

# New Youth Justice, New Youth Crime

**John Pitts** offers a critique of Labour's response to young offenders.

**T**he juvenile court is one hundred years old this year. The first one was established in Chicago, Illinois in 1899. By 1912 there were juvenile courts throughout the USA and in Belgium, Denmark, France, Germany, Italy and the UK. The impetus to establish a separate juvenile jurisdiction was rooted in the belief that children have a lesser capacity for moral discernment than adults and the reality that those children who came within the purview of the justice system were, more often than not, the victims of poverty and brutality. One hundred years later, in the UK and the USA, the distinctiveness of the juvenile jurisdiction is being whittled away. In the face of accelerating socio-economic polarisation and cultural heterogeneity, which has served to maximise middle class anxiety, centre-left governments have invoked the threat to property and

person posed by children and young people as a way of consolidating their electoral hold in 'Middle England' and 'Middle America'.

## The adulteration of the juvenile jurisdiction

In England and Wales, these shifts are evidenced by the abandonment of the principle of *doli incapax*, selective 'naming and shaming', the introduction of quasi-criminal penalties for youngsters below the age of criminal responsibility and adolescents who have committed civil infractions, and 'three strikes' sentencing for juvenile burglars. Although these recent changes are essentially cosmetic in character, the longer term trend is ominous. The 1990s has seen a steady movement away from strategies of informalism and normalisation towards strategies which rely upon the manipulation of official stigma as a means of eliciting conformity. More worrying is the abandonment of attempts to divert young offenders from prosecution and custody, the steady growth in custodial disposals for 15-18 year olds, and the introduction of new types of secure and custodial penalties and institutions for youngsters aged between 12 and 15. We can only conclude that the pay-off from this carceral bonanza is political since, far from reducing re-offending, the evidence indicates that such confinement will merely serve to compound both the personal difficulties and the criminality of the children and young people so sentenced (Penal

Affairs Consortium 1994).

## It's a family affair

These attempts to turn back the penal clock aim to solve two problems. The first is the problem of young offenders' families whose structure, moral authority, and child-rearing practices, it is argued, have been undermined by the collapse of a shared moral base. As Jack Straw (1998) has opined, 'all the serious research shows that one of the biggest causes of serious juvenile delinquency is inconsistent parenting'. The second problem is seen to be the tardiness or incompetence of justice system professionals who, in the 1980s and 1990s, rather than acting robustly to contain the criminality of the offspring of these families, simply waited for them to 'grow out of crime'. Thus, Mark Perfect (1998), co-author of the highly influential Audit Commission report *Misspent Youth*, and latterly secretary to the Youth Justice Board of England and Wales, notes that:

"The present system replicates the inconsistent parenting which most young offenders have received, making it necessary to replace it with a fast, efficient system with a progressive, comprehensible sentencing tariff, which offers the consistency and predictability which replicate 'good parenting'."

(Perfect M. 1998)

## Systemic permissiveness

This 'systemic permissiveness', to which Perfect alludes, is generally accepted as having its roots in 1960s labelling theory. Labelling theory spawned the subversive insight that the state's correctional endeavours frequently boomeranged, producing criminogenic outcomes, starkly at odds with its correctional intentions. Thus we were enjoined to 'leave the kids alone' to grow out of the relatively innocuous, albeit illegal, behaviours which misguided 'social interventionists' insisted upon clumsily pathologising. The radical scepticism of labelling theory was compounded in the mid-1970s, as conventional criminology reluctantly accepted that most rehabilitative programmes had, at best, a negligible impact upon re-offending. Taken together, these 'discoveries' spawned a new orthodoxy of



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'progressive minimalism' amongst justice system professionals, which espoused 'radical non-intervention', informalism, normalisation, diversion from prosecution and custody, and decarceration.

### The end of an era

However, by the mid-1980s in the USA, the popularity of progressive minimalism was waning in the face of burgeoning drug-related youth homicide and a right-wing law and order crusade. In the UK, progressive minimalism, in the form of diversion from prosecution and the development of alternatives to custody, was embraced by a succession of Tory Home Secretaries in the belief that such a strategy would yield both humanitarian and fiscal benefits. The decade 1983 to 1993 saw the development of highly effective 'systems management' strategies in UK youth justice, which diverted unprecedented numbers of young offenders from prosecution and custody (Pitts 1988). However, whereas in some areas, diversion was accompanied by robust informal intervention in the spheres of education, family relationships, use of leisure, vocational training and drugs, others offered diversion pure and simple. This meant that many of the more vulnerable youngsters who passed through the system experienced what Stanley Cohen has called 'benign neglect'. Such neglect was the more reprehensible because, in the 1980s, swingeing cuts in public expenditure had decimated the preventive safety net of family, youth, leisure and play services in those areas of acute social need where, increasingly, the bulk of youngsters in trouble with the law had their homes. By the early 1990s, with the economy in recession, recorded crime going through the roof and New Labour, as well as his own backbenchers, gunning for John Major on 'law and order', 'progressive minimalism' ran into the buffers. What emerged in its place were new, Americanised, forms of 'youth corrections'.

### The new correctionalism

As we have seen, the new correctionalism, as it is developed in the UK, is characterised by the induction of new, younger, populations into the justice system, the abandonment of 'diversion', the erosion of informal, 'integrative' interventions in favour of formalised, 'segregative' measures, and an ever greater reliance upon custody. Whereas earlier forms of rehabilitation aimed to ameliorate the effects of the emotional and social damage done to young offenders, the new correctionalism, utilising programmes of cognitive restructuring, parental re-education, victim-offender mediation and mentoring was concerned, first and foremost, to reduce the damage done by them.

The extravagant claims made for these correctional technologies notwithstanding, it is unlikely that anybody in or around government actually believes that they will make much of a dent in youth crime. While it may be true, as David Farrington (1996) has argued, that some of these interventions have at certain times and in certain places, shown 'promising results', the evidence suggests that they work best with the young people who concern us least; those who are involved in relatively innocuous, low-level crime, whose parents care.

However, the effectiveness, or otherwise, of these technologies is not the criterion by which the new correctionalism will stand or fall. The primary target of New Labour's youth justice strategy is not the criminal behaviour of a handful of young offenders, but the voting habits of a far larger and much older constituency. The Crime and Disorder Act (1998) was the symbol, par excellence, of all that was new about New Labour. As the first and fastest piece of New Labour legislation off the blocks, it was designed to secure the continuing electoral loyalty of the Conservatives who had defected to New Labour in

1997 by demonstrating that the government 'meant business'.

### The new youth crime

The politics of youth justice notwithstanding, contemporary youth crime presents us with problems undreamt of when the theories of delinquent causality and the technologies for its correction, which inform the Crime and Disorder Act (1998), first saw the light of day. In February 1999, the gap between the Gross Domestic Product of the poorest and the richest regions in the UK was the widest in the European Union. Between 1981 and 1991 the average household income of families in social housing in the UK fell from 79% to 45% of the national average. By 1995, over 50% of council households had no breadwinner. By 1997 20% of the children and young people in the UK lived in these neighbourhoods and 25% lived in poverty.

This remarkable redistribution of wealth was paralleled by an equally remarkable redistribution of crime and victimisation. Successive British Crime Surveys show that council and housing association tenants are amongst the most heavily victimised people in the UK. In the areas of highest victimisation, young people are heavily represented as both victims and perpetrators. Here, the crime is impulsive and symmetrical, perpetrated by and against local residents. It is repetitive, the same people tend to be victimised again and again, and their victimisation is more likely to be violent. The crime is more frequently drug-related, if not drug induced, than crime in other areas because it is in these neighbourhoods that opiate addiction has taken hold. This is, of course, the crime profile which characterises what are now called 'winner-loser societies', in which a conglomeration of mutually-reinforcing social problems are increasingly concentrated in areas of acute social deprivation. The Americans call it ghettoisation.

Jack Straw's assertions about the primacy of the family in the onset of youth offending notwithstanding, what 'the serious research' actually shows is that whereas in medium and high socio-economic status (SES) neighbourhoods, family-related

risk factors are fair predictors of future criminality, in low socio-economic status neighbourhoods, 'neighbourhood factors' will often overwhelm the best efforts of the best parents. Wikstrom and Loeber (1997), in their exemplary Pittsburgh study, found that in the lowest SES neighbourhoods, youngsters with very low or no familial risk factors were involved in serious crime. Indeed, it appears that in these areas the correlation between familial risk-factors and youth offending breaks down.

There is a crucial mismatch between the new youth justice and the new youth crime. And this is a problem which will not be solved by the importation of yet more American correctional technology. The original juvenile court was born of a recognition that the social dislocation caused by industrialisation could jeopardise the healthy social development of the poorest children and young people. One hundred years later, faced with the social dislocation caused by de-industrialisation, New Labour appears to be concerned only with the moral dimensions of youth crime. This is a stance informed by political rather than scientific or humanitarian concerns. Above the main entrance of the old Bailey is written 'Defend the Children of the Poor and Punish the Wrongdoer'. If a Labour government isn't prepared to defend the children of the poor, who is?

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