

Language Impairment and Criminal Justice Processes

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Overview

- Evidence for people with cognitive and communication difficulties being over-represented in the criminal justice system
- The potential value of speech and language therapy to reducing the risks of offending
- The demands on language required by criminal justice processes
- The impact of special measures such as Registered Intermediaries on justice processes
- Implications for service provision and the administration of justice.

Numbers

- 1,068 children in custody (YJB August 2014)
- 5,939 young adults in custody (18-20 years)
- 98,837 proven offences by children aged 10-17 in 2007-8, all of whom will be in touch with 157 youth offending services in the community in England and Wales.

Effects of SLCD: Example of a young offender 'B'



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- Aged 16 years and 11 months
- Has a disrupted background involving periods in care
- Has attended a number of boarding schools (special schools but unclear what type)
- Ceased to attend school regularly from age 14 and passed no exams
- Engaged in education but is finding English “really hard”. He attributed this to reading difficulties which he has always had. He is frequently sent back from education for being silly (corroborated by the wing)
- Often on bronze level.

Assessment showed

- Verbal ability: fast bursts of speech and poor articulation with some of his utterances difficult to understand
- Spoken vocabulary (word associations from the CELF 4 standardised assessment): meets the criteria for his age
- Formulated sentences (from the CELF 4 standardised assessment): he scores at an 8 year equivalent level indicating that he has difficulty in using language to convey meaning
- Understanding spoken paragraphs: he scores 5/15
- Verbal deduction: he failed the task indicating that he has difficulty extracting information from verbal information.

Self assessment

- He is aware of his SLCD.
- He reports:
 - getting stuck on words
 - not always being able to tell people what he needs or wants
 - other people saying much more than him in a conversation
 - finding it difficult to talk to staff
 - finding it difficult to think of what he wants to say
 - having difficulty following routines.

...continued

- Despite this, if asked whether he has communication difficulties, he says no
- This is extremely common in young people and demonstrates why we need more routine screening and SLCD to be considered where there are educational difficulties
- Beware closed verification questions where the 'required' answer is obvious.

Effect of SLCD on 'B'

- Already struggled at school
- Induction process- answering questions and completing forms?
- Opting out and trying to be invisible are his strategies (doesn't want to get into trouble as he wants to join the army)
- Voluntarily talks to "no one"
- What does he do when communication breaks down - "nothing" "forget it" (so problems compound).

...continued

- If someone argues with him or questions him it often ends up in a fight/exclusion
- Attended a Review Board and understood “one or two bits”
- Been excluded from some groups and workshops but not sure why (he wasn’t fighting)
- Wanted a garden job but was refused as he was too high risk- he did not know a) what this meant or b) why
- Essentially not addressing any of his issues.

Re-offending

- 72% of YO's (aged 10-17) re-offended within 12 months in 2011 (YJB 2013).
- B is likely to follow that pattern?

Lost opportunities for identification and remediation of language difficulties

- B has:
 - been to school, at least one special school
 - reports long standing literacy difficulties
 - has been in the care system
 - has been NEET since around age 14
 - has had contact with youth justice services in the community.

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Language and communication difficulties in juvenile offenders

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Abstract

Studies of the prison population
with language and communication
difficulties. However, the
focus is on specific

infor
healthcare

Speech, Language and Communication difficulties (SLCD)

- 6% of children have SLCD in the absence of other developmental problems (Law et al 2013) with around 31% reported in areas of lower socio-economic status (Enderby and Pickstone 2005).



- Children who enter school with language difficulties are at risk for literacy difficulties (Snow 2009), behavioural problems (Lindsay et al 2007) and psychological problems (Beitchman et al 2001)
- Comprehension difficulties in particular make children very vulnerable in relation to education (Hooper *et al* 2003)
- Compounding risk model.

Compounding risk model



Adolescence



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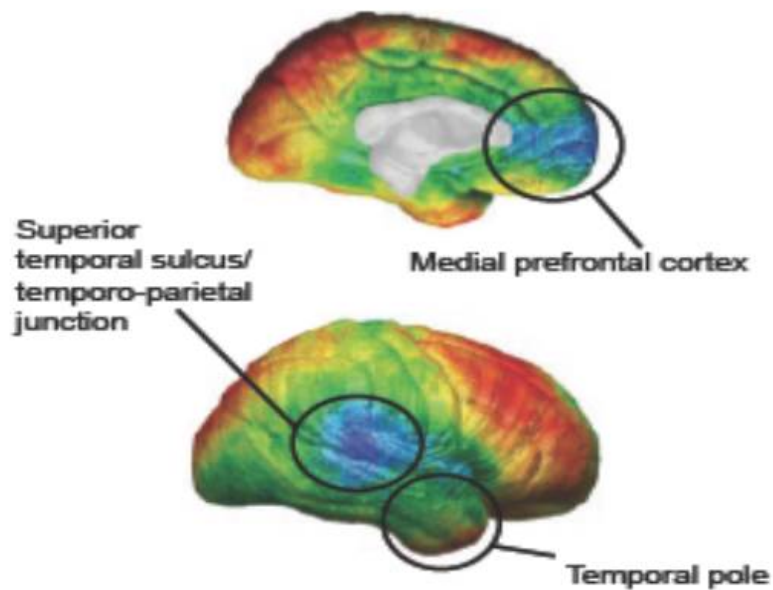
Adolescence

- Adolescence is a life stage normally seen as triggered by puberty
- Synonymous with the teenage years 13-19
- Language development continues beyond childhood and into adolescence and involves the refinement of skills acquired in early childhood (Nippold 2007).

Adolescent language and social development

- Refinement of verbal (and written) skills is essential to life outcomes such as academic achievement, employment and financial independence
- Linked to a shift from family centred to peer centred priorities
- Language development is gradual and subtle and reflects the shifting demands of schooling and social life
- Whitmire (2000) suggests that adolescents with SLCD are vulnerable to problems with peer and family relationships and with coping with the demands of school.

Key areas of development for the social brain



Hypothesise: this development is disrupted in young people who go on to offend

- Often not in school
- During the school years loneliness and peer rejection may contribute to adverse mental health outcomes (Fujiki et al 1999)
- Difficulties with peer interaction create vulnerability for association with people already involved in crime (Quinton et al 1993).

Role of language in peer groups

- Language plays a key role in creating and maintaining adolescent peer groups, and is used to demonstrate status, cohesion, trust, and entitlement to knowledge (Eckert 2005)
- Rejection from family and peer groups is thought to underpin gang cultures (Patten 1998)
- 50 gang members interviewed were all failing in school (Patten 1998)
- In gang cultures simple language, including non-verbal hand signals are used to signal difference and to enforce hierarchies (Hasan and Harry 1998).

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Adolescent brain development and behaviour

- Adolescence is associated with increased self-consciousness, increased peer influence and risk taking
- Some risks may compromise cognitive development eg smoking cannabis affecting verbal memory (Barkus and Murray 2010)
- Psychiatric conditions often have their onset in adolescence, and involve a complex interplay of genetic factors, perinatal exposure to environmental insults, developmental problems and/or early adversity such as abuse and lifestyle factors (Meyer and Feldon 2010).

SLCD as a risk factor for offending?

- Brownlie *et al*'s (2004) and Smart *et al*'s (2003) longitudinal studies show language impairment is a significant risk factor for offending
- Clegg *et al*'s (2005) longitudinal study shows that one third will develop mental health problems if un-treated, with criminal involvement in over half of cases
- Evidence from a long term Danish (Mouridsen and Hauschild 2009) study indicates that boys with severe expressive language problems were significantly more likely to be convicted of sexual offences.

Evidence from populations involved with criminal justice

- Looked-after children: 1% of the population in England
- 63% of looked after children in residential care with language impairment (McCool and Stevens 2011).
- But, 33% of boys and 61% of girls in custody (Kennedy 2013)
- Over 4/5 of NEETs have SLCD (Lanz 2009)
- Over 60% of children facing school exclusion had SLCD (Clegg et al 2009)

Educational background in YOI's

- 88% of boys and 74% of girls in custody had been excluded from school
- 36% of boys and 41% of girls were 14 or younger when they ceased to attend school (Murray 2012)
- In the youth CJS, 25% have special educational needs, 46% are under-achieving at school and 29% have difficulty with literacy and numeracy (YJB 2013).

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**Not benefitting from the
protective effects of education.**



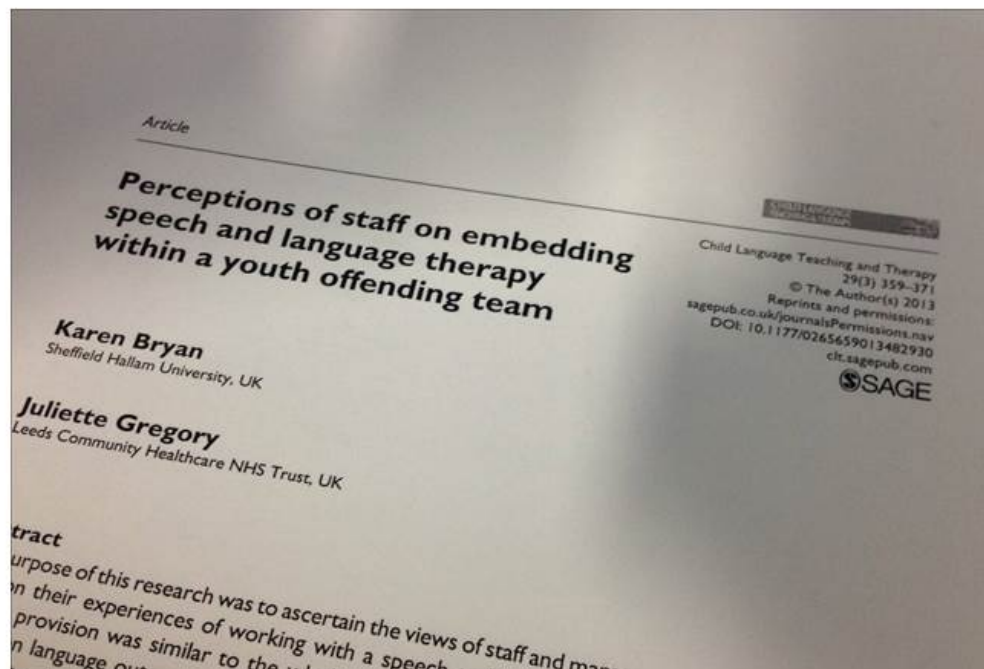
Evidence of lack of intervention

- Young people not receiving the support they need was highly publicised by the Bercow Review (2008)
- Stringer and Lozano (2007) and Clegg et al (2009) have provided further evidence of lack of support in the teenage years.

Does SLT work for young people?

- Studies of SLI suggest it does- educational outcomes may not be quite as good for young people with SLI but ongoing support has resulted in better language and educational outcomes (Conti-Ramsden et al 2009)
- Gregory and Bryan (2011) showed that adding SLT to the YOT enabled 75% with SLCD to improve on standardised testing.

From the perspective of YOT staff



Earlier identification?

- Could identify SLCD in looked after children ✓
- Young people excluded or at risk of exclusion ✓
- Young people who are NEET ✓
- Young people in touch with criminal justice services (YOS) ✓
- Young people in secure children's homes?

Secure Children's home



Consecutive cohort of 118

- Males entering a secure children's home over a 22 month period were screened using the CELF sub-tests (Semel et al 2006):
 - Word Classes Receptive (WCR),
 - Understanding Spoken Paragraphs (USP),
 - Formulated Sentences (FS)
 - Word Classes Expressive (WCE),
 - British Picture Vocabulary Scale (BPVS) (Dunn et al 1997),
 - Observational social skills assessment.
- 11yrs 11mths to 17yrs 10mths with a mean of 15yrs 2mths
- 31% had Looked after Child status on entry to the Centre
- 12% were known to have an educational statement
- 20% had a diagnosis of mental illness.

Population:

- Nearly half (58) had a history of illegal drug use
- Nine (8%) had transferred from other custodial establishments
- Two had speech and language concerns recorded previously
- Offences: violent crimes (43.2%), sexual offences (13.6%) crimes against property (28%)
- Eight (6.8%) had Section 25 Secure Welfare orders, ie detained for their own protection and had not necessarily committed any crime.

Results

- Scoring 1.5 or more standard deviations below the mean.
- WCR 50 (42%)
- USP 47 (40%)
- FS 13 (11%)
- WCE 25 (21%)
- BPVS: 42 (36%)

First analysis of a secure children's home sample.

- Where young people come into custodial settings at a young age with pre-existing SLCD, these difficulties are not recognised in the vast majority of cases, despite vulnerability being recognised.
- Suggests any young person recognised as developing literacy difficulties, peer interaction problems, teacher (or authority figure) interaction difficulties, behaviour problems, or emotional problems should have a full assessment of oral language skills.

Impact of language difficulties on access to justice

guardian
legislation
complaint
notion
transfer
default
subpoena
custody
tribunal
visitation
restitution
contempt
misdemeanour
violation
arraignment

Examples:

- *How far apart were the vehicles at the time of collision?*
- The advocate shuffled his papers and looked at the jury, avoiding eye contact with an adult witness with learning disabilities, who was confused as to whether she was meant to respond to his questions.
- Q: *'Nothing stood out then?'*. A: *'I were sitting down'* (asked of a 16 year old with moderate learning disabilities).
- *Did you tell the police about what is in that statement about the matter, about the touching of the boobs?* (asked of an 11 year-old).

Compounding risk model



The Youth Justice and Criminal Evidence Act 1999 (the 1999 Act)

- One form of assistance is the *intermediary* whose function is to communicate to the vulnerable witness, 'questions put to the witness, and to any persons asking such questions, the answers given by the witness in reply to them, and to explain such questions or answers so far as necessary to enable them to be understood by the witness or person in question' (section 29 (2) of the 1999 Act).

Judge and prosecutor unaware of limitations of a defendant with LD

Prosecutor: *'If you do not understand a word I use, please can you indicate it?'*

Defendant: *'Yes'*

Prosecutor: *'If you don't indicate it, I am going to assume you understood the word; do you follow?'*

Defendant: *'Yes'*

Intermediary: *'Your Honour, Miss X may not even understand the word "indicate".'*

Judge: *'Hang on, let's keep a balance here. (To the defendant): Miss X, if you don't understand Mr Y's questions, you say so. That is simple. If you don't say that you don't understand, we are entitled to assume that you do understand.'*

Defendant: *'Okay, yeah'*

Judge: *'That is pretty simple with the problems you have. Either you can tell us you understand or you don't. I don't see a problem with that.'*

Prosecutor: *'Do you understand the word "indicate"?''*

Defendant: *'No'.*

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Earlier identification: before YP present to CJS?

- Law et al (2013) advocate a public health approach to child language and this may be very helpful in determining a whole population approach to language development
- SLT services for: looked after children, at risk for school exclusion provision, pupil referral units, secure children's homes, secure training centres, children failing literacy assessments, with emotional difficulties, in drug services and behavioural problems.
- In these circumstances we should expect SLCD until the expected level of language skill is positively demonstrated.

Why identify earlier?

- Evidence base for SLT
- Costs £60, 000 to 209, 000 a year for a YOI or STC place
- 19,000 new YP entered Youth offending services in 2013.
- Powerful economic driver- but limited research.

Reducing risk



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