RESTORATIVE JUSTICE
The shrinking youth justice population: a change in behaviour or a change in the system?

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Over recent decades, there has been a dramatic fall in recorded crime in many western countries including Scotland (McVie, 2017). Although there is no general agreement about the key drivers of the crime drop, evidence suggests that a change in the behaviour of young people may be a key contributor. There has certainly been a dramatic transformation in Scottish youth justice, especially within the last decade. For example, there was an 80% reduction in referrals to the Children’s Reporter for 8-15 year olds on offence grounds from 2005/6 to 2015/16. There was a 77% decline in the conviction rate for 16 and 17 year olds between 2006/7 - 2015/16, while Matthews and Minton (in press) found a sharp decline in criminal convictions for both men and women under the age of 20 from 2007 to 2011. And, there was a 64% decline in the use of custody as a disposal for young adults under 21 between 1996/7 and 2013/14.

Overall, there has been a clear shrinking of the youth justice client group with apparent knock on effects from initial referral to conviction and then use of detention. So what might explain this dramatic change? Has there been a change in offending behaviour by young people; or has changing youth justice policy resulted in fewer young people entering the system?

A change in youth behaviour?

Finding evidence to demonstrate behavioural change amongst young people is problematic. Ideally, we need repeated cross-sectional data from self-report studies, but these are few and far between.

The UK Health Behaviours in School-Age Children (HBSC) study found that the rate of violence (involvement in fighting) per 100 children within the UK overall, declined significantly from 13.2 in 2002 to 10.6 in 2010, although separate data were not published for Scotland.

The Scottish Crime and Justice Survey (SCJS), asks victims if they are able to say something about the offender(s) and, if so, whether they can estimate their age. Figure 1 shows a drop in victims reporting that crimes were perpetrated by young people of school age or under from around 2004 and, more recently, a fall in reporting offenders between age 16 to 24. Meanwhile, there is a clear increase in victims reporting that the offender was aged 25 or over.

The SCJS also asks how common certain problems are in the local area, including anti-social behaviour and the presence of violent individuals or gangs, typically associated with children and young people. Since 2008/09 there has been a 48% reduction in those reporting individual or gang violence and a 26% reduction in those reporting anti-social behaviour as very or fairly common in their local area.

There is good long-term data on other ‘risky behaviours’. For example, the Scottish Schools Adolescent Lifestyle and Substance Use Survey shows a declining trend amongst 13 and 15 year old boys and girls from 2002 to 2013 in smoking, alcohol consumption and drug use. There have also been declines in other forms of ‘psycho-social disorders’ amongst young people, such as suicide rates amongst those age 15 to 24 in Scotland which fell by 65% between 2000 and 2015.

There does appear to be substantial evidence that young people are less likely to be perceived as problematic and they are living healthier lifestyles, although we cannot say definitively that young people today are less likely to engage in offending. Indeed, the trends in youth justice could simply be the result of a displacement effect.

A displacement effect?

There is speculation that the widespread use of electronic devices and time spent on the internet has impacted on young people’s offending. However, are children spending too much time on devices to get involved in offending or have they simply transferred to offending online?
There is no doubt that the amount of time spent by young people on phones, computers and tablets has increased exponentially. In 2016, 93% of UK young people reported daily internet use. A recent survey of Scottish children aged 12-15 found that a third reported illegally downloading films, media or music (Herlitz et al 2016). Indeed, this form of offending was more common than other more 'traditional' types of youth offending, including group fighting, theft, graffiti and shoplifting. Similar findings have emerged in other European countries. The 2016 Crime Survey for England and Wales estimated that 5.6m cybercrimes were committed in 2015, accounting for almost half of all crimes. Unfortunately, the survey does not indicate who is committing cybercrime; but it is plausible that online crime may have become the preferred mode of 'offending' by young people.

We need far more evidence about young people's online behaviour to be definitive; however, there are grounds to doubt that the apparent decline in 'street-based' forms of offending is evidence of a trend towards increasing lawfulness amongst young people.

A justice system effect?

An alternative argument for the shrinking youth justice client group is that the system itself has become better at keeping young people out. Based on welfarist principles and underpinnend by a philosophy of minimal intervention, in theory the Children’s Hearing System has always had diversion at its heart. In practice, the system has been guilty of repeatedly recycling the ‘usual suspects’ (typically boys and those from deprived backgrounds), making them less able to desist from offending behaviour and at greater risk of transitioning to the adult criminal justice system (McAra and McVie, 2010). Following devolution, the diversionary function of the Hearings System was weakened by a punitive political narrative around young people initiated by the Labour/Liberal Democrat coalition government. Performance targets to reduce the number of persistent young offenders were introduced, and the Justice Secretary acknowledged that ‘punishment’ was a core element of youth justice. New ‘fast track’ Hearings were piloted for persistent offenders, while youth courts were reintroduced for 16 and 17 year olds. In addition, a massive new architecture was constructed with over 100 new institutions, many of which had overlapping competencies.

Fortunately, the punitive phase was relatively short lived as the cracks in the systems intervention model quickly became apparent. There was a return towards diversionary practices, which took momentum after the election of the new SNP government in 2007 especially under the framework of Getting it Right for Every Child and the explicitly diversionary Whole System Approach (WSA) for young people who offend which was rolled out nationally in 2011 (see also Simpson and Orr, page 20 this issue).

So is the shrinking youth justice client group attributable to the increased use of diversion? To a large extent we would argue that it is, although the downward trajectory in system activity predated the SNP’s policies. For example, offence referrals to the Children’s Reporter began declining well before the implementation of the WSA and can be linked fairly clearly to the abandonment of the previous government’s flawed punitive policies to reduce youth crime in 2005. Nevertheless, the SNP years in government have seen a sizeable and consistent rate of decline in the rate of young people entering and flowing through the various stages of the youth justice system. In particular, reconviction rates have declined by around 16% and diversionary policies do seem to have gained particular traction in terms of custody rates for young people which were particularly high in Scotland. Given this evidence, the diversionary approach seems to have had a more beneficial effect on reducing youth re-offending than the preceding punitive approach, although further research is required.

To conclude, there is evidence that the shrinking youth justice client group in Scotland is a result of both behavioural change and policy drivers that have increasingly diverted young people away from formal measures. However, we end with two notes of caution. Firstly, the lack of survey data on young people’s behaviour makes it impossible to monitor any transformation in youth offending; it is yet to be seen whether young people are continuing to offend in online environments which are simply less amenable to traditional modes of policing. Secondly, the major changes witnessed in youth justice policy since devolution reminds us of the vagaries of political determinism: without definitive evidence of the positive outcomes of diversion such policies are fragile and at risk of being overturned.

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