Crime, drugs and young people

Elaine Arnull reflects on the implications of the Bill for young drug misusers.

The Crime and Disorder Bill is currently passing through Parliament and it is likely that its strategies for youth justice, including Youth Offending Teams and its proposals for Treatment and Testing Orders will become law. The creation of a youth justice strategy is recognition of the need to establish consistency in this area.

The drug strategy to be launched later this year and the creation of a Social Exclusion Unit also highlight the issues of young people, crime and drugs.

In the past there have been no real planning mechanisms for bringing these three issues together. There have been some good local responses, but no coherent mechanism which could ensure their dissemination and replication. There has been no one body through which theoretical and practical approaches to working with young offenders who misuse drugs can be thrashed out on a national stage. Criminal justice and drug responses have traditionally been geared towards adults; for too long young people have been add-ons to adult services. Youth justice policies have not targeted drugs.

However we now have an impending national youth justice strategy and it is crucial that policy and practice developments take place to ensure that drugs are not marginal, extra curricular activities, but a key component.

Drugs and crime

There is considerable evidence of the links between drug misuse and crime as far as adults are concerned. With regard to young people we have less evidence, but *Misspent Youth,* the Audit Commission's report, noted that of the 600 young people studied, 15% were classed as having a drug or alcohol problem and of the persistent offenders the figure rose to 37%. We also know that there are some differences between adult and youth offending, one difference being that young people's offending might be less about feeding a habit, but more about 'lifestyle', about a young person's general way of life and behaviour at that time. Drugs and crime might be two of those factors. Thus in the words of Hough (1996) such offending may be more 'drug-related' than 'drug-driven'.

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What we also know is not just to look for what we expect. Whereas the purchase of heroin and crack cocaine is commonly associated with the commission of property offences, research conducted in the north-east of England found evidence of young people who were committing property offences to buy their 'chosen drug', which was ecstasy. We should not expect or assume adult known or predicted behaviour and impute it to young people.

There is also growing evidence that serious dependency problems are emerging in a small, but increasing, minority of young people. Patterns and trends in drug use can vary greatly between localities and can change quite rapidly. In recent years we have seen the development of a significant number of heroin 'hotspots' around the country. No part of the country is quite complete without one it would seem.

The needs of the child

There is, however, a growing body of concern that we need to treat young people in a consistent and holistic fashion and incorporate the Children Act 1989 and the UN Convention on the Rights of the Child into our criminal justice legislation. Sir David Ramsbotham in *Young Prisoners - A Thematic Review (1997)* argued for this and Sir William Utting in *People Like Us (1997),* said 'Departments of State and agencies with responsibilities for children should include safeguarding and promoting the welfare of children in their principal aims.'

The aim of the youth justice strategy is to *prevent offending.* What must emerge from the drugs strategy is an aim to reduce drug misuse amongst young people and minimise any harm they might experience. In order to achieve these aims the advice from the experts is to *treat the child first and the problem second.* These aims are not incompatible. Time spent meeting the needs of today's drug misusing offenders, is time invested in preventing future *drug driven* offending.

We can see therefore an emerging consensus that the needs of the child should come first, even when the child is a young offender who uses drugs. There is a need to ensure consistency in strategic planning, nationally and locally. There need to be some answers to the questions about how Drug Action Teams, Youth Offending Teams (YOTs), local partnerships and crime and disorder strategies will fit together. Furthermore, how are other issues to be brought in and the strategies made inclusive before all of the pieces of the jig-

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"The big issue is around resourcing, and the potential displacement of voluntary clients. So the question is: will enough money be put in to ensure that clients volunteering for treatment from outside the criminal justice system will still be able to receive it? It is critical that the strategy should give a clear lead on which sort of clients should get priority, when waiting lists occur. Otherwise it puts an unacceptable weight of responsibility on clinicians and practitioners, to decide who should and who should not receive treatment."

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saw are put in place? For example it is proposed that Treatment and Testing Orders will include 16-18 year olds, but who will ensure that their needs are properly met in a system which is not geared to meet them? If YOTs do not include a drugs work specialist how can we ensure that this becomes an integral feature of their work?

From the drug services' perspective SCODA is seeking to advise on, gain consensus around, and kick start some planning mechanisms for meeting the needs of drug misusing young offenders. Currently the criminal justice system, social services and drug services are all geared to meet different needs. In order to meet its principal aim of preventing offending however, the Youth Justice Strategy is about to ask them all to work together. If as the experts advise, we keep our focus on the needs of the child, then the strategy should work. ■

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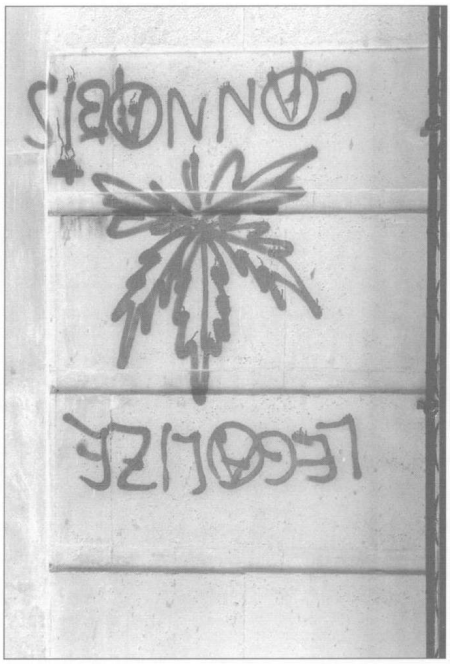
References:
Hough, M (1996) *Drug Misuse and the Criminal Justice System: a review of the literature*, London: Home Office.



David Kidd-Hewitt

Taking racial harassment seriously

Rae Sibbitt considers the proposals for new offences of racially aggravated assault, harassment and public order.

The Government has recognised the seriousness of racially motivated crime and harassment, and there is a raft of legislation under which such crimes may be prosecuted. Yet there is concern that the existing provisions have not been fully exploited and that the message about racially motivated crime needs to be made more forcefully. The Crime and Disorder Bill is intended to address these concerns primarily by introducing specific racially aggravated offences. This articles outlines the existing provisions for dealing with racially motivated crime, the changes proposed in the Bill, and the impact they may have.

Racially motivated crimes may currently be charged under a wide range of offences: the suspects in 2074 such crimes recorded in 1996/7 were charged with 1986 Public Order Act offences, assault, criminal damage, theft and homicide (Crown Prosecution Service, 1997).

A cumulative impact

The more serious crimes often occur against a wide backdrop of low-level racial harassment consisting of repeated, relatively minor incidents. Although each incident may not be serious enough in itself to warrant prosecution, their cumulative impact may be extremely damaging. Such incidents constitute the bulk of racial incidents recorded by the police (Maynard and Read, 1997) and a series of them may be prosecuted under Section 4a of the 1986 Public Order Act (Intentional Harassment) or the recent 'anti-stalking' legislation (1997 Protection from Harassment Act).

The new offences complement the existing provisions, and include racially aggravated offences against the person (assault), racially aggravated public order offences, racially aggravated criminal damage and racially aggravated harassment. They carry higher maximum penalties than their non-racially motivated equivalents. This is intended to demonstrate concretely that a racial element adds to the seriousness of a crime by virtue of the fact that it not only has an impact on the immediate victim, but also creates fear within the wider community.

In addition to the new offences, Clause 72 of the Bill (as listed in the current draft) requires that in cases where racial incidents are prosecuted under *existing* offences, the court:

(a) shall treat [the fact that the offence was racially aggravated] as an aggravating factor (that is to say, a factor that increases the seriousness of the offence); and
(b) shall state in open court that the offence was so aggravated.

The courts were already able to increase sentence where there was evidence of a racial element (R vs Ribbans, Duggan and Ridley); and this was the main way in which the existing provisions were able to demonstrate increased seriousness. However, this end point is rarely reached for various procedural reasons:

- there are difficulties collecting evidence of racial motivation (Sibbitt, forthcoming);
- where evidence exists, it is not always brought to the attention of the court (CPS, 1997); and
- where evidence of a racial element is mentioned, few cases result in the court indicating that the sentence was increased as a result (CPS, 1997).

In the third, it is not yet clear how far this reflects a 'non-increase' in the sentence as opposed to the court's failure to indicate that the sentence has been increased.

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Nevertheless, it is hoped that the inclusion of specific racially aggravated offences, together with Clause 72 which places a statutory duty on the court to increase sentence where there is a racial element, will improve current practice in each of these areas by raising awareness of the need to deal robustly with such offending.

Admissible evidence

Of the three, the Bill may have greatest impact on the collection of evidence for a racial element. Prosecution of the new racially aggravated offence will require evidence of a racial element to be admissible in court. The Bill provides some clarification on the complex question of what constitutes a racial element, stating that an offence is racially aggravated if:

(a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership of, or association with members of, a racial group; or

(b) the offence is motivated (wholly or partly) by hostility towards members of a racial group based on their membership of that group.[1]

There are therefore two ways of testing whether an offence was racially aggravated. It will be sufficient to prove either that the defendant demonstrated hostility towards the victim during the offence (for example, by using verbal racial abuse); or that there was a general hostility to specific racial groups which to some degree motivated the offence. In both cases, the police will have responsibility for collecting such evidence, and further guidance may be required in this area.

It should be noted that the new offences and Clause 72 reflect a number of other developments, each of which is also likely to have implications for the response to racial incidents. They include: the Association of Chief Police Officers' recent guidance on the response to racial incidents (ACPO, 1998); the findings of the current inquiry into the investigation of the death of Stephen Lawrence; further and extended monitoring of the prosecution of racial incidents by the CPS; and an increased focus on the perpetrators of racial harassment by local multi-agency groups. The Home Office plans to monitor the use of the new offences and evaluate their impact on the response to racially motivated crime in the context of these other developments.

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Related measures

Beyond the new racially aggravated offences and Clause 72, there are aspects of the Crime and Disorder Bill which may further enhance the response to low-level racial harassment, although they were not drafted for this purpose. Firstly, the perpetrators of low-level racial harassment are often young children, sometimes acting with the encouragement of their parents (Sibbitt, 1997). The proposed Child Safety Orders are aimed at children under ten who have committed anti-social acts and are at risk of offending, while Parenting Orders are intended to help support parents in preventing their children offending or committing other anti-social acts. Both may be relevant in preventing racial harassment.

Secondly, the perpetrators often comprise individuals or families who not only harass ethnic minority neighbours, but who are generally abusive and threatening to all neighbours (Sibbitt, 1997). The proposed Anti-Social Behaviour Orders will be particularly relevant here, and the provision for professional witnesses (to be used in order to overcome the usual problems of evidence gathering) is likely to be especially useful.

Finally, racially motivated crime and harassment tend to occur in places where anti-social behaviour and crime is a general problem (FitzGerald and Hale, 1996). Anything which has an impact on general criminality, therefore, is likely to have an indirect impact on levels of racially motivated crime. The Crime and Disorder Bill will require the police and local authorities to draw up strategies to address crime prevention locally. It remains to be seen how quickly local authorities, the police and other agencies rise collectively to meet this challenge; yet in the longer term, this may have a greater impact on the incidence of racial harassment than the Bill's provision for racially aggravated offences, welcome as these are. ■

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Note

1. Racial group here refers to a group of people defined by reference to race, colour, nationality, or ethnic or national origins.

References

Association of Chief Police Officers (1998) *Good Practice Guide on Racial Incidents*

Crown Prosecution Service (1997) *CPS Racial Incident Monitoring Scheme: Report on Year Ending 31 March 1997.*

FitzGerald, M and Hale, C (1996) *Ethnic Minorities: Victimisation and Racial Harassment: Findings from the 1996 British Crime Survey.* Home Office Research Study 154.

Maynard, W and Read, T (1997) *Policing Racially Motivated Crime.* Police Research Group Crime Detection and Prevention Paper No. 84.

Sibbitt, R (1997) *The Perpetrators of Racial Harassment and Racial Violence.* Home Office Research Study 176

Sibbitt, R (forthcoming) *The Recording of Racial Incidents.* Home Office Research Study.