

## **GUNS, GANGS, DRUGS AND JUSTICE**

Peter Herbert, barrister and part-time judge in the first of this multi-part article gives his views about the current wave of gun crimes that everyone in the country is talking about.

### **Gun Crime – Taking Young Lives**

Black African/Caribbean people are 5.5 times more likely and Asian people 1.8 times as likely to be victims of a homicide as White people. As to the ethnic disparity the rates are stark with 32% of all black people killed by firearms as against only 5% of white victims. The immediate context is the spate of shootings of three young black teenagers and others shootings in recent weeks and months which itself comes against a fall in gun related crime in London. The monthly performance statistics produced by the Metropolitan Police show that gun enabled crime totalled 3,329 offences in the period April 2005 to January 2006 compared to 2,872 offences for the same period in 2006 to 2007, (down less 13.7%).

In a direct response to the poor handling of informants by the Metropolitan Police, part of the response was to develop a specialist unit (Operation Trident ) to deal with so called “black on black crime”. Operation Trident has developed into a dedicated operation with its own publicity ad and a specialist Independent Advisory Group (I.A.G.), chaired by Lee Jasper, the Mayor’s Adviser on race and Equality. The number of Trident enabled gun crime fell in the same period from 234 offences to 198 offences (down 15.4 %), but included some of the murders that have led to the current crisis.

The Government response was as usual media focused on damage limitation to the political need for both the Prime Minister and the leader of the opposition David Cameron to be seen to be talking “tough” and to deride the other for their failure to tackle the problem.

David Cameron’s response was to say that Mr Blair had held summits since March 2000, including a previous gun summit in January 2003 following the shooting of the black teenage girls in Birmingham. “We get a press conference, a flurry of headlines

and then nothing else” he said.<sup>1</sup> This was in response to the No 10 Gun Crime Summit held on Thursday 2nd February which appeared to a carefully stage managed event attended by the Chair of the Trident I.A.G. Lee Jasper, Cindy Butts, Vice Chair of the Metropolitan Police Authority (M.P.A) and the Reverend Nims Obunge , Chief Executive of the Peace Alliance crime reduction charity. The Home Secretary used the summit to announce a “new” three point plan that involved mandatory minimum sentences for 17 year olds to deter girlfriends or siblings from carrying guns belonging to gang members which would also result in a five year minimum sentence.

At the MPA meeting being held at the same time the Metropolitan Police Commissioner Sir Ian Blair maintained his stance that the Government should “reconsider” the necessity of such mandatory minimum sentencing. The Tory leader commented by way of opposition to those statements that new laws were not necessarily the answer on a day that a “hoodie” from Manchester mimicked firing a gun at his disappearing back

The Metropolitan Police in reports obtained by BBC Radio London spoke of an identified 169 gangs in London alone each with up to 30 gang members, with over a quarter involved in murder and nearly half involved in serious assaults. The report linked 19 gangs to causing a “high level” of harm with 29 involved in causing a “medium level”. The police analysis showed that gangs caused a fifth of all crime with identifiable gangs in Hackney, Enfield, Lambeth, Merton, Waltham Forest and Brent.

The spate of shootings in recent months has underlined the fact that despite increased punitive measures such as those included in the Criminal Justice Act 2003 enabling judges to give far longer sentences for violent and sexual offences, the deployment of thousands of extra police officers and community safety teams across London that gun crime together with the drugs trade remains as far from being solved as ever. The proposals to ban replica guns still awaits introduction although many believe that leaving guns available for purchase provided that they are kept on

---

<sup>1</sup> Evening Standard, page 2, 22/2/2007.

private premises is one loophole too many given the number of replica and decommissioned weapons that are still brought back into circulation.

### **Mandatory Minimum Sentences – A recipe for Disaster**

It is clear from the overwhelming evidence that mandatory minimum sentencing has not produced any proven deterrent effect in the United States, either in terms of capital punishment and the murder rate or in the sentencing of drugs offenders over the last thirty years. It has, on the contrary led to harsh sentencing practice which has had a clear and dramatic discriminatory impact on African and Native Americans.

The cost to already vulnerable communities has to further damage their fragility and weakness to self regulate with an enormous cost to the state in imprisoning increasing numbers of young men and now women who present a far higher rate of recidivism. The general public is neither safer in real terms nor in its perception of crime despite the media claims of politicians.

The United States, thanks to the imposition of mandatory minimum sentences now has 5 to 8 times the imprisonment rate of any other western industrialized country. For example Canada has an incarceration rate of 1/7<sup>th</sup> of the rate of the United States, with other European countries achieving similar results without dramatic rises in the rate of crime. The United Kingdom with its own version of this discredited sentencing policy enshrined by the Criminal Justice Act 2003 appears determined to follow the failures of the United States.

The desire to use mandatory minimum sentences must be seen in the context of the strong trend towards the use of custody as a panacea for all the ills of the criminal justice system. Sentencing in England and Wales has increasingly been seen as a political expedient for all political parties to establish that they justify the label; so seemingly popular with voters of being tough on crime. Community penalties have become, particularly over the last 15 years synonymous with a soft option. The rhetoric of imposing longer and longer sentences of imprisonment has led to the present crisis in the number of prisoners which now tops 80,000 plus. The average

Prison sentences have risen in the Crown Court from 22 months to 28 months over the last ten years. Magistrates have also been influenced by this drive towards the need to “protect the public” with an even greater use of custody as the first rather than the last option.

The result has been a huge and expensive increase in the prison population without any discernible benefit in either the safety of the general public but a prison building programme which simply cannot keep pace. The eight new prisons which the Home Secretary announced recently will be full before they are even built at the present rate of imprisonment.

It is the opinion of many leading black organisations that the drive to impose Mandatory Minimum Sentences (MMS) for gun crime falls in line with this willingness to see sentencing as an integral part of a political desire to be seen to be “tough on crime”. This issue spins out in the media battle with direct competition between the Labour Government and the Conservatives and Liberals whilst paying no regard whatever to the likely consequences. Judges or others who speak out against the imposition of longer and longer sentences are alleged to be “soft” on crime in the simplistic assumption that the public will vote for the political party irrespective of whether the sentences work or not.

The media, in particular the Express and the Daily Mail are quite happy to feed middle England with horror stories of “weak and “soft judges” who allow paedophiles to roam free or muggers to be released with a community sentence. The recent media storm about the paedophile in Cardiff only given 11 years failed to recognise, as did the Home Secretary that his own legislation forced the trial Judge into a sentencing straightjacket, forced on all judges by the Labour party’s own legislation. It took the Attorney General to point out the obvious.

### **Mandatory Minimum Sentences – The Labour Party Experiment- “Tough on crime and Tough on the Causes of Crime”**

The famous sound bite that heralded the Labour Party’s election manifesto in 1997 has been bought at a price by those on the receiving end as the general public

accepted that rhetoric without obtaining the substance. Control through Anti Social behaviour Orders and other measures of control have become the latest fashion accessory of a criminal justice system that is all about control and little about prevention or understanding of what drives the individual to that behaviour. In January 2005 the notorious Criminal Justice Act 2003 introduced mandatory minimum sentences for those convicted of possessing a firearm of five years for those over 18 and of three years for 16 and 17 year olds unless their were exceptional circumstances. The Court of Appeal in *Campbell* ruled, not surprisingly in the light of international law and in particular the Powers of Criminal Court Act 2000 that to do so for 18 to 20 year olds would conflict with that legislation. Despite the fact that the conflict had not been resolved the Metropolitan Police Commissioner revealed that,

**“he had spoken to the Home Secretary this morning who was sympathetic to Sir Ian’s request that the minimum age for a mandatory five year prison sentence for possession of firearms should be reduced to seventeen”.<sup>2</sup>**

Dr Reid, the Home Secretary, stated that, the steady expansion of prisons places will ensure that the current prison crowding situation is resolved, and that dangerous criminals remain behind bars where they belong...violent, serious and persistent offenders should be incarcerated for as long as necessary. With tough sentences for serious violent offenders, including those who carry guns”.

**Peter Herbert is a barrister and a part-time judge. He is the Chair of the Society of Black Lawyers and the Deputy Chair of the Metropolitan Police Authority with responsibility for the policing agenda for London, stop and search issues and deaths in custody. He also chairs the pan-London independent Race Hate Crimes**

---

<sup>2</sup> Metropolitan Police Bulletin 0000000633, 15th February 2007