

Impact case study (REF3)

Institution: University of Liverpool		
Unit of Assessment: Social Work and Social Policy		
Title of case study: Closing justice gaps: Improving the effectiveness of and confidence in Out Of Court Disposals		
Period when the underpinning research was undertaken: 2014-2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Barry Godfrey	Professor of Social Justice	2012-2020
Period when the claimed impact occurred: 2014-2020		
Is this case study continued from a case study submitted in 2014? N		
1. Summary of the impact		
<p>In 2019, over two hundred thousand people were issued with Out Of Court Disposals (OOCd). Used in cases where restorative justice/penalty notices for disorder/cannabis warnings/other OOCd can be imposed rather than a formal prosecution taking place, they save both expensive court time, and equally as importantly, their use is effective in curbing re-offending. However, in order to work effectively, the system needs to retain the confidence of the judiciary, the victims of crime, and the general public. Godfrey's research has been used to develop a system of oversight (Scrutiny Panels, comprised of Godfrey, two magistrates and police officers), originally for Cheshire, and then nationally, to improve sentencer's and victim's confidence in the OOCd system. The police use the Scrutiny Panels to improve police practices in the application of OOCd (including Covid19 penalty notices); and Godfrey's research on victims is now being used to train Cheshire police officers.</p>		
2. Underpinning research		
<p>In over thirty publications produced over the census period, Godfrey's research (3.1) on the long-term effects of prosecution and imprisonment on offender's lives has demonstrated that:</p> <ul style="list-style-type: none"> • prosecution and conviction in court prolongs criminal careers and increases chances of re-offending; repeated appearances in court increase the likelihood of custodial sentences being imposed; criminalisation increases stigma, reduces employment opportunities, and cuts across processes of relationship formation. • Conversely, diverting people away from formal prosecution (using OOCd such as penalty notices for disorder, conditional cautions, youth cautions, and so on); diverting people at an early stage in criminal proceedings (referral orders); or sentencing to non-custodial sentences (probation/other community-based disposals), increase the likelihood that 'offenders' continue their normal lives (retaining community ties, employment, and familial relationships) and therefore are less likely to reoffend. • A large project on Victims of Crime funded by ESRC confirmed that the avoidance of formal prosecution in court resulted in higher satisfaction levels for victims of crime. • In 2014-15, the Magistrates Association funded research which demonstrated that OOCd ensured that the courts were not over-burdened with time-consuming (particularly public order and shoplifting) cases. Supported by external funding from Leverhulme Trust (2014-15), Godfrey's research proved that divergence schemes were particularly effective in reducing re-offending in young people. The research used longitudinal life-course data to show that processes of divergence introduced 150 		

years ago - diverting children from the courts and providing education/training - was effective. The modern equivalent, Youth Conditional Cautions, also divert children and young people, and retard processes of criminalisation (3.2). The research was published in the Clarendon Series in Criminology (3.3) and formed the basis of further publications which argued for decarceration in the youth custodial estate. (3.3 and 3.4).

- In 2016 **Godfrey**, Cox and Adey published their study of the policing of wartime regulations (3.5). The study examined patterns of fines that were imposed during times of emergency (the Liverpool Blitz), critiquing the biases in the enforcement of emergency regulations by the police. Long after the emergency had ceased, the police imposed fines on working-class men and women who (in many cases very marginally) infringed the law. There are parallels with the policing of Covid 19 regulations – using OOC – which chime with this research.

Taken together, **Godfrey's** research (published, and in presentations to Home Office, November 5 2015; Magistrates Association training events, October 3 2015; Legal Aid Centre in Liverpool, 2 May 2018; and various international academic conferences) has demonstrated that OOC and community penalties deliver better outcomes for many offenders and victims than conviction in court (3.1, 3.2, 3.3); they reduce burden on the courts; and they can reduce the prison population (3.4). However, in order to work effectively and be seen as legitimate, the system needs to retain the confidence of sentencers, victims, and the general public.

3. References to the research

- 3.1** Godfrey, B. (2014) *Crime in England 1880-1945: The Rough, the Policed, and the Incarcerated*, Routledge, pp.216 (ISBN 978-84392-2, available on request).
- 3.2** Cox, P., Shore, H., Alker, Z. and Godfrey, B. (2017) 'Tracking the Gendered Life Courses and Life Chances of Care Leavers in Nineteenth Century Britain', *Longitudinal and Life Course Studies: An International Journal* (<http://dx.doi.org/10.14301/lcs.v9i1.457>).
- 3.3** Godfrey, B., Cox, P, Shore, H. and Alker, Z. (2017) *Young Criminal Lives: Life Courses and Life Chances after 1850*, Clarendon Series in Criminology, Oxford University Press (ISBN 978-0-19-878849-2, available on request).
- 3.4** Cox, P. and Godfrey, B, (2020) 'The 'Great Decarceration': Historical Trends and Future Possibilities', in Godfrey, B. (ed) 'Can History Make a Difference? The Relationship between History of Crime and Criminal Justice Policy', *Special Edition of the Howard Journal of Criminal Justice*, Volume 59, 3 (<https://doi.org/10.1111/hojo.12377>).
- 3.5** Adey, P., Godfrey, B and Cox, D. (2016) *Crime, Regulation and Control*, Bloomsbury: London (ISBN 978-1-4411-5995-3, available on request).

4. Details of the impact

The use of OOC and other divergence schemes has been extensive. Since their introduction, nearly 2 million OOC have been dispensed by the police (5.1). Their use saves millions of pounds for the Criminal Justice budget (currently 19 billion annually, Number CDP-2019-0217, 1 October 2019 Ministry of Justice) and they are clearly a critically important part of the system of justice in the UK. However, by 2013 both magistrates and the general public were concerned that OOC were being used as a cheap solution to the problem of lack of police numbers, and that potentially serious crimes and offenders were not being formally prosecuted in the courts. These concerns had the power to undermine both magistrates' and the general public's confidence in the criminal justice system as a whole and OOC in particular.

Impacting on the creation of the first OOCDS

In order to demonstrate that the OOC system was robust, Cheshire magistrates and police force established the first OOC Scrutiny Panel (OOCSP) in 2013. As a result of his research on divergence and OOC, and his experience as a magistrate, **Godfrey** was appointed to the inaugural Scrutiny Panel, alongside a Chief Inspector of Police, the Head of Criminal Justice Division, Cheshire, and two local magistrates. **Godfrey** has provided critical advice, guidance, and recommendations based on his previous research on divergence, re-offending, and desistance from offending (3.1, 3.2, 3.3, 3.4).

Four panels are held annually in six Cheshire areas, meaning that over 3,300 cases have been reviewed between the setting-up of the system and 2020 (a mixture of youth and adults, with oversampling of cases involving BAME, and child offenders or victims). In the cases where the Cheshire OOCSP believed that the alleged offence was serious enough, and the evidence strong enough, for a prosecution to be advanced, the police officers involved in that case received additional internal training about the correct imposition of OOC:

“Barry Godfrey’s criminological research is vital in assisting the police in reviewing and scrutinising OOC at regular panels. The Constabulary uses the feedback from the panel to inform local practice. Feedback is given to the head of the force’s Criminal Justice Department and the Chief Inspector for the local area so that the officers behind those decisions can learn for the future. The aims and uses of OOC are then discussed at annual conferences co-organised by me, Barry, magistrates, and held at Cheshire Police HQ” (5.2).

This has refined police practice to ensure that offenders are dealt with correctly in the future, and therefore that both offenders and victims receive justice (5.3). In 2013-14 Cheshire OOCSP disagreed with approximately 20% of the OOCs they reviewed. Feedback on how procedure should correctly be carried out in the future was given to individual officers involved in those cases and by 2020 police practice had improved. Accordingly, the number of cases the OOCSP disagreed with halved to 10%. Godfrey’s research has been used to refine the system which substitutes OOC for prosecution, saving considerable personal costs for offenders and victims, and saving thousands of pounds for the criminal justice system.

“We have drawn heavily on Barry’s research in directing our plans for scrutinising Out-Of-Court Disposals.” (5.3).

Cheshire OOCSP received delegations from Merseyside and Greater Manchester Police in 2014, who, following observation, and discussion with Godfrey, subsequently established their own OOCSP in 2015. Cheshire then provided the model for the roll out of OOCSP nationally in 2016:

“Without his expertise on divergence and re-offending, we could not have made such successful progress with this important initiative now running successfully across England and Wales” (5.3).

Improving Confidence in the system

Statistics on the numbers of cases agreed/disagreed with are reported back to the Chair of the Cheshire Bench, and also to the Deputy Chairs of each of the courts in Cheshire. They then cascade that information to every magistrate through AGMs and Bench meetings in order that magistrates can feel confident that they are dealing with every case which should be prosecuted, and that there is a robust system in place to deal with all cases where an OOC is more suitable.

“The purpose of the panels is to satisfy the judiciary, who are working independently of the force, that Cheshire Police is performing in line with force policy and national guidelines” (Detective Superintendent Jon Betts, Cheshire Constabulary.

<https://www.chesterstandard.co.uk/news/15971346.urgent-calls-for-scrutiny-over-police-cautions-in-cheshire/>

Godfrey then collates annual statistical data on OOCd, and it is presented at conferences at Cheshire Police HQ that **Godfrey** organises annually (5.3, 5.4). Operationalising **Godfrey**'s research on the importance of divergence in reducing re-offending, the annual data is presented alongside academic findings on the use of OOCd in reducing re-offending. **Godfrey** determines the agenda, invites speakers, opens and closes the conferences which are attended by the Police and Crime Commissioner, the Lord Lieutenant, the Chief Constable, and leading representatives of National Offender Management Service, Justices' Clerks Office, and the Crown Prosecution Service (5.4):

"Barry Godfrey has made a major contribution to the annual criminal justice conferences, which bring together the police and the magistrates to discuss the operation of the criminal justice system and also wider criminological knowledge on policing, re-offending, and sentencing. The conferences are vital in ensuring that both magistrates and the public they represent retain confidence in the OOCd system, and that academic research is communicated directly to practitioners and judiciary" (5.3).

The proceedings of the conference are reported in local media, and the reports of the Police and Crime Commissioner for Cheshire. As a result of the OOCdSP and the publication of its practices, public confidence in local justice has been enhanced (5.5), police practice on the streets is better monitored, and both offenders and victims of crime are appropriately dealt with (5.3, 5.4)

The impact of crime on victim's lives is equally as important as the impact of either formal prosecution or imposition of a OOCd on an offender. The sentence imposed on an offender, and the part victims play in deciding what happens, can be as impacting on a victim as the crime itself. Research by **Godfrey** on victims of crime (ESRC ES/R006962/1) has recently started to impact on the decision whether to impose an OOCd or to prosecute an offence. Based on this research, in 2019 **Godfrey** produced training videos on the fair treatment of victims which are included in a week's specialist training for new recruits to Cheshire Constabulary – approximately 100 per year - on the police treatment of victims of crime:

"The victim and witness week is a Cheshire organised affair although it does reflect a national conversation piece within the National Police Chiefs Council. At its core, each day, the new Cheshire victim strategy, launched by our Chief Constable reflects a slightly different theme such as special measures, the importance of victim support, the victim journey within the Criminal Justice system as well as highlighting the importance of correctly using the victim personal statement. We have a lot of new in-service officers who will benefit from your understanding of the consequences of police intervention for victims/witnesses of crime" (5.6).

The video and the training sessions reinforce the importance of placing the impact of the crime on the victim centrally to policing decisions reinforcing the practical application of **Godfrey**'s ESRC-funded research on victims.

Impacting on the imposition of Covid 19 regulations

The policing of Covid 19 regulations, similarly, must be properly supervised by criminologists and representatives of the local community, in order to be seen as legitimate and effective by sentencers and the general public (5.5). As a result of the success of his approach to dealing with OOCds, in 2020, **Godfrey** was appointed as the attendant criminologist alongside members of the Cheshire Joint Police and Independent Advisory Group Scrutiny Panel to assess police use of OOCd during the period of CV19 restrictions. This OOCdSP is specifically concerned with ensuring that all communities in Cheshire are treated equally. The process is similar, with twenty randomly selected cases (out of 240 Covid 19 OOCd imposed across Cheshire between March and July 2020). Again, specific training needs are identified in certain cases, and police officers receive feedback on the appropriate use of OOCd in order

to improve the equitable policing of CV19 regulations. **Godfrey's** research therefore continues to have a major impact on police practice, and also on the lives of offenders and victims of crime (5.3).

5. Sources to corroborate the impact

5.1 Statistics of OOC, Ministry of Justice, Criminal Justice Statistics, August 2018-2020.

5.2 Email from Cheshire Police Criminal Justice Division, Dave Briscoe (confirming the use of Godfrey's research in refining police practices through review of OOC on Scrutiny Panels and role in organising Annual Criminal Justice Conferences).

5.3 Email from Chair of the Magistrates Association, John Bache (evidencing use of Godfrey's research on OOC scrutiny process and influence on national roll-out).

5.4 Agenda of Criminal Justice Conference. Attended by high-level policy-makers and practitioners in the Crown Prosecution Service, Cheshire Magistracy, and the police (Chief Constable and senior officers).

5.5 Media reports showing increased public confidence in OOC.

5.6 Email from Liz Humphries, Criminal Justice Development Officer, Cheshire Police, confirming Godfrey's research on victims being used in training of police recruits.