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Disciplining ‘Problem Parents’ in the Youth Court: Between Regulation and Resistance

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This paper explores the ways in which parents, who have been the recipients of Parenting Orders, perform identity work through their accounts of their experiences in court. Discourse analysis is used to identify five key ‘strategies of resistance’ through which parents manage their parental identity and argues that such discursive practices highlight the fragility of such parents’ claims to a positive parental identity in light of hegemonic gendered and classed conceptions of ‘responsible parenting’. The paper concludes by reflecting on what such practices might mean for parents who find themselves at once both regulated and resistant.

Parenting Orders: a policy and practice infused with tensions

Parenting Orders (POs) were introduced in the 1998 Crime and Disorder Act and represent one of a number of measures to tackle what New Labour terms ‘anti-social behaviour’. Since 1998, an increasing number of agencies have been given the legislative power to seek POs against the parents of offending, truanting, anti-social or generally troublesome young people and are now available to a range of courts. They can last for up to one year and stipulate that the parent attends a parenting support programme, ostensibly to address the ‘parenting skills deficit’ which is allegedly at the root of their child’s behaviour.

That such orders represent a punitive and coercive turn in youth justice policy has been widely discussed (Goldson and Jamieson, 2002; Arthur, 2005; Burney and Gelsthorpe, 2008), with the suggestion that POs potentially violate established legal principles such as ‘due process’, ‘burden of proof’ and ‘reasonable doubt’ (Goldson, 2005). While a punitive tone can certainly be found at the level of political rhetoric,¹ POs nevertheless represent the ‘hybridity’ of conceptual sources which Goldson (2004) recognises as underpinning the youth justice system. In particular, the authoritarian teeth of POs appear to give way to a more complex and contradictory discourse at the level of implementation, where notions of ‘support’ dominate practice across the ASB agenda (see Burnett and Appleton, 2004a, 2004b; Ellis and Boden, 2004; Souhami, 2007).

POs also operate within ambiguous notions of responsibility: in the same legislation that parents were made responsible for the actions of their child(ren) through the introduction of POs, the Crime and Disorder Act (1998) removed the notion of *doli incapax*, effectively making all children over ten years criminally responsible. Indeed, this raises the question of what parents are responsible for: ‘financial responsibility’ yes, but parents are only rarely held as directly criminally responsible for a specific offence of their child’s. Nevertheless, the frequent court practice of making parents pay their child’s court fines and compensation at the same time that they are issued with a PO surely blurs the boundaries where one kind of parental responsibility starts and another ends.

Constructions of the 'problem parents' for whom POs are intended are imbued with normative assumptions about gender and class, with poor White working-class mothers usually held up as the producers of youth crime in dominant political and cultural discourse (Griffin, 1993; Mann and Roseneil, 1994). Such a notion appears to play out in the data, where estimates suggest that 80 per cent of POs are issued to mothers (Lindfield, 2001) with a particularly high proportion issued to lone parents and the unemployed (Ghate and Ramella, 2002). Of course, as Walters and Woodward (2007) point out, any intervention on the grounds of 'poor parenting' will always be more implied than observed, since it is the behaviour of the child which determines the parent's status. Consequently, those parents who are under-resourced are likely to be under increased surveillance and so face state interventions which more affluent parents can circumvent (Walters and Woodward, 2007). Thus, it would appear that the combination of androcentric legislature (in terms of the archaic practice of making all references to the subject in its masculine form) together with the use of the gender-neutral term 'parenting', serves to hide the *estrogenic* nature of such policies in practice.

Such tensions and contradictions are likely to come into sharp focus when played out within a public court of law through specific practices which constitute its performance. For example, the formality of a magistrates court is likely to bring an icy sharpness to the huge socio-demographic disparity between magistrates who issue POs, who tend to be over 50, working in professional occupations and possess a high degree of social standing (Morgan and Russell, 2000) and the parents in receipt of them. Longstaff (2004) suggests that in cases of POs, magistrates' perceptions are likely to be based on their own cultural assumptions of what constitutes 'willing parents', and such assumptions will no doubt be informed by normative ideals which operate around notions of gender, class, 'race' and any number of other markers of 'difference'.² Similarly, the magistrates' practice of issuing orders to the child and the parent(s) at the same time, in response to the child's offence, is likely to clarify both the relative attribution of responsibility which each order is issued to address and any disparity between the two. However, this paper argues that it is through experiencing such *formalised* disciplinary practices that possibilities for resistance are opened up.

In their introduction to this collection, Nixon and Prior ask about the capacity for ASB powers to be used to regulate and discipline behaviours associated with differences of gender, ethnicity, faith, disability and sexuality. That POs represent a particular form of disciplining technology of the kind anticipated by Foucault (1975/91) and Donzelot (1979) has been discussed elsewhere (Holt, 2008). Thus, the present article outlines some of the ways in which such powers are played out on the ground and, in particular, highlights how the inherent inconsistencies and tensions within such disciplinary practices provide possibilities for resistance. However, such possibilities will always be fragile, partial and very carefully negotiated, since any potential for resistance is always cross-cut with imperatives to comply. Thus, this article explores the spaces *between* regulation and resistance where such disciplined subjects as 'problem parents' are likely to find themselves.

Methods

This article draws on an empirical study involving 17 parents who had been issued with a PO by magistrates through the youth courts. The POs were issued alongside their child's receipt of their own court order (e.g. Referral Order, Supervision Order) following their

child's conviction for at least one criminal offence. Such offences included theft, criminal damage and grievous bodily harm.

The parents were recruited from four different Youth Offending Teams (YOTs), and the parenting practitioners who were working with, or had worked with the parents, acted as initial gatekeepers: they informed the parents about the research project and provided them with details of how to contact the researcher for further information. The participants comprised 15 mothers and two fathers – a disparity which not only reflects the inequality found in the issuing of POs (see earlier), but also perhaps the gendered nature of the responsibility for representing one's family life to others (such as researchers). Furthermore, in 15 out of 17 cases, the child or young person in question was male, again perhaps reflecting the gendered nature of the young people whose parents receive POs.

The qualitative data were produced through narrative interviews, where parents were asked 'what happened, regarding your child's involvement in offending and your subsequent Parenting Order'. It is through the telling of narratives that identities are performed (Ricoeur, 1991; Linde, 1993), albeit in context-specific ways. In particular, it is where 'moral identities' are claimed (Bruner, 1990; Reissman, 1993) and it was therefore felt to be a particularly appropriate method of producing data for the purposes of this research. While parents talked about a range of experiences which spanned a number of years, this particular article concerns parent's experiences of court on the day that their PO was issued. Discourse analysis was used (see Burman and Parker, 1993) to explore the ways in which practices of compliance and resistance were played out in the parents' narratives, and to examine the implications of these practices for subjectivities.

The interviews lasted between 30 minutes and three and a half hours, and were followed-up with a questionnaire a week later to explore the socio-demographic characteristics of the parents. The majority of the parents described themselves as 'White British' or 'White English', with one parent identifying herself as within a minority ethnic group. Seven of the parents described themselves as unemployed and of those six who were working (four did not state or refer to their employment status), all were employed in semi-skilled or manual jobs. An analysis of the participants' post-codes suggests that, for the 12 parents where IMD data³ are available, nine of these parents' index falls in the bottom three eighths of the country (England). Furthermore, 14 of the parents were living in social and/or council housing. While not wanting to neatly categorise the parents' 'socio-demographic status', it is nevertheless important to keep the parents' socio-economic context in mind when attempting to understand the ways in which practices of resistance might be enabled and constrained.

All names used are pseudonyms to protect anonymity.

'It's as if I'm a bad parent – that's how I feel': a context for findings

I was doing what I could and so to get the Parenting Order is saying you're not ... to me, it was saying you're not a very good parent. (Mary)

I've been there for him all these years since he was six years old. And it's like I said to them [the magistrates] it's as if I'm a bad parent ... that's how I feel. (Robert)

There's a lot of people, I would say, that's out there that think that it, you know, that you're being called a bad parent. (Lyne)

For the parents interviewed, the PO represented a legal and public questioning of their moral worth, which was exemplified by their apparent poor parenting. That the PO was read in this way was demonstrated by the way in which every parent accounted for their experiences in relation to the discourse of responsible parenting and, more specifically, in relation to the subject position of 'bad parent' (or, in some cases, 'bad mother': see extracts above).

However, it is the very formalisation of this positioning which provided parents with the possibilities for resistance in ways which may not have otherwise been available. While of course the parents may have already been positioned in this way informally – perhaps by neighbours, schools, and certainly through media representations of 'bad parents' – the formalisation of this subject position made tangible the inherent contradictions which underpin a policy which enables this positioning. It is this *tangibility* which produces what Burman terms 'glimpses of instability' and which provides parents with 'alternative positionings' (1996:12). It is these alternative positionings which were enabled by the very court practices which served to regulate the parents. The findings section of this article outlines five specific strategies which were used by parents⁴ to resist all that is implied by the PO.

Five key strategies of resistance

De-authorising the magistrate

I was really really angry (laugh). I didn't start getting really lairy or anything, I just thought 'ahh, here we go, they know best', you know, sat up there in, up there in their box. I'm the one who's living the life in the council estate with the kid . . . and I thought 'they haven't got a clue', you can tell they live in a posh house in the countryside (laughs). (Kerry)

The first discursive strategy involved parents *de-authorising* the magistrates, a process which Skeggs defines as a cultural struggle 'in which those who are positioned to make judgements of other's subjectivity are continually de-authorised by those who are positioned to be judged' (2005: 975). Like Kerry, many parents made references to the magistrates 'not living in the real world': a world which is characterised by the material contingencies which frame their parenting practices. These materialities concern issues of money, communities and neighbourhoods, support networks, work and employment and relationships, particularly with their children. In de-authorising the magistrates, parents recognised that the magistrates' failure to consider these material factors when deciding to issue the PO enabled the magistrates to seemingly blame them for their child's 'criminal' behaviour. Furthermore, by highlighting the magistrates' failure to recognise these materialities, it enabled parents to question the basis of the magistrates' own authority to make such judgements by explicitly drawing on the structural context of their own lives to illustrate how 'out-of-touch' the magistrates were in comparison.

Kerry's reference to a life living on a council estate was not unusual among the parents and its reference serves to destabilise the magistrates' position of authority and knowledge about the parent's situation through the creation of another world in which the magistrates have no experience. Thus, in the extract above, Kerry draws on a discourse of geography (e.g. 'up there in their box', 'in a posh house in the countryside') to demarcate the distance, both physical and symbolic, between the magistrates' world and her own.

Similarly, Louise exclaimed that 'I'd like to try and see them [the magistrates] deal with it' when discussing her daughter's mental health difficulties. Again, drawing a distinction between the magistrates and herself enabled Louise to position magistrates within a materially privileged vantage point which makes them unable to deal with the material problems she faces. Thus, this strategy enabled the parents to challenge the magistrates' position as arbiters in positioning them as 'bad parents'.

Questioning practices of oppression

I said that I feel like I've been victimised because I'm a single parent and their only ... they had to surmise that it was because I was a single parent and they felt I needed more support, whereas the other one obviously Mummy could support Daddy and Daddy could support Mummy, the other two, step-parent Daddy could support Mummy and vice versa. (Bee)

By drawing on the magistrates' lack of living in the 'real world', parents could also claim that magistrates were making crude assumptions about their own material conditions and their alleged 'needs' which resulted in the PO. In this sense, parents were able to question the magistrates' credibility by reflecting – and commenting on – the use of the PO as a practice of oppression. In two separate cases, this reading appeared to have been prompted by experiencing the court practice whereby multiple cases are heard at once (if, for example, a number of young people are involved in the same offence) and yet only some of the parents before the court – the lone mothers – are issued with a PO. This is despite (as in Bee's case above) all of their children being in court at the same time and charged with the same offence. Perhaps then, 'poor parenting' is inferred from more than the child's behaviour alone.

Furthermore, one mother commented that she felt that her PO was issued because she had recognised mental health problems, while another lone mother suggested that her PO was a response to the number of children she had. She spoke of the 'strange reactions' she receives as the mother of six children (although 'six is normal for me') and suggested such reactions extended to the court: 'so, you know what I mean, getting a strange reaction in the court, they're thinking "six, oh god, she must be struggling"'. It is difficult to interpret this without considering how large families, particularly those headed by lone mothers, tend to be pathologised on grounds of 'excessive fecundity' due to their signification of working-classness (Tyler, 2008; Skeggs, 2004) and this pathologisation may be what she is referring to when she speaks of the 'strange reaction' she received from the magistrates.

Re-positioning self as 'responsible parent'

When I got the Parenting Order, the court and Linda [the YOT parenting worker], who recommended the Parenting Order, were aware of measures I was taking. I mean, everyone I know had my phone number ... all the shops had my number, you know, if you see Eric [her son], Eric gets into trouble. So I was taking responsibility and I think it was almost as though I was getting punished for actually doing something cos there are parents who, you know, who don't give a toss. (Mary)

As well as challenging the position of the arbiters, through questioning their authority and their discriminatory practices, parents also resisted the disciplining practices of

the PO by citing their own 'responsible parenting' practices, including attending court with their child, as Mary describes above. For Mary, the experience of receiving a PO was particularly unjust because of the presence of other parents who do not perform responsible parenting (for example, by ensuring that she is contactable in case her son misbehaves), who 'don't give a toss' and yet, as a consequence of this irresponsibility, do not receive a PO because they do not attend court with their child. Thus, for Mary 'it seems ludicrous that you're almost being penalised for being there and making an effort'. It is the apparent juxtaposition of this apparently irrational practice⁵ (its *ludicrousness*) within a system which allegedly operates within a discourse of rationality that provides Mary with a discursive space to challenge her receipt of the order.

As in Mary's case, 'responsibly parenting' a young person who is involved in anti-social or offending behaviour involves particular parenting practices which extend well beyond 'normal' parenting responsibilities and which, like more normative parenting practices, usually fall to the mother (see Holt, 2009). Furthermore, such parenting practices operate within the same 'needs discourse' that shapes normative parenting (Lawler, 1999; Ribbens McCarthy *et al.*, 2000) and many parents drew on this discourse as an explanation as to why they were complying with a coercive court order which they felt was unjust. For example, in explaining why she complied with her PO despite her anger towards it, Jill explained: 'I thought, well ok, I'll try anything, you know what I mean? If it helps Pete [her son], I don't mind.' Thus, drawing on this 'needs discourse' may be one way in which some parents are able to resolve the conflict of complying with the PO, while resisting the subject position it affords them.

Recognising the responsibility of others

That place where he [her son] was going, it was like, two hours on a Saturday afternoon, and they were playing sports. Now what kind of punishment is that? It's me that's doing time . . . it made me feel like I was up on charges and not my son. (Lyne)

Many parents expressed confusion at being made responsible for their child's behaviour when their child's problems had already been identified as being caused by something outside of their control. Indeed, many parents drew on such previous conversations they had had with agencies and practitioners to enable them to challenge the courts disciplining of them. As Jenny pointed out, 'all the time with the social workers, I was never told I was a bad Mum, it was all to do with the domestic violence, which is something you can't control.'

However, more specifically, many of the parents were able to challenge their own *responsibilisation* (see Garland, 2001) by drawing on the responsibilities of youth justice agencies to respond appropriately to their child's offending. Many of the parents felt that the youth justice system was not taking appropriate responsibility and, by evoking a discourse of 'children's rights', felt that it was 'too soft'. Indeed, many parents recognised the apparent contradiction at the heart of the youth justice system: while it takes responsibility to discipline their child once an offence has been committed, the system still effectively blames the parent when such discipline fails to work. Many parents wanted stricter sentences for their child and, for many parents, their child's soft sentence only

served to emphasise the harshness of their PO in comparison, as Lyne's extract above illustrates.

One curious absence in parents' narratives was the responsibilities of the absent parent. As mentioned in the Methods section, the majority of the parents who were interviewed were lone parents (and the majority lone mothers), and the apparent injustice of their ex-partner not receiving a PO was rarely mentioned or questioned by the parents themselves. The only parents to mention this was the two mothers who felt discriminated against because they were lone mothers (see earlier), and, while one mother asked 'why didn't they [the magistrates] ask where Mr. F's involvement has been with this child and where he'd been?', the other mother raised this issue only in relation to how her ex-partner's absence might have contributed to this discrimination against her as a lone parent. Whether this silence on the role of the 'other parent' reflects the extent to which *lone parents* or *mothers* have invested in the 'self responsabilisation' discourse – in that they alone are responsible for the child – would be worthy of further investigation.

Re-constructing 'the bad parent'

Finally, a key strategy which enabled the contestation of the PO was through (re)constructing 'bad parents' against which parents can disidentify. As well as guarding against misrecognition, this strategy enables parents to demonstrate their knowledge of right and wrong (Gillies, 2006), thus enabling them to perform their own moral identity. This process of 'othering' drew on three particular constructions of 'bad parents'. Firstly, 'bad parents' were those who were recalcitrant, who 'don't care', who have 'just got no interest in their kids' or who 'don't give a toss' in the words of Mary (see earlier). Such constructions attribute moral agency to the parent by implying that they have a choice but choose not to care. Such constructions broadly conform to those drawn on in policy rhetoric and documents such as the *Youth Crime Action Plan* (2008) referred to earlier.

Secondly, 'bad parents' were those who were in greater 'need' than themselves. In some cases, this was constructed sympathetically: one mother talked about those 'whose lives ain't too good'; another talked about 'mothers' who would benefit from POs 'because they lack parenting skills, which I don't feel that I do'. While such constructions are less blaming of 'bad parents', because they attribute less agency to the parent by evoking the power of structural forces, they nevertheless construct 'bad parents' in ways which suggest a personal 'lack' or 'deficit' which requires some kind of intervention.

Thirdly, parents re-constructed the 'bad parent' through drawing on their knowledge of other children's behaviour, which they claimed was worse than their own children's. Often this involved describing crimes committed by other young people and positioning them in a hierarchy which enables parents to judge those offences in relation to their own child's alleged offence(s) – enabling a judgement of their parent accordingly. For example, following her son's charge for criminal damage, one mother claimed 'it wasn't like he'd done such a crime, you know, like beating someone up or anything like that'. Similarly, Penny described how her son was and still is involved in burglaries, but that he 'won't rob people off the street'.

What is interesting about this discursive strategy is that parents ended up recapitulating the very categories which had served to position them; that is, by

scrutinising the alleged deficits of 'bad parents' and invoking the ever-dominant 'parent-blame' discourse. As one mother commented, 'I see these jobs on the street and wonder what their parents are doing.' None of the parents interviewed were in any way resistant to the PO as a way of disciplining 'problem parents', a view which was demonstrated by the parents frequent identification of other parents who would have made more deserving recipients than themselves.

Discussion and conclusions

This analysis has demonstrated the ways in which tensions within the policy and practice of POs are made tangible during the court process, which consequently opens up spaces for contest and resistance. Drawing on these contradictions and tensions provided parents with a number of discursive strategies to contest their receipt of the PO and the conferred subject position as 'bad parent' which it implies. This involved drawing on the *inconsistencies* in New Labour's responsabilisation strategy and on the *disparities* between the material lives of magistrates and themselves. Furthermore, it involved drawing on the *inherent unfairness* of such legislative powers which specifically targets 'difference' by taking into account only some forms of parenting practice in its constructions of '(ir)responsible parenting'. This in turn enables the construction of its subjects as problematic and in need of a formal, public and legalised regulation.

However, it was the research interview which provided the space for such strategies of resistance to be played out. As Crewe (2007) suggests, public dissent is difficult within hegemonic power relations and, certainly in the case of POs, any public and/or confrontational resistance within the court itself is likely to result in further formal regulation. Furthermore, the performance of 'responsible parenting' involves the requirement that parents put the needs of their child before their own, and, combined with the political rhetoric that POs are to help the child/young person, POs are likely to be difficult to resist in court. That such demands do not constrain the parent's children in the same way is demonstrated by descriptions in two of the parents' narratives, which referred to how, when their PO was issued, their children contested the order: one mother described her son 'shouting at the magistrates "oh you've caused even more trouble now"', while another mother explained how her daughter 'stood up in court and said "look, it's not my mum's fault, she's a good mum, it's me"'. Such practices of resistance suggest the different ways in which 'problem youths' and 'problem parents' are regulated, and the different possibilities for action that are enabled, despite the apparent similarities in their socio-economic contexts. These findings point the way for a more nuanced analysis of the ways in which the subjects of anti-social behaviour and youth crime discourses are read and responded to on the ground.

However, despite such evidence of 'inner subjective knowledge' (from which, argues Fegan (1999), resistance emerges), such strategies of resistance were nonetheless limited in terms of their possibilities for political and social change. Certainly, the centrality of the 'parent-blame' discourse to parents' narratives demonstrates the hegemony of current policy discourse which constructs parents as both the primary 'problem' in explaining youth crime and the 'solution' through the use of responsabilising measures such as POs. However, such parental resistance at an *individual* level performs a very divisive role which prevents any possibility of change through *collective* resistance. Possibilities for collective resistance are even less likely to be realised given the very public practice of

'naming and shaming' which the court performs (for example, many of the parents spoke of embarrassment and shame at being issued with a PO in court, particularly when in front of other parents who had not received one). Thus, it would appear that any suggestion that knowledge of regulatory operations is the key to a resistance which produces change is *not* sufficient in the face of competing demands which require compliance: many parents did comment on the regulatory processes which led to their PO, but without the resources to challenge this, where could they take it (except to a willing researcher)? Thus, while the tangibility of the court process offers possibilities for resistance, it is important to consider the ways in which these possibilities are constrained, not only in terms of material constraints which frame the subject's lives, but in terms of the immediate judicial setting and the institutional relations of power which shape it. A key way in which such relations of power operate is in the magistrates' 'power to define' who is a 'parent *in need* (. . . of a PO)' and the power to issue a PO – or perhaps even more punitive measures – accordingly. The enormous gulf between the extent of resistance within the interview setting and the extent of resistance described in parents' narratives of the narrated event tells us much about the ways in which 'difference' is regulated and can and cannot be resisted.

Notes

1 Indeed, the recently published Youth Crime Action plan (2008) talks of parents 'who do not take their responsibilities seriously' (DCSF, 2008: s10) in a push for the further use of POs.

2 Assumptions of 'good parenting' within wider cultural and popular discourses (such as in TV makeover shows such as *Supernanny*) are evidently informed by such values, which attempt to flatten diversity and difference through the re-framing of parenting as a universal 'skill' (Jensen, 2008).

3 The IMD (DETR, 2000) is based on a total rank score calculated by scores on the following six domains: income, employment, health deprivation and disability, education, skills and training, housing and geographical access to services (ODPM, 2007).

4 Having already discussed the problematic nature of the gender-neutral term 'parent', the findings section nevertheless uses the term 'parent' to discuss the data. This is to both emphasise the wider issues concerning power, regulation and resistance which are relevant to both mothers and fathers in receipt of POs and to highlight the point that that there were far greater similarities than differences between mothers' and fathers' engagement in the particular discursive strategies of resistance under discussion. Nevertheless, the author agrees that the gendered nature of parenthood and parenting policy shapes the experience of POs in particular ways, and further discussion of this can be found in Holt (2009).

5 While legislation makes provision for POs to be issued in a parent's absence, in practice this is rarely the case (NACRO, 2004).

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