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## NIPPING CRIME IN THE BUD? THE USE OF ANTISOCIAL BEHAVIOUR INTERVENTIONS WITH YOUNG PEOPLE IN ENGLAND AND WALES

SAM LEWIS\*, ADAM CRAWFORD and PETER TRAYNOR

*This article presents findings from a study of the use of antisocial behaviour (ASB) warning letters, Acceptable Behaviour Contracts (ABCs) and Anti-Social Behaviour Orders (ASBOs) with 3,481 young people from four large metropolitan areas in England, which challenge dominant narratives about their use and impact. The findings unsettle prevailing beliefs concerning the targeted use of ASB interventions to tackle low-level incivilities and the timing of their use within a young person's deviant trajectory. They also contest the logical sequencing of behaviour regulation strategies by demonstrating the haphazard deployment of ASB sanctions within complex webs of prevention, ASB and youth justice interventions. The article concludes by considering the findings alongside recent youth justice trends in England and Wales.*

Key Words: antisocial behaviour, youth, regulation, prevention, diversion

### *Introduction*

The late 1980s and 1990s saw a rise in media reports of incivilities and crime in areas of social housing amidst concern that police efforts to address such problems were being stymied by a lack of resources, witnesses and evidence (Card 2006: 52). A consultation paper published by the Labour Party, while in opposition, entitled *A Quiet Life: Tough Action on Criminal Neighbours*, proposed new measures to address 'criminal anti-social behaviour', stating that minor disputes should be resolved through mediation and conciliation (Labour Party 1995). The following year the Conservative Government embedded the notion of antisocial behaviour (ASB) in legislation and inaugurated the tide of regulatory reform witnessed over the subsequent two decades. Section 152 of the Housing Act 1996 enabled courts to grant injunctions against ASB to prevent individuals 'engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance' in areas of social housing. Although ASB was not defined, Section 152 stated that an injunction could only be granted when the 'respondent has used or threatened to use violence'. The apparent focus of both main political parties at that time was on the repeated, pernicious *criminal* acts of some social housing tenants which existing criminal procedures were deemed ill-equipped to address (Field 2003).

In the years since, ASB has become a major political, media and public preoccupation. Over time, however, political and public conceptions of the nature of ASB have changed. The legal framing of ASB in Section 1(1)(a) of the Crime and Disorder Act 1998 (hereafter 'the 1998 Act') as activity 'that caused or was likely to cause harassment, alarm or distress' to persons outside of the perpetrator's household lacks precision by design. Attempts to narrow the definition as the legislation passed through Parliament were resisted by the new

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Labour Government (Macdonald 2006: 187–8), and the broad definition was defended on the grounds that ‘antisocial behaviour is inherently a local problem and falls to be defined at a local level’ (House of Commons 2005: 20). In a small number of high-profile cases, grievous crime has been termed ASB, thereby ‘trivialising the seriously criminal’ (Millie 2013: 72). More often, however, ASB has been the phrase applied to minor infractions commonly associated with young people. The most frequently cited ASBs witnessed by respondents to the Crime Survey for England and Wales 2014/15 were ‘drink-related behaviour’, ‘groups hanging around on the streets’ and ‘inconsiderate behaviour’ such as ‘youths kicking/throwing balls in inappropriate areas’ and ‘cycling/skateboarding in pedestrian areas’ (ONS 2015: 118–9). During the Parliamentary passage of the Anti-Social Behaviour, Crime and Policing Bill 2013–14, the Coalition Government proposed redefining ASB as ‘conduct capable of causing nuisance or annoyance’. Amidst concern that the new definition could lead to children being punished for ordinary childhood behaviours (House of Lords/House of Commons 2013), the House of Lords voted to retain the original definition (Hansard 8 January 2014, col 1543). Nonetheless, these developments illuminate a ‘general climate of intolerance’ towards children in general and adolescents in particular (UNCRC 2008: 6) and a determination to address the risks that they pose to an orderly society.

The last two decades have seen the rise of a pre-emptive, precautionary approach to crime (Zedner 2007). As successive governments have become preoccupied with minimizing the risks posed by young people, ASB interventions have been recast as preventative tools to ‘nip crime in the bud’. Although responses to ASB have received considerable academic attention (e.g. Brown 2004; Burney 2005; Crawford 2009; Millie 2009; Crawford 2013), conceptual debate has often proceeded ahead of an empirical base or emerged from small-scale studies focused on single ASB interventions (e.g. Campbell 2002; Bullock and Jones 2004; Donoghue 2010). Central to this paper, then, is the presentation of findings from a large-scale study of ASB interventions to expand knowledge and inform debate. While recognizing the importance of the existing literature on ASB, this paper is underpinned by a somewhat different conceptual framework, namely that of regulatory theory. Following Parker *et al.* (2004: 2), it employs a broad definition of ‘regulation’ that encompasses the formal and informal strategies used by different actors and their intended and unintended consequences. Usefully, regulation scholarship has highlighted the distinctive and interconnected dimensions of effectiveness, responsiveness and coherence within regulatory regimes (pp. 10–11). While some ASB scholars have considered the effectiveness of individual tools, this study also explored the other dimensions in the regulatory triptych. A companion paper, which presents different data gathered during the study, explores the extent to which ASB tools are responsive to the behaviour of recipients, their capacity for self-regulation and the context within which regulation occurs (Crawford *et al.* 2016). This paper attends to the issue of coherence, looking in particular at the complex interplay between ASB sanctions and other strategies of behaviour regulation.

The article begins by outlining contemporary perceptions of the use and impact of ASB interventions on juveniles as evidenced in central government policy documents, Parliamentary debates and academic commentaries. It proceeds to discuss the aims, methods and findings of a large-scale study of the use of ASB interventions with young people in England, which was funded by the Nuffield Foundation. The findings counter assumptions regarding the deployment of ASB interventions in response to minor

incivilities; challenge beliefs about the timing of their use within a young person's deviant trajectory; and refute the logical sequencing of prevention, ASB and youth justice interventions. The paper concludes by considering the findings alongside recent youth justice trends, highlighting the (sometimes perverse) interaction effects between different facets of the regulatory landscape.

### *Contemporary Perceptions*

Central government ASB policies have been presented as a remedy for the 'everyday nuisance, disorder and crime' (Home Office 2011: 5) that is often associated with young people. It is suggested that early intervention strategies can stop escalation from low-level incivilities to more serious antisocial and criminal behaviour. Such deterministic arguments tend to neglect the role of agency and the impact of social structures on behaviour, and research that 'shows substantial flows *out of* as well as *in to* the pool of children who develop chronic conduct problems' (Utting 2004: 99, emphasis in original). Nonetheless, this view prevails, as does the belief that ASB interventions can interrupt a deviant trajectory (Home Office 2014).

Also central to contemporary perceptions is the view that interventions form a hierarchy of sanctions or pyramidal structure which, some have suggested (Crawford 2009; Hoffman and Macdonald 2011), echo Braithwaite's enforcement pyramid (Braithwaite 1985). In Braithwaite's original model, most regulatory activity occurs at the base of the pyramid and comprises 'gentle sanctions' to encourage self-regulation (Braithwaite 1985: 142). Persistent miscreants progress up the pyramid through increasingly command-based sanctions. At the apex of the pyramid, crucially, sits the most punitive sanction acting as a deterrent. The latest measures to address ASB, like those which they replace, are depicted as forming a pyramid of interventions. They are said to 'provide a clearer path of consequences and sanctions for those who consistently fail to change their behaviour' (Home Office 2011: 13), thus embodying notions of progression and upward travel.

The Anti-Social Behaviour Order (ASBO) was introduced by Section 1 of the 1998 Act and sat at the peak of the enforcement pyramid. Their use rose annually until 2005 and then declined until 2012, followed by a small rise in 2013 (Home Office/Ministry of Justice 2014a). The order had a high breach rate: 58 per cent of ASBOs issued between 1 June 2000 and 31 December 2013 were contravened (Home Office/Ministry of Justice 2014a). Subsequently, in 2010, the new Coalition Government announced plans to replace the ASBO with the Criminal Behaviour Order (CBO) and the Crime Prevention Injunction (CPI) that appeared in the Anti-Social Behaviour, Crime and Policing Act 2014 (hereafter 'the 2014 Act') and came into force in October 2014 and March 2015, respectively.<sup>1</sup>

An Acceptable Behaviour Contract (ABC) is an informal or 'voluntary' agreement that sat beneath the ASBO and now sits under the CBO and CPI in any hierarchy of interventions (Home Office 2003; 2011). This agreement between the perpetrator of ASB and local practitioners is intended to encourage self-regulation and desistance. Although central government no longer collates data on the use of ABCs, historical

<sup>1</sup>For a detailed discussion of the development and phases of 'regulatory hyperactivity' heralded by the ASB agenda, see Crawford (2013) and Crawford *et al.* (2016), and for an overview of the new measures, see Millie (2013).

records show that their use consistently outstripped that of ASBOs. According to the last available annual figures, 11,881 ABCs were signed in 2007/08 (Home Office 2009) while just 2,027 ASBOs were made in 2008 and 1,349 in 2013 (Home Office/Ministry of Justice 2014b: Table 1). Evidence as to the effectiveness of ABCs remains inconclusive. While some quantitative studies have detected less incivility by signatories after signing an ABC than in the period immediately before (Bullock and Jones 2004; NAO 2006) and fewer individuals subsequently coming to official notice for ASB (Bullock and Jones 2004), it is not possible to say whether the intervention actually caused any cessation of antisocial activities. High breach rates have been detected, ranging from 27 per cent for those aged 18 and over to 61 per cent for those under 18 (NAO 2006). Further, the authors of a small-scale, qualitative study noted a ‘lacuna’ between the apparently positive effects of ABCs when measured quantitatively and their lived reality (Squires and Stephen 2005). Many of the children and families studied doubted the evidence against them, were concerned about accompanying threats of eviction, and reported receiving insufficient support from (in particular) education and social services to address structural problems. Despite these mixed messages, official discourse remains positive. It has recently been claimed that ABCs ‘are often used to deal with low-level antisocial behaviour, with one intervention frequently enough to stop the behaviour recurring’ (Home Office 2011: 23) and that they can be ‘very effective at dealing with young people early, to nip problem behaviours in the bud before they escalate’ (Home Office 2014: 18).

According to the dominant narrative, then, ASB is low-level crime and incivility of a kind that is closely associated with young people. Most regulatory activity occurs at the base of a ‘pyramid’ of sanctions: these interventions are employed early in the development of a deviant trajectory and use persuasion to promote self-regulation and compliance. Travelling up the pyramid, as those persisting in their behaviour progress through different measures, sanctions become evermore enforcement oriented. While there was a general loss of faith in the effectiveness of the ASBO, which has now been replaced, the ABC is still regarded as an effective response to juvenile incivilities. The paper will now outline the aims of and methods employed in a study, which explored these assumptions.

### *Research Aims and Methods*

Recent years have seen growing recognition of a dearth in knowledge around the nature and prevalence of ASB (Prior 2009) and the use and effectiveness of different interventions (Rubin *et al.* 2006). In 2008, when this study began, little was known about the extent, nature and impact of different ASB interventions on young people; young people’s trajectories through different ASB interventions; and their journeys through prevention, ASB and youth justice strategies and sanctions. This study was designed to address this knowledge gap.

The research was conducted in four purposively selected Community Safety Partnership areas. Two are London Boroughs (Sites A and B) and two are large cities in the north of England (Sites C and D). All areas were known to have significant levels of crime and ASB; large and diverse populations; high levels of social deprivation; and a sizeable social housing stock. The sites were also nationally recognized as having developed expertise in monitoring and addressing ASB: three were among the ‘Trailblazers’ and ‘Action Areas’ that received additional central government funding to address incivility (NAO 2006: 41).

Both quantitative and qualitative data were collected and analyzed. As to the former, the research team collected details of all individuals under 18 years of age who received an ASB warning letter, an ABC or an ASBO (hereafter ‘the key sanctions’) during a two-year period between 1 April 2008 and 31 March 2010 (hereafter ‘the study period’) and tracked their pathways through these different interventions over time through local agencies’ databases. In two of the sites, details were also gathered of the prevention and youth justice interventions received by this group from databases held by local youth offending services. All data were analyzed using SPSS. This paper focuses on the findings from this aspect of the study. A detailed account of the qualitative research findings, informed by interviews with senior managers, practitioners, young people and parents, appears in the companion paper (Crawford *et al.* 2016).

### *Research Findings*

The findings are presented in two sections. The first section describes the number and demographic characteristics of young people included in the study; the types of ASB interventions delivered; and variations in their use by age, sex and place. The second, more discursive section presents and examines those findings that challenge dominant policy and public assumptions. It explores the types of behaviour that trigger interventions; variations in the use of sanctions and strategies; the multilayered nature of regulation; the timing of interventions in any developmental trajectory and life course; and the implications of these findings for current practice.

#### *Background information about the study subjects and sanctions*

Between 1 April 2008 and 31 March 2010, 3,481 young people from the four sites received one or more of the key sanctions. Table 1 shows the number from each site alongside gender data and mid-2009 10- to 17-year-old population estimates. In the three sites where gender data were available, the majority of recipients were male, as found in previous studies (e.g. NAO 2006). The number of recipients in relation to the

TABLE 1 *Number of young people who received interventions by site and gender<sup>a</sup>*

Research site	Male (N)	Male as % of total	Female (N)	Female as % of total	Total young people (N)	Mid-2009 10- to 17-year-old population estimates <sup>b</sup>	Number per 10,000 of 10- to 17-year-old population <sup>c</sup>
Site A	332	83.8	64	16.2	409	15,000	273
Site B	83	84.7	15	15.3	99	12,958	76
Site C	431	81.8	96	18.2	556	68,262	81
Site D	–	–	–	–	2,417	47,757	506

<sup>a</sup>Reliable gender data were available in Sites A, B and C in all but a few cases. This explains why Male (N) and Female (N) ≠ Total (N). Valid percentage figures are cited here and throughout unless otherwise stated. Robust gender data were unavailable in Site D.

<sup>b</sup>YJB (2011), Annex E.

<sup>c</sup>These figures have been rounded to the nearest whole number.

10- to 17-year-old population size varied widely, being over six times greater in the site with the second largest juvenile population (Site D) than in that with the largest such population (Site C). Site D, where the number of young people known to have received an intervention per 10,000 of the population was highest, was ranked in the Indices of Multiple Deprivation 2010 as the second least deprived of the sites (DCLG 2011).<sup>2</sup> These findings suggest that the use of ASB interventions is not linked directly to population size or levels of socioeconomic deprivation, but is mediated by the willingness and ability of individuals and organizations to use these tools.

The 3,481 study subjects were tracked through agency databases and details gathered of interventions received during and prior to the study period. Table 2 shows the number who received interventions by site and intervention type. Warning letters, the sanction of first resort, are usually sent by the police, often in conjunction with the local council or a social housing provider, to an individual (or their parent or guardian in the cases of juveniles) when they first come to official notice for ASB. As such, they form the lowest rung in any ladder of sanctions. The research team noted significant variation between sites in their form and function, which tended to reflect the professional priorities of those concerned. In Site A, young people engaged in ASB were referred to the Youth Inclusion and Support Panels (YISPs)<sup>3</sup> coordinator who had oversight of the five YISPs operating across the borough. The YISPs coordinator then sent a 'referral to YISP' letter to the parents or carers which, as the first stage in the hierarchy of sanctions, constituted a warning for the purposes of this study. The appropriate YISP then conducted an assessment of risk and need and, where necessary, facilitated support services such as 'one-to-one work, group work, leisure activities, sport, parent support, specific and general advice, [and] counselling'.<sup>4</sup> Data on the use of warning letters were not available in Site B. In Sites C and D, the police-issued warning letters placed less emphasis on the provision of support and focused on the need for greater parental control. They also stated that enforcement procedures might ensue should problems persist, such as the pursuit of an ABC, the imposition of an ASBO or the loss of a social housing tenancy.

The mean age of recipients of warning letters was between 14.77 and 14.83 years in the three sites where warning data were available: the small difference in mean ages

TABLE 2 *Number of young people who received interventions by site and type*

Research site	Number with letter (N)	Proportion with letter (%)	Number with ABC (N)	Proportion with ABC (%)	Number with ASBO <sup>a</sup> (N)	Proportion with ASBO (%)	Total young people (N)
Site A	405	99	57	13.9	11	2.7	409
Site B	–	–	97	98	4	4	99
Site C	351	63.1	177	31.8	48	8.6	556
Site D	2,302	95.2	304	12.6	17	0.7	2,417

<sup>a</sup>The figures include both civil and criminal ASBOs.

<sup>2</sup>As indicated by the Indices of Deprivation rank of average rank measure of deprivation.

<sup>3</sup>YISPs are multi-agency groups that provide prevention services to young people at risk of becoming delinquent (Walker *et al.* 2007).

<sup>4</sup>This text comes from the template 'referral to YISP letter' in Site A.

between sites was not statistically significant.<sup>5</sup> Nor was there any statistically significant difference in mean ages by sex in the two sites where this information was available (Sites A and C).<sup>6</sup> Slightly over one quarter (28.0 per cent) were under 14 years old at receipt, almost half (47.0 per cent) were 14 or 15 years and the remainder (25.1 per cent) were 16 or 17 years. It is worth noting that 25 young people (0.8 per cent) were younger than ten years, the youngest having come to official notice in Site D for ‘kicking footballs at properties’<sup>7</sup> at the age of five years. The early use of such interventions and the nature of the behaviour that prompted their use will be considered later in the article. There were also clear variations between sites in the proportion of individuals who received warning letters and other interventions. The reasons for these patterns and their impact on the hierarchical sequencing of interventions will also be examined later.

All four sites used ABCs to regulate behaviour. The contracts, which in all sites displayed the local police and council logos, listed the prohibited behaviours. Examples include ‘I will not cause damage to any property not belonging to me and will not encourage others to do so’ (Site C) and ‘I will not write graffiti anywhere’ (Site B). Some contracts also included positive requirements such as ‘I will meet with my ABC support worker regularly’ (Site B) and ‘I will attend school daily and on time’ (Site A). The consequences of breaching the prohibitions were cited: these typically included an application for an ASBO and measures in relation to a social housing tenancy (e.g. pursuit of a Possession Order or a Demotion Order). The contracts were signed by the young person and, if under 16 years of age, an appropriate adult (e.g. their parent or guardian) as well as agency representatives.

The mean age of young people on receipt of their first ABC was between 14.2 and 14.7 years across the four sites. The difference between the two sites with the highest (Site D) and lowest (Site C) mean ages was statistically significant.<sup>8</sup> The difference reflects, in part at least, key differences in the hierarchy of interventions operating in each site, as will be explained later in the article. Contrary to expectation, mean age at first ABC was lower than mean age at first warning in the three sites where these data were available (A, C and D). To explore this further, those individuals who received a first warning at least 12 months before the end of the study period were separated into two groups, according to whether they also signed an ABC at any point up to the end of the study. In Sites A and D, those who received both sanctions were significantly younger on receipt of their first warning than those who did not progress to an ABC.<sup>9</sup> This finding is reminiscent of claims by developmental criminologists that early onset of deviance leads to a longer and more persistent deviant career (Farrington 1994: 526). It may be, however, that those who come to official notice at a young age are more closely monitored during their adolescence and thus more likely to receive subsequent

<sup>5</sup>Age was calculable for 3,051 of the 3,057 recipients. The comparison of means was conducted using a one-way analysis of variance (ANOVA).

<sup>6</sup>Assessed using independent samples *T*-tests.

<sup>7</sup>This is the behaviour that precipitated the warning as recorded in the police database.

<sup>8</sup>Age data were available for 600 of the 635 young people with ABCs. A one-way ANOVA across the four sites found  $p = 0.039$ : further exploration (post hoc Tukey test) found that only the difference between means in Sites C and D was statistically significant ( $p = 0.046$ ).

<sup>9</sup>Independent samples *T*-tests found the difference in mean age at first warning for those with/without an ABC to be statistically significant in Sites A ( $p < 0.001$ ) and D ( $p = 0.001$ ).



interventions (McAra and McVie 2005; 2007; 2010). In Site C, the situation is complicated by and may, in part, be due to the unusual hierarchy in operation: most of those who signed an ABC were not thought to have had a warning letter beforehand. The article will return to this point in due course.

Although much debate has focused on the ASBO, it was the least used of the key sanctions, as reflected in national statistics and this study. Just 2 per cent of the study subjects received an ASBO (2.3 per cent,  $n = 80$ ). The mean age on receipt of a first ASBO ranged from 15.3 to 16.7 years: the difference in mean ages between sites was not statistically significant. Mean age at first ASBO was higher than mean age at ABC in all four sites.

### *The types of behaviour that trigger interventions*

As already noted, contemporary conceptions of ASB focus on low-level crime and incivility. The Government's attempt to redefine ASB encountered resistance to bringing ordinary childhood activities within any definition of problematic conduct. It seems that ASB by young people, in the political and public imagination at least, occupies the hinterland between youthful exuberance and serious crime.

Sites A and D described the events that precipitated a referral to the YISPs coordinator or a police warning letter, respectively. There were notable variations between these sites in the behaviours that prompted action. In Site A, where 99.0 per cent ( $n = 405$ ) of the 409 cases involved in the study were referred to the YISP and the reason was recorded in most cases (95.1 per cent,  $n = 385$ ), over two thirds involved an offence (69.9 per cent,  $n = 269$ ) as defined by the Youth Justice Board (YJB) for England and Wales (YJB 2014). The most commonly occurring offence type was violence against the person, recorded in 19.5 per cent of cases. Theft and handling (12.2 per cent), drugs-related offences (11.2 per cent) and criminal damage (10.6 per cent) were also common. In those referrals that did not involve criminality, the behaviour was often more reminiscent of contemporary conceptions of ASB, such as 'ASB on estate, disturbance to residents' (IDs 23, 24 and 25) and 'Throwing items around in a newsagents' (ID 71).

The referral agency was recorded in 276 (68.1 per cent) of the cases referred to the YISP. In most of these cases (62.0 per cent), police made the referral. The YISPs coordinator identified the police as one of the main referral agencies and stated that although the police were expected to deal with incivilities that constituted criminal offences 'they started pushing it all onto us'.<sup>10</sup> Possible explanations include there being insufficient evidence to support a criminal prosecution and a desire by the police to reduce their workload. Either way, the use of ASB interventions for alleged criminal conduct occurs in the absence of proof, thus bypassing fundamental due process protections afforded defendants in criminal proceedings (Ashworth *et al.* 1998: 10). The use of measures to 'nip crime in the bud' with individuals already engaged in serious or persistent offending also contradicts their underpinning logic and challenges contemporary perceptions of when they occur in any developmental trajectory of deviant behaviour: the haphazard coexistence of different regulatory systems will be examined shortly.

In Site D, 2,302 young people received one or more police warning letters. The police in Site D operated a two-step system comprising warning letter one (WLI) and warning

<sup>10</sup>As stated to the research team on 14 November 2011.

letter two (WL2). WL1 was designed for use with young people when first apprehended for low-level ASB. It asked parents to cooperate with the police by providing advice and guidance to their children, thus attempting to employ informal levers of compliance to engender voluntary self-regulation. WL2 was intended for those whose behaviour remained antisocial after a WL1 or whose first encounter with the police resulted from ASB deemed sufficiently serious to merit a WL2. WL2 represented a shift from strategies rooted in voluntary cooperation to enforced compliance: it detailed the possible consequences of continued incivility including ABCs, parenting contracts and action against social housing tenants. In this site, where 94.1 per cent ( $n = 2,275$ ) of the 2,418 cases involved in the study received a WL1 and the reason was recorded in most of them (99.7 per cent,  $n = 2,268$ ), alleged offending was a factor in a smaller proportion of cases (43.7 per cent,  $n = 992$ ). The most common infractions were ‘other minor offences’ which were noted in 29.9 per cent of cases where a reason for the WL1 was recorded ( $n = 677$ ): most of these concerned underage drinking. The second most common infraction was violence against the person which, in contrast to Site A, was cited in just 6.7 per cent of cases ( $n = 151$ ). Drugs offences, which typically involved cannabis use (2.6 per cent,  $n = 60$ ), arson (2.6 per cent,  $n = 58$ ) and public order offences (2.4 per cent,  $n = 55$ ) were also noted.

In most cases, then, WLIs were sent in response to non-criminal infractions (56.3 per cent,  $n = 1,276$ ). The throwing of items such as stones, eggs, mud and apples at properties and vehicles was a common complaint. Other acts included ‘smearing excrement on pavement’ (ID 143), ‘kicking footballs at windows’ (ID 543) and ‘shouting, swearing, running in road’ (ID 1091), which might reasonably cause harassment, alarm or distress and be deemed antisocial. However, letters were also sent to young people for ‘climbing on walls’ (ID 93), ‘skateboarding in public areas’ (ID 242), ‘moving park benches’ (ID 489), being ‘part of a noisy, rowdy, large group’ (ID 595), ‘running through residents’ gardens’ (ID 632), throwing ‘snowballs at members of the public’ (ID 1192) and other high jinks. It seems that despite efforts by the House of Lords and others to exclude ordinary acts of childhood from any official definition of ASB, its capacious nature means that such actions are already being sanctioned in some places.

### *The enforcement pyramid and variations in its operation*

Implicit (and sometimes explicit) in contemporary depictions of ASB sanctions is that they form a pyramidal system of regulation. There is a presumption that those subject to regulation will enter at the base of the pyramid where sanctions are underpinned by strategies of persuasion and self-regulation. When these methods fail, escalation up the pyramid occurs through measures designed to elicit and ultimately enforce compliance through evermore command-based regulation. The ASBO and its replacements, which sit at the apex, are redolent of Ayres and Braithwaite’s ‘benign big gun’ (1992: 19–53), rarely used but threatening in the background.

Figure 1 presents an enforcement pyramid comprising the sanctions studied and corresponding regulatory strategies as typically conceived. This composite depiction of practice across the sites obscures myriad variations in practice, however. There were, for example, differences in the number of tiers in the pyramidal structure: Site C sent those at risk of an ASBO an ‘ASBO warning letter’ that formed an extra tier between tiers two and three. Some of the sites operated variants of the same sanction within

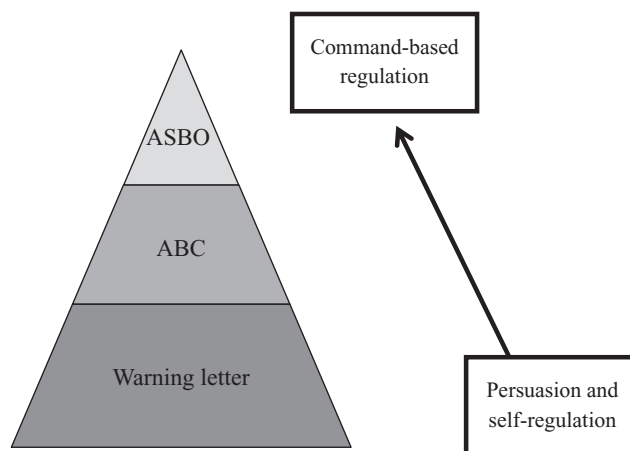


FIG. 1 Enforcement pyramid depicting the key ASB sanctions and strategies

individual tiers: Site A operated a two-step system of yellow and red ABCs, echoing the penalty card system used in football, while Site D operated the two-step warning system described above. It was also apparent that, across the sites, the same sanctions were sometimes used multiple times before escalation or, in the case of the ASBO, after a previous order had expired.

In Site C, the flow of young people into and through the different tiers of sanctions defied expectation. In this site, warning letters were issued by the police, while ABCs were administered by the local council's ASB unit. Referrals to the unit came from a range of sources including the general public. This division of labour created a fissure in the flow of sanctions. As a result, there was little overlap between those sent a warning letter and those with an ABC: only one fifth ( $n = 37$ , 20.9 per cent) of the 177 ABC recipients were recorded in police databases as having received a letter. For the majority of ABC recipients, then, this sanction marked their entry point into the pyramid, which may explain why mean age at first ABC was lower here than in any other site.

This and other evidence suggests that the strategies witnessed do not readily conform to responsive regulation as traditionally conceived. According to Braithwaite (2011: 493), responsive regulators place dialogic, collaborative and restorative sanctions at the base of the pyramid and 'listen actively' in a manner that 'gives voice to stakeholders'. Punishment is not foregrounded as this may communicate mistrust by the regulator and promote defiance by the regulated (Ayres and Braithwaite 1992: 47–9). In contrast, the police warning letters that typically occupy the base of any ASB sanction pyramid are issued without discussion and often emphasize the possible consequences of non-compliance. While ABCs might involve more dialogue, power imbalances between the juvenile and practitioner signatories could preclude genuine collaboration (Wonnacott 1999: 281–2). Furthermore, as shown above and discussed in detail elsewhere, these tools also threaten sanctions for non-compliance, often in heavy-handed ways that undermine negotiation, trust and voluntariness (Crawford *et al.* 2016).

These reflections do not amount to an argument for more system contact, however. The Edinburgh Study of Youth Transitions and Crime (hereafter 'the Edinburgh Study') found that prevention and early intervention strategies may actually hinder

desistance, particularly if they cause young people to be labelled as troublesome and occur alongside (and potentially precipitate) other interactions with state agencies (McAra and McVie 2005; 2007; 2010). This point is particularly pertinent because the regulation of ASB does not occur in a vacuum. However, because studies of ASB interventions have tended to focus on their use in isolation, their existence within a complex web of regulation comprising multiple systems, strategies and interventions has hitherto been obscured.

### *The multilayered nature of regulation*

Under a strategy of ‘progressive universalism’, the Labour Government of 1997–2010 advocated the provision of universal services for children while focusing both universal and targeted services on the most vulnerable to ‘prevent problems escalating’ (HM Treasury/DCSF 2007: 15). The Labour Government also overhauled the youth justice system, central to which was the introduction of local multi-agency youth offending teams to work with young offenders. During this period, then, practitioners delivering ASB sanctions formed one element or ‘node’ in the multinodal governance of behaviour (Burriss *et al.* 2005). In this study, additional work was undertaken to explore the multilayered nature of regulation as experienced by young people. Individuals with ABCs from Site C ( $n = 171$ ) and Site D ( $n = 268$ ) were tracked through local authority prevention and youth justice databases and details gathered of all interventions going back to the earliest recorded (in Site C) or to the start of the study period (in Site D) and forward to the end of the study period.<sup>11</sup> Workload pressures on staff in the London Boroughs precluded these additional data being extracted in Sites A and B. Restricting the analysis to individuals with ABCs minimized the burden on practitioners in Sites C and D charged with mining their prevention and youth justice databases. The findings have continued relevance because the ABC, unlike the ASBO, remains a firm fixture on the regulatory landscape.

Many of the young people with ABCs were subject to multiple sanctions and strategies of behaviour regulation. Turning first to prevention work with the 171 young signatories to ABCs in Site C, 69 (40.4 per cent) appeared in the local authority’s prevention database by the end of the study period. Most (61.6 per cent) of the 1,467 prevention activities undertaken by the end of the study period were recorded as Positive Activities for Young People (PAYP).<sup>12</sup> PAYP activities *by* young people included horse riding, martial arts, canoeing and school holiday activities, while PAYP work *related to* young people included professional meetings and telephone calls between practitioners. However, case records by council workers who monitored compliance with ABCs documented other social welfare focused prevention work with young people on ABCs, the details

<sup>11</sup>In Site C, the tracking was of 171 people who had signed an ABC at any point up to 31 March 2010. The details of six signatories to ABCs organized by the police acting alone emerged after the youth justice and prevention data were gathered: these cases were excluded. The site supplied details of data subjects’ prevention and youth justice interventions up to 31 March 2010. In Site D, the analysis was limited to 268 individuals who had signed an ABC between 1 April 2008 and 31 March 2010 and the prevention and youth justice data cover this period. It excluded 33 individuals whose only ABC occurred before this period, two people who were over 18 when they signed their ABC and one person whose date of birth was ambiguous. Thus, the parameters of the analysis in Sites C and D are not identical and any comparisons are made with this caveat in mind. [AU: Please note that]

<sup>12</sup>In 2003, the Labour Government announced plans to fund local PAYP schemes to support young people at risk of social exclusion (CRG 2006).

(and sometimes the recipients) of which were absent from the central prevention database. Thus, the proportion of ABC recipients who received such services, and the total amount of agency contact across the group, are higher than these data suggest.

Of the 268 signatories to ABCs in Site D, 70 (26.1 per cent) incurred 2,249 prevention interventions between 1 April 2008 and 31 March 2010. Others may have incurred prevention measures prior to this period; thus, the number engaged in prevention activities by 31 March 2010 may be higher. Practitioners recorded most of these interventions as having occurred 'in person' ( $n = 1,380$ , 61.4 per cent). It is apparent from the qualitative descriptions of these 'in person' events, however, that only some involved face-to-face contact with young people (e.g. during 'group work' or 'home visits'), while others did not (e.g. 'discussion with colleague') or it was unclear (e.g. 'education meeting/contact', 'management supervision of case', 'assessment meeting'). What is apparent, however, is that much practitioner time and effort was spent on these young people in the name of prevention.

Turning now to ABC recipients' pathways into and through the youth justice system, over three quarters of those from Site C (77.8 per cent,  $n = 133$ ) had been charged with a criminal offence and incurred a total of 1,461 charges by the end of the study period. The mean number of charges was significantly greater for those whose first ABC came before or in Year 1 rather than in Year 2.<sup>13</sup> This suggests that ABCs did not stem the flow of charges, which continued to accumulate over time. In Site D, over half of the ABC recipients (57.1 per cent,  $n = 153$ ) incurred a total of 736 charges during the study period. As in Site C, the mean number of charges was greater for those whose first ABC came before or in Year 1 than in Year 2, although the difference was not statistically significant.

There were notable differences between the sites in the most prevalent charges. In Site C, the most prevalent charge was breach of a statutory order, which was incurred by 48 individuals and accounted for over one fifth of all charges (22.0 per cent,  $n = 321$ ). From the ASBO's inception, critics have argued that this statutory order, breach of which was a criminal offence, might actually propel individuals into the criminal justice system (Ashworth *et al.* 1998). However, less than half ( $n = 23$ ) of those charged with breach of a statutory order had breached an ASBO and this was rarely their first or only charge. In Site D, in contrast, breach of a statutory order was the fifth most common charge: it was incurred by 27 individuals and accounted for just one tenth of all charges (10.7 per cent,  $n = 79$ ). Although the data do not specify the nature of the breach, only three of these individuals had an ASBO and incurred 12 unspecified charges of breach between them, suggesting that breach of an ASBO was uncommon.

In Site C, the next three most prevalent charges were theft and handling stolen goods, violence against the person and criminal damage, which together accounted for over one third of charges (36.8 per cent). These charges were also prevalent in Site D, where violence against the person, theft and handling and criminal damage were the first, second and fourth most prevalent charges, respectively, and together accounted for over two fifths of all charges (42.8 per cent). Public order offences were the third most prevalent charge in Site D and the fifth most common in Site C (accounting for 13.3 and 9.0 per cent of charges, respectively).

<sup>13</sup>Where the first ABC was on or before 31 March 2009, the mean number of charges was 11.7. Where the first ABC occurred between 1 April 2009 and 31 March 2010, this figure was 5.5. An independent samples *T*-test showed the difference in means to be statistically significant ( $p < 0.001$ ).

The YJB's gravity scores indicate the seriousness of different offences and range from one (least serious) to eight (YJB 2014). The data were examined to determine the highest gravity score for charges attached to ABC recipients. In Site C, the most frequent (modal) highest gravity score was six, attained by 41.4 per cent of those known to youth offending services ( $n = 55$ ), typically for domestic burglary, drugs offences or robbery. In Site D, the most frequent (modal) highest gravity score was three, attained by 27.5 per cent of those known to youth offending services ( $n = 42$ ), typically for theft, common assault or assault by beating. In both sites, the mean gravity score was greater for those whose first ABC came before or in Year 1 rather than in Year 2. Although the differences were not statistically significant, they suggest that the charges incurred became more severe over time.

Site C also provided details of youth justice outcomes. Almost all of the ABC recipients known to youth offending services were recorded as having one or more substantive outcomes ( $n = 131$ , 98.5 per cent), defined by the YJB as pre-court decisions, first-tier penalties, community penalties and custodial sentences (YJB 2014: 45). Just 17 of these young people incurred a custodial penalty. As might be expected, they tended to have lengthy criminal histories and to have progressed through pre-court, first-tier and community penalties. Most ( $n = 12$ ) had been charged with breach of an ASBO at some point with the majority ( $n = 10$ ) having been charged multiple times: the number of such charges varied between 1 and 39. The consideration of these charges alongside others may have increased overall sentence severity in line with the totality principle, according to which sentences should reflect all of the behaviour under consideration while remaining just and proportionate (Sentencing Council 2012: 5). It may also have accelerated young people's journeys through lower-level interventions and towards custody.

Taken together, this evidence suggests that some recipients of ASB interventions endure the haphazard and concurrent use of multiple sanctions and strategies of behaviour regulation. That regulation often involves multiple regulators has been well documented within the corporate sphere (Braithwaite 2011: 507–10; Heimer 2011) but not in relation to young people. If behavioural change is a staged process and efforts to alter behaviour work best when aligned with a person's readiness and capacity to change (Prochaska and DiClemente 1982), it seems unlikely that prevention, ASB and youth justice strategies, which typically employ different levers of compliance, would simultaneously be effective in promoting behavioural change. Evidence that increased levels of system contact may inhibit desistance also poses a challenge to the current approach (McAra and McVie 2007).

### *The timing of interventions in any developmental trajectory*

As already noted, dominant narratives suggest a hierarchical sequencing of interventions, whereby informal measures to address incivility are tried first, with recourse to more formal and eventually criminal sanctions if this strategy fails. The swift use of informal sanctions is designed to 'nip crime in the bud' with those at the start of a deviant trajectory who may still be open to strategies of persuasion and collaboration. The timing of ASB interventions in the developmental trajectories of ABC recipients from Sites C and D was examined to see whether such conceptions are reflected in practice.

In Site C, the date of first ABC and first charge were known for most ( $n = 122$ ) of the 133 ABC recipients with criminal charges. In most cases, charges preceded the ABC ( $n = 104$ , 85.2 per cent), often by over a year ( $n = 68$ ). It is clear, from both the youth justice data and the case records kept by those monitoring compliance with ABCs, that some ABC recipients were already entrenched in criminal behaviour. For example, the case notes made before an ABC was signed with one young person (ID 15) stated that his parents had 'lost control over him for the past few years' and he was 'not engaging with services'. There were concerns that he was 'taking drugs and drug running' and other offences were documented ('he steals from his parents and grandparents'; 'about a year ago he robbed an old lady'; 'he assaulted his father who had him arrested'). The use of ABCs with people with established criminal careers contradicts the developmental logic of ASB strategies as tools to nip nascent criminality in the bud. Also, evidence suggests that the targeted use of ABCs with people who are at least considering changing their behaviour may have more chance of success (Prochaska and DiClemente 1982).

In Site D, the date of first ABC (at any time up to 31 March 2010) and the date of first charge (between 1 April 2008 and 31 March 2010) were known for all of the 153 ABC recipients with criminal charges. In over half of these cases ( $n = 86$ , 56.2 per cent), the first ABC preceded the first known charge; in the remaining cases ( $n = 67$ , 43.8 per cent), the first known charge came first. However, some of these young people may have incurred charges before 1 April 2008, so the number of individuals who incurred a criminal charge before signing an ABC may have been higher. Further investigation found evidence of ABCs being used with young people with multiple criminal charges. One individual, for example, had incurred 11 charges of theft and handling stolen goods, breach of a statutory order, breach of bail, violence and criminal damage before signing an ABC aged 13 years (ID 303), while another had incurred five charges of criminal damage, public order offences, breach of bail and breach of a statutory order before signing an ABC aged 16 years (ID 377). Again, the use of ABCs 'to nip crime in the bud' when crime is already in bloom contradicts the dominant rationale for such measures and may be ineffective.

Taken together, the findings show that 104 of the 171 individuals with ABCs from Site C (60.8 per cent) and at least 67 of the 268 ABC recipients from Site D (25.0 per cent) incurred one or more criminal charges before their ABC. This confirms the multilayered nature of regulation and the parallel (rather than consecutive) use of ASB measures and youth justice sanctions in some areas. While this confounds dominant narratives about the timing of interventions in a developmental trajectory, the bidirectional flow of young people between these systems of social control is unsurprising given the police role as a principal gatekeeper to both systems. The Edinburgh Study found that while persistent serious offending, low socioeconomic status and engagement in 'risky' behaviours (e.g. drug and alcohol consumption, truancy and 'hanging around') increased young people's risk of having adversarial contact with the police, having 'previous form' was 'by far the most powerful' predictor of future and more serious contact with the police (McAra and McVie 2005: 21). As the police gaze falls on 'the usual suspects', so the incivilities of some individuals in particular may be targeted through cyclical processes that foster more and more serious police contact (McAra and McVie 2005; 2007).

### Conclusion

This paper has demonstrated how ASB interventions may be triggered by a wide range of attributes and behaviours including being ‘at risk’ of harm or becoming delinquent, engaging in everyday childhood misdemeanours and diverse actions spanning low-level incivilities through to serious criminal infractions. Practice is frequently shaped by practitioners’ organizational priorities. Correspondingly, opinions vary between different professionals, and within and between areas, as to what constitutes ASB. Abundant variation persists between sites in the operation of an enforcement pyramid of key sanctions to address ASB. The existence in some localities of additional ‘tiers’, and the multiple use of informal and voluntary sanctions, might be rationalized as a means of diverting young people away from more formal sanctions and allowing them to ‘grow out of crime’ before incurring a criminal conviction. Conversely, however, if ‘discipline...begets further and greater discipline’ (McAra and McVie 2012: 368), then these practices might have the very opposite effect, serving to ossify problematic behaviour through processes of heightened surveillance and labelling.

Many of the signatories to ABCs in this study were subject to multiple (and sometimes contradictory) strategies of behaviour regulation, appearing simultaneously in prevention, ASB and youth justice caseloads. The research found evidence of ABCs being signed after criminal charges had been incurred, and by young people with long offending histories, apparently contradicting the dominant rationale for their use as a means of forestalling a deviant trajectory. Despite widespread belief that ABCs are effective in this regard, the cohorts studied here incurred more, and more serious, criminal charges in the period after the first ABC than in the same period before. This is not to suggest that the ABC *caused* an overall deterioration in behaviour across these groups. In the absence of self-report data, it is not possible to say whether the increased number and severity of charges reflected a deterioration in behaviour, or increased monitoring, or a combination of both. What is clear, however, is that the findings do not support the notion that ABCs, as used in the study sites, actually ‘nip crime in the bud’.

Nonetheless, England and Wales has seen a sustained decline in victim-reported crime since the mid-1990s (ONS 2016). Paradoxically, reductions in the number of first time entrants to the youth justice system and the number of juveniles sentenced only date from the years ending March 2007 and March 2008, respectively (Ministry of Justice/YJB 2016). One compelling explanation, given the timing of the statistical shifts, may be the impact of two contradictory trends in the response to juvenile incivility. The first, as exemplified by the Labour Government’s ASB agenda and the use of ASBOs and ABCs in the decade leading up to 2007/08, involved processes of ‘defining deviancy up’ through early intervention such that ‘once innocent behaviour now stands condemned as deviant’ (Krauthammer 1993: 20). More recently, we may have been witnessing a countercurrent to earlier trends, resulting in redefining ‘deviancy down’ (Moynihan 1993) through greater recourse to diversion. Our research adds weight to the view that thresholds for early intervention are highly variable not only across localities, social groups and tenure type but also across time.

When senior practitioners from one of the research sites were asked in 2016 about shifting youth justice trends and developments,<sup>14</sup> they confirmed the impact of such

<sup>14</sup>In March 2016, members of the research team discussed recent trends with the Directors of Children’s Services and the Youth Offending Service in Site C.



'threshold dynamics'. The abolition of targets to increase offences brought to justice was described as having had 'the biggest single impact' on local trends. These targets, introduced in 2001 and subsequently criticized for encouraging the police to pursue minor offences (Morgan 2007), were amended in 2008 to focus on violent crimes before being abolished in 2010 (Ministry of Justice 2014: 5). Additionally, local Safer School's Partnerships (DCSF *et al.* 2009) have enabled police to work alongside local schools to address problems at the outset, prompting schools to 'consume their own smoke'—i.e. manage problems internally and less formally. More generally, the senior practitioners maintained that minor cases that appeared in the youth court a decade ago were no longer doing so, driven by a recognition that 'young people need to be dealt with as low down as possible' in the criminal justice process.

To date, there are no official data on, or empirical studies of, the use of the orders that have replaced the ASBO. As noted above, however, the ASBO was the least used of the key sanctions. This paper has focused on other, more widely used, informal and voluntary measures that remain central to ongoing strategies of behaviour regulation. It could be argued that ASB warning letters, ABCs and ASBOs also contributed (intentionally or otherwise) to recent youth justice trends. The findings discussed here, however, preclude such a simplistic conclusion. Rather than operating in isolation, such tools form interconnected parts of a bigger whole, a 'regulatory ecosystem', which interacts with the wider socioeconomic and political landscape. This paper has examined the complex and contradictory norms that inform, and the interactions between, prevention, ASB and youth justice interventions. However, as Black (2001: 208) notes, 'regulation occurs in many locations, in many fora' and 'in many rooms' and interaction effects between these and other individual and family-focused strategies of behaviour regulation are also likely. Moreover, the overall effect of any regulatory regime may be shaped by external forces, as the history of defining deviancy up and down illustrates.

These arguments have implications for theoretical perspectives on the regulation of problem youth. Traditional debates about the effectiveness of individual tools and strategies are insufficient when regulation takes place 'in many rooms'. They should also serve to remind criminologists that efforts to induce behavioural change outside of the criminal justice system can constitute potent, punitive and disciplinary sanctions. Hence, new conceptual tools are needed that are attuned to the complex interaction effects between different sanctions and strategies, their intended and unintended effects and their existence within a wider regulatory landscape. The evidence presented here and elsewhere (Crawford *et al.* 2016) should provide a stimulus to ongoing debates about the operation and efficacy of contemporary mechanisms to regulate juvenile behaviour and a platform for future theoretical development.

While the panoply of ASB interventions, when first introduced, formed part of a wider governmental agenda that 'defined deviancy up', the current landscape may afford new opportunities to revisit their role, rationale and (crucially) their conformity with principles of responsive regulation and procedural fairness. Thus, re-envisaged, ABCs and early warnings might afford more appropriate levels of challenge and support to address youthful misconduct, in ways that avoid unnecessary stigmatization, coercion and criminalization. This will necessitate a coordinated and coherent approach that is attentive to interaction effects between the many mechanisms of regulation that impinge on young people's behaviour.

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