IT'S FOR YOUR OWN GOOD

RESEARCHING YOUTH JUSTICE PRACTICES

Jenneke Christiaens
(Ed.)

CRIMINOLOGICAL STUDIES SERIES

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1. Policing Minors: Balancing Welfare and Justice

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Abstract

The welfare vs. justice debate is essential for youth justice practices in social work and police (social) work. The growing social function of the police and the hybridization of the police and social work with their welfare-enhancing and justice-oriented perspective have led to blurring boundaries. We reveal a complex and diverse day-to-day youth justice police practice that builds upon the history of youth care, the idea of prevention and early intervention, the organizational distinction between justice and welfare and the discretionary space of police officers.

Introduction

A central debate in the development of youth care in Belgium is the so-called welfare vs. justice debate. From its onset in 1912, the Belgian youth care system has been characterized by a welfare-oriented model (Put and Walgrave, 2006) focussing on (re)education and prevention of 'children in danger' and 'dangerous children'. This model was shaped through institutions such as special courts and specialized judges for children, and, with the reform of 1965, through youth protection committees. However, because reintegration and rehabilitation for both children in danger and offending youths could be organized by force, welfare and justice were strongly interrelated. From the 1970s on, youth care has been criticized for the strong interconnectedness between welfare and justice. It was argued that welfare interventions, focussing on the subjective needs of children, should be distinguished from justice interventions, focussing on an objective societal norm. While the latter are considered to have a controlling character, the former are

considered to be emancipating. Welfare interventions do not aim to make people conform to external norms as justice interventions do, but relate help to what a client experiences as a problematic situation. The solution for the intertwining of welfare and justice was found in the separation of welfare interventions, based on a voluntary basis, from justice interventions, based on coercion. As such, the 'double character' of youth care – at the same time having a function of social control and emancipation – was organized by attributing care and control to different organizations and institutions.

Until today, the debate on welfare vs. justice has coloured the youth care debate, both in Belgium (see e.g. Bradt and Bouverne-De Bie, 2009; Put and Walgrave, 2006) and abroad (see e.g. Goldson, 1997; Hemrica and Heyting, 2004). However, it is probably too simplistic to argue that by separating welfare from justice, welfare interventions are by definition emancipating and justice interventions are de facto controlling. Such an idea stems from a presumption that welfare organizations such as social work develop voluntary and power-free practices while justice organizations such as courts or criminal justice social workers use power only in a negative way. In this chapter, we argue that welfare and justice, in the case of youth justice practices, cannot be attributed to distinct organizations claiming exclusivity on either intervention. On the contrary, welfare and justice should be considered as two sides of the same coin, both shaping youth justice practices in an often very blurred and ambiguous way.

To make our case, we will elaborate on the youth justice practice of police social work with regard to children and young people. This is an interesting case for at least two reasons. First, because of the fact that police social work operates at the intersection between care and control. In the nineteenth century, the police in the framework of the 'nightwatchman state' had merely a function of law enforcement and maintaining public order, but this changed in the course of the twentieth century. With the development of the post-welfare state after the Second World War, the police evolved towards being an actor with a welfare-enhancing role of 'peacemaking', characterized by its growing social function (Easton et al., 2009; Holdaway, 1986; Ponsaers, 2002a; Ponsaers and Easton, 2008; Roberts and Brownell, 1999; Robinson, 2002). Second, it is interesting because the development of police social work with children and young people in Belgium is historically linked to the broader developments in youth care. The first youth unit within the police force was established in 1946 in Antwerp. With the reform of child protection in 1965 we see an expansive development of units for minors within the police. The growing mission of the police lies in the youth care

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dynamic aiming at early and preventive intervention with regard to children in danger and offending youths (Jackson, 2003; Roose, 2006).

In order to examine the welfare vs. justice debate in police social work, we have selected the city of Ghent[1] as a case study. A social cartography (Ruitenberg, 2007), consisting of three maps, was established.[2] The *historical map* shows the evolution of social interventions towards minors in the police zone of Ghent. The *organizational map* focuses on the regulatory framework of the police zone of Ghent. In the *actual map* we examine how the regulatory framework is shaped in practice, how formal intervention grounds are interpreted and how internal guidelines and protocols are put into practice. The social cartography was developed based on data triangulation. Books, articles, internal documents, annual reports, police bulletins, laws, procedures etc. were analysed. For the historical and organizational maps, key figures were interviewed (n=9), while for the actual map, police reports were analysed (n=136).

The results of the social cartography are reported hereafter and are composed of three parts. In the first part, we sketch the evolution of the social role of the police in Ghent in relation to youth care (dynamics). In the second part we take a closer look at the ways in which welfare and justice are separated in the police zone of Ghent. The last part sheds light on the blurred lines between welfare and justice, police and social work and the discretionary space of police officers.

The goal of this contribution is to map the (changed) police social work practice towards minors in Ghent from a historical and organizational perspective in relation to societal evolutions and the evolution of police and social work practices. This is the starting point for a first exploration of the day-to-day police practice through the analysis of police reports. In the discussion, we deepen our observations and explain our findings. Finally, we formulate some concluding reflections on the welfare vs. justice debate.

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1 Ghent is a city with approximately 250,000 inhabitants.
2 The present research is part of a larger research project, "Social work and police: a difficult encounter?" (promoter: D. Reynaert; co-promoters: M. Easton and R. Roose; researcher: T. van Steenberghe), funded by the Research Council of the University College Ghent.

The Increasing Social Role of the Police in Dealing with Minors

The historical mapping reveals that from the 1970s, in the wake of the Youth Protection Act of 1965,[3] there were, in the police zone of Ghent, small initiatives to treat minors separately and differently from adults. The concept of 'child in danger', introduced by the act of 1965, resulted in an increasing number of initiatives and resources. Increasing contacts have been maintained between the police and several actors like the Juvenile Court, the public prosecutor, schools and social work organizations. Due to the concern of one police commander, two inspectors received an opportunity to start a minimalistic 'youth unit' and to focus on the approach and police interventions towards minors.

Initially, this remained a marginal phenomenon because other cases had priority. From the mid-70s, the youth section, which started as a small section in the police zone of Ghent, slowly expanded and became a full youth brigade. It focused on youth delinquency and drug-related issues. The initial initiatives became more and more structurally embedded. In the late 1970s there was a project called 'Vlonder', a diversion project that aimed at early intervention strategies based on cooperation between social work services and the justice system with the goal of keeping young people out of the path of judicial intervention. A fundamental starting point for Vlonder was the recognition of youth as a competent and equal partner. The idea was that the right of minors to take responsibility should be recognized in order to receive the opportunity to work on the problematic situations they are confronted with.

In the 1980s, the youth section became an autonomous service, expanded and was transformed into the 'Youth and Family Unit', where for the first time police assistants (who have a degree of both social worker and police officer) and social workers were teamed up with police officers. This led to daily contact and interdisciplinary collaboration. This way of working was perceived as very valuable and successful because police work towards minors shifted from the emphasis on 'law and order' to more attention to the root causes of juvenile delinquency and problematic educational situations. The inspectors realized that, for an adequate approach to youth cases, it is important to know the minor and that strong (personal) contacts can contribute to the solving of youth cases. Consequently police work vis-à-vis

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In the 1990s, there was a reduction of the Youth and Family Unit and social workers were pulled away to be grouped in the 'Social Cell'. The police officers of the Youth and Family Unit meanwhile continued their work on youth, mainly cases of juvenile delinquency. The renaming of the Youth and Family Unit as the 'Juvenile Criminality Unit' was symbolic of this evolution. The absence of social workers in the Juvenile Criminality Unit led to a unilateral punitive approach to youths. The social workers at the Social Cell had two main tasks: to provide aid for victims and to provide aid for minors living in a problematic educational situation. However, victim treatment was so intensive that the focus on youth became a marginal phenomenon.

Our social cartography reveals complex and diverse police treatment of minors. There was a multiplicity of registration contexts and problems for which the police were contacted, ranging from skipping school, antisocial behaviour and light and more serious forms of juvenile delinquency to a whole range of family problems and problematic educational situations. This resulted in a huge diversity of police interventions (134 different interventions in the police report study). The police were contacted in crisis situations, suggesting that the responsiveness, availability and accessibility of the police were very important. Furthermore, the police were given a role of giving first support as well as final support, mediation and referring. The increasing social role of the police in dealing with children, preventing delinquent behaviour and recidivism of minors went hand in hand with the net-widening dynamic characterized by police interventions in all sorts of individual problems. This also meant that situations where no offence was committed came within the scope of the police.

The Separation of Welfare and Justice

With the introduction of the Juvenile Criminality Unit on the one hand and the Social Cell on the other, the ground was prepared for the police treatment of minors for the coming decades. The integrative treatment of minors by social workers and police officers in the 1980s made way for an institutionalized separation between cases of problematic educational situations (PES) and cases of minors who committed an act defined as an offence (ADO). Both services were looking for cooperation only on an occasional basis. As a result, welfare and justice were organizationally pulled apart. A welfare-oriented approach primarily occurred in PES cases, where

the exploration of the context characterizes welfare interventions and where the minor is first and foremost perceived as a victim. A justice-oriented approach seems to be more common in ADO cases where the focus is on the offence rather than on the context in which the offence took place.

This separation was radicalized at the end of the first decade of the twenty-first century. Due to several incidents in the police corps in 2009, an internal audit was carried out that would have consequences for the police treatment of both children and young people. The implementation plan, as an outcome of the audit, aims to optimize the day-to-day police practice by introducing more formal communication and cooperation structures to create and streamline interventions (De Ruyver and Fijnaut, 2010). One of the effects of the plan is a clear limitation of the number of police units, while at the same time certain functions are repositioned. 'Youth' has now become part of the 'Unit on ADO, Sexual Abuse and Disappearances' on the one hand and the 'Office of Social Care' on the other. Consequently, more officers can be deployed in youth cases.

This form of 'scaling' involves the risk of fragmentation, however, at least in respect of youth: more and more functions have a (partial) task regarding the police treatment of minors: the Youth Unit, the Office of Social Care, Social Investigation, the Youth Section within the Local Investigation, Youth Inspectors, etc. This fragmentation symbolizes a field of tension between a generalist approach to youth (youth as a focus for the whole police force) and a specialist approach to youth. An example of the pursuit of a generalist approach is found in the 2011 Annual Report of the Ghent Police, which states that working with young people belongs to the entire police force. It is the duty of any police officer to work with minors. At the same time, there is also a clear focus on specialization in youth cases. A very clear example is the recently recruited youth inspectors, who focus solely on youths in their tasks. Based on our findings on how the police practice in Ghent is shaped, it can be stated that every policeman needs a frame of reference to understand minor-related social problems in order to guide his or her actions. Every police worker can, regardless of the specific service, come into contact with minor-related problems.

Nevertheless, in addition to this movement towards the organizational separation of problematic educational situations and cases of minors who have committed an act defined as an offence, we can also observe a complementary movement towards more cooperation between different entities working with children and young people. While close collaboration between police inspectors and social workers is impossible due to the physical distance between distinct units, new formalized initiatives have arisen such

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as the 'youth case consultation' (started in 2011). The youth case consultation aims to enhance the communication and cooperation between police units who are confronted with the same minors and problems. The organization of the youth case consultation is an attempt to offer an integrated approach to often very complex cases in which young people are involved.

Blurred Lines between Welfare and Justice

It has been made clear that there was an evolution towards the separation of PES and ADO cases and a development towards different units to deal with these distinct social problems. The structural partition of social work and police work stems from the idea that welfare and justice should be separated, that their intertwining is problematic. However, our social cartography shows that it is not always straightforward to draw the line between problematic educational situations and acts defined as an offence. Likewise, cases can, in the course of time, shift to another category. As the police treatment of children is an assignment for the whole corps, different units and different people within one unit can give a very diverse interpretation of the same case. Here, the debate on welfare vs. justice becomes very concrete and it emerges that using a welfare or a justice perspective can have very different consequences. In addition, we have noted that every police unit has to balance controlling and caring elements, but that the ways in which problems are defined, categorized and attributed to specific units are crucial in shaping the predominant accent on welfare or justice.

Staff at the reception desk and police officers from the Intervention Unit are often the first to intervene in youth-related cases. Their perception and approach can be crucial for the further handling of the case of a minor. There are indications that their interpretations are key to the further trajectory of the minor and their family. Sometimes there seems to be a discrepancy between the registration and the coding by police. In one of the cases studied, for example, a mother clearly makes a request for help for the mental health problems and behaviour of her son. At the same time there is also a drug problem and the focus in the police reports is completely on 'drugs' (which means the drug, where it comes from, and to whom it is sold). The request for help from the mother vanishes as the case is handled by a particular unit. Furthermore, we see that different perspectives can motivate one and the same intervention. An interrogation, for instance, can be aimed at gaining insight into the situation based on the different perspectives of the parties involved, in order to come to a solution (which is a more welfare-oriented

approach). In other situations the focus lies on 'getting to know the truth' to clarify the committed crime (which is a more justice-oriented approach).

This indicates the importance of the discretionary space of police officers trying to balance welfare and justice perspectives. How to act upon the mandate and obligations as a police officer, while trying to understand and solve social problems where there are no unilateral justice-increasing or welfare-enhancing solutions, often results in role confusion and recognition of the ambiguous role of the police (officers). This role confusion can also stem from not knowing how to cope with youth problems and youth rights. With the evolution towards community-oriented policing, the ambiguous role of the police becomes even more pertinent. A social attitude and preventive and proactive action are central elements in this vision and are related to the need for a strong(er) bond between the police and the community. There are, however, different conceptions of community policing, which leads to different expectations towards police workers. The youth inspector in Ghent, for example, works at the district level and has to balance different expectations: proactive, preventive and repressive (Politie Gent, 2011, 2012). He or she is expected to know the minor and be close to his or her educational context. This creates opportunities for preventive and supportive action vis-à-vis young people. At the same time, youth inspectors are clearly expected to take on a controlling and repressive role in cases of antisocial behaviour and offending by monitoring and controlling the minor. In this way, police practice is challenged to balance the different perspectives on social problems and their goal(s) in society.

An important concept in youth care- and welfare-oriented approaches is the idea of 'voluntariness' and we see this concept return in the day-to-day practice of the police. On the basis of police reports and interviews, we can see that the police regularly – whether or not at the request of the prosecutor – encourage people to seek support from social services. To what extent this support is experienced as voluntary by people is quite questionable. The degree of voluntariness may depend strongly on the consequences that follow when one does not accept the offer of voluntary social services. In the case of truancy we note that when minors refuse to sign a truancy contract or do not live up to 'mutually' agreed terms, they can still land in the justice system. In the end, the concept of voluntariness in the context of the police is questionable and symbolic of the field of tension between welfare and justice. It also resembles the idea, and this is a historically recurring one, of preventing minors from staying too long in the youth care/justice system. Therefore, action is taken at the earliest possible stage of the judicial filter, namely at the stage of contact with the police, prior to judicial action. A

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recent project (2012) called 'First Offenders' is built upon this idea. Minors are given a chance to cooperate with specific forms of social police work, whether or not with a contracted agreement. Whenever the cooperation seems to fail or the minors do not live up to the agreement, the judicial system steps in.

A final element of these blurred lines between welfare and justice becomes clear in the cooperation and communication between the police and social work both inside and outside the police organization. The ways in which the police and social work communicate and cooperate are very diverse. In some cases there is a degree of cooperation that is oriented at gaining information on a minor and his family or referring to other (social) services. There is, however, not enough clarity on the cooperation between the police and social work, and how this relates to professional confidentiality and the interests of the minor and his family. In the case of truancy, there is a standardized procedure for the approach by and cooperation between police and social work. There are, however, large differences in the nature and amount of the information that is shared. This diversity reflects the institutionalized ambiguity that arises when the police become 'part of the solution' and try to balance welfare and justice in the defining and handling of social problems.

The hybridization of the police and social work has led to a diverse and complex police practice that balances care and control on different levels (organizational, cooperation, individual problem assessment etc.). It is, however, important to emphasize that the complexity of social problems, police practice, the accents in social policing and the discretionary space of police workers is constantly shaped by societal evolutions. These include the changed role of police work in society, the day-to-day practice in coping with social problems, the cooperation with other practices, and the conceptions and discretionary space of police workers. Every case has a specificity that requires recurring situational judgements.

Discussion

The emergence of police treatment of minors in the police zone of Ghent is, just like in other Belgian cities, strongly connected with developments within youth care. The distinct rehabilitative and preventive character that is a feature of youth care can also be observed in the police zone of Ghent. As such, the police appropriate for themselves a social function. While historically the police and social work were two distinct social institutions, each with its own development and tasks, their societal

positioning progressively changed. At the end of the nineteenth and in the early twentieth century, social work operated in the social sphere, which was to be distinguished from the private sphere (family) and the public sphere (law enforcement and labour market regulation) (Bouverne-De Bie, 2002; Donzelot, 1994). In the 'nightwatchman state', the police were expected to hold the role of law and order enforcers by monitoring compliance with the law and maintaining public order. In this context, social work and the police played distinct roles: social work was expected to be the carrier of welfare interventions, while the police were the bearers of safety and security interventions (Albers, 1990). This represents an 'organizational approach' to the welfare vs. justice debate, which assumes that welfare and justice coincide with the social institution in which one acts (see e.g. Albers, 1990; Jackson, 2003; Walgrave, 1978). Dealing with social problems occurs in a distinct organizational setting where interventions by social work are disconnected from or coordinated with interventions by the police (Garrett, 2004). This organizational approach has been dominant in the evolution of youth justice practices in Belgium. However, these different tasks stem from a shared background, including a controlling strategy that took hold at the end of the nineteenth century and that contained the term 'policing'. Policing is a collective name for actions taken to adapt citizens to certain expectations. Police and social work were thus originally both integrative strategies that served to make humans conform to a predetermined standard (Bouverne-De Bie, 1997; Bouverne-De Bie and De Droogh, 2005; De Savornin and Raaff, 2001).

With the development of the post-war welfare state, the distinction between the social sphere and the public sphere, and between social work and the police, faded. Social work was no longer merely an instrument to control social problems. It grew into a relatively autonomous actor within the welfare state, and set its own objectives, particularly the empowerment to greater social equality (Bouverne-De Bie, 2002). A similar development could be seen in the police. It evolved from an institution with a purely criminal law nature of social control to an actor with a welfare-enhancing role of 'peacemaking' (Ponsaers, 2002b). This modified position of both social work and the police was accompanied by an ever-increasing recognition of the ambivalence of both institutions, with a blurring of the welfare-enhancing nature of social work in relation to the controlling nature of the police (Albers, 1990; Garrett, 2004). Social work could not claim exclusivity on welfare interventions. Nor could the police exclusively claim the domain of safety and security. With the establishment of units of 'social police' and developments in community-based policing, the blurring of welfare and

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justice was institutionalized within the police (Easton et al., 2009). This process of 'hybridization' characterizes to this day the role of social work and the police (Donzelot, 1994, 1977; Jackson, 2003).

The process of hybridization or blurring of boundaries between social work and the police is criticized by both institutions. The police point out a trend towards 'soft policing' in which they are considered a sort of downgraded form of social work. The criticism of soft policing relates to an ongoing discussion regarding the role of the police in society. This criticism focusses on the idea that the police organization is too embedded in the community, which leads to a widening of the gap from the real repressive police tasks (Easton et al., 2009; Ponsaers, 2002a). Community-based policing in that conception is addressing the social rather than the repressive role of the police. However, in the day-to-day practice there are different, both positive and negative, conceptions about this soft policing regarding what it is and who should do it. There is a field of tension between the social and repressive roles of the police on different levels of the police organization. This discussion is not black and white because a social role can lead to an increased feeling of safety (De Ruyver and Fijnaut, 2010).

Social work for its part criticizes the instrumentalization of welfare, where social work is seen as an extension of the police in order to take security-enhancing measures (Fret and Goris, 2006; Wacquant, 2006). According to Geldof (2006), social work becomes 'armed welfare' in the fight against nuisance and antisocial behaviour. Social work is perceived as an instrument of the security state, serving the development towards a nightwatchman state. Initiatives such as outreach, community service and other social institutions are thereby used for safety purposes (Serrien, 2006). It is, however, not clear how social work positions itself in relation to this debate.

A third criticism stems from social work and the police pointing out the difficulties associated with the intense cooperation between the two institutions, arising from a blurring of boundaries (Degraeuwe, 2001; Garrett, 2004; Heikkilä et al., 2011; Holdaway, 1986). The police criticize the soft approach of social work towards juvenile delinquents, whereas the police attempt to register the hard facts in order to make a decent case for the juvenile court. Furthermore, there are frustrations about the social work system (e.g. waiting lists) and the denying of police requests for help due to a lack of voluntariness. Social work questions the sometimes hard approach of the police. Social workers are sometimes confronted with stories of minors which experienced verbal or physical violence by police officers.

Professional confidentiality is, in general, a particularly sensitive point in the cooperation between the police and social work (Heikkilä et al., 2011). The police perceive this as an obstacle while for social work this remains essential for a relationship of trust. It is clear that there is a mutual distrust between the police and social workers (Todts, 2001). Todts states that a central reason for this difficult cooperation is the dichotomous thinking in both institutions. In an attempt to deal with the frustrations and difficulties, both institutions plead for a clear and distinct profile. This approach is however confronted with its limitations in practice. The complexity of social problems does not allow interventions to be undertaken that are either unilaterally safety increasing or merely welfare enhancing (Easton et al., 2009).

Conclusion

In our research we took a first glance at the day-to-day practice of social policing regarding minors. There is no denying the growing social function of the police regarding minor-related (social) problems in the police zone of Ghent. The historical expansion, specialization and fragmentation of that social function within the police has led to a distinct youth justice practice with its own logics and dynamics. The social cartography reveals a strong bond with youth care dynamics and the recurring discussions on what is 'social' in relation to perspectives of care and control. The debate on welfare and justice will remain essential in the day-to-day practice of police and social work. The organizing of this debate, just as in the case of youth care in Belgium, has led to an organizational approach to youth care and to a fragmentation of youth treatment. One could wonder whether it is necessary to implement youth units in every police organization, as there are police organizations without youth units. We want to widen the discussion by stating that this fragmentation and specialization can be seen as methodical answers to social-political questions that relate to being part of the solution for social problems. Or as Roose (2006, 318, own translation) puts it for youth care: 'Socio-political questions are therefore always organized and translated into a concrete offer, which leads to a shift in the discussion of the problem definition – who defines what problem for whom? – to the methodical development of the appropriate solution.' Every organizational implementation or methodical answer to social problems should be accompanied by a social-political discussion on what the problem is and the societal goals of police practice and units.

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The different trajectories that develop (depending on unit, officer and time of day) and the sliding of categories (from PES to ADO) reveal the central role of the ways in which problems are defined. It is at the level of the problem definition that welfare and justice meet (Bouverne-De Bie, 2002). It emphasizes the importance of acknowledging the discretionary space of police officers. They are not merely the executors of (social) police policies, but shape what is social policing in their day-to-day practices. Police officers make decisions based on interpretations that relate to a professional and personal frame of reference. The ground on which these interventions are undertaken relate to conceptions on individual and collective responsibilities in problematic situations. This frame of reference is an essential basis on which the police legitimize their interventions. It remains crucial to open up the debate on the goal of police social work in relation to the lives of minors (and their families). This means revealing and debating the social problem definitions used and interventions undertaken, and how these are legitimized and justified in relation to the social problems of minors, their families and living conditions.

Despite the development of youth units within the police in recent decades and the quantitative increase of children and young people caught by these services (Verhellen et al., 1991), we barely have an understanding of the day-to-day practices of these services and, more generally, of the interventions of (social) police towards minors (Mathieu, 2009). This is a scientific gap in Belgium. Nor do we have empirical data about how a welfare perspective and a justice perspective on social problems relate to real cases with minors, how this is shaped by (social) police and how the cooperation and boundary blurring with social work takes place. In order to maintain and develop youth justice practices that embrace welfare and justice, further research is necessary. It is essential to keep unravelling the day-to-day practices of social policing in order to fully grasp what the meanings are of 'the social' and how this relates to the lives of minors and their families.

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