

The Politics of Youth Justice

Troubles of Youth

Monday, 12th January 2009

Lecture Outline

1. Political Approaches to Youth Justice
1979 ->
2. New Labour and Youth Justice
3. Current Concerns

Political Approaches to Youth Justice

- 1854 – Youthful Offenders Act
 - First recognition that youth and adult offenders should formally be considered separately
- 20th cen: **Welfare, punishment and Separation** – for example
 - 1908 Childrens Act : abolished imprisonment and the death penalty for under 14s: youth courts
 - 1908 Crime Prevention Act: established borstals

1960s & 1970s

- Focus on reform of the juvenile justice system
 - A recognition of poverty as a key causal factor
 - A need to prioritise welfare principles in the juvenile justice system
 - 1969 Children and Young Person Act
 - Not implemented by incoming Cons. government in 1970: growth in use of youth imprisonment

1980s: Minimal Intervention

- Black Committee on Children and Young Persons
- Recognised negative impact of intervention, and the need for diversions away from prosecution
- Growing range of formal cautions, and non custodial sentences

1980s

	Diversion	Decarceration	Net-narrowing
1980	1 in 2 known juvenile offenders heard in court	7400 14-16 year old boys sent to custody (12%)	175,700 known offenders
1990	1 in 5	1400 (9%)	111,000

“the natural forces of the family and society should be allowed to work and be reinforced for as long as possible” David Faulkner (Under-Secretary at the Home Office, 1986)

1990s: No More Excuses

	Net-widening	Increased Incarceration	Net-narrowing
1992	Use of caution: 73%	(1990) 15-17 year olds: 4500 – 10.4%	175,700 known offenders
2000	56%	(1999) 7300 – 16.1%	111,000

“Adulteration” – the decline specificity of the juvenile justice system

-age of criminal responsibility reduced to 12

-incarceration for 12 year olds upwards

Table 2: Males and Females sentenced to custody as a proportion of the total of the age group sentenced at all courts for indictable offences, 1990, 1995, 1997 and 2000

	1990	1995	1997	2000	+ % points
Males:					
Age 15–17	10.4	15.0	17.0	15.4	5.0
18–20	14.8	22.0	24.5	26.2	11.4
21+	17.3	23.6	26.5	29.8	12.5
Females:					
Age 15–17	2.1	4.2	5.8	7.1	5.0
18–20	3.4	7.2	9.0	13.1	9.7
21+	5.5	10.3	13.1	16.4	10.9

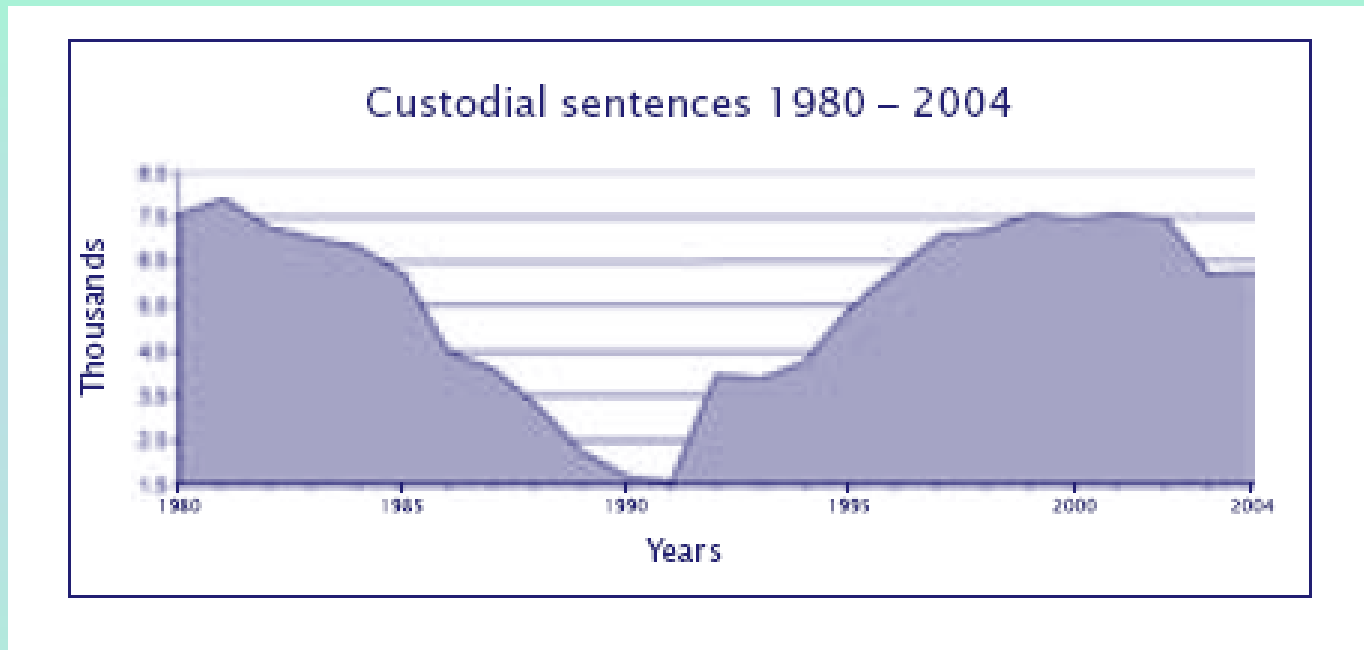
Source: *Criminal Statistics for England and Wales, 2000*, Cm 5312, 2001: 188.

New Labour: early years

- “Tough on Crime: Tough on the Causes of Crime”:
 - balance achieved, albeit in the face of contradictions and tensions
 - Tough on the Causes
 - multi-agency response
 - awareness of localised responses
 - diversity of interventions: recognising diversity of young offenders?
 - Tough on Crime....

Recent trends in Youth Justice

Use of Custody



Use of custody has increased by 90% between 1992 and 2004

Long term detention increased by 438%

Use of custodial sentences for girls up by 450%, boys 150%

Recent trends in Youth Justice

Average length of custodial sentence, in months, imposed in the youth court by offence type

	1994	2004
Violent offences	3.6	7.1
Sexual offences	4.6	8.5
Burglary	3.8	7.8
Robbery	4.0	9.5
Theft and handling	3.8	6.2
Criminal damage	3.6	7.0
Motoring offences	4.0	7.4

Current Government Policies

- Crime and Disorder Act 1998
 - “explicitly correctionalist”
 - Local authorities have a statutory duty to establish youth justice services
 - Youth Offending Teams: a “one stop-shop for all young offenders”
 - Youth Justice Board established

Youth Justice and Criminal Evidence Act 1999

- Youth Offender Panels
- Restorative Justice
- Child Curfew Orders
- Child Safety Orders
- Anti-social Behaviour Orders
- Police powers to tackle truancy
- Reparation Orders
- Action Plan Orders
- Parenting Orders

Audit Commission Report into Youth Justice 2004

- Young offenders dealt with more quickly
- Young Offenders more likely to be involved in reparation of some kind
- Youth Justice Board seen as effective

However

- Black and mixed race young offenders increasingly likely to receive custodial sentences
- Schools, social services, health, substance misuse services and housing agencies should be more directly involved with young offenders and in preventing them from offending in the first place.

Anti-social Behaviour Agenda

- Majority of ASBOs made against under 18s (many more with Acceptable Behaviour Contracts): an expanding youth justice net
- A final warning, or a chance to “crank up the use of custody”
 - Conditions set unrealistically high
 - Breaches expected
- Folk devils “Hoodies” / “Yobs” / “Feral Children”
 - dehumanised and social isolated
 - justifies a growing punitive response

Table 3. Breach of ASBOs imposed on children under 18

	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>Total</i>
Number of ASBOs breached	7	64	134	354	828	1353	2740
Breaches as % of orders made	11.3	33.2	53.8	57.1	62.8	87	68.6

Strategy	Priority	Problems
Welfare	The social needs of the child	<ul style="list-style-type: none"> -Net-widening -Due Process concerns -Double Deviance -Deviance and other social problems seen as part of same problem
Justice	Proportionality, Due Process	<ul style="list-style-type: none"> - Unclear what outcomes are targeted (e.g. greater and lesser use of incarceration can be justified) -Ignoring social background can lead to bias -Net
Risk Management	Crime Prevention, Pragmatism, Interventionist	<ul style="list-style-type: none"> -Atheoretical -Net-widening -Due Process and wider justice concerns
Authoritarianism	Punishment, Scepticism,	<ul style="list-style-type: none"> -Atheoretical -Evidence base

Youth justice trends summarised

- No evidence of increased offending or victimisation
- Fewer people coming to the attention of the YJS
- Greater use of detention, both in terms of number and of severity
- Growing use of incarceration resulting from a range of youth justice strategies

Explanations for this paradox

- Unintended Consequences of Legislation
 - Intention: diversion from custody
 - Result: more punitive sentencing
- Deliberate Legislative Change
 - Age and severity threshold for custody lowered
- Changing pre-court practices resulting in more young offenders in court
 - Sentencers given the impression of a worsening problem
 - First-time offenders entering higher up the tariff
- Lack of confidence in non-custodial alternatives
- Punitive political ethos
 - Huge political interest
 - Demonisation of youth