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Welfare and justice: victims and offenders

Before you read this chapter you may want to think about definitions of ‘victim’ and ‘offender’ and ask what images these terms create for you?

- Can you think of other terms to use?
- How do you feel about the level of youth crime in this country?
- Do young people who commit crime need help or punishment?
- What is the role of social work with young offenders?

This chapter explores what we know about young people who enter the youth justice system (YJS) and possibly end up behind bars. Also what the role of the social work practitioner is and how they can work to address some of the oppressive and discriminatory factors that impact on the lives of young offenders.

The child welfare and YJ systems appear at first glance as two separate approaches in addressing the needs of young people. This is reinforced somewhat by the way each system has differing aims and objectives that have resonance with specific service user groups and therefore embrace a delineated intervention focus. Social work with its welfare-orientated approach seeks to engage with vulnerable individuals and groups in the welfare system (Thompson, 2005). The YJS, however, is associated with particular interventions that engage convicted offenders seeking to rehabilitate and reduce crime (Liebman, 2007). This bifurcation is reflected organizationally, with the YJS placed under the control and responsibility of the Ministry of Justice while the welfare system resides with local authority social service departments.

Victims and offenders are also seen as two polarized ends of the crime spectrum; one the recipient of a criminal act and the other the perpetrator of the action. Each of these ‘roles’ has a number of assumptions associated with it; for example, the former where victims are perceived as helpless and with offenders seen as violent and aggressive. However, social workers know that these views often heralded by the popular press are not so clear-cut, with many young people inhabiting the roles of victim and offender in equal measure.
The aim of this chapter therefore is to highlight the need for a broad understanding of the lives of young people who enter the YJS to allow for a balanced view of young offenders based on up-to-date research and practice wisdom and not the influence and the perceptions of the media.

**Welfare and justice**

The child welfare system underpinned by the Children Act (1989) and (2004) operates to safeguard and protect the welfare of children. The Children Act (CA) and subsequent policy and procedures place a responsibility on Social Service Departments to focus on children deemed ‘in need’ or those who require ‘protection’. These definitions are somewhat contested (O’Hagan, 2006); however, the salient points from the CA 1989 state that the child’s welfare is of paramount importance, local authorities where possible must seek to allow children and young people to live with their families and should work in partnership with parents and families to achieve this aim (Children Act 1989). The duties placed upon local authorities include assessments of children in need and subsequent provision of support services for parenting and care. The Children Act (2004) increased significantly the role of partnership working and monitoring of outcomes between agencies and also introduced the five principles of the Every Child Matters (ECM) agenda that identify the outcomes for children and young people: be healthy; stay safe; enjoy and achieve; make a positive contribution; and achieve economic well-being (Children Act 2004).


The overarching aim of the YJS is: ‘to work to prevent offending and reoffending by children and young people under the age of 18, and to ensure that custody for them is safe, secure, and addresses the causes of their offending behaviour’ (Ministry of Justice, 2011: 1).

Youth Offending Teams (YOTs) were created by the Crime and Disorder Act (1998) to achieve this aim. Every local authority in England and Wales has a multi-disciplinary YOT made up of representatives from the police, probation service, social services, health, education, drugs and alcohol misuse, and housing officers (Ministry of Justice, 2011). The role of the YOT is to identify the needs and problematic areas of a young person’s life (10–18 years of age) that may underpin their offending behaviour by assessing them with a national assessment tool, the ‘Asset’. This assessment instrument highlights specific areas of concern relating to offending behaviour and this enables the YOT practitioners to identify suitable programmes to address these issues with the intention of preventing further offending.

It is widely acknowledged that the CA (1989, 2004) influenced and impacted on the work of the YJS. However, as a social worker in YOTs there are specific pieces of the legislation that you need to be aware of and these are examined in Chapter 2.

Structurally social workers are creations of the statute and therefore a practitioner working in either the welfare or justice system would for the most part have very different legislation underpinning agency policy and therefore their practice. This
variation in practice and intervention reflects core elements of policy and procedures; for example, National Standards for the YJS and the Common Assessment Framework for the welfare system, each shaping social work practice with young people in very distinct ways. These frameworks define the standard required for good practice when working with children and young people on either specified court orders in the YJS or when conducting an assessment of a child’s welfare needs and subsequent planning to address them. It will not be too surprising to learn that many children and young people would have been subject to both forms of assessment and intervention at some point in their young lives; for example, research conducted for the Youth Justice Board (YJB) on persistent young offenders showed that 38 per cent had been accommodated by a local authority at some point in their lives, compared with 0.5 per cent of the general population (Arnall et al., 2005).

The involvement of young people in the welfare and justice systems concurrently or consecutively are examined further on in this chapter.

**Political context**

Successive governments regardless of their political persuasion have called for a variety of ways to address crime in the UK. In recent years the Labour Government with its ‘tough on crime, tough on the causes of crime’ cry usurped the traditional right-wing ground of the Conservative party who had held the monopoly on increasingly punitive approaches to addressing the perennial problem of criminal behaviour, especially that of youth crime. The current Coalition Government, with its financial cuts to social service budgets, has sought to politicize child welfare and YJ further and as a consequence this continues to establish the role of social work as one of the most political of all professions (Goldson, 2005; Mathews and Young, 2003; Jordan, 1998).

This is set against the contextual backdrop of England and Wales having the highest incarceration rates for young people in Europe (Muncie, 2009). This has been linked to numerous factors relating to legislation and policy implementation that reflects a political stance where youth crime is deemed intolerable and must be dealt with severely (Goldson, 2006). This mirrors the inordinate levels of custody for young people aged 12–17 in this country. The latest figures identify an average figure of 2418 young people in this age range either sentenced, awaiting sentence or remanded at any one time. Eight per cent of this figure will be young females (Ministry of Justice, 2011; Parliament UK, 2010).

A major ethical concern for social workers is not only the numbers of youth in custody but more so the disproportionate number of young people in local authority care who come into contact with the YJS (Youth Justice Briefing, 2007). Figures vary depending on source but all present a negative depiction of the numbers of young offenders with a care history. For example, figures from the YJB suggest that 70 per cent of young people involved in the YJS have a care history or involvement from social services (YJB, 2007: 96). In the case of custody, figures vary with open cases to statutory child welfare agencies as a result of neglect and/or other child protection concerns ranging from 30–50 per cent depending on source (Prison Reform Trust, 2007; Goldson, 2006). Therefore as a social work practitioner in a YOT it is very
likely that you will be working with children and young people who have all of the
difficulties and issues associated with their involvement in the welfare system with the
additional concerns of offending behaviour. Your awareness that the welfare system
can act as a feeder to the YJS and that the older the young person the potentially more
vulnerable this makes them to incarceration needs to be borne in mind and balanced
with the notions of punishment and rehabilitation.

Victims and offenders

It is fairly easy to identify who an ‘offender’ is or what they have done to be labelled
as such; however, it is substantially more difficult to do the same with the term ‘victim’.
The dictionary definition of victim establishes them to be ‘a person or thing that
suffers harm, death, etc, from another or from some adverse act, circumstance, etc’
(World English Dictionary, 2011). Obviously in terms of the YJS we are looking at a
legal definition that would appear under the suffering of harm category as defined in
law. However, as we shall see, the YJS encompasses a number of young people who
are victims in all senses of the word.

There has been an increasing focus on addressing the needs of victims of crime.
The current adversarial justice system does little to offer victims involvement in or a
voice about the procedures that they are exposed to. However, involving the victim in
the judicial process and subsequent court ordered sentence is becoming more
commonplace especially in the YJS (Home Office, 2003).

The wholesale introduction of restorative justice (RJ) interventions has been the
cornerstone of implementing a substantially more focused victim approach to involve
victims in the punishment and rehabilitation of young people. The influence of the
victim’s perspective is curtailed in relation to sentencing offenders, although ‘victim
impact statements’ can be read out in court and are deemed to at least allow the voice
of the victims to be heard. The sentencing framework used by judges to sentence has
a number of checks and balances to allow for fairness and mitigation in sentencing
offenders for the same or similar offences. Conversely it is the requirement of judicial
fairness for the offender that does not allow for the impact of the offence on the
victim to affect the sentence given.

Within the YJS numerous forms of RJ interventions are deployed to allow the
offender to make amends for their behaviour. These take place across all manner of
pre- and post-court disposals including letters of apology, victim awareness sessions
and face-to-face meetings with victims through a variety of mediated processes (Home
Office, 2003). Referral Orders were introduced in the Youth Justice and Criminal
Evidence Act (1999) and seen as an RJ approach to address less serious crime by first
time offenders. The order allows the young person to address their offending
behaviour in partnership with a panel of local community representatives and a YOT
worker and provides the opportunity for the victim to attend a meeting to express to
the offender the consequences of their actions. Many YOTs employ a Victim Liaison
Officer whose role it is to engage with victims of crime and assist in identifying
interventions that may benefit the victim. In relation to the Referral Order panel they
would also provide support for the victim when attending the meeting and/or read out
a statement from them highlighting their views on the offence (YJB, undated).
Although the engagement of victims is seen as essential to the initial court process (as witnesses to assist in the conviction of the offender), their role in helping to address youth crime through their attendance in meetings with young offenders has also been identified in more recent years (Home Office, 2003). The duality of their role as one of victim of crime and also interventionist is captured through the RJ process as it is seen as empowering for the victim in allowing to meet the offender and have a say about their feelings regarding the impact of the offence. The Referral Order is considered by many proponents as the means to achieve this aim and is considered as the pinnacle of restorative interventions in the YJS while others are concerned that in practice it lacks some of the core elements that make it a restorative process (Stahlkopf, 2009; Crawford and Newburn, 2003).

Persistent concerns for many observers of RJ are the level of victim involvement and that subsequent satisfaction with the process and outcomes can fluctuate according to geographic location, practitioner workload pressures and commitment to involving victims in the process. However, unless your role is one that encompasses the management of the Referral Order process, it is unlikely that you will work with victims of crime. The focus of the YJS does not incorporate the needs of victims to any substantial degree and traditionally the work of its employees has been to focus on offenders. Victim work can be very rewarding and although somewhat slow and sporadic the involvement of victims in the judicial process is becoming more commonplace. As the focus of the YJS changes, it is possible that the role of social worker in the YOT will become more balanced towards addressing the needs of victims equally.

The notion and definition of who is a victim can be a difficult one to reconcile especially if you shift your view slightly to incorporate a broader definition.

**Offenders**

Overall figures for the year 2009/10 identify that 106,969 young people aged 10–17 were in the YJS and 198,449 offences had been committed; of concern is that at any one time 24,18 young people are held in a custodial environment (Ministry of Justice, 2011). These figures reflect a decrease in youth crime by 33 per cent since 2006. Sixty per cent of all offences were committed by young males aged 15–17 years of age. Young men also accounted for 92 per cent of the prison population of whom 84 per cent were from a white background. These statistics highlight the disproportionate number of young males from black minority ethnic (BME) groups within the YJS and the relatively small number of young females involved in the system (Ministry of Justice, 2011).

Many authors warn of relying on statistics collated from official sources and suggest that this does not allow for an analysis of those areas not within the research scope. For example these statistics only relate to ‘proven’ offences that are convicted offences for which a young person has received a court disposal. They do not incorporate crimes that have not been reported, go undetected or that were not seen as viable to go through the court process. They also do not identify the social and individual characteristics of the young people involved in the YJS and therefore lack an anti-oppressive and anti-discriminatory analysis of factors that many young people are exposed to. However,
Official statistics are usually underestimates and in general they correlate well with children and young people’s own views of their offending behaviour (Edinburgh Study of Youth Transitions and Crime; see Smith et al., 2001; Smith, 2004).

Official statistics do provide us with a picture albeit incomplete and a starting point to engage with some of the issues that affect young offenders. For example a key theme that threads its way through the lives of many of the young people involved in criminal activity is that of poverty. The ‘corollaries between child poverty, social and economic inequality, youth crime and criminalisation are undeniable’ (Goldson and Muncie, 2008: 222). Poverty has been identified as a defining feature of many social work service users and a perennial social issue that the social work profession has done little to address or change (Cree, 2010; Cunningham and Cunningham, 2008).

Fyson and Yates (2011) suggest that although the predisposing factors are the same for all young people, those with a learning disability/difficulties (LD) have additional social concerns such as being bullied and so could be more exposed to criminal behaviour. This is expounded by statistics relating to young people incarcerated where one in five has some form of learning disability (Bryan et al., 2007). It has also been identified that young people with LD often originate from lower socio-economic backgrounds as do many young offenders.

Young people in the YJS are three times more likely to have mental health needs than their peers who do not (Hagell, 2002; Arnall et al., 2005). Of concern are figures relating to the mental health needs of young people in custody where Lader et al. (2000) identified that eight out of ten met the criteria for more than one formal mental health diagnosis. Contextually, it has been well documented that young people, especially males from BME groups, are overrepresented within the YJS. It has been acknowledged that they receive harsher sentences and this manifests itself with a higher BME prison population (House of Commons Home Affairs Committee, 2007). There are also disproportionate numbers of BME males with mental health and learning disabilities.

The correlation between non-attendance in school and offending behaviour is well documented. The HM Inspectorate of Prisons 2003 survey identified that 83 per cent of boys had been excluded and 41 per cent of boys and girls were aged 14 or younger when they were last in school. The YJB’s (2005) study of risk and protective factors found a considerable relationship between risk factors for youth offending and those for educational under-achievement and this was mirrored in the YJB study of persistent young offenders where low educational attachment, attendance and attainment were found across the whole sample, with 45 per cent known to be regular truants (Arnall et al., 2005). The lack of statutory education is seen as one of the largest factors linked to recidivism (Youth Justice Board, 2005). Given the acceptance of the positive role education has in reducing offending and reoffending rates, the Government’s lack of commitment in enforcing legislation that ensures local authorities are responsible for the education provision for young offenders in custody settings is of great concern (Children and Young People Now 2011).

All the data highlights that the majority of crime is committed by males, with females accounting for 22 per cent of all disposals (sentences) given within the YJS in 2009/10 (Ministry of Justice, 2011). At the same time media perceptions identify the offending behaviour of young females to be on the increase and therefore the new
societal concern. Arnull and Eagle (2009) suggest that offending rates among young females have not increased per se and can be accounted for by changes in the policing of girls and young women that has drawn attention to less serious anti-social behaviour and brought them more into the purview of the YJS. There has been a trend in recent years for girls and young women to be prosecuted for offences that in the past would not have been prosecutable (Steffensmeier et al., 2005). Therefore it is likely that it is the response to female offending that has changed rather than offending rates themselves.

The most disturbing statistic to be added to the plethora of figures is that of the number of child deaths while in custody. Goldson and Coles, (2008) identified that there have been in excess of 30 child deaths in prison often while the young person is of ‘looked after’ status by a local authority. Issues relating to the ‘duty of care’ held by the local authority and broader arguments against any type of incarceration for children manifest themselves around this major concern. The child centredness of the YJS must be questioned given the volume of young people incarcerated, the level of care received while in custody and numbers of deaths against the obvious contravening of the United Nations Convention on the Rights of the Child and the Beijing Rules that clearly identify custody as the very last resort.

Many of the issues that impact on young people’s lives such as poverty, ethnicity, gender, disability and mental health concerns will be very familiar to social work practitioners; however, why some or a combination of these factors result in criminal activity is not fully understood. Khan (2010) highlights that many of the risk factors associated with mental health problems and offending behaviour correlate and overlap, for example poverty, lack of education, self-esteem and confidence issues. Also official research statistics highlight that many young people who are victims of crime (69 per cent) state that the perpetrator of the offence was another young person under 18 years of age (Philips et al., 2009). Arnull and Eagle (2009) also found that the victims of crime committed by girls were most usually other young people, and often those known to them. In addition the Crime and Justice Survey 2003 identified that young offenders are more likely to become victims themselves (Wood, 2005) and other studies have consistently noted high levels of previous victimization among young offenders (Arnull et al., 2005).

Research has established that no one factor can be specified to cause criminal behaviour (Anderson et al., 2005). However, there are a number of identified social, biological, structural and legal factors including poverty, gender, offending peer group, family (encompassing inadequate supervision), offending family members, lack of education, abuse, loss, foetal alcohol syndrome or other brain trauma, mental health difficulties, and alcohol and substance misuse that are prevalent to varying degrees in the lives of young people who commit criminal acts (Cormack, 1996; Feilzer and Hood, 2004; Smith, 2006; Arnull and Eagle, 2009).

Many of the factors that potentially influence a young person to offend are also the elements that appear to increase the risk of victimization and this appears especially salient in relation to poverty and lack of community resources (Muncie, 2009). Muncie suggests that there is an interconnectedness between these two groups as ‘victims and offenders are from the same populations and victimization is related to particularly risky lifestyles’ (p. 170). In addition the key attributes that predispose
individuals to commit crime are often prevalent to varying degrees in the everyday lives of social work service users (Hornby, 2003). What factors or combination of factors cause one young person who has many or all of the issues outlined to offend, while another not, when both appear to have experienced some or all of the factors above, is a complex issue and not within the remit of this publication (Arnull and Eagle, 2009). Suffice to say, however, that criminological and social work research has established a correlation between these difficulties and issues and a predisposition for some young people to go on to commit anti-social behaviour.

**Implications for social work practice**

Practising as a social worker in the YJS is different from practising in more traditional social work settings such as child welfare. The age ranges, birth to 18 (and sometimes beyond) for children in the welfare system and 10–18 years in the YJS reflects the structural and socially constructed nature of children, childhood adolescence and youth (Best, 2005). The age range of young people in the YJS will invariably be that of teenagers and adolescents with all the issues that entails and which encompasses age-related and culturally defined societal assumptions, along with physical and psychological milestones of development (Llewellyn et al., 2008).

It is also probable that you will be working predominantly with males and, depending on geography, the ethnicity will be reflected in or overrepresentative of the local populations. This may well be an area that is unfamiliar for many practitioners as the tendency for social work practitioners is to mainly work with younger children or with a different service user group entirely. There is also very little literature regarding social work with this age group.

In terms of your interaction with young offenders it is our contention that as a social worker in the YJS you may need to develop a broader view of who is a ‘victim’ by moving away from the traditional notion of someone who has experienced crime in the eyes of the law to one that encompasses a broader definition in terms of lifestyle and limited choices. This in no way is to diminish the devastating effects of crime or their impact on victims but many of the young people with whom you will work in the YJS will be both victims and offenders and thus it is important that you understand this context and approach young people in this way. Doing so offers a more nuanced and complete way of defining the service user group that you will be working with.

You will also need to be aware of the role of personal and structural oppression and discrimination that has affected the lives of many young people who offend. Child deaths in custody, the lack of educational provision, the disproportionate number of young males from BME groups in the YJS and the numerous individual and structural characteristics explored above highlight areas of major ethical and values concerns for social work practitioners. Given the value base and ethical nature of social work practice these concerns will resonate with the traditional aims of social work empowerment regarding particular marginalized groups and individuals.
Summary

As you can see, there are very good reasons why Youth Offending Teams (YOT) are required to employ a social worker. A theoretical understanding of crime and offending behaviour does not assist in changing young people’s circumstances, attitudes and life chances, and research into the lives of young people who commit crime highlighted a number of significant areas that require professional social work intervention.

Although essentially the same responsibilities are assumed in both the welfare and justice settings, the work and interventions associated with the differing systems means that the daily engagement of a social worker with children, young people and their families in the YJS is very different from that of a social work practitioner in the child welfare system. Your role in the YOT is to address both the welfare needs and the offending behaviour of the young person and it can be a difficult task to balance your obligations to the service user, employer and broader society.

Social workers or associated professions involved in the YJS also need to reflect on their own personal and professional ethics and value base when working with young offenders (this is explored in more depth in Chapter 3). The broad overarching intentions of social work and other helping professions to empower, engage with and act in a non-judgemental manner, while promoting the well-being and interests of young people within an anti-oppressive and anti-discriminatory framework can be lost or diluted amid the constraints of a punitive system of accountability and responsibility.

Notes

1 For a more comprehensive description of the Children Act(s) please refer to Johns (2007) and Brayne and Carr (2008).
2 ‘This term now usually referred to as ‘frequent’.

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