A study into breaches of Youth Justice Orders and the young people who breach them.

Abstract

This study concerns the incidence and aetiology of breach of youth community sentences. A between-groups archival study compared those who breached with those who did not, on socio-demographic and criminogenic factors. Breachers were a minority, likely to breach repeatedly and were similar to those who re-offended. Whether they breach or reoffend may depend on something other than the characteristics of the Order and the young person's situation. Youth Justice Professionals should be mindful of the identified areas of need and responsivity when considering compliance.

Keywords

Youth justice; young people who offend; breach of order; delinquency; Risk, Needs and Responsivity.

Running Head: Youth Breach

Introduction

Context

Youth Courts in England and Wales have several sentencing options when dealing with young people convicted of a crime. If a Discharge or Fine are not deemed appropriate, three other options are available. These are Referral Orders (RO), Youth Rehabilitation Orders (YRO) and Detention and Training Orders (DTO) (Sentencing Council, undated). These sentences usually include a period of supervision by Youth Justice Professionals in the community. The scaled approach (YJB, 2010b), stipulates the level of intervention a young person should receive based on the practitioner's assessment, and is utilised alongside these Orders; this means that the frequency and intensity of supervision will vary. Additionally, Intensive Supervision and Surveillance (ISS) can be added to some Orders and requires a minimum of 25 hours programmed contact time each week (including evenings and weekends) (YJB, 2013a). If a young person is not willing or able to follow the requirements of their Order and the Youth Justice practitioner assesses this non-compliance as unacceptable, the young person will be returned to Court for breach proceedings. The Court must then decide how to respond to the young person's non-compliance.

Failures to comply include not attending or being unacceptably late for a planned appointment without good reason, behaviour that is assessed as unacceptable in meetings and not adhering to a curfew (YJB, 2010a and 2013a). This means a young person can be breached, returned to Court and potentially, sentenced to custody without committing any further offence. Furthermore, this can happen even when the initial offence would not warrant a custodial sentence[1]. Breach offences were the third most common primary offence of young people (16%) in custody in 2011/12 (YJB, 2013b) and the fourth most common primary offence (14%) in 2012/13 (YJB, 2014a). The rate of breaches and resulting further criminalisation of young people has become a topic of concern (Hart, 2010, 2011a; Glover & Hibbert, 2008; YJB, 2010b).

The decision to breach permits discretion and can be complicated for professionals. Practitioners must consider potentially conflicting information regarding youth justice and youth welfare requirements and are not always agreed about what constitutes engagement and participation (Ipsos Mori, 2010; Stephenson et al. 2011; YJB, 2010a, 2013a). Also, it is worth noting that Youth Offending Teams (YOTs), the multi-disciplinary teams whose responsibility it is in England and Wales to supervise young offenders, must do their best to engage

and support a young person (YJB, 2013a) and their efforts and flexibility are discussed as part of breach proceedings. Buffers exist between non-compliance and breach proceedings to help prioritise the young person's welfare and ensure that an Order is only returned to Court if serious compliance concerns are present.

The problem with breach

Increasing numbers of breaches have been attributed to what Bateman (2005 and 2011a), among others, describes as a 'Punitive Turn' in Youth Justice in the mid 1990s. Policy initiatives led to tougher responses to youth crime (Home Office, 1997) and the YJB National Standards (YJB, 2000, 2004 and 2010) became prescriptive (Bateman, 2005), ultimately leading to a rise in the use of custody.

Young people who are breached while on Youth Justice Orders are further criminalised and accelerated up the Youth Justice Tariff (Bateman 2005). Hart (2011a) says that this punitive treatment of young offenders further drains resources and leads to increased negative outcomes for young people, such as disrupted education and potentially even increases the likelihood of reoffending.

Some positive progress has been made since Hart's (2010, 2011a, b) and Bateman's (2011a) articles. The Court proven offence of Breach of a Statutory Order saw a proportional reduction of 61% between 2009/10 and 2012/13. This was the largest reduction in any proven offence rate during this period (YJB, 2014a). Also, changes in the National Standards (YJB, 2013a) required practitioners to take better account of young people's individual needs when enforcing Statutory Orders. However, the lower rates of breaching overall did not seem to have an impact on the proportions of young people in custody for breaching – 14% in 2012/13 (YJB, 2014a) cf 17% in 2008/09, 15% in 2009/10, 13% in 2010/11 and 16% in 2011/12 (YJB, 2013b).

What is already known about young people who breach?

There has only been one study focusing specifically on young people who breach Statutory Orders (reported in Hart, 2010, 2011a, b). There were two parts to this study: the official data about breach and the experience of breach. Official data indicated that boys, older offenders and Black and Mixed ethnicity offenders are over represented in the breach sample. In London, the difference across ethnicities was smaller and the difference between boys and girls was very small

and in the other direction (i.e. girls were over represented among those who received a disposal for breach). The qualitative stage revealed that high levels of disadvantage and a complex intersection of other sociodemographic factors were also relevant, findings that are consistent with Halsey et al. (2010) and Jacobson et al. (2010).

Two slightly different suggestions have been made about how young people who breach may differ from the general young offender population. Hart's (2011a) sample of young people displayed a specific sub-set of needs that seem qualitatively different from those generally experienced by young people in the Youth Justice System and that directly impact on their ability to comply with an Order. For example, conflict from within the family was more likely to be associated with parental unwillingness or inability to care for the young person, potentially through mental illness. Alternatively, Bateman (2011a and 2011b) suggests that young people who breach would generate higher ASSET[2] scores (increased needs) because they are "more likely to lead chaotic lives, to suffer mental ill health, or to misuse drugs or alcohol" (p. 179; 2011b).

Further research is needed in this area for a number of reasons. Firstly, there are doubts about the accuracy of the YJB data used previously (Hart, 2011a:

p13). In addition, the interview data used in the study, while being detailed, is from a small sample and is not generalisable to the wider breach population. It is also not compared against the experience of other compliant young offenders. Hart (2010) highlights some other specific gaps in the data she analysed (pp.25-26; emphasis added):

- which 'statutory orders' are being breached;
- the profile of young people breaching each type of order;
- the disposals for breaching each type of order…;
- the proportion of breach proceedings that do not result in a significant disposal;
- the ethnicity of those in custody for breach;
- the numbers/proportion of young people being breached more than once and their sentencing patterns;
- the numbers of first time entrants to *custody* who are there solely for breach;
- index offences of those being breached.

Investigating the characteristics of young people who breach

When planning a more detailed study about young people who breach Statutory Orders, it was decided that data about young people already collected by YOTs on the Youth Offending Information System (YOIS)[2] could provide insight. Information stored on this system includes each young person's offending and sentencing

history, personal information, an evaluation of their personal characteristics and circumstances including their Scaled Approach Score (YJB, 2010b), summary data of interventions by social services (historical and current) including any periods of Looked After Child (LAC) status when the young person was in local authority care and a case diary of interventions and contacts by the YOT.

Hypotheses

Hypothesis 1. Compared with young people who are not returned to Court for breach during their study-order, young people who are breached will be older and are more likely to be female (Eastmanor[3] is an urban borough demographically similar to London) and of Black or Mixed ethnicity.

Hypothesis 2. Young people subject to less arduous Orders (e.g. shorter and less intensive) and Referral Orders will be less likely to be returned to Court for breach than young people subject to longer and more arduous Orders.

Hypothesis 3. Young people who are returned to Court for breach will differ from those who are not in relation to risk of re-offending and of serious harm but there will be no difference in type of index offence.

Hypothesis 4. Young people returned to Court for breach will differ from those who are not in relation to personal circumstances, interrelationships and characteristics relating to higher levels of need.

Hypothesis 5. Demographic factors will be associated with whether or not breaching ever occurs during a young person's offending career. Young offenders who are female and of Black or Mixed ethnicity will be over represented in the sample of young people who are ever (compared with never) returned to Court for breach.

Hypotheses 6. Offending histories will not be associated with ever breaching.

Hypothesis 7. The majority of the ever breach population will have breached more than once.

Method

Sample

A cross-sectional study was conducted on a sample of data about young people who were subject to Referral Orders, Youth Rehabilitation Orders, Youth Rehabilitation Orders with Intensive Supervision and Surveillance (ISS) and Detention and Training Order Custody Licenses in the urban borough of Eastmanor.

The sample consisted of information about all the young people known to Eastmanor's YOS who started their sentence between June 2012 and December 2012. This sentence will be referred to as the *Study-Order.* Each Order and young person was tracked for a minimum of 18 months after the Study-Order started with data being collated in May and June 2014.

The sample consisted of data about 97 young people. At the start of their Study-Order, the youngest offender was 13.3 years old and the oldest was 18.2 years old (mean age=16.4; S.D.=1.2). The Study-Order length ranged from 1 to 24 months long (mean=9.5 months; S.D.=4.2) and 44 of the Study-Orders were

Referral Orders (45.4%). See Table S.1 in the supplementary materials[1] for descriptive statistics of the sample. Full ethical approval and data protection measures were implemented. Again, please see supplementary materials for further information.

Design

This study comprises two between-groups analyses, the first considers factors associated with breach (and repeated breaches) in comparison to other possible Order outcomes and the second, examines potential differences between those young people who never breached with those who were breached at some point:

Phase One. Focusing on the Study-Order, the sample was split into groups depending on the Order outcome :

Successful	The young person successfully completed the Order including early revocations and partial completions[4];
Breached	The young person was returned to Court for Breach;

[1] A more technical supplementary materials file will be uploaded to the University's repository and to ResearchGate, post-final acceptance. We will then replace this footnote with direct links to those materials. For now, should reviewers wish to have sight of these materials, we can easily provide them.

Re-offended The young person was convicted of a new offence (other than Breach) while subject to the Study-Order;

Transferred The Order was not completed with Eastmanor YOS due to the young person's case being transferred to another borough or being transferred to Probation.

Phase Two. The sample was split into two groups relating to breach as it occurred during the whole time each young person was known to the Youth Justice System (as recorded on YOIS) up until the point when data were collated:

Never breached young people with no Court appearances for breach.

Ever breached Young people with at least one Court appearance for breach.

Materials

Specific YOIS information about each young person was: sentencing history, ASSET assessment; case diaries; offences and proceedings. When data stored

were incomplete, additional information was also drawn from Pre-Sentence Reports (PSR) and Breach Reports.

YOIS provides a central, official resource to access information about young offenders on Statutory Orders. However, information and ASSET scores recorded in YOIS are reliant on the quality of the data inputted by Youth Justice professionals. Previous research has been positive, finding ASSET scores predict re-offending well (Wilson and Hinks, 2011).

Following Eastmanor's Inspection of Youth Offending (reference removed for anonymity), there was internal and external auditing and all Core Leaders (Case Responsible Officers) have received ongoing training from an experienced, external Youth Justice Practitioner to improve the standard of recording and adherence to National Standards (YJB, 2013a). The time one data collation was set at a point at which revised processes should have been able to bed down.

Procedure

Phase One

After data coding, between groups analyses were conducted to compare:

- Gender

- Age at time of sentence
- Ethnicity
- Religion
- Order type
- Order Length
- Electronically monitored curfew requirement
- Dynamic ASSET score
- Risk of Serious Harm
- Index Offence
- Core Leader of Supervising Unit
- Looked After Child Status
- Family/Home Environment
- Substance Use

Additionally, a multinomial logistic regression (Field, 2013) was used to create a model that could predict Order outcome from offending behaviour characteristics (ASSET score and ROSH – Risk of Serious Harm categorisation).

Finally, a log linear analysis (Field, 2013) was conducted to explore any association and interaction between a breach outcome and personal characteristics (Looked After Child (LAC) status, family/home environment and substance use).

Phase Two

The incidence of breach over time was analysed. The groups were compared on:

- Gender
- Ethnicity
- Religion
- Total number of offences
- Total number of Court disposals

For more information about data collation and coding, please see supplementary materials. Table 1 provides a summary of the information drawn on for the Hierarchical Log-Linear Analysis.

<Insert Table 1 about here>

Limitations

Generalisability

The generalisability of these findings is limited because it was not possible to compare level of or trends in breach in our sample with those nationally or in other YOTs due to the dearth of available information (as noted by Hart, 2010, 2011a, b).

It was also not possible to conduct inferential analysis between the sample and the local population because there were discrepancies in age ranges and classification categories between the sample and the census data. In the sample, ages ranged from 13 to 18 whereas available age range divisions in the census data were 10 to 14, 15, 16 to 17 and 18 to 19. Religion, nationality and ethnicity categorisations did not correlate between the two sets of data. For example, the number of Turkish young people was reported in the sample but not the census data.

Lastly in terms of generalisability, Eastmanor has a unified Youth Service which combines the Youth Offending Service, the Youth Support Service and Young People's Services in one organisation (reference removed for anonymity). As such, the ethos and practice of Eastmanor Youth Offending Service (YOS) may differ from those of more traditional YOTs meaning that findings in this study may

not be generalisable to some other YOTs, although all will work within National Standards (YJB, 2010a and 2013a).

Data sampling, normality assumption and sample size

The small sample size (n=97) and low number of breachers in Phase One (n=13) will also limit the generalisablity of this study to the wider population of young offenders in general and breachers, in particular. Furthermore, the small sample and group size may have resulted in floor effects (see contingency tables).

In June 2014, data pertaining to all young people sentenced between June and December 2012 were extracted. These data included all offending and sentencing history data that were known to Eastmanor YOS for each young person until June 2014 but not after. This means that the entire offending careers of some young people (who would have transitioned into official adulthood) was captured. However, for other young people, only part of their offending career may have been captured (as they could have gone on to offend subsequently). Relatedly, some of the offending of other young people may have occurred while they were the responsibility of other areas or after being transferred to Probation and records may have been incomplete. It should also be noted that only proven re-offending

was used in this study and undetected offending could not be included. Taken together, this means that Phase Two is based on incomplete but best available data.

It was also not possible to create full models that included all factors thought to affect breach because there would have been too many empty cells in the model. Instead, a number of individual analyses and smaller models were studied. This meant that all possible interactions between different types of factors could not be investigated in this study.

The sample was not randomly allocated to intervention and was not normally distributed. This could be problematic as the sample violates the assumptions of some of the statistical analyses. Although this may point to a need for caution in interpretation (Osborne, 2013), it is not that uncommon in quantitative social science and we have drawn on the data as the best available information to elucidate a neglected topic in Youth Justice.

No information about Learning Needs and Mental Health

Information was also insufficient to allow for consideration of mental health and learning needs. Furthermore, Speech, Language and Communication Needs

(SLCN) are an issue of growing concern for services aimed at young offenders (RCSLT, 2009; Nacro, 2011). Unfortunately, the then current ASSET tool did not capture any information about SLCN so this study was not able to explore this possible cause of breaches. AssetPlus[2] should capture these data allowing future research to explore this (YJB, 2014b).

Findings[5]

The demographic characteristics of the young people whose records were contained within the dataset are summarised in Table 2, which compares the research sample as closely as possible against the most recent census data for Eastmanor (See Limitations).

<Insert Table 2 about here>

Phase One

The final dataset was based on 96 young people (one set of records was excluded). Only 13 of the Study-Orders were breached (13.40%). There were 42 first time entrants in the data set, of whom, 2 breached their order. There were no

significant associations between gender, age, ethnicity or religion and Study-Order outcome. In other words the demographic characteristics of those who breached were broadly similar to the sample as a whole. Contingency tables and additional data for non-significant findings can be found in the supplementary materials. Table 3 provides descriptive data for Study-Order outcomes.

<Insert Table 3 about here>

The most common reason for breach was missed appointments, the only reason for breach in four cases and part of the reason in seven. One young person was breached for entering an exclusion zone. Other common contributions to breach were electronically monitored curfew breaches (n=5) and unacceptable behaviour (n=2) (see Table S.2 in the supplementary materials for all stated reasons for breaches).

The most common Court disposal for breach was a Youth Rehabilitation Order (n=5). Only two young people received custodial sentences for breach. Most young people's Orders (n=7) were revoked and resentenced to an Order similar to the one they were originally serving, with only two being more serious.

Order Length. A one-way between groups ANOVA was conducted to compare the mean Order length for each of the four Study-Order outcomes and post hoc comparisons were conducted using the Hochberg's GT2. A significant difference ($p=0.045$) was found between the mean length of successfully completed Orders ($\mu=8.36$, S.D.=3.43) and Orders during which the young person re-offended ($\mu=11.23$, S.D.=5.00). No other significant differences at the 0.05 level were found between the mean Order lengths of the successful, re-offended, transferred ($\mu=10.00$, S.D.=5.61) or breached ($\mu=10.23$, S.D.=3.24) groups. This suggests a young person who committed a further offence (not including breach) is likely to have been sentenced to a longer Order than a young person who successfully completed their Order. However, of relevance to this study, the mean Order lengths of young people who breached did not differ significantly from the mean Order length of young people whose Orders ended in any other outcome.

Order Type. There was a significant association between type of Study-Order and Study-Order outcome $\chi^2(9)=24.30$, $p=.004$. (See supplementary materials Table S.3 for contingency table and Fig. 1). Looking at standardised residuals greater

than ±1.96 (Field, 2013), it was observed that young people sentenced to a Youth Rehabilitation Order with Intensive Supervision and Surveillance (ISS)were more likely to re-offend and young people sentenced to a Referral Order were more likely to successfully complete. Based on the odds ratios, young people subject to a Youth Rehabilitation Order with ISS were 8.11 times more likely than young people subject to any other Order to be convicted of a further offence (other than breach). Young people subject to a Referral Order were 5.19 times more likely than young people subject to other disposals to successfully complete their Order.

<Insert figure 1 about here>

There was also a significant association between having an Electronically Monitored Curfew (EMC) requirement attached to the Order and Study-Order outcome (EMC) $\chi^2(3)=10.57$, p=.014. (See Table S.4 for contingency table). Standardised residuals greater than ±1.96 (Field, 2013), indicate that young people who were subject to an EMC were more likely to breach than would have been expected. Based on odds ratios, young people who were subject to an EMC were 4.51 times more likely to breach than young people who were not.

Time to breach. The mean time on an Order prior to breach being instigated was 80.08 days (S.D.=83.79 days) and the mean proportion of the Order served prior to breach being instigated was 25.7% (S.D=24.3%). Although there was considerable variation in the time to breach, most young people were returned to Court within the first quarter of their Order.

Offending Characteristics. A stepwise multinomial logistic regression was carried out to test if the outcome could be predicted by ASSET Score, Risk of Serious Harm (ROSH) to others rating or an interaction between the two. The results of this multinomial logistic regression are reported in Table 4. No interaction effects could be added to the model and two main effects were significant, although of limited effect size. Please note that 12 orders were excluded from this analysis as the young people concerned were transferred before the end of the order and the outcomes were unknown.

<Insert table 4 about here>

When breach outcome was compared against a successful completion outcome, then the Dynamic ASSET score significantly predicted whether a young person would successfully complete their Order b=-0.17, Wald $\chi^2(1)=8.34$, p=.004. The ASSET score also predicted whether a young person would successfully complete their Study-Order when it was compared against being convicted of a further offence (not including breach), b=0.09, Wald $\chi^2(1)=3.93$, p=.047. In both cases, lower ASSET scores were associated with successful completion. Although ROSH scores seem to have potentially greater effect sizes, the findings did not reach significance.

Offence, Situational and Personal factors

The most common index offence in the sample was Robbery (n=21). There was no significant association between index offence and breach outcome. Analysing the relationship between Core Leader (the case-responsible officer) and breach outcome was not possible. There was a significant association between a breach outcome and the supervising authority, $\chi^2(1)=23.07$, p<.001 (see Table 5 for Contingency Table). Based on the odds ratio, young people supervised out of borough under a caretaking agreement were 44.38 times more likely to be

breached than those supervised by Eastmanor YOS although the very low numbers involved should be noted.

<Insert table 5 about here>

Personal Circumstances. A hierarchical log-linear model of breach outcome, Looked After Child (LAC) status, family situation and substance use was developed using a four-way frequency analysis with the data from 85 young people. Using backward elimination of effects, a model was produced that included three of the two-way effects but none of the other three two-way effects. The likelihood ratio of the model was $\chi^2(8)=5.22$, $p=.734$. Neither the four-way effect nor any of the three-way or first-order effects was found to be significant. Table 6 summarises the model with the results of significance tests (partial likelihood ratio chi-square) and likelihood chi-square change statistics for the retained effects.

<Insert table 6 about here>

Significant two-way effects are summarised below. Overall, young people were less likely to breach their Order than not to breach them but there were some circumstances and characteristics that did increase the likelihood of breach:

The odds ratio shows that looked after (LAC) young people were 7.01 times more likely to breach their Order than young people who were not looked after $\chi^2(1)=4.37$, p=.037 (See supplementary Table S.5); similarly, the odds ratio shows us that young people with family issues were 7.20 times more likely to breach than those who did not have family issues $X^2(1)=4.43$, p=.035 (See Table S.6 for the Contingency table). Although it was not possible to calculate an odds ratio, Table S .7 indicates that all of the young people who breached their order were classified as misusing substances (although here too, there were still more young people who did not breach their order than did) $\chi^2(1)=504$, p=.025.

Phase Two

The second phase of the study was an exploratory look at breaches by each young person during all the time they were in contact with the Youth Justice System i.e. not just during their study-order. Young people in the sample were split into two groups for comparison, those who had at least one Court appearance for breach

on their YOIS record (ever breached) and those who did not have any Court appearances for breach on their YOIS records (never breached). In the sample, 33 young people (34.0%) had ever been returned to Court for breach proceedings while 64 (66.0%) had not.

Most young people who breached, breached more than once (25/33 or 75.8%). The number of breaches ranged from 1 to 7. The mean number of breaches for the ever breached group was 2.73 breaches (S.D.=1.59). There were no significant associations found between ever breaching and gender, ethnicity or religion. The dataset was also considered in relation to sentencing history and offending careers.

The total number of offences committed (not including breach) and the number of disposals[6] received were compared between the ever breach and the never breach groups using the Mann-Whitney test because these data were not normally distributed. Young people who had ever been returned to Court for breach committed significantly more offences (not including breach) during their contact with the Youth Justice System (Mdn=8) than young people who had never been returned to Court for breach (Mdn=3), $U=1676.00$, $z=4.74$, $p<.001$, $r=0.48$. Young people who had ever been returned to Court for breach also received significantly

more Court disposals during their contact with the Youth Justice System (Mdn=6.00) than young people who had not (Mdn=2.00), U=1920.50, z=6.66, p<.001, r=0.68.

Discussion

Sample characteristics. From an approximated comparison between the sample and the 2011 census data (specific reference removed for anonymity), certain previously recognised trends in young offender populations were observed including a higher number of boys (YJB, 2014a) and of young people of Black ethnicity (YJB, 2010c). Although other demographic differences were found, no inferential analysis was possible (see Limitations).

Incidence of breach. In this study, 13.4% of all Orders that started during a 6 month period in Eastmanor were returned to Court for breach. There is no comparable finding to compare this against from the previous research. As expected, it is lower than the 31% of Youth Rehabilitation Orders with ISS that Hart (2011a) found to be breached. Although 43% of the sample were first time entrants to the Youth Justice System, only two of the breachers were. There was large variation in the time to

breach among the 13 breachers so, as predicted, there was no specific time during a sentence when a young person seemed more at risk of breach. However, where compliance was an issue, breach occurred earlier rather than later in the Order in most cases. Reasons for breach varied and often included more than one type of failure to comply but, as predicted from previous findings (Hart, 2011a), missed appointments were the most common reasons for breach. This suggests that, in relation to the engagement/participation debate (Ipsos Mori, 2010), Eastmanor Youth Justice workers breached more for attendance related compliance than for not participating (only two young people received a warning for behaviour during a session). Findings regarding sentencing for breaches indicated that they were broadly comparable with initial sentences and as such, findings did not indicate an acceleration towards custody in Eastmanor (see concerns in Hart, 2010, 2011a, 2011b). However, it is worth noting that if a young person receives a similar order to one that was breached, the end date of the sentence is likely to be pushed back. This is tantamount to receiving an extension of the original Order and could be regarded as a punitive, rather than supportive response although this was not testable within the dataset.

Hypothesis 1. The hypothesis that young people who were returned to Court for breach would differ on demographic factors was not supported. There was no significant association of age, gender or ethnicity with Order outcome, this could in itself be a positive finding related to good practice in the borough. However, the lack of variation could also be due to the small sample size.

Hypothesis 2. The hypothesis that sentence characteristics will be associated with a breach outcome was partially supported. No association between Order length and breach was observed. Conversely, as expected, Referral Orders were significantly more likely to be successfully completed than other Orders. Only 16.7% of Youth Rehabilitation Orders with ISS were breached, this is a lower proportion than the 31% of these Orders Hart, (2011a) found to be breached. It is also surprising that this proportion is not much larger than the overall proportion of Orders that were breached (13.4%). However, the high level of re-offending by young people on Youth Rehabilitation Orders with ISS could have meant that any tendency to breach these Orders was hidden by curtailment of the Order due to a new Court disposal. Electronically monitored curfew (EMC) requirements were associated with breach outcomes. This is consistent with Hart's (2010, 2011a ,

2011b) findings and it should be noted that in both the EMC and ISS conditions, additional surveillance is part of the Order, thus authorities are much more likely to find out about technical and other violations of an Order. Also, the most obvious confounding factor is that young people sentenced to longer and more intensive sentences will have committed a higher number of offences or more serious offences. The young person's propensity to offending could, in turn, be related to their ability to complete a sentence successfully. This relates directly to the next hypothesis.

Hypothesis 3. The hypothesis that risk of re-offending and of serious harm to others will be associated with Order outcome was partially supported. The model was very effective at correctly identifying successful completers but not re-offenders or breachers. This suggests that, in relation to offending factors, successful completers differ more from re-offenders and breachers than do re-offenders and breachersfrom each other.

Higher dynamic ASSET scores were associated with both breaching and re-offending when compared with successful completion. The finding for breach supports previous suggestions that high levels of need (as shown by high ASSET

scores) will be associated with breach (Bateman, 2011a; Hart, 2010, 2011a and 2011b). The finding for re-offending while subject to an Order supports previous findings that high ASSET scores are predictive of re-offending (Wilson and Hinks, 2011). The breach group had a higher mean ASSET score than the re-offender group (though not significantly so).

The level of intervention by YOT staff is decided by combining the dynamic ASSET score (used in this study) and the static ASSET score. The static ASSET score is based on historical offending data and has a maximum possible score of sixteen. If this combined score is greater than 33, the intervention level is *intensive* which, at the time of the Study-Orders, would result in the young person being required to attend three appointments per week (YJB, 2010b). Breachers' mean dynamic ASSET score was 30.1 which is close to the threshold for intensive intervention and could easily exceed it when the static score is added. Re-offenders' mean score was 26.4 and further from the cut-off point. Although not directly possible to test, a greater level of supervision intensity would also be consistent with the earlier findings considered relating to ISS and EMC. It should also be noted that the ROSH level was not associated with any Order outcome.

Overall, this study suggests that young people who are returned to Court for breach have either higher levels of need or more arduous levels of intervention but do not pose a significantly higher risk of serious harm to the public than other young offenders who complete their Orders. Both ASSET score and breach proceedings are generated by the practitioners. A possible explanation of the link between high ASSET score and breach acknowledges that high scores are given to young people who are assessed by YOS staff to be risky. It is possible that risk. averse practitioners may be stricter in their management of compliance, leading to more breaches.

Additionally, breachers and re-offenders may show similar characteristics because, from a YOT perspective, re-offending obviates the need to instigate breach proceedings as the young person will be returned to Court in any case. However, it is also possible that re-offenders could be engaging well prior to being returned to Court thus making their presentation different to that of breachers. In this study, data on the engagement of re-offenders was not collected so it is not possible to test whether or not they were likely to be breached had they not reoffended.

Hypothesis 4. The hypothesis that young people who are returned to Court for breach will differ from those who are not returned to Court for breach in relation to their personal circumstance was partially supported, particularly in the case of, young people supervised out of borough. There are a few possible explanations for this finding:

1. Young people supervised out of borough will have been moved due to difficult home circumstances and possibly difficulty in interpersonal relationships. They may also find it difficult to comply with professionals and their Order. Furthermore, once moved to a new area, these young people will have to build new relationships and the transfer is likely to exacerbate any such social difficulties, to result in a poor relationship with their new supervising officer and to reduce compliance.
2. Transfer to new boroughs increases the need for multiagency working. This has been found to result in additional challenges to communication and confusion over lines of accountability between organisations (Atkinson et al., 2002). These challenges could affect how the authority supervises young people because they are acting on behalf of another authority.

3. Eastmanor had recently undergone an inspection of Youth Offending work (reference removed for anonymity) which could mean that their work engaging young people was to a higher standard than other boroughs as a result of the post inspection input to the service.
4. Eastmanor YOS may take a less punitive view of compliance issues than other boroughs.

Young people whose Orders were returned to Court for breach also had higher levels of need in the personal circumstance factors studied.[7] The findings that LAC and young people with family/home situation difficulties and substance use problems were more likely to breach than those without, were consistent with previous findings (Bateman, 2011a, b; Hart, 2010, 2011a,b). However, the profile of need did not differ between the groups as suggested by Hart (2011a). This suggests that it was higher levels of need overall, not a specific combination of needs that increased the likelihood of breach.

Hypothesis 5. As with hypothesis one, the hypothesis that demographic factors would differ between young people who had ever been returned to Court for

breach and those who had not, was not supported. There was no association between any demographic factors and ever breaching.

Hypothesis 6. The hypothesis that there would be no difference in the total number of offences committed by young people who were ever returned to Court for breach and those who were not was also rejected. Young people in the ever breach group committed significantly more offences and received significantly more Court disposals (note that breaches were not included in the total offence count). This finding adds to the evidence that similar factors are associated with both breach and re-offending (see hypotheses three discussion). While previous studies have discussed the concern that young people who are breached are accelerated up the Youth Justice tariff without actually committing further offences, this study found that those young people who breach are also repeat offenders. It may be that Eastmanor YOS staff are more likely to address compliance punitively with warnings and return a young person to Court for breach if they are a prolific offender whereas they may be more flexible with young people who have committed fewer offences. In this way, prolific offenders may also be seen as more risky by the YOS staff and potential risk aversion may again lead to more

breaches. It may also be the case that young people who are returned to Court for breach are more likely to re-offend because they feel further criminalised by breaching. However, this study did not look in detail at the offending careers of these young people.

Hypothesis 7. The hypothesis that the majority of the ever breach group will breach more than once was supported. More than three quarters of the ever breach sample breached more than once. National Standards (YJB, 2013a) state that Young people who are returned to Court should be offered a number of opportunities and support to comply. If this extra support is not enough to improve their compliance, it is likely that the issues causing the non-compliance are deep rooted and it is understandable that one Court appearance is unlikely to resolve the compliance issues. Furthermore, once a young person has breached once, it is possible that YOT staff will treat subsequent non-compliance more punitively.

Conclusions and implications

This is the first comprehensive, quantitative study into breach outcomes of Youth Justice community disposals and its findings support many of the previous research suggestions (Bateman, 2011a; Hart, 2010. 2011a and 2011b). A number of risk factors for breach were highlighted and a clearer picture was given of the instances of breach and responses to breach in Eastmanor.

In a sample of young offenders in which boys and young people of Black and Mixed ethnicity appear to be over represented compared with the community population they were drawn from, a minority of young people were breached and most of them received a punitive response from the Courts. It was also confirmed that missed appointments and EMC breaches are the most common reasons for breach. EMCs were associated with breach proceedings while high ROSH categorisation was not. The majority of young people who breached, breached more than once.

Contrary to previous research, no demographic group was over represented among young people who breached, more arduous Orders were not associated with breaching although higher levels of intervention may have been and young people were not likely to be accelerated up the Youth Justice Tariff.

Breach seems to be associated with a lack of support or conflict at home, LAC status, substance use, intensity of Order requirements, high levels of offending and the Order being supervised by another borough. Young people who are breached are a highly disadvantaged subset of young offenders who differ from other young offenders by having more difficult and unsettled home and personal circumstances. However, breachers are similar to young people who re-offend. It appears that the difference between being returned to Court for Breach or for re-offending may be timing rather than any inherent personal or situational factors as difficult personal situations and high levels of need (represented by high dynamic ASSET scores) are associated with both.

Given their high levels of need, breachers are broadly similar to life course-persistent or other youth re-offenders although the seriousness of that offending is not associated with breach. This would reiterate the importance of consideration of need alongside responsivity and risk. There are already many options for flexibility and creative supervision outlined in the revised National Standards (YJB, 2013a). Therefore, it may be more useful to explore other options for sentencing that are more achievable for young people who have higher levels of need and disadvantage but that still fulfil the aims of the Criminal Justice System (CJS). This

suggestion is made whilst acknowledging that sentences must be meaningful for the CJS to maintain credibility and that over-intervention may be detrimental (Bateman, 2011a; National Audit Office, 2010).

Professionals who sentence and manage young offenders in Eastmanor seem to take proper account of their needs, as evidenced by the low levels of breach (particularly for ISS programmes), the variety of disposals given for breach and the equal representation of all demographic groups in the breach sample. However, looked after young people seem to find compliance problematic. LAC processes in general, and caretaking agreements with other YOTs in particular, should be reviewed to see if improvements can be made in supporting young people to adhere to their Orders while in care. In addition, Professionals should be mindful that looked after young people are often given little choice over the location of their placements and this can have an impact on the practicalities of engaging with an Order (e.g. the journey to the YOT could be made harder, or even dangerous).

Future research could hopefully increase the sample size (by either reviewing data for a longer time period or from more areas) and take into account limitations noted above. Additionally, qualitative research may help to develop a

more nuanced, richer understanding both of young people's experiences and the processes involved in their supervision and breach.

Notes

1 The court resentences the young person for the original offence so if that did not warrant custody, then imprisonment should not normally ensue. However, the court may take the failure to comply as an aggravating factor and can resentence a young person subject to a Youth Rehabilitation Order with Intensive Supervision and Surveillance to a four month Detention and Training Order "following willful and persistent breach of an order made for a non-imprisonable offence" (Sentencing Guidelines Council, 2009: p20)

2 YOIS is the information system that is used by some YOTs to store data and assessments about the young people they are supervising. The Assessment system used by all YOTs is ASSET (YJB, undated). AssetPlus will replace ASSET in a phased roll out to YOTs from September, 2015 (Crown, 2014). Note that some YOTs collect information and make ASSET assessments using different ICT systems.

3 The name of the borough has been changed for anonymity.

4 Partial Completion is an Order Outcome classification, available from a selection menu in the ASSET tool, to reference how an Order ended. In this Study, it had sometimes been used for Orders that had been completed successfully with some missed appointments but not enough to warrant breach proceedings.

5 Note that the data used in the statistical analysis were not normally distributed, nor based on a randomised control trial (see Limitations).

6 Breach offences were excluded from the number of offences for this analysis so that the comparison with the never breach group was fair (i.e. the number of offences in ever breach group would be unfairly increased in this comparison by breach offences). However, Court appearances for breach could not be excluded for this analysis because in many cases, Court appearances for breach also dealt with other separate offences (See Discussion).

7 Note that mental health needs and learning difficulties could not be studied.

Acts and Guidance

Children Act 1989 (Eng. & Wal.) (UK)

Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Eng. & Wal.) (UK)

References

Atkinson M, Wilkin A, Stott A, Doherty P and Kinder K (2002) *Multi-Agency Working: A Detailed Study.* Slough: National Foundation of Educational Research.

Bateman T (2005). Reducing child imprisonment: a systemic challenge. *Youth Justice* 5(3): 91-105.

Bateman T (2011a). We now breach more kids in a week than we used to in a whole year': the punitive turn, enforcement and custody. *Youth Justice* 11(4): 115-133.

Bateman T (2011b). Punishing poverty: the 'scaled approach' and youth justice practice. *The Howard Journal* 50(2): 171-183.

Bryan K, Freer J and Furlong C (2007) Language and Communication Difficulties in Juvenile Offenders. Available at: http://epubs.surrey.ac.uk/71151/51/juvenile_paper-final_revised_2.pdf

Crown (2014) *AssetPlus: assessment and planning in the youth justice system*. Youth Justice Board. Available at: https://www.gov.uk/government/publications/assetplus-assessment-and-

planning-in-the-youth-justice-system/assetplus-assessment-and-planning-in-the-youth-justice-system#timescales

Crown (2012) Referral order guidance. Available at: https://www.justice.gov.uk/downloads/youth-justice/referral-orders/referral-order-guidance.pdf

Field A (2013) *Discovering Statistics using IBM SPSS Statistics* (4th Edition). London: SAGE.

Glover J and Hibbert P (2008) *Locking Up or Giving Up - Is Custody for Children Always the Best Option*. Barnardos.

Halsey K, Martin K and White R (2010) *Evaluation of the Children in Trouble Programme (LGA Research Report)*. Slough: NFER.

Hart D (2010) *Children and Young People in the 'Breach': A Scoping Report on Policy and Practice in the Enforcement of Criminal Justice and Anti-Social Behaviour Orders.* London: National Children's Bureau.

Hart D (2011a) *Into the Breach: The Enforcement of Statutory Orders in the Youth Justice System*. Prison Reform Trust.

Hart D (2011b) Public protection or public perception? Breach action within the youth justice system. *Safer Communities* 10(4): 19-27.

Home Office (1997) *No More Excuses: New Approach to Tackling Youth Crime in England and Wales.* Stationery Office Books.

Ipsos Mori (2010) *A Review of Techniques for Effective Engagement and Participation.* London: Youth Justice Board.

Jacobson J, Bhardwa B, Gyateng T, Hunter G and Hugh M (2010) *Punishing Disadvantage: a Profile of Children in Custody*. Prison Reform Trust.

Menard S (1995) *Applied Logistic Regression Analysis.* Sage University Paper Series on Quantitative Applications in the Social Sciences, 07-106. Thousand Oaks, CA: Sage.

Myers R (1990) *Classical and Modern Regression with Applications* (2nd ed.). Boston, MA: Duxbury.

Nacro (2011) *Speech, Language and Communication Difficulties: Young People in Trouble with the Law*. Nacro.

National Audit Office (2010) *The Youth Justice System in England and Wales: Reducing Offending by Young People.* TSO.

Osborne J (2013) Is data cleaning and the testing of assumptions relevant in the 21st century? *Frontiers in Psychology 370(4): 1-3.*

Royal College of Speech and Language Therapist (RCSLT) (2009) *Locked Up and Locked Out: Communication is the Key.* Wales Justice Coalition Report.

Sentencing Council (undated) Types of sentences for young people. Available at: http://sentencingcouncil.judiciary.gov.uk/sentencing/types-sentence-young-people.htm

Sentencing Guidelines Council (2009) Overarching principles - Sentencing youths. Available at: https://www.sentencingcouncil.org.uk/wp-content/uploads/web_overarching_principles_sentencing_youths.pdf

Stephenson M, Giller H and Brown S (2011) *Effective Practice in Youth Justice.* London: Routledge.

Wilson E and Hinks S (2011) Assessing the Predictive Validity of the Asset Youth Risk Assessment Tool Using the Juvenile Cohort Study (JCS). Ministry of Justice Research Series 10/11. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217365/assessing-predictive-validity.pdf

Youth Justice Board (undated) ASSET. Available at: http://yjbpublications.justice.gov.uk/en-gb/Resources/Downloads/AssetSum.pdf

Youth Justice Board (2000) *National Standards for Youth Justice – April 2000.* London: Youth Justice Board.

Youth Justice Board (2004) *National Standards for Youth Justice Services.* London: Youth Justice Board.

Youth Justice Board (2010a). *National Standards for Youth Justice Services.* London: Youth Justice Board.

Youth Justice Board (2010b*). Youth Justice: Scaled Approach: A Framework for Assessment and Interventions*. London: Youth Justice Board.

Youth Justice Board (2010c*) Exploring the Needs of Young Black and Minority Ethnic Offenders and the Provision of Targeted Interventions.* London: Youth Justice Board.

Youth Justice Board (2011) *Youth Justice Annual Statistics 2010/11.* London: Youth Justice Board.

Youth Justice Board (2013a). *National Standards for Youth Justice Services.* London: Youth Justice Board.

Youth Justice Board (2013b) *Youth Justice Annual Statistics 2011/12.* London: Youth Justice Board.

Youth Justice Board (2014a) *Youth Justice Annual Statistics 2012/13.* London: Youth Justice Board.

Youth Justice Board (2014b) *AssetPlus - Assessment and Planning Interventions Framework*. Available at https://www.justice.gov.uk/youth-justice/assessment/assetplus.

Youth Justice Board (2014c) *National Protocol for Case Responsibility.* London: Youth Justice Board.