

31st January 2012

Riots Panel
6th Floor
Eland House
Bressenden Place
SW1E 5DU

Re: Young adults in the criminal justice system

We welcome the opportunity to contribute our views to the Riots Communities and Victims Panel. Our response is focused on young adults, given the prevalence this age group played in the riots. We have drawn upon the expertise of the Howard League for Penal Reform in this area in practice and policy in responding to this consultation.

About us

The Howard League for Penal Reform is the oldest penal reform charity in the world and campaigns for less crime, safer communities and fewer people in prison.

The Howard League has a successful campaigns team, which drives for change through its parliamentary work, research, policy work, events and media engagement. In 2002 the Howard League launched the only dedicated legal service for children in custody in England and Wales. In 2007 this service was extended with the launch of a young adult team, who represent young people up to the age of 21 in prison. It provides free, independent and confidential advice and representation on a wide range of issues to children and young people.

In 2009 the Howard League launched U R Boss. Funded by the Big Lottery for five years, U R Boss is a ground-breaking youth justice project that provides a national programme of participation opportunities to children and young adults in custody and those recently released into the community. The ethos of the project is to empower them to have a voice, be heard and:

- Campaign to change national policy and practice in the statutory and voluntary sectors working with children and young people
- Change public attitudes to children and young people in the penal system
- Come up with new ideas about children and young people in the penal system
- Enhance the legal service being provided by the Howard League to children and young people in the penal system

The Howard League is also a member of the Transition to Adulthood (T2A) Alliance.

Key principles and recommendations

- Young adults, aged 18-24, are a distinct group with distinct needs. This should be reflected in diversion, services, guidance, approach and secure environments.
- Many young adults in the criminal justice system are vulnerable and have complex needs. In light of these vulnerabilities and needs, their welfare should continue to be a primary concern, just as it is for children.
- Communicating the needs of young adults, and the distinct approach required, to key individuals and stakeholders should be a priority.
- Young adult offending team (YAOTs) should be established, which replicate the holistic approach of youth offending teams (YOTs), to address young adults distinct and complex needs.
- Custody should only be considered as a last resort for young adults, just as it is for children. For those few 18-24 year olds who require a period in a secure environment, they should be kept in small units, close to their homes, where the underlying causes of their criminal behaviour can be addressed.

Why do young adults need to be recognised as a distinct group?

‘Overall, this is still a neglected and under-resourced age-group. Busy and overcrowded local prisons struggle to deal with their specific needs, and even specialist young offender institutions lack the resources, support and training to do so. The high rate of reoffending among young adult men is unlikely to reduce without significant changes in approach, funding and focus.’

Dame Anne Owers (2010)

Much progress has been made in the youth justice system in recent years in recognising those aged under 18 as a distinct group. Although there is still much work to be done, this recognition and action has led to tangible outcomes, including a reduction in the number of offences committed by children, a reduction of first time entrants into the youth justice system, and a reduction in the number of children in custody.

President: The Lord Carlile of Berriew QC Chair: Sue Wade Director: Frances Crook Charity No. 251926 Company limited by guarantee No. 898514

The Howard League for Penal Reform works for a safe society where fewer people are victims of crime

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Research undertaken by the T2A Alliance (2010) demonstrates that young adults are a distinct group with acute needs:

- Over half of young adults are unemployed on arrest and a third have a basic skills deficit compared with a quarter of those over 25 years of age
- Young adults in the criminal justice system are more likely to abuse alcohol than both older and young prisoners
- At least 25 per cent of young men in prison are fathers
- Young adults are also more likely than older prisoners to have been in the care system
- Young people who are not in education or employment (NEET) are on average 20 times more likely to be convicted of a crime and the number of 18-24 year olds who are NEET continues to rise to unprecedented levels at over one million (ONS, 2012)

There has also been an increase in the publication of research that shows that people mature at different rates and many young adults in the criminal justice system exhibit development levels more characteristic of far younger people. Brain development continues into the mid to late 20s, affecting reason, judgement and impulse control, and young people with the most troubled or traumatic childhoods – characteristic of those young adults in conflict with the law – often take a lot longer to mature (The Royal Society, 2011).

In recognition of such findings, both the United Nations and European Council of Ministers have indicated formal support for young adults to be treated like children in criminal justice systems, but few if any countries have followed this fully. However, there is evidence of at least some kind of special provision for young adults in most European countries.

Systemic failure

The distinct needs of young adults are not being met and the current system is failing. This failure was epitomised by the riots: over a quarter of the rioters in August's unrest were aged 18-20 and nearly three quarters were under 25. Three quarters of those charged in connection with the riots had previous criminal convictions (Ministry of Justice, 2011a).

The riots shone a spotlight on the systemic failures of the criminal justice system in relation to this group. Research by the T2A Alliance (2010) found that despite making up 9.5 per cent of the population, young adults commit approximately a third of all crime, represent a third of all those sentenced to custody each year and take up a third of probation caseload.

This failure has been in the public domain for some years. In 2006 the Howard League produced *Out for Good*, the result of a two year research project funded by the Big Lottery into the needs of young men in prison. The

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report found that young adults were a neglected and marginalised group whose needs had largely been ignored. It gave a voice to young men in prison, allowing them to explain their own resettlement needs, and to say what would prevent them from reoffending. In the same year HM Inspectorate of Prisons undertook a thematic review of young adults in prison and concluded that;

'The overall findings underline the need to have a discrete strategy and approach for young adult men in prison....The clear message of this report, however, is that what will not work is simply to decant young adults into the mainstream adult prison population.'

A criminal conviction can have a disproportionate impact at this crucial stage in a young person's life. It can become a barrier to education and employment opportunities and have implications on their ability to become a productive member of society in the long term. Unlike adults, young people may not yet have gained qualifications or experience to militate against the negative impact of a criminal conviction when looking for work. Similarly, a custodial sentence can have a disproportionate impact, hindering a young person's ability to lead a productive life in the future. A criminal record itself can be a life sentence.

The effect of a custodial sentence on a young person who has just turned 18 can be devastating. Prisons which hold young adults have been repeatedly criticised by HM Inspectorate of Prisons for their high rates of assault, high use of restraint, poor regimes and conditions and poor staff prisoner relationships.

HM Inspectorate of Prisons Annual Report, 2011

The quality of provision in the young adult establishments inspected was of particular concern. In only one of the four inspections were outcomes judged as reasonably good, two were not sufficiently good and one was poor.

Of all prisoners, young men aged between 18 and 21 years should be involved in activities that give them the habits, experience and training they need to get and hold down a job when they leave prison. In addition, a prison where young men are kept occupied is likely to be a safer and more positive place for prisoners and staff alike. Young adult establishments generally had high numbers of men locked in cells during the working day, even when there were sufficient activity places. Moreover, the nature of the provision did not match identified need.

A quarter of the young adult population thought they would leave prison with a drug problem.

23 per cent of the young adult populations believed they would leave with an alcohol problem.

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We are warehousing young adults in prisons that do not work – reoffending rates for young adults are amongst the highest of any group (Ministry of Justice, 2011c) and as the total prison population continues to surge, young adults are left idle in overcrowded conditions. This overcrowding means that prisons previously dedicated to young adults are being re-rolled and young adults are increasingly placed on wings in adult prisons with adults, in cells designated as ‘young offender institutions’. Thus, the situation is taking retrograde leaps contrary to the recommendations published some six years ago, as outlined above.

Young adults who died in prison in 2011	
Nicholas Wheller, 19	HMYOI Aylesbury
Trevor Llambias, 18	HMP/YOI Bedford
Amy Friar, 24	HMP/YOI Downview
Nicholas Saunders, 18	HMYOI Stoke Heath
Mary Rosser, 19	HMP/YOI New Hall
Norman Minto, 22	HMP Durham
Riliwanu Balogan, 21	HMYOI Glen Parva
Angel Vadoua, 23	HMP/YOI Bedford
Luke Thomas, 22	HMP Leicester
Tuan Anh Ho, 18	HMP/YOI Chelmsford
Jason Rose, 24	HMP/YOI Exeter
Edino Carvalho, 23	HMP Bristol
Peter Lally, 23	HMP Bullingdon
Billy Spiller, 21	HMYOI Aylesbury
Kyal Gaffney, 22	HMP Hewell
Tom Morris, 23	HMP Swaleside
Christopher Neale, 19	HMYOI Glen Parva
Michael Harrold, 19	HMYOI Glen Parva

The most devastating impact of imprisonment on this group of young people is the prevalence of self harm and suicide.

There were 10,726 incidents of self harm by 18-24 year olds in prison in 2010, accounting for 40 per cent of all self harm incidents and an increase by almost 20 per cent on the year before (Ministry of Justice, 2011b). 19 young adults died in prison in 2011 – 16 of

these have been classified as suicide, two remain unclassified and one was of natural causes.

Further to this devastating human cost, the economic cost of failing this group is vast: young adult crime costs the taxpayer between £16.8 - £20 billion per year.

Principles into practice

The Howard League welcomes many of the proposals currently being passed through parliament in the Legal Aid Sentencing and Punishment of Offenders (LASPO) Bill which, if implemented successfully, will positively impact on young adults. In particular, increased opportunities for diversion for those with mental health, alcohol and drugs problems and improved use of community sentences as alternatives to custody are steps in the right direction.

The Children (Leaving Care) Act 2000 was brought in on the basis that young adults with disruptive backgrounds needed additional support from social

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services and assistance through the transition period from childhood to adulthood. Young adults in the criminal justice system come from similar disruptive backgrounds. Over a decade later, it is high time that practice change reflected this legislative recognition.

The opportunity should be seized to do better and go further to recognise that 18-24 year olds are a distinct group, with discrete needs and assure that they are met.

Solution 1: Reconvene the project board to develop a strategy and standard for the management of young adult offenders in custody and the community

In 2005 the Home Office announced that NOMS would create a project board to look at the strategy and management of young adult offenders in custody and the community, the purpose of which was to identify how the discrete needs of this group could be met. A number of stakeholders, including the Howard League, attended this group, meetings were held, but no conclusions were found and a policy paper or recommendations were never produced.

By rejuvenating this initiative, and ensuring that its findings are implemented, this would provide a further evidence base and strategic vision for young adults in the criminal justice system, as well as providing a platform from which the needs of young adults can be communicated to key stakeholders working with this group.

Solution 2: Diversion

Diversion from community orders to pre-court measures, as is done in the youth justice system, is a proven way to reduce reoffending and keep people out of contact with the long term damage involvement in the criminal justice system can bring. Restorative justice is beneficial for both victims and people that offend and forces young people to face up to the consequences of their crimes.

Diversion from community orders to pre-court restorative justice is also economical and has been estimated to bring immediate saving to the public purse. During the course of 10 years, implementation of such a scheme could lead to a total net benefit to society of over £1 billion (Matrix, 2009) and divert young people away from the revolving door of crime.

Solution 3: Effective community sentences

Research on community sentences suggest that they need to be more responsive to the needs of young adults who offend (International Centre for Prison Studies, 2008). The heavy reliance on unpaid work programmes and less use of orders that address the underlying causes of criminal behaviour will do little to reduce reoffending rates in the long term or turn young people's lives around by providing positive solutions.

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The Howard League runs the annual Community Programmes Awards, which celebrates best practice in community sentencing and champion the cutting edge of the criminal justice system, with work in the community that challenges and changes people for the better. By finding outstanding community programmes that work with individuals who have committed crime, it is hope that the awards not only celebrate success but also promote positive practice in the delivery of community sentences. We believe that well-resourced and well-structured programmes will raise public protection, bring down the rate of reoffending, and repay the damage done by crime in a way which custodial sentences cannot.

Solution 4: Adapting sentencing guidelines

There should be a presumption that young adults are lacking in maturity and the overarching principles for sentencing children should continue to be applied unless it is proved otherwise, through a maturity assessment. Similar approaches are adopted in other countries. For example, in Germany, young adults are assessed under the Marburg guidelines to determine whether they should in legal terms be considered a child and sentenced according to juvenile law.

The Sentencing Guidelines Council has gone some way to embed this into practice by specifying young adults 'lack of maturity' throughout the sentencing process, for all offences of assault or burglary. Although this is welcome, maturity needs to be taken into account throughout the system and for all crimes to reflect young people's needs and abilities.

In addition, the custody threshold should be raised so that it can only be considered as a last resort for young people aged 18-24, just as it is for children. Given the high costs of custody and reoffending, this would bring immediate savings to the public purse.

The implementation of changing the sentencing guidelines from custody to community orders has been estimated to be paid back within three years of implementation and within 10 years would be likely to lead to a total net benefit to society of almost £33 million (Matrix, 2009).

Solution 5: The creating of young adult offending teams (YOATs)

Where young adults are drawn into the criminal justice system appropriate services need to be in place. Our experience of working with young adults in custody has shown that they have complex needs and often need a great deal of support from statutory and voluntary agencies to enable them to lead crime free lives.

Diverting young adults into mental health, alcohol and drug services, as outlined in the LASPO Bill, are important first steps. The Howard League

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proposes that the government goes further: young adult offending teams (YAOTs) should be established, which replicate the holistic approach of YOTs to address young adults distinct and complex needs.

In the short term, this could be achieved with no additional investment by reconfiguring the existing probation service so that each area has a team of workers dedicated to the care of young adults. As the cost savings proposed in the other solutions come to fruition, money can be reinvested into these teams to increase the number and quality of services they provide, decided at a local area depending on the needs of those they are working with.

Solution 6: Reducing the use of custody

For the very few young adults who do require a period in secure accommodation they should be in secure environments separate to adults, which can provide a safe environment that offer real opportunities for rehabilitation.

Prison is the most costly, misused and failing part of the criminal justice system. Nearly £40,000 is spent per person per place in prison (Hansard, 2011) yet young adults have one of the highest reoffending rates of any group. It is neither economically wise nor socially just.

When assessing the use of prison from an economic perspective, Marsh et al (2009) concluded:

'From the existing cost-benefit that while prison may be an efficient sentencing option for more serious offenders, for non-serious offenders the cost outweighs the benefits of the incapacitation, rehabilitation and specific deterrence effects...Whatever the other reasons put forward for or against the use of prison, it is reasonable to conclude that using it for anyone but those convicted of serious offences is a waste of public resources.'

We would like to invite yourselves to meet with myself and members of the Howard League legal, policy and participation team to discuss this response and our experience of working with young adults in conflict with the law.

Kind regards

Frances Crook

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