

'If you are 10, you go to prison': children's understanding of the age of criminal responsibility

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Abstract

Under Article 12 of the UN Convention on the Rights of the Child, all children who are capable of forming their own views have the right to express those views freely in all matters affecting them. Through the use of innovative, participatory methods, the authors of this paper have gathered the views of over 600 children aged 8–11 years concerning the current age of criminal responsibility under English law. The aim of this article is to demonstrate what and how children think about the age of criminal responsibility; in the hope that children's views, both individually and collectively, will both inform and influence debate on this significant issue. Through their analysis of children's views, the authors demonstrate in this article that there exists for children a strong association between the notion of criminal responsibility and imprisonment. In light of this, the authors suggest that, alongside the discussions that are taking place around the appropriate age for setting criminal responsibility, priority must also be given to the consideration of steps that can and should be taken to increase children's awareness of the English legal system to enhance their understanding of the criminal justice system and to improve their knowledge and understanding of children's rights both in the context of wrong-doing, and more widely.

Introduction

The discussion in this paper is based around findings from an empirical study Law in Children's Lives (LICL) that has used digital gaming as a research tool to assess how far, if at all, children aged 8–11 years perceive themselves to be empowered by law in their everyday lives. The research was funded by the Economic and Social Research Council under its transformative research grant scheme. In the course of this study, we gathered both quantitative and qualitative data from over 600 children concerning a wide range of law-related issues, situated in contexts that many children encounter on a day-to-day basis. The data that we gathered concerning children's knowledge and understanding of the age of criminal responsibility (ACR) – together with children's views on the age they think that ACR should be – are the focus of this paper.

From our analysis of the quantitative data, we found that a good number of children (63.9 per cent) demonstrated accurate knowledge that the current ACR is 10. However, our analysis of the qualitative data reveals a more complex picture; far fewer children

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Figure 1: The shop – parallax view

were able to volunteer their knowledge of ACR in their responses to a relevant scenario, and those that did so showed a strong tendency to associate ACR with imprisonment. Through our discussion of children's views on what ACR should be we demonstrate that, although their responses varied considerably, just over half of all children who participated in the study would prefer ACR to be over 10; with the mean average of their choices being 11.5 years old. Our descriptive analysis of these quantitative data is then informed by a thematic analysis of the qualitative data that we gathered from children's explanations of their choices; where we again identify a tendency for children to associate ACR with imprisonment.

In the final part of the paper, we discuss the findings of our advanced statistical analysis concerning the relationship between children's choices for what ACR is and their choice for what ACR should be and we identify factors that influence children's responses to the questions presented in this part of the study.

Gathering and analysing children's views on ACR

Quantitative and qualitative data were gathered from children using a specially designed digital game; *Adventures with Lex*. The game was designed using a participatory approach.¹ Full ethics approval was obtained from the University of Leicester research ethics committee prior to the commencement of the study. We worked with 634 children from eight different schools in the Leicester area.² For all of these children, informed written consent was obtained from their parent or carer, as well as from the children themselves, and it was explained to parents and children that they were free to withdraw from the study at any time, for any and for no reason. Children's anonymity was assured through the allocation of a coding system; each child was given a unique number and this was combined with letters or numbers that indicate the child's school, year group and gender. Each child played the game individually, in a classroom setting, using a tablet and headset that we provided for them.

Adventures with Lex was designed to comprise four everyday 'worlds' – a school, a park, a shop and a friend's house. Children explore each of these worlds, accompanied by a naïve alien named Lex, who asks the children to demonstrate and/or explain what they would do in response to a series of challenges that they encounter. The data that forms the focus of this study was gathered in the context of the shop. The shop is presented to

1 Further details concerning the reasons for adopting this method and the development of the game are in Joanna Barwick, Dawn Watkins, Elee Kirk and Effie Lai-Chong Law, 'Adventures with Lex: The Gamification of Research' (forthcoming) *Convergence: The International Journal of Research into New Media Technologies*.

2 Prior to inviting schools to participate, we created three categories of school (most, median and least deprived) drawing on secure data provided to us by the East Midlands Widening Participation Research and Evaluation Partnership. These data map all local schools against the Income Deprivation affecting Children Index. Of the schools who participated, three schools were in the most deprived category, two in the median, and three in the least deprived.

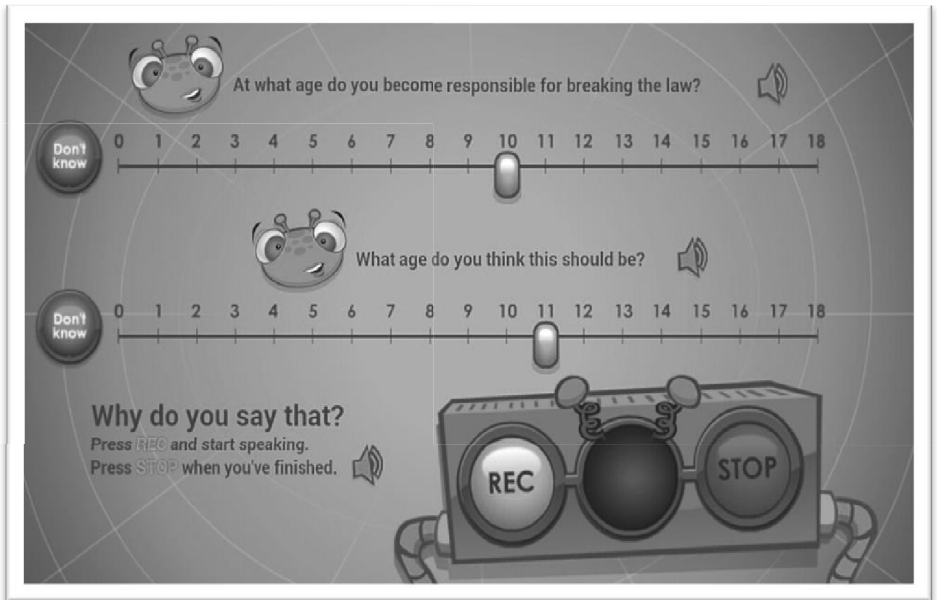


Figure 2: Layout of questions concerning children's knowledge and views on ACR

children in the form of a parallax view and they are required to navigate a number of scenarios in turn, as indicated to them automatically by the game (see Figure 1).

The data to which this study relates derives from an animated scene in which a child steals an object from a shopper's bag. Following this scenario, Lex first invites children to record into the game their verbal response to his question: 'What happens to a child who is caught stealing?' Following on from this, children were asked: 'At what age do you become responsible for breaking the law?'; and then 'What age do you think this should be?' Their answers to both of these questions were given via a sliding scale (presented one after the other) from which children could choose an age between 0 and 18 years old, or choose 'don't know'. Finally, in this scenario children were asked: 'Why do you say that?' and recorded their verbal explanations of their choices of answer into the game (see Figure 2). Through setting out the questions in this way, we were able to assess the extent to which children volunteered information concerning the relevance of ACR, as well as assessing their knowledge and views on ACR more directly.

A range of basic (e.g. bivariate correlation analysis) and advanced statistical methods (e.g. multivariate regression analysis) were used to analyse the quantitative data gathered in the course of the LICL project. With regard to the qualitative data gathered in the project, children's responses were analysed thematically, drawing on a coding scheme that was developed collaboratively by three members of the research team. A sample of data was coded independently and scored for reliability; amendments were made through discussion, and a second test carried out to confirm an acceptable level of consistency.³ Subsequently, to allow for a more in-depth analysis of children's responses relating to ACR, a dataset relating only to the ACR questions was extracted from the main dataset. From here, data were organised into two matrices; plotting children's correct or incorrect

3 The result of the initial reliability test was adequate ($k = 0.61$), but increased to an even higher level following discussion and amendment of the coding structure ($k = 0.74$).

knowledge of ACR (quantitative data) against their volunteering of information concerning the relevance of age if a child is caught stealing (qualitative data). This second level of coding and analysis was carried out solely by the principal investigator.

Children's knowledge of ACR

As stated in the introduction to this paper, some 63.9 per cent of children ($n = 405$) who participated in our study correctly identified that a child becomes responsible for breaking the law at the age of 10 years. Multivariate analysis of the data revealed that children in Year 4 (aged 8–9 years) demonstrated a far lower level of accuracy than children in Years 5 (aged 9–10 years) and Year 6 (aged 10–11 years) in response to this question; 43 per cent of Year 4 children answering correctly, compared to 77 per cent and 79 per cent of children in Years 5 and 6 respectively. Analogous studies that have tested the accuracy of children's knowledge of legal language⁴ and the role of legal actors⁵ have indicated that children's level of accuracy does tend to improve as they get older. For example, Rhona Flin et al report that: 'There appears to be a clear developmental trend in children's performance; 10 year olds had a superior knowledge of legal terms to both eight- and six year-olds.'⁶ And in their study of young people's knowledge of the UK criminal justice system, Karen Barnes and Claire Wilson found that 'knowledge of the criminal justice system was positively correlated with age overall'.⁷ However, the findings here indicate a more complex picture concerning children's knowledge of ACR. There is no steady progression in knowledge, but rather a steep increase in knowledge between Years 4 and 5, and only a very small increase from Year 5 to Year 6. An investigation into the possible reasons for this were beyond the scope of this research, but it is conceivable that schools and external agencies are focusing educational activities concerning ACR towards children who have reached or are very close to reaching ACR.

More generally, we have found that children's school environment is a highly significant factor in determining children's knowledge of ACR. For the purposes of this analysis we ordered children's responses into four sub-groups; children who chose an age between 0–9 years ($ACR < 10$); children who chose age 10 ($ACR = 10$); children who chose an age between 11 and 18 years ($ACR > 10$) and children who responded 'don't know' ($ACR = DK$). As demonstrated in Table 1, there were significant differences in ACR accuracy among the eight schools that participated in the study, with ACR accuracy being highest in school PP (87 per cent) and lowest in school AA (32 per cent).

Interestingly, one child from school XX who accurately identified ACR as 10 explained:

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- 4 Karen Saywitz and Carol Jaenicke, 'Children's Understanding of Legal Terms: A Preliminary Report of Grade-Related Trends', paper presented at the Society for Research in Child Development Conference, 1987, referred to in Rhona Flin, Yvonne Stevenson and Graham Davies, 'Children's Knowledge of Court Proceedings' (1989) 80 *British Journal of Psychology* 285–97, 287. See further Karen Saywitz, Carol Jaenicke and Lorinda Camparo, 'Children's Knowledge of Legal Terminology' (1990) 14(6) *Law and Human Behavior* 523–35.
 - 5 Amy Warren-Leubecker, Carol Tate, Ivora D Hinton and Nicky Ozbeck, 'What Do Children Know about the Legal System and when Do They Know It? First Steps Down a Less Travelled Path in Child Witness Research' in Stephen J Ceci, David F Ross and Michael P Togli (eds), *Perspectives on Children's Testimony* (Springer-Verlag 1989) 158–83; Rhona Flin, Yvonne Stevenson and Graham Davies, 'Children's Knowledge of Court Proceedings' (1989) 80 *British Journal of Psychology* 285–97.
 - 6 Flin et al (n 5) 290.
 - 7 Karen Barnes and Clare Wilson, 'Young People's Knowledge of the UK Criminal Justice System and their Human Rights' (2008) 10(2) *International Journal of Police Science and Management* 214–21, 219.

Because yesterday the police came in and they said at the age of 10, you might get a criminal record. (Boy, Year 5)⁸

On following this up with staff from school XX, they were able to recall that there had at some point been an assembly for Key Stage 2 (years 3, 4, 5 and 6) in which the police gave a talk to the children, but they were unable to provide any further information.⁹ Similarly, staff from the three other schools in which ACR accuracy was over 70 per cent were unable to volunteer any specific explanation for this.

As Table 1 demonstrates, where children identified ACR as an age other than 10, most gave an answer that was between 11 and 18; and indeed the second most common answer to this question was 18, with 9.8% (n = 62) of children giving this answer. This tendency for children to associate legal competency with older age groups, and especially adulthood, is in line with children’s views expressed elsewhere in our study.

Children’s understanding of ACR

As explained earlier, we were able to analyse children’s knowledge and understanding of ACR further by assessing how many children referred to the possible relevance of ACR in their qualitative responses to the question: ‘What happens to a child who is caught stealing?’ As explained in more detail in Table 2, although 63.9 per cent of children (n = 405) demonstrated awareness that ACR is 10, just 17.5 per cent of children (n = 111) volunteered that age could be relevant to the outcome for a child who is caught stealing. Arguably, this indicates that, whilst a large number of children possess accurate knowledge concerning ACR, far fewer possess an understanding of its potential, practical implications.

	School ID								Total
	AA	FF	HH	JJ	PP	TT	WW	XX	
ACR < 10	4 (6%)	0 (0%)	5 (5%)	5 (6%)	2 (4%)	5 (7%)	3 (4%)	5 (6%)	29 (4.6%)
ACR = 10	23 (32%)	84 (82%)	56 (55%)	39 (50%)	47 (87%)	56 (76%)	45 (60%)	55 (71%)	405 (63.9%)
ACR > 10	45 (62%)	17 (17%)	39 (39%)	27 (35%)	4 (8%)	13 (17%)	24 (32%)	17 (22%)	186 (29.3%)
ACR = DK	0 (0%)	1 (1%)	1 (1%)	7 (9%)	1 (1%)	0 (0%)	3 (4%)	1 (1%)	14 (2.2%)
Total per school	72	102	101	78	54	74	75	78	634

Table 1: Knowledge of ACR by school

	Qualitative responses			Total
	ACR volunteered	ACR other than 10 volunteered	ACR not volunteered	
ACR aware	98	13	294	405
ACR unaware ¹	3	11	215	229

Table 2: Relationship between quantitative and qualitative responses concerning ACR

8 This information was given in the context of the child’s explanation of his choice concerning what ACR should be, discussed later in this paper. This particular child correctly identified ACR as 10 and also chose 10 as his preferred age.

9 A change in the school’s email and calendar system had resulted in the log of the visit being lost.

From the six categories identified above, we anticipated that the category of children who demonstrated awareness that ACR is 10 in their quantitative answer and made reference to ACR as 10 in their qualitative answer ($n = 98$) would demonstrate the highest levels of knowledge and understanding. However, through our thematic analysis of the qualitative data relating only to this apparently 'strongest' category, we identified a strong tendency for children to associate ACR with imprisonment, with 52 per cent ($n = 51$) of the 98 children in this category making reference to this. As demonstrated in the following extracts, this was expressed by some as a possibility:

If they're over ten they could go to prison for under eighteens. (Boy, Year 4)

They get in custody so they might go in jail because if they are at the age of like 10 and over then you get to go jail for like stealing and anything that is irresponsible. (Girl, Year 5)

If they are under 10, the police ring their parents but if they are over 10 that means they could go in jail. (Girl, Year 5)

Others expressed this as a more probable or likely outcome:

. . . if he's over ten he will get sent to jail (Boy, Year 4)

They can go to a child prison if they are not 10 or over but if they are 10 or over they go to prison. (Boy, Year 5)

Well if they're ten or over they get, like, put in prison for a little tiny bit, like a kids' prison. But if they're, like, under the age of ten they'll just get a really bad telling off by a policeman or something. (Girl, Year 5)

The theme of imprisonment features significantly also in the responses of children ($n = 13$) who were ACR-aware and made reference to age or ACR as other than 10 in their qualitative responses, with 46 per cent ($n = 6$) of these children making reference to this. Again, children expressed this variously as a possibility or a more certain outcome:

They'll go to prison if they're a certain age. (Girl, Year 6)

Depending on his age, he could go to prison or . . . yes . . . because it is stealing and it is a bad thing to do. (Girl, Year 5)

Depending on what age, he could be put to jail. (Boy, Year 5)

Imprisonment again features strongly in the responses from children in the two 'outlier' categories; all of the children ($n = 3$) who did not identify ACR as 10 in their quantitative answers, but nevertheless volunteered ACR as 10 in their qualitative responses, made some reference to imprisonment; and of the 11 children who did not identify ACR as 10 yet indicated that age could be relevant in their qualitative responses, 7 referred to imprisonment. For example:

It depends if they are teenagers or not. If they are teenagers, they get to go to jail and a warning. (Boy, Year 4) and

If they are old enough, they will be taken to prison but if they are not, they will be badly punished. (Girl, Year 5)

The theme of imprisonment is still present but markedly less prominent within the large category of children ($n = 294$) who, although they correctly identified ACR as 10, did not refer to the relevance of ACR in their qualitative responses, with 19.7 per cent ($n = 58$) making some reference to this as a likely or probable outcome:

They get sent to jail. (Boy, Year 6)

They will get thrown in child prison. (Girl, Year 5)

They could get put in prison or child care, something like that. So you shouldn't do stuff like that and they were responsible for stealing that women's purse. (Girl, Year 4)

Similarly, the theme of imprisonment is still present but not so prominent among those children (n = 215) who did not correctly identify ACR and did not refer to ACR in their qualitative responses, with 22.8 per cent (n = 49) of these children making some reference to this:

He will be going to the prison. (Boy, Year 4)

Jail, that's what. (Boy, Year 4)

They go to youth detention. (Girl, Year 5)

In conclusion then, it is clear that the theme of imprisonment features across the whole dataset, but that children who seemingly possess the highest levels of knowledge concerning ACR tend to strongly associate this with the possibility or likelihood of imprisonment.

Children as the passive recipients of justice

Turning now to our analysis of children's qualitative responses to the question as a whole, we identified that children tend to describe 'what happens to a child who is caught stealing' in terms that characterise the child as the passive and deserving recipient of justice.¹⁰ As well as being sent to prison (Boy, Year 5), children anticipated that the child could be 'sent' to places described variously as: *child prison; juvie; juvenile offenders; a home for robbers' kids; a correctional facility which corrects children; young people's jail; and punishment school*. In addition, some children suggested that:

They would get sent to the police because that is illegal. (Girl, Year 5)

He gets sent to . . . a children's home. (Boy, Year 5)

They get put in child care. (Boy, Year 6)

The child is by no means perceived as a social actor who has the capacity to engage meaningfully in the criminal justice process; nor was he identified by any child in the study as a rights-holder under the UN Convention on the Rights of the Child (UNCRC), or under any other international instrument or domestic law. Although, exceptionally, it was anticipated that the child could be asked questions, this tended to be perceived along the lines of a police interrogation and there was no sense in which it was anticipated that the child's explanations could or would be influential in determining the potential consequences of his or her actions. For example:

He can be asked questions like why and probably be put in a cell for about an hour. (Boy, Year 5)

The police will find out and arrest that child – only if they are under 10 will they take them into a cell and ask them questions why they did it. (Girl, Year 5)

They go to the police and they ask them why they have done that and they give them the answer and if it is for no reason, they could go to . . . if they are 10 or over, they can go to child prison. (Girl, Year 5)

The findings in this element of the study concerning children's lack of knowledge of their rights under the UNCRC and their minimal expectations concerning children's participation echo those found elsewhere in the LICL study. Notably, they concur also with Barnes and Wilson's finding that even young offenders who had significant, first-hand experience of imprisonment demonstrated low levels of understanding and

10 The word 'justice' is used here in its non-legal sense; defined in the Oxford English Dictionary as 'Maintenance of what is just or right by the exercise of authority or power; assignment of deserved reward or punishment; giving of due deserts' and as 'Punishment of an offender; retribution deemed appropriate for a crime'.

knowledge concerning the criminal justice system, as well as possessing a lack of knowledge concerning their human rights. Although, as referred to earlier in the paper, Barnes and Wilson found that young people's knowledge of the criminal justice system does increase with age; remarkably (and as they acknowledge, counterintuitively), they also found that direct experience of the criminal justice system 'did not lead to an increase in knowledge' among young people.¹¹ Barnes and Wilson's study involved an older population than those involved in our study, but it is nevertheless relevant since in light of their findings, we can argue that children's lack of knowledge concerning their rights, and especially their right to participate even when accused of wrong-doing, is most likely due to their lack of education on these issues and not necessarily (or even at all) due to their lack of direct experience of the criminal justice system.

Perceived forms of justice

As well as referring to the likelihood of imprisonment, children anticipated that a range of outcomes, both formal and informal, were possible for a child who is caught stealing. There were a number of references to the child being arrested; with some but not all children indicating that the child's age could be significant here:

They get arrested. (Boy, Year 5)

The police will find out and get them arrested if they have been naughty. (Boy, Year 4)

You can get a criminal record if you're ten years old, or you can get arrested . . . (Boy, Year).

As the last comment shows, some children anticipated that a child who is caught stealing might get a criminal record and we found that responses that referred to this were clustered within particular schools. For example, in school TT, 24 per cent of children referred to the possibility that the child *could get a criminal record* (Boy, Year 6), as did 12 per cent of children in schools FF and XX. By contrast, no children in schools AA and HH made reference to this and the percentages of children referring to 'criminal record' in schools PP, JJ and WW were 6 per cent, 3 per cent and 1 per cent respectively.

Some children predicted that a child who is caught stealing would receive a warning from, or be cautioned by, the police and, as demonstrated in the extracts below, children again tend to perceive the child's role as entirely passive here, whereas in fact a formal warning would be given to a child only where he or she had admitted the offence; making the child's participation crucial to the outcome:

They get cautioned by the police. (Girl, Year 5)

They could get a warning and they could be sent to prison about it because you shouldn't really steal things off people because it is way bad. (Girl, Year 5)

Here, and in their comments more widely, children demonstrate a very limited understanding that the determination of what happens to a child who is caught stealing will depend on a range of factors and that the range of possible outcomes will be (or should be) determined in accordance with due process. And although children are sometimes adopting relevant terminology, it appears that they possess a very limited understanding of its meaning; for example, one child states:

¹¹ Barnes and Wilson (n 7) 219. The authors report that their findings coincide with an earlier study: Thomas Grisso, *Juvenile's Waiver of Rights: Legal and Psychological Competence* (Plenum Press 1981). They hypothesise that the lack of knowledge may be due to the fact that very few young offenders are being helped to understand the system, but are subsequently assumed to have gathered knowledge by experience. On this, see further Stephen J Ceci, Faith A Markle and Yoo Jin Chae, 'Children's Understanding of the Law and Legal Processes' in Martyn Barrett and Eithne Buchanan-Barrow (eds), *Children's Understanding of Society* (Psychology Press 2005) 105–34.

He'll get a warning, or, if it's the third time he does it he might, like, not [be] allowed to go out or play without the criminal record. (Girl, Year 6)

Finally, in response to this question, children commonly stated that a child who is caught stealing would incur some type of informal punishment, sometimes phrased as the sole predicted outcome. For example:

They will get told off. (Boy, Year 4) or

You get in big, big trouble. (Boy, Year 4)

But also sometimes in association with another possible outcome. For example:

They will get badly told off or if they are old enough, they might get put in prison. (Girl, Year 5)

or

They get grounded and they get told off and they'll be in trouble but if they're ten they might get arrested. (Boy, Year 5)

Parents feature commonly as the source of such informal punishments, but the police are also frequently associated with this role:

The child gets told off. He either gets told off by his parents or the police. (Girl, Year 5)

Whilst they may appear simplistic, it is arguable that such descriptions of an informal reprimand come close to describing what would actually happen if a child was caught stealing, provided that there were no aggravating factors.

The role of the police as the arbiters of justice

Children made frequent references to the police in their answers; and in our analysis of these data, we found that the role of the police tends to be understood, either explicitly or impliedly, as a punitive one:

They get sorted out by the police so they don't do it again. (Boy, Year 5)

Because of the context in which our question was framed, this is perhaps not surprising. Nevertheless, broader-based studies concerning children's perceptions of the police have also found that children tend to focus on and emphasise the 'punitive role of the police in apprehending and punishing people, rather than other ways police assist people in times of need',¹² and it is a matter of some concern to us that elsewhere in the LICI study we found that a significant number of children considered that the police are allowed to hit them.¹³

As stated above, it is realistic to suppose that, if a theft of the type depicted in our scenario did occur, then this could be dealt with informally, and perhaps by the police. Therefore, it is somewhat appropriate here for children to consider that the police might act as the arbiters of justice (in both the non-legal and legal sense of the word). However, as we have discussed elsewhere, we also found that many children hold unrealistic views concerning the formal punishments that a child may suffer when accused of wrong-doing and, when the police are discussed in this context, they tend to be perceived as possessing extremely high levels of power:

12 Martine Powell, Clare Wilson, Carl Gibbons and Catherine Croft, 'Children's Conception of Police Authority When Responding to Requests for Assistance' (2008) 9(1) *Police Practice and Research: An International Journal* 5–16, 5. See also Martine Powell, Helen Skouteris and Romana Murfett, 'Children's Perceptions of the Role of Police: A Qualitative Study' (2008) 10(4) *International Journal of Police Science and Management* 464–73.

13 16.4 per cent of children expressed the view that the police are allowed to hit children and 23.2 per cent of children were unsure whether or not the police are allowed to hit them.

That's illegal and they get thrown in jail and then the police will come and when the police come, he can chase them or he can send them to jail at the age of 10. (Girl, Year 5)

It will be displayed on the CCTV camera and the policeman will come and get you. (Boy, Year 6)

I don't know for certain but I think if you're eighteen or over you go to the police and the police decide if you're guilty or not. (Girl, Year 4)¹⁴

An investigation into the reasons for children's tendency to perceive the police in this way is beyond the scope of this study. However, research carried out elsewhere offers possible explanations. In an engaging discussion of his findings concerning young people's perceptions of the police, Nick Hopkins maintains that the tendency for young people to view the police as all-powerful stems from 'the highly visible power asymmetry'¹⁵ that exists between young people and police in the context of the street. Here, he argues 'the police officer is not simply seen as "representing" authority, but in an important sense, "is" authority'.¹⁶ This is certainly one possible explanation; in a recent briefing, the National Association for Youth Justice (NAYJ) reports that between 2009 and 2013, over one million children were stopped and searched by police and they express concern that a significant number of those children were below the age of 10.¹⁷ Elsewhere and alternatively, Jason Low and Kevin Durkin have demonstrated that children's conceptualisation of the police can be influenced by unrealistic representations of police activities on television.¹⁸ Importantly, Hopkins argues that young peoples' views concerning the police are strongly entrenched and unlikely to be transformed by occasional 'police liaison' visits to schools.¹⁹ Likewise, Martine Powell et al conclude that: 'Changing children's perceptions is . . . likely to require global acknowledgment among *all* officers who come into contact with children of the importance of portraying an image that does not necessarily overemphasise the punitive role.'²⁰

Children's views on what ACR should be

In this part of the paper, we discuss our findings concerning the age that children think ACR should be. We begin with a descriptive analysis of the quantitative data, informed subsequently by our thematic analysis of the qualitative data that we gathered from children's explanations of their choices. For the purposes of this analysis, we again ordered children's responses into four sub-groups; children who chose an age between 0–9 years (ACR<10); children who chose age 10 (ACR=10); children who chose an age between 11 and 18 years (ACR>10); and children who responded 'don't know' (ACR=DK). Within this discussion, the relationship between children's choices for what ACR is (ACR-is) and their choice for what it should be (ACR-should be) is also considered. Finally, considering the responses of children across all of the sub-categories,

14 The tendency for children to confuse the role of the police with those of other legal actors has been found in other studies, but predominantly with younger children. See further Warren-Leubecker et al (n 5); and Karen Saywitz, 'Children's Conceptions of the Legal System: "Court is a Place to Play Basketball"' in Ceci et al (n 5) 131–57.

15 Nick Hopkins, 'School Pupils' Perceptions of the Police that Visit Schools: Not All Police are Pigs' (1994) 4 *Journal of Community and Applied Social Psychology* 189–207, 190.

16 *Ibid.*

17 Tim Bateman, *The State of Youth Justice 2015: An Overview of Trends and Developments* (NAYJ 2015) 26.

18 Jason Low and Kevin Durkin, 'Children's Conceptualization of Law Enforcement on Television and in Real Life' (2001) 6 *Legal and Criminological Psychology* 197–214.

19 Hopkins found that young people commonly categorise police officers who visit schools as 'atypical' – so limiting the extent to which they can challenge existing stereotypes.

20 Powell et al (n 12) 471.

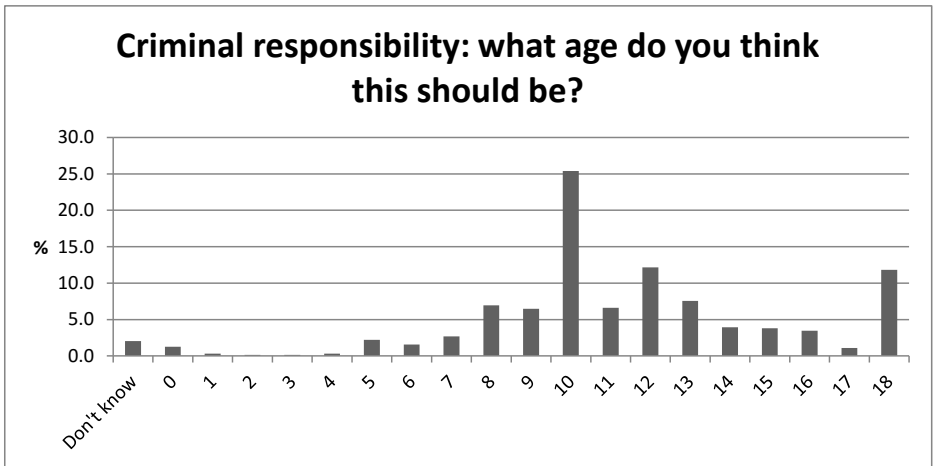


Figure 3: Children's views on what the age of criminal responsibility should be

we demonstrate how children's reasoning appears again to be influenced by the association of ACR with imprisonment.

The mean average for children's views on what ACR should be was 11.5 years old (SD = 3.67). As demonstrated in Figure 3, the most common answer was 10 (25.4 per cent) followed by 12 (12.1 per cent) and 18 (11.8 per cent). Otherwise, children's views varied considerably in response to this question, but 50.5 per cent of the children who participated in the study would prefer ACR to be over 10; 22.1 per cent of children expressed the view that ACR should be under 10; and 2.1 per cent answered 'don't know'.

ACR should be over 10

Considering first the explanations of the 50.5 per cent of children (n = 320) who answered that ACR should be over 10, many felt that children lacked the competence to deal with criminal responsibility at a young age. As demonstrated in the extracts below, this was sometimes stated with express reference to the current ACR, and sometimes more generally:

Because you are 10 – you are still a little kid – you don't know what you are doing. (Girl, Year 5) (ACR-is 10; ACR-should be 12)

Because 10 year olds are not really responsible for their actions and stuff like that. (Boy, Year 5) (ACR-is 10; ACR-should be 18)

Because you have to be a bit older because you don't know which law it is. (Boy, Year 4) (ACR-is 12; ACR-should be 13)

Related to this, children also anticipated that their capability to cope with the implications of assuming criminal responsibility would, or should, evolve and develop with age:

Because over ten people are still learning how to be an adult. But over twelve they should know, and their parents should have taught them properly, and if they don't, their parents should have got the blame as well. (Girl, Year 5) (ACR-is 11; ACR-should be 12)

Because when you are a teenager, that is when you get more responsible and you need to learn your own way. (Boy, Year 4) (ACR-is 10; ACR-should be 13)

Because you're not fully grown, you're not a teenager, so you don't really understand what the meaning is, and you don't really care about much stuff about the law. So I think you should be fourteen. Then you'll be responsible because you know more . . . (Boy, Year 5) (ACR-is 10; ACR-should be 14)

ACR should be under 10

By contrast, a prevalent theme among the views of the 22.1 per cent of children (n = 140) who chose an age under 10 is the opinion that, even at a reasonably young age, children could and should be considered responsible for their actions:

Just because they are younger doesn't mean they can't be responsible. (Boy, Year 5) (ACR-is 10; ACR-should be 9)

Well, because, when you say 10, you are responsible for what you're doing, but so are you when you're 8. Because, when you're 1, 2, 3, 4 or 5 you don't know what you're doing, to be honest, do you? When you're 6 or 7 you get to really know a bit more what you're doing. But 8, you're kind of responsible, so. . . Because it's not like, if you go and steal something, it's not, like, your parents' fault because they've not just gone and made you do it. (Girl, Year 5) (ACR-is 10; ACR-should be 8)

Because . . . just because you're under the age they should be, doesn't mean they have an excuse. (Girl, Year 5) (ACR-is 10; ACR-should be 8)

ACR should be 10

This view, that children could and should be considered responsible for their actions, is a theme that prevails within the explanations of the 25.4 per cent of children (n = 161) who answered that ACR should be 10:

Because then you're double digits and you're responsible for yourself and you know you have the right brain to do things properly. (Girl, Year 5) (ACR-is 10; ACR-should be 10)

Well, it should be 10 because you know a lot more than you did when you are 5 or 6 and you are responsible for what you have done so I think it should be 10. (Girl, Year 4) (ACR-is 10; ACR-should be 10)

Because when you are 10, you should be responsible for the things that you do. (Boy, Year 5) (ACR-is 11; ACR-should be 10)

Don't know answers

Just 2 per cent (n = 13) of children responded 'don't know' in response to the ACR-should be question. Of these, perhaps the most poignant explanation is:

Because I don't know what law means. (Boy, Year 4) (ACR-is DK; ACR-should be DK)

However, our analysis of the explanations overall indicates that, for a variety of reasons (and sometimes for no expressed reason), these children were simply and genuinely unsure of their view on this issue, despite giving it careful thought;

I actually don't know. (Boy, Year 4) (ACR-is DK; ACR-should be DK)

I said I don't know because I don't know what age. I think it should be young but I don't think . . . I just don't know. (Girl, Year 4) (ACR-is DK; ACR-should be DK)

Exploring the relationship between ACR-is and ACR-should be

We can see from the preceding discussion that, of the children who answered that ACR should be 10, some of them had already answered that ACR is 10. At first sight this would seem to indicate that, where a child is already aware of the current ACR, then he or she is likely to remain resolute in the view that ACR should be 10 years old. However, further

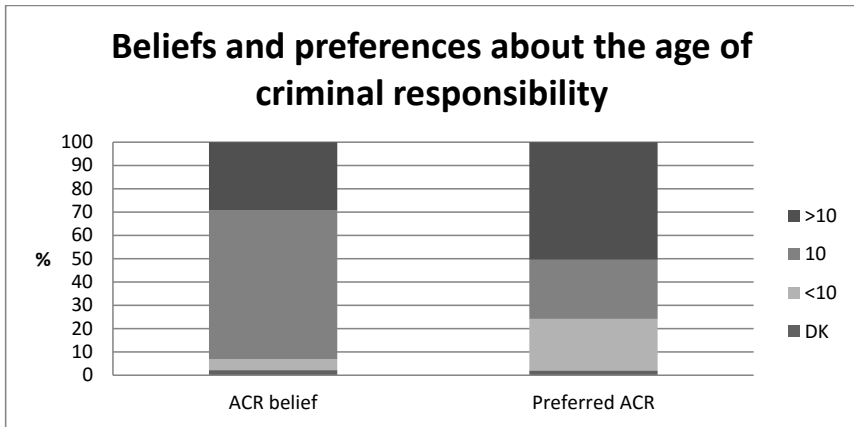


Figure 4: Comparison in beliefs and preferences concerning the age of criminal responsibility

analysis reveals that this is not the case. Of the 63.9 per cent of children ($n = 405$) who knew that ACR is 10, just 35 per cent ($n = 142$) opted again for age 10 as their preferred ACR. Some 65 per cent ($n = 263$) opted for a different age for their preferred ACR, with most preferring an age over 10.²¹ This tendency or willingness for children who are aware of ACR to choose another age as their preferred ACR goes some way to explaining the difference in 'ACR belief' and 'preferred ACR' across the whole dataset, as demonstrated in Figure 4.

Further analysis of the relationship between children's responses to the ACR-is and ACR-should be questions indicates that there is a strong correlation between the ages that children think or believe they are responsible for breaking the law and the age they think this should be.²² This implies that children tended to respond to the two questions in a similar manner. So, for example, where a child identified ACR as age above 10, he or she was very likely also to choose an age above 10 for his or her preferred ACR. But further analyses of these data reveals some interesting patterns within each of the three categories. For children who identified ACR correctly as 10 ($n = 403$), the mean average of their answers increases from 10.0 for ACR-is to 10.7 for ACR-should be ($SD=2.92$), indicating that children think that ACR should be higher than it presently is, but with a small degree of variance. Again, for children who identified ACR<10 ($n = 28$), the mean average increases from ACR-is 7.1 ($SD = 3.15$) to 8.7 ($SD = 4.67$) for ACR-should be, indicating again that these children also think that ACR should be higher than they think it presently is, with a greater degree of variance. However, within the category of children who believed ACR to be older than 10, the mean average *decreases*; from 14.7 for ACR-is ($SD = 2.76$) to 13.7 for ACR-should be ($SD=4.08$), implying that, where a child believes that ACR is over 10, he or she is likely to think that the age that ACR should be is lower than his or her original choice.

21 41.5 per cent of these children ($n = 168$) chose an age over 10; 23 per cent ($n = 93$) chose an age under 10; and there were two 'don't know' answers.

22 Pearson's bivariate correlation: $n = 611$ (removed DKs), $r = 0.496$, $p < .001$. Note that, where a child has given a 'don't know' answer to either the ACR-is or the ACR-should be question, their responses are necessarily excluded from the analysis; hence the slight difference in reported numbers across categories. In total 23 children responded 'don't know' to one or both questions.

Children in this category gave strongly varied explanations for their choices and we did not identify in the qualitative data any over-arching explanation for this finding. However, it was apparent that, for some children who responded in this way, there was a concern that setting ACR at an age close to adulthood would mean that younger people could ‘get away’ with wrong-doing. For example:

Because they probably know that 18 is the age so they will probably do something really bad and not get punished for it. (Girl, Year 6) (ACR-is 18; ACR-should be 15)

Because people can still do mean stuff so they should get arrested for it as well. (Boy, Year 5) (ACR-is 18; ACR-should-be 16)

Factors influencing children’s responses

There was no significant difference between the answers given by girls and boys in response to both the ACR-is and the ACR-should be questions.²³ However, children’s year group was a significant factor in determining their responses to both. As we have already shown, children in Year 4 were far less likely than children in Year 5 and Year 6 to know that ACR is 10; therefore it is not surprising that there were highly significant differences between Year 4 and the other two year groups when their responses to the ACR-is and ACR-should be questions were compared. The mean averages of Year 4s’ responses were significantly higher than Years 5 and 6 for both questions.²⁴ There was again no significant difference between Year 5 and Year 6. Similarly, since we have already demonstrated significant differences among the eight schools concerning children’s ACR awareness, it is not surprising that there are significant differences also across all schools in the mean averages for children’s answers to both questions.²⁵ Following on from this study, we intend to carry out further multidimensional analysis of the data that we have gathered, allowing for the examination of random variation by school.²⁶ This form of analysis will also facilitate further exploration of the data at individual child level; so allowing us to examine in further detail how a child’s responses to these (and other) questions relate to his or her other responses to different scenarios across the game.

The recurring theme of imprisonment

Across all of the qualitative data relating to children’s explanations of their ACR-should be responses, our analysis indicates that children’s reasoning here, just as in their

23 Results of t-tests show that there is no significant differences between girls (n = 322, mean = 11.32, SD = 2.83) and boys (n = 289, mean = 11.17, SD = 2.85) in the age that they think children become responsible for breaking the law (ACR-is; t = -.653, p>0.05). Similarly, there is also no significant difference between girls (n = 322, mean = 11.72, SD = 3.31) and boys (n = 289, mean = 11.21, SD = 4.02) in the age they think it should be (ACR-should be; t = -1.693, p>0.05).

24 For Year 4 (n = 222) the mean average for ACR-is was 12.36 (SD = 3.62) and 12.30 (SD = 4.18) for ACR-should be; for Year 5 the mean average for ACR-is (n = 292) was 10.62 (SD = 2.08) and 11.03 (SD = 3.30) for ACR should-be (n = 293); and for Year 6 (n = 106) the mean average for ACR-is was 10.84 (SD = 2.23) and 11.07 (SD = 3.22) for ACR-should be.

25 Results of ANOVA shows that there are significant differences among the eight schools (F (7, 603) = 5.60, p<.001). Specifically, with regard to ACR-is responses, school AA has the highest mean at 12.77 (n = 69, SD = 3.32), and five out of the seven differences between AA and the other schools are significant. With regard to ACR-should be responses, results of ANOVA shows that there are significant differences among the eight schools, though to a lesser extent than in ACR-is (F (7,603) = 2.25, p<0.05).’

26 This form of analysis is facilitated by the use of MLwiN multilevel modelling software; see further Jon Rasbash, Fiona Steele, William Browne and Harvey Goldstein, *A User’s Guide to MLwiN*, v2.31 (Centre for Multilevel Modelling, University of Bristol 2014). For an example of how this method has been adopted elsewhere, see Pascoe Pleasence, Nigel Balmer and Catrina Denvir, *How People Understand and Interact with the Law* (Legal Education Foundation 2015).

responses to the 'what happens to a child who is caught stealing?' question, tends to be influenced by their perceived association between ACR and imprisonment:

Because, um, when you're responsible for breaking the law you have to go to jail . . . (Boy, Year 4) (ACR is 10; ACR-should be DK).

As demonstrated in the extracts below, some children reason that ACR needs to be older than 10 because young children could (or should) not be expected to cope with being sent away to prison. By contrast, others reasoned that by the age of 10, children would be able to deal with this:

Because I don't think it's fair if when you're ten years of age you have to go to prison. (Girl, Year 4) (ACR-is 10; ACR-should be: 14)

Because if you are 10, then you will still miss your family. (Girl, Year 5) (ACR-is 10; ACR-should be 12)

Because if you are 9 then maybe you haven't learnt enough stuff. 10 is better because you are more responsible and you are like much bigger – to stay on your own in a place like a prison . . . (Girl, Year 5) (ACR-is 10; ACR-should be 10).

For other children, breaking the law justifies imprisonment:

. . . if they're old enough to steal it then they're old enough to go to jail. (Girl, Year 4) (ACR-is 11; ACR-should be 12)

And people who commit crimes must be held accountable for their actions, regardless of age:

Because if you're any age you need to go to prison. (Boy, Year 5) (ACR is 10; ACR-should be 0)

Conclusion

Arguably, one of the most important features of the LICL research project has been the gathering of children's views on matters that affect them in their everyday lives; in accordance with their right under Article 12 of the UNCRC. In the context of this paper, we now know that children consider it appropriate that the age of criminal responsibility should be older than the current ACR – with the mean average of their responses being 11.5 years old – and it is our hope that children's views, both individually and collectively, will both inform and influence the further development of policy in this area.

In addition, our research has shown that some 63.9 per cent of children know that currently the age at which they become responsible for breaking the law is 10 years old. It has shown also that children take this responsibility very seriously. We have found that knowledge of ACR varies and is strongly influenced by year group and school environment, but this is only part of the story. Across all schools and across all year groups we have found that children have no understanding of how the criminal justice system works; no concept of the rule of law; and no knowledge of children's rights in the context of wrong-doing. This suggests that, whilst the information that some children are currently receiving concerning ACR can help to increase their formal knowledge of ACR, it is not helping them to understand what this means in the context of their own and other children's lives. Article 40 of the UNCRC requires that any child who is accused of or recognised as breaking the law is 'treated in a manner consistent with the promotion of the child's sense of dignity and worth' and Article 42 requires that both adults and children should know this.

Drawing on research published elsewhere, we have argued in this paper that children's lack of knowledge cannot and should not be attributed to a lack of direct experience of the criminal justice system. Rather, we suggest that it can be attributed to a lack of

education on these issues. Currently, children in Key Stage 2 are not required to learn about the English legal system as a part of the national curriculum. Rather, educational activities that seek to develop children's legal understanding fall under the non-statutory Personal, Social and Health Education (PSHE) National Framework; particularly, the framework for Citizenship at Key Stage 2. Optional activities developed by organisations, such as the Citizenship Foundation, represent welcome interventions in this field,²⁷ as does UNICEF's work in developing the Rights Respecting Schools agenda.²⁸ Nevertheless, we suggest that increasing children's awareness of the English legal system (and especially the criminal justice system) should be afforded much greater priority in the education system, in light of children's widespread misunderstanding and lack of knowledge in this area.

At first sight it is encouraging that, since 2014, all schools have been required specifically to increase children's understanding of the rule of law as part of their 'spiritual, moral, cultural, mental and physical development'.²⁹ However, it is unfortunate that this requirement is situated within the wider context of schools' duty to 'promote British values'.³⁰ Guidance issued by the Department for Education states: 'It is expected that pupils should understand that while different people may hold different views about what is "right" and "wrong", all people living in England are subject to its law.'³¹ As noted by the Citizenship Foundation, the language used in such guidance creates an expectation that young people will 'accept' and 'respect' these values unquestionably, rather than be helped and encouraged to 'understand how things work and how to challenge and change them for the better'.³² It is notable also that there is no reference to children's rights in this guidance.

If we had limited our research to gathering quantitative data from children concerning ACR, we would know that a good number of children know that ACR is 10 and that most children think that ACR should be older than this. However, we would not have discovered the strong association that children make between ACR and imprisonment, which was revealed through our analysis of the qualitative data relating to children's explanations of their choices. We consider that this represents just one example of the insights that can be gathered through the adoption of a mixed-methods approach, facilitated by the use of digital gaming. Because this innovative method facilitates the gathering and analysis of both quantitative and qualitative data from a large number of research participants, it meets the qualitative researcher's concern to gain understanding of research participants' views and experiences, at the same time as addressing the quantitative researcher's concerns for measurement and scalability. As such, we consider that there is scope to further develop this approach in the field of socio-legal research and other areas.

27 See, for example, the cross-curricular PSHE and citizenship programme for primary schools provided by the Citizenship Foundation at <www.gogivers.org/>.

28 See <www.unicef.org.uk/rights-respecting-schools/>.

29 Department for Education, 'Promoting Fundamental British Values as Part of SMSC in Schools: Departmental Advice for Maintained Schools' (November 2014) 3.

30 Department for Education and Lord Nash, 'Press Release: Guidance on Promoting British Values in Schools' November 2014 <www.gov.uk/government/news/guidance-on-promoting-british-values-in-schools-published>.

31 Department for Education (n 29) 4.

32 Citizenship Foundation, 'What are British Values?' <www.doingsmsc.org.uk/british-values/>.