

Youth diversion evidence and practice

briefing: minimising labelling

Introduction

Point-of-arrest youth diversion addresses low-level criminal behaviour without putting children through formal criminal justice processing (out of court disposals or prosecution) that can result in negative consequences, including a criminal record and interruption of education. Youth diversion involves short assessments with arrested children and quick referrals into light-touch, voluntary programming. Labelling theory is a central rationale for youth diversion and suggests that contact with the criminal justice system may lead to further offending by triggering changes in self-concept, processes of social exclusion and participation in deviant groups.

One of the Centre for Justice Innovation's three core principles of youth diversion is to minimise labelling; schemes should take all reasonable steps to avoid stigmatising the children they work with, and to prevent them from forming deviant identities that may interfere with their development.¹ In this, our second evidence and practice briefing, we outline the research on labelling theory; set out a practitioner's advice for minimising labelling; and, most importantly, give a young person's insight into being labelled.

The research on labelling theory

Labelling and the criminogenic effect of formal processing

Children tend to grow out of crime. Research demonstrates that offending behaviour peaks in the mid-teens before dropping steeply at the onset of young adulthood and then declines more slowly.² However, evaluation evidence shows that desistance is disrupted by formal criminal justice system processing which 'appears to not have a crime control effect, and across all measures, appears to increase delinquency'.³ Part of the explanation for this backfire effect lies in labelling theory.

Labelling theory suggests that those processed by the criminal justice system may come to interpret their 'offender' stigma as a 'master status'.⁴ Such stigmatisation triggers exclusionary societal reactions that restrict access to legitimate opportunities,⁵ and encourages involvement in deviant groups.⁶ These aspects of labelling – changes in self-concept, processes of social exclusion and participation in deviant groups – lead to further offending. The now prevalent child first approach; the drive to revise England and Wales' punitive childhood criminal records system; and the increasing provision of youth diversion all recognise the damaging effects of labelling.

Perspectives on labelling from research, practice and first-hand experience



"labelling theory is crucial when designing effective youth diversion schemes."



"The child is just that, a child, and not described as a young offender."



"labelling me makes me feel scared, attacked, angry at the injustice that I am just a statistic."

Labelling as a rationale for youth diversion

Labelling theory has been central to the rationale for youth diversion for decades.⁷ By reducing children's exposure to the formal criminal justice system, youth diversion lessens the negative impact of labelling. While labelling increases with the intensity of criminal justice contact, even police stops and arrests have labelling implications.⁸ Diversion, then, itself entails a degree of labelling, resulting as it usually does from an arrest, and being largely delivered by Youth Offending Teams (YOTs). Recognising this, there is a growing trend of diversion schemes moving out of YOTs and into family services. Additionally, a number of areas are refraining from arresting children involved in low-level offending, and instead taking them to a place of safety to discuss next steps (see practice example below).

Self-concept, social exclusion and deviant groups

While early scholarship tended to focus on labelling as triggering a deviant self-concept,⁹ contemporary research highlights the more tangible structural characteristics of social exclusion. Criminal justice system labelling gives rise to exclusionary processes that restrict children's access to legitimate opportunities – including around education and employment – making them more likely to pursue illegitimate activities and reoffend.¹⁰ Youth diversion programming and exit strategies should be designed to facilitate access to legitimate opportunities, thereby reducing this risk.

Criminal justice system labelling has been shown to positively affect involvement in deviant groups resulting in further offending.¹¹ These groups can provide protection from negative societal reactions; a means of belonging when links to conventional others are weakened; and facilitation of deviant behaviour.¹² This is compounded by formal processing which puts children in closer contact with those more entrenched in the system. Known as 'contagion effect',¹³ this is another rationale for youth diversion. These contacts may imprint impressionable children with new negative attitudes and behaviours, as well as facilitating access to deviant groups, increasing the risk of reoffending.¹⁴ Our effective practice principles encourage youth diversion schemes to maintain physical separation from statutory operations (holding sessions off-site and avoiding mixing diverted children with those under statutory supervision) where practical.

Risk assessments and disparities

Another focus of the research is stigmatisation through risk assessments.¹⁵ Assessments of what a child *might* do can be based on inexactitudes and unfairly affected by factors such as race and class. Our effective practice principles note that, for many diverted children, the principle of proportionality precludes use of protracted interventions – their behaviour is too low-level to justify extended engagement, even if their assessed risk level would suggest that this is otherwise appropriate. It also explains another of our core principles, avoiding net-widening. This principle promotes working only with those who have offended and not drawing in children and young people deemed as 'at risk of offending'.

Some highlight labelling as an aspect of oppressive social relations.¹⁶ This may go some way to explaining the make-up of the youth justice system in England and Wales; for example the overrepresentation of Black, Asian and Minority Ethnic (BAME) and looked after children. BAME communities are often policed more,¹⁷ making them more likely to be labelled as 'criminal'. Similarly, children in children's homes have been found to be criminalised at far higher rates than other children.¹⁸ Youth diversion schemes should be alive to these dangers by turning down inappropriate referrals, and ensuring all those eligible for diversion are offered it in practice.

Drawbacks and potentials of labelling theory

Labelling theory is not without its drawbacks. Methodological weaknesses are apparent in some studies, for example, due to difficulties ascertaining the subjective meaning of labelling experiences to those being labelled. Moreover, the specific impacts of labelling are hard to isolate, given delinquency is such a complex phenomenon. Another shortcoming is the tendency to assume labelling is a uniform process; more research is needed on the impact of factors such as gender, race and class.

However, labelling remains a persuasive and prevalent theory in youth justice. This can be seen in the insights from a practitioner and a young person below. As shown above, labelling theory is crucial when designing effective youth diversion schemes. It highlights strategies of de-escalation, non-intervention,

reintegration, promotion of pro-social identities, and de-labelling in reducing secondary involvement in offending.¹⁹ While diversion by its nature aligns with some of these strategies, e.g. de-escalation, care needs to be taken to ensure it fulfils others. For example, in line with our effective practice principle of ensuring eligibility criteria are as broad as possible, and to facilitate de-labelling, schemes should not insist that children have no previous offences.

A practitioner's advice on minimising labelling

Marie-Anne Hall – Specialist Lead, Family Support – was instrumental in setting up North East Lincolnshire's (NELC) youth diversion scheme. Here, she explains how their scheme has effectively minimised labelling for children in the area.

From the substantial body of research on labelling available to youth justice teams comes the need for practical change. The acknowledgement, knowledge and understanding of how labelling impacts a child contributed to improvements in how we now work with children in North East Lincolnshire, changing their experience, their identity and future potential.

One of the principles of diversion work set out in the NELC diversion policy is to minimise labelling to avoid stigmatising children and preventing them from forming a deviant identity. We have done this by changing the whole experience following a crime being reported. In the first instance, the police assess whether the victim is at imminent risk and a decision is made as to whether they can remove the child to a place of safety rather than arrest them. This prevents the child experiencing arrest, travelling to the police station, being processed through custody, being placed in a cell and being interviewed in the custody area (a full criminal experience within a 24-hour period). Instead our aim is that they are taken to a place of safety, where a voluntary interview takes place. If the decision is an out of court disposal, then a family hub practitioner carries out an assessment of the whole family and they work with them in their own community, not in a building with a youth offending team sign outside. There are no letterheads stating 'youth offending' or youth justice jargon used to discuss what happened. The child is just that, a child, and not described as a young offender. They discuss the incident and behaviour instead of the crime.

The child has a workbook which allows their voice to be heard all the way through their support plan. The workbook is a communication tool for all ages and abilities; it allows the child to write their own plan and see their progression. It gives them the chance of 'doing with' rather than being 'done to'. There is not a single word associated with crime throughout the book.

Moving the scheme out of the youth offending service and into prevention and early help (family hubs) has changed the way diversion is perceived by children, their families, other local authority agencies, education and the police. It is a welcome culture change that ensures the best interests of the child are at the forefront of every intervention, rather than adopting a punitive approach.

The criminal experience is minimal in comparison to the usual route of processing and working with a 'young offender'. However, what is not compromised is risk management - protection of the public is at the core of all decision making. However, this is disguised in a way that empowers a child to seek the way they want to live their life legally (!), with external capacity supporting that choice and potential.

A young person's insight into being labelled

Rosa Bramley was a Peer Advocate at Camden Council and is interested in youth justice issues. Here, she describes her experience of labelling and its impact.

“Good kids. Bad kids.”

“Slag. Nerd. Goth.”

Labelling young kids is a bad idea.

I was arrested when I was 15.

At school I was labelled a “good kid” and got along well with the school police officer.

I was taken to the same police station that he worked at.

He got to hear about it.

He didn't believe it was me, until I saw him in school. He said, “I told them it's got to be a different Rosa Bramley because you're not like that at all!”

Labelling starts early. Even from nursery: Set 1, Set 2, Set 3 ... the smartest kids to the least. It assigns you a place, sets you on a pathway. It feels unjust that from then onwards that's what you're known as. Good kid, Bad kid...

It puts the idea in my head that “that is exactly what I am like, there's no hope for change”.

I think this is especially true for young people in the criminal justice system. They are often more vulnerable than others. It's like they are constantly looking for someone's approval but because they've been labelled “bad kids” no teacher or parent will give them that approval - except for their friends who may influence them to become even worse. We just get so scared and feel like we have to match these labels, even our best friends give us labels we try to live up to. When we are at home or at school we are totally different people to when we're with our friends. Different people label us differently.

As a young person, knowing that there is a folder filled with information about me, labelling me, makes me feel scared, attacked, angry at the injustice that I am just a statistic.

There's a story behind each person, a person behind each story.

I think meetings could be more informal - the more you open up to the young person, the more they will open up to you! I'm not saying tell them all your personal details but some small talk about what you're doing later or a nice restaurant you have tried never hurt anybody. Maybe take the meeting somewhere else, neutral maybe, for a hot chocolate? Or ask them where they want to meet. I know of occasions when people won't go to their appointments because they can't go through certain areas. They don't tell you this.

Waiting in the reception area, where loads of members of the public go, not just people waiting for Youth Offending Service, is horrible. Everyone walking past just assumes you're some bad kid.

Also the jargon is so confusing and really makes us feel dumb when we don't understand. CIN, LAC, SEN...

My YOT worker was brilliant. I wouldn't be here today without them.

I think we all need to try our hardest to stop labelling young people. Don't get annoyed if they swear or walk away, be non-judgemental, don't give up - you really are making a difference.

Endnotes

1. Centre for Justice Innovation (2016). Valuing youth diversion: A toolkit for practitioners.
2. Bottoms, A. (2006). Crime Prevention for Youth at Risk: Some Theoretical Considerations. Resource Material Series No. 68, 21-34.
3. Petrosino, A., Turpin-Petrosino, C. and Guckenberg, S. (2010). Formal System Processing of Juveniles: Effects on Delinquency. Campbell Systematic Reviews.
4. Becker, H.S. (1963). *Outsiders: Studies in the Sociology of Deviance*. New York: Free Press.
5. Sampson, R. J. and Laub, J. H. (1997). A life-course theory of cumulative disadvantage and the stability of delinquency. In Thornberry, T.P. (Ed.), *Developmental theories of crime and delinquency*. New Brunswick: Transaction Publishers.
6. Braithwaite, J. (1989). *Crime, shame, and reintegration*. Cambridge, MA: Cambridge University Press.
7. See, for example, Schur, E. (1973). *Radical non-intervention: Rethinking the delinquency problem*. Englewood Cliffs, NJ: Prentice-Hall.
8. Wiley, S.A. and Esbensen, F. (2013). The Effect of Police Contact: Does Official Intervention Result in Deviance Amplification? *Crime & Delinquency* 62:3, 283-307.
9. See, for example, Becker, H.S. (1963). *Outsiders: Studies in the Sociology of Deviance*. New York: Free Press; Horowitz, A. and Wasserman, M. (1979). The effect of social control on delinquent behavior: A longitudinal test. *Sociological Focus* 12, 53-70.
10. See, for example, Sampson, R. J. and Laub, J. H. (1997). A life-course theory of cumulative disadvantage and the stability of delinquency; and Bernburg, J. G. and Krohn, M. D. (2003). Labeling, life chances, and adult crime: The direct and indirect effects of official intervention in adolescence on crime in early adulthood. *Criminology* 41, 1287-1318.
11. Restivo, E. and Lanier, M. (2013). Measuring the Contextual Effects and Mitigating Factors of Labeling Theory. *Justice Quarterly* 32(1).
12. Bernberg, J.G., Krohn, M.D. and Rivera, C.J. (2006). Official Labeling, Criminal Embeddedness, and Subsequent Delinquency: A Longitudinal Test of Labeling Theory. *Journal of Research in Crime and Delinquency* 43(1), 67-88.
13. Hoge, R. (2016). Application of Precharge Diversion Programs. *Criminology & Public Policy*, 15 (3), 991-999.
14. Ibid
15. See, for example, Barry, M., McNeill, F. and Lightowler, C. (2009). Youth Offending and Youth Justice Briefing. The Scottish Centre for Crime and Justice Research. Briefing no.2/2009.
16. See, for example, Scraton, P. and Chadwick, K. (1996). Theoretical and Political Priorities of Critical Criminology. In Muncie, J., McLaughlin, E. and Langan, M. (Eds) *Criminological Perspectives: A Reader*. SAGE Publications.
17. HMICFRS (2017). Police legitimacy 2017. A national overview.
18. The Howard League for Penal Reform (2017). Ending the criminalisation of children in residential care. Briefing one.
19. Kavish, D.R. (2017). Policy Implications of Contemporary Labeling Theory Research. *Critical Issues in Justice and Politics* 10:1.

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Written by: Rosa Bramley, Marie-Anne Hall, Claire Ely and Carmen Robin-D'Cruz

Centre for Justice Innovation
Unit 102, Edinburgh House
170 Kennington Lane, London SE11 5DP
Telephone +44 (0) 203 735 9436

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