

# EndChild imprisonment

The End Child Imprisonment campaign is run by a steering group of **Article 39**, the **Centre for Crime and Justice Studies**, **Howard League for Penal Reform**, **INQUEST**, **Just for Kids Law**, **National Association for Youth Justice**, **Standing Committee for Youth Justice** and leading children's rights and penal reform experts. In April 2019, we published '**Principles and minimum expectations for children deprived of their liberty**', providing a framework for safe and effective secure care.<sup>1</sup>

**Tuesday 25<sup>th</sup> June 2019, 2.30pm**  
**Westminster Hall debate: abolition of child imprisonment**  
**Led by Emma Lewell-Buck MP**

We warmly welcome this historic debate and hope many Members of Parliament will take part. Depriving children of their liberty is one of the most profound actions the state can take. The Convention on the Rights of the Child, which the UK ratified in 1991, stipulates that the detention of children must only be used as a last resort and for the shortest period possible; and that children deprived of their liberty must be treated with humanity and respect and in accordance with their age.<sup>2</sup> The child's best interests must always be a primary consideration.<sup>3</sup>

Children remanded or sentenced to custody are sent by the Ministry of Justice's Youth Custody Service (YCS) to either a young offender institution<sup>4</sup>, a secure training centre<sup>5</sup> or a local authority-run secure children's home.<sup>6</sup> Latest figures (April 2019) show that 91% of children in custody are detained in young offender institutions and secure training centres. These are institutions which the Youth Custody Improvement Board and the Youth Justice Board agreed in 2017 are **not fit for purpose**.<sup>7</sup> That same year, the Chief Inspector of Prisons warned that: "The current state of affairs is dangerous, counterproductive and will inevitably end in tragedy unless urgent corrective action is taken".<sup>8</sup> At the end of February 2019, Alexis Jay, Chair of the Independent Inquiry into Child Sexual Abuse, said:

*The harrowing accounts of non-recent child sexual abuse within custodial institutions were some of the worst cases this Inquiry has heard. But I am also deeply disturbed by the continuing problem of child sexual abuse in these institutions over the last decade. It is clear these children, who are some of the most vulnerable in society, are still at risk of sexual abuse.*<sup>9</sup>

The ordinary conditions and regimes of child prisons exacerbate rather than address the underlying causes of harmful behaviour. Neither the creation of the YCS nor the modest increase in headquarters and prison staff<sup>10</sup> have diminished the severe harms of child imprisonment.

Children's basic physical needs – for nutritious food, fresh air and exercise and warm, comfortable shelter – are systematically denied. The violent, unpredictable and unsafe atmospheres keep them in a state of fear, anxiety and agitation; this suffering is greatly magnified for children who are autistic or have learning difficulties and disabilities. Children are frequently subject to further punishment for reacting to environments and deprivations which would not be tolerated in any other setting. Meaningful adult contact is extremely limited, and education poor or non-existent. Children often languish alone in cells for 22 or 23

hours a day; this includes those who are seriously unwell. Prisons are the only institutions in which staff are trained and permitted to deliberately inflict pain on children<sup>11</sup>, and the use of restraint and segregation continue to be the dominant working methods. Former Children's Commissioner for England, Maggie Atkinson, reflects that when she and her teams went into young offender institutions they found cultures not of de-escalation, as in a locked mental health setting or secure children's home, but in too many places staff waiting for emotions and violence to rise to the point where they donned protective gear to 'go in hard' to bring an end to behaviour that could have been avoided much earlier.<sup>12</sup> Last year, a quarter of boys told inspectors they expected to have difficulty finding somewhere to live after their release from prison.<sup>13</sup>

High proportions of children in prison have learning difficulties or disabilities, are from the care system, have suffered prior abuse or neglect and other trauma such as the death of a parent or sibling. Half of child prisoners are from black and minority ethnic communities; David Lammy MP has warned that "England and Wales are now hitting an American scale of disproportionality in our youth justice system".<sup>14</sup> New research shows the majority of girls are placed in secure training centres and held many miles from home. There is an overuse of remand and sentencing for non-violent and/or less serious offences, and a marginalisation of girls' specific needs.<sup>15</sup>

More than 6 in 10 children remanded to custody are not subsequently given a custodial sentence, which raises serious doubts that detention is being used as a last resort. Latest figures additionally show a 30% increase in the use of remands with 10-14 year-olds, a 51% increase in the remand of girls and a 24% increase in the remand of children from black and minority ethnic communities between 2017 and 2018.<sup>16</sup>

The Independent Inquiry into Child Sexual Abuse found 1,070 sexual abuse allegations in custodial institutions between 2009 and 2017, the majority from within young offender institutions and secure training centres. In Medway secure training centre alone there had been 44 alleged sexual abuse incidents between 2012 and 2017.<sup>17</sup>

In the year ending March 2018, the rate of use of force incidents in child prisons was 52.4 per 100 children. Children required medical treatment following 57 use of force incidents across the year; in a further 4 incidents they required hospital treatment; and there were 210 'warning signs'. Warning signs associated with the use of force in child prisons include: "Lost or reduced consciousness, abruptly/unexpectedly stopped struggling or suddenly calmed down, blueness of lips/fingernails/ear lobes (cyanosis), tiny pin point red dots seen on the skin (upper chest, neck, face, eye lids), difficulty breathing, complaints of feeling sick, vomiting, and complaints of difficulty breathing".<sup>18</sup>

Thirty-four children have died in young offender institutions and secure training centres since 1990. The Youth Justice Board reviewed the deaths of 16 of these children and found at least 69% had been the subject of a care order.<sup>19</sup> A family court may only make a care order if a child is suffering, or is likely to suffer, significant harm.<sup>20</sup>

We urge cross party commitment to the immediate closure of young offender institutions and secure training centres. This must be coupled with investment in services and support for children and families with specialist, skilled provision – modelled on the best of our secure children's homes – for the small number of children who present a serious risk to themselves or others and for whom there are genuinely no alternative options for mitigating that risk in the community.

Child abuse inquiries of the past have stressed the dangers of allowing institutions to deviate from established childcare norms and values.<sup>21</sup> Unlike young offender institutions and secure training centres, secure children's homes must follow statutory childcare standards<sup>22</sup> and have high staff to child ratios. They are small, with an average of 17 children. All but one of England's secure children's homes are part of their local authority's children's services – we believe this arrangement is necessary for maintaining professional standards, effective management and local accountability. Moreover, managers of secure children's homes are required to have a residential childcare qualification and recent experience of managing staff in a care role.<sup>23</sup> Pain-inducing restraint is not permitted in these establishments.<sup>24</sup>

After tripling in size between 1991 and 2006<sup>25</sup>, the number of children in custody in England and Wales has reduced dramatically in recent years – from an average of **2,932** in 2007/08<sup>26</sup> to **894** in 2017/18.<sup>27</sup> But we remain one of the chief incarcerators of children internationally. For example, compared to the 727 children held in young offender institutions and secure training centres in April 2019, just 3 children in Finland were imprisoned in September 2018.<sup>28</sup> An international review of the use of custody found that in Finland children's "criminal behaviour is seen as a child protection issue because it poses a risk to children's health and development".<sup>29</sup>

A briefing paper prepared by the House of Commons Library advises against comparing offences committed by children sentenced to custody before 2014, since there have been changes in recording. Between 2014 and 2018, the proportion of children in custody for robbery, sexual offences or violent offences increased slightly from 64% to 70%.<sup>30</sup> It is important to recognise that prison conditions themselves – in particular children being locked in their cells for very prolonged periods – are known to precipitate anger, distress, frustration and violent outbursts.<sup>31</sup>

In December 2016, in its response to the review of the youth justice undertaken by Charlie Taylor, the Government agreed that juvenile young offender institutions and secure training centres should be phased out and replaced with secure schools.<sup>32</sup> Not a single child prison has closed in the 2½ years since, and Medway secure training centre has been selected as the site of the first experimental secure school despite serious concerns about the mistreatment of children there over many years.

Medway secure training centre has not been officially judged as 'good' for keeping children safe since 2014, and the latest inspection report (January 2019) found it 'requires improvement' in respect of child safety.<sup>33</sup> In 2016, undercover reporting by BBC Panorama showed serious child abuse.<sup>34</sup> When a serious case review on the centre was published in January 2019, the Chair of the Local Safeguarding Children Board said there had been "a failure of not one specific individual or agency but of the whole system that sets out to keep children in custody safe from maltreatment".<sup>35</sup>

Nearly 7 in 10 children leaving prison are known to reoffend within a year of release.<sup>36</sup> Just 52% of children in young offender institutions and 56% of children in secure training centres answered in the affirmative when asked by inspectors if they had "done anything or has anything happened to you here that you think will make you less likely to offend in the future?". Only 39% of children in young offender institutions received one or more visits from family or friends each week; this reduced to 26% for care experienced children.<sup>37</sup> The need for radical change is both urgent and compelling.

*“We have many decades of evidence showing the profound harm caused to children, coupled with a self-defeating cycle of official pledges followed by scandals, followed by more pledges and more scandals. Child prisons cannot be reformed to modern-day standards of care and protection because the suffering of children within them emanates from their very design and nature. Once we close these large, punishing institutions, like we did with the asylums, orphanages and industrial schools of the past, we can put all our efforts into making sure children get the skilled help and support they need to live fulfilling and safe lives, which will be to the benefit of us all.”*

**Carolyne Willow, Director of Article 39**

*“We need a comprehensive shift in our approach to children in trouble with the law, from punishing them when they transgress, to supporting them to achieve their potential. Ending the imprisonment of children forms a fundamental part of this shift.”*

**Richard Garside, Director of the Centre for Crime and Justice Studies**

*“Locking children up in prisons is harmful and wrong on every level. It is damaging to the child and increases the risk of harm to the community. Successive reports and inquiries have found child prisons unsafe. It is time to end the use of prison for children. The hundreds of calls the Howard League receives to our legal helpline each year demonstrate the unacceptable trauma children are exposed to in these places, from lack of education to isolation and painful restraint. If a parent in the community behaved in these ways they would find themselves at risk of a child protection investigation or even prosecution. The State has a duty to do better by vulnerable children in its care.”*

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

*“The deaths of children in prison are not a distant memory, but an unacceptable and recent reality. Deaths are the starkest demonstration of the damage caused by child imprisonment, and the culture of violence, use of force, self-harm, fear and neglect. Children need and deserve to be supported and nurtured. Child prisons must close. The focus of any government with children’s interests in mind must be investment in and expansion of community support services, not detention and criminal justice systems.”*

**Deborah Coles, Director of INQUEST**

*“Child prisons are unsafe places which make troubled children more likely to go on to lead a life of crime. They fail to reform and rehabilitate and do nothing to make our communities safer. The time has come to think differently about how vulnerable children who have been victimised by adults should be supported to fulfil their potential.”*

**Enver Solomon, Chief Executive of Just for Kids Law**

*“In our 2018/19 Youth Justice Manifesto, we advocate for a child-centred system, based on evidence of what is effective and one in which punishment has no place. The evidence of the lack of care and maltreatment of children placed in YOIs and STCs is now overwhelming - the Government’s own inspectors say they are unsafe and the levels of self-harm, assault and abuse are high and rising. The time to radically rethink the system is long overdue and the NAYJ hopes this Westminster Hall debate will act as a stimulus and raise awareness of the harms to vulnerable children placed in these establishments.”*

**Ross Little, Chair of National Association for Youth Justice**

*“The SCYJ supports the call for the closure of all children’s young offender institutions and the remaining secure training centres as well as a clear move to cease using detention for children as anything but a last resort. Inspections and other reviews have repeatedly shown these are not suitable places in which to accommodate children. The Government has already committed itself to their replacement and we call now for a time-scale to be set for this to be implemented.”*

**Penelope Gibbs, Acting Chair of Standing Committee for Youth Justice**

- 
- <sup>1</sup> The document can be found here: <https://article39.org.uk/2019/04/18/united-call-for-the-immediate-closure-of-harmful-child-prisons-and-proposals-for-positive-care/>
- <sup>2</sup> Article 37 Convention on the Rights of the Child.
- <sup>3</sup> Article 3 Convention on the Rights of the Child.
- <sup>4</sup> There are four juvenile young offender institutions in England – Cookham Wood, Feltham, Werrington and Wetherby.
- <sup>5</sup> There are three secure training centres – Medway (run by MoJ), Oakhill (run by G4S) and Rainsbrook (run by MTCNovo).
- <sup>6</sup> There are 14 local authority secure children’s homes.
- <sup>7</sup> Youth Custody Improvement Board (February 2017) Findings and recommendations of the Youth Custody Improvement Board.
- <sup>8</sup> Her Majesty’s Inspectorate of Prisons (2017) Annual report 2016-17.
- <sup>9</sup> IICSA news release, 28 February 2019: Inquiry publishes report on children in custodial institutions.
- <sup>10</sup> Between March 2018 and March 2019, there was a total increase of 212 staff within YCS headquarters (central Ministry of Justice offices), the four juvenile young offender institutions and Medway secure training centre: see Ministry of Justice (May 2019) HM Prison and Probation Service workforce quarterly: March 2019.
- <sup>11</sup> At the end of February 2019, the Independent Inquiry into Child Sexual Abuse concluded that pain-inducing restraint is a form of child abuse, which must be prohibited by law.
- <sup>12</sup> Maggie Atkinson is a member of the End Child Imprisonment steering group.
- <sup>13</sup> Her Majesty’s Inspectorate of Prisons (January 2019) Children in custody 2017–18. Appendices.
- <sup>14</sup> David Lammy MP in Guardian newspaper, 29 January 2019: ‘More than half of young people in jail are of BME background’.
- <sup>15</sup> Goodfellow, P. (2019) Outnumbered, locked up and over-looked? The use of penal custody for girls in England and Wales.
- <sup>16</sup> Ministry of Justice and Youth Justice Board (January 2019) Youth justice statistics 2017/18. England and Wales. Chapter 6: use of remand for children.
- <sup>17</sup> IICSA (February 2019) Sexual abuse of children in custodial institutions: 2009-2017 investigation report.
- <sup>18</sup> Ministry of Justice and Youth Justice Board (January 2019) Youth justice statistics 2017/18. England and Wales.
- <sup>19</sup> Youth Justice Board (2014) Deaths of children in custody: action taken, lessons learnt.
- <sup>20</sup> Section 31 Children Act 1989.
- <sup>21</sup> See, for example, Kirkwood, A. (1993) The Leicestershire Inquiry 1992 and Levy, A. and Kahan (1991) The Pindown experience and the protection of children.
- <sup>22</sup> The Children’s Homes (England) Regulations 2015.
- <sup>23</sup> Regulation 28, The Children’s Homes (England) Regulations 2015.
- <sup>24</sup> Department for Education (April 2015) Guide to the children’s homes regulations including the quality standards.
- <sup>25</sup> House of Commons Justice Committee (2013) Youth justice.
- <sup>26</sup> Youth Justice Board and Ministry of Justice (May 2010) Youth justice statistics 2009/10 England and Wales.
- <sup>27</sup> Ministry of Justice and Youth Justice Board (January 2019) Youth justice statistics 2017/18. England and Wales.
- <sup>28</sup> Taken from most recent available data published by the World Prison Brief: <http://www.prisonstudies.org/about-us>
- <sup>29</sup> Hart, D. (2015) Correction or care? The use of custody for children in trouble. This study reviewed approaches in Spain, the US and Finland.
- <sup>30</sup> House of Commons Library (May 2019) Youth custody. Briefing paper no. 8557.
- <sup>31</sup> Time out of cell was seen as having the greatest impact on positive behaviour, by both children and staff who were interviewed as part of a thematic review: Her Majesty’s Inspectorate of Prisons (2018) Incentivising and promoting good behaviour.
- <sup>32</sup> Ministry of Justice (December 2016) The government response to Charlie Taylor’s Review of the Youth Justice System.
- <sup>33</sup> Inspection reports can be found here: <https://reports.ofsted.gov.uk/provider/11/1027076>
- <sup>34</sup> ‘Teenage Prison Abuse Exposed’ was broadcast on 11 January 2016: <https://vimeo.com/199038379>
- <sup>35</sup> The Chair’s statement can be found here: <https://www.msrb.org.uk/msrb/downloads/file/159/2019--msrb-scr-statement>; the serious case review overview report can be found here: <https://www.msrb.org.uk/msrb/downloads/file/167/2019---msrb---medway-stc-overview-report>
- <sup>36</sup> Ministry of Justice and Youth Justice Board (January 2019) Youth justice statistics: 2017 to 2018. Table 9.7.
- <sup>37</sup> Her Majesty’s Inspectorate of Prisons (2019) Children in custody 2017–18. An analysis of 12–18-year-olds’ perceptions of their experiences in secure training centres and young offender institutions.