



THE STANDING COMMITTEE FOR YOUTH JUSTICE

Briefing - The Legal Aid, Sentencing and Punishment of Offenders Bill – Clause 128

Introduction

The Standing Committee for Youth Justice (SCYJ) is a membership body which provides a forum for organisations, primarily in the non-statutory sector, working to promote the welfare of children who become engaged in the youth justice system; and advocates a child focused youth justice system that promotes the integration of such children into society and thus serves the best interests of both the children and their communities.

Background to Clause 128 – Offences of threatening with blade or point or offensive weapon in public or on school premises

Clause 128 was added to the Legal Aid, Sentencing and Punishment of Offenders Bill to introduce a mandatory minimum six month sentence for adults convicted of using a knife or offensive weapon to threaten or endanger. The Justice Secretary brought forward a further amendment at Report Stage in the House of Commons, introducing a mandatory minimum four month Detention and Training Order (DTO) for 16 and 17 year olds convicted of the same offence. In the debate, Labour proposed extending this mandatory sentence to younger children. SCYJ is opposed to the introduction of mandatory minimum sentences for 16 and 17 year olds and calls on the Government to amend the Bill to the effect that children are removed from the Clause.

SCYJ opposes the extension of this Clause to any child under the age of 18 for the following reasons:

1. Sentencers already have powers to imprison under-18 year olds for up to two years for possession of a knife in a public place. They have discretion as to what sentence to use. Mandatory sentences, such as this Clause seeks to introduce, fetter judicial discretion which is particularly important in the case of children. The Chair of the Magistrates' Association Youth Courts Committee has spoken out against this mandatory sentence and emphasised that children must be treated differently to adults.

2. According to the impact assessment for the Bill, the extension of this sentence to 16 and 17 year olds is likely to lead to *“an estimated additional 200-400 custodial sentences per year...resulting in an additional requirement for 30-60 beds in the secure estate for young people”*¹. The UN Convention on the Rights of the Child, of which the UK is a signatory, states that child imprisonment should be used as a last resort. In addition, The Children Act 1989 dictates that any actions which the state takes against a child should be in their best interest. SCYJ believe that mandatory sentences for 16 and 17 year olds convicted of threatening with a knife are neither a last resort nor in the best interests of the child.
3. Imprisonment of children is expensive and ineffective, with 71.9% of children who have been imprisoned reconvicted within a year of their release. According to the impact assessment, *“the additional cost of imposing a minimum sentence for 16 and 17 year olds is estimated at between £2m and £4m per year”*². It is worth noting the results of the most recent annual survey of 15-18 year olds in prison published by HM Inspectorate of Prisons and the Youth Justice Board this month. When asked whether they wanted to stop offending, 92% of sentenced young men and 93% of sentenced young women said they did; however, only 47% of young men and 56% of young women said that they had done something, or that something had happened to them while they had been in custody, that would make them less likely to offend in the future.³
4. There is no evidence that imprisonment acts as a deterrent for children. Indeed, deterrence is not listed as one of the statutory purposes of sentencing for juvenile offenders under the Criminal Justice Act 2003. In 2008 the Howard League for Penal Reform (a member of SCYJ) published a study of knife crime amongst 15-17 year old boys in London entitled *Why carry a weapon?* The study suggested that a 'general deterrence' concept (that the choice to commit criminal acts can be controlled by the threat of punishment) has, at best, a limited impact on whether children and young people carry knives. Children and young people carrying knives do so for reasons of fear and fashion and have little understanding of the distant consequences of the courtroom and prison cell. In addition, research from the World Health Organisation (WHO) suggests that interventions which take a public health,

¹ <http://www.justice.gov.uk/downloads/publications/bills-acts/legal-aid-sentencing/ia-sentencing-punishment-laspo.pdf>

² *ibid*

³ HM Inspectorate of Prisons and Youth Justice Board (2011) *Children and young people in custody 2010-11: An analysis of the experiences of 15-18 year olds in prison* – available at: <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/children-young%20people-2010-11.pdf>

rather than criminal justice, approach to tackling violence amongst children and young people have a much stronger evidence base⁴.

5. Knife crime is a very serious problem, particularly in some urban areas. However, latest statistics suggest that the problem is lessening and thus that existing sentences and prevention programmes are working. The number of offences involving the possession of a knife which were committed by children in the last quarter reduced by 27% compared to the same period two years ago⁵.

Members of SCYJ are: Action for Children, 4Children, Association of YOT Managers, Barnardo's, Catch22, The Children's Society, Centre for Mental Health, Children's Rights Alliance for England, Council for Disabled Children, Criminal Justice Alliance, Howard League for Penal Reform, Just for Kids Law, JUSTICE, MAC UK, Nacro, National association for Youth Justice, NCB, NSPCC, National Youth Agency (NYA), TACT, The Prince's Trust, Prison Reform Trust, Secure Accommodation Network, SOVA, User Voice, Voice

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The contents of this briefing do not necessarily reflect the views of all the member organisations.

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⁴ WHO (2010) *European report on preventing violence and knife crime among young people* Copenhagen: WHO

⁵ <http://www.justice.gov.uk/publications/statistics-and-data/courts-and-sentencing/knife-possession.htm>