

Case Study

What can we learn in Scotland from the Red Hook Community Court?

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Background

After publishing the data we have in Scotland on children and young people in court and the disposals they receive (Dyer, 2016), I wanted to explore how we could work better with young people who appear in court by looking at examples abroad. I knew when writing my paper what I thought a court should look like: being held in a more informal setting with direct interaction between the young person and Sheriff; in language that the child or young person can understand; and the Sheriff taking account of their age and stage of development. Having worked in two different Sheriff Courts, observed a youth court and worked with young people who offend for over 20 years, I feel I have some idea of what our young people who appear in court may experience. I wanted to find something different, more fitting to the age and stage of development of young people where, like the Children's Hearing System, their needs are taken into account.

I had heard about the 'youth courts' in New York, which first attracted me to the idea of visiting. This is for low tariff offences and involves 'a jury of your peers', where young people, after training, act as the judge and jury for other young people charged with minor offences as part of a diversion process. While this is a great idea, I was also looking for something more robust that could be a credible alternative to the current use of adult courts in Scotland. After doing further research, I discovered the concept of 'community courts' which made me reflect on their applicability for young people within Scotland.

This case study looks in more depth at one community court in New York. It covers the background of the community, the inception of the court, operation procedures, and some of the key outcomes of the court. I will conclude with a discussion as to whether there is any learning from this that can be applied to policy and practice for children and young people in Scotland.

A Scottish Perspective

As part of the Whole System Approach (WSA) launched in 2011 (Scottish Government, 2011) supporting children and young people who appear in court was seen as essential due to their lack of understanding of the process in which they were involved. Ultimately, the approach emphasised that we needed to keep young people out of court and divert them wherever possible, but for those that do appear in court we need to support them.

"Where appropriate and possible, young people involved in offending should be diverted from prosecution. In addition to the improved outcomes for young people, diversion from prosecution will also result in fewer young people going through the court process, allowing court resources and services to be used more efficiently" (Scottish Government, 2011, p9).

As stated in the evaluation of the WSA (Murray et al., 2015: 3), for those young people assessed as not needing a Compulsory Supervision Order (CSO), "diversion should be the presumption before prosecution. Attending court should be a last resort". Keeping young people out of court would exert a significant impact on the use of youth custody (10% of those appearing at court) because it is known from research evidence that higher rates of diversion from formal processing by the courts are related to lower levels of youth imprisonment (Bateman, 2012).

Unfortunately, although Scottish Government policy is to divert young people in Scotland, a small number of children, some as young as 12, are prosecuted in adult courts (Dyer, 2016). The majority of these children and young people (93%) are prosecuted under summary procedure and, it could be argued, given the nature and lesser gravity of their offence could be dealt with in an alternative system (Dyer, 2016). For many, this could be the Children's Hearing System; although for a minority, who some professionals believe may have exhausted this system, an alternative is needed.

“Many young people who commit offences face a very abrupt transition from the hearing system, where the emphasis is on helping them to develop and change, to adult courts, where the emphasis is on punishing them” (Scottish Prisons Commission, 2008, p.30).

This report went on to recommend that an alternative youth hearing was needed. This is still the case eight years later; many young people do not understand the court process and some professionals believe that this group of young people have outgrown the Children's Hearing System. For those young people in transition, could the community court in New York offer us a solution?

Red Hook Community Justice Center

When visiting New York I got the opportunity to go to the Red Hook Community Justice Center, in Brooklyn. Their aim is to reduce the use of imprisonment and improve community trust in justice.

Described by Life Magazine in 1990 as the 'crack capital of America', Red Hook, it would be fair to say, required a makeover. Once an industrial, thriving area of Brooklyn, Red Hook became one of the poorest areas of the city through a process of socio-economic decline. In 1990, unemployment stood at 21.6% of the local community, with over 30% of young men out of work. Red Hook had the highest poverty levels and the largest youth population of any neighbourhood in the district, with over 35% of the population under the age of 18. More than 78% of children lived in households lacking one or both parents (PSB, 2008) and 70% of all homes were social housing. As a result, Red Hook was characterised by what one filmmaker described as “the deterioration of its physical fabric, abandoned buildings, illegal dumping of trash, poverty, skyrocketing drug use and violence” (Community Justice in Red Hook, n d). In the 1990s, *Life Magazine* labelled Red Hook one of the worst neighbourhoods in the United States.

After a school principal was shot dead in 1992 while he was searching for a missing student, the community pushed for reform. The District Attorney and the Center for Court Innovation, a non-profit body, agreed to pilot a radically new approach to criminal justice - a community justice court. The intent was to improve public satisfaction and outcomes in local criminal justice.

In 2000, with the support of the New York State Unified Court System and the City of New York, the Center for Court Innovation established the Red Hook Community Justice Center in a former school located in the middle of the community. The aim of the Justice Center is to (re)solve neighbourhood problems.

Not only does the Red Hook Community Justice Center house the community court, but all services to support the community are within the same building. This includes social work,

education, housing, counselling and the Center for Court Innovation which runs diversion programmes. Corps members who worked within the community prior to the community court opening now also serve throughout the Justice Center (in the Housing Resource Center, Peace-making, Neighbourhood Restitution Crew and Pathways to Graduation classroom). Corps Members also provide disaster recovery education, serve as mentors to youth from the community, and perform service projects throughout the neighbourhood.

Red Hook Community Court

Having read about the Red Hook Community Court I had an idea of what it was like, but it was something else to see it in action. Described by Judge Calabrese as a 'problem solving court', the court hears civil, family and criminal cases and works by the principle that community problems are best solved by communities themselves. Judge Calabrese is the single judge working in Red Hook, hearing all 200,000 cases since it opened. Four principles of procedural justice are reported to be used: first, that people who come before the judge trust that the process is impartial; second, that they are treated with respect; third, that they understand what is going on and what they are expected to do; and fourth, that they have a voice (The Guardian, June 23, 2015).

Two things struck me in particular. The first was the physical layout of the court. Designed by the judge himself, he sits level with those appearing before him and only a few feet in front of them. Height and distance is not a barrier in this court, in fact it encourages dialogue. The second was the expression of mutual respect. The judge openly spoke to all defendants, from asking them which day suited them best to return, to shaking their hands upon completion of an Order, or to telling them that they need to do better and asking them what could he do to help. Many were asked to approach the bench and there was a lot of what might be termed 'motivational speaking', which I have never witnessed in a UK Court. The closest might be the Glasgow Drug Court that takes a similar approach to the community court model and the problem solving approach being trialled at Aberdeen Sheriff Court, although both these Court are for adults. The judge in Red Hook also took a personalised and individualised approach by having a personal interest in many cases, asking how family members were doing, as if he knew them, which I have no doubt he actually made it his business to do. Having resources within the same building also greatly helped in the speed/choice of services offered and also the information available to the Judge (which he sought himself from teachers/counsellors), thus helping his decision making process.

The Red Hook judge also has an array of sanctions and services at his disposal. These include community restitution projects, short-term psychoeducational groups, and long-term treatment (e.g., drug treatment, mental health treatment, and trauma-focused psychotherapy). Red Hook features an on-site clinic staffed by social service professionals who use trauma and evidence-informed approaches to assess and connect individuals to appropriate services. The Justice Center also works to connect court-involved young people to strength-based programming, including art projects and peer education programs. The halls within the Court building are full of the photography and art work from some of these projects.

Outcomes at Court

From a recent evaluation of the Red Hook community court, Lee and colleagues (2013) compared how an ordinary criminal court and the Red Hook court handled similar cases. A person in the regular court was 15 times as likely to go to jail and young people were 20% more likely to be arrested again within two years. They also reported that:

“In our review of the defining features of community courts, many also emerged as good practice that can be adopted by any misdemeanour court. Five such possibilities include the use of assessment tools, monitoring and enforcement of Court Orders, the use of information technology, procedural justice and expanded sentencing options” (Lee et al, 2013, p.11)

They reported that community courts typically gather more information about offenders. As I witnessed, this allows the community court judge to make more informed decisions in selecting alternative sanctions.

Lee’s study found that only 1% of people sentenced by the Red Hook court, which has overseen more than 200,000 cases, were sent to jail, compared with 15% in Brooklyn criminal courts dealing with similar offences (The New York Daily News, November 12, 2013). Approximately 78% of the guilty defendants received on-going supervision compared to 22% in criminal courts (Lee et al, 2013).



“The Red Hook story extends far beyond what happens in the courtroom. The courthouse is the hub for an array of unconventional programs that contribute to reducing fear and improving public trust in government. These include mediation, community service and a youth court where teenagers are trained to resolve actual cases involving their peers. The center also has a housing resource center, which provides support and information to residents with cases in housing court” (Center for Court Innovation, 2014, p1).

The focus on alternative community programmes has allowed the court to reduce the use of jail considerably for most crimes, and in low tariff cases by as much 50%. However, the use

of community and preventative disposals does not preclude the use of more punitive measures where necessary. As Judge Calabrese said:

“Sometimes this court has to use jail as a tool. Just like the treatment is used as a tool. It’s usually the last resort...But it is sometimes that short jail period that gets the person to understand that if he or she continues down that road, this is exactly where it is going to get you” (The Guardian, June 23, 2015).

Since opening in 2000, the court has improved attendance at court and now sentences have average compliance rates of 75%, compared to 50% at comparable courts. Moreover, there is evidence that the disposals delivered by the judge are working: the re-arrest rate among drug offenders who had completed a court-monitored treatment plan was 29% lower than otherwise (Lee, 2013). Similarly, approval ratings for the police, prosecutors and judges have increased three-fold since 2000, while a recent local survey found that 94% of residents now support the court (compared to 12% before its opening) (Lee, 2013).

What can we learn in Scotland from the Red Hook Community Court?

As stated earlier, the Scottish Prison Commission’s Report (2008) recommended that the Government should divert 16 and 17 year olds to specialist youth hearings with a wider range of options than available to the Children’s Hearing System. Although all recommendations were fully accepted, this recommendation was never actioned. If the view of some professionals is that some young people have outgrown the Children’s Hearing System and CSO’s are terminated, or their offending is too serious for the Children’s Hearing System to deal with, there is no alternative currently but to be prosecuted in adult courts.

It is by no means certain that all adults who appear within the court process fully understand that process. However this is likely to be a much greater problem for children and young people who are less mature. This led the Scottish Government to state that:

“it is critical that young people understand what will happen when they attend court, including sentencing options, and what will be required of them. It should not be assumed that the young person will understand the court process and what is expected of them on the basis that they have attended court previously” (Scottish Government, 2011, p15).

Perhaps having a ‘community court’ type setting for children and young people would go some way to addressing these issues. Such courts have the same powers as an adult court to deal with serious offending but they also take the needs of the young person and their age and stage of development into account. If Scottish Sheriffs sat with them and spoke directly to them to ensure their understanding of the processes and to encourage their engagement, improvements may be seen, as the evidence previously reviewed suggests. If services were in place in the community that met the needs of young people and were always accessible to the court, and if custody really was treated as a last resort, we may start to see a positive change.

Sheriffs would need to be on board for this to work in all local authorities. The success of the Red Hook community court could be attributed in part to the attitude and belief of Judge Calabrese, in that he makes it his business to know those who are appearing before him and he has a belief that with the right help and support they can change. For this to be mirrored

in 32 local authorities in Scotland there would need to be a cultural shift that children and young people are just that, and therefore need to be treated differently to adults.

This may go some way to meet the requirements of the United Nations Convention on the Rights of the Child, in terms of having child-centred and rights-based approaches to young people who offend and by having no under 18 year olds being prosecuted in adult courts:

“All children who commit offences should be dealt with in a non-adversarial system with a strong welfare orientation” (Harris and Grindulis, 2015. p.41).

It would also help to meet the recommendation made in the ‘Young People in Court’ paper that youth hearings, based on a child-centred ethos, should be created for the most serious offences (Dyer, 2016).

There are differences, though, in the culture, attitudes and issues faced in Scotland and in Red Hook. Therefore, we recognise that learning from elsewhere does not mean directly emulating all aspects of a model working effectively in another jurisdiction. What may be useful though would be to identify two or three test sites to pilot this approach in Scotland, where all young people under 18 at summary court would be seen by a Sheriff, in a different setting to the formal court, where the Sheriff does not wear formal court attire, where they sit across a table from the young person and their family, and where their needs and not just their deeds are taken into account. It should be a process that social workers support, to offer local resources that can meet the young people’s needs, in a timely and appropriate way, and not always as part of a formal order; where diversion or voluntary supervision as part of a structured deferment is prioritised. If these pilot sites underwent a successful evaluation, the approach could then be rolled out nationally as an alternative to prosecuting young people in adult courts.

This is something we are reflecting on at CYCJ. If you would be interested in working with us to pilot and test this in Scotland please get in touch at cycj@strath.ac.uk.

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