Institutionalized intolerance: youth justice and the 1998 Crime and Disorder Act

John Muncie

Critical Social Policy 1999; 19; 147

❑ JOHN MUNCIE
The Open University

Institutionalized intolerance: youth justice and the 1998 Crime and Disorder Act

Abstract

After a year of frenetic activity New Labour's Crime and Disorder Act slipped quietly into the statute book on the last day before parliament's summer recess in 1998. Heralded as a radical shake up of criminal justice and youth justice, the major provisions of the Act are examined in this article and its likely impact on the treatment of young people is critically assessed. It does so by tracing how far the rhetoric of crime prevention represents a radical new departure or a continuation of the former government's commitment to penal populism. By unearthing the key foundational elements in Labour's agenda—authoritarianism, communitarianism, remoralization, managerialism—the article notes the significant presences and absences that are likely to be witnessed in youth justice in England and Wales by the turn of the century.

Introduction

The much heralded flagship 'law and order' legislation of the first Labour government for 18 years—the Crime and Disorder Act—received Royal Assent on 31 July 1998. Described as a 'comprehensive and wide-ranging reform programme' (Home Office, 1997b:1) and as 'the biggest shake-up for 50 years in tackling crime' (*Guardian*, 26 September 1997), many of its provisions are explicitly directed not only at young offenders, but at young people in general. This article limits itself to a critical analysis of those elements of the Act which are directed specifically at young people and their families. By placing the Act in the context of a whole series of youth justice and public sector reforms that were implemented by the Conservatives from the 1980s to the mid 1990s, it addresses the key issue of how far the Act ushers

SAGE Publications (London, Thousand Oaks, CA and New Delhi), Vol. 19(2): 147–175: 008124.

in a radical new departure in the identification and treatment of young offenders.

At first glance the legislation contains a pot-pourri of measures designed, inter alia, to tackle 'anti-social' behaviour, to enforce parental responsibility, to speed up the process of youth justice and to establish a legal duty on local authorities and the police to reduce disorder. But what is its fundamental rationale? On this the Home Secretary, Jack Straw, has been unequivocal. He is adamant that society has been inflicted with a crime breeding 'excuse culture' which has profoundly affected all our dealings with young people:

> Today's young offenders can too easily become tomorrow's hardened criminals. For too long we have assumed they will grow out of their offending behaviour if left to themselves . . . an excuse culture has developed within the youth justice system . . . it excuses itself for its inefficiency and too often excuses young offenders who come before it, allowing them to go on wasting their own and wrecking other people's lives . . . offenders are rarely asked to account for themselves . . . Parents are not confronted with their responsibilities. Victims have no role and the public is excluded. (Jack Straw, cited in *Guardian*, 28 November 1997)

Some might reasonably react to this statement by pointing out that given the previous government's determined attempts to clamp down on young offenders, particularly since the 'prison works' and 'anti-yob' crusades of 1993–94, it may be difficult to see exactly where and by whom this 'culture of excuses' was being maintained. But what distinguishes the legislation from its Conservative predecessors is the centrality afforded to notions of early intervention and prevention as the most efficient and cost-effective means of combating crime. Welcomed by the police for providing strong powers to tackle young offenders, but condemned by welfare agencies and youth justice pressure groups for further demonizing children and their parents, many of the Act's provisions will be subject to pilot surveys running through to March 2000. Indeed the youth justice system is already currently awash with experimental programmes and trials—in custodial regimes, reparation, restorative justice, curfews, electronic monitoring, mentoring, parenting classes for teenagers, zero tolerance policing, fast track punishment and so on. By drawing upon early reports of these and the numerous consultation papers that preceded the Act, this

article assesses the future directions that youth justice is likely to take. How far does the1998 Crime and Disorder Act mark a break from the previous government's 'get tough' stance? Are we witnessing a dramatic discursive shift in law and order mood? Just what are the principles that underlie this new legislation?

Managing youth crime: local, multi-agency partnerships

By the late 1980s some commentators had come to detect a newly developing *corporatist* strategy within the youth justice system. The development of greater administrative decision making, greater sentencing diversity, the construction of sentencing 'packages', the centralization of authority and co-ordination of policy, the growing involvement of non-juridical agencies and the high levels of containment and control in some sentencing programmes meant, it was argued, that the aim of youth justice had become not necessarily one of delivering the traditional outcomes of 'welfare' or 'justice' but one of developing the most effective means of *managing* the delinquent population (Parker et al., 1987; Pratt, 1989: 245). The issue of youth crime came to be increasingly defined in scientific and technical terms. Political/moral debates about the causes of offending and the purpose of intervention were shifted to the sidelines (Pitts, 1992: 142). Youth justice was reconceptualized as a delinquency management service in which the 'hard core' were still locked up. Meanwhile, an expanding range of statutory and voluntary community-based agencies had begun to tailor-make non-custodial sentences which they hoped would be stringent enough to persuade magistrates not to take the (more expensive) custodial option.

By the 1990s such corporate, multi-agency strategies were to become subsumed within a much broader process of public sector managerialization. This, as Clarke and Newman (1997) have catalogued, has generally involved the redefinition of political, economic and social issues as problems to be managed, rather than necessarily resolved. When the Conservatives came to power in 1979, management was identified as the key means through which the public sector could be rid of staid bureaucratic structures and entrenched professional interests and be transformed into a dynamic series of organizations able to deliver 'value for money'. The neo-Taylorist vision of rationalized inputs and outputs being employed to reduce the costs of public ser-

vices became embedded in the drive to impose the three E's of *economy*, *efficiency* and *effectiveness* on all aspects of public provision. Social issues were depoliticized. Policy choices were transformed into a series of managerial decisions. Evaluations of public sector performance came to be dominated by notions of productivity, task remits and quantifiable outcomes. While the full impact of such managerial missions came relatively late to criminal justice, by the 1990s the 'mean and lean' and 'more for less' mentalities had gradually opened up law and order to a series of investigations from the Public Accounts Committee, the National Audit Office and the Audit Commission. Their recommendations have overwhelmingly been in support of subjugating professional skills and autonomy to management ideals of 'what works', of attaching resources to certifiable 'successful' outcomes and of devolving responsibility for law and order from a central state to a series of semi-autonomous local partnerships, voluntary agencies and privatized bodies. It is an agenda that has increasingly crossed party-political boundaries precisely because it *appears* apolitical. The removal of such 'transformative' issues as individual need, diagnosis, rehabilitation, reformation and penal purpose and their replacement by the 'actuarial' techniques of classification, risk assessment and resource management shifts the entire terrain of law and order from one of understanding criminal motivation to one of simply making crime tolerable through systemic co-ordination. As Feeley and Simon (1992: 454) have argued, 'by limiting their exposure to indicators that they can control, managers ensure that their problems will have solutions'. Managerialism represents a significant lowering of expectations of what the youth justice system can be expected to achieve. Evaluation comes to rest solely on indicators of internal system performance.

The Audit Commission published its first report on the youth justice system in England and Wales in 1996. Noting that the public services (police, legal aid, courts, social services, probation, prison) spend around £1bn a year processing and dealing with young offenders, it argued that much of this money was wasted through lengthy and ineffective court procedures. The thrust of the report was a need to shift resources from punitive to preventive measures. It was particularly critical of youth courts: the process of prosecution taking on average four months, costing £2500 for each young person processed and with half of the proceedings ultimately discontinued, dismissed or discharged. The system, it was argued, had no agreed national strategies and local authorities acted more as an emergency

service than as a preventive one. The report recommended the diversion of a fifth of young offenders away from the courts altogether and into mediation and reparation schemes—thus saving a potential £40 million annually on costs. In short the Audit Commission argued that:

> [T]he current system for dealing with youth crime is inefficient and expensive, while little is being done to deal effectively with juvenile nuisance. The present arrangements are failing young people—who are not being guided away from offending to constructive activities. They are also failing victims—those who suffer from some young people's inconsiderate behaviour, and from vandalism, arson and loss of property from thefts and burglaries. And they lead to waste in a variety of forms, including lost time, as public servants process the same young offenders through the courts time and again; lost rents, as people refuse to live in high crime areas; lost business, as people steer clear of troubled areas; and the waste of young people's potential. (Audit Commission, 1996: 96)

The Commission's priority was clearly one of diversion: partly on the grounds of 'value for money' and partly because of the lack of effectiveness of formal procedures. In congruence with a corporatist model, it advocated the development of multi-agency work with parents, schools and health services acting in tandem with social services and the police. In line with managerialist objectives, it argued that these goals could only be met by a clearer identification of objectives, more rigorous allocation of resources and the setting of staff priorities. The aim was to build a pragmatic strategy to prevent offending rather than wed the system to any particular broad philosophy of justice or welfare. The issue of the causes of offending was also side-stepped by the identification of 'risk conditions' (factors which correlate with known offending) such as inadequate parental supervision, poor discipline, truancy or lack of a stable home. It is precisely these factors that the 1998 Crime and Disorder Act identifies as the key determinants of youth crime and to which many of its provisions are directed (Home Office, 1997e: 5).

The Act also clearly takes on board many of the Audit Commission's observations and recommendations concerning youth justice restructuring. Not only does it prioritize multi-agency work by imposing a *statutory* duty on all local authorities to establish *youth offending teams* from representatives of social services, health and edu-

cation authorities as well as probation, the CPS and the police, but requires such teams to formulate and implement *youth justice plans* setting out how youth justice services are to be provided, monitored and funded and how targets for crime reduction are to be met in each local authority area. Underlying the Act is the formal aim of youth crime *prevention* by facilitating 'early and effective intervention' to stop child misbehaviour developing into further offending (Home Office, 1997e: 6).

In this regard Labour policy was also influenced by the Standing Conference on Crime Prevention report *Safer Communities* (the Morgan report), published in 1991. Dismissed by the Conservatives for its implications for increased public spending and local authority power, Labour has enthusiastically embraced the logic that local problems require local solutions and that local authorities should have a legal responsibility to ensure that levels of crime are reduced. The allocation of extra resources for these new duties was, however, initially explicitly ruled out (Home Office, 1997c: 11). Following the Home Office Comprehensive Spending Review in June 1998, the government's Crime Reduction Strategy was allocated £250m overall, compared to an extra £1.24bn for the police and a further £660m to expand prison capacity.

The 1998 Crime and Disorder Act also establishes a *Youth Justice Board* to monitor the operation of the system, promote good practice and advise the Home Secretary on the setting of national standards. In particular it initiates one of Labour's five key election pledges to introduce *fast-track punishment* for persistent young offenders, by insisting that the time between arrest and sentencing be cut by a half (Labour Party, 1997; Home Office, 1997d). Here Labour was clearly responding to one of the repeated concerns of the Audit Commission (1996, 1998) for more streamlined procedures, better case management and time limits for all criminal proceedings involving young people. The aim of course is to develop a system that is not only more efficient, but more cost-effective. Recognizing that this approach rested on the compliance and support of a wide range of social policy organizations and practitioners, Labour took the unprecedented step of publishing its own youth justice newsletter—*On Track*—in order to provide a focal point for reform and information (Home Office, 1998). But a year after the general election the Audit Commission (1998) reported that most youth justice services (with few exceptions) were ill-prepared to implement the pledge of fast-tracking.

In these ways the 1998 Crime and Disorder Act can be read as a logical continuation of policies that had been adopted by numerous youth justice teams in the previous decade. By the 1990s it was already clear that traditional welfare- or justice-based interventions had become peripheral to much youth justice practice. The 'tougher' programmes of reparation, admission of responsibility and sentence packaging had already achieved an ascendancy such that Rutherford (1993: 160) was led to warn that an essential 'human face' of criminal justice was in the process of being lost. The setting of performance targets and the establishing of local audits does indeed suggest a depoliticization and dehumanization of the youth crime issue such that the sole purpose of youth justice becomes one of simply delivering a cost-effective and economic 'product' (McLaughlin and Muncie, 1994: 137). But what exactly is the nature of this 'new product'?

In the name of welfare: individual responsibility, curfews and parenting orders

In formal terms the key principle underlying all work with young offenders remains that of ensuring their general welfare. The 1933 Children and Young Persons Act established that all courts should have primary regard to the 'welfare of the child' and this was bolstered by the 1989 Children Act's stipulation that a child's welfare shall be paramount. Similarly the UN Convention on the Rights of the Child requires that in all legal actions concerning those under the age of 18, the 'best interests' of the child shall prevail (Association of County Councils et al., 1996: 13).

While the principle of welfare in youth justice has proved to be consistently controversial, since the early 19th century most young offender legislation has been promoted and instituted on the basis that young people should be protected from the full weight of the criminal law. It is widely assumed that under a certain age young people are *doli incapax* (incapable of evil) and cannot be held fully responsible for their actions. But the age of criminal responsibility differs markedly across Europe. In Scotland it stands at 8, in England and Wales 10, in France 13, in Germany 14, in Spain 16 and in Belgium 18. How certain age groups—child, juvenile, young person, adult—are perceived and constituted in and through the law is clearly not universally agreed upon, but the UK countries have consistently clung to one of the lowest ages

of criminal responsibility in the world. In England and Wales the principle of *doli incapax* ensured that before anyone under the age of 14 could be prosecuted it was incumbent on the prosecution to show that they acted wilfully and with full knowledge of their 'wrongdoing'. The doctrine was first placed under review by the Conservative government following a High Court ruling in 1994 that it was 'unreal, contrary to common sense and a serious disservice to the law'. Three years later, the Labour Home Secretary announced that the ruling would be abolished in order to 'help convict young offenders who are ruining the lives of many communities' and on the basis that 'children aged between 10 and 13 were plainly capable of differentiating between right and wrong' (*Guardian*, 21 May 1996 and 4 March 1997). This was in direct contradiction to the United Nations recommendation that the UK give serious consideration to *raising* the age of criminal responsibility to bring the UK countries in line with much of Europe. Notwithstanding such international pressure, the 1998 Crime and Disorder Act abolishes the presumption that a child over the age of 10 is incapable of committing a criminal offence, thus removing an important principle which (in theory at least) acted to protect such children from the full rigour of the criminal law. Rather, the removal of *doli incapax* extends the criminal law to address all manner of problems that young people have to face (Bandalli, 1998).

A Conservative Green Paper, *Preventing Children Offending* (Home Office, 1997a) and a Labour consultation document, *Tackling Youth Crime* (Home Office, 1997b) had also both suggested that some children *below* the age of 10 be placed under curfew orders on the assumption that they were *at risk* of becoming persistent offenders. As early intervention was assumed to be the key to preventing future offending, these proposals were also driven by a desire to impose a greater control over parents to ensure that their children behaved responsibly. The idea of a curfew is, however, by no means unprecedented. A 'night restriction order' was included in the 1982 Criminal Justice Act as a means of strengthening the conditions which a court could impose as part of a probation or supervision order. It was rarely used due to the reluctance of social workers and probation officers to police it. The 1991 Criminal Justice Act introduced a new sentence—that of 'curfew orders'—for offenders aged 16 and over. These required offenders to remain at a specified place for specified periods of between 2 and 12 hours per day for up to six months. Such orders could be enforced by electronic monitoring arrangements.

However what was novel about the renewed interest in curfews in 1997 was their application to children under the age of 10 and on the *presumption*, rather than committal, of crime. The notion has American origins. San Diego first introduced a juvenile curfew in 1947, but it was only in the 1980s and 1990s that the policy took off as politicians sought to 'act tough' on crime. By 1995 juvenile curfews were routinely used in at least 146 of America's 200 largest cities. Typically aimed at those aged 17 and under, they usually run from 10.30 pm to 6.30 am but a growing number also operate during school hours. President Clinton, in 1996 pre-election mode, advocated curfews for all teenagers by 8.00 pm on school nights. Violators can be fined, their parents can be fined, or violators can face community service and probation. The policy has been lauded as a great success. In Phoenix, for example, juvenile crime was believed to have dropped by 26 percent since a curfew was introduced in 1993; in Dallas serious offences fell by 42 percent; while in New Orleans a 29 percent fall in auto theft and a 26 percent fall in murders were claimed. However, curfews are notoriously difficult to enforce and are likely to be implemented in a highly selective way into which all manner of myths and stereotypes about 'troublesome' people and places are likely to come into play. On the grounds of civil liberties, Jeffs and Smith (1996: 11) argue that curfews are discriminatory and fundamentally wrong: 'Wrong because they criminalize perfectly legal and acceptable behaviour on the grounds of age … to select young people and criminalize them for doing what the rest of the population can freely do is doubly discriminatory'.

Despite this, in October 1997 Strathclyde Police became the first in Britain to 'pilot' a dusk to dawn curfew on under 16 year olds on three estates in Hamilton, east of Glasgow. They were empowered to escort children home or to the local police station if they had no 'reasonable excuse' to be on the streets—playing football, meeting friends—after 8 pm. It was legitimized as a caring welfare service to protect children and address public fears of harassment (*Guardian*, 4 October 1997). At the completion of its six month trial more than 100 young people had been 'rounded up', but its main impact appeared to be simply one of increasing police–youth contact, a breaking down of trust and the raising of unnecessary fears among elderly people who happened to come across young people on the streets after the curfew cut-off time (*Guardian*, 11 April 1998).

Nevertheless the 1998 Crime and Disorder Act introduces powers

for local authorities to initiate a dawn to dusk curfew for *all* children aged under 10. The Act enables local authorities throughout Britain to authorize a *local child curfew scheme* for under 10s if *residents* demand it. Exactly which residents, and how many, remains unclear. Such a curfew is backed by sanctions so that parents who keep letting their kids on the street might themselves end up in court. In such cases a *parenting order* might be instigated requiring them to attend training and counselling sessions on how to better look after their children. As a last resort, children would be liable to be removed from home and taken into the care of the local authority. In addition a *child safety order* may be made on anyone under 10 who is considered to be at risk of becoming involved in crime or is behaving in an anti-social manner. Such a child can be placed under supervision and required to comply with conditions designed to deliver 'appropriate care, protection and support' and 'proper control' (Home Office, 1997f). Often justified on child protection, as well as crime prevention, grounds, curfews and safety orders are thus aimed not only at children but also at their parents.

Indeed the phrase 'parental responsibility' became something of a watchword in many aspects of British social policy in the 1980s and 1990s (Allen, 1990). An image of wilfully negligent parents colluding with, or even encouraging, misbehaviour as the inevitable result of a 1960s permissive culture was popularized by the Conservatives in the 1980s. The breakdown of the nuclear family unit, high divorce rates and increases in single parenting, it was argued, were the root causes of a moral decay epitomized by increased crime rates, homelessness and drug taking. In addition, excessive welfare dependency had encouraged families to rely on state benefits, rather than on each other, and in this process children's moral development had been eroded (Murray, 1990; Dennis and Erdos, 1992). As a result, since the early 1980s a series of legal measures have been introduced to enforce parents to bring up their children 'responsibly': the 1982 Criminal Justice Act ordered parents or guardians to pay a juvenile offender's fine or compensation; the 1991 Criminal Justice Act empowered the court to bind-over parents to care for and control their children. Parents are liable to forfeit up to £1000 if the child reoffends; and the 1994 Criminal Justice and Public Order Act extended the bind-over provisions to include ensuring compliance with a community sentence. The new *parenting order* is a logical continuation of these Conservative initiatives to criminalize what is considered to be 'inadequate parenting'.

The idea of a 'parenting deficit' is not confined to those on the right of the political spectrum, however. Etzioni's 'third way' communitarian agenda, for example, also emphasizes that the root cause of crime lies within the home and that it is in the domestic sphere that the 'shoring up of our moral foundations' should begin (Etzioni, 1995: 11, 88). Jack Straw echoed such sentiments when he proposed that all couples be given a marriage guidance information pack on their wedding day (*Sunday Times*, 31 May 1998), and that 'wayward' youths be given substitute parents in the form of volunteer adult mentors (*Sunday Times*, 19 July 1998). Indeed a communitarianism which speaks of local empowerment, community responsibility, moral obligation and public interest lies at the heart of Labour's reforming agenda (Hughes, 1996: 21). The irony of course lies in the strong possibility that punishing parents for a perceived lack of responsibility on their part may only accelerate family conflict and breakdown or lead to increasing numbers of children being taken into care. Both scenarios increase the likelihood that future 'criminal careers' will be developed, not curtailed. Nevertheless the rhetoric of the 1998 Act maintains that such measures are for young people's own good and are justified on grounds of welfare and protection. In the White Paper, *No More Excuses*, Labour claimed,

> [C]hildren need protection as appropriate from the full rigour of the criminal law. The United Kingdom is committed to protecting the welfare of children and young people who come into contact with the criminal justice process. The government does not accept that there is any conflict between protecting the welfare of the young offender and preventing that individual from offending again. Preventing offending promotes the welfare of the individual young offender and protects the public. (Home Office, 1997e: para. 2.2)

In this way early preventive intervention and tackling the 'anti-social', rather than the necessarily 'criminal', is legitimated in the name of welfare.

Zero tolerance: the anti-social behaviour order

'Zero tolerance' is also an American invention. It refers to the intensive

community policing strategies that were introduced in New York in 1994. The strategy is based on the principle that by clamping down on minor street offences and incivilities—begging, under-age smoking and drinking, unlicensed street vending, public urination, graffiti writing—and by arresting aggressive beggars, fare dodgers, squeegee merchants, hustlers, abusive drunks and litter louts then many of the more serious offences will be curtailed. In part, the strategy is based on Wilson and Kelling's (1982) neo-conservative theory which claims that if climates of disorder are allowed to develop, then more serious crime will follow in their wake. Merely leaving a broken window unrepaired, they argued, will quickly encourage outbreaks of vandalism. Failure to combat vandalism will see an escalation in the seriousness of crimes. 'Zero tolerance' is also reflected in Etzioni's (1995: 24) communitarian appeal that 'we need to return to a society in which certain actions are viewed as beyond the pale'. In practice, the strategy was the brainchild of William Bratton, Police Commissioner of the NYPD, who reorganized New York policing strategies by making each precinct commander accountable for monitoring and reducing *signs of* crime, as well as reducing crime itself (Dennis, 1997). Primary emphasis was placed on crime prevention and disorder reduction.

It was heralded as a great success, particularly in reducing the number of firearms offences and rates of murder. New York, once synonymous with urban violence, fell to the 144th most dangerous in an FBI comparison of crime in America's 189 largest cities. While the precise reasons for such a decline remain disputed—over the same period many American cities witnessed a fall in their crime rates without the introduction of 'Zero tolerance'; and as part of a longer trend in the decline of violent offences associated with the trade in crack-cocaine—the idea of creating environments which discourage offending and incivility was imported into Britain by the Conservatives and became a key part of New Labour's campaigning agenda.

For the Conservatives, a ready connection between homelessness and crime—shoplifting, petty theft, begging, prostitution, drug taking—had already been made. For 'homeless' travellers and squatters, the 1994 Criminal Justice and Public Order Act had effectively limited their ability to live within the law. In 1994 John Major, then Prime Minister, launched an attack on 'offensive beggars', claiming that 'it is not acceptable to be out on the street' and 'there is no justification for it these days' (*Guardian*, 28 May 1994). He urged more rig-

orous application of the law—begging is an offence under the 1824 Vagrancy Act and sleeping rough is punishable by a £200 fine. A year later the then Shadow Home Secretary, Jack Straw, echoed such sentiments by calling for the streets to be cleared of the 'aggressive begging of winos, addicts and squeegee merchants' (*Guardian*, 6 September 1995). Limited experiments in 'zero tolerance' policing were first pursued by the police in Kings Cross (London), Middlesborough, Hartlepool, Birmingham, Shoreham and Glasgow in 1996. In Glasgow, for instance, *Operation Spotlight* was specifically targeted at after-hours revellers, groups of youths on the streets and truants. As a result, charges for drinking alcohol in public places increased by 2240 percent, dropping litter by 320 percent and urinating on the street by 140 percent. It was also claimed that such initiatives had led to an overall fall in the local crime rate of some 15 percent (*Guardian*, 13 January 1997).

Since being returned to power, Labour has consistently backed the idea that low level disorder, which may not necessarily be criminal, should be a priority target. The 1998 Crime and Disorder Act introduces *Anti-Social Behaviour Orders* to be applied to any behaviour—youth or adult—that is 'likely to cause harassment to the community'. The court can order an offender to cease their behaviour and comply with any number of measures (curfew, exclusion, restriction of movement and so on) in order to protect the community from further anti-social acts. Violation of such an order carries a maximum sentence of five years' imprisonment. But definitions of 'anti-social' are extremely widely drawn. As a result this provision, if widely used, is likely to be one of the most hotly contested elements of the Act. Parratt (1998: 2), for example, has warned that 'they could easily be used not just to protect the vulnerable, but to restrict those engaged in minority cultural or political activities, or others who are unpopular with local councils … there is an obvious risk of victimisation of ex-offenders, "weirdos", "loners", prostitutes, travellers, addicts or other people subject to rumour, gossip and prejudice'. Asking the police to enforce the sustained policing of people who are 'out of place' or who are simply different in outlook and style may also simply increase the possibilities for resistance and confrontation. As Charles Pollard, Chief Constable for Thames Valley, put it:

> The New York style of policing—targeting groups of people in a personal and adversarial way—not only creates scapegoats, but risks

> sparking confrontation ... the point is that whenever one group is targeted and blamed for the ills of society, they are likely to interpret this as dismissal from the mainstream ... The danger is that certain sections within the community, resentful and locked into a spiralling cycle of blame and retribution, will withdraw their consent from the law completely. (Cited in NACRO, 1997b: 18)

Expanding punishment in the community: reparation orders, action plan orders and the final warning

Heralded as a significant move in policy away from custody, the 1991 Criminal Justice Act had attempted to provide a national framework in which to build upon the success of local initiatives, which had seen a marked reduction in the use of custody for under 17 year olds during the latter half of the 1980s, and to expand the use of juvenile diversionary strategies to include young adults (17 to 21 year olds). The Act's anti-custody ethos was justified through the promise of more rigorous community disposals. These were now, however, not to be considered as alternatives to custody, but as sentences in their own right. Significantly, both custody and community alternatives were now justified in terms of their ability to deliver punishment. When custody was not considered suitable, the alternative lay in a variety of means of delivering punishment in the community through attaching conditions to supervision in the form of electronic monitoring, curfew, community service or residence requirements. By the early 1990s 'Punishment in the Community' was formally established as the favoured option, but as a corollary this required a change in focus for the juvenile court and the practices of probation and social work agencies. For the latter it has already meant a shift in emphasis away from 'advise, assist, befriend' and towards tightening up the conditions of community supervision and community service work. For the former it led to the abolition of the juvenile court (which had previously dealt with criminal and care cases) and the creation of youth courts and 'family proceedings' courts to deal with such matters separately. As a result, the 1991 Criminal Justice Act established that welfarism had little or no place in youth criminal justice practice.

This 'radical' notion also relied on a revisioning of youth justice practice, based to a large extent on American evidence, that came to insist that, despite the 'nothing works' pessimism that had pervaded for two decades, *some* forms of community intervention could be effective and cost-effective in reducing *some* reoffending at *some* times (Goldblatt and Lewis, 1998). The most appropriate interventions, it was claimed, included behavioural and skills training, training in moral reasoning, interpersonal problem-solving and vocationally oriented psychotherapy (McGuire, 1995). In contrast, individual counselling, corporal punishment, school suspension, diversion to leisure activities and moral appeals were considered 'not to work' in preventing offending (Goldblatt and Lewis, 1998). In a review of over 400 research studies on the effectiveness of various 'treatments', Lipsey (1995) argued that when intervention is focused around behavioural training or skills issues and sustained over a period of at least six months then a 10 percent reduction in reoffending can be expected.

Reports of other initiatives in mediation, caution-plus and reparation schemes also claimed positive outcomes. For example, Northamptonshire's Diversion Unit, which deals with young offenders who have already been cautioned and brings offender and victim together to discuss compensation, has recorded substantially lower reoffending rates than for similar offenders who have been sent to youth custody (Hughes et al., 1998). The HALT programme in Holland has been another key referent for would be reformers. There, cautioning is supplemented with work relevant to the offence, payment of damages and an educational component. Family Group Conferences (FGCs) pioneered in New Zealand and based on traditional systems of conflict resolution within Maori culture have also been lauded as effective alternatives to formal court processing. Drawing on notions of 'reintegrative shaming' (Braithwaite, 1989), FGCs involve a professional coordinator, dealing with both civil and criminal matters, who calls the young person, their family and victims together to decide whether the young person is 'in need of care and protection' and if so what should be provided. According to NACRO (1995) they have proved to be remarkably effective in dealing with young people of all 'races'. Since their introduction in New Zealand in 1989 it is claimed that there has been an 80 percent reduction of those in care for welfare or criminal reasons. Nearly all FGCs reach agreement and are able to advise an active penalty—usually community work, apologies or reparation.

Further, it is argued they act as an effective vehicle for enabling the participation and strengthening of families while respecting the interests of victims (Hudson et al., 1996: 234). In England and Wales, despite increasing interest, FGCs first operated only in child abuse and child protection cases and then on an experimental basis involving five Social Services Departments and one voluntary agency. However, as NACRO (1995) has argued, there exists a potential to introduce family conferencing and decision-making at various moments of the judicial process, including caution/prosecution, bail/remand, social work reports and post release from custody. In 1995 FGCs in youth justice were piloted by Thames Valley Police in Aylesbury as part of a cautioning scheme. Two years later it was claimed that of 400 offenders involved, re-offending rates had fallen to as low as 4 percent, compared to 30 percent for those who had just received a caution (*Guardian*, 18 October 1997).

Such 'restorative justice' schemes are extended nation-wide through the introduction of *reparation orders* in the 1998 Crime and Disorder Act, in which a young offender can be ordered to make reparation to the victim of the offence, any person otherwise affected or to the community at large. The Act also makes provision for a new *action plan order* which strengthens existing supervision orders by requiring a young offender to comply with a detailed and rigorous set of prescribed activities which may include attending anger management courses or alcohol or drug treatment programmes.

In this context it should be noted that in 1995 the previous government had also advocated a 'strengthening' of the conditions of community punishments (Home Office, 1995). At that time the Home Secretary Michael Howard maintained that probation supervision was a 'soft option'. In his view what was required was the shaming of offenders, the setting of strict work targets, the penalizing of lateness and abusive language, the ready return to court for those who breached such conditions and the expansion of electronic monitoring. Probation officers estimated that this would unnecessarily place another 6000 offenders per year at risk of custody. In addition, the 1993 Criminal Justice Act had of course almost immediately overturned some of the decarcerative principles of the 1991 Act and the 1994 Criminal Justice and Public Order Act had doubled the maximum sentence of custody within young offender institutions. The 1997 Crime (Sentences) Act introduced mandatory minimum sentences for certain offences, extended electronic monitoring to 10 to 15 year olds and for the first

time allowed convicted juveniles to be publicly named if the court was satisfied that it was in the interests of the public to do so.

The system Labour inherited had indeed already turned full circle, away from the diversion and decarceration of the mid-1980s and back to an emphasis on punitive sentencing. As Cavadino (1997: 6) lamented as the 1997 Act was in its Bill stages:

> The Crime (Sentences) Bill is a piece of legislation which is riddled with injustice … It sacrifices justice and effectiveness to a desire to appear tough at all costs. Sensible approaches to reducing youth crime will be damaged not only by the retrograde measures which directly affect young people, such as the tagging, naming and shaming of juveniles, but also by the large increase in spending on prisons which will be necessitated by the Bill's impact on the adult prison population.

Despite the formal emphasis on crime prevention the 1998 Crime and Disorder Act does little to challenge this punitive mood. Ostensibly it follows the Home Office (Goldblatt and Lewis, 1998) and Audit Commission (1996: 46–7) recommendations that programmes that address offending behaviour have the most chance of success if they are based in community rather than institutional settings, but it significantly adds to the reach and intensity of community-based sentences. New Labour, for example, remains committed to the use of electronic tags for 10 to 15 year olds to enforce community sentences and ensure compliance with curfews. But, as Whitfield (1997) has warned, young people generally have the lowest rates of compliance with tagging orders, and in any event the tag may be used as a status symbol to 'impress friends' rather than acting as a deterrent. Further, in June 1998 magistrates were rebuked by Jack Straw for *not* having used extensively enough the power granted in 1997 to name and shame young offenders by releasing their identities to the media (*Guardian*, 12 June 1998). The Act also replaces the previous practice of police cautioning with a system of reprimands and a *final warning*. In 1994 guidelines had already been issued to discourage the use of second cautions. Now a final warning on a second offence will usually involve some community-based intervention whereby the offender is referred to a youth offending team for assessment and allocation to a programme designed to address the causes of offending. The danger, as frequently voiced, lies in young people being consistently 'set up to fail'. If this is the case then we can only envisage a growing role for the custodial sector.

In the name of crime prevention: schooling and the necessity of work

Pursuing the logic of early intervention, Labour has also been keen to attach the goal of crime prevention to a wide range of its social and economic policies. Thus, measures to assist single parents back to work, to tackle social exclusion, to provide a universal nursery education, to tackle drug use through education classes in primary schools and to ensure all 18 to 24 year olds are in work, education or training have all been justified as 'ways of helping to tackle the roots of juvenile crime' (Home Office, 1997e: 10). In particular, truancy and unemployment have become priority targets.

In a late amendment to the Crime and Disorder Bill in May 1998 the police were given new powers to stop children in the street and send them back to school if they believed them to be truanting. Police have the power of arrest for those who refuse. Such intervention may subsequently result in a *parenting order* which instructs parents to ensure that their children are school attenders and may include the compulsory use of electronic pagers so that they are warned if any lessons are missed. David Blunkett, the Education Secretary, used the publication of Labour's first social exclusion report to announce that local education authorities will be set targets to reduce the levels of school exclusions. He argued, 'parents face a fine of up to £1,000 if their child is persistently truanting—and it is important that LEAs and magistrates use that power' (*Guardian*, Education Supplement, 12 May 1998). Here again the rhetoric of inclusion is backed by coercive powers. What is overlooked, however, is the multitude of reasons why truancy may occur. Research undertaken by Childline suggests that the popular image of truanting and offending oversimplifies a complex of domestic and school-based problems whereby children may truant to avoid bullying, to escape abuse at home or from fear of particular teachers. In these circumstances, enforcing parents to act in particular ways may only result in placing children at greater risk (Mason, 1998).

This logic of 'compulsory inclusion' has also been applied to youth employment. The welfare to work 'new deal' is designed to take a quarter of a million under 25 year olds off the dole. Significantly, this is an extension of the former Conservative government's Job Seekers Allowance and stipulates that if claimants refuse to take up the proposed employment and training options they will lose all right to claim welfare benefits. The general right to welfare benefit for 16 to 18

year olds had of course already been removed in 1988. After a four month induction period, designed to facilitate entry into the labour market, the young unemployed have to take up one of the following options: a private sector job for which the employer or training organization is subsidized; work with a voluntary organization or an environmental task force; or full time education and training.

The strategy also has clear crime prevention connections. While any link between crime and unemployment was consistently denied by the former Conservative administration, New Labour proposed making such training, education and work orientated programmes part of a court order for some young offenders. The fact that more than 80 percent of 16 to 25 year olds on probation orders were unemployed reinforced the view that the welfare to work strategy was, as Jack Straw put it, 'as much an anti-crime as an economic policy' (Straw, 1998: 2). The problem, of course, remains that no amount of training will improve employment chances when the labour market is contracting or non-existent and when such training is perceived as 'dead-end'. Equally the benefit sanction is likely to only end up by pushing more young people—now up to the age of 25—out of the system altogether and into 'Status-Zero' (Williamson, 1997). Continuing to define the problem as one of faulty supply rather than lack of demand also seems unlikely to secure the commitment of those young people that it is designed to serve, although of course it does have the obvious political attraction of, officially, abolishing youth unemployment at a single stroke.

The political rationale for such training and employment schemes probably does lie elsewhere than in the creation of jobs. Historically the young and unemployed working classes have been understood as both a potential threat to the social order and, partly as a consequence, in need of special provision from, and direction by, that same social order if they are to assume their role as the next generation of adult workers. To no small degree youth training is indeed a vocational fallacy. It has always been a means through which working class identities can be reworked and remade; providing a cultural, rather than vocational, apprenticeship into working class expectations of work (Hollands, 1990). In this context, training policies display a Janus-face, where what is altruistically proclaimed to be meeting 'needs' also acts to constrain and remake working class identities. The social order consequences of truancy and youth unemployment is a key factor in such educational and training initiatives (although a direct relation-

ship was frequently denied by Conservative politicians). What is arguably more evident in Labour's approach is the fear that if young people fail to be schooled and gain experience of a market-based work ethic at an early age then they will never acquire the 'appropriate' attitudes necessary for the establishment of a flexible, disciplined and compliant citizenship.

Persisting with custody: high intensity regimes and secure training centres

On coming to power Labour inherited a youth justice system that had been fuelled by the former Home Secretary's insistence in 1993 that 'prison works'. Between June 1996 and June 1997 the number of young offenders aged under 18 in custody had risen by 18 percent, two boot camps for 17 to 21 year olds had been introduced and the contracts for a network of five secure training centres for 12 to 14 year olds had just been signed. In opposition Labour had consistently attacked these developments as retrogressive and ineffective. Yet the 1998 Crime and Disorder Act only obliquely addresses the issue of youth custody.

The introduction of American-styled boot camps in 1996–7 seemingly ignored all the lessons learnt from the UK's previous 'experiment' with short sharp shock regimes, from 1948 to 1988 (Muncie, 1990). The origins of the boot camp lie in survival training for US military personnel during World War 2. They were introduced in the US from 1983 in response to prison overcrowding and a belief that short periods of retributive punishment would change or deter offending behaviour: 'typically detainees might face pre-dawn starts, enforced shaved heads, no talking to each other, being constantly screamed at by guards, rushed meal times, no access to television and newspapers and a rigorous and abusive atmosphere for 16 hours a day' (Nathan, 1995: 3). Such regimes have consistently failed to live up to expectations: the deterrent effect of military training has proved to be negligible; the authoritarian atmosphere has denied access to any effective treatment; there have been occasional lawsuits from inmates claiming that elements of the programme were dangerous and life threatening; they have failed to reduce prison populations; and in general they distract attention from other policies that may work better (Parent, 1995). Despite such warnings, the Conservatives

decided to go ahead. The first boot camp was opened in 1996 at Thorn Cross Young Offenders Institution in Cheshire. But instead of a military-based regime, it employed a 'high intensity' mixture of education, discipline and training. A second camp was opened at the Military Corrective Training Centre in Colchester in 1997 which promised a more spartan regime. Aimed at 17 to 21 year olds, its open prison conditions, however, excluded the most serious of offenders. The notion, too, of handing criminal cases over to a military authority provoked an avalanche of complaints from virtually all sides of the criminal justice process. Each place cost £850/week compared to £250/week in other young offender institutions. Despite these misgivings the New Labour government of 1997 was initially reluctant to move for their abolition for fear of being seen to have gone 'soft' on crime. But eventually pressure from the Prison Service—on grounds of cost, if not effectiveness—was successful in shutting down the Colchester camp barely twelve months after its opening and when only 44 offenders had gone through its regime. Meantime the high intensity training regime at Thorn Cross continues.

The idea of building a series of 'child-jails' explicitly for 12 to 14 year olds was first formally proposed just days after the murder of James Bulger in February 1993. Despite a policy consensus that had emerged in the late 1980s that had condemned custody as an expensive way of making people worse and had advocated an extended system of community-based sentences, the Conservatives legislated for secure training orders for serious and persistent offenders under the age of 15 in the 1994 Criminal Justice and Public Order Act. The plan always attracted strong opposition from youth justice pressure groups and child care charities for criminalizing the young (Children's Society, 1993; NAJC, 1993; Crowley, 1998). In particular it was noted that such a reversion to custody was in direct contradiction to the United Nations Convention on the Rights of the Child which stipulates that youth custody should be a last resort and should be used for the shortest possible time (United Nations, 1989). Ratified by almost all of the 190 UN member states, the UK government duly signed up in 1991, but four years later UN monitoring of UK policy led it to conclude that the human rights of British children were still being consistently ignored. In particular it urged the abandonment of the planned secure training centres and that serious consideration be given to raising the age of criminal responsibility. The Conservatives' response was unequivocal: the UN has no right to question UK policy.

By the time of the 1997 General Election none of the secure centres were in operation, having been thwarted by lack of planning permission, local opposition and disputes over whether they should be run by public, private or voluntary agencies.

While in opposition Tony Blair was unequivocal in opposing the centres, describing the approach as 'short sighted beyond belief' and being both expensive and ineffective in reducing offending (cited in *Guardian*, 16 July 1997). But by July 1997 Jack Straw announced that they would go ahead. The first was opened in Kent in April 1998 to take up to 40 'trainees' and was run by a subsidiary of the private security firm Group 4. The cost of keeping a child in such custody was estimated at £2500 per week, which, as the *Daily Express* (15 April 1998) gleefully announced, would make them as costly as staying at the Ritz. Attempts to defend this policy U-turn largely rested on the financial grounds that Labour had to honour contracts that had previously been signed. It was also stressed that these would be no 'colleges of crime', but would prioritize education rather than correction. Labour also committed itself to building four more such centres to bring the total of places up to 200. The minimum sentence at a secure training centre is six months and the maximum two years. Sentences are determinate, with half spent in custody and half in the community under supervision.

None of this punitive mentality is at all challenged by the 1998 Crime and Disorder Act. Instead a new generic custodial sentence, *Detention and Training Order*, is introduced to eventually amalgamate the secure training orders for 12 to 14 year olds with the pre-existing detention in a young offender institution for 15 to 17 year olds. As a result the tendency will undoubtedly be increased to incarcerate more children and at a younger age, while the distinctions between local authority secure units, the new secure training centres and young offender institutions will become blurred. Despite all the rhetoric of a 'new approach' the pivotal position of custody in youth justice remains undisturbed. As with so many other retrogressive and divisive social and economic policies inherited from the Conservatives, Labour has left youth custody in place.

Acting responsibly? Absence and closure in New Labour's reforming programme

Clause 28 of the Crime and Disorder Bill stipulated that 'the principal aim of the youth justice system is to *prevent* offending by children and

young persons; and requires those involved in the youth justice system to have regard to that aim' (Home Office, 1997f: iii, italics added).

The key to prevention is deemed to lie in early intervention: thus the battery of measures aimed at school children as well as at 14 to 21 year old offenders. The delivery of prevention is entrusted to local communities: thus parents, local authorities, police and partnerships have a legal duty to take their responsibilities seriously and are to be made accountable for them. Yet this evocation of crime prevention reveals less a commitment to any underlying philosophy of children's rights or of social justice and more an elastic and nebulous defining of what prevention can mean. In the 1998 Crime and Disorder Act crime prevention is a catch-all term to justify any number of social and economic, as well as criminal justice, policies. It is freely used to legitimate interventions ranging from drugs education to containment in a secure environment. As such it is difficult to capture the essence of the Act through its most preferred official rationale. Rather what the Act seems to represent is an amalgam of 'get tough' authoritarian measures with elements of paternalism, pragmatism, communitarianism, responsibilization and remoralization. And all of this is worked within and through a burgeoning new managerialism whose new depth and legal powers might be best described as 'coercive corporatism'.

Any assessment of the Act's impact on young offenders must acknowledge that it represents a marked expansion of the legal means through which young people's behaviour can be circumscribed. Prior to the Act, England and Wales already had more sentencing alternatives for young offenders than any other country in Europe. The *addition* of final warnings, anti-social behaviour orders, curfew orders, action plan orders, reparation orders, child safety orders, parenting orders and the *abolition* of *doli incapax* on top of those measures introduced between 1994–97 by the Conservatives—electronic monitoring for 10 to 15 year olds, secure training centres for 12 to 15 year olds, naming of child defendants in court, mandatory minimum custodial sentences—now provides the police and the youth court with a formidable array of powers. What marks out Labour's initiatives is the emphasis placed on 'nipping offending in the bud'.

But while the rhetoric of welfare, protection and prevention may be laudable, experience shows that drawing children into the justice system at a forever earlier age also holds some unintended and potentially damaging consequences. In itself it may create the impression of future youth crime waves as many more children and young people

enter the official statistics for behaviour which previously may have been dealt with informally. An apposite comparison may be made to the 1933 Children and Young Persons Act. At that time the dominant youth justice discourse was one of child welfare. Neglect and delinquency were conflated. While the clear intention was to effect regulation *within* rather than removal *from* the community, the Act actively encouraged formal intervention. Because of the Act's 'welfare' focus there was an increased willingness to prosecute. As a result the Assistant Secretary at the Home Office in the 1930s was led to argue that:

> [E]xperience shows . . . that each time a new statute relating to the young has been put into effect the immediate result is an apparent rise in the number of offences. This 'rise' is not due to any 'wave' of crime among juveniles but to a desire on the part of those concerned with putting the law into motion, to make use of the new method of treatment. (Cited by Smithies, 1982: 172)

The focus of the 1998 Act may be preventive rather than welfarist, but the end result could well be similar. Arguably, this may be even more the case when youth offending teams have a statutory duty to be seen to be doing something tangible and measurable in tackling incivilities and low level criminality. Now it is not so much neglect and delinquency that are conflated, but misbehaviour and crime. The spectre of net widening clearly awaits, while evidence from the 1970s strongly suggests that any push-in factor is more likely to create a stigma of criminality and exacerbate future offending than to curtail it. Then and now, the argument has been maintained that early intervention (in the 1970s, intermediate treatment; now curfews and action plan orders) acts to draw young people more quickly through the sentencing tariff, while the 'last resort' of youth custody carries with it both little opportunity for rehabilitation and reconviction rates of up to 80 percent (Children's Society, 1993).

Running through much of the Act is a legitimating rhetoric of restoration, reintegration and responsibility (NACRO, 1997a; Home Office, 1997e: 30); of ensuring offenders make amends, pay their debt to society and face the consequences of their offending. It is made clear that these goals are best achieved in community rather than custodial settings. But while the Act facilitates a broad range of community sanctions, Labour has done nothing to undermine the pivotal role

played by custody. In fact the extension of custody to 12 year olds is confirmed. Labour, it seems, is quite happy to run the logic of communitarianism through that of populist authoritarianism (Bowring, 1997: 105). It is able to do so because the 1998 Crime and Disorder Act does not disturb, but reclaims, the remoralization thesis once firmly associated with Conservative ideology. At root the problem of youth crime is viewed once again as one of a breakdown of morality associated with a feckless underclass, dysfunctional families and a parenting deficit. The answer, it seems, lies in enforcing the cultural mores of one section of society, onto a population that has become increasingly diverse, through an institutionalization of intolerance. The absence of any acknowledgement of the effect of structures of power, racialized inequalities and gendered social divisions is deafening. The social and material contexts in which offending behaviour arises remain untouched.

Numerous pressing concerns even within youth justice are also overlooked. It does nothing to address issues in the racialization of law and order which routinely produces high stop and search rates, arrest rates, prosecution rates, remands in custody and custodial sentences for Afro-Caribbean youth (Fitzgerald, 1993). While it is widely acknowledged that the problem of crime is also a problem of young men and 'maverick masculinities', no crime prevention advice is made available which might, for example, advise young men on how to avoid violent situations (Stanko, 1994).

Labour persists with a vision of youth crime that focuses on young people as the perpetrators, rather than the victims, of crime. Yet a growing body of research (Anderson et al., 1994; Hartless et al., 1995) has shown that young people are 'more sinned against than sinning'. Nowhere is this more apparent than in the abuse children experience while being purportedly in the *care* of local authorities (*Guardian*, 24 September 1997). Institutional violence also appears endemic in young offender institutions characterized by a daily routine of bullying, intimidation and self harm. In 1994–5 nearly half of young inmates reported an attack or threat in the previous month (*Guardian*, 3 October 1996). In 1997, 60 children in custody—54 boys and six girls—tried to kill themselves (*Observer*, 9 August 1998). Youth custody has been widely condemned as 'nonsensical and inhumane' (Howard League, 1995), particularly so for young women who usually find themselves, because of the non-availability of appropriate facilities, held in wings of adult establishments. Yet a phasing out or even

a reduction of custody for under-18-year-old women and men—whether on remand or sentenced—is not even on the political agenda.

In these ways Labour's 'new' strategy offers few alternatives to that which we have witnessed before. The problem of crime is presented as synonymous with youth crime. A wide range of social harms—fraud, embezzlement, pollution, domestic violence, child abuse, denial of human rights, illegal arms dealing and so on—remain absent from Labour's law and order discourse. Similarly, young people in trouble remain trapped in a narrow and negative discourse—as deficient, dangerous, deviant, barbaric, troublesome, anti-social, irresponsible—defined by what they are lacking rather than by their potential for full citizenship (Muncie, 1997).

Yet we do not have to look too far for a comprehensive summation of a set of principles designed to promote social justice, rather than criminal justice, for young people. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) stipulates minimum legal intervention, an age of criminal responsibility which accords with other social rights (such as marital status, civil majority), an avoidance of punitive sanctions and a commitment to safeguarding young people's rights, such as upholding a right to privacy, a presumption of innocence and a right to respect for private and family life. The 1998 Crime and Disorder Act, particularly in its power to introduce curfews, would appear to be dangerously in contempt of these principles (*Youth Justice Newsletter* No.9, June 1998). Moreover the Act is a lost opportunity to 'heal the wounds in the social fabric' brought on by successive Conservative translations of issues of social justice into issues of criminal justice (Hughes, 1996: 32). It is difficult to see how the fermenting of an ideology of 'intolerance' will do anything to enhance inter-generational trust, let alone begin to tackle the poverty and demoralization induced by decades of under-resourcing working class communities. Rather it is more likely that the 1998 Crime and Disorder Act will only serve to exacerbate the very problems it purports to address and to deny young people access to those very rights it claims to protect.

Acknowledgement

Thanks to Gordon Hughes, David Wilson, Eugene McLaughlin and anonymous referees for their comments on the first draft of this article.

References

Allen, R. (1990) 'Punishing the Parents', *Youth and Policy* 32: 17–20.

Anderson, S., Kinsey, R., Loader, I. and Smith, C. (1994) *Cautionary Tales: Young People, Crime and Policing in Edinburgh*. Aldershot: Avebury.

Association of County Councils et al. (1996) *National Protocol for Youth Justice Services*. London: Association of Metropolitan Authorities.

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

Audit Commission (1998) *Misspent Youth '98*. London: Audit Commission.

Bandalli, S. (1998) 'Abolition of the presumption of *Doli Incapax* and the Criminalisation of Children', *The Howard Journal* 37(2): 114–23.

Bowring, B. (1997) 'Law and Order in the "New" Britain', *Soundings*, Special Issue on the Next 10 Years pp. 100–110.

Braithwaite, J. (1989) *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.

Cavadino, P. (1997) 'The Crime (Sentences) Bill and Young Offenders', *Youth Justice Newsletter* 4: 1–6.

Children's Society (1993) *A False Sense of Security: The Case Against Locking Up More Children*. London: Children's Society.

Clarke, J. and Newman, J. (1997) *The Managerial State*. London: Sage.

Crowley, A. (1998) *A Criminal Waste*. London: Children's Society.

Dennis, N. (ed.) (1997) *Zero Tolerance: Policing a Free Society*. London: Institute of Economic Affairs.

Dennis, N. and Erdos, G. (1992) *Families Without Fatherhood*. London: Institute of Economic Affairs.

Etzioni, A. (1995) *The Spirit of Community*. London: Fontana.

Feeley, S. and Simon, J. (1992) 'The New Penology: Notes on the Emerging Strategy of Corrections and its Implications', *Criminology* 30(4): 452–74.

Fitzgerald, M. (1993) *Ethnic Minorities and the Criminal Justice System*. Royal Commission on Criminal Justice, Research Study No. 20. London: HMSO.

Goldblatt, P. and Lewis, C. (1998) *Reducing Offending*. Home Office Research Study No. 187. London: HMSO.

Hartless, J., Ditton, J., Nair, G. and Phillips, S. (1995) 'More Sinned Against Than Sinning: a Study of Young Teenagers' Experience of Crime', *British Journal of Criminology* 35(1): 114–33.

Hollands, R. (1990) *The Long Transition*. Basingstoke: McMillan.

Home Office (1995) *Strengthening Punishment in the Community*. London: HMSO.

Home Office (1997a) *Preventing Children Offending*, CM 3566. London: HMSO.

Home Office (1997b) *Tackling Youth Crime: A Consultation Paper*. London: HMSO.

Home Office (1997c) *Getting to Grips with Crime: A New Framework for Local Action*, A Consultation Document. London: HMSO.
Home Office (1997d) *Tackling Delays in the Youth Justice System*. London: HMSO.
Home Office (1997e) *No More Excuses: A New Approach to Tackling Youth Crime in England and Wales*, CM 3809. London: HMSO.
Home Office (1997f) *Crime and Disorder Bill*. London: HMSO.
Home Office (1998) *On Track: Newsletter for Youth Justice Practitioners* 1 (February) and 2 (June).
Howard League (1995) *Banged Up, Beaten Up, Cutting Up*. London: Howard League for Penal Reform.
Hudson, J., Morris, A., Maxwell, G. and Galaway, B. (1996) *Family Group Conferences*. Annandale: Federation Press.
Hughes, G. (1996) 'Communitarianism and Law and Order', *Critical Social Policy* 16(4): 17–41.
Hughes, G., Leister, R. and Pilkington, A. (1998) 'Diversion in a Culture of Severity', *The Howard Journal* 37(1): 16–33.
Jeffs, T. and Smith, M. (1996) 'Getting the Dirtbags off the Streets—Curfews and Other Solutions to Juvenile Crime', *Youth and Policy* 53: 1–14.
Labour Party (1997) 'We Will be Tough on Crime, Tough on the Causes of Crime', *Labour Party Manifesto*. London: Labour Party.
Lipsey, M. (1995) 'What do we Learn from 400 Research Studies on the "Effectiveness of Treatment with Juvenile Delinquents"', in J. McGuire (ed.) *What Works: Reducing Offending*. Chichester: Wiley.
Mason, A. (1998) 'Explaining Truancy', *Youth Justice Newsletter* 8: 5–7.
McGuire, J. (ed.) (1995) *What Works: Reducing Reoffending*. Chichester: Wiley.
McLaughlin, E. and Muncie, J. (1994) 'Managing the Criminal Justice System', in J. Clarke, A. Cochrane and E. McLaughlin (eds) *Managing Social Policy*. London: Sage.
Muncie, J. (1990) 'Failure Never Matters: Detention Centres and the Politics of Deterrence', *Critical Social Policy* 28: 53–66.
Muncie, J. (1997) 'Investing in Our Future', *Criminal Justice Matters* 28: 4–5.
Murray, C. (1990) *The Emerging Underclass*. London: Institute of Economic Affairs.
NACRO (1995) 'Family Group Conferencing', *NACRO Briefing Paper*, September.
NACRO (1997a) *Responsibility, Restoration and Reintegration: A New Three R's for Young Offenders*. London: NACRO.
NACRO (1997b) *Criminal Justice Digest* April.
NAJC (1993) *Creating More Criminals*, Briefing Paper No.1, June. London: New Approaches to Juvenile Crime.

Nathan, S. (1995) *Boot Camps: Return of the Short, Sharp Shock*. London: Prison Reform Trust.

Parent, D. G. (1995) 'Boot Camps Failing to Achieve Goals', in M. Tonry and F. Hamilton (eds) *Intermediate Sanctions in Over-Crowded Times*. Boston: North Eastern University Press.

Parker, H., Jarvis, G. and Sumner, M. (1987) 'Under New Orders: The Redefinition of Social Work with Young Offenders', *British Journal of Social Work* 17(1): 21–43.

Parratt, L. (1998) 'Crime and Disorder', *Liberty* Spring: 1–2.

Pitts, J. (1992) 'The End of an Era', *Howard Journal* 31(2): 133–49.

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

Rutherford, A. (1993) *Criminal Justice and the Pursuit of Decency*. Oxford: OUP.

Smithies, E. (1982) *Crime in Wartime*. London: Allen and Unwin.

Stanko, E. (1994) 'Challenging the Problem of Men's Individual Violence', in T. Newburn and E. Stanko (eds) *Just Boys Doing Business?* London: Routledge.

Straw, J. (1998) 'New Approaches to Crime and Punishment', *Prison Service Journal* 116: 2–6.

United Nations (1989) *The United Nations Convention on the Rights of the Child*. New York: United Nations.

Whitfield, D. (1997) 'Tagging and the Youth Court', *Youth Justice Newsletter* 7: 14–16.

Williamson, H. (1997) 'Status Zero Youth and the "Underclass"', in R. McDonald (ed.) *Youth, the 'Underclass' and Social Exclusion*. London: Routledge.

Wilson, J. Q. and Kelling, G. (1982) 'Broken Windows', *Atlantic Monthly*, March: 29–38.

❑ John Muncie is Senior Lecturer in Criminology and Social Policy at the Open University. His latest work, on which much of this article is based, is *Youth and Crime: A Critical Introduction* published by Sage in February 1999. ❑