

EDITORIAL

Current Directions in Youth Justice and Young Offender Programming

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There are few areas of practice in the criminal justice arena quite so contentious as how to respond to young people who commit serious and/or repeated offenses. Our views about what should be considered as appropriate responses (both in terms of the type of sentence that should be handed down by the courts and the programs that should be offered) are determined by our beliefs about the degree of responsibility that young people should take for their actions. Whereas some guidance in relation to matters of criminal responsibility can be found in the law (for example, in Australia there is a legal presumption that a child under the age of 14 or 15 is incapable of forming a guilty intention¹), allocating personal responsibility for criminal offenses is far from simple when we consider the behavior of those who are under the age of majority. There are those, for example, those who regard young offenders as vulnerable young people who are 'at risk' of encountering a wide range of problems across different domains of life. It follows that young offenders, particularly the younger age group, should be offered compassion and support, and that programs should be made available that address a broad range of social and emotional needs. Others, however, regard the offense that the young person has committed as a more appropriate focus, and are mindful of issues of due process and the need to both punish those who break societal rules and deter others from behaving in similar ways. It follows that interventions for young offenders should seek to reduce the harm caused by the young person to the community through intervening in ways that reduce the risk of further offending taking place.

Of course, the decision to imprison is one that is made by the courts, and few would disagree with the need to offer programs that meet the basic physical, social, emotional, educational and vocational needs of young people who are separated from their families by incarceration. Custodial administrators have a clear duty of care to keep those young people in their charge safe and healthy, and whenever possible to facilitate their transition from adolescence into responsible adult members of the community. In the first paper of this special issue, Sharon Casey provides an overview of criminological and psychological theories of crime. She argues that service provision in this area should, first and foremost, be informed by an understanding of child development and how developmental factors influence offending. These themes are expanded upon in the following two papers. In the first of these, Vanessa Coppins, Sharon Casey, and Alan Campbell consider the notion of the 'best interests of the child' and how this reflects on the treatment of young

people who come before the criminal justice system. Article 3 of the United Nations Convention on the Rights of the Child Convention, suggests that in all actions taken by executive authorities, law-makers, judicial bodies, and relevant private institutions in matters concerning children, the best interests of the child must be of a primary consideration. It is based on the premise that children are born with and entitled to the fundamental freedoms and rights that are inherent to all human beings.

The next paper in this collection, written by Sharon Casey, considers what is meant by psychological maturity and how this might influence legal decision making. The paper highlights those aspects of development result in young people making less mature judgments and, as a consequence, becoming less responsible for their actions. Research has shown, for example, that young people are often more impulsive, less risk averse, have less developed problem solving skills, and engage in less consequential thinking than adults. Developmental psychology research has also shown that young people develop at different rates and that development occurs more continuously and gradually than was once thought. This research has clear implications for how children and young people are treated in the criminal justice system and is of particular interest in light of the growing trend to transfer juvenile offenders to the adult jurisdiction based on the severity of the crime committed rather than the level of culpability. The fourth and final paper in this issue considers the history and development of specialist court for children and how the Court understands its role and positioning within the broader justice and welfare systems. Based on a study of the Youth Court in South Australia, Daniel King, Andrew Day, and Paul DeFabbro highlight the need for the legal system to administer the law in ways that are appropriate to the developmental stage of children and young people.

All of the papers in this special issue were written by people who work in South Australia, Australia. In reading them it is helpful to have some sense of the context in which juvenile justice services are delivered in South Australia. Juvenile justice services internationally have been characterised as adhering to one of three distinctive models of practice (Noetic Solutions, 2010): the 'Justice model' which is concerned with accountability, punishment and due process; the 'Welfare model' which is based on administering justice in reference to the best interests of the young person; and the 'Hybrid model' which incorporates a mix of justice and welfare approaches. These authors note that there appears to be a trend toward convergence with elements of the 'welfare' model gaining popularity in North America and increasing

¹ The prosecution may rebut this presumption by proving the accused child had the capacity to know right from wrong.

pressure for European juvenile justice systems to use elements of the 'justice' orientated systems.

In Australia there has been a decrease in the number of cases heard in children's courts over the last 10 years, probably due to the increasing trend of diverting juveniles during the early stages of processing. Such diversionary measures typically include conferencing, drug and alcohol courts and programs, juvenile justice teams and special courts and programs for Indigenous young people (Noetic Solutions, 2010). South Australia's youth justice system can be characterised as 'welfare' oriented, and there is a strong emphasis on diversion. However, recent legislative changes have seen the introduction of harsher sentences for repeat and more serious offenders. The South Australian juvenile justice system applies to people aged 10 to 17 years of age who have committed or alleged to have committed an offence, as well as some older youth who were 17 years of age or under at the time of committing an offence.

Collectively, we hope that these papers offer a broad insight into some of the key issues that face those who are seeking to understand offending by young people and will help to develop effective and evidence based approaches to intervention and risk management. There is much work to do in this area. For example, international research has shown that the base rates of recidivism for young offenders are particularly high. In North America, for example, the recidivism rate for young people leaving custody has been reported to be as high as 96%. In another study, 88% of British males between the ages of 14-16 years re-offended within two years of release from custody. Australian statistics suggest that over half of those who appear in children's court go on to also appear in the adult court system (see Day & Casey, 2008). Statistics such as these highlight the importance of understanding the reasons why young people offend, if effective programs are to be offered. In one of the most comprehensive reviews in this area Cottle, Lee, and Heilbrun (2001) aggregated the results of 23 published research studies reporting risk factors for juvenile offending, involving over 15,000 young offenders. They found offense history to be the strongest predictor of juvenile recidivism (as indeed it is with adult offenders), although some of the other predictors appear to be more specific to young offender populations. These included family problems, ineffective use of leisure time, delinquent peers, conduct problems, and non-severe mental health problems. It follows that programs that are able to address problems in each of these areas are likely to be more successful in reducing rates of re-offending. In addition to offense-focussed programs, however, there also appears to be a need to address more general risk factors for offending, such as low levels of family support. In the UK, the Youth Justice Board (2001) have identified poor parental supervision and discipline, family conflict, family history of criminal activity, parental attitudes that condone anti-social and criminal behavior, and low income, as significant risk factors for offending. Nicol et al. (2000), in their study of young people involved with the criminal justice system in the UK, reported what they called a "disturbing picture of discord and unsettled behavior" (p. 250). Less than one third of the early teenagers in their sample had parents who still lived together, and half had a history of running away from home without their parent's knowledge or consent. Many

also experienced a constant change of placement, after the initial separation from home.

Current approaches to young offender programming emphasize the importance of treating young offenders as a separate group from adult offenders, and thoroughly assessing each individual young person and the risks that he or she presents. It is only then that interventions can be offered that meet varying levels of identified need. One way to assess risk factors is through the administration of structured risk/needs assessment tools (see Upperton & Thompson, 2007). These tools have been designed specifically to assess the probability that any one individual will re-offend, although the predictive validity of these measures has yet to be fully established for different cultural groups, or indeed with different offense types, or different age groups within the young offender population. While actuarial risk assessment tools do provide an estimate (probability) that a person will commit a new offense within a given time period, they do not usually formally consider the public harm that may be caused by the offense. This is a particular issue in assessing risk in young offenders, given that anti-social behavior and risk-taking is, in many cultures, considered to be developmentally normal, with crime rates peaking at around the age of 17 years then falling off as age increases.

An important issue here is identifying the group of young offenders for whom offending is not limited to adolescence, but who will continue offending into adulthood. Loeber and Farrington (1998) have shown that there is a small subgroup who begin their offending careers early, commit more offenses and more serious and violent offenses, and account for a disproportionate number of offenses in their adult years. It is this group who are likely to be the most appropriate candidates for intensive programs. This suggests that program delivery for young offenders might be best conceptualized on different levels, with the first level involving the provision of universal programs that are designed to address basic health, educational and vocational needs. A second level involving more targeted offense focussed or criminogenic programs for those identified as of medium or high risk of re-offending, with a third level of programming reserved for serious or high risk offenders. This latter group may also include those for whom their offenses cause particular concern in relation to the harm caused to others, and specialist programs may be offered, for example, to adolescent sexual offenders or violent young offenders. Such programs should be comprehensive enough to address a wide range of risk factors and intensive enough to allow co-occurring problem behaviors to be adequately treated.

In conclusion, although it is clearly important to address the broad range of needs that young people have while they are in custody, it is the offending behavior that provides the context from which programs should be developed. We know from the wider research literature on offender rehabilitation that the most effective programs are those that target the highest risk offenders, focus on changing criminogenic targets, and that are intensive enough to bring about change (see Day & Howells, 2002). Programs also need to be engaging and responsive to the needs of those taking part. It is likely that programs for young offenders which adhere to these basic principles will be the most successful in reducing rates of recidivism and entry into the adult system. Some

reviews have suggested that young offender programs reduce recidivism by around 20% (e.g., Redondo, Garrido & Sanchez-Meca., 1994), and possibly by as much as 40%. Lipsey and Wilson (1998) suggest that this represents “an accomplishment of considerable social value in terms of the expense and social damage associated with the delinquent behavior of these juveniles”, and certainly provides grounds for the ongoing development of services for young people who commit crimes. At all times, however, it is important that service providers are mindful of the protecting the best interests of the child, of ensuring that services are tailored to the level of maturity of the child or young person, and that the legal system operates in a way that ensures that overly punitive approaches to young offending are not promoted. We sincerely hope that you find this special issue to be of interest.

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