

Child deaths in penal custody: beyond individual pathology

Barry Goldson argues that child deaths in custody should be viewed primarily as a systemic failing and state responsibility.

Three key facts by way of introduction. First, greater use of penal custody for children is made in England and Wales than in most other industrialised democratic countries in the world (Youth Justice Board for England and Wales, 2004). Second, the juvenile inmates of state prisons (Young Offender Institutions) and private jails (Secure Training Centres), routinely comprise some of society's most disadvantaged, distressed and damaged children (Goldson, 2002). Third, 28 children died in penal custody (26 in state prisons and 2 in private jails) in England and Wales between July 1990 and January 2005, and literally thousands more were physically, emotionally and/or psychologically harmed (Goldson and Coles, 2005).

The facts are clear enough but the means by which they are presented and interpreted are more contested and controversial. When required to account for the damage and harm experienced by many child prisoners in general, or child deaths in penal custody in particular, official discourse tends to privilege constructions of individual pathology referring to 'imported' or 'innate' vulnerability, 'failure to cope', 'weakness' and 'inadequacy'. Such rationales necessarily *individualise* damage, harm and ultimately death, often by emphasising the fragile mental health of specific child prisoners. In this way explanations are confined to an individual child in a given penal institution at a particular moment in time. Furthermore, with regard to child deaths in penal custody such individualisation is institutionalised through the case-specific nature of post-death investigations and coroners inquests (Goldson and Coles, 2005, pp. 67-94). On one level this appears to be reasonable. On another level it is deeply problematic.

The significance and limitations of the vulnerability emphasis

As stated, child prisoners are typically drawn from some of the most disadvantaged families, neighbourhoods and communities in England and Wales. Children for whom the fabric of life invariably stretches across poverty; welfare neglect; emotional, physical and sexual abuse; public care; drug and alcohol misuse; ill-health; homelessness; isolation; loneliness; circumscribed educational and employment opportunities; and the most pressing sense of distress and alienation, are the very children routinely held in penal custody. In short, child

prisoners are often systematically failed by adults and state agencies alike.

It is well known that the physical and mental health needs of child 'offenders' are often neglected and that many child prisoners suffer ill-health. In a major thematic review of 'young prisoners', for example, Her Majesty's Chief Inspector of Prisons (1997, p.45) reported that "over 50 per cent of young prisoners on remand and 30 per cent of sentenced young offenders have a diagnosable mental disorder". Since the publication of the thematic review, similar concerns have been repeatedly expressed by the Prisons Inspectorate, other statutory inspectorates, child welfare agencies, penal reform organisations and academic researchers. Lader *et al* (2000), for example, in their wide-ranging study of 'psychiatric morbidity' among child prisoners, found high levels of 'personality disorder', 'psychotic disorder', 'sleep problems', 'hazardous drinking habits', 'drug use' and 'stressful life events'. Within this context it is entirely legitimate to be concerned with the vulnerabilities and, in some cases, the fragile mental health of individual child prisoners.

The almost exclusive emphasis on mental ill-health and *individualised* constructions of pathology in relation to conceptualising the harm and damage endured by child prisoners and, in the case of 28 children, their deaths, is singularly inadequate however. Such an approach serves not only to divert attention from state responsibility and accountability (the excessive reliance on incarceration and the inappropriate nature of penal regimes for children in England and Wales), but it also fragments an understanding of the commonalities of circumstance that typically give rise to the harm, damage and death of child prisoners. It follows that this limited 'way of seeing' is necessarily abstracted from analyses of youth justice policy and/or any consideration of the wider social, structural, material and institutional arrangements that define the circumstances of child prisoners.

Towards recognising systemic failure

Surprisingly little is known about child deaths in penal custody. There are at least four reasons why this is so. First, the scope and depth of post-death investigations and inquests are significantly circumscribed. Second, the findings and recommendations of the same post-death investigative and inquest processes are not published.

Third, given the non-publication of findings and recommendations, there is no mechanism by which they can be systematically and collectively analysed, monitored or followed-up. Fourth, up until very recently there was no sustained and detailed research available (Goldson and Coles, 2005). The primary consequence of this, is that despite the deaths of the 28 children to which I have referred, there has been no attempt by state authorities to undertake a comprehensive aggregated analysis of the circumstances that led to their deaths; to ascertain the commonalities that feature across such cases and/or to make the findings of such inquiry available within the public domain.

Despite this, recent research has helped to define a range of features that consistently emerge with regard to child deaths in penal custody, including: the multiple and intersecting modes of disadvantage that beset child prisoners; a relational 'pathway' between public care and penal custody for significant numbers of child prisoners; system strain as a result of hardening policy responses to child offenders and penal expansion (for example, overcrowding, hastily implemented and thus incomplete 'assessments' and competing operational pressures that fundamentally compromise the 'duty of care'); 'placements' in penal custody that are not only unsuitable in nature but are also inappropriate by location (exposing children to danger and rendering family visits near

child's death in penal custody might appear to comprise a sequence of exceptional 'mistakes' and abnormal 'misunderstandings'. By definition, the atypical nature of child death implies that, however unfortunate and regrettable, little more could have been done to prevent the death of an abnormally distressed and troubled child. The claimed legitimacy, efficiency and integrity of penal custody remains undisturbed. Wider questions of policy are not raised. At the level of aggregated cases, however, when account is taken of the commonalities of circumstance that characterise the 28 child deaths, it is no longer possible to conceive such deaths as isolated and unconnected aberrations. Indeed, the consistent features and intersecting similarities of such cases illustrate the systemic failings that continue to be produced and reproduced through the practices and processes of child incarceration. It is here that questions of legitimacy, efficiency and integrity with regard to penal custody and youth justice policy in England and Wales become more contested.

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impossible); inadequate intra-agency and inter-agency communication and information exchange; hostile institutional cultures predicated upon bullying and intimidation; the institutional (mis)conceptualisation of 'need' as 'manipulation'; the corrosive impact of penal custody on child prisoners; persistent problems associated with the physical infrastructure of penal custody including cell design and access to ligature points; poor medical care and limited access to specialist 'therapeutic' services; a failure to implement suicide prevention guidelines; the intrinsic degradation imposed by institutional responses to 'vulnerable' child prisoners including the use of 'strip' conditions, isolation and surveillance (as distinct from watchful care); and continuing deficits in terms of openness, transparency, rigour and independence with regard to investigative processes following child deaths in penal custody (Goldson and Coles, 2005).

When the collective features and commonalities that characterise child deaths in penal custody are presented and interpreted in this way, the conventional emphasis on individual pathology is inevitably problematised. At the level of the individual case, the circumstances leading to a

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