

## **Parenting Orders, Youth Justice Policy and the discursive shaping of subjectivity**

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### Introduction

This paper is based on my ongoing PhD research which is exploring the narrative accounts of parents who have been issued with a Parenting Order as a result of their child's involvement in the youth justice system. This research applies a discourse analytic approach to examine how parents make sense of their Parenting Orders, how they negotiate the inherent contradictions and tensions inherent in both policy and practice and how agency might be exercised within each parent's own discursive and material setting. This research project is 20 months in and ideas within this paper are embryonic – I welcome your comments and thoughts.

The aim of this paper is to examine the discursive tensions inherent in the Parenting Order policy. I will do this by examining four key contradictions:

- the gendered nature of Parenting Orders
- the dual nature of criminal responsibility
- the tension between interventionism and liberalism
- the tension between justice and welfare

I will then discuss what may be the implications of these contradictions for the parents who are subjected to the Parenting Order, in particular by utilising the concept of the 'double-bind'.

## **What are Parenting Orders?**

- Introduced in *Crime & Disorder Act* (1998)
- Usually issued alongside child/young person court orders
- Court has duty to issue them if child is under-16 (unless good reason)
- Recommended on PSR by YOT worker
- Conditions: attendance at parenting support & discretionary requirements
- Failure can result in conviction/fine (£1000 max)
- Variations in distribution

Parenting Orders are court orders which are issued at the same time as a *Child Safety Order*, *Anti-social Behaviour Order* (ASBO), *Sexual Offences Prevention Order*, *Referral Order* or conviction, or engaged in anti-social behaviour or if parent is referred for failure to attend Youth Offender panel meetings / *School Attendance Order* or fails to secure school attendance.

To be issued '*where it would be desirable in the interests of preventing either any repetition of the behaviour that led to the child's order or further offences*' (CDA, 1997: s8.6 & s8.7). The Orders last between 3-12 months and support (which can be residential) lasts 3 months maximum. Discretionary requirements - e.g. avoids certain areas, avoids contact with disruptive peers, is home during certain hours

Parenting Support - In-house or out-sourced, adapted from a range of off-the-shelf programmes

Geographical variations— e.g. some YOT areas, none; Wessex over 500

## **Policy tensions**

- Help and support for the parents of young people who become involved in crime or are at risk of doing so is part of this wider programme of action to support families. Parents have an important role to play in preventing their children offending; they have a responsibility to the child and to the community to take proper care and control of them. Some parents may need help, support, encouragement and direction in this and the youth justice reform programme provides new opportunities for such assistance to be provided – whether on a voluntary basis in support of intervention work with the young offender under the final warning scheme or a court order, or through the parenting order.*

(Home Office 2005, s2.3)

Tensions are demonstrated in the above quote, which is from Home Office policy guidance for professional practitioners. Illustrates the 4 key tensions embedded within policy and practice of Parenting Orders:

Welfarism: *help, support, assistance, provision, care*

Punitive: *responsibility, control, final warnings & court orders*

Interventionism: *programmes of action, intervention work*

Liberalism: threads of self-governance: parents having *responsibilities towards children and communities*

Object of the problem: young people involved in crime & subject to intervention, it is child who parent is responsible to

Subject of the problem: parent ignores the gendered nature of parenting & the iniquities produced

### **Tension 1: Parent or Mother?**

- Predominantly issued to mothers, despite neutrality (or masculinity) of language
- Predominantly lone parents and those with fewest economic resources
- Assumptions of 'parental responsibility' and lack of clarity in practice
- Determined by residency and court appearance

Data: estimates approx 80% mothers, over half unemployed and lone parents (e.g. Lindfield, 2001; Ghate & Ramella, 2002). Not unrelated – 'feminisation of poverty'

Parental Responsibility: (Reece, this afternoon, discusses shifts from authority to accountability). Basically, is not the same for mothers and fathers: mothers automatically have responsibility, and cannot lose it. Andro-centric legislature obscures estro-centric nature of parental responsibility. Responsibility extended to anyone who has care, including those who do not have 'parental responsibility' under the *Children Act* (1989). In practice determined by residency (not genetics) (Henricson, 2003) - (which is usually mother); assumes whoever is present has influence, usually the mother (Goodman & Adler, 2004); whoever attends court – more likely to be mother, given economic/domestic structure of households (e.g. part-time, flexible hours). This appears to be a key contentious point for lone mothers in my own research.

### **Tension 2: Dual criminal responsibility: parent *and* child?**

- Removal of *doli incapax* in same legislation (CDA 1998)

- Contradicts *Gillick* judgement, psychological research, UNCRC (1989)
- Means that both parent and child criminalised....
- ....even when no 'crime' has been committed (e.g. Child Safety Order, Anti Social Behaviour Order)

*Doli incapax*: child between 10-14 deemed not to have criminal intent – prosecution must prove otherwise (compare with 14 years and over - assumed to have criminal intent – defence must prove otherwise). So, same legislation makes both child and parent responsible.

Contradictions: *Gillick* judgement (1984) - parental responsibility must yield to child's right to make own decisions, once maturity reached (Bell & Jones, 2006); Psychological research – (e.g. Kohlberg, 1968; Walker, 1987): moral judgement achieved at 12+ years. Home Office admitted it did not undertake research to substantiate change in law (Bandalli, 2000); *United Nations Convention on Rights of Child* (1989) - children in such circumstances should be treated in manner which takes account of the needs of their age

Net-widening: under 10 years via *Child Safety Orders & Parental Compensation Orders*, and not 'crime' via *ASBOs*.

### **Tension 3: State-family boundaries**

- Populist debate: Interfering 'nanny state' v fears over 'child protection'
- 'Liberal standard': assumptions of State as 'neutral caretaker' in last instance
- Truancy, law-breaking and anti-social behaviour new grounds for intervention, due to (implied) 'poor parenting'
- Evidence of intrusion and disempowerment in families

I am not assuming that these boundaries are 'real' – socially-constructed and dynamic (e.g. shift from 'child care' to 'child protection')

Debate over role of state: to provide residual support, once family support and obligations are exhausted...or do citizens have constitutional right to claim collective state resources? (Muncie & Wetherell, 1987)

'Liberal standard': 3 tenets – Interests of child paramount, entitlement to parental authority & privacy state's authority to breach parental rights (Archard, 1993).

'Poor parenting' is more implied than observed - it is the behaviour of child which determines parent's status. Those families under increased surveillance will be intervened - affluent families addressed outside state apparatus (Walters & Woodward, 2007).

Thus, there is a major tension whereby Parenting Orders are ideologically individual-focused and demand self-governance via responsibility, yet in practice parents find them intrusive and disempowering: my own research evidence suggests they bring these tensions into the family home, with the parents resentful that the child/young person feels (and informs their parent) that they have 'got away with it' while the parent is being punished for their crime.

#### **Tension 4: Justice or Welfare?**

- Blair (1994): 'tough on crime, tough on the causes of crime'
- While support is offered, it is through threat of punishment and the courts
- Multi-agency approach (YOTs) - result in 'criminalisation of social policy': as welfare need is met through courts, families in need seen primarily as 'bad family' & subject to orders and interventions

Blair: bridged tension between New Labour 'modernisers' and Old Labour 'social engineers' (Pitts, 2001). Meant extended custody and supervision for broader range of offenders (and offences) and provision for 'evidence-based' support programmes: as in Parenting Orders.

Multi-agency approach: YOT representatives from police, probation, social services, health, education, drugs and alcohol misuse and housing all infused with responsibilities for crime control – New Labour's 'responsibilisation strategy' (Garland, 2001). The welfarist discourse is found primarily in practitioner discourse and documents – parenting co-ordinators have the difficult job of working with parents, convincing them of usefulness of Parenting Orders. Some success but.....my own research (and others) suggests that Parenting Orders are experienced as punishments – feel stigmatised and blamed. This is in addition to anxiety and distress which parents already feel when children are offending.

#### **Implications: Youth Justice Agents**

- Parenting Orders proceed within 'local contexts of ideological confusion' (Walters & Woodward, 2007)
- Magistrates: local culture determines practices (Longstaff, 2004)
- Parenting Practitioners: ambivalent attitudes, and have the difficult job of convincing parents of their supportive nature

Magistrates: Longstaff (2004) - while some magistrates followed procedure according to law, others felt they would make things worse, and the lack of clarity enabled them to practice in this way e.g. state in open court that they are not appropriate in this case

Practitioners: Again, large discrepancy in attitudes, particularly between England and Scotland (Walters & Woodward, 2007), where they were introduced in 2004 and have rarely been taken up

### **Implications: Parents**

- Paradoxical communications produce a *double-bind*: 'be competent, you incompetent parent!' (Drakeford, 1996) – parents constructed as both the problem and the solution
- Untenable position (Watzlawick, 1967): either acceptance or resistance results in deviance
- Alienation, loss of self and paralysis

Drakeford (1996) in relation to Parental Bind-Overs: also evident in other social policies and developmental literature/parenting advice. Creates an untenable position as parents must either accept their own incompetence and become a failure, or refuse the charge of incompetence, and become 'recalcitrant'. The alternative is to 'step outside the context' & comment on inherent paradox (Watzlawick, 1967: 197) – difficult, and can be dismissed as further evidence of recalcitrance

### **Where next for research?**

- How do parents read and negotiate these paradoxical messages, especially if they produce an 'untenable position'?
- What are the implications for parents' identity?
- What are the implications for parents' agency and what forms might resistance take?

Amanda Holt, May 2007

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See also:

Holt, A (in press) 'Room for Resistance? Parenting Orders, disciplinary power and the construction of the Bad Parent' in Squires, P (Ed.) *ASBO Nation: the criminalisation of nuisance*, Policy Press; Bristol.

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