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Children in the Youth Justice System

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The macro, meso and micro context

Ethnic disproportionality in criminal justice outcomes has been documented in subsequent government reports. The Ministry of Justice (2021) showed that ethnic minority defendants were between 4 and 28% more likely to be remanded in custody and to have a consistently higher average custodial sentence length (ACSL), than White defendants. In 2020, in the UK, over a quarter of prisoners were from ethnic minority groups, and a third of children in prisons were from Black groups despite Black prisoners accounting for just 13% of the entire prison population. Efforts made by national and local governments to prevent the proliferation of crime are not often conveyed in preventative terms. In Western capitalist societies (e.g. the USA, the UK, Canada), the overriding message from central government and media is about self-responsibility and taking responsibility for the consequences of one's actions.

Adopting a public health approach to the causes of crime and launching a strategy to help communities from falling into negative cycles mean looking behind an issue or problem or illness to understand what is driving it. These are also known as 'social determinants' or 'structural factors', these are the circumstances, such as housing, education, indebtedness and lack of income that underpin people's lives and make them more or less likely: (1) to be a victim of crime, (2) to be associated with poor health outcomes, (3) to have less access to health services, (4) to die prematurely, (5) to have contact with the police and other services, and (6) be more likely to enter the criminal justice system.

Public health and social welfare approaches to supporting young people who commit crimes or are on the verge of committing crimes endeavour to provide a rehabilitative/preventative approach harnessing the skills of probation services. Changing the perceptions to reduce the stigma of young people involved in the youth justice services is what the Scottish government, in particular, the city of Glasgow has achieved in the past few years. At one point, violent crime per head of population was higher there than in New York City.

Case study: violent crimes

Analyst Karyn McCluskey's report to her Glasgow police superiors would lead to Scotland becoming the first jurisdiction in the world to list violence as a public health issue, like measles or tuberculosis. In 2004, Karyn McCluskey, an analyst for the Glasgow City Police, was asked to provide a report on how to reduce street-level violence.

Youth work

As an example of preventative work, in 2019, Dr. Christine Goodall, a maxillofacial surgeon in Glasgow and colleagues visited local schools to speak to teenagers. As part of the outreach, the students listened to a presentation from a young man who would never walk again, and from a woman who had lost her son to a senseless act of violence. That programme, along with a number of others launched around the same time, marked the beginning of a fundamental shift in how the city would treat criminal violence (Bergeron and Mills, 2019).

Violent behaviour is no longer the sole stigma of criminal justice system but is now managed within a public health context. In 2007–2008, there were just under 70,000 violent crimes reported in Glasgow, or nearly 200 per day. By 2016–2017, that number had plummeted by 37% to 43,900, or about 120 per day. Weapons possession charges also fell by 85%.

A public health approach begins by addressing the needs of entire populations or communities, rather than focusing on individual cases. This contrasts with healthcare, which centres on treating individual patients, or reactive policing, where officers respond to calls involving specific victims or perpetrators (Christmas and Srivastava, 2019).

Factors influencing juvenile delinquency

A report prepared for UNESCO (n.d.) on youth social maladaptation revealed findings from a survey of teenage boys in the USA. It showed that many boys from middle- and upper-income backgrounds were responsible for serious delinquent acts but managed to avoid court records. This observation compels us to examine why children become entangled in the justice system, emphasizing the importance of understanding the micro, meso, and macro constructs at play. An effective framework for analysing juvenile delinquency is Bronfenbrenner's (1979) Ecological Systems Theory. This theory provides a comprehensive understanding of how various environmental layers influence an individual's development and behaviour. It is particularly useful for exploring the complexities of juvenile delinquency.

At the micro level, we focus on individual factors and immediate surroundings that influence juvenile behaviour, such as family dynamics, peer relationships, and individual psychology. Key concerns include the stability of home life, the presence or absence of abuse, drug dependency, parental supervision, and school performance. These factors play critical roles in shaping a child's development and whether they lean towards prosocial or antisocial behaviour. Conversely, meso-level constructs reflect the interactions between micro-systems, focusing on how family, school, peers, and community environments intersect and influence one another. At this level, attention is drawn to factors such as high-crime neighbourhoods, poverty, the lack of positive role models and a lack of safe youth social provision, such as youth clubs. Schools that employ harsh disciplinary measures, like suspensions or expulsions, often push students into the school-to-prison pipeline. Additionally, interactions between families, child welfare services, and other support programmes can have a significant impact on outcomes. When these systems expose children to crime and violence early on, and when adequate support is lacking, the likelihood of juvenile delinquency increases. The macro level encompasses broader societal and cultural factors that shape juvenile delinquency. These include socioeconomic inequality, such as poverty and limited access to essential resources, cultural norms surrounding punishment versus rehabilitation, and legal and political frameworks that influence youth behaviour. Institutional racism and systemic biases play a significant role, as evidenced by disproportionately higher arrest and incarceration rates for minority youth compared to their white peers. These micro, meso, and macro factors interact to create pathways that either push children into or away from the juvenile justice system. By understanding the depth of Bronfenbrenner's Ecological Systems Theory, we can apply this framework to other countries and regions seeking to address the shortcomings of their legal systems. As standards of justice and public safety continue to evolve, this model helps reconcile weaknesses and develop more holistic approaches.

An accentuating part of the juvenile justice system's failure is the legal framework that disproportionately impacts marginalized or minoritized youth, increasing their likelihood of contact with the system.

UK legislation

- **Youth Justice and Criminal Evidence Act 1999:** This Act introduced measures to improve the treatment of young victims and witnesses in the criminal justice system,

impacting how Youth Occupational Therapists (YOTs) engage with these individuals and ensure their needs are met.

- **Youth Justice and Sentencing Act 2000:** This Act introduced new sentencing options and provided further detail on the operation of YOTs, including their role in the assessment and supervision of young offenders.
- **Children Act 2004:** This Act was part of broader reforms aimed at improving the welfare and safeguarding of children. It introduced the duty for agencies to work together to protect and promote the welfare of children, impacting the way YOTs collaborate with other services.
- **Crime and Security Act 2010:** This Act introduced changes to the youth justice system, including measures to increase the use of restorative justice and to strengthen the focus on preventing youth crime.
- **Legal Aid, Sentencing and Punishment of Offenders Act 2012:** This Act brought changes to the justice system, including new provisions for sentencing and the management of young offenders.
- **Children and Families Act 2014:** This Act introduced reforms related to the care and support of children and families, including provisions that impact the way YOTs work with young people and their families.
- **The Policing and Crime Act 2017:** This Act introduced measures to improve the youth justice system, including changes to remand procedures and provisions for increasing support for vulnerable young offenders.
- **Sentencing Act 2020:** This Act made various changes to sentencing laws, including provisions that impact how sentences are imposed on young offenders and how YOTs work with them.

These legislative changes reflect ongoing efforts to improve the effectiveness and fairness of the youth justice system, enhance rehabilitation, and ensure better support for young offenders and their families.

Disproportional outcomes in correctional facilities in the USA

The legacy of the youth justice system in the United States foreshadows a dark past that continues to fuel ongoing debates about whether its juvenile justice system is progressive or regressive. However, these debates have led to an expansion of knowledge that has paved the

way for reforms, showing a promising future for juvenile justice in America. Historically, the juvenile justice system was founded on the belief that children were fundamentally different from adults. They were considered less psychologically developed, immature, and more amenable to change. This belief laid the groundwork for establishing a separate justice system specifically for prosecuting youth, representing a significant departure from the previous approach that treated children as ‘mini adults’. Under the old system, children were subjected to the same legal procedures as adults, often facing prosecution and imprisonment for minor offences. Unfortunately, this new system failed to address the racial disparities in sanctions, as Black and Brown children remained disproportionately represented and faced harsher penalties compared to their White peers.

The initial goal of the juvenile justice system was progressive, focusing on rehabilitation. Juveniles typically had more resources available between arrest and sentencing as the system emphasized reform. However, over time, the system’s focus oscillated between rehabilitation and punishment. During the 1980s and 1990s, rising crime rates, coupled with a surge in racial stereotypes, led to the portrayal of Black and Brown boys as ‘super-predators’ (DiIullo, 1995). This label fuelled a shift back towards punitive measures for young offenders, but especially becoming an impetus for treating Black children more like adults in certain cases. Courts began to rely on excessive punishment, including detention and transfer to adult courts, further entrenching racial disparities.

Today, as the United States continues to navigate the delicate balance between punishment, public safety, and youth rehabilitation, significant challenges remain. Increasingly, both Americans and international observers are questioning the legitimacy of the legal system and the fairness of its actors, particularly in addressing the needs of young offenders. This growing scepticism underscores the urgency for reform and the need to realign the system with its rehabilitative goals. To date, key areas needing improvement include the over-reliance on detention, disproportionate minority contact, inconsistent state and local practices, limited resources and funding, and an urgent need for research and evaluation to guide policy and practice.

Juvenile delinquency is not confined to any specific race or class, as more children are increasingly becoming involved in the justice system. This necessitates a focus beyond

merely labelling children as delinquent by law enforcement or court officials (Kvaraceus, 1964).

Blalock's (1967) Racial Threat Hypothesis is particularly relevant in this context. The theory posits that as the size and influence of minority groups increase, dominant groups, particularly White populations, perceive them as more threatening. This perception often leads to increased social control efforts aimed at minority populations. This hypothesis aligns with discussions of Disproportionate Minority Contact (DMC) in the juvenile justice system.

DMC highlights how specific racial and ethnic minorities are more at risk of entering the juvenile justice system. Data from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) shows that Black and Brown youth are arrested and placed in residential facilities at significantly higher rates than their White counterparts (Office of Juvenile Justice and Delinquency Prevention, 2014; Puzzanchera and Hockenberry, 2013). The causes of these disparities are multifaceted, but their existence underscores the nuances of the problem. Nevertheless, the disproportionate impact on minority youth has elevated the issue from a social concern to a public health crisis in recent years, as the justice system fails to address the root causes of delinquency.

As countries around the world grapple with similar issues, the US experience offers valuable lessons, both in its successes and its ongoing struggles. Ultimately, ensuring that the system works towards rehabilitation, while addressing racial and socioeconomic disparities, remains essential for the future of youth justice.

Occupational Gift

Occupational gift for the reader: the cactus plant

Our occupational gift for this chapter is the cactus. At first glance, the cactus – with its sharp spines and hard, uninviting exterior – resembles the guardedness often seen in children who come into contact with the youth justice system. These young people, shaped by adverse circumstances, may present tough exteriors as a means of survival, a protective shield against environments that have been harsh and unforgiving.

Yet, the cactus is also a powerful symbol of resilience. It thrives in conditions where most other plants would wither, drawing on its inner capacity to conserve, endure, and adapt.

Similarly, children in conflict with the law or in need of care and protection often demonstrate extraordinary strength in navigating environments of neglect, trauma, and instability.

What makes the cactus especially striking is its *areoles* – the unique points from which both spines and flowers emerge. Each areole produces only a single bloom in its lifetime, reminding us that even in the most unyielding landscapes, there exists the possibility of rare and delicate beauty. This duality captures the paradox of children in the justice system: from the same places that cultivate defences and sharpness can also arise moments of growth, creativity, and hope.

Thus, the cactus reminds us that beneath the protective armour and the scars of survival lies a remarkable capacity for resilience, renewal, and possibility.

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