



The Standing Committee for Youth Justice (SCYJ)

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Custody for Children: The Impact

A position paper on the impact of the overuse of custody for children in England and Wales

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Background

Despite a recent drop in the numbers of children incarcerated for criminal offences¹, England and Wales still has one of the highest rates of child imprisonment in Western Europe. The number of children sentenced to custody has more than tripled between since 1991, and the child custody population increased by 795% from 1989 to 2009.² Of particular note are the increase in the use of custody for young children – those aged 10 to 14 – which increased by 550% between 1996 and 2006;³ and the 41% increase in the number of children locked up on remand.

England and Wales has, at 10, one of the lowest ages of criminal responsibility in Europe, and children as young as 12 can be incarcerated for non-violent offences if they are deemed to be ‘persistent’ offenders. With no legal definition of ‘persistency’, this can be a very subjective and inequitable decision for individual courts and children.

The Standing Committee for Youth Justice (SCYJ) believes that the use of custody for children could and should be greatly reduced. While a small number of children do commit very serious offences where a period of detention is inevitable, for most custody exacerbates the damage to already damaged and vulnerable children, will be ineffective in addressing their offending, and is costly both in terms of the public purse and the detrimental effect on the lives of each of the children incarcerated.

¹ During December 2009, the under 18 custody population decreased by 261 to 2,203, the lowest since the formation of the YJB: <http://www.yjb.gov.uk/en-gb/yjs/Custody/CustodyFigures/>

² ‘20 Years on: The Impact of the 1989 Children Act’, *Children and Young People Now*, 29 October 2009.

³ Derived from Ministry of Justice (2007) Court Proceedings Database. Ministry of Justice, London, May 2008.

The ineffectiveness of custody for children

The principal purpose of the youth justice system in England and Wales is the prevention of offending or reoffending. Imposing a custodial sentence, particularly for non-violent offences, does not meet this purpose for the majority of children incarcerated. While the frequency and severity of reoffending has recently reduced, nevertheless reoffending rates for children who have served a custodial sentence remain the highest when compared with the use of community based disposals, with 75% of children released from custody reoffending within a year of their release.^{4,5}

The costs of custody

The financial costs of custody vary across the three types of establishments which comprise the secure estate.

The majority of children in custody are incarcerated in Young Offender Institutions (YOIs), run by the Prison Service and private sector providers on an adult prison model. It is problematic to ascertain the accurate cost of a place in a YOI; the Government says this costs £60,372 per annum per place, but the Foyer Federation estimate this figure to be nearer £100,000 per annum.

Children aged 12 to 14 are normally placed in Secure Training Centres (STCs) operated by the private sector and costing £160,080 per annum per place.

Children aged 10 or 11 who have committed serious offences are placed in Secure Children's Homes (SCHs), run by local authorities and the private sector, and other children assessed as vulnerable should also be placed in these units –

⁴ 'Re offending by juveniles: results from the 2007 Cohort'. England and Wales. Ministry of Justice Statistics Bulletin. May 2009.

⁵ Home Office (2005) Offender management caseload statistics 2004.

although it should be noted that the Youth Justice Board (YJB) has recently decommissioned a number of these places, leaving less than 200 across England and Wales. SCH places cost approximately £215,496 per annum per place.⁶

In 2007/8 the public purse spent £649 million on youth justice in England and Wales and 64% of the YJB budget is spent on paying for custody.⁷ It is of interest to note that the average cost of locking up a child in any type of custody for one year could provide a child with an education at Eton College for six years.⁸

Already vulnerable children

Children in custody come in the main from the most disadvantaged families and communities, whose lives are frequently characterised by deprived social landscapes, neglect and abuse:

- 50% have experienced time in care or substantial social services involvement⁹, compared to 3% of the general population.¹⁰
- Two out of five girls and one out of four boys in custody report suffering violence at home. One in three girls and one in 20 boys in prison report sexual abuse.¹¹
- A study by Oxford University based on ASSET returns show that the figures for children in custody who were abused as a child are 50% higher than others on Youth Offending Team caseloads and 30% of these

⁶ All costs supplied to the Foyer Federation by the YJB at May 2009.

⁷ Solomon, E and Garside, R (2008) *Ten years of Labour's youth justice reforms: an independent audit*, Centre for Crime and Justice Studies, London.

⁸ *Locking up or giving up – is custody for children always the right answer?*, Barnardo's, London, September 2008.

⁹ Nacro (2003), *Counting the cost, reducing child imprisonment*, NACRO, London.

¹⁰ From National Census, 2001.

¹¹ Youth Justice Board, *Accommodation needs and experiences, 2007*, as cited in *Legal Action*, February 2008.

- children had experienced or witnessed domestic violence compared to 8% of others on the caseloads.¹² Other studies undertaken over the last ten years confirm these high levels of childhood abuse, neglect or traumatic loss among the custodial population.¹³
- 31% have a recognised mental health disorder,¹⁴ compared to 10% of the general population.¹⁵
 - Behavioural and mental health problems are particularly prevalent amongst children and young people in prison. Research commissioned by the YJB in 2006 found that 19% of 13-18 year olds in custody had depression, 11% anxiety, 11% post-traumatic stress disorder and 5% psychotic symptoms.¹⁶
 - 15% have a statement of special educational needs,¹⁷ compared to 3% of the general population.¹⁸
 - 88% of boys and 89% of girls in YOIs have been excluded from school¹⁹. – this compared to just 6% of the general population.²⁰
 - In recent research by Barnardo's into younger children in custody, a shocking 8% of 216 children aged 12, 13 and 14 serving a Detention and Training Order had attempted suicide at some time in their young lives²¹.

¹² Baker, K, et al (2004) *The evaluation of the validity and reliability of the Youth Justice Board's Assessment for Young Offenders*, Youth Justice Board, London.

¹³ Boswell, G (1997) 'The backgrounds of violent young offenders'; Boswell, G (1996) 'The prevalence of abuse and loss in the lives of Section 53 offenders'; Weeks, R and Widom, CS (1998) 'Self reports of early childhood victimization among incarcerated male felons'; Hamilton, CE, Falshaw, L and Browne, KD (2002) 'The link between recurrent maltreatment and offending behaviour'; Sherman, L et al (1997) 'Preventing Crime: What works, what doesn't, what's promising'. In *Children abused and/or neglected prior to custody*, YJB, 2008.

¹⁴ YJB (2005) *Mental health needs and effectiveness of provision for young offenders in custody and in the community*, Youth Justice Board, London.

¹⁵ ONS (2005) *Mental health of children and young people in Great Britain*, Department of Health, London.

¹⁶ Chitsabesan et al (2006) 'Mental health needs of young offenders in custody and in the community', *British Journal of Psychiatry*, vol 188, 534-540.

¹⁷ YJB (2003) *Asset: The evaluation of the validity and reliability of the Youth Justice Board's assessment for young offenders*, Youth Justice Board, London.

¹⁸ DCSF (2008) *Special educational needs in England, January 2008*, Department for Children, Schools and Families, London, June 2008.

¹⁹ HM Inspectorate of Prisons/YJB (2009) *Children and young people in custody 2008-2009: an analysis of the experiences of 15-18 year olds in prison*.

²⁰ DCSF (2008) *Permanent and fixed period exclusions from schools and exclusion appeals in England 2006/07*, Department for Children, Schools and Families, London, June 2008.

Compounding the damage

Based on the evidence above, it is clear that children in custody are already extremely vulnerable and their custodial experience exacerbates and compounds this vulnerability. Notwithstanding the best efforts of individual staff, custody for children is unsafe and offers little by way of rehabilitation, as is evidenced by the high reoffending rates.

- 30 children have died in custody since 1990, including one who died as a result of a restraint incident.²² It should be noted that none of these deaths occurred in a SCH.
- 11% of prisoners involved in assaults classified as serious are children, despite their constituting only 3% of the prison population.²³
- The number of children assessed as vulnerable in custody was 1,148 in 2007, a rise of 12% on 2006, and 21% on 2005.²⁴
- Only around half the girls and a quarter of the boys held in Young Offender Institutions were able to exercise outside every day, and in one establishment surveyed, none were. Only 11% of young people across establishments had access to the gym five times or more a week, and in some establishments this reached only 2%.²⁵
- The National Audit Office has highlighted the high number of movements of children between jails to make way for new arrivals, disrupting

²¹ 'Locking up or giving up: Why custody thresholds must be raised. Barnardo's London. August 2009

²² See statistics on INQUEST website, www.inquest.org.uk

²³ NOMS, *Safer Custody News*, Jan/Feb 2007.

²⁴ *Hansard*, House of Commons written answers, 28 March 2007: Column 1652W.

²⁵ Worsley, R, *Young People in Custody 2004 to 2006*, HM Inspectorate of Prisons, London, 2007.

- education and training courses and leading to inconsistent support and supervision.²⁶
- Evidence suggests that there is a high level of self harm among children in custody. While the Government does not collate figures in an accessible way for children in STCs or SCHs, there were 1,429 reported incidents of self harm among children aged 15, 16 and 17 held in YOIs in 2008.²⁷
 - Three quarters of boys and half of all girls are placed in custodial institutions more than 50 miles away from their home area.²⁸
 - HM Inspector of Prisons recently expressed concerns about the level of injuries following control and restraint at a YOI and questioned the role of outside agencies such as the YJB and the Local Children's Safeguarding Board in investigating these injuries.
 - In 2003, a review of safeguarding and child protection in YOIs (following the Munby judgement in 2003 in relation to the application of the Children Act 1989 to children in custody) resulted in the deployment of 25 social workers in YOIs. However, the future funding of these social workers is under serious doubt. These have been funded by central Government but this ceased in 2009 and local authorities have been unable to reach agreement about how they would fund the posts. As of December 2009, fewer than half of the posts were filled.²⁹

Post custody

The Government published the Youth Crime Action Plan (YCAP) in 2009 with great emphasis in the plan for improved support for children on their release from custody. However, few of the proposals in YCAP have any statutory basis and it

²⁶ National Audit Office (2004) *Youth Offending: The delivery of community and custodial sentences*, HMSO, London.

²⁷ *Hansard*, House of Commons Written Answer, 12 October 2009: Column 166W.

²⁸ Youth Justice Board Annual Statistics 2005/6.

²⁹ *Hansard*, House of Commons Written Answers, 16 December 2009: Column 1248W.

is difficult to see how these children will be provided with an equitable support service which overcomes some of the current problems:

- Children released from custody and still below the school leaving age experience great difficulties in re-accessing mainstream education. In a survey of Youth Offending Teams, only 6% said that children had been able to continue the education started in the custodial unit.³⁰ A study from 2001 found no child who went straight into a full time education place immediately on release from custody was reconvicted, compared to one third of those who did not have any education provision on release.³¹
- Children leaving custody also have problems in accessing suitable and supportive accommodation – these problems are exacerbated for 16 and 17 year olds. 22% of Youth Offending Teams say that accommodation is not arranged until the actual day of release and 7% reported not being able to access accommodation until after release.³²
- Research for the Youth Crime Action Plan estimated that 15% of children leaving custody do not have suitable accommodation.

³⁰ *Youth Offending: the delivery of community and custodial sentences*, report by the Comptroller and Auditor General, HC 190 Session 2003 – 4, 21 January 2004, The National Audit Office.

³¹ Audit Commission (2004) *Youth Justice 2004: a review of the reformed youth justice system*, Audit Commission, London.

³² *Youth Offending: the delivery of community and custodial sentences*, n29 above.

The SCYJ position

SCYJ believes that the Government should take urgent steps to reduce the use of custody for children and provide adequate support for those leaving custody by:

- 1. Raising the custody threshold to ensure that custody for children is only used as a last resort in line with the legal requirements of the United Nations Convention on the Rights of the Child and other international conventions relating to the treatment of children in trouble with the law.**
- 2. Taking steps to monitor local authorities robustly to ensure that they are fulfilling all their duties under the Children Acts 1989 and 2004 to provide proper support and alternatives for children at risk of custody, especially alternatives to custodial remand.**
- 3. Devolving the budget for child custodial places to local authorities, thereby removing the current financial disincentive to provide alternatives to custody.³³**
- 4. Making support for children leaving custody a statutory duty, with a requirement that local authorities put in place support services akin to those provided to children leaving care under the Children (Leaving Care) Act 2000.**
- 5. Revising the policy to ensure that children entering custody are subject to the same protections and rights as all other children who**

³³ See Standing Committee for Youth Justice (July 2009), *The Funding of Custody for Children: Devolving the Budget*, available at www.scyj.org.uk

are looked after away from home; akin to those provided under Section 20 of the Children Act 1989.

6. Undertaking an urgent review and reformation of the current configuration of the secure estate with a view to ensure that children in custody are cared for in small, child centred units close to their home communities with a focus on rehabilitation and integration and respect for their human rights.
7. Implementing as a matter of urgency Section 34 of the Offender Management Act 2007, which allows for children serving a Detention and Training Order to be placed elsewhere than establishments in the current secure estate.

Standing Committee for Youth Justice
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The Standing Committee for Youth Justice (SCYJ) www.scyj.org.uk 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-focussed youth justice system that promotes the integration of such children into society and thus serves the best interests of the children themselves and the community at large.

Members are: 4Children, Action for Children, Association of Panel Members, Association of YOT Managers, Barnardo's, Catch22, The Children's Society, Children's Rights Alliance for England, Council for Disabled Children, The

Howard League for Penal Reform, Just for Kids Law, JUSTICE, Nacro, National Youth Agency (NYA), National Association for Youth Justice (NAYJ), NCB, TACT, The Prince's Trust, Prison Reform Trust, Sainsbury Centre for Mental Health, Secure Accommodation Network, SOVA and VOICE.

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