



The Social Impact of Custody on Young People in the Criminal Justice System

Claire Paterson-Young
Richard Hazenberg
Meanu Bajwa-Patel



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“This is an important book that deserves a wide readership. While there is an emerging consensus among policy makers, academics and practitioners that children should only be imprisoned as a last resort, the evidence base in relation to the experiences of children deprived of their liberty remains underdeveloped. This work goes a considerable way to filling that gap by adopting a rigorous approach to measuring outcomes for children held in the secure estate. Drawing on extensive interviews with children and staff in a secure training centre, the authors make a compelling case for limiting the use of child incarceration to a minimum and for radical reform for provision of support to those children in secure settings.”

—Dr Tim Bateman, *Reader in Youth Justice, University of Bedfordshire, UK*

“In a wider societal system which in so many ways fails children and young people, the Youth Justice system is expected to rectify the mess. With the Taylor report criticising its focus on punitive and ineffective approaches, we have lacked the cohesive linking up of well-evidenced research to provide an alternative. Science shows us that ‘shame’ and ‘guilt’ approaches don’t work with victims of developmental and other trauma: yet they continue to form the foundation of the YJ approach. This volume draws together the lessons from the past, and a realistic view of the present, and the current and past research, in a coherent narrative that simply lets the evidence talk sense. I hope we can all read it and build on it.”

—Jim Clifford OBE, *Co-founder of IAAM, The Adoption Bond, UK*

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Acronyms

BAME	Black and Minority Ethnic
BYC	Beyond Youth Custody
CHAT	Comprehensive Health Assessment Tool
CPD	Continuing Professional Development
EHCP	Education, Health and Care plans
FSM	Free School Meals
GECES	Groupe d'Experts de la Commission sur l'Entrepreneuriat Social
ICAP	Integrated Cognitive Anti-social Potential
ITT	Initial Teacher Training
KS2	Key Stage 2
LAC	Looked After Children
MoJ	Ministry of Justice
NEET	Not in Education Employment and Training
SEND	Special Educational Need and Disability
SIM	Social Impact Measurement
SLSS	Students' Life Satisfaction Scale
STC	Secure Training Centre
YJB	Youth Justice Board
YOS	Youth Offending Service
YOT	Youth Offending Team
YP	Young Person
YRO	Youth Rehabilitation Order

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1

Introduction

This book focuses on the experiences of children and young people, referred to from now on as young people in the interest of brevity, in custody in England, through analysis of a series of interviews with young people and staff in a Secure Training Centre (STC). The authors also analysed questionnaires, case files and observational data collected during a doctoral research study. The authors are a multi-disciplinary team with a wealth of expertise across the fields of youth and restorative justice, child sexual exploitation, policing and education, which is combined with a common interest and experience in Social Impact Measurement (SIM)¹. The book explores the data by combining Integrated Cognitive Anti-social Potential (ICAP) theory and desistance theory with SIM to demonstrate the importance of measuring social impact for policy and practice. The authors hope that where allegedly evidence-based (Smith 2007), counterproductive and inhumane policy has failed, a recognition of the social and economic cost of this failure will prompt change, discussion and dialogue.

¹This refers to the measurement of impacts generated for the young people and society at large, both in terms of monetised savings, but also softer outcomes for the individual i.e. improved well-being. A full discussion of SIM is carried out in Chap. 3.

This book is rooted in research conducted by Paterson-Young (2018) that explored how social impact measurement as a form of organisational performance management can enhance outcomes for children and young people in custody. The authors use this research throughout the book, drawing on quantitative (questionnaires) and qualitative (semi-structured interviews, case analysis and observations). Drawing on this research the book presents a framework, rooted in the Taylor (2016) report, based on the diverse needs of young people, with chapters on youth justice, health and wellbeing, relationships, education, independence and attitudes and resettlement, all hung on a social impact measurement approach which opens the book. The research conducted by Paterson-Young (2018) employed a sequential mixed method approach that promoted the active participation of young people, as well as staff members, in STCs. The quantitative data, presented in this book, was generated from questionnaires completed by young people ($n = 68$) and staff ($n = 74$) and qualitative data was generated from semi-structured interviews with young people ($n = 15$) and staff ($n = 15$). The quotes presented by the authors throughout the chapters from any 'young person' or 'staff', are directly from the research, with pseudo names used to protect identity.

A recent report (Taylor 2016) exploring the experiences of children in custody emphasises how the roots of youth offending are embedded in our social institutions, our health care, housing and education systems, as well as our social care agencies. Systems whose existence should underpin and support those deemed 'at risk' and 'vulnerable' in our society, end up criminalising and incarcerating them which results in young people playing out a dual role as 'threatening' hooligans (Pearson 1983) or 'folk devils' (Cohen 1972). The punitive approaches that underpin policy and practice across youth justice in England today has resulted in the creation of the 'twin goals of welfare and justice' (Muncie et al. 2002: 1), with 'justice' emerging as the primary goal whenever high profile youth justice cases create moral outrage amongst the public (a situation the media does little to minimise) (Franklin and Petley 1996).

Programmes to empower young people within the youth justice system needs to be underpinned by an outcomes-based approach, grounded in theory relating to evaluating impact. The issue of power (Weber 1978) is central to any discussion of issues related to recidivism within social

structures. Power mediates the flow of resources, personal agency and narratives; it shapes policy interventions and the rules that govern the young people and staff in the STCs, both under the glare of public perception and the dominant societal discourse of the time, all of which shape the outcomes for the young people contained within the STC. Weber links power to class structures that embed a lack of resources (economic and otherwise) for disadvantaged sections of society, from where many incarcerated young people emerge. The authors position Weberian ideas of power with ICAP theory and desistance theory, to create a SIM framework that explores the impact of custody on young people. ICAP theory (Farrington 2005) explains offending behaviour in young people from disadvantaged backgrounds, by showing how economic, relational and psychological factors lead to anti-social potential and potentially criminal behaviour. Analysing social impact within youth justice in relation to overcoming this lack of power, by focusing on those outcomes that matter most to young people, turns the traditional discourse on its head. ICAP theory presents factors, such as family disruption, poverty and poor school attainment, as risk factors while desistance theory presents the personal narrative. This allows the book to present a model that has strong theoretical underpinnings, whilst also developing a holistic overview of offending behaviour that acknowledges the individual, institutional and societal causes.

Placing the wellbeing of and positive outcomes for young people at the heart of measuring impact in the youth justice system is essential to solving what many in society view as the issue of ‘problem’ children. Before we explore social impact measurement and its implications for empowering young people in Chap. 3, we review the recent history of youth justice in Chap. 2, with a summary of approaches to youth offending and its reactive nature and contradictory history. The chapter culminates with a discussion of the Taylor Review (2016) of the youth justice system that recommended the creation of child-focused secure schools. Secure schools aim to give head teachers autonomy to recruit and train staff, to commission the necessary support services, such as mental health, and create a culture where behaviour is effectively managed, and rehabilitation is promoted. This generates a child centred culture that recognises that these are vulnerable young people who would benefit from a therapeutic

environment and specialist care. The Taylor report (2016) was followed by an announcement at the Conservative party conference in 2018 that Medway STC, an STC with a chequered and highly controversial past, would be repurposed as the first secure school pilot. Chapter 2 closes by questioning if Secure Schools will offer the innovated child-first approach necessary for supporting children and young people, or instead repeat a cycle of failure.

Chapter 4 considers the health and wellbeing of young people in the secure estate, an area considered by many as of significant concern. This is particularly pertinent when considering the isolation and lack of adequate services experienced by young people. Such inadequacy of provision is compounded by the fact that many young people enter the STC having suffered trauma and health inequalities, as well as having special education needs and disability (SEND). Substance abuse also represents a factor for many young people, who use it as a coping mechanism for their traumatic past experiences. Indeed, data from the STC research shows how, in some cases, the STC environment exacerbates trauma with little or no thought given to transition upon release.

Chapter 5 focuses on the importance of relationships when it comes to the successful resettlement of young people. Relationships, within the STC and with family and peers outside, can be a significant influence on young people in custody and upon release, with positive relationships helping them to make smooth transitions and desist. This chapter explores the many facets of relationships for the young people in custody. It highlights the importance of building strong, positive relationships based upon trust, both with staff in the STC and with others outside in the community. Such relationships help to empower young people and involve them in co-producing their own rehabilitation strategies, despite the isolation of their custodial sentences. This relational approach recognises how a sense of belonging and feeling a part of a family, can help begin the move away from offending behaviours.

As well as relationships, education is also a key factor in promoting desistance and in Chap. 6, we look at the role of education on recidivism. The chapter begins with the responsibilities that schools have in relation to young people and exclusion, which is especially relevant given the higher prevalence of exclusions amongst Black, Asian and Minority

Ethnic (BAME), Looked After Children (LAC) and Free School Meal (FSM) students (and to be over-represented in the youth justice system). The Taylor Review (2016) reported how many young people in custody have missed a great deal of their schooling and stated that education must be central if reoffending rates are to come down. Our research data shows that many young people feel disillusioned with education both prior to and during their incarceration in the STC. Therefore, we conclude the chapter by making recommendations designed to improve educational provision in STCs.

When it comes to transitioning successfully from custody and to adulthood, a range of personal skills critically effect transitions. Chapter 7 explores these issues under the broader heading of independence and attitudes. Independence refers to the development of the personal and social skills that support children and young people in their transition to adulthood (Montgomery et al. 2006), including communication, employability and emotional regulation. The role of independence and attitudes to the successful transition and resettlement of young people from custodial environments is paramount, with the research data and prior literature both suggesting that these skills are not being successfully developed within the STC.

Chapter 8 focuses on resettlement and the need to ensure young people transitioning from secure environments also have secure accommodation, employment/education/training placements, financial know-how and good awareness of their health and wellbeing. Analysis from previous chapters, along with a review of the literature, is positioned within a SIM framework, based upon an understanding of the impacts of custody and used to develop a five-phase Resettlement Pyramid. This Pyramid outlines the building blocks necessary for achieving successful transition for young people by helping them build resilience and pro-social attitudes. The Resettlement Pyramid is explored in relation to both possible social outcome measures and data from the STC, so as to provide a multi-stakeholder, multi-intervention design. This design combines ICAP, desistance and SIM theories to provide a holistic overview of how young people in custody should be supported and how relevant outcomes can be effectively measured. The final chapter (Chap. 9) reviews the previous chapters in relation to SIM, empowerment, ICAP and desistance, and

proposes key recommendations for effective rehabilitation of young people in STCs.

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2

Youth Justice: The Impact of Policy on Current Practice

Youth justice remains a highly visible ‘domain’, with political, academic and media attention on the behaviour of young people persisting for centuries. Developments in approaches to dealing with young people led to the introduction of a dedicated youth justice system, dominated by Government strategies tackling the emerging issues rather than the root cause of the problem. The Taylor (2016: 3) report demonstrated this:

Almost all of the causes of childhood offending lie beyond the reach of the youth justice system. It is vital that health, education, social care and other services form part of an integrated, multi-agency response to a child’s offending, but it is more desirable that these same services intervene with at-risk children and families before their problems manifest themselves in offending.

Taylor’s (2016) report was commissioned by the Ministry of Justice with the aim of reviewing and improving the youth justice system. It outlined the wider causes of childhood offending, with recommendations for developing an integrated multi-agency system for supporting children, young people and families. Despite the recommendation in this report, the Government’s response was described as an opportunity

missed (Bateman 2017), with progress in implementing recommendations from the report moving at a glacial pace. But what does this mean for youth justice practice? This chapter intends to explore these missed opportunities and cycle of failure within the youth justice system, by exploring the impacts of contemporary policy on current practice. Contextualising developments in contemporary policy, a brief history of youth justice in England and Wales shows how modern approaches to dealing with young people are ambiguous and influenced by the historically residual punitive and welfare foundations underpinning the youth justice system. Such conflict and ambivalence explain the “missed opportunities” for improving procedures, legislation and initiatives that effectively fail some young people. It explores how the dominance of punishment and justice approaches are influenced by the societal insistence that young people are ‘threatening’ (Pearson 1983). The perception of young people as ‘threatening’ is influenced by ‘respectable fears’, which Pearson (1983) described as the unfavourable comparisons of present with past. These ‘respectable fears’ are created, amplified and mobilised by media representations of young people, which often results in public outcry for punishment and justice. This societal focused punitive approach is central to the arguments presented in this book, as it demonstrates how current policy and practice in the youth justice field is not focused on young people, but on justice and the perceived needs of wider society. Such an approach severely limits positive outcomes for young people both in terms of recidivism and wider life chances. Throughout this chapter, our arguments are informed by analysis of current practice in managing young people in England and Wales, with a specific focus on the secure estate.

2.1 Learning from the Past—How Did We Approach Youth Justice?

We need look no further than the histories of the youth justice system to identify the punitive approaches underpinning our youth justice system today. Interest in youth justice peaked in the late nineteenth and early twentieth centuries, after the introduction of the 1819 and 1833 Factory

Acts. This process culminated in an acknowledgement that childhood was a developmental period, whilst the growth in urban youth populations resulted in the creation of the concept of the ‘Delinquent Child’ (Hendrick 1997). Not only are the behaviours of young people viewed as a social problem, but so too is the very nature of childhood and youth. This focus on young people as a ‘social problem’ has appeared in political discourse for centuries (Pearson 1983; Muncie 2015), contributing to the expansion of the youth justice system and specifically services dedicated to managing delinquent young people. Academic literature analysing the history and development of the youth justice system already exists (see: Hendrick 2006; Muncie 2009; Bateman and Hazel 2014; Case 2018), so rather than repeat this analysis, a brief history is offered from the late 1950s onwards. Exploring this snapshot of youth justice developments serves to contextualise the structural foundations of youth justice, which impact on contemporary policy and current practice.

Early developments in the youth justice system were founded on competing punitive and welfare principles, shaped by societal perceptions of young people as ‘threatening’. Public confidence in Government responses to young people reduced, resulting in the Home Office commissioning the Ingelby Report (1956) to examine the law in England and Wales. A key recommendation from this report was to increase the age of criminal responsibility from 8 years-old to 12 years-old. This recommendation was partially implemented in the Children and Young Persons Act 1963, which increased the age of criminal responsibility in England and Wales from 8 years-old to 10 years-old (Bateman and Hazel 2014). This partial implementation of the Ingelby (1956) recommendation illustrates the Government’s reluctance to challenge societal views of threatening young people. Developments in 1964 culminated in the Longford Report entitled *Crime: A Challenge to Us All*, which recommended that the government abolish juvenile courts and instead establish expert panels (Bateman and Hazel 2014). Recommendations for establishing expert panels were also found in the Kilbrandon report (1964), which led to the creation of Children’s Panels in Scotland. Despite this implementation of the recommendations in Scotland, recommendations from the Longford report (1964) were dropped in England and Wales (Bateman and Hazel 2014).

Reform of the Youth Justice System continued in 1965 with the launch of the White Paper titled *The Child, the Family and the Young Offender* and the introduction of the 1969 Children and Young Persons Act (Muncie et al. 2002). Proposals in the Children and Young Persons Act 1969 were viewed at the time as radical and contributed in part to the loss of electoral support for Labour administration. The subsequent election of the Conservative Government in 1970 marked a divergence from welfare principles, with partial implementation of the aforementioned 1969 Children and Young Persons Act and the introduction of strategies for the intensive monitoring and control of young offenders (Goldson 2002). This shift from welfare principles was strengthened by proposals to re-introduce strict regimes in Detention Centres. At this time, international developments in the United Nations Standard Minimum Rule for the Administration of Juvenile Justice (introduced as the Beijing Rules in 1985), focused on limiting the use of custody for young people (Goldson 2002). This encouraged a shift in youth justice policy in England and Wales, with provisions for restricting custodial sentences for young people introduced in the 1988 Criminal Justice Act (Goldson 2002). However, provisions in this Act were contradictory, with restrictions in the use of custodial sentences implemented side-by-side with the introduction of Youth Offending Institutions. Youth Offending Institutions were introduced with the aim of helping young people prepare for their return to the community, but it remains to be seen how effective they have been in achieving this (further discussions on the use of custody can be found in Section 2.3). Therefore, developments in the youth justice system represent a revolving cycle of welfare and punitive principles influenced by societal perceptions of ‘threatening’ young people.

Negative societal perceptions of young people remained at the heart of developments in policy and practice in the 1990s, as evident following the murder of two year-old James Bulger by the two 10 year-olds Jon Venables and Robert Thomson. This tragic event resulted in policy that sought to further the divergence from welfare to punitive approaches that was discussed earlier. Such events result in acute societal pressures for governments to prevent a perceived deepening of offending that the public sees as being the result of increasingly persistent and young offenders (Graham and Moore 2008). The Government’s response was to intensify

the return to punitive principles for managing young people, culminating in the commencement of the 1993 Criminal Justice Act and the 1994 Criminal Justice and Public Order Act. This legislation increased powers for courts to impose harsher sentences on young people, extend long-term detention orders and introduce Secure Training Orders, representing not simply a return to punitive principles, but also an unravelling of welfare initiatives.

In response to increasing anxieties over the generation of ‘threatening’ young people, the Audit Commission examined the youth justice system; publishing the *Misspent Youth* report in 1996 (Audit Commission 1996, 1998). This report concluded that the youth justice system was an ineffective and expensive service with limited impact and recommended the implementation of a new model of youth justice. Critics of the report viewed the presentation and interpretation of evidence as questionable. However, the report was formalised in the New Labour Government’s ‘No More Excuses’ White Paper. With the move back and forth between punitive and welfare principles, recommendations in the *Misspent Youth* report promised to overcome this crisis of identity by introducing a new youth justice system, but this has not proved to be the case over the last twenty years.

2.2 Repeating the Past—How Do We Approach Youth Justice?

Since the 1996 Audit Commission report, developments in youth justice include the creation of Secure Training Centres (STCs), the Youth Justice Board and multi-agency Youth Offending Teams. So, have these changes overcome the problems identified in the Audit Commission *Misspent Youth* report? STCs were created to accommodate young people aged 12 to 14 years-old receiving Secure Training Orders, complimenting existing secure estates. The first centre opened in 1998, underpinned by notions of control and security as influenced by societal concerns over the management of persistent young offenders. The original purpose was for “*accommodating trainees in a safe environment within secure conditions; and helping trainees prepare for their return to the outside community*” (Appendix A—