Research for Change: Young People, Youth Crime and the Use of Custody on Teesside

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RESEARCH FOR CHANGE- YOUNG PEOPLE, YOUTH CRIME & THE USE OF CUSTODY ON TEESSIDE

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ORGANISATION: THE CHILDREN'S SOCIETY

Abstract

This Action Research study was established in 1997 by the Society because of our concerns about the sharp increase in the use of custody for children and young people aged under 18 in England and Wales since 1992. Teesside was selected as the site for the enquiry because the local Courts have an established pattern of using high levels of custody for juveniles. The research also took place during a period when the Youth Justice Process in England and Wales was being reformed and reorganised via the Crime and Disorder Act (1998). Multiple methods and sources were used to gather data and produce information. The sources included the views and experiences of serious and/or persistent young offenders and key decision-makers such as Magistrates and Judges. This action research study was designed as an intervention which would challenge and influence decisions within the local Youth Justice System. The project is in the process of developing realistic and viable alternatives to custody for local Courts through Restorative Justice/Victim-Offender Mediation. The evidence of need for this type of intervention was established within the study.

Introduction

Aim of the Study

This study about "Youth Crime and the Use of Custody on Teesside" was established by The Children's Society as a national and regional response to the substantial increase in the use of custody for young people in England and Wales since 1992.

Teesside was selected as the area where the study should be undertaken because it is one of the locations within England and Wales where there is a pattern of using high levels of custody for young people. Teesside is locked into a cycle of high levels of crime and high levels of incarceration as a response to offending behaviour by young people. This cycle is underpinned by significant levels of socio-economic disadvantage and social exclusions. "Research for Change" explored ways of breaking the Criminal Justice aspects of this cycle from a wide range of perspectives.

The study was a qualitative action research investigation which used multiple methods and sources to gather data and produce information. The sources included the views, experiences
and perceptions of those who are the subjects of the Criminal Justice process along with those who administer it.

The aim of the research was to begin the process of effecting positive change for and with young people at risk of custody on Teesside.

The Children's Society believes that local neighbourhood and communities can benefit from reductions in recidivism amongst young people when counter productive custodial sentences are replaced by viable community based alternatives to custody.

The mission statement of the Children's Society is: To be a positive force for change in the lives of children and young people whose circumstances make them particularly vulnerable.

The Children's Society position with regard to the use of custody for children and young people is: "All children and young people experience just processes and retain their liberty unless containment is necessary to protect themselves and others from serious harm. Those under 18 should not be held in prison custody."


The preparations for the enquiry began in January 1998 and the fieldwork was undertaken between June 1998 and November 1998.

CONTEXT OF THE STUDY

The National Context

Since the mid 1980's and the failure of the "short, sharp, shock" response to young offenders by the first and second Thatcher led Conservative Governments, there had been a steady decline in the use of incarceration as a response to offending behaviour by young people in England and Wales since 1985.

This fall reflected the figures for reported crimes in England and Wales. There was a significant decline in the rates of offending behaviour by children and young people (per 100,000 of the population) in England and Wales between 1985 and 1996. Although there have been reductions since 1985 in the known offending rate for most offence groups, increases have occurred for violence against the person (including common assault), robbery and drug offences.
It is also worth noting that children and young people aged 12 and 15 are more likely to be victims of certain offences, e.g., assault, than adults aged over 20 (Aspects of Crime 1996).

The reduction in the use of custodial sentences was also linked to several other factors. A change in demographics resulted in a 25% reduction in the numbers of young people in the population between 1980 and 1990. The establishment of intermediate treatment based alternative to custody schemes in the mid 1980's funded by central government and set up in partnerships between Social Services departments and the voluntary sector. Changes were also made to the sentencing criteria for young people in the Criminal Justice Acts of 1982, 1988 and 1991. In addition, the peak age of known offending by males rose from 15 in 1987 to between 18-20 in 1994 (Crime Statistics England and Wales 1994).

Since 1992 the use of custodial remands and custodial sentences has risen sharply. However, as the previous figures demonstrate, this is without any significant increase in the overall rates of reported offending behaviour by children and young people.

<table>
<thead>
<tr>
<th>YEAR</th>
<th>REMANDS TO CUSTODY 15 YEAR OLD MALES</th>
<th>REMANDS TO CUSTODY 16 YEAR OLD MALES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>337</td>
<td>720</td>
</tr>
<tr>
<td>1995</td>
<td>640</td>
<td>1247</td>
</tr>
</tbody>
</table>

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(Crystal Statistics England and Wales 1992) Table 1

<table>
<thead>
<tr>
<th>YEAR</th>
<th>GENDER</th>
<th>RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1985</td>
<td>Male</td>
<td>7500</td>
</tr>
<tr>
<td>1995</td>
<td>Male</td>
<td>5500</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>YEAR</th>
<th>GENDER</th>
<th>RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1985</td>
<td>Female</td>
<td>1600</td>
</tr>
<tr>
<td>1996</td>
<td>Female</td>
<td>1400</td>
</tr>
</tbody>
</table>

(Aspects of Crime 1996) Table 2
The cost of using the custody for young people is currently £330 per week in a Young Offenders Institution, £2500 per week in a local authority secure unit and up to £4500 per week at the Medway Secure Training Centre. The cost of an intensive community sentence is £70 per week (Audit Commission 1996). The current re-offending rate for 14, 15 and 16 year olds within two years of their release from custody is 88% with 64% being re-sentenced to custody within two years. The figures for 17 year old is 86% and 63% (Criminal Statistics 1997). However, in relation to assessing the effectiveness of community interventions, there is little data within England and Wales to prove that community interventions are highly effective alternatives to custody for young people (D Utting 1999). Although there are a small number of well-researched and evaluated community programmes for young offenders, e.g. The Children’s Society Manchester Youth Bail Support Project.

The Local Context

Teesside is an area which has an established pattern of using high levels of custody as a response to offending behaviour by young people. The table below gives a comparative example of the use of custody on Teesside to that of other Police Force areas.

<table>
<thead>
<tr>
<th>1994</th>
<th>POLICE FORCE AREAS ENGLAND AND WALES</th>
<th>% OF OFFENDERS (MALE) SENTENCED TO CUSTODY AGED 14 AND UNDER 18</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position 1</td>
<td>Humberside</td>
<td>16%</td>
</tr>
<tr>
<td>Position 2</td>
<td>Bedfordshire</td>
<td>14%</td>
</tr>
<tr>
<td>Position 3</td>
<td>Cleveland (Teesside)</td>
<td>14%</td>
</tr>
</tbody>
</table>

Table of 43 Police Force areas. Percentages are from the total of young males (14-17) proceeded against at Magistrates Court for indictable offences.

The Cleveland (Teesside) Constabulary area has high levels of recorded crime and is consistently placed in a group of Police Force areas which have the highest recorded crime rates per 100,000 population in England and Wales (Criminal Statistics 1996 and 1997).
However, West Yorkshire and Merseyside Police Force areas have similar levels of reported crime to Teesside and were in joint 10th and 19th positions in the same table.

In addition to high rates of custodial sentences for children and young people, Teesside also has high levels of economic and social deprivation and indicators of social exclusions e.g. high levels of unemployment among 16 and 17 year olds (Stoddart 1997). These factors are recognised within local authority and health authority planning documents. These documents include the Plans for Children’s Services and the Crime and Disorder consultation papers published by Stockton-on-Tees, Redcar and Cleveland, Middlesbrough and Hartlepool Borough Councils and the Tees Health Authority Tees Health Improvement Programme.

Another of the major social issues facing Teesside is illegal drugs. The price of heroin in the area during 1998 was £32 a gram. The UK average was £74. Heroin was cheaper in Teesside than anywhere else in the U.K. The price has been steadily falling since 1986 (Department of the Environment, Transport and the Regions 1998). The Probation Services currently estimate that around 25% of their caseload, on average, are or have been engaged in drug abuse (Teesside Probation Service 1997).

Throughout the course of the enquiry the majority of participants commented on the links between the factors outlined above and how they underpin the cycle of high levels of crime and custody which exist on Teesside.

The Media & Youth Crime

The role of the media in bringing news of social issues to the attention of the public is extremely influential within western European society. This has been recognised by authors such as Parton (1985) and Franklin (1991). They put forward the view that the media has a central role in:

...Mediating information and forming public opinion. The media tells people about what they do not directly experience and renders otherwise remote happenings observable and meaningful (Parton 1985 p. 85)

Parton went on to comment:

However, because the media is presenting events which happen outside most people’s experience, it not only defines what are significant events but, implicitly, how these may be interpreted (Parton 1985 p. 88)

Links have been noted between the impact of the reporting of serious or persistent youth crime by the mass media in the U.K. and changes to Social Policy, legislation and the use of custody for young people (Home Office 1997). One rare case, noted by the Home Office (1997), had a profound effect on the media’s reporting of Youth Crime. In early 1993 James Bulger, a young child from Liverpool, was murdered by two 10-year-old children. The media reporting of the offence, in particular the tabloid press resulted in the demonisation of the two boys. This response also led to a series of national and local stories about spider boy’s and rat boys.
These stories gave the impression that there are large numbers of children and young people offending seriously, persistently and with impunity. When in fact the Government’s own figures were showing a reduction in reported crime by young people (see Tables 1 and 2, page ?). This over representation of a small number of cases as reflecting the general trends of youth crime since 1993 coincided with an increase in the use of custodial remands and custodial sentences by the Courts as a response to young people alleged or convicted of offending (see Tables 1 and 2, page ?). The increase in sensationalist or unrepresentative reporting of youth crime and the use of custody for young people was followed by changes to policy and legislation in 1993 and 1994. The Criminal Justice Act (1991) was amended by the Criminal Justice Acts of 1993 and 1994 which gave Youth Courts the power to incarcerate children and young people aged 12 - 14.

Social Policy Analysis

This research was undertaken between June 1998 and November 1998 during a period of significant change to the structure and content of the Youth Justice System in England and Wales. These changes were created by the Crime and Disorder Act (1998) and the Youth Justice Act (1999).

The new Labour Government, elected in May 1997, had made a commitment to reform the Youth Justice System prior to the election.

This root and branch reform was based on a document published by the Labour Party during May 1996. “Tackling Youth Crime: Reforming Youth Justice” was a detailed examination of the deficiencies which the Labour Party saw within the Youth Justice process. The reforms were also influenced by the Audit Commission Report “Misspent Youth” (November 1996). This report highlighted major failing in the structures and processes for dealing with young people but also recognised the dedication of the staff whom work in the Youth Justice System.

The Audit Commission Report concluded that:

“The system for dealing with youth crime is inefficient and expensive, while little is done to deal effectively with juvenile nuisance. The present arrangements are failing the young people who are not being guided away from offending to constructive activities. They are also failing victims…”

The Home Office issued a series of consultation papers. These papers included “Tackling Youth Crime” (September 1997) and “No More Excuses” (November 1997). The later document was the White Paper which set out the Government’s programme of reform under the Crime and Disorder Bill.

The main changes that the White Paper proposed to the purpose and structure of the Youth Justice System in England and Wales were:

• The youth justice system was to be given a statutory aim:
  “To prevent children and young people offending.”

The proposal presented all the agencies involved in the administration of youth justice with a common aim for the first time. When the establishment of an aim is combined with the
structural changes outlined below it can be seen as an attempt to establish a youth justice system as opposed to a youth justice process. The view that the current system is in fact a process with different agencies working without a common purpose has been put forward by criminologists such as Ashworth (1995).

- The establishment of a National Youth Justice Board.

The function of the Board was described as: to oversee the operation of the youth justice system, advise the Home Secretary on National Standards for the Supervision of young offenders, monitor the performance of youth offending teams, identify and disseminate good practice and advise the home secretary on whether youth justice services were delivering the governments aim.

- The creation of local multi-agency Youth Offending Teams.

These teams would be comprised of staff from Social Services, Probation, Police, Education and the Health Service under the line management of the local authority with the potential to develop partnerships with voluntary organisations.

The Local Youth Offending Manager would also need to develop a Youth Offender Plan which would be submitted to the National Youth Justice Board.

The English and Welsh Youth Justice System which the government wanted to reform has been identified by criminologists such as Dunkel (1990) as the most justice (retributive) based system in western Europe both in terms of process, i.e. formal, legal, adversarial courts and outcomes such as the high level of custodial sentences. The United Kingdoms English/Welsh, Scottish and Northern Irish youth justice processes have some of the highest levels of incarceration for teenagers in Western Europe (Prison Reform Trust 1997). However, it must be acknowledged that this is in part due to the powers which Courts have in the U.K. to imprison 12 - 15 year olds compared to the limitations which exist on passing custodial sentences upon children and young people in other European states.

The Government also stated within “No More Excuses” that they wanted to restructure the Youth Justice System to achieve more constructive outcomes with young people. These proposals for reform were built on the Government’s understanding of the principles underlying the concept of restorative justice and it was their intention to incorporate them within the Youth Justice System. These principles were described as:

- Restoration: Young people apologising to their victims and making amends for the harm they have done;
- Reintegration: Young people paying their debt to society; putting their crime behind them and re-joining the law abiding community; and
- Responsibility: Young offenders and their parents facing the consequences of their offending behaviour and taking responsibility for preventing further re-offending.

The Crime and Disorder Act (1998) and the Youth Justice Act (1999) have not changed the intrinsically “retributive” Focus of the English and Welsh Youth Justice Process as defined by (Bottoms (1988). However, these two pieces of legislation do attempt to graft aspects of the Scottish Children’s hearing System, (Youth Panels) a rehabilitative orientated approach to Youth Crime, and the New Zealand led restorative approach to the English and Welsh Youth
Munro, Change, Youth Crime and Custody

Justice Process. The need for the English and Welsh Criminal Justice Process to contain aspects of retributive, rehabilitative and restorative justice in order to meet the needs of courts, victims, offenders and local communities was also put forward by Bottoms (1988). The most well known adaptation of restorative justice into systems, processes and practice with young people in conflict with the law has been in New Zealand under the Children, Young Person and their Families Act (1989). However, there are some areas in the UK where restorative justice projects have been piloted, e.g. NACRO Victim-Offender Conferencing Service (Hackney and Lambeth).

The Models of responses to Delinquency, laid out below, outline the differences in three judicial approaches to crime. Walgrave, the designer of the table, also noted that differences in practice are less clear and more complex than the table might imply.

Three Models of Judicial Response to Delinquency

<table>
<thead>
<tr>
<th>Reference</th>
<th>Retributive</th>
<th>Rehabilitative</th>
<th>Restorative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Means</td>
<td>Inflicting harm</td>
<td>Treatment</td>
<td>Obligation to repair</td>
</tr>
<tr>
<td>Objectives</td>
<td>Moral balance</td>
<td>Conformism</td>
<td>Elimination of loss</td>
</tr>
<tr>
<td>Victim’s Position</td>
<td>Secondary</td>
<td>Secondary</td>
<td>Central</td>
</tr>
<tr>
<td>Criteria Evaluated</td>
<td>Just desert</td>
<td>Conform behaviour</td>
<td>Parties satisfied</td>
</tr>
<tr>
<td>Societal Context</td>
<td>State of power</td>
<td>Welfare state</td>
<td>Empowering state</td>
</tr>
</tbody>
</table>

(Walgrave 1995) Table 6

The table of responses outlined above was also used in the study, as a reference point from which to assist with the analysis of the data collected during the process of the enquiry.

The Crime and Disorder Act (1998) and Youth Justice Act (1999) have brought about some of the most comprehensive changes to the structures and processes of responding to Youth Crime this century. Therefore it was vital for the investigation to explore these changes as one of the main themes. Due to the fact that any potential recommendation or suggestion to intervene positively to change the lives of the children or young people would be within the context of this piece of legalisation.
RESEARCH DESIGN & METHODS

Research Design

The design of this study drew on the work of Queloz (1991). This model provides a useful example of a social justice based approach to Youth Crime. The approach developed by Queloz has been adapted in this report.

Queloz (1991) put forward the view that those involved in the Youth Justice process, whether as offenders, victims, Social Welfare professionals, Legal professionals, the Police or the Judiciary, should be seen as “Social Actors”. Queloz defined “Social Actors” as real participants and partners within a democratic model of social justice which is derived from a perspective of human rights (Queloz 1991). Queloz translated the rights of children within this model into:

The rights of children and young people = Legal rights plus a guarantee of the right to speak, and that the needs and expectations of young people will be taken into account.

Because it is part of a model of participation based on social responsibility such an empowering view of the law in respect of children and young people must also result in:

- Taking into account the views of victims and a respect for their rights; and
- Recognition of the importance of participation by the community in the processes of intervention and regulation of delinquency amongst children and young people.

(Queloz 1991)

Although, there is a need to recognise the tensions within this model between the principle of participation and the reasons why a child or young person is involved in the Criminal Justice process, i.e. accused of/or convicted of offending behaviour.

The methods of collecting data, the aim, objectives and key questions were all influenced by the view that those involved in Youth Justice are “Social Actors” and real participants and partners within a democratic model of social justice derived from a perspective of human rights. This view will be evident in the Methodology, Aim and Objectives and Key Questions of the investigation.

Methodology

The study was developed within a model of qualitative research known as Action Research. Lewin (1946), who coined the term Action Research, described the method as a set of cycles "planning, acting, observing and reflecting". Robson (1997) noted that "improvement and involvement seem central to all uses of the term Action Research".

The study also used a variety of sources and methods to gather data. The two main advantages of this were it permitted "triangulation" and enhanced the interpretability of the data that had been generated. Denzin (1988) suggested that data and methodological
triangulation, getting a "fix" on an issue from two or more angles, may be achieved in social research by using different sources and multiple methods.

**Aims and Objectives**

The aim of the research was to begin the process of effecting positive change for and with young people at risk of custody on Teesside.

The objectives of the research were:

1) To enable children, young people and their parent(s) or carer(s) to share their experiences of the youth justice system.

2) To enable children and young people to contribute their ideas about:
   (i) Methods of diversion from the youth justice system;
   (ii) Community sentences
   (iii) The use of custody; and
   (iv) Plans for structures and services at local and national levels.

3) To consult and work in partnership with statutory agencies, voluntary organisations and the groups mentioned in the aim and objectives. In order to establish how the trend towards the increasing use of custody for young people on Teesside can be reversed.

**Key Questions**

The key questions which the enquiry set out to address were:

1) How can the established pattern of using custody for young people on Teesside be reversed?

2) What do we (voluntary organisations, statutory agencies, young people and their parent(s) or carer(s)) need to do differently to bring about positive change?

3) What needs to be in place to secure and sustain this change?

**Ethics**

This model of research offered participants written guarantees based on the ethical principles of research contained in Robson 1997 and Bell 1992.

In relation to this enquiry:

"Ethics refer to the rules of conduct; typically to conformity to a code or set of principles".
The written guarantees focused on the principles of:

- Choice
- Informed Consent
- Confidentiality
- Participation

Written and verbal guarantees were shared with all participants prior to their involvement in the study. Exemption to confidentiality clauses for the semi-structured interviews were negotiated with the Prison service and local authorities. The exemptions were shared with young people and parent(s) or carer(s) prior to their participation in the study e.g. Child Protection.

**Context of the Research Procedures**

The research procedures used in this study reflected and underpinned the ethical position, aim, objectives and key questions as outlined earlier and conformed to the following UK Agenda Articles for “The Rights of the Child” (United Nations Convention 1989) as ratified by the UK Government in 1991.

In particular Articles 12, 37(b), 37(c), 40.2(h), 40.2(h)(iii), 40.3(b) and Article 40.4 e.g.

Article 40:
A child in conflict with law has the right to treatment which promotes the child’s sense of dignity and worth, reinforces the child’s respect for others, takes the child’s age into account and promotes the child’s reintegration into society.

**DATA COLLECTION & ANALYSIS**

**Data Collection**

A set of five key themes were developed at the beginning of the research process. In order to explore the aim, objectives and key questions of the study within a framework of Action Research.

The five themes were:

- The Use of Custody
- The Decisions Courts Take
- Community Interventions
- Communications
- The Crime and Disorder Act.

Four methods were used to gather data:

A Postal Questionnaire (116 Magistrates and Judges)
Semi-Structured Interviews (42 Young People in Custody and in the Community and Parent(s))
8 Focus Groups (Magistrates and Judges, Young People in Custody, Court Clerks, Statutory Social/Health/Education Agencies and Voluntary Sector Organisations)

The collection and collation of Local and National Youth Court and Crown Court Statistics.

Data Analysis

Data from (55) returned postal questionnaires, 47% response rate, was converted into actual percentages by the use of SPSS. Data provided by the (42) semi-structured interviews was categorised using a Code and Matrix system (Robson 1997 p.252-253). A series of categories were developed based on the responses of participants. The method used to analyse data from the 8 Focus Groups was based on the work of Morgan (1997) via the use of Descriptive Counting. All interviews were recorded on audiotape with agreement of young people and statutory agencies. The rates of eligible young people opting to participate in the study varied between Deerbolt YOI 78%, Northallerton Remand Centre 30% and young people serving community sentences 20%.

The information produced by the postal questionnaire, semi-structured interviews and focus groups were all compared to the three models of judicial responses to delinquency (Table 6, Page ?). In order to assist with and produce a consistent approach to the analysis of the data.

The ethical issues associated in research with ‘captive’ populations within closed institutions, such as prisoners, were acknowledged by the ethics which underpinned the study and the verbal and written guarantees outlined on page ?.

STRATEGIES FOR CHANGE

This report began by highlighting the criminal cycle which exists on Teesside. The results of this research show that it is possible to effect positive change for and with young people at risk of custody on Teesside. The investigation presented 19 key findings and suggested actions. Some of the findings and suggested actions from each of the five themes are presented below.

The Use of Custody

The Findings

- The majority of Magistrates and Justices who participated in this study think the use of custody increases the risk of young people re-offending on their release (54%). As opposed to (18%) who believed it reduces the risk of recidivism. No fixed opinions (24%) and missing responses (4%).
- Only (11%) of the (42) young people surveyed thought that a prison sentence would have a position effect on their behaviour upon release.

One young person said:
"Since I've been in here I'll probably go out and do it again because I know more now and I've made mates from my own area and that's all they talk about".
• The majority of Justices and Judges believe it is possible to reduce the use of custody for young people on Teesside by providing more effective alternatives to custody which reduce recidivism (63%). (15%) thought it was not possible, (18%) no fixed opinion and (4%) missing replies.

Suggested Action
• Managers of the new multi-agency Youth Offending Teams should co-ordinate strategic and operational responses that develop the findings of this study which suggest it is possible to reduce the use of custody for young people on Teesside. This could be achieved by the formation of local youth crime partnerships that need to include children and young people, parents/carer(s), statutory agencies, voluntary organisation and other community groups. These partnerships could also influence and be incorporated into local youth offending plans and crime reduction strategies.

The Decisions Courts Take

The Findings
• The majority of Magistrates and Judges were only “a little confident” or “not confident” in current community interventions, both pre-trial and post-conviction, as realistic alternatives to the use of custody for young people e.g. Post-Conviction Supervision Orders which specified activities requirement; not confident (24%), a little confident (42%), confident (34%), very confident (nil).

• The majority of Justices and Judges believe that current pre-trial and post-conviction community interventions have only “some effect” or are “ineffective” in reducing the risk of young people re-offending e.g. Post-Conviction Probation Orders with condition of attendance at a Probation Centre: ineffective (8%), some effect (58%), effective (28%) and very effective (6%).

Suggested Action
The new multi-agency Y.O.T.'s should work towards increasing the confidence of the Judiciary in pre-trial and post-conviction community interventions, e.g. remand to local authority accommodation, Bail Support and Supervision Orders and Probation Orders. Y.O.T.'s should also engage in evaluation, monitoring and research into re-offending by young people subject to community interventions. If these programmes are successful Y.O.T.'s could demonstrate to the judiciary that well targeted, planned, structured and enforced community interventions do offer viable and realistic alternatives to the use of custody for young people.

Community Interventions

The Findings
• The (8) Focus Groups convened with the Judiciary, Court Clerks, multi-agency Managers and Practitioners, the voluntary sector and young people in custody concluded that there is a variety of expectations and needs in the Criminal Justice Process which community
interventions as alternatives to custody must address. These needs and expectations were categorised and prioritised as (1) rehabilitative, (2) retributive and (3) restorative.

- In 1996 16 and 17 year olds on Teesside were more likely to be assessed by authors of pre-sentence reports as adults, in terms of their suitability for adult community sentences, than anywhere else in England and Wales (Home Office 1998). In 1997 (70%) of 16 and 17 year olds given community sentences by Youth Courts on Teesside received adult disposals (Teesside Probation Service). Whereas at Newcastle Youth Court only (20.8%) were given adult disposals (Newcastle SSD, 1997).

**Suggested Actions**
- Youth offending team managers should ensure that Pre-trial and post-conviction community interventions, as alternatives to custody, should reflect the needs and expectations of the subjects and administrators of the Criminal Justice Process and the wider community. This study produced evidence to suggest that these responses need to contain elements of all 3 Models of Judicial Responses to Delinquency and be weighted in favour of approaches that are 1 rehabilitative, 2 retributive and 3 restorative led.

- Youth Offending Team Managers should try to reverse the decline in the proposal and use of Supervision Orders with Specified Activities requirements as the most prominent alternative to custody community sentence in the local Youth Justice Process. This could be achieved by addressing the previous suggested action and redeveloping and relaunching these Orders with the Courts. Specific alternative to custody programmes should be developed to target children, young people, young adults and young women at risk of custody. These programmes need to reflect the stage(s) of development, chronological age, patterns of offending behaviour and individual social circumstances of children, young people and young adults.

**Communications**

**Findings**
- The majority of Magistrates and Judges who participated in this study thought communications between the Judiciary and Social/Probation Services need to be improved (56%). As opposed to (25%) who believed there is not a need, (15%) no fixed opinion and (4%) missing responses.

- A third of the (42) young people interviewed during this enquiry did not understand the Court proceedings when they were placed in custody or given a community sentence (33%). (48%) understood and (15%) missing responses.

One young person serving a custodial sentence said:
"There was words that were said that I'll never understand, the solicitor said it (Court) didn't mean a thing, all that was important was the sentence you were getting."

**Suggested Actions**
- Youth Offending Team Managers should seek to improve communications between the Judiciary and the new Y.O.T.'s. Justices and Judges identified the method and types of information which would be their preferred options during the process of this study: case
study feedback from young people and parents about community interventions (53%),
general information about services to young offenders (26%).

- Court Clerks, Court Managers and the Judiciary need to make Court proceedings,
especially at points of decision making: remand and sentencing, more understandable to
young people. In order to show that the Criminal Justice Process is relevant to them and
responds directly to the consequences of their offending behaviour. Unless this change
occurs it will be difficult to progress a restorative approach if the offender fails to
comprehend the wrong he/she has caused at the point of decision making in court. Tylers
(1988) highlighted that participants in the Criminal Justice process are more likely to
accept a decision by a Court if it is understandable and just.

Crime & Disorder Act

Findings

- All of the groups who took part in this study thought that the Crime and Disorder Act
(1998) had the potential to improve services to children, young people and their families
or carer(s) e.g. (85%) of Magistrates and Judges and (79%) of young people.

One young person serving a custodial sentence said, "If they (agencies) work together it
will help more, if you don't work together you won't get anywhere."
A parent commented, "I agree with that because they (statutory agencies) need to know a
lot more about what young people are doing overall."

- The Judiciary were overwhelmingly in favour of each of the new pre-Court, pre-trial and
post-conviction initiatives and orders which will be introduced under the Crime and
Disorder Act (1998). This includes the powers to remand children aged 12-14 to secure
accommodation (81%) and sentence them to custody (78%).

- The young people who participated in this study gave positive responses to some of the
new orders to be introduced by the Crime and Disorder Act (1998), e.g. Reparation
Orders (In favour 31%), Against (28%), Missing Responses (33%), No Fixed Opinion
(8%)). However, they were overwhelmingly against the use of custody, Secure Training
Centre Orders, for children aged 12-14. Against (73%), In favour (25%) and (2%) No
Fixed Opinion. They thought that these Orders would place children at risk of self-harm
and would not reduce recidivism on their release. The highly negative Social Services
Inspectorate Report about the first Secure Training Centre at Medway in Kent, published
earlier this year demonstrated many of the real concerns expressed by young people about
An example of the strong and emotional responses to this issue by a young person was:
"I think (12-14) year olds would try to kill themselves. I mean there are 15 and 16 year
olds trying to kill themselves in here so if they are that age they are a lot more vulnerable
aren't they?"

Suggested Actions

- The Home Office guidance on the establishment of Youth Offending Steering Groups and
the National Youth Justice Board view the development of local responses to Youth
Crime with the voluntary sector as an important issue. The National Youth Board has
already made grants to local authorities in respect of Bail Support Programmes. The second round of bids have already been announced, these relate to effective community supervision and developing services based on restorative justice, e.g. Restorative Conferencing and Victim Offender Mediation. Two of the criteria for these bids are the need to demonstrate good levels of partnership funding and working agreements with the voluntary sector. Local Youth Offending Team Managers should consult widely with local voluntary sector and national voluntary sector organisations in order to gather all the available knowledge and resources to secure the best possible bids for their areas.

- The Judiciary welcomed the introduction of new powers to use Secure Remands for 12-14 year olds and Detention and Training Orders for 12-14 year olds. Local Youth Offending Team Managers should consider developing specific age and developmentally appropriate services for these young children. In order to offer Courts viable and realistic alternatives to incarceration.

- Other professionals, agencies or organisations concerned about the imprisonment of children aged 12-14 as a response to Youth Crime should join with the Children's Society in lobbying the Government to begin the process of ending this practice.

Concluding Notes

This study began by highlighting the criminal cycle, which exists on Teesside. The data and information generated by the investigation suggests that the cycle can be broken.

The Criminal Justice aspect of the cycle can be addressed via the development of services to young offenders and their parent(s) or carer(s) based on a Social Justice approach. This method must also include restorative based responses in addition to the Traditional Rehabilitative and Retributive Responses to Youth Crime. This model also requires a collaborative approach between the subjects and administrators of the Youth Justice Process, local Government, other statutory agencies, the voluntary sector, local neighbourhoods and communities.

A number of Government initiatives aimed at addressing the socio-economic factors that underpin the criminal cycle on Teesside are already underway. These initiatives include New Deal on Employment, Health Action Zones, Sure Start, Quality Projects and Education Action Zones through to Local Crime Reduction Strategies which inter-link with the planning processes for children and young people within the four unitary authority areas on Teesside.

However, if reductions in recidivism and counter productive custodial sentencing are to be made and sustained on Teesside, with and for young people, then these improvements will need to be based on the premise that:

"The way a society treats children reflects not only its qualities of compassion and protective caring but also its sense of justice, it's commitment to the future and its urge to change the human condition for coming generations."

(Mr Javier Perez De Ceullar, Un Secretary General, 1990)
From Findings to Action

In June 1999 the opportunity arose via applications to the National Youth Justice Board's community intervention fund for Youth Offending Teams, in partnership with other agencies, to seek funding for community based youth crime initiatives. The Children's Society was successful in leading a partnership bid with four Y.O.T.'s in the Tees Valley area under the category of Restorative Justice. This partnership has established a Restorative Victim-Offender Mediation Service. The service is targeted exclusively at persistent and/or serious young offenders and victims of crime. The bid was underpinned by evidence of need established in "Research for Change".

The aim of the project has changed through the action research process from that outlined on Page 7 to:

"To effect positive change for and with persistent and/or serious young offenders and victims of crime in the Tees Valley area".

The case study below gives an example of Restorative Justice Victim-Offender Mediation in action.

CASE STUDY: CRAIG

- Personal circumstances of young person: Craig is accommodated by the local authority in a specialist out of borough placement. He has a statement of special educational needs and emotional and behavioural difficulties. Craig's pattern of offending behaviour is linked to solvent misuse. Craig uses solvents as a way of dealing with relationship problems.

- Assault x 2 and a Public Order offence against two members of the emergency services who resuscitated Craig after he sniffed a large amount of nail varnish. The Public Order offence occurred at the hospital while Craig was waiting for further medical treatment.

- Craig was already subject to two criminal Supervision Orders. These offences took place two weeks after last order being imposed. He met both the "persistent" and/or "seriousness" criteria to be referred to the project.

- A joint protocol has been established with all 4 Youth Offending Teams. This protocol deals with data protection, criteria for referral and how to make a referral, roles and responsibilities of project staff and Youth Offending Team workers and issues of enforcement.

- Experienced staff with professional qualifications have been recruited, re-trained and gained accredited vocational Mediation qualifications.

- Liaison work has been undertaken with local Youth Courts and Crown Court, Victim Support schemes and other key agencies.
The timescale from conviction to sentence was 6 working days. The tight time frame resulted in only one victim being consulted. Craig was assessed and the victim consulted using an assessment framework developed by the project. Both gave their informed consent to participate in direct face to face Victim-Offender Mediation as part of a statutory Court Order: Supervision Order. The Court made the order with a condition of "up to 6 contacts with the Victim-Offender Mediation project". The Magistrate stated that without this option Craig would have been sentenced to custody.

- Geographical Issues: Craig was accommodated in another local authority area 40 miles away. The offence occurred in another county. Therefore, the co-ordination and planning of the mediation meeting was quite complex.

- A realistic and achievable agreement was reached between both parties. The agreement recognised that Craig had begun to take responsibility for his actions based on the impact of his offending behaviour upon the victim. Two of the "issues" and "options" highlighted during the sessions were dealt with within the meeting. The third, Craig agreed to achieve by a set date and related to his use of solvents. The victim will be informed of Craig's progress in relation to this task.

- Craig will be interviewed by a Researcher from Teesside University as part of the monitoring and evaluation of the project. The victim will be sent a postal questionnaire.

- Craig will continue to be supervised in line with National Standards by his Social Worker from the Youth Offending Team. His accommodation, social and educational needs will be addressed through the continuing involvement of his Children and Families Social Worker.

- This case was not the most obvious in terms of referral to the project, given the complex nature of Craig's personal history and his social, emotional and educational needs. However, a Social Worker who is committed to developing new responses to Youth Crime realised that Craig had reached a key decision making point in his life. She referred him to the project which offered the Court a realistic and viable alternative to custody.

- This alternative was based on an evidence-based assessment of Craig's motivation and willingness to participate in Restorative Justice. Along with a victim who was consulted and committed to Victim-Offender Mediation as a response to persistent and/or serious Youth Crime.

Further information about the project is available from Keith Munro, Project Leader, The Children's Society, Youth Justice North East Project, 27b Yarm Road, Stockton-on-Tees, United Kingdom. Telephone: 01642 657311/657322.

References


The Theatrical Representation of Incest in Marina Carr’s *On Raftery’s Hill*

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Abstract

Marina Carr’s writing in *On Raftery’s Hill* (2000) is the most recent, most relentlessly focused and complex of responses from an Irish dramatist to the issue of incestuous sexual violation. In her play she creates a world astray, full of obsession, havoc, mutilation and disgust. Eighteen-year old Sorrel Raftery is a young woman, living with her sister (Dinah), grandmother (Shalome), brother (Ded) and her father (Red). Sorrel is engaged to Dara Moodle and just prior to her wedding her father rapes her. As the drama progresses it is discovered that Dinah is not Sorrel’s sister, but her mother. Father and daughter, who was twelve at the time, were brought together by Dinah’s own mother and now many years on, nobody intervenes when Red attacks Sorrel.

Carr grapples with the issues of power, sexuality, secrecy, shame, dysfunction, inferiority, indignity and addiction at the core of sexual abuse. Should the incestuous abuser be regarded as mentally ill, morally reprehensible and/or a criminal, she queries? Can we distinguish between sexual and psychological gratification? She confirms for an audience how a negative bond can be as strong as a positive one, how family victims of violation can be antagonistic, almost rivals towards each other, and seldom allies, and how the victims of abuse through processes of internalisation and identification with the abuser can accommodate themselves on one level to situations and circumstances, even as self-esteem is slowly peeled away through threat and apparent powerlessness. In this play there is no morality; it is a world at times almost without the mantle of humanity. The capacity to survive that experience is superbly captured by Carr, the complexity of the bond between the family members is brilliantly achieved, but for the first time in one of her midland’s plays the life of the central female character does not end in suicide. There is optimism in the basic survival of the victims of the Raftery curse.

Key Words

Theatrical Representations, Theatre and Society, Incest and violation, The Pleasure/Pain dialectic, Survival/Recovery?

Introduction

Since the mid-80s, Ireland, like all other first world countries, has been made aware of and began to acknowledge increasingly and more openly emotional, psychological, physical and sexual violations against many young children and adults within family homes, churches, schools, sports clubs and within some residential care institutions that were supposedly obliged to protect the innocent, young and the vulnerable. The broadcast and print media made numerous abuse revelations and obliged many people, despite defence mechanisms that ranged from the subtle to the downright hostile, to pay attention to the actuality of the past