

Research Space

Journal article

Just a nudge

Bryant, R. and Heaton, R.

'Just a Nudge'

or

Can We Arrest our Way Out of Anything?

Published in *Police Professional* magazine, 10 December 2019

In recent years, it has become commonplace in political, academic and even policing circles, to argue that 'we cannot arrest our way out of' a particular social problem such as drug abuse, circulation of indecent images, radicalisation, public disorder or people trafficking. It has even been said of serious violent crime in general, and knife and gang-related crime in particular. By 'arrest' commentators are often using a shorthand to refer to those 'traditional' responses which form part of our criminal justice system such as stop and search, prosecution and arrest itself. Some of these commentators have gone so far as to suggest that the criminal justice system should withdraw entirely from areas such as drugs enforcement and youth knife crime, in favour of less confrontational, problem-solving approaches co-ordinated by other agencies.

Readers of *Police Professional* might be starting to believe that the very purpose of the criminal justice system is under question. But if the simple answer to 'Can we arrest our way out of anything?' really is 'No', isn't the more complex response that a policing response to social problems such as arrest remains part of the answer (perhaps even on occasions, a vital one)? Is there a danger that when we publicly 'talk down' the role played in addressing social problems through law enforcement activity, that we might unintentionally undermine its continuing importance?

Superficially it is of course the case that the police cannot 'arrest their way' out of any crime problem. Crimes will continue to persist for many reasons, irrespective of arrest or any other policing action. In the UK, there is about one police officer per 500 population, equating to nearer one officer on duty at any given time, per 2,500 people. This position is broadly replicated in all Western societies, which in the main, enjoy levels of crime and personal security which are generally considered to be tolerable, if unevenly experienced and far from absolute. Yet it seems unarguable that if more than a tiny proportion of citizens needed to be 'dealt with' as offenders at a given time, the policing function would be overwhelmed very rapidly. We have to conclude that self-policing and mutual policing of citizens predominates.

The use of sanctions as a specific deterrent towards an offender, and a general symbolic deterrent towards the wider population, is a centuries-old and almost universal concept. Studies of deterrence in policing started in earnest in the 1960s. The subject has been often sub-divided into the deterrence which might be derived from the **certainty** of sanction, the **severity** of sanction and the **immediacy** of sanction. According to the US criminologist and statistician Daniel Nagin, the criminal justice system exerts a substantial deterrent effect upon crime levels. The risk of arrest is a key factor, in keeping with Cornish and Clarke's 'rational choice theory' of the 1980s. This risk relates not to the actual likelihood of arrest, but to the perceptions of potential offenders. Those with little or no experience of the criminal justice system consistently overestimate the certainty of detection whereas more experienced offenders find that the risks are smaller than they originally anticipated and their deterrence is incrementally lowered. We may be witnessing just such an effect with the recent increases in online fraud. A related finding is that to maintain deterrence, credibility of sanction is essential. For example, tax collection rates from visible earnings are reasonably high

whilst those from invisible earnings are very low. In the policing sphere, our observance of vehicle speed limits has been transformed by the advent of static cameras.

Further studies have consistently shown that increases in visible police presence are accompanied by reductions in crime, as potential offenders become less willing to take the perceived risks. Nagin believes this 'sentinel' role to be the primary source of police deterrence, indeed of greater importance than the making of arrests. This is particularly the case in crime hot spots.

The possibility of imprisonment following arrest is a specific deterrent. A 2008 study by Weisburd and others found that the payment of fines increased markedly when the certainty of imprisonment for defaulting became apparent, in what the authors dubbed 'the miracle of the cells.' However, increased lengths of sentences, perhaps in response to populist demands, do not necessarily produce increased deterrence. Some other effective deterrents include informal sanctions such as ostracism by family and friends, and loss of employment opportunities.

In summary, the existence of a police service and its visibility, seem to contribute a good deal more to crime reduction, than the direct effect upon individuals of interventions such as making arrests. Put another way, Lord Chief Justice Hewart's famous 1924 quote was that 'Not only must justice be done, it must be seen to be done' is if anything an understatement.

The specific possibility of arrest, perhaps followed by imprisonment, remains a significant deterrent, provided that sanctions are enforced. But these interventions are confrontational and can sometimes have considerable social and financial costs. Compared with enforcement activity, how effective are the alternatives?

In the early 1980s, Home Office studies concluded that differing policing methods had only a marginal effect upon crime rates in percentage terms, although small reductions still affected substantial numbers of people. Over three decades later, this conclusion remains substantially the case, despite numerous innovations and experimentation in the police and wider criminal justice system. For example, Alfred Blumstein's book about the fall in crime in the USA in the 1990s, examined the effects of new policies in relation to drugs, imprisonment, gun control and police management, including Compstat and zero tolerance policies. Although many statistical correlations with reduced crime were found, none of the police and political assertions of causation could be substantiated.

Longer-standing techniques such as intelligence led policing, evidence based policing and problem solving have found places as useful weapons in the police armoury, particularly when addressing local issues. None has been able to demonstrate a decisive and prolonged role in crime reduction when measured at force level.

The apparent success of the Violence Reduction Unit (VRU) in Scotland in reducing knife crime, particularly in terms of fatalities in the Strathclyde area is serving as a model for other parts of the UK. As with Scotland, the new London VRU (established with a grant of £6.8 million in early 2019) will take a 'public health approach' to reducing violence (including knife crime). What is sometimes overlooked by commentators is the targeted use of stop and search, arrest and prosecution ('classic' criminal justice actions) as important initial responses to help stem such problems. As Niven Rennie, director of Scotland's VRU (quoted in the *Guardian* newspaper in June 2019) noted, a key element of the VRU's early work in Glasgow was 'you can't have enforcement without search' adding that 'you have to stop people dying before you can start making improvements, and then prevention comes after that.' Juliette Astring had a point when she wrote in the *Community Practitioner* magazine in

July/August 2019 that 'the truth is that a strong policing and public health approach are not mutually exclusive - when it comes to tackling knife crime both are needed'.

Arresting Our Way Out? Some Conclusions

The criminal justice system is substantially a 'nudge' institution, aimed at encouraging informal self-regulation and mutual regulation of individuals and communities. Given its small size in relation to the wider number of citizens, it is remarkably successful in its task of suppressing criminality. There is a plethora of policing and other techniques which enhance the underlying impact, but in general their additional advantages are relatively marginal.

If we accept these propositions, it becomes hard to overstate the symbolic importance of policing to the maintenance of law and order. To that extent, police do to a substantial degree 'arrest our way out' of problems, even though success is partial and indirect rather than absolute and obvious. With that in mind, the use of long-term crime reduction measures as an addition to conventional police enforcement methods is welcome, but their use suggested as a replacement by some commentators seems to be premature. Moreover, the credibility of policing needs to be nurtured. With that in mind, opportunities to publicise successes need to be seized. By the same token, the disengagement of police from many shoplifting crimes and failure to engage with the bulk of fraud offences are of real concern. The reasons – fewer resources and the rise of risk-averse, open-ended public safety work – are understandable. But these inactions send a strong subliminal message that the service is struggling to maintain its crime deterrent role and the long term consequences are poorly understood. In consequence, the mantra that 'we cannot arrest our way out of' a particular social problem', needs to be used with some reticence and in circumstances where its context is properly understood.