

Through a youth justice practitioner's lens: would a sentencing alternative to a criminal conviction be a small change with a big impact on children's desistance?

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Introduction

Learning through experience and sharing this learning is central to reflective practice (Finlay, 2008). This chapter encompasses the reflective thoughts of a practitioner who has worked in youth justice for a quarter of a century and, notably, has had the opportunity to work on the 24 picturesque square miles of Guernsey as a Youth Justice Officer. Prior to working in Guernsey, I had experience as a youth offending service (YO[S]) social worker in England, as well as working within the criminal justice service on the shores of the Shetland Islands. Based on this experience, this chapter proposes that a remittal be added to the youth court sentencing framework that is not a conviction and refers children to a specialist environment. This offers the opportunity to reframe thinking away from an adversarial youth justice system and instead promote greater collaboration that aligns more closely with current Child First thinking about supporting the child's development of a positive identity.

The chapter begins with my critical reflections from practice, with my proposition that the youth court process blocks children's desistance through its adversarial structure, which induces oppositional identities between children and youth justice agencies. The chapter goes on to show the evolutionary shape of youth court sentencing and suggests an alternative structure that supports collaborative working and positive identity development, which could play a valuable role in enabling children's desistance. Specifically, I provide an overview of the Guernsey Model, where the youth court sentencing structure includes remittals without convictions that are received by the Office of the Children's Convenor (OCC), and, then, propose that the existing structures of the Children's Hearing System (CHS) in Scotland,

diversionary Swansea Model in Wales and Youth Referral Order Panels) are already in place to receive youth court non-conviction remittals like the Guernsey Model which could reshape youth court sentencing.

I conclude by acknowledging that although the reshaping of youth court sentencing may promote a collaborative philosophy and an improved environment between children and youth justice agencies that are conducive for children's desistance, it is the interaction and relationship between children and youth justice practitioners that will facilitate real change. With this in mind, 'The Barcode of Desistance' (BoD) model is presented as a practitioners' aide-mémoire to balance risk parameters by promoting 'benefit thinking' with children. This model could be incorporated within assessments and court reports as assets to nurture the development of children's non-offending identity, furthering the tertiary stage of desistance, with practitioners advocating positive change in children and in so doing enriching the philosophy and culture of children's justice.

Critical reflections from practice

Is justice best served through the sentencing of a child to a criminal conviction? The Sentencing Council's view is that in many cases, there will be advantages to diverting children away from court:

In most cases a young person is likely to benefit from being given greater opportunity to learn from mistakes without undue penalisation or stigma, especially as a court sanction might have a significant effect on the prospects and opportunities of the young person, and, therefore, on the likelihood of effective integration into society. ([Sentencing Guidelines Council, 2009](#), p 7)

Although everyone may have a different interpretation of justice, the [United Nations Convention on the Rights of the Child \(1989\)](#) as endorsed by the UK states in Article 40, 3(b) that

[s]tates parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law, and in particular: whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

The [Convention \(1989\)](#) is fundamental in setting out the process for dealing with children without resorting to judicial proceedings therefore promoting the identity of children as children; whereas children [n the UK who enter

court, potentially experience a change in identity; the identity of the child changes from entering court as a child, receiving a 'court order' and leaving court with a conviction and the label of a child criminal (Haines and Case, 2015). While this creates challenges for the child, there are possible alternatives where a child in court could be remitted without a conviction to a tribunal, clinic, hearing, panel or similar process outside of court. This allows a child to leave court without a criminal record and so facilitates the continuum towards a more 'Child First' doctrine (Haines and Case, 2015). In this case, the state demonstrates that it is aligning itself with the UN Convention on the Rights of the Child, valuing the needs of the child.

The Independent Parliamentarians' Inquiry (Carlile, 2014, p 49) into the operation and effectiveness of the youth court quotes youth magistrate David Chesterton:

I am of the view that the greatest failure of our youth justice system is the adversarial approach we have adopted. It seems to me this approach is about 'establish who did it and punish them'. In contrast, the inquisitorial system adopted by our European neighbours seems to me to be about 'find out what went wrong and fix it'. ... Our focus on punishment rather than problem solving contributes to our high levels of reoffending.

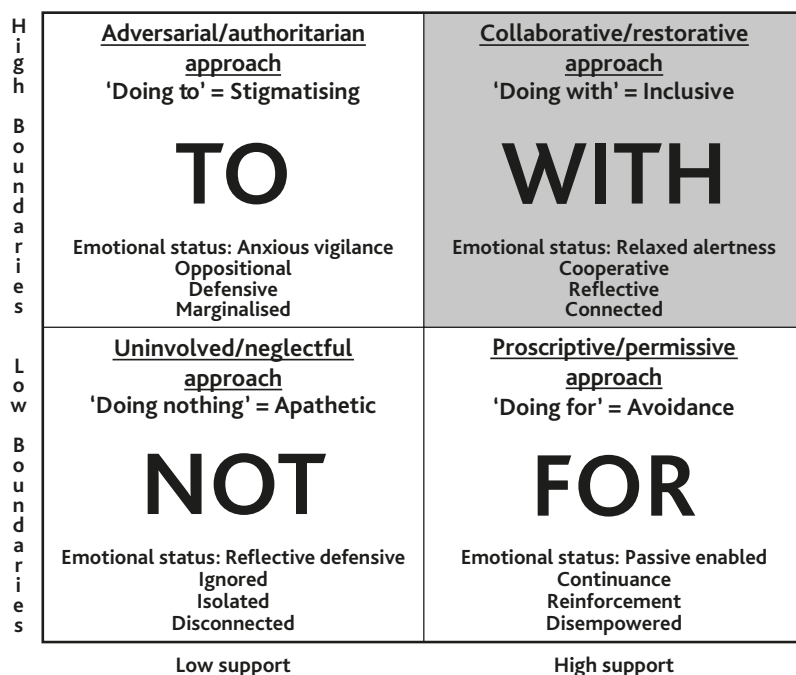
From a practitioner's perspective, I endorse Chesterton's sentiment regarding the youth justice system's adversarial approach and give consideration as to where the youth court framework and sentencing structure can be enhanced. I believe in promoting desistance at every available opportunity, which requires the whole system to share a collaborative identity of a child-friendly/Child First approach for children's justice. Although children's criminal justice is annexed from the adult criminal justice system, it remains too closely connected through sharing adult structures and therefore ideology. There are exceptions within the children's criminal justice system that have scope to be further developed and thus expand children's criminal justice towards a more distinctive system and ultimately with its own unique identity, such as Referral Orders which make meaningful steps towards collaborative thinking.

As a practitioner in England, I was frequently informed by First Time Child Entrants (FTCEs) in youth court in England that they felt removed, disempowered and confused at court. The court was considered authoritarian and punitive, defining children as criminals and adversely impacting upon desistance through a process of stigmatisation and labelling. Conversely, children and families have informed me that Referral Order panels make them feel more involved, giving them a voice and therefore invested in the better able to value the process in making amends (restoratively). Having previously worked as a Referral Order Co-ordinator, I have witnessed children

engaging in this inclusive process and gaining a clarity of understanding of the restorative ideology of putting things right and constructively moving on. This collaborative process made sense to children, parent(s)/carer(s), panel members and victims alike. Although this can be viewed positively, the Referral Order carries a conviction that defines the child as a criminal (albeit just for the duration of the order), and therefore the process remains linked to youth court. In my experience, the Referral Order is aligned to the Social Discipline Window (IIRP 2007, p 5) of working 'WITH' children (see Figure 13.1) rather than 'NOT' doing things or doing things 'FOR' children. Yet, with its conviction status and potential for breach proceedings that involve going back to court, the 'TO' Social Discipline Window is also at play, making the Referral Order a hybrid of internal and external means of control. The Referral Order process with 'Panels' held outside of court and typically in a YOT offer the potential to reframe identity through a healthier environment that enables the child, the panel and professionals not to define the child by their offence(s) but instead may foster an identity that works with the child in their entirety and in so doing establish positive working relationships and thinking that is favourable to desistance.

As noted earlier, the process of court carries adversarial limitations, labels children and therefore lessens the principal aim of the Crime and Disorder

Figure 13.1: Social Discipline Window



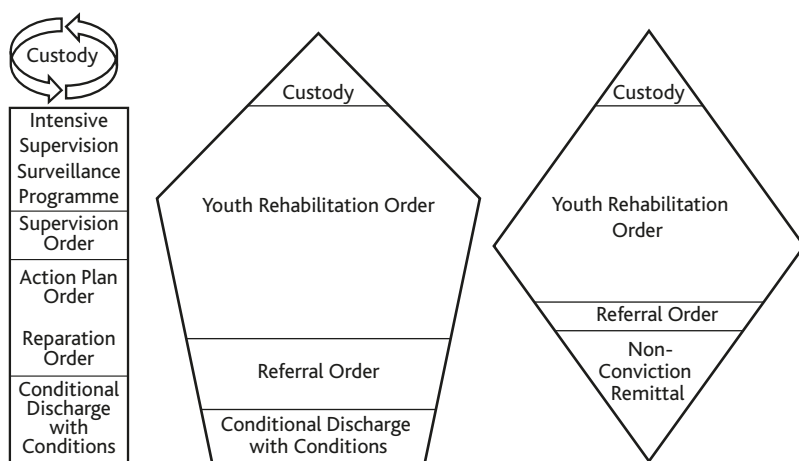
Act 1998, namely 'preventing offending by children and young people'. This is because in court children learn 'external means of control', an authoritarian style of criminal justice with an adversarial dynamic that in my experience is omnipresent in the criminal justice system, experienced at the point of arrest, police interview, in court, via community and custodial sentencing and is compounded by its connection with the adult criminal justice system. The learnt adversarial stance from children is perhaps more observable in a child involved in 'persistent' offending, as they may be better acquainted with the adversarial system. Indeed, as a practitioner, I have attended Appropriate Adult interviews at the police custody suite with children I am acquainted with and witnessed their characters transform when they patently tell mistruths in police interviews. Similarly, I have witnessed people give false names to the court. An adversarial process encourages children to adopt an oppositional approach that does not align them to law and order but instead side-lines the child from mainstream social norms. This oppositional approach can marginalise children, who may go on to construct anti-establishment identities, including a child, now an adult, that I worked with some years ago, who self-tattooed 'Fuck Feds' on to his arm, illustrating his adversarial position at that time.

The prominent self-tattoo asserts a strong anti-establishment identity that not only alienated him from the police as a child but also moved him closer to a criminal subculture, who endorsed the sentiment of his tattoo. The tattoo was explicit, displaying an individual child's oppositional identity, yet it was aimed at a collective, projecting an adverse identity of the social structure of the police. Identities then are not just restricted to individuals but are ubiquitous to places, organisations and cultures; they are not interpreted universally and, instead, are dependent upon your role and interaction with them. If we are looking to promote desistance at every available opportunity, then social structures, including environments, processes and the people within them, should all attune to the 'WITH' Social Discipline Window.

Remittals without convictions changing the shape of youth court sentencing

Professor Neal Hazel (cited in [Carlile, 2014](#), p 51) states that the criminal justice system should seek to

[s]hift their [children's] understanding of themselves to something more positive, so that you stop people thinking of themselves as street kids, as criminals and so on, and start to think of themselves as progressive members of the community, as engaged and so on. You can't, it's very difficult to do that within the type of criminal justice system that we have at the moment, with the processes and with disposals that we have.

Figure 13.2: Simplified schematisation of the changing shape of sentencing for children

Through the lens of a youth justice practitioner, I have witnessed the reshaping of youth court sentencing, from the oblong matchstick shape (see [Figure 13.2](#)) that saw the escalation of children sentenced to the next tier of the ladder, culminating in the revolving door of custody; to the current pentagon shape (see [Figure 13.2](#)), extending the incremental ladder of the oblong matchstick sideways with the Youth Rehabilitation Order (YRO) that gives breadth to community sentences and widens the sentencing shape, and in so doing suppresses children's progression into custody.

The incorporation of a non-conviction remittal to a support agency offers the potential to reshape youth court sentencing again, possibly reaching the diamond standard, by diverting children away from a youth court conviction and suppressing the label of child criminal, then maintaining the existing shape with YRO's widening community penalties for those children with convictions and tapering numbers into custody, as shown in [Figure 13.2](#).

The Guernsey Model maps on to the diamond shape of sentencing as the court has the option of making a remittal without a criminal conviction (yet it is still recorded on the Police National Computer and some Disclosure and Barring Service checks) to the OCC.

OCC

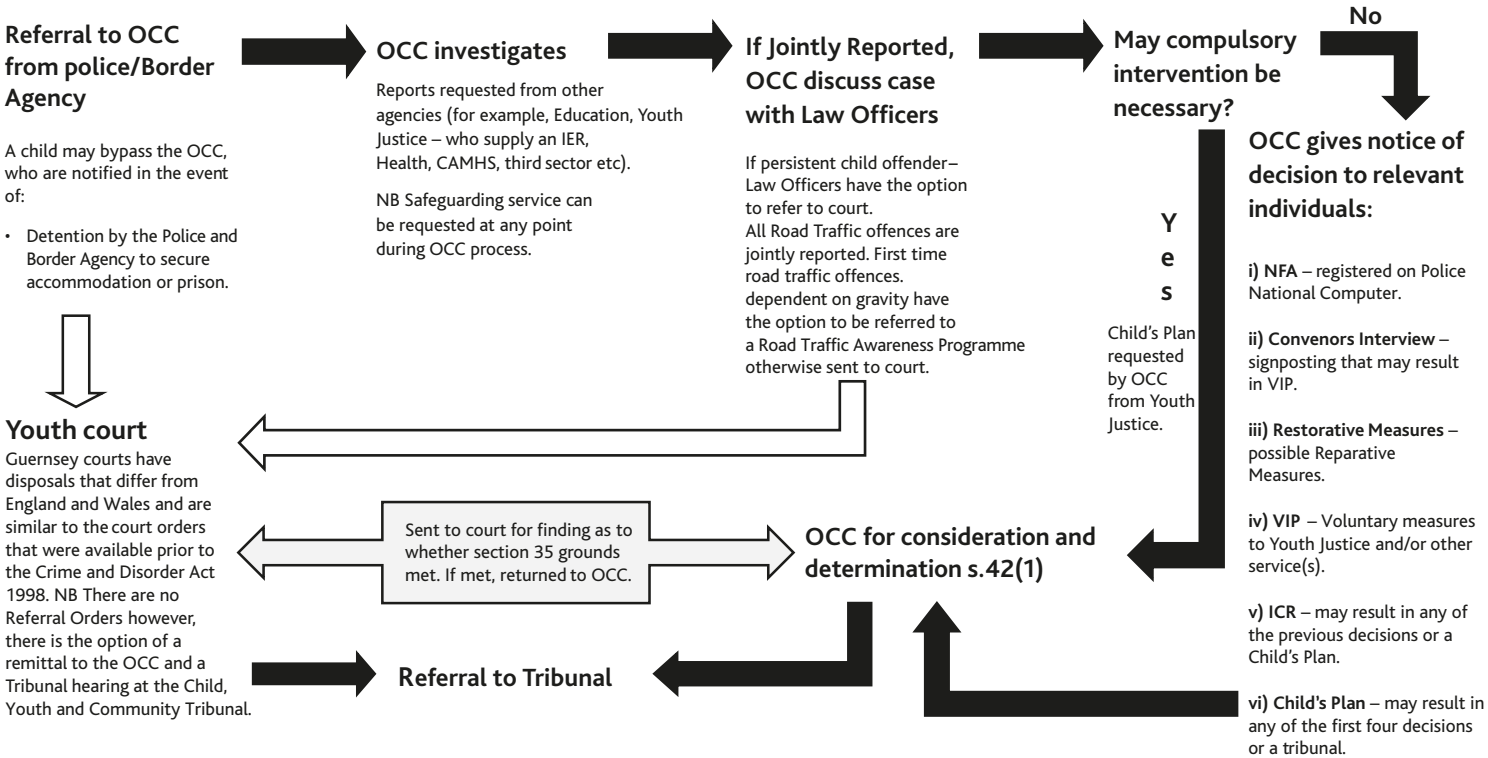
The Guernsey and Alderney Criminal Justice Law 2008 led to the implementation of the OCC and the Child Youth and Community Tribunal (the Tribunal) in 2010. The OCC is the gatekeeper to the Tribunal,

which replaces youth court as a diversionary measure in most cases of child offending, and like Referral Orders take a less formal approach than court, geared towards discussion with both the child and family. The OCC addresses offending through voluntary intervention or compulsory measures (Care Requirement) under Section 35(1) of the law where 'there is, or appears to be, no one able and willing to exercise parental responsibility so as to provide adequate care protection or control to the child'. Whether voluntary intervention or compulsory measures, there is no 'conviction'. The court system for children in Guernsey and the Bailiwick continues for high-gravity offences, children who contest charge(s) against them (for a resolution of innocence or guilt) and children who persistently offend. A court remittal to the OCC for children is an option available at youth court, and when this occurs a child attends a Tribunal and does not incur a conviction, shown in [Figure 13.3](#).

The OCC workflow follows six marked steps:

1. Referral: following arrest and after charge, the police/Border Agency refer all cases to the OCC (except for high-gravity offence[s] where the child is detained to the next available court and the OCC is notified). The Custody Officer explains the OCC referral process to the child and their appropriate adult, bailing the child until Step 2 or Step 3.
2. The OCC investigates: the OCC undertakes an assessment process, known as the Convenors Referral Meeting (CoRM), utilising information from a wide range of sources including: police, youth justice service (YJS) (who supply an Initial Enquiry Report [IER]), social services, school, Child and Adolescent Mental Health Services, health and the voluntary or third sector. All the information is studied, and if not 'Jointly Reported', then the OCC may determine an action from the following list without referring to the prosecution law officers:
 - No further action.
 - Convenor's Interview: a child and their parent(s)/guardian(s) or carer(s) attend a meeting with an OCC representative, YJS representative and/or a representative(s) from other agency(s). The CoRM investigation may show for example that a child is leaving school and wishes to pursue employment; the Convenor's Interview can then be a proactive sign-posting opportunity where an agency representative (for example Guernsey Employment Trust) is introduced to the child and the resource is explained; there is no obligation for the child to engage with that agency.
 - Restorative Measures: restorative intervention is checked as viable by the YJS (reparation may be incorporated within restorative measures).
 - Request an Initial Convenor's Report (ICR), undertaken by the YJS to explore more fully than the IER further family details, circumstances of

Figure 13.3: Guernsey's OCC criminal offence referral and investigation workflow



- the referral, school, significant issues for the child and family, child's and family's views and a conclusion. The report makes a recommendation, which maps on to the OCC actions outlined earlier with the addition of a Voluntary Intervention Programme (VIP) or a Child's Plan (CP).
- VIP agencies such as the YJS engage with the child and family in a voluntary capacity, which is agreed with the child and family to support them in the areas that are identified in the ICR. If the VIP is considered not viable following a change in circumstances (that is, it is considered Section 35[1] of the law has been met), then a referral to the OCC for a CP may be requested.
 - CP: this is requested when preliminary investigations identify a likelihood of 'Compulsory Intervention' being required; or if a child is on a VIP or other support action and circumstances have changed such that the threshold of Section 35(1) of the Children Law (Guernsey and Alderney) is likely to be met; or the case is remitted from court. The youth justice practitioner or identified agency undertakes a comprehensive assessment for the OCC, which is provided to those attending a Tribunal (see Step 6).
3. Jointly reported cases discussed with the prosecution law officers: similar to Step 2, with the exception that the offence(s) have a higher-gravity score and/or the child is identified as a persistent offender or have committed a road traffic offence. Dialogue between the OCC and the prosecution law officers results in cases either being sent to youth court or kept with the OCC. If kept with the OCC, then the range of actions are as identified in Step 2 with the addition of a referral to an educative Road Traffic Awareness Programme (RTAP) for first-time road traffic offences; repeat road traffic offences are typically sent to court.
 4. Compulsory intervention is necessary: referral to the Tribunal where Section 35(1) of the Children Law (Guernsey and Alderney) and Section 35(2)(f) 'the child is 12 or over and has committed a criminal offence' are met (the age of criminal responsibility in the Bailiwick of Guernsey and Alderney is two years older than in England and Wales). If Section 35 grounds are not met, then the range of actions identified in Step 2 are available.
 5. OCC for consideration and determination: where a case is referred to the Tribunal, and before the Tribunal meets, the parents, child and others entitled (child supporter and/or legal advocate) are given full details of the reasons for the referral and asked whether they agree with them. Before the Tribunal meets, there will be a Convenor's meeting, with the parents, child and others required to establish whether the conditions for referral are accepted. If they are not, then the matter is sent to court to determine whether Section 35 conditions are met. If the court decides they are, the case will go back to the Tribunal for a decision on whether compulsory intervention is necessary.

6. Referral to Tribunal: the Tribunal is made up of a lay panel of three people drawn from the local community. Guided by the basic principles of the Bailiwick of Guernsey and Alderney Children Law, with the welfare of the child as the paramount consideration, the Tribunal sits with the child, child's parent(s)/carer(s), youth justice social worker and other relevant agencies, aided by a CP, to consider whether a child is at risk or in need of compulsory intervention to ensure they receive sufficient care, protection, guidance or control. Within the criminal law, there are four other considerations when dealing with offending behaviour: the interests of any victim, the welfare of the child, the alternatives to criminal proceedings (except when these considerations conflict with public interest and safety) and the desirability of ensuring the child remains in the community.

Conviction and remittal differences between the Guernsey Model and frameworks in Scotland, England and Wales

The framework of the CHS in Scotland is comparable to the OCC, with the 'Hearing' structure like the OCC 'Tribunal' consisting of three lay panel members, social worker, professionals, child, child's family/carers(s) and optional child supporter and legal advisor. A hearing like a tribunal requires an admission of guilt, which if disputed is similarly referred to court for a proof hearing. The main disposal available to the hearing panel is a supervision requirement based on the needs of the child.

The Swansea Model again has similarities to the OCC framework. The police determine a referral on key principles including acknowledgement of guilt, low gravity of offence and criteria around FTCE into the youth justice system. A Bureau Co-ordinator requests information from an array of sources, which is analysed by the YOT Pre-Court Team Officer, who undertakes an assessment with the child that also incorporates the victim's needs. A multi-agency panel discuss the report and make a provisional decision for the 'Clinic' that consists of the members of the panel plus the child and their parent/carers to reach a mutually agreed decision of either:

- Non-criminal disposal, accompanied by a support package if required for the child and/or parents/carers on a voluntary basis (support packages and services are child- rather than offence-focused)
- Police reprimand or final warning
- Prosecution at court

The youth court in England and Wales does not have the means to remit a child without a conviction. A difference between the Referral Order and the Swansea Model is that the latter is a court diversionary measure with the youth court unable to remit to the Swansea Model unless through a

Conditional Discharge with conditions; however, this would include a conviction. A difference between the Referral Order and the Guernsey Model is that the Referral Order carries a conviction. In both Guernsey and Scotland, remittals are available to the OCC and the CHS respectively; however, in Scotland, the remittal includes a conviction from court. I propose that a remittal sentencing option like the Guernsey Model Tribunal could be incorporated in Scotland, England and Wales through the existing structures of Referral Order panels, the Swansea Model Clinics and in the CHS. Such an addition should change the shape of sentencing towards the diamond standard, improving desistance by reframing identities away from being labelled as criminals and instead towards seeing the child first. The inclusion of a sentencing remittal without a conviction to a panel, clinic or hearing should provide youth courts parity when initially considering whether they have sufficient powers to sentence children; if they do not, then they are remitted to a higher court that has weightier penalties. The addition of a remittal without a conviction to a Tribunal or similar provides balance to the scales of justice since consideration is also given to whether the child must be sanctioned to an intervention with a criminal conviction.

The impact of reshaping youth court sentencing to include non-conviction remittals upon the philosophy and culture of children's justice

The Referral Order, as noted earlier, currently carries a conviction. This might be considered by some as an advantage insofar as there are consequences for non-adherence, with the child returned to court. However, the sanction of breach furthers an adversarial engagement, effectively complicating relationships between the child and the YOT. The Youth Justice Board (YJB) case management guidance recognises that 'evidence indicates the more frequently a child is taken to court, the more negative the outcomes for that child are likely to be. This means that breach action should only be taken as a last resort' (YJB, 2022). Imagine then that the Referral Order is restructured so that no conviction is attached; in this context, if a child fails to adhere to a Referral Order, the YOT would follow current practices, with the exception of not breaching the order and returning the child to court. The youth justice inspectorate should examine engagement of YOT practice, and the development of successful engagement practices should be furthered. YOTs could potentially shift away from the threat of returning the child to court for non-engagement, nurturing a collaborative culture that shifts the thinking towards a problem-solving philosophy to gain a better understanding as to why a child has not engaged at this time.

The existing structures of the Swansea Model, CHS and Referral Order panels would require nominal alteration for remittals without a conviction from

youth court. The narrative and the thinking behind the order is modified along with the identity of the youth court, the sentence, the YOT and the child. The YJB's case management guidance recognises the contradictory interests a conviction has upon engagement between a child and YOT practitioner, and guidance is given to circumnavigate these contradictory interests:

- it is a breach of the order if the child, without reasonable excuse, fails to do what they are required to; so positive activities may be better delivered on a non-mandatory basis;
- maximising opportunities for voluntary engagement may be more effective than requirements which contain compulsory attendance;
- therapeutic work which helps to lessen the likelihood of future harmful behaviours such as counselling is actively undermined by compulsory status;
- children who are forced to attend sporting or other positive activities are likely to engage less than those who attend by choice.

A non-conviction remittal may ease these contradictory interests.

A dualistic Referral Order is also an option where the existing Referral Order with criminal conviction remains and the addition of a Remittal Referral option without a criminal conviction is introduced. In the case of the latter, the Police National Computer will not show a conviction but would show a referral to the YOT. Should the child return to the youth court in future for another offence, the YOT would be able to inform the youth court of the child's engagement on the non-conviction remittal. Indeed, it may be instrumental in the youth court considering another non-conviction remittal or an alternative sentence.

The addition of a non-conviction remittal to a supporting agency acknowledges a child welfare ethos and raises the profile of community involvement through tribunals and panels or other community-based elements. This would align more closely to the proposal by the Children's Commissioner for Wales and YJB that 'youth proceedings be convened outside of formal court buildings to improve young people's engagement and encourage local community justice' (Carlile, 2014, p 52).

Practitioner relationships with children and the enablement of desistance identities

The addition of a youth court remittal without a conviction to a supporting agency does not detract from practitioners' interactions with children within tribunals, clinics, hearings, panel meetings and alike. Practitioner relationship building continues to remain pivotal in setting the basis of engagement with children and enabling desistance. Relationship dynamics occur in every

interaction and can become a learned expectation of behaviour, like the relationships between student and teacher, police and suspect, court and defendant, YOT practitioner and offender and YOT practitioner and child. The final two examples being one and the same, yet each projecting different relationship identities with the latter being under the auspices of a youth court remittal without a conviction. The relationship skills of practitioners with children remain key, and a shift from an adversarial premise should assist how practitioners are perceived.

Within an adversarial framework, YOT practitioners may be seen as external agents of social control monitoring court orders and initiating breach proceedings, despite practitioners working hard to reframe this narrative to children who in my experience can be wary of the dual role of the YOT practitioner as being both child advocate and perceived informant for the court. Practitioners continue to balance such identities through working with children transparently, with an honest and genuine approach. The perspective of enforcement is a controversial means of achieving compliance and may reinforce oppositional attitudes that centre on power and control. In my experience, the perspective of enforcement in and of itself may lead children to adopt strategies of thinking for self-preservation reasons. Practitioners working from an enforcement paradigm ensure that orders are complied with through the influence of penalties to deter children from breaking orders. However, when practitioners recognise that children are becoming adept at learning how to control their situations, the enforcement rationale may interpret this as 'they're only telling you what they think you want to hear'. Such statements encourage the notion of deceit, are unproductive and hamper the practitioner–child relationship. Yet they stem from a system of enforced compliance, which lends itself to children learning to mask and feign a compliant identity in order that they may successfully, albeit superficially, complete their court order. Similarly, a visible oppositional identity may be heightened from the enforcement paradigm, which may be seen as challenging and invariably lends itself to children being marginalised, disengaged and failing to complete their court order. Either of these child–practitioner engagements can increase a child's risk profile and are derivatives from an adversarial framework. In my experience, the Guernsey Model may enhance practitioner–child relationships through a sentencing framework distanced from working with children within adversarial parameters, which in turn enhances the collaborative process. The Guernsey Model places the child at the heart of the assessment in requiring the views of the child and thus enabling the youth justice practitioner to cultivate the role of child advocate.

Following the inclusion of a youth court remittal without a conviction to a supporting agency, assessments may evolve that are less inclined to adopt an enforcement and deficit model and favour a collaborative and strengths-based model, moderating a child's risk profile. The Tribunal's philosophy of

inclusivity, engaging children and families in a process that is participative and in an environment that is less formal than court sees ‘the approaches professionals adopt affecting their perceptions of children’ (Bovarnick, 2010, pp 80–96). It is with this and the knowledge that ‘engagement wanes when there is an emphasis on risks and deficits rather than strengths’ (Carlile, 2014, p 51), that the BoD, inspired by AssetPlus, is presented as a practitioner’s visual aide-mémoire to assist agencies within children’s criminal justice to build constructive relationships with children through strengthening positive identities in demonstrating that children have successfully desisted. Rather than focusing upon the risk factors of offending, the BoD model can be utilised to encourage visualisation with the child in locating occasions when things worked well and identify what was happening at this time with a view to develop these assets and therefore maintain desistance; reinforcing a positive non-criminal identity and may be incorporated within the pre-sentence report format heading ‘Factors which will support positive outcomes for the child and promote public safety’.

The BoD model

Classifying children within a collective measurement framework such as conviction rates does little to take into consideration the multitude of complex variants that are peculiar to each individual child, including the severity and time between offences. A refined measure shown within (Figure 13.4), in what I have termed the BoD, where the vertical lines indicate an offence event, the boldness of the line the gravity of the offence, the gap between each line the time elapsed between offences, with the numbers underneath the timeline (in this instance the age of the child) giving a visual representation of an offending career and looks similar to a barcode:

This visual representation of a child’s criminal history could easily be termed the ‘Barcode of Offending’, and historically the youth justice service have expertly examined the offence bars to understand a child’s chronology of offending behaviour and informed the youth court of the risks associated with it and how to externalise control through programmes and groups available that specifically address the risk of reoffending.

The BoD model invites youth justice agencies to see the gaps between the lines as a ‘period of desistance’ which require as much understanding as the bars in perpetuating desistance. By recognising and elongating these gaps, the lines in the illustration disappear and the child can figuratively escape their bars of offending through the gaps between them.

Figure 13.4: Barcode of Desistance



In the illustration, there are four bar lines around the child's 14th birthday, and the BoD timeline can be adjusted by reducing it from years to months, weeks or a timeline that best exemplifies periods of desistance, enabling the child and the practitioner to identify within those gaps the positive building blocks that will extend the desistance timeline to months, years and beyond.

The gaps in the BoD can be missed as attention is drawn towards 'offence-centric' domains that evaluate and attempt to control risk, exemplified when youth justice agencies are required to enforce a court order, as for example when a child fails to adhere to the conditions of a community order and returns to the court for breach of proceedings, it creates another line in the BoD. To differentiate a breach proceeding within the BoD illustration, the line is designated with hatched shading as in [Figure 13.5](#).

This BoD again demonstrates how difficult it is to see the gaps between the bars, despite the gaps taking up more of the space on the page than the lines. In [Figure 13.6](#), the gaps are made solid suggesting that this is important space worthy of investigation and indeed recognises the child first.

The BoD maps on to the age-crime curve, demonstrating that with maturation the proclivity of offending diminishes. The youth court in England and Wales has knowledge of this correlation disparity involving age and offending shown by the Sentencing Guidelines Council: 'Offending by a young person is frequently a phase which passes fairly rapidly and therefore the reaction to it needs to be kept well balanced in order to avoid alienating the young person from society.' Through fully exploring the gaps in the BoD model, youth justice agencies should help to balance pro-social identities with children by observing the positives and turning points in a child's development rather than promoting intervention upon an offending identity.

Conclusion

The Independent Parliamentarians' Inquiry into the operation and effectiveness of the youth court chaired by Lord Carlile of Berriew ([2014](#))

Figure 13.5: Barcode of Desistance (with breach)



Note: The hatched lines indicate with breach

Figure 13.6: Barcode of Desistance (emphasising desistance gaps)



‘asked for submissions on alternative models to the current system’. As Carlile noted: ‘The overwhelming contention of respondents was that England and Wales should look to move to a more or fully non-adversarial approach, with the Scottish CHS the first amongst others referenced as an alternate model’ (Carlile, 2014, p 54). The promotion of desistance within an adversarial child criminal justice system may remain problematic in neutralising a criminal identity and therefore preventing offending by children. Introducing a youth court remittal like the Guernsey Model within England and Wales that is not a conviction may provide impetus in broadening existing collaborative youth justice structures for children. The decline of children masking compliance or visibly opposing an adversarial child criminal justice system should occur as structures and their processes become aligned towards nurturing internal means of control through encouraging a strengths-based practice that focuses upon the child and their context, not just on the offence(s) but on the gaps when they desist.

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