

Institution: University of Sussex
Unit of Assessment: UoA 20 Law
Title of case study: Inspecting the Criminal Justice System
<p>1. Summary of the impact</p> <p>This case study describes the impact that has arisen from an extended research project carried out by Professor Shute, since 2009, on inspection of the main criminal justice agencies – police, prosecution, courts, prisons and probation – in the United Kingdom. The impact of the research has been at a number of levels: the development by ministers and senior civil servants of high-level strategy concerning criminal justice inspection; the translation of that strategy into inspection policy; and the conversion of inspection policy into inspection practice. Specific changes include: developing a risk-based approach; inspecting the use of the person escort record; and inspecting corruption in prisons.</p>
<p>2. Underpinning Research</p> <p>The underpinning research, which began in 2009 when Professor Shute moved to Sussex, is in two phases: Phase 1 from 2009–13; Phase 2 is currently in progress.</p> <p>Phase One consisted of:</p> <ul style="list-style-type: none"> • An inquiry into the foundational issues connected to criminal justice inspection; • A critical analysis of the value and pitfalls of adopting a more unified, holistic approach to criminal justice inspection. This includes an analysis of the collapse of legislation, introduced by the government in 2006, to merge the five inspectorates. Also an analysis of the success, or otherwise, of efforts made by the government subsequently, to achieve its objectives in other ways; • An historical analysis of the development of each of the five criminal justice inspectorates since 1835. <p>This phase produced three single-authored articles, all in leading law journals:</p> <ul style="list-style-type: none"> • The first [see Section 3, R1] addresses six foundation questions: how should we understand the nature and purposes of criminal justice inspection? What methodologies ought it to employ? Who should do it? What values should it respect? How much does it cost? Does it ‘work’? • The second [R2] examines the various attempts made by ministers, policy-makers, and the inspectorates since 1996 to introduce a more joined-up approach to criminal justice inspection in England and Wales. It reflects on why these efforts had only limited success and what lessons might be learned. • The third [R3] takes the long view. It examines the development of single agency criminal justice inspection of prisons and the police from 1835, when a system of inspection of prisons was first established, until the present day. By tracking the evolution of these inspectorates over time, it exposes shared themes and commonalities of approach, which would otherwise be hidden. It pays particular attention to the relationships between the inspectorates and ministers and explores the ways in which ministers have sought to shape and influence these inspectorates’ work to serve their own policy objectives. <p>Phase Two seeks to publish the outcome of further interviews conducted with criminal justice ministers, agency heads, and chief inspectors within a forthcoming book jointly authored with Professor Rod Morgan who was HM Chief Inspector of Probation from 2001 to 2004 (Shute, S. and Morgan, R., (forthcoming) <i>Just Inspecting: Building Accountability and Legitimacy in Criminal Justice</i>, Oxford University Press).</p>

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Phases One and Two of the research are supported by a grant of £10k from the British Academy/Leverhulme Trust.

Some of the impact described in this case study came about while the underpinning research was being carried out and took effect alongside its production; other aspects happened after the articles had been completed, but before they finally appeared in print.

3. References to the research

- R1** Shute, S. (2013) 'On the Outside looking in: reflections on the role of inspection in driving up quality in the criminal justice system', *The Modern Law Review*, 76(3): 494–528.
- R2** Shute, S. [2013] 'Different histories, different cultures, common cause: the rocky road to joint inspection in the criminal justice system', *The Criminal Law Review*, 10: 789–809.
- R3** Shute, S. [2013] 'Serving their political masters: the development of criminal justice inspection in England and Wales—Prisons and Police' *The Criminal Law Review*, 11: 889–905.

Outputs can be supplied by the University on request.

- Research Grant: 2012–14: £10k from British Academy/Leverhulme Small Grants Scheme (awarded July 2012)
- Grant: 2012: £5k from HM Inspectorate of Prisons for corruption seminar

4. Details of the impact

This research has had an impact on the inspection of prisons, police, probation, prosecution and courts. It has influenced the strategic thinking of ministers, senior civil servants, and Chief Inspectors, and has informed the way these strategies have been transformed into inspection policy and practice, for example by developing a risk-based approach, encouraging unannounced inspections, inspecting the use of the person escort record, encouraging dialogue between inspectorates and government departments regarding research activity, and refining inspection of corruption in prisons. These changes have been achieved through the following mechanisms:

Non-Executive Director, Management Board of HM Crown Prosecution Service Inspectorate:
www.hmcpso.gov.uk

Professor Shute was appointed as the first non-executive director of this *Management Board* by the then Attorney General (Rt Hon. Baroness Patricia Scotland QC) and the then HM Chief Inspector (Stephen Wooler) in 2008, and remains in the role. Since 2009, the directorship has provided one of the key vehicles through which to generate impact derived from the research. The *Board* oversees the running of the Inspectorate, which scrutinises the Crown Prosecution Service (CPS) and the Serious Fraud Office. It sets the strategy and vision for the Inspectorate. It also oversees joint inspection activity carried out by the Inspectorate with other inspectorates. The ideas developed in the research – such as the need for robust methodology, the value of thematic inspection, the need for 'lay' involvement in inspection, the need for inspection to be informed by research, and the value of transparency – have underpinned Professor Shute's work on the *Board* and hence have informed the broad strategy the Inspectorate has set for itself. His research has also had a strong impact on specific significant policy changes, such as the decision in 2009 to move away from rolling programmes of area inspections to a more risk-based approach, as well as (also following arguments drawn from the research) ensuring that the broader strategy of the inspectorate pays proper attention to using inspection resources efficiently to the benefit of the public; ensuring that inspection reports are clear, authoritative and influential; and ensuring that the inspectorate never loses sight of the need for the criminal justice system to work holistically. These policy changes were achieved through presentations and discussion at *Board* meetings. Stephen Wooler, the former HM Inspector of the CPS, has explained [see Section 5, C1] that Professor Shute's contributions, based on his research, were central to the introduction of various changes in

inspection practice. Michael Fuller, the current HM Chief Inspector of the CPS, further notes [C2] that Professor Shute's research influenced key aspects of inspection practice, including the highly-significant decision 'to move away from the long established rolling programmes of CPS Area inspections to a more risk-based approach'.

Member, Ministerial Advisory Board on Joint Inspection in the Criminal Justice System:

This *Ministerial Advisory Board* was in place for four years, ending in October 2011. The *Board* had three independent members, including Professor Shute. Its role was to provide ministers with high-level advice and guidance on strategic issues concerning inspection across the criminal justice system. For a period of four years, it was influential in the decisions taken on strategy for joint inspection and helped to shape the joint inspection programme itself. The fruits of Professor Shute's academic research programme were folded into the advice that the *Board* offered. The ideas presented, both orally at *Board* meetings and via letters and memoranda sent formally to the three criminal justice ministers and the five Chief Inspectors, included the importance of a proportionate approach, the value of 'whole system' inspection, the value of unannounced inspection, and the need to inspect neglected parts of the criminal justice system (such as pre-court summary justice). Stephen Wooler affirms [C1] that the *Board's* impact came from its ability to draw on leading-edge research to identify strategic priorities and emphasis. He further affirms that the research carried out by Professor Shute was particularly influential in this regard. Similarly, Michael Fuller [C2] states that Professor Shute's research, and the ideas and principles and approaches to inspection and the practical suggestions for change that it generated, 'all had a strong influence on the *Board's* discussion, its general approach, and the decisions it then took on the shape of the joint inspection programme that it approved'.

A further argument presented by Professor Shute in the research described in this case study is that inspection must be evidence-based and evidence-led. Drawing on his research, Professor Shute made that point forcefully to ministers at *Board* meetings. As a 'direct result' of this argument and its translation into practice, 'the Criminal Justice Chief Inspectors' Group now has regular meetings with Ministry of Justice and other Whitehall officials in order for the officials to keep them abreast of government research in the areas they inspect jointly' – an approach which has also 'helped promote the development of an evidenced-based approach to the formulation of criminal justice policy by Ministry of Justice officials' [C2].

Chair, Independent Crime Statistics Advisory Committee:

In 2011 Professor Shute was appointed as the inaugural Chair of this *Advisory Committee*, which was established by the National Statistician (Jil Matheson) with the approval of the Home Secretary (Rt Hon. Theresa May). The *Committee's* role is to provide advice to the Home Secretary, the National Statistician, and HM Inspectorate of Constabulary. Its Terms of Reference explicitly state that it should advise HM Inspectorate of Constabulary on its audits of police crime recording and data integrity. In accordance with that duty, it has assisted the Inspectorate to develop inspections of two key issues: freeing up police time, and crime data integrity. The Chair's role is to provide strategic leadership for the *Committee*, including setting its vision and acting as its ambassador with key stakeholders within government and across the public arena. The analysis and argumentation set out in the research described in this case study have provided the touchstone which has informed Professor Shute's work as Chair in relation to the Inspectorate. The fruits of his research have been folded into the advice offered to the Inspectorate concerning the construction of its current programme of inspection of crime data integrity, including emphasising the importance of rigour and transparency, advising on methodology, and emphasising the need to collect time-series data to provide information about changes in quality in this important area over time [C3].

Member, Independent Advisory Panel on Deaths in Custody:

The role of the *Panel* is to help shape government policy in relation to deaths in custody, through the provision of high-level advice and expertise. It is sponsored by the Ministry of Justice, the Home Office and the Department of Health, and its members are appointed by ministers. Professor Shute has been a member of the *Panel* since 2009. He leads on information flows across the criminal justice system. As part of that work, and building on the ideas drawn from the research, he

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initiated an inspection by HM Inspectorate of Prisons (with HM Inspectorate of Constabulary) on the way in which information of risk of harm is transferred between criminal justice agencies. This has been published as *The Use of the Person Escort Record with Detainees at the Risk of Self Harm: A Thematic Report by HM Inspectorate of Prisons* [C4]. The Report recommends changes relating to record-keeping, better documentation, better training, better health-care screening, more effective quality control, and more effective inter-agency collaboration. The National Offender Management Service (NOMS) has accepted [C5] all of the recommendations in the Report which are its responsibility, and this should result in changes which reduce the risk of self-harm for those detained in custody.

High-Level Seminar on the Inspection of Corruption in Prisons:

Organised by HM Chief Inspector of Prisons (Nick Hardwick), with Professor Shute, and held in London in October 2012, this seminar was informed by Shute's research, which was 'crucial to the way the discussions were framed' [C6]. The seminar was attended by senior stakeholders in the field and has 'informed current thinking on the strategy to eliminate corruption in prisons and on inspection of this difficult issue' [C6].

Appointing HM Chief Inspector of the CPS:

In December 2009, Professor Shute served as the independent member of a four-person interview panel, which recommended to the Attorney General a preferred candidate for the position of HM Chief Inspector of the CPS. Ideas set out in Professor Shute's research, such as the need for risk-based inspection, were central to this process.

In all these areas, the research described in this case study has influenced the thinking of ministers, senior policy-makers, and the criminal justice inspectorates. It has had a 'demonstrable impact' [C2] on their work. By helping the inspectorates to improve our criminal justice services and by promoting 'the development of an evidenced-based approach to formulation of criminal justice policy by the Ministry of Justice officials' [C2], it has made a difference which touches us all.

5. Sources to corroborate the impact

- C1** Letter from former HM Chief Inspector of the CPS, dated 16 October 2013
- C2** Letter from HM Chief Inspector of the CPS, dated 16 October 2013
- C3** Minutes of the meetings of the *Crime Statistics Advisory Committee*:
www.statisticsauthority.gov.uk/national-statistician/ns-reports--reviews-and-guidance/national-statistician-s-advisory-committees/crime-statistics-advisory-committee
- C4** *The Use of the Person Escort Record with Detainees at the Risk of Self Harm, A Thematic Report by HM Inspectorate of Prisons* (HM Inspectorate of Prisons; October 2012):
www.justice.gov.uk/downloads/publications/
- C5** Letter from Director of NOMS, dated 16 May 2013; Minutes of the meetings of the *Independent Advisory Panel on Deaths in Custody*:
<http://iapdeathsincustody.independent.gov.uk/>
- C6** Letter from HM Chief Inspector of Prisons, dated 17 October 2013