Debating youth justice:
From punishment to problem solving?

Edited by Zoë Davies and Will McMahon

A selection from the full report.

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The full report may be obtained from the Crime and Society Foundation:
http://www.crimeandsociety.org.uk/
Acknowledgements

We are indebted to all our authors for taking the time and effort to respond to Rob Allen's original paper *From punishment to problem solving: A new approach to children in trouble*. In particular, we would like to thank Rob Allen not only for completing this important and thought-provoking report, but also for allowing it to be made the subject of such scrutiny. We are grateful that Rob has engaged in the debate his report has opened up without shying away from criticism and controversy.

We are also grateful to everyone who responded to the report during the consultation period. They are too numerous to list in their entirety but include The Rt. Hon. Hilary Armstrong MP, Nick Clegg MP, Nacro, Professor Gwyneth Boswell, Hallam Centre for Community Justice, the British Youth Council, Thames Valley Partnership, Slough YOT, the British Association of Social Workers, World Health Organization's Health in Prisons Project, Robert Shaw, Alison Newbould and Jacqueline Showers. All responses are available to view in full on the Crime and Society Foundation (a project of the Centre for Crime and Justice Studies) website at www.crimeandsociety.org.uk/projects/youthjustice.html.

Published by:
Centre for Crime and Justice Studies
King's College London
Strand, London
WC2R 2LS
Tel: 020 7848 1688
Fax: 020 7848 1689
www.kcl.ac.uk/ccjs

The Centre for Crime and Justice Studies at King's College London is an independent charity that informs and educates about all aspects of crime and criminal justice. We provide information, produce research and carry out policy analysis to encourage and facilitate an understanding of the complex nature of issues concerning crime.

Registered Charity No 251588
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Registered in England No 496821

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ISBN: 978-1-906003-02-9
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Preface

Rob Allen’s report *From punishment to problem solving: A new approach to children in trouble* was published by the Centre for Crime and Justice Studies in September 2006 as part of the Centre’s *Whose Justice?* project. The report, which is republished as Chapter 1 of this monograph, calls for a fundamental overhaul of the current youth justice system. It identifies the unnecessary criminalisation of young people, the failure of mental health and education services to provide appropriate services to children and young people at risk, the need for a less blame-centred approach and an exploitation of the benefits of recent developments in restorative justice.

The Crime and Society Foundation, which is based at the Centre for Crime and Justice Studies, held a seminar in October 2006 to debate Rob Allen’s key recommendations. Rob, who had just stepped down from the Youth Justice Board after serving eight years, allowed his report to be dissected by leading academics, policy makers and practitioners in the field of youth justice. The result was a fascinating and fierce debate. Many of the attendees voiced their interest in continuing the debate and opening it up to others in the field.

A key issue highlighted by the seminar was the importance of engaging and drawing on the experience of those from a range of backgrounds: practitioners, academics and policy makers from a UK as well as an international perspective. Taking this on board, we approached respected individuals in the field of youth justice and requested their responses. These are published in Chapters 2 and 3 in this monograph. We also held an online public consultation aimed at practitioners from health, education and other relevant fields of expertise. We were gratified to have had enthusiastic responses, a range of which are contained in Chapter 4. These contributions and more can be found in full on the Crime and Society Foundation website www.crimeandsociety.org.uk/projects/youthjustice.html.

The aim of the *Whose Justice?* project is ‘to offer critical and innovative perspectives on the scope and purpose of the criminal justice system in the UK’ and to shed ‘new light on old problems’. We hope that this monograph goes some way to meeting these challenges.

Zoë Davies and Will McMahon

ABOUT THE EDITORS

Zoë Davies is project officer at the Centre for Crime and Justice Studies. She has previously worked with disaffected young people both within a youth offending team and an education welfare service.

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International responses
Whose problem?

A view from the United States

Dr Jeffrey A. Butts

Rob Allen’s critique of youth justice and his suggestions for reform are just as relevant on this side of the Atlantic. In the United States too, the most innovative approaches to youth justice rely on a problem-solving framework. Rather than simply responding punitively to the criminal behavior of youth, we try to resolve the problems that generate criminal behavior - but whose problems? We Americans are biased in how we identify problems and choose solutions. We like to explain our social problems in a way that conforms to a predetermined set of affordable solutions. Inevitably, these solutions are based on the premise that it is cheaper to manage the individual reactions to an adverse environment than it is to mend the environment.

We know that the frustrations and rage brought on by school failure lead some youth to see crime as a path to self-worth. Rather than correct our bad schools, however, we provide remedial help to the youth most affected by their bad schools. We know that the surest method of keeping someone away from crime is to engage them in meaningful and rewarding work. Yet, we fail to intervene when young people are systematically excluded from the labor force. We know that the prolonged use of alcohol and other drugs is associated with a criminal lifestyle, but instead of finding other
ways for youth to get the fun and excitement they obviously crave, we offer them counselling and treatment.

The youth justice system in the United States suffers from the same flaws and inadequacies identified by Rob Allen. Like the UK, the US system relies (even more excessively) on incarceration as a crime reduction tactic. It is based largely on the premise that the threat of future prosecution is an effective deterrent for 14-year-olds. It does not provide an adequate response for youth who are diverted from prosecution, and it does not pursue crime prevention consistently or creatively. Youth justice authorities do not co-ordinate their efforts with schools and our strategies for addressing the public health problems associated with crime are haphazard at best. Worst of all, the youth justice system in the US largely ignores a basic lesson of developmental science - the forces most likely to keep youth from pursuing a lifetime of criminal behavior are positive ties to pro-social adults, educational achievement, occupational success, access to recreation and physical activity, community recognition, and civic engagement. In short, healthy adolescent development is the best cure for crime.

There are many reasons for this shortcoming. First, many practitioners and policy makers harbor a belief that youthful offenders are not ‘normal’, and that they need to be controlled and overpowered rather than encouraged and developed. Admittedly, among the total population of youth offenders, some are so violent and anti-social that even the most optimistic youth advocate would see little hope for their rehabilitation. Fortunately, this description applies to very few youth; certainly not more than one in 20.

Another reason the youth justice system fails to draw upon developmental science is our inability to link practice to theory. Programs for young offenders are not designed to address the full range of factors identified by theory as leading youth to engage in illegal behavior. Our program models are plagued by our ‘psychological reductionism’, or the tendency to view the causes and solutions to social problems in strictly psychological terms. Numerous intervention models have been developed for youth whose delinquency is thought to originate with psychological
troubles, drug abuse, and family violence. Far less attention is paid to the majority of youth - those who commit crimes for other reasons, including a fear for their own safety, a desire for greater social status, economic need (or greed), negative peer associations, defiance of conventional authority, and simple thrill-seeking.

Developing effective intervention strategies for these youth is not easy. By definition, resources to support such models have to be neighborhood and volunteer-based. Youth courts and youth justice agencies cannot implement these strategies independently. They have to operate as one component in a diverse network of co-operating entities, and the network cannot be dominated by professionals. Services, supports and opportunities for youth have to be built and nurtured by neighborhoods and communities. Developing and sustaining these resources is difficult and time-consuming. If communities depend on government or professional service providers, they will end up with more professional services instead of genuine community-based resources and opportunities for youth.

In addition, key components of the youth justice process have to change in order to pursue an authentic youth development strategy. As in any effort to change organizational cultures and practices, one of the most difficult challenges is changing the routine activities of workers. Particularly in a jurisdiction where youth workers see themselves as members of law enforcement, they will be reluctant to adopt a framework that asks them to become community organizers and case managers rather than investigators and enforcers. In many American communities, youth justice workers are members of labor unions and getting them to agree to sweeping changes in their job duties is time-consuming at best.

Instead of adopting a developmental approach, the youth justice system in the US continues to move ever closer to the approach of the criminal (adult) justice system. With few exceptions, youth justice policy in the US appears to have lost its moorings during the past 20 to 30 years. Sadly, it is now innovative to suggest that the youth justice system should help to solve the problems that lead youth to become involved in crime and delinquency. I write these words from an office at the University of Chicago, a few
kilometers from Hull House, the most famous settlement house in the US and the birthplace of numerous municipal reform efforts during the late 19th and early 20th centuries. Led by Jane Addams, who was inspired by her visits to England’s Toynbee Hall, the social workers and community activists at Hull House sparked a host of policy reforms that changed the social landscape of Chicago and ultimately the United States as a whole. One of their most publicized accomplishments was the founding in 1899 of a separate court to respond to the criminal offenses of children and youth. The original purpose of Chicago’s new juvenile court was explicitly to solve the problems that lead to crime, not simply to punish the youth caught up in crime. Addams and her contemporaries saw the solutions to delinquency as better schools, community organizations, public health measures, and family support. If designed and managed properly, a youth justice system based upon the principles of problem-solving justice could return America’s juvenile justice system to a condition Jane Addams might admire.

A problem-solving framework begins with the premise that people who break the laws of their community should be held accountable for their behavior. Problem-solving justice, however, asks the legal system to do more than simply punish people for past crimes. It asks the justice system to work in concert with social welfare authorities to prevent future social harm. This means the job is not done when drug sellers are caught and sentenced; legal authorities should ensure that such offenders gain useful skills for future employment. It means that dispensing anti-social behavior orders to disruptive youth is not enough; justice officials should work with community leaders to engage those youth in substitute activities that are able to compete with the appeal that bothersome behaviors hold for adolescents. Problem-solving justice asks for more than accurate fact-finding and prompt punishment. It asks police, prosecutors, courts and custodial authorities to act in a way that helps to maintain the social health of communities.

Of course, the idea of problem-solving justice is not new. The underlying goals of law and justice have always been to solve social problems, prevent future harm, and restore the well-being of communities. The emergence of problem-solving justice is
not significant because it represents a revolutionary way of thinking. It is significant because it returns the justice system to its foundational principles and a focus on community safety rather than law and order.

Rob Allen is correct to note that focusing youth justice on punishment has not been a successful approach to ensuring public safety. In the United States as well as in the United Kingdom, policy makers shifted youth justice strategies dramatically during the 1990s to be more punitive. Yet, trends in the incidence and severity of youth crime have not mirrored these policy changes. Some crimes are up and some are down; some cities are still seeing falling crime while others are experiencing growing rates of youth crime and violence. If enhanced punishment were the best path to improved public safety, we would know it by now.

Allen's provocative report is an important contribution to youth justice policy and practice in the United Kingdom. It is also an additional link in the growing chain of cross-national exchanges between the UK and other (especially English-speaking) countries, including the United States. We are increasingly learning from one another and adopting each other's best ideas in child and youth policy. From the Scottish system of children's hearings, to the restorative justice models of Australia, and the community justice concepts of New Zealand, there is a growing trade in alternative justice frameworks. We can only hope for an increased rate of exchange in ideas for building a developmentally appropriate, problem-solving justice system for youth.

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The Centre for Crime and Justice Studies at King's College London is an independent charity that informs and educates about all aspects of crime and criminal justice. We provide information, produce research and carry out policy analysis to encourage and facilitate an understanding of the complex nature of issues concerning crime.

*Whose Justice?* Is a strategic project of the Centre for Crime and Justice Studies. It offers critical and innovative perspectives on the scope and purpose of the criminal justice system in the UK, shedding new light on old problems.

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