

HND SOCIAL CARE

Youth Justice

Examine recent trends in the use of custody in respect of juveniles over the last two decades, and consider the effectiveness of incarceration in relation to the problem of crime.

June 2002

“Present government strategy for dealing with youth crime is centred on the use of custodial sentences” (Sale, 2002). This assignment will examine juvenile custodial trends, including statistical data and political issues, considering the arguments for and against the effectiveness of incarceration in relation to the problem of crime.

The practice of holding young teenagers on remand in adult prisons overrides widely spoken belief (rhetoric) about the negative impact of jails on young people (Harker, 2002). For more than 20 years there has been concern about the use of custody for young boys, exacerbated by a series of scandals involving bullying and suicides. Despite evidence that prison conditions are conducive to abuse, self-injury and further criminal activity, successive governments have allowed the number of teenagers held in prison on remand to rise.

The implementation of two new statutes; the Crime and Disorder Act (1998) and the Youth Justice and Criminal Evidence Act (1999) have resulted in an overhaul of the youth justice system in England and Wales. Under the 1998 Act, the aim of the youth justice system is defined as: “preventing offending by young people” (www.howard.league.org.uk). The new system is underpinned by an emphasis on early intervention and greater inter-agency working.

An example of inter-agency working is the introduction of Youth Offending Teams to each Local Authority area. Implemented in April 2000, Youth Offending Teams include professionals from the probation service, social workers, police officers, education and health staff. The Local Authority may call upon other agencies to provide specific services as required; for example local agencies specialising in drug and alcohol addiction, mental health charities and mentoring projects - this gives scope for the involvement of and participation by a number of multi-disciplines (Pitts, 1999).

The responsibilities of Youth Offending Teams include supporting police reprimands and warnings; supervision of community sentences; offering an appropriate adult service; providing bail

information, supervision and support; remand fostering and approved lodgings during pre-trial period; court work and the preparation of reports; and undertaking post-release supervision following a custodial sentence (Pitts, 1999).

Whilst the 1998 Crime and Disorder Act does not specifically mention deterrence, research indicates that magistrates use sentencing decisions as a form of deterrence from committing crime (Parker et al, 1989 & Fagan 1991 in Pitts, 1999).

There are two forms of deterrence. Individual deterrence focuses on sentences being sufficiently punitive to make the offender understand that ‘crime does not pay’. It assumes that offenders will then be better able to link ‘cause and effect’ and therefore be deterred from further criminal activity. General deterrence is used to send a message to the wider public (as much to the offender him/herself) against undertaking criminal behaviour and centres on magistrates setting examples of how particular crimes will be dealt with by the courts (Pitts, 1999).

Some restorative justice supporters argue that *any* forceful response to offenders can ‘backfire’. Braithwaite (1999b) argues: “prisons are schools for crime...offenders become more deeply enmeshed in criminal subcultures” (Johnstone, 2002, p.91).

The establishment of the Youth Justice Board under the 1998 Crime and Disorder Act promised a transformation in youth justice. A non-departmental public body, sponsored by the Home Office and accountable to the Home Secretary, its primary aim is to prevent offending by children and young people. More emphasis is placed on youngsters spending less time in custody and more time being supervised in the community. Tackling the factors that put young people at risk of offending (e.g. peer group pressure, troubled home life, drug/alcohol abuse etc), and other aspects of

offending behaviour requires input from a range of agencies (www.youth-justice-board.gov.uk/who/why.html).

In practice however, under-investment in alternatives to prison has meant that teenagers on remand are often kept in prison custody when they could be placed in Local Authority secure accommodation, or could benefit from training centre places or be supervised under other community schemes. Less than 10% of young offender places are in Local Authority secure accommodation (Harker, 2002).

The ideals of the Youth Justice Board are to enable national co-ordination of youth justice services by monitoring the work of Youth Offending Teams and the operation of the youth justice system. The Youth Justice Board also advises the Home Secretary on setting national standards; identifies and promotes the development of good practice; and purchases and commissions places in secure and custodial institutions (www.youth-justice-board.gov.uk/who/why.html).

In April 2000, under sections 65 & 66 of the 1998 Crime and Disorder Act changes were introduced to the system of reprimands and final warnings. This framework applies to young offenders less than 18 years of age and replaces the old system of police cautions. In the case of a first offence, the police will decide (depending on the level of seriousness) whether to reprimand, give a final warning or prosecute. Once a reprimand has been given, any further offence can only be dealt with by a final warning or charge. Following a final warning, any other offence(s) within 2 years will automatically result in criminal charges. Whenever the police issue a final warning they will refer the case to a Youth Offending Team who will draw up a programme of intervention for the young offender. A reprimand or final warning cannot be given to anyone who has already been convicted of an offence (www.howard.league.org.uk).

The table below categorises the strategies by which the police may seek to play a significant role in reducing crime.

Strategy		Underlying hypothesis	Summary of research indications about the underlying hypothesis
1.	Increase the numbers of police.	The more policy a city employs, the less crime it will have.	Effect of overall numbers is unclear.
2.	Random patrol.	The more random patrol a city receives, the more a perceived “omnipresence” of the police will deter crime in public places.	Not effective.
3.	Increase the use of the police power of arrest.	The more arrests police make in response to reported or observed offences of any kind, the less crime there will be.	Effective in some domestic violence situations. Counterproductive for juveniles.
4.	Contact with the community in general.	The greater quantity and better quality of contacts between police and citizens, the less crime.	Not generally effective except where the objective is to increase policy ‘legitimacy’ with the public.
5.	Informal contact with children.	Informal contact between police and young people will dissuade those likely to offend from doing so.	No generally effective.

Adapted from Sherman et al (1997)
in *Reducing Offending: an assessment of research evidence on ways of dealing with offending behaviour*,
Home Office, 1998

Prime Minister Tony Blair famously promised to be “tough on crime, tough on the causes of crime”. But penal reform groups believe the pledge has led to more overcrowded jails and falling standards. The UK is the most punitive nation in Western Europe after Portugal. In April 2001, there 65,604 people in prison in England and Wales, of whom nearly 17% (10,897) were under 21 years of age (www.howard.league.org).

The Howard League for Penal Reform, established in 1866 and named after one of the first prison reformers, is the oldest penal reform charity in the UK. Independent of government, it works for humane and rational reform of the penal system. It claims prisons are overused and imprisonment should only be used as a last resort for violent offenders who pose a threat to society. In 1996, the reconviction rate for male young offenders released from prison was 75% and for male adults 52%. Rates for female young offenders were 57% and 45% for female adults. These figures indicate that younger people are more likely to be reconvicted and as a result, the Howard League suggest that diverting resources towards crime prevention and imposing effective community sanctions would have a positive effect on reducing criminal reconvictions in young offenders (www.howard.league.org).

Built on various legal systems and cultural traditions, the 1989 UN Convention on the Rights of the Child is an international human rights treaty, containing a universally agreed set of non-negotiable standards and obligations underpinning the development of policy, practice and legislation for working with children. Under the Convention, children are defined as persons aged under eighteen years. Ratified by the UK in 1991, it is the first legally binding international instrument to incorporate the full range of human rights - civil and political rights as well as economic, social and cultural (www.unicef.org/uwwide/index.html).

In 1997, the Chief Inspector of Prisons conducted a damning review of conditions and treatment of young prisoners and concluded that under 18 year olds should not be held in the prison system. The government did not accept this recommendation. Instead, the Prison Service designated certain institutions, or wings of institutions as exclusively for juveniles (under 18 year olds), with improved regimes to take account of the particular needs of adolescents. Once a child is given a custodial sentence, the Youth Justice Board decided where they will be placed - in prison, in a secure training centre or a local authority secure unit - based on availability of places, the age and vulnerability of

the child. Reconviction rates for children leaving prison are very high. 85% of all 14-16 year olds released from prison in 1996 were reconvicted within two years, and 62% reoffended so seriously they re-entered custody (www.howard.league.org).

A pledge to phase out the use of custody for teenagers, first made by the Conservative government in the Criminal Justice Act 1991 and repeated by successive home secretaries, has had little impact on practice. Indeed, the picture looks considerably worse a decade on: the numbers have increased three-fold since 1991 (Harker, 2002).

Indeed, when asked how he planned to respond to the growing prison population, Labour's Home Secretary at the time, Jack Straw, answered that prisons were a 'demand-led service' and that if the bench chose to impose custodial sentences it was his job to provide the cells (Pitts, 1999, p.18).

In February 2002, in a sharp reversal of the policies of his predecessor, Jack Straw, a philosophy of "reform or bust" has been pledged by David Blunkett to tackle the spiralling number of prisoners with a new emphasis on removing non-violent inmates to make room for more dangerous offenders. Proposals include allowing some offenders home three months early at the end of their sentences, rather than the current two months, under the home detention curfew (www.society.guardian.co.uk/crimeandpunishment/story/0,8150,644780,00.html).

In April 2002 new plans were outlined to tackle persistent young offenders. Courts are to be given new powers to remand 12 to 16 year old persistent young offenders in secure accommodation. The powers are being brought in by the implementation of Section 130 of the Criminal Justice and Police Act 2001. Initially they will apply to ten specifically targeted street crime initiative areas (including the West Midlands). From September 2002, they will be applied nationally. The government is also investigating strengthening the law to deal with 10 and 11 year olds

persistently commit low-level crime. In collaboration with the Department of Health, the Home Office is considering the use of 'protective custody' for young offenders, e.g. intensive fostering (Sale 2002).

The increased use of custody for children and young people since the early 1990s has been a source of concern for many of those working within the youth justice system. Criminal Statistics for 1999 reveal a further expansion in the numbers detained under sentence, by 400 over the previous year. From a longer-term perspective, custodial sentencing has almost doubled while the level of detected youth crime has fallen by 16%. The use of custody for young adults aged 18-20 has also risen significantly. In 1999, 18,000 young people within that age range received a custodial sentence compared with 17,000 the previous year and 15,800 in 1997 (NACRO, 2001).

The most recent criminal statistics confirm previously identified trends within the youth justice system. In particular, the 1990s witnessed a reduction in detected youth crime, an increase in the rate of prosecution, and a huge expansion in the use of custody for children and young people (NACRO, 2001).

The results of a MORI Youth Survey conducted on behalf of the Youth Justice Board and published April 2002 revealed that the most significant deterrents to committing crime for all children in school and excluded children was the fear of being caught and the reaction of parents. The report also found that excluded young offenders who have been caught are more likely than those who have not to be able to distinguish between right and wrong. This suggests that the nature of their contact with the youth justice system might be having a positive impact on their perceptions of right and wrong (Youth Justice Board, 2002).

The Social Exclusion Unit has called on the government to develop a national rehabilitation strategy for prisoners to bring about a more effective, cross-government approach to reducing re-offending. They say that this should include: a contract setting out what is expected of prisoners both inside and outside of jail, including addressing the factors associated with their offending behaviour, more advice for prisoners on benefit, housing and employment before release, increasing discharge grants paid to prisoners on release to help tide them over before they receive their first benefit payment, giving prisons the ability to secure emergency housing for ex-prisoners who would otherwise be homeless, increasing the availability of offending behaviour and drug treatment programmes, mental healthcare, education and training, and encouraging family support, and a “reparation fund” for the victims of crime funded by payments from prison wages (Social Exclusion Unit, 2002).

“In recent years, a new way of thinking about how crime should be viewed and responded to has begun to emerge and is making significant inroads into criminal justice policy and practice” (Johnstone, 2002, p.ix). This new philosophy, called restorative justice respects offenders’ humanity whilst condemning their acts. It consists of various initiatives including compensation, repairing damage, or service to the community. Part of this reparation is the desire of many victims that offenders should actively try to improve their chances of not reoffending, through skills, courses, literacy, numeracy or drug treatment programmes, for example.

Conditional discharges are the most frequently used disposals for male young offenders aged 10-13 in youth courts in England and Wales (Pitts, 1999). This form of disposal has risen in popularity with magistrates - in 1985 30% of all disposals were in the 10-13 year age group; a figure which by 1995 had increased to 50%. The Audit Commission has shown that conditional discharges were comparatively effective disposals, in that “...around 45% of young people dealt with in this way did not reoffend and, of the remainder who did, around two-thirds offended less frequently. This compares with reoffending rate for custodial sentences of over 75%” (p.17).

Despite concern about practise inside institutions, governments have been reluctant to appear shy of cracking down on young offenders. At the last election, a New Labour manifesto pledge to “improve the standard of custodial accommodation and offending programmes for young offenders” was overshadowed by heavy promotion of proposals to strengthen the power of the courts to detain persistent young offenders awaiting trial. The inference of such emotive rhetoric is that incarceration is part of the solution to criminal behaviour among teenagers when it is manifestly still contributing to the problem (Harker, 2002).

On 7 June 2002 the total number of offenders under 21 years of age held in prison was 11,426. This has increased by over 8% in 2002 alone (www.prisonreformtrust.org.uk/news1.html). Young people in prison have had significant experience of trauma and instability; 32% had been in public care, 63% had left school before the age of 16, nearly 65% had been expelled from school, nearly 16% reported being sexually abused and 24% had attempted suicide.

Whilst penal reform groups such as The Howard League believe that the new youth justice structures are positive, (by providing greater inter-agency working and improved national co-ordination), they also believe that reducing the age at which children can be subject to orders and introducing civil orders with criminal sanctions for breach is unjust and unnecessary (www.howard.league.org).

It remains to be seen in what ways, and to what extent, the reforms of the youth justice system and the creation of Youth Offending Teams will impact upon current trends of reoffending behaviour. The monitoring role of the Youth Justice Board and a requirement that Youth Offending Teams submit quarterly returns will, however, ensure the availability of more detailed and more recent statistical information to inform future policy and practice for those working within the youth justice system.

It is widely believed by penal reform groups that children should not be incarcerated in prisons where the environment can be damaging and, if imprisoned, they should only be held under extreme circumstances and housed in secure accommodation. Insofar as the effectiveness of incarceration in relation to the problem of crime, it is argued that prison is an ineffective practice in terms of reducing offending and furthermore, there is a danger that if the number of children sentenced to custody continues to rise, younger children may end up in prison.

To combat this, resources should be directed towards non-custodial alternatives that can then be targeted towards the individual needs of each child. Imprisoning more and more people is not the answer to our high crime rate, but restorative justice may be. Tony Blair has recently announced more reparation schemes and if these are what many young offenders need, it must surely beg the question - why go to the (arguably) counter-productive expense of sending them to prison first? Reparation has been tried in many western countries and even where it produced no change in reconvictions it is considered worthwhile for the sake of improved treatment of victims. Although not suitable for every case, in New Zealand, where it has been pioneered for 10 years, for all juvenile offences except homicide research has shown a reduction in reoffending rates.

[Word count: 2,965]

REFERENCES

Braithwaite, J., 1999b, 1st Edition, *A Future Where Punishment is Marginalized: Realistic or Utopian?*, UCLA Law Review, 46, pp.1727-50 in Johnstone, G., 2002, *Restorative Justice: Ideas, Values, Debates*, Collumpton, Willan

Fagan, J.A., 1991, 1st Edition, *The Comparative Impacts of Juvenile and Criminal Court Sanctions on Adolescent Felony Offenders*, (Final Report, Grant 87-IJ-CX-4044, to the National Institute of Justice), Washington, DC, US Department of Justice in Pitts, J., 1999, 2nd Edition, *Working with Young Offenders*, Basingstoke, Macmillan

Goldblatt, P. & Lewis, C., (Eds), 1998, *Reducing Offending: An Assessment of Research Evidence on Ways of Dealing With Offending Behaviour*, London, Home Office

Harker, L., 2002, *Prison is no cure*, Community Care Magazine, 14-20 February 2002

Howard League for Penal Reform, 2001, *Children in Prison*, www.howard.league.org, Accessed: 23/06/02

Howard League for Penal Reform, 2001, *The Case for Reform*, www.howard.league.org, Accessed: 23/06/02

Howard League for Penal Reform, 2001, *The Youth Justice System*, www.howard.league.org, Accessed: 23/06/02

NACRO, 2001, *Youth Crime Factsheet: Facts About Young People Who Offend*, London, NACRO

Parker, H., Sumner, M. & Jarvis, G., 1989, 1st Edition, *Unmasking the Magistrates*, Milton Keynes, Open University in Pitts, J., 1999, 2nd Edition, *Working with Young Offenders*, Basingstoke, Macmillan

Pitts, J., 1999, 2nd Edition, *Working with Young Offenders*, Basingstoke, Macmillan

Prison Reform Trust, *Key Facts*, www.prisonreformtrust.org.uk/news1.html, Accessed 19/06/02

Sale, A.U., 2002, *There's a better way*, Community Care Magazine, 16-22 May 2002

Social Exclusion Unit, 2002, *Reducing Re-offending by Ex-prisoners*, London, Social Exclusion Unit

Society Guardian, *Blunkett Unveils Prison Reform Plans*, www.society.guardian.co.uk/crimeandpunishment/story/0,8150,644780,00.html, Written: 04/02/02

UNICEF, 1998, *Changing the world with children*, www.unicef.org/uwwide/index.html, Accessed: 25/03/02

Youth Justice Board, *Who, What, Why? - Purpose*, www.youth-justice-board.gov.uk/who/why.html, Written: 2001

Youth Justice Board, 2002, *Summary of the MORI 2002 Youth Survey*, London, Youth Justice Board