3

Beyond Welfare Versus Justice: Juvenile Justice in England and Wales

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INTRODUCTION

A quarter of a century ago, the prevailing view about how best to respond to juvenile[1] crime was dominated by the orthodoxy that criminal justice interventions had little or no impact on future offending behaviour (and could even be counterproductive) and that juvenile justice policy should, as far as possible, focus on diverting young offenders from the criminal justice system (see, e.g., Morris and Giller, 1987). By the beginning of the 1990s, frustration with the scientific community's reticence to endorse criminal justice interventions and public concern over the frequent offending of a relatively small group of young offenders led to an almost complete reversal of the diversion orthodoxy that characterised the 1980s. This was exemplified by the passing of the 1991 Criminal Justice Act, which moved towards a "just deserts" approach that shifted the focus of sentencing towards the nature and seriousness of the offence, rather than the offender and his/her criminal record.

However, the tragic events of February 1993 and their highly publicised aftermath drove public concern into public panic. The abduction and murder of a young child, James Bulger, by two 10-year-old boys, shocked the nation and confirmed to the public and politicians alike that action was indeed needed "to curb the delinquent tendencies of the new generation of ever-younger and increasingly persistent offenders". Within a year, new legislation – the Criminal Justice and Public Order Act 1994 – introduced stiffer penalties for juvenile offenders, including the extension downwards of long term detention to include 10- to 13-year-olds (see s. 53 of the Children and Young Person's Act 1993)[2] and the introduction of the new Secure Training Order for persistent offenders aged 12–14. This set the tone for the rest of the decade which, in contrast to the preceding decade, witnessed a substantial rise in the juvenile custodial population and an altogether more punitive response to offending by children and young people.

[1]The terms 'juvenile' and 'youth' are used interchangeably here, although strictly speaking juveniles are defined in law as those aged 10–17, whereas youth is a more generic term covering a wider age range.
[2]Section 53 of the Children and Young Persons Act 1933 defines the sanctions appropriate for grave crimes committed by juveniles aged 14–17. Grave crimes are serious crimes such as robbery or rape, for which an adult would receive a minimum custodial sentence of at least 14 years. Juveniles charged with committing such an offence are dealt with in the Crown Court.

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The emergence of the persistent young offender during the early 1990s was confirmed by the first national survey of self-reported offending by 14- to 25-year-olds in England and Wales, which showed that a small minority of juveniles – 3% – were indeed responsible for over a quarter of juvenile crime (Graham and Bowling, 1995). But more significantly, the same report found that, contrary to popular belief, many young men do not appear to simply grow out of crime as they approach adulthood but just switch to offences with lower detection rates, such as fraud and theft from the workplace. Policymakers then questioned the notion that juvenile offenders should be diverted from formal proceedings and proposed quite the opposite – namely intervening as early and as quickly as possible in order to "nip offending in the bud".

Further reforms were then introduced following the publication of Misspent Youth, a report by the Audit Commission that roundly criticised the effectiveness and efficiency of the youth justice system and the services that support it (Audit Commission, 1996). From its analysis, it concluded that the time taken from arrest to sentence was far too long (4 months on average); that most of the £1 billion per annum spent on young offenders was taken up by processing and administration costs with virtually no money being specifically used to address their offending behaviour; and that the management of the juvenile justice system was largely uncoordinated, inconsistent, unsystematic and inefficient. The report concluded that resources should be shifted from the juvenile justice system to more proactive, preventative work with children at risk of offending, which became one of the main philosophical planks underpinning the new approach to juvenile justice as enshrined in the Crime and Disorder Act, 1998. Indeed this legislation introduced a new single statutory aim for the juvenile justice system – to prevent offending and reoffending by children and young people – which helped to circumvent the tensions between the "welfare" and "justice" models and unify practitioners towards a common and shared purpose.

As well as the establishment of a new Youth Justice Board to provide leadership, set standards and monitor performance, the 1998 Act also introduced a wide range of measures that reflected in law much of the new discourse on the nature of juvenile crime and ways to combat it. The latest ways of thinking included extending criminal responsibility beyond the offender himself/herself and towards embracing their parents; the introduction of restorative justice; and confronting young offenders with the consequences of their offending and helping them to develop a sense of responsibility. Reducing costs and improving performance are the driving forces behind a new managerialism, with an emphasis on devising plans, setting targets, measuring performance and reviewing progress.

Many of the new measures have been piloted (they were rolled out nationally in June 2000), which reflects a desire to develop pragmatic rather than ideological solutions. Most importantly of all, the new legislation introduced a network of 155 multi-agency youth offending teams (Yots) across the country to coordinate the provision of juvenile justice services. Each Yot is made up of representatives from social services, probation, police, education and health and is responsible