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ORIGINAL ARTICLE

Transatlantic 'Positive Youth Justice': a distinctive new model for responding to offending by children?

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Abstract A model of 'positive youth justice' has been developed on both sides of the Atlantic to challenge the hegemonic punitivity and neo-correctionalism of contemporary actuarial risk-based approaches and the conceptually-restricted rights-based movement of child-friendly justice. This paper examines the origins, main features, guiding principles and underpinning evidence bases of the different versions of positive youth justice developed in England/Wales (Children First, Offenders Second) and the USA (Positive Youth Justice Model) and their respective critiques of negative and child-friendly forms of youth justice. Comparing and contrasting these two versions enables an evaluation of the extent to which positive youth justice presents as a coherent and coordinated transatlantic 'movement', as opposed to disparate critiques of traditional youth justice with limited similarities.

Keywords Positive youth justice · Transatlantic · Children · Risk-based · Child-friendly · Rights-based

A significant body of contemporary youth justice in the industrialised Western world has been characterised by a neo-liberal neo-correctionalism (born in the USA) emanating from the 1990s 'punitive turn' and animated in practice by adherence to actuarial risk management techniques (cf. Waquant 2009; Muncie 2008).

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The apparent hegemony of punitive justice and neo-correctionalism has emerged within an increasingly complex and contested landscape of international youth justice; reflected in the identification of a series of broad, generalised, distinct 'models' or 'ideal types' of youth justice (cf. Dunkel 2006; Cavadino and Dignan 2006; Hazel 2008; McAra 2010; Winterdyck 2014). These ideal-type models constitute specific frameworks for understanding offending by children[1] and for conceptualising and rationalising youth justice responses. The most common frameworks/models emanating from and influencing socio-historical constructions of youth justice have been welfare (prioritising children's personal and social needs), justice (prioritising formal offence-focused responses), neo-liberalism/correctionalism (identifying and controlling psychosocial deficits) and minimum intervention (emphasising the lowest necessary level of contact with formal systems).

More recently, the complexity and contestation surrounding appropriate 'models' of youth justice have evolved into hybridity, with no single approach/model characterising or dominating youth justice systems in the contemporary Western world. Goldson and Muncie (2009: 7) encapsulated this thoroughgoing complexity and hybridity when describing youth justice as constituted by:

> discourses of child protection, restoration, punishment, public protection, responsibility, justice, limitation, welfare, retribution, diversion, human rights [which] intersect and circulate in a perpetually uneasy and contradictory motion

Complexity, contestation and hybridity reflect the conflict and ambiguity that has beset social constructions of westernised youth justice since the Industrial Revolution (Case 2018; Shore 2011). In this contested and ambivalent global context, a potentially new model/ideal type of 'Positive Youth Justice' has emerged to challenge the allegedly punitive nature of contemporary forms of youth justice and neoliberal neo-correctionalist youth justice (i.e., justice and neo-liberal models) and to address the perceived conceptual restrictions of less punitive models (i.e., welfare and minimum intervention), whilst seeking to build on their beneficial components. The purpose of this paper, therefore, is to explicate and evaluate a series of related issues: claims that Positive Youth Justice offers a distinct, evidenced, fully formed 'model' of youth justice in both conceptual and practical terms, whether these claims to distinctiveness are situated within a valid, comprehensive critique of established models of youth justice and whether the proposed new model is robust enough to withstand critique of its own constituent parts and claims to originality. In doing so, there will be a detailed critical comparison of the distinct versions of Positive Youth Justice that have developed contemporaneously on either side of the Atlantic, in order to discern whether they constitute a coherent 'model' with shared principles, configurations of ideas, foci, methods and practices or whether their similarities are restricted to a shared critique of contemporary models of youth justice and the repackaging of selective elements of established approaches.

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[1] The term child/children refers to those under the age of 18 years.

The hybridisation of global youth justice

In socio-historical terms, Western societies have tended to construct understandings of and responses to children who offend through a series of dichotomies or even 'continua' characterised by polarised extremes. These dichotomies or continua consist of polarised distinctions between viewing and responding to children who offend as deprived or depraved, innocent or dangerous, in need or posing risk, requiring care or control, welfare or justice and so on (Case 2018). Goldson and Muncie (2009: 7) encapsulate the dichotomies/continua that can be discerned within conflicting and ambivalent contexts of contemporary international youth justice in terms of responding to children who offend as 'vulnerable *becomings* in need of protection, help, guidance and support, or as undisciplined and dangerous *beings* necessitating correction, regulation, control and punishment'. This series of responses, they argue, has engendered a twenty-first century movement away from the paternalistic welfare models of the twentieth century, particularly in Europe (cf. Bailleau and Cartuyvels 2002) and towards the contradictory and uneasy intersection of differing and competing 'discourses' of youth justice. Writing in 2018, it is possible to discern two globalised and oppositional youth justice 'movements' amongst the conflicting and ambivalent discourses and models of youth justice; each characterised by common constructions of children who offend and principles, strategies, processes, models and practices for responding to it. In broad terms, these dichotomous, polarised movements can be conceived of as:

- the 'dystopian' punitiveness encapsulated by the justice model (e.g., prioritising proportionate, formal sentences and accountability—see Morris and Giller 1983; von Hirsch 1978) and neo-liberalism/correctionalism (emphasising the control and correction of individual floors—see Garland 2002; Farrington 2007). Both models seek to respond to offending by children as (largely) the product of free will and rational choice, thus requiring the control and responsibilisation of the 'offender';
- the 'utopian' child-friendly justice (Goldson 2014; see also Winterdyck 2014; Dunkel 2014) of the welfare model, which views children as in need' of support and protection and targets the socio-structural causes of crime (Burfeind and Bartusch 2006; Waterhouse and McGhee 2002) and the minimum intervention model that challenges iatrogenic, repressive, punitive responses through minimum (necessary) and decriminalising practices such as systems management (Tutt and Giller 1988) and diversion (McAra and McVie 2015).

Dystopian strategies of justice and neo-correctionalism extrapolate the 'culture of control' thesis within criminal justice (Garland 2001) and implicate a 'new punitiveness' (Waquant 2009: 1) in global youth justice (see Dunkel 2014; Pratt and Eriksson 2012). Such punitiveness has been evidenced in a retreat from several key principles—welfare paternalism (cf. Bailleau and Cartuyvels 2002), the protected status of children (Goldson 2014), children's rights (Muncie 2008) and rehabilitative ideals (Snacken and Dumortier 2012), in favour of neo-liberal and neo-correctionalist responses such as burgeoning youth custody and the proliferation of methods and technologies of regulation, control and surveillance, most notably risk management (Waquant 2009). In direct contrast/challenge, the so-called utopian child-friendly justice movement advocates for children's rights instruments as the basis for a globalised children's rights-compliant and 'child-friendly' youth justice (Dunkel 2014; Goldson and Muncie 2012; Hazel 2008). Central to this model is the United Nations Convention on the Rights of the Child/UNCRC[2] 1989 (UNICEF 1999), which coheres around key principles for working with children[3] (who offend): the best interests of the child as the primary consideration of key stakeholder professionals, custody as a last resort and all child-focused policy and practice to emphasise their provision, protection and participation. The UNCRC has been consolidated by guidance from the UN Standard Minimum Rules for the Administration of Juvenile Justice (the 'Beijing Rules'), which encourage the protection of children's rights through separate, specialist youth justice systems (United Nations General Assembly 1985) and the UN Guidelines on the Prevention of Delinquency (the 'Riyadh Guidelines'), which promote diversionary, non-punitive and preventative responses to offending by children (UN General Assembly 1990a) and the UN Rules for the Protection of Juveniles Deprived of their Liberty (the 'Havana Rules'), which assert that deprivation of children's liberty should be a disposition of 'last resort', used only 'for the minimum necessary period' (UN General Assembly 1990b; see also minimum intervention model).

Whilst the punitive neo-correctionalism versus child-friendly justice dichotomy offers a useful touchstone for the initial framing and exploration of contemporary international youth justice, it is avowedly founded in 'ideal type' models of youth justice (Hazel 2008). Therefore, whilst the dichotomy offers a necessary broad conceptualisation of traditional constructions of youth justice (recognising that contemporary constructions demonstrate increasing hybridity), it is insufficiently nuanced to provide a valid and holistic understanding of the policy and practice realities of youth justice, particularly at the locally mediated level. The inherent risk with drawing dichotomies in this way is that they present as over-generalised and to an extent forced or false. Such a broad-brush approach inevitably washes away the extent

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[2] The USA is the only country yet to have ratified the UNCRC.

[3] Council of Europe guidelines for child-friendly justice have reinforced the UNCRC mandate that any young person under the age of 18 years is to be regarded as 'a child' (Council of Europe 2010: IIa), in contrast to the adultifying and responsibilising overtones of punitive neo-correctionalism and in accord with the conception of 'children' pursued throughout this paper.

to which national and local jurisdictions have constructed and oscillated between hybridised 'models' of youth justice that variously incorporate concerns for welfare, justice, minimum intervention and other formations (cf. Goldson and Muncie 2009), potentially as supplements or alternatives to punitive neo-correctionalism and/or child-friendly justice concerns (e.g., Dunkel 2014; Hazel 2008; Cavadino and Dignan 2006). Furthermore, local jurisdictions, organisations and individual practitioners are prone to mediate, moderate and mitigate the generalised tenets and parameters of different models and centralised youth/criminal justice policy prescriptions, based on their particular perspectives, principles, organisational values, knowledge bases, experiences and resources (Haines and Case 2015; see also Goldson and Hughes 2010). Therefore, it is crucial to acknowledge the multi-faceted, dynamic and nuanced context of youth justice globally when extrapolating from or seeking to identify generalised 'models'.

PYJ has emerged internationally as a new approach to understanding and responding to offending by children and young people; an approach that challenges the perceived punitive excesses of repressive justice and neo-correctionalist models and that builds on the perceived 'positive' features of welfarist and minimum intervention models and the child-friendly justice movement. Additionally, Positive Youth Justice (PYJ) espouses 'new' principles and practices for framing understandings of and responses to offending by children; with proponents asserting it as a new and distinct 'model' of youth justice. Advocates of PYJ assert that punitive (repressive justice), neo-correctionalist, interventionist, risk-based and offender-focused models dominate the youth justice of England/Wales, North America, Australasia and parts of Europe (cf. Goddard and Myers 2017; Winterdyck 2014; Dunkel 2014; Cavadino and Dignan 2006). These same advocates of PYJ also criticise the child-friendly justice movement for its restricted framing of 'positive' outcomes as simply the avoidance and prevention of the negative behaviours and outcomes (arguably neutral outcomes at best), rather than prioritising actual positive behaviours and outcomes (e.g., family cohesion, educational attainment, access to entitlements).

In order to examine PYJ's claims to distinctiveness as a model of youth justice, it is important to establish a comparative analytical framework through which to compare it with the traditional models discussed. Accordingly, PYJ and its purported distinctiveness will be evaluated in relation to its *conceptual and theoretical foundations*, underpinning *principles*, its chosen *focal group* and the *responses* favoured by the model. Evaluation of PYJ's distinctiveness will be both external (comparison with traditional models) and internal (comparison between different actualisations of PYJ transnationally). Separate forms of the PYJ model, with distinct and shared characteristics, have been developed on either side of the Atlantic: the 'Positive Youth Justice Model' in the USA (Butts et al. 2010) and the 'Children First, Offenders Second' model in England and Wales (Haines and Case 2015).

The Positive Youth Justice Model (USA)

The 'Positive Youth Justice Model' (known as the PYJM) in the USA (see Butts 2014; Butts et al. 2010) is the application to the youth justice context of the broader 'Positive Youth Development' framework (Catalano et al. 2004), itself an evolution of the Social Development Model (Catalano and Hawkins 1996; Hawkins and Weis 1985). In conceptual and theoretical terms, the Social Development Model synthesises the key tenets of Social Control Theory (Hirschi 1969) and Social Learning Theory (Akers 1985) to create a developmentally sensitive theory of how these 'etiological factors' or 'causes' within the domains of family, school, peer and community interact to increase the probability of youth antisocial behaviour. The original Social Development Model (Hawkins and Weis 1985) hypothesised that four factors interact to influence antisocial and criminal behaviour, namely:

- *Perceived opportunities for involvement and interaction* with significant others in conventional activities;
- *Degree of involvement and interaction*;
- *Skills* of the young person to participate in these involvements and interactions;
- *Perceived reinforcements for behaviour* that determine whether association with family, school or peers produces a strong bond.

Subsequently, three new variables were included as influential, yet 'exogenous' (external) to the original theory (Catalano et al. 2005): constitutional and physiological traits (e.g., cognitive ability, temperament, nervous system arousal), socio-structural status (e.g., demographic characteristics, socio-economic status) and external constraints (e.g., formal/informal social reactions, clarity of rules/laws, expectations for behaviour).

In relation to underpinning principles, the Positive Youth Development approach applies and extrapolates the tenets of the Social Development Model in the real world, including, but not limited to, the context of youth justice interventions. The overriding emphasis is on promoting the positive (e.g., skills acquisition, competency development, prosocial experiences, individual strengths), rather than prioritising the prevention of negatives (as in the Social Development Model). The principles of Positive Youth Development have been applied in the youth justice arena through a spin-off model, the Positive Youth Justice Model (PYJM—Butts et al. 2010). The PYJM advocates for assessment and intervention with young people who offend (n.b. the PYJM focal group is 'youth', rather than children) that builds on two key *assets*: learning/doing and attaching/belonging, in order to promote the social qualities of these assets and their influence on resistance (cf. social learning and social control theories). Following the PYJM, youth justice practice responses should seek to strengthen these two key assets across six life domains for the young person: work, education, relationships, community, health and creativity (Butts et al. 2010). In addition to this promotional focus, the PYJM also supports a diversionary ethos through the principle of 'realignment' in its preferred responses, for example, through the diversion of young people who offend from state facilities (e.g.,

custodial institutions) into community programmes managed in/directly by local government (Butts and Evans 2011). In this respect, the diversionary emphasis of the PYJM is not new, as alternatives to custody (along with diversion) is a key component of the minimum intervention model. Additionally, diversion in this instance is limited conceptually and pragmatically (to diversion from custody), as there is no explicit push for diversion from the formal YJS or into alternative systems and services. Despite broad support for the PYJM across the USA, 'it is not yet common for Positive Youth Development principles and practices to inform the design and delivery of interventions for justice-involved youth' (Butts et al. 2010: 11). However, a number of PYJM-informed community programmes have developed across the country to constitute a nascent evidence-base for the profile and significance of the model (if not evidence of its outcomes) in shaping responses to young people who offend (John Jay Research and Evaluation Center 2017).

PYJM in action: Community-based technologies

The PYJM has been animated by a variety of ongoing community projects, implemented across the USA with youth who have offended and those identified as 'at risk' of offending. These 'positive' projects include:

Youth Advocate Programs—a national non-profit organisation that supports families and communities to keep 'high risk' youth at home and out of the care systems (DeJesus et al. 2017). The Youth Advocate Program currently operates in 18 States and 100 local communities throughout the USA and works with 12,000 families annually, providing community-based alternatives to care placements for youth justice departments. Young 'offenders' whose behaviour and social circumstances put them at risk of placement in care are supported using a strength-based and family-focused model focused on increasing opportunities for success, improving the quality of life for young people and families, and facilitating community empowerment and involvement and support for the acquisition of skills, competencies and connections

Community Connections for Youth—a New York-based non-profit organisation mobilising indigenous faith and neighbourhood organisations to develop effective community-based alternative-to-incarceration programmes for young people who offend (in Butts 2014). The Community Connections for Youth approach focuses on developing strengths and assets and increasing the system engagement (providing expert consultation for youth justice agencies on ways to reduce reliance on the YJS), community capacity development (training organisations to effectively engage with youth in the YJS) and system–community partnerships (facilitating research-based and data-informed partnerships to divert youth from system involvement and to strengthen community connections)

Positive Youth Justice Initiative—a youth development intervention for young people who offend, led by the Sierra Health Foundation in Northern California (Sierra Health Foundation 2015). The initiative is explicitly informed by the PYJM and its PYD foundations. Programmatically, the initiative combines PYD with a behavioural health approach known as *trauma-informed care*—citing trauma as a significant, yet neglected risk factor for offending by young people (Shaffer and Ruback 2002). Operationally, it seeks to remove systemic deficiencies and biases that can stimulate and exacerbate the over-representation of Black and Ethnic Minority young people in juvenile justice systems in the USA

Tarrant County Advocate Program—this Texas-based, post-arrest programme partners 'high risk juveniles' and their families with paid advocates, with the objective to identify and build on the strengths of the young person and their family (Kelly 2015). The programme has a partnership relationship with the only national provider that delivers community corrections through a PYD framework. At its core, the Tarrant County Advocate Program combines intensive mentoring, family meetings and work experience to inform individual plans that pursue strengths-based outcomes. Evaluation over a two-year period identified that 97% of clients did not reoffend during their participation on the programme, whilst the county's youth custody rate decreased by over 50% (Kelly 2015)

The PYJM is avowedly not 'a set of programs, but rather a fundamentally distinctive way of viewing and responding to youth' (Butts et al. 2010: 15). Its distinctiveness as a 'model' (or a model within the broader PYJ model) of youth justice is represented by its proponents as, *inter alia*, an overriding promotional and prosocial focus on positive behaviours/outcomes and strengths/capacity building, supported by established youth justice principles and practices such as diversion, community intervention/alternatives to custody and programmes pursuing the reduction of risk factors for offending behaviour.

Children first, offenders second (England and Wales)

The 'Children First, Offenders Second' (CFOS) version of PYJ was created by researchers in Wales (Haines and Case 2015), formalised in Welsh youth justice policy (Welsh Government and YJB 2015) and has been animated in practice in specific areas of England (e.g., Surrey, Oldham, Manchester, Cheshire) and Wales. CFOS is conceptually/theoretically underpinned by social control and strain theories that understand offending (by children) is the product of disengagement, disadvantage and blocked opportunities/access routes at the socio-structural level. The model holds the UNCRC[4] and its associated child-friendly justice movement as establishing parameters to a series of principles that should inform a positive approach to youth justice, in particular:

- **Children first**—children who offend should be understood and responded to as children first and offenders second, with offending behaviour normalised— viewed as an everyday, typical, youthful behaviour and only one part of a more complex and multi-faceted identity for the child (cf. Drakeford 2010);
- **Child-friendly/appropriate responses**—child-friendly decision-making and intervention planning by adults (e.g., emphasising diversionary practice) at key stages of the formal YJS (i.e., the systems management principle) should be prioritised, preferably animated through the meaningful and legitimate participation and engagement of children;
- **Promoting positive behaviours and outcomes**—the systemic treatment of children who offend should be promotional (not negative-facing), relationship-based, focused and legitimate (viewed as moral, just and fair), prioritising positive behaviours and outcomes through engaging, participative and inclusive (not adult-centric) evidence-based partnership between children, families and adult professionals;
- **Entitlements**—entitlements (to maximum positive outcomes) belong to all children unconditionally, so offending should not lead to their loss of entitlements.

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[4] Hence the prioritisation of the term 'child' encompassing all individuals the age of 18, as opposed to the PYJM focus on youth.

In this respect, entitlements go beyond the UNCRC focus on guaranteeing minimum standards of protection, provision and participation;

- **Responsibilising adults**—adults bear the most responsibility for upholding and promoting (through policy and practice) these entitlements;

CFOS shares characteristics with the PYJM (e.g., understanding offending is influenced socio-structurally, promotional focus, diversionary emphasis, responsibilising adult professionals), whilst outlining additional rationalities for PYJ (e.g., rights and entitlements foci, relationship-building, children's engagement) and evidence-based practices (aka 'technologies') to support its principles. The key features of CFOS have been evidenced in practice (responses) across England and Wales in a variety of organisations, strategies, programmes and practices.

CFOS in action: Principled technologies

Child-friendly/appropriate provision (also diversion and engagement) in Surrey Youth Support Service:—youth justice services have been subsumed into the Youth Support Service (YSS), which works with vulnerable children who demonstrate need and/or problematic behaviours (including, but not limited to offending) within an integrated, non-siloed system (Byrne and Brooks 2015). Interventions are informed by the social care-focused Common Assessment Framework instrument, rather than the youth justice-focused AssetPlus assessment tool. Programmes prioritise children's *resilience* (capacity to resist and manage the harmful consequences of exposure to risk) and *desistance* (ability to cease offending once started) as positive outcomes (cf. ADCS/Research in Practice 2014) via emphases on integrated services (health, social care, youth justice, education/training/employment) and an increased importance being placed on relationship-based practice (Bryne and Brooks 2015). Since the inception of the YSS, Surrey has evidenced the lowest level of first-time entrants to the YJS and is one of the lowest per capita users of custody in England and Wales (Ministry of Justice/Youth Justice Board 2016)

Diversion/systems management by the Cheshire Youth Justice Service DIVERT programme— adhering to the principled strapline that 'Prevention is better than Court', the DIVERT initiative seeks to avoid the unnecessary criminalisation of children through assessment of underlying (often unmet) needs through diversion into alternative intervention or treatment. The DIVERT manager provides a triaging service for all children aged 10-17 years arrested by the police for non-serious offences, determining who should be diverted towards safeguarding responses and who should receive assessment and intervention by the DIVERT team (Cheshire Youth Justice Services 2017). In 2017/18, the programme contributed to a 50% decrease in first-time entrants into the across the four local authority areas covered

Evidence-based partnership through the Greater Manchester Youth Justice University Partnership (GMYJUP)—a collaboration between youth justice academics (Manchester Metropolitan University) and practitioners (ten local youth justice services), established to support practice innovation and excellence, whilst advancing strong (evidence-based) outcomes for children, families and communities in our local area. Partners benefit from academic-led practitioner training in criminological theory, guest lectures and the development of a research base to address local concerns through hosting student placements, encouraging bidirectional practices of knowledge exchange (GMYJUP 2018). The GMYJUP is founded on 'strengths-based' approaches to youth justice practice, asserting that desistance can be best encouraged through positive, strength-based, self-directed and socially valuable activities and the meaningful participation of children in the YJS. Thus far, the partnership has demonstrated significant benefits, broadening knowledge in both academia and practice; establishing evidence-based initiatives to engender innovative youth justice service provision in a major region of England, making it more strength-focussed, evidence-led and child-centred

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Engagement (also child-friendly/appropriate diversion and engagement) by the Bureau programme—the Bureau began in Swansea in 2007 (now rolled out across Wales and adopted in areas of England) as a police–youth justice partnership. The five-stage process begins with assessment (of offending-related causes, needs, problems) at point of arrest (stage one), followed by holistic assessment with multiple key stakeholders (stage two) and supplemented by an assessment of victims' needs (stage three). At the stage four 'Bureau Panel', key stakeholders (police, youth justice staff lay member of public) decisions focus on promoting positive behaviours/outcomes for the child and responsibilising adult professionals to ensure access to services that meet the child's needs and problems. The final decision-making 'Bureau Clinic' (stage five) meeting between panel members, child and parent/carer/representative negotiates a final sentencing, and intervention decision is negotiated through engagement with the child (cf. Hoffman and MacDonald 2011). Evaluation of Bureau outcomes has identified annual decreases in first-time entrants into the YJS and reoffending rates for Bureau recipients, plus annual increases in the numbers and proportions of non-criminal disposals used locally with children who offend over the period 2009–2014—patterns that have persisted since that time (Haines and Case 2015)

'Children and Young People First'—the youth justice strategy for Wales is founded on a vision statement that all children who have offended or who are at risk of entering the Youth Justice System 'must be treated as children first and offenders second in all interactions with services' (Welsh Government and YJB 2014: 3). The strategy coheres around a set of specific objectives and principles, several of which echo the key elements of CFOS, including 'children first, offenders second' itself, diversion from the YJS and into child-appropriate services and systems, facilitating children's access to their rights and entitlements, encouraging the participation and engagement of children with youth justice services and processes and placing the primary expectation on adult professionals to pursue positive outcomes for children who offend

It can be argued that PYJ in England and Wales has developed as a distinct model of youth justice, characterised by cohering rationalities and technologies that challenged the perceived weaknesses and limitations of existing models of youth justice, whilst integrating ostensibly more principled, child-friendly established elements of practice. However, CFOS in practice remains nascent, both between and within individual geographical areas in England and Wales. Haines and Case (2015) caution that CFOS is not a buffet from which one can select preferentially but a coherent model that should be implemented wholescale. As such, there are few, if any, local areas that have implemented the full CFOS model at this stage.

Transatlantic Positive Youth Justice: distinctive and coherent?

Is it possible or valid to identify a transatlantic PYJ 'model' as emerging to challenge the negative excesses of punitive justice and neo-correctionalist approaches through a series of shared principles, theories, methods and critiques? Furthermore, do the different models on opposite sides of the Atlantic represent a coherent and co-ordinated conception of 'PYJ' or is any coherence limited to their shared critique of and challenge to 'negative' forms of youth justice through a commitment to so-called 'positive' outcomes?

Revisiting our comparative analytical framework, PYJ on both sides of the Atlantic understands offending by children and young people as a normal, everyday 'youthful' behaviour that should be responded to accordingly, rather than criminalised/exacerbated through risk-, offence- and offender-focused formal intervention(ism). Through its promotional focus, the model is avowedly prospective

in perspective, opposing the negative-facing, retrospective positivism of (punitive, repressive) justice and neo-correctional models. Accordingly, PYJ elides simplistic causality to a degree, whilst retaining a *theoretical basis* in theories of strain (Merton 1938), social control (Hirschi 1969) and social development (Catalano and Hawkins 1996)—arguing that pathways into offending are characterised by blocked opportunities, restricted societal access and diminished involvement and engagement with conventional activities (Haines and Case 2015): recognising that much adolescent behaviour takes place in the moment, commensurate with a developing identity and level of (social and biological) maturity. Therefore, the main causal foci of PYJ are the socio-structural influences on the lives of children (along with a recognition of the criminogenic potential of youth justice systems and the activities of agents of social control), as opposed to explaining offending as the product of rational choices or exposure to individualised, psychosocial causes and risk factor predictors. Understanding offending by children and young people as consequence of, *inter alia*, maturation, social deprivation, blocked opportunities and diminished social capital, serves as the rationale for arguments that the promotion of positive behaviours/outcomes should be facilitated by adult professionals (i.e., *responsibilising adults*, not children) delivering holistic, 'whole child' approaches that span multiple, *integrated systems* (i.e., eschewing siloed youth justice practice responses and offence/offender-focused, risk-based 'programme fetishism'—Morgan 2009).

PYJ is cohered by a set of *principles* that guide policy and practice; principles identified from a growing evidence-base predominantly generated in England/Wales (Haines and Case 2015; Case and Haines 2014, 2015a, b; see also Urwin 2018; Greater Manchester Youth Justice University Partnership 2018; Cheshire Youth Justice Services 2017; Byrne and Brooks 2015; Creaney 2014) and the USA (Butts 2014, Butts et al. 2010; see also DeJesus et al. 2017; Goddard and Myers 2017; Sierra Health Foundation 2015; Kelly 2015). The proposed transatlantic 'model' of PYJ is therefore constituted by a series of rationalities (e.g., justifications) and technologies (e.g., evidence-based partnerships, practices). The central tenet of PYJ is that the *promotion of positive behaviours and outcomes* for children and youth who offend (e.g., educational achievement/improvement, access to rights and entitlements, participation/engagement with prosocial activities, constructive training and employment) should be privileged within youth justice responses, rather than pursuing a restricted focus on preventing and reducing negative behaviours and outcomes (e.g., reducing offending, reoffending, exposure to risk factors).

It is also possible to identify discernible differences between the two main versions of PYJ (PYJM and CFOS) that restrict their coherence as a unified movement, beyond their shared characteristics and their shared challenge to the negative aspects of contemporary punitive and correctionalist youth justice. A particular distinction is evident in their respective *conceptual and theoretical foundations*. The PYJM in the USA retains *positivism* as its theoretical touchstone, or at least the quasi-positivism of developmental risk-focused approaches such as PYD. The thoroughgoing focus on protective factors and the development of quantifiable assets and strengths to prevent negative outcomes is consolidated by a continued commitment to minimising risk factors. As such, the PYJM remains wedded to strategies and methods

prioritising the identification and amelioration of risk factors, which has encouraged an emphasis on *adult-led programmes* as 'effective' responses to offending by children, evaluated through the experimentalist *'what works'* paradigm. In contrast, CFOS in Wales and England is avowedly *anti-positivist*, focused more on qualitative *processes* such as *relationship-building* and the generation of meaningful evidence through research and practice conducted in *partnership with children* and key stakeholder professionals. Consequently, CFOS offers practitioners a set of fundamental *principles* to guide all aspects of their work with children, not simply instructions for the development of restricted 'what works' programmes targeting the reduction of risk factors and implemented with limited input from children. There is a further distinction between the *individualised positive outcomes* privileged by the PYJM and those pursued by the CFOS model. Under CFOS, positive outcomes can be individualised in nature and located within the psychosocial domains of the child's life (as with the PYJM), but they can also be *systemic and structural*, stemming from broader changes in the ways that children who offend are understood and worked with.

The risk-first targets versus children first principles distinction is also evidenced by differences between the *focal groups* for PYJ in each jurisdiction. In Wales and England, CFOS has encompassed 'children', typically (but not limited to) those aged 10–17 years old, in line with the age range for entering the YJS and the UNCRC definition of a 'child'. Conversely, the PYJM specifically targets adolescents (teenagers) in line with the 'youth' focus of the PYD approach and the evidence-base for risk-focused 'what works' programmes. As such, the PYJM in the USA retains some degree of the more responsibilising and adulterising features of the 1990s punitive turn (not to mention the 'new youth justice' in England and Wales), whereas the entitlements-facing CFOS model explicitly challenges what it views as child unfriendly excesses.

PYJ is different from the youth justice that has gone before it in theoretical, conceptual, principled and practical terms—placing the child and youth at the centre of 'positive' understandings of offending behaviour and promotional responses to it, rather than seeking to punish or correct an identified 'offender' through offence-focused interventions pursuing prevention or reduction outcomes. The conceptualisations and implementations of PYJ on either side of the Atlantic share common features, particularly their support for holistic, evidence-based responses that seek to normalise offending by children/youth and responsibilise adult professionals for the success of interventions that pursue positive behaviours and outcomes. Conceptual and implementation differences are also discernible, notably the differential focus on children (England/Wales) compared to youth (USA) and the explicit rejection of the risk paradigm (England/Wales) compared to the continued commitment to risk-informed assessment and intervention (USA). It is important to acknowledge that PYJ in transatlantic and national terms is an ideal-type model of youth justice, subject to certain established critiques, such as accusations of caricaturing established models in order to emphasise its own distinctiveness—a self-serving bias by a potential lack of reflexivity regarding its own conceptual and methodological limitations. It should also be acknowledged that PYJ remains nascent in evidential and practice terms, which limits the degree of confidence possible in conclusions

regarding the models internal validity and external validity (i.e., generalisability) at this stage. However, PYJ is certainly beginning to produce an evidence-base that is able to demonstrate its impact on children and on the operation of the YJS.

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