



Abolishing Youth Justice Systems: Children First, Offenders Nowhere

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Abstract

The 1980s decade of diversion in UK youth justice consolidated critiques of iatrogenic systemic contact and generated an abolitionist momentum that was significantly reversed by the 1990s punitive turn and ‘new youth justice’ strategies of modernisation, expansionism, interventionism and risk management. However, the tentative rejection of risk management and the rebirth of diversion in contemporary youth justice offer new hope for abolitionist arguments. This article critically evaluates contemporary abolitionist arguments, asserting that Children First definitions and diversionary, Bureau model responses could coalesce to form an innovative paradigm to replace traditional, formal conceptions of youth justice ‘systems’.

Keywords

abolition, Bureau, Children First, diversion, new youth justice, punitive, risk management

The current system for dealing with youth crime is inefficient and expensive . . .
The present arrangements are failing young people.

—(Audit Commission, 1996: 96)

The above quotation is as true today as it was over two decades ago. The Youth Justice System (YJS) in England and Wales continues to be inefficient, expensive and strikingly ineffective. The justice system is failing, even harming, children and it is failing society: the time has come to abolish justice system-based responses to childhood behaviour. In this article, we set out arguments and evidence for the abolition of the YJS and its responses to the behaviour of the children. YJSs are historically expensive, harmful and ineffective. It is time to revisit the case for abolitionism within the youth justice field, a case thus far largely restricted to advocating for the abolition of custody for children¹ who offend. We offer a more ambitious and contentious argument that the entire youth justice *system* should be abolished, from its underpinning principle of enacting ‘justice’ through punishment, to the

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youth courts delivering punitive sentences founded in these ‘justice’ principles, to the organisational structures of youth justice created to manage these sentences. Why persist with a failing project, especially in light of more compelling alternatives such as the diversionary Bureau process and contemporary delivery models underpinned by ‘Children First’ principles? System abolition and associated non-criminal responses should be underpinned by the widespread decriminalisation of offending behaviour by children – the abolition of the construct of offending.

The Social Construction of YJSs: A 200-Year Trajectory of Criminalization

Systems of youth justice internationally can be understood as *social constructions* – the creations, artefacts and outcomes of interacting pressures exerted historically, culturally, socio-economically, academically/empirically and in the contexts of policy-making, practice, media and public opinion (Case, 2018). As such, YJSs are inherently dynamic, contingent and contested; they can be reconstructed, revised and abolished through the same pressures and interactions that create them. Since the creation of bespoke, differentiated systems of youth justice in the industrialised Western world, there has been vociferous debate as to their suitability, impact and effectiveness. There has been long-standing critique of YJSs as iatrogenic and counter-productive – as harming the children who enter them through excessive punitiveness and by actively exacerbating the very circumstances they seek to address through responses that are disproportionate to the child’s offending in type, severity and duration (Hopkins-Burke, 2016). Relatedly, YJSs have been notoriously expensive – costly in terms of finances, resources, practitioner time and the outcomes experienced by the children exposed to them. Compounding these human, socio-economic and practical costs, youth justice processes have been alarmingly ineffective in reducing the duration and intensity of children’s (iatrogenic) contact with YJSs, in reducing re/offending rates and in reducing the numbers of children given custodial sentences. The negative excesses of youth justice measures, it has been argued, have labelled, criminalised, adulterised and responsibilised their recipients (Goldson, 2018), fuelling arguments that the entire youth justice project is harmful, inappropriate, unnecessary and should be abolished.

In a sense, the socio-historic construction of ‘youth justice’ was founded in an abolitionist perspective – the desire to abolish the systemic adulterisation of children in conflict with the law. However, the post-industrialisation social construction of ‘childhood’ as a period of innocence and vulnerability necessitating care and protection introduced conflict and ambivalence regarding how these same children could be understood as threatening/dangerous when they offended (Hendrick, 2015). The academic construction of ‘adolescence’ (Hall, 1904) afforded youth justice stakeholders a convenient means of reconciling this paradox by understanding younger children as innocent and vulnerable, thus necessitating care and welfare-based responses, while understanding equivalent behaviour by older children/adolescents (aka ‘youths’ or ‘juveniles’) as threatening and dangerous, thus necessitating punitive, justice-based responses (Case, 2018). Social constructions of childhood and adolescence/youth motivated differentiated criminal justice responses to children’s offending, which were not to be situated within a comprehensive, coordinated

system for at least another 150 years. Rather, the emerging social construction of ‘youth justice’ was constituted by a patchwork of bespoke laws (e.g. status offences), legislation (e.g. Children Act, 1908; Youthful Offenders Act, 1854 – in Case, 2018), structures (e.g. the creation of child-only prisons, reformatory schools and industrial schools by the mid 19th century, youth courts in the early 20th century) and strategies underpinned by an ongoing care versus control debate² (Smith, 2014). As punishment and treatment logics battled for supremacy as the primary shapers of youth justice practice, following the partial implementation of the 1969 Children and Young Persons Act, so emerged *bifurcation* – the strategy of polarising official responses to offending by children based on both seriousness and age. Bifurcation represented a twin-track (bifurcated) approach to punishing serious offending (typically through custody), while implementing more lenient responses to less serious offences (e.g. diversion from formal sentencing processes). The growing popularity of bifurcation, however, was indicative of a continued systemic commitment to the use of custody for children who offended. Accordingly, the abolitionist arguments (generated primarily in the USA and UK contexts) that gained significant traction in the 1970s and 1980s focused predominantly on the abolition of, and alternatives to, custody for children. Abolitionists assert that the ‘escalatory’ trend in child custody across the 20th century (Fionda, 2005: 164) was of particular concern because ‘the incarceration of children has proved to be spectacularly ineffective for many years’ (Gavin, 2014: 37; see also Goldson and Jamieson, 2002; NACRO, 2003). Conversely, intermediate treatment in the 1970s and diversion in the 1980s have characterised a ‘successful revolution’ in youth justice (Allen, 1991); a progressive movement towards abolishing key aspects of formal system contact.

From Abolitionism to Expansionism

Indicative of the dynamic and constructed nature of youth justice (systems), the tentative, implicitly abolitionist tendencies of the 1980s diversionary project were swept away by a wave of expansionism in the 1990s. A burgeoning ‘punitive turn’ in youth justice (Muncie, 2008) legitimised and accelerated the expansion of the youth justice project in the industrialised Western world. Throughout the 1990s, an increasing number of nation states sought to coalesce their existing array of youth justice responses into formalised systems in order to address the politically constructed ‘youth crime problem’. Moreover, the perceived lack of effectiveness of traditional welfare- and justice-based responses underpinned calls for increasing punitiveness and a fresh, (cost) effective approach to youth justice within these new formal and official systems. In the dual contexts of new public management (Andrews and Van de Walle, 2013) and burgeoning neo-liberalism (Muncie, 2014), formative YJSs across the Western world (most notably in the UK, North America and Australasia) have been shaped by modernising and pragmatic logics, more specifically, by managerialist, performance-led processes and neo-correctionalist, risk-led practices (Case and Haines, 2018). The newly formed YJS of England and Wales, legislated into existence by the Crime and Disorder Act 1998, pursued a modernising pragmatism that was actualised by ‘new youth justice’ (Goldson, 2000) strategies of prevention-focused early intervention and responsibilisation; themselves animated by the Risk Factor Prevention Paradigm (RFPP;

see Farrington, 2000). The (arguably unintended) corollaries of the RFPP were overwhelmingly criminalising – net-widening, interventionism and the conflation of children and adolescents into the catchall category of ‘youth offender’ (Goldson, 2014). These iatrogenic developments reflected in the United States (Feld and Bishop, 2011; Goddard and Myers, 2017), Australasia (Hemphill et al., 2016) and elsewhere across the western world (Case and Haines, 2018).

Iatrogenic expansionism

The punitive turn-inspired ‘new youth justice’ in England and Wales was alarmingly ineffective and harmful to children, constituting a set of strategic and practical regressive steps that reinforce abolitionist arguments. In the decade that followed the Crime and Disorder Act 1998, the ‘new youth justice’ exerted a significant influence on youth justice processes and outcomes in England and Wales through a burgeoning, net-widening and interventionist movement that created increasing numbers of laws, sentences, structures and strategies to ‘deal with’ offending by children. Across the system, a 45 per cent increase in spending and a concurrent increase in youth justice activities throughout this decade of disaster had ‘no measurable impact’ on self-reported offending by children, increased the number of first time entrants (FTEs) into the system, increased reoffending rates and the use of custody, which actually increased by 8 per cent over the decade (Solomon and Garside, 2008). Compounding this spectacular failure to meet government targets for effectiveness, the ‘new’ YJS also failed to meet needs-related targets for accommodation, employment, training and employment, substance use and mental health (Solomon and Garside, 2008; see also Case, 2018). Furthermore, by the end of the decade, the system-defining RFPP applied in practice via the ‘Scaled Approach’ to assessment and intervention was on the verge of abolition due to its criminalising, interventionist tendencies and its ineffectiveness in reducing reoffending (Haines and Case, 2012; Sutherland, 2009 see also Youth Justice Board (YJB), 2013).

At the macro-systemic level, the primary ‘prevention’ aim of the YJS was (and remains) anathema to contact with a formal system of youth justice. When operationalised in universal terms (in line with much of the underpinning evidence-based), prevention means the avoidance of the onset of offending, rather than the prevention of reoffending – better conceptualised as the *reduction* of offending. Preventing offending and its sister project of early intervention with children ‘at risk’ of offending clearly have no place within a system dealing with identified ‘offenders’. For example, early intervention is intended to identify and work with children considered ‘at risk’ of offending before it starts and as such can constitute a form of prevention. Logically, therefore, early intervention (not to mention prevention and diversion), is not feasible with identified/convicted child ‘offenders’, despite the proclamation by UK Government Youth Justice Secretary, Phillip Lee (2018) that the new custodial secure schools will prioritise both ‘intervening early’ and ‘diverting young people away from a life of crime’. Therefore, both prevention and early intervention objectives are much better served by other (integrated) childcare and support systems in order to address unmet needs (e.g. familial, educational, mental health, health, accommodation, training and employment-based), existing socio-structural disadvantages

and iatrogenic system contact escalating into offending behaviour. Counterintuitively, the so-called ‘effective’ practice visited upon children in the YJS (i.e. not diverted from the system or prevented from offending) is increasingly unfit for purpose, characterised by a stubborn adherence to the criminalising interventionism and net-widening (see Hampson, 2018; Ministry of Justice (MoJ), 2016). Consequently, the expansionist zeal of the ‘new youth justice’ has been ineffective (systemically) and actively harmful (individually) by drawing increasing numbers of children into the formal system, labelling them as ‘risky’ and visiting (often punitive) interventions upon them in order to serve a negative, deficit-based objectives of the risk prevention agenda.

From Expansionism to Pragmatic Reductionism

The expansionist and reformist fervour of the ‘new youth justice’ came to a shuddering halt with the 2010 change of UK government and the onset of sweeping economic austerity. A strong case can be made for austerity having precipitated a period of tentative, strategic abolitionism across the YJS of England and Wales (akin to abolition by stealth) due to the dramatic reduction of and disinvestment in formal youth justice apparatus and mechanisms. There has been a substantial reduction of youth justice budgets and retraction of services since the inception of economic austerity measures in 2010, with the YJB’s annual budget falling by 72 per cent from £452.3 million in 2010/2011 to £126.6 million 2017/2018 (YJB, 2018a). There has been an associated reduction in the size of the YJS, with annual decreases in the number of children offending, being arrested, entering the system for the first-time, reoffending and given custodial sentences – diminishing returns motivated more by economic and political pragmatism than by any principled or evidential change of heart by decision-makers regarding how to respond to children’s offending (Bateman, 2017; Smith, 2016). Contemporaneously, the size and number of youth justice structures has diminished due to swingeing budgetary cuts. To put the impact of economic austerity into perspective, spending on the secure estate³ in 2017/2018 (£54.8 million) was £214.1 million lower than at the end of the ‘bulimic’ (Goldson, 2018) expansionist era of youth justice in 2010/2011 (£268.9 million). In the context of economic austerity and its associated drive for localised pragmatism and innovation, contemporary youth justice developments post-2010 have indicated an increasingly progressive mindset among policy-makers and even hint at the notion of abolishing non-custodial elements of the YJS. Notable developments include the radical diversionary emphasis of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act, 2012 and the growing popularity of non-criminalising, ‘Children First’ approaches to policing (National Police Chiefs Council (NPCC), 2015), court sentencing (Sentencing Council, 2017) and the delivery of youth justice more broadly (YJB, 2019). In terms of the reduction of FTEs ‘key performance indicator’ for youth offending teams in the YJS (the other main key performance indicators (KPIs) being reduction of reoffending and reduction of custody), a new out-of-court diversion system introduced in 2012 (LASPO, 2012 – in Case, 2018) now promotes more flexible and diversionary approaches to low-level offending by children. This ‘progressive’ reversion to a previously successful youth justice strategy from the 1980s sustains arguments to abolish formal youth justice processing for less serious offences;

arguments supported by evidence of significant success in terms of an 85 per cent reduction in FTEs in the decade 2007/2008–2016/2017⁴ (MoJ and YJB, 2019) and a further 14 per cent fall from 2017 to 2018 (MoJ and YJB, 2019).

Long-term success in reducing FTEs, however, has exerted an ironic knock-on effect upon the reduction of reoffending KPI. Although fewer children now enter the system, those who remain represent a smaller, yet more troubled cohort, disproportionately presenting with multiple complex needs and adverse childhood experiences that have been largely unaddressed by other childcare systems (Johns et al., 2017). These are the children most likely to be suffering from the effects of restricted agency, trauma, adverse childhood experiences, brain injury and/or lack of neurological development (Taylor et al., 2014; Youth Justice Board and Ministry of Justice (YJB and MoJ), 2017), so the very children most likely to be stuck ‘in the moment’ when they offend (Haines et al., 2020). This more problematic nature of the contemporary cohort remaining in the YJS has been reflected in annual increases in reoffending ‘rates’⁵, which the continued hangover from the Scaled Approach has been unable (and unfit) to mitigate. Consequently, although the ‘number’ of children reoffending has consistently fallen each year from 2007/2008–2016/2017, amounting to a 79 per cent decrease in reoffending *numbers* (YJB and MoJ, 2018), that same decade evidenced a 4 per cent increase in reoffending *rates*.

Compounding the ongoing in appropriateness, ineffectiveness and ambivalence of approaches to reducing reoffending, custodial sentencing remains a particularly stubborn and debilitating trait of the YJS; a system with the primary aim of preventing offending, not punishing offending or harming children who offend. Critically, custody has been identified as wholly ineffective – exerting minimum to no impact on reducing reoffending (Gavin, 2014) and even potentially increasing the risk of reoffending (McAra and McVie, 2015; NACRO, 2010). The use of custody with children has been widely vilified as unnecessary, harmful, expensive, disproportionate and ineffective (Bateman, 2017; Case, 2018). Its continued use⁶ contravenes Article 37b of the United Nations Convention on the Rights of the Child (UNCRC, 1989) that ‘detention or imprisonment of the child should only be used as a “last resort”’. Further to this, the bullying, racism, violence, lack of health and psychiatric care, self-harming and suicide that characterise young offender institutions in England and Wales (Gavin, 2014) contravenes Article 37c of the UNCRC (1989), namely, that ‘every child deprived of liberty should be treated with humanity and respect’. As if these criticisms were not enough to support Children First, decarcerative and abolitionist arguments, custody of children has been found to compound pre-existing disadvantages, to exacerbate broken links with family and social networks and to cut off opportunities for reparation (Muncie, 2014). The contemporary context of youth justice is one wherein custodial sentencing remains stubbornly high, reoffending following custody (as evidence of system effectiveness) remains stubbornly high, support for diversion (from government- to ground-level) has rarely been so high, actual diversion rates have really been so high, and offending/reoffending so low, yet any sense of a coherent approach to responding to the behaviour of children remains low. This conflict and ambivalence has been animated by competing and conflicting drivers and a vacuum in understandings of children and the nature of childhood. Consequently, the case for abolishing custody remains highly convincing.

Tentative abolitionism

Despite significant system contraction structurally and financially, the current YJS of England and Wales remains costly, with personal costs experienced by a (decreasing) cohort of children who remain in the formal system and socio-economic costs stemming from the continued reoffending by, and incarceration of, this cohort of children. The rebirth of diversion away from the formal system has gone some way to addressing the long-accepted view that much offending by children is relatively trivial and transitory. Contemporary reductions in custodial budgets further indicate a diminishing faith in traditional youth justice responses. The current impression is of a movement approximating ‘abolition by stealth’ – continued disinvestment in youth justice structures and processes for economic and pragmatic reasons, without subsequent reinvestment in children experiencing problems that would previously brought into contact with the formal YJS. Arguably, therefore, economic austerity has encouraged a political focus on ameliorating socio-economic costs, without sufficient focus and emphasis upon the personal costs are experienced by children (Bateman, 2018). Notwithstanding the economic rationale for a movement towards abolitionism, it is becoming clear that the step towards formal abolition of the YJS is ever smaller, more feasible and increasingly supported by formal criminal justice and government agencies. Consequently, the YJB and others appear to be making the case for abolition (by stealth) already – we are simply seeking to take this case to its logical conclusion.

Revisionist Moves towards Abolition

The government-commissioned ‘Review of the Youth Justice System in England and Wales’ (aka the ‘Taylor Review’, 2016) acknowledged the successful retrenchment from formal youth justice measures (i.e. reductions in FTE rates and the numbers of children reoffending), which have been premised on diversion and prevention from formal contact with the YJS. However, the review rationale was that the YJS remained ineffective in reducing reoffending. Notably, existing court sentences were perceived as unsuccessful (YJB and MoJ, 2017), with evidence of high reoffending rates within 1 year for children receiving a Youth Rehabilitation Order (64%) and a custodial sentence (69%). Accordingly, the system required revision to render it fit for purpose when working with a modern cohort of children who increasingly present with multiple complex needs, mental health problems and entrenched social disadvantage (MoJ, 2016). This led report author, Charlie Taylor (2016), to question ‘with fewer young people requiring youth offending services, are the current arrangements for dealing with the right ones?’ (p. 2). The final Taylor Review (Taylor, 2016) made several radical recommendations for improving the YJS, most of which moved the political debate closer towards an abolitionist stance (at least implicitly) and explicitly focused on the more appropriate treatment of children when they offend. Taylor, who was subsequently assigned to the role of chair of the YJB⁷, strongly recommended:

‘Children First’ youth justice. the review recommended an alternative model of youth justice that responds to offending by prioritising ‘the child first and the offender second’ (Taylor, 2016: 3). Therefore, the review sought to reconstruct the youth justice

narrative by redefining ‘youth offenders’ as children in trouble who present with unmet needs and whose problems have manifested in offending behaviour, rather than the offending defining their identity (see Drakeford, 2010);

More diversion. existing diversionary approaches were deemed successful and worthy of consolidation, formalisation and more standardisation. Accordingly, new ‘Children’s Panels’ were proposed, consisting of magistrates, local authority key workers and other stakeholder professionals working alongside the child and their parent/carer to decide upon appropriate youth justice responses with due consideration of welfare, health and education issues;

Abolishing young offender institutions (YOIs). the report proposed a new form of education-focused secure institution, ‘Secure Schools’, to replace young offender institutions and to prioritise qualifications, skills building, knowledge development and other support services (e.g. health, mental health, speech therapy) rather than punishment. However, early aspirations for these schools to constitute a progressive break from custodial, ‘secure estate’ institutions appear premature following the announcement of Medway Secure Training Centre as the pilot site – an institution with notorious history of punitive, repressive and dehumanising treatment of children in custody (Medway Improvement Board, 2016).

The recommendations of the Taylor Review, with the exception of Secure Schools, were largely ignored in the lukewarm government response to the report (MoJ, 2016). The overriding sense is that the current government, operating in a context of economic austerity and increasing socio-political insecurity (exacerbated by Brexit), lacks the political will, stability, focus and resources to follow through on the recommended changes to the YJS, despite having originally commissioned the review. Nevertheless, the progressive Taylor recommendations have their basis in the thorough-going critique of the systemic treatment of children who offend (much of which is reflected in this article) and serve to consolidate the case for abolishing the YJS as we know it.

Children First Abolitionism

The socially constructed field of youth justice has vacillated between conflicting agendas rooted in partial abolitionism (e.g. abolishing custody), bifurcation (e.g. diversion-punishment), expansionism (e.g. punitive interventionism) and the tentative abolition of multiple elements of formal youth justice. Over this period, there is limited evidence (if any) that the formal YJS is ‘effective’ in any definition of that term. Fundamentally, the abolition of YJSs must start with the abolition of the term ‘youth offenders’: an atavistic throw-back to early social constructions of the dangerous adolescent and stigmatising label that was legitimised through the 1990s punitive turn. Children who offend, including those who enter the YJS in its current form, must be reconstructed as ‘children’ and responded to as ‘Children First’ (Taylor, 2016; after Haines and Case, 2015). Even the corollary of ‘offenders second’ should be dropped⁸. Offending by children (often transitory and non-serious) must be brought into its proper perspective as simply one element of a much more complex identity of the child (Drakeford, 2010).

So what would a non-YJS look like for children who offend? First and foremost, a Children First system to replace the YJS must be child-appropriate – providing a full range of services to children. The Children First model champions a ‘positive promotion’ approach over the (criminal justice) emphasis on negative outcomes/behaviours. Positive promotion is grounded in principles of universalism, diversion and normalisation, pursued through (non-criminal justice) practice that is inclusionary, participatory and legitimate; it is evidenced through partnership, engagement and access to universal entitlements (see Case and Haines, 2018). Accordingly, Children First services should range from the universal promotion of positive behaviours/outcomes (Haines and Case, 2011) to the targeted promotion of positive behaviours/outcomes (Smith and Gray, 2018) to normalising, child-focused practice (Brooks and Byrne, 2015) to diversion (Kelly and Armitage, 2015; Smith, 2016) to individualised, targeted (not risk-based) prevention⁹ (Kelly, 2012). Therefore, responses to all offending behaviour by children must be Children First and non-criminalising. While levels of child-focused support may vary based on offence seriousness and the child’s individual circumstances, the fundamental Children First approach should not.

There is a cogent, growing evidence-base attesting to the impact and effectiveness of Children First-informed responses to offending by children. A large body of evidence is available from the evaluations of an iterative series of local and national prevention programmes/interventions – all underpinned by Children First principles of promoting positive behaviours/outcomes, diversion, engagement, legitimacy, evidence-based partnership and responsibilising adults (Case and Haines, 2018; Haines and Case, 2015). These Children First responses to offending by children have evolved in focus from targeting the underlying influences on problem behaviours and the barriers to achieving positive outcomes such as secondary school exclusion (the ‘Promoting Positive Behaviour’ programme – Haines and Case, 2003) and offending by children (the ‘Promoting Prevention’ programme – Case and Haines, 2005), to explicitly promoting prosocial, positive outcomes for children (the ‘Positive Promotion Project’ – Case et al., 2005), such as successfully accessing their universal rights (cf. Case et al., 2005; Case and Haines, 2009). However, perhaps the most developed example of Children First principles in action is the diversionary ‘Bureau’ approach developed in Wales (cf. Haines et al., 2013; see also Taylor, 2016; Welsh Government and Youth Justice Board (YJB), 2014).

Diversion from the Formal YJS; Diversion into Support Services

The growing evidence-base suggests to us that children who offend should be brought into contact with diversionary panels aligned with extant successful processes in England and Wales, in particular, the Welsh ‘Bureau’ model. Bureau is *the* most effective way of responding to childhood behaviour – if the goals are to address the issues faced by children who offend, to divert children from formal youth justice processes and to prevent reoffending and reconviction (cf. Case, 2018; Haines et al., 2013). The seminal Bureau model (bearing some resemblance to the ‘Children’s Panels’ mooted in the Taylor Review – Taylor, 2016) was established in Swansea, Wales in 2007/2008. The model enables the pursuit of a series of aims compatible with a Children First and abolitionist stance, namely,

- To divert children from formal youth justice processes;
- To reduce FTEs into the YJS;
- To tackle the underlying causes of offending through positive promotion;
- To treat children who offend as ‘Children First’ (adapted from Haines et al., 2013).

Adapting this model to guide a non-criminal justice, Children First approach would require all children who offend to be referred to the local Bureau. After this initial referral stage, a Bureau worker conducts an holistic assessment of the child (stage two), collating information from a broad range of children’s services and key stakeholders in order to better understand the child circumstances, experiences and support needs. The following stage, the ‘Bureau Panel’, is a meeting of key stakeholder staff and trained community representatives with the purpose of proposing a non-criminal justice, multi-agency and explicitly individualised support package to promote positive behaviours and outcomes for the child. The final stage of the Children First Bureau process, the ‘Bureau Clinic’, consists of the child and a parent/carer/representative, plus panel members, meeting to discuss the context and circumstances of the child’s life at the time of the offending behaviour, with the objective of identifying and agreeing responsive and supportive services (i.e. building on the initial Panel recommendations). Clinic decisions should be made within an engaging and legitimate (fair, equitable, transparent) partnership environment and should be child-friendly, individualised and located within a positive, promotional, prosocial and normalising (non-criminalising) model (see Haines and Case, 2018).

Crucially, the Bureau model outlined has been evidenced to be highly effective in significantly reducing levels of FTEs, reoffending and custody at the local level (Haines et al., 2013) – all trends that continued beyond the life of the evaluation (cf. Brown, 2019; Case and Haines, 2018). Qualitative evidence has identified the Children First elements of the model, notably normalisation, child-appropriate support, engagement in positive promotion, as the key mechanisms driving the effectiveness of the modelling in the experiences of key stakeholders – children and parents, as well as Bureau staff (Hoffman and Macdonald, 2011; see also Smith, 2016). Indeed, the Bureau demonstrated sufficient levels of sustained effectiveness and impact locally to warrant a national roll-out across all local areas in Wales (see Welsh Government and YJB, 2014). Most significantly, the rate of reconviction following Bureau was lower than 10 per cent (the next most ‘effective’ being Referral Orders at around 20%), this is the most effective ‘intervention’ in terms of the lowest rate of reconviction of any other intervention that we are aware of world-wide. Logically, therefore, if a non-criminal disposal is the most effective method of responding to childhood behaviour then what justification is there for a formal YJS?

Conclusion

At the time of writing (April 2019), the Youth Justice Board (YJB) has plans to introduce ‘Children First’ as the guiding principle for the YJS, requiring ‘that all youth justice services prioritise children’s best interests, constructively promote their potential and desistance¹⁰, encourage their active engagement and minimise the potential damage that their contact with the system can bring’ (YJB, 2018b: 2; founded Haines and Case, 2015; in Byrne and Case, 2016 see also Hazel, 2017). The working paper and formative revisions

to National Standards guidance for youth justice practice (YJB, 2018c) advocate for prevention, diversion and minimal intervention approaches that ‘promote a childhood removed from the justice system’ (YJB, 2018c). This latter assertion clearly speaks to an abolitionist argument. Indeed, it is becoming increasingly apparent that abolitionist arguments could be pushing against an open door in the current socio-political and economic context of youth justice. The recent YJB movement towards a Children First position has been reflected in the changing nature of youth offending team (YOT) models nationally (Smith and Gray, 2018) and is compatible with arguments to abolish key elements of formal youth justice (e.g. system contact, court sentencing, custody) consolidates equivalent Children First approaches adopted by key stakeholder organisations in relation to policing (NPCC, 2015), diversion from the YJS (LASPO, 2012) and court sentencing (Sentencing Council, 2017). Consequently, the step towards formal abolition of the YJS is arguably smaller than ever, particularly in the context of increasing advocacy for Children First models. The guiding principles of Children First (e.g. diversion, promotion, engagement, relationship-building), along with additional principles to be found in the original model (e.g. legitimacy, evidenced-based partnership, systems management, responsibilising adults – Haines and Case, 2015), while developed to inform contemporary practice within the YJS, are even more applicable in non-criminal/YJSs.

The contemporary context of youth justice in England and Wales is characterised by the creeping abolition (by stealth) of key elements of (notoriously iatrogenic) formal systems, policies, strategies and practices of youth justice and tentative movement towards integrated, holistic, non-criminalising and non-punitive ‘Children First’ responses to offending. More than ever, the very notion of ‘children first youth justice’ presents as oxymoronic (an attempt to humanise an inhuman system), with the associated principles of ‘Children First’ more appropriately situated within integrated, ‘whole child’ systems that normalise and decriminalise offending behaviour by children – preferably systems modelled on the evidence-based and effective Bureau process. On the strength of our Children First arguments and evidence supporting the abolition of YJSs, we now invite those who wish to defend and promote a youth *justice* response to set out their case.

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Notes

1. According to the United Nations Convention on the Rights of the Child (UNCRC), any individual up to the age of 18 years old (UNCRC, 1989).
2. The much-rehearsed ‘welfare versus justice debate’ (see Smith, 2005), widely understood as characterising youth justice throughout the late 19th and entire 20th centuries was, in reality, quite short lived – confined to a period from the mid 1970s to the early 1990s (Haines and Drakeford, 1998). A comprehensive history of juvenile/youth justice in England and Wales is far more complex and nuanced than a simple welfare versus justice dichotomy – it is also a history well out with the scope of this article.

3. Young Offender Institutions, Secure Training Centres and Secure Children's Homes.
4. This was the year that the police 'offences brought to justice' target was abolished (Flanagan, 2008). Arrests of children have decreased annually since that time (Youth Justice Board and Ministry of Justice (YJB and MoJ), 2018), largely due to a change in policing culture precipitated by the abolition of this performance indicator/target and at least in part due to the subsequent inception of a 'child centred policing strategy' (National Police Chiefs Council (NPCC), 2015) that seeks to actively avoid the criminalisation of children (see also Case, 2018).
5. Since 2017, reoffending rates have been calculated as a weighted average across four identified cohorts of children in the Youth Justice System (YJS) each year, with each cohort covering a 3-month period (YJB and MoJ, 2017). An equivalent argument regarding falling numbers but rising rates can be applied to the recent increase in custody rates (measured as custody per 1,000 of the offending population), when compared with the decreasing numbers of children in custody over the past decade (YJB and MoJ, 2018, 2019).
6. It must be acknowledged, however, that present day custodial spend in the YJS is falling – decreasing by £70.7 million between 2016/2017 (when it constituted 60% of the total YJB budget) and 2017/2018 (when it was 43% of the total budget). Therefore, there are tentative indications of a move away from the commitment to custody for children, evidenced by a 69 per cent reduction in custodial numbers from March 2008 to March 2018 and notwithstanding an anomalous pattern of monthly increases in 2017 (YJB and MoJ, 2018).
7. The non-departmental public body charged with monitoring and managing the performance of the YJS, in particular, the performance of youth offending teams (YOTs) in reducing FTEs into the YJS, reducing reoffending and reducing custody. The YJB also allocates funding to YOTs and provides ongoing support and guidance on effective youth justice practice (cf. Case, 2018).
8. Haines admits that when he first wrote the term (in Haines and Drakeford, 1998), he was not totally happy with it but could not think of a better one at the time.
9. Although we do not favour the term 'prevention', as it is typically ill-informed, misunderstood, poorly defined and misapplied in incongruent and ambivalent ways in youth justice (cf. Case and Haines, 2015).
10. The YJB cling to notions of desistance, yet we disavow the term and the concept of desistance when applied to children. One can only desist after having developed an adult identity (in this instance, as a so-called 'offender') and having evidenced a long-term trajectory of offending behaviour. Children are still growing, physically, mentally, emotionally for the first time so they cannot desist, they can only 'become'.

References

- Allen R (1991) Out of jail: The reduction in the use of penal custody for male juveniles 1981-1988. *Howard Journal* 30(1): 30–52.
- Andrews R and Van de Walle S (2013) New public management and citizens' perceptions of local service efficiency, responsiveness, equity and effectiveness. *Public Management Review* 15(5): 762–783.
- Audit Commission (1996) *Misspent Youth*. London: Audit Commission.
- Bateman T (2017) *The State of Youth Justice 2017: An Overview of Trends and Developments*. London: NAYJ.
- Bateman T (2018) *The State of Youth Justice 2018: An Overview of Trends and Developments*. London: NAYJ.
- Brooks K and Byrne B (2015) Post-YOT youth justice. Howard League working papers. Available at: https://howardleague.org/wp-content/uploads/2016/04/HLWP_19_2015.pdf
- Byrne B and Case SP (2016) Towards a positive youth justice. *Safer Communities* 15 (2): 69–81.
- Case SP (2018) *Youth Justice: A Critical Introduction*. Abingdon: Routledge.
- Case SP and Haines KR (2019) Assessing risks and needs in youth justice: Key challenges. In: McNeill F and Graham H (eds) *Routledge Companion to Rehabilitative Work in Criminal Justice*. Abingdon: Routledge.
- Case SP and Haines KR (2009) *Understanding Youth Offending: Risk Factor Research Policy and Practice*. Cullompton: Willan.

- Case SP and Haines KR (2015) Children first, offenders second positive promotion: Reframing the prevention debate. *Youth Justice Journal* 15(3): 226–239.
- Case SP and Haines KR (2018) Transatlantic ‘positive youth justice’: Coherent movement or disparate critique? *Crime Prevention and Community Safety* 20(3): 208–222.
- Case SP and Hampson K (2019) Youth justice pathways to change: Drivers, challenges and opportunities. *Youth Justice Journal* 19: 25–41.
- Case SP, Clutton S and Haines KR (2005) Extending entitlement: A Welsh policy for children. *Wales Journal of Law and Policy* 4(2): 187–202.
- Drakeford M (2010) Devolution and youth justice in Wales. *Criminology and Criminal Justice* 10(2): 137–154.
- Farrington DP (2000) Explaining and preventing crime: The globalization of Knowledge. *Criminology* 38(1): 1–24.
- Feld BC and Bishop DM (2011) *The Oxford Handbook of Juvenile Crime and Juvenile Justice*. Oxford: Oxford University Press.
- Fionda J (2005) *Devils and Angels: Youth Policy and Crime*. Abingdon: Hart Publishing.
- Flanagan R (2008) *The Review of Policing: Final Report*. London: HMCIC.
- Gavin P (2014) No place for children: A case for the abolition of child imprisonment in England and Wales. *Irish Journal of Applied Social Studies* 14(1): 5. Available at: <https://arrow.dit.ie/cgi/viewcontent.cgi?article=1219&context=ijass>
- Goddard T and Myers R (2017) Against evidence-based oppression: Marginalized youth and the politics of risk-based assessment and intervention. *Theoretical Criminology* 21(2): 151–167.
- Goldson B (2000) *The New Youth Justice*. Lyme Regis: Russell House.
- Goldson B (2014) Youth justice in a changing Europe: Crisis conditions and alternative visions. *Perspectives on Youth* 1: 39–52.
- Goldson B (2018) *Juvenile Justice in Europe*. Abingdon: Routledge.
- Goldson B and Jamieson J (2002) Youth crime, the ‘parenting deficit’ and state intervention: A contextual critique. *Youth Justice* 2: 82–99.
- Haines K and Drakeford M (1998) *Young People and Youth Justice*. London: Macmillan.
- Haines KR and Case SP (2003) Promoting positive behaviour in schools: The youth social audit. *Youth Justice* 3(2): 86–103.
- Haines KR and Case SP (2012) Is the scaled approach a failed approach? *Youth Justice* 12(3): 212–228.
- Haines KR and Case SP (2015) *Positive Youth Justice: Children First, Offenders Second*. Bristol: Policy Press.
- Haines KR and Case SP (2018) The Future of Youth Justice. *Youth Justice Journal* 18(2): 131–148.
- Haines KR, Case SP, Charles AD and Davies K (2013) The Swansea Bureau: A model of diversion from the youth justice system. *International Journal of Law, Crime and Justice*. Vol 41: Issue2167–187.
- Haines KR, Case SP, Deakin J, Goddard T, Gray P, Hughes N, Johns D, Laidler KA, Richards K, Smith RS and Webster C (2020) Children and crime: In the moment. *Youth Justice: An International Journal* Epub ahead of print 12 June 2020. DOI: 10.1177/1473225420923762
- Haines KR and Case SP (2011) Risks, rights or both? Evaluating the common aetiology of negative and positive outcomes for young people to inform youth justice practice. *Criminology and Social Integration* 19 (1): 1–13.
- Hall GS (1904) *Adolescence*. New York: Applegate.
- Hampson K (2018) Desistance approaches in youth justice – the next passing fad or a sea-change for the positive? *Youth Justice Journal* 18(1): 18–33.
- Hazel N (2017) *Now All I Care about Is My Future*. London: NACRO/Beyond Youth Custody.
- Hemphill SA, Heerde JA and Scholes-Balog KE (2016) Risk factors and risk-based protective factors for violent offending. *Journal of Criminal Justice* 45: 94–100.
- Hendrick H (2015) Histories of youth crime and youth justice. In: Goldson B and Muncie J (eds) *Youth Crime and Justice*. London: SAGE.
- HM Government (2012) *Legal Aid, and Sentencing and Punishment of Offenders Act 2012*. London: HM Government.
- Hoffman S and Macdonald S (2011) Tackling youth anti-social behaviour in devolving Wales: A study of the tiered approach in Swansea’. *Youth Justice* 11(2): 150–167.

- Hopkins-Burke R (2016) *Young People, Crime and Justice*. Abingdon: Routledge.
- Johns D, Williams K and Haines KR (2017) Ecological youth justice. Understanding the social ecology of young people's prolific offending. *Youth Justice* 17(1): 3–21.
- Kelly L (2012) Representing and preventing youth crime and disorder: Intended and unintended consequences of targeted youth programmes in England. *Youth Justice* 8(1): 21–37.
- Kelly L and Armitage V (2015) Diverse diversions: Youth justice reform, localized practices, and a 'new interventionist diversion'? *Youth Justice* 15(2): 117–133.
- Lee P (2018) *Justice Minister outlines vision for Secure Schools*. London: MoJ.
- McAra L and McVie S (2015) The case for diversion and minimum necessary intervention. In: Goldson B and Muncie J (eds) *Youth Crime and Justice*. London: SAGE, 119–136.
- Medway Improvement Board (2016) *Medway Improvement Board Final Report of the Board's Advice to Secretary of State for Justice*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/523167/medway-report.pdf
- Ministry of Justice (MoJ) (2016) *The Government Response to Charlie Taylor's Review of the Youth Justice System*. London: MoJ.
- Ministry of Justice and Youth Justice Board (YJB and MoJ) (2019) *Youth Justice Statistics 2017–2018*. London: MoJ and YJB.
- Muncie J (2008) The punitive turn in juvenile justice: Cultures of control and rights compliance in western Europe and USA. *Youth Justice* 8: 107–121.
- Muncie J (2014) *Youth and Crime*. London: SAGE.
- NACRO (2003) *A Failure of Justice*. London: NACRO.
- NACRO (2010) *Reducing the Number of Children and Young People in Custody*. London: NACRO.
- National Police Chiefs Council (NPCC) (2015) *Child-Centred Policing: National Strategy for the Policing of Children and Young People*. London: NPCC.
- Sentencing Council (2017) *Sentencing Children and Young People: Overarching Principles and Offence Specific Guidelines for Sexual Offences and Robbery. Definitive Guidelines*. London: Sentencing Council.
- Smith R (2005) Welfare versus justice – Again! *Youth Justice* 5(1): 3–16.
- Smith R (2014) Reinventing diversion. *Youth Justice* 14(2): 109–121.
- Smith R (2016) *Youth Justice: Ideas Policy Practice*. Abingdon: Routledge.
- Smith R and Gray P (2018) The changing shape of youth justice: Models of practice. *Criminology and Criminal Justice* 19: 554–571.
- Solomon E and Garside R (2008) *Ten Years of Labour's Youth Justice Reforms: An Independent Audit*. London: Centre for Crime and Justice Studies, Kings College London.
- Sutherland A (2009) The scaled approach in youth justice: Fools rush in. *Youth Justice* 9(1): 44–60.
- Taylor C (2016) *Review of the Youth Justice System in England and Wales*. London: Ministry of Justice.
- Taylor R, Evans J, Stuart-Hamilton I, Roderique-Davies G, Pierpoint H and Bartlett H (2014) *A Review of the Speech, Language and Communication Needs of Young People from Wales in the Youth Justice System*. Treforest: University of South Wales.
- United Nations Convention on the Rights of the Child (UNCRC) (1989) *United Nations Convention on the Rights of the Child 1989*. Geneva: United Nations.
- Welsh Government and Youth Justice Board (YJB) (2014) *Children and Young People First*. Cardiff: Welsh Government and YJB.
- Youth Justice Board (YJB) (2013) *Assessment and Planning Interventions Framework – Assetplus (Model Document)*. London: YJB.
- Youth Justice Board (YJB) (2018a) *Annual Report and Accounts*. London: YJB.
- Youth Justice Board (YJB) (2018b) *Proposed definition of 'Children First, Offenders Second (Board Information Paper)*. London: YJB.
- Youth Justice Board (YJB) (2018c) *Revised National Standards for Children in the Youth Justice System*. London: YJB.
- Youth Justice Board (YJB) (2019) *National Standards*. London: YJB.
- Youth Justice Board and Ministry of Justice (YJB and MoJ) (2017) *Youth Justice Statistics: 2015 To 2016*. London: YJB and MoJ.

Youth Justice Board and Ministry of Justice (YJB and MoJ) (2018) *Youth Justice Statistics: 2016 To 2017*. London: YJB and MoJ.

Youth Justice Board and Ministry of Justice (YJB and MoJ) (2019) *Youth Justice Statistics: 2017 To 2018*. London: YJB and MoJ.

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