



**Criminal Justice and Courts Bill
Report Stage (Day Two)
Wednesday 22 October 2014**

Secure Colleges (Part 2, Schedule 5 and 6)

Plans for secure colleges are being developed at a time when youth crime is falling along with the numbers of children in custody. The proposed 300-place establishment in Leicester is too large and plans to hold younger children under 15 and girls together with older teenage boys present serious safeguarding risks. Staff will be authorised to use 'reasonable force' to ensure good order and discipline within the establishment. The courts have made clear that restraining a child for 'good order and discipline' is illegal and inquests into the deaths of children have shown that such methods have, in some cases, contributed to their deaths. There is very little detail in the Bill on how secure colleges will be run, who will run them, and how they will ensure standards of teaching, welfare and safeguarding of vulnerable children in their care. Parliament is not being provided with adequate detail and is instead being asked to trust that all of these issues will be dealt with in the secure college rules, rather than spelt out in statute. A consultation on the Ministry of Justice's approach to the rules opened on 16 October and closes on 27 November. The timing is such that it is unlikely the government's response will be published before the end of the year, by which time the Bill is expected to have received Royal Assent.

The Prison Reform Trust has been coordinating closely with the Standing Committee for Youth Justice, the Children's Rights Alliance and the Howard League for Penal Reform on responding to the government's proposals. We endorse, and do not seek to replicate, their joint briefing on the Bill.¹ Below we highlight evidence the Prison Reform Trust has presented which we hope will assist Peers in scrutiny of the proposals. We also highlight evidence from the just-published HM Inspectorate of Prisons annual report 2013/14.

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The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, Government and officials towards reform. PRT provides the secretariat to the All Party Parliamentary Penal Affairs Group. www.prisonreformtrust.org.uk

¹ <http://www.crae.org.uk/media/74279/CJC-Bill-HoL-Report-Stage-FINAL.pdf>

All Party Group on Penal Affairs

The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group. In July 2014 the Chief Inspector of Prisons Nick Hardwick addressed the Groups AGM. He said in relation to the secure college plans:

“...the facts on the ground now have changed so much because there has been this unexpected fall in the numbers. If the facts change, then you are entitled to change your mind. I just do not think it is going to work, to hold 300 of these very damaged children, a third of the population in custody, all in one place.”²

The HM Inspectorate of Prisons Annual Report 2013-2014 was published on 21 October 2014.³ Its findings confirm a sharp reduction in the numbers of children in custody. The total held in young offender institutions (YOIs) on 29 March 2013 was 1,034, including 12 girls – by 28 March 2014 provisional figures show that there were 877 in YOIs, all boys. Those remaining were held further away from home and represented a greater concentration of very challenging behaviour and vulnerability. It found that establishments had struggled to manage these children safely. Its key findings are:

- The number of children held in custody fell sharply. The Inspectorate had concerns about the implications for the safety of those still held.
- More children were held far from their home, affecting their family contact and prospects for resettlement.
- While outcomes in the YOIs inspected were at least reasonably good, half of the establishments that still remain were not safe enough, and the high levels of violence continued to be a concern.
- **Outcomes for children were better in the smaller units.**
- Children who had been in local authority care were over-represented in custody and had a poorer experience in some areas than those who had not been in care.
- STCs were effective in supporting the children in their care.

Commenting on the government’s consultation Transforming Youth Custody which outlined the proposals for secure colleges, the annual report states:

*While we were pleased that the government’s proposals placed greater emphasis on education, with the opportunity for new providers to improve services, we stressed that the staff involved had to be properly trained to manage the complex needs and requirements of this population of children. **It is essential that the government’s plans properly take account of the changes to the population of children in custody that have occurred since the policy was first developed and we are not yet assured that they do so.***

House of Lords briefing meeting

The Prison Reform Trust in conjunction with the Standing Committee for Youth Justice, the Children’s Rights Alliance for England, and the Howard League for Penal Reform held a briefing meeting on secure colleges for peers in the House of Lords on 14 October. John Drew (Senior Associate at the Prison Reform Trust and former Chief Executive of the Youth Justice Board) gave some background on the secure college proposals. He said that the proposals were started in 2012 after Chris Grayling was appointed Secretary of State for

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<http://www.prisonreformtrust.org.uk/PressPolicy/Parliament/AllPartyParliamentaryPenalAffairsGroup/July2014NickHardwickHMCIP>

³ http://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/10/HMIP-AR_2013-14.pdf

Justice and included in the Green Paper “Transforming Youth Custody”. He analysed the three main drivers for the secure college proposal and said:

1. *Reducing offending rates:* government figures record that seven out of 10 children reoffend within 12 months of leaving custody and this number has remained constant for more than 10 years. However, children are held in custody for very short periods (on average just 80 days) and return as they do in almost all cases to the lives that led to their original offending. Further, as the number of children in custody has plummeted, it is demonstrably the case that the average child in custody now has more ingrained risks and needs. The evidence suggests that to really tackle reoffending would require systemic reform of the youth justice system, including diversion, community disposals, custody and resettlement. To tweak one part of the system is not enough.
2. *Reducing cost:* the preface to the Green Paper which introduced the concept of secure colleges asserts: “*We believe that with innovation and imagination, it is possible to reduce costs and improve the outcomes for society and for young offenders themselves.*” However, the Ministry of Justice has not been able to produce any evidence, from the UK or internationally, that costs can easily be reduced without sacrificing safety and decency. Further, the costs of all intensive service for children, such as foster care, children’s residential homes, specialist mental health facilities and custody, are all expensive. Government need not focus so much on unit costs when one of their other policies, to reduce the numbers of children in custody, has been so successful. The total bill for custody has nearly halved in the past five years and the number is likely to fall below 1,000 by this Christmas. That is the best route to save money.
3. *Education:* no one denies the importance of education, however there is the question of whether a short experience of education in a custodial setting will prove to be the magic key to transform youth custody. The Edinburgh study, the most satisfactory long term study of offending amongst children in the UK, is clear that lack of educational opportunity is by a very long way the single most important determinant of offending amongst children. However, it is hard to find evidence to support the contention that an intensive educational programme, however well designed and delivered, of about 80 days, delivered in a custodial environment and with no choice, to children, the majority of whom will be over 17 (and therefore feel that school days are a thing of the past) will have either lasting educational or other benefits. This is especially the case because the best evidence is that the average child in custody has been out of school or college for at least two years.

John Drew concluded by saying that, in his view, this section of the Bill is:

- based on a false premise, that reoffending rates can be changed simply by changes to custody, on their own;
- is driven too hard by an unrealistic assessment of the cost of safe and decent custodial services; and
- is not supported by evidence that supports the contention that a short, sharp spell of education, however well intended, can prove to be transformative.

Punishing Disadvantage – a profile of children in custody

In 2010 the Prison Reform Trust published a report Punishing Disadvantage - a profile of children in custody.⁴ The report is based on a census of all children who received custodial sentences or remands in the second half of 2008, approximately 6,000 in total, along with a more detailed examination of the backgrounds of 300 of these children. The findings reveal the multiple layers of complex disadvantage that characterise the backgrounds of the majority of children and young people in custody, including mental health problems, learning disabilities, problems with drugs and alcohol, family breakdown:

- At least three quarters of the sample had absent fathers, and a third absent mothers
- Half lived in a deprived household and/or unsuitable accommodation
- Just under half had run away or absconded at some point in their lives
- More than a quarter had witnessed domestic violence
- More than a quarter had experienced local authority care
- 20% of the sample is known to have harmed themselves; 11% to have attempted suicide
- 12% were known to have lost a parent or sibling through bereavement

Research shows that over 60% of children who offend have communication difficulties and, of this group, around half have poor or very poor communication skills. Around a quarter of children who offend have an IQ of less than 70. 43% of children on community orders have emotional and health needs, and the prevalence amongst children in custody is higher.⁵

We encourage Peers to support the following amendments:

- **108, 110, 111 and 118, which prevent a secure college being established, or an operating contract being entered into, before Parliament has approved comprehensive Secondary legislation, and require the Secretary of State to ensure that secure colleges meet the adequate health and wellbeing needs of children.**
- **109 which prevents girls and children younger than 15 being detained in a secure college.**
- **121 which permits force to be used on children in secure colleges only as a last resort, for the purposes of preventing harm to the child or others, and to the minimum extent necessary.**

⁴ <http://www.prisonreformtrust.org.uk/Portals/0/Documents/PunishingDisadvantage.pdf>

⁵ For full references see Talbot, J (2012), Fair access to justice? London: Prison Reform Trust. Available at (<http://www.prisonreformtrust.org.uk/Portals/0/Documents/FairAccessstoJustice.pdf>)