

Chapter 8

Responding to youth crime: reconnecting the disconnected

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INTRODUCTION

This article considers the nature of young people's offending and reflects on how our respective societies should respond to such "criminal" behaviour. Notwithstanding the political, social and cultural diversity of Europe, it is argued here that there are universal principles which should underpin our response. These principles are informed by an explicit commitment to social solidarity, human rights and a belief that the much-maligned "state" has a critical role to play in ensuring young people remain connected with wider society.

The article opens with an initial discussion of the main arguments for treating children differently from adults. This includes consideration of recent neuroscientific research on the development of the adolescent brain.

It is argued that – irrespective of national, local or cultural context – human rights should provide the framework within which young people should be treated; not only within the domain of criminal justice, but also in relation to health, welfare and social justice. Indeed, it is one of the central arguments of this article that disconnection from social welfare rights can lead to a profoundly damaging and stigmatising connection with the criminal justice system. It is the view of this author that contact with the formal criminal justice system risks having a toxic effect on young people and should therefore be avoided wherever possible. However, it is also acknowledged that despite the genuinely noble impulses which undoubtedly animate welfare provision, the effects of contact with some forms of welfare are not always benign. A young person caught in the full glare of the welfare spotlight can sometimes be as at risk of harm as a client of the criminal justice system. The well-meaning practitioner's assessment can, for example, result in the application of a stigmatising diagnostic label that will subsequently inform an unhelpful risk assessment in the criminal justice system. In other cases therapeutic optimism can lead to harmful therapies. Connections between the domains of welfare and criminal justice can, therefore, be problematic, even when justified in the interests of "joined-up" services. Young people can, in some circumstances, become so entangled in the welfare and criminal justice systems that their long-term interests are probably best served by complete disconnection from both domains; although such benign neglect sometimes risks being experienced by young people as malign indifference (Drakeford and Williamson 1998).

It does not have to be this way, of course, but the risks posed to young people by such powerful systems and agencies have to be understood fully in order to lay the foundations for ethical and evidence-based practice with young people who break the law. Such practice, it is argued, should be based on recognition of the issue of maturity, high levels of diversion from the criminal justice system, non-stigmatising interventions that support desistance processes and the rebinding of frayed social bonds.

The article draws on an approach to youth justice currently being developed in Wales (UK) within the philosophy of progressive universalism (Davies and Williams 2009; Drakeford 2010; Williams 2011). Readers will, nevertheless, recognise in this approach ideas, values and models drawn from many other places. Indeed, there are references to other parts of Europe as well as other continents. This is not, however, a detailed comparative study. The diversity of policy and practice between nation states in Europe is acknowledged, as is the diversity within nation states. Indeed, it is a feature of youth justice across the globe that many diverse local initiatives and models of practice develop and flourish, often without the guidance or intervention of central government. This is perhaps indicative of the importance of local neighbourhoods, communities and institutions in taking responsibility for their young people. It is also possibly because practitioner-led interventions at ground level have long played a key part in the development of creative practice. Out of these diverse experiences of practice, however, it is believed that certain universal principles can be applied across diverse social, political and cultural terrains.

RESPONDING TO CHILDREN AND YOUNG PEOPLE WHO OFFEND

There are persuasive reasons why offending by children should be considered differently from crime committed by adults. The condition and status of childhood differs markedly from adulthood in a number of respects.

First, there is the issue of maturity. Children and young people are still in the process of growing up; not only in biological terms, but also in respect of their developing intellectual, social, emotional and moral competencies. Child and adolescent development is a highly individualised process, of course. It is also mediated through the prism of social and cultural context. It is for these reasons that efforts to frame statutes which reflect young people's level of understanding or determine what constitutes age-appropriate behaviour are inevitably rather crude and fraught with difficulty. Nevertheless, it is widely accepted that children do not have the same capacity to make fully informed or nuanced moral judgments in the same way as adults who have reached full maturity. While children are certainly not devoid of moral awareness, they may not always understand the wider practical and ethical implications of their behaviour (Coleman 2011). Recent research on brain development during adolescence suggests that it is not until the early twenties that the process of maturation in neural circuitry is complete (Keating 2004; Blakemore and Choudhury 2006; Steinberg 2007; Royal Society 2011; Mackintosh 2011; Delmage 2013; Lamb and Sym, 2013). Technological developments in functional magnetic resonance imaging enable us to know more about the process of synaptic pruning

that takes place in various parts of the adolescent brain as well as changes in the limbic system. The latest research suggests that the pre-frontal cortex, which is the main part of the brain responsible for cognitive functioning and impulse control, is one of the slowest to develop. Steinberg (2009) has highlighted the still developing capacity for consequential thinking. Changes in the limbic system (which processes information that relates to emotion), meanwhile, may account for the strong mood swings often associated with adolescence. Although it is important to emphasise the point that the research in this area is not entirely conclusive, it can be argued that the precautionary principle should be applied when making assessments of the degree to which young people should be held culpable for their offending. As the age of criminal responsibility varies enormously across Europe and the rest of the world (from 6 to 18 years), there is now a strong case for setting much clearer international standards at the upper age range. There is, moreover, sense in aligning the age of criminal responsibility with the age of majority (which is generally 16-18 years). People should perhaps be considered competent to enter the formal criminal justice system at around the same time they are permitted to vote for their legislators.

Second, the degree of independent agency young people can exercise is constrained by their position of relative powerlessness, especially when negotiating challenging social transitions. Young people simply do not possess the same degree of independent agency as adults. Children are less able to implement personal decisions because they generally lack the personal and material resources so to do. Indeed, in all of the main necessities of life they are dependent upon adults. For the most part, moreover, they have very little influence over those adults who are charged with the responsibility of supporting them (e.g. parents, caregivers, teachers or social workers).

Finally, early contact with the criminal justice system stigmatises young people and increases their risk of social exclusion (McAra and McVie 2010). Criminal justice practitioners are understandably concerned with assessing the risk that young people pose to themselves and others. It is, though, less common to analyse what risks are posed to young people by the agencies, organisations and systems that are tasked with managing them. The fact that practitioners can represent organisations which subscribe to a welfare philosophy does not in itself insulate a young person from risk of harm by such agencies. Although the criminal justice system should not be concerned solely with matters of punishment, criminal justice agencies are not always best placed to deliver welfare services. And yet the risks posed by the criminal justice system are clear. Contact with the formal criminal justice system can stigmatise and label a young person, introduce her/him to more robust and sophisticated offenders, reinforce the self-image of being a criminal and diminish future opportunities in the labour market. In short, a criminal record can accelerate a young person's journey into social exclusion. Custodial sentences in particular – even when given for ostensibly welfare reasons – attenuate family and community ties, corrode a sense of self-responsibility and impact negatively on mental health. Young people are also placed at risk of suicide, peer abuse and self-harm. Moreover, custody demonstrably increases the risk of reoffending – not least through a process of “contamination” (criminal skills acquisition from other inmates, the facilitation of new anti-social networks and socialisation into attitudes that are generally supportive

of offending) (Goldson 2006; Stephenson 2007; Bateman 2012). In summary, then, even when the avowed aims of criminal justice agencies are ostensibly rehabilitative and integrative, there is still a high risk of young people being disconnected from mainstream society.

HUMAN RIGHTS AND SOCIAL ENTITLEMENTS

It is a central argument of this article that the services and systems with which children and young people have contact should be underpinned by human rights principles. The European Convention on Human Rights (ECHR) is, of course, fundamental. For children below the age of majority, moreover, so too is the United Nations Convention on the Rights of the Child 1989 (UNCRC). Indeed, the UN Convention is used as a source of guidance by the European Court of Human Rights, along with other guidance from the United Nations and the Council of Europe.

The rights enshrined in the UNCRC can be divided into four main categories: survival rights (e.g. inherent right to life, food and health care); development rights (education, access to the arts and cultural rights); protection rights (e.g. protection from persecution and sexual exploitation and the right to a fair trial); and participation rights (right to freedom of expression access to information and freedom of peaceful assembly). It will be seen, therefore, that the convention not only confers individual rights (such as freedom), but also unconditional social rights (to education, for example). Access to such social rights is not dependent upon whether a young person has or has not broken the law. In Wales, for example, the youth policy “Extending Entitlement” (National Assembly for Wales 2000) is underpinned by an implicit human rights framework. Services are thus characterised as entitlements based on principles of universalism, citizenship and social inclusion (as opposed to being conditional and discretionary). The articles contained in the UNCRC apply to all children, whether they are offenders or not. More recently, the Welsh government enshrined the UNCRC in the Rights of the Child and Young Persons (Wales) Measure 2011. This means that the convention has the force of domestic law in all matters devolved to the Welsh Assembly.

Ideally, the UNCRC should be used in conjunction with key United Nations guidance for youth welfare and justice, namely: The Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), 1985; The Directing Principles for the Prevention of Juvenile Delinquency (Riyadh Guidelines), 1990; The Rules for the Protection of Juveniles Deprived of Liberty (Havana Rules), 1990; The Standard Minimum Rules for Non-custodial Measures (Tokyo Rules), 1990; and The Economic and Social Council Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines), 1997. Reference should also be made to the Council of Europe’s European Rules for juvenile offenders subject to sanctions or measures (2008), the indispensable companion Commentary to the European Rules for juvenile offenders subject to sanctions or measures (2008) and Guidelines to the Committee of Ministers of the Council of Europe on child-friendly justice (2010).

There should be profound policy implications for any nation state that is a signatory to the UNCRC and related international conventions: in terms of the way that young people are treated in public spaces, the age of criminal responsibility, diversion from

the formal criminal justice wherever possible, a strong emphasis on rehabilitation and reintegration back into the community, and the use of custody as a measure of last resort. Philosophically, though, it also represents a shift of the debate away from the technical question of “what works” in reducing children and young people’s propensity to offend to the deeper moral question of “what is the right way to deal with young people who break the law?” Thus, the best interests of the child are deemed to be a primary consideration (a paramount concern in the original French). A young person who commits a crime is thus a child first, offender second. Happily, the answer to the ethical question generally coincides with the answer to the technical question: doing the right thing is usually what works. In order to develop a meaningful, mature and balanced human rights culture, it is helpful if two supporting measures are taken.

First, there needs to be human rights education and awareness raising. This includes those who have contact with children and young people (social workers, probation officers, teachers, youth workers, police officers and magistrates). However, if children’s rights are to be properly enacted, it is also necessary to promote young people’s awareness of their rights in school, youth work and other settings. The Council of Europe has, for example, produced age-appropriate training materials for children in junior schools, secondary schools and non-formal education settings such as youth clubs (Brander et al. 2002). The advantage of early and interactive work on human rights with children is that it seeds the notion of not violating the rights of others. The idea of rights being balanced by responsibilities to other citizens is a lesson best learnt at a young age and practised in the school council and other consultative forums.

Second, given that children and young people’s competencies are still in the process of development, it is important that they have access to effective advocacy services. This helps to ensure that young people are able to articulate their wishes and concerns across the range of issues that affect them (including health care, education, social protection, social services and legal issues). The appointment of children’s ombudspersons and commissioners are additional measures that can help safeguard young people’s rights.

THE NATURE OF YOUTHFUL TRANSGRESSION

While it is important not to represent adolescence as an inherently troublesome condition, self-report studies indicate that rule-breaking, boundary-testing, experimentation, challenging behaviour and transgressions of the law are not unusual among teenage children. Indeed, it has been argued that it is “a more or less normal adolescent phenomenon [...] a by-product of adolescence” (Zimring 2005: 63). The social context inevitably has a bearing on the seriousness of the offences committed by young people and the likelihood of their coming to the attention of law-enforcement and welfare agencies. Children growing up in low-income, high-crime neighbourhoods where gangs, guns and knives are commonplace are obviously at greater risk of being a perpetrator or victim of serious crime. They are also more likely to be apprehended. For the most part, though, young people initially commit non-serious, non-violent offences (Bateman 2012) and mostly grow out of

such behaviours (Rutherford 1992; Roe and Ash 2008), often before coming to the attention of statutory social and criminal justice services (Rutherford 2006). It is therefore important to avoid the pitfall of “abnormalising” behaviour that is actually fairly common among young people across all social classes. As has already been suggested, addressing such behaviour within the formal context of the formal justice system risks reinforcing offending and extending criminal careers.

The children and young people who do enter our criminal justice systems tend to be drawn from poor and marginalised backgrounds (Yates 2010), often with personal histories of abuse, neglect and institutional care. One British study of children in custody (Jacobson et al. 2010), for example, found that half of the sample were from homes assessed as being deprived (compared with 13% of the general population), almost 40% had experienced abuse and more than a quarter were in public care at the point of imprisonment. It also found that the experience of bereavement, in terms of the death of a parent or a sibling, was three times higher than in the general population. When young people offend we must therefore ensure that we are not simply punishing those who are already victims. It is incumbent on all nation states to analyse closely the profiles of those entering the criminal justice system and explore the relationship between welfare and justice agencies.

DESISTANCE

Asking why young people stop offending rather than asking why they start in the first place may therefore be a question that elicits a more helpful set of answers for policy makers and practitioners. The desistance literature can broadly be divided under three main theoretical headings: individual, structural and integrative. Individual theories include a set of explanations based on maturational processes being allowed to take their course (Glueck and Glueck 1940; Rutherford 1986). This can include, for example, the rational reassessment of priorities following the onset of more advanced cognitive, emotional and moral development (Cornish and Clarke 1986; Barry 2006). A structural account, meanwhile, includes access to material opportunities such as continuing education, employment and constructive leisure, but also the corresponding social bonds of stable family life, pro-social friendship networks and fulfilling personal relationships with spouses, partners and work colleagues (Hirschi 1996; Rutter 1996; Sampson and Laub 1993 and 1995; Shover 1996). Integrative theories attempt to combine both individual and structural perspectives (McNeill 2006; Maruna and Immarigeon 2008). Crucially, though, the research conducted from an integrated perspective also draws heavily upon the accounts of those who have actually given up offending (Williamson 2004; MacDonald and Marsh 2005; MacDonald 2006; and MacDonald and Shildrick 2007). What emerges clearly from such research is the importance to individuals of being able to shuffle off the self-image of “offender” and assume the identity of a pro-social citizen. The process of positive identity reinforcement afforded by the establishment of a positive set of social bonds appears to be a crucial element in the desistance process. In the literature this is sometimes described in terms of ex-offenders moving from a condemnation script (young people accepting their label as an offender) to a redemption script (whereby they embrace a more positive, pro-social identity) (Maruna 2001).

YOUTH TRANSITIONS

The language of risk factors is widely used in criminal justice, health and social policy circles, but equally important is the notion of risk processes. One such process is that of youth transitions (Furlong and Cartmel, 2007). In Western societies the status transition from dependent childhood to independent adulthood has in recent decades tended to become more extended, complex and risk-filled; although it is perhaps important to make a distinction between more socially atomised societies and those characterised by resilient extended family networks located within communities bound by an enduring sense of social solidarity (which can reduce some of the associated risks). Nevertheless, given that those parts of Europe that are most often associated with family and community solidarity are currently experiencing particularly acute economic hardship (Goldson 2013), commonly shared assumptions about those societies should be revisited. Whereas it was once a reasonable expectation to leave school and move directly into full-time employment, this is now a less common experience in most European societies. Consequently, many young people continue in education for longer periods and – because they are not able to fund their independence – remain in the family home for extended periods. In many cases they move back and forth between independence and the family home after a period in higher education.

In northern Europe in particular there have been significant changes in family structure that include higher divorce rates and the growth of lone parent and reconstituted families. It is not making a moral point to say that such diversity in family structure can, at certain times in certain circumstances, lower family income and heighten instability for some young people. Such families still have a crucial role to play in sponsoring their children's transition to independent adult status, of course, but the wider community's responsibility to provide appropriate support and advice for young people also becomes even more important. There are many reasons why a young person risks failing to accomplish a successful transition: specific family issues (e.g. bereavement, disability or ill health of a family member, poor parenting and abuse); disengagement from formal education; the high cost of accommodation; substance misuse; mental ill health; macroeconomic difficulties (that tend to impact disproportionately on the youth labour market) (Evans and Shen 2010); and, of course, contact with the criminal justice system.

In light of the above analysis it can be argued that an integrated child and family/youth policy should be developed in order to ensure that all young people, irrespective of social background or personal circumstances, should have access to services that will enable them to realise their potential and thus achieve a successful transition to independent adult status (Helve and Evans 2013). The Council of Europe recommends that youth policies should be opportunity-focused rather than problem-oriented. Services and packages of opportunity should thus include coverage of such domains as education, health, social protection, careers advice, accommodation and leisure (Williamson 2002 and 2006). Practitioners and policy analysts, meanwhile, should identify potential points of risk where young people may become detached and disconnected from meaningful provision. This can occur within systems (e.g. the transition from junior to secondary school) or between systems (e.g. the relationship between public care and criminal justice systems).

YOUTH TRANSITIONS, POVERTY AND CRIME

The impact of neighbourhood poverty sometimes receives less attention than it should in both academic and policy circles. This is despite the fact that the Pittsburgh study (Wikstrom and Loeber 1997; Wikstrom 1998) found that residence in a low-income, high-crime neighbourhood can overwhelm the best endeavours of “good” parents. As children enter their teenage years, so the neighbourhood claims them. The salience of socio-economic deprivation and neighbourhood in predicting young people’s entry into the juvenile justice system of England and Wales has also been reported by Bateman (2012). By disassembling the dynamic social context of crime into isolated or selectively reconfigured sets of risk factors (Farrington 2007) there is a tendency to pathologise individuals and their “deviant” families. By excluding neighbourhood, a key indicator of socio-economic status, the relationship between youth, crime and social inequality is airbrushed from the account.

In order to rebalance our risk analysis, it is worth highlighting the findings of the Edinburgh Study of Youth Transitions and Crime (McAra and McVie 2007a, 2007b and 2010). Here the analysis includes the risks posed by social processes and systems. Four key findings emerge from the Edinburgh data. First, persistent serious offending is associated with victimisation (such as abuse and neglect), acute vulnerability and social adversity. Second, early identification of “at-risk” children is not an exact science; indeed, the early application of such diagnostic assessments risks labelling and stigmatising them (thus increasing the actual risk of offending and criminalisation). Third, pathways into and out of offending are facilitated or impeded by “critical moments” and “key decisions” at crucial points in young people’s lives. Practitioners and gatekeepers therefore have a vitally important part to play in the subsequent trajectories of young people: whether to arrest or problem-solve, exclude from school or reintegrate, caution or prosecute, breach a court order or facilitate compliance. The work of Williamson (2004), MacDonald and Marsh (2005), MacDonald (2006) and MacDonald and Shildrick (2007) provides rich ethnographic accounts of the ways in which young people, too, make difficult and often heroic choices in profoundly difficult circumstances. Finally, the Edinburgh study shows how diversionary strategies, such as cautions and non-criminalising interventions, enhance the desistance process. This latter finding would also appear to be supported by the work of Gatti et al. (2009) in Canada where early intervention by the formal youth justice system was found to be counter-productive.

DIVERSION FROM THE CRIMINAL JUSTICE SYSTEM

On the point of diversion it is reasonable to ask to where young people should be diverted. In the UK during the 1980s diversionary strategies succeeded in reducing the number of young people in custody, but in many cases their very real and pressing needs remained unmet (Haines and Drakeford 1998). It is the argument in this article that, in the phrase coined by the Independent Commission on Youth Crime and Antisocial Behaviour (2010), offending behaviour should lead to “meaningful consequences”: in terms of changing young people’s conduct and meeting their welfare needs. How then, can this be achieved without drawing them into systems

that label, stigmatise and criminalise? It should be acknowledged that negotiating this particularly risky terrain is challenging. Nevertheless, there are some measures that can be taken.

Domain integrity management is an important principle to apply when managing offending by the young. Problematic behaviours presented by young people are best dealt with within the domain in which they occur. This might be in the family (through helping parents to intervene effectively with their children), the school or the residential children's unit. In the latter case, in the UK's "looked after" system young people are at high risk of entering the criminal justice system as a result of comparatively trivial incidents that, had they occurred in their homes, would have resulted in their being dealt with firmly, but informally (Taylor 2006; Evans 2010). Clearly there is scope for informal restorative practices in schools and children's homes in such cases. Another aspect of domain integrity management involves filtering out those young people who, because of their vulnerabilities and high needs, should not enter the criminal justice system (e.g. some children with learning disabilities, severe mental health problems and victims of serious abuse or neglect).

The dark side of domain integrity management is that it can lead to the development of a "shadow youth justice system", particularly in the domains of mental health and social welfare. This has arguably happened in Finland where many young people are detained on health and welfare grounds in secure units (Pitts and Kuula 2005). The fact that children's welfare is the paramount consideration in this case does not itself insulate young people from the damaging effects of incarceration. For the young person behind the closed door of a mental health or welfare institution, the turn of the key will probably still be experienced as custody. It is therefore important to have regard to the fact that the UNCRC applies to children in such facilities. In these settings it is essential to develop models of rights-based welfare that incorporate the application of principles of due process. Young people also require the support of effective advocacy services.

Where young people have become disconnected from families, communities and education/training/employment, efforts should be made to reconnect them where this is appropriate. Once again the importance of developing a fully integrated, "wrap-around" child and youth policy needs to be underlined. This process of reconnection may need to be overseen by an appropriate practitioner or mentor, particularly in cases where the young person is vulnerable.

Problematic behaviour and offending do, of course, need to be addressed. Where appropriate (i.e. where there is a sufficient level of understanding present), young people need to take responsibility for what they have done and, as far as possible, make amends. Genuinely restorative practices (Jacobson and Gibbs 2009; van Wormer and Walker 2013) are to be encouraged as they enable supportive communities (be this a neighbourhood, school or youth club) to facilitate constructive meetings between perpetrators and victims, negotiate appropriate reparation and reintegrate young people back into society. While restorative practices can certainly provide a radical, community-based informal model of justice, it is important to sound a note of caution. There are concerns surrounding the question of due process: the right to trial by a fair and independent tribunal and the right to proper legal representation. In

nation states where children are criminally responsible at comparatively young ages these are acutely important issues. Indeed, Haines (2000) has argued persuasively that some forms of restorative justice are in direct contravention of European and international conventions. The vulnerable position in which young children can be placed by entering restorative processes therefore needs to be considered in relation to issues of maturity, resilience and access to advocacy. This does not preclude the use of restorative justice, but it does highlight the importance of developing practices that acknowledge young people below the age of majority are children first, offenders second.

In some cases, practitioner-led interventions may be required (e.g. from the education, health, social and youth services). In other cases it may require mentoring from volunteers or – as has been suggested by Mackenzie (2008) – Circles of Support and Accountability (COSA), an intervention more commonly associated with adult sex offenders but one which could work very well in a society with strong traditions of voluntary service. This approach may be particularly suitable in circumstances where a young person's ties with family are frayed or even severed. What is important is that young people receive a swift response to their offending in terms of addressing their behaviour, make amends to the victim (where possible), reconnect with the family (where appropriate) and restore or initiate contact with essential services. These are the essential elements for reintegration into the wider community.

YOUNG ADULTS AND THE CRIMINAL JUSTICE SYSTEM

Thus far, this article has focused mainly on the position of young people below the age of majority and the argument that children should enjoy protected status when they break the law. Given what has already been written about the problems facing young people as they move from dependent childhood to notional independent adult status, it is important to acknowledge that the transition from child to adult services and systems often represents an additional challenge because of the dramatic shift in ethos. This disjunction is often particularly acute when comparing juvenile and adult criminal justice systems.

In addition to the fact that the problems of childhood often persist into early adulthood, the young person is confronted with a legal discourse that places the full weight of criminal responsibility on the individual. Given the foregoing discussion on adolescent brain development and the challenges of increasingly difficult social transitions, the argument for a gentle upward gradient towards full criminal responsibility has some merit, especially in the case of vulnerable young adults with complex needs (care leavers and those with additional learning needs, mental health problems, accommodation difficulties and substance misuse issues). In the UK the Leaving Care Act 2000 extended the welfare principle of child welfare into early adulthood for care leavers through the introduction of statutory Pathway Plans. This was an explicit recognition of the particular difficulties experienced by care leavers in their transition to independent adulthood. Ideally, those welfare principles should enter the courtroom when young adult care leavers find themselves at odds with the law. Whether this happens in practice is unclear. In Germany, Spain, Austria, Lithuania and Australia some measure of flexibility is available in cases where the

maturity and circumstances of the young adult are such that juvenile jurisdiction can be considered (Dunkel 2004; Transition to Adulthood 2008). Such practices need to be explored further, perhaps with a view to establishing transitional courts.

At some point, of course, young adults must take responsibility for their actions and enter the criminal justice system. As far as possible, community-based sentences are preferred to custody because they enable the underlying reasons for offending to be tackled while at the same time enabling the retention or strengthening of family and community ties; ties that are so often effectively broken while serving prison sentences. According to Raynor (2010: 74), research on the effectiveness of correctional services and rehabilitation “consistently shows that effective help has more positive effect on offenders’ behaviour than measures designed primarily to punish and deter [...]”. This “help” generally takes the form of “changing minds and changing circumstances”: the former deploying cognitive-behavioural interventions, other problem-solving and social skills approaches; and the latter through addressing core material issues and problematic behaviours that constrain the range of life choices available (e.g. low income, poor education, unstable accommodation and substance misuse problems).

The case against penal custody has already been made, but some young adults will necessarily be sentenced in order to protect the public from serious harm. It should, however, be used as a last resort for violent crimes. Although the negative features of custodial life can never be eliminated, some of the key elements involved in developing a constructive, seamless service are characterised by Raynor (2004) in the following terms: assessment and planning from the earliest stages (i.e. as soon as a person enters custody); custodial programmes that focus on developing skills that will be relevant in the community; community programmes that build on the work done in the custodial phase; and an overarching case management system that provides both direct and ongoing supervision as well as brokering access to essential services. According to Maguire (2007) these essential services might include: accommodation; education, training and employment; mental and physical health (including access to counselling and substance misuse services); advice and advocacy in respect of finances, benefits and debt; guidance and support in respect of family and personal relationships; and working on promoting pro-social attitudes, beliefs and behaviour.

The post-release supervision process entails ensuring that ex-prisoners are connected to the services they require, supported in the process of establishing pro-social relationships within the community and encouraged to sustain positive habits of mind and behaviour. As far as young adults are concerned there are additional considerations that relate to their maturity, relative powerlessness and vulnerability. There is, in short, a duty of care. Accordingly, there is a responsibility to ensure that young people are duly connected to the services to which they are entitled through the relevant youth policy. Young adults, especially those with more difficult backgrounds, cannot be expected to access services and negotiate challenging transitions without close guidance and support. Youth policy literature underlines the importance of “trusted adults” (SEU 2005) in the lives of young people: adults who are available when weighty decisions need to be made. These adults are trusted because they are knowledgeable (or at least know where to go in order to obtain information),

honest, reliable and committed to promoting the best interests of the young person. Williamson (2005) uses the phrase “critical people at critical moments” because sometimes this role involves not only support and encouragement, but also telling the young person a few uncomfortable home truths. Nevertheless, despite this, they still “stick with” the young person concerned. For many young people this trusted adult will be a parent, member of the extended family, teacher, youth worker or respected peer. Some less fortunate young people, including many of those leaving custody, may not have such a person in their immediate social milieu. One Report (SEU 2005) addressed the issue in respect of 16-25-year-olds who fell into this category (ex-offenders, care leavers, those with mental health and/or substance misuse problems) and concluded that it was important to identify trusted adults, mentors or guides. This vital role involves “Building and maintaining a trusting relationship; and advising and encouraging young adults, through small but significant steps, towards positive outcomes” (SEU 2005: 72). In the case of young adults leaving custody, this role cannot be left to chance.

CONCLUSION – IMPLICATIONS FOR POLICY AND PRACTICE

What, then, are the main policy and practice implications of the foregoing analysis?

In view of the fact that children and young people are still in the process of maturing and depend on adults for the key necessities of life, children below the age of majority should be dealt with outside of the formal criminal justice system. Children below this age should have their offending behaviour and welfare needs addressed through non-criminalising interventions that, ideally, should be drawn from universal mainstream services. Where appropriate, informal restorative justice practices should be used in order to meet victims’ needs, make amends and promote personal responsibility. When offending is persistent and dangerous to the public, children may need to be kept in secure accommodation, but this should not take the form of penal custody. That said, the risks of detention in facilities managed by health and welfare agencies should be offset by applying the principles of rights-based welfare and ensuring access to effective advocacy services.

The focus of criminal justice interventions with young adults should be community-based rehabilitative interventions supervised by the probation service (or other appropriate offender management agencies). Penal custody should be a last resort for violent offences. In those cases where young adults are sentenced to custodial sentences, the regimes should be constructive (in terms of providing education, training, counselling, cognitive-behavioural interventions and victim awareness programmes). Ideally, the post-release experience should provide a seamless service that facilitates reintegration. Again, as far as possible, links to mainstream services should be forged.

It is essential that all children and young people are regarded as citizens with rights and entitlements to services. By implication young people also have responsibilities, although these should always be commensurate with their maturity and social circumstances. Most criminal justice systems operate on the basis that the young person should take full responsibility for their actions. The argument presented here is that

we must always ask first whether the adults in a young person's life have discharged their responsibilities, whether these are parents, teachers or social workers. If not, then our first task must be to reconnect the young person to supports and services that can help them navigate whatever difficulties they are experiencing. This is why an integrated child and youth policy is central to the vision depicted here. Children who offend must always be perceived as children first. Young adults who offend may have to take more responsibility for their actions, but society's collective duty of care to young adults should not be overlooked.

Three important assumptions underpin the arguments contained in this article. First, that young people are not the sole responsibility of their parents and families. Indeed, parenting – in the widest sense of the term – is not a private concern, but a public and collective responsibility. Second, that the state has a crucial role to play as the guarantor of human rights and services. Third, universal services – rather than those that are means-tested or discretionary – are more likely to deliver non-stigmatising and intergenerational forms of support that promote social solidarity between citizens. They are, in other words, more likely to strengthen social bonds and help reconnect with those citizens most at risk of marginalisation. The somewhat over-quoted East African saying that it takes a village to raise a child is, nevertheless, no less true for being oft repeated. There is a clear implication though that we must also ensure the village is in good condition. Goldson's (2013) lucid and trenchant analysis of the policy choices facing Europe underlines the importance of reasserting young people's human rights and strengthening the bonds of social solidarity across generations and nation states.

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