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## **Experiencing Youth Justice: Process, Meaning and Legitimacy**

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## Knowledge Exchange Seminar Series (KESS)

### Experiencing Youth Justice: Process, Meaning and Legitimacy

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#### Context

Significant reforms to the youth justice system in Northern Ireland were instituted following the Good Friday Agreement and the Criminal Justice Review (2000). The passage of the Justice Act (Northern Ireland) 2002 led to the establishment of a separate agency for the administration of youth justice and placed restorative-based youth justice conferencing on a statutory basis. Following devolution of policing and justice powers and a commitment of the Hillsborough Agreement the Minister for Justice established a Review of the Youth Justice System. The Review reported in 2011 and made a number of recommendations aimed amongst other things at addressing delays within the system, police interactions with young people; the overrepresentation of Looked After Children within the youth justice system and proportionate sentences<sup>1</sup>.

The Youth Justice Review also recommended increasing the Minimum Age of Criminal Responsibility from 10 to 12 with immediate effect, and that following review and within a period of no more than three years further consideration should be given to raising the age to 14. A raise in the age of criminal responsibility would

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<sup>1</sup> There are 31 recommendations made in total. The Youth Justice Review Implementation Plan contains the recommendations and progress made in implementation. The last published update (January 2014) is available here: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/implementation-plan-update-jan-2014.pdf>

ensure greater consistency with other responsibilities (such as the age of sexual consent) and it would bring Northern Ireland more in line with other jurisdictions across Europe. While this recommendation was 'accepted in principle' it has not yet been acted upon. A lack of political agreement on the issue has been cited as the reason for this (Department of Justice, 2014).

The Review further recommended that the aims of the youth justice system should reflect the 'paramountcy principle' espoused in the United Nations Convention of the Rights of the Child (UNCRC). Namely that the youth justice system should reflect the 'best interests' of children and young people. This recommendation has been accepted and is included in the Justice Bill currently before the Assembly.

Specific recommendations in relation to youth custody concerned the need to reduce the use of the Juvenile Justice Centre (JJC) for remands and PACE admissions (i.e. young people held under the Police and Criminal Evidence Act). The latest publicly available data on the numbers of young people dealt with by the Youth Justice Agency shows an overall reduction in the average daily population held in the Juvenile Justice Centre. In 2013/14 the total average daily population was 27, compared to 32 in 2007/08 (Decodts and O'Neill, 2014). However, the data also shows that the throughput of young people remains constant. There is significant movement of young people across different admission categories indicating a 'churn' within the system involving young people who experience multiple system contact.

Most of the time the remand population exceeds the sentenced population within the JJC. Admissions under PACE take place most frequently at the weekends. The overrepresentation of Looked After young people within the youth justice system remains an area of concern. A recent inspection report documents for example, that 40% of referrals for youth conferencing are for young people who are Looked After (CJINI, 2015) and data from the Youth Justice Agency shows that looked after young people constitute a significant proportion of referrals to the JJC (Decodts and O'Neill, 2014).

### **Background to the study**

This policy briefing paper reports on findings from a study funded by the Youth Justice Agency, which explored the transitions of young people into and beyond Woodlands Juvenile Justice Centre (JJC). Using a longitudinal qualitative approach which involved baseline life-history interviews along with follow-up interviews upon release, it explored from the perspectives of young people their: life histories – including family, school, community, employment; contacts with the criminal justice system; experiences of system contact; routes into custody; experiences of custody; plans for release, and challenges of transition from custody.

The study sample is derived from the population of young people detained in the JJC from February 2013 to May 2014. Research participants were selected on a purposive basis taking into account the heterogeneity of the population including gender, routes of admission, offences and home area. Twenty-one young people were involved in the study. This includes: 2 young women and 19 young men, aged between 15 and 17 at the

time of the first interview. Eight of the young people were originally sentenced to the JJC and 13 were initially placed there on remand.

The first interview (baseline interview) usually took place in the JJC prior to the young person's release from custody and comprised a life-history interview where they were invited to 'tell the story of their life' including the reasons why they had come to be detained at this time. The research interview subsequently proceeded to explore the young person's hopes and plans for the future with a particular focus on the plans in place for their release from custody.

Follow up interviews took place on up to three additional occasions – within one month of release, three months after release, between six months and one year after (initial) release. Given the chaotic nature of some of the young people's lives and the difficulties in tracking them, or that some of the initial sample went on to be sentenced for fairly long periods of time, following-up interviews were carried out with 12 young people. The focus of follow up interviews was on the experience of the transition from custody (and sometimes their subsequent re-entry into it), challenges and supports and what had been happening in the young person's life more generally.

A wealth of data beyond the scope of the initial project aims, and this briefing was collected, and is still being analysed. Here we focus on some of the data relating to: the complexity of young people lives; experiences of custody; 'justice' within communities to make some general points about the lived realities of 'justice' as reflected by the young people in our sample. This is based on our argument that subjective experiences of justice, that is, how interventions are 'felt' and 'experienced' by individuals, can reveal more about their impacts than the official discourses or philosophies that underpin them.

All names that appear in this briefing are pseudonyms, and any other identifying information has been changed.

### **Lives Experiences and System Contacts**

Research consistently reports that those from the most disadvantaged sections of the population are over-represented in custodial populations (e.g. Convery et al, 2008; Gray, 2011). An analysis of the life histories of many of the young people involved in this study supports this finding. Their life accounts regularly contained discussions of: witnessing or experiencing family/ domestic violence; parental alcohol misuse; bereavement; community violence; the paramilitary punishment or incarceration of a parent or family member and the realities of living in areas of multiple deprivation with limited resources and opportunities.

The family lives and housing careers of some could be defined as 'chaotic' with multiple moves and experiences of living between the family home, with extended family and/or having periods in care, being homeless or exiled from the community. Presenting this detail/ background information is not to underplay the

sometimes very serious harms caused by the actions of some of the young people. Our argument, however is that this cannot be removed from the context in which the young 'offender' themselves has experienced multiple harms and adversities.

The social context of the young people's lives, particularly their family and community backgrounds and circumstances, could be seen to impact on their experiences of school, their attitudes towards the police and their experiences of crime as victims and offenders. For many of the young people poly-drug use and alcohol were features of their offending and other difficulties within their lives and in many instances this intersected with mental health issues including suicidality and self-harm.

Because of the areas in which they lived, their family 'reputation' and their involvement in street-based leisure, many young people had contact with the police from a fairly young age. Most had multiple interactions with the justice system over a sustained period of time; some as long as seven years, from the age that they were deemed criminally responsible to the present (i.e. age 10-17). Others had interactions prior to this through visiting family members in prison, experiencing house raids and witnessing 'riots' in their communities.

By the time of interview, most of the young people in the sample (apart from a small number arrested and remanded for involvement in 'riotous behaviour' at contentious times of the year), had a long history of involvement with the criminal justice system, including previous remands into custody, extensive bail conditions, youth justice conferences and community-based sanctions. Under legislation there is no limit to the number of youth conferences that a young person can be made subject to and many of the young people that we interviewed had taken part in multiple conferences.

### **Experiencing Custody**

Remands form the largest admission category to the JJC and the delays within the criminal justice system impacting on the length of remands was a factor highlighted in the Youth Justice Review. The complex life situations of the young people with whom we spoke revealed ways in which these could impact on experiences of custody, including remand. Two key issues emerged as salient:

- The impact of a lack wider supports on the length and nature of remand experiences;
- The impact of multiple complex issues on young people's ability to adhere to bail conditions.

A lack of wider supports meant that some young people had been waiting a number of weeks for a suitable bail address. Limited appropriate bail or homeless accommodation in some areas impacted on this delay. Added to this, the conditions placed on young people when they received bail, especially given their problematic drug or alcohol use, meant that bail conditions were inevitably breached and the young person returned to custody. This pattern of 'remand, bail, breach' was evident in the accounts of a significant number of the young men, with one noting his preference for remand over bail due to the onerous conditions attached to the latter.

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Indeed, second interviews with some young people who were intended to be in the community ended up being held in the JJC as bail conditions had been breached and this responded to quickly. The account of Hugh below, demonstrates the dual impacts of lack of family support and his personal struggle with alcohol and drugs on experiences of remand and transitions from custody:

*'I was just in and out [of the JJC] and stuff. I didn't have a bail address to go on and I went, I just went on the run, I went on the run because I thought, I was in a B&B outside [town] and I live in [another town]...and I just thought nothin's gonna work for me. Like I've been in and out of B&B's like nothin' normal, like I've been swingin', like social services have just been swingin' me from this place to that place just wherever they can put me to get their job done.'*

The lack of a bail address and being placed in temporary accommodation, often with few support networks, could inevitably lead to conditions being breached and young people being re-arrested. In the case of Hugh, this situation led to him entering into further difficulties with drug and alcohol use, leading to him committing further offences. The circumstances of his release from custody, therefore, could be seen to impact on subsequent behaviour and contact with the criminal justice system.

Victor Rios (2011) uses the concept of 'punitive environments' to refer to the harsh and punishing nature of various communities marginalised young people encounter, including the prison and the neighbourhood. He adds to this other punitive encounters and experiences in families, schools and wider systems of social control. The nature of the personal, family and community lives of the young people in the sample meant that detention in the JJC, for some, was described as a period of respite. Reference was made to the range of activities available in the Centre and the fact that there was a structure and routine to daily life. This perspective is expressed by one of the young people we interviewed:

*'You've no worries about people looking for you, no worries about nothing. You've no worries about going looking and getting food and shit like that.'* (Robbie)

Others described the JJC as a place to 'detox', 'to come off things' and recuperate. In the words of Anthony:

*'I like it in here, it's good ... Cos it's kinda a detox centre, you just come in and get off all the drugs and all and get fit again'*

The rewards and pains of 'detox', however, were illustrated in discussions about the process of 'coming off' various drugs including glue and solvents, cannabis and prescription medication.

The experience of many young people was that the JJC met their welfare needs, underlining the fact that these were not being met elsewhere. In a number of interviews young people also noted the materiality of their surroundings in detention - they had their own rooms and they had access to resources that were not necessarily available to them on the outside. Particularly revealing in the accounts of some were the differences in descriptions of what was available in their community and what was available in the JJC.

This is not to suggest that young people did not want their freedom, and that there were not pains associated with confinement, but in many accounts young people noted the positive welfarist aspects of having their basic needs met, whilst at the same time desiring to be on the outside and free from all system contact and intervention:

*'Aye it's sweet in here [JJC] like, obviously I be pure frustrated at times, I do hate it, hate the place I want out and want to be back to normal. I just can't wait until I've no bail and everythin' is just normal.'*  
(Stevie)

For some, like Hugh the desire to be free in the literal sense and also from drugs was double-edged, because he was not sure if he would have somewhere to go on his release or if he could sustain abstinence on the outside. Also, the anticipation of rejection by his family who did not want him to return home permeated his account and while he desired to be free, the thought of what would happen to him on release was a source of anxiety:

*'I don't have a problem with bein' in here (JJC) cos, I don't know, I guess you just get used to it after a few times. But then it's just the fact that when you have bail you just have nowhere to live, it's the worst thing that could possibly happen to ya.'*

In highlighting the welfare 'benefits' of the JJC, therefore, we also highlight the welfare 'deficits' and poverty in the young people's lives more generally, which in some cases appeared to account for involvement in crime and multiple remands to the JJC.

### **Experiencing Community 'Justice'**

While the young people involved in this research are officially defined primarily as offenders, and in some cases, prolific offenders, many were also the victims of crime. Over half (n=11) reported direct victimization by paramilitaries in the form of verbal threats, physical intimidation or assault, and exiling/ exclusion from their communities.

The relationship between violent victimization, poverty and youth is not new, nor is the discovery that some young people experience 'double punishment' by parallel systems of policing and justice (see for example, Kilkelly et al., 2004). That this persists post-ceasefires and Agreements, however, is less well documented despite official statistics demonstrating the continued targeting of young people<sup>2</sup> (PSNI, 2011).

A number of the young people in this research explained their contact with paramilitaries as a result of being viewed as 'anti-social' or as 'hoods' within the local community. Experiences were varied, but a number had experienced multiple contacts. Anthony for example reported that he had been '*beat black and blue by them*

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<sup>2</sup> Of the 272 recorded 'causalities as a result of paramilitary style attacks' between 2008 and 2010, almost half (n=121, 47%) were carried out against young people under the age of 25 (PSNI 2011: 4).

*loads of times*', Patrick reported that at the age of 14 *'they [paramilitaries] broke my fucking jaw ... they hit me with a baseball bat'*, whereas Cathal had been *'shot at'* and Sean reported that paramilitaries had *'... put the gun to my face and said if you don't stop you are getting shot in the knees'*. Two young people, along with their families had relocated following death threats or exclusion orders.

While in some cases the police conveyed messages to young people's families that they were under threat, when asked if they would go to the police with a concern themselves, every young person who had experience of violence or intimidation was unequivocal in their response, that they would never 'tout' to the police. This demonstrates the continued impact of historically poor relationships between communities and the police, and the fear of identification and retaliation. More than this, however, was the lack of trust and respect the majority of these young people expressed towards the police. Their views were very much based on personal, family and community experiences.

The continued legitimacy deficit in policing, where there is a lack of trust in and suspicion of the police among some might enable alternative forms of 'justice' to remain (Doak and O'Mahony, 2011). Alleged increases in crime and anti-social behaviour and the slowness or perceived inadequacy of formal systems of justice to deal with this means the pull of these swift forms of justice remains (see McAlister et al., 2009). Ultimately, however, the legitimacy deficit may in actually facilitate this behaviour as the lack of reporting: *'... makes it much easier for paramilitaries to exert fear and control'* (Harland and McCready, 2014: 273). At the same time, while some young people are the victims of serious intimidation and violence within their communities (often on multiple occasions), their victimisation remains hidden. Yet the informal punishment, regulation and control experienced by the young people in our research, when added to their experiences with the formal criminal justice system, amounted to multiple experiences of punishment. At the same time these young people had little access to justice themselves.

### **CONCLUSIONS**

#### **Findings from this study indicate the need for:**

- A greater recognition of the extent of violence within communities, and the particular impact of young people who are marginalised;
- Greater emphasis on the rights of young people to be protected from harm within their communities;
- Drug and alcohol and mental health interventions that are more tailored to the young person's needs;
- The need for young people to have trusted and consistent supports particularly in the context of bail.



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