



TOO LITTLE, TOO LATE

Juveniles remanded to Custody.

The **Criminal Justice Act 1991** brings changes to the remand provisions for those in the Youth Court aged under 17 (although 17 year olds were included within the new Youth Court by the Act, they continue to be treated as adults for remand purposes). As currently implemented, the Act abolished the unruly certificate, applied for by the local authority, as the criterion for a remand to custody. It is replaced with a court decision, based on the need to protect the public from serious harm. Additionally, the Act empowers the courts to attach conditions when remanding a young person to local authority accommodation. (The continuing/unrevoked power to remand to prison department custody is intended to be a transitional measure pending their abolition; in 1991 the Government indicated that this would take four years).

The objective of remand is not to punish, but to hold young people securely while awaiting trial or sentence. Over 40% of those held on remand will be acquitted or given non-custodial sentences. (1)

Acts in conflict

Section 1 (1) of the **Children Act** (1989) states:

"When a court determines any question with respect to (a) the upbringing of a child... the child's welfare should be the court's paramount consideration".

Between these two acts a set of double standards exists. Children in the criminal justice process are not being afforded the same protection, the same rights as those who are, for want of a better term, "deserving" welfare cases. And yet, these 15, 16 and 17 year olds going to prison on remand are children under the Children Act. Irrespective of the offences they are alleged to have committed we should not send children to prison where they frequently live in some of the worst conditions in the prison system, and in close proximity to grave and violent offenders.

Child protection must not stop at the prison gates. Social Services have a moral and professional responsibility as well as a statutory duty to act to keep children



out of prisons and to protect them.

Discrimination

The requirement not to discriminate on the basis of race, sex or any other improper ground is contained in S95 of the CJA 91.

Of those received on remand into Feltham over a six month period, 72% were either non white or travellers (2). The disproportionate representation of black and traveller children in prison, on remand, is nothing short of tragic.

Time for action

In 1975 the House of Commons expenditure committee called for the remanding of young people in adult prisons to 'cease forthwith'.

In 1987, the Earl of Caithness, Minister of State at the Home Office stated:

My right honourable friend, Mr Brittan, when he was Home Secretary undertook to confine remands to cases where the boy was charged with murder, attempted murder, rape or certain other serious offences. I regret to say that this undertaking has not yet been implemented...

It still remains to be implemented. The Criminal Justice Act, has again delayed the action that is required.

The scandal of children being abused and dying in our prisons can, and indeed

must be addressed by local authorities, courts and by Government.

For many the promise of the eventual abolition of custodial remands held out by the Criminal Justice Act is too little, and for some it is already too late. Ending the remanding of those under 17 (and indeed those under 18) to prisons is a measure that is now long overdue.

(1) Home Office Prison Statistics 1988

(2) Awaiting Trial - Interim report of the NACRO/ACOP remand study.

Alex Chard worked in the field of juvenile justice for 15 years. He is now an independent consultant.

AGENCY STATUS?

The Home Secretary Kenneth Clarke will be addressing a
PRISON REFORM TRUST
Public Meeting
to be held on
WEDNESDAY
24th MARCH

at 6pm in the Berners Park Plaza Hotel, Berners Street, London W1.

Entry by ticket only
Ring PRT (071-278-9815) for ticket availability