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WHAT DO 'THEY' THINK? YOUNG OFFENDERS' VIEWS OF YOUTH OFFENDER PANELS: A CASE STUDY IN ONE YOUTH OFFENDING TEAM

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Abstract *This study explores the subjective views of young offenders who have participated on Youth Offender Panels in one Youth Offending Team based in the North East of England. Youth Offender Panels are a core element of Referral Orders and act as a forum for discussion, dialogue and negotiation between the parties involved in and affected by a given crime. Allowing young offenders to speak has proved to be a powerful method of depicting their views on Youth Offender Panels, illustrating the potential of involving young offenders not only in the consultation about, but in the process of, effecting change. Several themes emerged from the study relating to some of the practical aspects of delivering Youth Offender Panels, young offenders' inter-action with panel members and the effectiveness of this approach in changing their behaviour. Based on the findings the author proposes that there should be a stronger emphasis placed on involving young offenders in the delivery of Youth Offender Panels with a view to improving their outcomes..*

Keywords *Referral Order; Youth Offender Panels; Young Offenders; Participation*

Introduction

Since the 1990s, there has been an increasing emphasis on the use of restorative approaches in the youth justice system. As a result, the majority of young people who come through the Youth Justice System will be expected to be involved in some sort of Restorative Justice Intervention (Audit Commission, 2004). An example of this is the Referral Order (RO) for 10-17 year olds, who plead guilty on their first offence (Home Office, 1999). Youth Offender Panels (YOPs) are a core element of Referral Orders and are seen as a way of increasing young offenders' participation in that unlike court, they play an active role and have an opportunity to explain their actions to the victim and members of the community (Crawford and Newburn, 2002). A number of evaluations have been carried out on YOPs in which young offenders have provided some very useful information

however, this has tended to focus on 'user feedback' reporting their experiences of YOPs or on offender engagement (Newburn, et al., 2001a: 2001b: 2002: 2003: Crawford and Newburn, 2007). Although the findings from these evaluations have been useful in assessing the effectiveness of YOPs, the *real* voice of young offenders is seldom heard, consequently, much of the research is carried out '*on them*' rather than '*with them*' (Hart, 1992). As such their voice is not taken into account on any decisions that may affect them. Their level of participation therefore, does not go beyond tokenistic. Notably, very few studies have been carried out on what young offenders think of YOPs, as an intervention, and how they are delivered. This is at odds with studies that have shown involving young offenders in their own intervention has been invaluable in shaping the services they receive (Hart and Thompson, 2009). Involving young offenders in this way not only enables the facilitators of YOPs to ensure panels are run in such a way that meets young offenders' needs, but also acknowledges the rights of young offenders to have their views taken into account. This is consistent with the law and policy committed to increasing young people's participation in matters that affect them which applies equally to all young people under the age of 18, regardless of whether they are involved in the criminal justice system (DfES, 2003; United Nations Convention on the Rights of the Child; Childrens Act, 1984). The need for such an exploration is heightened by what Kathleen Daly calls 'a gap in ideals and practice' (Daly, 2003:19). But perhaps more importantly, it is for reasons cited in the literature: because 'it works' (Halsey et al., 2006; NYA, 2007; NACRO, 2008). Drawing from the literature in the field, and on data gathered from semi-structured interviews with young offenders, the findings from this study illustrate the importance of conceptualising young offenders as valuable informants in the delivery of YOPs. The study aims to add to the existing discourse on YOPs by providing an insight into this under-developed area with a view to strengthening the involvement of young offenders on YOPs to improve outcomes.

Background

YOPs have quickly established themselves as a deliberative and participatory forum in which to address a young person's offending. Inspired by the philosophy and practices of RJ, which emphasises the principles of restoration, re-integration and responsibility, YOPs aim to make amends to the victim and/or the community (restoration); help the young offender fit back into society (reintegration); and to take responsibility for their actions (responsibility). The theoretical grounding and rationale for this approach is mostly attributed to John Braithwaite (1989) who examined the concept of 're-integrative shaming' and drew on restorative justice models used by Aboriginal, Native American and Maori cultures, more particularly, family group conferencing and other community mediation practices (Braithwaite, 2003). The emphasis is on repairing the harm done to relationships, over and above the need to assign blame and dispensing punishment (Zehr, 1990).

Upon receiving the RO, the young offender is referred to a YOP where those affected by a given crime meet in a controlled environment to discuss the offence and devise a contract together with the young offender, which involves the young offender making amends in some practical or financial way. It also includes a programme of intervention to help them desist from offending in the future. Failure to comply with the details of the contract may

result in the case going before the courts for further disciplinary action. YOPs are unique in that they are 'community driven'. Two local members of the community chair the panel meeting, which is attended by the young offender, their parent(s)/carer, representatives from the Youth Offending Team (YOT) and may also include the victim. Two or three panel meetings are held, depending on the length of the order (Crawford and Newburn, 2007).

The findings from early evaluations of YOPs have shown encouraging results (Newburn et al., 2001a; 2001b; 2002; YJB, 2003; Pennant et al., 2004; Crawford and Burden, 2005; Shapland et al., 2007; Sherman and Strang, 2007). However, the results from these evaluations should be treated with caution. Critics have questioned the methodology used in determining the programme's effectiveness which has tended to focus on satisfaction rates (Zehr, 1990). Measuring the success of YOPs is dependent on a number of restorative criteria and it is clear from some of the literature in the field that some of these are not being met. A low level of victim attendance; reports of young offenders' lack of moral reasoning to understand the panel process; and the sincerity of their apology to the victim, are just a few of the questions raised about the effectiveness of YOPs in meeting their restorative aims (Miers et al., 2001; Roche, 2003; Karp et al., 2004; Hayes, 2006; Daly, 2006; Choi and Severson, 2007; Newbury, 2008).

Many of these studies have been devoted to the 'engagement' of young offenders. Whilst this research has provided some useful information, very little research has considered how YOPs are delivered, or in fact, linked young offenders' participation to their effectiveness. It would seem sense that the individuals best placed to evaluate YOPs are the young offenders themselves. Indeed, if YOPs are to continue the current discourse of 'engaging the offender', consulting with them on this issue should be fundamental to any evaluation. Also, there is an increasing evidence base which shows different organisational needs and contexts can result in different levels of engagement of young offenders further emphasising the need for young offenders to play a more participatory role in their intervention (Westhrop, 1987; Rocha 1997; Mitra, 2000). However, there appears to be a reluctance amongst YOTs to involve young offenders beyond that of 'user feedback'. So why is this? A report by the National Children's Bureau carried out with YOTs, suggested this may be due to a number of factors including: a lack of staff commitment to a culture of participation; lack of training in participative approaches; a lack of facility for measuring 'participation', and reporting requirements. Problems also lie in the term 'participation' and what it means for young offenders involvement. A study carried out by Ipsos Mori (2010) suggests that practitioners find it difficult to define participation, and to differentiate between engagement and participation. Others suggest the negative perceptions of young offenders are in conflict with a commitment to participation in that they 'do not deserve a voice' (Hart and Thompson, 2009).

Critics of youth justice interventions in general, have long highlighted the lack of emphasis on young offenders' involvement in their own intervention plan (Stephenson et al., 2007; Hart and Thompson, 2009). However, involving young offenders on their own interventions is not straightforward. For example, trying to engage with young offenders who have mental and health problems, or communication difficulties, can be challenging

at the best of times. Age and maturity may also impact on their ability to comment (Bryan, Freer and Furlong, 2007; YJB, 2008; Cook, 2009).

Clearly, there are a number of barriers to participation, but overcoming these may be a price worth paying. There is plenty of evidence which suggests that involving young offenders in the delivery of their own interventions can improve outcomes (Burnett, 2004; Mason and Prior, 2008; National Youth Agency, 2010). The fact that these studies have been carried out is a step in the right direction and demonstrates a willingness amongst staff and young offenders to listen, fostering positive relationships which ultimately benefits all parties involved. In the case of YOPs, there are positive signs that there are moves, albeit small, towards increasing young offenders' participation in ways that are more than just tokenistic (YJB, 2008). For example, O'Mahoney, (2008) explores relationship building with young offenders and how they interact with panel members with a view to putting their views into practice. This study aims to add to this under-developed area of research by exploring young offenders' views on some aspects relating to the delivery of YOPs. It is envisaged by doing this, the importance of young offenders' views being valued will be illustrated.

Methodology

A YOT in the North East was used as a case study for this research. The YOT is a multi agency team, working in two local authority areas which focus on the prevention and reduction of offending in the area of young people aged between 10 and 17 years. A total of 14 young offenders, subject to ROs, were recruited from the YOT database and agreed to participate in the study. In the first instance, written consent was received from the participants and their parents. A convenience sample was used where participants are chosen because of their convenient accessibility (Babbie, 2009). The participants were all of British White origin and consisted of 11 males and 3 females, aged between 12 and 17 years. None of the participants had noticeable learning difficulties, although some had a history of poor school attendance or exclusion. Some participants had complex and difficult family backgrounds.

A qualitative methodology was used for this research in order to gain an insight into young offenders views of the way in which YOPs are delivered and if this is meeting their needs. It is worth noting at this point that as is customary with qualitative research using case studies, the aim of the study is not to generalise from the findings to a larger population group, rather, the goal is to seek to provide an understanding from the respondents' perspective, and to explore an area of which very little is known in the hope that further, more substantial investigations can be carried out (Evers and Echo, 2006). Data collection was in two phases: a focus group and semi-structured interviews, and all ethical issues involving research with young people was adhered to (Williams, 2004).

Focus group

According to Lederman (1990), a focus group is 'a technique involving the use of in-depth group interviews in which participants are selected because they are a purposive, although not necessarily representative sampling of a specific population, this group being

'focused on a given topic' (Krueger and Casey, 2009, p 19). There are several advantages to using this method with young offenders. Firstly, there is an increasing body of evidence which has highlighted the advantages of using focus groups with young people, particularly young people and risky behaviour. Secondly, focus groups may to some extent, address power issues with young people, as opposed to interviews where participants might feel intimidated (Barker and Rich, 1992). It should be remembered however, that focus groups have disadvantages as well as advantages, such as group settings restricting what respondents are prepared to reveal, and they allow less time to fully explore the experiences of individuals on a one-to-one method (Krueger and Casey, 2009). The focus group was held at the YOT and a conference room was made available for the meeting, which lasted approximately 45 minutes. A total of 6 young offenders attended which consisted of 5 males and one female, of White British origin, aged between 12 and 17 years. The main aim of the focus group was to generate information on specific aspects related to the delivery of YOPs. This information would then be used to formulate an interview guide for the second phase of the research.

At the start of the session the researcher outlined the aims of the study and ground rules for the discussion. Issues relating to confidentiality were also covered and permission to tape the session was granted by the participants. Participants were asked their general views of YOPs, particularly relating to the preparation of panels, communication with the panel members and effectiveness of YOPs in reducing offending. Other issues that arose related to information sharing and the contract. To stimulate discussion, the participants were put into pairs and asked to discuss their experience of their panel meeting with one another and report back to the group. The feedback was used as a springboard for further discussion. Notes were taken throughout the discussion and the session was recorded. The participants were informed beforehand that the information provided would be confidential. At the end of the discussion, the participants were thanked for their contribution and reminded of how the information would be used. The recordings were transcribed and analysed identifying themes as they emerged. Some of the themes were of pre-determined interest and others emerged in the course of analysing the transcripts (Kruger and Casey, 2009). Categories were developed and used to develop the interview guide.

Interviews

In the first instance, an interview guide was prepared and piloted. As a result, some of the questions were not clear to the respondents and these were revised. Care was taken to ensure the questions were worded in language that would be understood by the participants (Fraser, 2004; Babbie, 2009). Semi-structured Interviews were held with 8 new participants, 6 males and 2 females aged between 12 and 17 years, at various YOP venues in the region. The interviews took place in a private room or area immediately after their initial YOP meeting so that their memory of the panel meeting remained 'fresh' and to minimise the interview fatigue (Bryman, 2006). The young offender's parent(s) or guardians were present during the interview. Before commencing the interview, issues of confidentiality were discussed and participants were encouraged to ask questions or seek clarification from the researcher. Ten open-ended questions were used which allowed for flexibility and to allow for more than a dichotomous yes/no response (Bryman, 2006). The

interviews lasted approximately 10 to 15 minutes. The data collected from the interview guide provided the structure for the analysis. The interviews were transcribed identifying patterns of views and experiences as they emerged. These were put under the already classified headings used in the interview guide, selecting some of the more important quotes used to illustrate the main points in the study (Kruger and Casey, 2009).

Limitations

It is important to note that there were a number of limitations to the study. Some of the participants suffered interview fatigue after attending their panel meeting and at times it was difficult to elicit information. Interviews were carried out after the initial panel meeting and there is a possibility that the views and experiences of the participants may change at later stages of the YOP process. It is also important to point out that there were no victims present at any of the panel meetings. This is a significant limitation, as it is widely acknowledged that victim participation plays an important role in the process (Crawford and Newburn, (2007). This can have a profound effect on the offender as to whether (or not) they find the panel process a meaningful one. The study's main limitation however, was the small number of interviews carried out and the lack of a representative sample, therefore the findings from the research cannot be generalised to other YOTs. However, the findings do highlight a need for a greater exploration of this particular area.

Findings

YOPs as an intervention

Several studies have shown that many young offenders feel disempowered and apathetic about intervention programmes (Lyon et al., 2000; Hazel et al., 2002; NYA, 2010). As far as YOPs are concerned, most of the participants saw this approach to youth offending as positive, particularly the idea of being given a 'second chance' and not having a criminal record:

I think it's better because you get more chance to talk about stuff [...] and sort things out [...] it gives you another chance without getting a criminal record. (Female, aged 16)

I think it's a good idea cos just cos you've got into trouble once doesn't make you bad. (Male, aged 12)

[...] it's good, cos I'm just gonna do community service, if I wer older I might go straight to jail and not be given another chance. (Male, aged 15)

The discussion moved onto what to expect when attending a panel. Although several of the participants acknowledged they had received *some* information about the panel process, over half of the participants felt they were not well enough prepared. One participant commented that 'it was not what she expected'. One of the barriers to participation is poor access to information (DfES, 2005). All the participants acknowledged

that it is important that young offenders are well enough prepared in advance in order that they may understand their roles in the panel meeting.

Panel venue

Practical arrangements such as venue and seating have been omitted from the literature on YOPs. However, these have been seen to be important issues in research carried out on the organisational contexts of Youth Courts and how this impacts on their experience (Home Office, 2001; Hart and Thompson, 2009). Attending a panel meeting can be daunting for young offenders, so it is important that they are held in an environment with an ethos and atmosphere which avoids intimidation and stress. This is particularly important if victims and offenders are together. Various locations were used in this study including the Town Hall, youth centres, libraries and community centres. The participants were asked to comment on the venue and how this compared with the youth court. All the participants preferred the panel venue to court, where they felt nothing more than 'passive observers'. One participant described the court atmosphere as 'strict', another described it as 'old and foisty'. In contrast, the informal atmosphere of the panel was identified by the participants as being 'friendly' and 'relaxed':

I'd rather have it in a place like this [youth and community centre] coz it's more friendly [...] when I walked in the court it was silent [...] it was like everyone was looking at you, I liked this better it had a really nice feeling about it when I walked in everyone was smiling. (Female, aged 12)

This [library] is better [...] anywhere's better than court [...] stood in a courtroom with some magistrate talking down to yer from a big bench [...] that makes you feel like crap [...] this is better, you're more relaxed yer know what I mean? (Male, aged 14)

It is evident here that 'informal' venues were the preferred option as opposed to court which appeared to be a more daunting experience. However, despite efforts by the YOT, finding 'suitable' venues is not always straightforward. Crawford and Newburn, (2007) highlight the dilemma in finding venues which meet the community requirements proving to be a continual challenge for YOTs. Objections from the community and cost are cited as being two of the major obstacles in meeting local community venue requirements.

Seating arrangements

Seating arrangements can also promote, or hinder participation, drawing people into the process as active participants, or sidelining them in a more passive role (Home Office, 2001). Indeed, increased participation in the classroom has been thought to be related to seating arrangements (McCroskey and Sheahan, 1976; Marx et al., 2006). YOPs draw upon the historical tradition of 'healing circles' or 'justice circles', practiced commonly in North America, with all participants facing each other; nobody sits above or below others, or outside of the circle (Hamilton and Sinclair, 1991). In this respect, the circle is intended to be inclusive. The intention being to breakdown the dominance of a 'court-like' setting, where magistrates tend to sit on a raised platform looking down on the offender. The

issue of seating arrangements brought about a mixed response. Some of the participants found the circle arrangement intimidating, and given the option, would have preferred to sit round a table. For these participants, a table was seen as a defence barrier:

I'd prefer a table [...] it felt weird sitting that close to everybody, I felt as though they were too near. (Female, aged 16)

In contrast, others found the 'circle' arrangement less informal:

[...] circle's better [...] I liked it better that my mam was sat next to me cos she had to sit behind me at court [...] it's like you're having a meeting at home. (Male, aged 13)

It was particularly interesting to note the differences in seating preference and how seating arrangements may affect participation, with some preferring some sort of barrier between themselves and panel members, while others may only be able to communicate effectively if only open space separates them. When asked, most of the participants said they would prefer to be consulted about seating arrangements before attending a meeting emphasising the importance of preparation.

Timing of panel meetings

The length of panel meetings can vary depending on the case, and whether there is a victim present. Initial panel meetings tend to be longer than review and final meetings, and usually last between 20 and 45 minutes (Crawford and Newburn, 2007). This is less than other types of panel hearings held in Australia and New Zealand such as family group conferences, which last between one and a half to two hours (Morris and Maxwell, 2000), and is more closely associated with the Children's Hearings in Scotland, which last between 16 and 45 minutes (Hallam et al., 1998). The panel meetings in this study lasted on average for 30 minutes, however, none of the meetings were attended by the victim which would have extended the length of the meeting. Most of the participants considered the timing of the meeting to be 'just right' with no desire for a break, although some of the younger participants struggled to keep focused. One participant complained of 'being bored half way through' (female, aged, 12).

Although it is important that panel meetings should last a reasonable length of time for sufficient information to emerge, there are indications that some of the younger participants may soon become restless. Research has shown that many young offenders suffer from mental health difficulties and learning disabilities which may further exacerbate the situation and restrict their participation (Chitsabesan et al., 2006; Bryan, et al., 2007).

Panel composition

The guidance provided to YOTs states that panel members should be representative of the community they serve in terms of age, sex, ethnic or racial origin, religion, disability or occupation (Home office, 1999:2000). A key objective is to recruit local members of the

community. The intention being that young offenders and their families may feel less distanced from local people than if a panel was made up of practitioners and professionals. All the participants agreed that having local people sitting on panels was the preferred option, as opposed to authoritarian figures, such as the police and magistrates, for whom some of the participants, particularly the older ones, seemed to hold a deep mistrust.

Participants commented:

Having them [panel members] is better cos they've never met you before [...] so they don't judge or owt [...] the police have no respect for us [...] once you've done summat they're on yer back all the time, they've already got yer marked. (Male, aged 17)

If it wer police it wouldn't be same [...] it would be more like being down at cop station, at first tho I thought they [panel members] were just being nosy, but it got better [...] they didn't talk down to me or owt. (Female, aged 12)

The participants showed no particular preferences on how panels are made up. Indeed, when probed, some thought it was more important that panel members understood the issues that face young people, rather than having the 'right mix'. The discussion moved onto having ex-offenders sitting on panels. All were in favour, suggesting ex-offenders as having a better understanding of why young people get into trouble:

[...] they'd [ex-offenders] know what it's like wouldn't they? [...] the stuff that's going on the streets an that [...] and what it likes in prison. (Male, aged 13)

[...] they would be good to talk to cos they've [ex-offenders] been young like us and they know what it's like [...] being bored so you nick cars an stuff [...] and they could tell us what they did to keep out of trouble and that. (Male, aged 12)

It is clear from these comments that ex-offenders on panels could be a 'secret weapon' in engaging young offenders, having had first-hand experience of the criminal justice system.

Sharing information with the panel

Sharing information and multi-agency working are key features of Government policy (Home Office, 1998; Hilton and Mills, 2006). The sharing of information is recognised as crucial for YOTs in designating the risk status of the young offender (Cooper, et al., 2007). Before a panel begins, a report is given to panel members giving details of the young person's offence, and identifies a multitude of factors or circumstances, ranging from lack of educational attainment, substance misuse to mental health problems which may have contributed to their behaviour. When informed of the procedure, none of the participants

were aware that this was the case. The sharing of information brought about a mixed response, mainly from the older participants who particularly objected to sharing information about their substance misuse:

[...] no, I don't think they should know cos they'll think you're a druggie just cos you've got caught smoking a bit of 'grass' [...] everybody does it.
(Female, aged 16)

I don't care really, it saves you saying same stuff over and over again to different people and if it helps, so what? (Male, aged 17)

A concern for some was that they did not trust the professionals to be discreet with their information, and thought that panel members having access to their personal information would lead to them being stigmatised. The idea that their information was being passed on to panel members just before they entered the meeting, was felt to be destructive of trust, and it was felt that they should be consulted on what information would be given to panel members before they attended a meeting.

Communicating with the panel

Very little research has been carried out on communication techniques between panel members and young offenders, yet simple, effective communication on panels is crucial if the meeting is to be meaningful and participatory. All the participants identified the need to understand what was being said if they were to make informed decisions on how they might be helped. Generally, the participants were very positive about the manner in which they were spoken to and that panel members were polite and respectful. One participant said:

[...] it was the good the way they let everyone have a go at speaking so no-one felt left out, and they were avin a laugh and joke an that. (Female, aged 12)

Another commented:

[...] it's better than just sitting there saying nothing innit?[...] everybody listened to each other and I got the chance to say stuff [...] most people speak down to yer cos they think you're scum but they didn't. (Male, aged 17)

However, a number of participants reported difficulty in understanding what the panel members were asking. While the older participants said they understood most of the questions, some of the younger participants found some of the questions 'hard' to answer and had to seek clarification from their parent(s)/carer on occasions:

I think it was hard, the quiet bits were really embarrassing when they were waiting for me to say something. (Female, aged 12)

If I didn't understand summat. I'd just look at my mum and she'd tell me what they meant. (Female, aged 16)

Many of the younger participants said that if they did not understand they gave 'yeah' as an answer; very few said they asked questions to clarify what had just been said, although some participants sought clarification from their parent(s). This was primarily because they were worried about giving the 'wrong answer' and getting a negative response from the panel members. In most cases, the participants said there was no attempt by the panel members to check the veracity of their answers. One of the older participants found some of the questions 'too personal' after a panel member enquired as to where he obtained his drugs:

There wer no way I wer gonna tell him that, I don't think he should have asked me that question. (Male, aged 17)

Some of the participants found being questioned by two panel members at the same time 'confusing', with one panel member interrupting the other, destroying the flow of the conversation:

[...] one of em were asking a question and before I answered it the other one butted in wi summat else so I forgot what I wer talking about. (Male, aged 14)

Another commented:

If you get stressed up, it just builds up and you can't cope with anything in your head anymore [...] so yer just clam up. (Male, aged 17)

When questioned about the sincerity of their answers, most of the participants admitted that they just said what the panel members wanted to hear, although for some, this was more to do with not knowing what to say and hurrying up the process, than feeling pressured to say the right thing:

It was a bit of both really [...] some of it were true. (Female, aged,12)

Some of the questions I just said yes and no to cos I didn't know what else to say. (Male, aged 15)

The participants were asked the meaning of some of the more common words and phrases they were likely to hear at panels such as: contract; comply; breach; reparation; make amends and re-offending. Many had problems explaining what these meant and it became clear that some of the terminology used on panels may be difficult for some young offenders to understand. This was recognised by the participants as a disadvantage in being able to participate effectively in the discussion and that having some of these explained to them before they attended a panel would be beneficial.

Negotiating the contract

At the end of the initial panel meeting, the panel seek to agree a contract with the young offender. In keeping with the restorative ethos of YOPs, this is to be through a process of negotiation with the young offender (Earle, 2001; Crawford and Newburn, 2007). To provide some insight into this 'two-way agreement', participants were asked to what extent they felt involved in the negotiation of the contract, and the value of the contract in terms of reducing their offending. Although most of the participants agreed to the principle of having a contract, there was a clear confusion about its purpose in terms of: reparation; what it had to do with their offence; and how this helped the victim. One participant commented:

It's no different, all it is community service with another name, they said I have to do it cos of what I've done [...] well they can fuck off, I'm not painting no fucking fence. (Male, aged 17)

Another participant had problems relating reparation to the offence:

They [panel members] said I had to do stuff to pay something back [...] what does painting a fence or summat have owt to do with smacking a girl at a party [...] don't understand how does that help her and stop you doing it again? (Female, aged 16)

Most of the participants did not feel as though they had a say as to what went into the contract, and simply cooperated with the panel members in order to get the meeting finished. Moreover, there was an acknowledgment that non-compliance with the contract revealed the lingering threat of more punitive measures:

One of em asked if I would go to this centre or summat and I said no, but they kept going on about it'll do you good and that [...] and they know loads of people that's gone and that [...] then me mam's saying yer need to go. (Male, aged 12)

I told them [panel members] I didn't think I should do any of it [...] but they just said if I didn't agree to it I would go back to court so you don't have a choice. (Male, aged 15)

In general, the participants perceived the contract as punitive, rather than restorative. However, it was recognised that some elements of the contract, such as attending anger management sessions may help to change their behaviour: 'I think I need to sort out my temper and going to them sessions will help' (female, aged 16). Nevertheless, the participants' perceptions of the contract deride much of the restorative reasoning behind YOPs. It also provides some credence to the academic worries of the culture of 'negotiation' in relation to the contract in terms of young offenders' rights; power imbalance; lack of proportionality; and lack of legal safeguards (Wonnacott, 1999; Earle et al., 2002; Stahikopf, 2009). Moreover, the element of coercion is clearly present in the

participants' perception of the contract. Many felt that completing the contract during the meeting gave them little opportunity to be involved as they 'felt pressured to do it'. After some discussion, the participants recognised the benefits of writing their own contract with the help of the YOT, before they attended their panel meeting, having mutually agreed what the acceptable contract options are before the panel meeting takes place.

Preventing re-offending

It is clear that the participants in this study generally support many aspects of YOPs, but many were sceptical when asked if YOPs would prevent them re-offending. Most participants had their own clear ideas about how they became involved in offending and what steps they would have to take to stop it. These included "steering clear of certain 'friends'; going to school and staying off drink and drugs:

'I knew before I come ere why I got into trouble, because it's the wrong crowd I'm mixing with..thing is..I know that when I get older I'll grow out of it' (female, aged 12).

Most said they would have stopped offending anyway, without attending a YOP, with family being cited as a major reason to keep out of trouble:

I don't think it makes that much difference, it's just like a telling off..it's down to me in the end..the only way I'll stop doing cannabis is if I change friends an that so I'm, doing it myself. (male, aged 17)

It's not just you that's going through it, is it? It's your mam and dad, your brothers and sisters and all that. (female, aged 16)

One of the participants felt it worked because it caused embarrassment:

...it works because you av to sit there and tell people what you've done and why you did it and you think I'm not going through that again. (female, aged 12)

Although the majority of the participants recognised the importance of YOPs in addressing some of their personal issues through participating in activities such as anger management and drugs and alcohol awareness sessions, a central belief emerged, that when it came down to it, only the young offenders themselves could affect change in their lives. When asked whether the panel had increased their victim awareness, most of the young offenders had little or no increased level of awareness although they said this may have been different if the victim had been present. One participant's comment reflected the general view of others:

I dunno, you just nick from em then you don't think about it..suppose it would be different if they're wer sat next to yer. (male, aged 13)

The participants put any change in their behaviour down to their own efforts, rather than those of the panel. Age was considered to be one factor in desisting offending. One participant said: 'I can't see the point of it, I'll just grow out of it like my brother did' (male, aged 13). Many sources of criminal data on youth crime concur with this view and have consistently shown a steep increase in offending behaviour during adolescence (the criminal age of responsibility), peaking during the mid teenage years, then a steep decline in the mid 20s (Hirschi and Gottfredson 1983; Graham and Bowling, 1995; Home Office, 2003; Kershaw et al., 2008; Hawkings, Wells and Utting, 2010). Family was also cited as a powerful driver to stop offending, although there is significant evidence showing family background can also be a causal factor of offending (Piquero et al., 2007).

These comments raise a more controversial question: are ROs and YOPs necessary at all? The statistics provide a strong argument for the increased use of ROs which have been shown to have the lowest recidivism rates of all youth court orders (Whiting and Cuppleditch, 2006). On the other hand, there is also strong evidence that many young people grow out of offending, some without any intervention at all. Perhaps more could be done to understand the reasons young offenders give for their actions. Instead, the literature tends to focus on generalised views about their peer groups and the influence of family, rather than more indirect causes such as young person's moral judgments, social views and habits, all of which can contribute to a young offenders' engagement in an act of crime (Per-Olof Wikström and Kyle Treiber, 2008). ROs are a risk-focused prevention. The danger is that the focus on risk ignores the individual characteristics of young offenders to commit crime or reduce their offending (Per-Olof Wikström and Kyle Treiber, 2008).

Discussion and conclusion

While some of the findings reinforce previous research, this study provides some useful information on some of the under-evaluated aspects of YOPs seen from young offenders' perspective. A number of key points arose from the study. The preference for ex-offenders sitting on panels highlights the need to consult with those who young offenders may best 'engage' with. Although there is plenty of literature around 'engagement', this is an area that has been under-researched. Ex-offenders have been shown to be successful in steering young people away from crime, mentoring young offenders, particularly in drug treatment centres and other charitable organisations (NACRO, 2006; Johnson, 2008) therefore, this is an avenue worth pursuing. However, the number of offenders sitting on panels is not known. Although studies on YOPs have identified the demographic profiles of panel members (Biermann and Moulton, 2003; Crawford and Newburn, 2007), this does not include those with an offending history. Of course, it may be that a number of ex offenders already sit on panels however, it would be useful if this information was made available to ensure that this area of recruitment is being addressed. If not, YOTs should make vigorous efforts to recruit ex offenders. Although the guidance to YOTs that if an applicant's previous offending history does not pose any risk, this should not prevent them from applying to sit on panels, ex-offenders may feel embarrassed about past offences or their unwillingness to put themselves in situations which require the disclosure of information (NACRO, 2006; YJB, 2009) and in this regard strategies should be put in place to address their concerns.

The *study* also highlighted some of the challenges young offenders may face in communicating with panel members. The danger here is that they could end up just listening to adults, rather than contributing, or misunderstanding information altogether. Young offenders with communication problems are likely to have difficulty interacting which could be construed as being un-cooperative (Snow and Powell, 2004). To date, very little research has gone into the language used and style of questioning on panels, and there is currently no systematic national means of assessing people with speech, language and communication difficulties at the start of their contact with a YOT. Indeed, this has been seen to be a problem in all offender programs which are largely language based (Humber and Snow, 2001; Home Office, 2006; NACRO, 2008). Good communication is essential for full participation, thus, more needs to be done to ensure the language used is simple and clear, particularly for those with disabilities who may need additional support, perhaps even looking at alternative forms of communication. Panel members also need ongoing training in communicating with young offenders. Indeed, this has been shown to be a concern for panel members who have felt their level of training does not meet that expected in both policy and training (Jones and Roberts, 2006). Considering there is a significant evidence base that shows young offenders have poor language skills (Hazel et al., 2002; Bryan et al., 2007), it is unrealistic to expect panel members with 'volunteer training' to be able to deal with some of the language and communication needs of young offenders. As Hayes (2006) argues managing 'conference type' sessions with young offenders is challenging for even the most experienced convenors.

It was clear on the question of the contract that the participants felt they played a passive role, rather than a participatory one. This is a particular concern for YOTs as the terms of the contract are to be negotiated, not imposed. Therefore, steps need to be taken so that young offenders feel as if they have some 'ownership' of the contract in terms of what is included and how this relates to making amends to the victim and/or community. No matter how it is 'wrapped up', the participants still saw the contract as punitive. The overriding threat of court for non-compliance was evident and is at odds with a participatory approach. If the contract only has a compliance/non-compliance option, young offenders may feel excluded and therefore, see the contract as punitive, rather than restorative. The suggestion that young offenders write their own contracts with the assistance of the YOT, may encourage them to think about their actions and develop a plan of action which they can relate to their offence.

Another key finding was the attitudes towards YOPs in reducing their offending. Most of the participants saw desisting offending through their own actions, and not YOPs. If youth crime is the product of age and immaturity, questions should be asked whether young offenders should be put through the process at all. Further, if YOPs are meant to be restorative, this seems to be at odds with putting them through the ordeal (and expense) of court or perhaps there is a need for a new strategy in evaluating YOPs altogether, one that looks at their value in directly influencing young offenders to reduce offending. Instead, efforts may be best placed focusing on the social context which may be contributing to their offending. This may go some way to helping young offenders identify the difference between a restorative approach and a punitive one.

Some of the issues raised in this study emphasise the importance of pre-panel preparation. These changes would not necessarily be difficult or costly, often it is just about increasing awareness and understanding or making small operational adjustments.

Whilst recognising some of the limitations of YOPs, there are some positives that have arisen from this study, not least the fact that YOPs were seen to be a preferred option to court and in respect for the panel members themselves, opening up the possibility of relationship building, something rare between adults and young people. However, the main message of this study is that allowing young offenders to 'have a say' on the delivery of YOPs can have a beneficial impact for all those involved in the YOP process. There are signs that this argument is being won however, there is still some way to go before it can be said that 'true participation' is taking place. Ensuring participation is subject to a number of factors. First, mechanisms need to be put in place to create a culture of participation between young offenders, YOT staff and the panel members. Second, steps need to be taken to address some of the barriers to participation young offenders may face and third, it should be considered that perhaps young offenders 'may know best'. That said, there are some encouraging signs that YOTs are starting to listen, as it is becoming increasingly recognised that asking '*what they think?*' provides the dual benefit of 'tailoring' YOPs to meet the needs of young offenders, which in turn improves participation and outcomes.

References

- Audit Commission (2004). *Youth Justice: A review of the reformed youth justice system*. London: Audit Commission.
- Babbie, E. (2009). *The Practice of Social Research*. 12th ed., Wadsworth, USA: Cengage Learning.
- Barker, G. N. and Rich, S. (1992). Influences on adolescent sexuality in Nigeria and Kenya: Studies from recent focus group discussions. *Studies in Family Planning*, 23, 199-210.
- Biermann, F., and Moulton, A. (2003). *Youth Offender Panel Volunteers in England and Wales*. London: HMSO.
- Braithwaite, J. (1989). *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.
- Braithwaite, J. (2003). Setting Standards for restorative justice. *British Journal of Criminology*, 42, 563-577.
- Bryan, K., Freer, J. and Furlong, C. (2007). Language and communication difficulties in juvenile offenders. *International Journal of Language and Communication Disorders*, 42, 505-520.
- Bryman, A. (2006). Integrating quantitative and qualitative research: how is it done. *Qualitative Research*, 6, 97-113.
- Burnett, R. (2004). One-to-One Ways of Promoting Desistance: In Search of an Evidence-Base. In: Burnett, R. and Roberts, C. (eds.) *What works in Probation and Youth Justice: Developing Evidence-Based Practice*. Cullumpton, Devon: Willan.
- Chitsabesan, P., Kroll, L., Bailey, S., Kenning, C., Sneider, S., MacDonald, W. and Theodosiou, L. (2006). Mental health needs of young offenders in custody and in the community. *British Journal of Psychiatry*, 188, 534-540.

- Choi, J. J. and Severson, M. (2007). What! What kind of an apology is this?: The Nature of Apology in victim offender mediation. *Children and Youth Services Review*, 31 (7), 813-820.
- Cook, P. (2009). Judge for yourself. *Healthier Inside Magazine*, 4, 16-17, London: National Childrens Bureau.
- Cooper, K., Haslewood-Pocsik, I. and Roberts, C. (2007). *Keeping Young People Engaged*. London: Youth Justice Board.
- Crawford, A. and Burden, T. (2005). *Integrating Victims in Restorative Youth Justice*. London: Policy Press.
- Crawford, A., and Newburn, T. (2002). Recent developments in restorative justice for young people in England and Wales. *British Journal of Criminology*, 42, 476-495.
- Crawford, A. and Newburn, T. (2007). *Youth Offending and Restorative Justice: Implementing reform in youth justice*. Devon: Willan.
- Daly, K. (2003). Mind the Gap: Restorative Justice in Theory and Practice. In: Von Hirsch, A., Roberts, J.V., Bottoms, A., Roach, K. and Schiff, M. (eds.) *Restorative justice and criminal justice: Competing or reconcilable paradigms?* Oxford: Hart Publishing, 219-236.
- Daly, K. (2006). The limits of restorative justice. In: Sullivan, D. and Tift, L. (eds.) *Handbook of restorative justice: A global perspective*. New York: Routledge, 134-145.
- Department of Education and Skills (2003). *Every Child Matters (ECM)*. Cm 5860, London: DfES.
- Earl, R. (2001). Creative Tensions? Young offenders, Restorative Justice and the Introduction of Referral Orders. *Youth Justice*, 1 (3) 3-13.
- Earl, R., Newburn, T. and Crawford, A. (2002). Referral Orders: Some Reflections on Policy Transfer and 'What Works'. *Youth Justice*, 2, 141.
- Evers, C.W., and Wu, E. H. (2006). On Generalising from Single Case Studies: Epistemological Reflections. *Journal of Philosophy of Education*, 40 (4), 511-526.
- Gabbay, Z. D. (2005). Justifying Restorative Justice: A Theoretical Justification for the Use of Restorative Justice Practices. *Journal of Dispute Resolution*, 20 (2), 349-398.
- Graham, J., and Bowling, B. (1995). *Young people and crime*, Home Office Research Study 145, London: Home Office.
- HM Government (2004). *Every Child Matters: Change for children*. London: TSO.
- Hallett, C. and Murray, C., with Jamison, J. and Veitch, B. (1998). *The Evaluation of Children's Hearings in Scotland*. Vol. 1, Edinburgh: The Scottish Office Central Research Unit.
- Halsey, K., Murfield, J., Harland, J. L. and Lord, P. (2006). *The Voice of Young People: An engine for improvement? Scoping the evidence*. National Foundation for Educational Research for CfBT Education Trust.
- Hamilton, A. C. and Sinclair, C. M. (1991). *Report of the Aboriginal Justice Inquiry of Manitoba. The Justice System and Aboriginal People*. Winnipeg: Public inquiry into the Administration of Justice and Aboriginal People.
- Hart, R. (1992). *Children's Participation: From Tokenism to Citizenship*. UNICEF.
- Hart, D. and Thompson, C. (2009). *Young people's participation in the youth justice system*. London: National Children's Bureau. Accessed at <http://www.ncb.org.uk>.

- Hawkins, J.D., Welsh, B.C. and Utting, D. (2010). Preventing Youth Crime: evidence and opportunities. In: Smith, D. J. (ed.) *A New Response to Youth Crime*. Cullumpton, Devon: Willan.
- Hayes, H. (2005). Assessing re-offending in restorative justice conferences. *Australia and New Zealand Journal of Criminology*, 38, 77-101.
- Hayes, H. (2006). Apologies and Accounts in Youth Justice Conferencing: Reinterpreting Research Outcomes. *Contemporary Justice Review*, 9 (4), 369-385.
- Hazel, N., Hagell, A. and Brazier, L. (2002). *Young Offenders' Perceptions of their Experiences in the Criminal Justice System*. London: Policy Research Bureau.
- Hilton, Z. and Mills, C. (2006). *'I think its about trust': the views of young people on information sharing*. London: DfES.
- Hirschi, T. and Gottfredson, M. (1983). Age and the Explanation of crime. *American Journal of Sociology*, 89, 552-84.
- Home Office (1997). *No More Excuses – A New Approach to Tackling Youth Crime in England and Wales*. Cm 3809, London: Home Office.
- Home Office (1998). *Crime and Disorder Act*. London: HMSO.
- Home Office (1999). *Youth Justice and Criminal Evidence Act*. London: HMSO.
- Home Office (2000). *The Referral Order: Guidance to Youth Offending Teams*. London: HMSO.
- Home Office (2001). *The Changing Culture of the Youth Court: Good Practice Guide*. London: HMSO.
- Home Office (2003). *Criminal Statistics, England and Wales, 2002*. Accessed at <http://www.homeoffice.gov.uk/rds/crimstats02.html>.
- Home Office (2003). *Restorative Justice: The Government's Strategy: A consultation document on the Government's strategy on restorative justice*. London: HMSO.
- Humber, E. and Snow, P. (2001). The oral language skills of young offenders: a pilot investigation. *Psychiatry, Psychology and Law*, 8, 1-11.
- Ipsos MORI (2010). *A Review of Techniques for Effective Engagement and Participation*. London: YJB.
- McCroskey, J.C. and Sheahan, M. E. (1976). *Seating Position and Participation: An Alternative Theoretical Explanation*. Paper presented at the annual convention of the International Communication Association. Portland: Oregon.
- Johnson, M. (2008). *Wasted: Violence, addiction and hope*. London: LBBG.
- Jones, S., and Roberts, C. (2006). *Examining the involvement in community involvement*. Centre for Criminology, University of Oxford.
- Karp, D. R., Sweet, M., Kirshenbaum, A. and Bazemoor, G. (2004). Reluctant Participants in Restorative Justice? Youthful Offenders and Their Parents. *Contemporary Justice Review*, 7 (2), 199-216.
- Kershaw, C., Nicholas, S. and Walker, A. (2008). *Crime in England and Wales 2007/08*. Home Office Statistical Bulletin 07/08, London: Home Office. Accessed at <http://www.homeoffice.gov.uk/rds/pdfs08/hosb0708.pdf>.
- Krueger, R. A. and Casey, M. A. (2009). *Focus Groups: A Practical Guide for Applied Research*. 4th ed., Thousand Oaks, CA: Sage.
- Lederman, L.C. (1990). Assessing educational effectiveness: The focus group interview as a technique for data collection. *Communication Education*, 38, 117-127. In: Krueger, R.

- A. and Casey, M. A. (2009). *Focus Groups: A Practical Guide for Applied Research*. 4th ed., Thousand Oaks, CA: Sage.
- Lyon, J., Dennison, C. and Wilson, A. (2000). *'Tell Them So They Listen': Messages from Young People in Custody*. Home Office Research Study 201, London: Home Office.
- Marx, A., Fuhrer, U. and Hartig, T. (2006). Effects of Classroom Seating Arrangements on Children's question- asking. *Learning Environments Research*, 2 (3), 249-263.
- Mason, P. and Prior, D. (2008). *Keeping young People Engaged*. London: YJB.
- Maxwell, G. (1996). *Restorative Justice: A Maori Perspective*. The New Zealand Maori Council, Wellington, NZ: Ministry of Justice.
- Miers, D., Maguire, M., Goldie, S., Sharpe, K., Hale, C., Netten, A., Uglow, S., Doolin, K., Hallam, A., Enterkin, J., and Newburn, T. (2001). *An Exploratory Evaluation of Restorative Justice Schemes*. Crime Reduction Research Series Paper 9, London: HMSO.
- Morris, A. and Maxwell, G. (2000). The Practice of Family Group Conferences in New Zealand, Assessing the Place, Potential and Pitfalls of Restorative Justice. In: Nacro, A. (2006). *Involving Ex Offenders in Volunteering*. London: Volunteering for England. Accessed at <http://www.volunteering.org.uk>.
- Nacro (2008). *Principles of Participation for Youth Justice*. Youth Crime Briefing, London: NACRO.
- National Youth Agency (NYA) (2010). *Voice and Influence in the Youth Justice System*. Leicester. Accessed at <http://www.nya.org.uk>.
- National Youth Agency (2011). *Participation in Youth Justice: Measuring Impact and Effectiveness*. Leicester. Accessed at <http://www.nya.org.uk>.
- Newburn, T., Crawford, A., Earle, R., Goldie, S., Hale, C., Masters, G., Netton, A., Saunders, R., Sharpe, K., and Uglow, S. (2001a). *The Introduction of Referral Orders into the Youth Justice System*. RDS Occasional Paper 70, London: Home Office.
- Newburn, T., Crawford, A., Earle, R., Goldie, S., Hale, C., Masters, G., Netton, A., Saunders, R., Sharpe, K., and Uglow, S. (2001b). *The Introduction of Referral Orders into the Youth Justice System Second Interim Report*. RDS Occasional Paper 73, London: Home Office.
- Newburn, T., Crawford, A., Earle, R., Goldie, S., Hale, C., Masters, G., Netton, A., Saunders, R., Sharpe, K., and Uglow, S. (2002). *The Introduction of Referral Orders into the Youth Justice System*. Home Office Research Study 242, London: Home Office.
- Newburn, T. and Crawford, A. (2003). Referral orders: some reflections on policy transfer and 'what works'. *Youth Justice*, 2, 141-50.
- Newbury, A. (2008). Youth Crime: Whose Responsibility? *Journal of Law and Society*, 35 (1), 131-139.
- O'Mahoney, J. (2008). *Relationship Building between Panel Members and Young People in the Referral Order*. Newsletter of the European Forum for Restorative Justice, 9 (2), 57.
- Piquero, A. R., Farrington, D. and Blumstein, A. (2007). *Key Issues in Criminal Career Research: New Analyses of the Cambridge Study in Delinquent Development*. Cambridge: Cambridge University Press.
- Shapland, J., Atkinson, A., Colledge, E., Dignan, J., Howes, M., Johnstone, J., Pennant, R., Robinson, G. and Sorsby, A. (2004). *Implementing Restorative Justice Schemes (Crime Reduction Programme) - A Report on the First Year*. Home Office Online Report 32/04, London: HMSO.

- Sherman, L. W. and Strang, H. (2007). *Restorative Justice: The evidence*. London: Smith Institute. Accessed at <http://www.smith-institute.org.uk/publications.htm>.
- Roche, D. (2003) *Accountability in Restorative Justice*. Oxford University Press.
- Shapland, J., Atkinson, A., Atkinson, H., Chapman., B. Dignan, J., Howes, M., Johnstone, J., Robinson, G., and Sorsby, A. (2007). *Restorative justice: the views of victims and offenders*. Ministry of Justice Research Series 3.07, London: Home Office.
- Snow, P. and Powell, M. (2004). Interviewing juvenile offenders: The importance of oral language competence. *Journal of the Institute of Criminology*, 16 (2), 220-225.
- Stahikopf, C. (2009). Restorative Justice, rhetoric or reality? Conferencing with Young Offenders. *Contemporary Justice Review*, 12 (3), 231-251.
- Stephenson, M., Giller H. and Brown, S. (2007). *Effective Practice in Youth Justice*. Devon: Willan.
- The United Nation (1989). *Convention on the Rights of the Child*. Office of the United Nations High Commissioner for Human Rights. Accessed at <http://www2.ohchr.org/english/law/crc.htm>.
- Whiting, E., and Cuppleditch, L. (2006). *Re-offending of juveniles: results from 2004 cohort*. 10/06, London: HMSO.
- Williams, B. (2004). Meaningful Consent to participate in social research on the part of people under the age of 18. *Research Ethics Review*, 2 (1), 19-24.
- Wonnacott, C. (1999). The Counterfeit Contract – Reform, Pretence and Muddled Principles in the New Referral Order. *Child and Family Law Quarterly*, 11 (3), 271-87.
- Youth Justice Board (YJB) (2003). *Speaking Out: The views of young people, parents and the victims about the youth justice system and interventions to reduce offending*. London: YJB.
- Youth Justice Board (YJB) (2008). *Engaging Young People Who Offend, Key Elements of Effective Practice Quality Assurance Toolkit*. London: YJB.
- Youth Justice Board (YJB) (2009). *Referral Orders and Youth Offender Panels, Guidance for the Courts; Youth Offending Teams and Youth Offender Panels*. London: YJB.
- Zehr, H. (1990). *Changing Lenses*. Scottsdale, PA: Herald Press.