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Youth Justice in Context

Community, compliance and young people

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List of abbreviations

AA	Alcoholics Anonymous
ACE	Assessment, Case Management and Evaluation
ADAS	American Drugs and Alcohol Survey
ADHD	Attention Deficit Hyperactivity Disorder
ASBO	Anti-Social Behaviour Order
CAQDAS	Computer Aided Qualitative Data Analysis System
CCTS	Criminal Case Tracking System
CHS	Children's Hearing System
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CYPU	Children and Young People's Unit
DCYA	Department of Children and Youth Affairs
DOJ	Department of Justice (in Northern Ireland)
DPP	Director of Public Prosecution
ECS	Extended Custodial Sentence
ICS	Indeterminate Custodial Sentence
IEP	Incentives and Earned Privileges
ISSP	Intensive Supervision and Surveillance Programmes
JJCO	Juvenile Justice Centre Order
MacCAT-CA	MacArthur Competence Assessment Tool-Criminal Adjudication
MacJEN	MacArthur Judgment Evaluation
NAPO	National Association of Probation Officers
NDPB	Non Departmental Public Body
NIO	Northern Ireland Office
NIPS	Northern Ireland Prison Service
OMCYA	Office of the Minister for Children and Youth Affairs
PBNI	Probation Board for Northern Ireland
PPS	Public Prosecution Service
PSNI	Police Service for Northern Ireland
RYDS	Rochester Youth Development Study
UNCRC	United Nations Convention on the Rights of the Child
YCJA	Youth Criminal Justice Act

YJA	Youth Justice Agency
YLS/CMI	Youth Level of Service / Case Management Inventory
YOC	Young Offenders Centre
YOT	Youth Offending Team
YPP	Young Persons' Probation

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1 Introduction

In the opening sections of his influential work on theorizing compliance, Bottoms (2001: 89) differentiates between what is termed 'short-term requirement compliance' and 'longer-term legal compliance'. The former describes offenders' compliance with the legal requirements of community penalties, while the latter refers to compliance with the criminal law by not reoffending within a specific time period. The book adopts this definition in locating contemporary theoretical perspectives on compliance in the social and developmental context of young people's lives. Drawing on the perspectives of young people and professionals, an in-depth analysis of the processes underpinning compliance for young offenders on supervised community disposals is presented. To this end, the book explores change in young people's attitudes to compliance over time through the dynamics that occur in the supervisory relationship, as well as the social and psychological changes that occur in adolescents' lives as they move towards early adulthood. It also examines how professionals' perceptions of what constitutes compliance, and the strategies employed to promote compliance and respond to non-compliance, are shaped by the interactions that take place with young people during the supervision process, as well as by the broader legal, organizational, policy and practice settings within which they operate. Adopting a broader lens, the book demonstrates that compliance is socially and legally constructed within the parameters that govern the operation and implementation of community supervision within and between jurisdictions, leading to different outcomes and criminal justice responses to non-compliance, for young people in conflict with the law.

Setting the context

The empirical foundation of this book is informed by three main sources: (1) practitioners involved in supervising young people in the community; (2) youth justice managers and policy makers; and (3) young people supervised on community disposals (see Table 1.1). As the purpose of the enquiry was also to explore how offender (non)compliance on community supervision is interpreted and addressed in different contexts, the research was based in Northern Ireland and the Republic of Ireland and took place between June 2010 and

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February 2011. The youth justice systems in Northern Ireland and the Republic of Ireland have embarked, to varying degrees, on processes of review and reform in recent years and while some similarities are shared, key differences exist in the ethos, laws, policies and approaches underpinning practice in the two jurisdictions. Each of the three organizations tasked with supervising young offenders on statutory orders in the two locations participated in the study. These consisted of Young Persons' Probation (YPP), a specialist division of the Probation Service in the Republic of Ireland, the Probation Board for Northern Ireland (PBNI) and the Youth Justice Agency (YJA) in Northern Ireland. Focus groups were facilitated with practitioners in each organization in a number of cities and towns across both jurisdictions to ensure sufficient urban/rural diversity in the sample.[1] Typically, groups consisted of five to six participants and lasted 90–120 minutes. The discussion centred on practitioners' perspectives on young people's compliance with community supervision and the role of the supervisory relationship in supporting compliance and responding to non-compliance. In all, 33 practitioners took part and there was an even representation from each of the three organizations. The 'newness' of youth justice as a specialism in both jurisdictions meant that with some exceptions, the majority of participants had been recruited into youth justice work in the previous 5–10 years or less in some cases, and all were qualified in the areas of social work, youth and community work or education (see also Chapter 5). Perhaps reflecting the gendered nature of youth justice work, females accounted for just under three-quarters of the sample group. The dearth of criminological investigation in the Irish context has been previously documented (Kilcommins *et al.* 2004) and a lack of empirical enquiry extends to the area of youth justice research. In an effort to illuminate the context within which youth justice has evolved in both jurisdictions, and more specifically to ascertain the extent to which differences exist in the approaches and policies adopted in responding to young people on community supervision, a number of interviews were conducted with individuals who held managerial responsibility within YPP, PBNI and the YJA, and with others who had current or previous involvement in youth justice policy making.

The other main dimension of the study – based in the Republic of Ireland only – consisted of an in-depth exploration of young people's perceptions of the events and processes that occurred within, and beyond the supervisory relationship, which may have influenced their perspectives on compliance over time. For this reason, one of the main criterion for inclusion in the study was that young people had been supervised in the community for a minimum period of six months. Although no prior assumptions were made about their level of maturity, it was expected that older adolescents would be better equipped in cognitive terms to reflect on and discuss changes in their participation with the supervision process and their perspectives on offending behaviour over time (Grisso *et al.* 2003). Based on this premise, the age criterion for the sample was pitched at 18–19 years. Eighteen is the normal age of transition to the adult criminal justice system in the Republic of Ireland however, where individuals are sentenced before their 18th birthday, they may continue under YPP supervision if it is deemed to be in

Table 1.1 Number of research participants

Practitioners/supervisors	33
Key informants	8
Young people	20
Young people's supervisors	20

the interests of completing the order. It was these cases – that had not been transferred to the adult supervision teams – that were approached to partake in the study. Young people who met the criteria were recruited from five YPP teams within the same geographical sites selected for the focus group research with practitioners. Overall, 20 agreed to participate, three refused and one consented, but was subsequently remanded in custody and deemed unfit to participate on medical grounds. Interviews were scheduled at the probation offices or community facilities where young people reported for appointments or at the young person's home in a small number of cases. The final aspect of the empirical investigation involved the completion of validation interviews with each young person's supervising officer. These were conducted to ascertain standard profile data on each case but also to minimize the potential impact of 'cognitive rationalisation' (Bottoms *et al.* 2004: 376) on the data, given that young people had been asked during the interview to provide present as well as retrospective perspectives on compliance.

Profile of the young people

The average age of participants was 18.5 years (SD = 5.47 months) and 17 of the 20 were young males. With the exception of one immigrant youth, most described their nationality as Irish (within that, four young people were identified as members of the Traveller community, an ethnic minority group in Irish society). Three-quarters of participants resided in areas adjacent to the city centre or in suburban housing estates typically characterized by high unemployment rates, poor housing, social disadvantage, criminality and limited service provision. Others lived in small- to medium-sized rural towns where the concentration and visibility of poverty and disadvantage was less apparent. Over two-thirds of the young people resided in the family home with at least one of their parents and the remainder either stayed with a sibling (two cases), or lived in supported lodgings (two cases), independently (one case), or with a partner (one case). Four had recently become parents and two were due to become parents. They were similar to other young people before the courts in that many, though not all, had left school before the legal age of 16 years or following three years of post-primary education (15.4 years, SD = 1.47) (Carroll and Meehan 2007). More than half of participants were engaged in education or training programmes at the time of interview, which is not unexpected given the emphasis placed on engaging young people in such activities as part of YPP supervision (see Chapter 8). In addition, one was employed in his family business and another, a Traveller youth, described his occupation as taking care of horses.[2]

Involvement in offending behaviour and the criminal justice system

Self-report data suggest that the average age at which young people committed their first offence was 13.5 years (SD = 1.54, with a range of 11 to 16 years). A detailed account of the youth justice system in the Republic of Ireland is provided in Chapter 5; however, at this juncture, it is worth noting that the majority of young people who come to police attention are diverted out of the criminal justice system through a statutory system of informal and formal police cautioning (An Garda Síochána 2011). Cautions are not restricted to first-time offending, and young people who come into contact with the law may be in receipt of a number of cautions before a decision is taken to prosecute them. What this means is that young people will frequently have been involved in offending behaviour for a considerable period of time, and will have accumulated a number of charges, before appearing in the Children Court. For young people in this study, the average number of previous convictions was 2.8 (SD = 1.5) with a range of one to six. Data on previous convictions were drawn from official criminal records and were calculated on the basis of the number of court appearances, in accordance with the standard method adopted in criminological research. Given that most young people were convicted of more than one offence at each court appearance, this approach is likely to have underestimated the full extent of their previous convictions. Young people were convicted of a wide range of offences with the most common being theft and public order offences, echoing previous research on young people before the courts in the Republic of Ireland (Carroll and Meehan 2007). In addition, convictions were recorded for more serious offences including burglary and aggravated burglary, causing serious harm, and violent disorder. That more than one-third of the young people had been, or were waiting to be, sentenced on indictable matters in the Circuit Court provides a further indication of the level of offending seriousness in some cases.

According to their supervisors, young people were known to YPP for an average time period of 22.7 months (SD = 12.2) ranging from one to four years. At the time of referral, young people had been assessed as at moderate or high risk of reoffending (see Chapter 5 for further detail on assessing risk with young people under YPP supervision). Three-quarters of participants were under the supervision of YPP arising from a probation order imposed by the Children Court, while the remainder were subject to supervision as part of the terms of a suspended sentence, voluntary supervision or adjourned supervision. Adjourned supervision is a common judicial practice despite having no statutory basis in Irish law (Seymour 2006). The court adjourns sentencing until a later date, usually not more than one year, to assess the young person's motivation to stop offending and their willingness to engage with YPP (Seymour 2012). Young people are normally required to attend regular supervision appointments during this period and the probation officer is obliged to furnish progress reports to the court. In the cases outlined above, it was not uncommon for young people to be simultaneously supervised as part of a probation order while also subject to adjourned supervision. The probation order tends to be the default community

disposal used by the courts for young people under 18 years in the Republic of Ireland and few participants had had exposure to other types of supervised community orders. With one exception, most had not served a custodial sentence, a finding that resonates in the Irish youth justice ethos of retaining custody as a sentence of last resort. The pattern was not reflected in relation to remand cases in that 40 per cent of young people had previously spent time in custody on remand (see further Chapter 5).

Structure of the book

This book consists of three main parts. Chapters 2–4 are contained within Part I and provide the theoretical and conceptual backdrop to the book. In Part II, the context of the empirical study is presented in Chapter 5, and Chapters 6 and 7 offers an account of practitioners' perspectives on compliance and the strategies employed to manage compliance with young offenders under supervision in Northern Ireland and the Republic of Ireland. Part III is made up of Chapters 8 and 9 and is concerned with young people's perspectives and changing attitudes to compliance with supervision requirements and in relation to desistance from offending.

Part I

Chapter 2 commences with an overview of some of the key youth justice developments of recent decades that have resonance in terms of influencing the scope and purpose of community disposals across the world. It addresses the rationale for focusing on compliance as an aspect of effective supervision practice and explores the evidence relating to young people and compliance with supervision requirements. The chapter draws on examples from England and Wales, Canada, Scotland, New Zealand and the United States in exploring how non-compliance with the terms of community supervision is addressed within different youth justice contexts. In so doing, it highlights that considerable differences exist between jurisdictions in the approaches and responses adopted when young people fail to abide with the legal conditions imposed on them while under supervision in the community. Chapter 3 expands on the definition of compliance introduced earlier in this chapter and presents the main theoretical perspectives that are relevant to explaining compliance with community disposals. Drawing on the work of Bottoms (2001) and Tyler (1990) respectively, the chapter examines the mechanisms that underpin compliant behaviour, and focuses on the role of legitimacy and procedural justice in encouraging compliance. Evidence of diversity in offenders' perceptions of community supervision is used to demonstrate how differing stances mediate decisions to comply. The complexity of compliance as a construct central to offender supervision is further highlighted by identifying that motivation to comply changes over time and may be influenced by social and psychological factors within and beyond the supervision process. Chapter 4 addresses the influence of cognitive and psychosocial immaturity on

young people's decision making in the criminal justice system. It relates the psychological evidence to the context of community supervision and outlines the manner in which cognitive and psychosocial factors are likely to shape young people's decisions to comply with the requirements of supervision. In recognizing that individual decision making takes place within the broader social environment, the second part of the chapter explores the family, school and community context of young people's lives and by implication the typical settings within which decision making occurs. It suggests that decision making by young people on community supervision is often executed within social contexts where few pro-social outlets exist and criminal commodities are easily accessible.

Part II

Chapter 5 provides the background for the remaining chapters of the book. It describes the factors and events that have influenced the direction of youth justice in Northern Ireland and the Republic of Ireland in recent decades. Detailed analysis is provided on the historical and contemporary influences that have shaped the organizations responsible for supervising young people in the community in both jurisdictions. By bringing together these macro-level influences, the chapter provides the foundation from which practitioners' responses to offenders' non-compliance is explored in subsequent chapters. Chapter 6 investigates how compliance is interpreted in practice, drawing on the perspectives of probation officers, probation service officers and youth justice workers involved in the supervision of young offenders in Northern Ireland and the Republic of Ireland. It identifies that making a distinction between adolescent-related behaviour and genuine resistance to change is an important aspect of conceptualizing compliance when supervising young people. Decision making about what constitutes non-compliance emerges as a negotiated process influenced by organizational policy, young people's age, maturity, social circumstances and level of risk, as well as practitioners' perceptions of their clients' overall commitment to the supervision process and to behavioural change. Chapter 7 commences with an overview of practitioners' perspectives on the challenges of engaging young people in the supervision process. It is followed by a detailed account of the dynamics that evolve over time within the supervisory relationship which are attributed to encouraging young people to comply. A central argument of the chapter is that when working with young people where enforcement action and the threat of custody often have limited deterrent impact, the possibilities for change and compliance are firmly located within a relational approach, based on the principles of 'front-end compliance', and centred on building capacity and strengths with young people and their families.

Part III

Chapter 8 documents young people's perspectives on their experiences of community supervision. Attention focuses on the changes that occur in their

attitudes towards compliance with supervision requirements and the reasons underpinning such changes. Specifically, the chapter examines their views on the role of the supervisory relationship in influencing change over time. It identifies that the development of a positive supervisory relationship is an important aspect of improving motivation to comply and in providing the basis from which directive guidance from supervisors is accepted. The chapter also explores young people's perceptions of power within the supervisory relationship and suggests that their legal obligations to comply are reinforced when combined with a social and psychological investment in the process. Chapter 9 explores young people's perspectives on the process of desistance from offending. It provides in-depth analysis on young people's changing motivations to stop offending and to this end is contextualized within the transition period of early adulthood and the social and psychological changes linked to this life stage. The chapter highlights that the process of change unfolds over time, and while maturity is associated with facilitating desistance insofar as it contributes to changing subjective perspectives, the actual decision to stop offending is one that has to be actively chosen by participants. Nevertheless, desistance is identified as a challenging process that requires a strong sense of personal agency and high levels of social support from significant others. It also points to the potential for community supervision to support offenders in maintaining 'longer-term legal compliance' with the criminal law (Bottoms 2001). Chapter 10 concludes with a discussion of the implications of the findings for youth justice policy and practice.

A note on the data analysis process

All interviews and focus groups with young people, practitioners and key informants were digitally recorded, fully transcribed and reviewed before the analysis process commenced. A number of phases were involved in the data analysis process. In Phase 1, each transcript was examined chronologically and segments of meaning were coded into broad themes. At this descriptive phase, themes were broad in the sense that they contained divergent views and perspectives on a stated topic. Each code generated was given a clear label and definition or 'rule for inclusion' so as to ensure consistency in the coding process. By the end of Phase 1, the data had been deconstructed into a non-hierarchical structure made up of broad themes. Phase 2 was concerned with reordering, renaming, merging, distilling and clustering related codes into categories of themes so as to reconstruct the data into a framework that made sense to the analyst and brought clarity and focus to the enquiry. Phase 3 involved breaking down the now reorganized themes into sub-themes so as to better understand the meanings embedded therein. This process moved the data from the first-level codes generated in Phase 1 into second, third and fourth level codes until the data were saturated and no new lower generational codes emerged. In Phase 4, the task involved generating analytical memos using writing as a tool to prompt deeper thinking of the data (Bazeley 2009). Memos were written against sets of coding starting with the lower-order codes and synthesized up the coding tree to the top-level codes and

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