The Howard Journal Vol 45 No 5. December 2006
ISSN 0265-5527, pp. 449–467

Damage, Harm and Death in Child Prisons in England and Wales: Questions of Abuse and Accountability

BARRY GOLDSON
Professor of Criminology and Social Policy, School of Sociology and Social Policy, University of Liverpool

Abstract: The United Nations is currently undertaking a major international study of violence against children. This article is framed within the conceptual context of the UN study; it explores the violence intrinsic to key aspects of youth justice policy and practice in England and Wales and, more particularly, the damage, harm and death of child prisoners. The article advances an argument that the treatment and conditions endured by child prisoners within the specific jurisdiction is tantamount to institutional child abuse. This raises key questions of responsibility and accountability, questions that successive governments have thus far sought to evade.

In 2001, the United Nations General Assembly, in resolution 56/138, requested the Secretary-General, Kofi Annan, to conduct 'an in-depth study on the question of violence against children'. The following year, in resolution 2002/92, the United Nations Commission on Human Rights advised the Secretary-General to 'appoint an independent expert to direct the study, in collaboration with the Office of the High Commissioner for Human Rights, the United Nations Children's Fund and the World Health Organisation'. Accordingly, on 12 February 2003, Paulo Sergio Pinheiro was appointed, at Assistant Secretary-General level, to direct the 'United Nations Secretary-General's Study on Violence Against Children' (the Study). The Study aims to provide a global picture of violence against children. It is the most wide-ranging and detailed investigation of its type in history and the final report is scheduled for presentation to the United Nations General Assembly in October 2006.

Throughout the life of the United Nations Study to-date, a series of 'thematic consultations' – involving leading international experts – have convened in order to provide subject-specific reports. In the *Violence*

Published by Blackwell Publishing Ltd, 9600 Garsington Road, Oxford OX4 2DQ, UK

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ISSN 0265-5527, pp. 449–467

Against Children in Conflict with the Law report, the Director of the Study observed that:

> Children in conflict with the law . . . are one of the most vulnerable groups to the worst forms of violence . . . Public opinion about the involvement of children in illegal activities and the search for immediate answers have led to the introduction of insane repressive methods . . . the recurrent and banalised use of institutionalization is surely problematic. (Pinheiro 2005, pp.17–18)

Furthermore, the NGO Advisory Panel to the Study has noted that: '"tough on crime" policies and negative media and public images of . . . socio-economically disadvantaged children'; 'the over-use of detention' and 'impunity and lack of accountability by law enforcement agents, institutions and staff, [are] some of the key issues that facilitate violence against children in the justice system' (NGO Advisory Panel for the United Nations Secretary-General's Study on Violence Against Children 2005, p.4). The principal argument developed in this article is that such observations have particular resonance in England and Wales.

On 12 February 1993 – paradoxically precisely ten years to the day prior to the appointment of Paulo Sergio Pinheiro as Director of the Study – a two-year-old toddler, James Bulger, lost his life at the hands of two ten-year-old children in Liverpool, England. Despite the exceptional and fundamentally atypical nature of the incident, it was appropriated – by senior politicians and key sections of the media – as the ultimate symbol of a 'childhood in crisis' (Scraton 1997). Ministers in the faltering Conservative government, together with political opportunists in opposition, aimed to outflank one another in parliamentary exchanges, high-profile speeches and a flurry of policy announcements, each underpinned by vacuous moralistic rhetoric and punitive intent (Goldson 2002a). Pervasive and persistent images of an ascendant 'yob culture' were transmitted by the media across the world. The classic ingredients of 'folk-devilling' and 'moral panic' (Cohen 2002) were mixed; identifiable groups of children – particularly 'young offenders' – were systematically demonised (Davis and Bourhill 1997) and the political agenda was set to 'toughen up' and punish. Perhaps the most extraordinary aspect of such phenomena rests with its sustained nature and the depth and breadth of its purchase over law and policy. Indeed, since 1993, an unprecedented volume of repressive legislation in England and Wales has concocted one of the most punitive criminal justice systems in the world. The general level of imprisonment within the jurisdiction 'places it above the mid-point in the World List; it is the highest amongst countries of the European Union' (Walmsley 2003, p.1). More particularly, young people have been especially targeted by 'toughness' imperatives and greater use of penal custody for children is now made in England and Wales than in most other industrialised democratic countries in the world (Youth Justice Board 2004).

The sheer scale of child imprisonment in England and Wales, together with the corrosive impact of penal regimes on children, have generated consistent critique from a wide-range of authoritative sources including: international human rights bodies (see, for example, Office for the

Commissioner for Human Rights 2005; United Nations Committee on the Rights of the Child 2002); Parliamentary Committees (see, for example, House of Commons Committee of Public Accounts 2004; House of Lords/ House of Commons Joint Committee on Human Rights 2003, 2004a, 2004b); independent inquiries (see, for example, Carlile 2006); the High Courts (see, for example, Bennett 2005; Munby 2002); State inspectorates (see, for example, Commission for Social Care Inspectorate *et al*. 2005; Her Majesty's Chief Inspector of Prisons 1997, 2005; Social Services Inspectorate *et al*. 2002); independent academic research (see, for example, Goldson 2002b; Goldson and Coles 2005); state-sponsored research (see, for example, Challen and Walton 2004; Holmes and Gibbs 2004); penal reform organisations (see, for example, Howard League 1995, 1997, 2005; Nacro 2005) and children's human rights agencies (see, for example, Children's Rights Alliance for England 2002). Despite the weight and authority of such critique, however, successive governments since 1993 – both Conservative and New Labour – have continued to pursue a 'tough' line with regard to criminal justice in general and youth justice in particular.

Indeed, 'tough on crime' policies, negative media images of identifiable groups of children (especially those deemed to be 'anti-social', 'disorderly' and/or 'criminal'), the over-use of penal custody and the apparent lack of accountability with regard to authoritative critique and reasoned concern – the very conditions that 'facilitate violence against children in the justice system' according to the Study – are intrinsic features of the contemporary youth justice terrain in England and Wales. Taken together, such issues raise fundamental questions of abuse and accountability that demand critical attention.

Questions of Abuse

An Abuse of Power

Contrary to much popular belief, children and young people are *not* responsible for the majority of recorded and detected crime. During 2001, for example, almost 88% of detected crime was committed by adults (Nacro 2003). Perhaps more significantly, the incidence of youth crime appears to be in decline when measured over the last decade or so. Thus official statistics indicate that between 1992 and 2001, the number of 10 to 17-year-olds cautioned or convicted of indictable offences fell by 21% from 143,600 to 113,800 (Home Office 2002). It is also clear that such decline is not simply attributable to demographic changes (that is, fewer children and young people in the overall population); it is also expressed in proportionate terms. In other words, the number of children and young people per 100,000 of the population cautioned, reprimanded, warned or convicted of an indictable offence, fell from 2,673 in 1992 to 1,927 in 2001 (Home Office 2002).

A more recent statistical snapshot of youth crime in England and Wales was published in November 2005. The 'Offending, Crime and Justice

Survey' (OCJS), based upon interviews with 5,000 children and young people, offers a 'unique picture of the extent and nature of offending, anti-social behaviour and drug use among young people in the general household population' (Budd *et al*. 2005, p.i). The survey revealed that 64% of children and young people interviewed had neither committed an offence – or a defined act of anti-social behaviour – in the twelve months prior to interview and, amongst the minority 'who did admit to a delinquent act the picture was dominated by the less serious behaviours' (p.i). Furthermore, many 'incidents' officially recorded as 'violent' were, in actual fact, 'non-injury incidents often committed on the ''spur of the moment'' against someone the perpetrator knew and involving relatively low levels of force . . . attributed to being annoyed or upset with someone'. Indeed, 68% of the 'violent incidents' reported by 10 to 17-year-olds were 'non-injury assaults . . . a grab or a push [or] a punch, slap or hit' (p.ii). Similarly, the majority of 'property offences' reported by children were low-level, involving 'miscellaneous thefts from school of items of relatively low value' (p.ii).

Whilst it is always necessary to exercise some care in reading, analysing and interpreting official crime statistics (Bateman 2006; Coleman and Moynihan 1996), such figures certainly appear to challenge populist constructions of burgeoning child lawlessness, widespread moral breakdown and rampant 'yob culture'. There is apparent dissonance between perception and reality, and the public's fears and anxieties are falsely inflated when measured in terms of the actual incidence and gravity of youth crime (Allen 2002; Hancock 2004; Hough and Roberts 2004). The primary significance of this, at least for the purposes here, is that it raises serious questions with regard to the politics of 'toughness', the (il)legitimacy of the 'new punitiveness' (Goldson 2002a) and the intrinsic (ir)rationality of contemporary youth justice policy. Whilst recognising that youth crime and the socio-economic contexts within which it is invariably situated are matters of legitimate concern and, at the extremes, a small minority of children are occasionally prone to behave in ways that place themselves and/or others at risk of serious harm, the statistical evidence fails to sustain the caricatured notion of spiralling behavioural decline and an ever-more victimised citizenry. Indeed, 'tough on crime' policies in England and Wales, as elsewhere – most notably the USA (Pratt *et al*. 2005; Tonry 2004) – bear little, if any, relation to actual patterns of crime. Instead, the 'rush to custody' (Rutherford 2002) derives from political machinations as distinct from genuine crime and disorder reduction and/or community safety imperatives:

> [it] is very much a *political* process. It is governed not by any criminological logic but instead by . . . political actors and the exigencies, political calculations and short-term interests that provide their motivations. In its detailed configuration, with all its incoherence and contradictions, [it] is thus a product of the decidedly aleatory history of political manoeuvres and calculations. (Garland 2001, p.191, italics in original)

Thus political priorities and 'electoral anxieties' (Pitts 2000) currently exercise greater influence over youth justice policy formation than measured criminological rationality. In the final analysis, this is an abuse

of power that ultimately serves to remove the liberty of increasing numbers of children and expose them to the damaging and harmful excesses of penal regimes.

The punitive turn in youth justice law, policy and practice is manifest in the escalating rates of child imprisonment in England and Wales. From 1993 to-date, the number of 15 to 17-year-old prisoners has expanded by 90%, there has been a 142% increase in child remand prisoners, a 400% increase in the numbers of girls in prison and an 800% increase in the number of child prisoners aged 14 years and under (Goldson 2002a, 2005, 2006; Nacro 2005). Furthermore, despite more recent efforts by the Youth Justice Board for England and Wales (YJB) (Youth Justice Board 2004) to mediate the 'rush to custody', patterns of penal expansion have continued. Indeed, mounting concerns have been expressed in YJB reports over consecutive months throughout 2005 and 2006. In September 2005, for example, the Board reported that: 'the secure estate is under severe pressure' and 'the significant rise [in child prisoners] is worrying' (Youth Justice Board 2005a, pp.9–10). In October, the Board referred to a 'surge in the remand population' (Youth Justice Board 2005b, p.4). In November, Ellie Roy, the YJB's Chief Executive, reflecting on the previous three months noted that: 'there has been a marked and unexpected increase in the number of children and young people remanded or sentenced to custody'. Roy made further reference to 'severe pressure' and observed: 'the suddenness of the growth in numbers means the secure estate is working at almost full capacity . . . [and] the size of the increase is likely to affect the quality and effectiveness of regimes because of the greater pressures on staff' (Youth Justice Board 2005c, p.5). In December, the Chairperson of the Board, Professor Rod Morgan, reported that: 'the numbers in custody remain high' and pledged to: 'continue resolutely to make the case with the government and with sentencers that fewer children and young people should be committed to custody' (Youth Justice Board 2005d, pp.1–2). In January 2006, the Board explained the expected pre- and post-Christmas seasonal dip in the child prison population but warned that: 'it will soon start to rise again' (Youth Justice Board 2006a, pp.3–4). Sure enough, in February 2006 the Board announced 'increases from the seasonal low' (Youth Justice Board 2006b, p.2), a pattern that continued into March 2006 (Youth Justice Board 2006c, pp.4–5). In short, despite periodic claims that the number of child prisoners in England and Wales is finally being scaled down, statistics collated by the YJB continue to suggest the opposite (see *Table 1*). Notwithstanding all of the authoritative concerns referred to above, alongside the recent efforts of the YJB to regulate child imprisonment and 'make the case' for penal reduction, the routine incarceration of children continues to comprise a key feature of contemporary youth justice policy and practice in England and Wales. Deliberate and calculated adherence to 'tough' punitivity is politically embedded and, as the Howard League (2006) has observed:

> The government has made a policy choice to expand the use of prison . . . [it] has made a conscious decision to avoid saying that prison doesn't work . . . it has decided

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ISSN 0265-5527, pp. 449–467

TABLE 1
Three-quarter Year (June–Feb.) Child Prisoner Populations in England and Wales 2003–04; 2004–05; 2005–06

Mean	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.
03–04	2003	2003	2003	2003	2003	2003	2003	2004	2004
2,758	2,817	2,842	2,832	2,796	2,798	2,742	2,595	2,669	2,727
Mean	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.
04–05	2004	2004	2004	2004	2004	2004	2004	2005	2005
2,749	2,749	2,771	2,811	2,787	2,837	2,827	2,619	2,662	2,677
Mean	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.
05–06	2005	2005	2005	2005	2005	2005	2005	2006	2006
2,839	2,825	2,869	2,890	2,992	2,953	2,865	2,621	2,735	2,746

(*Sources:* 2003–04 (Youth Justice Board 2005e); 2004–05 (Youth Justice Board 2006d); 2005–06 (Youth Justice Board 2005a, 2005b, 2005c, 2005d, 2006a, 2006b, 2006c))

to increase the prison population by over 17,000 since coming to power in May 1997. (p.22)

Within a context of cynical political posturing and self-serving calculation, therefore, child 'offenders' continue to be particularly targeted. This implies both an abuse of power and the negation of democratic responsibility.

An Abused Population

Child prisoners are routinely drawn from some of the most disadvantaged, damaged and distressed families, neighbourhoods and communities in England and Wales. Children for whom the fabric of life invariably stretches across: poverty; family discord; public care; drug and alcohol misuse; mental distress; ill-health; emotional, physical and sexual abuse; self-harm; homelessness; isolation; loneliness; circumscribed educational and employment opportunities and the most pressing sense of distress and alienation, are the very children to be found in penal custody (Challen and Walton 2004; Children's Rights Alliance for England 2002; Commission for Social Care Inspectorate *et al*. 2005; Goldson 2002b; Goldson and Coles 2005; Holmes and Gibbs 2004; Social Exclusion Unit 2002; Social Services Inspectorate *et al*. 2002). Indeed, when taking account of the backgrounds and personal circumstances of child prisoners: 'it is evident that on any count this is a significantly deprived, excluded, and abused population of children' (Association of Directors of Social Services *et al*. 2003, p.6).

An in-depth study of children held in penal custody whilst on remand found that 48% were living apart from any member of their family immediately prior to entering prison, including 12% who were being 'looked after' by the local authority and a further 12% who literally had nowhere to live and were having to survive on the street. Whilst most of the children identified the need for adult support and advice, 68% reported

that throughout their experience of 'growing up' there was no-one to whom they could turn for such guidance (Goldson 2002b, pp.130–1). The findings from this relatively small-scale study are consistent with those drawn from wider-ranging surveys. Thus approximately half of children held in penal custody have been, or remain, involved with social services departments and a significant proportion have biographies scarred by adult abuse and violation (see, for example, Prison Reform Trust 2004).

In a major review of the educational needs of children in penal custody, Her Majesty's Chief Inspector of Prisons and the Office for Standards in Education (2001, p.10) found that: 84% of child prisoners had been excluded from school; 86% had regularly not attended school; 52% had left school aged 14 years or younger; 29% had left school aged 13 years or younger and 73% described their educational achievement as 'nil'. It is unsurprising, therefore, that over 25% of child prisoners have literacy and numeracy skills equivalent to a seven-year-old (Social Exclusion Unit 2002) and 'most' have 'very significant learning needs and problems' (Social Services Inspectorate *et al*. 2002, p.70).

The British Medical Association (2001), commenting upon the relationship between poverty, disadvantage and poor health, has observed that: '. . . patients within prison are amongst the most needy in the country in relation to their health care needs. Over 90 per cent of patients who reside in our jails come from deprived backgrounds' (p.5). Furthermore, Her Majesty's Chief Inspector of Prisons (2006) noted: 'a major concern . . . is the number of children and young people with mental health needs who are inappropriately placed in prison' (p.55). Lader, Singleton and Meltzer (2000), in their wide-ranging study of 'psychiatric morbidity' among children and young people remanded in prison found that: 84% of remand prisoners had a 'personality disorder'; 8% had a psychotic disorder; 60% had sleep problems; 70% had 'hazardous drinking' habits; 93% reported using drugs prior to remand and 'male young offenders on remand were the most likely to report having suffered . . . stressful life events' (*passim*).

Child prisoners are, in short, routinely abused in the infrastructure of everyday life and the combination of: poverty and structural exclusion; neglect by welfare, education and health agencies and an unforgiving policy climate, render such children profoundly vulnerable. In England and Wales, the YJB is responsible for 'placing' children once they have been remanded or sentenced to penal custody by the courts. The 'Head of Placements' has reported that: 'the process starts when a youth offending team sends a Placement Alert Form to the YJB . . . as a result of this process, every day, up to 70 children and young people are identified as vulnerable' (Minchin 2005, p.2). To put it another way, in the month of September 2005 alone, 1,405 child prisoners were officially designated as 'vulnerable' by the YJB (Carlile 2006, p.28).

Abusive Institutions: Institutional Abuse

The 'juvenile secure estate' in England and Wales comprises three types of institution: young offender institutions (in 2005, 16 State prisons and two private prisons were used for children); secure training centres (four

private jails owned and managed by global security corporations) and local authority secure children's homes (15 under contract to the YJB in 2005 provided by social services authorities). Young offender institutions are by far the biggest 'provider', holding over 80% of child prisoners. It might be argued that detaining an identifiable population of children with multiple welfare needs and complex vulnerabilities in prisons is itself abusive. When account is taken of the facts that the staff-child ratio in such prisons is typically 4 to 60 (Bennett 2005, para. 51), that prison officers have no professional training to equip them to work with damaged children, that at best 'juvenile awareness' training for such staff lasts no longer than seven days and 'some establishments are finding it difficult to release staff even for this short period' (Her Majesty's Chief Inspector of Prisons 2006, p.57), the argument becomes compelling. The needs of child prisoners are necessarily neglected. Moreover, the conditions and treatment typically endured by child prisoners routinely violate their emotional, psychological and physical integrity: they are profoundly damaging and harmful (Carlile 2006; Goldson 2002b; Goldson and Coles 2005).

Her Majesty's Chief Inspector of Prisons (2006) concedes that 'bullying remains a problem in most establishments' (p.56). Indeed, the world of the child prison (not unlike the adult prison) is sharply stratified; organised in accordance with informal pecking orders and hierarchies of power, control and intimidation. Bullying is systemic and contagious. Moreover, stratification is both complex and fluid, creating a permanent sense of insecurity and uncertainty. There is no static distinction between 'victim' and 'offender'; the bullied child is invariably also a bully; the victim can readily become the aggressor; the aggressor is almost always a victim. Senior prison officers have explained:

> Anybody can be a bully and anybody can be a victim, and they are not necessarily exclusive. Six-feet-five lads can be bullied by smaller lads if they have mates behind them. Many times you see lads and we think that 'victim' is written all over them, and pretty often they are. But sometimes they seem OK. It's difficult to tell. Very often, kids are being bullied by other kids who have just as many problems as the kid they are bullying.
>
> Even within the vulnerables you have a vulnerable who wants to be top. It's the nature of the beast, it's part of the prison itself. (cited in Goldson 2002b, p.145)

The most obvious expression of bullying is physical assault (or physical abuse), much of which goes unreported – thus unrecorded – owing to the intense antipathy to the practice of 'grassing' within 'inmate' culture, and worse still, the consequences of being labelled a 'grass'. Child prisoners are also exposed to many other forms of 'bullying', however, including: sexual abuse; verbal abuse (including name-calling; threats; racist, sexist and homophobic taunting); psychological abuse; extortion and theft; and lending and trading cultures – particularly in relation to tobacco – involving exorbitant rates of interest that accumulate on a daily basis (Goldson 2002b; Medlicott 2001).

Less is officially 'known' about staff-on-child bullying but it is certainly a feature of prison life:

> Most of the staff are alright but some either ignore you or try to wind you up. They swear at us and that, and call us names, and they threaten to drag us down to the block. Every day, every day bullying happens. (male child prisoner, aged 15 years, cited in Goldson 2002b, p.147)

> It comes in waves, it depends who's on the wing. You get kids bullying each other, you get staff bullying kids and you get staff bullying staff. Some of us are deemed too soft. I talk to them as I talk to my own children. Other staff will say we're not strict enough in here because they're here for punishment. (prison officer, cited in Goldson 2002b, p.145)

Moreover, institutionalised and officially sanctioned practices within child prisons frequently assume abusive forms. Her Majesty's Chief Inspector of Prisons (2006) has reported that:

> There remains serious concern about the use of force and other control and disciplinary measures. In many establishments, a significant proportion of child protection referrals concern allegations of abuse or rough handling during the use of force; some have resulted in injuries, such as broken bones. (p.56)

Indeed, despite the use of euphemistic language and sanitised descriptions, approved 'control' techniques would almost certainly be described as child abuse in any other context. Thus, in 'setting the record straight', a YJB 'secure development manager' describes 'distraction techniques' as modes of intervention 'inflicting a short, sharp burst of pain or discomfort on a young person', and 'nose distraction' as involving 'a member of staff passing his or her hand over the young person's head and, placing the index finger underneath the nose, applying smooth pressure upwards and backwards' (Reilly 2005, p.6). Although no reliable and/or centrally collated data are readily available with regard to either the incidence or the consequence of 'restraint' techniques in child prisons, by piecing together disparate strands of information a problematic picture begins to emerge.

Prison service statistics provided by the YJB to a major independent inquiry chaired by Lord Carlile of Berriew, indicate that the total number of 'restraint' 'interventions' in child prisons for the period January 2004 to September 2005 stood at 5,133 (YJB cited in Carlile 2006, p.84). Parliamentary Questions have revealed that 'restraint' was administered on 11,593 occasions in the four private child jails in England and Wales (secure training centres) between January 1999 and June 2004 (cited in Carlile 2006, paras. 100–1). Furthermore, in 2002, Beverley Hughes, Home Office Minister at the time, reported that between April 2000 and February 2002, 296 children sustained injuries resulting from 'restraint' in prisons, and in September 2004, Hilton Dawson MP, stated that there had been 200 injuries to child prisoners following 'restraint' in an eleven-month period (cited in Carlile 2006, para. 118). In addition to 'restraint', the institutional practices of strip searching and placing children in segregation (solitary confinement) are also deeply problematic.

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The 'Carlile Inquiry' was told that child prisoners were required to submit to a full strip search during their 'reception' to prison: 'this meant that one of the very first experiences for a child going into a prison was to be asked to strip and reveal their body to an unknown adult' (Carlile 2006, para. 154). Prison reception for children is invariably a bewildering experience and is not unlike a cattle market. Child prisoners are herded into crowded reception areas and processed with indecent haste. The circumstances do not allow for anything else. The routine late arrival of child prisoners from courts, excessive numbers, limited space and institutional imperatives produce inhumane procedures. As one 16-year-old boy explained:

> I didn't know what was happening and when I asked questions they just said 'shut up and speak when you're spoken to'. I didn't know what was happening and what would happen next and all they did was give orders: 'sit there, stand there, go there'. They don't ask anything except name, number and what happened in court. Then they strip searched me and I had to change into uniform. I felt helpless. There's nothing you can do. I was frightened and I didn't feel safe 'cos I was on my own. I didn't know no-one and I didn't know nothing. (cited in Goldson 2002b, p.139)

Strip searching takes at least two forms: upper body cavity searches whereby prison officers check the child's ears, nose and mouth and lower body cavity searches for which children are required to 'bend over or squat' (Carlile 2006, paras. 155–6). Her Majesty's Chief Inspector of Prisons has pondered:

> What is the rationale or the proportionality of routinely strip-searching children on arrival in prison, particularly for a population more likely than average to have experienced abuse? And if the child resists, can you justify him or her being held down by adults, in painful wristlocks, and forcibly undressed. (cited in Carlile 2006, para. 149)

Notwithstanding such concern, however, statistics from one young offender institution alone, reveal that 3,379 strip searches were undertaken at reception from January 2004 to June 2005 (Carlile 2006, para. 158).

In the same way that euphemism is employed to describe processes of forceful physical intervention as 'distraction' and 'restraint', most child prisons have 'renamed their segregation units: for example, as ''care and separation'' units' (Her Majesty's Chief Inspector of Prisons 2006, p.56). The 'Carlile Inquiry' (2006, para. 188) also discovered that the terms 'Intensive Supervision Unit' and 'Reorientation Unit' were used to describe cells reserved for the segregation and solitary confinement of children; prisons within prisons where children can be held 'for days and even weeks at a time' (Carlile 2006, para. 207).

For all child prisoners, the combination of their complex vulnerabilities, separation from family, bullying and the institutionalised practices of 'restraint', strip searching and segregation perpetuates misery, insecurity and fear (Goldson 2002b). For some, it is too much to bear. Self-harm is not uncommon and in a period of just eleven months there were 1,324 reported incidents by children in young offender institutions in England

and Wales (Her Majesty's Chief Inspector of Prisons 2006, p.16). The pain of confinement is relieved only on release. For other child prisoners 'release' takes a fatal form. Between July 1990 and September 2005, 29 children died in penal custody in England and Wales, 27 in State prisons and two in private jails (Goldson and Coles 2005).

Questions of Accountability

Violence and abuse takes many forms and, as noted, the 'United Nations Secretary-General's Study on Violence Against Children' has reported that children in conflict with the law are often exposed to the worst excesses. In many respects the practice of placing children in prisons constitutes an act of violence in itself. Criminologically speaking, it also comprises a form of institutionalised irrationality and a callous indifference to children's suffering (Goldson 2006).

Imprisoning children is costly. The chairperson of the YJB has reported that child imprisonment in England and Wales cost £293.5 million in 2003/04 alone (Morgan 2004). When measured in terms of reducing offending – the statutory aim of the youth justice system as provided by Section 37(1) of the Crime and Disorder Act 1998 – child imprisonment is also spectacularly ineffective. In October 2004, a Parliamentary Select Committee reported that reconviction rates stand at 80% with regard to released child prisoners (House of Commons Committee of Public Accounts 2004). Furthermore, despite substantial investment in new custodial sentences, regimes and institutions in England and Wales, they have not returned any discernible improvement in 'performance' (Farrington *et al*. 2000; Goldson 2005; Hagell and Hazel 2001; Hagell, Hazel and Shaw 2000; Hazel *et al*. 2002). Child prisons consistently fail to deliver the core statutory objectives of the youth justice system. Conversely, prisons and other penal institutions in which children are held in England and Wales are very 'successful' at imposing damage and harm (emotional, psychological and physical) and, at the extremes, at taking life. As Mr Justice Munby, a High Court Judge, observed, these are: 'matters of the very greatest concern . . . things being done to children by the State – by all of us . . . [these are] matters which, on the face of it, ought to shock the conscience of every citizen' (Munby 2002, paras. 172, 175). So where might accountability be located for investing a huge amount of public money in institutions that consistently fail to provide public protection and community safety and succeed only in abusing an already-abused population of children?

A key organisational mechanism for seeking truth, clarifying matters of accountability and, where appropriate, apportioning responsibility, is the public inquiry. Public inquires are a preferred method of systematically and comprehensively examining 'scandals' (Butler and Drakeford 2003), they are more-or-less routinely opened with regard to complex cases of child abuse (Corby, Doig and Roberts 2001) and, of particular significance here, they have provided invaluable insights into the violation of children in institutional settings (Kahan 1994). In many such circumstances, public inquiries have led directly to major reforms in law, policy and practice.

A conspicuous exception applies when the scandal, abuse and violation is located within a penal setting, however. There has never been a public inquiry into juvenile sentencing policy and/or the treatment and conditions endured by child prisoners in England and Wales. Perhaps more problematically, not a single public inquiry has ever been opened into the fatal circumstances of any of the 29 children who died in penal custody between July 1990 and September 2005 (Goldson and Coles 2005).

When required to account for the damage and harm experienced by child prisoners in general, or child deaths in penal custody in particular, official discourse tends to privilege constructions of individual pathology referring to 'imported' or 'innate' vulnerability, 'failure to cope', 'weakness' and 'inadequacy'. Such rationales necessarily *individualise* damage, harm and ultimately death, often by emphasising the fragile mental health of specific child prisoners. In this way official accounts are narrowly circumscribed in both concept and scope: they are essentially 'medicalised' and necessarily confined to an individual child in a given penal establishment at a particular moment in time. With specific regard to child deaths in penal custody, such individualisation and circumscription is institutionalised through the case-specific and statutorily restricted nature of post-death investigations and coroners' inquests. Furthermore, the findings, conclusions and recommendations reached by post-death investigations and coroners' inquests are never published, thus there is no readily available source for systematically and collectively analysing, monitoring or following them up (Goldson and Coles 2005; Scraton and Chadwick 1987).

Such narrow conceptualisation and response serves not only to divert attention from State responsibility and accountability (the morally bankrupt politics of 'toughness', the excessive reliance on incarceration and the inappropriate nature of penal regimes for children in England and Wales), but it also fragments an understanding of the commonalities of circumstance that typically give rise to the harm, damage and ultimately death of child prisoners. This limited 'way of seeing' is necessarily abstracted from thorough analyses of youth justice policy and/or any consideration of the wider social, structural, material and institutional arrangements that define the typical circumstances of child prisoners.

At the level of the individual case, the circumstances leading to damage, harm and death in penal custody might appear to comprise a sequence of exceptional 'mistakes' and abnormal 'misunderstandings'. By definition, the atypical nature of child death in particular, implies that however unfortunate and regrettable, little more could have been done to prevent the death of an abnormally distressed and troubled child. The claimed legitimacy, efficiency and integrity of penal custody remain undisturbed. Wider questions of policy are not raised. At the level of aggregated cases, however, when account is taken of the commonalities of circumstance that characterise child deaths in penal custody, it is no longer possible to conceive such deaths as isolated and unconnected aberrations. Indeed, the consistent features and intersecting similarities of such cases illustrate the systemic failings that continue to be produced and reproduced through the practices and processes of child incarceration (Goldson and Coles

2005). It is at this juncture that questions of legitimacy, efficiency and integrity with regard to penal custody and youth justice policy in England and Wales are opened to question.

On 30 April 2004, the inquest into the death of Joseph Scholes – a 16-year-old boy who died in Stoke Heath Young Offender Institution in 2001 – concluded at Shrewsbury Coroner's Court, Shropshire, England. The Coroner made a defining statement:

> . . . I have powers under the Coroner's Rules to make recommendations and I am going to exercise that power in this case and I publicly announce now that I will be writing to the Home Secretary and I shall be writing in these terms . . . I shall be informing him that many issues were raised and investigated: whilst sentencing policy was outside the scope of the inquest, the two year detention and training order that Joseph received was part of the chain of events culminating in his death . . . it seems to me essential that there is an urgent and comprehensive review . . . In all the circumstances, and so that the review can include sentencing policy, which is an essential ingredient but outside the scope of this inquest, I consider that the review should take the form of a public inquiry when all interested persons can make their view known. (cited in Goldson and Coles 2005, p.110)

Since that time, the Coroner's representations to the Home Secretary have been echoed from many authoritative and expert sources, including: members of both Houses of Parliament; the General Synod of the Church of England; a wide range of leading child welfare and penal reform agencies; prominent individuals in public life, and national experts in youth justice (Goldson and Coles 2005). The pressing need to learn from the systemic failings that cost Joseph Scholes his life is widely recognised. To-date, however, the New Labour government has remained steadfast in its refusal to allow a public inquiry.

A public inquiry into the circumstances that led to the death of Joseph Scholes would necessarily raise wide-ranging questions with regard to processes of child criminalisation, the punitive nature of contemporary youth justice policy in England and Wales and the manifest over-reliance on custodial sanctions. Equally, it would have to explore the inadequate nature of 'placements', the damage and harm imposed upon child prisoners and the intrinsic abuse within the 'juvenile secure estate', within a spirit of democratic accountability, professional transparency and the pressing need to learn from systemic failure. Comparable rationales invoked 70 public inquiries in the UK into child welfare and child abuse more generally, between 1973 and 1996 (Corby, Doig and Roberts 2001). The received wisdom is that public inquiries in such cases serve to progress policy and improve the standard of professional practice in safeguarding vulnerable children. Many are child-specific but their underpinning logic, their terms of reference and their lateral focus inevitably fix the gaze more widely; upon fundamental questions of system behaviour and policy context. The Victoria Climbié Inquiry (Laming 2003) is a perfect exemplar.

Victoria Climbié died in February 2000, and in April 2001 Lord Laming was invited to chair an independent statutory public inquiry, which

reported in January 2003. The inquiry report has been pivotal; the death of Victoria Climbié has assumed profound importance in the minds of those with a professional and policy interest in children's welfare. In exploring the circumstances that led to Victoria's death, Laming referred to the 'gross failure of the system' which gave 'low priority to the task of protecting children'; a system characterised by 'widespread organisational malaise' (Laming, cited in Butler and Drakeford 2003, p.268). Tellingly, Laming concluded that:

> I strongly believe that in future, those who occupy senior positions in the public sector must be required to account for any failure to protect vulnerable children . . . The single most important change in the future must be the drawing of a clear line of accountability, from top to bottom, without doubt or ambiguity about who is responsible at every level for the well-being of vulnerable children. (Laming, cited in Butler and Drakeford 2003, p.269)

The public inquiry has imposed wide-ranging and deep-rooted change. Laming's 108 recommendations have underpinned fundamental work-force reform, the government's 'Every Child Matters: Change for Children' agenda – a programme 'of local and national action through which the whole system transformation of children's services' is being executed (HM Government 2005) – and new legislation in the form of the Children Act 2004.

On one level, it is not unreasonable to assume that a public inquiry into the circumstances that led to the death of Joseph Scholes, following similar contours to those laid down by Laming in the case of Victoria Climbié, might prove equally significant. Against this, the government's determined refusal to allow such an inquiry, to obfuscate accountability and, ultimately, to veto the search for truth and justice has inevitably frustrated such potential to-date. In this way, the damage, harm and death of child prisoners, to paraphrase Cohen (2001), are 'denied', 'evaded, neutralised or rationalised away' (p.1).

Conclusion

In England and Wales, identifiable 'constituencies' of children are seemingly ascribed differential levels of social value. The stylised language and imagery that is consistently applied to child 'offenders' – frequently characterised by emotive contempt – implies that such children count for little. In 1993, Michael Howard, speaking as Home Secretary in the Conservative government, referred to children in conflict with the law as a 'self-centred arrogant group of young hoodlums . . . who are adult in everything except years . . . [and who] will no longer be able to use age as an excuse for immunity from effective punishment . . . they will find themselves behind bars' (Howard, cited in *Daily Mail*, 3 June 1993). This was more than symbolic posturing; Howard articulated a punitive sentiment that has since been institutionalised in law and policy by successive governments – both Conservative and New Labour. Specific children and particularised childhoods: the 'anti-social', 'disorderly',

'problematic', 'worrying', 'threatening', 'troublesome', 'undesirable' and 'offending' have seemingly been subjected to 'conceptual eviction' and 'removed from the category of "child" altogether' (Jenks 1996, p.128). Hence, Michael Howard's 'adult child' and key elements of New Labour's youth justice policy, whereby the very status of 'childhood' is conceived as little more than an excusing distraction, fixed within a context in which there can be 'no more excuses' (Home Office 1997). This derives from an essentialist politics that is:

> . . . the necessary *pre-requisite* for demonization of parts of society. Demonization is important in that it allows the problems of society to be blamed upon 'others' . . . Here the customary inversion of causal reality occurs: instead of acknowledging that we have problems in society because of basic core contradictions in the social order, it is claimed that all the problems of society are because of the problems themselves. Get rid of the problems and society would be, *ipso facto*, problem free! (Young 1999, p.110, italics in original)

The intersections between: the manufacture of fear and anxiety; the deliberate over-simplification of complex social phenomena; the contrived abstraction of individual behaviours from their social structural contexts; the undifferentiated moralistic emphasis on individual responsibility and civic duty; demonisation; 'institutionalised intolerance' (Muncie 1999); punitive policy responses and, ultimately, the 'recurrent and banalised use of institutionalization' (Pinheiro 2005, p.18), are self-evident. They are also the conditions, as the United Nations Study has revealed, within which violence against children might be systematically administered with 'impunity and lack of accountability' (NGO Advisory Panel for the United Nations Secretary-General's Study on Violence Against Children 2005, p.4). The damage, harm and death of child prisoners in England and Wales – institutional child abuse – raises pressing questions that can only be satisfactorily addressed by transparent accountability and rigorous inquiry. For as long as this is denied, the claim that 'every child matters' (HM Government 2005) will remain a lie.

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Date submitted: April 2006
Date accepted: May 2006