

The Criminal Justice Alliance's submission to the Independent Review into Self-Inflicted Deaths in NOMS Custody of 18-24 year olds

The Criminal Justice Alliance (CJA) is a coalition of 75 organisations -including campaigning charities, voluntary sector providers, research institutions, staff associations and trade unions-involved in policy and practice across the criminal justice system¹.The CJA works to establish a fairer and more effective criminal justice system.

The CJA is also a founding member of the T2A Alliance, which is a coalition of 13 leading criminal justice, health and youth charities, convened by the Barrow Cadbury Trust. The T2A Alliance evidences and promotes distinct and effective approaches for young adults throughout the criminal justice process. The CJA would urge the review to consider the T2A evidence carefully.

The CJA would like to highlight to the review:

- **Prisons are currently very overcrowded which has a direct impact on the regime available to prisoners.**
- **Prison staff shortages impact on the safety of those in custody**
- **Many adult prisons are now holding young adults in regimes that are not designed specifically for them.**
- **The introduction of secure colleges may increase the vulnerability of children in custody and ultimately result in more deaths.**

We would also like to reiterate some of the points made last year to the Ministry of Justice consultation Transforming Management of Young Adults in Custody, which focussed on mixing young adults into the general prison population. These proposals could have a huge impact of the safety of young people in custody. Our concerns include:

- **This age group as a whole needs a distinct approach (rather than simply some individuals within it).** We welcome the statement by the Minister that “Many young adults are still maturing and sometimes lack the skills to negotiate complex social situations.” We note the word “many” and wish to stress that these reforms should not assume most young adults can cope in a mixed setting, and then only give support to those who appear very vulnerable within this cohort. Rather the evidence points to the *assumption* of lack of maturity and the need for a distinct approach to this age group as a whole, with additional support for those who need this.
- **These proposals do not offer any safeguards or protections for young adults, nor any evidence of how these measures would better serve and protect young adults.** We cannot therefore support the current proposals to mix young adults in what seems to be a move away from distinct provision. There should be at the very least some statutory safeguard for this group, akin to the rights accorded to care leavers for example.

¹ Although the CJA works closely with its members, this briefing should not be seen to represent the views or policy positions of each individual member organisation. For a full list of the CJA's members, please see <http://www.criminaljusticealliance.org/organisations.htm>

- **We are extremely concerned that these measures will lead to a reduction in the resources allocated to young adults.** There are no mechanisms within the proposals to ensure current spending on this group does not simply dissipate across the prison estate to the detriment of this group. For example, there is no reason why resources currently spent on young adults held in YOIs might not be spent filling black holes in prison governor’s budgets rather than providing distinct custodial services for this group. We advocate some form of a ‘pupil premium’ to ensure that current spending in YOIs follows young adults in the adult estate. Without any such mechanism, there can be no other conclusion than that these proposals will reduce funding for a vulnerable group.
- **We agree with the Ministry of Justice assessment that the current system is not working.** As the consultation document outlines, high reoffending rates, high levels of violence and high levels of self harm (as well as a huge range of other needs) show that current YOIs are not meeting the needs and challenges presented by this distinct group. However, we question whether the measures proposed offer any real solution, and will not simply serve to shift problems elsewhere in the prison estate. We have yet to see how a more rehabilitative and safe custodial regime for young adults could be assured within these proposals.
- **The Ministry of Justice should hold a wider review of the entire criminal justice system’s approach to young adults with the aim to reduce numbers of young adults in custody where appropriate.** This review should take into account international evidence and best practice. The MoJ should also actively consider a Young Adult Justice Board or allocating responsibility for this age group to the YJB.
- **Government policy on the management of young adults in custody should accord some responsibility to DfE, Health and Cabinet Office at ministerial level.** We note the recent positive moves by DfE to allow young people in foster care to remain with their families until the age of 21 - a recognition of their ongoing needs and the fact that young people outside the care system often have family support into their early 20s. Given the high numbers of young adults in prison who are also care leavers, it seems counter-intuitive to us to fail to address their needs.

Identification of Vulnerability

The Centre for Mental Health² recently published a report on this age group which states , *“The most vulnerable young adults are those who have experienced a lifetime of social adversity, poor parenting, avoidant attachment relationships stemming from emotional neglect, abuse, domestic and sexual violence, and trauma.”* This age is a particularly difficult time and the report states *“Research indicates that most mental health problems*

² Centre for Mental Health (2014) Young Adults (18-24) in transition, mental health and criminal justice. London Centre for Mental Health

will begin to crystallise during this period of young adulthood. For 75% of adults with mental disorders the onset of mental ill-health will have occurred by the age of 24.”

It is well evidenced that young people in the criminal justice system lead chaotic lives, have high rates of mental disorder, with 80% having two or more³. They are also more likely to have learning with 20-30% of all offenders have learning disabilities or difficulties that interfere with their ability to cope with the criminal justice system⁴. 60% of children who offend have problems with communication - either understanding or expressing themselves or both, and for children and young people with a learning disability the prevalence rate of a diagnosable psychiatric disorder is 36%, compared to 8% of those who do not.

Many of those aged 18-24 who find themselves in custody may have not engaged with services in the community and thus will have no one to support them or send information into prison. This situation is exacerbated by high rates of young people in prison having come from the care system or having broken family relationships, thus leaving them vulnerable with no one to turn to.

The recent report by Young Minds, *Same Old...*⁵ details the experience of young offenders with mental health needs. Whilst prisoners of all ages have mental health needs, this report highlights the particular challenges faced by this age group in accessing support including rigid criteria and high thresholds for adult services; transition between services; and a lack of consistent worker relationships. At the point where young people are making their transition to adulthood, child and youth-focused support services such as care services, child and adolescent mental health services, children's services and youth offending services often fall away leaving them more vulnerable.

Young adults have different patterns of drug and alcohol misuse to older adults and therefore require a distinct approach. A report by Addaction, *Share the Learning*, outlines that drug treatment services are often not attuned to the needs of the young adults. Adult treatment services are more geared towards opiate users, whilst young adults who misuse drugs tend to use alcohol, cannabis, cocaine and ecstasy - the 'ACCE group'.⁶ It also highlighted that for this age group it is not effective to just focus on drug and alcohol use in isolation. A better approach is to build on young adults' self-esteem and confidence, strengthen family relationships and improve physical and mental health, fitness and general wellbeing and is tailored to the individual's circumstances.

Due to all these characteristics, young adults need to be recognised as a distinct group within custody. Individuals mature at different rates, and many young adults in the criminal justice system exhibit development levels more characteristic of a far younger group. Brain development continues into the mid 20s, affecting reason, judgement and impulse control, and young people with the most troubled or traumatic childhoods often take a lot longer to mature. A literature review published in 2011 by the University of

³ Singleton, N., Meltzer, H and Gatward, R. (1998) Psychiatric morbidity among prisoners in England and Wales. London :Department of Health.

⁴ Loucks, N (2007) No One Knows: Offenders with Learning Difficulties and Learning Disabilities. Review of prevalence and associated needs, London: Prison Reform Trust

⁵ http://www.youngminds.org.uk/assets/0000/9472/Barrow_Cadbury_Report.pdf

⁶ <http://www.addaction.org.uk/news.asp?section=80&postComment=NO&itemid=940>

Birmingham for the T2A Alliance⁷ concluded that: “*Development of those areas of the brain concerned with higher order cognitive processes and executive functions, including control of impulses and regulation and interpretation of emotions, continues into early adulthood; the human brain is not ‘mature’ until the early to mid-twenties.*”

Where possible, the maintenance of family ties is crucial to the well-being of young adults in custody. At this age key relationships are with both parents, carers and grandparents as well as with their own young children. 19% of prisoners aged between 18-20 years old have children, compared to 4% in the general population⁸. Given the importance of parents in the transition to adulthood, emphasis should be placed on supporting these relationships. Mothers are a key resource, and should be treated as such, because they may have very detailed knowledge of the young person’s mental health, medication and state of mind.

Prisoners should be held close enough to home to allow regular visits, and staffing in prisons should be at sufficient levels to provide frequent access to telephones. Opportunities and time to allow good relationships to develop between prison staff and families can allow information about the prisoner to pass freely and thus contribute to safer custody. Properly trained staff can also play a role in family mediation which can contribute to better resettlement outcomes for young people.

Transition to Adulthood and Adult services

It is important to note that the wider societal context for young adults has changed; the age at which someone becomes a fully independent adult in society is much later now than it was forty years ago. The criminal justice system’s arbitrary determination that those over the age of 18 are ‘adults’ is out of step with cultural and social norms of transitions to adulthood, and fails to recognise changes in broader society. However, these changes are being reflected better by other government departments. For example, the Department for Work and Pensions has special policies aimed at young people aged 18-24, on account of their specific needs and life stage. The Department for Education has recently taken the welcome step of allowing young people in foster care to remain with their foster families until the age of 21, recognising their ongoing needs and the fact that young people outside the care system often have family support into their early 20s and beyond.

As The Bradley Commission stated earlier this year transitions between Child and Adolescent Mental Health Services (CAHMS) and Adult Mental Health Services (AMHS) can be problematic, with up to a third of teenagers being lost from care⁹. The difference in culture between CAHMS and AMHS can mean young adults fail to attend appointments and due to practitioner caseloads they are unlikely to be followed up. The Commission outlines how, despite their need, this group are the least likely to access services perhaps due to a greater susceptibility to stigma and have an increased disengagement from services which results in a greater likelihood they will re-appear in crisis. Furthermore, transitioning from one service or system to another inevitably entails a change of professionals, disrupting

⁷ <http://www.t2a.org.uk/wp-content/uploads/2011/09/Birmingham-University-Maturity-final-literature-review-report.pdf>

⁸ Ministry of Justice (2012) Prisoners childhood and family backgrounds, London: Ministry of Justice

⁹ Centre for Mental Health (2014) Young Adults (18-24) in transition, mental health and criminal justice. London: Centre for Mental Health

relationships which have been built over time. These factors can all mean there is little available information to send on to prisons. Within prisons all those working with the prisoner need to share information and be aware of other interventions each individual is subject to. Information needs to be passed quickly and efficiently between prisons on transfer to avoid leaving the prisoner vulnerable.

The impact of overcrowding

Overcrowding in prisons is well documented and is not a new problem but exacerbating the current situation is the lack of staff and severe budget cuts. Most adult male local prisons across the country are extremely overcrowded e.g. HMP Preston is operating at 165% of population to CNA, HMP Swansea at 186%, HMP Durham at 159% and HMP Wandsworth at 172%¹⁰. The ratio of prison officers to prisoners has dropped from 1: 2.9 in 2000 to 1:4.8 in September 2013¹¹. Nick Hardwick recently said, at the All Party Parliamentary Group on Penal Affairs, prisoners need “*something to do and someone to talk to*”. Current staff shortages, which directly affect the amount of time prisoners are unlocked, are severely restricting this. Some prisons have had to introduce emergency regimes due to a lack of staff. This means prisoners are not able to work, which in turn can reduce their wages and the money they have to spend on phone calls, stamps, tobacco etc. Even prisons that do have sufficient staff are at risk of being destabilised as they can be asked to send staff to other establishments.

The recent inspection of HMYOI Brinsford illustrates how bad the problem has become and the impact this has on the safety of young men in custody. “*Reception was unwelcoming and procedures chaotic. The designated first night centre was hardly worthy of the name and we were not satisfied that all young men even received a meaningful initial assessment. Handover arrangements were inadequate and the induction of new prisoners was very weak. Levels of violence were comparable to similar establishments but, in our view, remained too high.*

There was also evidence of significant under-reporting of incidents. Structures to promote violence reduction and tackle bullying lacked rigour and significantly more prisoners questioned their personal safety than at comparable prisons. Arrangements to manage and support vulnerable prisoners were incoherent and it was clear that many had been moved to facilities such as the first night centre, drugs unit or health care centre to effect sanctuary¹².”

Every prison should have enough staff so officers are able to engage with all prisoners and build relationships with them, as well as having sufficient time to read appropriate documentation or to discuss concerns with other professionals. Staff would then be more likely to be aware of vulnerable prisoners, or those who have become so due to a change of circumstance such as a bereavement, relationship break up or bullying. Overcrowding drafts and staff shortages lead to less time being spent on reception and first night practices which help to keep prisoners safe.

¹⁰ Ministry of Justice (2014) Monthly Population Bulletin June 2014, London: Ministry of Justice

¹¹ Hansard HC, 23 July 2007, c785W and Deposited paper- DEP2014-0327

¹² HMCIP (2014) Report on an unannounced inspection of HMYOI Brinsford, London: HM Inspectorate of Prisons

Inspection reports have highlighted many issues which are at present affecting prisons and thus impacting on the safety of the young adults being held there. HMP Pentonville which is taking young adults from HMYOI Feltham suffers from “almost half of prisoners said they had felt unsafe in the prison at some time and almost a quarter said they felt unsafe at the time of the inspection. The core day was unpredictable and prisoners were often unlocked late and association cancelled because of staff shortages. Prisoner movements were disorganised and staff lost track of individual prisoners’ whereabouts. During the inspection the governor introduced an emergency core day which severely restricted prisoners’ time out of cell and access to activities, but was intended to ensure the prison remained safe and secure.

First night arrangements had improved, but prisoners often experienced long delays on vans outside reception. On average, 19 prisoners self-harmed each month and there were about 60 prisoners on suicide and self-harm management procedures at any one time. Support for those most vulnerable to self-harm was good, but the application of some safer custody processes needed to be more consistent and cell call bells took too long to answer. The segregation unit environment and regime were particularly poor.¹³

The Bradley Report was concerned with the screening of prisoners for poor mental health and learning disabilities and the recent review by the Bradley Commission¹⁴ found there was little evidence of any changes to this. Overcrowding drafts and staff shortages are also having affecting the health screening of new prisoners. However it is hoped that this situation will be improved by the new liaison and diversion systems coming into place.

Black and Minority Ethnic Communities

Some groups are over-represented in the criminal justice system with 26% (on 31st March 2014) of the prison population having a BAME background compared to about 10% of the general population¹⁵. Gypsy, Romany and Traveller prisoners were more likely than the rest of the prison population to report needing support across a range of problems, but were less likely to say that they had actually received such support. 27% of Gypsy, Romany and Traveller prisoners reported feeling depressed or suicidal on arrival (compared with 15%). However, they were less likely to report receiving information about what support was available to them (35% compared with 44%). This group were also more likely to report having other problems on their reception into prison. These include mental health problems - 27% compared with 13%, problems contacting family - 30% compared with 23% and problems with drugs, diverted medication or alcohol¹⁶. Services and staff need to be equipped to deal with all ethnic groups.

In addition, theCJA welcomes the new independent initiative, backed by the Ministry of Justice, that has been set up to review the outcomes and over-representation of young BAME men throughout the criminal justice process. The review, ‘Improving outcomes for

¹³HMCIIP (2014) Report on an unannounced inspection of HMP Pentonville, London: HM Inspectorate of Prisons

¹⁴ Durcan, G et al (2014) The Bradley Report five years on: London Centre for Mental Health

¹⁵ Table A3. 5.2, Equality and Human Rights Commission (2010) How fair is Britain? Equality, Human Rights and Good Relations in 2010, London: Equality and Human Rights Commission

¹⁶ HM Inspectorate of Prisons (2014) People in Prison: Gypsies, Romany and Travellers, London HMIP

Muslim and African/Caribbean young male offenders - An Independent Review led by Baroness Young of Hornsey', has produced an interim report and will report again in autumn 2014. This work is being convened by Black Training and Enterprise Group (BTEG) and Clinks. The findings of this report may be useful to this review.

Prison Staff

The CJA is concerned that staffing levels in YOIs have dropped substantially in recent years, and we believe this has contributed to the rising level of violence in some institutions. It is deeply saddening and unacceptable that 40 young adults died in custody between January 2011 and December 2013, three quarters of whom were in non-YOI provision at the time of their death, with a quarter being on remand awaiting sentence.

Additionally, instead of just supporting staff to develop skills, working with young adults should be a specialism. The young adult age group is distinct, requiring a different approach. The *desire* of individual staff to do this work is important as well as giving staff adequate training and ongoing support. The majority of the skills staff need to work with 18-21 year olds will be similar to those required in the youth estate. CJA considers much of the learning gathered by the Ministry of Justice's recent consultation on the youth secure estate on staffing could be adopted.

Changes to Incentives and Earned Privileges (IEP) Scheme

In November 2013 fundamental changes were made to the IEP scheme by the Justice Secretary which may impact on the well being of young adults in custody. These changes included a ban on all sentenced prisoners receiving parcels including books and other basic items, except for a one-off parcel at the start of their sentence and in exceptional circumstances. Now, in order for prisoners to progress through the scheme they need to "*demonstrate a commitment towards their rehabilitation*" by engaging in purposeful activity, behaving well and helping other prisoners and restrictions on the use of television.

A ban on parcels has meant prisoners paying for personal items themselves rather than having them sent in, which means they have less money to stay in touch with their families. A lack of purposeful activity and emergency regimes severely limits the opportunities for prisoners to show their commitment to rehabilitation. Restricting books, television and artistic materials also limits the activities of prisoners who face being locked up for longer due to staff shortages. All of these factors may in the future be shown to increase prisoner vulnerability and a propensity to self harm. Last year a report by the Ombudsman highlighted that black prisoners are more likely to be on the basic regime and that prisoners at risk of suicide or self harm are placed on the basic regime without sufficient safeguards¹⁷.

¹⁷ Prison and Probation Ombudsman (2013) Learning lessons bulletin: fatal incidents investigation issue 4, London: PPO

Children in Secure Settings

The numbers of children in the youth custodial estate are now very low but they represent the most troubled and challenging within the system. The proposals for the new secure college would mean one establishment would hold approximately one third of the total number of children in custody. It is unlikely that this setting could provide the individualised care that is needed to keep children safe and to help them to lead crime free lives on release, particularly as boys aged between 15 and 17 are 18 times more likely to commit suicide than boys in the community¹⁸. CJA would ask the review to consider the implications of building such an establishment which would be used to hold 320 vulnerable children a long way from their homes.

Conclusion

93 young people aged between 15 and 24 died in custody between 2002 and 2013¹⁹ and many adult prisons are now holding young adults, both on remand and sentenced. They are not subject to regimes designed specifically for them, despite it being clear that in their late teens and early twenties young adults go through a huge transition from adolescence to adulthood.

CJA considers that in order to reduce the numbers of self inflicted deaths in custody 18-24 year olds should be held in establishments which recognise they are a distinct group with developing maturity. Currently with insufficient safeguards, young adults are mixed with older adults across the prison estate leaving them at risk of being unseen and unsupported. All of which is exacerbated by the severe prison overcrowding and staff shortages.

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¹⁸ Fazel, Seena et al, (2005) Suicides in male prisons in England and Wales, 1978-2003, *The Lancet*, Vol. 366

¹⁹ Table 1.6, Ministry of Justice (2014), Safety in custody statistics quarterly update to December 2013