

Evidence based policy

Evidence base lost?

One of the promises of New Labour was that government policy would be grounded in 'evidence based research'. In a speech to the Economic and Social Research Council in early 2000, David Blunkett argued that 'It should be self-evident that decisions on government policy ought to be informed by sound evidence. Social science research ought to be contributing a major part of that evidence base. It should be playing a key role in helping us to decide our overall strategies'. Mr Blunkett went on: 'If you have the arrogance to believe you already know all the answers, sound independent research which seems to question your assumptions is an inconvenience to be dealt with and minimised rather than an opportunity to learn, reflect and improve'.

In early 2005, a Centre for Crime and Justice Studies seminar reviewed the promise of evidence based policy making. The seminar was prompted by discussions the Centre had with a number of academics to the effect that the government had not lived up to the promise of Mr. Blunkett's speech: research design and publication was being steered by political requirements rather than straightforward policy development founded on an evidence base.

The February 2005 *cjm*, 'Uses of research', took forward the debate and in the summer of that year the

issue was addressed at the British Society of Criminology annual conference where academics debated with Home Office officials about the management and publication of Home Office commissioned research. One of the academics, Professor Tim Hope, was subsequently invited to give evidence to the House of Commons Science and Technology Committee on the issues he had raised.

As a result of these events the Centre for Crime and Justice Studies decided to launch a publication series under the general title of *Evidence based policy*. Publications by Hope and Walters (2008) and Bridges and Cape (2008) followed. The latest in this series is an essay written for this issue of *cjm* by Professor Rod Morgan, formerly chair of the Youth Justice Board, who discusses how the Youth Justice Board manages the data relating to targets for reducing first-time entrants to the youth justice system.

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First-time youth offender entrants: more smoke and mirrors

Rod Morgan questions the Youth Justice Board's presentation of first-time entrants' data.

The \$50 billion fraud perpetrated by Bernard Madoff worked for years because his New York-based fund appeared virtually to guarantee high returns. As a result his investors failed to probe the legal plausibility of the exercise. The same phenomenon

characterises some crime and reconviction statistics. Which is why the outspoken criticism voiced in early December 2008 by Sir Michael Scholar, Head of the UK Statistics Authority, regarding the premature release by the Home Office of 'selective' knife crime

statistics was so welcome. Back in 2003, Lord Warner, my predecessor as Chairman of the Youth Justice Board (YJB), trumpeted that the re-offending rate (it should have been described as the reconviction rate) for young offenders subject to non-custodial penalties was 22.5 per cent below that predicted. The announcement prompted Tony Blair publicly to congratulate the YJB on its achievement (YJB, 2003). It seemed implausible (at least to me) at the time and arguably the YJB should have questioned the evidence. But the fault, as a detailed critique initially by Tony Bottoms and subsequently by Bottoms and Dignan (2004) exposed, ultimately lay not with the YJB but with Home Office statistics. There were many missing data. The reconviction rate had subsequently to be revised

downwards, first to 7.7 and then to 2.4 per cent (Home Office, 2004; see also Solomon and Garside, 2008).

Now we have another remarkable claim. The latest success story announced by the YJB is that the number of first-time entrants to the youth justice system reduced by 10.2 per cent in 2007/8 compared to 2005/6 (YJB, 2008a). This reduction is twice the size aimed for and is remarkable because all the evidence had hitherto pointed to substantial net-widening criminalisation of children and young people. Furthermore, a year previously the YJB had announced that its target was 'at risk' (YJB, 2007). How was this risk averted? The explanation, I suggest, once again involves missing data, but this time not because they are unknown but because they have been deftly ignored. This can only be described as sleight of hand. It pains me to say this. But I do not know how else to describe it.

First-time entrants: rationale and reality

The proposition that there be a target for first-time entrants to the youth justice system is, on the face of it, both sensible and straightforward. To the extent that there exists a stable relationship between youth offending, public reporting, detection and criminalisation then the objective that the YJB and the local youth offending teams (YOTs) work to prevent offending as well as re-offending is probably best assessed by counting the number of first-time entrants to the system. The YJB has had such a measure since 2005 and it also forms an important part of the Home Office APACS (Assessments of Policing and Community Safety) framework. The YJB has successfully argued within Whitehall that additional resources

be allocated for early intervention programmes for younger children at risk of offending with the proviso that effectiveness be assessed against the first-time entrants measure. Which is why the YJB maintains that the 'huge drop' in the numbers now reported (twice the target of a five per cent reduction) 'can be attributed to successful joint partnership working between the police, youth offending teams and agencies based in local authorities' and the investment made in 'local prevention programmes', which is 'beginning to have impact' (YJB, 2007). Last year, the YJB reports, 25,287 young people were

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reached by some kind of positive early intervention. All of which may be the case, though assessment is difficult because, as any undergraduate criminology student would point out, it seems likely that the relationship between youth offending, public reporting and detection is *not* stable. Most commentators, however, would be willing to bracket away such interpretational problems: were counsels of measurement perfection to be met we would probably end up with no indicators of policy impact. There is one ingredient in the equation, however, which is capable of being measured relatively easily and accurately and which the YJB implies is scrupulously being measured, namely, criminalisation, or entering the criminal justice system. Indeed, the Board gives every indication of agonising over the data in order that commentators be satisfied that the statistics are as accurate as can reasonably be expected:

The performance indicator for 2007/08 was to reduce the number of first-time entrants to the youth justice system by 5 per cent by March 2008, compared to the 2005/06 baseline. First-

time entrants are young people who have not previously come into contact with the youth justice system who receive their first pre-court or court disposal. Data quality processes identified missing data for 2005/06, and following a validation exercise, the number of first-time entrants was revised to 97,329 for 2005/06. The revised figures provided by youth offending teams tally more closely with Police National Computer data. Based on this revised baseline figure, the target for 2007/08 was for no more than 92,463 first-time entrants. A similar data validation exercise was undertaken for 2007/08, and the total number of first-time entrants for 2007/08 was 87,367. This is 9,962 fewer first-timers than in 2005/06 and represents a 10 per cent reduction. (YJB, 2008b)

The reality, which the YJB fails to acknowledge however, is that there are criminalisation decisions, a proportionately increasing number of them that YOTs generally do not know about, don't report to the YJB and are often not recorded on the PNC (see Amadi, 2008). These relate to the imposition of penalty notices for disorder (PNDs), already available for 16 and 17 year olds and recently piloted and evaluated for 10-15 year olds (ibid). PNDs represent the most recent and fastest growing criminalisation measure introduced by the government (for a review of the growth of out-of-court summary justice measures generally, see Morgan, 2008) and the YJB, with full Treasury support, is choosing to ignore them (see HM Government, 2008). Not to include them in the first-time entrants calculation or discussion is highly misleading.

PNDs were first introduced for adults by the Criminal Justice and Police Act 2001. Their use was extended to 16 and 17 year-olds by the Anti-Social Behaviour Act 2003 and in 2004 pilot use of them was extended in eight police areas to 10-15 year olds for a more limited number of offences. For adults and 16 and 17 year olds, PNDs are said to be aimed at relatively minor acts

of disorderly behaviour such as drunken or threatening behaviour, throwing fireworks, etc. (Home Office, 2006: Annex D) but, contrary to their name, they are also available for offences generally not involving disorder and are being most commonly used for the three 'notifiable' offences of retail theft under £200 in value, causing harassment, alarm or distress, and criminal damage under £500. PNDs are normally issued by police officers though PCSOs and other authorised persons can also issue a limited range of them. In the case of offenders aged 16 and above responsibility for paying the PND penalty of £50 or £80 rests with the offender, and for 10-15 year olds with the parent or carer. In the event of the penalty being contested or not paid, the cases are referred to the courts to determine or enforce.

According to the *Crime Statistics* it is precisely in the period in question that use of PNDs took off both for adults and children, but particularly for children (Ministry of Justice, 2008). In 2004, 3,793 PNDs were imposed on 16-17 year olds, 6 per cent of the total (63,639) issued. By 2006 the total number of PNDs issued had tripled (201,197) but those given to 16-17 year olds had risen five-fold (19,598 or ten per cent). In 2007 the growth in overall numbers slackened (207,544, a rise of 3.2 per cent) and the trend for young people went into modest reverse (19,246 issued, down 1.8 per cent). Nonetheless in 2007/8 there were over 19,000 16-17 year olds drawn into the criminal justice system by means of PNDs, approximately 7,000 more than two years previously, and an additional considerable number of 10-15 year olds in selected police areas not

reported in the Ministry of Justice *Criminal Statistics*. What proportion of these children and young people were first-time entrants to the criminal justice system has been neither reported or investigated. But if PNDs were being issued as the government intended, that is for relatively low-level offences and offenders not requiring further intervention, then we must assume that the proportion was relatively high. It seems probable that the number entering the criminal justice system by this new pathway wiped out most if not all of the ten per cent reduction which the Youth Justice Board reports with such pride.

Conclusion

It is miserable for someone in my position to have to argue this point. When I went as Chairman to the YJB in 2004 I was conscious that the Board's publications and statements were regarded by many of my erstwhile academic and Probation Service colleagues with grave suspicion. The YJB had something of a reputation for spin. During my tenure at the Board we worked hard

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to repair that reputation. It would be very unfortunate were the Board to slip back into old ways. Indeed the Board's reputation and credibility depends crucially on its steadfast independence and willingness to tell the story of what is happening in youth justice as it is, warts and all. So let's count all the kids who are being criminalised for the first time, increasing numbers of them, contrary to the spirit of the Crime and Disorder Act 1998, through pathways not involving the multi-agency YOTs. PNDs are included in the 'offences brought to justice' statistics where the government is aiming for growth.

The result is that the government trumpets the fact that the 'offences brought to justice' target is being exceeded. There is no excuse for excluding the same PNDs from the first time entrants calculation which in its present form provides no firm guide to the progress we may be making. ■

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