

# the Howard League for Penal Reform

GOT GOLD DIGGER GIRLFRIEND  
'SCARHEAD' (OR MARK)  
KNOWN IN HIS AREA 'DEADLY'  
TRIES TO BE HAPPY  
Been to gym in jail  
Been in jail six times  
ROBBED CAR  
Happy outside  
Sad inside  
FAMILY DON'T TALK TO HIM  
NOT LAGIT  
HE'S A  
GONER  
crack  
FAGS  
CANNABIS  
You can't get out  
NICE GIRLFRIEND  
'STEVE'  
Happy  
Got good job  
Doesn't drink or smoke  
FRIENDLY  
LAGIT  
Very wealthy  
GOT NICE CAR  
GOT GOOD HEART  
I GOT FAMILY - NICE MUM  
NICE MUM

# Life outside

Collective identity  
Collective exclusion

# Contents



|                                   |    |
|-----------------------------------|----|
| Foreword .....                    | 3  |
| YP foreword .....                 | 4  |
| Executive summary .....           | 5  |
| Introduction .....                | 7  |
| Identity .....                    | 9  |
| One size fits all .....           | 16 |
| Relationships .....               | 20 |
| Routes back into custody .....    | 22 |
| References and bibliography ..... | 26 |



# 01/ Foreword

**In August 2011, the streets of English cities were convulsed by a level of public disorder not seen in very many years.**

Much of the subsequent debate has singled out the involvement of children and young people in the looting and violence, although in reality the age range and backgrounds of those convicted in the courts have been considerably more diverse than was initially suspected.

The debate has split in part over an emphasis on the criminal justice response to be made, and partly over an emphasis on causes. While not developed with these terrible events in mind, **Life Outside** makes a contribution to both aspects of this debate.

**Life Outside** is the second substantive policy report to be produced from participation with children and young people in the criminal justice system as part of **U R Boss**, a five year project supported by the Big Lottery Fund. The first report, *Life Inside*, explored the experience of teenage boys in prison. This report picks up the story after children and young people leave custody. Taken together, the two reports spell out the failures of our current approach to youth justice.

The youth justice system, dealing with children under the age of 18, has received a great deal of investment and the last Labour government introduced a network of youth offending teams up and down the country, as well as sentencing innovations such as the Detention and Training Order. Child custody numbers duly exploded and interventions previously rooted in the welfare system became increasingly punitive and linked to a culture of compliance and control that pays little heed to the chaotic nature of these young people's lives, and which has little or no purchase over the deep and complex social problems which form the underlying causes of youth crime. Unsurprisingly, reoffending rates among children remain the highest of any age group in the penal system.

The young people we spoke to make clear why the various stages of life after custody are all too often opportunities to fail, rather than a sure pathway to success. Much of what they told us confirmed the Howard League's longstanding view that the funding directed into the youth justice system would be better directed into a welfare approach, and that downward pressure should be exerted on the system through measures such as raising the minimum age of criminal responsibility.

What the young people we spoke to particularly emphasised, however, was the issue of identity and the way in which the current system sets out to reinforce the feelings of disenfranchisement and detachment from society that erodes these children's hopes of a positive future. At its very foundation, the youth justice system is predicated on mistaken assumptions that doom those within its ambit from the very start.

And the relevance of this to the public debate now raging? The collective exclusion that young people feel may well have played its part in why disorder flared on the streets of London and elsewhere this summer. But we would be wise to think twice before perpetuating responses that simply serve to exacerbate that exclusion and which fail to unpick the reasons why young people commit crime in the first place.

**Frances Crook**  
Chief Executive, The Howard League for Penal Reform

# 02/ YP foreword

**The way the current system is running in the idea of “helping” a young person, by segregating young people from society, is far from right.**

For years young people have had bad press and have been looked down upon within their community, which I believe played a huge part in the recent events in London, Liverpool, Manchester and Bristol. The communities which children and the young people are nurtured from are not always the “perfect” environments. Children and young people are the future, instead they are treated as though they’re the problem. The events that have caused international news are a result of the system failing ALL its citizens. The orders in place that are meant to “reduce” or “prevent” crime are ridiculous, making those convicted appear as a problem and therefore treated as one, including for instance the Intensive Supervision and Surveillance Programme, “tagging” labelling the child or young person as a problem to the community, which leads back to segregation. ‘Nurturing’ someone with anger and resentment is not the cure for society. The antidote is the community, making children and young people have a sense of belonging, a place in which they can be proud of, giving them the ability that they can be something more than just a number in the system.

Once upon a time I was one of these young people that no one believed in and was seen as a problem that needed to be resolved, told by my teachers, the ones that are meant to encourage and support you from childhood to adulthood, that I’ll amount to nothing. I rebelled, showed nothing but my frustration and anger to those who did not believe in me. I ended up punishing my family and friends because of this destructive nature that grew inside of me. The system failed as soon as I was in it, which left me with the determination that I will not allow it to do it again to me or anyone. There’s only one thing that can change this system and the young people and children caught in it, this is CARE – caring about a young person’s interest; SUPPORT – supporting a young person’s interests and following through with it. One way or another, a young person or child has been neglected. Controlling anyone to the point where you crush a person’s self-belief is what’s destroying the society and the heart of the young people.

**Let’s stop telling and start listening.**

**Young Advisor**  
U R Boss

# 03/ Executive summary

**With a 72 per cent reconviction rate within a year for children and young people leaving custody (Ministry of Justice, 2011a), it is little surprise that resettlement has been the hot topic of youth justice in recent years; initiatives have been launched, consortia have been invested in, payment by results piloted.**

**However, in the flurry of activity no one has thought to ask young people themselves how to fill the cracks in this failing system.**

**U R Boss** has worked with children and young people across the country who have recently been released from custody to developed this report. This process has given them the opportunity to share their experiences of returning to their communities, being on licence, routes back into custody and recommendations for change.

The key theme that emerged was young people's perceptions of themselves as separate from the rest of society, how the conditions and restrictions that are imposed on them when they leave prison criminalise and exclude them further and the importance of positive relationships with professionals, their families and communities. The subtitle of this report, 'collective identity, collective exclusion' epitomises their perceptions and experiences. Given the involvement of children and young people in recent riots and disorder in England, this report is highly relevant to understanding some of the underlying causes of such disturbances and how society should respond.

In the main, children and young people in the youth justice system come from backgrounds of social and economic disadvantage. Their experiences within the system reinforce their perceptions as a 'collective other', furthering their feelings of being disenfranchised and detached from society and eroding their hopes of positive futures.

It has been argued that in effect each society gets the youth justice system it deserves, as how a society defines and reacts to the behaviour of children and young people 'ultimately tells us more about social order, the state and political decision-making than it does about the nature of young offending and the most effective ways to respond to it' (Munice, 2004). Until children and young people are invested in, included in society and decriminalised, the youth justice system will continue to fail us all.

# Key recommendations

## Identity

- The current system of criminalisation and imposition should be replaced by one of integration and opportunity: young people should be given autonomy over their own lives
- Prevention and early intervention should be a priority: cuts to children's and young people's services should be reversed and future budgets ring-fenced
- Strategies to support children's relationships with their families should be further developed. Children should never be needlessly separated from their families
- Children and young people should be supported by positive role models
- The positive representation of children and young people, particularly through the media, should be a priority
- More research needs to be conducted into the reasons for, and impact of, group offending by children and young people

## One size fits all

- The youth justice system is not the appropriate response for the majority of children and young people and does little other than reinforce negative identities and behaviour
- The Detention and Training Order should be scrapped
- Intensive Supervision and Surveillance should be scrapped. However, the positive model of advocacy and intensive support that is provided through ISS should remain
- The use of 'tag' on children and young people should be reduced and only imposed on those that would benefit from it
- Interventions should be designed and delivered to meet young people's individual risks and needs rather than a one-size fits all approach

## Relationships

- Positive relationships with workers play a crucial role in the lives of young people and rely heavily on advocacy, support and consistency
- Punitive aspects of the current YOS role should be removed
- Police should never be seconded into any form of statutory agency aiming to promote the welfare of young people
- Recruitment processes should encourage ex-offenders to apply as part of a multi-disciplinary team
- Multi-agency work should aim to 'promote young people's welfare' rather than 'reduce offending'

## Routes back into custody

- Young people's involvement should be central to all decisions made in their lives in line with article 12 of the UNCRC
- Young people should be released into an environment where they have the opportunity to make mistakes without being further criminalised
- There should be consistency in how young people on different sentence types, and lengths, are treated
- There should be increased flexibility in how young people are dealt with when they are in breach
- Every effort should be made, in both guidance and by practitioners, to prevent young people being recalled to custody
- Current measures and constraints should be scrapped in favour of practitioner discretion



# 04/ Introduction

*"The system's not working because people are reoffending."*

*"They're (government) the ones creating this shitty society, but we're the ones that have to grow up into it."*

*"Criminals do aspire to be more."*

*"You need self-esteem to be good and that."*

## The Howard League for Penal Reform

**The Howard League for Penal Reform is the oldest penal reform charity in the world and campaigns for less crime, safer communities and fewer people in prison.**

The Howard League has a successful campaigns team, which drives for change through its parliamentary work, research, policy work, events and media engagement. In 2002 the Howard League launched the only dedicated legal service for children in custody in England and Wales. It provides free, independent and confidential advice and representation on a wide range of issues to children. Our lawyers are proud to provide a holistic and child-centred approach to each client, and the expertise and achievements they have gained as a result, which has led to individual success stories and whole system change in the youth justice system. In 2007 this service was extended with the launch of a young adult team, who represent young people up to the age of 21 in prison.



**U R Boss** is a unique national project for children and young adults, based at the Howard League for Penal Reform. The ethos of **U R Boss** is to work in partnership with children and young people in custody, or those who have recently been released into the community, to empower them to have a voice, be heard and:

- 1 Campaign to change national policy** and practice in the statutory and voluntary sectors working with children and young people
- 2 Change public attitudes** to children and young people in the penal system
- 3 Come up with new ideas** about children and young people in the penal system
- 4 Enhance the legal service** being provided by the Howard League for Penal Reform to children and young people in the penal system

In 2010 the **U R Boss** team worked with children and young people to develop Life Inside (Howard League, 2010), which outlines day to day experiences of prisons, issues they wanted discussed and key recommendations for policy makers and practitioners.

Building on this work, the **U R Boss** project has worked with children and young people across the country who have recently been released from custody to develop Life Outside. This process has given them the opportunity to share their experiences of returning to their communities, being on licence, routes back into custody and recommendations for change.

## Approach

Between April and July 2011 the **U R Boss** team worked intensively with over 30 children and young people across five cities: Birmingham, Leeds, London, Rotherham and Sheffield. The young people ranged in age from 13 to 22, stated 12 different ethnic backgrounds and, collectively, had been incarcerated in at least 18 different settings across the secure estate. Thus, a broad and representative range of experiences was drawn upon to develop **Life Outside**.

The **U R Boss** team worked with each group across a number of participation sessions, providing the opportunity to build trust, understanding and confidence in who the Howard League is, why their opinions matter and what we would do with what they told us. Working across a number of sessions also allowed the time for all of the children and young people to express their views and experiences.

## Overarching findings

With a 72 per cent reconviction rate within a year for children and young people leaving custody (Ministry of Justice, 2011a), it is little surprise that resettlement has been the hot topic of youth justice in recent years; initiatives have been launched, consortia have been invested in, payment by results piloted. However, in the flurry of activity no one has thought to ask young people themselves how to fill the cracks in this failing system.

**Life Outside** explores young people's perceptions of themselves as separate from the rest of society, how the conditions and restrictions that are imposed on them when they leave prison criminalise and exclude them further and the importance of positive relationships with professionals, their families and communities. The subtitle of this report, 'collective identity, collective exclusion' epitomises their perceptions and experiences. Given the involvement of children and young people in recent riots and disorder in England, this report is highly relevant to understanding some of the underlying causes of such disturbances and how society should respond.

In the main, children and young people in the youth justice system come from backgrounds of social and economic disadvantage. Their experiences within the system reinforce their perceptions as a 'collective other', furthering their feelings of being disenfranchised and detached from society and eroding their hopes of positive futures. Unless these fragile foundations are addressed, any attempts to build upon them will fail, doing little to tackle the appallingly high reconviction rates, lives wasted in the revolving doors of crime and the impact on all of our communities.

## Implications

The principal purpose of the youth justice system in England and Wales is the prevention of offending or reoffending (Crime and Disorder Act, 1998). The first two years of **U R Boss** have explored the barriers to leading positive lives that children and young people face from the moment they enter custody to when they complete their licence, or, more often than not, are reconvicted of further offences. Taken together, **Life Inside** and **Life Outside** show that the **current youth justice system is a failure of justice and society.**

Although those within government continue to applaud themselves that there have been recent reductions in the number of children and young people sentenced to custody in the last couple of years, they overlook the fact that they cannot explain why this trend occurred, that numbers are once again rising (Ministry of Justice, 2011b), that reconviction rates have not fallen or, indeed, that in a longer view the child custody population increased by 795 per cent from 1989 to 2009. In context, these 'achievements' are highly questionable.

Introduced by the Power of Criminal Courts (Sentencing) Act 2000 as part of the wider scale youth justice reforms, the Detention and Training Order (DTO) is a sentence of between four and 24 months, half of which is spent in custody and the other on licence in the community. It accounts for 81 per cent of those who are sentenced to a period of incarceration and on licence. In 2002, an evaluation of the DTO stated: 'Inevitably, the main way in which the Detention and Training Order will be judged is in terms of whether it reduces reoffending in young people.'

It has failed. As one young person aptly stated: **'The system's not working because people are reoffending.'**

## Compounding failure: the government's plans for children and young people

It has been estimated that the total costs to the UK economy of offending by young people could be up to £11 billion a year (House of Commons Committee of Public Accounts, 2011). This does not even take into account the human costs to our communities and the wasted potential of children and young people.

However, in the current financial crisis it is children and young people who are disproportionately impacted. Central funding for youth offending services (YOS) has been slashed by an average of over 19 per cent (Youth Justice Board, 2011a) and this is in the context of cuts already announced this year to other YOS funders, such as local authorities, police and probation services.

These budget cuts are not happening in isolation; children's services have been slashed by 13 per cent in this financial year alone and there are plans to reduce the budget given by central government by 28 per cent in the next four years (Higgs, 2011). The third sector, who the government expects to pick up the pieces of these cuts, is also suffering: already more than 2,000 charities and community groups are facing budget cuts as local authorities have reduced or completely withdrawn their funding (False Economy, 2011). In an evaluation of the DTO in 2002 the YJB said that: 'addressing offending behaviour has been hindered by the limits of existing intervention programmes and the provision available in the community. This is not for failure of effort by any parties involved, rather it is a case of a real limit on what is available at present. However, until we move on from simply designing provision around what is available rather than what is necessary, children's 'needs will not be met'. Nearly a decade on from these findings, the government is drastically cutting back what is available.

It has been argued that in effect each society gets the youth justice system it deserves, as how a society defines and reacts to the behaviour of children and young people 'ultimately tells us more about social order, the state and political decision-making than it does about the nature of young offending and the most effective ways to respond to it' (Munice, 2004). Until children and young people are invested in, included in society and decriminalised, the youth justice system will continue to fail us all.

# 05/ Identity

"You get locked up and when you come out it's not the same, they've all moved on, you're just the idiot without an education and nothing going on."

"If people see my tag, they see my tag. It's me."

"I'm a persistent young offender. I've heard it so many times now, it's the easiest way to describe me."

## Collective identity

One of the first exercises we undertook with the groups we worked with was to ask each young person to divide a piece of paper. On one side we asked that they draw someone who had been in prison and on the other someone that had not, then write or draw key aspects of their lives.

In every group we worked with the same words and themes were staggeringly recurrent: employment; family; self-esteem; friends; drugs and alcohol; even down to the clothes that they were wearing. Some of these drawings are on pages 13-15 but some common examples are drawn out below.

When we were discussing this exercise with one young person he commented, 'they drew someone how they think people see them'.

## Examples of how children and young people described a young person who had not been in prison

'Got a good family'

'Might have more friends because people like him more'

'Life at the moment makes her happy'

'Went to school and did well'

'Enjoys life'

'Good friends that have laughs'

'Has bed, shelter, money, loved'

'Doesn't drink or smoke'



## Examples of how children and young people described a young person who had been in prison

'Didn't care, had no self-esteem'

'His family don't know what's going on in his life'

'Drinks alcohol too much in spare time to make self happy'

'Drinks and takes drugs to cover up feelings'

'Lost friends and family cos disowned'

'Lives in a bedsit'

'Not got a job and can't get one cos lack of motivation'

'He's a goner. You can't get out'

Children who end up in custody come in the main from the most disadvantaged families and communities, whose lives are frequently characterised by social and economic deprivation, neglect and abuse:

- 71 per cent of children in custody have been involved with, or in the care of, social services (YJB, 2007a) compared to three per cent of the general population (National Census, 2001)
- One in four boys report suffering violence at home, and one in 20 report having been sexually abused (YJB, 2007a)
- 31 per cent have a recognised mental health disorder (YJB, 2005a) compared to 10 per cent of the general population (ONS, 2005)
- 19 per cent suffer from depression, 11 per cent anxiety, 11 per cent post-traumatic stress disorder and five per cent psychotic symptoms (Chitsabesan et al, 2006)
- 15 per cent have a statement of special educational needs (YJB, 2003)
- 90 per cent of boys and 75 per cent of girls have been excluded from school (Cripps, 2010)

Thus, it is unsurprising that they have a collective identity of difference and social exclusion. Prison does little other than to bring these children and young people together and reinforce their negative self-perceptions. It certainly does not tackle offending: 72 per cent of children and young people are reconvicted within a year of their release (Ministry of Justice, 2011a).



What does being brought up badly mean? No food on the table, no bed, no money, no one to love you.

The majority of the children and young people we worked with abused alcohol and drugs in a way that impacted negatively on their lives. One young person told us that **'I used to do rugby and that but I fucked it all off to get drunk and stoned'**. This reflects the damaging choices that many of these children and young people have made, which have become part of their identities.

Prison often provided respite from children and young people's lives: **'It's an easy escape, prison. You don't have to worry about owt'**. We also heard that some children and young people had requested to be sentenced to prison at the pre-sentence stage rather than asking for a community sentence as they felt safer in prison and knew more people in there.

## Collective exclusion

Children and young people told us that the labels that they are given and conditions that they have to abide by when they leave prison further their feelings of exclusion. One young person described himself to us: **'I'm a persistent young offender. I've heard it so many times now, it's the easiest way to describe me'**. When we asked him where he had heard the phrase 'persistent young offender' and what it meant he replied: **'It's just a label that's been given to me'**.

Many felt that **'people judge you for going to jail'**. One young person told us that: **'Most of my mates' mums don't like me now, and mums talk to other mums, I'm proper gossip'**. Another young person told us that other people see their tag and that it **'says you've done something'**. Children and young people's experiences of the conditions that are imposed on them when they leave prison and the way it labels and excludes them are further described on pages 16-19.



If people have their own issues and you don't feel respected then it just makes the situation worse.

Some young people were frustrated by the lack of control they had over their own lives once they left prison: **'I need to feel comfortable that I'm in a situation where I'm more in control'**. One young person commented that **'criminals do aspire to be more'** and discussed the barriers they faced that prevented them from leading a positive life. 'One of the things that children emphasise time and again in qualitative research is the importance of being allowed to make choices in their lives and be trusted with a certain level of autonomy' (The Children's Society, 2010). The youth justice system takes this autonomy away.

It is important to note that most of these children and young people do not identify with agencies they come into contact with, such as the police, social workers and YOS teams, as 'us'. Therefore, any choice to address their behaviour has to be a personal one rather than one imposed on them by the 'other'. It has to be a decision made within their own lives rather than asking and expecting children and young people to remove themselves from their lives.

An overarching theme occurred in our work with children and young people and it is the undercurrent of **Life Outside**. These children and young people have a collective identity and prison reinforces it, bringing them together in a shared experience. When they are released, the conditions imposed on them and the barriers they face as a result, reinforce their perceptions of themselves and their collective exclusion from a society they do not feel included in or recognised by.

This theme reflects a wider trend within society. A report by the Institute for Public Policy Research (2008) found that: 'adult society has begun increasingly to fear and demonise young people. Studies have shown an increased media and political focus on youth anti-social behaviour, and changes to youth justice policy, such as lowering the age of criminal responsibility to 10, have been perceived as encouraging high levels of concern about youth misbehaviour, and to encourage Britons to be more likely to hold young people independently responsible for their misbehaviour than people in other countries'. More than two thirds of media stories about young people in the UK are negative, and a third of articles about young people are about crime (IPSOS MORI, 2005).

In November 2010 Unicef published a report card on 'The children left behind: a league table of inequality in child well-being in the world's rich countries'. It is based on the premise that the true measure of a nation's standing is how well it attends to its children's needs and that no aspect of inequality is the fault of the child. It states: 'If the effort to prevent the unnecessary falling behind of children in the different dimensions of their lives is not made, then a fundamental unfairness will continue to shame our pretensions to equality of opportunity – and our societies will continue to pay the price'. The United Kingdom came 21st out of 24 developed nations.

## Family

A recurring theme in all of the groups was the importance of family to the children and young people. Some reported having strong family bonds, others that they had been rejected by their families due to their involvement in crime: **'Your family don't want nowt to do with you anymore'**. Children and young people also spoke about the impact that prison had on the relationships with their families: **'When you get out you're not close with your mates or your family, like you were before you are in jail'**. Another young person commented, **'you get locked up and when you come out it's not the same, they've all moved on, you're just the idiot without an education and nothing going on'**.

Boswell (1997) focused on the effect of bereavement and loss on young people in which she found 57 per cent of a sample study of 200 young people in custody had experienced bereavement or loss. 'Not only do many young people find themselves great distances from their friends and family, the reaction of family members to what they have done and their subsequent incarceration can be as emotionally stressful as bereavement and therefore lead to similar forms of behaviour and coping mechanisms.'

Periods of imprisonment emotionally starve children and young people of family relationships. Yet, evidence shows that positive family relationships are key to healthy child development. Strategies to better support families to spend time with children and young people are central to responding in a progressive way to social change rather than separating them through periods of incarceration (IPSOS MORI, 2005).

### Innovative practice: multisystemic therapy Leeds Youth Offending Service

Multisystemic Therapy (MST) is an intensive family and community based intervention that targets the multiple causes of criminal behaviour in young people. MST works with the young person, family and all the systems in a young person's ecology, such as peers, school and community during the assessment and treatment process and is aimed at preventing out of home placements (care and prison) and offending behaviour.

MST therapists can work intensively with families due to low caseloads and the length of treatment is between three to five months. Interventions are typically aimed at providing parents with the skills and resources they need to address the factors contributing to the young person's behaviour problems. For example, interventions are designed to:

- Improve parent's discipline practices
- Improve parent's management of disobedience and aggressive behaviour
- Enhance family relations
- Increase young people's association with pro-social peers
- Improve a young person's school or vocational performance
- Decrease drug and alcohol use and criminal behaviour

The Leeds MST project started as a four year pilot and has since received additional funding from the Department of Education for 2011-15 to expand it to three area based teams. Some of the positive outcomes and feedback of the Leeds MST project include:

- 96 per cent of families have engaged fully with the service and completed treatment
- 95 per cent of young people are living at home at the end of the intervention
- 75 per cent of young people are attending school
- 81 per cent of young people have not been arrested since they began the MST treatment
- In 2011 Leeds MST was recognised as the best team at the International MST Conference out of 500 teams worldwide.

## The importance of place

*I'm proud to be from Birmingham.*

The majority of children and young people spoke of the importance of their home areas as part of their identities and had little awareness or knowledge of places away from their home localities. They also spoke of their groups of friends in their local areas and how this influenced their negative behaviour: **'It's the groups you're in. People don't like admitting it but you show off to your friends'**. In some cities this had progressed into crimes committed against young people in rival postcode areas: **'Just because you're from a different postcode they'll stab ya'**.

Research has accumulated in recent years into group and gang offending, although 'an overview of the literature reveals no consensus about what constitutes a gang, and there is disagreement over how far such groups can be viewed solely in terms of their criminal activities or whether their primary function is to serve social and emotional needs' (YJB, 2007b).

A joint thematic review found that children and young people described their group and gang associations in terms of friendships and family ties and as an inevitable consequence of living in particular localities (HM Inspectorate of Prisons, 2010). This suggests that children and young people turn to such groups as a result of their experiences of growing up in areas of social exclusion and as a lack of positive relationships elsewhere. As one young person said, **'everyone wants to feel they've got someone to relate to'**.

We were due to work with a group of children and young people in an area where group and gang violence was prevalent in order to further explore these issues and the impact on identities and behaviour. However, as we arrived on the afternoon that the first session was due to take place a young person was shot as he left an appointment at the youth offending service. We were informed that the shooting was gang related and it was clearly inappropriate to go ahead with the participation work. However, it exemplified the importance of groups and peers to children and young people.

## Reconstructing identities

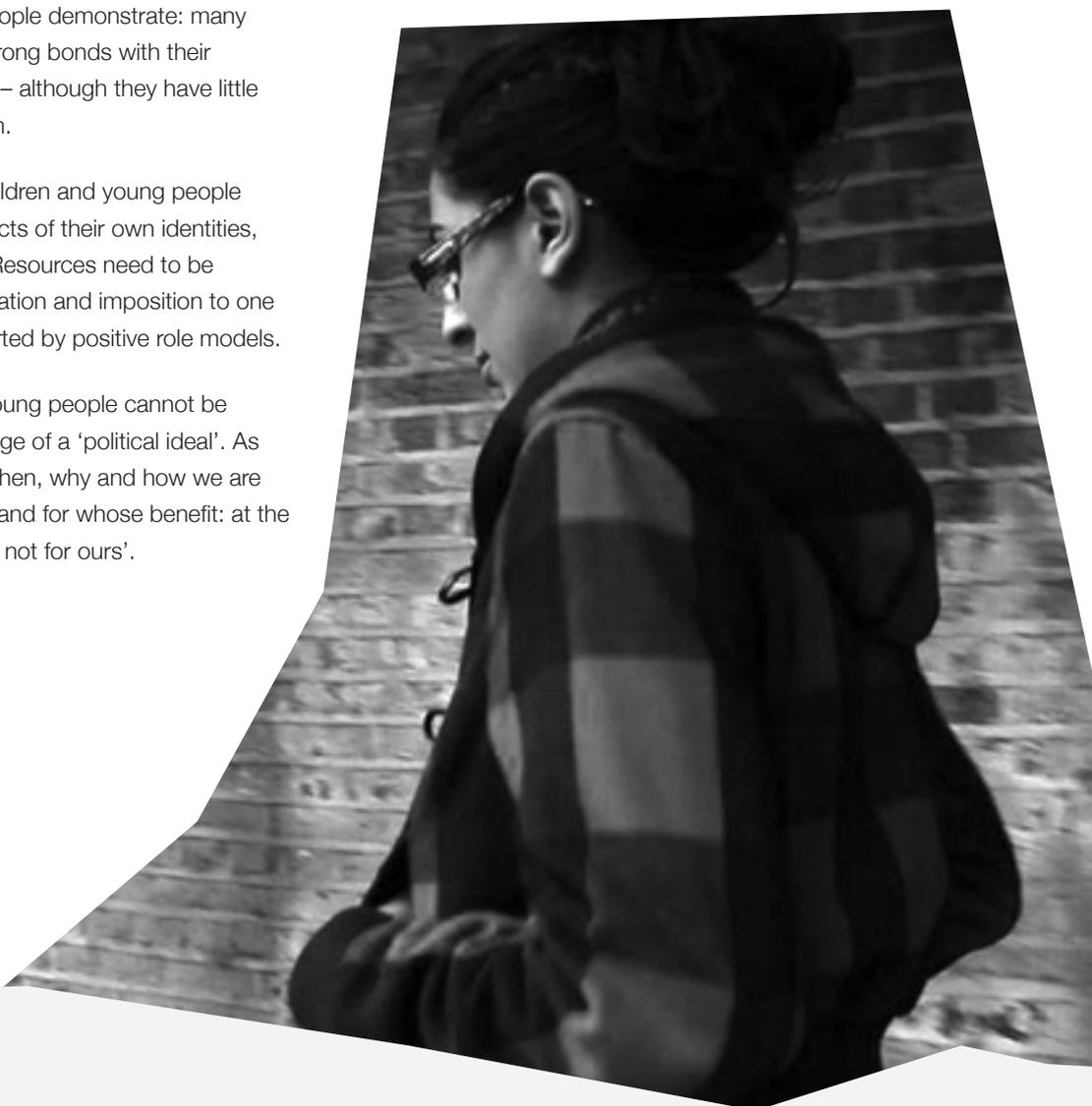
Children and young people's negative self-perceptions are exacerbated and reinforced throughout the youth justice system. No part of the system fully utilises and builds upon the positive, resilience factors that these young people demonstrate: many are proud of their local areas, have strong bonds with their families and have positive aspirations – although they have little confidence that they will achieve them.

Changes need to be driven by the children and young people themselves, building on positive aspects of their own identities, within the context of their own lives. Resources need to be redirected from a system of criminalisation and imposition to one of integration and opportunity, supported by positive role models.

The identities of these children and young people cannot be reconstructed from scratch in the image of a 'political ideal'. As a society we need to ask ourselves when, why and how we are trying to change these young people and for whose benefit: at the moment young people are saying 'it's not for ours'.

## Key recommendations

- The current system of criminalisation and imposition should be replaced by one of integration and opportunity: young people should be given autonomy over their own lives
- Prevention and early intervention should be a priority: cuts to children's and young people's services should be reversed and future budgets ring-fenced
- Strategies to support children's relationships with their families should be further developed. Children should never be needlessly separate from their families
- Children and young people should be supported by positive role models
- The positive representation of children and young people, particularly through the media, should be a priority
- More research needs to be conducted into the reasons for, and impact of, group offending by children and young people



good and NO JAIL



Apartment (own)  
Area

Good friends



Help from family  
friends support  
Rotherham

Everything  
Same!

She should  
have a fresh  
start!



Katie

Happy

Wanted school  
Gardie strict  
to rules and  
thought  
it was  
all right!

Past, Regret!  
Criminal history  
People she  
hang out  
with.

College  
Home + parents  
Hairdressing  
Can't do what  
she wanted cos of  
her criminal record

Feels  
Bad!

Good / Happy  
past

Good Social  
diff

Happy

Child care  
life atm  
Makes  
her happy.

Comfy Room  
Bed + Shower  
Money  
loved!

Going out  
partying

Rotherham  
own apartment

friends  
family

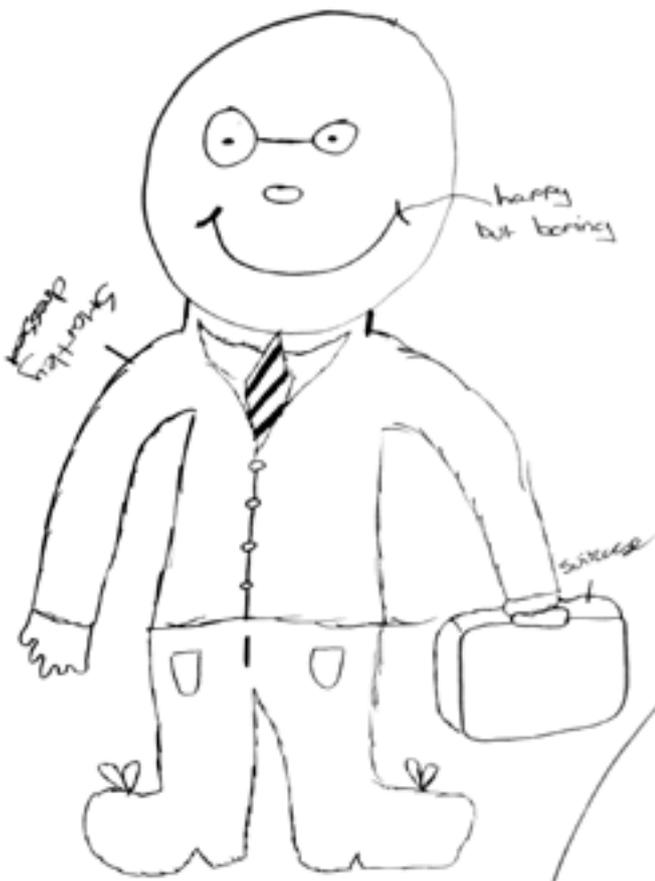
Charlotte

Good relationship  
with friends and family

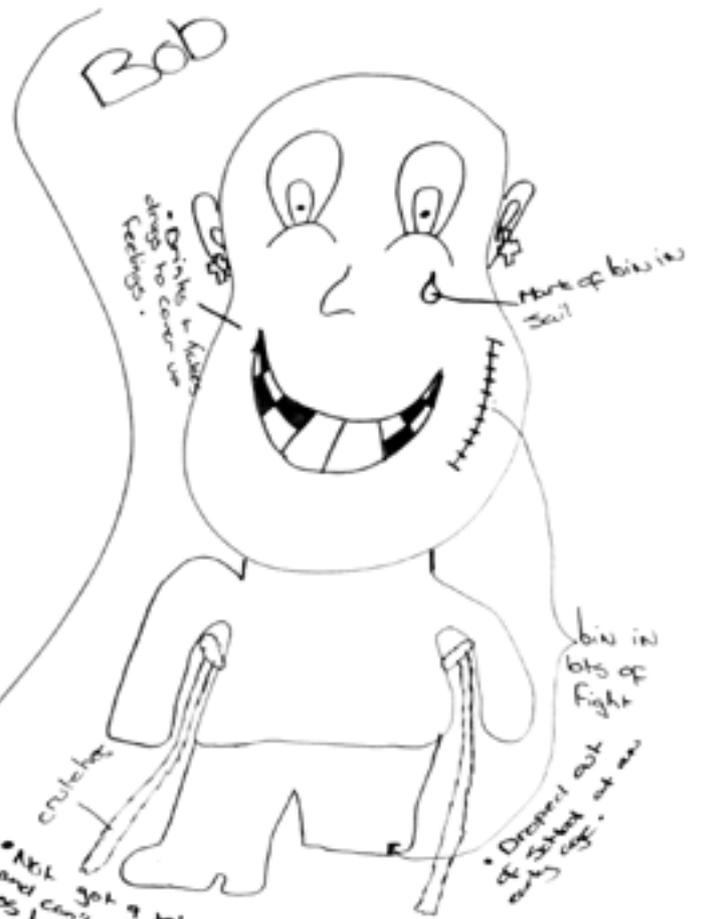
goes to college

Left school





- Doesn't break law
- goes to college
- never hits in a fight



- Not got a job and can't get 1
- Drinks alcohol too much in spare time to make self happy.
- lost friends + family, cos discovered lives in a bedsit

# 06/ One size fits all

*When you've been locked up you just want your freedom back.*

*They're just giving us the chance to fail.*

*Like being on a dog chain.*

## The Punitive Turn

The number of children sentenced to custody has more than tripled since 1991 (Ministry of Justice, 2009). Despite an overall fall in the number of children imprisoned in recent years, it has once again begun to rise (Ministry of Justice, 2011b). The introduction of the DTO under the Power of Criminal Courts (Sentencing) Act 2000 has subsumed a vast array of children and young people into the failing cycle of the punitive system. In 2009/10 a total of 5,130 custodial sentences were given to children and young people and DTOs accounted for 92 per cent of these sentences (YJB, 2011b).

The vast churn of children and young people on short DTOs places increasing pressure on under-resourced systems when they are released from prison. It is thus unsurprising that children and young people reported that when they were released from prison they were subsumed into a system that 'sets us up to fail' by being unable to meet the vast array of complex individual needs, instead focusing on a risk based one-size-fits-all model. It is perverse to impose such rigid requirements on children and young people with chaotic lives and have a system designed to criminalise what can be normal childhood behaviour. As one practitioner commented, 'you need to give young people a chance in an environment where they can make mistakes'.

Children and young people reported that on the whole they benefited from the contact of positive relationships with workers (see 'Relationships' chapter). However, the majority were negative about the system itself and requirements they must adhere to whilst on licence, which they felt did little other than label them as criminals and reinforce their social detachment. It is shocking that more than one young person reported that they would rather be in prison as they felt that they could not comply with, what they perceived to be, unreasonable and onerous requirements.

One young person, who had been released from prison the previous day, did not understand any of the requirements that he was forced to comply with or what orders he was on, despite them being repeatedly explained to him. This clearly increased the likelihood that he would be breached and recalled to custody. The House of Commons Committee of Public Accounts (2011) has recently found that this reflects a broader trend; 70 per cent of young people suffer from significant communication difficulties but current forms of assessment do not give this sufficient weight. The system assumes a level of understanding that will in many cases be lacking, therefore undermining the ability to engage or comply with the requirements of their sentence plan.

Rather than beginning with the premise that the most effective way to reduce reoffending is to tackle the underlying causes of crime with a welfare-led approach, the preoccupation with risk which 'permeates nearly every sphere of activity within youth justice' (Brown et al, 2007) has led to a system of surveillance, tagging and tedium when children and young people leave custody. The result: a 72 per cent reconviction rate within a year and a vicious cycle to create the adult offenders of tomorrow.

Prison does not work and the DTO has done little but pull more children and young people into a failing system. Investment should be made into early intervention, prevention and integration that tackle the underlying causes of crime, with an approach centred on each young person's welfare. It is time for a fresh start.

## Innovative practice: taking young people out of a failing system Croydon YOS

A couple of years ago Croydon had a particularly high custody rate much of which was made up of four to six month DTOs. As such workers from the YOS requested that they could conduct a presentation to the local magistrates to explain the limitations of such a sentence – the shorter custodial term would only serve as a loss of liberty and would often result in limited rehabilitation. These sentences appeared to only serve as disrupting school and accommodation and in many instances would set young people back. Furthermore, there appeared to be no deterrence associated with these short orders.

The YOS presented their findings to sentencers and discussed how a longer term community order was in fact more effective. Whilst the resident district judge was not present they also sent him information. They also met with the lead crown court judge within the borough and this communication has proven to strengthen the relationship(s) with the local courts, their trust and possibly understanding of what the YOS does and how they use community alternatives to custody. They provide updates and continue to meet with sentencers every six months.

As a result, four-six month DTOs appear to be something of the past in Croydon. Communicating with the sentencers, enhancing their understanding of the reality of short term custody and the use of custody in general, in addition to explaining how alternatives work has reduced Croydon's custody rates dramatically – by almost 50 per cent.

## Key recommendations

- The youth justice system is not the appropriate response for the majority of children and young people and does little other than reinforce negative identities and behaviour
- The Detention and Training Order should be scrapped

## Intensive Supervision and Surveillance (ISS)

As part of their licence conditions, many of the children and young people we worked with were either on, or had experience of, Intensive Supervision and Surveillance (ISS). Although they were mostly positive about the contact and relationships they had with the ISS workers, they were extremely negative about the programme itself. One young person went as far as to say, **'I'd prefer a couple of months in jail than a year here'**.



## What is ISS?

### ISS was introduced by the Youth Justice Board in 2001.

It is an intensive programme of supervision and surveillance that can be attached to a community order or onto a licence when children and young people leave custody. The framework and delivery of ISS is highly prescriptive. Participants can be subject to monitoring for up to 24 hours a day, seven days a week. During the first three months of the programme they are required to partake in a 25 hour programme each week, following which they must comply with five hours of contact a week. The ISS programme should include five core 'supervision modules': education and training; changing offending behaviour; interpersonal skills; family support; and restorative justice.

The majority of the ISS programme is delivered in group work sessions with other children and young people. Although one young person pointed out the benefit that **'you can talk about stuff that you've done together; you know people have been there and that you can talk about it'**, many questioned the rationale behind bringing young people together, commenting that it reinforced their negative behaviour: **'It's shit. They put us all together after being locked up together. It's not a good combo'**. Some young people also discussed that as ISS forced them together for the group work, they **'end up being together after coming here'** often encouraging each other into committing crimes. As one young person commented, **'we're all little fuckers, you should stay away from people'**.

Evidence supports the views that such group work can have negative effects on children and young people's self-perception and behaviour. 'The experience of custody means that young people are forced to live, learn and socialise entirely with a peer group whose common characteristic is their offending behaviour, which is another well-attested risk factor' (Communities that Care, 2001). To bring the same children and young people together for 25 hours a week as part of their licence conditions continues this negative reinforcement of their criminal identities and segregates them into a group apart from the rest of society, when the aim is to reintegrate them positively back into it.

The content of the ISS sessions was also subject of much criticism in every group we worked with. As one young person put it, **'you get taught the same crap over and over again, it starts to repeat'**. Young people provided many suggestions of alternatives to group work, from **'do an apprenticeship**

instead of wasting time coming here' such as 'painting and decorating', 'catering', 'anything' or simply tailoring the session to 'something you've got an interest in and be able to see the impact of it'.

A recent joint thematic report found that successful interventions 'must target the right people, focus on the right things and be delivered in ways that are most likely to secure participation in order to reduce reoffending' (HM Inspectorate of Probation et al, 2011). However, the numbers in the group, the varied ages, backgrounds, needs and risks means that with current resources it is not possible to tailor the programme to meet every young person's needs.

The majority of children and young people had begun the ISS programme shortly after leaving custody, however one young person commented that during this period it was particularly difficult to comply with: '**They could make it easier for you. When you come out you don't get anything. At prison you've got everything there. When you come out you're a bit lost at first**'. Another young person commented: '**You just have to get into a routine. It's just like jail. You have to get settled in and the first two weeks are always the hardest**'.

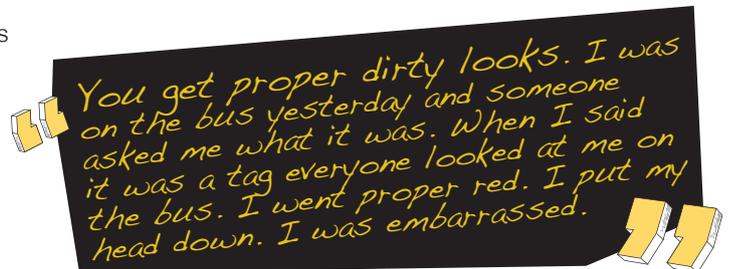
Others that we worked with spoke of the difficulties of getting to the sessions, the resounding opinion being '**that it should be closer to home**'. Although we saw many examples of workers going the extra mile to pick up young people in their own cars for sessions, there is evidence that children and young people who live further away or have less access to transport are disproportionately treated.

Given that children and young people can be subject to breach and recalled to custody if they fail to attend sessions, the practical barriers they face appear to support young people's feelings that they are being set up to fail.

The young people we worked with were resoundingly of the opinion that ISS does not work and the evidence backs up their claims. The YJB commissioned a two-stage evaluation, which found that the 12 month reconviction rate was 91 per cent and the comparison sample was 76 per cent. As Ellis et al (2009) point out 'such results can, at best, be regarded as very poor, and at worst, failure'. Despite this, the YJB has continued to invest in the programme to fulfil one of the original aims that it appears 'tough on crime', making it popular with both the public and sentencers, regardless of whether it addresses children and young people's needs or reduces reoffending.

As Ellis et al (2009) go on to summarise: 'In short, ISSP has not: reduced predicted reoffending; ensured adequate surveillance to ensure public protection; ensured rigorous enforcement; had a positive impact upon offenders' attitudes; provided supervision

sessions specific to individual needs or offender age; improved young offenders' life chances; ensured adequate incapacitation; brought structure to young offenders' lives; provided strong boundaries and separation from damaging environments or peer groups. The whole regime for dealing with such offenders needs a radical and urgent over-haul, and a review which focuses on the evidence of what does work or is likely to work, rather than on political expediency, is long overdue ... **It is time to stop flogging the dead horse!**



## Tag

Children and young people released from prison can be electronically monitored as part of their ISS conditions, as part of their early release arrangements or as a separate requirement on their licence. The most common form of electronic monitoring is a 'tag', a bulky device that is secured around a young person's ankle. Many of the children and young people we worked with were 'tagged', or had previous experience of being so: a total 1656 children and young people were tagged following their release from prison between April 2010 and April 2011 (Hansard, 2011).

Many children and young people we worked with spoke of the dehumanising effects of being placed on tag. One young person described it '**like being on a dog chain**'. As part of their tag, most of the children and young people had to be in their designated accommodation between seven pm and seven am (which is the standard curfew imposed unless there is an application made to vary it) and there was a lot of frustration about the disproportionate amount of control that was being imposed upon them: '**You're not in control of your own life. They're ruling your life**'. Others felt that it actually exacerbated the chances that they would be breached and returned to prison due to the amount of frustration caused: '**Tag doesn't work, it just makes you worse. It's people trying to make you do what they want you to do and control you. It makes me want to rip it off**'.

There was also discussion in the groups regarding the visibility of the tag and how it affected the way that other people viewed them: '**When people see a tag on you they judge you**'.

In every group children and young people talked of how this occurred in everyday situations, such as when they wore shorts

or went swimming, **'I went to the swimming baths and people just look'**. One young person spoke of how it can become a positive label for committing crime: **'When young people see your tag they think it's good, they don't get it. People flashing their tag, they think it's clever'**. Evidence from the evaluation of ISS suggested that some young people were antagonised by the tag, reinforcing their pro-criminal attitudes and leading to further offending while on the programme (see Brown et al, 2008 page 220).

Although a couple of young people felt that they benefited from the enforced structure that the tag imposed and thought **'if I didn't have tag now I know I'd breach and go back (to prison)'**, the majority thought the requirements were too demanding. As one young person said: **'Don't have the tag, just giving us the chance to fail'**. Many questioned why they were tagged when it did not relate to their offence. A young person who had been convicted for burglary stated that if he wanted he could **'make the same amount of money in the day as in the night time'** and suggested that assessments for tag **'should depend on what and where your offence was'** rather than pointlessly subjecting so many people to it.

A lot of young people felt that the breach procedures were unfair and too stringent for them to comply with. **'It sets you up to fail. You can't help but to be late sometimes but they'll still breach you – all they see is you've been out of your house.'** One young person could not get back into the house because his mum was not back on time to let him in, so he had to put his foot right next to the door for an hour to avoid being breached. When another young person could not get into his house on time he had to climb through a window to avoid being breached. A neighbour rang the police who thought he was burgling the house. Another young person said, **'I get breached for going in my attic as you lose the signal up there'**.

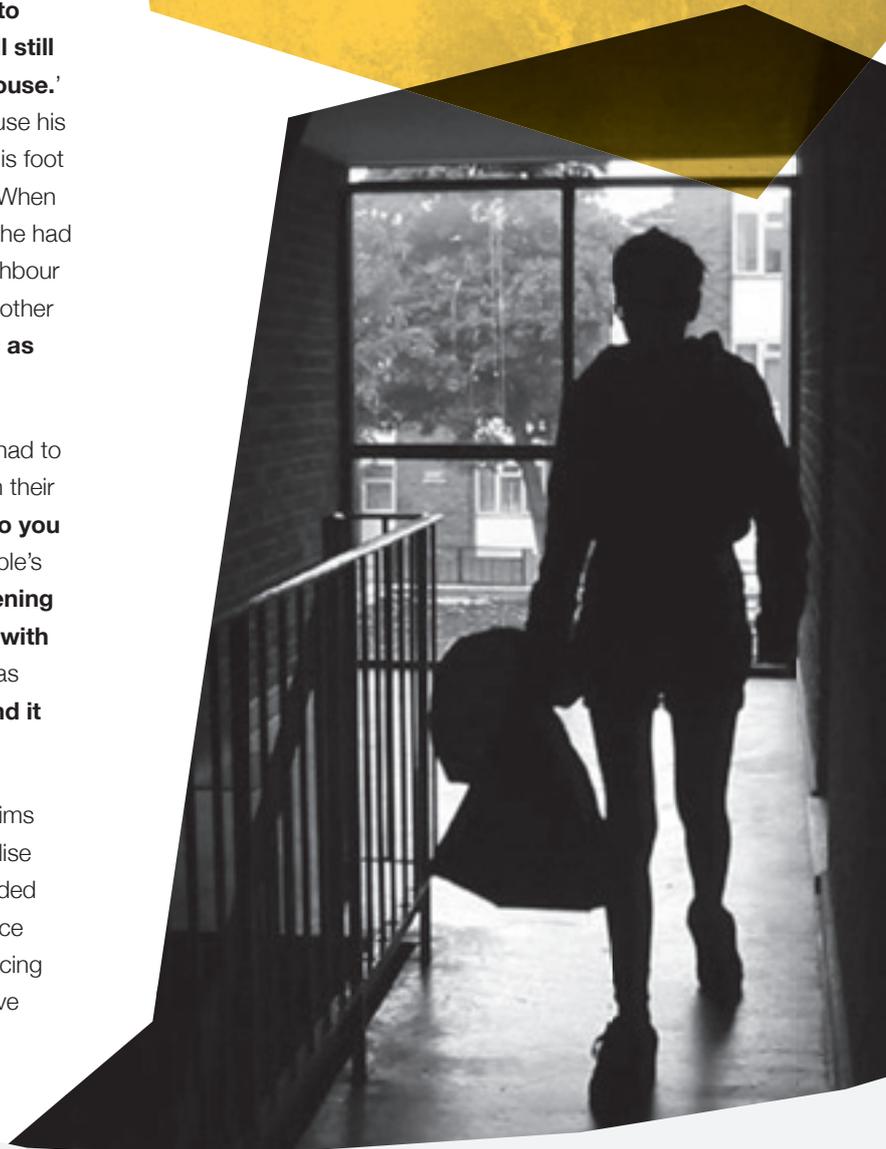
Many young people thought that the tag and curfews they had to abide with prevented them from making positive changes in their lives. **'I want to go to the gym in the morning.'** **'What do you do if you have to start work?'** It also effected young people's relationships with their families because **'if it's a sunny evening you can't even go in the garden and have a barbecue with everyone else'** and the length of curfews meant visiting was restricted: **'What if you wanted to go see your family and it took ages to travel?'**

Evidence substantiates the children and young people's claims that curfews are ineffectual and further exclude and criminalise them. The Institute of Public Policy Research (2008) concluded that **'despite their apparent popularity, there is scant evidence that curfews work ... they show no significant effect in reducing crime, and in some cases worsen it'**. Brown et al (2007) have

also questioned the rational of this element of the one-size-fits-all model when children and young people leave prison. **'The suitability of the tag for those with particularly chaotic lives is not always clear cut and must be assessed on a case-by-case basis. While the tag is popular with practitioners and sentencers, some young people find it difficult to comply with its requirements.'** Yet the use of tag is ever popular, labelling and criminalising children and young people, reinforcing their social exclusion.

## Key recommendations

- Intensive Supervision and Surveillance should be scrapped. However, the positive model of advocacy and intensive support that is provided through ISS should remain
- The use of 'tag' on children and young people should be reduced and only imposed on those that would benefit from it
- Interventions should be designed and delivered to meet young people's individual risks and needs rather than a one-size fits all approach



# 07/ Relationships

*Some of them, they help and support you. Some of them are dickheads, they're just there to breach you.*

*It's shit coming here but the people are alright. They don't judge you. They say what's done is done.*

*It's not just what I can do to effect being in the real world, it's the people around me as well.*

## Although the children and young people we worked with were extremely negative in their opinions

of the system and requirements they had to comply with when they left prison, **on the whole they spoke positively of relationships** they had forged with individual workers and how they had helped them. Children and young people appreciated the support and advocacy they received. However, many felt that positive relationships with YOT workers were undermined by the punitive role that they have.

*These lot (ISS) support you, them lot (YOT) just lock you up*

## ISS workers

As outlined in the previous chapter, children and young people were extremely negative about the content of ISS, the way it is structured and the requirements they are forced to comply with. However, they were unanimously positive about their ISS workers and the relationships they forged with them. The word **'support'** was used in each group and, as one young person commented, they felt that **'you get more out of ISS because of the people'**.

Young people felt that their relationships with ISS workers were positive as a result of the type of people that were recruited:

**'Because of the amount of time you have with ISS you've got to have someone that wants to spend 25 hours with you'**. One YOS had a worker who had personal experience of being in the criminal justice system and the children and young people in the group were particularly complimentary about him because **'he understands what we're going through'**. Other groups felt that their youth offending services should employ ex-offenders to work with them: **'They should employ someone who knows what's going on'**.

For many children and young people contact with the criminal justice system can provide the first opportunity for a consistent relationship with a positive role model. A study by the YJB (2005b) found that 'this may be the only positive or non-abusive relationship the young person has had with an adult'.

The national evaluation of ISS found that the quality of the relationships between the young person and their worker could have a very strong impact on outcomes (YJB 2005c). As they have daily contact with the young person they are able to challenge behaviour and encourage compliance. It also found that young people often disclosed information, such as previous sexual abuse, self-harm, health problems or family issues. The evaluation concluded that schemes with assertive and experienced staff have tended to deliver the programme more efficiently and consistently than others.

## Youth offending service workers

Children and young people were not unanimously positive about their YOS workers. However, there were numerous comments and discussions about individual benefits they can have: **'It makes a difference if you get on with your worker'**. One young person told us that the impact of his worker had been so great that **'I'd probably still be in jail now without mine'**. One group that we worked with were complimentary about the ethos of the whole team because they do not treat them like criminals: **'They don't judge you. They say what's done is done'**. Young people were most positive when they felt they were being **'given a chance to start again'**.

When asked what they felt made a good YOS worker, children and young people described someone who **'listens'**, **'is easy to talk to'**, **'doesn't judge you'** and **'understands what we've been through'**, **'someone who gets you'**.

However, children and young people were negative about individual workers: **'If you get a knob head worker, of course you're not going to come'**. They felt that **'some of them judge you'** and **'some YOS workers are just there to do a job'**. The differences between good and bad workers tended to be whether they supported young people and advocated on their behalf and those who they perceived to be solely there to punish them: **'Some of them, they help and support you. Some of them are dickheads, they're just there to breach you'**.

The punitive work of YOS workers, such as breaching orders, was seen by many children and young people as the greatest barrier to developing a positive relationship. One young person said that she could not open up and trust her worker because **'what worried me more was what I said, I knew everything I was saying they would be assessing me and they could send me back to prison'**. In one discussion a young person said that **'my YOS worker's a police officer'**, who was on secondment to the YOS, to which another young person replied, **'I'd refuse to work with them ... they'd stitch you up. You need someone you can trust to tell them things'**.

There is a growing body of evidence that demonstrates that effective practice is contingent on the establishment of a positive relationship between youth justice staff and the young people with whom they work (Brown et al, 2008). It is apparent from speaking to children and young people that the punitive element of YOS work can undermine these relationships. As one young person recommended, **'they should have a service of care'**.

## Police

In every group we worked with children and young people consistently spoke of their negative experiences of and relationships with the police. There was a pattern across the country that once a young person was known to the police they were labelled, criminalised and drawn further into the system: **'I'm well known to them. They just stop and search you. It can happen seven or eight times a week. It's an opportunity for them to lock you up'**.

Many young people felt that the police treated them differently to other sections of society and expected them to fail. One police officer had come up to a young person and said 'I can't believe you're not locked up and you've not followed the same path as your older brother'.

Relationships with the police have been a recurrent theme during the **U R Boss** project. To respond to children and young people's concerns, we are developing a programme of work to explore these issues further and work with police forces to share experiences and identify best practice.

## Key recommendations

- Positive relationships with workers play a crucial role in the lives of young people and rely heavily on advocacy, support and consistency
- Punitive aspects of the current YOS role should be removed
- Police should never be seconded into any form of statutory agency aiming to promote the welfare of young people
- Recruitment processes should encourage ex-offenders to apply as part of a multi-disciplinary team
- Multi-agency work should aim to 'promote young people's welfare' rather than 'reduce offending'



# 08/ Routes back into custody

Alright in custody, it's just the coming out I didn't like ... it would be better if they put things in place I agree to, they need to listen to you.

Do one little thing wrong and you can be sent back to prison.

For the children and young people that we worked with there was a clear pattern that the youth justice system **did little else than to reinforce their collective identity**, that they were an 'other' from society, place them in failing prisons then release them into a one-size-fits-all model that further criminalised and excluded them. The overarching theme of this report is that children and young people feel that they are being 'set up to fail' onto the inevitable path back into prison.

**630 children were recalled to custody following a breach of their licence conditions in 2009-10**  
(Hansard)

## Being set up to fail

Many of the children and young people felt that they were 'set up to fail' before they had even left the prison gate. Some children and young people felt that this was because they were not listened to when their resettlement arrangements were being put in place. One young person described his final review meeting in prison, where resettlement arrangements should take into consideration the young person's views (National Standards, 9.69), as a **'big meeting where people talking about you.**

**I told them I couldn't comply with my licence conditions. I wish I'd stayed in. Now I've breached and going back in'.**

He explained that he wished that he had not been given his early release because he had breached his licence conditions 10 times within two weeks, was up in Crown Court the week after we had worked with him and was likely to be recalled to prison: **'If they hadn't let me out early and put me on a month's tag then I wouldn't be in the predicament I'm in now.'**

Another young person had initially been released into accommodation in an area where she did not want to live because her victim, victim's parents and victim's friends lived

there and it was far from the positive support networks of her own family and friends. She was recalled to prison following an altercation with her victim's friends where no further criminal offence was committed, but felt that this loss of liberty was worth it because **'they gave me somewhere else and my social worker listened'.** **'Finally they listened. They didn't re-release me and put me in \*\*\*\*\*.** **That was setting me up to fail.'** This young person's experience epitomises that the failure to listen to children and young people and not giving them the fundamentals they need can lead to. Once re-released, this young person has not been recalled to prison again. Instead, **'when I got released again I just turned into a hermit'** as exclusion was the only way she could prevent herself from being recalled once again.

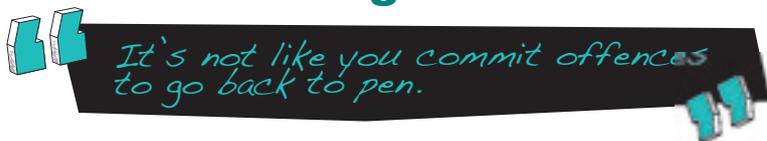
**The Howard League's legal team has represented 67 children and young people in the last year to hold authorities to account to ensure that they have the structures in place to support them when they leave prison.**

The principle that a seamless and continuous approach to resettlement is more likely to achieve better outcomes underpins the whole DTO structure and the YJB's theory behind resettlement (YJB, 2006). Yet the Howard League, in both its participation and legal work with children and young people, has shown that this is failing in practice. Children and young people need to be listened to and appropriate support needs to be put in place when they leave prison if there is any chance of effectively tackling the unacceptably high reconviction rate of 72 per cent within a year. As one young person suggested, rather than a one-size-fits-all-model they must comply with during their licence period, **'let kids have a choice within reason – give them a list of set things they can choose from'.**

There is also evidence that those who are the most disadvantaged are the most likely to be recalled. A recent report by HM Inspectorate of Prison (2011) found that 25 per cent of children in Young Offender Institutions have spent time in care yet, for this group who reported more vulnerability and greater need 'adequate and early planning for release was a key concern. Accommodation was often not confirmed until close to the young person's release or even the day of release, which meant some ended up in unsuitable accommodation and employment and/or education plans were adversely affected.' The Inspectorate concluded: 'It was clear that the work of secure establishments was often undermined by the absence of appropriate consultation following sentencing, lack of continuity of approach before admission and after release, and the failure to deliver good enough support after young people were discharged. **Unless these factors are tackled systematically, the rates of reoffending and re-referral among young people are unlikely to fall.**'

The youth justice system sets up to fail the most damaged, the most disadvantaged and the most excluded when they are released from prison. 'The decision to breach could therefore be seen as a failure on the part of the young people, but could equally be interpreted as an indictment of the terms of the order: are young people being set up to fail?' (PRT, 2011)

## Criminalising behaviour



Many children and young people felt they were set up to fail once they were on the licence period of their sentence because they could end up back in prison even if they do not commit further offences: '**Do one little thing wrong and you get sent back to prison**'. 'Possible reasons for a decision to bring breach proceedings are that the young person has failed to keep appointments or observe a curfew, or to comply with other conditions of their order. Even where appointments are kept, bad behaviour can be taken as a failure to comply. The young person may or may not have committed further offences or anti-social acts (NCB, 2010).

Another young person who was under school leaving age had been subject to repeat breach proceedings for not attending his education placement. Despite the fact that he had not attended school for two years prior to a period in prison and the support and flexibility he clearly required to do so, the legislation is geared to punish him under statute: **once criminalised, there is a criminal response to a welfare need.**

It is widely accepted that as part of growing up children and young people will behave badly, come home late, not want to go to school or exhibit negative attitudes towards their parents and carers. For those not in contact with the criminal justice system, this can result in punishments such as a period of

being grounded, mobile phones confiscated or televisions and computers removed from bedrooms. However, once sucked into the youth justice system and released from custody, young people's behaviour is judged and punished to a different standard to other children and can result in a loss of liberty. This is in direct contradiction to the Article 37b of the United Nations Convention on the Rights of the Child that custody should only be used as a last resort.

## How breach is implemented

### The YOT must:

- 1 record any contacts where the young person fails to attend as either acceptable or unacceptable in line with the locally agreed definition
- 2 follow up all failures to attend within one working day by telephone, home visit or letter to determine whether the reason is acceptable or unacceptable
- 3 where a young person fails to attend and the explanation given is unacceptable (or no explanation is given within 24 hours), issue a formal written warning within 24 hours
- 4 where 2 formal warnings are given and a further unacceptable failure to attend takes place, then breach action must be initiated within 5 working days unless, in exceptional circumstances, breach action is stayed within the authorisation of the YOT manager
- 5 where there is a single serious unacceptable failure to comply, breach action can be initiated immediately. However, this should only be considered in exceptional circumstances

Many young people, who had not committed further offences, felt that they were being punished for other's failures: '**It was a waste of time and money for me to go back inside ... They never learned the lesson, I was the one who paid the consequences.**'

For those who had committed further offences and been recalled to prison, there was a feeling of injustice that they had received a double punishment: '**you should be judged on that crime**'. An example was given by one group of shoplifting from the local newsagents, which for the majority of children and young people would incur a low level response or perhaps a short community sentence. For those who were on licence following a period of incarceration, there was a feeling that they were subject to a double-punishment.

This was particularly the case for children and young people serving long term sentences, where they can be recalled to custody without even an appearance in court. As one young person subject to an extended licence said, **'I could commit the pettiest little crime and be sent back to prison for two years'**.

## The inflexible system

Youth offending services have to comply with a raft of guidance that underpins statutory legislation. The National Standards (2010) are extremely specific about what is expected from them. Although the latest version of the Standards is somewhat more flexible in that it allows the discretion to breach where warnings have not been given and not to breach when they have, the children and young people we worked with felt that the system should be much more flexible and proportionate.

### Innovative practice: introducing flexibility Birmingham YOS

Once a young person receives their final warning they are invited to attend a breach review meeting, which can be held at either the YOS office, young person's home or ISS office. In attendance are the young person, parent or carer, ISS staff and case manager. The meetings are chaired by either ISS management or Area YOS management, which allows for oversight and accountability. During this meeting, the young person is encouraged to explain their non-attendance, non-compliance or negative behaviour. The best way forward for the young person is discussed, how they can re-engage with the programme and how the YOS can support them better to re-engage with the programme.

The review meeting is held before the young person fails to attend their third appointment and receives breach notification so that something can be done to reduce the chance of them breaching and being recalled to custody.

Birmingham ISS have started discussions regarding a re-engagement group. This will be offered to those young people currently in breach who are not engaging in the full programme. They will be offered two appointments a week rather than the 25 hours and they will be encouraged and motivated to return to full compliance with their order. The purpose of the group is to demonstrate to the court that the young person has made some efforts to comply with their order despite being in breach, even if it is not the full compliance expected of them.

Many children and young people felt that **'sometimes it isn't your fault'** when they failed to comply with an element of their licence, such as missing the bus to attend an appointment or being locked out of the house when they should be inside as part of a curfew. Suggestions in response to this included: **'You could do an extra day – every time you breach, if it's something small, then add an extra day on'**; and **'add time on, every time you're 15 minutes late, then add 15 minutes on the next day'**.

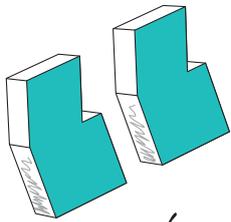
Some children and young people felt that the system was unfair because there is too much practitioner discretion and whether or not you're breached depends on who your worker is: **'Workers can stitch you up. If you're half an hour late (for an appointment) they can breach you.'**

In the article 'We now breach more kids in a week than we used to in a whole year: the punitive turn, enforcement and custody', Bateman (2011) argues that the role of enforcement in youth justice practitioner culture is an indicator of how practice has become less tolerant towards children in conflict with the law.

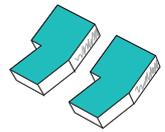
Once in the system, we exclude young people, criminalise them and set them off on a path back through the prison gate. The result: a 72 per cent reconviction rate for those released from prison within a year. **It is time to reverse this trend and respond to children's behaviour as what it is: the behaviour of children.**

### Key recommendations

- Young people's involvement should be central to all decisions made in their lives in line with article 12 of the UNCRC
- Young people should be released into an environment where they have the opportunity to make mistakes without being further criminalised
- There should be consistency in how young people on different sentence types, and lengths, are treated
- There should be increased flexibility in how young people are dealt with when they are in breach
- Every effort should be made, in both guidance and by practitioners, to prevent young people being recalled to custody
- Current measures and constraints should be scrapped in favour of practitioner discretion



Fresh out no barz in my eyes  
Finally seein those clear blue skies  
No more pricks staring me out in that place  
I no longer need to set the pace  
But I still can't sesh with the man dem  
Real talks it still like pen  
On road with tag and ISS  
I swear its some fucked up shit  
It like I'm bein set up to fail  
If I breach straight back to pen NO bail



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