The punitive transition in youth justice: Reconstructing the child as offender over time in England and Wales

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Abstract

The transition from 'child' to 'offender' status can be fast-tracked when offending is formally recognised through formal disposal, with children treated increasing punitively as they progress through the Youth Justice System. The status and 'offenderising' transitions of children who offend is socio-historically contingent, not only on their behaviour, but on political, socio-economic, societal, systemic and demography. We support this perspective through a periodised re-examination of four socio-historical trajectories in the construction of the 'youth offender': Conflict, ambivalence and bifurcation (1908-1979); depenalising diversion and back to justice (1980-1992), fast-tracking the child to offender transition (1993-2007) and tentative depenalisation (2008 to present).

Introduction

The 'punitive turn' of the 1990s served to highlight an alarming dynamic in youth justice in England and Wales. Children who offended were increasingly deemed to have forfeited their childhood status and its associated rights and safeguards, despite offending often acting as a transitory stopping off point on their life course trajectory into adulthood and 'only one element in a much wider and more complex identity' (Drakeford 2009: 8). Children[1] experiencing problems and demonstrating needs in other domains of their life are typically understood as innocent, vulnerable 'beings' requiring care, protection and support from more resourceful and powerful adult stakeholders. The safeguarding, welfare and well-being of these children 'in need' is prioritised and their 'child' status is held paramount in determining how they are understood and responded to. However, when children with equivalent problems and needs (often the same children) offend, punitive and neo-correctionalist 'offenderising' approaches tend to predominate, usurping the needs-led, 'children first' rationales of other support systems for children.

[1] We employ the terms 'child' and 'children' throughout, in accordance with the United Nations Convention on the Rights of the Child (United Nations,1989) definition of a child as anyone up to the age of 18 and to counterpose the more pejorative label of 'youth', which feeds into the equally pejorative label of 'youth offender' (Case 2018).

This article argues that the potential for this transition from child to offender (hereafter termed the 'offenderisation' of the child) has its roots in the conflict and ambivalence regarding the appropriate treatment of children embedded in the creation of the Youth Justice System as it emerged in the early part of the twentieth century. Locating our argument firmly within the context of England and Wales with which we are most familiar, we assert that the reconstruction of children as offenders has been evident in each of the various configurations through which that system has passed in the subsequent 100 or so years but has taken various forms. In particular, some manifestations of youth justice have encouraged a more rapid transition in the construction of children from innocent to culpable, from vulnerable individuals requiring protection to responsible quasi-adults deserving of punishment; while others have served to slow that trajectory. The periodisation of the development of youth justice in England and Wales is not new; it has been undertaken expertly by others (e.g. Smith 2013; Muncie 2015; Hopkins-Burke 2016; Godfrey et al 2018; Case 2018). Similarly, the identification of a cyclical nature to the treatment of children in trouble is an insight made cogently elsewhere, notably through Goldson's (2015) notion of 'circular motions' in the trajectory of youth justice. Therefore, the original and unique contribution here, we argue, lies in our use of periodisation to enable a focus on how children become offenders (i.e. the 'offenderisation' of the child) and the implications of offenderisation for the contemporary implementation of a 'child first' strategy of youth justice in England and Wales. We present an overview of shifts in the treatment of children in trouble, through an historical analysis that focuses on the nature of the child to offender transition at different junctures. We also offer some tentative remarks on the implications for the development of a 'child first' mode of youth justice, to which the Youth Justice Board in England and Wales has recently committed (Youth Justice Board, 2018).

Understanding offenderisation: The child to offender transition

The argument that children lose their socially-prescribed innocence and access to their allegedly universal unconditional rights (United Nations,1989) once they have offended is well-rehearsed (cf. Cunneen et al 2016; Haines and Case 2015). It is often justified with reference to disparities in ascribed responsibility at different ages in other walks of life: children as young as ten can be held fully responsibility for offending behaviour, yet are considered too irresponsible to be permitted other behaviours and activities for instance purchasing tobacco or alcohol, consenting to sex, leaving school, getting married) until they are much older (cf. Bateman 2014). Such justifications are consolidated by rights-based

criticisms of children's treatment in/by the Youth Justice System (YJS), such as the court-ordered imposition of unpaid labour, restrictions of liberty, extreme measures of control and surveillance (see Goldson 2019) and, in particular, their inhumane treatment in custodial institutions (see Willow 2015). Our concern here is to trace the form which the transition from child to offender has taken and different historical junctures in order to better understand the complexity of influences on children's trajectories through the YJS and the potential futures for 'child first' youth justice. It is generally understood that conflict and ambivalence, has characterised responses to children's lawbreaking in England and Wales from the establishment of the youth justice system, a tension that is reflected in the perennial 'welfare versus justice debate' (Smith 2005) - a battle for paradigmatic supremacy between two conflicting 'models' that have shaped the systems, structures, strategies, philosophies and practices of youth justice (cf. Brett 2018). This narrative however tends to imply that responses to children in trouble are dichotomous: that welfarist practices acknowledge the child's innocence because they focus on the similarities between children in trouble and those need of care and protection; while justice principles embody a loss of innocence because they are predicated on responsibility for the criminal behaviour, leading to a process of what has been called 'adulteration' (Fionda, 2001), in which children are increasingly conceptualised, and treated, as if they were significantly older.

In our view, such a dichotomous account, while it undoubtedly has its merits as a typology, involves simplification of the full complexity and contingency of constructions of youth justice. In particular, concrete scrutiny of youth justice in England and Wales at various conjunctures does not support a necessary correlation between justice and a loss of innocence or, conversely, welfare and a commitment to it. Accordingly, we argue that in order to understand the processes whereby children who offend are regarded as less deserving than others who display problematic behaviours, a more nuanced analysis is required that pays attention to the underlying punitive (offenderising) dynamics and transitions, that persist between- and within-periods with different philosophical underpinnings. While these dynamics may appear in amended or attenuated form at different times, they continue to determine how children who come into conflict with the law are conceptualised and to influence the pathways along which they will travel.

In order to frame and qualify the subsequent analysis, two further points are in order. First, the point at which 'offender status' is ascribed and supersedes the child's previous status is not clear cut but, for current purposes, we have located it at as coinciding with the imposition of a formal youth justice sanction that gives rise to a criminal record, (.in England and Wales, this would include conviction at court, youth caution or conditional youth caution but not a 'community resolution' or other informal outcomes).While identifying a shift in status with particular forms of disposals may involve an element of simplification – there may, of course, be degrees offenderisation – we consider that the imposition of a criminal record constitutes a significant threshold in terms of the potential for stigmatisation, labelling, diminished future opportunities and associated iatrogenic consequences.

Second, it is important to acknowledge that the nature of the transition and the likelihood of it occurring is shaped by a range of *contingencies* that are present (or not) in the child's life at the point of their offenderisation. Such contingencies include, *inter alia*: political (e.g. law-making, legislation, and policy – see Muncie 2015);socio-economic (e.g. rapid change, austerity – see Case 2018); demographic (e.g. gender – see Goodfellow 2019; Sharpe in Case 2018); ethnicity – (see May et al 2010; Lammy, 2017); care status – (see Dept. of Education 2018; Bateman et al, 2018), dispositional (e.g. children's deference, attitude, acceptance of social norms, willingness to comply with youth justice processes – see Hopkins-Burke 2016), professional (e.g. practice, academia, media – see Case 2018) and public/societal (e.g. opinions/attitudes, treatment of children – see Smith, 2013). These contingencies frequently play an important role in understanding what happens to the individual child, whilst their personal and social needs and circumstances can take a poor second place. Nonetheless, restrictions of space, and in some cases a lack of historical data, preclude a detailed account of the influence of these contingencies on the offenderisation of children across the period covered in this paper.

Evidencing the offenderising transition

Employing a socio-historical approach to process analysis, we identify and apply a chronological framework to evidence the dynamic and often punitive, offenderising transitions that are experienced by children within the YJS of England and Wales. Such an approach enables lessons to be learnt from youth justice past so that we can better understand the present (and potential future) of youth justice, particularly by charting the emergence of (punitive) transitions and the contingencies that influence the child's changing positions and experiences

within and between these transitions from 'child' to 'offender'. Our process-orientated analysis deploys historical data 'to explain the genesis of contemporary behaviours, policies and institutions', fusing sociological criminology's 'strong sense of contemporary purpose [with the] strong sense of time perception' demonstrated by criminal justice historians (Lawrence 2012: 317).

The underpinning argument throughout is that the fluctuating position (and labelling) of children who offend has been and remains socio-historically contingent, not only on their behaviour, but on political, socio-economic, societal, systemic and demography. We generate evidence to support this perspective from a re-examination of the socio-historical trajectories of responses to children who offend. Four broadly-drawn periods in the socio-historical construction of the 'youth offender' are outlined which, taken together, explicate the origins and trajectories of the child to offender transition: conflict, ambivalence and bifurcation, depenalising diversion and back to justice, fast-tracking the child to offender transition, tentative depenalisation.

1. Conflict, ambivalence and bifurcation (1908 – 1979)

From the early 20th century onwards, a criminal justice system for children as distinct from adults began to emerge – a system characterised by conflict and ambivalence as to how children in trouble should be constructed and justifying responses that viewed them as simultaneously innocent and dangerous. Prior to this period, there was no legal, conceptual or practical distinction between the 'adult' and 'the juvenile offender'. Consequently, the transition from child to offender was largely coterminous with the transition from child to adult. There was a clear binary divide between children below the age of criminal responsibility (then 7 years) and any person over that age who broke the law. However, during the 19th century, an increased identification of children as different from adults precipitated the discovery of 'adolescence' as a distinct developmental life stage (Hall 1908; see also Case 2018). This new social construction introduced the possibility of older children being understood as relatively innocent when they offended, by comparison to adults, because of a recognition of reduced culpability.

At the same time, historical developments during this period enshrined an ambivalence, notably the introduction of a dichotomy focused around the depraved - deprived axis, evidenced by the increasing use of terms that referred to a discrete category of lawbreaker, namely young offenders see for example. the Juvenile Offenders Act 1847 and the Youthful Offenders Act

1854. Accordingly, the offenderising transition from child to offender was made at the point that children were determined to have fallen on the depraved side of that divide –In the absence of a clear youth justice process, this was largely a contingent process dependent on local arrangements (Case 2018).

At the turn of the 20th century, the seminal Children Act 1908, and other related legislation, formalised the dichotomy – recognising the link between offending and social circumstances by having a single venue for crime and care – but also maintaining the divide by having different outcomes available. The Act established 'Juvenile Courts' with simultaneous jurisdiction over children 'in trouble' (requiring justice-based responses) and children 'in need' (requiring welfare-based care and protection). This systemic innovation thereby operationalised the rather messy (contingent) transitions that had characterised much of the previous century without resolving the tensions. This legislation constituted a fudge that aimed at the simultaneous punishment and rescue of the child. For children, it was as if their innocence required punishment for their own good. For current purposes, accordingly, the principal locus of bifurcation shifted from a dichotomous divide between children who could not offend by dint of their age and other lawbreakers, to a more blurred distinction between children who retained their innocence and those whose status within the justice system determined that they deserved punishment.

The subsequent Children and Young Persons Act 1933 emphasised the potential innocence of all children by requiring courts to have regard to the welfare of the child whatever the reason for the court appearance. It is also raised the minimum age of criminal responsibility to 8 years, reducing the scope for a cohort of children to be treated as offenders. But these processes ran alongside an increased use of borstals and other (punitive) forms of institutionalisation, effectively widening the gap between those in need of care and protection and those who merited punishment and making the transition to offending status a more stark one for those who were deemed to fall the wrong side of that gap.

The 1948 Act of the same name introduced professional social workers for all 'troubled' children, but once more this progressive step, that drew attention to the similarities between children who offended and those in need of protection, was undermined by the introduction of attendance centres for the former. One the one hand, institutional responsibilities promoted the

innocence of all children while simultaneously, the distinct mechanisms to which children were subject made loss of innocence for those children who broke the law more likely.

The post-war period saw massive socio-economic changes, characterised especially bv the emergence of rampant consumerism, individualism and sharp rises in crime, which motivated an increased demonisation of children (Garland, 2001) and underpinned a problematisation of delinquent youth subcultures. Youth justice policy, however, retained a resilience and optimism, associated with the rise of social science and the helping professions, ensuring that discourses based on the commonalities of children in need/trouble would continue to surface (Pitts, 2003). For example, successive legislation in the 1960s recommended or introduced both raising the age of responsibility and enhancing the focus on care over control for children who offended. But even at the height of welfarism, a continued ambivalence towards children in trouble with the law was evident, reflected, for example, in the title the 1965 government white paper 'The child, the family and the *young offender*' (Home Office 1965, our emphasis). The document expressed largely welfarist sentiments but used terminology that betrayed the persistence of an offenderising discourse, co-existing uncomfortably alongside care-focused recommendations.

, In the event, the 1970s Conservative government retrenched on these welfarist ideals in favour of increased net-widening, systemic intervention and punitive responses, indicative of a 'chill wind …blowing towards the young offender' (Millham et al 1978: 33)**.** While the rhetoric of welfare gained increased currency, in practice the suggestion that the criminal justice system could deliver treatment to children in need encouraged a considerable expansion in the number of children subject to criminal proceedings.

In retrospect, the Children and Young Persons Act 1969 represented the highpoint of welfare-oriented youth justice (Bateman, 2019). Key to its provisions, though not actually part of the statutory framework, was the introduction of intermediate treatment (IT), which encapsulated a variety of different forms of intervention designed to compensate for children's impoverished backgrounds without the necessity for removing them from home (Home Office, 1968). While IT could be offered to magistrates as a requirement of a supervision order, it was not restricted to those children subject to court orders. As the Chief Inspector of the Children's Department at the Home Office argued:

> ‘the facilities are to be available to adolescents who while living at home and continuing to attend school or wok, need, either by their own volition or by direction, new experiences in human relationships and in interesting activities’ (Cooper, 1970:23).

This new form of intervention thus shared the ambivalence that had characterised earlier youth justice provision. But in the present context, it had a particular significance since the conflation between welfare and justice promoted both net-widening and up-tariffing, over much of the next decade, as children who had already benefited from IT on a voluntary basis who continued to get in trouble were regarded as particularly suitable for punishment as they were not amenable to other forms of rehabilitation. The upshot was a dramatic rise in prosecutions, care orders as a disposal for often low-level offending, and custody (Thorpe et al, 1980). Ironically, therefore, even though the Act had attempted to offer a range of welfare type responses for adoption by the court in criminal cases, a continuum by which children could transition rapidly from being in need to being in need of punishment was clearly established.

The trajectory of youth justice from its inception until the 1980s, therefore, was characterised by attempts to accommodate the recognition of the overlapping origins of children ‘in trouble’ and children ‘in need’, while reserving the right to punish children who were constructed as offender, and thereby lost their childhood status. The precise manner in which this played out varied at different times with a tariff more rapidly exposing children to harsher punishments for doing less. Notably, the youth justice framework consistently allowed a transition from child to offender – at which point, punitive measures (sometimes justified on a welfare basis) and custodial options kicked in.

2. Depenalising diversion and back to justice (1980-1992)

As evidence of increased criminalisation that appeared to be a concomitant of IT type approaches became incontrovertible, there emerged a vociferous ‘back to justice’ movement which sought to disentangle responses to youth offending from other forms of need. The movement took shape during the latter part of the 1970s, but had a discernible, and remarkably rapid, influence from 1980 onwards (Haines and Drakeford, 1998). Broadly stated, this period constituted an evidence-based move away from punitive responses through an explicit commitment to minimum necessary intervention, diversion from the formal criminal justice system and a proliferation of alternatives to custody, on the grounds that youth offending is transitory and that formal contact with youth justice processes is iatrogenic. Although

motivated by a philosophy that identified itself as framed around justice precepts, the tendency to regard children in trouble as offenders rather than innocent was mitigated by the high levels of diversion from the system and extensive use of cautioning that reduced considerably the number of children subject to offenderisation.

Proponents of justice, in their opposition to welfare were not endorsing punitive instincts but sought rather to address what they saw as the problems inherent in blurring the lines between offending and other forms of need. Most significantly perhaps, the justice lobby's critique of welfarism charged it with a tendency to sentence children on the basis of their extensive social and economic needs rather than their (frequently) minor misdemeanours. Children were criminalised, it was argued, precisely *because* they needed support. But since social work intervention frequently did not lead to an immediate cessation of offending (cf. Martinson, 1974), systematic dynamics favoured higher levels of punishment where children were seen as failing to benefit from support and therefore identified themselves as undeserving. At the same time, if evidence for social work intervention was limited, the iatrogenic impact of early or prolonged exposure to the formal YJS was glaringly evident (Rutherford, 1992).

Practitioners and policy makers accordingly were increasingly committed to the principle of keeping children out of the system so far as possible through maximum diversion, minimum intervention and a stout opposition to the use of custody (Allen, 1991). Such measures were enforced through the deployment of systems management techniques for controlling the decisions made at each stage of the youth justice process (Tutt and Giller 1987), recognising that 'it is the aggregated or cumulative effect of individual decision-making over time produces overall changes sensitive patterns' (Bell and Haines 1991: 122). The statistical data are testimony to the success of the strategy which led to a rapid contraction in the number of children subject to formal criminal processing and a sharp fall (81%) in the use of imprisonment (cf. Home Office 1989, 1993; see also Haines and Drakeford 1998). Here we can thus discern what to many would appear to be a paradox – a commitment to justice combined with ostensibly progressive, rather than punitive outcomes,

From the current perspective, however, what is significant is that the bifurcation between pathways for children destined for a welfare response became more firmly divorced from those for children consigned to the justice system. The transition from child to offender involved

meeting substantially higher thresholds than hitherto, but where thresholds were crossed the transition was clearer and more absolute. This dynamic operated at a number of levels. First, diversionary impulses clearly differentiated (the increasingly small number of) children whose behaviour warranted justice intervention from those who required support from other forms of service provision. The process was reinforced by the changing nature of interventions within the justice system increasingly oriented around offence focused work, or the correctional curriculum as it was widely referred to at the time (Denman, 1982), Second, the introduction of thresholds which had to be crossed before custody could be imposed distinguished those who merited deprivation of liberty from those who could be accommodated through alternative community sentencing. Third, while overall levels of child imprisonment declined there was a continued expansion in the imposition of long-term detention for children who committed what were deemed 'grave crimes' (Nacro 2003), thereby establishing a widening demarcation between those dealt with as 'child offenders' and those children liable to adult type penalties. Finally, developments within youth justice consolidated the bifurcation between children and adult offenders since diversionary impulses and restrictions on custody applied to children in particular.

Antipathy to welfare was thus consistent with a punitive political rhetoric (Bateman, 2014) and minimum necessary intervention accordingly found considerable support from policy makers despite the law and order pretensions of the Thatcher administration. In this context, the continued use of negative terminology to describe the smaller number of children in the youth justice system as 'young offenders' was unsurprising (cf. Faulkner, under-secretary to the Home Office, addressing a 1987 meeting of the Magistrates' Association). The first edition of National Standards for the supervision of offenders in the community, published in 1992, was notable for using the expressions 'young offenders' and 'children and young people' almost interchangeably (Home Office, 1992).

Governmental support for the justice lobby was reflected in a succession of legislative developments, culminating in the separation of care and criminal proceedings by the Children Act 1989, which established a distinct family proceedings court to deal exclusively with welfare matters, thus undoing the blurring of welfare and justice inherent in the Children Act 1908. The increasingly small number of children prosecuted for offending were henceforth the sole clients of the juvenile court, itself renamed the youth court two years later. The divorce between welfare and justice was finally reflected in systemic separation which simultaneously

ensured that fewer children were subject to offenderisation but that those who did receive formal sanctions were more differentiated from their innocent counterparts.

3. Fast-tracking the child to offender transition (1993-2007): The 'punitive turn'

In contrast to the 1980s progressive movements of 'back to justice' and diversion, from the early 1990s, a globalised risk perspective began to dominate the ways in which key youth justice stakeholders constructed offending by children. Essentially, children's offending was to be understood as the predetermined outcome of exposure to psychosocial 'risk factors' – criminogenic influences that increased the likelihood of future offending. This new construction required a corresponding shift in youth justice practice whose focus would become the identification of risk at an early stage and the delivery of compulsory intervention to address it(see Case and Haines 2009).The predominance of risk perspectives thus catalysed a punitive turn in Anglophone youth justice - an era of exponential punitiveness and penality that was characterised by:

> 'a decline in rehabilitative ideals, harsher prison conditions, more emotional and expressive forms of punishment emphasising shaming and degradation' (Snacken and Dumortier 2012: 2-3).

Socio-economic changes influenced by globalisation motivated populist political agendas targeted at increasing the public's feelings of control over their environments (Snacken and Dumortier 2012). The 'risk thinking' (Gray 2009) which this engendered served to exacerbate public fears of the (allegedly) growing problem of youth offending, while simultaneously encouraging increasingly harsh youth justice responses as a means of alleviating that very public anxiety (cf. McAra 2017), betraying an insidious 'culture of control' over children's behaviour (Garland 2001). Frequently described as a 'punitive turn' (Muncie 2008), these dynamics heralded a sharp and unpredictable change in the trajectory of youth justice, exemplified by 'vertical expansion' in the form of burgeoning prison populations and 'horizontal expansion' through the proliferation of regulatory, control and surveillance. The development of a tougher justice model inevitably trumped welfare leading to the 'downsizing of the welfare sector [and] upsizing of the penal sector' (Wacquant 2009: 167). Muncie (2008) outlined the central dynamics of the 'punitive turn' as:

- Repenalisation – increased punishment-focused justice responses that were retributive, informed by deterrence, underpinned by custody and reflected in the increasing use of the 'young offender' label;
- Neo-liberalism – a reduced emphasis on social contexts, state protection and rehabilitation and more on prescriptions of individual responsibility (see also Dunkel 2014) and governing at a distance;
- Responsibilisation – allocating the primary responsibility for the prevention of youth offending to children, families and communities'
- Adulterisation – the increasing treatment of children who offend as though they are adults in terms of maturity, capability and responsibility, reflected in punitive youth justice responses to offending.

In England and Wales, the 'punitive turn' was illustrated in revised guidance to the police, which encouraged the increased use of prosecution (Bateman 2003) and a raft of legislative changes aimed at targeting 'young offenders'. Statutory measures lowered the age at which children could be imprisoned in the youth court and increased the maximum custodial sentence available in that venue from six to 24 months for a single offence (Nacro, 2003). From 1992 to 2001, the number of custodial sentences imposed on children rose by 90% (Nacro 2003). A climate of 'institutionalized intolerance' and 'the politicization of juvenile crime' (cf. Muncie 2014) prevailed, with political and media rhetoric in relation to children in trouble increasingly conflated the developmental categories of childhood, adolescence/youth and adulthood. It was as if children who offended had been 'removed from the category of "child" altogether' (Jenks 1996: 128). The rhetoric of New Labour Home Secretary, Jack Straw, epitomised the underlying philosophy as one that would allow 'No More Excuses' (Home Office, 1997). The barriers that had successfully kept children down-tariff previously were breached as the full range of disposals increasingly became available for all children over the age of criminal responsibility and incarceration was no longer restricted to a small minority.

From the standpoint that underpins this article, the 'new punitiveness' (Goldson, 2002), shifted the mechanisms by which children were converted from vulnerable innocents to risky offenders in important ways. In contrast to the previous period, which had relied on a clear boundary between welfare and justice cases to delineate those who were entitled to care and those deemed to merit punishment, the punitive turn operated to break down such barriers to a considerable extent, making the transition a much more fluid one. Any continued insistence that the system could be described as a series of bifurcations was 'misleading and ideological, since it

capture[d] inaccurately the relations between the available penal responses' (Matthews 2003: 227).

Rather the increasingly actuarial stance towards children (McAra, 2010), which conceptualised them all as potentially risky, required that a substantial cohort of children were viewed as offenders in the making. Children who offended were understood in terms of a deficit model which constructed their behaviour as the product of individualised flaws and weaknesses that posed risks to themselves and others and justified harsher and more adult-oriented punishment (Case and Haines 2009). Children who shared those individual deficits, even if they had yet to offend, were regarded as legitimate targets for similar forms of intervention as a means of youth crime prevention that in effect eroded the boundaries between youth measures and work with children who were not formally 'offenders' but whose behaviour was deemed problematic. Increasingly, youth work, training and careers provision and social work with older children was functionally annexed by the YJS; an instance of what John Simon (2007) has called 'governing through crime.' As the barriers dissolved, so the pathway along which children made the transition from innocent to demon became smoother, more easily followed, and more speedily travelled.

The process gathered pace with the provisions of New Labour's Crime and Disorder Act 1998, which sought to realign previous constructions of youth crime through the introduction of a statutory aim for the system of preventing offending, thereby conflating adjudicated childhood offending and potential lawbreaking. The Act legislated to invent the notion of 'pre-offending': behaviour that fell short of criminality but was nonetheless to attract a court sanction, albeit formally outside of the YJS, through the notorious anti-social behaviour order (ASBO), breach of which did constitute an offence and could lead to imprisonment (Solanki, et al, 2006).

Child safety orders were made available for children who behaved in ways which would have been criminal but for the, not insignificant, fact that they were below the minimum age of criminal responsibility (Walsh, 2009). Moreover, the abolition of *doli incapax* for children aged 10-13, the rebuttable legal presumption that children in this age range were not criminally liable, constituted a lowering – for practical purposes - of the age of criminal responsibility. Children who previously would have avoided criminalisation because the prosecution was not able to prove that they knew what they were doing was seriously wrong were henceforth subject

to the full rigours of the law and denied the innocent status they would otherwise have enjoyed (Fionda, 2000).

The reduced scope for diversion, which been increasingly restricted by the previous Conservative administration, was cemented with the replacement of police cautions for children with a system of reprimands and final warnings which ensured that they would be prosecuted, at latest, on the third occasion that they came to police attention (Bateman, 2003). The reaches of the YJS were accordingly expanded into places that would hitherto been the remit of welfare services while formal criminalisation and prosecution became increasingly likely (Muncie, 1999).

Whereas the governance of children had traditionally recognised two distinct spheres – albeit related in different configurations at different times - that distinction became increasingly hard to recognise as youth justice, or crime prevention, interventions trumped other forms of work with young people. This was particularly evident where the deficit model associated with the risk paradigm extended from the individual child to the family. Parenting orders – which required the subjects to attend parenting programmes – were introduced for parents of children who offend, for those engaging in anti-social behaviour and for those not attending school on a regular basis (Nacro, 2004). The traditional transition from child to offender across distinct boundaries, was thus replaced by a continuum with relatively fluid thresholds along which a substantial cohort of children (primarily those of disadvantaged origins) were located as potential or actual offenders. The differentiation between these two categories was considerably less marked than hitherto. In that context, the impact of the 'punitive turn' on children was characterised by increased offenderisation, consolidated by the implementation of strategies encouraging the loss of childhood status for those whose background circumstances were assessed as placing them at risk of breaking the law as well as those who actually did so.

4. Tentative depenalisation: Interventionist diversion and risk assessment lite (2008-present)

If the Crime and Disorder 1998 reforms effectively represented a distillation of pre-existing punitive trends rather than innovation (Fionda 2005), a genuine turning point in the trajectory of youth justice can be discerned in the period from 2008. Albeit that the shift has been characterised as a pragmatic response to burgeoning caseloads and socio-economic change in

the form of sweeping austerity (Bateman 2014), the introduction of a target to reduce the number of children entering the YJS for the first time (so called first time entrants (FTEs)) triggered a rapid rise in decriminalisation, diversion and a dramatic fall in the population of the secure estate for children (Bateman 2012). The contraction of the system has continued apace to the present (Bateman 2017). The FTE target was supported by changes in the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012, which rendered the foregoing escalatory out-of-court system obsolete and replaced it with a less punitive and more flexible and diversionary process of youth cautioning (Hart, 2012). The introduction of a range of non-statutory measures, most importantly community resolutions, allowed informal disposal of children's offending, without a criminal record. Indeed, on the basis of system contraction, youth justice under the post-Labour governments has been presented as a (non-punitive) success story, particularly in statistical terms. According to data published by the Youth Justice Board, 'proven offences' by children declined by 75% between March 2008-March 2016 (MoJ/ YJB, 2019), although it should be noted that reoffending levels have continued to rise and the reduction in custody has more recently stalled (MOJ/YJB 2019).

The implications of these positive trends for the transition that is the focus of this article are, as yet, a little hard to discern. Without doubt, these trends have been associated with a renewed interest in a discourse orientated on welfare concerns and the associated political and professional reconstruction of children in trouble as children in need. A government-commissioned review of youth justice, by Charlie Taylor, argued for a YJS that focuses on 'children first, offenders second', noting that since many of the causes of youth crime lie beyond the reach of youth justice agencies, a broad range of services should provide an integrated response to preventing and addressing offending behaviour (Taylor, 2016 Taylor argued further for the replacement of young offender institutions and secure training centres by secure schools which would place education at the heart of detention (Taylor, 2016) and the government has accepted this proposal in principle (Ministry of Justice, 2016).

Significantly, the Youth Justice Board has recently committed itself to pursuing a 'child first' philosophy (Youth Justice Board 2008; see also Haines and Case 2015). The latest edition of youth justice standards, published in 2019, reflect this shift through a distinct change in terminology. There are no references to 'young offenders' who become 'children in the youth justice system'; albeit children who remain 'offenders second' at points in the document (Ministry of Justice / Youth Justice Board 2019a).

On the other hand, little concrete progress has, to date, been made towards these progressive objectives and, indeed, the government response to them has been partly selective, partly neglect, representing something of 'a missed opportunity' (Bateman, 2017: 3). At the time of writing, just one pilot secure school has been announced, on the site of Medway secure training centre (Article 39, 2019); there appears to be no political, legislative or economic appetite to affect changes to the existing justice system as proposed by Taylor at this juncture. Where children enter the formal YJS, they continue to be subject to interventions whose underlying rationale is punishment and whose focus is the child's offending. Moreover, it is clear that, in some areas at least, decisions about the point at which children transition to offender status continue to be informed by assessments of the risk of reoffending rather than considerations of long-term healthy development and well-being (Hampson, 2018). Considerable numbers of children diverted from the formal reaches of the justice system continue to be subject to interventions which resemble closely those that they would have experienced had they received a formal sanction (Kelly and Armitage, 2015). While some youth offending teams appear to have embraced a child-first ethos, others remain wedded to offender management and punitive justice (Smith and Gray, 2018). Moreover, the Youth Justice Board itself is not wholly consistent in adopting a child first vision: it endorses, for example, trauma informed practice on the grounds that it will reduce offending and reoffending; and has 'reducing serious youth violence' as one of its strategic priorities (Youth Justice Board, 2019).

Diversion has clearly increased but the underlying ethos of minimum intervention which informed high levels of diversion in the 1980s is not necessarily at play. A renewed recognition that offending behaviour may be a symptom of welfare need has accompanied the contraction of the formal YJS, but forms of intervention continue to reflect risk thinking, addressing individual deficits and emphasising the child's accountability for their actions. In some senses, this is unsurprising since austerity offers little scope for the allocation of increased resources to address children's vulnerabilities (Bateman, 2014).

The rhetoric of child first has, in other words, yet to be fully realised in practice. As a consequence, the transition from child to offender might be viewed as something of a hybrid of that which pertained in earlier periods. As in the 1980s, travelling down the path from innocent child to becoming an adjudicated offender and receiving a formal criminal justice sanction involves meeting a significantly higher threshold than in the period immediately prior

to 2008. On the other hand, as during the 1970s, the reach of the YJS is clearly evident in work with children who are not subject to formal youth justice sanctions as the role of youth offending teams has shifted to a focus on preventive work (Deloitte, 2015). The blurring of welfare and justice populations that characterised the New Labour reforms continues to exercise a powerful influence. The brakes may have been applied, but the continuum that leads from child to offender continues to exist. Far fewer children receive formal sanctions and there has therefore been a substantial reduction in offenderisation as we define it; at the same time, the behaviour of children who are diverted out of the YJS continues to be addressed through an offending lens with a corresponding potential for stigmatisation to occur in the absence of formal sanction. Here, we do not have space to pursue this issue in detail, but it is worth noting too that, as previously argued, for some groups of children the transition to 'offender' occurs more readily and with greater frequency. The increased barriers to criminalisation have a reduced traction with these groups. As David Lammy (2017) pointed out in his review of the treatment of black and minority ethnic (BAME) individuals in the criminal justice system, the proportion of first-time entrants into the YJS from a BAME background rose from 11% in 2006 to 19% in 2016; similarly BAME overrepresentation in the children's custodial estate increased from 25% to 41% of the detained child population between 2006 and 2016. By January 2019, minority ethnic children accounted for more than half of those in the secure estate (Youth Custody Service, 2019). There have been similar, albeit less pronounced, rises in the proportion of looked-after children in the secure estate (Bateman et al, 2018). The offenderisation of these populations relative to their peers has accordingly increased providing powerful evidence of the continued potential of offenderisation to impact adversely children's life chances.

Offenderising the child over time

The foregoing historical analysis demonstrates two features of youth justice in England and Wales. First, from its inception the YJS has consistently been marked by a process of offenderisation whereby children in trouble are accorded a different, and stigmatising, status to their peers. Second, that process takes different forms at different times. Until the 1980s, it is possible to trace the trajectory of youth justice as being concerned to reconcile the competing tensions of welfare and justice, which was achieved primarily through increasingly large numbers of children becoming adjudicated offenders.

Subsequently, through the 1980s and into the early 1990s, punitive political rhetoric masked practice movements more inclined towards diversion for children in trouble, resulting in a period in which smaller numbers of children were offenderised, but the differentiation between

those who attained criminal status and those who did not became sharper., The 'punitive turn' of the 1990s radically reversed this trajectory , substantially expanding the offenderisation of children by fast-tracking them through the YJS and popularising 'youth offender' terminology, whilst simultaneously exposing the child (once assigned offender status and a criminal record) to increased levels of control, monitoring and surveillance. More recent developments can be seen as representing a further change of direction although continuing to draw on dynamics evident in earlier period and manifesting contradictions that have yet to be resolved. A renewed focus on diversion, and an reinvigorated attention to the needs of the child, has moderated offenderisation, but the route along which the transition from child to offender is made remains clearly visible.

If historical analysis demonstrates a periodised trajectory of offenderisation in the development of youth justice in England and Wales, it is also important to consider the possibility of a *mirrored transition*, from offender back to child. To what extent does offenderisation operate in reverse? In our view, across the historical period analysed, the escalator appears largely to have gone in one direction. The transition from young offender to child is significantly less common for a number of reasons.

Perhaps most obviously, the window of opportunity for re-attaining childhood status is a small one. The majority of those subject to a formal youth justice sanction are already in their mid-teens and rapidly approaching the age of majority. Given that that childhood entitlements in other spheres become increasingly rationed as children progress beyond their 16th birthday – local authorities are for instance, loathe to take children into care past that age – reverting back to child status for those who have been denied it by virtue of their offending, in the short time available before they turn 18 years, is inherently challenging. Such challenges are exacerbated by the impact of offenderisation itself, which tends to undermine the potential for rehabilitation and increases the prospects of reoffending McVie and McAra, 2011), thereby reaffirming the ascription of offender status. Finally, the criminal record attached to offender status acts as a signifier that the protections of childhood have been removed and forms a barrier to entry to education and other services to which non-offending children are entitled.

This is not to suggest that reverse transitions cannot occur. Children subject to formal out of court disposals, for instance, have significantly lower rates of proven reoffending (Ministry of Justice / Youth Justice Board (2018) and are not routinely required to declare their criminal history (Standing Committee for Youth Justice, 2016). As a consequence, the possibility that

the ascription of offender status will be temporary is enhanced. Lower level court sentences – such as the referral order – also have better recidivism rates and shorter rehabilitation periods and tend to focus more on reintegration of the child, although the extent to which rehabilitative intent is delivered in practice is open to question (Newbury, 2011). Other recent developments show that offenderisation is not inevitable when children break the law. The reconstruction of what had been understood in terms of child prostitution as child sexual exploitation, for instance has effectively removed a large cohort of girls from the criminal justice system (Lovett, Coy and Kelly, 2018). The emergence of the concept of child criminal exploitation which can provide a diversionary rationale for some children caught up in 'county lines' also provides a mechanism that opens the possibility for a child to be diverted from the transition to offender status where they have come to attention for lawbreaking activities (Stone, 2018). But these particular examples might be seen as exceptions that 'prove the rule': children involved in country lines who are not among the small minority who meet the high threshold for exploitation, continue to be subject to high tariff, punitive, criminal justice outcomes.

We contend that such mirrored or reverted transitions are far less evident across the history of youth justice in England and Wales, due in large part to the structural, systemic and personal barriers associated with offenderisation. For example, many children assigned offender status and subjected to a custodial disposal present with multiple and complex (criminogenic) needs and vulnerabilities, including a history of victimisation and disempowerment that may serve as barriers to making positive choices and reversing the offenderisation process (see Hazel et al 2017). Offenderised children are also disproportionately likely to have experienced traumatic events, social injustice and social exclusion. This toxic collection of vulnerabilities, traumas and exclusions can foster entrenched patterns of offending (as a normalised behaviour for the child), rendering reform and rehabilitation (Bateman and Hazel 2014). When these negative experiences are considered alongside the labelling and stigmatising influence of the imposition of a criminal record and the persistent use of derogatory 'youth offender' terminology, it becomes clear that offenderisation can construct, illuminate and exacerbate multiple barriers to the child transitioning away from offender status and thus reversing their offenderisation.

Conclusion: There must be 50 ways to erode innocence

Critical exploration of the historical trajectory of youth justice from the creation of the juvenile court in 1908 to the present day illuminates two dimensions of that system: first there is a persistent underlying offenderisation dynamic that reconstructs children who come to the attention of the YJS as offenders who can no longer be considered innocent; but second, that offenderisation dynamic takes different forms as the system evolves in response to the political, cultural and practice environment.

The initial social constructions of bespoke youth justice responses to children who offend, until the 1970s, attempted to address the shared influences on children 'in need' and 'children in trouble'. Consequently, policy and practice oscillated between welfare and justice priorities, with justice at its extreme polarity, animated via punitiveness. The arguably over-simplified, yet inherently pragmatic welfare-justice dichotomy has been manifest in academic and political perceptions of (similarly over-simplified) bifurcated approaches that have differentiated children from adult offenders. A particular animation of this bifurcation was evident in the 1980s, with more transient, trivial offenders (considered in need and receiving diversionary and minimum necessary intervention responses) distinguished from more serious, persistent offenders (considered problematic and necessitating punitive responses).

The 1990s punitive turn saw an insidious blurring, even rejection, of the child 'in need' – child 'in trouble' dichotomy that had historically underpinned bifurcated welfare-justice responses to offending behaviour. That dichotomy was rapidly superseded by smoother mechanisms of transition that relied on a continuum rather than bifurcation. This pathway was one where need was increasingly trumped by attributions of risk and a focus on the potential of disadvantaged children to cause harm.

At the time of writing (January 2020), the temporary and uncertain political context of youth justice reflects the conflict and ambivalence that has characterised much of its development through the ages. The numbers of children both offending and entering the YJS for the first time have been falling annually for over a decade now, indicative of more child-focused, diversionary responses to low-level offending.

But this is not simply a question of history repeating itself however or an instance of what Bernard and Kurlychek (2010) call the cycle of juvenile justice (see also Goldson 2015). Up to

the late 1970s, welfarism tended to be associated with net-widening. High rates of diversion, evident in the 1980s, were conversely associated with a rejection of welfare principles in favour of justice tenets. The latter period, in contrast with its predecessor, relied heavily on forms of bifurcation which were effectively eroded by the punitive excesses of the 1990s and have not resurfaced even though those excesses have been moderated.

The current conjuncture accordingly represents an unprecedented configuration characterised by: relatively low level of prosecution and custody; a foregrounding of the similarities between children in need and children in trouble; and the retention of a risk-focused orientation to both populations. The latter in particular ensures that the potential for loss of innocence remains a dominant feature of the system, as children are arrayed along a continuum of lesser or greater risk of offending, that can readily lead to them being constructed as offenders or as requiring crime prevention interventions. As noted previously, particular groups of children are especially vulnerable to such constructions.

The decriminalisation of considerable numbers of children over the past twelve or so years is, of course, to be applauded. Its driving impulse has, however, to a considerable degree been instrumental rather than informed by a principled rejection of punishing as a mechanism for managing the behaviour of the most disadvantaged children (Bateman, 2014). The dynamic by which children forfeit their innocence as they make the transition to offender remains firmly in place. In this context, the emergence of more punitive sentiments might easily lead to that transition being experienced more rapidly and at an earlier stage. Any complacency as to the longevity of the child first vision may be premature.

References

Allen, R (1991) 'Out of jail: The reduction in the use of penal custody for male juveniles 1981–1988' in *Howard Journal of Criminal Justice* 30(1):30–52.

Article 39 (2019) *Medway child prison will be site of experimental secure school, despite history of failure to protect children*. London: Article 39

Arthur, R. (2016) *The Moral Foundations of Youth Justice*. Abingdon: Routledge.

Audit Commission (1996) *Misspent Youth.* London: Audit Commission.

Bateman, T (2014) 'Where has all the youth crime gone? Youth justice in an age of austerity' in *Children and Society*, 28(5): 416-424.

Bateman, T. (2017) *The state of youth justice 2017: an overview of trends and developments*. London: NAYJ.

Bateman, T (2019) 'Responding to youth offending: historical and current developments in practice' in Ugwudike, P, Graham, H, McNeill, F, Raynor, P, Taxman, FS, and Trotter, C (eds) *The Routledge companion to rehabilitative work in criminal justice.* Abingdon: Routledge, 718-728

Bateman, T, Day, AM and Pitts, J (2018) *Looked after children and custody: a brief review of the relationship between care status and child incarceration and the implications for service provision*. Luton: University of Bedfordshire

Beck, U. (1992) *Risk Society: Towards a New Modernity*. London: Sage.

Bell, C. and Haines, KR. (1991) Managing the transition. *Juvenile Justice in the New Europe*. Sheffield: Joint Unit for Social Services Research.

Bernard, TJ and Kulychek, MC (2010) *The cycle of juvenile justice,* 2nd edition. Oxford: Oxford University Press

Bottoms, A. (2002) The divergent development of juvenile justice policy and practice in England and Scotland. In: M. Rosenheim et al (eds) *A Century of Juvenile Justice*. Chicago: University of Chicago Press.

Bottoms, A (1997) 'Reflections on the renaissance of dangerousness'. *Howard Journal of Penology and Crime* 16:70-96.

Brett, J. (2018) Learning from history by seeing it differently: frameworks for understanding the socio-historical development of youth justice. *Howard League ECAN Bulletin*, 1/37: 34-39.

Carpenter, M. (1853) *Juvenile Delinquents, their Condition and Treatment*. London: W. & F. G. Cash.

Case, SP. (2018) *Youth Justice: A Critical Introduction*. London: Routledge.

Case, S.P. and Haines, K.R. (2009) *Understanding youth offending: Risk factor research policy and practice*. Cullompton: Willan.

Cohen, S. (1973) *Folk Devils and Moral Panics*. London: MacGibbon and Kee.

Cooper, J (1970) 'Social care and social control' in *Probation journal* 16(1):
22-25

Cunneen C, Goldson B and Russell S (2016) *Juvenile justice, young people and human rights in Australia. Current Issues in Criminal Justice*, 28 (2). pp. 173-189.

Deloitte (2015) *Youth offending team stocktake.* London: Deloitte

Department of Education (2018) *National protocol on reducing criminalisation of looked-after children*. London: DoE.

Drakeford, M. (2009) Children first, offenders second: youth justice in a devolved Wales. *CJM* 78 (1): 8-9.

Dunkel, F. (2014) Juvenile Justice Systems in Europe. *Criminological Studies*, 2014/1.

Fionda, J (2001) 'Youth and Justice', in Fionda, J. (Ed) *Legal Concepts of Childhood*. Oxford, Hart Publishing, 77-98

Fionda, J (2000) 'Children, responsibility and the new youth justice' in Goldson, B (ed) *The new youth justice*. Lyme Regis: Russell House publishing

Fionda, J. (2005) *Devils and Angels: Youth Policy and Crime*. London: Hart.

Garland, D. (2001) *The Culture of Control.* Oxford: OUP.

Gelsthorpe, L. and Morris, A. (1994) Juvenile justice 1945-1992. In: M. Maguire et al (eds). *Oxford Handbook of Criminology*. Oxford: Clarendon Press.

Godfrey, B., Cox, P., Shore, H. and Alker, Z. (2018) *Young Criminal Lives: Life Courses and Life Chances from 1850*. Oxford: OUP.

Goldson, B. (2000) *The New Youth Justice*. Lyme Regis: Russell House.

Goldson, B (2002) 'New punitiveness: the politics of child incarceration' in Muncie, J, Hughes, G and McLaughlin, E (Eds.) *Youth Justice: Critical Readings.* London: Sage, 386-400.

Goldson, B. (2015) The Circular Motions of Penal Politics and the Pervasive Irrationalities of Child Imprisonment. In: B. Goldson and J. Muncie (eds) *Youth Crime and Justice*. London: Sage.

Goldson, B. (2019) *International human rights standards and youth justice*. Manchester: HMIP.

Goodfellow, P. (2019) *Outnumbered, locked-up and overlooked. The use of penal custody for girls in England and Wales*. London: Griffin Society.

Gray, P (2009) 'The political economy of risk and the new governance of youth crime' in *Punishment and Society* 11(4): 443-458.

Griffiths, P. (2002) Juvenile Delinquency in Time. In P. Cox And H. Shore (eds.), *Becoming Delinquent: British and European Youth, 1650-1950*, Aldershot, Ashgate.

Haines, K. and Drakeford, M. (1998) *Young People and Youth Justice*. London: Macmillan.

Hampson, KS (2018) 'Desistance approaches in youth justice – the next passing fad or a sea-change for the positive?' in *Youth Justice* 18(1): 18-33

Hart, D (2012) *Legal Aid Sentencing and Punishment of Offenders Act 2012: implications for children*. London: National Association for Youth Justice

Hazel, N., Goodfellow, P., Liddle, M., Bateman, T. and Pitts, J. (2017) *Beyond Youth Custody: Supporting the shift*. London: BYC.

Hendrick, H. (2015) Histories of Youth Crime and Youth Justice. In: B. Goldson and J. Muncie (eds) *Youth Crime and Justice*. London: Sage.

Home Office (1968) *Children in trouble.* Cmnd 3601. London: HMSO

Home Office (1989/1993) *British Crime Survey*. London: HMSO.

Home Office (1992) *National standards for the supervision of offenders in the community.* London: Home Office

Home Office (1997) *No more excuses.* London: HMSO.

Hopkins-Burke, R. (2016) *Young people, crime and justice*. London: Routledge.

Jones, R. (1984) *Questioning the New Orthodoxy.* Community Care 11 October: 26-9.

Kelly, L. and Armitage, V. (2015) Diverse Diversions. *Youth Justice,* 15(2): 117-133.

King, P. (2006) *Crime and Law in England, 1750-1840*. Cambridge: CUP.

Labour Party Study Group (1964) *Crime: A challenge to us all*. London: Labour

Lammy, D (2017) *The Lammy Review An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*. London: Ministry of Justice

Lawrence, P. (2012) History, criminology and the 'use' of the past. *Theoretical Criminology* 16(3) pp.313-328.

Lovett, J, Coy, M and Kelly, L (2018) Deflection, denial and disbelief: social and political discourses about child sexual abuse and their influence on institutional responses. London: Independent Inquiry into Child Sexual Abuse

Martinson, R. (1974) What works? – Questions and answers about prison reform. *Public Interest*, 35: 22-54.

May, T. Gyateng, T. and Hough, M. (2010) *Differential treatment in the Youth Justice System, Equality and Human Rights Commission*. London: Institute for Criminal Policy Research

McAra, L. (2010) Models of youth justice. In: D.J. Smith (ed) *A New Response to Youth Crime*. Cullompton: Willan.

McAra, L. (2017) Youth Justice. In: A. Liebling, S. Maruna and L. McAra (Eds) *Oxford Handbook of Criminology.* Oxford: OUP.

McVie. S and McAra, L (2011) 'Youth justice: the impact of system contact on patterns of desistance' in Farrall, S, Hough, M, Maruna, S and Sparks, R (eds) *Contemporary perspectives on life after punishment.* Abingdon: Routledge

Millham. S, Bullock, R. and Cherett, R. (1975) *After Grace – Teeth: A comparative study of residential Experience of Boys in Approved School*. Chaucer Publishing.

Ministry of Justice (2016) *The government response to Charlie Taylor's review of the youth justice system*. London: MoJ.

Ministry of Justice / Youth Justice Board (2018) *Youth Justice Statistics 2017/2018 – England and Wales.* London: MoJ.

Ministry of Justice / Youth Justice Board (2019) *Standards for children in the youth justice system 2019*. London: Ministry of Justice

Muncie, J (1999) 'Institutionalized intolerance: youth justice and the 1998 Crime and Disorder Act' in *Critical social policy* 19(2): 147-175

Muncie, J. (2008) The 'punitive' turn in juvenile justice. *Youth Justice*, 8(2), pp. 107–121.

Muncie, J. (2014) *Youth and Crime*. London: Sage.

Muncie, J. (2015) *Youth and crime*. London: Sage.

Nacro (2003) *A Failure of Justice*. London, Nacro.

Nacro (2004) *Parenting provision in a youth justice context*. London: Nacro

Newbury, A. (2011) 'Very young offenders and the criminal justice system: Are we asking the right questions?' in *Child and Family Law Quarterly* 23(1):94-114

Pinchbeck, I. and Hewitt, M. (1981) Vagrancy and delinquency in an urban setting. In: M. Fitzgerald et al (eds) *Crime and Society*. London: Routledge.

Pitts, J. (2003) *The new politics of youth crime: Discipline or solidarity*? Lyme Regis: Russell House.

Pratt, J. (1989) Corporatism: The Third Model of Juvenile Justice, *British Journal of Criminology*, 29(3): 236-54.

Rutherford, A. (1986) *Prisons and the process of justice*. London: William Heinemann.

Rutherford, A (1992) *Growing out of crime: the new era.* Winchester: Waterside press

Simon, J (2007) *Governing through crime.* Oxford University press

Smith, Roger (2014). Re-inventing Diversion. *Youth Justice* 14(2): 109-121.

Smith, R. (2016) *Youth Justice: Ideas Policy Practice*. Abingdon: Routledge

Smith, R and Gray, P (2018) 'The changing shape of youth justice: models of practice' in *Criminology and Criminal Justice,* online publication https://doi.org/10.1177%2F1748895818781199

Snacken S. and Dumortier E. (2012) *Resisting punitiveness in Europe? An introduction*. Routledge, London.

Standing Committee for Youth Justice (2016) *Reform of Childhood Criminal Record Legislation*. London: SCYJ

Stanley-Hall, G. (1904) *Adolescence.* New York: D. Appleton.

Stone, N (2018) 'Child criminal exploitation: 'County Lines', trafficking and cuckooing' in Youth Justice 18(3):285-293

Solanki, A-R, Bateman, T, Boswell, G and Hill, E (2006) *Anti-Social Behaviour Orders*. London: Youth Justice Board

Taylor, C. (2016) *Review of the YJS in England and Wales*. London: Ministry of Justice.

Thorpe, D., Smith, D., Green, C. and Paley, J. (1980) *Out of Care – The Community Support of Juvenile Offenders*. London: George Allen and Unwin.

Tutt, N. and Giller, H. (1987) Manifesto for Management – The Elimination of Custody. *Justice of the Peace*, 151: 200-202.

United Nations (1989) *United Nations Convention on the Rights of the Child 1989.* Geneva: United Nations.

Wacquant, L. (2009) *Punishing the Poor*. Duke University Press: Durham, NC.

Walsh, C (1999) 'Imposing order: child safety orders and local child curfew schemes', in *Journal of Social Welfare and Family Law* 21(2), 135-149

Willow, C. (2015) *Children behind bars*. Bristol: Policy Press.

Youth Custody Service (2019) *Monthly youth custody report: August 2019. England and Wales.* London: YCS

Youth Justice Board (2017) *Prevention Briefing.* London: YJB.

Youth Justice Board (2018) *Strategic Plan 2018-2021*. London: Youth Justice Board.

Youth Justice Board (2019a) *Standards for children in the youth justice system*. London: YJB.

Youth Justice Board (2019b) *Strategic plan 2019-2022.* London: Youth Justice Board