

Youth Offending and Youth Justice

Briefing prepared by
Monica Barry, Fergus McNeill and Claire Lightowler

This briefing summarises an edited book with the same title, edited by Monica Barry and Fergus McNeill. The reference for the book is –

Barry, M. and McNeill, F. (Eds.) (2009) *Youth Offending and Youth Justice: Research Highlights in Social Work* 52, London: Jessica Kingsley. ISBN 978-1843106890. The book is available for purchase at www.jkp.com/catalogue/book/9781843106890

The Youth Offending 'Problem' and 'Solution'

Evidence suggests that youth offending is not increasing, and may in fact have decreased in the last decade or two, implying that the youth offending problem may be less significant than media, government and academic attention would suggest. Additionally, if we accept there is a youth crime problem, the inference that youth justice is the answer to it is not borne out by the evidence.

Criminalisation & Stigmatisation

Contributors to this edition suggest that young people are being criminalised at an earlier age and for a wider range of behaviours than ever before, and that their parents are also the target of criminalising practices. With this focus on holding children and parents responsible for youth offending comes a tendency to minimise the state's responsibilities to ameliorate the social and cultural

conditions within which offending emerges, often alongside and sometimes because of, other social problems.

The majority of young people embroiled in youth justice systems are disadvantaged, in terms of education, levels of poverty and marginalisation from mainstream opportunities, and those with the added label of 'ethnic minority' or 'mental health needs' are doubly disadvantaged, being disproportionately represented in youth justice systems.

Stigmatisation of young people is enacted through familiar labelling processes and the attendant social reactions and, also, more subtly, in the form of risk assessment procedures which are increasingly used to predict the risks posed by children and young people with problematic behaviours and to govern interventions with them. Such methods of risk assessment are often inaccurate but are nonetheless used increasingly to justify and determine the extent of intrusion into the lives of young people. Critically, this means that stigma is connected not only to what *has been done* by young people but also to dubious judgements about what they *may do*.

This is a kind of prospective stigmatisation of perceived riskiness, a sort of pseudo-scientific identification of bad character, rather than a 'mere' question of bad conduct.

Punishment & Containment

Other means of stigmatisation and criminalisation come in the form of so-called 'summary justice' measures, where pre-prosecution decision making by the police and (in England and Wales) the Crown Prosecution Service can result in large numbers of young people being subject to summary justice measures, mainly financial, which are aimed not only at deterring young people from crime but, one might cynically suppose, also at boosting the public purse.

Morgan (Chapter 4, this volume) argues that one half of all criminalised young people appear before the court. The other half are dealt with by summary justice measures as described above. The lack of accountability implicit in, and the net-widening effects of, such out-of-court 'justice' merely serve to further discriminate against young people who are arguably the most vulnerable and least able to defend themselves.

For those brought before the courts in England and Wales, where too many now arrive precisely for breaching out-of-court summary justice requirements, an increasing number are being detained in custody for longer periods and for less serious offences, despite an overall drop in youth crime in recent years. Too often, detention equates with mere containment, not only of the individual but of the wider problem of youth crime. It is a reactive rather than a proactive response to the problem of youth crime and limits the opportunity for restorative

practices which, ironically, have recently been promoted in the youth justice field (Cavadino and Dignan 2006).

Responsibilisation

In some jurisdictions, policymakers have latched onto the possibility that young people choose to commit crimes for purely personal reasons and the naive suggestion that (only) by cognitive behavioural training will young people learn that crime does not necessarily pay. Young people are seen as, in effect, wholly to blame for youth crime and they – and increasingly their families – are made responsible for their own behaviour and their own rehabilitation, or as Maruna and King (Chapter 6, this volume) describe it, their own 'redeemability'.

This focus on the individualisation of the problem and responsabilisation of the youthful actor has been equated by several contributors to this volume with criminalisation at a younger age, increased punishment, more intrusive interventions, a greater use of imprisonment for young people and a policy rationale which denies the need for structural social change. Risk assessment in this process of responsabilisation targets only the 'criminogenic needs' or 'dynamic risk factors' (rather than the developmental needs) of young offenders, and neglects both the socio-structural contexts of these 'factors' and the risks posed to young offenders from the wider environment.

As Phoenix (Chapter 7, this volume) points out, responsabilisation of young people is an excuse for the lack of responsabilisation of policymakers to address the wider needs of young people in trouble. In addition to the dangers of such approaches to the individual, there is a

more generalised threat here too – the threat of damaging the collective efficacy of communities and of society itself by colluding in the all too familiar process of setting ‘us’ (law-abiding adults) against ‘them’ (‘feral youth’), a depressingly familiar process of distancing and dissociating which is exemplified in many social fields beyond those concerned with youth crime and justice.

To the extent that the responsabilisation of the ‘deviant’ represents an exoneration of the (apparently) conformist, it is a dagger in the heart not only of collective social responsibility but also of social and community cohesion.

Problematic Responses

Because young people are blamed for their own predicament, punishment is seen as more appropriate than offering welfare oriented alternatives. But this can obviously prove counterproductive. Less help and more punishment, in many young offenders’ eyes, leads to more offending and less concern for the consequences. Too often they have no stake in the future to protect through conforming and see no feasible means of acquiring one. Equally, managerialised systems and practices result in even welfare practitioners being confined to ‘criminal’ justice interventions at the expense of negotiating wider structural opportunities for young people.

The desistance literature, reference to which seasons this collection, suggests that young offenders will respond positively to relationships with professionals that are deemed legitimate, encouraging and fair. However, approaches that are punitive, dogmatic, coercive or even just standardised and lacking in human warmth and

engagement may all too often exacerbate rather than alleviate youth crime.

A new way forward...

So what needs to be done about youth offending? First, we need to be much more judicious and reserved in our use of criminalisation as a means of tackling children’s and young people’s sometimes difficult behaviours and problems. The more behaviour that we criminalise and the more young people that we criminalise, the more obstacles we create to youthful desistance. Similarly, we need to be much more hesitant and much more measured about our deployment of risk discourses and practices, as indeed of any discourses and practices that create dangers of stigmatisation. If ‘risk’ constructs its bearers as threats or dangers, and ‘need’ constructs its bearers as deficient or passive, then at the very least we need to encourage counterbalancing discourses and practices focused on strengths, resources, potential and resilience.

Stigmatising labels are by their nature exceptionally difficult to remove and deleterious in their short and long-term consequences; they often function as markers for exclusion, thus triggering precisely the social problems that led to the behaviours that precipitated their application. This suggests both a systems focus on persevering as long as possible with informal non-criminalising means of tackling young people’s problems, and a practice focus on identifying and releasing the potential of young people.

Responding constructively to these sorts of developments is far from simple. Intimidating though it may seem, it is hard to dismiss the suggestion that what is required, at the least, is the sponsorship

of a meaningful and informed public debate about how we understand youth crime, as well as thorough-going re-engagement with the principled basis of youth justice. Both discussions would require brave, bold and astute political leadership, as well as a commitment to engage from the relevant professions and the rest of civil society, and indeed some mechanism for engaging young people themselves. As Maruna and King (Chapter 6) point out, if the public have a greater awareness of the external influences on offending, they will be less likely to fear, condemn and give up on young people.

Interrogation of the evidence about 'what works?' necessarily leads us towards moral questions about 'what's right?'. McNeill (chapter 8) argues that supervision needs to give greater precedence to relationships between young people, professionals and others, not least when such relationships are crucial to reducing offending. But beyond reducing offending, he suggests that if youth justice is to be legitimate (and thus effective) it cannot but attend to the injustices that many young offenders have suffered.

Overall, there is a need to remember that youth justice in and of itself can have only a limited effect on youth crime because too many of the real drivers of youth crime – those drivers that reside in the fabric of our late-modern societies and the inequalities that they perpetuate – are beyond its reach. Herein lies both the paradox and the ultimate solution; youth justice is the answer to youth crime – but only in the sense that were we ever to arrive at a society that did justice to and by its children and young people, that really acted as if Every Child Mattered, that genuinely ordered its affairs so as to secure children and young people's

health, safety, achievement, positive involvement and economic wellbeing, then we would find ourselves in a society much less troubled by youth crime.

It is impossible to resist the temptation, in thinking about the proper policy response here, to note the alacrity and seemingly limitless largesse with which government can rise to the challenge of rescuing the financial system from its current crisis – with 'our' money and apparently in all of 'our' collective interests. If the collectivisation of risks can work for capital, perhaps it can be made to work for young people too.

Further Information

Further resources on youth offending and the youth justice system, as well as information on a range of other crime and justice topics, can be found at www.sccjr.ac.uk.