflection, reveal ethical divergences. In various places around the world, prisoners or probationers are trained to work (paid or unpaid) as firefighters. Again, I wish to highlight the mixed motives and substantive differences in the benefits for participants (the prisoners, probationers or parolees) and the benefits for the State derived from this seemingly positive or even innovative initiative. The socially valued role of fighting fires can tap into feelings of accomplishment and ‘giving back’ on the part of many prisoners or probationers, and hence may act as a prelude to their rehabilitation and desistance. Yet issues remain regarding the place of prison labour, in particular instances of its exploitative forms and functions, within criminal justice. An example from the American state of California illustrates why making the effort to differentiate and reflect on the ethics of innovation is a worthwhile exercise. Prisoner firefighters in California

⁵ Code 4000 <https://www.code4000.org/en>

are trained for approximately three weeks, much shorter than the three year apprenticeship training that full-time civilian firefighters are given (Lowe, 2017). In recent years lawyers for the State of California have resisted court orders that they expand parole programmes because to do so would reduce the pool of inmates available to undertake prisoner industries. By employing inmates to fight fires who are paid for less than \$2 per day, working fire-fighting shifts of up to 24 hours a day (Barford, 2015; Lowe, 2017), the State of California saves more than \$100million per year (Californian Department of Corrections and Rehabilitation in Barford, 2015; Lowe, 2017). This means that any overarching policy which expands parole simultaneously reduces the number of inmates available to fight wildfires (Flatow, 2014). There is thus a built-in systemic financial disincentive to let prisoners out on parole early (Flatow, 2014), even though prisoner firefighters are able to obtain ‘day for day’ credits for good behaviour that help to ‘accelerate’ their release by discounting time from their sentence (Barford, 2015). Despite some good results it may achieve, arguably, this type of initiative accommodates the norms and factors that continue processes of mass incarceration, and enables the State to use ‘good news stories’ as decorative justice to belie ulterior motives that are ultimately at odds with efforts towards decarceration and the promotion of the human rights of prisoners as citizens. Unfortunately also, this type of ‘work’ and correctional industry is not without serious risks – to date, five prisoner firefighters have died from their injuries (Inside CDCR, 2017; Lowe, 2017).

In terms of more positive and innovative examples of people on a community sentence working in response to a natural disaster or environmental emergency, in ways which might not only help them but benefit affected communities, two examples come to mind. The first is from 2014 in Croatia, where probationers and the Probation Service helped in the wake of severe floods (Špero, 2015). The second example is that of The Skill Mill⁶, an award-winning social enterprise which is having a positive social impact where it in England and Wales and has now expanded to include Latvia, Lithuania and Estonia. The Skill Mill is a not-for-profit social enterprise providing employment opportunities to young offenders aged 16-18 years old in watercourse and horticulture services, including flood mitigation and natural habitat protection (see Long et al., 2017; White and Graham, 2015). It relies on a considerable amount of collaboration and partnership working between different people and groups in the local community.

Finally, there are a plethora of other positive innovative initiatives that I do not have time to go into here (see Graham and White, 2015 for a comprehensive discussion). These range from smaller scale initiatives involving animals, sports (sports criminology, sports in the reintegration and desistance process) or the arts and creative industries; through to medium or larger scale initiatives such as justice reinvestment; microfinance and entrepreneurship training and resources for people with convictions to start their own businesses or social enterprises;

⁶ The Skill Mill <https://www.theskillmill.org/>

‘ban the box’ initiatives and social movements regarding criminal conviction disclosure in the job-seeking process; or national initiatives using policy levers to reduce the use of prison. These are not necessarily intrinsically innovative *per se*, but there are innovative examples of these in different jurisdictions around the world which employ ethical and effective purposes and practices.

Social Innovation and Criminal Justice in an Era of Mass Supervision, Mass Surveillance and Mass or Hyper-Incarceration

With regard to criminal justice, provocative questions linger. How might social innovation be rationalised in light of the costs and harms of crime control and criminal justice, especially in an era of austerity and fiscal constraint? The economic, social, moral and human costs and pains of incarceration, probation, electronic monitoring and other sanctions and measures are well-documented (see, for example, Clear, 1996; Durnescu, 2010; Henrichson and Delaney, 2012; Payne et al., 2014). Incisive critiques draw attention to the contributions of ‘mass supervision’ (that is, the burgeoning growth of community-based penal sanctions) and ‘mass incarceration’ or ‘hyper-incarceration’ (that is, spiralling incarceration rates, encompassing a racialised and gendered impact) to crime, social inequality and injustice (Clear, 1994; Cunneen *et al.*, 2013; Garland, 2001a, 2001b; McNeill and Beyens, 2014; Miller, 2013, 2014; Simon, 2000; Wacquant, 2001, 2009; Wakefield and Uggen, 2010). The inference that criminal justice policies and practices are as much of a social problem as the social problem they purport to address (crime) remains controversial, but should not be disregarded (Graham and White, 2016). To universally accept policies and practices as neutral and unproblematic is to belie the social determinants and structural mechanisms that influence who does and does not become subject to them. This, in turn, carries implications for who does and does not need to participate in or become a beneficiary of an innovation in criminal justice contexts. But please hear what I am saying and what I am not saying in this. I am not trying to negatively criticise or blame criminal justice practitioners and policymakers; I am mindful of the practice wisdom and amount of experience in this room and in the field of probation and community justice. Justice practitioners and policymakers can be instrumental in leading inspiring and excellent initiatives to realise change. But this does not mean we cannot be reflexive about trying to identify policies and practices which may accommodate or even perpetuate the proliferation of punishment and net-widening as to what and whom becomes involved in criminal justice systems.

Can social innovation be justified as a legitimate response to the proliferation of punishment? I believe it can. In most Western jurisdictions, crime rates are falling, and this trend is consistent over time (see Tonry, 2014). The specific populations in which rates of criminal offending are *not* falling are those who have been subject to disproportionate rates of penal sanction, especially incarceration, as well as rather punitive approaches to non-compliance and breach,

further confining them to reside in corrections systems. It would therefore be more apt to ask whether the forms and functions of social innovation are better placed to respond to the needs and reintegration of people, individually and *en masse*, who have been subject to penal intervention? The rise of critical carceral studies and notions of hyper-incarceration add a certain level of credence to this purpose, insofar as the people who are the subjects of punishment are, more often than not, individuals and groups who live with social inequality, exclusion and victimisation before, during and after criminal justice intervention (see Wacquant, 2009, Cunneen *et al.*, 2013).

Just as punishment is not morally or politically neutral, social innovation in penal contexts is not either (Graham and White, 2016). As with many facets of criminal justice, there are frequently helpful, unhelpful and even deeply paradoxical applications associated with particular innovations, and diverse motivations for their introduction. Furthermore, no individual or single innovation should be reified as a universal solution or a panacea. The examples and strategies considered here are not as discrete or separated as they might initially seem. Context matters, as does culture. Claims of being ethical and effective are contingent upon those making them and the multi-faceted implications they carry. Thinking about innovative and utopian ways of supporting desistance implicates thinking about better, different futures, including better societies and social conditions, rather than considering issues of probation and community justice in isolation (see Graham and McNeill, 2017).

If innovation within (and beyond) criminal justice is to accomplish ethical and effective impacts, extending from the level of the individual (e.g., supporting desistance processes, community reintegration, individual agency and equality) through to the level of society (e.g., reducing mass supervision and mass or hyper-incarceration, more creative responses to injustice, promotion of community safety, social equality and social cohesion), a considerable amount of theoretical and empirical work still needs to be done. It needs to be done *together*, in an integrated and in-depth fashion. I am a big believer in ‘pracademia’, in research and evaluation of innovation in criminal justice that is done with and for practitioners, policymakers, service users and other citizens, where we share our expertise and experience. State and national governments and criminal justice institutions, including probation services, are key contributors within this – we cannot understand innovation in probation and community justice well without your participation and input. We also need leadership and strategic insights, and this includes, for example, groups such as the Confederation of European Probation (CEP) as well as Director Generals of Probation and people in Ministries of Justice from different jurisdictions, as well as influential social entrepreneurs who are leading change in criminal and social justice. Similarly, we cannot understand it well without the participation and input of other community members, otherwise we risk isolated and reductionist analyses that do not pay sufficient attention to the social dimensions of innovation and justice.

I hope that the reflections and questions that I have raised in this presentation have sparked thoughts and ideas, based on your perspective and experiences, and I welcome people contacting me if you have insights to share, or if you wish to challenge something that I have said today. As I said earlier, my thoughts in this area are exploratory and I am thoroughly enjoying the process of reflecting on innovation, and the ethics and dynamics of innovation, in criminal justice. It has been my privilege to share this with you. Thank you for listening.

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