PROFESSIONALISMIN JUVENILE CORRECTIONS: FAIRNESS AND BUREAUCRATIC LEGITIMACY

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ABSTRACT--All individuals incarcerated in correctional facilities are entitled to humane and fair treatment. This study seeks to explain levels of professionalism in juvenile justice institutions. It further investigates how this dimension has an influence on aggressive behaviour among young offenders in the institutions. The study comprised a survey completed by 289 male and female young offenders, aged 12 to 21 years old, in 8 juvenile justice institutions in Malaysia. The professionalism subscale of the Measuring Quality of Prison Life (MQPL)and the scale version of Direct and Indirect Prisoner behaviour Checklist (DIPC-SCALEDr) were used in the study. The findings demonstrate that majority of young offenders reported moderate levels of four professionalism dimensions in the institutions. Furthermore, two dimensions of professionalism i.e. fairness and bureaucratic legitimacy are reported to significantly influence aggressive behaviour among young offenders. This study suggests that young offenders will be more likely to comply with authority's decision and regulations when they are treated with fairness and respectful relationships. As the heart of correctional quality, staff play an important role tocreate positive correctional environment and to improve the quality of life among young offenders in the institutions.

Keywords--juvenile offenders, juvenile justice system, correctional staff, staff culture, aggressive behaviour

I. INTRODUCTION

The correctionalsettingis complex and multidimensional (Logan, 1993). It comprises of architecture and living arrangements (Adams, 1992), social organization (Clemmer, 1940; Sykes & Messinger, 1960), administration and staff members (Jacobs, 1977; Adams, 1992), inmate culture (Sykes & Messinger, 1960, Goffman, 1961), and program activities (Moos, 1975; Sparks, 1996). Some include the element of power, discipline and control (Liebling, 2004; Crewe, 2009).

In the correctional setting, authority often appears in the same context as the power concept (Poggi, 2006). According to Liebling (2004), the manner in which officers and staff use their authority has a profound impact of the prisoner's adjustment and behaviour, and the legitimacy of penal institutions. The term 'authority' is accepted as legitimate (Weber, 1978). It is existed to create and maintain total (or almost total) social control (Sykes, 1958).

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Nonetheless, it does not need to be exercised in order to exist. The correctional setting is a central site for the exercise of disciplinary power (Rhodes, 2001), in which power is centralized in the hands of the officers and delegated to staff members to exercise upon offenders. Officers or staffs may have power in an institution through their ability to control the offenders. They generally controlled offenders through the accomplishment of order. That is achieved through multiple means, for example, the daily application of institutional rules, punishment and procedures. Institutions historically have operated these orders in a coercive fashion (Stojkovic, 1986). The consistent use of coercive methods may generate minimal level of perceived legitimacy. In fact, according to Ireland, Ireland and Power (2016), where organizational culture is hierarchical, authoritarian and disciplinarian in nature, negative staff-offender relationships can result. The staff-offender relationships measure is related to interpersonal and relational aspects of the institutional experience. Staff-offender relationships lie at the heart of the institutional system. Relationships characterized by trust, respect and fairness maintain institutional stability by lessening the oppressive atmosphere (Crewe, Liebling & Hulley, 2015). Indeed, these characteristics are shaped upon positive staff cultures. In contrast, a negative and disrespectful staff cultures lead to staff-offender relationships that characterized by fear and loathing (Sim, 2007). Staff cultures are shaped by environmental aspects related to overall interactions between staff and prisoners, the use of authority by staff, treatment by staff, and notions of care and concern belonged. To produce a humane correctional environment and therapeutic benefit it is necessary to develop and maintain the positive relationships between staff and prisoners.

In the early 1900s, the correctional field started using treatment approaches after many years of dehumanizing correctional conditions and it was move towards use of punishment to rehabilitate offenders. Asia, America and Europe are rapidly reforming their correctional facilities offering inmate rehabilitation treatment as opposed to punishment (Moon & Maxwell, 2004). Indeed, every individual deprived of liberty must be treated with humanity and respect and in a manner that takes into account their rights, including the right to humane facilities, equal protection, adequate accommodations and rehabilitation. Rehabilitation is one of the most important purposes of incarceration that is deeply rooted in the idea that prisoners could be return to the free world as law abiding citizen (Phelps, 2011). Prisoner are also entitled to access to treatments, programmes and activities that related to behavioural and cognitive improvement. Indeed, they have a right to maintain family contacts and to get parole (Lahm, 2009). All these aspects are believed to help in offenders' rehabilitation.

Offenders in correctional facilities also have a right to be protected from danger and threat by other offenders or staff members. These involved those aspects related to the role of staff in monitoring, regulating and enforcing the rules to facilitate positive institutional environment (Sykes, 1958; Liebling et al, 2012). Failure to supervise and control the correctional environment leads to perceived illegitimate by prisoners (Bottoms, 1999). In fact, feelings of insecurity, fear or reduction in attributions of legitimacy often underpin aggressive behaviours (Allison & Ireland, 2010; Klatt, Hagl, Bergmann & Baier, 2016). Nonetheless, perceived illegitimacy can be influence by the strict security policies. In this study, the security variable is primarily used to reflect the matter of supervision and protection from threat and danger. How individuals perceive these aspects of the correctional environment could

affect their behaviour during incarceration. The environment could be perceived to be moderate, certain, severe or swift, and these different perceptions may engender different behaviours from different people in the same environment (Crewe, 2009). Theoretically, where individuals perceive a good atmosphere in correctional facilities, a low rate of violence and victimisation in facilities might be expected.

Most countries have special legislation to protect the right of children conflict with the law. In Malaysia, children and young people (below 18 years old) are protected by the Child Act 2001 (or Act 611). Act 611 is commensurate with the UN Convention on the Rights of the Child (UNCRC), which was adopted by the Government of Malaysia in 1995. This Act recognizes children and young people as an important asset. It consists of 135 Sections, amending the provision relating to the care, protection and rehabilitation of children and young people. Included in this Act are provisions pertaining to the management of young people who have committed offences, and provisions surrounding the administration of the Juvenile Justice System in Malaysia. This Act was implemented through the Court for Children for children who have committed crime in Malaysia. Referring to Section 91(1) of Child Act, the Court has the power to admonish and discharge the child, order the young people to be placed in the care of a proper/an approved person, order the child to pay a fine, make a probation order, inflict whipping not exceeding 10 strokes of a light cane and order the young people to be imprisoned. Section 96(2) of Child Act 2001 gives judicial discretion to a judge to make an order other than imprisonment. In accordance with the Convention Right for Children (CRC) and international standards, in Malaysia, imprisonment of a young people shall be used only as a last resort (Hussin, 2007; UNICEF, 2013). For the best interest of young people, nonetheless, imprisonment of young people is intended to be for the shortest appropriate period of time. It should be noted that a sentence of death is never pronounced or recorded against children and young offenders.

Imprisoned young people have to be treated with adequate care and protection. That is, every child deprived of liberty must be treated with humanity and respect and in a manner that takes into account their needs, including needs related to education, vocational skills, meaningful treatments, accommodations, and contact with family members (UNICEF, 2013). The head of the institution, alongside a team of social workers, is responsible for providing children's daily needs as well delivering comprehensive treatment and care to the children. They work closely and directly with the children, and they are responsible for creating a positive institutional environment by not only delivering the service but also through the development of supportive professional relationships with the children. Nonetheless, practices of this system are somewhat violating young people's rights, such as the use of solitary confinement, corporal punishment, reduction in diet, stress positions, and restriction of family visits (UNICEF, 2013). Such practices are contrary to the UN Convention Right for Children (UNCRC) and international standards and may negatively affect young people's behaviour in the institution. Criminologists have long-focused on the extent to which institutionalization and the institution experience exert a negative effect on young people behaviours and subsequent behaviour upon release. In Malaysia, many of the institutionalized young people suffer from depression and maladaptive aggressive behaviour resulted from their institutional experiences (SUHAKAM, 2009; Mariamdaran & Ishak, 2012). It has been reported that violence and aggression in institutions are problems in

juvenile correctional facilities. Studies reported that young offenders showed serious symptoms of rule-breaking and aggressive behaviours during confinement in Malaysia (Hassan &Mokhtar, 2019; Badayai, Khairudin, Ismail & Sulaiman, 2016). The occurrence of this phenomenon is very much influence by the correctional environment characterized by staff professionalism. In so doing, this study primarily seeks to contribute to and extend current understandings of professionalism dimensions in the institutions as one of the key domains of correctional quality. Including in this professionalism are staff professionalism, fairness, bureaucratic legitimacy and organisation and consistencydimensions. It seeks to investigate the role of these dimensions in influencing aggressive behaviour among young offenders in eight juvenile justice institutions in Malaysia.

II. METHOD AND MEASUREMENT

Sample

Across-sectional survey was conducted. A total of 289 male and female young offenders were randomly selected from five male and three female juvenile justice institutions in Malaysia. The sample include 182 males (63.0%) and 106 females (36.7%) aged between 12 to 21 years old. The majority of participants (87.9%) were serving their first institutional sentence and the rest (12.1%) were sentenced more than once. About 68 per cent have been sentenced more than a year and 32.5% less than that. Their convictions ranged from property crimes (35.4%), drug-related activities (18.3%) to status offences (53.5%). During the study was taken, about 33 per cent of participants have been living in the institutions for more than a year and slightly less than 70 per cent have been living less than a year.

Measures

Offenders perceptions towards professionalism in juvenile corrections were gathered using the professionalism subscale of the Measuring the Quality of Prison Life (MQPL, Liebling, 2004). The subscale is self-administered and consists of 28 items classified under fourdimensions; staff professionalism, fairness, bureaucratic legitimacy and organisation and consistency. The subscale asked young offenders directly about their experiences with the authority used by correctional staff, the transparency and responsiveness of institutional authorities, and the legality of punishments and procedures in the institutions (Liebling, 2004). All items are scored on a 5-point Likert scale (from 'strongly agree' to 'strongly disagree'). The subscale has strong internal consistency and each dimension carries reliability between with .80 to .89 (Liebling et al., 2012).

The Direct and Indirect Prisoner Behaviour Checklist – Scaled Version Revised (DIPC-SCALEDr, © Ireland, 2007) was used to examine individuals' tendencies to engage in aggressive behaviour between young offenders. The DIPC-SCALEDr contains 126 items describing both direct and indirect experienced events and actions and is separated into two sections: self-report victimisation (68 items) and self-reportbullying (58 items). In this study, nonetheless, only self-report bullying was used to measure aggressive behaviour among young offenders. All items in the self-report bullying are classified into six forms of aggressive behaviours; physical, verbal, sexual, psychological, theft-related and indirect. Each subscale consists of between 2 and 33 items for each self-report, and

each item is addressed by indicating either 'never', 'rarely', 'sometimes', 'often' or 'always'. Participants were asked to identify frequency of actions and events that have occurred in the past month. This self-report bullying has strong consistency in measuring aggressive behaviour with overall consistency .97 Cronbach's alpha(Ireland & Ireland, 2008).

Procedure

The permission to conduct the study in eight juvenile justice institutions was supported by the Malaysian Economic Planning Unit and approved by the Department of Social Welfare Malaysia. The study was granted ethical approval from the University Ethics Committee (UEC), University of Strathclyde, Scotland. Also, For the survey study, all eight institutions were approached in different manners at particular periods of time. All young offenders in each institution available at the time of the study invited to participate. A script containing detailed consent statement information was verbally explained to participants. The questionnaires were then distributed and completed in groups of 5 to 10 participants in a communal area of the institutions. The anonymity and the voluntary nature of the participation were guaranteed.

III. RESULTS

The prevalence of aggressive behaviour

It can be explained that all participants experienced more than one form of aggressive behaviour in the period of one month. As shown in the Table 1, there are six forms of aggressive

	N=289 %							
Forms	М	Never	Rarely	Sometimes	Often	Always		
Physical	0.70	20.4	65.7	10.4	3.1	0.3		
Verbal	0.93	11.5	67.7	15.6	4.8	0.7		
Sexual	0.68	65.7	16.3	-	13.5	4.5		
Theft-related	0.51	23.2	67.5	5.9	3.1	0.3		
Psychological	0.90	36.3	31.5	22.8	7.6	1.7		
Indirect	0.65	13.1	74.4	9.0	2.8	0.7		

Table 1: Descriptive statistics of six forms of aggressive behaviour

behaviour. 'Psychological' and 'verbal' scored the higher with mean of 0.90 and 0.93. This reveals that 'psychological' and 'verbal' forms of aggressive behaviour were more prevalent than other forms and every young offender engaged with these forms at least once during the period of one month. Meanwhile, 'theft-related' scored the lowest with mean of 0.51.Table 1 also highlights the percentage of six different forms of aggressive behaviour across answer choices that range between 'never' and 'always'. For the 'Physical' form of aggressive behaviour, almost 80 per cent participants (79.6%) reported physical aggression in the past month and the rest never committed

such behaviour. Similar to this, almost 80 per cent participants (76.8%) reported engaging in 'theft- related' form of aggressive behaviour. Turning to 'verbal' and 'indirect' forms, more than 85 per cent participants involved in such forms of aggressive behaviour and less than 20 per cent never reported such behaviour. Meanwhile, less than 35 per cent participantsreported 'sexual' form of aggressive behaviour.

Using median split analysis on aggressive behaviour total score, participants were separated into two groups. The total score of behaviour related to aggressive distributed between 0 and 180. In the distribution, the median of aggressive overall score is 24. This means, '24' is the mid-point of scores distribution. By using median split analysis, the sample was separated into two groups. Those scoring above the median (\geq 25) were coded as higher aggression and those coded similar or below the median (\leq 24) were coded as lower aggression. As a result, about 49 per cent of young offenderswere identified as having higher levels of involvement in aggressive behaviour. Meanwhile, slightly more than half were less likely to be involved in behaviour indicative of aggressive.

The professionalism dimensions on aggressive behaviour

As shown in the Table 2, there are four dimensions of professionalism in the institutions. The total mean score of each professionalism dimension was distributed between 1.0 and 5.0. Overall, young offenders reported moderate perception towards all dimensions withmean score between 2.77 and 3.27. The 'staff professionalism' dimension scored the highest mean across the four dimensions. This reveals that majority young offenders were more positive with staff confidence and competence in the use of authority in the institutions.

Dimensions	Min	Max	М	SD
Staff professionalism	1.33	4.78	3.27	.72
Bureaucratic legitimacy	1.14	5.00	2.77	.76
Fairness	1.00	4.67	2.99	.66
Organisation and consistency	1.17	4.67	2.99	.58

Table 2:Descriptive statistics of bureaucratic legitimacy and fairness dimensions

'Fairness' and 'organisation and consistency' dimensions scored slightly less than 3.0. This indicates that young offenders were less satisfied with the legality of punishments and procedures in the institutions. Also, the majority of them perceived the institutions as less organized. Meanwhile, the 'bureaucratic legitimacy' dimension scored the lowest with mean of 2.77. It can be explained that young offenders were less satisfied with the transparency and responsiveness of the institutional system and its moral recognition of the individual.

Dimensions	d	SE	р
Fairness	359	.054	<.01
Bureaucratic legitimacy	177	.056	<.05

Table 3:Influence of institutional dimensions on aggressive behaviour

Out of four dimensions of quality of life, only two dimensions significantly influence aggressive behaviour among young offenders as shown in the Table 3. 'Fairness' appeared to have a moderate influence on aggressive (Somer's d = -.359). This value indicates that there is a corresponding increase of 35.9 per cent for offenders who reported lower attitude on fairness. In other words, the perception of the unfairness of the legality of punishment and procedure (procedural injustice) in the institutions contributes to aggressive behaviour. The 'bureaucratic legitimacy' dimension shows influence of less than 20 per cent (Somer's d = -. 177). It explains that offenders with lower attitudes towards the transparency and responsiveness of institutional systems have a predicted increase of 17.7 per cent in aggressive behaviour.

IV. DISCUSSION & CONCLUSION

Findings suggest that the correctional environment appeared to influence young offenders' behaviour and motivation to act, and two environmental dimensions can be used as stronger predictors of maladjustment. As early as the 1940s, scholars argued that deprivations inherent in the nature of correctional facilities might attack the offenders' ego and sense of self-worth, resulting in poor adjustment (Clemmer 1940; Sykes 1958; Toch, 1977; Thomas, 1977; Goffman, 1961). To a considerable extent, personal feelings of worth depend on the social evaluation of the group with which a person is identified. 'Feelings of worthlessness tend to arise from membership in underprivileged or outcast groups' (Cartwright, 1950, p. 440). Correctional facilities are warehouses for outcasts (Braithwaite, 1989). Self-worth may be easily threatened. When feelings of self-worth are threatened, some young offenders tend to demonstrate aggressive behaviour.

This study demonstrates that bureaucratic legitimacy, or lack thereof, significantly influenced aggressive behaviour among young offenders. Bureaucratic legitimacy is related to the staff-offender relationships, primarily reflected in the clarity of decisions made about young offenders, manifest in the use of authority by officers and staff members. In the survey study, young offenders who attributed less legitimacy to the bureaucratic system were more likely to reported aggressive behaviour compared to young offenders who were more satisfied. For these young offenders, power operated in correctional facilities was inconsistent and unpredictable. For some offenders, dealing with these inconsistent bureaucratic procedures is fraught with difficulties. Some offenders are very critical of the daily operations of institutions. The difficulties of daily operations lead to an unwillingness to comply with criminal justice authority, including policing, judicial systems, and corrections (Tyler, 2006). It has been argued that individuals who perceive the institutional regime to be legitimate believe that 'the institution should have rules and

these rules should be followed' (Jackson et al., 2010, p.4). Nonetheless, low perceptions of institutional legitimacy lead some offenders to disobey the rules and increase their engagement in misconduct activities.

The dimension of bureaucratic legitimacy can also be related with the clarity of decisions made about the offenders. The officers hold large amounts of discretionary power, particularly through their role in determining privilege levels and in their everyday use of authority (Crewe, 2009). They also contribute to the reports that feed into day-to-day decisions about the offenders.Officers and staff have the power to make decisions for and about the offenders from early release, visitation, hometown visit, outing and many more. Usually, the decision is based not only on offender's performance in the institutions, but on the use of discretionary power. The nature of power precedes the use of order. Order in the institutions involves three main classical approaches: the normative; the coercive, and the instrumental, operate as reasons for social or legal compliance (Bottoms, 2002). Regardless of the approaches deployed, the offenders often perceive that order as threatening their way of life in the institutions. It comprises aspects of treatment and regulation that are accomplished directly through staff– offender relationships and indirectly through the policies that staff members support or put into effect. A good relationship with an officer can make a significant difference in terms of gaining minor favours, enhancing one's privilege level and obtaining positive reports (Crewe, 2009).

The perceived illegitimacy of the bureaucratic processes of correctional facilities also led to the feelings of worthlessness. In this regard, majority of young offenders reported frustration towards inconsistent and unpredictable decisions made about them in the institutions and the use of authority by officers and staff members. They also agreed that the institutions were deliberately making it difficult for them to advance. For them, such circumstances contribute to feelings of restriction and of being treated inhumanely that diminished feelings of one's self-worth. It should be understood that correctional facilities impose higher levels of situational control than are usually present elsewhere (Sparks & Bottoms, 1995). The task of controlling requires the use of authority and the pursuit of order. These in many ways are highly visible (Jackson et al., 2010). Tyler (1990) argues that 'the effectiveness of legal authorities ultimately depends on voluntary acceptance of their actions' (p. 24). When power is applied more fairly and thus the decision making in the secure setting is able to be navigated (Aas, 2004) then normative commitments towards compliance, conformity and cooperation are generated. By contrast are inconsistent routine and the lack of clear structure and decision making, bloated organizational dysfunction and collapse with bureaucracy (Dilulio, 1994). In this study, the lack of clear structure and decision-making are assumed to manifest a lack of clear authority. Indeed, the lack of clear authority is perceived as a psychological threat. That is more likely to stimulate the denial of legitimacy and thus create resistance (Crewe, 2009). Scholars agree that the denial of legitimacy is a key phenomenon in the analysis of social disorder generally and of violence in secure settings (Reisig & Mesko, 2009; Carrabine, 2005).

Legitimacy is linked to the fairness of the procedures through which authorities exercise their authority (Tyler & Huo, 2002). Legitimacy means, broadly, the fairness of authority (Liebling, 2004). The legitimate exercise of authority depends on young people's experience of the fairness of their treatment, which includes procedures and

punishment, but also the manner of their treatment (Tyler, 2006). It has been argued that only legitimate social arrangements generate normative commitments towards compliance (Sparks, 1996). In contrast, as explained previously, the presence of a lower degree of legitimacy can give rise to disobedience. This study reported the link between the fairness of procedural justice and young offenders' behavioural adjustment. Critics of the institution have tended to argue that power within the institution is inherently non-legitimate. It can be argued that increasing

and levels of perceived illegitimacy result primarily from the use of unfair, harsh or unduly excessive punishment the lack of exercise of discretion or too much of it, which can negatively affect staff-young people relationships. For example, harsh punishment can be explained as punishments which are not commensurate with infractions. Many young offenders agreed that unfair punishment and procedures as a form of abuse and disrespect. For young offenders with a high sense of superiority, the experience of abuse and disrespect in secure settings was perceived as a superiority threat. This threat, as explained previously, interrupted one's sense of worth or values. In order to enhance their self-worth, therefore, some young people were motivated to act aggressively in secure settings. There is ample evidence of mainly negative effects on young people's behaviour in relation to a sense of unjust treatment or procedural injustice (Liebling, 2008; Reisig & Mesko, 2009; Beijersbergen et al., 2015). In particular, young offendersagreed that unfair punishment or procedural injustice through the use of coercion and harsh punishment are abusive and convey disrespect. Indeed, this threatens the self-worth. Oppression or unjust treatment or perceptions of the mis-exercise of authority may threaten the integrity of the ego, and turn to feelings of shame, and create a negative self-image (Sherman, 1993; Murphy & Tyler, 2008). This can gives rise to the tendency to retaliate against that other person. To increase their self-worth, therefore, some young offenders sought to devalue others through aggressive actions.

Within correctional facilities, bureaucratic legitimacy and fairness play an important role in shaping young people behaviour in the institution. This study revealed that the problems of unfairness treatment and the lack of bureaucratic legitimacy manifest in the misuse of authority by officers and staff members. The task of imprisonment requires the use of power and authority to achieve compliance and the maintenance of order (Liebling, 2000) and this is a key problem of the correctional settings (Liebling, 2000; Sparks et al., 1996). Hepburn (1985) argued that staff members draw several types of power or authority bases in corrections, including legitimate power, respect and reward. Many relevant issues arise in relation to the use of authority amongst staff members. Many young people reported that staff members often show disrespect by confronting young offenders' behavioural problems in inappropriate ways. During incarceration, some young offenders reported that staff members seemed to misuse their judgement and deal with the young offenders in an illegitimate manner. All these matters seemed to be associated with staffs' misuse of authority. Some staff members use the authority as a means of control for young offenders to behave well in the institutions. Nonetheless, ways that staff members asserted their authority appeared to become coercive. Coercive power seemed to be based on young offenders' perception that staff members have the power to punish them and often exert injudicious punishment. Having such perceptions, most offenders reported that they felt

no sense of obligation to obey the orders and rules. Coercive power seemed to create tension or frustration that induced aggressive behaviour amongst young offenders in the institutions (Ireland et al., 2016; Sekol, 2016). Nonetheless, some young offenders preferstaff to have a little coercive power, but only if they used it with good judgement. Reluctance to use coercive power appeared to be a problem in the institutions. Some young offenders reported that insufficient coercive power might allow 'powerful' groups of young offenders to exert control over others. This appears to threaten especially 'powerless' young offenders in the institutions. Using appropriate power or underusing power may create staff-offender relationships based on trust and respect. Indeed notions of trust, respect, fairness and legitimacy enable the life of the institution to 'flow' at all (Liebling, 2000).

This research has implications for future practice in juvenile corrections. Young offenders reported that their involvement in aggressive behaviour was related to inhuman and degrading treatment in corrections. What it is to feel treated inhumanely, as this study found, is related to young offenders' feeling of being treated without respect, unfairly and coercively by staff members. The absence of respect and fairness in corrections damages young people's identities as human beings and results in participation in misconduct activities. To control young offenders' misconduct behaviour, therefore, the system should focus on mitigating inhumane and degrading conditions in corrections. This can be achieved by creating more positive relationships between staff and young offenders. Indeed, staff–offender relationships make an important contribution to perceptions of institution quality. Appropriate balance between formality and informality may create positive staff-offender relationship. That is involved professional, respectful treatment and the appropriate use of authority by officers. This can be encouraged by sending staff members on courses or training related to social work skills in helping young people. In particular, courses should focus on mitigating staffs' anti-management and anti-prisoner attitudes, and improving their use of power in corrections. This could be achieved by, at least, increasing involvement of young offenders in decision-making.

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