

BOYS TO MEN: GROWING UP AND
DOING TIME IN AN ENGLISH YOUNG
OFFENDER INSTITUTION

by

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ABSTRACT

Child imprisonment has a long history, one that predates the formal creation of juvenile justice. However, the continued use of prison establishments for children, known as young offender institutions (YOIs), remains a controversial issue. This thesis seeks to advance the debate regarding the abolition of child imprisonment by drawing on empirical research conducted in an English YOI accommodating teenage boys. In so doing, the thesis contributes to the established prison ethnographic literature by developing an understanding of the attitudes and lived experiences of child prisoners, a typically overlooked dimension of prison ethnography.

The thesis critically analyses three key themes that emerged from the empirical research: surviving life inside; interpersonal victimisation; and, the nature of the staff-prisoner relationships and the use of power. It is argued that imprisonment is far from a neutral experience. The stark similarities between the lived experience of adult and child prisoners illustrate the futility of attempting to create a distinct secure estate for children whilst retaining the use of YOIs. The differences that do exist only serve to demonstrate the inappropriateness of detaining children in the prison environment. The recent fall in the youth custody population presents an opportunity to finally abolish child prisons.

For Matthew

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GLOSSARY OF TERMS & ABBREVIATIONS

ACCT	Assessment, Care in Custody and Teamwork (a tool used to respond to prisoners who present a risk of, or are attempting, self-harm and suicide)
‘Bent Up’	Prison ‘slang’ for physical restraint
Bronze	‘Bronze’ regime represents the most basic regime that a child can be allocated to as part of the Incentives and Earned Privileges Scheme. Children on bronze regime have a limited range of privileges including association three times a week and access to a radio but not a television.
C&R	Control and Restraint (the restraint method used in young offender institutions during the empirical research)
DTO	Detention and Training Order
Gold	‘Gold’ regime is the second highest regime level in the IEP scheme and permits, in addition to the privileges available for children on silver regime, privileges such as extra visits, association periods, use of a games console and free weights in the gym. Those on gold regime are also eligible for release on temporary license.
HMIP	Her Majesty’s Inspectorate of Prisons
IEP Scheme	Incentives and Earned Privileges Scheme
MoJ	Ministry of Justice
‘Nicking’	Prison ‘slang’ for an adjudication held in response to disciplinary infractions
PCO	Prison Custody Officer
Platinum	‘Platinum’ regime offers the most privileges, which, in addition to those available on gold regime, includes access to an in-cell telephone, fridge and freeview box and a key to their cell.

R&S	Reward and Sanctions Warning (a warning recorded in the young person's wing file in response to poor behaviour)
ROTL	Release on Temporary License
Silver	'Silver' regime is the second lowest regime in the Incentives and Earned Privileges scheme and, in addition to the privileges permitted for those on bronze regime, permits access to a television and additional association periods. On arrival, all children are placed on silver regime.
STC	Secure Training Centre
SCH	Secure Children's Home
SCM	Senior Care Manager
'The Block'	Prison 'slang' for the segregation unit
'Twisted Up'	Prison 'slang' for physical restraint
UNCRC	United Nations Convention on the Rights of the Child
'Wrapped Up'	Prison 'slang' for physical restraint
YJB	Youth Justice Board
YOI	Young Offender Institution
YOT	Youth Offending Team

CHAPTER 1

INTRODUCTION

„I feel, in prison, sometimes, I don't reckon they should put teenagers in prison.“ (Kyle)¹

1.1 Children in Prison

The deprivation of liberty is the most severe sanction that can be imposed upon children in conflict with the law in England and Wales.² Custodial sanctions are an embedded feature of contemporary youth justice policy and their use has a long history, one that pre-dates the formal recognition of juvenile justice in 1908. Prior to the Victorian period, children were held alongside their adult counterparts and little attention was given to the status of the juvenile offender as a *child* rather than as a ‘little adult’ or ‘criminal’.³ Indeed, it was not until the nineteenth century that the notion of the ‘juvenile delinquent’ was created and institutionalised.⁴ The construction of the juvenile delinquent inspired the creation of separate custodial institutions for juveniles on the assumption that children were capable of reform and that imprisonment was likely to harden, rather than improve, them. The debate as to whether children should be held in State run prisons or welfare orientated, charitable

¹ Quote taken from interview with Kyle, a 17 year old serving an 18 month custodial sentence who was interviewed as part of the empirical study presented below.

² The Children Act 1989 stipulates that a ‘child’ is a person under the age of 18 years old and, therefore, the use of the word ‘child’ in this thesis refers to persons under the age of 18. The minimum age of criminal responsibility in England and Wales is 10 years old. In the criminal justice context, ‘juvenile offenders’ are regarded as persons aged 10-17 years old whereas young adult offenders are those persons age 18-21 years old. Further distinction are sometimes made, particularly in the criminal justice context, between ‘children’ aged 10-14 years old and ‘young people,’ aged 14-17 years old. In this thesis, the phrase ‘child prisoner’ will be used to refer to 15-17 year olds held in young offender institutions (YOIs).

³ See M May, ‘Innocence and Experience; the evolution of the concept of juvenile delinquency in the mid-nineteenth century’ (1973) 17(1) *Victorian Studies* 8; I Pinchbeck and M Hewitt, *Children in English Society. Volume 2: From the Eighteenth Century to the Children Act 1948* (Routledge and Kegan Paul 1973); L Radzinowicz and R Hood, *A History of English Criminal Law and its Administration from 1750. Volume 5: The Emergence of Penal Policy* (Stevenson and Sons 1996).

⁴ H Hendrick, ‘Constructions and Reconstructions of British Childhood: An interpretive survey, 1800 to present’ in A Prout and A James (eds), *Constructing and Reconstructing Childhood: Contemporary issues in the sociological study of childhood* (Falmer Press 1990) 43; L Radzinowicz and R Hood, *A History of English Criminal Law and its Administration from 1750. Volume 5: The Emergence of Penal Policy* (Stevenson and Sons 1996) 133; S Magarey, ‘The Invention of Juvenile Delinquency in Early Nineteenth-Century England’ (1978) 4 *Labour History* 11.

institutions raged for much of the nineteenth century.⁵ Two centuries later, the continued use of public and private sector ‘prison’ establishments, known as young offender institutions (YOIs), remains a controversial issue. Although the ‘juvenile secure estate’⁶ encompasses three different types of custodial institutions - YOIs, secure training centres (STCs) and secure children’s homes (SCHs) - the vast majority of children will be held in YOI accommodation.⁷ The question whether YOIs should continue to detain children is ‘a live one’⁸ and it is one with which this thesis is specifically engaged.

1.2 Aims of the Thesis

Based on an exploratory case study of a private YOI⁹ for remanded¹⁰ and sentenced¹¹ boys aged 15-18 years old, this thesis presents an analysis of the ‘lived experiences’¹² of child

⁵ *Third Report of the Inspectors of Prisoners of Great Britain (Home Report)* (HMSO 1838) 107; M Carpenter, *Reformatory Schools for Children of the Perishing and Dangerous Classes and for Juvenile Offenders* (first published 1851, Patterson Smith 1970); M Carpenter, *Juvenile Delinquents: Their Conditions and Treatment* (first published 1853, Patterson Smith 1970); *Report of the Select Committee on Criminal and Destitute Juveniles, together with proceedings of the Committee, Minutes of Evidence and Index* (HMSO 1853); I Pinchbeck and M Hewitt, *Children in English Society. Volume 2: From the Eighteenth Century to the Children Act 1948* (Routledge and Kegan Paul 1973); L Radzinowicz and R Hood, *A History of English Criminal Law and its Administration from 1750. Volume 5: The Emergence of Penal Policy* (Stevenson and Sons 1996).

⁶ This term was coined by the Youth Justice Board (YJB) to describe the custodial provision for children (10-17 years old) in conflict with the law in England and Wales. See, for example, YJB, *Corporate and Business Plan 2003/04-2005/06* (YJB 2004) 22 <<http://webarchive.nationalarchives.gov.uk/20110222143907/http://www.yjb.gov.uk/Publications/Resources/Downloads/CorpBusPlan2003.pdf>> accessed 30th December 2012; YJB, *Strategy for the Secure Estate for Children and Young People: Plans for 2005/06-2007/08* (YJB 2005) <http://yjbpublications.justice.gov.uk/en-gb/Resources/Downloads/YJB_Strategy_Secure_Estate.pdf> accessed 30th December 2012.

⁷ Ministry of Justice (MoJ), *Youth Custody Data August 2012* (MoJ 2012) <<http://www.justice.gov.uk/statistics/youth-justice/custody-data>> accessed on 15th October 2012. Decisions are made regarding the placement of children within the juvenile secure estate on the basis of age, gender, distance from home and whether that individual has been assessed as ‘vulnerable’ by the youth offending team (YOT). See YJB, *Strategy for the Secure Estate for Children and Young People: Plans for 2005/06 - 2007/08* (YJB 2005). Also see YJB and MoJ, *Developing the Secure Estate for Children and Young People in England and Wales: Plans until 2015* (YJB and MoJ 2012) <<http://yjbpublications.justice.gov.uk/en-gb/Scripts/prodView.asp?idproduct=502&eP=>> accessed 13th January 2013.

⁸ Her Majesty’s Chief Inspector of Prisons, *Annual Report of HM Chief Inspector of Prisons for England and Wales 2001/2002* (Stationery Office 2002) 36-7 <http://webarchive.nationalarchives.gov.uk/20110204170815/http://www.justice.gov.uk/inspectorates/hmi-prisons/docs/annual_report01-02.pdf> accessed 30th December 2012.

⁹ The name of the institution has been omitted to preserve the anonymity of the institution in which the empirical research was conducted. Neutral terms, such as ‘the YOI,’ have been used to refer to the institution throughout the thesis. Also see Chapter 4, 139.

¹⁰ Boys aged 15-16 years old can be remanded to a YOI under section 23(5A) of the Children and Young Person Act 1969, as amended by the Crime and Disorder Act 1998 section 98. 17 years olds are in a rather more precarious position because they are currently dealt with as adults and if refused bail, are remanded to prison

prisoners in an English YOI. In so doing, it assesses whether the imprisonment of children in YOIs remains an appropriate option. The recent decision of the YJB to continue purchasing (juvenile) YOI places rather than decommissioning their use entirely illustrates how topical this issue is.¹³ Calls for the abolition of child imprisonment have been made elsewhere¹⁴ but this thesis seeks to advance the debate by identifying and evaluating the similarities and differences between the experiences of child and adult prisoners. Moreover, this thesis seeks to fill an identified gap in the prison ethnographic literature by detailing how young people¹⁵ face and respond to the challenge of ‘growing up’ and ‘doing time’ in a prison environment.

custody and placed in a YOI under Criminal Justice Act 1984 section 27. Also see NACRO, *Remands to Local Authority Accommodation: Secure and Non-Secure*, (NACRO 2008). NB: The Legal Aid, Sentencing and Punishment of Offenders Act 2012 sections 91-101 will reform these provisions, extending the remand provisions for children - a remand to ‘youth detention’ - to 17 year olds.

¹¹ Depending on the nature and severity of the offence, four custodial options are available to the sentencing court: the detention and training order (Crime and Disorder Act 1998 s73 as amended); a long-term custodial sentence under the ‘grave crimes’ provisions (Power of Criminal Courts (Sentencing) Act 2000 s91); a custodial sanction under the dangerousness provisions, including a life sentence, extended sentence and detention for public protection (Criminal Justice Act 2003 sections 226, 228); and, for murder only, Detention during Her Majesty’s Pleasure (Power of Criminal Courts (Sentencing) Act 2000 s90). NB: The dangerousness provisions will soon be repealed by virtue of the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 in April 2013.

¹² Y Jewkes, *Captive Audience: Media, Masculinity and Power in Prisons* (Willan 2002) 34.

¹³ Youth Justice Board and Ministry of Justice, *Strategy for the Secure Estate for Children and Young People: Plans for 2011/12-2014/15* (Youth Justice Board and Ministry of Justice 2012) para 24 <http://www.justice.gov.uk/downloads/consultations/consultation_secure_estate_strategy.pdf> accessed 27th October 2012; Youth Justice Board and Ministry of Justice, *Developing the Secure Estate for Children and Young People in England and Wales: Plans until 2015* (Youth Justice Board and Ministry of Justice 2012) <<http://yjbpublishings.justice.gov.uk/en-gb/Scripts/prodView.asp?idproduct=502&eP=>> accessed 13th January 2013. See Youth Justice Board, *YJ Bulletin - Secure Estate*. Issue 77 17th January 2013 (Youth Justice Board 2013) accessed 17th January 2013; Ministry of Justice, *Changes to Prison Estate* (Ministry of Justice 2013) <<http://www.justice.gov.uk/news/press-releases/moj/changes-to-the-prison-estate>> accessed 17th January 2013.

¹⁴ See, for example, Her Majesty’s Chief Inspector of Prisons, *Young Prisoners: A Thematic Report by HM Chief Inspector of Prisons for England and Wales*, (Her Majesty’s Inspectorate of Prisons, 1997) para 2.21; B Goldson and E Peters, *Tough Justice* (The Children’s Society 2000); T Bateman, ‘Custodial Sentencing for Children: Prospects for Reversing the Tide’ (2001) 1(1) *Youth Justice* 28; R Hodgkin, *Rethinking Child Imprisonment: A report on young offender institutions* (Children’s Rights Alliance for England 2002); Her Majesty’s Chief Inspector of Prisons, *Annual Report of HM Chief Inspector of Prisons for England and Wales 2001/2002* (Stationery Office 2002) 36-7 <http://webarchive.nationalarchives.gov.uk/20110204170815/http://www.justice.gov.uk/inspectors/hmi-prisons/docs/annual_report01-02.pdf> accessed 30th December 2012; B Goldson, ‘Child Imprisonment: A Case for Abolition’ (2005) 5(2) *Youth Justice* 77; B Goldson, ‘Penal Custody: Intolerance, Irrationality and Indifference’ in B Goldson and J Muncie (eds) *Youth Crime and Justice* (Sage 2006); Barnardo’s, *Locking up or giving up – is custody for children always the rights answer?* (Barnardo’s 2008); J Jacobson and others, *Punishing Disadvantage: a profile of children in custody* (Prison Reform Trust 2010); Children’s Rights Alliance for England and NSPCC, ‘You Feel Like You’re Nothing’: *The UN Study on Violence Against Children* (Children’s Rights Alliance for England).

¹⁵ The term ‘young person’ is used to refer to persons aged 15-17 years old. Whilst such persons are still ‘children,’ the use of the word ‘young person’ reflects the way in which juveniles detained in the YOI refer to themselves and were referred to.

The empirical research sought to offer imprisoned young people, a ‘marginalised’¹⁶ and vulnerable group,¹⁷ a ‘voice.’ Capturing and understanding the accounts of child prisoners is of central importance. Although a variety of authoritative sources suggest that the conditions and treatment of children in YOIs were and are a matter of grave concern,¹⁸ the narratives of the children concerned are far less prominent in British studies than would first be imagined.¹⁹ The most notable exceptions included those texts produced by Lyon *et al*,²⁰ Goldson,²¹ Lord Carlile²² and the Howard League for Penal Reform.²³ This study sought to capture children’s narratives concerning their lives before entering custody, their life at the YOI and their views regarding their release and resettlement. This allowed children to tell their *own* stories; it allowed key themes to emerge and connections to be made between distinct topics that could and have been dealt with separately.²⁴ Although Her Majesty’s

¹⁶ S Punch, ‘Research with Children: The same or different from research with adults?’ (2002) 9(3) *Childhood* 321, 323

¹⁷ See below, 11-13.

¹⁸ See below, 13-19.

¹⁹ For international comparisons, see M Peterson-Badali and CJ Koegl, ‘Juveniles’ experiences of incarceration: The role of correctional staff in peer violence’ (2002) 30 *Journal of Criminal Justice* 41; J Lane and others, ‘Adult versus juvenile sanctions: Voices of incarcerated youths’ (2002) 48(3) *Crime and Delinquency* 431; MJ Halsey, ‘Negotiated Conditional Release: Juvenile narratives of repeat incarceration’ (2006) 8(2) *Punishment and Society* 147; PJ Ashkar and DT Kenny, ‘Views from the Inside: Young Offender’s Subjective of Incarceration’ (2008) 52(5) *International Journal of Offender Therapy and Comparative Criminology* 584.

²⁰ J Lyon and others, *Tell Them So They’ll Listen: Messages from Young People in Custody* (Home Office Research Study 201) (Home Office 2000). NB: This study preceded the introduction of the Youth Justice Board (YJB) and it is possible that the changes introduced by the YJB may have improved YOI conditions and the treatment of children in custody. Therefore, although this study was informative, it could not necessarily be relied upon to provide a contemporaneous account of the experiences of child prisoners. The study also sampled prisoners aged 15-21 year olds rather than focusing on juveniles only.

²¹ B Goldson, *Vulnerable Inside: Children in Secure and Penal Settings* (The Children’s Society 2002).

²² Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children’s homes* (Howard League for Penal Reform 2006).

²³ Howard League for Penal Reform, *Dying Inside: Suicides in Prison* (Howard League for Penal Reform 1993); Howard League for Penal Reform, *Banged Up, Beaten Up, Cutting Up* (Howard League for Penal Reform 1995); Howard League for Penal Reform, *Lost Inside: The Imprisonment of Teenage Girls* (Howard League for Penal Reform 2002); Howard League for Penal Reform, *Children in Prison: Barred Rights. An Independent Submission to the United Nations Committee on the Rights of the Child* (Howard League for Penal Reform 2002). For more recent evaluations see Howard League for Penal Reform, *Life Inside: A Unique Perspectives into the Day to Day Experiences of 15-17 year old males in prison* (Howard League for Penal Reform 2010); Howard League for Penal Reform, *Life Outside: Collective Identity, Collective Exclusion* (Howard League for Penal Reform 2011).

²⁴ For example, prison researchers have documented the views of juvenile offenders in specific topics such as substance misuse, ethnicity and bullying. For a discussion of substance misuse, see ‘“It’s No Time or High Time”: Young Offenders’ Experiences of Time and Drug use in Prison’ (2003) 42(2) *Howard Journal of Criminal Justice* 158. On the subject of ethnicity, see D Wilson, ‘“Keeping Quiet” or “Going Nuts”: Some

Inspectorate of Prisons have attempted similar surveys of prison life,²⁵ these reports, whilst offering some welcome insights into prison life, fail to engage the views of those children whom they had surveyed and primarily provide numerical data. Such data cannot say how it *feels* to be in custody, it cannot explain the pain experienced or the loss incurred. It, therefore, remains critical to know something of the stories and biographies behind the statistics.²⁶

There are perhaps several reasons for the relative paucity²⁷ of ethnographic research in juvenile YOIs. Juveniles and adults are segregated in the prison estate and, therefore, studies that focus specifically on adult prisons will not engage child prisoners.²⁸ It is also possible that the absence of young people's narratives reflects sustained attempts throughout much of the twentieth century to use specific, juvenile facilities rather than prison establishments.²⁹ Studies documenting the histories of these institutions did emerge³⁰ but the personal experiences of children within these institutions were not necessarily the primary

Emerging Strategies Used by Young, Black People in Custody at a Time of Childhood Being Re-constructed' (2003) 42(5) *Howard Journal of Criminal Justice* 411. For a discussion of bullying amongst juvenile offenders, see, for example, J Ireland, Do juveniles bully more than young offenders?' (2002) 25 *Journal of Adolescence* 155.

²⁵ See, for example, M Challen and T Walton, *Juveniles in Custody: A unique Insight into the perceptions of young people held in Prison Service Custody in England and Wales* (Her Majesty's Inspectorate of Prisons 2004); D Tye, *Children and Young People in Custody 2008 - 2009: An analysis of the experiences of 15 - 18 year olds in prison* (Her Majesty's Inspectorate of Prisons 2009); A Summerfield, *Children and Young People in Custody 2010 - 2011* (Her Majesty's Inspectorate of Prisons and Youth Justice Board 2011).

²⁶ MJ Halsey, Negotiated Conditional Release: Juvenile narratives of repeat incarceration' (2006) 8(2) *Punishment and Society* 147, 148.

²⁷ M Bosworth and R Sparks, New Directions in Prison Studies: Some Introductory Comments' (2000) 4(3) *Theoretical Criminology* 259, 260.

²⁸ It should be noted that until relatively recently, girls were considered too few in number to justify their accommodation in specialised units and were often held alongside adults. This was remedied in 2005 with the creation of new units specifically for 17 year old girls. See Her Majesty's Chief Inspector of Prisons, *Annual Report of the Chief Inspector of Prisons 2005-2006* (Stationery Office 2007) 42 <<http://www.official-documents.gov.uk/document/hc0607/hc02/0210/0210.pdf>> accessed 27th December 2012; Her Majesty's Chief Inspector of Prisons, *Annual Report of the Chief Inspector of Prisons 2006-2007* (Stationery Office 2008) <<http://www.official-documents.gov.uk/document/hc0708/hc02/0207/0207.pdf>> accessed 16th December 2012.

²⁹ Such institutions include borstals, detention centres, approved schools, secure units, youth treatment centres and community homes. See Chapter 2, 50-67 for a more detailed discussion.

³⁰ See, for example, R Hood, *Borstal Re-Assessed* (Heinemann 1965); S Millham and others, *After Grace - Teeth: A comparative study of residential Experience of Boys in Approved School* (Chaucer Publishing 1975); S Millham and others, *Locking up Children: Secure Provision within the Child-Care System* (Saxon House, 1978); P Cawson, *Community Homes: A study of residential Staff* (Research Report No 2) (HMSO 1978); P Cawson and M Martell, *Children Referred to Closed Units* (Research Report No 5) (HMSO 1979); A Hagell and others, *Evaluation of Medway Secure Training Centre* (Home Office Occasional Paper Series) (Home Office 2000).

focus of the research.³¹ The penal landscape for children has of course changed in the last 20 years and, increasingly, children are imprisoned within YOIs rather than being diverted from the prison estate.³² As increasing numbers of young people were, and are, serving *prison time*, the need to develop and maintain ‘pathways of knowledge’³³ regarding the contemporary experience of imprisonment is particularly acute.

1.3 Exercising the ‘Power to Punish’³⁴

The United Nations Convention on the Rights of the Child (UNCRC), to which the United Kingdom became a signatory in 1991, states that the detention or imprisonment of children should only be used as a measure of last resort and for the shortest period of time.³⁵ However, the period between 1992 and 2008 witnessed a dramatic increase in the size of the juvenile custodial population in England and Wales. During the 10 year period between 1992 and 2002, the number of custodial sanctions increased by 90% despite an overall fall in recorded youth crime.³⁶ In that same period, the remand population increased by over 140%.³⁷ More children were entering penal custody for a wider variety of offences, at a younger age and for a longer period.³⁸ The YJB persistently failed to meet its own targets to reduce the juvenile

³¹ Cawson’s evaluation of community homes is perhaps one of the few texts that does draw on the narratives of children confined with the community homes. See P Cawson, *Community Homes: A study of residential Staff* (Research Report No 2) (HMSO 1978).

³² See Chapters 2, 67-67 for a more detailed discussion.

³³ J Simon, ‘The —Society of Captives’ in the Era of Hyper-Incarceration’ (2000) 4(3) *Theoretical Criminology* 285, 285.

³⁴ D Garland and P Young (eds), *The Power to Punish* (Humanities Press 1983)

³⁵ See Article 37(b).

³⁶ See Hansard, 7 Nov 1996, Column: 657 and Home Office, *Sentencing Statistics 2005: England and Wales* (Home Office Statistical Bulletin) (Home Office 2007). Also see B Goldson, ‘Child Imprisonment: A Case for Abolition’ (2005) 5(2) *Youth Justice* 77, 79; NACRO, *Youth Crime Briefing - Reducing Custody: A Systematic Challenge* (NACRO July 2006) 1 <<http://www.nacro.org.uk/data/files/nacro-2007010200-192.pdf>> accessed 12th January 2013; B Goldson, ‘Penal Custody: Intolerance, Irrationality and Indifference’ in B Goldson and J Muncie (eds) *Youth Crime and Justice* (Sage 2006) 145.

³⁷ B Goldson, ‘Child Imprisonment: A Case for Abolition’ (2005) 5(2) *Youth Justice* 77, 79; B Goldson, ‘Penal Custody: Intolerance, Irrationality and Indifference’ in B Goldson and J Muncie (eds), *Youth Crime and Justice* (Sage 2006) 145.

³⁸ Fears regarding joy-riding led to the creation of the offence of taking a vehicle without consent (Aggravated Vehicle Taking Act 1992). The Sexual Offences Amendment Act 1993 had the effect that boys under the age of 14 could be charged with rape. The Criminal Justice and Public Order Act 1994 extended the ‘grave crimes’ provisions to children as young as 10 and introduced the secure training order (STO) for 12 – 14 year olds. The

custodial population,³⁹ leading the UN Committee on the Rights of the Child to express its deep concern at the increasing numbers of children in custody, at earlier ages for lesser offences, and for longer custodial sentences.⁴⁰ The fall in the juvenile custodial population below the 3,000 figure between 2002 and 2008⁴¹ did not alleviate the Committee's concerns and with good reason since at various points throughout that six year period the juvenile secure estate had been at all but breaking point.⁴² The trend in England and Wales was largely at odds with those across the rest of Europe, with levels of juvenile custody amongst the highest in Europe.⁴³ It appears that the stipulation under the Criminal Justice Act 2003⁴⁴ that custodial sanctions could not be imposed unless the offence was so serious' was not followed,⁴⁵ a trend that was indicative of the punitive and intolerant attitudes towards youth crime.

range of offences to which the grave crimes provisions applied was extended to include rape, robbery, residential burglary and handling stolen goods. The Crime and Disorder Act 1998 created a new sentence for children aged 12-17 years old, replacing the STO and the powers to remand to children as young as 12 years old (previously only available for those aged 15 years and above). Also see NACRO, *Youth Crime Briefing - Reducing Custody: A Systematic Approach* (NACRO 2006) <<http://www.nacro.org.uk/data/files/nacro-2007010200-192.pdf>> accessed 12th January 2013.

³⁹ Youth Justice Board, *Strategy for the Secure Estate for Children and Young People: Plans for 2005/06 - 2007/08* (Youth Justice Board 2005) 11 <http://www.yjb.gov.uk/publications/Resources/Downloads/YJB_Strategy_Secure_Estate.pdf> 30th December 2012; Ministry of Justice, *Youth Custody Data August 2012* (Ministry of Justice 2012) <<http://www.justice.gov.uk/statistics/youth-justice/custody-data>> accessed 15th October 2012.

⁴⁰ United Nations Committee on the Rights of the Child, *Committee on the Rights of the Child Thirty-First Session - Concluding Observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland*. (Office of the United Nations High Commissioner for Human Rights 2002) 15

⁴¹ Ministry of Justice, *Youth Custody Data August 2012* (Ministry of Justice 2012) <<http://www.justice.gov.uk/statistics/youth-justice/custody-data>> accessed on 15th October 2012.

⁴² R Morgan, 'Punishment, Deterrence or Rehabilitation' (The Criminal Bar Association Spring Conference, Birmingham, April 2007). Also see B Goldson, 'Penal Custody: Intolerance, Irrationality and Indifference' in B Goldson and J Muncie (eds), *Youth Crime and Justice* (Sage 2006) 145.

⁴³ T Bateman, 'Who Pulled the Plug: Towards an Explanation of the Fall in Child Imprisonment in England and Wales' (2012) 12(1) *Youth Justice* 36; Standing Committee for Youth Justice, *Custody for Children: The Impact - A position paper on the impact of the overuse of custody for children in England and Wales* (Standing Committee for Youth Justice 2010) <http://www.scyj.org.uk/files/the_impact_of_custody_-_position_paper_FINAL.pdf> accessed 14th October 2012; J Muncie, *Youth and Crime* (3rd Edn, Sage 2009) 366; J Muncie, 'The Punitive Turn' in *Juvenile Justice: Cultures of Control and Rights Compliance in Western Europe and the USA* (2008) 8(2) *Youth Justice* 107.

⁴⁴ See sections 152-53.

⁴⁵ Prison Reform Trust and Inquest, *Fatally Flawed: Has the state learned the lessons from the deaths of children and young people in prison?* (Prison Reform Trust and Inquest 2012) 20 <<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Fatally%20Flawed.pdf>> accessed 1st December 2012.

The rapid increase in the juvenile custodial population was a product of a burgeoning moral panic⁴⁶ regarding juvenile crime in the 1990s, catalysed by the tragic but atypical murder of James Bulger in 1993. Once apprehended, Thompson and Venables were demonised and labelled ‘freaks’,⁴⁷ ‘the spawn of Satan’⁴⁸ and ‘evil’.⁴⁹ The media sensationally portrayed incidents of juvenile crime more generally, making little distinction between the murder of James Bulger and other forms of juvenile crime - all were woven together and conflated to construct a notion of general crisis, which in turn, was further elaborated by politicians and ‘experts’.⁵⁰ To many, the reality that two children could harm and kill an innocent child threatened the very meaning of childhood and symbolised a general ‘crisis’ of childhood.⁵¹ Adults were reminded not only of the everyday savagery of children, but also their powerlessness to control it and the destruction in social order created when vigilance fails.⁵² This moral panic fuelled an aggressive and punitive legislative response to juvenile crime.⁵³ As Wacquant remarks, the ‘consensus’ required that the ‘undeserving poor’ were brought back under control by the (iron) hand of the state.⁵⁴ The full might of the State’s ‘power to punish’ was exercised and ‘exploited’⁵⁵ to appease electoral anxieties and incarcerate increasing numbers of children and young people.

⁴⁶ S Cohen, *Folk Devils and Moral Panics: The Creation of Mods and Rockers* (2nd Edn, Routledge 2002).

⁴⁷ E Pilkington, ‘Boys Guilty of Bulger Murder: Detention without Limit for ‘Unparalleled Evil’ - Judge Attacks Video Violence’ *The Guardian* (London, 25 November 1993).

⁴⁸ J Muncie, *Youth and Crime* (Sage 2009) 6.

⁴⁹ E Pilkington, ‘Boys Guilty of Bulger Murder: Detention without Limit for ‘Unparalleled Evil’ - Judge Attacks Video Violence’ *The Guardian* (London, 25 November 1993).

⁵⁰ H Davis and M Bourhill, ‘“Crisis”: The Demonisation of Children and Young People’ in P Scraton (ed), *“Childhood” in “Crisis”?* (UCL Press 1997) 49.

⁵¹ *ibid* 28

⁵² J Fionda, *Devils and Angels: Youth Policy and Crime* (Hart 2005) 30.

⁵³ See Chapter 2 below, 63-67.

⁵⁴ L Wacquant, ‘How Penal Common Sense Comes to the Europeans: Notes on the Transatlantic Diffusion of Neoliberal Doxa’ (1999) 1(3) *European Societies* 319, 335.

⁵⁵ B Goldson, ‘Child Incarceration: Institutional Abuse, the Violent State and the Politics of Impunity’ in P Scraton and J McCulloch (eds) *The Violence of Incarceration* (Routledge 2009) 92.

Somewhat without warning, the juvenile custodial population fell by a third between 2008 and 2011⁵⁶ at a time when the size of the adult prison population was increasing.⁵⁷ This decline appears to relate to a fall in the number of young people entering the estate rather than a decrease in the average length of custodial sentences or periods of remand.⁵⁸ In fact, the average length of time spent in custody increased.⁵⁹ The precise causes of this trend are difficult to discern⁶⁰ and the extent to which it could indicate a de-politicisation of youth crime and a shift in the punitive mood is questionable. The riots across large cities in England in August 2011 serve as a reminder of just how vulnerable and volatile these reductions in the juvenile custodial population can be. In response to the riots, courts were frequently remanding children to custody, some of whom had no previous convictions, and were more readily using custodial sanctions.⁶¹ As yet, the riots do not appear to have stimulated a ‘resurgence of penal punitivism within youth justice’ in ‘an analogous manner’ to the James

⁵⁶ R Allen, *Last Resort? Exploring the Recent Reduction in Child Imprisonment 2008 - 2011* (Prison Reform Trust 2011) <<http://www.prisonreformtrust.org.uk/Portals/0/Documents/lastresort.pdf>> accessed 28th October 2012; Ministry of Justice, *Youth Custody Data June 2011* (Ministry of Justice 2011) <<http://www.justice.gov.uk/publications/statistics-and-data/youth-justice/custody-data.htm>> accessed 23rd August 2011.

⁵⁷ Ministry of Justice, *Prison Population Projections 2008-2015: England and Wales* (Ministry of Justice Statistical Bulletin) (Ministry of Justice 2008) 4 <<http://www.justice.gov.uk/downloads/statistics/mojstats/prison-population/stats-prison-pop-sep08.pdf>> accessed 28th October 2012; Ministry of Justice, *Prison Population Projections 2010-2016: England and Wales* (Ministry of Justice Statistical Bulletin) (Ministry of Justice 2010) 6 <<http://www.justice.gov.uk/downloads/statistics/mojstats/prison-population/prison-pop-2010-2016a.pdf>> accessed 28th October 2012; Ministry of Justice, *Prison Population Projections 2011-2017 - England and Wales* (Ministry of Justice Statistical Bulletin) (Ministry of Justice 2011) 7 <<http://www.justice.gov.uk/downloads/statistics/mojstats/prison-population/prison-pop-projections-2011-17.pdf>> accessed 28th October 2012.

⁵⁸ R Allen, *Last Resort? Exploring the Recent Reduction in Child Imprisonment 2008 - 2011* (Prison Reform Trust 2011) 8.

⁵⁹ *ibid* 8. The most marked reduction has been in the use of short term, detention and training orders (DTOs), which fell by over a third during the three year period. See Ministry of Justice, *Youth Custody Data August 2012* (Ministry of Justice 2012) <<http://www.justice.gov.uk/statistics/youth-justice/custody-data>> accessed 15th October 2012.

⁶⁰ See Allen (n58) and T Bateman, ‘Who Pulled the Plug: Towards an Explanation of the fall in Child Imprisonment in England and Wales’ (2012) 12(1) *Youth Justice* 36.

⁶¹ Ministry of Justice, *Statistical Bulletin on the public disorder of 6th to 9th August 2011: Ministry of Justice Statistics bulletin* (Ministry of Justice 2011) <<http://www.justice.gov.uk/downloads/statistics/criminal-justice-stats/disturbances/august-public-disorder-stats-bulletin.pdf>> accessed 22nd January 2013; S Malik, ‘UK riots cause 8% rise in jailed children’ *The Guardian* (London, 8 September 2011) <<http://www.guardian.co.uk/society/2011/sep/08/uk-riots-rise-in-jailed-children>> accessed 22nd January 2013; F Bawdon and O Bowcott, ‘Riot sentencing put ‘nice kids’ behind bars, says lawyers’ *The Guardian* (London, 3 July 2012) <<http://www.guardian.co.uk/uk/2012/jul/03/riot-sentencing-nice-kids-lawyers>> accessed 22nd January 2013.

Bulger murder.⁶² However, it does illustrate the ease with which a ‘punitive stance’ can be adopted towards children.⁶³

1.4 In the *Care of the State*

When the State deprives children of their liberty, it assumes a heavy responsibility for their welfare and has a duty to set the highest standards of care.⁶⁴ As a captive population hidden behind the veiled, secure walls of the prison, all prisoners, irrespective of age, are at the mercy of the State and the exercise of its power.⁶⁵ Morgan argues that this ‘moral and legal duty for their care’ for a prisoners care should be honoured ‘[w]hatever horrors prisoners may individually have perpetrated’ and to do otherwise would ‘deny the fundamental tenets of what we call civilisation.’⁶⁶ Discharging this duty requires something more than simply providing for a prisoner’s essential needs or maintaining certain basic living conditions; rather it demands that prison life is of sufficient *quality*, that it attains a certain level of ‘interior legitimacy’⁶⁷ or ‘moral performance.’⁶⁸ Such comments have far greater resonance in the context of juvenile penal custody.

Children in penal custody are vulnerable not only because they are ‘in the care of the State,’⁶⁹ but also because of their young age,⁷⁰ immaturity and lack of physical and emotional

⁶² T Bateman, ‘Who Pulled the Plug: Towards an Explanation of the fall in Child Imprisonment in England and Wales’ (2012) 12(1) *Youth Justice* 36, 48.

⁶³ See N Stone, ‘Legal Commentary: Responding to the Riots: Lessons from August 2011’ (2012) 12(2) *Youth Justice* 134, 142.

⁶⁴ Carlile (n22) 16.

⁶⁵ See R Morgan, ‘Minimising the Risk of Suicide in Custody’ in A Liebling and T Ward (eds), *Deaths in Custody: International Perspectives* (Whiting & Birch 1994) 216.

⁶⁶ *ibid* 216.

⁶⁷ R Sparks, ‘Can Prisons be Legitimate? Penal Politics, Privatisation and the Timeliness of an Old Idea’ (1994) 34 *British Journal of Criminology* 14; A Liebling, *Prisons and their Moral Performance: A Study of the Values, Quality and Prison Life* (Clarendon Press 2004); B Crewe, ‘Soft Power in Prison: Implications for Staff - Prison Relationships, Liberty and Legitimacy’ (2011) 8(6) *European Journal of Criminology* 455.

⁶⁸ A Liebling, *Prisons and their Moral Performance: A Study of the Values, Quality and Prison Life* (Clarendon Press 2004).

⁶⁹ B Goldson and D Coles, *In the Care of the State: Child Deaths in Penal Custody in England and Wales* (INQUEST 2005).

development. This inherent vulnerability is compounded by the complex range of needs with which children enter the juvenile secure estate. The life histories of child prisoners are disproportionately marked by chaotic, traumatic and abusive experiences.⁷¹ The myriad problems often faced by such children include: experience of local authority care or supervision;⁷² abuse, neglect and childhood trauma;⁷³ family breakdown, separation or bereavement;⁷⁴ school exclusion and truancy;⁷⁵ poor academic achievement;⁷⁶ special education needs and low I.Q.;⁷⁷ mental health needs;⁷⁸ self-harm;⁷⁹ substance misuse,⁸⁰

⁷⁰ Children as young as 10 can enter the juvenile secure estate although such children will be held in local authority secure children's homes rather than in prison establishments.

⁷¹ *R. (on application of Howard League for Penal Reform) v Secretary of State for the Home Department* [2002] EWHC 2497 (Admin) para 10.

⁷² Her Majesty's Chief Inspector of Prisons, *Young Prisoners: A Thematic Report by HM Chief Inspectorate of Prisons for England and Wales* (Her Majesty's Inspectorate of Prisons 1997) <<http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/thematic-reports-and-research-publications/young-prisoners-rps.pdf>> accessed 31st December 2012; Social Exclusion Unit, *Reducing Re-offending by Ex-prisoners* (Social Exclusion Unit 2002); R Hodgkin, *Rethinking Child Imprisonment: a report on young offender institutions* (Children's Rights Alliance for England 2002) 7; B Goldson, *Vulnerable Inside: Children in Secure and Penal Settings* (The Children's Society 2002) 130; N Hazel and others, *Detention and Training Order: An assessment of the Detention and Training Order and its impact on the secure estate across England and Wales* (Youth Justice Board 2002) 31; M Challen and T Walton, *Juveniles in Custody: A unique insight into the perceptions of young people held in Prison Service Custody in England and Wales* (Her Majesty's Inspectorate of Prisons 2004) 5; R Worsley, *Young People 2004-2006: An analysis of children's experiences of prison* (Her Majesty's Inspectorate of Prisons 2006) 7; J Jacobson and others, *Punishing Disadvantage: A Profile of Children in Custody* (Prison Reform Trust 2010) 52; Her Majesty's Inspectorate of Prisons, *The Care of Looked After Children in Custody: A Short Thematic Review* (Her Majesty's Inspectorate of Prisons 2011).

⁷³ G Boswell, *Young and Dangerous: The backgrounds and careers of section 35 offenders* (Aldershot 1996); G Boswell, 'The Backgrounds of Violent Young Offenders' in V Varma (ed), *Violence in Children and Adolescents* (Jessica Kingsley Publishers 1997); B Goldson, *Vulnerable Inside: Children in Secure and Penal Settings* (The Children's Society 2002) 51.

⁷⁴ Lyon (n20); J Jacobson and others, *Punishing Disadvantage: A Profile of Children in Custody* (Prison Reform Trust 2010) 52.

⁷⁵ See Her Majesty's Chief Inspector of Prisons, *Young Prisoners: A Thematic Report by HM Chief Inspectorate of Prisons for England and Wales* (Her Majesty's Inspectorate of Prisons 1997) para 3.12-3.13 <<http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/thematic-reports-and-research-publications/young-prisoners-rps.pdf>> accessed 31st December 2012; Howard League for Penal Reform, *Missing the Grade: Education for Children in Prison* (Howard League for Penal Reform, 2001) 15; Her Majesty's Inspectorate of Prisons, *A Second Chance: A Review of Education and Supporting Arrangements within Units for Juveniles managed by HM Prison Service 2001-2002* (Her Majesty's Inspectorate of Prisons 2002) 10; N Hazel and others, *Detention and Training Order: An assessment of the Detention and Training Order and its impact on the secure estate across England and Wales* (YJB 2002) 31; J Jacobson and others, *Punishing Disadvantage: A Profile of Children in Custody* (Prison Reform Trust 2010) 62.

⁷⁶ Her Majesty's Inspectorate of Prisons, *A Second Chance: A Review of Education and Supporting Arrangements within Units for Juveniles managed by HM Prison Service 2001-2002* (Her Majesty's Inspectorate of Prisons 2002) 10.

⁷⁷ J Jacobson and others, *Punishing Disadvantage: A Profile of Children in Custody* (Prison Reform Trust 2010) 62.

⁷⁸ R Harrington and S Bailey, *Mental Health Needs and the Effectiveness of the Provision for Young Offenders in the Community and Custody* (Youth Justice Board 2005); Her Majesty's Chief Inspector of Prisons, *Annual*

homelessness,⁸¹ and, poverty.⁸² Aspects of this profile are particularly pronounced for girls⁸³ and children who commit serious violent and sexual offences.⁸⁴ In short, children in penal custody are routinely drawn from some of the most disadvantaged, damaged and distressed families, neighbourhoods and communities in England and Wales.⁸⁵ Notwithstanding the (theoretical) possibility of identifying those children who are *most* at risk in the custodial environment through the use of ‘vulnerability’ assessments,⁸⁶ it is clear that *all* children within the juvenile secure estate will be inherently vulnerable.⁸⁷ Therefore, it is imperative that the prison conditions do not expose children to further harm or abuse. The deprivation of

Report of HM Chief Inspector for England and Wales: 2004-2005 (Stationery Office 2006) 55; Her Majesty’s Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2005-06* (Stationery Office 2007) 44; J Jacobson and others, *Punishing Disadvantage: A Profile of Children in Custody* (Prison Reform Trust 2010) 52.

⁷⁹ Jacobson (n77) 62.

⁸⁰ The thematic review *Juveniles in Custody* revealed that 15% of the respondents admitted to having had alcohol problems prior to arrival and 28% of respondents said they had drug problem on arrival or in the past. See Her Majesty’s Chief Inspector of Prisons, *Young Prisoners: A Thematic Report by HM Chief Inspectorate of Prisons for England and Wales* (Her Majesty’s Inspectorate of Prisons 1997) para 3.12 <<http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/thematic-reports-and-research-publications/young-prisoners-rps.pdf>> accessed 31st December 2012. Also see Lyon (n20); Her Majesty’s Inspectorate of Prisons, *A Second Chance: A Review of Education and Supporting Arrangements within Units for Juveniles managed by HM Prison Service 2001-2002* (Majesty’s Inspectorate of Prisons 2002) 10; B Goldson, *Vulnerable Inside: Children in Secure and Penal Setting* (The Children’s Society 2002) 130; Youth Justice Board, *Substances Misuse Services in the Secure Estate* (Youth Justice Board 2009) <http://yjbpublications.justice.gov.uk/en-gb/Resources/Downloads/Substance%20misuse%20services%20in%20the%20secure%20estate_fullreport.pdf> accessed 28th October 2012; Jacobson (n77) 62.

⁸¹ B Goldson, *Vulnerable Inside: Children in Secure and Penal Settings* (The Children’s Society 2002) 52; YJB, *Accommodation Needs and Experiences* (Youth Justice Board 2007).

⁸² B Goldson, *Vulnerable Inside: Children in Secure and Penal Settings* (The Children’s Society 2002) 52; Jacobson (n77) 52.

⁸³ Jacobson (n77) 83-4.

⁸⁴ G Boswell, *Young and Dangerous: The backgrounds and careers of section 35 offenders* (Aldershot 1996); G Boswell, ‘The Backgrounds of Violent Young Offenders’ in V Varma (ed.), *Violence in Children and Adolescents* (Jessica Kingsley Publishers 1997); J Renshaw, *Young People held in the Juvenile Secure Estate for Serious Offences on Section 228, Section 226 and Section 90 sentences* (Youth Justice Board 2010).

⁸⁵ B Goldson, ‘Child Imprisonment: A Case for Abolition’ (2005) 5(2) *Youth Justice* 77, 80; B Goldson, ‘Damage, Harm and Death in Child Prisons in England and Wales: Questions of Abuse and Accountability’ (2006) 45(5) *Howard Journal of Criminal Justice* 449, 454.

⁸⁶ Prior to a court appearance, YOT workers will normally complete an ASSET assessment which scores children against a range of risk and protective factors. In so doing, YOT workers will normally identify whether or not the child is ‘vulnerable,’ which may have implications for their placement within the JSE. See Youth Justice Board, *Key Elements of Effective Practice: Assessments, Planning, Intervention and Supervision* (Youth Justice Board 2008) 6, 17.

<http://webarchive.nationalarchives.gov.uk/20110222143907/http://www.yjb.gov.uk/Publications/Resources/Downloads/KEEP_APIIS.pdf> accessed 30th December 2012. For an appraisal of the suitability and efficacy of such assessments, see B Goldson, *Vulnerable Inside: Children in Secure and Penal Settings*, (The Children’s Society 2002); N Hazel and others, *Detention and Training Order: An assessment of the Detention and Training Order and its impact on the secure estate across England and Wales* (YJB 2002) 48; Goldson and Coles (n69).

⁸⁷ Also see Goldson (n82) 52.

liberty in and of itself serves the purposes of punishment and therefore, the custodial experience should not exact further punishment. As von Hirsch argues, this idea serves precisely as a prophylactic rule, to endorse only that deprivation - of liberty - that we think can be decently imposed and not to authorise all kinds of further impositions whose moral acceptability is in doubt.⁸⁸ However, the maxim that imprisonment should be imposed as punishment but not *for* punishment⁸⁹ is, it appears, far easier to articulate in principle than it is to implement in practice.

In 1997, General Sir David Ramsbotham, then Her Majesty's Chief Inspector of Prisons, conducted a thematic review of the chaotic⁹⁰ provision for juveniles (15-17 years old) and young adults (18-21 years old) held in Prison Service establishments. He reported that young prisoners' needs for safety, help and rehabilitation [were] seldom met' and the vast majority of YOIs were forced to operate as human warehouses rather than reforming institutions.⁹¹ Bullying was endemic,' YOIs were typically overcrowded and young people often resorted to self-harm and suicide.⁹² Young people spent long periods of time within their cells and had limited access to education, training, physical exercise or health care.⁹³ Both the prison system itself, and the officers working within it, were ill-equipped to work with children, children whom were simply described as lost' within the system.⁹⁴ Ramsbotham concluded: I am convinced that no child, regardless of gender, should be held in Prison Service establishments.⁹⁵ His damning indictment of the state of YOIs' did little to

⁸⁸ A von Hirsch, 'The Ethics of Community-Based Sentences' (1990) 36(1) *Crime and Delinquency* 162, 168.

⁸⁹ *ibid* 168. Italics in original.

⁹⁰ Her Majesty's Chief Inspectorate of Prisons, *Young Prisoners: A Thematic Report by HM Chief Inspectorate of Prisons for England and Wales* (Her Majesty's Inspectorate of Prisons, 1997) <<http://inspectors.homeoffice.gov.uk/hmprisons/thematicreports1/youngprisoners.pdf>> accessed 31st December 2012.

⁹¹ *ibid* para 3.22, 4.83.

⁹² Her Majesty's Inspectorate of Prisons (n90).

⁹³ Her Majesty's Inspectorate of Prisons (n90).

⁹⁴ Her Majesty's Inspectorate of Prisons (n90).

⁹⁵ Her Majesty's Inspectorate of Prisons (n90).

instigate the removal of children from the prison estate. In his landmark judgement in the High Court in November 2002, Mr. Justice Munby commented: the State appears to be failing, and in some instances failing very badly, in its duties to vulnerable and damaged children in YOIs.⁹⁶ Whilst Mr. Justice Munby acknowledged that there were small pockets of good practice within some YOIs, in others, the picture was darker, sometimes much darker.⁹⁷ Many of Ramsbotham's criticisms remained valid and were supplemented by additional reports.⁹⁸

The child prison estate has improved in the 10 years since Mr Justice Munby's judgment. For instance, Ramsbotham's concern regarding the lack of central oversight of the child prison estate has been partially remedied. In 2000, the Youth Justice Board (YJB) was created and assumed responsibility for purchasing accommodation for all remanded and sentenced young people and for monitoring performance across the juvenile secure estate. The number of split-site YOIs, which accommodate both children and young adults albeit in different units, have reduced.⁹⁹ The YJB has invested in the development of substance misuse services,¹⁰⁰ health care and educational provision.¹⁰¹ Social workers have also been appointed

⁹⁶ *R. (on application of Howard League for Penal Reform) v Secretary of State for the Home Department* [2002] EWHC 2497 (Admin) para 185.

⁹⁷ *ibid* para 102.

⁹⁸ See *R. (on application of Howard League for Penal Reform) v Secretary of State for the Home Department* [2002] EWHC 2497 (Admin) para 11-12, 98, 106, 109, 113, 115-116, 170; Her Majesty's Chief Inspector of Education and others, *Safeguarding Children: The Joint Chief Inspectors' Report on Arrangements to Safeguard Children* (OFSTED 2008).

⁹⁹ YJB, *Updating the Strategy for the Secure Estate for Children and Young People* (YJB 2007) 7.

¹⁰⁰ House of Commons Committee of Public Accounts, *Youth Offending: The Delivery of Community and Custodial Sentences* Fortieth Report of 2003-04 HC 307 (The Stationery Office Limited 2004) 13

<<http://www.publications.parliament.uk/pa/cm200304/cmselect/cmpubacc/307/307.pdf>> accessed 26th October 2012; YJB, *Updating the Strategy for the Secure Estate for Children and Young People* (YJB 2007) <<http://www.yjb.gov.uk/publications/Resources/Downloads/Update%20on%20the%20Strategy%20for%20the%20Secure%20Estate%20for%20Children%20and%20Young%20People.pdf>> accessed 28th October 2012; YJB, *Substances Misuse Services in the Secure Estate* (YJB 2009) <http://yjbpublications.justice.gov.uk/en-gb/Resources/Downloads/Substance%20misuse%20services%20in%20the%20secure%20estate_fullreport.pdf> accessed 28th October 2012.

¹⁰¹ House of Commons Committee of Public Accounts, *Youth Offending: The Delivery of Community and Custodial Sentences*, Fortieth Report of 2003-04 HC 307 (The Stationery Office Limited 2004) 13 <<http://www.publications.parliament.uk/pa/cm200304/cmselect/cmpubacc/307/307.pdf>> accessed 26th October 2012.

within YOIs themselves¹⁰² although the funding of these posts was in jeopardy for some time and has only recently been reinstated for a short, three year period.¹⁰³ There has been a far greater emphasis on ‘joined up’ assessment and information sharing between the youth offending teams (YOTs) and juvenile secure estate to safeguard children and (theoretically at least) create a smooth link between the community and custody.¹⁰⁴ Despite such improvements, the child prison estate is far from embodying a distinct approach, something which the Ministry of Justice (MoJ) and YJB have acknowledged.¹⁰⁵

Children continue to spend long periods of time in their cells; some may spend as little as two hours a day out of their cells.¹⁰⁶ Children in custody do not have a statutory right to education and the quality and management of educational provision still appears to vary greatly.¹⁰⁷ Changes to the funding arrangements for educational provision in YOIs have had the effect that children may spend as little as 10 hours in education each week.¹⁰⁸ That said,

¹⁰² YJB (n99).

¹⁰³ Her Majesty's Chief Inspector of Prisons, *Annual Report of Her Majesty's Chief Inspector of Prisons 2008-09*, (Stationery Office 2010) 67 <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/2010/HMIP_AR_2008-9_web_published_rps.pdf> accessed 28th October 2012; Her Majesty's Inspectorate of Prisons, *Report of an unannounced short follow-up inspection of HM YOI Wetherby The Keppel Unit* (Her Majesty's Inspectorate of Prisons 2012) 5; Her Majesty's Chief Inspector of Prisons, *Her Majesty's Chief Inspector of Prisons for England and Wales: Annual Report 2011-12* (Stationery Office 2012) 10, 62.

¹⁰⁴ Hazel and others, *Detention and Training Order: An assessment of the Detention and Training Order and its impact on the secure estate across England and Wales* (YJB 2002) 102; YJB, *Strategy for the Secure Estate for Children and Young People: Plans for 2005/06 - 2007/08* (YJB 2005) 17; YJB, *National Standards for Youth Justice Services* (YJB 2010) <<http://www.justice.gov.uk/downloads/youth-justice/yjb-toolkits/victims/national-standards-youth-justice-services.pdf>> accessed 22nd January 2013; Ministry of Justice, *Placing Young People in Custody* (MoJ 2013) <<http://www.justice.gov.uk/youth-justice/custody/placing-young-people-in-custody>> accessed 22nd January 2013.

¹⁰⁵ YJB and MoJ, *Strategy for the Secure Estate for Children and Young People: Plans for 2011/12-2014/15* (YJB and MoJ 2012) para 50 <http://www.justice.gov.uk/downloads/consultations/consultation_-_secure_estate_strategy.pdf> accessed 27th October 2012.

¹⁰⁶ Her Majesty's Chief Inspector of Prisons, *Her Majesty's Chief Inspector of Prisons for England and Wales: Annual Report 2011-12* (Stationery Office 2012) 75-76 <<http://www.official-documents.gov.uk/document/hc1213/hc06/0613/0613.pdf>> accessed 16th December 2012.

¹⁰⁷ HMIP, *Children and Young People in Custody 2006-2008: An Analysis of the experiences of 15-18 year olds in prison* (HMIP 2008); OFSTED, *Transition through Detention and Custody: Arrangements for Learning and Skills for Young People in Custodial or Secure Settings* (OFSTED 2010); C Lanskey, ‘Promise or Compromise? Education for Young People in Secure Institutions in England’ (2011) 11(1) *Youth Justice* 47, 57; Her Majesty's Chief Inspector of Prisons (n106) 76.

¹⁰⁸ Her Majesty's Chief Inspector of Prisons, *Her Majesty's Chief Inspector of Prisons for England and Wales: Annual Report 2010-11* (Stationery Office 2011) 64 <<http://www.official-documents.gov.uk/document/hc1012/hc14/1454/1454.pdf>> accessed 17th December 2012.

Release on Temporary Licence (ROTL) is being used to a far greater extent to allow young people to attend training or employment placements in the community.¹⁰⁹ Children continue to be held long distances from home, which in turn limits the opportunity for both familial contact and effective sentence planning with the YOT.¹¹⁰ Although YOIs have safeguarding teams and child protection procedures, Her Majesty's Inspectorate of Prisons (HMIP) still found that staff did not fully understand child protection and both internal and external safeguarding meetings were not well attended.¹¹¹

It is not the special problem¹¹² of prison disturbances which is primarily a matter of concern, although such incidents do occur,¹¹³ rather it is the perennial problem¹¹⁴ of social order and prison victimisation and the measures used in response. Pinheiro, as part of a United Nations study on violence against children, concluded that children in conflict with the law are one of the most vulnerable groups to the worst forms of violence.¹¹⁵ Children continue to be routinely exposed to bullying and physical violence¹¹⁶ and a significant portion

¹⁰⁹ Her Majesty's Chief Inspector of Prisons (n106) 77.

¹¹⁰ R Worsley, *Young People 2004-2006: An analysis of children's experiences of prison* (HMIP 2006); Her Majesty's Chief Inspector of Prisons (n106) 10.

¹¹¹ Her Majesty's Chief Inspector of Prisons (n106) 74.

¹¹² R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996) 2.

¹¹³ E Allison, 'Inmates Riot at Young Offender Institutions' *The Guardian* (London, 7th October 2005) <<http://www.guardian.co.uk/society/2005/oct/07/prisons.law>> accessed 12th December 2012; BBC News, 'Officers Hurt in Youth Jail Riot' (London, 2 October 2006) <<http://news.bbc.co.uk/1/hi/england/shropshire/5398270.stm>> accessed 12th December 2012; BBC News, 'Staff Attacked as Young Offenders Riot' (London, 3 November 2010) <<http://www.bbc.co.uk/news/uk-11687104>> accessed 12th December 2012; BBC News, 'Young Inmates Cause Disturbances at Kent Juvenile Prison' (London, 20 December 2010) <<http://www.bbc.co.uk/news/uk-england-kent-12086076>> accessed 30th December 2012; HMIP, *Report of an unannounced full follow-up inspection of HMYOI Warren Hill: 9-13 May 2011* (HMIP 2011) <<http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/prison-and-yoi-inspections/warren-hill/warren-hill-oct-2011.pdf>> accessed 10th December 2012.

¹¹⁴ Sparks and others (n112) 2.

¹¹⁵ PS Pinheiro, 'Opening Remarks from Paulo Sergio Pinheiro' in NGO Advisory Panel for the United Nations Secretary-General's Study on Violence Against Children *Violence Against Children in Conflict with the Law: A Thematic Consultation* (United Nations 2005) 18, emphasis added.

¹¹⁶ Her Majesty's Chief Inspector of Prisons, *Annual Report of the Chief Inspector of Prisons 2005-2006* (Stationery Office 2006) 56; HMIP, *Report of an unannounced short follow-up inspection of HM YOI Brinsford (Juvenile)* (HMIP 2010) 20; HMIP, *Report of an unannounced full follow-up inspection of HM YOI Cookham Wood* (HMIP 2011) 5; Her Majesty's Chief Inspector of Prisons (n106) 74.

of children (25% - 33%) feel unsafe.¹¹⁷ They are subject to routine strip-searching,¹¹⁸ physical restraint¹¹⁹ and the use of segregation¹²⁰ - forms of state sanctioned violence.¹²¹ These measures, and the use of adjudications and an Incentives and Earned Privileges (IEP) scheme, mirror practices across the adult prison estate. HMIP report a steady decline in young people's assessment of relationships with staff, with fewer believing that they had been treated with respect.¹²² Crucially, 'the balance between care and control' remains a concern.¹²³ Therefore, whilst the increasing separation of children in specific establishments should be welcomed, the extent to which such establishments embody a distinct ethos or culture can be questioned.

Although HMIP found that YOIs were affording 'significant attention' to the care of the most vulnerable children,¹²⁴ children continue to be at risk from self-harm and suicide within the prison environment. Between 2009 and 2010, there were over 1,000 self-harm injuries amongst children within the child prison estate alone.¹²⁵ Boys held within YOIs are 18 times more likely to commit suicide in prison than in the community¹²⁶ Between 1990 and

¹¹⁷ Her Majesty's Chief Inspector of Prisons (n107); Her Majesty's Chief Inspector of Prisons (n105) 10.

¹¹⁸ Carlile (n21); YJB, *Review of Full Searches in the Secure Estate for Children and Young People* (YJB 2011); Her Majesty's Chief Inspector of Prisons (n108); Her Majesty's Chief Inspector of Prisons (n106).

¹¹⁹ Carlile (n21); Her Majesty's Chief Inspector of Prisons, *Annual Report of the Chief Inspector of Prisons 2005-2006* (Stationery Office 2006) 56.

¹²⁰ Carlile (n21).

¹²¹ House of Lords House of Commons Joint Committee on Human Rights, *The Use of Restraint in Secure Training Centres*, Eleventh Report of Session 2007-2008 (House of Lords House of Commons Joint Committee on Human Rights 2008) 12; *R. (on application of C) v. Secretary of State for Justice* [2008] EWCA Civ 882 para. 61; B Goldson, 'Child Incarceration: Institutionalised Abuse, the Violent State and the Politics of Impunity,' in P Scraton and J McCulloch (eds), *The Violence of Incarceration* (Routledge 2009) 97.

¹²² Her Majesty's Chief Inspector of Prisons (n108) 75.

¹²³ Her Majesty's Chief Inspector of Prisons, *Annual Report of Her Majesty's Chief Inspector of Prisons 2008-09* (Stationery Office 2010) 67 <<http://www.official-documents.gov.uk/document/hc0910/hc03/0323/0323.pdf>> accessed 13th December 2012.

¹²⁴ Her Majesty's Chief Inspector of Prisons (n106) 74.

¹²⁵ HC Deb 19 December 2011, vol 537, c1068W.

¹²⁶ J Talbot, *No One Knows: Identifying and Supporting Prisoners with Learning Difficulties and Learning Disabilities* (Prison Reform Trust 2007) 3 <<http://www.prisonreformtrust.org.uk/Portals/0/Documents/No%20One%20Knows%20preliminary%20report.pdf>> accessed 27th October 2012.

2012, 33 children died in penal custody and all but two of these deaths were self-inflicted.¹²⁷ In 2012, a spate of suicides amongst young prisoners, including the death of two children within the same week in January 2012,¹²⁸ stimulated renewed concern about child deaths in penal custody.¹²⁹ Despite this, successive governments, including the current Coalition Government, have failed to launch an independent inquiry into the death of children in penal custody.¹³⁰ Children who survive a prison term will typically experience difficulties securing accommodation, employment or access to educational programmes¹³¹ and ultimately, 70% of children released from YOI custody will re-offend.¹³²

1.5 Children or Prisoners

Child prisoners aged 15-17 years old are variously described as ‘teenagers’, ‘young people’, ‘young offenders’, ‘juvenile offenders’ and even ‘inmates’ and ‘prisoners.’ However, such persons are, by virtue of the Children Act 1989, children.¹³³ The underlying rationale that justifies, or at least legitimises, both the punitive shift in youth justice policy during the 1990s

¹²⁷ INQUEST, *Child Deaths in Penal Custody (England and Wales) 1900- date*, (INQUEST 2012) <http://inquest.gn.apc.org/pdf/Deaths_of_Children_in_Penal_Custody_1990-date.pdf> accessed 18th October 2012. Also see Goldson and Coles (n69).

¹²⁸ A Travis, ‘Teenage deaths in prison cause mounting concern’ *The Guardian* (London, 4th May 2012) <<http://www.guardian.co.uk/society/2011/may/04/teenage-deaths-prison?INTCMP=SRCH>> accessed 1st December 2012; M Townsend and J Doward, ‘Parents demand inquiry into teenage prison deaths’ *The Guardian* (London, 28th January 2012) <<http://www.guardian.co.uk/society/2012/jan/28/teenage-prisons-death-inquiry-call>> accessed 1st December 2012.

¹²⁹ See, for example, Prison Reform Trust and Inquest, *Fatally Flawed: Has the state learned the lessons from the deaths of children and young people in prison?* (Prison Reform Trust and Inquest 2012) <<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Fatally%20Flawed.pdf>> accessed 1st December 2012.

¹³⁰ See Goldson and Coles (n69); Prison Reform Trust and Inquest, *Fatally Flawed: Has the state learned the lessons from the deaths of children and young people in prison?* (Prison Reform Trust and Inquest 2012) <<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Fatally%20Flawed.pdf>> accessed 1st December 2012. The Secretary of State’s refusal to authorise a public inquiry into the death of Joseph Scholes was upheld by the Court of Appeal. See *R. (on the application of Scholes) v Secretary of State for the Home Department* [2006] EWCA Civ 1343.

¹³¹ HMIP, *Resettlement Provision for Children and young People: Accommodation and Education, Training and Employment* (HMIP 2011) <<http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/thematic-reports-and-research-publications/Resettlement-thematic-june2011.pdf>> accessed 27th October 2012; Her Majesty’s Chief Inspector of Prisons (n107) 64.

¹³² MoJ, *Re-offending of Juveniles from the 2009 cohort – England and Wales* (MoJ 2011) 25; MoJ, *Youth Justice Statistics 2010/11 – England and Wales* (MoJ 2012) 42.

¹³³ This is also reflected in Article 1 of the UNCRC.

and the treatment of children in custody, is the insufficient recognition given to the status of the juvenile offender as a *child*, rather than an *offender* or *prisoner*. This problem emerges, in part, because of the _dualistic conception of childhood itself¹³⁴ and owes itself to the way in which childhood, as a distinct social category, was first conceived. Childhood is a social construction,¹³⁵ understood with reference to the cultural elements of a society in a particular time period. Constructions of childhood are distinct from categories based on physical or biological maturity and the natural growth and development into adulthood.¹³⁶ Therefore, the values and meanings ascribed to childhood will vary over time and _definitions of childhood must to some extent be dependent on the society from which they emerge.¹³⁷

The institutionalisation of childhood and conceptualisation of the _juvenile delinquent‘ is a _Victorian creation,¹³⁸ influenced by the romantic and evangelical ideas about childhood.¹³⁹ At the turn of the nineteenth century, the _meaning of childhood was ambiguous.¹⁴⁰ Political and economic upheaval, a fragile social order and growing concern about the presence of children in the labour force¹⁴¹ proved to be fertile conditions for the conceptualisation of the child as a _victim,‘ in need of care and protection, and a _threat‘, in need of control and punishment.¹⁴² The plight of children of the poor attracted the interest of

¹³⁴ B Goldson, _Children, Crime and the State‘ in B Goldson and others (eds), *Children, Welfare and the State* (Sage 2002) 120.

¹³⁵ A James and A Prout, _A New Paradigm for the Sociology of Childhood?: Provenance, Promise and Problems,‘ in A Prout and A James (eds), *Constructing and Reconstructing Childhood: Contemporary issues in the sociological study of childhood* (Falmer Press 1990) 8.

¹³⁶ *ibid* 8.

¹³⁷ H Hendrick, _Constructions and Reconstructions of British Childhood: An interpretive survey, 1800 to present‘ in A Prout and A James (eds), *Constructing and Reconstructing Childhood: Contemporary issues in the sociological study of childhood* (Falmer Press 1990) 34.

¹³⁸ L Radzinowicz and R Hood, *A History of English Criminal Law and its Administration from 1750. Volume 5: The Emergence of Penal Policy* (Stevenson and Sons 1996) 133

¹³⁹ Hendrick (n137) 33.

¹⁴⁰ Hendrick (n137) 33.

¹⁴¹ Hendrick (n137) 44; H Hendrick, _Histories of Youth Crime and Justice‘ in B Goldson and J Muncie, *Youth Crime and Justice* (Sage 2006) 4.

¹⁴² Goldson (n134) 120; H Hendrick, *Child Welfare: Historical Dimensions, Contemporary Debate* (The Policy Press 2004); H Hendrick, _Histories of Youth Crime and Justice‘ in B Goldson and J Muncie, *Youth Crime and Justice* (Sage 2006) 4.

the Victorian philanthropists, as did the perceived increase in juvenile crime. Whether there was in fact an increase in juvenile crime is difficult to prove,¹⁴³ however, ‘the prevailing view was that society needed to protect children ... but it also needed protection from them.’¹⁴⁴ The ‘child saving’ movement was as much about saving children from the negative influence of adults and the dire social circumstances to which they were exposed as it was about saving society from children.

In advocating that the child should be treated as a child,¹⁴⁵ the Philanthropists had to resolve the notion of childhood innocence with the commonly held idea that the ‘factory child’ had ‘too detailed knowledge of the adult world and its pleasures.’¹⁴⁶ This was easily done by proposing that the child had to ‘unlearn’ adult behaviour and, through education, work and religious instruction, must be restored to the ‘true position of childhood.’¹⁴⁷ The need to save neglected children from dire social conditions and to reform children justified and legitimised the expansion of State control in the lives of both ‘deprived’ and ‘depraved’ children.¹⁴⁸ Whilst further reconstructions of childhood continued throughout the nineteenth and twentieth centuries,¹⁴⁹ the dual vision of children as either victims and/or threats continued to structure the conceptualisation of childhood.¹⁵⁰

¹⁴³ LW Fox, *The English Prison and Borstal System* (Routledge 1952) 98; P King, ‘The Rise of Juvenile Delinquency in England 1780-1840: Changing patterns of perception and prosecution’ (1998) 160 *Past and Present* 116, 155; H Shore, *Artful Dodgers: Youth and Crimes in the Early Nineteenth-Century London* (The Boydell Press 1999) 17.

¹⁴⁴ Goldson (n134) 122.

¹⁴⁵ Hendrick (n137) 44.

¹⁴⁶ Hendrick (n137) 42.

¹⁴⁷ M Carpenter, *Juvenile Delinquents: Their Conditions and Treatment* (first published 1853, Patterson Smith 1970) 298; L Radzinowicz and R Hood, *A History of English Criminal Law and its Administration from 1750. Volume 5: The Emergence of Penal Policy* (Stevens and Sons 1996) 298.

¹⁴⁸ R Harris and D Webb, *Welfare, Power and Juvenile Justice: The Social Control of Delinquent Youth* (Tavistock 1987) 7.

¹⁴⁹ Hendrick (n137); H Hendrick, ‘Histories of Youth Crime and Justice’ in B Goldson and J Muncie, *Youth Crime and Justice* (Sage 2006).

¹⁵⁰ H Hendrick, *Child Welfare: Historical Dimensions, Contemporary Debate* (The Policy Press 2004).

This conceptualisation of childhood has very practical consequences for children themselves,¹⁵¹ particularly for children who transgress the law. The juvenile delinquent is too easily conceptualised as a threat,¹⁵² as other,¹⁵³ as undeserving,¹⁵⁴ as a problematic and troublesome child, with the effect that it justifies interventions that seek to control and punish their criminal behaviour.¹⁵² They are explicitly denied and divorced from their status as a child.¹⁵³ This conceptual eviction¹⁵⁴ of juvenile offenders from the true state of childhood allows traditional images of childhood to be maintained whilst explaining why some children will commit crime. They are not seen as vulnerable children who need care and protection but as objects of concern¹⁵⁵ from whom society needs to be protected, justifying the assertion of power¹⁵⁶ and in particular, the State's power to punish. In the context of contemporary youth justice policy in England and Wales, the mantra that prison works,¹⁵⁷ accompanied by a desire for a tough¹⁵⁸ response to youth crime, has manifested itself in the adulteration of youth justice,¹⁵⁹ in institutionalised intolerance¹⁶⁰ and in a new punitiveness.¹⁶¹ This is

¹⁵¹ A James and C Jenks, 'Public Perceptions of Childhood Criminality' (1996) 47(2) *British Journal of Sociology* 315, 317.

¹⁵² Hendrick (n137) 34; C Jenks, *Childhood*, (Routledge 1996) 128; Hendrick (n150); H Hendrick, 'Histories of Youth Crime and Justice' in B Goldson and J Muncie (eds), *Youth Crime and Justice* (Sage 2006); B Goldson, 'Child Incarceration: Institutional Abuse, the Violent State and the Politics of Impunity' in P Scraton and J McCulloch (eds) *The Violence of Incarceration* (Routledge 2009) 96-7.

¹⁵³ C Jenks, *Childhood* (Routledge 1996) 128; B Goldson, 'Children in Trouble: State Responses to Juvenile Crime' in P Scraton (ed), *Childhood in „Crisis“?* (UCL 1997) 134; J Fionda, 'The Age of Innocence - the Concept of Childhood and the Punishment of Young Offenders' (1998) 10(1) *Child and Family Law Quarterly* 77, 84; B Goldson, 'New Punitiveness': The Politics of Child Incarceration' in J Muncie and others, *Youth Justice: Critical Readings* (Sage 2002) 392.

¹⁵⁴ A James and C Jenks, 'Public Perceptions of Childhood Criminality' (1996) 47(2) *British Journal of Sociology* 315, 319.

¹⁵⁵ H Davies and M Bourhill, 'The Demonization of Children and Young People' in P Scraton (ed), *„Childhood“ in „Crisis“?* (UCL 1997) 31.

¹⁵⁶ J Fionda, *Devils and Angels: Youth Policy and Crime* (Hart 2005) 29.

¹⁵⁷ Michael Howard, then Home Secretary, made this notorious statement in 1993 at a Conservative Party Conference. See B Goldson, 'Children in Trouble: State Responses to Juvenile Crime,' in P Scraton (ed), *Childhood in „Crisis“?* (UCL 1997) 130-131; J Muncie, 'Institutionalised Intolerance: Youth Justice and the Crime and Disorder Act' (1999) 19(2) *Critical Social Policy* 147, 148; J Pitts, *The New Politics of Youth Crime: Discipline or Solidarity?* (Palgrave 2001) 15.

¹⁵⁸ See for example, Home Office, *No More Excuses: A New Approach to Tackling Youth Crime in England and Wales* Cm 3809 (HMSO 1997).

¹⁵⁹ J Fionda, 'The Age of Innocence - the Concept of Childhood and the Punishment of Young Offenders' (1998) 10(1) *Child and Family Law Quarterly* 77, 84.

¹⁶⁰ J Muncie, 'Institutionalised Intolerance: Youth Justice and the Crime and Disorder Act' (1999) 19(2) *Critical Social Policy* 147.

not to say that the welfare of the child is disregarded entirely. However, it is secondary to the punishment of the child and the ‘rhetoric of welfare, protection and prevention’¹⁶² has served, particularly under the New Labour Government, to extend the net of control, drawing a younger and less problematic group of children into State control.¹⁶³ That said, the recent fall in the youth custody can be attributed, at least in part, to a reduction in the number of first-time entrants, which may be a product of the increased use of pre-court disposals by the police.¹⁶⁴ These informal measures do not necessarily reduce the number of children coming into contact with criminal justice agencies but, potentially, reduce the number formally processed by the youth justice system.

The conceptualisation of the juvenile offender as ‘other’ also produces an ‘indifference’¹⁶⁵ and ‘insensitivity’¹⁶⁶ to any harm or ill-treatment experienced by children in custody. Goldson argues that if child prisoners are conceptualised from the ‘strata of the “undeserving”’ then ‘the treatment and conditions to which they are exposed are more readily conceived as legitimate modes of corrective intervention.’¹⁶⁷ This, accompanied with the tendency to emphasise pathological constructions of the child prisoners, such as ‘failure to cope’ or ‘mental distress,’ serves to ‘obscure the physical, emotional and psychological violence intrinsic to child imprisonment.’¹⁶⁸ YOI governors are required to ensure that their functions are discharged *having regard* to the need to ‘safeguard and promote the welfare of

¹⁶¹ B Goldson, ‘New Punitiveness’: The Politics of Child Incarceration’ in J Muncie and others, *Youth Justice: Critical Readings* (Sage 2002).

¹⁶² Muncie (n160) 169.

¹⁶³ Muncie (n160).

¹⁶⁴ Allen (n58) 13-16.

¹⁶⁵ B Goldson, ‘Penal Custody: Intolerance, Irrationality and Indifference’ in B Goldson and J Muncie (eds) *Youth Crime and Justice* (Sage 2006) 146.

¹⁶⁶ B Goldson, ‘Child Incarceration: Institutional Abuse, the Violent State and the Politics of Impunity’ in P Scraton and J McCulloch (eds) *The Violence of Incarceration* (Routledge 2009) 97.

¹⁶⁷ *ibid* 96-97. Also see B Goldson, ‘Damage, Harm and Death in Child Prisons in England and Wales: Questions of Abuse and Accountability’ (2006) 45(5) *Howard Journal of Criminal Justice* 449.

¹⁶⁸ Goldson (n165) 97. Also see B Goldson, ‘Damage, Harm and Death in Child Prisons in England and Wales: Questions of Abuse and Accountability’ (2006) 45(5) *Howard Journal of Criminal Justice* 449

the child.¹⁶⁹ This is however a ‘weak duty’¹⁷⁰ and YOIs are heavily orientated towards security.¹⁷¹ The duality of ‘care’ or ‘control’ creates ‘conceptual ambiguity and operational difficulty’¹⁷² and ultimately, the care of children within the child prison estate is a secondary priority.¹⁷³

The children at the YOI studied in the empirical project presented here were described, and described themselves, as ‘young people’ rather than children.¹⁷⁴ Therefore, the presentation of children’s narratives within the empirical chapters reflects this. The decision to remain faithful to the terminology used within the YOI was a deliberate one and serves to illustrate the essential point that child prisoners appear to lose their status as children when they enter the prison environment. This thesis not only seeks to evaluate the extent to which YOIs can provide a ‘distinct,’ ‘child-centred’ prison regime for children, as envisaged by the YJB and MoJ,¹⁷⁵ it also examines whether child prisoners experience a ‘loss of childhood.’ In so doing, the thesis engages with the debate regarding the abolition of child imprisonment.

¹⁶⁹ Children Act 2004 section 11.

¹⁷⁰ K Hollingsworth, ‘Protecting the Rights at the Margins of Youth Justice in England and Wales: Intensive Fostering, Custody and Leaving Custody’ (2008) 8(3) *Youth Justice* 229, 241.

¹⁷¹ Her Majesty’s Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2006-07* (Stationery Office 2008) 48. Also see Her Majesty’s Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2007-08* (Stationery Office 2009) and Her Majesty’s Chief Inspector of Prisons, *Annual Report of Her Majesty’s Chief Inspector of Prisons 2008-09* (Stationery Office 2010).

¹⁷² B Goldson, ‘Child Imprisonment: A Case for Abolition’ (2005) 5(2) *Youth Justice* 77, 84.

¹⁷³ *ibid* 84; Her Majesty’s Chief Inspector of Prisons, *Annual Report of Her Majesty’s Chief Inspector of Prisons 2008-09* (Stationery Office 2010) 67.

¹⁷⁴ This was noted during the observation period but such terminology was used throughout the interviews with staff and children.

¹⁷⁵ YJB and MoJ, *Strategy for the Secure Estate for Children and Young People: Plans for 2011/12-2014/15* (YJB and MoJ 2012) para 24 <http://www.justice.gov.uk/downloads/consultations/consultation_-_secure_estate_strategy.pdf> accessed 27th October 2012; YJB and MoJ, *Developing the Secure Estate for Children and Young People in England and Wales: Plans until 2015* (YJB and MoJ 2012) <<http://yjbpublications.justice.gov.uk/en-gb/Scripts/prodView.asp?idproduct=502&eP=>> accessed 13th January 2013.

1.6 Outline and Focus of the Thesis

This thesis begins by setting out the framework which underpins the empirical analysis that follows. In order to understand and evaluate the experience of imprisonment, it is important to establish why custodial institutions for children, and more specifically YOIs, are regarded as necessary. Chapter 2 identifies and evaluates the ‘swings and roundabouts’ in youth justice policy. In so doing, the chapter explores how the use of juvenile penal custody features within these broader policy shifts and why the deprivation of liberty has remained an embedded feature of youth justice policy. It will be argued that the deprivation of child’s liberty serves to express the ‘power to punish’ children who are regarded as a ‘threat’ to society. It is this symbolism that is particularly potent, not only in adult penal context,¹⁷⁶ but also in the context of youth crime where the deprivation of liberty serves to express the power and might of the State.

Chapter 3 analyses the established literature concerning the lived experience of prisoners. Since much of the prison ethnographic literature is concerned with the experiences of adult prisoners, Chapter 3 foregrounds the empirical chapters by setting out the key ideas and themes expressed in the established literature. It will argue that the prison is a coercive institution and has many of the hallmarks of a ‘total institution.’ However, within that institution, prison officers do not have ‘total power’ but are involved in the ongoing negotiation of power with prisoners who may seek to resist the demands of penal power in

¹⁷⁶ M Foucault, *Discipline and Punish: The Birth of the Prison* (Penguin Books 1977); N Rose, ‘Government and Control’ (2000) 40 *British Journal of Criminology* 321; J Pratt, ‘Emotive and Ostentatious Punishment: Its decline and resurgence in modern society’ (2000) 2(4) *Punishment and Society* 417; J Simon, ‘The “Society of Captives” in the Era of Hyper-Incarceration’ (2000) 4(3) *Theoretical Criminology* 285; D Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Oxford University Press 2001); I Loader, ‘Ice Cream and Incarceration: On appetites for security and punishment’ (2009) 11(2) *Punishment and Society* 241.

order to express and accomplish agency and identity. That said, prison life is depriving and frustrating and for many, the principal challenge is to survive and do your time.¹⁷⁷

Chapter 4 sets out a reflective account of the methodological approach employed during the empirical research project. Such considerations require careful attention because the chosen methodological approach will influence the validity and reliability of the conclusions drawn and the research findings upon which such conclusions are based.¹⁷⁸ Chapter 4 will address the choices made and the rationales behind them. It contextualises the empirical analysis by providing an overview of the YOI studied and discusses the rewards and challenges of conducting empirical research in the prison environment.

During the empirical research, the topics of surviving imprisonment, victimisation and good order and discipline were identified as three crucial features of the lived experience of imprisonment. Chapter 5, *You have to make yourself look big*, is the first of the empirical chapters and addresses the first key themes: surviving imprisonment. It explores their initial transition into the custodial institution and the strategies employed to adjust to and handle prison life. It will be argued that whilst some young people were more successful in managing and surviving a prison term, life within a YOI was invariably difficult, burdensome and painful.

Whilst young people expressed the challenges faced, they also spoke of the necessity of a tough identity, one that rested on their capacity and strength to mete out physical violence when required. Chapter 6, *It's All Beefs and Everyone's in a Struggle*, examines

¹⁷⁷ S Cohen and L Taylor, *Psychological Survival: The experience of long term imprisonment* (2nd Edn, Penguin Books Ltd 1981) 100; RS Jones and TJ Schmid, *Doing Time: Prison Experience and Identity among First Time Inmates* (Jail Press 2000); E Carrabine, *Power, Discourse and Resistance: A Genealogy of the Strangeways Prison Riot* (Ashgate 2004) 180.

¹⁷⁸ V Jupp, *Methods of Criminological Research* (Unwin Hyman 1989) 4.

the nature, prevalence and purposes of violence and victimisation within the YOI, addressing the second key theme. It focuses on how young people constructed their engagement in such behaviour. It will be argued that interpersonal violence and victimisation is a routine aspect of prison life and was seen as a key survival strategy.

Chapter 7, *'We're Criminals Wearing Green ... They've got a Set of Keys,'* explores the children's perceptions of power and their relationships with prison staff. It analyses how power was used by staff to maintain social order and the extent to which children sought to comply or resist the demands of penal power. Like adults,¹⁷⁹ children experienced the imprisonment as *'heavy'* and *'tight.'* The *'tightness of imprisonment'* reflected the strict approach to institutional conduct, the use of adult forms of control, the preference for formal rather than informal responses to misbehaviour and the use of staff-young person relationships as a form of control.

Chapter 8 concludes the thesis by summarising the key arguments and making the case for the abolition of child imprisonment. Ultimately, it is the stark similarity between the experience of adult and child prisoners which powerfully illustrates the reality that attempts to create a distinct juvenile secure estate can only stretch so far as long as children remain in YOIs. YOIs are susceptible to all the worst features of the prison experience, problems which have a far greater impact on the young. Where important differences do exist between the experience of adult and child prisoners, these distinctions serve to further the argument that child imprisonment is inappropriate.

¹⁷⁹ RD King and K McDermott, *The State of Our Prisons* (Clarendon Press 1995); B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009).

It is important to establish from the outset the intended scope of this thesis. First, the thesis focuses on the experience of boys in YOIs. The female juvenile prison population has always been far smaller than the male population, and because of this, the arrangements for their accommodation have historically been very different from the male child prison estate.¹⁸⁰ Therefore, it is possible that there will be topics of interest to girls in YOIs that will not be relevant to boys and/or girls might respond differently to the challenges of life in penal custody.¹⁸¹ Second, the thesis does not, and cannot, contrast the particular adaptations of children in custody with those in other institutions, such as boarding schools or mental health institutions. Whilst it is clear that some similarities may in fact exist, particularly in relation to the nature and prevalence of victimising behaviour, such analysis is beyond the scope of this study.

Throughout, this thesis develops an analysis of the particular conflict experienced by child prisoners who are *‘growing up’* and *‘doing time’* inside. Young people distinguished between *‘boys’* and *‘men’*,¹⁸¹ presenting particular constructions of childhood and adulthood. Young people seemed conflicted in terms of their position along this continuum of development, a conflict which was born out in the dialogue concerning their experience of imprisonment. Prison staff also experienced difficulties reconciling the conflict between childhood and adulthood, diverting from recognising the inherent vulnerabilities of young

¹⁸⁰ Until recently, female child prisoners were considered too few in number to justify their accommodation within specialised YOI units and were often held alongside adults. See HMIP, *Girls in Prison: The Education and Training of Under-18s serving Detention and Training Orders* (HMIP 2004). This was remedied in 2005 with the creation of new units specifically for 17 year old girls. See Her Majesty’s Chief Inspector of Prisons, *Annual Report of the Chief Inspector of Prisons 2005-2006* (Stationery Office 2006) 42; Her Majesty’s Chief Inspector of Prisons, *Annual Report of the Chief Inspector of Prisons 2006-2007* (Stationery Office 2007).

¹⁸¹ For example, girls appear to react slightly differently to the use of physical restraint than boys of a similar age. See R Morgan, *Children’s Views on Restraint* (Commission for Social Care Inspections, 2005). The disparity may well be unique to the experience of physical restraint. However, other studies also suggest that there is a gendered dimension to the experience of imprisonment. See, N Douglas and E Plugge, *A Health Needs Assessment of Young Women in Young Offender Institutions* (YJB 2006) for a study of health needs specific to girls in YOIs. In light of the fact there are also differences between adult male and female prisoners (see for example, M Bosworth, *Engendering Resistance: Agency and Power in Women’s Prisons* (Ashgate 1998) and C Kruttschnitt and R Gartner, *Marking Time in the Golden State: Women’s Imprisonment in California* (Cambridge University Press 2005)) such a disparity would not be unexpected.

people to demanding that they act, behave and respond like adults. Essentially, the
responsibilisation¹⁸² of children continues within the prison environment.

¹⁸² J Muncie, 'Governing young people: Coherence and contradiction in contemporary youth justice' (2006) 26(4) *Critical Social Policy* 770.

CHAPTER 2

‘SWINGS AND ROUNDABOUTS’: THE EVOLUTION OF YOUTH JUSTICE POLICY AND PENAL CUSTODY

2.1 Introduction

The Victorian period was one of great penal change in which penal policy and the criminal justice apparatus were re-examined, causing a shift from ‘corporal’ to ‘carceral’ punishment.¹ Imprisonment, which had typically been viewed as ‘secondary punishment’,² emerged from the Victorian period as the ‘penalty *par excellence*’.³ The State’s power to punish was no longer manifested in the body of the condemned but, as Foucault describes, the ‘monotonous figure’ of the Prison became ‘at once material and symbolic, of the power to punish.’⁴ Prior to the nineteenth century, there was little recognition of the position of juvenile offenders as ‘children’ rather than as ‘small adults.’ Increasingly, the notion of childhood as a distinct social category began to emerge, which led to the construction of the ‘juvenile delinquent.’ This encouraged the creation of distinct juvenile custodial institutions and enshrined the importance of welfare considerations, at least in principle. By 1908, the ‘juvenile delinquent’ was formally recognised as a discreet legal category, worthy of differential treatment on the basis of age and immaturity. Since this time, youth justice policy has witnessed several

¹ M Cavadino and J Dignan, *The Penal System* (Sage 2007) 7. See LW Fox, *The Modern English Prison* (Routledge 1934); M Foucault, *Discipline and Punish: The Birth of the Prison* (Penguin Books 1977); M Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750 - 1850* (Macmillan 1978); C Harding and others, *Imprisonment in England and Wales: A Concise History* (Croom Helm 1985); L Radzinowicz and R Hood, *A History of English Criminal Law and its Administration from 1750. Volume 5: The Emergence of Penal Policy* (Stevenson and Sons 1996); J Pratt, *Punishment and Civilisation: Penal Tolerance and Intolerance in Modern Society* (Sage 2002) for a detailed analysis of these changes.

² *Report from Select Committee on Secondary Punishments* (HMSO 1832).

³ M Foucault, *Discipline and Punish: The Birth of the Prison* (Penguin Books 1977) 231.

⁴ *ibid* 116.

‘swings and roundabouts’ in youth justice policy and various carceral experiments for the young (including both juvenile and young adult offenders).⁵

The purpose of this chapter is to position YOIs, and the underlying rationale for their use, within a historical context. It seeks to critically assess how the various ‘swings and roundabouts’ in youth justice policy have influenced new carceral experiments for children. It assesses how the conceptualisation of children as either ‘deprived’/‘victim’ (in need of care or welfare) or ‘depraved’/‘threat’ (in need of punishment and control) influenced youth justice policy and served to expand State control. In so doing, it foregrounds the chapters that follow which explore the extent to which the YOI studied succeeded in caring for, rather than controlling, child prisoners.

The chapter begins by exploring the events, influences and actors that inspired a move towards the creation of separate and distinct juvenile custodial institutions. It evaluates the development of two distinct Victorian ‘prototypes’,⁶ Parkhurst Prison and the Reformatory and Industrial Schools. The chapter then assesses the relationship between youth justice policy and new custodial disposals throughout the twentieth century. Finally, the chapter analyses the lessons that can be learned from the evolution of youth justice policy in respect of juvenile penal custody. It is argued that there have been persistent problems creating custodial regimes for the young. The trend towards carceral experiments for children has not

⁵ The term ‘young adult offender’ did not feature in penal terminology until the latter end of the nineteenth century following the report of the Gladstone Committee and the subsequent creation of ‘Borstal’ (see below for further discussion). Although some forms of custodial disposal or specific form of institutionalisation were available for both young adults and juveniles, often young adults were held in separate facilities to juvenile offenders. Due to the relatively small size of the female custodial population, girls have often been in a more precarious position and have not entirely been isolated from young adults (see below for further discussion). The definitions of ‘juvenile’ and ‘young adult’ have varied, however, ‘juvenile’ is now understood to refer to 10-17 year olds whilst the term ‘young adult’ refers to 18-21 year olds. However, this has not always been the case (see below).

⁶ J Carlebach, *Caring for children in trouble* (Routledge, Kegan and Paul 1970) 4.

created a principled approach to juvenile incarceration. Rather, such institutions frequently drift towards the control rather than care of children.

2.2 The ‘Child Saving’ Movement⁷

During the eighteenth and early nineteenth century, children experienced a very short period of childhood⁸ and were perceived to be independent and criminally responsible at the age of seven. They were treated as ‘small adults,’ capable of wilful action. Children aged 7-14 years were held to be *doli incapax*⁹ unless it could be proved that they had acted with malice. Such proof was frequently forthcoming, even for the vast numbers of crimes carrying the death penalty.¹⁰ Juvenile offenders were not afforded any special treatment and were imprisoned, transported and executed alongside adult offenders; punishment was graded only by statute and judicial precedent according to the magnitude of the offence.¹¹ Such severe sentences were available for seemingly trivial offences and were utilised to punish even very young offenders.¹² May observes ‘[a]ge by itself gave no right to special treatment and children were tried with the full publicity and formality of the judge and jury and magistrate.’¹³ It was perceived that to do otherwise, merely on account of age, would have weakened the deterrent effects of the law.¹⁴ In the gaols and Houses of Corrections there was no separation of offenders and little or no separation of the sexes. Young children were routinely exposed to

⁷ See A Platt, *The Child Savers: The Invention of Juvenile Delinquency* (University of Chicago Press 1969); I Pinchbeck and M Hewitt, *Children in English Society. Volume 2: From the Eighteenth Century to the Children Act 1948* (Routledge and Kegan Paul 1973) and L Radzinowicz and R Hood, *A History of English Criminal Law and its Administration from 1750. Volume 5: The Emergence of Penal Policy* (Stevenson and Sons 1996) for references to this movement.

⁸ See P Aries, *Centuries of Childhood* (Jonathan Cape 1962) 411.

⁹ *Doli incapax* means incapable of evil. A child who is *doli incapax* is presumed to be unable to distinguish good and evil and therefore lacked the capacity to commit crime.

¹⁰ L Radzinowicz and R Hood, *A History of English Criminal Law and its Administration from 1750. Volume 5: The Emergence of Penal Policy* (Stevenson and Sons 1996)133.

¹¹ M May, ‘Innocence and Experience; the evolution of the concept of juvenile delinquency in the mid-nineteenth century’ (1973) 17(1) *Victorian Studies* 8, 9.

¹² See I Pinchbeck and M Hewitt, *Children in English Society. Volume 2: From the Eighteenth Century to the Children Act 1948* (Routledge and Kegan Paul 1973) 352.

¹³ May (n11) 9.

¹⁴ A Morris and M McIsaac, *Juvenile Justice?: The Practice of Social Welfare* (Heinemann 1978) 1.

the corrupting influences of their adult counterparts. The subsequent drive to segregate children represented the culmination of several factors: prison reform and altered attitudes towards the ‘correction’ of offenders; charitable institutions for ‘deprived’ and ‘depraved’ children; a growing recognition of the concept of childhood and the ‘reconstruction’¹⁵ or ‘redefinition’¹⁶ of the ‘juvenile delinquent’; and, the ‘reformatory’ movement.¹⁷

Historically, the punishment of convicts primarily relied upon the ceremonial, visible and public infliction of physical pain upon the body.¹⁸ However, eighteenth century observers began to doubt the efficacy of public hanging as a deterrent.¹⁹ Penal reformers became increasingly concerned with the ‘state of the prisons’ and sought to restore the ‘long forgotten notion that the House of Correction should correct.’²⁰ Prison reform, however, was slow to appear. Initial progress began with Sir Robert Peel’s Gaols Acts of 1823 and 1824, which attempted to separate certain offenders, abolish gambling and the sale of liquor in prisons and provide for separate beds for each prisoner.²¹ These provisions were not enforced until the appointment of Prison Inspectors in 1835.²² The legislation made no special mention of children although informal attempts were made to separate certain groups of offenders, such as women and children.²³ Gradually, as noted below, there was a growing sensitivity to the

¹⁵ H Hendrick, ‘Constructions and Reconstructions of British Childhood: An interpretive survey, 1800 to present’ in A Prout and A James (eds), *Constructing and Reconstructing Childhood: Contemporary issues in the sociological study of childhood* (Falmer Press 1990) 41.

¹⁶ May (n11) 8.

¹⁷ Radzinowicz and Hood (n10) 137.

¹⁸ Committee of the Society for the Improvement of Prison Discipline, *Report from Select Committee on Secondary Punishments* (House of Commons 1833). Also see LW Fox, *The Modern English Prison* (Routledge 1934); M Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750 - 1850* (Macmillan 1978).

¹⁹ M Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750 - 1850* (Macmillan 1978) 23, 90.

²⁰ See LW Fox, *The Modern English Prison* (Routledge 1934) 5; John Howard, *The State of the Prisons* (first printed in 1777, Abingdon 1977); Ignatieff (n19).

²¹ Radzinowicz and Hood (n10) 145.

²² Radzinowicz and Hood (n10) 145-46; LW Fox, *The English Prison and Borstal System* (Routledge 1952) 35.

²³ Radzinowicz and Hood (n10) 145; *The Times*, (20th October 1845).

continued presence of children within the gaols and Houses of Correction, which in turn motivated reform.

Against this background, in 1756, the Marine Society established a school for deserted children and children with criminal parents, to cleanse, clothe and feed them before sending them to sea.²⁴ However, it was the Philanthropic Society, founded in 1788, that truly pioneered the idea of providing charitable institutional care for ‘deprived’ and ‘depraved’ children with the aim of releasing them as useful members of society.²⁵ From humble beginnings in a small house, the Philanthropic Society grew and established the first institution, known as the ‘Asylum,’ for convicted children and the offspring of felons.²⁶ The ‘Asylum,’ was divided into three: the Reform for the ‘delinquent’ boys, the Manufactory for the ‘deprived’ boys and the training school for girls.²⁷ Vast numbers of children began to enter the institution.²⁸ The Philanthropic institution soon experienced difficulties with staff, finances, ill-discipline and absconding.²⁹ Despite these setbacks, the efforts of the Philanthropic Society to provide institutional care for the ‘perishing classes’ stimulated the reformatory movement and the first investigation into the causes of juvenile delinquency.

The 1815 Committee for Investigating the Causes of the Alarming Increase in Juvenile Delinquency identified the causes of juvenile delinquency as the improper conduct of parents, a want of education, a want of suitable employment, the violation of the Sabbath,

²⁴ Radzinowicz and Hood (n10) 133-34.

²⁵ Pinchbeck and Hewitt (n12) 419.

²⁶ Carlebach (n6) 7 This was recognised by the passing of the *Act for Establishing and Well Governing the Charitable Institution commonly called the Philanthropic Society* by Parliament in 1806.

²⁷ H Shore, *Artful Dodgers: Youth and Crimes in the Early Nineteenth-Century London* (The Boydell Press 1999) 6; H Shore, ‘Reforming the juvenile: Gender, justice and the child criminal in nineteenth-century England’ in J Muncie and others (eds), *Youth Justice: Critical Readings* (Sage 2002) 163.

²⁸ See Carlebach (n6) 6-25.

²⁹ Carlebach (n6) 7-8, 10.

gambling and the severity of the criminal code.³⁰ This was an important statement. On the one hand, juvenile crime was perceived to be the product of the familial, social and economic conditions to which children were exposed. On the other hand, there was a noticeable ‘moral dimension’ to the discourse regarding juvenile crime and the roots of social disorder which were critically tied to the ‘family, working and moral life of the poorer classes.’³¹ It was the children of the poor who were seen to pose the greatest threat to the social order.³² The ‘moral destitution’³³ associated with childhood deprivation and neglect contributed to the notion that delinquent children, as well as *potentially* criminal children, should be reformed.³⁴ Thus, children were conceptualised as both a victim and a threat.³⁵ These emerging ideas about juvenile delinquency became an important antecedent in acknowledging the need for separate institutions and treatment on the basis of age and immaturity.

In 1823, somewhat inept attempts were made to segregate imprisoned children with the use of Prison Hulks; HMS Bellerophon and Euryalus. This did not represent a move to introduce a different custodial regime for children but was part of a more general move to classify the prison population.³⁶ Incarceration within the Hulks was reserved for those children who were sentenced to transportation but many children spent several years on the ships and most never left the country.³⁷ The conditions in the hulks were hardly, if at all, less

³⁰ *Report of the Committee for Investigating the Causes of the Alarming Increase in Juvenile Delinquency in the Metropolis* (printed by JF Dove 1816) 11-12.

³¹ J Muncie, *Youth and Crime* (3rd Edn, Sage 2009) 58.

³² H Hendrick, ‘Histories of Youth Crime and Justice’ in B Goldson and J Muncie (eds), *Youth Crime and Justice: Critical Issues* (Sage 2006) 4-6. Also see H Shore, *Artful Dodgers: Youth and Crimes in the Early Nineteenth-Century London* (The Boydell Press 1999) 1.

³³ May (n11) 22.

³⁴ Also see Chapter 1, 19-24.

³⁵ H Hendrick, ‘Histories of Youth Crime and Justice’ in B Goldson and J Muncie (eds), *Youth Crime and Justice: Critical Issues* (Sage 2006) 5. Also see Chapter 1, 19-23.

³⁶ May (n11) 10.

³⁷ Radzinowicz and Hood (n10)142.

oppressive than conditions within the prisons and were seen as a hotbed for vice.³⁸ Overcrowding meant that silence and separation were virtually impossible and, therefore, it was perceived that the essential characteristics of punishment had been deprived.³⁹ In 1835, concerns about the Hulks led to recommendations that their use with children should be abandoned with the least possible delay.⁴⁰ On several occasions, the Society of Prison Discipline had proposed the use of a specific site for the imprisonment of children to no avail.⁴¹ However, the fact that the Hulks had been irrevocably condemned inspired interest in such a venture.⁴² Whilst not insensitive to the concerns of the philanthropic reformers, there was an overriding belief amongst the Prison Commissioners that only the State could provide the necessary means to correct children in the form of a new regime at Parkhurst Prison.⁴³

Established in 1838, Parkhurst Prison was the first state establishment for juvenile offenders. In the preamble to the Parkhurst Act 1838, it was simply described as a prison in which young offenders may be detained and corrected and may receive such instruction and be subject to such discipline as shall appear most conducive to their reformation and the repression of crime.⁴⁴ Regulations specified that the new prison was to be stern in its aspect and penal in its character and that boys should be instructed in the manner best calculated to render them efficient labourers in the colonies to which they may be sent.⁴⁵ Little indication was given as to how such regulations might be implemented or how a prison regime might be

³⁸ *Third Report from the Select Committee appointed to Inquire into the Present State of the Several Gaols and Houses of Corrections in England and Wales; with minutes of evidence and appendix* (HMSO 1835).

³⁹ *ibid* 4.

⁴⁰ *Third Report*, 1835 (n38) v.

⁴¹ See Radzinowicz and Hood (n10) 147.

⁴² In 1835, a Select Committee enquired whether the means might be found in some unoccupied barracks or fort of providing the satisfactory punishment and reformation of juvenile offenders. See *Third Report from the Select Committee appointed to Inquire into the Present State of the Several Gaols and Houses of Corrections in England and Wales together with minutes of evidence and appendix* (HMSO 1835) 42. In 1837, William and Russell proposed plans for a new building following the conclusion that existing facilities could not be adapted. See *Reports to the Secretary of State for the Home Department relating to the Plans for a Prison for Juvenile Offenders* (HMSO 1837).

⁴³ *Third Report of the Inspectors of Prisoners of Great Britain (Home Report)* (HMSO 1838) 107.

⁴⁴ Parkhurst Act 1838 Section 1

⁴⁵ *First report of the Inspectors of Prisons of Great Britain (Home District)* (HMSO 1836) 96.

constructed for children.⁴⁶ As the first experiment of its kind, little information could be gleaned from the experience of the gaols, nor that of the early philanthropic institutions whose population and reception procedures were considered to be widely different.⁴⁷ The task of creating a suitable prison regime for children was approached in a somewhat experimental manner.⁴⁸ The significance of the project was not just that children were segregated from adult prisoners, as had been the case with the Hulks, but the official recognition that regard should be given to the reformation of the criminal child. Few statutory restrictions existed to limit the use of Parkhurst⁴⁹ but, in practice, Parkhurst was initially reserved for young children⁵⁰ who were sentenced to transportation.⁵¹ Enthusiasm for this new custodial disposal was such that children were being sentenced to seven years transportation simply to ensure their consignment to Parkhurst.⁵² This popularity, and the subsequent rise in the prison population,⁵³ stimulated the construction of new buildings and the employment of additional staff.⁵⁴

⁴⁶ The first governor of Parkhurst, Robert Woolcombe, wrote that no specific instructions for carrying on the several details of duty and discipline in the Prison have been furnished upon me. See *Reports relating to Parkhurst Prison* (HMSO 1839) 3.

⁴⁷ *Reports relating to Parkhurst Prison* (HMSO 1839) 1.

⁴⁸ Robert Woolcombe, the first governor of Parkhurst, acknowledged that his plans for Parkhurst were experimental and conducted with a view that a suitable system might be developed and established. See *Reports, 1839* (n47) 1.

⁴⁹ Admission to Parkhurst Prison was not restricted by age, sex or criminal history.

⁵⁰ Initially, Parkhurst was reserved for 10-14 year old children. *Reports relating to Parkhurst Prison* (HMSO 1840) 7. Note that there have been some discrepancies between the child's actual age and stated age in the absence of birth certificates to verify such. See *Reports relating to Parkhurst Prison* (HMSO 1839).

⁵¹ See Minutes of Evidence given by Captain W.J. Williams in the *Report of the Select Committee on Criminal and Destitute Juveniles, together with proceedings of the Committee, Minutes of Evidence and Index* (HMSO 1852) 2.

⁵² See Minutes of Evidence given by T. Paynter in the *Report of the Select Committee on Criminal and Destitute Juveniles, together with proceedings of the Committee, Minutes of Evidence and Index* (HMSO 1852) 80.

⁵³ The number of juvenile offenders held at Parkhurst rapidly increased from 102 offenders in 1839 to 302 in 1841. See *Reports relating to Parkhurst Prison* (HMSO 1839); *Reports relating to Parkhurst Prison* (HMSO 1842).

⁵⁴ *Reports relating to Parkhurst Prison* (HMSO 1843) 3, 9-10.

Parkhurst remained decidedly a prison.⁵⁵ It developed with the view that there should be nothing of a tendency to weaken the terror of the law, or to lessen in the minds of the juvenile population at large (or of their parents) the dread of being committed to Prison.⁵⁶ There remained an overriding belief that imprisonment should scare children and deter them from future spells of criminal behaviour. Penal discipline at Parkhurst initially consisted of a diet reduced to a minimum, the mandatory wearing of leg irons and prison dress, the enforcement of silence and uninterrupted surveillance by officers,⁵⁷ again reflecting early ideas about the importance of silence and separation for the correction of prisoners.⁵⁸ Children were tasked with regular drill, marching, exercise, religious instruction, schooling and trade instruction.⁵⁹ Children who proved to be incorrigible⁶⁰ were removed from Parkhurst and either transported abroad or transferred to an adult prison.⁶⁰ Over time, the regime was modified: abolishing the use of leg irons,⁶¹ improving the diet,⁶² relaxing the daily regime,⁶³ reducing the amount of schooling but increasing the number of available trades,⁶⁴ abolishing the experiment of mandatory period of solitary confinement upon entry,⁶⁵ introducing wards⁶⁶ and a classification system.⁶⁷ These improvements did little to

⁵⁵ See Minutes of Evidence given by G. Hall (Governor of Parkhurst Prison) in the *Report of the Select Committee on Criminal and Destitute Juveniles, together with proceedings of the Committee, Minutes of Evidence and Index* (HMSO 1852) 278. Also note that those children held at Parkhurst were known as prisoners. See for example, *Reports*, 1839, (n47) 3.

⁵⁶ *Reports*, 1839 (n47) 1.

⁵⁷ *Reports relating to Parkhurst Prison* (HMSO 1840) 4.

⁵⁸ Such ideas were initially produced by Howard and Bentham's models and the American models of correction provided at Albany and Philadelphia. This penal ideology was reflected in several Select Committee reports of the early to mid-nineteenth century. See *Third Report from the Select Committee appointed to Inquire into the Present State of the Several Gaols and Houses of Corrections in England and Wales together with minutes of evidence and appendix* (HMSO 1835); *Second Report of the Select Committee of the House of Lords appointed to inquire into the Execution of the Criminal Law especially respecting Juvenile Offenders and Transportation together with minutes of evidence and appendix* (HMSO 1847); *Report from the Select Committee on Prison Discipline together with minutes of evidence and appendix* (HMSO 1850).

⁵⁹ *Reports*, 1839 (n47) 4.

⁶⁰ *Reports relating to Parkhurst Prison* (HMSO 1841) 4; *Reports relating to Parkhurst Prison* (HMSO 1843) 4.

⁶¹ *Reports relating to Parkhurst Prison* (HMSO 1841) 4, 10.

⁶² *Reports relating to Parkhurst Prison* (HMSO 1844) 5-6.

⁶³ *ibid* 5-6.

⁶⁴ *Reports relating to Parkhurst Prison* (HMSO 1845); *Reports relating to Parkhurst Prison* (HMSO 1850).

⁶⁵ *Directors of the Convict Prisons; Reports relating to Pentonville, Parkhurst, Millbank, Portland, Portsmouth, and Dartmoor Prisons and Hulks* (HMSO 1852) 48. Also see *Reports relating to Parkhurst Prison* (HMSO 1841) 4.

move Parkhurst away from the punitive regime it embraced or to reduce problems of disorder within the prison.

The later years of Parkhurst were characterised by significant difficulties. Complaints about a small number of ‘irritable, unruly and ill disposed boys’⁶⁸ became a constant theme of the annual reports.⁶⁹ During the 1850s, a series of policy changes acted to shift Parkhurst to a position from which it was difficult to recover. Younger children were increasingly diverted from Parkhurst to the Philanthropic institutions and the average age of the Parkhurst population rose to 19 years, causing concern.⁷⁰ The cessation of transportation in 1853 meant that prisoners at Parkhurst were restless and alternative arrangements for releasing them on license were required.⁷¹ As the use of penal servitude began to diminish, a policy change occurred whereby juvenile offenders aged 12-16 years who were sentenced to a short period of imprisonment⁷² could be sent to Parkhurst. This produced further unease⁷³ and Parkhurst’s governor claimed that he was now receiving prisoners who brought with them bad characters, had been repeatedly imprisoned and had previously shown themselves to be disorderly and vicious.⁷⁴ The keen sense of disappointment was tangible. By this time Parkhurst amounted to no more than a prison for young people⁷⁵ and the remaining years of its existence were characterised by a loss of faith in its future and declining numbers. In 1864, the Parkhurst

⁶⁶ *Reports*, 1844 (n62) 5-6.

⁶⁷ *Reports*, 1841 (n61) 4-5.

⁶⁸ *Reports relating to Parkhurst Prison* (HMSO 1851) 6.

⁶⁹ *ibid* 6; *Directors of the Convict Prisons; Reports relating to Pentonville, Parkhurst, Millbank, Portland, Portsmouth, and Dartmoor Prisons and Hulks* (HMSO 1852) 58; *Reports relating to Parkhurst Prison* (HMSO 1845) 4.

⁷⁰ *Reports relating to Parkhurst Prison* (HMSO 1850) 9.

⁷¹ *Directors of the Convict Prisons; Reports relating to Pentonville, Parkhurst, Millbank, Portland, Portsmouth, and Dartmoor Prisons and Hulks* (HMSO 1853 - 1855).

⁷² Short imprisonment describes sentences of imprisonment for no longer than twelve months.

⁷³ The governor was concerned that the management of Parkhurst should not suffer in public estimation in the event of short sentenced prisoners relapsing into crime *Directors of the Convict Prisons; Reports relating to Pentonville, Parkhurst, Millbank, Portland, Portsmouth, and Dartmoor Prisons and Hulk* (HMSO 1856) 92.

⁷⁴ *Directors of the Convict Prisons; Reports relating to Pentonville, Parkhurst, Millbank, Portland, Portsmouth, and Dartmoor Prisons and Hulks* (HMSO 1856) 97-98.

⁷⁵ Radzinowicz and Hood (n10) 154.

experiment ended.⁷⁶ The closure of Parkhurst did not lead to the abandonment of juvenile specific institutions; paradoxically, it was the very indictment of Parkhurst which provided a powerful stimulus to start afresh.⁷⁷ Initially, it was the Philanthropic institutions that were able to provide the answer sought.

Throughout the lifespan of Parkhurst, the Philanthropists continued to provide institutional care for the deprived and depraved children on an informal, charitable basis.⁷⁸ Continued prison reform exposed the peculiar problem of the juvenile offender, which became unpalatable to a new generation of prison administrators.⁷⁹ Poor recidivism rates were increasingly seen as a product of the corruption of the young.⁸⁰ This failure was first ascribed to the aspects of the individual prison administration but later led to condemnation of the policy of imprisoning children.⁸¹ This discontent led to calls for a reformatory asylum⁸² but this recommendation remained speculative, much to the dismay of Philanthropist Mary Carpenter.⁸³

⁷⁶ See reports *Directors of the Convict Prisons; Reports relating to Pentonville, Parkhurst, Millbank, Portland, Portsmouth, and Dartmoor Prisons and Hulks* (HMSO 1862); *Directors of the Convict Prisons; Reports relating to Pentonville, Parkhurst, Millbank, Portland, Portsmouth, and Dartmoor Prisons and Hulks* (HMSO 1863) 98; *Directors of the Convict Prisons; Reports relating to Pentonville, Parkhurst, Millbank, Portland, Portsmouth, and Dartmoor Prisons and Hulks* (HMSO 1864) 85; Carlebach (n6) 36.

⁷⁷ Radzinowicz and Hood (n10) 155.

⁷⁸ Section 11 of the Parkhurst Act 1838 permitted the conditional pardon of juvenile offenders sentenced to transportation and subsequent placement under the care of a charitable institution for the reception and reformation of young offenders. This power was exercised extensively. See Minutes of Evidence given by Captain W.J. Williams in the *Report of the Select Committee on Criminal and Destitute Juveniles, together with proceedings of the Committee, Minutes of Evidence and Index*, (HMSO 1852) 2.

⁷⁹ May (n11) 11.

⁸⁰ May (n11) 12.

⁸¹ May (n11) 12.

⁸² *Second Report of the Select Committee of the House of Lords appointed to inquire into the Execution of the Criminal Law especially respecting Juvenile Offenders and Transportation together with minutes of evidence and appendix* (HMSO 1847) 5-6.

⁸³ Carlebach (n6) 47.

Carpenter was especially critical of Parkhurst Prison, concluding that the prison was useless, costly, inefficient and damaging.⁸⁴ She suggested that even the best prison school was powerless to reform. Rather than advocating the removal of children from all institutions, she advocated the introduction of various schools for the ‘perishing’ (the deprived) and ‘dangerous’ (the depraved) classes.⁸⁵ This ‘echo[ed]’ the Philanthropic Society ‘rhetoric of provision for the ‘deserving’ and ‘undeserving’ poor.’⁸⁶ For the perishing classes, the fear was that such children would fall into crime ‘if a helping hand be not extended to raise them.’⁸⁷ Such children were seen as posing a risk to both themselves and society.⁸⁸ The children of the ‘dangerous classes,’ who had drifted into criminal behaviour, were identified as ‘enemies’ of society in need of ‘sound religious, moral and industrial training.’⁸⁹ However, Carpenter believed that childhood criminality sprang from parental neglect⁹⁰ and, in turn, the response should focus on the ‘reformation’ of the child.

Carpenter’s zeal and persistence, and that of fellow Philanthropists such as Matthew Davenport Hill,⁹¹ led to the enactment of the Youthful Offenders Act 1854,⁹² which sanctioned reformatory schools. The later Industrial Schools Act 1857 formally authorised the use of industrial schools for ‘deprived’ children.⁹³ Reformatories and industrial schools remained under voluntary management but were now given the legal authority to detain their

⁸⁴ M Carpenter, *Reformatory Schools for Children of the Perishing and Dangerous Classes and for Juvenile Offenders* (first published 1851, Patterson Smith 1970) 39.

⁸⁵ *ibid*; M Carpenter, *Juvenile Delinquents: Their Conditions and Treatment* (first published 1853, Patterson Smith 1970).

⁸⁶ H Shore, *Artful Dodgers: Youth and Crimes in the Early Nineteenth-Century London* (The Boydell Press 1999) 7.

⁸⁷ Carpenter (84) 2.

⁸⁸ H Hendrick, *Child Welfare: England 1872 - 1989* (Routledge 1994) 9.

⁸⁹ Carpenter (84) vi, 388.

⁹⁰ Carpenter (84) 388.

⁹¹ Hill had also visited Mettray in 1848 and was persuaded by its merits. See Radzinowicz and Hood (n10) 159.

⁹² Also known as the Reformatory Schools Act 1854. See *Report of the Select Committee on Criminal and Destitute Juveniles, together with proceedings of the Committee, Minutes of Evidence and Index* (HMSO 1853) which preceded the introduction of the legislation.

⁹³ B Goldson, ‘Children, Crime and the State’ in B Goldson, M Lavalette and J McKechnie (eds), *Children, Welfare and the State* (Sage 2002) 123.

charges⁹⁴ and treasury contributions were authorised.⁹⁵ Children were required to serve an initial period of 14 days imprisonment before being received at the reformatory school to satisfy functions of deterrence and retribution.⁹⁶

The legislative sanctioning of reformatories inevitably led to a large number of young people entering such institutions.⁹⁷ This alternative to imprisonment removed many children from the prisons but did not stem the trend towards institutionalism. In fact, the first inspector of reformatories, Sydney Turner, indicated that the reformatories were receiving children who were too young, for first or minor offences.⁹⁸ However, in spite of his complaints, such practices continued.⁹⁹ This may indicate that magistrates were relatively enthusiastic about the use of reformatory schools or, since the referral criteria was wide and vague,¹⁰⁰ misunderstanding about who might benefit from accommodation with the schools. Since a government allowance was permitted for each child admitted, it benefited the reformatories to accept as many children as possible.¹⁰¹ This also encouraged schools to detain children for much longer than necessary¹⁰² and offer industrial training which generated the most

⁹⁴ Subject to certification by the Secretary of State and inspection by the Inspector of Prisons.

⁹⁵ *First Report of the Inspector appointed to Visit the Reformatory Schools of Great Britain* (HMSO 1857).

⁹⁶ Youthful Offenders Act 1854 section 2.

⁹⁷ Ten institutions were established in 1855 and 17 the following year. By 1860 there were 48 certified reformatories receiving over 1,000 committals a year and holding about 4,000 young offenders. Twelve years later, there were 65 reformatories holding 7,000 young people. See *First Report of the Inspector appointed to Visit the Reformatory Schools of Great Britain* (HMSO 1857) 4; *Fifth Report of the Inspector appointed to visit the Certified and Industrial Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1862) 7; *Sixteenth Report of the Inspector appointed to visit the Certified and Industrial Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1873) 4.

⁹⁸ *Fourth Report of the Inspector appointed to Visit the Reformatory Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1860) 19.

⁹⁹ *Fifth Report of Inspector appointed to visit the Certified and Industrial Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1862) 10; *Thirty-first Report of the Inspector appointed to Visit the Reformatory Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1888) 21.

¹⁰⁰ A Morris and H Giller, *Understanding Juvenile Justice* (Croom Helm 1987) 26.

¹⁰¹ *First Report of the Inspector appointed to Visit the Reformatory Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1857) 12.

¹⁰² *Report of the Departmental Committee on Reformatory and Industrial Schools* (Office of Inspector of Reformatories and Industrial Schools 1913) 41-42.

income.¹⁰³ Despite such attempts, insufficient funds and overcrowding meant that the buildings, clothing and food were rarely adequate,¹⁰⁴ leading to criticism of the way in which institutions were managed and administrated.¹⁰⁵

Despite the noble intentions of the Philanthropists, the reformatories and industrial schools were much more like the Victorian penal institutions than initially envisaged. Turner noted that in some reformatories buildings were fenced with walls, windows barred and the inmates clothed, confined and watched as they would be in a prison.¹⁰⁶ Children were required to sit in silence and cells were used to exact punishments of solitary confinement.¹⁰⁷ The Departmental Committee of 1896 complained that many reformatories had ‘over strict confinement to the school premises,’ recommending the abolition of this ‘prison aspect.’¹⁰⁸ Absconding, mass insubordination, rioting and arson were a frequent and persistent problem of the reformatory and industrial schools.¹⁰⁹ The cause of such disruptive incidents had much

¹⁰³ *Report of the Commissioners together with the Minutes of Evidence, Appendices and Index* (Reformatories and Industrial Schools Commission) (HMSO 1884) 15; *Thirty-second report of the Inspector appointed to Visit the Reformatory Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1889) 14; *Report of the Departmental Committee on Reformatory and Industrial Schools* (HMSO 1913) 68.

¹⁰⁴ *Twenty-first Report of the Inspector appointed to visit the Certified and Industrial Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1878) 58-9; *Thirtieth Report of the Inspector appointed to visit the Certified and Industrial Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1887) 68; *Report of the Interdepartmental Committee on the Provision of Funds for Reformatory and Industrial Schools* (HMSO 1906) 9; *Report of the Departmental Committee on Reformatory and Industrial Schools* (HMSO 1913) 66, 104.

¹⁰⁵ *Report of the Departmental Committee on Reformatory and Industrial Schools* (HMSO 1896) 104.

¹⁰⁶ *ibid* 23.

¹⁰⁷ *Reports*, 1896 (n105).

¹⁰⁸ *Reports*, 1896 (n105) 24.

¹⁰⁹ See for example *Report of the Inspector of Reformatories on the State of St Bernard's Reformatory, Whitwick, Leicestershire* (HMSO 1864) 4; *Seventh Report of the Inspector appointed to visit the Certified and Industrial Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1864) 33; *Eighth Report of the Inspector appointed to visit the Certified and Industrial Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1865) 4; *Twenty-fourth Report of the Inspector appointed to visit the Certified and Industrial Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1881) 16, 53; *Twenty-sixth Report of Inspector appointed to visit the Certified and Industrial Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1883). Also see S Millham and others, *Locking up Children: Secure Provision within the Child-Care System* (Saxon House 1978) 14-15.

to do with the quality of the regime and staff in the reformatory and industrial schools,¹¹⁰ it was typical for managers to focus attention on a ringleader or a small group of devious juvenile offenders whom they believed to be responsible for leading the troubles.¹¹¹ Juvenile offenders who absconded or who were considered to be ‘incurable’ were expelled and imprisoned¹¹² instead of examining any causative factors in the nature of the regime.

The use of reformatories was initially premised on the belief that moral, educational and industrial training would prevent further criminal behaviour. However, the available schooling was frequently poor and inadequate.¹¹³ The fear of offering juvenile delinquents an ‘advantage’ over law abiding children led to ambivalent attitudes regarding the use of the reformatory schools.¹¹⁴ Once compulsory education was introduced 1870,¹¹⁵ ‘the ideas which were once revolutionary tended to become reactionary.’¹¹⁶ As reformatories ceased to be a progressive and a credible alternative to child imprisonment, the system and its supporters were engulfed by policy concerns about the use of preliminary imprisonment, the system of voluntary management, the provision of after care, and the rights and obligations of parents.¹¹⁷ The turbulent development of the reformatory and industrial schools meant that the zeal and passion, which had instigated the movement, began to dwindle.¹¹⁸ Numbers

¹¹⁰ See for example *Tenth Report of the Inspector appointed to Visit the Reformatory Schools of Great Britain* (HMSO 1867) 46; *Report of the Commissioners together with the Minutes of Evidence, Appendices and Index* (Reformatory and Industrial Schools Commission) (HMSO 1884) 28.

¹¹¹ See for example A Hill, *Industrial Schools and Reformatories: their merits, blemishes and defects as considered by the Commission of 1882* (Paper read before the congress of the association for promoting social science held in Birmingham) (September 1884) 10.

¹¹² *Second Report of the Inspector appointed to Visit the Reformatory Schools of Great Britain* (HMSO 1859) 9.

¹¹³ *Reports*, 1896 (n105) 36; *Report of the Commissioners together with the Minutes of Evidence, Appendices and Index* (Reformatory and Industrial Schools Commission) (HMSO 1884) 16; *Report of the Departmental Committee on Reformatory and Industrial Schools* (HMSO 1913) 20.

¹¹⁴ Carlebach (n6) 70.

¹¹⁵ The Elementary Education Act 1870.

¹¹⁶ Carlebach (n6) 72.

¹¹⁷ See Radzinowicz and Hood (n10) and Carlebach (n6) 72-81 for a detailed analysis.

¹¹⁸ *Thirty-fourth Report of the Inspector appointed to Visit the Reformatory Schools of Great Britain* (HMSO 1890) 18.

declined¹¹⁹ and the future role of the schools was cast into further doubt following the recommendation that the distinction between the schools should be abolished.¹²⁰

At first glance, it might seem that both the Parkhurst experiment and the Philanthropic schools had all but failed to promote suitable alternatives to the imprisonment of children with adults. However, these Victorian prototypes, and the discourse surrounding their use, structured the criminal justice response to children in several key ways. The introduction of reformatories officially recognised the ‘juvenile delinquent’ as a separate legal category,¹²¹ a move which ultimately stimulated the formalisation of ‘juvenile justice.’ The conceptualisation of children as both a ‘victim’ and a ‘threat,’ institutionalised through the demarcation between reformatory and industrial schools, permitted state intervention in the lives of both ‘children in need’ and ‘children in trouble.’ This provided the framework for a welfare system for neglected children and a juvenile justice system for criminal children but also served to expand State control of the young.¹²²

This ‘dualistic conceptualisation of childhood’¹²³ patterned the criminal justice response on the similarly dichotomous objectives of welfare and justice. The justice/punishment model focuses on due process rights, criminal responsibility and punishment of the offender.¹²⁴ Here the emphasis is on proportionality and equality.¹²⁵ Conversely, the welfare model, inspired by the Philanthropists, assumes that juvenile crime

¹¹⁹ Although conversely, the incarceration of truants meant that the number of committals to Industrial Schools remained high. See *Reports, 1896* (n105) 15-16.

¹²⁰ *Reports, 1896* (n105) 15-16.

¹²¹ See J Muncie, *Youth and Crime* (3rd Edn, Sage 2009) 60.

¹²² R Harris and D Webb, *Welfare, Power and Juvenile Justice: The Social Control of Delinquent Youth* (Tavistock 1987) 7.

¹²³ Goldson (n93) 120. Also see Chapter 1, 19-24.

¹²⁴ See J Fionda, *Devils and Angels: Youth Policy and Crime* (Hart 2005) 34; Muncie (n121) 288-289.

¹²⁵ Muncie (n121) 289.

has ‘antecedent causes,’ causes that can be identified and addressed.¹²⁶ This model adopts a more holistic view of juvenile delinquency, examining its causes without being constrained by a narrow view of the commission and circumstances of the offence in question.¹²⁷ It requires a more individualised, discretionary and flexible response than would be permitted by the justice model but can lead to a disproportionate responses.¹²⁸ The tension between the competing objectives has never been fully resolved. This has produced ‘swings’ and ‘roundabouts’ in youth justice policy, where the ‘delicate balance’ between these competing objectives is ‘permanently negotiated and renegotiated.’¹²⁹

Throughout the nineteenth century, the Philanthropic institutions co-existed alongside the traditional Prison establishments, institutions which continued to detain children. This created a hybrid approach to juvenile penal custody and has framed the approach to juvenile penal custody to date.¹³⁰ While the Victorian period witnessed the creation, modification, and decline of both Parkhurst and the reformatories; reinvention did not stop there but continued throughout the twentieth century.

2.3 Formalising Juvenile Justice and Expanding State Control

By the end of the nineteenth century, the need to separate children from the corrupting influence of adults was firmly established but, in addition, concern was increasingly expressed regarding the very ‘drastic step’ of removing a child from the family home.¹³¹ Towards the end of that century, attempts were increasingly made to segregate children and

¹²⁶ Morris and Giller (n100) 243. Also see Muncie (n121) 283.

¹²⁷ See J Fionda, *Devils and Angels: Youth Policy and Crime* (Hart 2005) 35; Muncie (n121) 274.

¹²⁸ Muncie (n121) 283.

¹²⁹ Goldson (n93) 121.

¹³⁰ For example, secure local authority accommodation is available for children in need and juvenile offenders.

¹³¹ See *Reports*, 1896 (n105); Radzinowicz and Hood (n10); *Report of the Departmental Committee on Prisons* (HMSO 1895).

mitigate the severity of the prison regime.¹³² The Youthful Offender Act 1901 allowed courts to place juvenile delinquents in the care of a ‘fit person’ as an alternative to imprisonment and made parents liable for the criminal behaviour of their children. The Probation of Offenders Act 1907 introduced community supervision of young offenders, endorsing ‘arrangements which had been developed informally and had been encouraged by legislation over the previous quarter of a century.’¹³³ Early probation practice primarily focused on young people, diverting many young people from the reformatories and industrial schools but, ultimately, spreading the ‘net of control.’¹³⁴

The Gladstone Committee believed that the age between 16 - 21 years was the period in which criminal careers were formed, leading to the invention of a new term, ‘the juvenile adult.’¹³⁵ This marked the discovery of ‘adolescence.’¹³⁶ This represented a revolutionary break with English penal tradition since it permitted a distinct form of prison treatment for an age group who were past the age of criminal majority.¹³⁷ The Prevention of Crime Act 1908 provided for the confinement of 16 - 21 year olds for a period of 1 - 3 years in a borstal institution,¹³⁸ intended as a ‘penal reformatory.’¹³⁹ The ‘fundamental principles’ of borstals were strict classification, firm and exact discipline, hard work and organised supervision on discharge.¹⁴⁰ Although borstals sought to extend reformatory training to the young adult

¹³² The Prison Act 1985 required the separation of those under the age of 16 in the prisons. See LW Fox, *The English Prison and Borstal System* (Routledge 1952) 329. In addition, the Home Secretary ruled that he should receive education, exercise and be seated in the chapel apart from, and hopefully out of sight of adult prisoners. Ordinary Prison discipline was mitigated by association, extra visits, greater attention by the chaplain, trade instruction, larger book provision and the limitation that a juvenile offender must be medically fit. See *Rule by Secretary of State with respect to Juvenile in Prison* (HMSO 17th April 1896).

¹³³ A Rutherford, *Growing out of crime: The New Era* (2nd Edn, Waterside Press 2002) 51.

¹³⁴ *ibid* 51; J Pitts, ‘Youth Justice in England and Wales’ in R Matthews and J Young (eds), *The New Politics of Crime and Punishment* (Willan 2003) 75.

¹³⁵ *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1900) 18; *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1901) 12.

¹³⁶ See Muncie (n121) 64–68 for further discussion.

¹³⁷ R Hood, *Borstal Re-Assessed* (Heinemann 1965) 1.

¹³⁸ Prevention of Crime Act 1908 section 1(1)

¹³⁹ *Report of the Departmental Committee on Prisons* (HMSO 1895) 30.

¹⁴⁰ *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1902) 13.

offender,¹⁴¹ a military regime of stern and strict discipline was maintained which primarily focused on deterrence and retribution.¹⁴² Furthermore, the borstal system imposed greater custodial control on a larger number of less problematic subjects.¹⁴³

The Children Act 1908 formally introduced juvenile court proceedings for children under the age of 16¹⁴⁴ and abolished capital punishment for children.¹⁴⁵ There was little support for the continued imprisonment of juveniles¹⁴⁶ and the Act abolished imprisonment or penal servitude for children under the age of 14. Children aged 14 - 15 years old could only be imprisoned if they were so unruly or depraved a character.¹⁴⁷ Thus, custodial treatment for juveniles aged 12 - 16 years was primarily in the reformatory and industrial schools.¹⁴⁷ The Children Act 1908 also created the presumption that children should be bailed rather than remanded,¹⁴⁸ permitting remand only in exceptional cases and providing for the detention of remanded children in places of detention,¹⁴⁹ later to become known as remand homes.¹⁴⁹

Essentially, the Children Act 1908 enshrined the principle that juvenile offenders should receive differential treatment at all stages of the criminal justice process - while on remand, while before the courts and above all when the court has pronounced its decision.¹⁵⁰ This was a revolutionary change of attitude from the days when juvenile delinquents were

¹⁴¹ Prevention of Crime Act 1908 section 4 claimed that borstals were intended for the reformation of young offenders.

¹⁴² L Radzinowicz, The Evolution of the Modern English Prison System (1939) 3(2) *Modern Law Review* 121.

¹⁴³ J Pitts, Youth Justice in England and Wales in R Matthews and J Young (eds), *The New Politics of Crime and Punishment* (Willan 2003) 74.

¹⁴⁴ Section 111. Separate proceeding for children had been developing informally throughout the latter half of the nineteenth century. See Morris and Giller (n100) 10 and Goldson (n93) 123.

¹⁴⁵ Section 103. Capital punishment for children was replaced with Detention during Her Majesty's Pleasure.

¹⁴⁶ See Radzinowicz and Hood (n10) 627 for a more detailed discussion.

¹⁴⁷ In addition, when a juvenile offender had been sentenced to imprisonment or penal servitude, he could be conditionally pardoned and committed to a certified reformatory school. See Children Act 1908 Section 84.

¹⁴⁸ Section 94.

¹⁴⁹ Children and Young Person Act 1933.

¹⁵⁰ Home Office, *Report of the Departmental Committee on the Treatment of Young Offenders* Cm 2831 (Molony Committee) (HMSO 1927) 8.

regarded as fully responsible, small adults.¹⁵¹ The juvenile courts were responsible for both the ‘deprived’ (civil jurisdiction) and ‘depraved’ (criminal jurisdiction), blurring the boundaries between the two.¹⁵² Ultimately ‘it made the juvenile court itself a locus for conflict and confusion.’¹⁵³ The separation of juvenile justice from the adult criminal courts was not as benign as it first appears since ‘troublesome youth’ were once again identified as a problem.¹⁵⁴

The reforms introduced by the Children Act 1908 barely had an opportunity to develop before the First World War intervened.¹⁵⁵ During the War, there was an increase in the number of children received by the reformatory and industrial schools at a time where staff and financial resources were weakened.¹⁵⁶ In the aftermath of the War, juvenile crime increased, renewing an interest in the position of children within society.¹⁵⁷ However, it was a psychological analysis of the causes of delinquency that dominated and demanded a new approach to juvenile crime.¹⁵⁸ The 1927 Departmental Committee on the Treatment of Young Offenders (Molony Committee) completed the first review of the juvenile courts and attempted to move towards greater recognition of the welfare of the child.¹⁵⁹

The Molony Committee concluded that ‘there is little or no difference in character and needs between the neglected and the delinquent child.’¹⁶⁰ In making this assertion, the distinction between the ‘deprived’ and ‘depraved’ appeared less clear cut and the welfare

¹⁵¹ Pinchbeck and Hewitt (n12) 492.

¹⁵² Harris and Webb (n122) 9.

¹⁵³ Harris and Webb (n122) 9.

¹⁵⁴ Muncie (n121) 65.

¹⁵⁵ H Hendrick, *Child Welfare: Historical Dimensions, Contemporary Debates* (The Policy Press 2003) 113.

¹⁵⁶ Home Office (n150) 70.

¹⁵⁷ Goldson (n93) 124.

¹⁵⁸ See Goldson (n93) 124; Hendrick (n155) 113; H Hendrick, ‘Histories of Youth Crime and Justice’ in B Goldson and J Muncie (eds), *Youth Crime and Justice: Critical Issues* (Sage 2006) 9.

¹⁵⁹ Morris and Giller (n100) 68.

¹⁶⁰ Home Office (n150) 115.

approach was far more clearly emphasised. The Molony Committee concluded that the reformation of the offender was a key aspect in the administration of justice and should be applied with greater force to the young offender.¹⁶¹ The subsequent Children and Young Person Act 1933 raised the age of *doli incapax* to eight years and stipulated that any court dealing with children should have regard to the welfare of the child.¹⁶² The emphasis on the similarity between the neglected and delinquent child meant the distinction between the reformatory and industrial schools no longer appeared tenable and the 1933 Act replaced the schools with approved schools. The approved school order extended not only to juvenile offenders aged 8-17 years old,¹⁶³ but also to those children in need of ‘care and protection’ or who were beyond parental control.¹⁶⁴ This move was not as benign as it first appears. It emphasised the potential for delinquency amongst neglected children and reinforced the view that children were first and foremost a threat to society.¹⁶⁵

By the 1920s, borstals had lost much of their prestige.¹⁶⁶ The Molony Committee’s suggestion that borstals continued to represent a real and satisfactory alternative to prison,¹⁶⁷ combined with an increase in the juvenile crime rate¹⁶⁸ and the reformulation of the borstal regime on a public school model, enabled borstals to survive the criticism and unfavourable

¹⁶¹ Home Office (n150) 6.

¹⁶² Section 50 states that ‘no child under the age of eight can be guilty of any offence.’

¹⁶³ NB: Children and Young Person Act 1933 section 44(2) stated that children under the age of 10 could not be sent to an approved school unless there was no other to deal with the child.

¹⁶⁴ Children and Young Person Act 1933 sections 62 and 64.

¹⁶⁵ Hendrick (n155) 10.

¹⁶⁶ For example, Borstals were thought to be handicapped by inadequate facilities, inappropriate admissions and were deemed unable to provide the industrial training intended. The military regime was proving unpopular, there was substantial public disquiet about brutality within the borstals, a borstal warden was murdered and several children committed, or attempted to commit, suicide See *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1922) 19, 21, 51; Home Office (n150) 95, 103; A Rutherford, *Growing out of crime: Society and Young People in Trouble* (Penguin, 1986) 45.

¹⁶⁷ Home Office (n150).

¹⁶⁸ *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1917) 18; *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1933) 18.

press.¹⁶⁹ The period between 1922 and the Second World War witnessed the steady elimination of any features which represent a purely penal discipline and the development of the idea of reformatory training.¹⁷⁰ Between 1927 and 1932, the numbers of committals increased and further institutions were opened.¹⁷¹

2.4 Punitive Custodial Options

Initially, the courts responded to the increase in juvenile crime during the inter-war years and Second World War by committing more young people to borstals and approved schools.¹⁷² The increase in juvenile crime and concerns more generally about youth culture generated a demand for the punishment of young people and new forms of incarceration.¹⁷³ Although the Criminal Justice Act 1948 imposed restrictions on the imprisonment of children under the age of 17,¹⁷⁴ it also introduced detention centres for 14-21 year olds.¹⁷⁵ These new institutions were intended for those who did not require prolonged training in an approved school or borstal but for whom a fine or probation was inappropriate.¹⁷⁶ The detention centre experiment was based on the idea of the 'short, sharp shock'; the maximum sentence being three months.¹⁷⁷

¹⁶⁹ This loss of prestige was associated with concerns about inadequate facilities, the inclusion of unsuitable, unsatisfactory industrial training, concerns about the brutality of borstals, the murder of a warden and the attempted suicide, or suicide, of several boys. *The Times*, (London, 20th February 1920); *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1922) 20, 51; *Report of the Departmental Committee on the Treatment of Young Offenders* (HMSO 1927) 95, 103; A Rutherford, *Growing out of crime: Society and Young People in Trouble* (Penguin 1986) 45; Also see Hood (n137) 32-38.

¹⁷⁰ *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1935) 11.

¹⁷¹ *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1933) 21.

¹⁷² *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1917) 18; *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1933) 18; *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1939) 19; *Report of the Commissioners of Prisons and the Directors of Convict Prisons* (HMSO 1947) 45.

¹⁷³ See Rutherford (n133) 55-56.

¹⁷⁴ See section 17(1) of the Criminal Justice Act 1948 prohibited courts of summary restrictions from imposing a sentence of imprisonment on a child under the age of 17 years old. It also restricted the use of imprisonment in the higher courts to children aged 15-17 years old.

¹⁷⁵ Junior detention centres were available for juvenile offenders aged 14-16 years while senior detention centres were available for 17-21 year olds.

¹⁷⁶ *Report of the Commissioners of Prisons* (HMSO 1952) 91.

¹⁷⁷ Criminal Justice Act 1948 section 18.

The introduction of the new carceral experiment was, in many ways, a trade off.¹⁷⁸ It allowed a government, intent on the abolition of corporal punishment,¹⁷⁹ to appease public anxiety regarding juvenile crime with an avowedly punitive measure. It was hoped that the provision of senior detention centres would remove troublesome juvenile offenders from the remand homes and remove young adult offenders from the prisons,¹⁸⁰ however, this objective was never realised.¹⁸¹ The problems in constructing the regime for detention centres were skimmèd over by defining the detention centre as an experiment. This caused immense difficulties both in designing an appropriate regime¹⁸² and in determining who should be sent to detention centre accommodation.¹⁸³

In the five years that followed the opening of the first detention centre, Campsfield House, the number of boys held in detention centres grew to over 1,000.¹⁸⁴ Between 1955 and 1957, magistrates responded to an increase in the crime rate by sending more boys to custody¹⁸⁵ and, consequently, the new facilities were quickly overcrowded.¹⁸⁶ The Prison Commissioners expressed concern regarding the number of young people sentenced to imprisonment who had no previous convictions.¹⁸⁷ Detention centre admissions continued to increase¹⁸⁸ with the effect that many young people were diverted from borstals.¹⁸⁹

¹⁷⁸ G Stewart and N Tutt, *Children in Custody* (Avebury 1987) 75; C Ball, Youth Justice? Half a Century of Responses to Youth Offending [2004] *Criminal Law Review* 167, 167.

¹⁷⁹ Corporal punishment as a feature of punishment within penal institutions was not abolished until 1967.

¹⁸⁰ *Report of the Commissioners of Prisons* (HMSO 1954) 19 *Report of the Committee to Review Punishments in Prisons, Borstals, Approved Schools and Remand Homes* (HMSO 1950).

¹⁸¹ I Crow, *The Detention Centre Experience* (NACRO 1979) 3.

¹⁸² See *Report of the Commissioners of Prisons* (HMSO 1952) 91-95; *Report of the Commissioners of Prisons*, (HMSO 1957) 84.

¹⁸³ See J Muncie, Failure never matters: detention centres and the politics of deterrence in J Muncie and others (eds), *Youth Justice: Critical Readings* (Sage 2002); M Grunhut, Juvenile Delinquents after punitive detention (1955-56) 5 *British Journal of Delinquency* 191; M Grunhut, After effects of punitive detention (1959-60) 10 *British Journal of Delinquency* 178; I Crow, *The Detention Centre Experience* (NACRO 1979) for further discussion on this point.

¹⁸⁴ *Report of the Commissioners of Prisons* (HMSO 1957) 91.

¹⁸⁵ *ibid* 43.

¹⁸⁶ *Report of the Commissioners of Prisons* (HMSO 1958) 89.

¹⁸⁷ *Report*, 1957 (n184) 43.

¹⁸⁸ *Report on the work of the Prison Department* (HMSO 1966) 23.

Following the Second World War, borstal discipline seriously deteriorated¹⁹⁰ and, although contested by the Prison Commissioners,¹⁹¹ there were further allegations of ill treatment in the press.¹⁹² The Franklin Committee recommended that discipline should be tightened, even at the risk of increasing punishments since they perceived that appeasement and soft treatment were not having the desired outcome.¹⁹³ Although numbers in borstals dwindled during the 1950s,¹⁹⁴ an increase in crime served to regenerate borstal committals.¹⁹⁵ This was less an indication of renewed enthusiasm than it was a response to a growing crime rate. However, the borstal system was quickly overstretched.¹⁹⁶ The training periods were reduced to compensate for the overcrowded system. This was as much a result of an ideological shift as it was a logistical solution.¹⁹⁷ By this stage, the principles upon which borstals had been established were beginning to erode.¹⁹⁸ Incidents of serious ill-discipline continued to occur¹⁹⁹ and the belief that young offenders were potentially good citizens who required reformatory training had diminished.²⁰⁰

Borstals were conceived as a means to remove juvenile and young offenders from adult prisons altogether. Even up until 1948, the legislation reflected the belief that borstal training was aimed at the reformation and rehabilitation of offenders.²⁰¹ However, towards

¹⁸⁹ See Hood (n137) xiii.

¹⁹⁰ *Report of the Committee to Review Punishments in Prisons, Borstals, Approved Schools and Remand Homes*, (HMSO 1950) 80.

¹⁹¹ *ibid* 80.

¹⁹² *The Times* (London, 15th January 1946).

¹⁹³ *Report*, 1950 (n190) 90.

¹⁹⁴ *Report*, 1957 (n184) 90.

¹⁹⁵ *Report*, 1958 (n186) 74.

¹⁹⁶ *ibid* 74.

¹⁹⁷ *Report of the Commissioners of Prison* (HMSO 1956) 57; *Report of the Commissioners of Prisons* (HMSO 1958) 75.

¹⁹⁸ Also see *Report of the Commissioners of Prisons* (HMSO 1956) 57.

¹⁹⁹ *Report of the Commissioners of Prisons* (HMSO 1956) 95; *Report of the Commissioners of Prisons* (HMSO 1959) 81.

²⁰⁰ *Report of the Commissioners of Prisons* (HMSO 1960) 45.

²⁰¹ Section 20(1) of the Criminal Justice Act 1948 stated that if the court was satisfied, having regard to his character, previous conduct and the circumstances of his offence that it is expedient for his reformation and the

their demise, borstals increasingly became focused on punitive discipline. By 1960, borstal was no longer a term describing a unique and progressive experiment in the treatment of young offenders²⁰² and, by 1963, the prison and borstal system were combined within the Prison Department allowing for the redistribution of young prisoners.²⁰³ This appeared to be almost a contradiction in itself and represented a shift in the traditional concept of the Borstal as a purely educational and reformatory treatment for young offenders.²⁰⁴ Hood argues that this merely combined what had in practice become one system and was a natural consequence of the loss in the prestige of borstal in the post war years.²⁰⁵ Following the incorporation of borstals into the prison system, they were gradually phased out.²⁰⁶

Following the War years, approved schools also experienced difficulties. Absconding rates began to increase,²⁰⁷ riots occurred,²⁰⁸ and a series of high profile incidents attracted inquiries and criticism of some of the schools.²⁰⁹ These problems led to the development of secure units. It was generally accepted by the investigating Committees that a few rotten apples²¹⁰ were populating approved schools. Rather than remove such individuals to borstal training,²¹¹ the consensus was that closed provision was necessary.²¹² Research suggests that

prevention of crime that he should undergo a period of training in a Borstal institution” the court may pass a sentence of borstal training.

²⁰² Hood (n137) 92.

²⁰³ *Prisons and Borstals: Report of the work of the Prison Department for 1963* (HMSO 1963) 34.

²⁰⁴ J Warder and R Wilson, ‘The British Borstal Training System’ (1973) 64(1) *Journal of Criminal Law and Criminology* 118, 120.

²⁰⁵ Hood (n137) 75.

²⁰⁶ Borstals were finally abolished with the Criminal Justice Act 1982.

²⁰⁷ S Millham and others, *Locking up Children: Secure Provision within the Child-Care System* (Saxon House 1978) 20.

²⁰⁸ *ibid* 20.

²⁰⁹ In 1943, at Standon Farm Approved School, a boy went missing with a rifle and two years later two boys robbed a local Post Office with firearms. In 1947, at the same approved school, a member of staff was murdered by some trainees.

²¹⁰ P Cawson and M Martell, *Children Referred to Closed Units* (Research Report No 5) (HMSO 1979) 14.

²¹¹ As suggested by the Ingleby Committee. See *Report on the Committee on Children and Young People* (Home Office 1960).

²¹² See *Report of the Committee to Review Punishments in Prisons, Borstals, Approved Schools and Remand Homes* (HMSO 1951); *Report of the Committee of Inquiry into the disturbances at Carlton Approved School on 29th and 30th August 1959* (HMSO 1960) 52.

generally the custodial population was actually getting easier, contrary to the belief that the secure system was being overtaken by a group of difficult young people.²¹³ In fact, Millham *et al* assert that boys were younger, less problematic but found themselves incarcerated for longer periods than their predecessors.²¹⁴ Nonetheless, three secure units were created at Redhill, Redbank and Kingswood between 1964 and 1966. The secure units were explicitly punitive in nature.²¹⁵ Each secure unit was to be carefully staffed to ensure that the problems of each boy were carefully investigated and treated.²¹⁶ The units departed from the original aims and developed their own treatment programmes which continued until discharge.²¹⁷ Security was frequently recommended for inappropriate cases.²¹⁸

2.5 The Rise and Fall of Welfare

The post-War increases in recorded juvenile crime during the 1930s were considered to be a consequence of a greater willingness to prosecute under the Children and Young Persons Act 1933.²¹⁹ However, the destabilising effect of the Second World War could no longer be regarded as a satisfactory explanation for the increase in juvenile crimes some 15 years later.²²⁰ Although the courts had responded by sending young people to custody, in 1956, the Ingleby Committee was appointed to examine the operation of the criminal and civil law concerning children. The Committee concluded that the ‘weakness’ of the current system lay in the use of criminal prosecution to determine guilt followed by an emphasis on the welfare of the child when disposing of the case, sometimes leading to disproportionate responses to

²¹³ S Millham, ‘The Therapeutic Implications of Locking Up Children’ (1981) 4(1) *Journal of Adolescence* 138. Also see Millham and others (n207) 46; Cawson and Martell (n210).

²¹⁴ Millham and others (n207) 46.

²¹⁵ Millham and others (n207) 25.

²¹⁶ *Report of the work of the Children’s Department 1961-1963* (HMSO 1964) 40.

²¹⁷ Cawson and Martell (n210).

²¹⁸ Millham and others (n207) 25.

²¹⁹ *Home Office Report on the Committee on Children and Young People* (Home Office 1960) 3.

²²⁰ *ibid* 4.

minor offences.²²¹ Rather than abandon welfare considerations at the sentencing stage, the Committee recommended a revised process for dealing with children²²² and an increase in the minimum age of criminal responsibility.²²³ Section 16 of the Children and Young Person Act 1963 raised the minimum age of criminal responsibility to 10 years old, not to the recommended age of 12. However, as Bottoms records, the Conservative government, then in power, was distracted by the serious disturbances at Carlton Approved Schools and pressure to reintroduce corporal punishment for juveniles, was in ‘no mood to minimise the moral seriousness of juvenile crime.’²²⁴

The Labour Party believed that the report of the Ingleby Committee was ‘far too timid,’ indicating that little had been recommended to assist families and that there was insufficient emphasis on the diversion of children from the criminal courts.²²⁵ The subsequent Longford report advocated the removal of all school-age children from court proceedings and the use of family courts where it was necessary for a child to appear before the court.²²⁶ Upon its accession to power, the Labour Party published the White Paper *The Child, the Family and the Young Offender*,²²⁷ which proposed the use of family councils rather than criminal courts for children under the age of 16 years old.²²⁸ The opposition from lawyers,

²²¹ Home Office (n219) 26.

²²² A ‘new procedure’ was proposed that could be initiated by the police or local authority to care and protect the child. The civil proceedings would be used for children who fulfilled one of two categories; those in need of protection or in need of discipline.

²²³ Home Office (n219) 154.

²²⁴ A Bottoms, ‘On the decriminalisation of the English Juvenile Courts’ in R Hood (ed), *Crime, Criminology and Public Policy* (Heinemann 1974) 324.

²²⁵ *ibid* 325.

²²⁶ The Committee remarked ‘no child in early-adolescence should have to face criminal proceedings: these children should receive the kind of treatment they need, without any stigma or any association with the penal system.’ See Lord Longford, *Crime – A Challenge for Us All* (Labour Party 1964) 24.

²²⁷ Home Office, *The Child, the Family and the Young Offender* (Home Office 1964).

²²⁸ *ibid* 5.

magistrates and probation officers was such that the Labour Government abandoned its proposals,²²⁹ producing a second White Paper, *Children in Trouble*, three years later.

The subsequent White Paper rejected the proposed family councils and sought to retain the juvenile courts, preserving the age limits of 10 - 17 years old.²³⁰ Like the preceding report, *Children in Trouble* emphasised that the procedures for dealing with children in trouble (depraved) and those in need of care and protection (deprived) were moving steadily closer together.²³¹ The welfare proceedings under section 2 of the Children and Young Person Act 1963 were widened so that the grounds for establishing whether a child was in need of care, protection and control included the commission of an offence. This reflected the notion that there was a causal relationship between the child's family experience and his subsequent delinquent behaviour.²³² This move represented a repetition of the notions of delinquency expressed by the Philanthropic reformatory movement, although in a social work rather than an evangelical guise.

The Children and Young Persons Act 1969 sought to put into effect the vast majority of the recommendations in the White Paper *Children in Trouble*. Approved schools were abolished and replaced with community homes,²³³ although the latter retained many of the characteristics of the former.²³⁴ The 1969 Act removed the distinction between juvenile delinquents and children committed on welfare grounds; all children in need were placed under the care of the local authority. The Act introduced the care order (authorising compulsory care) and the supervision order (involving supervision by a probation worker or

²²⁹ Bottoms (n224) 331.

²³⁰ Home Office, *Children in Trouble* (Home Office 1968) 3, 6.

²³¹ *ibid* 4.

²³² NS Tutt, 'A Decade of Policy' (1981) 21(3) *British Journal of Criminology* 246, 248.

²³³ Children and Young Person Act 1969 s35-48.

²³⁴ Muncie (n121) 279.

social worker). Had the provisions been implemented, criminal proceedings for children under 14 would have been prohibited and civil care measures could not have been invoked unless the child was in need of care and control.²³⁵ Restrictions would have also been placed on the prosecution of 14 - 17 year olds, with preference given to care rather than criminal proceedings.²³⁶ Essentially, the 1969 Act attempted to reform the juvenile justice court into welfare providing agency and an agency of last resort.²³⁷

The Children and Young Person Act 1969 was not implemented until 1971 and, during this short two year period, a change of government meant that the welfarist objectives underpinning the 1969 Act never came into fruition.²³⁸ The new Conservative government declined to implement all of the provisions with which it disagreed.²³⁹ Of those provisions which were implemented, almost immediately there were claims that the provisions were not working.²⁴⁰ Between 1971 and 1977, the number of male juveniles placed on supervision as a proportion of those found guilty fell by a third whilst the number sentenced to residential or custodial care increased by a third.²⁴¹ It appears that such an increase cannot be explained by the more serious nature of the crimes committed by such young people, their age or previous experience of institutionalisation.²⁴² Rather it is symptomatic of hardening reactions²⁴³ towards juvenile offenders.

²³⁵ Bottoms (n224) 319; C Ball, Youth Justice? Half a Century of Responses to Youth Offending [2004] *Criminal Law Review* 167, 167.

²³⁶ Bottoms (n224) 319.

²³⁷ T Newburn, Young people, crime and youth justice in M Maguire and others (eds), *The Oxford Handbook of Criminology* (3rd Edn, OUP 2002) 550.

²³⁸ Morris and Giller (n100) 91.

²³⁹ These provisions included those that placed restrictions on criminal proceedings for young people aged 14 - 17 years and prohibited criminal proceedings for children under the age of 14.

²⁴⁰ Tutt (n232) 246.

²⁴¹ D Thorpe, De-institutionalisation and justice in A Morris and H Giller (eds), *Providing Criminal Justice for Children* (Edward Arnold 1983) 74.

²⁴² J Pitts, *The New Politics of Youth Crime* (Sage 1988) 21.

²⁴³ *ibid* 21.

Thorpe *et al* suggest that one possible explanation for the increase in institutionalisation lay in the partial implementation of the 1969 Act itself.²⁴⁴ Traditional principles of punitive justice remained largely intact and the welfare principles were merely ‘grafted’ on to the existing system.²⁴⁵ Thorpe *et al* describe this grafting of the old and new system as ‘vertical integration’ since the range of intervention and surveillance, and the scope of the State control, was increased.²⁴⁶ It is notable that in a bid to remove children from the prison system, alternative initiatives simply reinforced the use of institutions albeit in a welfare setting. Rutherford comments that the welfare and treatment reformers were retracing the path of Mary Carpenter and Matthew Davenport Hill of 120 years before by suggesting that it ‘was not all institutions, but the prison system’s institutions, which were bad for young people.’²⁴⁷ Again, this trend served to expand and intensify State control over the young.²⁴⁸ In practice, it was the penal institutions that were favoured.²⁴⁹ This is most significant because it ‘occurred at a time when the *official policy was in fact the reverse*.’²⁵⁰

In addition, problems in approved schools and secure units led to the creation of new institutions in the form of youth treatment centres.²⁵¹ Youth treatment centres were to be ‘therapeutic communities,’ committal to which was made by social workers and not the courts. Two such centres, Glenthorne and St Charles, were opened in 1978. Children were referred to the units because they needed psychiatric treatment and not because they needed containment in closed facilities.²⁵² Thus, like the institutions that preceded them, youth

²⁴⁴ DH Thorpe and others, *Out of Care: the community support of juvenile offenders* (George Allen & Unwin 1980) 1.

²⁴⁵ Muncie (n121) 278.

²⁴⁶ Thorpe and others (n244) 23.

²⁴⁷ A Rutherford, *Growing out of crime: Society and Young People in Trouble* (Penguin 1986) 57.

²⁴⁸ Goldson (n93) 128.

²⁴⁹ A Hagell and T Newburn, *Persistent Young Offenders* (Policy Studies Institute 1994) 12.

²⁵⁰ G Stewart and N Tutt, *Children in Custody* (Avebury 1987) 35 (italics my own).

²⁵¹ See S Millham and others, *After Grace – Teeth; A comparative study of residential experience of boys in Approved School* (Chaucer Publishing 1975) and Cawson and Martell (n210) for further information.

²⁵² Cawson and Martell (n210) 64.

treatment centres held children who did not require incarceration. Hagell and Hazel write that it will be no surprise that concerns were raised from the beginning bringing such disruptive children into one unit; nor that the building were considered unsuitable; nor that there were criticism of dangerous and unacceptable practices in the 1980s.²⁵³

In 1979, William Whitelaw, the then Home Secretary, announced that detention centres were to be reformed, introducing tougher regimes pilot project.²⁵⁴ The new tougher regimes project was, in part, another 'trade off', providing an opportunity for Whitelaw to calm prison overcrowding by allowing the early release of adult prisoners.²⁵⁵ The Home Office guidance reflected the concern that the new regime 'should be a brutal one'²⁵⁶ but there was little evidence that the detention centre regime needed to be any tougher.²⁵⁷ The pilot project was established at New Hall and Send detention centre in 1980 and, the following year, the tougher regimes project was extended to other detention centres in much the same vein.²⁵⁸ Research found that the activities emphasised by the tough regime were popular among young people, eased the passing of time and encouraged improved relationships with staff.²⁵⁹ The new tougher regimes did not appear to have a discernible effect on reconviction rates.²⁶⁰ These unsatisfactory results did little to prevent the extension of the 'tougher regimes' programme to all detention centres, modified only slightly to reduce popular activities.²⁶¹

²⁵³ A Hagell and N Hazel, 'Macro and Micro Patterns in the Development of Secure Custodial Institutions for Serious and Persistent Young Offenders in England and Wales' (2001) 1(1) *Youth Justice* 3, 12.

²⁵⁴ Home Office, *Tougher Regimes in Detention Centres: Report of an evaluation by the Young Offenders Psychology Unit* (HMSO 1984) 1.

²⁵⁵ See J Muncie, 'Failure never matters: detention centres and the politics of deterrence' in J Muncie and others (eds), *Youth Justice: Critical Readings* (Sage 2002).

²⁵⁶ Home Office (n254) 62.

²⁵⁷ See Crow (n181) 28.

²⁵⁸ *ibid* 33.

²⁵⁹ Home Office (n n254) 202.

²⁶⁰ Home Office (n254).

²⁶¹ Muncie (n255)339.

2.6 Decarceration

Surprisingly, given the fortitude of Thatcher's 'law and order' policies, the 1980s witnessed a dramatic decline in the use of incarceration for juvenile offenders, described by Rutherford as a 'sea change'.²⁶² The number of custodial sentences imposed on children fell from 7,900 in 1981 to 1,700 in 1990.²⁶³ As Allen argues, this was notable since a similar decarceration trend was not evident for other age groups for which the prison populations remained stable.²⁶⁴ The decline in the use of custody for juvenile offenders during the 1980s has been attributed to a number of factors; an increase in diversionary practices through police cautioning;²⁶⁵ demographic factors;²⁶⁶ a greater willingness by the sentencing courts to use discharges and a general reluctance to recommend custodial options;²⁶⁷ changes in professional practice;²⁶⁸ legislative changes;²⁶⁹ and the development of intensive Intermediate Treatment.²⁷⁰ At that time, juvenile justice policy was underpinned by principles of 'diversion, decriminalisation and decarceration'.²⁷¹ Academic research confirmed that children 'grow out of crime'²⁷² and that disproportionate criminal justice intervention was counterproductive, especially in the form of custodial sanctions.²⁷³ This view was

²⁶² Rutherford (n133) 11.

²⁶³ B Goldson, 'New Punitiveness: The politics of child incarceration' in J Muncie and others (eds), *Youth Justice: Critical Readings* (Sage 2002) 388.

²⁶⁴ R Allen, 'Out of Jail: The Reduction in the Use of Penal Custody for Male Juveniles 1981-88' (1991) 30 *The Howard Journal* 30, 30.

²⁶⁵ Goldson (n308) 388.

²⁶⁶ Allen (n264) 38.

²⁶⁷ Rutherford (n133) 14-15.

²⁶⁸ Allen (n264); Goldson (n93) 38.

²⁶⁹ The Criminal Justice Act 1982 created a threefold criterion which had to be satisfied before a custodial sentence could be imposed. These principles were affirmed by the Court of Appeal in the cases of *John Reid* and *Andrew Cox* (see *The Times*, 26th February 1988). Allen notes that these changes gave added impetus to the pre-existing trend towards an increased level of legal representation, discouraged the imposition of a custodial sentence without a social enquiry report and make it more difficult to pay 'lip service' to the statutory condition to consider other alternative methods. See Allen (n264).

²⁷⁰ Home Office, *Punishment, Custody and the Community* (HMSO 1988).

²⁷¹ B Goldson, 'Children in Trouble: State Responses to Juvenile Crime' in P Scraton (ed), *Children in Crisis?* (UCL Press 1997) 124.

²⁷² Rutherford (n247).

²⁷³ Goldson (n271).

increasingly endorsed in official policy documents.²⁷⁴ These changes can also be seen as part of a broader de-politicisation of youth crime and an attempt to reduce the costs of the criminal justice apparatus through the use of ‘alternatives to custody’ during a fiscal crisis.²⁷⁵

The Criminal Justice Act 1982 abolished borstals, replacing them with youth custody centres.²⁷⁶ Their introduction was motivated by criticism regarding the indeterminate nature of the borstal sentence in an era where rights, justice and just deserts approaches were becoming increasingly prominent.²⁷⁷ The aforementioned 1982 Act sought to ‘control the use of custody’²⁷⁸ but, courts were increasingly imposing lengthy youth custody sentences to ensure that young people benefitted from training.²⁷⁹ The reality was that youth custody centres were overcrowded and many young people who were serving sentences 18 months or more served their entire sentence in an adult prison.²⁸⁰ Shaw writes that ‘[p]aradoxically those adult prisoners serving long sentences were held in the best conditions.’²⁸¹ The Chief Inspector of Prisons of the time, Judge Tumim, criticised the failure to provide ‘well rounded regimes’ in youth custody centres as well as shortages of space, shortages of staff and instructors, closure of workshops and unsuitable work.²⁸²

²⁷⁴ See Home Office, *Punishment, Custody and the Community*, (HMSO 1988) 6; Home Office, *Crime, Justice and Protecting the Public* (HMSO 1990).

²⁷⁵ J Pitts, *The New Politics of Youth Crime: Discipline or Solidarity?* (Russell House Publishing 2001) 5-6.

²⁷⁶ Criminal Justice Act 1982 section 1.

²⁷⁷ The Criminal Justice Act 1982 was the creation of threefold criterion which had to be satisfied before a custodial sentence could be imposed. These principles were affirmed by the Court of Appeal in the cases of *John Reid* and *Andrew Cox* (see *The Times*, 26th February 1988). Allen notes that these changes gave added impetus to the pre-existing trend towards an increased level of legal representation, discouraged the imposition of a custodial sentence without a social enquiry report and make it more difficult to pay ‘lip service’ to the statutory condition to consider other alternative methods. See Allen (n264).

²⁷⁸ C Ball, ‘Youth Justice? Half a Century of Responses to Youth Offending,’ [2004] *Criminal Law Review* 167, 168.

²⁷⁹ *ibid.*

²⁸⁰ S Shaw, ‘Reflection on short, sharp shock’ (1985) 13 *Youth Policy* 1.

²⁸¹ *ibid.* 4.

²⁸² ‘Prison report rebukes regime’ (January – February 1989) 53 *Childright* 4.

Throughout the 1980s, detention centres were characterised by a sense of disillusionment. Even prior to the publication of the evaluation ‘Tougher Regimes in Detention Centres’ in 1984, doubt as to the new regimes had already emerged.²⁸³ In addition, concerns were raised regarding the incidence of bullying, violence, self harm and suicide within the detention centres.²⁸⁴ Notwithstanding such criticism, in 1984, a consistent, tough regime was introduced throughout detention centres.²⁸⁵ In 1986, the Prison Officers Association admitted that it was ‘still not happy with the short sharp shock syndrome.’²⁸⁶ Detention centres were finally abolished after a period in which the units were empty at a time when the rest of the system was overcrowded and, as such, was embarrassing for the Home Office. The Criminal Justice Act 1988 replaced both detention centres and youth custody centres with young offender institutions (YOIs). Detention in a YOI was available for boys and young men aged 14 - 21 years old and girls and young women aged 15 - 21 years old. The later Criminal Justice Act 1991 abolished imprisonment for those under the age of 15.²⁸⁷

The Children Act 1989 removed children in need from the criminal courts, placing them in the jurisdiction of the newly created family courts where the welfare of the child was the paramount consideration.²⁸⁸ The combined effect of the Children Act 1989 and the Criminal Justice Act 1991, which extended the jurisdiction of the newly named ‘youth’ courts to include 17 year olds, was the gradual erosion in the difference between the youth and adult

²⁸³ Shaw (n280) 2-3.

²⁸⁴ Allen (n264) 38.

²⁸⁵ *Report of the work of the Prison department* (HMSO 1985) 33.

²⁸⁶ Muncie (n255) 341.

²⁸⁷ Although children under the age of 15 could be placed in secure accommodation.

²⁸⁸ Children Act 1989 section 1(1).

criminal courts.²⁸⁹ This ultimately impacted on the treatment of children in the courts following the re-politicisation²⁹⁰ of youth crime in the 1990s.

2.7 Kidulthood

During the early 1990s, waning political support and an increasing crime rate re-politicised the issue of law and order²⁹¹ at a time when there was a growing climate of fear regarding youth crime.²⁹² The murder of James Bulger in 1993 catalysed a growing moral panic about children generally and juvenile offenders particularly.²⁹³ Crucially, juvenile delinquents were essentialised as other,²⁹⁴ they were seen as incapable of being part of civilised society and were divorced from their status as children.²⁹⁵ The juvenile offender was considered to be the enemy within,²⁹⁶ their greatest threat lying in the ability to challenge adult social control.

In 1993, the Prime Minister of the time, John Major, proclaimed that society needs to condemn a little more and understand a little less.²⁹⁵ Michael Howard, then Home Secretary, also announced that these self centred arrogant group of young hoodlums ... will find themselves behind bars.²⁹⁶ True to his word, the Criminal Justice and Public Order Act 1994 created privately operated secure training centres (STCs) and extended the scope of the grave crimes provisions²⁹⁷ to include children as young as ten.²⁹⁸ The new secure training order was

²⁸⁹ C Ball, Youth Justice and the youth court - the end of a separate system? (1995) 7(4) *Child and Family Law Quarterly* 196; Ball (n278) 177.

²⁹⁰ J Pitts, *The New Politics of Youth Crime: Discipline or Solidarity?* (Russell House Publishing 2001) 9.

²⁹¹ *ibid* 9.

²⁹² See H Davis and M Bourhill, —Crisis? The Demonisation of Children and Young People in P Scraton (ed), *Childhood in Crisis* (UCL Press 1997) 33-34; Goldson (n271) 129.

²⁹³ See Chapter 1, 6-10.

²⁹⁴ Goldson (n271) 134.

²⁹⁵ D Macintyre, Major on Crime: —Condemn More, Understand Less” *The Independent* (London, 21 February 1993).

²⁹⁶ *The Daily Mail* (London, 3 June 1993).

²⁹⁷ The grave crimes provisions permit long-term detention for children convicted of more serious grave crimes under s91 of the Powers of Criminal Courts Sentences Act 2000. Grave crimes include those offences which attract a 14 year maximum sentence if convicted as an adult, specified sexual offences under the Sexual Offences Act 2003 and specified firearms offences committed by 16-17 year olds.

²⁹⁸ These provisions had, until then, been reserved for children aged 13 years or more.

available for 12 - 14 year old persistent²⁹⁹ young offenders for between six months and two years.³⁰⁰ This represented a dramatic shift from the policy of the previous decade and a disregard for the obligations under the UNCRC.³⁰¹ Rutherford argues that a new generation of 'child-prisons'³⁰² was 'not a return to the 1970s but a return to the period preceding the Children Act 1908.'³⁰³ The creation of secure training centres simply amounted to a form of 'retaliatory law making, acting out the punitive urges and controlling anxieties of expressive justice.'³⁰⁴

From the outset, Medway STC, the first of its kind, was inhibited by a lack of clarity regarding its purpose and had unrealistically high expectations.³⁰⁵ Within weeks of opening, Medway STC was faced with rioting trainees, police intervention, assaults on staff, staff resignations and high reconviction rates.³⁰⁶ The first report of the Social Services Inspectorate in 1999 provided a bleak picture of the initial progress of Medway.³⁰⁷ Despite this, Medway was soon followed by three other STC although plans for a fifth failed to come to fruition. The secure training centre order has since been replaced with the detention and training order,³⁰⁸ however, children can still be accommodated within STCs.³⁰⁹ Conditions and regimes within STCs have improved but concern about their use still remains.³¹⁰

²⁹⁹ The legislation did not provide a definition of 'persistence,' leaving such questions to the court.

³⁰⁰ Criminal Justice and Public Order Act 1994 section 1(5)

³⁰¹ See Chapter 1, 6.

³⁰² D Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Oxford University Press 2001).

³⁰³ Cited in B Goldson, 'Youth (In)Justice: Contemporary Developments in Policy and Practice' in B Goldson (ed) *Youth Justice: Contemporary Policy and Practice* (Ashgate 2000) 8.

³⁰⁴ Garland (n302) 173.

³⁰⁵ A Hagell and others, *Evaluation of Medway Secure Training Centre* (Home Office Occasional Paper Series) (Home Office 2000) 44.

³⁰⁶ *ibid.*

³⁰⁷ Social Services Inspectorate, *Inspection of Medway Secure Training Centre (September/October 1998)* (Social Services Inspectorate 1999) 2-3.

³⁰⁸ Crime and Disorder Act 1998. For further detail, see Chapter 1, 9-10.

³⁰⁹ The YJB exercises a placement strategy as detailed in Chapter 1, 2.

³¹⁰ For example, see House of Lords House of Commons Joint Committee on Human Rights, *Deaths in Custody: Third Report of Session 2004-2005* (House of Lords House of Commons Joint Committee on Human Rights 2004); Commission for Social Care Inspections, *Inspection of Medway Secure Training Centre:*

The incoming New Labour government of 1997 did little to halt the ‘punitive turn’³¹¹ in juvenile justice policy. Tony Blair, then Prime Minister, announced that New Labour intended to be ‘tough on crime, tough on the causes of crime,’³¹² a phrase which neatly encapsulated the philosophy that would underpin the wholesale changes to the youth justice system and sentencing framework that would follow under the Crime and Disorder Act 1998 and subsequent legislation.³¹³ Key features of the 1998 Act include: the creation of YOTs;³¹⁴ the creation of the YJB;³¹⁵ the abolition of *doli incapax*;³¹⁶ a reprimand and final warning scheme to replace police cautioning;³¹⁷ new measures designed to prevent juvenile crime and encourage parental responsibility;³¹⁸ new community disposals;³¹⁹ and, new custodial disposals in the form of detention and training orders.³²⁰ Criminal justice agencies became concerned not only with criminal behaviour but also with parental responsibility for delinquency and truancy,³²¹ ‘anti-social behaviour’ and the *future* criminal behaviour of the

October 2003 (Commission for Social Care Inspections 2004); Commission for Social Care Inspections, *Inspection of Medway Secure Training Centre: April 2006* (Commission for Social Care Inspections 2006); Commission for Social Care Inspections, *Inspection of Hassockfield Secure Training Centre: August 2006* (Commission for Social Care Inspections 2006); Commission for Social Care Inspections, *Inspection of Rainsbrook Secure Training Centre: 31st October – 2nd November 2006* (Commission for Social Care Inspections 2007) Howard League for Penal Reform, *Privately Run Child Jails Top the League Table for Restraining Children* (29 September 2008) <http://www.howardleague.org/fileadmin/howard_league/user/pdf/Press/Press_2008/FOI_restraint_figures_29_September_2008.pdf> accessed 20th July 2011; House of Lords House of Commons Joint Committee on Human Rights, *The Use of Restraint in Secure Training Centres: Eleventh Report of Session 2007-2008* (House of Lords House of Commons Joint Committee on Human Rights 2008).

³¹¹ A Bevins, ‘Labour Hits Back on Crime’ *The Independent* (London, 6 February 1993).

³¹² Home Office, *No More Excuses: A new approach to tackling youth crime in England and Wales* (HMSO 1997).

³¹³ For further discussion, please see J Fionda, ‘New Labour, Old Hat: Youth Justice and the Crime and Disorder Act 1998,’ [1999] *Criminal Law Review* 36; J Dignan, ‘Crime and Disorder Act 1998: Prospects for Restorative Justice’ [1999] *Criminal Law Review* 48; L Gelsthorpe and A Morris, ‘Something old, something borrowed, something blue but something new? A comment on the prospects for restorative justice under the Crime and Disorder Act 1998,’ [2000] *Criminal Law Review* 18;

³¹⁴ YOTs replaced the juvenile justice teams functioning within social services departments. This represented an important symbolic shift. See B Goldson, ‘“Children in need” or “young offenders”? Hardening ideology, organizational change and new challenges in social work for children in trouble’ (2000) 5 *Child and Family Social Work* 255, 256. See section 39 of the 1998 Act.

³¹⁵ Section 41.

³¹⁶ Section 34.

³¹⁷ Section 65-66.

³¹⁸ Sections 8-16.

³¹⁹ Section 67-72.

³²⁰ Section 73-79.

³²¹ See Crime and Disorder Act 1998 s8-10 and Anti-Social Behaviour Act 2003 s18-29.

young.³²² The welfare language that was applied to these reforms, concealed a crime control intent³²³ These reforms, and the additional legislative changes that followed,³²⁴ introduced new penal priorities including: managerialism,³²⁵ actuarial justice,³²⁶ prevention,³²⁷ restorative justice,³²⁸ responsibilisation,³²⁹ remoralisation³³⁰ and public protection.³³¹ Consequently, the 1998 Act was described as a melting pot of principles and ideologies,³³² as misguided and misconceived.³³³ Within this context, it was clear that the thrust of youth justice policy was very much marked by intolerant attitudes towards children and, specifically, children in conflict with the law. The primary focus was not the welfare of the

³²² L Gelsthorpe and A Morris, 'Much ado about nothing - A critical comment on key provisions relating to children in the Crime and Disorder Act 1998' (1999) 11 *Child and Family Law Quarterly* 209, 214; J Muncie, 'Institutionalized Intolerance: youth justice and the 1998 Crime and Disorder Act' (1999) 19(2) *Critical Social Policy* 147, 154-6, 157-160; A Crawford, 'Criminalizing Sociability through Anti-Social Behaviour Legislation: Dispersal Powers, Young People and the Police' (2009) 9(1) *Youth Justice* 5.

³²³ L Gelsthorpe and A Morris, 'Much ado about nothing - A critical comment on key provisions relating to children in the Crime and Disorder Act 1998' (1999) 11 *Child and Family Law Quarterly* 209, 220.

³²⁴ See Youth Justice and Criminal Evidence Act 1999; Powers of Criminal Courts (Sentencing) Act 2000; Anti-Social Behaviour Act 2003; Sexual Offences Act 2003; Criminal Justice Act 2003; Violent Crime Reduction Act 2006; Crime and Security Act 2010; Criminal Justice and Immigration Act 2008.

³²⁵ See J Muncie, 'Institutionalized Intolerance: youth justice and the 1998 Crime and Disorder Act' (1999) 19(2) *Critical Social Policy* 147, 149; L Gelsthorpe and A Morris, 'Something old, something borrowed, something blue but something new? A comment on the prospects for restorative justice under the Crime and Disorder Act 1998' [2000] *Criminal Law Review* 18, 23; C Ball, 'Youth Justice? Half a Century of Responses to Youth Offending' [2004] *Criminal Law Review* 167, 178-9; J Muncie, 'Governing young people: Coherence and contradiction in contemporary youth justice' (2006) 26(4) *Critical Social Policy* 770, 775.

³²⁶ See MM Feeley and J Simon, 'The New Penology: Notes on the Emerging Strategy of Corrections and its Implications' (1992) 30(4) *Criminology* 449; L Gelsthorpe and A Morris, 'Something old, something borrowed, something blue but something new? A comment on the prospects for restorative justice under the Crime and Disorder Act 1998' [2000] *Criminal Law Review* 18, 23; J Muncie, 'Governing young people: Coherence and contradiction in contemporary youth justice' (2006) 26(4) *Critical Social Policy* 770, 776; J Muncie, *Youth and Crime* (3rd Edn, Sage 2009) 322-323.

³²⁷ See J Muncie, 'Institutionalized Intolerance: youth justice and the 1998 Crime and Disorder Act' (1999) 19(2) *Critical Social Policy* 147, 169-170; Garland (n358).

³²⁸ See J Dignan, 'Crime and Disorder Act 1998: Prospects for Restorative Justice' [1999] *Criminal Law Review* 48; C Ball, 'The Youth Justice and Criminal Evidence Act 1999 Part 1: a significant move towards restorative justice or a recipe for unintended consequences?' [2000] *Criminal Law Review* 211; L Gelsthorpe and A Morris, 'Restorative Justice: The Last Vestiges of Welfare,' in J Muncie, G Hughes and E McLaughlin, *Youth Justice: Critical Readings* (Sage 2002); A Crawford and T Newburn, *Youth Offending and Restorative Justice* (Willan 2003).

³²⁹ J Muncie, 'Governing young people: Coherence and contradiction in contemporary youth justice' (2006) 26(4) *Critical Social Policy* 770, 773; H Kemshall, 'Risks, Rights and Youth Justice: Understanding and Responding to Youth Risk' (2008) 8(1) *Youth Justice* 21, 25.

³³⁰ J Muncie, 'Governing young people: Coherence and contradiction in contemporary youth justice' (2006) 26(4) *Critical Social Policy* 770, 780.

³³¹ MM Feeley and J Simon, 'The New Penology: Notes on the Emerging Strategy of Corrections and its Implications' (1992) 30(4) *Criminology* 449; Garland (n302).

³³² J Fionda, 'New Labour, Old Hat: Youth Justice and the Crime and Disorder Act 1998' [1999] *Criminal Law Review* 36, 46.

³³³ Gelsthorpe and Morris (n323) 209.

child, but on their status as offenders and criminals.³³⁴ The use of custody for children was re-legitimised³³⁵ and became the preferred intervention for those children who proved incapable of being responsabilised.³³⁶ The net effect of the punitive turn³³⁷ and the expansion of the remit of the youth justice system was a vast increase in the number of young people received into penal custody between 1990 and 2008.³³⁸ The effects of this moral panic were meted out in an overcrowded and under resourced system, which placed the vast majority of its children within YOIs.³³⁹

2.8 Learning from the Past

The segregation of children within specific juvenile custodial establishments was premised on the belief that children were capable of reform and that their imprisonment demanded something more than punishment alone. In addition, the perception that adult prisoners were exercising a corrupting influence on the young was seen to necessitate their segregation within separate institutions. Some two hundred years later, children are still held in separate facilities from adults.³⁴⁰ This move was, however, a gradual process, one which has not led to the abandonment of juvenile prison establishments. Indeed, the Prison⁴ has always functioned at the deep end³⁴¹ of the criminal justice apparatus for children, providing relief to overwhelmed facilities or accommodating children who were regarded as too incorrigible

³³⁴ Also see B Goldson, 'Children in need' or 'young offenders'? Hardening ideology, organizational change and new challenges in social work for children in trouble' (2000) 5 *Child and Family Social Work* 255, 256.

³³⁵ Muncie (n330)786.

³³⁶ *ibid* 786.

³³⁷ J Muncie, 'The Punitiv Turn' in Juvenile Justice: Cultures of Control and Rights Compliance in Western Europe and the USA' (2008) 8(2) *Youth Justice* 107.

³³⁸ See Chapter 1, 6, 10.

³³⁹ *ibid*.

³⁴⁰ It should be noted that until recently, girls were considered too few in number to justify their accommodation in specialised units and were often held alongside adults. This was remedied in 2005 with the creation of new units specifically for 17 year old girls. See Her Majesty's Chief Inspector of Prisons, *Annual Report of the Chief Inspector of Prisons 2005-2006* (Stationery Office 2006) 42; Her Majesty's Chief Inspector of Prisons, *Annual Report of the Chief Inspector of Prisons 2006-2007* (Stationery Office 2007). The Youth Justice Board placement strategy also permits the accommodation of 15-16 year old girls in STCs and SCHs whereas boys of a similar age are generally held in YOIs unless assessed as vulnerable.' See Chapter 1, 7.

³⁴¹ Garland uses this sense in another context. See Garland (n302).

for juvenile settings. In addition, Parkhurst, borstals, detention centres and youth custody centres clearly acquired a ‘prison flavour’ and were often avowedly punitive. The more recent use of YOIs clearly continues the tradition of utilising prison establishments for children. Existing alongside this punitive institution, the desire to reform and ‘correct’ children created a host of quasi-prison establishments, formulated and supplemented to varying degrees with reformatory or welfarist ideals.

A survey of the last 200 years reveals an ongoing trend towards carceral experiments for the young. This trend towards experimentation is seen in the discourse surrounding the creation of many institutions detailed above.³⁴² Reformatory and industrial schools were not trialled as ‘experiments,’ possibly because these institutions were no longer ‘new’ ideas, nor were they State establishments. The subsequent ‘recycling’ of reformatory and industrial schools in the form of approved schools and community homes created an artificial sense of reinvention and served to confuse rather than clarify organisational priorities.³⁴³ The lack of an ‘experimental’ discourse surrounding the introduction of youth custody centres, YOIs and STCs possibly indicates something of the ‘political posturing’³⁴⁴ of the time and the way juvenile incarceration had become an embedded feature of penal ideology. As Easton and Piper acknowledge, the piloting of penal measures on the young and, in some cases, their subsequent extension to adult offenders is not necessarily deleterious per se.³⁴⁵ However, these initiatives do not necessarily generate significant improvements in the treatment of children. Such children serve as ‘guinea pigs’ for punitive products,³⁴⁶ ultimately expanding

³⁴² This was true for Parkhurst, borstals, detention centres, secure units and youth treatment centres.

³⁴³ Cawson suggests the original goals that characterised the Victorian institutions were supplemented by new and additional objectives. This contributed to goal accumulation and sedimentation. See P Cawson, *Community Homes: A study of residential Staff* (Research Report No 2) (HMSO 1978).

³⁴⁴ B Goldson, ‘Children, Crime, Policy and Practice: Neither Welfare or Justice’ (1997) 11(2) *Children and Society* 77, 80.

³⁴⁵ S Eaton and C Piper, *Sentencing and Punishment: The Quest for Justice* (2nd Edn, OUP 2008) 446.

³⁴⁶ *ibid* 446.

the scope of State intervention and governance. Whilst there has been a more recent fall in the youth custody population since 2008,³⁴⁷ there has been a more general tendency to draw too many young and/or minor offenders into custody,³⁴⁸ suggesting that custodial options have not always been reserved for those who require such intervention.

Two hundred years of evolution has not resulted in the rationalisation of youth custody policy. The evolution of juvenile penal custody has trialled short and long-term imprisonment; avowedly punitive regimes, institutions for the ‘deprived,’ and treatment orientated regimes; state institutions and private institutions; indeterminate detention and determinate detention; open and closed facilities; public school models and ‘tough regimes’. Stewart and Tutt argue that the desire to avoid the imprisonment of children in adult prisons has not created ‘an alternative penal philosophy for young people.’³⁴⁹ Rather, child secure units are ‘nearly always seen as lesser prisons but nevertheless as performing the same function often with only minor modifications in philosophy.’³⁵⁰

Juvenile custodial institutions were initially predicated on the basis of two dichotomous objectives: penal discipline and reformation. Little attention was afforded as to how the balance might be achieved in practice. These twin aims have been modernised since the Victorian period and reformulated in accordance with shifts in penal ideology. However, the inherent conflict remains. On a macro level, as detailed above, that conflict has been borne out in the various ‘swings and roundabouts’ in youth justice policy. Such shifts also

³⁴⁷ See Chapter 1, 9.

³⁴⁸ This can be seen in the history of Parkhurst (see p3 above), reformatory schools (see p41 above), borstals (see p47 above), detention centres (see p51 above), secure units (see p54 above), youth treatment centres (see p59 above) and, until relatively recently, secure training centres and young offender institutions.

³⁴⁹ Stewart and Tutt (n250) 61.

³⁵⁰ Stewart and Tutt (n250) 61.

occurred within the custodial institutions themselves as they attempted to balance the incongruent objectives of punishment (or control) and welfare (or care).

Establishments have, however, often been unsuccessful in embedding welfare objectives.³⁵¹ Welfare orientated establishments have often been far more punitive than initially envisaged, as illustrated by the experience of the reformatory system and its successors.³⁵² For the avowedly penal institutions, moving towards a more welfare orientated regime has often been short-lived, superficial or soon interrupted by other pressures.³⁵³ For the most part, juvenile custodial facilities are essentially punitive institutions partially mitigated in the interests of those young people they accommodate rather than institutions with a distinct child-centred ethos. The welfarist language that is applied to juvenile penal custody only serves to mask the very real problems associated with caring for young people in custodial settings. Muncie explains that ‘some of the most punitive regimes of incarceration have repeatedly been reserved for the young. The anomaly is somewhat –solved’ by clouding youth incarceration in a welfarist treatment discourse.’³⁵⁴ Thus, it would seem that the ‘child friendly’ titles given to juvenile custodial facilities only mask the retributive and punitive nature of the regimes.

The primary purpose of the early custodial institution was to deter further offending;³⁵⁵ success in which was generally measured by reconviction rates. However, on

³⁵¹ For example, the 1960s drift towards treatment in detention centres was largely superficial. See J Muncie, ‘Failure never matters: detention centres and the politics of deterrence’ in J Muncie and others (eds) *Youth Justice: Critical Readings* (Sage 2002) 341.

³⁵² Stewart and Tutt (n250) 61.

³⁵³ This was exemplified in the development of detention centres. See J Muncie, ‘Failure never matters: detention centres and the politics of deterrence’ in J Muncie and others (eds) *Youth Justice: Critical Readings* (Sage 2002) 341.

³⁵⁴ Muncie (n330) 784.

³⁵⁵ The Parkhurst and Philanthropic institutions of the nineteenth century were charged with the task of reducing reoffending and evaluated on their ability to achieve such aims. See *Reports relating to Parkhurst Prison*

this measure, juvenile institutions have been largely unsuccessful, irrespective of either the form or length of detention.³⁵⁶ Even those institutions initially boasting low reconviction rates, such as reformatories and borstals, found it difficult to maintain this ‘success’.³⁵⁷ The inescapable conclusion is that ‘youth custody in whatever form...is self defeating and counterproductive.’³⁵⁸ Pitts concludes that ‘[i]n as much as social scientific research can ever ‘prove’ anything it has proved that locking up children and young people in an attempt to change their delinquent behaviour has been an expensive failure.’³⁵⁹ The recognition of the failure of the prison is contemporary with the birth of prison itself. Foucault suggests that the real and visible effects of the prison were denounced as one of the great failures of penal justice and the critique of the prison and its methods appeared very early on.³⁶⁰ To some degree, it is true that the ‘Utopian ambitions of early prison reformers’ are a poor and unrealistic basis on which to assess custodial institutions.³⁶¹ Garland argues that if viewed in a like manner to other social institutions, the prison cannot be viewed in such pessimistic terms because apart from occasional escapes or ‘unwanted leniencies,’ the prison does deprive offenders of their liberty for the specified term.³⁶² However, the deprivation of the

(HMSO 1839) 1; *Sixth Report of Inspector appointed to visit the Certified and Industrial Schools of Great Britain*, (Office of Inspector of Reformatories and Industrial Schools 1863) 9.

³⁵⁶ Short-term imprisonment (detention centres) did not provide any greater rehabilitative or deterrent effect than long-term imprisonment (borstals). A Home Office evaluation of the ‘tougher regimes’ in detention centres, found no discernible difference between the ‘normal’ regime and the ‘tougher regimes’ in terms of the reconviction rates. See Home Office, *Tougher Regimes in Detention Centres: Report of an evaluation by the Young Offenders Psychology Unit* (HMSO 1984) 243. Approved schools, intended as an alternative to imprisonment, carried the same reconviction rates as detention centres and borstals. S Millham and others, *After Grace – Teeth: A comparative study of residential Experience of Boys in Approved School* (Chaucer Publishing, 1975) xiii; PD Scott, ‘Approved School Success Rates’ (1963-64) 4 *British Journal of Criminology* 525.

³⁵⁷ Reformatories claimed a ‘success rate’ of 75%. See *Sixth Report of Inspector appointed to visit the Certified and Industrial Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1863). Despite an initial ‘success’ reconviction rates deteriorated from 30% to 60%. See Hood (n137) xiii; *Report of the Commissioners of Prisons* (HMSO 1959) 86; J Warder and R Wilson, ‘The British Borstal Training System’ (1973) 64(1) *Journal of Criminal Law and Criminology* 118, 120.

³⁵⁸ Muncie (n330) 784.

³⁵⁹ Pitts (n242) 8.

³⁶⁰ Foucault (n3) 264-5.

³⁶¹ D Garland, *Punishment and Modern Society: A Study in Social Theory* (Clarendon Press 1990) 16.

³⁶² *ibid* 164-5.

liberty generally, but specifically children, should do something more than warehousing children.³⁶³

The recognition of the perceived weaknesses of juvenile custodial facilities has never been met with the abolition of juvenile penal custody, nor have juvenile offenders been dealt with entirely via community sentences or in open conditions.³⁶⁴ Although concern about removing children from the home was and has been expressed, custodial facilities have always been regarded as necessary.³⁶⁵ Peaks and troughs in incarceration and decarceration do not reflect patterns in the prevalence and incidence of juvenile crime.³⁶⁶ Moreover, Muncie argues, “It is difficult to marry the ongoing incarceration of the young with a discourse of crime prevention or a philosophy of acting on the basis of what is known to work”.³⁶⁷ Therefore, it is important to examine *why* then juvenile custodial facilities continue to exist and, in some cases, are used for less problematic children.

The first possibility is that the problems of previous institutions are quickly overlooked when faced with the new optimism and “reforming zeal”³⁶⁸ associated with another new carceral experiment. The histories of individual institutions can be complicated and varied. When failing institutions could no longer be ignored, it appears easier to simply start again rather than disentangle or evaluate the potential reasons for the lack of success.³⁶⁹ Kelly concludes that the conventional view of correctional change is based on an idealistic view of history.³⁷⁰ This idealistic view is such that it is believed that in time, good intentions

³⁶³ See Chapter 1, 10.

³⁶⁴ Stewart and Tutt (n250) 69.

³⁶⁵ Cawson and Martell (n210).1.

³⁶⁶ See A Hagell, ‘The Use of Custody for Children and Young People’ in T Bateman and J Pitts (eds), *The RHP companion to Youth Justice* (Russell House Publishing 2005) 157.

³⁶⁷ Muncie (n330) 785-786.

³⁶⁸ Hagell and others (n305).

³⁶⁹ Hagell and Hazel (n253) 3.

³⁷⁰ B Kelly, *Children Inside: Rhetoric and Practice in a locked institution for children* (Routledge 1992).

and more adequate resources will iron out the imperfections.³⁷¹ Thus, the system and its aims remain unquestioned, allowing poor institutions to be replaced with another unsatisfactory institution. Juvenile custodial institutions are reproduced because it is perceived that there is some element of legitimacy in the objectives that incarceration is seeking to fulfil. When taken in isolation, ideas about ‘welfare,’ ‘rehabilitation,’ even perhaps ‘punishment’ may appear justifiable. However, the persistent inability to articulate and implement such contradictory aims is often overlooked. Renaming institutions has the effect of providing some temporary and superficial reinvention of failing institutions.

A second explanation is that attitudes to poor reconviction rates have changed. Historically, the purpose of imprisonment was to deter future offending³⁷² but custodial institutions have often been characterised by poor reconviction rates.³⁷³ As time has passed, poor reconviction rates have become less important as an assessment of the efficacy and necessity of the institution by those implementing and managing a new regime. Garland argues that recidivism rates are no longer a universal criterion for assessing the failure of penal programmes.³⁷⁴ Therefore, expectations about the criminal sanction are lower, which manifests itself in the development of cost effective forms of custody and control.³⁷⁵ To Garland, the failure of custodial institutions to reduce the reconviction rates no longer leads to calls on the part of official agencies to end a particular programme or regime.³⁷⁶ Rather it seems that a concern about juvenile crime manifests itself in a desire for tougher custodial regimes rather than the abolition of child imprisonment/incarceration. However, Garland’s

³⁷¹ *ibid* 12.

³⁷² *Reports relating to Parkhurst Prison* (HMSO 1839) 1; *Sixth Report of Inspector appointed to visit the Certified and Industrial Schools of Great Britain* (Office of Inspector of Reformatories and Industrial Schools 1863) 9.

³⁷³ See S Millham and others, *After Grace – Teeth; A comparative study of residential Experience of Boys in Approved School* (Chaucer Publishing 1975); N Tutt, *Care or Custody: Community Homes and the Treatment of Delinquency* (Darton, Longman and Todd Ltd 1974).

³⁷⁴ Garland (n302).

³⁷⁵ Garland (n302) 119.

³⁷⁶ Garland (n302).

observations appear to relate to the 1980s-1990s and this explanation cannot explain why juvenile custodial institutions remained for much of the twentieth century despite poor reconviction rates.

The third and most salient explanation is provided by examining the way in which new custodial approaches are introduced and endorsed. The impetus for new custodial disposals, and their reform, flows from a number of factors, including: shifts in penal ideology; changing ideas regarding juvenile delinquency; (sometimes perceived) increases in juvenile crime; moral panics regarding youth culture and crime; and, political opportunism. The relative ease with which children in conflict with the law are essentialised as ‘other,’ as ‘undeserving’ and as ‘offenders,’³⁷⁷ ultimately leads to the legitimisation of custodial sanctions in response. It is equally apparent that these new custodial disposals are reactionary, rather than a reasoned and principled approach to juvenile crime. As Goldson argues, ‘the ebbs and flows of custodial sanctions are more readily explained by reference to the vagaries of political imperatives and policy contingencies.’³⁷⁸ The more recent punitive shift served to reinforce the sovereignty of state action.³⁷⁹ In many ways, the State’s power to punish is mitigated rather than reformulated for children and the use of juvenile custodial institutions still serves an expressive function.

2.9 Conclusion

The history of youth justice policy demonstrates an uneasy tension between the seemingly incompatible aims of punishment/justice and welfare/treatment. It is a ‘history of conflict,

³⁷⁷ B Goldson, ‘Child Incarceration: Institutional Abuse, the Violent State and the Politics of Impunity’ in P Scraton and J McCulloch (eds) *The Violence of Incarceration* (Routledge 2009) 96-7. See Chapter 1, 19-24.

³⁷⁸ B Goldson, ‘Penal Custody: Intolerance, Irrationality and Indifference,’ in B Goldson and J Muncie (eds), *Youth Crime and Justice: Critical Issues* (Sage 2006) 140.

³⁷⁹ Garland (n302) 173.

contradictions, ambiguity and compromise.³⁸⁰ Although in contemporary youth justice policy the traditional welfare - justice has been overtaken by a range of additional nebulous priorities,³⁸¹ the punitive thrust remains its overriding feature. This serves as a 'roundabout' to the Victorian emphasis on measures that involve the deprivation of liberty³⁸² and punitive intervention which 'exemplifies the sovereign mode of state action.'³⁸³ Juvenile penal custodial institutions symbolise and maintain the exercise of the State's power to punish. The institutions might have a title and ethos that underpins a more child friendly approach. However, this does not necessarily mean that such institutions are any less coercive, punitive or repressive. The extent to which this remains true at the YOI where the empirical research was conducted is a theme explored in Chapters 5-7 below. The extent to which practices within the adult prison estate are mirrored in the child prison estate is an important consideration and, therefore, before moving to the empirical analysis, Chapter 3 examines the established literature regarding the lived experience of prisoners.

³⁸⁰ J Muncie and G Hughes, 'Modes of Youth Governance: Political Rationalities, Criminalisation and Resistance' in J Muncie and others (eds), *Youth Justice: Critical Readings* (Sage 2002) 1.

³⁸¹ For further discussion, please see Muncie (n330).

³⁸² J Fionda, *Devils and Angels: Youth Policy and Crime* (Hart 2005) 35.

³⁸³ D Garland, 'The Punitive Society: Penology, Criminology and a History of the Present' (1996) *Edinburgh Law Review* 180, 195.

CHAPTER 3

‘DOING TIME’ INSIDE A TOTAL, COERCIVE INSTITUTION

3.1 Introduction

The establishment of the prison as the ‘the central site for the exercise of disciplinary power’¹ has profound implications for the ‘lived experience’² of prisoners. The State’s power to punish does not simply exist as an ethereal force but represents the coercive threat that keeps prisoners captive within the prison walls. Few prisoners would enter such confinement voluntarily and ‘would accept their loss of liberty so willingly if the full potential force of state coercion was not handcuffed to their wrists.’³ King argues ‘[f]or as long as we have prisons...then we continue to hold prisoners against their will. At bottom that is what it is about.’⁴ The threat of coercive force underpins and structures the very nature and texture of prison life although its full potential is ‘held in reserve’⁵ most of the time. The prison is more explicitly conceived as ‘a mechanism of exclusion and control,’⁶ especially in contemporary penal policy.⁷ It is this capacity for social exile and isolation that bears one of the hallmarks of a ‘total institution.’⁸ Faced with this social isolation and exclusion, a prisoner must find ways to adjust and adapt to the inner social world of the prison. In short, the prisoner must be able to ‘do their time,’ a challenge which may prove overwhelming and beyond the capabilities of some.

¹ L Rhodes, ‘Towards an Anthropology of Prisons’ (2001) 30 *Annual Review of Anthropology* 65, 66.

² Y Jewkes, *Captive Audience: Media, Masculinity and Power in Prisons* (Willan 2002).

³ P Scraton and others, *Prisons under Protest* (Open University Press 1991) 61.

⁴ RD King, ‘Control in Prisons’ in M Maguire and others (eds), *Accountability and Prisons* (Tavistock 1985) 187.

⁵ A Liebling and others, *The Prison Officer* (2nd Edn, Willan 2011) 85.

⁶ D Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Oxford University Press 2001) 177.

⁷ *ibid.*

⁸ E Goffman, *Asylums: Essays on the social situation of mental patients and other inmates* (Penguin Books 1961).

Chapter 2 demonstrated that juvenile custodial institutions have typically been unable to satisfactorily respond to the *welfare* of the child,⁹ building on the argument proposed in Chapter 1 that YOIs, as Prison Service establishments, are patterned on ways of working with adult prisoners.¹⁰ In order to fully understand the extent to which the conditions and treatment of children in YOIs mirror, or differ from, the experience of adults in custody, it is important to evaluate the established literature regarding the experience of adult prisoners. The purpose of this chapter is to identify and analyse the key themes within the prison ethnographic literature. It should be acknowledged that there is *no such thing as The Prison*.¹¹ Prisons may vary enormously in, amongst other things, ethos, style, culture and regime; factors that may directly influence the experience of imprisonment. That said, the rich history of prison ethnography, makes it possible to draw some general conclusions about the nature and shape of prison life. In so doing, this chapter provides a conceptual framework for the empirical chapters that follow.

The chapter begins by exploring Goffman's conception of the *total institution* and its relevance to an understanding of prison life before analysing the prison as a coercive institution and the *totality* of power relations within the prison.¹² Prison social order and the means to secure it are, understandably, fundamental concerns for both prison staff and prisoners. Similarly, young people at the YOI were particularly concerned with the quality of staff-prisoner relationships and the use of penal power within the prison.¹³ The third section draws on Sykes' *Society of Captives*¹⁴ to examine the *pains of imprisonment* inherent in prison life. For young people at the YOI, prison life was painful but their conception of the

⁹ See Chapter 2, 69-70.

¹⁰ See Chapter 1, 22-24.

¹¹ R. Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996); B. Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) 4.

¹² Scraton and others (n3) 61.

¹³ See Chapter 7 below.

¹⁴ G.M. Sykes, *The Society of Captives* (Princeton University Press 1958).

‘pains of imprisonment’ varied slightly and, in addition, they experienced frustrations that were peculiar to childhood.¹⁵ The fourth section considers the extent to which the inmate code and prison argot represent a collective response to the pains of imprisonment, as described in the classic texts. More recent commentators suggest that the inmate society is far less cohesive than first described and is marked by a greater tendency towards prison violence, a phenomenon which was central to prison life at the YOI.¹⁶ Finally, the chapter explores the problem of time. Prisoners are driven by the injunction to ‘do your time’ and this was no less true for teenage boys at the YOI.¹⁷ The chapter concludes by identifying several key concepts which inform and provide a framework for the empirical chapters that follow.¹⁸ These include power, agency, identity, gender but specifically masculinities, the ‘pains of imprisonment’ and ‘doingtime.’ These concepts also underpin the research findings detailed in Chapters 5-7.

3.2 The Prison as a Total Institution

The prison serves to maintain the State’s power to punish and exclude those who are deemed to pose an unacceptable threat to civil society.¹⁹ The carefully controlled prison perimeter functions to mark and maintain this exclusion from society. This barrier is secured by high prison walls, locked doors, barbed wire and geographical distance - many institutions (although not all) are situated in remote locations or on the outskirts of towns and cities.²⁰ The prison walls have been rendered ‘virtually impenetrable’²¹ as a result of technological advances;²² punitive criminal justice policy,²³ a risk averse approach to crime control and

¹⁵ See Chapter 5 and 6.

¹⁶ See Chapter 6.

¹⁷ See Chapter 5.

¹⁸ See Chapters 5-7.

¹⁹ Garland (n6). Also see, in the context of youth justice, chapter 2, 74.

²⁰ Goffman (n8) 15.

²¹ R Morgan and A Liebling, ‘Imprisonment: An Expanding Scene’ in M Maguire and others (eds), *Oxford Handbook of Criminology* (4th Edn, Oxford University Press 2007) 1103.

²² *ibid* 1103.

prisoner release,²⁴ increased staff surveillance²⁵ and the introduction of additional security measures, such as mandatory drug testing.²⁶ The walls of the late modern prison have been fortified, literally and figuratively,²⁷ a theme developed in Chapter 7 below.²⁸ Breaches of the perimeter do of course occur, either because contraband is able to enter the prison or because prisoners attempt to escape.²⁹ However, it is this barrier to social interaction that Goffman identifies as an essential feature of a total institution.³⁰

Goffman defines the total institution as a place of residence and work where a large number of life-situated individuals, cut off from wider society for an appreciable period of time, together lead an enclosed formally administered round of life.³¹ His inclusion of prisons in the list of total institutions³² has a certain appeal.³³ Like other total institutions, prisons exclude inhabitants from the free community but do so by coercive means and as a form of punishment. As a new inmate enters the prison, he crosses a threshold that marks his

²³ See D Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Oxford University Press 2001); A Liebling, 'Incentives and Earned Privileges Revisited: Fairness, Discretion and the Quality of Prison Life' (2008) 9(1) *Journal of Scandinavian Studies in Criminology and Crime Prevention* 25, 28.

²⁴ See R Hood and S Shute, *Parole Board Decision Making: Weighing Risk to the Public* (Home Office 2000); D Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Oxford University Press 2001); M Tonry, *Thinking about Crime: Sense and Sensibility in American Penal Culture* (Oxford University Press 2004); H Kemshall, 'Young people and parole: risk aware or risk averse?' in M Blyth and others, *Children and Young People in Custody: Managing the Risk* (Policy Press 2008); J Jacobson and M Hughes, *Unjust Deserts: Imprisonment for Public Protection* (Prison Reform Trust 2010) <<http://www.prisonreformtrust.org.uk/Portals/0/Documents/unjustdeserts.pdf>> accessed 6th November 2012.

²⁵ See Morgan and Liebling (n21) 1103; J Sim, *Punishment and Prisons: Power and the Carceral State* (Sage 2009) 62; D Drake, 'The "dangerous other" in maximum-security prisons' (2011) 11(4) *Criminology and Criminal Justice* 367, 373-364.

²⁶ See Morgan and Liebling (n21) 1103; A Liebling, 'Incentives and Earned Privileges Revisited: Fairness, Discretion and the Quality of Prison Life' (2008) 9(1) *Journal of Scandinavian Studies in Criminology and Crime Prevention* 25, 28-29; D Drake, 'The "dangerous other" in maximum-security prisons' (2011) 11(4) *Criminology and Criminal Justice* 367, 373-364. Also see K Edgar and I O'Donnell, *Mandatory Drug Testing in Prisons: The relationship between MDT and the level and nature of drug misuse* (Home Office Research Study 189) (Home Office 1998) for an evaluation.

²⁷ Garland (n6) 177-178.

²⁸ Morgan and Liebling (n21) 1103.

²⁹ See B Crewe, 'Prisoner Society in an Era of Hard Drugs' (2005) 7(4) *Punishment and Society* 457.

³⁰ Goffman (n8) 15.

³¹ Goffman (n8) 11.

³² Goffman's list also includes those institutions for the care of those who are incapable (e.g. children's homes) and pose an unintended threat to the community (e.g. mental health institutions); those oriented to particular work-related function (e.g. army barracks) and those institutions which have a religious significance (e.g. monasteries or nunneries). See Goffman (n8) 16.

³³ Goffman (n8) 11.

departure from his former life lived in freedom and embarks on a new life, the nature and quality of which is unknown.³⁴ The prisoner cannot return to his previous life, if indeed such a life still remains intact, without the express authority of the State. All further contact with the outside world is carefully circumscribed by prison authorities. According to Goffman, this barrier between the individual and the free community is the first curtailment of self.³⁵

This loss or curtailment of self is reinforced by a series of administrative procedures and processes that physically and symbolically strip the inmate of aspects of his personal identity.³⁶ Upon entry, a new arrival is given a number, new clothes to wear and is relieved of his own possessions.³⁷ His former life no longer defines him and he is entirely separated from it. He is defined by his number, his cell, his wing, his crime and his institutional behaviour. Goffman argues that the new inmate suffers a series of abasements, degradations, humiliations and profanations of self. His self is systematically, if unintentionally, mortified.³⁸ To Goffman, the inmate's sense of self is shaped, disrupted and maybe irrevocably altered. It is this assault on self that is particularly profound.³⁹

A particular feature of the total institution is its all encompassing character. A prisoner's entire life, for the length of their confinement, is contained within the prison. Goffman argues that there is a marked lack of distinction between the localities in which individuals within the institution work, sleep and play, which is contrary to the arrangements of modern society.⁴⁰ He asserts that the total institution is distinctive from social

³⁴ Unless specified, he is used in the text to refer to all prisoners. The prison population is predominantly male but, where necessary, distinctions are made within the text between male and female prisoners.

³⁵ Goffman (n8).

³⁶ Goffman (n8).

³⁷ For the purposes of this chapter and unless otherwise stated, references to men will refer to all prisoners.

³⁸ Goffman (n8) 24.

³⁹ J Irwin, *The Felon* (Prentice Hall Inc 1970) 39-40.

⁴⁰ Goffman (n8) 17.

arrangements in modern society because these spheres of life are broken down, occurring within the same establishment and in the company of others.⁴¹ Goffman draws a comparison here between institution life and life in modern society where an individual may perform certain familial, social, wage-earning functions and roles at different times. These roles are not only disrupted but may be unavailable and no longer serve to create an individual's status and identity in quite the same way. This in turn can have repercussions for an individual's sense of stable identity formation.⁴²

In the community, an individual may enjoy moments of privacy and will not necessarily conduct all his own affairs in the full view of others. Conversely, life in prison is conducted *en masse* with few moments of real privacy. In total institutions, each phase of daily activity is conducted in the company of a large batch of others, all of whom are treated alike and are required to do the same thing together.⁴³ This inevitably generates a strong institutional bias towards treating individuals within the institution uniformly in order to create controllable, 'docile bodies'⁴⁴ who are amenable to the needs and demands of the institution's administration. Individual needs are curtailed, seldom taking priority or deemed to merit individual attention over the needs of the masses.

An intrinsic feature of prison life is the regulation of time and space. Prisoners can only populate certain 'scales'⁴⁵ at specific times and are expected to move between such spaces in accordance with the institutional timetable. Certain activities occur at specific times in specific locations. Such 'patterning' and social climates, Bottoms argues, 'bite deeply into

⁴¹ Goffman (n8) 17.

⁴² See, for example, R Johnson, *Culture and Crisis in Confinement* (Lexington Books 1976) 2.

⁴³ Goffman (n8) 17.

⁴⁴ M Foucault, *Discipline and Punish: The Birth of the Prison* (Penguin Books 1977).

⁴⁵ A Giddens, *Social Theory and Modern Sociology* (Stanford University Press 1987) 157.

the everyday consciousness of both custodians and captives.⁴⁶ Whilst such routinisation may be typical of a variety of organisations,⁴⁷ prisons are distinct and unusual because they are not ‘purely administrative’ but ‘continue to involve the direct control by means of force’.⁴⁸ Prisoners must ensure that they are in the right place at the right time undertaking the right activities, otherwise they risk being viewed as non-compliant and uncooperative, attracting disciplinary sanctions. This tight scheduling and regulation of time and space makes the distinctions between public and private space more difficult to discern. There are few neutral spaces and, although prisoners may attempt to create ‘niches’ and ‘sanctuaries,’ ultimately they will remain under the scrutiny of their peers and the surveillance of prison staff.⁴⁹ The more recent move towards ‘dynamic security’ encourages officers to encroach on this privacy further still in order to identify disorder and discontent; something which is typically resented by prisoners.⁵⁰

Whilst Goffman’s conceptualisation takes us some way to understanding the nature of prison life, it would be wrong to overstate the impermeable nature of the prison walls. Sykes, preceding Goffman, recognised that the prison was far more permeable than it first appears:

The prison is not an autonomous system of power; rather, it is an instrument of the State, shaped by its social environment ... The prison, as a social system, does not exist in isolation any more than a criminal within the prison exists in isolation as an

⁴⁶ AE Bottoms, ‘Interpersonal Violence and Social Order in Prisons’ (1999) 26 *Crime and Justice* 205, 208.

⁴⁷ Such organisations include workplaces or army barracks. See Giddens (n45) 157.

⁴⁸ R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996) 75-76 citing in part, A Giddens, *Social Theory and Modern Sociology* (Stanford University Press 1987) 157.

⁴⁹ See J Seymour, ‘Niches in Prison’ in H Toch, *Living in Prison: The Ecology of Survival* (Free Press 1977) for examples of how and why prisoners carve out such niches, sanctuaries and private spaces. Also see B Crewe, ‘Soft Power in Prison: Implications for Staff - Prison Relationships, Liberty and Legitimacy’ (2011) 8(6) *European Journal of Criminology* 455.

⁵⁰ See B Crewe, ‘Soft Power in Prison: Implications for Staff - Prison Relationships, Liberty and Legitimacy’ (2011) 8(6) *European Journal of Criminology* 455, 461; A Liebling *Prisons and their Moral Performance: A Study of the Values, Quality and Prison Life* (Clarendon Press 2004).

individual; and the institution and its setting are inextricably mixed despite the definite boundary of the wall.⁵¹

Although Sykes did not expand on this point to any great length, various influences on the social system of prisons have been documented to include political changes,⁵² racial divisions,⁵³ gang culture,⁵⁴ drug culture,⁵⁵ shifts in penal policy,⁵⁶ and the availability of various tools for entertainment and communication.⁵⁷ Taken together these studies illustrate that the walls of the prison are far more permeable to external influences than they at first appear.⁵⁸ Therefore, it is perhaps more accurate to suggest that the prison institution represents something *approaching* totality. Whilst the prison has an all encompassing character, its internal dynamics will be influenced by other factors beyond those associated with the structural features of the prison institution.

3.3 Total Power within the Prison

At first glance, it would appear that prisoners can exercise little choice as to the nature and quality of life within the prison, nor the dynamics that shape it. A prisoner's location,

⁵¹ Sykes (n14) 8-9.

⁵² J Irwin, *Prisons in Turmoil* (Little Brown 1980); L Carroll, *Hacks, Blacks and Cons: Race Relations in a Maximum Security Prison* (Waveland Press 1974); J Jacobs, *Stateville: The Penitentiary in Mass Society* (University of Chicago Press 1977).

⁵³ J Irwin, *Prisons in Turmoil* (Little Brown 1980); L Carroll, *Hacks, Blacks and Cons: Race Relations in a Maximum Security Prison* (Waveland Press 1974); J Jacobs, *Stateville: The Penitentiary in Mass Society* (University of Chicago Press 1977).

⁵⁴ J Irwin, *Prisons in Turmoil* (Little Brown 1980); L Carroll, *Hacks, Blacks and Cons: Race Relations in a Maximum Security Prison* (Waveland Press 1974); J Jacobs, *Stateville: The Penitentiary in Mass Society* (University of Chicago Press 1977); L Wacquant, 'Deadly Symbiosis: When ghetto and prison meet and mash' (2001) 3(1) *Punishment and Society* 95.

⁵⁵ Crewe (n29).

⁵⁶ C Kruttschnitt and R Gartner, *Marking Time in the Golden State: Women's Imprisonment in California* (Cambridge University Press 2005); A Liebling *Prisons and their Moral Performance: A Study of the Values, Quality and Prison Life* (Clarendon Press 2004); B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009); A Liebling and H Arnold, 'Social relationships between prisons in a maximum security prison: Violence, faith and the declining nature of trust' (2012) 40(5) *Journal of Criminal Justice* 413.

⁵⁷ J Ditchfield, *Control in Prisons: A review of the literature* (Home Office Research Study 118) (HMSO 1990) 8.

⁵⁸ R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996) 51.

movements, activities, familial contact, access to goods and services are all controlled. In many ways, the prison has the appearance of ‘total power’ since a prisoner’s opportunity to exercise *choice* in such matters is severely constrained. Sykes argues that the capacity of staff not only to issue and administer prison rules but to detain prisoners and punish institutional misconduct is an earmark of ‘complete domination.’⁵⁹ This authority is not a ‘consensual authority’ but is unilaterally imposed upon prisoners.⁶⁰ However, the possibility of ‘total power’ and complete domination is ‘something of a fiction’⁶¹ as far as daily realities of prison life and the negotiation of social order are concerned. The production of social order and the continuity of the daily routine requires the co-operation of prisoners. In so doing, both prisoners and staff draw upon and reproduce structural features,⁶² which Giddens describes as the ‘duality of structure.’⁶³ This is not to say that prisoners can choose to modify these routines,⁶⁴ however, when a prison officer’s authority is challenged, the flow of power is interrupted and becomes visible.⁶⁵ This can have one of two consequences: either such opposition is overridden, reinforcing the domination of prison staff, or the limits of staff power are clearly exposed and its basis renegotiated.⁶⁶

The capacity of prisoners to challenge the system of power, even if such actions are ultimately unsuccessful, exposes the crucial ‘defects of total power.’⁶⁷ Sykes suggests that prisoners often lack the inner, moral compulsion to obey prison authority and prison officers must discover ways to secure the compliance of their charges.⁶⁸ This is not an easy task. Inmates significantly outnumber prison officers and, thus, compliance cannot be gained

⁵⁹ Sykes (n14) 41.

⁶⁰ Sykes (n14) 41.

⁶¹ B Crewe, ‘The Sociology of Imprisonment’ in Y Jewkes (ed), *The Handbook on Prisons* (Willan 2007) 124.

⁶² A Giddens, *The Constitution of Society: Outline of a Theory of Structuration* (Polity 1984) 24.

⁶³ *ibid* 25.

⁶⁴ See Scraton and others (n3) 62.

⁶⁵ Sparks and others (n58) 325.

⁶⁶ *ibid* 325.

⁶⁷ Sykes (n14).

⁶⁸ Sykes (n14) 47-48.

simply through the sheer volume of staff, nor through the use of coercive force alone. Such hard, stoic forms of power are largely ineffective and a grossly inefficient means of securing compliance and social order within the prison.⁶⁹ Whilst physical force may provide assistance in terms of securing the compliance of a few, it cannot check the disobedience of the masses and may be of doubtful value in moments of crisis.⁷⁰ It is possible, however, that the *threat* of coercive force rather than its actual deployment may be more useful in the daily task of securing social order.⁷¹

A rewards system, such as the Prison Service's Incentives and Earned Privileges (IEP) scheme, can offer an alternative way of encouraging social order by awarding additional privileges for good behaviour.⁷² Such systems are a form of social control which are peculiar to, and mark, total institutions.⁷³ Prisoners are highly dependent⁷⁴ on prison officers for the continued supply of basic provisions and access to additional benefits.⁷⁵ This gives prison officers significant distributive power.⁷⁶ Mathiesen explains that this greatly enhances the significance of the decisions made by officers and the speed with which such decisions are communicated.⁷⁷ Similarly, Sparks *et al* argue that the failure to provide, or the rationing of, material goods and services can be a source of extreme concern for prisoners who expect the flawless administration, communication and delivery of commodities and

⁶⁹ See B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) and R Sparks and others (n58).

⁷⁰ Sykes (n14) 49, 59.

⁷¹ A Liebling *Prisons and their Moral Performance: A Study of the Values, Quality and Prison Life* (Clarendon Press 2004) 342.

⁷² See MoJ, *Prison Service Instruction 11/2011: Incentives and Earned Privileges* (MoJ 2011); A Liebling, Incentives and Earned Privileges Revisited: Fairness, Discretion and the Quality of Prison Life (2008) 9(1) *Journal of Scandinavian Studies in Criminology and Crime Prevention* 25.

⁷³ Goffman (n8) 53

⁷⁴ T Mathiesen, *The Defences of the Weak: A Sociological Study of a Norwegian Correctional Institution* (Tavistock 1972) 78.

⁷⁵ Also see the discussion regarding the discretionary power of prison officers below, 86-88.

⁷⁶ Liebling (n71) 345.

⁷⁷ Mathiesen (n74) 78.

services.⁷⁸ Disappointed expectations and disrupted routines may result in ‘moments of crisis,’ ‘hostile reactions’ and unintended consequences such as acts of pre-meditated and spontaneous aggression.⁷⁹

The potential for a rewards system to motivate co-operation from prisoners may be somewhat limited. Stripped of all but the very basic of entitlements and with limited advantages on offer, some prisoners may believe that there is little to be gained through compliance.⁸⁰ Faced with the withdrawal of the few ‘benefits’ that remain, the available punishments for disobedience may be starved of their potency.⁸¹ Moreover, the inmate culture might also actively discourage orientation towards the rewards system if ‘being punished achieves a perverse kudos among prisoners.’⁸² The social capital attached to resistance and receiving the disciplinary measures that follow may outweigh the benefits of complying with the system of power.

Further ‘cracks in the monolith’⁸³ appear because prison officers fail to exercise the powers available to them. An inherent and implicit feature of the system of power is the degree of discretionary power afforded to prison officers,⁸⁴ the ‘centrality’⁸⁵ of which is particularly marked following the introduction of the IEP scheme.⁸⁶ Prison officers may, for example, tolerate disobedience, ignore certain offences and avoid placing themselves in a

⁷⁸ Sparks and others (n58) 162.

⁷⁹ Sparks and others (n58) 161-163.

⁸⁰ Sykes (n14) 51.

⁸¹ Sykes (n14) 51.

⁸² B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) 82.

⁸³ Sykes (n14) 53.

⁸⁴ See Sparks and others (n58) 151; Liebling and others (n5)146; A Liebling, ‘Distinctions and Distinctiveness in the work of prison officers: Legitimacy and Authority Revisited’ (2011) 8(6) *European Journal of Criminology* 484.

⁸⁵ Liebling and others (n5) 121.

⁸⁶ See B Crewe, ‘Power, Adaptation and Resistance in a Late Modern Prison’ (2007) 47 *British Journal of Criminology* 256; Crewe (n82); Liebling and others (n5).

position where they will discover infractions.⁸⁷ Although strictly speaking such actions may constitute a ‘corruption of the rules,’⁸⁸ it is impossible for officers to enforce every rule all of the time and to do so may generate more grievances and disorder than it prevents.⁸⁹ Whilst it should be recognised that ‘turning a blind eye’ to institutional misconduct can in some circumstances render the prison environment particularly dangerous and unsafe,⁹⁰ it is also possible that the under-use of power may generate positive outcomes.

Liebling found in her study of prison officer work that the general view shared by prisoners and staff was that the ‘decent thing’ was to be reasonably sparing in the application of rules unless there was clear reason not to be.⁹¹ Rules were ‘resources’ to be used selectively and to achieve a particular end.⁹² Liebling *et al* note that prison officers ‘underused’ formal power more often, and to better effect, than they overused it.⁹³ This suggests that the proper use of discretion may actually improve, or at least avoid damage to, staff-prisoner relationships and constitute an effective means of securing ‘the peace.’⁹⁴ The tendency of prison officers to overlook certain institutional misconduct or under-use their powers may be a product of the inevitable proximity between prisoners and staff.⁹⁵ However, such discretionary power must be carefully managed since it is possible for discretion to be

⁸⁷ Sykes (n14) 56-57.

⁸⁸ See Sykes (n14) 53.

⁸⁹ See Liebling and others (n5) 139; A Liebling, ‘Distinctions and Distinctiveness in the work of prison officers: Legitimacy and Authority Revisited’ (2011) 8(6) *European Journal of Criminology* 484, 485.

⁹⁰ For example, ignoring and ‘turning a blind eye’ to sexual violence has been cited as a problem in some studies. See TR Jones and TC Pratt, ‘The Prevalence of Sexual Violence in Prison’ (2008) 52(3) *International Journal of Offender Therapy and Comparative Criminology* 280, 291. In the context of prisoner-on-prison violence, also see, M Peterson-Badali and CJ Koegl, ‘Juveniles’ experiences of incarceration: The role of correctional staff in peer violence’ (2002) 30 *Journal of Criminal Justice* 41, 46.

⁹¹ A Liebling, ‘Prison Officers, Policing and the Use of Discretion’ (2000) 4(3) *Theoretical Criminology* 333, 345.

⁹² *ibid* 345.

⁹³ Liebling and others (n5) 146.

⁹⁴ See Liebling and others (n5).

⁹⁵ Liebling and others (n5) 132.

used in a negative, or even abusive, manner as well as in a constructive manner. In this way, it can give rise to both the ‘best’ and ‘worst’ examples of prison officer work.⁹⁶

If it is accepted that the system of total power is somewhat defective, alternative explanations for social order must be found. One explanation for social order is found in the ability of the prison to achieve and demonstrate the legitimacy of its power,⁹⁷ which is embodied and represented by frontline officers in their daily social interaction with prisoners.⁹⁸ It was Lord Justice Woolf who, in the context of his inquiry into the April 1990 prison disturbances, made a connection between a prisoner’s sense of justice and institutional disorder. He concluded:

A recurring theme in the evidence from prisoners who may have instigated, and who were involved in the riots, was that their actions were a response to the manner in which they were treated by the prison system ... they felt a lack of justice. If what they say is true, the failure of the Prison Service to fulfil its responsibilities to act with justice created in April 1990 serious difficulties in maintaining security and control in prisons.⁹⁹

An important aspect of Woolf’s conclusion is the link he draws between the treatment of prisoners and prison social order. Implicit in his conclusion is ‘something akin to a theory of

⁹⁶ Liebling and others (n5) 146-147.

⁹⁷ Sparks and others (n58).

⁹⁸ Crewe (n61) 142.

⁹⁹ Home Office, *Prison Disturbances April 1990: Report of an Inquiry by the Rt. Hon. Lord Justice Woolf and His Honour Judge Stephen Tumin* Cm1456 (The Woolf Report) (HMSO 1991) 226.

legitimacy,¹⁰⁰ a concept which is utilised and contested in political theory¹⁰¹ but has been applied within the prison context.¹⁰²

Legitimacy refers to procedural justice and fairness,¹⁰³ consistent procedural outcomes, the quality of the behaviour of officials - regarded as representing the system - and the basic regime of the institution.¹⁰⁴ If power within the prison is seen as more or less legitimate,¹⁰⁵ prisoners may come to see the behaviour of staff as justifiable, comprehensible, consistent and hence fair¹⁰⁶ and be more willing to comply. In such cases, prisoners are offering a degree of normative compliance. Alternatively, if prisoners see the exercise of authority and power by staff as unwarranted, arbitrary, capricious, and overweening,¹⁰⁷ they may be less willing to recognise the legitimacy of that power and, by extension, withhold consent and co-operation on that basis. Prisons inherently suffer from a legitimacy deficit' and it is this reality that renders the legitimisation of power particularly important.¹⁰⁸ Assessments of legitimacy are, therefore, situationally specific;¹⁰⁹ prisons will

¹⁰⁰ JR Sparks and AE Bottoms, 'Legitimacy and Order in Prisons' (1995) 46(1) *British Journal of Sociology* 45, 46.

¹⁰¹ See D Beetham, *The Legitimation of Power* (Macmillan 1991) and TR Tyler, *Why People Obey the Law* (Yale University Press 1990) as well as the discussion thereof in JR Sparks and AE Bottoms, 'Legitimacy and Order in Prisons' (1995) 46(1) *British Journal of Sociology* 45; Sparks and others (n58); A Bottoms and J Tankebe, 'Beyond Procedural Justice: A Dialogic Approach to Legitimacy in Criminal Justice' (2012) 102(1) *Journal of Criminal Law and Criminology* 119.

¹⁰² Sparks and Bottoms (n100); Sparks and others (n58); E Carrabine, *Power, Discourse and Resistance: A Genealogy of the Strangeways Prison Riot* (Ashgate 2004); Liebling (n71); E Carrabine, 'Prison Riots, Social Order and the Problem of Legitimacy' (2005) 45 *British Journal of Criminology* 896; R Sparks and A Bottoms, 'Legitimacy and Imprisonment Revisited: Some Notes on the Problem of Order Ten Years After' in JM Bryne, D Hummer and FS Taxman (eds), *The Culture of Prison Violence* (Pearson 2008); A Liebling, 'Distinctions and Distinctiveness in the work of prison officers: Legitimacy and Authority Revisited' (2011) 8(6) *European Journal of Criminology* 484; B Crewe, 'Soft Power in Prison: Implications for Staff - Prison Relationships, Liberty and Legitimacy' (2011) 8(6) *European Journal of Criminology* 455.

¹⁰³ Procedural justice as a facet of legitimacy is highlighted by Tyler. See TR Tyler, *Why People Obey the Law*, (Yale University Press 1990).

¹⁰⁴ Sparks and Bottoms (n100) 53.

¹⁰⁵ A Liebling, 'Distinctions and Distinctiveness in the Work of Prison Officers: Legitimacy and Authority Revisited' (2011) 8(6) *European Journal of Criminology* 484, 486.

¹⁰⁶ A Bottoms and R Sparks, 'How is Order in Prisons Maintained?' in A Liebling (ed), *Security, Justice and Order: Developing Perspectives* (Institute of Criminology, University of Cambridge 1997) 105.

¹⁰⁷ *ibid* 105.

¹⁰⁸ Sparks and Bottoms (n100) 53.

vary in the extent to which they succeed in legitimating the use of power as well as in the techniques used to secure such legitimacy.¹¹⁰

The accomplishment of social order is complex and an unduly narrow focus on legitimacy may ignore other influences that inspire co-operation. Implicit in Carrabine's analysis is the recognition that, on an analysis of legitimacy alone, prison riots would be more frequent.¹¹¹ The fundamental premise of his argument is that prisoners do not necessarily accept the legitimacy of their inferiority, rather their compliance reflects the belief that they are caught in a situation beyond their control.¹¹² Sparks *et al* note that there is a difference between the "taken-for-granted" and the "accepted-as-legitimate".¹¹³ Carrabine takes up this distinction and argues that power in prisons represents an inevitable "external fact" for prisoners - in which the experience of confinement is endured without any reference to some version of legitimacy.¹¹⁴ The idea that power is "taken-for-granted" implies that prisoners accept the inevitability of social structures or action.¹¹⁵ Essentially, this form of fatalistic compliance is achieved through the routinisation and "dull compulsion" of rituals that serve to signify the inevitability of the social structure.¹¹⁶ Carrabine's analysis does not weaken the

¹⁰⁹ Sparks *et al* illustrate this point by drawing distinctions between the assessments of legitimacy at two different prisons: Long Lartin and Albany. See Sparks and others (n58) 53.

¹¹⁰ Sparks and others (n58) 35. Also see Liebling (n105) 487.

¹¹¹ E Carrabine, *Power, Discourse and Resistance: A Genealogy of the Strangeways Prison Riot* (Ashgate 2004); E Carrabine, 'Prison Riots, Social Order and the Problem of Legitimacy' (2005) 45 *British Journal of Criminology* 896.

¹¹² E Carrabine, 'Prison Riots, Social Order and the Problem of Legitimacy' (2005) 45 *British Journal of Criminology* 896, 904.

¹¹³ Sparks and others (n58) 89.

¹¹⁴ E Carrabine, *Power, Discourse and Resistance: A Genealogy of the Strangeways Prison Riot* (Ashgate 2004) 179.

¹¹⁵ *ibid.*

¹¹⁶ Carrabine (n114) 183. Also see AE Bottoms, 'Interpersonal Violence and Social Order in Prisons' (1999) 26 *Crime and Justice* 205, 259.

force of Sparks *et al*'s argument; it simply recognises that legitimacy is only one element in the overall production of social order.¹¹⁷

The possibility for 'fatalistic compliance' suggests that cooperation should not be confused with consent.¹¹⁸ Prisoners may seek to present a compliant 'front' whilst engaged in quiet rebellion. This is understood by Scott as the distinction between the 'public' and 'hidden' transcript.¹¹⁹ The public transcript consists of the open interactions between those in power and their subordinates whilst the hidden transcript consists of those 'offstage' speeches, gestures, and practices that confirm, contradict or inflect what appears in the public transcript.¹²⁰ This analysis would suggest that the public behaviour of prisoners offers an incomplete picture of the behaviour of prisoners.¹²¹ This is particularly true when the power imbalance is particularly acute. Scott recognises that 'the more menacing the power, the thicker the mask.'¹²² The greater disparity in the relationship of power and the more arbitrarily that power is exercised, the more likely it is that the public transcripts will take on 'a symbolic, ritualistic cast.'¹²³ Prisoners will not respond homogeneously to the demands of penal power and the tendency of an individual to co-operate or resist, and the diverse strategies employed to do so, may be a function of a wide range of individual characteristics and situational factors which interact to produce particular behaviours.¹²⁴

¹¹⁷ R Sparks and A Bottoms, 'Legitimacy and Imprisonment Revisited: Some Notes on the Problem of Order Ten Years After,' in JM Bryne, D Hummer and FS Taxman (eds), *The Culture of Prison Violence* (Pearson 2008) 98.

¹¹⁸ See, for example, B Crewe, 'Power, Adaptation and Resistance in a Late-Modern Men's Prison' (2007) 47 *British Journal of Criminology* 256.

¹¹⁹ JC Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (Yale University Press 1990).

¹²⁰ *ibid* 4-5.

¹²¹ Scott (n119) 17; Crewe (n118) 257.

¹²² Scott (n119) 3.

¹²³ Scott (n119) 3.

¹²⁴ See, for example, Crewe (n118); Crewe (n82).

Implicit in the discussion so far is the uneasy tension between the expression of, and capacity for, agency by prisoners despite the ‘structural constraints’¹²⁵ placed upon them. Prisoners are not, as Foucault’s analysis would suggest, passive ‘docile bodies,’¹²⁶ nor does power operate upon them automatically.¹²⁷ Prisoners are required to actively engage with the demands of penal power.¹²⁸ They are active in interpreting the manner of their treatment and do not indiscriminately accept the terms of their domination and subjugation.¹²⁹ As noted above, prisoners can and do resist the system of power. The ability of prisoners to ‘accomplish’¹³⁰ agency, and participate in the ‘dialectic of control,’¹³¹ defined by Giddens as the ability of the ‘weak to turn their weakness back against the powerful,’ is a crucial issue.¹³² The capacity to be an ‘agent’ is ‘always under assault in prison’ and, therefore, agency, like power, is negotiated on an ongoing basis.¹³³

The expression of agency provides prisoners with the means to restore a sense of self and in order to do so prisoners may rely and draw on aspects of gender, race, sexuality and class.¹³⁴ In Bosworth’s study of female prisoners, when all other means had failed to resolve a dispute about poor quality toilet paper, the women ‘won’ by relying on the medical or psychological image of women.¹³⁵ Thus, women resisted the system of power by relying on femininity and, in Bosworth’s example, this was an effective strategy. Resistance can also be

¹²⁵ See M Bosworth and E Carrabine, ‘Reassessing Resistance: Race, Gender and Sexuality in Prison’ (2001) 3(4) *Punishment and Society* 501.

¹²⁶ Foucault (n44).

¹²⁷ D Garland, *Punishment and Modern Society* (Oxford University Press 1990) 173.

¹²⁸ M Bosworth and E Carrabine, ‘Reassessing Resistance: Race, Gender and Sexuality in Prison’ (2001) 3(4) *Punishment and Society* 501; Crewe (n82).

¹²⁹ M Bosworth and E Carrabine, ‘Reassessing Resistance: Race, Gender and Sexuality in Prison’ (2001) 3(4) *Punishment and Society* 501,502. Also see Sykes (n14); Mathiesen (n74); S Cohen and L Taylor, *Psychological Survival: The experience of long term imprisonment* (2nd Edn, Penguin Books Ltd 1981); Carrabine (n113).

¹³⁰ Bosworth and Carrabine (n125), 513.

¹³¹ A Giddens, *The Constitution of Society: Outline of a Theory of Structuration*, (Polity 1984) 257.

¹³² M Bosworth, *Engendering Resistance: Agency and Power in Women’s Prison* (Ashgate 1999) 127.

¹³³ *ibid* 130; Bosworth and Carrabine (n125).

¹³⁴ Bosworth and Carrabine (n125) 502.

¹³⁵ Bosworth (n132) 145-147.

manifested in more minor interactions and disputes.¹³⁶ For example, ‘succeeding in getting one over,’ winning an argument, amusing oneself at an officer’s expense’ constitute forms of ‘minor resistance’ which mould and shape social relationships and the balance of power within the prison.¹³⁷ In these more subtle social interactions, power not only has an instrumental function but also serves as an expressive role: It is not simply a question of ‘getting things done’ but also ‘getting things said.’¹³⁸

In male prisons, the issue of identity and gender is no less pertinent. It has, however, only been fairly recently that attention has been focused on understanding ‘prisoners as men’ rather than ‘men as prisoners.’¹³⁹ In seeking to understand how male prisoners accomplish masculinity, Connell’s theory of hegemonic masculinity has proved a useful conceptual framework.¹⁴⁰ Connell argues that masculinity is not a singular concept but that hegemonic masculinity, the dominant form of masculinity, could be distinguished ‘from subordinated masculinities which are discredited and oppressed.’¹⁴¹ The notion of ‘hegemonic masculinity,’ therefore, describes both the plurality and hierarchy of masculinities.¹⁴² Masculinity is not a ‘fixed entity,’¹⁴³ but is culturally dynamic and contestable.¹⁴⁴ A particularly salient theme of prison life is the existence of a dominant culture of masculinity.¹⁴⁵

¹³⁶ See for example Bosworth and Carrabine (n125) 511.

¹³⁷ Bosworth and Carrabine (n125) 511.

Bosworth and Carrabine (n125) 511.

¹³⁹ J Sim, ‘Tougher than the rest? Men in prison’ in T Newburn and EA Stanko (eds), *Just Boys Doing Business: Men, Masculinities and Crime* (Routledge 1994) 100.

¹⁴⁰ RW Connell, *Gender and Power* (Policy Press 1987).

¹⁴¹ RW Connell, ‘Live Fast and Die Young: The Construction of Masculinity among Young Working-class Men on the Margin of the Labour Market’ (1991) 27(2) *Journal of Sociology* 141, 143.

¹⁴² Connell (n140); RW Connell, *Masculinities* (Policy Press 1995); RW Connell and J Messerschmidt, ‘Hegemonic Masculinity: Rethinking the concept’ (2005) 19(6) *Gender and Society* 829.

¹⁴³ RW Connell and J Messerschmidt, ‘Hegemonic Masculinity: Rethinking the concept’ (2005) 19(6) *Gender and Society* 829, 836.

¹⁴⁴ RW Connell, *Masculinities* (Policy Press 1995) 76.

¹⁴⁵ Scraton and others (n3) 66.

The ‘childlike subservience’ inherent in the prisoner role and serving time solely in the company of men may lead a prisoner to believe that his masculinity is in jeopardy.¹⁴⁶ Faced with the mortifying effects of imprisonment, manliness becomes the coping strategy *par excellence*.¹⁴⁷ Sykes notes that, in the absence of women and heterosexual relations, displays of ‘toughness’ and the demonstration of inward stamina becomes the major route to manhood.¹⁴⁸ In the prison context, the construction of hegemonic masculinity is very much premised on an advertised capacity and willingness for physical violence.¹⁴⁹ It reinforces hierarchies based on physical dominance.¹⁵⁰ The construction of hegemonic masculinity is, however, situationally specific¹⁵¹ and may not be evident in all prisons.¹⁵²

3.4 The ‘Pains of Imprisonment’

The analysis thus far of the interlinked notions of power, resistance, agency, gender and identity has touched upon the ‘pains of imprisonment’ and it is to this that the analysis now turns. Chapter 2 noted that the eighteenth and nineteenth century observers began to doubt the efficacy and suitability of capital and corporal punishment.¹⁵³ The gradual demise of capital and corporal punishment led to the removal of the pain of punishment from public view, pain which was gradually regarded as ‘uncivil.’¹⁵⁴ Once the spectacle of punishment was removed to behind the prison walls, the continued visible presence of the prison within

¹⁴⁶ Johnson (n42) 2.

¹⁴⁷ H Toch, *Men in Crisis: Human Breakdowns in Prison* (Aldine Publishing 1975) 146. Also see Sykes (n14) 98.

¹⁴⁸ Sykes (n14) 98.

¹⁴⁹ H Toch, ‘Hypermasculinities and Prison Violence’ in L Bowker (ed) *Masculinities and Crime* (London; Sage, 1998) 170.

¹⁵⁰ Scraton and others (n3) 66.

¹⁵¹ J Messerschmidt, *Masculinities and Crime: Critique and Reconceptualisation of Theory* (Rowman & Littlefield 1993) 83.

¹⁵² For example, there may be variation between the expressions of masculinity of older men in open prisons compared with the ‘dominant and uncontrolled masculinity which operates’ in YOIs. See J Sim, ‘Tougher than the rest? Men in prison’ in T Newburn and EA Stanko (eds), *Just Boys Doing Business: Men, Masculinities and Crime*, (Routledge 1994) 103.

¹⁵³ See Chapter 2, 32.

¹⁵⁴ J Pratt, *Punishment and Civilisation: Penal Tolerance and Intolerance in Modern Society* (Sage 2002) 35.

the city and town confines became increasingly abhorrent.¹⁵⁵ The prison became a hidden receptacle for those whose crimes placed them beyond the tolerance of civilised society.¹⁵⁶ The sentence was no longer physically marked and any such pain or torture was seen as incidental to, rather than a necessary feature of detention. That said, even such incidental pain is an inevitable and inherent aspect of imprisonment, whether deliberate or not.¹⁵⁷ Even the most humanitarian of regime will still involve some degree of deprivation or pain.

Sykes proposes that life in the modern prison entails certain deprivations and frustrations, which he describes as the pains of imprisonment.¹⁵⁸ What is significant about his argument is that it is the *experience* of imprisonment that is painful and that the pains of imprisonment are not limited to the deprivation of physical liberty.¹⁵⁹ While the perception that individual prisoners have of their environment and the significance they attach to such conditions may vary, Sykes argues they agree that life in the maximum security prison is depriving or frustrating in the extreme.¹⁶⁰ These pains of imprisonment¹⁶¹ include the deprivation of liberty, goods and services, heterosexual relationships, autonomy and security.

The deprivation of liberty is a central feature of imprisonment. However, the significance of the loss of liberty goes beyond the inability to live within the free community, it also involves social marginalisation and exclusion. Sykes notes that the deprivation of liberty entails a ‘deliberate, moral rejection of the criminal by the free community.’¹⁶¹ Inherent in his analysis is significance of being labelled as a prisoner,¹⁶¹ inmate or criminal and prisoners are continually reminded that they present a threat or risk to society. Sykes

¹⁵⁵ *ibid.*

¹⁵⁶ Pratt (n154) 54.

¹⁵⁷ R Johnson, *Hard Time: Understanding and Reforming the Prison* (3rd Edn, Wadsworth 2001) 60-62.

¹⁵⁸ Sykes (n14).

¹⁵⁹ See Sykes (n14) 78-79.

¹⁶⁰ Sykes (n14) 63.

¹⁶¹ Sykes (n14) 65.

states that '[t]he prisoner is never allowed to forget that, by committing a crime, he has foregone his claim to that status of full-fledged, *trusted* member of society.'¹⁶² This social rejection must be 'warded off, turned aside, rendered harmless' if they are to endure psychologically.¹⁶³ Some prisoners will attempt to actively resist the 'prisoner' identity and rationalise their criminal identity.¹⁶⁴ Jewkes comments that such resistance 'may be critical in determining how successfully he accommodates to the pains of imprisonment.'¹⁶⁵

The deprivation of liberty necessarily entails separation and isolation from family and friends precisely when most prisoners greatly desire such contact. Gibbs comments that the importance of family can reach 'metaphysical proportions.'¹⁶⁶ Such separation can become intolerable, resulting in despair and personal breakdown.¹⁶⁷ The significance of familial contact is not reserved for the early period of confinement but may remain important throughout a prison term. For example, most prisoners in Liebling's study felt life was at its best when they received contact from family members.¹⁶⁸ Liebling found that the availability of opportunities for familial contact can have an enormous impact on the quality of life experienced.¹⁶⁹ Research suggests that the enforced disruption to family relationships may have a greater impact on particular groups of prisoners, such as certain ethnic groups¹⁷⁰ and women.¹⁷¹

¹⁶² Sykes (n14) 66.

¹⁶³ Sykes (n14) 67.

¹⁶⁴ Bosworth (n132) 115.

¹⁶⁵ Jewkes (n2) 40.

¹⁶⁶ JJ Gibbs, 'Disruption and Distress: Going from Street to Jail' in N Parisi (ed), *Coping with Imprisonment*, (Sage 1982) 36-37.

¹⁶⁷ H Toch, *Men in Crisis: Human Breakdowns in Prison* (Aldine Publishing 1975) 51.

¹⁶⁸ Liebling (n71) 325.

¹⁶⁹ Liebling (n71) 325.

¹⁷⁰ Johnson (n42).

¹⁷¹ H Toch (1986) cited in K Adams, 'Adjusting to Prison Life' (1992) 16 *Crime and Justice* 275.

Familial contact may initially provide some relief during the difficult transition to the prison environment but the reassurance it offers may soon be replaced with concern regarding the likely frequency and duration of such contact.¹⁷² Relationships may continue but prisoners may still experience a great deal of pain due to the loss of regular contact and the inevitable strain caused. Prisoners can only imagine how much damage might be caused to these relationships and how irreversible such damage might be.¹⁷³ Those prisoners serving indeterminate, life or long-term sentences may fear that their familial relationships may be irrevocably lost.¹⁷⁴ Prisoners serving lengthy sentences may find that the maintenance of contact becomes a growing problem.¹⁷⁵ The reality that their partners and children have survived without them may be both a source of joy and resentment.¹⁷⁶ The uncertainty and difficulty attached to maintaining contact may be such that prisoners may find that prison life is more bearable without such contact.¹⁷⁷

The deprivation of material goods and services is an inevitable aspect of imprisonment. The accessible range, nature and quantity of the goods are dictated by the prison administration and, as noted above,¹⁷⁸ may be distributed in accordance with 'good behaviour.' Sykes makes an important distinction between meeting a prisoner's basic needs and material deprivation;¹⁷⁹ a prisoner's basic needs may be met but his standard of living may still be perceived to be 'hopelessly inadequate.'¹⁸⁰ Here Sykes is essentially making a

¹⁷² S Cohen and L Taylor, *Psychological Survival: The experience of long term imprisonment* (2nd Edn, Penguin Books Ltd 1981) 77-78.

¹⁷³ RS Jones and TJ Schmid, *Doing Time: Prison Experience and Identity among First Time Inmates* (Jail Press 2000) 26.

¹⁷⁴ TJ Flanagan, 'Lifers and Long Termers: Doing Big Time' in R Johnson and H Toch (eds), *The Pains of Imprisonment* (Sage 1982) 118.

¹⁷⁵ Cohen and Taylor (n172) 77.

¹⁷⁶ RD King and K McDermott, *The State of Our Prisons* (Clarendon Press 1995) 282.

¹⁷⁷ Cohen and Taylor (n172) 78; E Crawley and R Sparks, 'Older Men in Prison: Survival, Coping and Identity' in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005) 348.

¹⁷⁸ See above, 85-86.

¹⁷⁹ Sykes (n14) 68.

¹⁸⁰ Sykes (n14) 68.

distinction between the *necessities* of life and the amenities that add to its quality and richness. For example, he distinguishes between simply having the required calories and having interesting food, individual clothing as well as adequate clothing, privacy as well as space.¹⁸¹ A prisoner's environment may be basically adequate but still relatively sparse.

Some, it seems, would balk at the idea of affording too many additional amenities to prisoners, such as an in-cell television, believing that such amenities are luxuries that render the experience of imprisonment far too easy.¹⁸² The point here is not whether the prisoner has any right or is justified in sensing this deprivation, it is the fact that the inmate population defines its present material impoverishment as a painful loss.¹⁸³ Sykes' suggestion that some prisoners may be less impoverished in prison than in the community¹⁸⁴ does not weaken the force of his submissions. In the community, an individual can, for example, make choices between certain foods and can do so at a time of their choosing. Thus, the impact the curtailment of such choice, freedom and access may still be seen as a deprivation.

This develops the more salient point about an inmate's construction of self worth and status, and the extent to which the inaccessibility of certain items is perceived as indicative of a man's worth.¹⁸⁵ The deprivation of material goods and services goes beyond simply meeting one's needs, wants and desires. Some commentators see a link between the acquisition of material goods and an individual's sense of identity and self-worth.¹⁸⁶ An individual may make choices about particular consumer items, such as clothing and footwear, to express and reinforce his identity or at least those aspects of his identity that he wants to

¹⁸¹ Sykes (n14) 68.

¹⁸² See R Johnson, 'Brave New Prisons: The Growing Social Isolation of Modern Penal Institutions' in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005) 256.

¹⁸³ Sykes (n14) 68.

¹⁸⁴ Sykes (n14) 68.

¹⁸⁵ Sykes (n14) 69.

¹⁸⁶ Sykes (n14) 68; Johnson (n157) 65; Jewkes (n2)14-15.

project and for others to accept.¹⁸⁷ Jewkes argues that for male prisoners, the deprivation of items that are intrinsically associated with masculinity and the inability to purchase them with a ‘man’s wage’ may have a particular emasculating effect and serve as another personal affront to one’s self worth.¹⁸⁸

The deprivation of heterosexual relationships has been described as ‘one of the most significant psychological and physiological pains of imprisonment.’¹⁸⁹ For those men and women serving long-term or indeterminate sentences and/or who are serving a sentence during crucial child bearing years, the loss of sexual relations might also incur the loss of an opportunity to become a parent and, for some, this loss will be especially profound.¹⁹⁰ Questions about access to reproductive services during a prison term remain controversial.¹⁹¹ During their sentence, prisoners may attempt to mitigate the loss of sexual relations by engaging in homosexual relations within the prison environment,¹⁹² but may suffer a loss in social status.¹⁹³ In Sykes’ study, a distinction is made between those who adopt an aggressive, masculine role (‘wolves’), those who are coerced into homosexual activity (‘punks’) and those who engage in such activity because it is preferred (‘fags’).¹⁹⁴ Implicit within Sykes’ typology is the use of sexuality for the purposes of aggression and power, rather than for sexual gratification in and of itself. The tendency to use sexual violence as a form of power and domination may, as Newton suggests, provide more general information

¹⁸⁷ Jewkes (n2) 15.

¹⁸⁸ Jewkes (n2) 15.

¹⁸⁹ T Einat, ‘Soldiers’, ‘sausages’ and ‘deep sea diving’: language, culture and coping in Israeli prisons’ in A Liebling and S Maruna *The Effects of Imprisonment*, (Willan 2005) 293.

¹⁹⁰ Y Jewkes, ‘Loss, liminality and the life sentence: managing identity through a disrupted lifecourse’ in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005).

¹⁹¹ See *Dickson v United Kingdom* (2007) 46 EHRR 41; H Codd, ‘The slippery slope to sperm smuggling: prisoners, artificial insemination and human rights’ (2007) 15(2) *Medical Law Review* 220.

¹⁹² See for example Bosworth (n132) 137-138.

¹⁹³ See Bosworth (n132) 137-138; Sykes (n14).

¹⁹⁴ Sykes (n14) 96.

about the sociology of masculinities since it appears to reflect patterns of sexual violence against women in the community.¹⁹⁵

The true extent of sexual violence and victimisation in the prison environment is difficult to quantify.¹⁹⁶ Whilst some American studies report relatively high levels of homosexual rape,¹⁹⁷ other studies suggest that the incidence of homosexual rape is relatively low.¹⁹⁸ It is possible that the fear of sexual victimisation may be just as important as its actual incidence.¹⁹⁹ However, again this finding is contested by other studies which suggest that the fear of sexual assault is not pervasive amongst inmates, including those who have experienced sexual victimisation inside.²⁰⁰ Prison sexual violence appears to be far more prevalent in American prisons than in prisons in other jurisdictions, including Britain.²⁰¹ What is clear is that the effects of sexual proposition and assault for the victim can be

¹⁹⁵ C Newton, 'Gender Theory and Prison Sociology: Using Theories of Masculinities to Interpret the Sociology of Prisons for Men' (1994) 33(3) *Howard Journal* 193, 199.

¹⁹⁶ TR Jones and TC Pratt, 'The Prevalence of Sexual Violence in Prison' (2008) 52(3) *International Journal of Offender Therapy and Comparative Criminology* 280.

¹⁹⁷ AJ Davies, 'Sexual Assaults in the Philadelphian Prison System and Sheriff's vans' (1968) 12 *Transaction* 9; C Struckman-Johnson, D Struckman-Johnson, L Rucker, K Bumby and S Donaldson, 'Sexual Coercion Reported by Men and Women in Prison' (1996) 33(1) *The Journal of Sex Research* 67; C Struckman-Johnson and D Struckman-Johnson, 'Sexual Coercion Rates in Seven Midwestern Facilities for Men' (2000) 80(4) *The Prison Journal* 379.

¹⁹⁸ H Toch, *Living in Prison: The Ecology of Survival* (The Free Press 1977) 143; DA Fuller and T Orsagh, 'Violence and Victimization within a State Prison System' (1977) *Criminal Justice Review* 35, 38; D Lockwood, *Prison Sexual Violence* (Elsevier 1980); D Lockwood, 'Issues in Prison Sexual Violence' (1983) 63(1) *The Prison Journal* 71; AS Maitland and RD Sluder, 'Victimization and Youthful Prison Inmates: An Empirical Analysis' (1998) 78(1) *The Prison Journal* 55, 68; N Woolf and others, 'Understanding Sexual Victimization Inside Prisons: Factors that Predict Risk' (2007) 6(3) *Criminology and Public Policy* 535, 550; N Woolf and J Shi, 'Patterns of Victimization and Feelings of Safety Inside Prison: The Experience of male and Female Inmates' (2011) 57(1) *Crime and Delinquency* 29, 38.

¹⁹⁹ See for example R Tewkesbury, 'Fear of Sexual Assault in Prison Inmates' (1989) 69(1) *The Prison Journal* 62, 62; D Lockwood, *Prison Sexual Violence* (Elsevier 1980) 80.

²⁰⁰ N Woolf and J Shi, 'Patterns of Victimization and Feelings of Safety Inside Prison: The Experience of male and Female Inmates' (2011) 57(1) *Crime and Delinquency* 29, 48.

²⁰¹ For an analysis of sexual violence in British prisons, see I O'Donnell, 'Prison Rape in Context' (2004) 44(2) *British Journal of Criminology* 241. For similar observations about Israeli prisons, see T Einat, 'Soldiers', 'sausages' and 'deep sea diving': language, culture and coping in Israeli prisons,' in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005).

particularly pernicious, including depression, suicide ideation, social isolation, racism, emotional distress, fear, anxiety and personal crisis.²⁰²

To Sykes, the deprivation of autonomy extends beyond the mere subjection to a body of rules or commands. Rather, it is the triviality of the official's commands, the dependence on the decisions of the captors and restricted ability to make choices that presents the most significant aspect of pain for the inmate.²⁰³ The fact that such a curtailment 'is total and it is imposed' is somehow, Sykes argues, less endurable.²⁰⁴ The true significance of the loss of autonomy for adult prisoners is the enforced state of childlike dependence and helplessness. Morris and Morris remark that there are so few activities in which prisoners have an opportunity to make a choice that the 'process of childhood socialisation must be put into cold store.'²⁰⁵ Sykes comments: 'Of the many threats which may confront the individual either in or out of prison, there are few better calculated to arouse acute anxieties than the attempt to reimpose the subservience of youth.'²⁰⁶ The range of possible choices may be rather limited. For example, in Bosworth's study of female prisoners, the fact that many options were patterned on 'outdated assumptions about female taste'²⁰⁷ was a source of great frustration. The deprivation of autonomy then, is not simply a feature of the loss of autonomy but where it is permitted, its limited range.

To Sykes, the final deprivation imposed on the prisoner is the deprivation of security. This loss represents the danger posed to individuals through the forced confinement with

²⁰² See D Lockwood, *Prison Sexual Violence*, (Elsevier 1980); D Lockwood, 'Issues in Prison Sexual Violence' (1983) 63(1) *The Prison Journal* 71.

²⁰³ Sykes (n14) 73.

²⁰⁴ Sykes (n14) 73.

²⁰⁵ T Morris and P Morris, *Pentonville: A sociological study of an English Prison* (Routledge 1963) 167.

²⁰⁶ Sykes (n14) 76.

²⁰⁷ Bosworth (n132) 134.

other criminals and especially those with the inclination to respond violently and aggressively. As Sykes points out:

While it is true that every prisoner does not live in the constant fear of being robbed or beaten, the constant companionship of thieves, rapists, murderers and aggressive homosexuals is far from reassuring.²⁰⁸

Physical violence and victimisation is an endemic feature of prison life.²⁰⁹ Bowker argues that the prison environment _combines the ready availability of homicidal weapons, prisoners who are often violence-prone, inadequate architecture and supervision, and a constant round of explosive situation and pressures to create what is no less than a controlled war.²¹⁰ It is not only the experience of victimisation which is important, but also the fear and anxiety associated with living in an environment marked by violence and aggression.²¹¹

In presenting his analysis of the pains of imprisonment, Sykes assumes that _severe bodily suffering [had] long since disappeared as a significant aspect of the custodians' regime.²¹² It was the *psychological* rather than the *physical* pains of imprisonment which routinely characterised prison life. However, in the decades that followed Sykes' account, prison life in British prisons _was generally squalid, brutal and degrading ... violence was

²⁰⁸ Sykes (n14) 77.

²⁰⁹ See, for example, AK Cohen, _Prison Violence: A Sociological Perspective,' in AK Cohen, GF Cole and RG Bailey (eds), *Prison Violence* (Lexington Books 1976) 10; H Toch, *Living in Prison: The Ecology of Survival* (Free Press 1977) 144; Johnson (n41) 31; J Irwin, *Prisons in Turmoil* (Little Brown and Company 1980); KN Wright, _The Violent and the Victimized in the Male Prison' (1991) *Journal of Offender Rehabilitation* 1; I O'Donnell and K Edgar, _Routine Victimization in Prisons' (1998) 37(3) *Howard Journal* 266; RC McCorkle, _Personal Precautions to Violence in Prisons' (1992) 19(2) *Criminal Justice and Behaviour* 160, 160; I O'Donnell and K Edgar, _Fear in Prison' (1999) 79(1) *The Prison Journal* 90. 31; K Edgar and I O'Donnell, _Assault in Prison: The Victim's Contribution' (1998) 38(4) *British Journal of Criminology* 635; Johnson (n157); K Edgar and others, *Prison Violence: The Dynamics of Conflict, Fear and Power* (Willan 2003); N Woolf and others, _Physical Violence Inside Prison: Rates of Victimization' (2007) 34(5) *Criminal Justice and Behaviour* 588, 595.

²¹⁰ LH Bowker, *Prison Victimization* (Elsevier 1980) 31.

²¹¹ Sykes (n14) 78; I O'Donnell and K Edgar, _Fear in Prison' (1999) 79(1) *The Prison Journal* 90.

²¹² Sykes (n14) 64.

built into the logical of the system.²¹³ The prevalence of abuse, wilful neglect, violence and humiliation has been documented in several studies²¹⁴ and was perceived to be systematic, the product of institutional failings and unchecked powers.²¹⁵ In the 20 years since these accounts of prison life were produced, penal power has softened and is less directly oppressive in a physical sense. However, this in turn has produced an additional layer of pains and frustrations.²¹⁶

Crewe identifies three new ‘pains of imprisonment’ that are peculiar to the late modern prison: the pain of uncertainty and indeterminacy; the pain of psychological assessment; and, the pain of self government.²¹⁷ These pains directly relate to the way in which penal power within the prison has been reconfigured, both in policy and practice.²¹⁸ In the short term, penal power feels unpredictable for all prisoners. The full coercive potential of the prison is ‘coiled in the background’ but it is ‘difficult to predict when it might be activated.’²¹⁹ This can produce existential insecurity and prisoners can literally feel that they are ‘walking on eggshells.’²²⁰ For those serving indeterminate sentences, the pain of uncertainty also relates to the ambiguity associated with trying to demonstrate suitability for release: ‘the roadmap to freedom is by no means clear.’²²¹ Psychological assessment and the identification of ‘risk’ can weigh heavily into the decision to release a prisoner, but at the same time prisoners can feel that there is limited opportunity to discuss personal problems

²¹³ B Crewe, ‘Depth, Weight, Tightness: Revising the Pains of Imprisonment’ (2011) 13(5) *Punishment and Society* 509, 511.

²¹⁴ See RD King and K McDermott, *The State of Our Prison* (Clarendon Press 1995); Scraton and others (n3); Crewe (n213).

²¹⁵ Crewe (n213) 512.

²¹⁶ Crewe (n82); Crewe (n213).

²¹⁷ Crewe (n213).

²¹⁸ Crewe (n82); Crewe (n213).

²¹⁹ Crewe (n215) 513.

²²⁰ Crewe (n213) 510, 513.

²²¹ Crewe (n213) 514.

without such disclosures being transformed into risk.²²² Finally, prisoners are expected to take responsibility for their own behaviour and visibly demonstrate their compliance and commitment to personal transformation.²²³ They must be 'responsible' and must constructively engage but 'have little real voice.'²²⁴ Taken together, these pains of imprisonment work alongside the pains of imprisonment identified by Sykes but are not as easy to remedy since they represent the 'side effects of deliberate powers' rather than intentional abuses.²²⁵

3.5 The Prisoner Society and Culture

A controversial feature of Sykes' *Society of Captives*,²²⁶ and his later work with colleague Messinger,²²⁷ is the assumption that the inmate code and prison 'argot,' an informal prison slang, is a situational and collective response to the pains of imprisonment. His predecessor, Clemmer, developed the concept of 'prisonisation' to describe the acculturation of new inmates to the 'folkways, mores, customs and general culture of the penitentiary.'²²⁸ Clemmer's notion of prisonisation²²⁹ presupposes the existence of an inmate culture but fails to explore the origins of the inmate counter culture. Its genesis was later explained with reference to two seemingly opposing models: the deprivation model or indigenous model proposed by Sykes and Messinger (and also reminiscent of Goffman's analysis) and the importation model advanced by Irwin and Cressey. Sykes and Messinger understood the

²²² Crewe (n213). 516-517.

²²³ Crewe (n82); Crewe (n213) 519.

²²⁴ Crewe (n213) 519-520.

²²⁵ Crewe (n213) 524.

²²⁶ Sykes (n14).

²²⁷ GM Sykes and SL Messinger, 'The Inmate Social System' in RA Cloward and others (eds), *Theoretical Studies in Social Organisation in Prison* (Social Science Research Council 1960).

²²⁸ D Clemmer, *The Prison Community* (2nd Edn, Holt, Rinehart and Winston 1958) 299.

²²⁹ For further research on his theory, see S Wheeler, 'Socialization in Correction Communities' (1961) 2(5) *American Sociological Review* 697; L Goodstein, 'Inmate adjustment to prison and the transition to community life' (1978) 16 *Journal of Research in Crime and Delinquency* 246; CR Title, 'Inmate Organisation: Sex Differentiation and the Influence of Criminal Subcultures' (1969) 34(4) *American Sociological Review* 492; G Garabedian, 'Social Roles and Processes of Socialisation in the Prison Community' (1963) 11(2) *Social Problems* 139.

inmate code as one way in which inmates seek to resolve the various ‘pains of imprisonment’ inherent in, and induced by, the structural and social properties of prison life.²³⁰ Conversely, Irwin and Cressey believed the inmate culture is simply an extension or a reflection of a broader ‘criminal code’ existing outside the prison.²³¹ They did not dispute that the ‘inmate society’ was a ‘response to problems of imprisonment’,²³² but argued that ‘...much of inmate behaviour classified as part of the prison culture is not peculiar to prison at all.’²³³ Thus, the importation model holds that an individual’s pre-prison experiences, innate characteristics and values will impinge on their interactions and conduct within prison.

The contributions of Sykes, Messinger, Irwin and Cressey have heavily influenced many prison studies,²³⁴ and, even to date, these two theories continue to structure the debate about the experience of, and inmate adjustment to, prison life.²³⁵ However, neither model has proved infallible. Although some agreed that the depriving nature of the prison environment inspired or induced certain forms of inmate behaviour,²³⁶ others could not trace a causal

²³⁰ Sykes and Messinger (n227) 5-9.

²³¹ J Irwin and DR Cressey, ‘Thieves, Convicts and Inmate Culture’ (1962) 10(2) *Social Problems* 142.

²³² *ibid* 145.

²³³ Irwin and Cressey (n231) 142.

²³⁴ See, for example, RL Akers and others, ‘Prisonisation in Five Countries: Type of Prison and Inmate Characteristics’ (1977) 14(4) *Criminology* 527; JB Jacobs, ‘Street gangs behind bars’ (1974) 21(3) *Social Problems* 395; D Ellis and others, ‘Violence in Prisons: A Sociological Analysis’ (1974) 80(1) *The American Journal of Sociology* 16; CW Thomas and DM Petersen, *Prison Organisation and Inmate Subculture* (Bobbs-Merrill Company 1977); CW Thomas and others, ‘Structural and Social Psychological Correlates of Prisonisation’ (1978) 16(3) *Criminology* 383; H Toch, ‘Social Climate and Prison Violence’ (1978) 42 *Federal Probation* 21; GP Alpert, ‘Patterns of change in Prisonisation: A Longitudinal Analysis’ (1979) 6 *Criminal Justice and Behaviour* 159; MT Zingraff, ‘Inmate Assimilation: A Comparison of Male and Female Delinquents’ (1980) 7(3) *Criminal Justice and Behaviour* 275; E Zamble and FJ Porporino, *Coping, Behaviour and Adaptation in Prison Inmates* (Springer Verlag, 1988); K Adams, ‘Adjusting to Prison Life’ (1992) 16 *Crime and Justice* 275; J MacDonald, ‘Violence and Drug Use in Juvenile Institutions’ (1999) 27(1) *Journal of Criminal Justice* 33; BA Paterline and DM Petersen, ‘Structural and Social Psychological Determinants of Prisonisation’ (1999) 27(5) *Journal of Criminal Justice* 427; AR Gover and others, ‘Importation and Deprivation Explanations of Juveniles’ Adjustment to Correctional Facilities’ (2000) 44 *International Journal of Offender Therapy and Comparative Criminology* 450.

²³⁵ See Crewe (n82); Crewe (n29).

²³⁶ For example, McCorkle and Korn argued that the inmate social system could protect against the internalisation of the social rejection experienced when incarcerated. See LW McCorkle and R Korn, ‘Resocialisation within walls’ (1954) *The Annals of the American Academy of Political and Social Science* 88. Others have suggested that prison violence is a response to the structural, environmental and punitive features of the prison environment. See G Jackson, *The Soledad Brother* (Bantam 1970) 24 cited in D Ellis and others,

relationship or explain the specific response demonstrated.²³⁷ Moreover, several innate factors or pre-dispositions - such as age, gender, ethnicity, prior gang membership, substance misuse, a history of mental illness - have been identified as encouraging certain adaptive, or indeed maladaptive, behaviours.²³⁸ For example, Jacob's study of Chicago street gangs in Stateville penitentiary led him to conclude that gang members were 'orientated toward the same group membership and leadership hierarchy' as they had previously done before their imprisonment.²³⁹

Irwin and Cressey's model has also been open to criticism²⁴⁰ and a range of institutional factors such as prison overcrowding, organisation goals, are seen to have a bearing on inmate behaviour and capacity to 'adjust'.²⁴¹ Factors such as mental ill health, drug misuse, prison violence, are seen as a product of institutional life rather than solely the product of innate characteristics imported into prison.²⁴² The debate has reached something of

'Violence in Prisons: A Sociological Analysis' (1974) 80(1) *The American Journal of Sociology* 16; ED Poole and RM Regoli, 'Violence in Juvenile Institutions' (1983) 21(2) *Criminology* 213.

²³⁷ CR Title and DP Tittle, 'Social Organisation of Prisoners: An Empirical Test' (1964) 23 *Social Forces* 216; CW Thomas, 'Theoretical Perspectives on Alienation in Prison Society: An Empirical Test' (1975) 18(4) *Pacific Sociological Review* 483.

²³⁸ Irwin (n38); Johnson (n41); Toch (n166); CR Title, 'Institutional Living and Self Esteem'

²³⁹ JB Jacobs, 'Street gangs behind bars' (1974) 21(3) *Social Problems* 395, 408.

²⁴⁰ See for example, J Roebuck, 'A Critique of "Thieves, Convicts and the Inmate Culture"' (1963) 11(2) *Social Problems* 193.

²⁴¹ BB Beck, 'Organisational Goals and Inmate Organisation' (1966) 71(5) *American Journal of Sociology* 522; CW Thomas and MT Zingraff, 'Organisational Structure as a Determinant of Prisonisation' (1976) 19(1) *Pacific Sociological Review* 98; H Bidna, 'Effects of Increased Security on Prison Violence' (1975) 3 *Journal of Criminal Justice* 33; PW Keve, 'The Quicksand Prison' (1983) 63 *The Prison Journal* 47; D Ellis, 'Crowding and Prison Violence: Integration of Research and Theory' (1984) 11(3) *Criminal Justice and Behaviour* 277; PL Faulkner and WR Faulkner, 'Effects of Organisational Change on Inmate Status and the Inmate Code of Conduct' (1997) 10(1) *Journal of Criminal Justice* 5; GD Gaes and others, 'The Influence of Prison Gang Affiliation and other Prison Misconduct' (2002) 82(3) *The Prison Journal* 359.

²⁴² JB Jacobs, 'Street gangs behind bars' (1974) 21(3) *Social Problems* 395; ED Poole and RM Regoli, 'Violence in Juvenile Institutions' (1983) 21(2) *Criminology* 213; H Toch, *Mosaics of Despair: Human Breakdown in Prison* (American Psychology Association 1992); T Einat, 'Soldiers', 'sages' and 'deep sea diving': language, culture and coping in Israeli prisons' in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005).

a stalemate²⁴³ and it is the synthesis of the two models - the integration model - that is preferred by many.²⁴⁴

Whilst the source of the inmate culture is disputed, it is generally accepted that that the inmate culture is characterised by a prison argot: a language drawn from the language of the underground,²⁴⁵ current slang and descriptions of the experience of prison life.²⁴⁵ This argot serves as an expression of inmate solidarity, group loyalty, group allegiance and group membership. A growing familiarity with this argot was seen by Clemmer, as evidence of the acculturation or prisonisation of that inmate.²⁴⁶ However, to Sykes the purpose of the argot extended beyond intimacy with the patterns of institution life, but structured inmate society and classified the prison experience.²⁴⁷ In addition, Sykes and Messinger suggest that prisoner society is underpinned by a specific value system or inmate code.²⁴⁸ These maxims include; don't interfere with inmates interests, don't lose your head, don't exploit inmates, don't weaken, don't be a sucker and be sharp.²⁴⁹ They discourage the exploitation of fellow inmates, require loyalty to inmates over screws and emphasise the need to endure prison life. Violation of these injunctions and mandates, depending on the degree and nature of the

²⁴³ K Adams, Adjusting to Prison Life (1992) 16 *Crime and Justice* 275.

²⁴⁴ See CW Thomas, DM Petersen and RM Zingraff, Structural and Social Psychological Correlates of Prisonisation (1978) 16(3) *Criminology* 383; J MacDonald, Violence and Drug Use in Juvenile Institutions (1999) 27(1) *Journal of Criminal Justice* 33; E Zamble and FJ Porporino, *Coping, Behaviour and Adaptation in Prison Inmates* (Springer Verlag, 1988) CW Thomas and DM Petersen, *Prison Organisation and Inmate Subculture* (Bobbs-Merrill Company 1977); M Grapendal, The inmate subculture in Dutch Prisons (1990) 30(3) *British Journal of Criminology* 341; RL Akers, NS Hayner and W Gruninger, Prisonisation in Five Countries: Type of Prison and Inmate Characteristics (1977) 14(4) *Criminology* 527; H Toch, Social Climate and Prison Violence (1978) 42 *Federal Probation* 21; FJ Porporino and E Xamble, Coping with Imprisonment (1984) 26 *Canadian Journal of Criminology* 403; GP Alpert, Patterns of change in Prisonisation: A Longitudinal Analysis (1979) 6 *Criminal Justice and Behaviour* 159.

²⁴⁵ D Clemmer, *The Prison Community* (2nd Edn, Holt, Rinehart and Winston 1958); Sykes (n14) 85; T Einat and H Einat, Inmate Argot as an Expression of Prison Subculture: The Israeli Case (2000) 8(3) *Prison Journal* 309; T Einat, Soldiers, sausages and deep sea diving: language, culture and coping in Israeli prisons' in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005); B Crewe and T Einat, Argot in Y Jewkes and J Bennett, *Dictionary of Prison and Punishment* (Willan 2008).

²⁴⁶ D Clemmer, *The Prison Community* (2nd Edn, Holt, Rinehart and Winston 1958).

²⁴⁷ Sykes (n14) 85.

²⁴⁸ Sykes and Messinger (n227) 5.

²⁴⁹ Sykes and Messinger (n227) 5-9.

infringement, was thought to attract social isolation and reprisals from other inmates.²⁵⁰ Irwin and Cressey suggest that adherence to these norms is an ideal; most prisoners do not follow such precepts religiously but will evaluate the conduct of others according to such standards.²⁵¹ The informal inmate code is seen to underpin the inmate subculture and frame social hierarchies.

The normative code and the prison argot are reinforced through certain argot roles. These roles give expression to the normative values of the inmate culture and capture behaviours which were seen to deviate from, or adhere to, aspects of the inmate code. These tags can be divided in terms of sexual behaviour, inmate solidarity, violent behaviour, exploitive behaviour and degrees of toughness.²⁵² For example, Sykes found that the prison population was stratified into informers (centre men, rats and squealers), those involved in homosexual activity (wolves, punks and flags), those who exploit others (gorillas and merchants) and those aggressive and violent prisoners (ball busters, tough or hipsters). The real man, then, is the inmate who endures the rigours and pains of imprisonment with fortitude and dignity, confronting his captors with neither subservience nor aggression.²⁵³ Whilst this social structure is seen as being somewhat fluid,²⁵⁴ Sykes is not alone in presenting a stratified population characterised by different social roles.²⁵⁵ Such labels can be extremely powerful. Research details how labels such as snitch or flag remain important and may attract violent responses from other prisoners.²⁵⁶ Furthermore, this social structure

²⁵⁰ Sykes and Messinger (n227) 5.

²⁵¹ Irwin and Cressey (n231). This is also acknowledged by Sykes and Messinger. See Sykes and Messinger (n227) 5.

²⁵² Sykes (n14).

²⁵³ Sykes (n14) 102.

²⁵⁴ Sykes (n14) 106.

²⁵⁵ See, for example, Irwin and Cressey (n231); Irwin (n39).

²⁵⁶ See T Einat, *“Soldiers”, “sausages” and “deep sea diving”*: language, culture and coping in Israeli prisons in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005); Crewe (n82).

indicates something of a balance between the desire to move towards inmate solidarity on one hand, and the desire of prisoners to pursue individual needs at the expense of others.

The inmate code circumscribes intimate contact with officers and emphasises inmate solidarity.²⁵⁷ To Sykes and Messinger, inmate solidarity was seen to mitigate the impact of the carceral experience.²⁵⁸ Whilst Clemmer suggests that inmates will form ‘primary groups’ of a three or more close friends,²⁵⁹ others have cast doubt on this assertion²⁶⁰ and suggest that prisoners tend to be far more self-interested and aggregated.²⁶¹ Moreover, Sykes’ emphasis on inmate solidarity must be balanced against his own submissions that prisoners frequently manipulate and victimise each other.²⁶² Mathiesen also challenges Sykes’ submission, arguing that the inmate population is more accurately described as a ‘disrupted society’,²⁶³ proposing the notion of ‘censoriousness’ to explain group cohesion and the degree of cultural consensus. ‘Censoriousness’ is defined as ‘criticism of those in power for not following, in their behaviour, principles that are established as correct within the social system in question.’²⁶⁴ To Mathiesen, this censoriousness is a functional alternative to peer solidarity which allows isolated inmates to make the rulers appear and feel that they are deviant.²⁶⁵ It is possible, however, that, as Sparks *et al* suggest, that the debate between Sykes and Mathiesen

²⁵⁷ Also see Goffman (n8) 18; LE Ohlin, *Sociology and the Field of Corrections* (Russell Sage Foundation 1956) 14; C Wellford, ‘Factors associated with adoption of the inmate code: A study of normative socialisation’ (1967) 58(2) *The Journal of Criminal Law, Criminology and Political Science* 197, 198.

²⁵⁸ Sykes (n14); Sykes and Messinger (n227).

²⁵⁹ D Clemmer, *The Prison Community* (2nd Edn, Holt, Rinehart and Winston 1958) 302.

²⁶⁰ S Wheeler, ‘Socialization in Correction Communities,’ (1961) 2(5) *American Sociological Review* 697; CR Title, ‘Inmate Organisation: Sex Differentiation and the Influence of Criminal Subcultures’ (1969) 34(4) *American Sociological Review* 492.

²⁶¹ Crewe (n29).

²⁶² Sykes (n14) 76-78, 108; Also see LE Ohlin, *Sociology and the Field of Corrections* (Russell Sage Foundation 1956) 14.

²⁶³ Mathiesen (n74) 122.

²⁶⁴ Mathiesen (n74) 23.

²⁶⁵ Mathiesen (n74) 12.

‘posits a false choice’ between the two alternatives hypotheses – when some fluid combination of each (plus some other alternatives) may equally be imaginable.²⁶⁶

More recent research speaks of a dilution in the collective power and solidarity of the prison society. Contemporary commentators dispute the importance of the traditional inmate code within contemporary prison culture.²⁶⁷ Irwin, in the preface to the second edition of *The Felon*, argues:

There is no longer a single overarching convict culture or social organisation, as there tended to be twenty years ago when *The Felon* was written. Most prisoners restrict their association to few other prisoners and withdraw from prison public life. A minority associates with gangs, gamble, buy and sell contraband commodities, and engage in prison homosexual behaviour. If they do so, they must act ‘tough’ and be willing to live by the new code, that is, be ready to meet threats of violence with violence.²⁶⁸

Whilst the inmate code still appears to exist, it appears that violations of the code are tolerated to a greater extent and are more often verbally condemned rather than violently punished.²⁶⁹ A number of explanations for this shift can be found. First, as Phillips records, the IEP Scheme encourages individuals to improve their lot through good behaviour. This has

²⁶⁶ Sparks and others (n58) 49.

²⁶⁷ AS Maitland and RD Sluder, ‘Victimization and Youthful Prison Inmates: An empirical analysis’ (1998) 78(1) *The Prison Journal* 55; KN Wright, ‘The Violent and Victimized in the Male Prison’ in MC Braswell and others (eds), *Prison Violence in America* (Anderson Publishing 1994).

²⁶⁸ J Irwin *The Felon* (2nd edn, University of California Press 1990) vi cited in L Wacquant, ‘Deadly Symbiosis: When ghetto and prison meet and mash’ (2001) 3(1) *Punishment and Society* 95, 109.

²⁶⁹ PL Faulkner and WR Faulkner ‘Effects of Organizational Change on Inmate Status and the Inmate Code of Conduct’ (1997) 10(1) *Journal of Crime and Justice* 55, 60.

an individualistic influence²⁷⁰ and dilutes the role of unified prisoner collectivities²⁷¹ in mitigating the pains of imprisonment. Second, a black market in illegal drugs within the prison has created a climate of distrust and led to violations of the inmate code since users may assault, rob, bully and steal from fellow inmates.²⁷²

Third, particularly in the American context, racial divisions, ethnic tensions and gang culture have influenced the dynamics of prison life and the individual and collective response.²⁷³ Wacquant argues the 'code of the street' has supplanted the 'convict code',²⁷⁴ arguing that the 'right guy' has been replaced with 'outlaws and gang members'.²⁷⁵ He suggests that 'toughness' and 'mercilessness' has been promoted and now dominate prisoners' value systems,²⁷⁶ fostering an environment conducive to violence.²⁷⁷ Similarly, Zamble and Porporino argue that the stable prison subculture has been replaced with a tentative order based on values of violence and self protection.²⁷⁸ However, it is possible that this shift may be more profound in the American prisons since Jewkes, in the context of British prisons, adds that inmate society still requires adheres to an inmate code and the mutual support and camaraderie of fellow inmates provides ontological security.²⁷⁹

²⁷⁰ C Phillips, 'Negotiating Identities: Ethnicity and Social Relations in a Young Offenders' Institution,' (2008) 12(3) *Theoretical Criminology* 313, 324.

²⁷¹ *ibid* 324.

²⁷² Crewe (n29) 467.

²⁷³ G Sykes and F Cullen, *Criminology* (2nd Edn, Harcourt Brace 1992) 434.

²⁷⁴ Sykes and Messinger (n227). See Chapter 6, 245-263 for further discussion on this point.

²⁷⁵ L Wacquant, 'Deadly Symbiosis: When Ghetto and Prison Meet and Mesh' (2001) 3(1) *Punishment and Society* 95, 111.

²⁷⁶ *ibid* 111.

²⁷⁷ AS Maitland and RD Sluder, 'Victimization and Youthful Prison Inmates: An empirical analysis' (1998) 78(1) *The Prison Journal* 55.

²⁷⁸ E Zamble and F Porporino, *Coping, Behaviour and Adaptation in Prison Inmates* (Springer Verlag 1988) 8.

²⁷⁹ Y Jewkes, 'Men Behind Bars: Doing Masculinity as an Adaptation to Imprisonment' (2005) 8 *Men and Masculinities* 44, 50.

3.6 Doing Time

Time is the essence of imprisonment.²⁸⁰ Trapped and entombed with the prison walls and faced with the inertia and inactivity of prison life, the prisoner quickly discovers that time is a particular problem. In free society, time generally represents a resource that is used for the purposes of work, leisure, recreation, relaxation and sleep, sometimes spent in the company of loved ones and friends.²⁸¹ In prison, time presents a challenge: it is no longer a resource to be used but rather an object to be contemplated - an undifferentiated landscape which has to be marked out and traversed.²⁸² For many, release is the desired outcome but continually fixating on this distant horizon can be a source of great stress and serve only to expose the great chasm of time that exists between their present reality and their distant, future release date.

The regulation of time and space, and particularly the routine deployment of time,²⁸³ is particularly evident in the prison context. Prison life is highly structured but prisoners exercise little control over their daily routines. Prisoners often experience long periods of solitude and inactivity, populated by bursts of activity or an explosion of violence or disorder. Consequently, time feels distorted.²⁸⁴ The prison routine may create a degree of stability and structure but its infrequent variations mean that there is little to distinguish one day from the next. As Cohen and Taylor note days do not pass like they do on the outside ... They are not progressively used up as one moves towards a goal. They are isolated entities, existing away from the normal cumulative linear context they inhabit.²⁸⁵ Similarly, Serge argues:

²⁸⁰ RD King and KW Elliot, *Albany: Birth of a Prison - End of an Era* (Routledge and Kegan Paul 1977) 227.

²⁸¹ See Cohen and Taylor (n172).

²⁸² Cohen and Taylor (n172) 114.

²⁸³ Sparks and others (n58) 75.

²⁸⁴ V Ruggiero, 'The Disrespect of Prison' (Paper presented at the 'Respect in Prison' conference, Lincoln, July 1991) 74 cited in Jewkes (n2)10.

²⁸⁵ Cohen and Taylor (n172) 106.

The unreality of time is palpable. Each second falls slowly. What a measureless gap from one hour to the next. When you tell yourself in advance that six months - or six years - are to pass like this, you feel the terror of facing an abyss. At the bottom, mists in the darkness.²⁸⁶

This and the limited range of activities available to occupy time, means that prison life can become insidiously dull, boring or monotonous, stretching rather than accelerating time.

In this context, 'the most frequent injunction to inmates is to ~~do~~ your time'²⁸⁷ and this becomes the 'dominant challenge'²⁸⁸ for inmates. This is, Jones and Schmid suggest, 'a creative process which inmates must invent or learn a repertoire of adaptation tactics that address the varying problems that confront during particular phases of their prison careers.'²⁸⁹ Thus, the notion of 'doing time' implies something of the way in which inmates seek to reduce time, pass it, fill it and mark time, adjusting and adapting to the time problem. Goffman explains that within the 'dead and heavy-hanging time,' inmates place a premium on 'removal activities.'²⁹⁰ These 'removal activities' allow prisoners to transcend the prison environment and oblivious to the challenges it presents.²⁹¹ Such activities 'kill time' and may involve both collective and individual endeavours.²⁹² Activity can relieve or distract attention from negative emotions such as resentment, anger and feelings of guilt or self hate.²⁹³ It consumes energy and attention, channelling feelings and also serves to distract and

²⁸⁶ V Serge, *Men in Prison* (Gollancz 1970) 56.

²⁸⁷ Cohen and Taylor (n172) 100. Also see PL Faulkner and WR Faulkner, 'Effects of Organisational Change on Inmate Status and the Inmate Code of Conduct' (1997) 10(1) *Journal of Crime and Justice* 55, 60; Carrabine (n112) 180.

²⁸⁸ H Toch, *Living in Prison: The Ecology of Survival* (Free Press 1977) 22.

²⁸⁹ RS Jones and TJ Schmid, *Doing Time: Prison Experience and Identity among First Time Inmates* (Jail Press 2000) 133.

²⁹⁰ Goffman (n8) 67.

²⁹¹ Goffman (n8) 67.

²⁹² Goffman (n8) 67.

²⁹³ Toch (n289) 23-24.

anesthetise.²⁹⁴ Thus, activity provides an avenue to cope with stress. Matthews suggests that the drug subculture provides another way of organising daily life in a way that mirrors normal routines of life.²⁹⁵ It normalises and readjusts time.²⁹⁶ Jewkes extends Matthews' analysis, adding that media consumption can also serve a similar purpose.²⁹⁷ These are, however, imperfect solutions and, as Matthews argues, the distortion of time in prison means that time is not so much as —spent as wasted".²⁹⁸

The mantra do your time and don't let time do you presents a particular challenge for those serving long or life sentences who fear personal deterioration.²⁹⁹ Flanagan remarks that for those serving life or long sentences, the ability to mark or frame time may be reduced, producing a fear that other cognitive processes are also deteriorating.³⁰⁰ The avoidance of contamination and deterioration may become an obsessive concern, requiring continually vigil and supervision to avoid becoming a cabbage.³⁰¹ This fear may be exacerbated by the presence of others who have lost it.³⁰² Indeed, Morris and Morris note that during their research, they were able to observe several prisoners on the downhill path, men whose engagement and appearance gradually diminished.³⁰³

3.7 Conclusion

The prison institution has an all encompassing character marked by the barrier between the community and the prison social world. The forced separation of prisoners from their lives in

²⁹⁴ Toch (n289) 25.

²⁹⁵ R Matthews, *Doing Time: An Introduction to the Sociology of Imprisonment* (2nd Edn, Palgrave Macmillan, 2009) 39.

²⁹⁶ *ibid* 39.

²⁹⁷ Jewkes (n2) 102.

²⁹⁸ Matthews (n295) 38.

²⁹⁹ Cohen and Taylor (n172).

³⁰⁰ Flanagan (n174) 121.

³⁰¹ Cohen and Taylor (n172) 115.

³⁰² Flanagan (n174) 121.

³⁰³ T Morris and P Morris, *Pentonville: A sociological study of an English Prison* (Routledge 1963) 165.

the community disrupts ontological security³⁰⁴ with the effect that prisoners may fear that aspects of their identity, former life and social status are threatened or missing. Their needs, wishes and desires are henceforth subject to and constrained by the goals of the prison institution and the demands of penal power. Prison life is conducted *en masse* and subject to ongoing surveillance with the effect that there are few neutral or private spaces. The ability to restore aspects of self in an environment where there are few moments of privacy will remain an ongoing problem. The issue of identity emerges as a fundamental existential problem for prisoners, a theme which is developed in the empirical chapters that follow.

How prisoners seek to do gender within a male dominated, coercive and depriving environment presents a second existential problem. Masculinity is constructed and accomplished within a particular social environment. In the prison environment, cultures of hypermasculinity typically emerge where hegemonic masculinity is constructed through the use of violence. Chapters 5 – 7 explore not only how male prisoners seek to accomplish masculinity in the YOI environment, but how boys seek to become men.

The prison is a coercive institution. By its very nature, it restricts the liberty of its charges by force and that capacity to override the will and needs of the individual continues to characterise and structure prison life. Whilst the full potential of coercive force is not deployed routinely, an essentially inefficient technique for securing social order, coercive force nonetheless underpins power relations within the prison. Prisoners do not unequivocally consent to the authority and power of the prison and its agents. Whilst prison officers do hold power, they are far from being omnipotent rulers who have crushed all signs of rebellion

³⁰⁴ A Giddens, *Modernity and Self Identity: self and society in the late modern age* (Polity 1991) 35.

against the regime.³⁰⁵ Within this context, it is clear that power, agency, compliance and resistance emerge as key themes; themes that are taken up more specifically in Chapter 7, which explores power relations between children and staff at the YOI.

Prisoners cannot be released until they have served ‘time’ and, consequently, time is a key feature of prison life. The fundamental imperative for most prisoners is to ‘do your time,’ however, this task is rendered difficult by the inactivity, boredom and monotonous routine. This routinisation of time is key feature of Goffman’s archetypal ‘total institution’ and has particular resonance in the prison context. This theme is developed in more detail in Chapters 5 and 7, which explore how children’s adaptations to the time problem fit within personal struggles to survive a prison sentence and their choices to comply with, or resist, the demands of penal power.

Life in late modern prisons is painful, frustrating and burdensome. Whilst basic living conditions may have improved, and prison regimes are no longer characterised by the same degree of brutality and violence at the hands of officers, prisoners still experience psychological pain.³⁰⁶ This psychological pain is not only bound up in the pains of imprisonment identified by Sykes, but also in the ‘new’ pains of imprisonment identified by contemporary prison observers. Prisoners will not respond homogeneously to these pains nor, indeed, will they suffer them to the same degree.³⁰⁷ Chapters 5 - 7 discuss the extent to which the pains of imprisonment identified in adult prisons are evident within YOIs. Before these themes are explored in more detail, and with specific reference to life in the YOI, Chapter 4 presents an analysis of the methodological considerations that underpin that research.

³⁰⁵ Sykes (n14) 42.

³⁰⁶ See Crewe (n82); Liebling (n71). For further discussion, also see Chapter 7.

³⁰⁷ See, for example, Toch (n289).

CHAPTER 4

‘WHY ARE YOU HERE?:’ DOING RESEARCH IN AN ENGLISH YOI

4.1 Introduction

Prisoners inhabit a world that is typically concealed from public view.¹ In order to understand this ‘hidden world’² and the lived experience of prisoners, it is essential to ‘get into the field.’³ There has been growing concern regarding the relative obscurity and invisibility of the prison’s inner world, particularly in the American prison context.⁴ However, British prison research has ‘experienced something of a revival.’⁵ Prison studies have, for example, examined: specific institutions;⁶ prisons with different security categories;⁷ private sector prisons;⁸ the experiences of women, young adult and elderly prisoners;⁹ ethnicity;¹⁰ prison

¹ Also see B Crewe, *The Prisoner Society: Power, adaptation and social life in an English Prison* (Clarendon Press 2009) 1.

² A Liebling and H Arnold, ‘Social relationships between prisons in a maximum security prison: Violence, faith and the declining nature of trust’ (2012) 40(5) *Journal of Criminal Justice* 413, 414.

³ RD King, ‘Doing Research in Prisons’ in RD King and E Wincup (eds), *Doing Research on Crime and Justice* (Oxford University Press 2000) 297-8.

⁴ M Bosworth and R Sparks, ‘New Directions in Prison Studies: Some Introductory Comments’ (2000) 4(3) *Theoretical Criminology* 259; J Simon, ‘The “Society of Captives” in the Era of Hyper-Incarceration’ (2000) 4(3) *Theoretical Criminology* 285; LA Rhodes, ‘Towards an Anthropology of Prisons’ (2001) 30 *Annual Review of Anthropology* 65; L Wacquant, ‘The curious eclipse of prison ethnography in the age of mass incarceration’ (2002) 3(4) *Ethnography* 371; B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) 1.

⁵ A Liebling, ‘Doing Research in Prison: Breaking the Silence?’ (1999) 3(2) *Theoretical Criminology* 147, 148. Also see King (n3) 286-288.

⁶ For example, Peterhead (see P Scraton and others, *Prisons Under Protest* (Open University Press 1991)), Grendon (see E Genders and E Player, *Grendon: A study of a therapeutic prison* (Clarendon Press 1995)), Wellingborough (see B Crewe, *The Prisoner Society: Power, adaptation and social life in an English Prison* (Clarendon Press 2009)).

⁷ RD King and K McDermott, *The State of Our Prisons* (Clarendon Press 1995). For a recent study of a maximum security prison, see A Liebling and H Arnold, ‘Social relationships between prisons in a maximum security prison: Violence, faith and the declining nature of trust’ (2012) 40(5) *Journal of Criminal Justice* 413.

⁸ K Bottomley and others, *Wolds Remand Prison - An Evaluation* (Research Findings No. 32) (Home Office 1991) <<http://library.npia.police.uk/docs/hofindings/r32.pdf>> accessed 30th December 2012; K Bottomley and others, *Monitoring and Evaluation of Wolds Remand Prison, and comparisons with public sector prisons, in particular HMP Woodhill* (A Report for the Home Office Research and Statistics Directorate) (University of Cambridge and University of Hull 1997) <<http://library.npia.police.uk/docs/homisc/occ-prison.pdf>> accessed 3rd January 2013; A Liebling (assisted by H Arnold), *Prisons and their Moral Performance: A Study of Values, Quality and Prison Life* (Oxford University Press 2004); B Crewe and others, ‘Staff culture, use of authority and prisoner quality of life in public and private sector prison’ (2011) 44(1) *Australia and New Zealand Journal of Criminology* 94; S Hulley and others, ‘Respect in Prisons: Prisoners’ Experiences of Respect in Public and Private Sector Prisons’ (2012) 12(3) *Criminology and Criminal Justice* 3.

officer work,¹¹ prison suicide,¹² prison violence and social disorder¹³ and prison drug misuse.¹⁴ Children's narratives and experiences have often been overlooked within this rich tradition¹⁵ of prison ethnography. This is not to say that youth custody has not been the subject of academic critique,¹⁶ rather that few studies have sought to 'pierce the skin'¹⁷ of juvenile YOIs.¹⁸

This case-study of a private YOI for teenage boys aged 15-18 years old, seeks to answer this challenge. The fieldwork was conducted in July and August 2008 at a time when the juvenile custodial population had once again reached a peak¹⁹ and the vast majority of children in the juvenile secure estate were held in YOIs.²⁰ The aims of the empirical research were twofold: to offer child prisoners 'a voice' and to contribute to the established literature by documenting the experiences of child prisoners. The empirical research addressed four key research questions:

1. How do teenage boys aged 15-17 years old experience imprisonment?

⁹ On female prisoners, see M Bosworth and others, 'Doing Prison Research: Views from Inside' (2005) 11(2) *Qualitative Inquiry* 249. On elderly prisoners, see E Crawley and R Sparks, 'Older Men in Prison: Survival, Coping and Identity' in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005) and E Crawley and R Sparks, 'Is there life after imprisonment: How elderly men talk about imprisonment and release' (2006) 6(1) *Criminology and Criminal Justice* 63. On young adult prisoners, see J Harvey, *Young Men in Prison: Surviving and Adapting to Life Inside* (Willan 2007).

¹⁰ C Phillips, 'Negotiating Identities: Ethnicity and Social Relations in a Young Offenders' Institution' (2008) 12(3) *Theoretical Criminology* 313.

¹¹ E Crawley, *Doing Prison Work: The Public and Private Lives of Prison Officers* (Willan 2004); A Liebling and others, *The Prison Officer* (2nd Edn, Willan 2011).

¹² A Liebling, *Suicides in Prison* (Routledge 1992); D Medlicott, *Surviving the Prison Place: Narratives of Suicidal Prisons* (Ashgate 2001).

¹³ R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996); K Edgar and others, *Prison Violence: The Dynamics of Conflict, Fear and Power* (Willan 2003).

¹⁴ N Cope, 'It's No Time or High Time': Young Offenders' Experiences of Time and Drug use in Prison' (2003) 42(2) *Howard Journal of Criminal Justice* 158; B Crewe, 'Prison Drug Dealing and the Ethnographic Lens' (2006) 45(4) *Howard Journal of Criminal Justice* 347.

¹⁵ Crewe (nl) 3.

¹⁶ See Chapters 1 and 2 for further discussion, particularly in the context of contemporary youth custody.

¹⁷ Crewe (nl) 3.

¹⁸ See Chapter 1, 10-19.

¹⁹ Ministry of Justice, *Youth Custody Data August 2012* (Ministry of Justice 2012) <<http://www.justice.gov.uk/statistics/youth-justice/custody-data>> accessed 15th October 2012.

²⁰ See Chapter 1, 6-10.

2. What are the attitudes of child prisoners towards their offending, incarceration and release?
3. How do staff experience working in a juvenile YOI?
4. What rewards and challenges do they experience working in this setting?

Until more recently, prison officers have been largely neglected in prison ethnographic literature,²¹ particularly in respect of prison officers working in juvenile YOIs.²² The decision to involve prison staff in the research related to the desire not only to understand how they experienced prison work with children but also to explore the potential relationship between the attitudes of officers and the experience of children, further adding to the established literature.

The purpose of this chapter is to present and evaluate the research design and process adopted during my empirical study. Doing prison research involves many choices and decisions and, therefore, understanding the rationale for those choices and how they shaped the research process is crucial. Thus, this chapter begins by discussing the process of negotiating access and how this influenced the final research project. Second, the chapter provides a general overview of the YOI where the empirical research was conducted. Third, this chapter details the methodological approach utilised. Fourth, the chapter details the ethical issues encountered conducting sensitive research with child prisoners and prison staff. Finally, the chapter evaluates the research process and the rewards and challenges experienced when conducting prison research with children.

²¹ E Crawley, *Doing Prison Work: The Public and Private Lives of Prison Officers* (Willan 2004); J Bennett and others (eds), *Understanding Prison Staff* (Willan 2008); A Liebling and others, *The Prison Officer* (2nd Edn, Willan 2011).

²² See E Crawley, *Doing Prison Work: The Public and Private Lives of Prison Officers* (Willan 2004) 99-101 for some commentary on the subject.

4.2 Negotiating Access

Originally, it was intended that the empirical research would involve a comparative study of at least two YOIs or a YOI and STC. The fundamental aim was to explore the experience of child prisoners and, therefore, it was thought that a comparative study of two YOIs could also allow comparisons to be made between YOIs. Alternatively, if this was not possible, it was thought that a comparative study of a YOI and STC could allow conclusions to be made regarding the experience of child prisoners compared with children in custodial institution which is not a 'prison' and caters for a younger age group (12-17 year olds).²³

The process of securing access began by approaching the Director of one of the YOIs identified as a possible research site. This particular YOI was initially chosen primarily because a colleague - a 'gatekeeper to the gatekeepers'²⁴ - had recently completed a Home Office research study with the YOI and had developed a good working relationship with the Director. It was this relationship that ultimately facilitated access to the institution. After securing access to the first YOI, applications were submitted to the Prison Service and individual STCs but further access was declined. Little information was given to explain these decisions. As a result, the empirical project was re-formulated, becoming a case study of a specific YOI. Had a case study been the original design, it might have been preferable to sample a larger proportion of the population and undertake a slightly longer period of fieldwork but, unfortunately, notification of the Prison Service's decision was received after the scope of the empirical study upon which this thesis is based had been negotiated.²⁵

²³ For further discussion about STCs, see Chapter 2, 63-65.

²⁴ C Smith and E Wincup, 'Breaking In: Researching Criminal Justice Institutions for Women' in RD King and E Wincup (eds), *Doing Research on Crime and Justice* (Oxford University Press 2000) 336.

²⁵ King, for example, suggest that there are minimum timings and that 'longer is almost always better.' See King (n3) 298. Inevitably, the travel and accommodation costs associated with undertaking empirical research and the restrictions of the Ph.D. timeframe would have prevented a lengthy period of fieldwork.

Although difficulties securing access are not uncommon,²⁶ this was a frustrating and disempowering process. In retrospect, however, it provided an opportunity to engage with the particulars of one institution.

Negotiating access is not a single event but occurs throughout the process of data collection.²⁷ Generally, there were few problems securing access once inside. However, the potential of research participants to control the research process was illustrated whilst observing life in the reorientation unit. Soon after arriving, the Unit Manager began telling crude, blonde and female jokes. When I did not express distaste, the Unit Manager then informed other officers that I was *‘fine’* and they could now talk openly. The implication is that social acceptance, even amongst staff members is, in part, based on an ability to respond to, and engage in *‘banter’*.²⁸ In this scenario, it appeared that failure to accept such banter might have limited the willingness of staff to disclose or discuss elements of their experiences.

4.3 The Research in Context

The empirical research was conducted in a private YOI holding juveniles aged 15 - 18 years old. Prison privatisation is controversial and has initiated a lively debate,²⁹ especially in so far

²⁶ S Cohen and L Taylor, *Psychological Survival: The experience of long term imprisonment* (2nd Edn, Penguin Books 1981) 85; V Jupp, *Methods of Criminological Research* (Unwin Hyman 1989) 139; P Davies, *‘Doing Interviews with Female Offenders’* in V Jupp and others (eds), *Doing Criminological Research* (Sage 2000) 86.

²⁷ L Noaks and E Wincup, *Criminological Research: Understanding Qualitative Methods*, (Sage 2004) 55. Also see C Hoyle, *‘Being ‘A Nosy Bloody Cow’: Ethical and Methodological Issues in Researching Domestic Violence’* in RD King and E Wincup (eds), *Doing Research on Crime and Justice* (Oxford University Press 2000) 395; G Hughes, *‘The Politics of Criminological Research’* in V Jupp, P Davies and P Francis (eds), *Doing Criminological Research*, (Sage 2000) 239; King (n3) 297.

²⁸ This may reflect a more general occupational culture of masculinity since research suggests that such banter and *‘testing’* might also be a common experience for female prison officers entering a predominantly male environment. See, for example, LE Zimmer, *Women Guarding Men*, (University of Chicago Press 1986).

²⁹ C Logan, *Private Prisons: Cons and Pros* (Oxford University Press 1990); T Don Hooto, *‘The Privatisation of Prisons’* in JW Murphy and JE Dison (eds), *Are Prisons Any Better?: Twenty years of Correctional Reform* (Sage 1990); JR Lilly and P Knepper, *‘An International Perspective on the Privatisation of Corrections’* (1992) 31(3) *Howard Journal of Criminal Justice* 174; N Christie, *Crime Control as Industry*, (Routledge 1993); JR Lilly and M Deflem, *‘Profits and Penalty: An analysis of the Commercial Corrections Complex’* (1996) 42(1)

as it concerns the deprivation of children's liberty.³⁰ Whilst a comprehensive analysis of this debate is beyond the scope of this chapter, three issues of relevance to the YOI where the research took place will be briefly discussed: State responsibility, economy and performance.

The experience of imprisonment can be painful, damaging and harmful.³¹ To profit from the imposition of harm seems unethical and diverts attention from the broader issue regarding the dangers of imprisonment.³² In addition, the drive to increase economy and efficiency may have negative consequences for the welfare of children. There may be a tendency, even if only indirectly so, to make financially sound decisions rather than focusing attention on, or addressing, the needs of child prisoners. To some, punishment is a quintessential function of government which should not under normal circumstances be delegated to private contractors.³³ Whilst its advocates may see prison privatisation as simply adding to the existing array of goods and services provided by the private sector,³⁴ there is

Crime and Delinquency 3; AK James and others, *Privatising Prisons: Rhetoric and Reality* (Sage 1997); D Shichor, 'Private Prisons in Perspective: Some Conceptual Issues' (1998) 37(1) *The Howard Journal* 82; MM Feeley, 'Entrepreneurs of punishment: The legacy of privatization' (2002) 4(3) *Punishment and Society* 321; E Genders, 'Legitimacy, Accountability and Private Prisons' (2002) 4(3) *Punishment and Society* 285; MD Schwartz and DS Nurge, 'Capitalist Punishment: Ethics and Private Prisons' (2004) 12 *Critical Criminology* 133; E Genders and E Player, 'The Commercial Context of Criminal Justice: Prison Privatisation and the Perversion of Purpose' [2007] *Criminal Law Review* 513; G Sheffer and A Liebling, 'Prison Privatization: In Search of a Business-Like Atmosphere' (2008) 8(3) *Criminology and Criminal Justice* 261.

³⁰ References to the commentary by the Howard League for Penal Reform have been removed to preserve the anonymity of the institution.

³¹ B Goldson, 'Damage, Harm and Death in Child Prisons in England and Wales: Questions of Abuse and Accountability' (2006) 45(5) *Howard Journal of Criminal Justice* 449. Although the 'effects debate' reached something of a stalemate, more recent research has attempted to delineate and conceptualise the pains and effects of imprisonment. See Chapter 3 at 94-104; A Liebling, 'Prison Suicide and Coping' (1999) 26 *Crime and Justice* 283; A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005).

³² G Sheffer and A Liebling, 'Prison Privatization: In Search of a Business-Like Atmosphere' (2008) 8(3) *Criminology and Criminal Justice* 261, 274.

³³ R Harding, 'Private Prisons' (2001) 28 *Crime and Justice* 265, 274; MM Feeley, 'Entrepreneurs of punishment: The legacy of privatization' (2002) 4(3) *Punishment and Society* 321, 321. Also see Leon Radzinowicz's comments cited in E Genders, 'Legitimacy, Accountability and Private Prisons' (2002) 4(3) *Punishment and Society* 285, 289.

³⁴ T Don Hooto, 'The Privatisation of Prisons' in JW Murphy and JE Dison (eds), *Are Prisons Any Better?: Twenty years of Correctional Reform* (Sage 1990). Also see E Genders, 'Legitimacy, Accountability and Private Prisons' (2002) 4(3) *Punishment and Society* 285, 286 and D Shichor, 'Private Prisons in Perspective: Some Conceptual Issues' (1998) 37(1) *The Howard Journal* 82, 84 for a brief commentary.

something distinctive about the administration of punishment and the use of coercive force, which should ultimately remain the preserve of the State.³⁵

The principal gains cited by proponents of prison privatisation are improved economy, efficiency, innovation and prison performance.³⁶ Empirically, the claim of cost-saving is somewhat difficult to test since it is impossible to draw effective cost comparisons between public and private sector prisons.³⁷ It is also difficult to reach any firm conclusions regarding the quality of prison regimes in private prisons compared with public sector prisons.³⁸ There is some evidence that staff-prisoner relationships may be better in private rather than public sector prisons³⁹ although it is unclear how widespread such findings are or how long-term.⁴⁰ The safest conclusion to draw is that the performance of private prisons, like public sector prisons, will vary in quality and performance.⁴¹ However, the concern is

³⁵ See E Genders, 'Legitimacy, Accountability and Private Prisons' (2002) 4(3) *Punishment and Society* 285, 289-90.

³⁶ For example, the Secretary of State for Justice, Chris Grayling, recently announced that the completion of the current competition process and the privatisation of four prisons should generate savings of £450m. See <<http://www.justice.gov.uk/news/press-releases/moj/next-steps-for-prison-competition>> accessed 30th December 2012. Also see A Liebling, *Prisons and their Moral Performance: A Study of the Values, Quality and Prison Life* (Clarendon Press 2004) 97-9.

³⁷ T Don Hooto, 'The Privatisation of Prisons' in JW Murphy and JE Dison (eds), *Are Prisons Any Better?: twenty years of correctional reform* (Sage 1990) 124; C Logan, *Private Prisons: Cons and Pros* (Oxford University Press 1990) 11; A James and others, *Privatizing Prisons: Rhetoric and Reality* (Sage 1997) 24; S Armstrong, 'Punishing not-for-profit: Implications of non-profit privatization in juvenile punishment' (2002) 4(3) *Punishment and Society* 345; National Audit Office, *The Operational Performance of PFI Prisons: Report by the Comptroller and Auditor General HC 700 2002-2003*: 18 June 2003 (Stationery Office 2003) 7.

³⁸ See National Audit Office, *The Operational Performance of PFI Prisons: Report by the Comptroller and Auditor General HC 700 2002-2003*: 18 June 2003 (Stationery Office 2003) 7; G Sheffer and A Liebling, 'Prison Privatization: In Search of a Business-Like Atmosphere' (2008) 8(3) *Criminology and Criminal Justice* 261, 262.

³⁹ A Liebling, *Prisons and their Moral Performance: A Study of the Values, Quality and Prison Life* (Clarendon Press 2004).

⁴⁰ G Sheffer and A Liebling 'Prison Privatization: In Search of a Business-Like Atmosphere' (2008) 8(3) *Criminology and Criminal Justice* 261, 262. Also note that more recent findings by Hulley *et al* suggest that public sector prisons may score more highly in 'organisational respect' - the ability to 'get things done.' S Hulley and others, 'Respect in Prisons: Prisoners' Experiences of Respect in Public and Private Sector Prisons' (2012) 12(3) *Criminology and Criminal Justice* 3. Also see Chapter 7 for further discussion.

⁴¹ C Logan, *Private Prisons: Cons and Pros* (Oxford University Press 1990) 148.

that private prisons may, not only _succumb to the same failures as the public sector,⁴² but have poorer outcomes.⁴³

The history of the YOI where the fieldwork was conducted is one marked by both the good and worst aspects of prison life. The YOI experienced an extremely turbulent start. The first inspection report was described by Anne Owers, then Chief Inspector of Prisons, as the _most depressing report [she] had issued.⁴⁴ It described an almost shambolic state of affairs. Key processes and procedures were absent, including but not limited to, child protection, self-harm and induction procedures.⁴⁵ Violence and bullying was rife; young people were too frightened to leave their cells and were penalised for their refusal to leave.⁴⁶ The provision of education and training was poor and inaccessible for large numbers of young people.⁴⁷ The rewards and sanctions system _had all but collapsed.⁴⁸ Resettlement work appeared to be non-existent, a problem exacerbated by the lack of effective training plans.⁴⁹ These problems were further complicated by the recruitment of young and inexperienced staff, the lack of confidence enjoyed by staff and high staff turnover.⁵⁰ The Howard League for Penal Reform saw the failure to recruit and retain staff of sufficient quality as indicative of _a more fundamental and general issue at the heart of privatisation.⁵¹ Such criticism was not necessarily misplaced. The private company responsible for the management of the YOI was described as being _unable or unwilling to look beyond the terms of the contract.⁵² The YOI

⁴² Liebling (n41) 116.

⁴³ See Liebling (n41) 116.

⁴⁴ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

⁴⁵ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

⁴⁶ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

⁴⁷ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

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⁵⁰ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

⁵¹ The reference to the Howard League for Penal Reform's report has been removed to preserve the anonymity of the institution.

⁵² The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

was quite simply rendered unsafe.⁵³ The YJB responded by moving many young people from the YOI to other sites and the private company responsible faced with financial penalties and threatened with termination of the contract.⁵⁴

The YOI's management team and staff succeeded in rectifying several fundamental problems and, in a later inspection, the Inspectorate of Prisons returned to find a much improved establishment.⁵⁵ The YOI was now considered to be a 'safe environment'.⁵⁶ Gradually, improvements were made but praise was offered with caution since the progress achieved could be quickly undone by population pressures.⁵⁷ By 2008, at the time of the fieldwork, the YOI was a much improved establishment and operating at full capacity.⁵⁸ Resettlement services, the provision of education and training and medical treatment had all improved.⁵⁹ Despite these improvements and the 'innovative'⁶⁰ approaches taken, at the time of the fieldwork, key problems remained. Children travelled long distances from home, regularly arriving late at night and impacting familial contact and resettlement work.⁶¹ High levels of violence and bullying were and remain a cause for concern.⁶² Reported incidents of self-harm had decreased since 2003 but remained high.⁶³ Forcible strip searching continued.⁶⁴ The use of force and segregation was, and continues to remain, relatively high.⁶⁵

⁵³ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

⁵⁴ The reference to the National Audit Office's report has been removed to preserve the anonymity of the institution.

⁵⁵ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

⁵⁶ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

⁵⁷ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

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⁶¹ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

⁶² The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

⁶³ The reference to Hansard has been removed to preserve the anonymity of the institution.

⁶⁴ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

⁶⁵ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

4.4 Research Methodology

The methodological choices were driven by the desire to facilitate the active participation of child prisoners and to encourage young people and staff to ‘tell their story.’ A multi-method approach, comprising of semi-structured interviews, structured self-completion questions, observation and documentary access was adopted. When designing the research, the child-prisoner dichotomy⁶⁶ re-emerged as both a methodological and ethical issue. There is a growing body of research concerning social research with children and young people.⁶⁷ In addition, several methodological papers specifically address the ‘craft’⁶⁸ of prison ethnographic research.⁶⁹ Relatively few papers seek to connect the two.⁷⁰ The approach developed here represents something of a synthesis of these two perspectives although it should be acknowledged that it does not seek to present a ‘model’ for prison research with children.

⁶⁶ See Chapter 1, 10-19.

⁶⁷ P Alderson, *Listening to Children: Children, Ethics and Social Research* (Barnados 1995); V Morrow and M Richards, ‘The Ethics of Social Research with Children: An Overview’ (1996) 10 *Children and Society* 90; A Grieg and J Taylor, *Doing Research with Children* (Sage 1999); A James and P Christensen (eds), *Research with Children: Perspectives and Practices* (Falmer Press 2000); MJ Burman and others, ‘Researching Girls and Violence: Facing the Dilemmas of Fieldwork’ (2001) 41 *British Journal of Criminology* 443; Punhc (n81); S Fraser, and others (eds), *Doing Research with Children and Young People* (Sage 2004); V Lewis and others (eds), *The Reality of Research with Children and Young People* (Sage 2004); Farrell (ed), *Ethical Research with Children* (Open University Press 2005); S Greene and D Hogan (eds), *Researching Children’s Perspectives: Methods and Approaches* (Sage 2005); P Alderson and A James (eds), *Research with Children: Perspectives and Practices* (Routledge 2008); P Alderson and V Morrow, *The Ethics of Research with Children and Young People: A Practical Handbook* (Sage 2011).

⁶⁸ King (n3) 285.

⁶⁹ Liebling (n5); King (n3); C Smith and E Wincup, ‘Breaking In: Researching Criminal Justice Institutions for Women’ in RD King and E Wincup (eds), *Doing Research on Crime and Justice* (Oxford University Press 2000); C Martin, ‘Doing Research in a Prison Setting’ in V Jupp and others (eds), *Doing Criminological Research* (Sage 2000); A Liebling, ‘Whose Side are we on? Theory, Practices and Allegiances in Prison Research’ (2001) 41 *British Journal of Criminology* 472; M Bosworth and others, ‘Doing Prison Research: Views from Inside’ (2005) 11(2) *Qualitative Inquiry* 249; B Crewe, ‘Prison Drug Dealing and the Ethnographic Lens’ (2006) 45(4) *Howard Journal of Criminal Justice* 347; L Roberts and D Indermaur, ‘The Ethics of research with Prisoners’ (2008) 19(3) *Current Issues in Criminal Justice* 309; C Phillips and R Earle, ‘Reading Difference Differently: Identity, Epistemology and Prison Ethnography’ (2010) 50(2) *British Journal of Criminology* 360; Y Jewkes, ‘Autoethnography and Emotion as Intellectual Resources: Doing Prison Research Differently’ (2012) 18(1) *Qualitative Inquiry* 63.

⁷⁰ See, more recently, L Abrams, ‘Sampling “Hard to Reach” Populations in Qualitative Research’ (2010) 9(4) *Qualitative Social Work* 536.

Increasingly, children and young people have been recognised as ‘social actors’ in, rather than the objects’ of, social research.⁷¹ This conceptualisation recognises that children can speak meaningfully about their lives and can take an active role in the research process.⁷² In an attempt to account for children’s skill and capacity, researchers have developed ‘child centred’ research methods, such as the use of photographs, drawings, worksheets and diaries.⁷³ These methods were deemed inappropriate since many of the methods did not provide the means to reliably capture the narratives of child prisoners and, as teenagers approaching adulthood, I felt that their age, competency and experience were such that ‘traditional’ methods of data collection could be used with some adjustment, where appropriate, in the research design and process.⁷⁴

Familiarity with the hidden prison world cannot be gained without ‘doing your time’ and, with this in mind, I began the fieldwork by simply observing different aspects of daily prison life. This included observations, or perhaps more accurately, ‘reserved participation’⁷⁵ in reception, induction, the residential wings, the segregation unit, the health care unit, education and vocational courses and sentence planning meetings. Throughout this process, I recorded my observations and experiences in a journal. I visited three days a week for a six week period rather than trying to visit every day.⁷⁶ This allowed time for recuperation and reflection.⁷⁷ In order to demonstrate a willingness to ‘do time’ and reduce the demands on

⁷¹ S Punch, ‘Research with Children: The same or different from research with adults?’ (2002) 9(3) *Childhood* 321; J Mason and S Hood, ‘Exploring issues of children as actors in social research’ (2011) 33(4) *Children and Youth Services Review* 490.

⁷² See V Morrow and M Richards, ‘The Ethics of Social Research with Children: An Overview’ (1996) 10 *Children and Society* 90, 97.

⁷³ *ibid* 322; S Punch, ‘Research with Children: The same or different from research with adults?’ (2002) 9(3) *Childhood* 321.

⁷⁴ Also see S Punch, ‘Research with Children: The same or different from research with adults?’ (2002) 9(3) *Childhood* 321.

⁷⁵ Liebling (n5) 160.

⁷⁶ King (n3) 298.

⁷⁷ King (n3) 298. Also see B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) 467 for a similar account.

staff caused by escorting me in, out and around the prison, I varied my hours and location so as to fit with the activities and the hours of the units observed.⁷⁸

Although much of the data used in Chapters 5-7 is derived from the interviews and questionnaires, the utility of participant observation should not be underestimated. O'Donnell and Martin describe _the learning process each of us enjoyed through the hours we spent in the company of prisoners.⁷⁹ The observation period was particularly useful for understanding the texture, dynamics and norms of prison life and culture.⁸⁰ It is difficult to appreciate the sights, sounds, smells of prison life without it. It placed the perspectives of young people and staff in context as well as allowing more informal exchanges with both staff and young people to develop. It also permitted an opportunity to build some rapport with both staff and young people prior to the interview process.

Qualitative data was an integral feature of the research design since it provided the means to _capture' and _appreciate'⁸¹ the views of child prisoners and staff with a _richness of meaning, depth of understanding and flexibility'⁸² that may be missed if collecting quantitative data in isolation. Semi-structured interviews were chosen because they provided a greater degree of flexibility than structured interviews.⁸³ The semi-structured interview offers _more opportunity to probe' and a greater _opportunity for dialogue and exchange.'⁸⁴ Such interviews also permit a greater level of uniformity and comparability than unstructured interviews. Not only have semi-structured interviews have been widely used in prison

⁷⁸ Also see R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996) 350; L Noaks and E Wincup, *Criminological Research: Understanding Qualitative Methods* (Sage 2004) 63.

⁷⁹ K Edgar and others, *Prison Violence: The Dynamics of Conflict, Fear and Power* (Willan 2003) 22.

⁸⁰ See Chapter 3, 112-114 for further discussion.

⁸¹ L Noaks and E Wincup, *Criminological Research: Understanding Qualitative Methods* (Sage 2004) 13.

⁸² AL Patenaude, _No Promises, But I'm Willing to Listen and Tell What I Hear: Conducting Qualitative Research among Prison Inmates and Staff' (2004) 84(4) *Prison Journal* 69S, 70S.

⁸³ See T May, *Social Research: Issues, methods and process* (3rd Edn, Open University Press 2001) 121-5 and Noaks and Wincup (n87) 79-81.

⁸⁴ Noaks and Wincup (n87) 79.

research,⁸⁵ but, Alderson argues that such flexible methods allow children to be *active participants*.⁸⁶ Focus groups were not deemed appropriate because of the sensitive nature of the topics discussed and the desire to maintain confidentiality. I was concerned that a group interview might inhibit some young people from freely volunteering their views and experiences.⁸⁷ Furthermore, the study sought to ‘unlock’ the personal narratives of teenagers rather than prioritising an understanding of ‘group norms and dynamics.’⁸⁸

Interviews were conducted with 21 children and 11 staff over a four week period.⁸⁹ The interviews with young people covered several topics including the young person’s life prior to imprisonment, the early days of confinement, education and training, self-harm and suicide, bullying and violence, discipline and order, relationships with staff and, finally, resettlement.⁹⁰ Thus, the interview schedule used with young people was intentionally broad and designed with a view to determining the issues of most pertinence and interest to the young people concerned. This was an illuminating process since it was possible to see how these topics, which tend to be considered discreetly, were underpinned by several key concepts such as agency, identity, gender and power. The study did not, for practical and logistical reasons, include a follow up interview post-release.

⁸⁵ See, for example, A Liebling, *Suicides in Prison* (Routledge 1992); P Davies, ‘Doing Interviews with Female Offenders’ in V Jupp and others (eds), *Doing Criminological Research* (Sage 2000); M Maguire, ‘Researching “Street Criminals”’ in RD King and E Wincup (eds), *Doing Research on Crime and Justice* (Oxford University Press 2000) 140; J Ditton and others, ‘Crime Surveys and the Measurement Problem: Fear of Crime’ in V Jupp, P Davies and P Francis (eds), *Doing Criminological Research* (Sage 2000); T Einat, ‘“Soldiers”, “sausages” and “deep sea diving”: language, culture and coping in Israeli prisons’ in A Liebling and S Maruna (eds), *The Effects of Imprisonment*, (Willan 2005); J Harvey, *Young Men in Prison: Surviving and Adapting to Life Inside* (Willan 2007); M Comfort, *Doing Time Together: Love and Family in the Shadow of the Prison* (University of Chicago Press 2008); R Earle and C Phillips, ‘Digesting Men? Ethnicity, gender and good: Perspectives from a prison ethnography’ (2012) *Theoretical Criminology* 141, 145.

⁸⁶ P Alderson, ‘Designing Ethical Research with Children’ in A Farrell (ed), *Ethical Research with Children* (Open University Press 2005) 29-30.

⁸⁷ See Y Jewkes, *Captive Audience: Media, Masculinity and Power in Prisons* (Willan 2002) for similar comments.

⁸⁸ T May, *Social Research: Issues, methods and process* (3rd Edn, Open University Press 2001) 125.

⁸⁹ See interview timetable and profile available in Appendix 5.

⁹⁰ See interview schedule available in Appendix 4.

In order to generate a representative sample, I decided to use a random sampling method, selecting every 2nd person on the prison roll. This was preferred to opportunistic sampling and snowball sampling because it was more likely to generate a representative sample.⁹¹ However, it quickly became clear that institutional constraints meant that the preferred random sampling technique was not possible. Since the interviews were to be conducted in the education block, it was suggested that young people could be selected from a list of those who had free periods during particular periods in the education timetable. This automatically excluded young people in the segregation unit and healthcare unit who were not included in the education timetable.⁹² In addition to the logistical problems associated with accessing these groups, concerns were raised by the managers with whom access was negotiated about my personal safety when alone with young people in the segregation unit. Whilst this inevitably excluded some of the most vulnerable children from the interview sample, as noted in the empirical chapters that follow, it was possible to explore vulnerability in the general population. There was a high response rate to the invitation to participate in the interviews. Only two young people who were invited to participate declined to do so. Subsequent investigation revealed that both had, at late notice, seen visitors and were consequently unable to attend.⁹³ Arranging interviews during young people's free periods may have provided an important incentive to attend the interview since the alternative meant spending a further 90 minutes cooped up in their cell.⁹⁴

⁹¹ See C Martin, 'Doing Research in Prisons' in V Jupp and others (eds), *Doing Criminological research* (Sage 2000) 226 for further discussion.

⁹² Such children were seen individually in the respective units by a Learning Support Assistant on an ad hoc basis during the core day.

⁹³ This is not an uncommon experience. See, for example, Martin (n91) 230.

⁹⁴ Patenaude comments that this form of respite can be an important incentive and perceived benefit. See AL Patenaude, 'No Promises, But I'm Willing to Listen and Tell What I Hear: Conducting Qualitative Research among Prison Inmates and Staff' (2004) 84(4) *Prison Journal* 69S, 76S.

The interviews with young people were conducted in the privacy of locked classrooms. Although this ensured that I could quickly alert staff if a threat emerged,⁹⁵ it was impossible for the young person to escape the surveillance of staff. I attempted to compensate for this by positioning young people so they faced an external window rather than the corridor, however, it is impossible to gauge how much impact this had. Young people engaged easily in the interview process and were remarkably candid. They shared moving stories of their life histories, expressed their fears, anxieties and feelings of remorse, guilt and self-doubt. In many of the interviews, young people's keen sense of pain, loss, frustration, bitterness and anger as well as, but to a lesser extent, hope freely emerged. Indeed, the freedom with which they openly discussed their experiences with someone whom they had little attachment is remarkable.⁹⁶ Some interviews were very emotive⁹⁷ while others were laced with humour. Some were keen to show me their education folders, qualifications gained in custody, photographs of children, illustrations they had drawn and 'bars' (lyrics) they had written.

This was a fascinating and enjoyable experience, but it was also tiring and emotionally draining. It required an ability to remain an attentive, responsive and 'active' listener. I had to discern when to speak and when to listen, when to use silences or allow moments of reflection and when to prompt further discussion and when to move to another question. Bosworth describes this as the 'tyranny of intimacy.'⁹⁸ The need to reassure interviewees that they had a 'safe emotional space' appeared particularly pronounced. Punch argues that 'children are used to having to try to please adults, and they may fear adults'

⁹⁵ No such threat or risk emerged.

⁹⁶ Also see Crewe (n1) 483 and Jewkes (n87) for similar comments.

⁹⁷ Also see Liebling (n5) 158 for similar comments. For a discussion of the importance of emotion in ethnographic research, see Y Jewkes, 'Autoethnography and Emotion as Intellectual Resources: Doing Prison Research Differently' (2012) 18(1) *Qualitative Inquiry* 63.

⁹⁸ M Bosworth, *Engendering Resistance: Agency and Power in Women's Prison* (Ashgate 1999) 73.

reactions to what they say.⁹⁹ I reassured children that they could answer the questions and that it was their perspectives that were sought, not the 'right answer'.¹⁰⁰ I also tried to create a non-judgemental atmosphere where young people could 'share' their ideas without challenge or critique.¹⁰¹ Since the questions posed were quite sensitive, I avoided using direct questions and instead, posed questions in a non-threatening and depersonalised manner.¹⁰² I also avoided posing double-barrelled, loaded and leading questions in order to promote clarity and to avoid any potential bias.¹⁰³

The staff interviews were designed to address similar topics to the children's interviews but to also explore topics that specifically related to their role.¹⁰⁴ It was intended that by identifying every 2nd or 3rd person from a list of staff members, a random sample of staff members could be drawn. However, the division of staff between different departments meant, again, this sampling method was not possible. Instead, senior managers were relied upon to identify available candidates. This compromise was made in order to secure access, however, it carried its own disadvantages. Although it is not possible to know how senior managers selected interview candidates, of course, there is at least some possibility that interviewees were selected because they were perceived to be 'professionals' or less likely to disclose negative or poor behaviour, thereby, potentially introducing an element of bias. All of the staff who were identified did in fact participate, however, on two occasions staff were unaware that they had been identified as potential participants until I arrived.¹⁰⁵ The

⁹⁹ Punch (n80) 328.

¹⁰⁰ C Shaw and others, *Guidelines for Research with Children and Young People* (National Children's Bureau 2011) 20 <<http://www.nfer.ac.uk/nfer/schools/developing-young-researchers/NCBguidelines.pdf>> accessed 31st December 2012

¹⁰¹ G MacNaughten and K Smith, 'Transforming Research Ethics: The Choices and Challenges of Researching with Children,' in A Farrell (ed), *Ethical Research with Children* (Open University Press 2005) 114-115.

¹⁰² Shaw (n106).

¹⁰³ AA Oppenheim, *Questionnaire Design and Attitude Measurement* (Heinemann 1966) 55.

¹⁰⁴ See interview schedule in Appendix 4.

¹⁰⁵ On arrival, it was clear that neither the segregation unit or reception staff were aware that I was visiting, nor that they were being interviewed.

interviews with staff were not conducted in a specific location since participants were drawn from different areas of the prison, including empty classrooms, meeting rooms, wing offices, and within coffee rooms. The insights gained from these interviews were supplemented by the many informal discussions, opportunities for which emerged frequently. The significance of these informal conversations should not be overlooked and demonstrating that I was prepared to ‘sit and chat’¹⁰⁶ appeared to develop rapport and demonstrate my own credibility.

All interviews were digitally recorded, then subsequently transcribed, coded and analysed.¹⁰⁷ Digital recording permitted a ‘more interactive and natural interview style’¹⁰⁸ and was preferred to the task of taking contemporaneous notes. Digital recording allowed eye contact to be maintained and notes to be made regarding body language, facial expression and tone.¹⁰⁹ Young people appeared unperturbed by the use of a digital voice recorder, possibly because they had experienced police interviews on one, if not several, occasions. To reinforce the distinction, I reassured them that they were not being ‘interviewed’ in any official way. For staff, the use of the digital recorder was potentially more disconcerting or, at least, may have engendered a cautious response to the interview questions. For example, Sarah (Learning Support Assistant) remarked that she was very conscious of the digital recorder. When asked if she would rather proceed without it, she replied she was happy to continue with it on. This illustrates one of the potential disadvantages of digital recording.¹¹⁰ The formalisation of the interview process may have a more pronounced effect for staff

¹⁰⁶ R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996) 350.

¹⁰⁷ This is a commonly used technique. See, for example, K McEvoy, *Paramilitary Imprisonment in Northern Ireland: Resistance, Management, and Release* (Oxford University Press 2001) 371; T Einat, ‘Soldiers’, ‘sausages’ and ‘deep sea diving’: language, culture and coping in Israeli prisons,’ in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005) 290; C Kruttschnitt and R Gartner *Marking Time in the Golden State: Women’s Imprisonment in California* (Cambridge University Press 2005); M Comfort, *Doing Time Together: Love and Family in the Shadow of the Prison* (University of Chicago Press 2008); S Tait, ‘A Typology of Prison Officers Approaches to Care’ (2011) 8(6) *European Journal of Criminology* 440, 442.

¹⁰⁸ A Liebling, *Suicides in Prison* (Routledge 1992) 110.

¹⁰⁹ Also see Noaks and Wincup (n81) 86.

¹¹⁰ Also see Jewkes (n87) 77.

members who may be keen to avoid, despite reassurances regarding confidentiality and anonymity, any negative portrayal either of themselves, their colleagues or the institution as a whole. When explaining the purpose of the research informally to a Senior Care Manager (SCM), he asked whether I wanted people's own views or the 'party line.' I reassured him that it was the views of officers I was interested in. Thus, the need to reassure staff that they could respond free from judgement or criticism was particularly important in my interactions with staff, not just young people. However, the greatest impediment to the interview process was the operational pressure which restricted the time available.¹¹¹

Quantitative data was generated from the answers given during the semi-structured interviews.¹¹² Quantitative data was also gathered through the use of structured questionnaires, the content of which mirrored that of the interviews but allowed for a fixed range of responses.¹¹³ The purpose of the questionnaires was to gain quantitative data to corroborate the interview data but also to access a broader sample and expand particular themes.¹¹⁴ Combining interviews and self-completion surveys is not an atypical approach.¹¹⁵ Questionnaires carry an 'added insurance of anonymity'¹¹⁶ and can be disseminated to a much larger group than interviews alone. Questions were framed so as to maximise young people's participation, by, for example, using appropriate language and prison slang.¹¹⁷

¹¹¹ Whilst the children's interviews were rarely interrupted, the interviews with staff were frequently disrupted in response to operational demands. For example, an interview with a senior manager was interrupted to respond to the YJB's request to transfer a group of young people to the YOI. On other occasions, the need to lock young people in their cells or respond to an alarm temporarily stopped the interview.

¹¹² Also see Noaks and Wincup (n81) 7-8.

¹¹³ See Appendix 7 for a copy of the questionnaire used.

¹¹⁴ Ibid.

¹¹⁵ K Edgar and others, *Prison Violence: The Dynamics of Conflict, Fear and Power* (Willan 2003); C Kruttschnitt and R Gartner, *Marking Time in the Golden State: Women's Imprisonment in California* (Cambridge University Press 2005); J Harvey, *Young Men in Prison: Surviving and Adapting to Life Inside* (Willan 2007).

¹¹⁶ Martin (n91) 226.

¹¹⁷ The evidence that young people in custody typically have low literacy skills suggested questions had to be carefully framed so young people were able to comprehend the content of the questionnaires without support. See Chapter 1, 11-12 for a discussion of the research regarding young people's typical school experience.

Questionnaires were distributed to young people in the final week of the research project, reflecting the advice given in the available literature.¹¹⁸ I was keen to distribute the questionnaires and explain the purpose of the study to the participants myself.¹¹⁹ The YOI's psychology department conducted its own internal surveys and I was keen to differentiate myself from these research projects and ensure the questionnaires were not seen as 'official' or institutional surveys, but part of an independent research study.¹²⁰ On the scheduled day for the questionnaire distribution, it quickly became apparent that staff on the residential wings had not been informed about the delivery of questionnaires. The subsequent delay in distributing the questionnaires meant that I was unable to speak to the young people concerned and was forced to rely on officers to distribute the questionnaires. The response rate from young people was quite low (59%).¹²¹ There are two possible reasons for this.

First, the questionnaires were quite long and covered several topics. I chose to construct comprehensive questionnaires in order to allow the issues of key concern to the young people themselves to emerge. In future, I would streamline the questionnaires to focus on the most pertinent issues. Second, the logistical difficulties in distributing and recovering the questionnaires had a bearing on the response rate, something which is noted by Kruttschnitt and Gartner.¹²² Had time allowed, it would have been more prudent to simply delay the questionnaire distribution until the logistical issues had been resolved. The

¹¹⁸ King (n3).

¹¹⁹ Cf. King asked a respected prisoner from each 'complex' to assist in the delivery and collection of anonymous questionnaires. See RD King, 'Maximum Security Custody in Britain and the USA' (1991) 22 *British Journal of Criminology* 126, 136.

¹²⁰ C Kruttschnitt and R Gartner, *Marking Time in the Golden State: Women's Imprisonment in California* (Cambridge University Press 2005) 54-55.

¹²¹ 48 out of a possible 81 questionnaires were returned. The returned questionnaires were all answered in full. In all but two of the questionnaires, young people supplied additional comments in the boxes provided.

¹²² C Kruttschnitt and R Gartner, *Marking Time in the Golden State: Women's Imprisonment in California* (Cambridge University Press 2005) 54.

compromises made illustrate the ‘imbalance of power’ that may be felt trying to be flexible whilst retaining the integrity of the research project.¹²³

The problems experienced in this study also illustrate the importance of piloting the research instruments. I had originally planned to pilot the research instruments with a group of juvenile offenders at a NACRO centre in Birmingham and secured agreement to do so before submitting the ethical review application.¹²⁴ However, unfortunately, internal staff changes within the NACRO centre meant that it was not possible to pilot the research instruments before undertaking the empirical research. The difficulties securing access also had the effect that it was not possible to undertake a pilot study in the YOI. In future, I would again attempt to include a short pilot study which has the advantage of enabling me to, amongst other things, gain a clearer sense of the issues of interest to the participants, refine the research questions, develop the focus of the study and refine the research instruments.

In order to mitigate against the potential for bias or error, the empirical research project sought to triangulate the data. Triangulation is ‘the use of different methods of research, sources of data or types of data to address the same research question.’¹²⁵ The assumption is that if, after triangulating the data, ‘the same conclusions can be drawn from the different methods of data sets, confidence in their validity is increased.’¹²⁶ In addition to combining the research methods, access to custody records was requested to verify the details of young people’s lives, both in and out of custody. This not only helped corroborate young

¹²³ G Hughes, ‘The Politics of Criminological Research’ in V Jupp and others (eds), *Doing Criminological Research* (Sage 2000) 240.

¹²⁴ See Appendix 1, 355.

¹²⁵ V Jupp, ‘Triangulation’ in E McLaughlin and J Muncie (eds), *The Sage Dictionary of Criminology* (Sage 2001) 308 cited in L Noaks and E Wincup, *Criminological Research: Understanding Qualitative Methods* (Sage 2004) 8.

¹²⁶ P Francis, ‘Getting Criminological Research Started’ in V Jupp and others (eds), *Doing Criminological Research* (Sage 2000) 59.

people's accounts but, in some cases, highlighted discrepancies.¹²⁷ It also served to illustrate the severity of some events or incidents disclosed. One of the limitations of these records was the absence of any documentation relating to the child's life prior to entering custody, such as Pre-Sentence Reports and ASSETs, which were held in different locations across the prison and, consequently, difficult to access. Since the conclusion of the fieldwork, institutions have increasingly moved to electronic documentation and, in any future research project, I would request access to this central database.

The data was analysed with the aid of SPSS and NVivo software. Transcribing the interviews was a time consuming¹²⁸ but useful activity since it provided an opportunity to re-familiarise myself with the interviews and reflect upon their content.¹²⁹ After transcribing each interview and re-reading the interview transcripts, a schedule of codes was created. This was a reflexive exercise, building on the original research questions, the interview schedule, the notes made during the fieldwork process, the interview responses and the emerging themes. Using NVivo, reports relating to specific codes were generated and reviewed to determine similarities and differences between accounts. Although the electronic software proved useful, it was just as helpful to manually review the transcripts and, with the use of highlighters, refine and develop the coding schedule by hand. This continual process of review permitted greater familiarity with the raw data allowing the time to reflect upon, and draw links between, the pertinent themes. The questionnaire answers were coded according to the questions posed and the fixed range of possible answers. The questionnaire data was then inputted into SPSS and reports generated. The numerical data was then analysed compared with, and used to explore, the themes emerging from the interviews.

¹²⁷ The key discrepancy was the extent to which young people had self-harmed whilst in custody. During the interview, as noted in Chapter 5 below, young people tended to minimise such behaviour.

¹²⁸ On average, it took 8 hours to code one interview. See Noaks and Wincup (n81) 129 for a similar account.

¹²⁹ Also see Noaks and Wincup (n81) 129 for a similar account.

4.5 Ethical Considerations

Ethical practices are an integral feature of any empirical study and were particularly pertinent in this research study since the participants were deprived of their liberty, vulnerable, young and the research instruments broached emotive and potentially traumatic subjects. Unethical practices not only undermine the integrity and legitimacy of the immediate research project,¹³⁰ but immoral, unethical or poor behaviour can hinder the possibility of researchers undertaking projects of their own. The key considerations were: informed, voluntary consent; confidentiality and anonymity; data protection and storage; and, the well being of the participants. Prior to entering the field, the University of Birmingham's¹³¹ ethical review process was successfully completed and an Enhanced Criminal Records Bureau disclosure gained.¹³²

Informed and voluntary consent requires that all research participants have a 'complete understanding' about 'what the research is about and the implications for themselves in being involved.'¹³³ All participants were given a short leaflet outlining the scope and aims of the research as well as how their responses would be handled, processed and disseminated. Two leaflets were available: one for staff and one for teenagers with language and layout specific to the age group.¹³⁴ Before beginning the interviews, I reviewed the information on these sheets with each participant and outlined the topics to be discussed. This was followed by an opportunity to ask questions about the research process. Each interviewee was informed at the beginning of the interview that they could decline to be recorded and that they could stop the interview at any time, on request.

¹³⁰ May (n88) 46.

¹³¹ See Appendix 1 for a copy of the ethical review application.

¹³² This Enhanced Criminal Records Bureau was presented to the YOI before beginning the fieldwork.

¹³³ Noaks and Wincup (n81) 45. Also see the guidance provided by the See British Society of Criminology, *Code of Ethics for Researchers in the Field of Criminology* (British Society of Criminology 2006) para 4(iii) <<http://www.britisocrim.org/codeofethics.htm>> accessed 31st December 2012.

¹³⁴ See Appendix 2 for copies of the research instruments.

It would normally be appropriate to also secure the consent of a parent or legal guardian when inviting the participation of minors in social research.¹³⁵ In this research study, such consent was not secured. Prison governors are not in *loco parentis* nor are they legal guardians of the child prisoners in the YOI and, therefore, could not give such consent by proxy.¹³⁶ Contacting parents, legal guardians or, for looked after children, a social worker was deemed to be a laborious and time-consuming task which was unlikely to generate a response. Therefore, the decision not to involve parents or guardians in the research process was a pragmatic one, but it also struck more directly with the belief that the teenagers involved were social actors and could make valid decisions to opt in or out of the research process.

All participants were informed at the beginning of the research that any sensitive information would be treated confidentially and that their identities would not be revealed. In order to achieve this, all participants were given pseudonyms. Each young person was afforded the opportunity to choose their own pseudonyms to actively involve them in the research process. The institution has been anonymised to further protect the anonymity of the participants involved in the study and is referred to in neutral terms, such as ‘the YOI,’ throughout the thesis.

It was not possible to offer ‘absolute confidentiality.’¹³⁷ Young people were informed about the boundaries of confidentiality at the beginning of the interview: confidentiality

¹³⁵ I Coyle, ‘Research with Children and Young People: The Issue of Parental (Proxy) Consent’ (2010) 24(3) *Children and Society* 223; C Shaw and others, *Guidelines for Research with Children and Young People* (National Children’s Bureau 2011) <<http://www.nfer.ac.uk/nfer/schools/developing-young-researchers/NCBguidelines.pdf>> accessed 31st December 2012.

¹³⁶ Her Majesty’s Chief Inspectorate of Prisons, *Young Prisoners: A Thematic Report by HM Chief Inspectorate of Prisons for England and Wales* (Her Majesty’s Inspectorate of Prisons 1997) para 2.24 <<http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/thematic-reports-and-research-publications/young-prisoners-rps.pdf>> accessed 31st December 2012.

¹³⁷ See King (n3) 307.

would not be honoured if young people disclosed plans to harm themselves, others or to escape. In addition, I told young people that I could not ignore any safeguarding concerns.¹³⁸ The potential for child protection concerns marks one distinction from prison research with adults and necessitated a familiarity with child protection procedures and good practice.¹³⁹ Had an assurance of confidentiality been given but then discarded, this would have undermined the integrity of the research and researcher. It could also leave a young person feeling betrayed or vulnerable. No such safeguarding concerns arose during the interview process. The completion of the questionnaires did not require participants to indicate their name on the questionnaire. However, in order to ensure that any safeguarding concerns could be suitably followed up, young people were asked to indicate their prisoner number and wing. Two questionnaires disclosed current victims of bullying. This was referred back to the senior management and anti-bullying co-ordinator as soon as it was identified.

Doing research in penal institutions with young, vulnerable teenagers carries a risk that a young person may disclose events or experiences which they find distressing. I was aware that if the interview provoked a particularly emotional reaction, subsequently returning a young person to the residential unit without further support could be dangerous and harmful. In seeking to ensure that this research was not detrimental to the well-being of the participants, research participants were informed that an interview could be terminated at

¹³⁸ British Society of Criminology, *Code of Ethics for Researchers in the Field of Criminology* (British Society of Criminology 2006) <<http://www.britisocrim.org/codeofethics.htm>> accessed 31st December 2012.

¹³⁹ Department of Education, *Working Together to Safeguard Children: A Guide to an inter-agency working to safeguard and promote the welfare of children* (Department of Education 2006) <<http://www.pricetraining.co.uk/filestore/working-together-to-safeguard-children.pdf>> 31st December 2012. This document has since been updated. See Department for Children, Schools and Families, *Working Together to Safeguard Children: A Guide to an inter-agency working to safeguard and promote the welfare of children* (Department for Children, Schools and Families 2010) <<https://www.education.gov.uk/publications/eOrderingDownload/00305-2010DOM-EN-v3.pdf>> accessed 31st December 2012.

their request and only continued at an appropriate time if they were willing.¹⁴⁰ If a participant did not wish to answer a particular question, to ensure that their voluntary participation was maintained throughout the process, I moved to another question. Time was permitted at the end of the interview to discuss neutral subjects or discuss any outstanding questions or issues that a participant had.

Empirical research inevitably demands something from the participants. To some extent, it may be possible to quantify some costs in monetary terms, for example, staff time diverted from the ordinary tasks of employment to accommodate the research project or to escort a researcher within the prison. For child prisoners, the cost of the research project was of a much more personal nature; it required an emotional investment, a disclosure of personal information and an honest reflection on self. Noaks and Wincup argue that ‘qualitative researchers need to have an awareness of potential exploitation and deploy strategies to minimize such effects.’¹⁴¹ One method utilised avoid exploitation is paying research participants by offering some research bargain.¹⁴² I decided not to offer remuneration to research participants.¹⁴³ I was keen to avoid becoming indirectly complicit in the *sub rosa* economy system within prisons and victimisation that this economy can precipitate.¹⁴⁴ None of the participants appeared to be concerned about the lack of compensation, unlike Crewe’s study with adult prisoners.¹⁴⁵ Since the interviews were conducted in the free sessions in the educational timetable, some young people were simply pleased to be occupied during time

¹⁴⁰ On two occasions young people were returned to their cell before the end of the scheduled session. In one case, the young person had taken his ADHD medication shortly before the interview and was struggling to concentrate, sit still and felt unwell. In another, the young person struggled to maintain concentration for the full 90 minute period.

¹⁴¹ Noaks and Wincup (n81) 50.

¹⁴² See Noaks and Wincup (n81) 48.

¹⁴³ In Crewe’s study, prisoners challenged the lack of payment offered to the interviewees. See B Crewe, ‘Prison Drug Dealing and the Ethnographic Lens,’ (2006) 45(4) *Howard Journal of Criminal Justice* 347, 351.

¹⁴⁴ See Chapter 3 and Chapter 6.

¹⁴⁵ In Crewe’s study, prisoners challenged the lack of payment offered to the interviewees. See Crewe (n143) 351.

that would otherwise be spent in solitude in their cell. Staff were not compensated but did not express concern.

The research data has been stored in a locked cabinet at the University of Birmingham. The data will be retained intact for a period of five years from the date of publication in accordance with the University of Birmingham guidelines. All digital recordings from the interviews, transcripts and questionnaire are stored in the secure cabinet. All data that is stored on a computer is password protected. The data collected during the research process has not been made available to others and will only be disseminated by way of this thesis and any publications that may stem from it. All subsequent dissemination of the research data will continue to preserve the anonymity of the research participants.

4.6 Doing Prison Research

The question, ‘why are you here?’ is one that I was often asked by young people and staff alike, although not always quite so bluntly, during the fieldwork and especially in its early stages. This question chiefly arose out of curiosity rather than hostility. Sparks argues that prison researchers has ‘few natural advantages’ and may appear ‘naïve, –green,’ uncomfortable, out of place. He has no uniform, no keys, no proper job or activity which at least at first, prisoners or staff are likely to recognise as such.¹⁴⁶ The presentation of self is a theme that underpins the research regarding the lived reality of prison life for prisoners.¹⁴⁷ It is, however, a subject which is a matter of concern to researchers.¹⁴⁸ The desire to remain ‘independent’, treading a careful line between securing the trust of both prisoners and staff but without appearing to have allegiance to any one group was an ongoing concern. Since I

¹⁴⁶ R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996) 348.

¹⁴⁷ See Chapter 3.

¹⁴⁸ Also see C Smith and E Wincup, ‘Breaking In: Researching Criminal Justice Institutions for Women’ in RD King and E Wincup (eds), *Doing Research on Crime and Justice* (Oxford University Press 2000) 331.

was interested in the attitudes and experiences of both staff and young people, this was an ongoing challenge.¹⁴⁹

It is clear that in such circumstances a researcher may find it difficult to maintain an independent position and may be drawn into assisting participants in another capacity, whether the intentions are honourable or not. There is a fine line to be drawn between observing and going native.¹⁵⁰ It quickly became apparent that it was often easy to get drawn into actions that might mark out alliances with either prisoners or staff and it was sometimes necessary to re-emphasise boundaries.¹⁵¹ This desire to remain independent featured in the decision not to carry keys. Those who carry keys, such as prison officers, are immediately identifiable as part of the fabric of the institution and, therefore, a researcher carrying keys may, therefore, be identified in a similar role, compromising the desire to avoid going native.¹⁵² To King, for example, keys are so symbolic of the difference between freedom and captivity that it would place the researcher too close to staff.¹⁵³ This symbolism was not lost on the young people at the YOI who, as discussed in Chapter 7,¹⁵⁴ had strong feelings about the use of keys. There are obvious benefits attached to the ability to move freely and relatively autonomously around the prison since the alternative is to wait for others to escort you which can cause delays.¹⁵⁵ However, I declined to carry keys, choosing to be in and not of the prison.¹⁵⁶ The project was also relatively short-term and, if a mistake

¹⁴⁹ Also see R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996) 338.

¹⁵⁰ King (n3) 304; Liebling (n5) 156.

¹⁵¹ For example, whilst observing in the residential unit and conversing with a particular Senior Care Manager (SCM), I was asked to put on some gloves and hold a plastic bin bag, following the SCM as he cleaned the cells ready for new arrivals. In this scenario, there seemed to be more to gain from assisting in the task than refusing since there were no young people in sight and it afforded an opportunity for informal dialogue. On other occasions, I was required to draw the boundaries far more clearly. For example, I felt unable to assist with a young person's request with a prison application, forms used to make various requests within the YOI.

¹⁵² King (n3) 304; Liebling (n5).

¹⁵³ King (n23) 305.

¹⁵⁴ See Chapter 7, 281-282.

¹⁵⁵ Martin (n91) 223.

¹⁵⁶ King (n3) 307.

occurred, the establishment would have to change the locks¹⁵⁷ and, as a private prison, may incur financial penalties.

Dress has an important role to play in indicating the role, status and identity. Initially, I dressed in smart casual wear such as black trousers, a smart top and flat shoes or heels. I quickly learned that with young people in green prison issue clothes, officers in prison uniform, it was only managers and visiting magistrates that would be seen in smart, or smart casual wear. Consequently, adopting a smart casual dress code served to differentiate me as either a manager or visitor. The smart casual wear was replaced with casual wear such as jeans, a T-Shirt, a 'hoodie' and trainers or flat shoes. It is impossible to conclusively state what effect this had but, if any, it is likely that this served to identify me as a person of relative youth with a degree of familiarity with youth culture. At the very least it differentiated me from senior managers and reduced the risk that I was perceived to be someone 'official' or who might be linked with the institution in some way.

An important feature of my identity that may be relevant to the research findings is gender. The YOI detains teenage boys and women within the institution tend to hold positions of authority. As a female researcher, who at the time of the research was only six years older than the oldest young people, it is possible that age and gender may have interacted to alter the response. This could have acted to impede disclosure or to encourage its willingness.¹⁵⁸ Young people who are tempted to 'front' or adopt an overtly masculine stance, may avoid feel inhibited from discussing personal vulnerability or emotional angst. Conversely, young people may have found it easier to disclose their fragility but feel less willing to discuss violent or sexual behaviour if they fear that it might offend me.

¹⁵⁷ Martin (n91) 223.

¹⁵⁸ R Sparks, 'Problems of Order in Dispersal Prisons: Notes on a Research Paper' Unpublished Paper (1989) cited in A Liebling, *Suicides in Prison* (Routledge 1992) 120.

It is, as Jewkes argues, difficult to determine whether gender was a factor that shaped the research, or whether a male researcher in the same circumstances would have gleaned similar or different responses.¹⁵⁹ It is possible to suggest that, for at least some young people, they felt able to discuss difficult or traumatic experiences. However, it is also true that others (like Jason) needed some reassurance that it was okay to describe the ‘gory details’. In Jason’s interview, I moved to an identity that reinforced my experience of working with young offenders to reassure him that whatever he might say, I would not be surprised, disappointed or horrified. This appeared to reassure Jason who then proceeded to discuss his violent behaviour. A minority (such as John) were more cavalier about their criminal behaviour, but then allowed themselves to reveal their profound anxieties and did not appear to exaggerate their behaviour, but in fact appeared to be more ‘matter of fact’. There were occasions where the tendency to objectify women was demonstrated, however, none of the sexual overtones or innuendos led to any inappropriate behaviour or raised concern.¹⁶⁰

4.7 Conclusion

There is no substitute for the insight and experience gained through prison ethnographic research. Remembering the individuals concerned and listening to their interview recordings in the months that followed ‘kept the information alive.’¹⁶¹ This illustrates the difficulties of remaining emotionally detached.¹⁶² Inevitably, something of the other person is taken away and imprinted. This human dimension confronts the researcher with the need to do justice to the stories and events described by the young people and staff. Liebling states that it is

¹⁵⁹ Jewkes (n87)

¹⁶⁰ For example, whilst working between units in plain sight of the cell windows, some young people shouted comments about my physical attributes, invited me to perform sexual acts or invited me to ‘come back to my cell.’ The only direct links to sexuality were made when a young person wolf whistled whilst I walked to the back of the induction room (to which he was told that he would be returned to his cell) and when told that a server in the canteen was deliberately giving me extra food.

¹⁶¹ A Liebling, *Suicides in Prison* (Routledge 1992) 126.

¹⁶² For a discussion on the importance of emotion in ethnography, see Liebling (n5) and Y Jewkes, ‘Autoethnography and Emotion as Intellectual Resources: Doing Prison Research Differently’ (2012) 18(1) *Qualitative Inquiry* 63.

satisfying when data begins to take shape but less appealing to remember that this was an approximation to the absolute truth.¹⁶³ The desire to present a ‘faithful representation’¹⁶⁴ of the accounts heard and events witnessed whilst minimising the risk of colouring such information with personal prejudices, beliefs or ideologies is at the forefront of one’s mind. Whilst many of the sights, sounds and smells are often lost in translating the empirical experience to paper, it is hoped that what follows in the next three chapters is a portrayal of the voices of the children and staff involved which conveys not only the amusing and uplifting, but also the frightening, sad and concerning.

¹⁶³ Liebling (n162) 125.

¹⁶⁴ Liebling (n5) 164.

CHAPTER 5

'YOU HAVE TO MAKE YOURSELF LOOK BIG:'¹ SURVIVING IMPRISONMENT

5.1. Introduction

The transition into the prison environment is a significant event. The barrier between free society and the institutional environment is, as discussed in Chapter 3,² a key characteristic of Goffman's archetypal 'total institution'.³ The 'churn,' a term used to describe the movement of prisoners into, out of, and around the prison estate, means that this threshold may be crossed several times a day. For the prisoner, the significance of crossing this threshold goes far beyond the physical movement into a particular building. It marks the departure from a familiar world and casts the novice prisoner into the unknown prison environment. In just a few short hours, a prisoner may find himself transported from the court cell to the prison cell and, as he does so, that his whole life is dramatically transformed. For a new inmate, admission into the prison environment can represent a 'cataclysmic,'⁴ 'catastrophic'⁵ and 'shattering'⁶ experience for prisoners. Gibbs observes that '[f]rom the perspective of some prisoners, it is almost as if they were happily gamboling down the street one minute and pondering their fate in a jail cell the next.'⁷ Faced with this sense of suddenness and shock, it is unsurprising that some prisoners may well experience profound difficulties making the transition into the prison environment.

¹ Quote taken from interview with Nathan.

² See Chapter 3, 78-79 for further discussion.

³ E Goffman, *Asylums: Essays on the social situation of mental patients and other inmates* (Penguin Books 1961) 15.

⁴ JJ Gibbs, 'The First Cut is the Deepest: Psychological Breakdown and Survival in the Detention Setting' in R Johnson and H Toch (eds), *The Pains of Imprisonment* (Sage 1982) 100.

⁵ E Crawley and R Sparks, 'Older Men in Prison: Survival, Coping and Identity' in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005) 347.

⁶ S Cohen and L Taylor, *Psychological Survival: The experience of long term imprisonment* (2nd Edn, Penguin Books 1981) 53.

⁷ Gibbs (n4) 100.

In preparation for the forthcoming ordeal, prisoners may develop anticipatory survival strategies.⁸ However, such preparations may, as Jewkes suggests, do little to mitigate the severe trauma experienced upon entry into the ‘depersonalised and austere custodial environment.’⁹ The early days of confinement are a ‘critical time’ in which adjustment problems are most likely to surface,¹⁰ manifesting themselves in emotional distress¹¹ as well as ‘a range of anxiety and depression symptoms.’¹² The stress caused by confinement can lead to ‘crisis’ and ‘breakdown,’¹³ and it is during the early days of confinement that prisoners appear to be most at risk of suicide.¹⁴ Generally, a prisoner’s well-being improves over time and these early adjustment problems are at least partially resolved.¹⁵ It is those prisoners who show evidence of latent emotional and psychological difficulties who are generally more likely to experience the greatest difficulties adjusting to prison life.¹⁶

The difficulties associated with transition into the prison environment may be more exaggerated for a younger prison population who are more likely to enter the custodial environment with a range of complex needs and lack sophisticated coping mechanisms.¹⁷

⁸ RS Jones and TJ Schmid, *Doing Time: Prison Experience and Identity among First Time Inmates* (Jail Press 2000).

⁹ Y Jewkes, *Captive Audience: Media, Masculinity and Power in Prisons* (Willan 2002) 2.

¹⁰ K Adams, ‘Adjusting to Prison Life’ (1992) 16 *Crime and Justice* 275, 343.

¹¹ E Zamble and F Porporino, *Coping, Behaviour and Adaptation in Prison Inmates* (Springer Verlag 1988) 85.

¹² H Toch and K Adams, ‘Pathology and Disruptiveness among Prison Inmates’ (1986) 23(1) *Journal of Research in Crime and Delinquency* 7, 17.

¹³ H Toch, *Men in Crisis: Human Breakdowns in Prison* (Aldine Publishing 1975).

¹⁴ A Liebling, ‘Vulnerability and Prison Suicides’ (1995) 35(2) *British Journal of Criminology* 173, 183; Her Majesty’s Chief Inspector of Prisons, *Young Prisoners: A Thematic Report by HM Chief Inspectorate of Prisons for England and Wales* (Her Majesty’s Inspectorate of Prisons 1997) para 4.43 <<http://inspectors.homeoffice.gov.uk/hmiprisonsthematicreports1/youngprisoners.pdf>> accessed 31st December 2012; A Liebling, ‘Prison Suicide and Prison Coping’ (1999) 26 *Crime and Justice* 283; Her Majesty’s Inspectorate of Prisons, *Suicide is Everyone’s Concern: A Thematic Report* (Her Majesty’s Inspectorate of Prisons 1999); J Harvey, *Young Men in Prison: Surviving and Adapting to Life Inside* (Willan 2007) 27.

¹⁵ E Zamble, ‘Behaviour and Adaptation in Long Term Prison Inmates: Descriptive Longitudinal Results’ (1992) 19(4) *Criminal Justice and Behaviour* 409, 421. Zamble comments relate to adult prisoners serving life sentences. However, this pattern of general improvement over time has been demonstrated by several other studies. See, for example Zamble and Porporino (n11); H Toch and K Adams, *Coping: Maladaptation in Prisons* (Transaction Publishers 1989).

¹⁶ Adams (n10) 306-308.

¹⁷ See Chapter 1, 11-13.

Toch suggests that youth, immaturity and ‘crippling inexperience’ may increase the likelihood of experiencing, or succumbing to, stress.¹⁸ 21-23% of recorded acts of self-harm occur amongst young people in prison, broadly defined as children and young people under the age of 21 years old.¹⁹ Prison suicides also occur disproportionately amongst young prisoners, as discussed in Chapter 1.²⁰ For child and young adult prisoners, situational or environmental factors appear to be more important in triggering suicidal crisis.²¹ Liebling suggests that it may be that imitation, boredom and bullying are of greater concern in YOIs and, consequently, suicide may prove a ‘very real option’ as an escape route.²² Therefore, child prisoners are not only more likely to find imprisonment extremely stressful,²³ but the prison environment can precipitate suicide and self-injury.

The purpose of this chapter is to explore how young people at the YOI prepared for, adjusted to, and lived through, a prison term. In so doing, this chapter addresses the first of three key themes which emerged from the narratives of child prisoners. The chapter begins by exploring how young people manage the transition into the YOI and resolve the sense of ‘entry shock.’²⁴ Second, this chapter evaluates how young people adapt to prison life and the strategies employed to ‘adjust’ to prison life. Third, the chapter assesses how young people respond to the challenge to ‘do your time.’ Fourth, the chapter addresses the ‘pains of imprisonment’ described by young people. These pains of imprisonment broadly adhered to

¹⁸ Toch (n13) 284.

¹⁹ Ministry of Justice, *Safety in Custody Statistics 2009: England and Wales* (Ministry of Justice 2010) <<http://www.justice.gov.uk/downloads/statistics/prison-probation/safety-custody/safety-in-custody-2009-0710.pdf>> accessed 1st December 2012; Ministry of Justice, *Safety in Custody Statistics 2010: England and Wales* (Ministry of Justice 2011) <<http://www.justice.gov.uk/downloads/statistics/prison-probation/safety-custody/safety-custody-2010.pdf>> accessed 1st December 2012; Ministry of Justice, *Safety in Custody Statistic Quarterly Bulletin: January to March 2012 England and Wales* (Ministry of Justice 2012) <<http://www.justice.gov.uk/downloads/statistics/prison-probation/safety-custody/safety-custody-jan-march-2012.pdf>> accessed 1st December 2012.

²⁰ A Liebling, ‘Prison Suicide and Prison Coping’ (1999) 26 *Crime and Justice* 283. See Chapter 1, 18.

²¹ A Liebling, *Suicides in Prison* (Routledge 1992) 128.

²² Liebling (n21) 234.

²³ C Bartollas, ‘Survival Problems of Adolescent Prisoners’ in R Johnson and H Toch (eds), *The Pains of Imprisonment* (Sage 1982) 165.

²⁴ Gibbs (n4); Jewkes (n9).

the list advanced by Sykes²⁵ and discussed in Chapter 3.²⁶ However, they were supplemented by additional pains and losses which were peculiar to childhood or late modern penality.²⁷ Finally, the chapter explores the notion that young people must *keep cool*.²⁸ It evaluates the coping strategies utilised in response to these injunctions. This chapter argues that despite the attempts to present an ability to survive and *do their time*,²⁹ young people frequently struggled with the reality of a custodial term.

5.2 'Everyone was lost':²⁹ Making the Transition into the YOI

In seeking to understand the process of transition into the prison environment, prison researchers³⁰ have drawn on the notion of liminality and *rites of passage*.³¹ Van Gennep suggests that in most societies a rite of passage includes separation, margin (or limen) and aggregation.³² Separation involves a symbolic detachment of an individual or group from an earlier fixed point in the social structure from a set of cultural conditions (state) or from both.³³ The liminal phase *the characteristics of the ritual subject...are ambiguous; he passes through a cultural realm that has few or none of the attributes of the past or coming state*.³⁴ During this liminal phase, the *ritual subjects* are *neither here nor there, they are betwixt and between the position assigned and arrayed by law custom, conventional and*

²⁵ GM Sykes, *The Society of Captives* (Princeton University Press 1958).

²⁶ See Chapter 3, 94-103 for a discussion of the conventional *pains of imprisonment*.

²⁷ See Chapter 3, 103-104 for a discussion of the *pains of imprisonment* which relate specifically to late modern penality.

²⁸ Quote taken from interview with Chris.

²⁹ Quote taken from interview with Ryan.

³⁰ J Harvey, *Young Men in Prison: Surviving and Adapting to Life Inside* (Willan 2007) and Y Jewkes, *Loss, Liminality and the Life Sentence: Managed Identity through a Disrupted Lifecourse* in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005).

³¹ V Turner, *Ritual Process: Structure and Anti-Structure* (Routledge and Kegan Paul 1969).

³² A Van Gennep, *The Rites of Passage* (Routledge 1960) cited in V Turner, *Ritual Process: Structure and Anti-Structure* (Routledge and Kegan Paul 1969). Also see J Harvey, *Young Men in Prison: Surviving and Adapting to Life Inside* (Willan 2007) and Y Jewkes, *Loss, Liminality and the Life Sentence: Managed Identity through a Disrupted Lifecourse* in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005).

³³ Turner (n31) 94.

³⁴ Turner (n31) 94.

ceremonial.³⁵ It is in the third phase that the ritual subject achieves a reasonably stable state.³⁶ In the prison context, the transition into the custodial environment is experienced as a liminal phase.³⁷ Gibbs argues that the prisoner is between worlds, and has mastery over neither. In this situation, feelings of anxiety, confusion, and helplessness surface. A man's sense of control may be destroyed.³⁷ This liminal phase, then, not only places prisoners within a state of limbo³⁸ but also creates a disrupted sense of self.³⁹ This is broadly reminiscent of Goffman's argument, discussed in Chapter 3, regarding the mortification of self experienced upon entrance to, and life within, the total institution.⁴⁰

5.2.1 Preparing for Life Inside

For young people at the YOI, the liminal phase is characterised by a great deal of uncertainty, which is perpetuated by many unsettling processes, transitions and degradation ceremonies. Prisoners do not simply experience the overall transition from the community into the prison world, but also experience several smaller transitions: from the police station to the court, from the court to the van, from the van to reception, from reception area to the induction unit, and to and from other areas of the prison.⁴¹ Further transitions continue during the first month of imprisonment.⁴² At the YOI, young people initially completed a two week induction programme before moving to the normal residential wings and taking occupancy of a new cell. Following the induction programme, they attended educational classes in accordance with the normal timetable, bringing them into contact with new people, new experiences, new routines and new buildings. Thus, becoming involved in the normal prison

³⁵ Turner (n31) 95. Turner describes the ritual subjects during this phase as threshold people.

³⁶ Turner (n33) 95.

³⁷ JJ Gibbs, 'Disruption and Distress: Going from Street to Jail' in N Parisi (ed), *Coping with Imprisonment*, (Sage 1982) 35.

³⁸ Gibbs (n1)100.

³⁹ See Chapter 3, 80-81. Also see J Irwin, *The Felon* (Prentice Hall Inc 1970) 39.

⁴⁰ See Chapter 3, 80. Also see Goffman (n3).

⁴¹ J Harvey, *Young Men in Prison: Surviving and Adapting to Life Inside* (Willan 2007) 29.

⁴² For similar findings with a cohort of slightly older, young adult prisoners, see Harvey (n41) 29.

routine is a gradual process, rendering the transition to the prison an unsettling, uneasy and unnerving process for several days and weeks.

Typically, young people were anxious about entering the custodial environment.⁴³ This sense of uncertainty related to the generic aspects of imprisonment, reflecting concern about what to expect, the nature of custodial life and the approach of staff to their custodial tasks.⁴⁴ Darren explained:

I suppose I was a bit scared because I've never been before. Just a bit upset and that, „cause like my mum was upset and that cause I was going away. And when [they] said it out in court, it sounded really bad, it made me think. [...] On the way here, I was a bit worried. I didn't know what to expect.

Young people were also distressed about the separation from family members and the potential effects that their incarceration would have upon their family members, particularly if, like Darren, such family members were in court.⁴⁵

New arrivals were often concerned about the threat to their personal safety and the need to prepare for the possibility of physical assault.⁴⁶ For example, Tyrone commented:

⁴³ This particularly mentioned by Darren, Rische, Tre and Stephen. All staff made this observation during the interviews.

⁴⁴ This assessment is based on observations and informal dialogue with staff in the induction wing, reception unit and healthcare unit. This was also a general theme in both the interviews with staff and young people.

⁴⁵ This was raised by five young people (Stephen, Nathan, Tre, Rische and Shane).

⁴⁶ This was reflected in the narratives of eight young people (Tyrone, John, Tre, Chris, Rische, Aaron, Andray and Stephen).

I thought this is it. This is the terror zone. I was ready for it, I'm not even going to lie, I was ready for it. I was involved in the gang stuff and my mentality on the road, I was just thinking, the first person that tries anything with me, I'm going to beat them up.

Both Tyrone and Rize assumed that they would be confronted with attempts to threaten, attack or assault them and, thus, they developed an offensive strategy. This strategy is not wholly an unnecessary one; young people may well find themselves confronted with potential attempts to test their physical strength and resolve.⁴⁷ The orientations adopted by Rize and Tyrone illustrate the kind of 'anticipatory survival strategies' that Jones and Schmid argue are created by convicted adult felons preparing to manage prison life.⁴⁸

The belief that the prison world is a violent one appeared to stem from the pre-prison imagery adopted by young people. Like Jones and Schmid's study of adult prisoners, media representations appeared to be important in establishing young people's pre-prison imagery and perceptions of imprisonment.⁴⁹ Gleaning information from more experienced peers offered young people only a partial source of help in seeking to construct an image of the reality of prison life. Such accounts were often polarised, either indicating that prison life was 'nothing'⁵⁰ and or that it was 'just crazy'.⁵¹ Limited information was then used to construct an image of prison life and appeared to heighten the perception of risk. The discord between the televised or imagined views of prison and the reality of the YOI appeared to suggest that the YOI was, comparatively, somewhat easier and that their custodial experience could be significantly worse.

⁴⁷ See Chapter 6, 247- 248.

⁴⁸ Jones and Schmid (n8) 45.

⁴⁹ Chris and Nathan made specific reference to televised images or the threat of prison rape, however, such characterisations whilst other interviewees spoke more generally about the idea that prison would be more 'dramatic' and 'violent.'

⁵⁰ Quote taken from interview with Ollie. Darren and David had a similar experience.

⁵¹ Quote taken from interview with Tre. This was also raised by Andray.

The sense of anxiety and uncertainty associated with entering the prison is not confined to first-time entrants but also extends to returning or transferring young people.⁵²

Darren was recalled to custody and, on return, experienced different feelings of uncertainty:

...Obviously when I come in this time, all the people that I had quite a lot of problems with ... got in a bit of trouble with a lot of people, now most of them are gone and the people that are here they've realised, I stay out of their way and they stay out of my way n'it ... I didn't want to come straight back in to get in fights, get on losses, get on bronze straight away. Thought yeah I would come back in stay on silver.

Here, Darren suggests that he was concerned about the potential for violent incidents but also about returning to bronze regime and a reduced entitlement to certain privileges. For returning young people, the sense of uncertainty shifts from not knowing *what* to expect to not knowing *who* to expect. It also related to a concern to avoid, as far as possible, the pains and frustrations previously experienced. For those young people transferring to the YOI from another prison, this transfer was still an unsettling and daunting experience. Concern appeared to relate to the nature of the new YOI compared with the YOI they had recently left.⁵³ Staff believed that returning or experienced young people were *'cocky'* and unfazed by their arrival in a new establishment.⁵⁴ It is clear, however, that such confidence and bravado may conceal emotional angst. Thus, familiarity should not be confused with emotional stability.

⁵² Also see Gibbs (n4) 100.

⁵³ This was true for five young people (John, Jason, Tyrone, Aaron and Andray).

⁵⁴ This was confirmed during the observation phase of the empirical study as well as in all of the staff interviews.

5.2.2 Reception

Children typically arrived in reception during the early evening or late at night,⁵⁵ something which appears to be an ongoing and widespread problem.⁵⁶ For example, 42% of those young people who completed a questionnaire arrived between 5pm and 8pm and a further 25% arrived after 8pm. Upon arrival at the YOI, young people step immediately into a rather brightly coloured reception building, partially isolated from the other buildings. After initially checking the warrant and asking brief questions, they are held in a room until they can be processed. They are strip-searched, given prison issue clothes to wear, and relieved of their own personal belongings. Each individual is photographed and issued with a prison identity card, together with a prison identity number. Once completed, each young person is given an opportunity to make a telephone call, given a hot drink and meal and issued with a pack containing items such as squash and given £2 phone credit. The prisoner, according to Caird, is ‘shaped and coded into the kind of object that can be fed into the administrative machinery.’⁵⁷ At first glance, the reception procedure may appear to constitute a purely administrative process, however, it represents a successful ‘status degradation ceremony.’⁵⁸ Garfinkel suggests that degradation ceremonies provide public denunciation and moral indignation.⁵⁹ Thus, the ascription of a prisoner identity is not simply incidental to imprisonment, but is part of a process which strips prisoners of aspects of their identity.

⁵⁵ This conclusion is drawn from observations of the reception unit where it was reported that some children, particularly those arriving from London, could arrive late into the night, even as late as the early hours of the morning (Fieldwork notes (2008)). This problem is also acknowledged by the Inspectorate of Prisons, however, the reference to the relevant report has been removed to preserve the anonymity of the institution.

⁵⁶ B Goldson, *Vulnerable Inside: Children in Secure and Penal Settings* (The Children’s Society 2002) 139; B Goldson, ‘Damage, Harm and Death in Child Prisons in England and Wales: Questions of Abuse and Accountability’ (2006) 45(5) *Howard Journal of Criminal Justice* 449, 458. This problem is also reported by the Inspectorate of Prisons, however, the reference to the relevant report has been removed to preserve the anonymity of the institution.

⁵⁷ R Caird, *A Good and Useful Life: Imprisonment in Britain Today* (Hart-Davis 1974) 9 cited in Y Jewkes, *Captive Audience: Media, Masculinity and Power in Prisons* (Willan 2002) 2.

⁵⁸ H Garfinkel, ‘Conditions of Successful Degradation Ceremonies’ (1956) 61(5) *American Journal of Sociology* 420.

⁵⁹ *ibid* 421.

The degradation ceremony is marked by the act of full, mandatory strip-searching. Goffman argues that ‘the admission procedure can be characterised as a leaving off and a taking on, with the midpoint marked by physical nakedness.’⁶⁰ One of young people’s first experiences of prison custody was the demand to remove their clothes, albeit in a staged manner, in front of two adults.⁶¹ Full strip-searches were conducted routinely rather than in response to a specified risk.⁶² When questioned, young people expressed a range of responses regarding compulsory strip-searching. Five young people appeared to be indifferent to it.⁶³ Mark and Jason’s confidence in their physical physique appeared to contribute to their indifference to being strip-searched; they presented a self-assured, masculine self. For example, Mark commented, *‘I didn’t really care. I’ve got no problems with the way I look so.’* For Kyle, Chris and Nathan, their indifference related to an acceptance that such degradation ceremonies were simply a feature of prison life, indicating how such degradations can simply become routine.

Three young people explained that their initial discomfort or anxiety regarding strip-searching had subsequently been reduced by the routinisation of strip-searching.⁶⁴ This could partly be explained by the frequency with which young people were strip-searched. Young people could be strip-searched in response to intelligence or as part of routine cell searches.⁶⁵

⁶⁰ Goffman (n3) 27.

⁶¹ Lord Carlile, *The Carlile Inquiry: An independent review in to the use of physical restraint, solitary confinement and forcible strip-searching of children in prisons, secure training centres and local authority secure children’s homes* (Howard League for Penal Reform 2006) 54.

⁶² A recent review of full searches across the juvenile secure estate concluded that full strip-searches should be based on the assessment of risk. See YJB, *Review of Full Searches in the Secure Estate for Children and Young People* (YJB 2011) 33 <<http://www.justice.gov.uk/downloads/youth-justice/improving-practice/Review-of-Full-Searches-in-the-Secure-Estate-forChildren-and-Young-People.pdf>> accessed 1st December 2012. Although it appears that there was a reduction in the incidence of strip-searches on arrival as a result of the introduction of the BOSS (body orifice security scanner), the most recent Inspectorate report suggests that full strip-searching remains high. The reference to the relevant Inspectorate reports have been omitted to preserve the anonymity of the institution.

⁶³ This was true for Mark, Chris, Jason, Kyle and Nathan.

⁶⁴ This was true for Nathan, David and John.

⁶⁵ This is confirmed by Her Majesty’s Inspectorate of Prisons who conducted an inspection shortly after the research. The reference to the Inspection report has been omitted to preserve the anonymity of the institution.

Each month, half the prison cells were searched.⁶⁶ Therefore, strip-searching becomes a routine part of prison life and is accompanied by routine ‘pat downs’ as a young person leaves a cell, wing or classroom. For example, 87% of those young people who completed a questionnaire had experienced a ‘cell spin’ and, therefore, had also been strip-searched on the wing. It was not the case that the frequency of strip-searching reduced the anxiety for all young people. Shane, for example, had experienced 20 ‘cell spins’ and although he had been strip-searched in excess of 20 occasions, he still perceived the process to be uncomfortable. The majority of young people expressed the view that strip-searching created a great deal of concern and anxiety,⁶⁷ reflecting Lord Carlile’s view that strip-searching is a ‘demeaning and de-humanising’ process.⁶⁸

The practice of full strip-searching is ‘more than the removal of clothes but it is the manifestation of power relations.’⁶⁹ To illustrate the full impact of this power imbalance, one of the interviewees, Rize explained:

...it’s like say you are down town and you get your willy out and all that, it’s different ... but when you are getting ordered to take your clothes off, you feel bad, you feel really small, I mean you feel like, you feel like yeah you are being ordered, “Take your clothes off” ... like ahh mate, Who are you? Do you know what I mean? I’m a 17 year old lad, you’re a 40 something, 40 year old bloke. 40 year old - I wouldn’t get it out to a lady do you know what I mean. I don’t want a 40 year old bloke staring at my jacks you know what I mean.

⁶⁶ *ibid.*

⁶⁷ This was true for 8 young people (David, Tre, Aaron, Shane, Darren, Rize, Andray and Stephen).

⁶⁸ Carlile (n61) 58.

⁶⁹ Carlile (n61) 58.

Risze illustrates the stark contrast between exposing himself in public and being required to strip naked in front of two officers. The confined environment and coercive nature of the mandatory strip-searching clearly alters the nature of the activity and the sense of vulnerability is exaggerated by the age disparity between children and officers. The imbalance of power is particularly marked if a child is coerced with the threat, or actual use, of force to those showing any reluctance to strip,⁷⁰ as was the case for three young person who was interviewed and another who completed a questionnaire.⁷¹ Although not unique in this practice,⁷² the YOI has previously attracted criticism for the practice of forcible strip-searching under restraint.⁷³

The completion of the degradation ceremony is marked with the issue of bottle green prison clothes. The symbolism attached to this was not lost on young people. Nathan, when discussing resettlement support, commented:

[The YOI could] give you like a good month of like getting back into the normal life because they just suddenly stop you wearing green clothes, just next day it's like, you dreamed of being in prison, but it's still there, you still have the same mentality...

What is striking here is the way in which the compulsory bottle green clothing structured Nathan's perception of himself and his situation. It clearly marked the reality that he was deprived of his liberty by the State. Prison issue clothes clearly marked a prisoner identity.

⁷⁰ Carlile (n61) 58.

⁷¹ Forcible strip searching involves the use of physical restraint to remove a young person's clothes. One young person was forcibly strip-searched. Two other young people stated that they were threatened with the use of force but eventually complied.

⁷² The former Chief Inspector of Prisons, Anne Owers, criticised the forcible strip-searching of two boys at Werrington YOI who had the clothes cut off. See Her Majesty's Inspectorate of Prisons, *Report of a short unannounced inspection of Werrington YOI: 16-20 April 2007* (Her Majesty's Inspectorate of Prisons 2007) 45.

⁷³ The reference to the Inspection report has been omitted to preserve the anonymity of the institution.

5.2.3 Experiencing Entry Shock

During the liminal phase, young people described a continuing sense of ‘entry shock’ and disbelief concerning their new present reality, mirroring the experience of adult prisoners.⁷⁴

Young people simply could not conceive that their incarceration had actually happened.⁷⁵

Rather than being overwhelmed in court with the gravity of the court’s decision, young people often described a notable delay in coming to terms with the reality that they were now facing several weeks, months or years in prison. Ryan explained:

I didn't think nothing ... I couldn't get it through my head at first n'it so I wasn't bothered ... After a while when I was in the court cell, I was like fucking hell ... I was baffling and I didn't even think..

Ryan indicates how the imposition of a custodial sentence can not only produce a profound sense of trauma and anxiety but such feelings can be difficult to process and come to terms with.

The journey in the ‘sweat box’⁷⁶ offered time to reflect but in full view of the outside world from which they had been temporarily withdrawn. For example, Rize commented:

You look out the window, then life passed and you think to myself, my days are gone. ... It's more when you have time to yourself or you look out the window and you think to yourself, that's it man, I've fucked everything up and I can't change it now.

⁷⁴ This mirrors the research concerning young adult and adult prisoners. See J Harvey, ‘Crossing the Boundary: the transition of young adults into prison’ in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005) 239.

⁷⁵ *ibid* 239.

⁷⁶ This is prison slang for the cellular transport vans used to escort prisoners.

Like young adult prisoners, it was clear that being able to see outside but not being in that world was very difficult.⁷⁷ Disbelief regarding their confinement is often accompanied with, or soon followed by, the realisation that they have *fucked everything up*, that their whole lives had disappeared and that their *days are gone*.⁷⁸ It appeared that this state of disbelief could be an ongoing feature of a young person's incarceration.⁷⁸ Jewkes, in a study of life sentence prisoners, describes a process of shock and aftershock.⁷⁹ For lifers, the initial state of shock on receiving the maximum penalty of life imprisonment is followed by a sense of aftershock. For young people at the YOI, the sense of aftershock related to an ongoing and persistent need to manage the reality of prison life and the pains of imprisonment.⁸⁰

These feelings of disbelief may appear surprising since all interviewees had previously come to the attention of the authorities before committing the index offence for which they were imprisoned or remanded. Moreover, a significant portion of both the young people interviewed and those who had completed the questionnaire (40%) had experienced previous custodial spells.⁸⁰ However, as Gibbs explains, the possibility of eventual confinement is in some senses similar to perceptions of death. Although death happens to all of us, very few are prepared for its arrival.⁸¹ This accurately reflects the attitudes of young people at the YOI. Young people appeared to believe that they were invincible and failed to heed the previous warnings about the likelihood of future or further custodial terms.⁸²

⁷⁷ Harvey (n41) 39.

⁷⁸ For example, Nathan suggested several phases in which he experienced a profound sense of shock and trauma: in the van, during induction and even as he starts his sentence on normal location.

⁷⁹ Y Jewkes, Loss, Liminality and the Life Sentence: Managed Identity through a Disrupted Lifecourse in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005) 366.

⁸⁰ Six young people (Chris, Tom, Nathan, Shane, Clark and David) had been in custody on at least one prior occasion.

⁸¹ Gibbs (n37) 33-34.

⁸² For example, Stephen remarked, *I thought I was invincible I was. I thought I would never go to prison, just thought I would keep getting this short little orders.*

Young people with previous institutional experience and yet experienced considerable shock coming to terms with their return to custody.⁸³ It seemed that they found it difficult to accept that they had to endure prison life once again and were thrown off balance by the suddenness of it all.⁸⁴ Kyle, for example, commented:

It just brings back memories. As soon as I came off the van I saw a gov and I remembered him from London, said that he couldn't believe I was back again, it was two years later ... It never really kicked up for about a week I would say when I came in here. I came in here on the Friday, I would say by Sunday, Monday, it really kicked in that I was in prison and that I wouldn't be coming out for my birthday. I weren't happy.

Kyle's account indicates that the reality of his incarceration took about a week before it kicked in.⁸⁵ Upon arrival, Kyle was confronted with prior acquaintances and, although he is now two years older, his life returns to the same routine. Returning young people were quickly reminded of a world that they had chosen to forget.⁸⁵ On their return, such young people are confronted with their own failure to rehabilitate and that failure appears more profound when returning to custody. Returning young people were also concerned about the disappointment that they had caused family members.⁸⁶

The keen sense of entry shock may be particularly pronounced amongst heavy substance users who, upon entering the prison, are forced to rapidly detox.⁸⁷ Young people

⁸³ Kyle and Shane particularly found it difficult re-adjusting to prison life.

⁸⁴ Harvey (n41) 32.

⁸⁵ See Harvey (n41) 32 for a similar observation regarding the experience of young adult prisoners.

⁸⁶ For example, when discussing how his parents felt about him being inside, Shane stated that they were *Gutted again because I said that I wouldn't come back but I did.*"

⁸⁷ See Gibbs (n37) 34. Three young people commented specifically on this issue.

who were detoxing could feel extremely disoriented or physically unwell. This could also impact their interactions with their peers and staff members as well as their ability to follow or adhere to institutional rules. The most severe reaction appeared to be experienced by Rize who reported:

... I had a big chip on my shoulder, a big chip on my shoulder, I was not good, I did not give a fuck about anyone, I was...making the whole world against me and I didn't care so I was really, really threatening, really abusive, ready to fight.. I thought to myself, it ain't worth all this nickings [adjudications] and so I've got to try and get my head down, and try and do alright.

Detoxing had a significant impact on Rize's adjustment to prison rules and norms. His account suggests that the sense of entry shock may extend beyond an inability to comprehend the reality that he is in prison to an inability to comply with institutional norms and demands. For John, however, access to drugs inside meant that the detoxification process did not have a severe impact. This reflected a more general attitude towards the use of drugs and tobacco to mitigate the pains of imprisonment.⁸⁸

When making the transition into prison life, it was not uncommon to find that young people were disconnected from time and space, marking another similarity with the experience of adult prisoners.⁸⁹ For example, Ryan simply described feeling *lost*:

Just felt like everyone was lost. I was on the induction wing so I don't know how it is on other wings but on the induction wing, everyone was just lost n't it

⁸⁸ See Chapter 7, 331.

⁸⁹ Harvey (n41) 32.

The sense of disorientation, instability and uncertainty was such that it was difficult to establish one's position or focus beyond the immediate moment. They held only a vague uncertain conceptualisation of prison life⁹⁰ during the induction period. Essentially, it seems that in this marginal state,⁹¹ young people found it difficult to think beyond their own personal concerns. Nathan illustrated this:

...when you first come here you only think of yourself, I've got life, I've got life, I've got to do fifteen years before first parole, you only think of yourself...

The dominating concern is their own future and the number of months or years left to serve. As Serge states, 'the problem of time is everything.'⁹² Initially, the time problem' simply adds to the developing sense of disbelief. For the young people concerned, it is difficult for them to conceive that this new prison life will be their lived reality until the specified term or period of remand is over.

5.3 'It's still hard but it gets easier:'⁹³ Adjusting to Prison Life

Research suggests that the liminal phase is, for most prisoners, a transitory one.⁹⁴ Many prisoners will reach a more stable state and sense of self.⁹⁵ Similarly, young people at the YOI appeared to regain a sense of equilibrium and the initial sense of 'entry shock'⁹⁶ gradually diminished. Nathan explained:

⁹⁰ Jones and Schmid (n8) 54.

⁹¹ Also see Jones and Schmid (n8) 54.

⁹² V Serge, *Men in Prison* (Penguin 1972) 47.

⁹³ Quote taken from interview with Nathan.

⁹⁴ Harvey (n74) 239.

⁹⁵ Harvey (n74) 239.

⁹⁶ Harvey (n74).

After [the first few days] it gets easier, it's still hard but it gets easier ... after a couple of days it starts to like, it starts to get smoother, your heart starts getting smoother, start getting used to it and then you start coming out and start meeting people, that's also got 15 years and when you talk to them, you get inspired by them kind of thing, like yeah I've got 15 years, it's nothing this, this, that and then it's back around the circle of you have to make yourself look big like you can handle it again, then that's all good again, in some ways that helps you, but when you are by yourself you just, you have to keep yourself busy.

This account illustrates how young people may be tempted to present a public transcript,⁹⁷ which portrays an ability to cope and survive. The distinction between the public and private self is far more than an adaptation to the demands of penal power,⁹⁸ but relates to the struggle to visibly survive a prison term. Young people did not respond homogeneously to this challenge but offered several reasons for the increased stability: greater familiarity and involvement in the normal prison; social interaction; the creation of a (temporary) home; the interaction with and comfort of a pad mate; and, for some, careful identity work.

5.3.1 'Once you get a routine'⁹⁹

Once young people were accommodated on normal location,⁹⁹ many of the introductory activities ceased and they became involved in normal institutional activities. The cessation of all these transitory stages helped to move young people beyond the liminal phase and produce a sense of social stability. The consistent and predictable routine was reassuring and gradually there were fewer and fewer new rules, customs or norms to learn. Darren commented:

⁹⁷ See Chapter 3, 91 for further discussion.

⁹⁸ See Chapter 3, 91 for further discussion.

⁹⁹ Quote taken from interview with Darren.

I think nothing is good about being here. I reckon it'sshit here. Not shit, I just don't want to be here. Once you get into the routine and that, it'sjust nothing, just get on with it.

The predictability and familiarity with the prison routine helped to reduce anxiety. The familiarity of attending education meant that, for some, the educational timetable had the effect of normalising prison life. This is surprising given that many had experienced school exclusion and truancy. For example, 91% of those who completed a questionnaire had been excluded, 80% had truanted from school and all but one of the young people interviewed (Tyrone) had either truanted or been excluded from school. Predictability appears to be an important aspect of inmate survival.¹⁰⁰ It provides what Giddens describes as ‘ontological security.’¹⁰¹ Young people were keen to avoid public disgrace or embarrassment and the predictability of prison life was reassuring since it helped young people avoid (public) error. The continuous structure provided the ability to manage the passage of time to the extent that deviations from this routine were perceived to be a misuse of staff power.¹⁰²

The imposition of a consistent routine was indicative of the way in which the lives of young people had been absolutely altered. Whilst in the community, all of the young people interviewed had experienced little parental supervision and long periods of unstructured, self directed time. Typically, they had grown accustomed to governing their own affairs. The ‘loose and unstructured lives of many offenders’ in the community provide a ‘sharp contrast to the regimentation of the penitentiary.’¹⁰³ The prison routine, however, was an imperfect

¹⁰⁰ See H Toch, *Living in Prison: The Ecology of Survival* (Free Press 1977) 81.

¹⁰¹ A Giddens, *Modernity and Self Identity: self and society in the late modern age* (Polity 1991) 36.

¹⁰² Cf. Chapter 7, 311.

¹⁰³ Zamble and Porporino (n11) 76; Bartollas (n23) 175.

solution and only served to mask, rather than resolve, the pains of imprisonment. Zamble and Porporino remark that the routine of imprisonment dulls inmate's perceptions and lulls them into its own rhythm. At the same time, their problems remain and do not change much over time.¹⁰⁴ These problems are prone to re-surface and can be just as overwhelming as in the early days of incarceration.¹⁰⁵

***5.3.2 'I know a lot of people here'*¹⁰⁶**

The second reason given by young people at the YOI for a reduction in the initial anxiety was social contact and interaction. Jones and Schmid state that new inmates generally arrive with an isolationist strategy, an extreme version of 'doing time' that involves the avoidance of all hostility and unnecessary contact and interaction.¹⁰⁷ However, at the YOI, social interaction was often a necessary information seeking tactic.¹⁰⁸ In the early days of confinement, much seemed to be learned from interactions with other young people. Aaron, for example, reported being told by prison officers to ask *the prisoners*.¹⁰⁹ Interacting with peers appeared to be important in terms of adjusting to life within the YOI. Several young people suggested that meeting past or current acquaintances could also provide a sense of familiarity, personal safety and security.¹⁰⁹

In a confined environment, social contact is hard to avoid.¹¹⁰ Young people could opt to remain in their cells during meal times and association times, but access to showers, telephones, physical exercise, visits and education all brought young people into contact with

¹⁰⁴ Zamble and Porporino (n11) 114.

¹⁰⁵ See below 186-187.

¹⁰⁶ Quote taken from interview with Jason.

¹⁰⁷ Jones and Schmid (n8) 45.

¹⁰⁸ Jones and Schmid (n8) 35.

¹⁰⁹ This was mentioned by John, Chris and Risze.

¹¹⁰ B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) 303.

others. Social isolation could not be maintained indefinitely and most young people welcomed the interruption to the inactivity and boredom associated with cellular solitude; there was a strong impulse to leave their cells.¹¹¹ When asked how he occupied himself at night, Jason replied:

Jason:

I like to relax. At the moment, I haven't got a TV or nothing so I just lay down and talk, talk to other kids, mainly my next door.

Interviewer:

Do you get on with him?

Jason:

Yeah. You got too really. I didn't go on to the wings looking for friends and he come up and starting talking to me but I know I know a lot of people in here anyway.

Even if a young person did not go *looking for friends*,¹¹² others may attempt to initiate contact. Indeed, such interactions were difficult to avoid since privacy was completely eroded.¹¹³ Once in their cells, like adult prisoners, young people were quickly confronted with the reality that they are never alone, not even at night.¹¹⁴ Young people would talk to each other through the windows.¹¹⁵ Such interaction had to be carefully managed in order to avoid inciting conflict.¹¹⁶ Continual surveillance of their behaviour by others raised the risk posed to those who did not interact with their peers or who did so in such a way that contravened group norms or that indicated that they are in some way peculiar, ultimately drawing more

¹¹¹ *ibid* 303.

¹¹² Cohen and Taylor (n6) 88.

¹¹³ Jones and Schmid (n8) 51-52.

¹¹⁴ See Chapter 6, 216.

¹¹⁵ See Chapter 6, 216-220.

attention. Such young people were ‘suspected of having ~~something~~ to hide’¹¹⁶ or were marked as weak or vulnerable, increasing the risk of victimisation.¹¹⁷

Like studies of adult prisoners, regional differences and accents appeared to be important in establishing relationships.¹¹⁸ John, for example, spoke of selecting pad mates on the basis that they were from the same region. Andray simply commented that he felt more comfortable with people who were from the same region. The company of, or identification with, acquaintances from similar locations appeared to root young people in their external existences, removing something of the psychological distance from home. Phillips comments that local identities anchor ‘prisoners’ belonging to somewhere external to the prison, even ‘if those places were a site of family discord, personal disappointment or violence, thus representing a familiar but also vulnerable location.’¹¹⁹ This shared identity allowed young people to form alliances that would not only provide some social interaction and superficial friendships but it would also help to promote individual safety.¹²⁰ The perception amongst staff and young people that gangs operating within the YOI, principally from the London area,¹²¹ precipitated the need for an identifiable group with whom to affiliate.¹²² This desire for friendships based on location and postcode is also a relevant feature of gang behaviour¹²³

¹¹⁶ Crewe (n110) 303. This was also mentioned by Terror,

¹¹⁷ See Chapter 6, 237-238.

¹¹⁸ For example, many young people asked where I originated from and those young people who were also from the West Midlands sought to engage in conversation regarding this shared experience. (see fieldwork notes (2008)). Also see Crewe (n110).

¹¹⁹ C Phillips, ‘Negotiating Identities: Ethnicity and Social Relations in a Young Offenders’ Institution’ (2008) 12(3) *Theoretical Criminology* 313, 322-323.

¹²⁰ Also see Chapter 6, 256-258 for further analysis of the importance of group alliances in reducing the risk of victimisation.

¹²¹ See Chapter 6, 256-258 for the impact of this on victimisation trends.

¹²² *ibid.*

¹²³ J Pitts, *Reluctant Gangsters: The Changing Face of Youth Crime* (Willan 2008).

and, therefore, young people may sense that such ‘postcode loyalties’¹²⁴ are the safest way to socially interact.

Despite the impulse towards social interaction, the juvenile population could not be described as a cohesive group. Many young people remained independent and, although some friendships may form, this did not compare with the primary group alliances suggested by Clemmer.¹²⁵ Personal strength and fortitude were preferred to an excessively dependent relationship on others. For example, when asked who they would speak to if they had a problem, a number of young people responded that they would deal with it themselves.¹²⁶ Relationships were characterised by low levels of trust.¹²⁷ Generally, any alliances appeared opportunistic and functioned to ensure personal protection and safety rather than to forge strong cliques or relationships. In many ways, the custodial environment discourages strong alliances. The ‘survival of the fittest’ mentality and the prevalence of victimising behaviour encourages a self-centred stance and tough or aggressive persona.¹²⁸

5.3.3 ‘My home away from home’¹²⁹

It appeared that a growing familiarity with prison life led a small number of young people to treat their cell as their (temporary) home.¹³⁰ For example, when discussing cell searches, Mark remarked:

¹²⁴ R Earle, ‘Boys’ Zone Stories: Perspectives from a Young Men’s Prison’ (2011) 11(2) *Criminology and Criminal Justice* 129.

¹²⁵ D Clemmer, *The Prison Community* (2nd Edn, Holt, Rinehart and Winston 1958) 118. Also see Chapter 3, 109.

¹²⁶ This was true for eight young people (Rische, Andray, David, Kyle, Jason, Tyrone, Tre and Shane).

¹²⁷ Also see Chapter 7, 278-279 for similar comments regarding relationships between staff and young people.

¹²⁸ See Chapter 3, 93-94 and Chapter 6, 246-255. Also see R Johnson, *Hard Time: Understanding and Reforming the Prison* (3rd Edn, Wadsworth 2001) 109.

¹²⁹ Quote taken from interview with Mark.

¹³⁰ This was specifically mentioned by John and Mark.

They have to do that every now and then but then if the staff want to come in my cell, they ask me before they come in my cell. I mean at the moment, because I've been in this prison so long, my cell is my home away from home and the govs know that so they don't generally come in your cell unless you say "oh come in".

Having a *home away from home* creates a sense of security within an institution that can otherwise appear chaotic and unpredictable. This is not to say that they became *colonised* or have established a *stable contented existence* inside.¹³¹ Rather, the construction of personal territory produced a *niche*, which provides a marked break from the constant surveillance of others and relieves stress.¹³² This construction of personal territory is such that young people resent staff encroaching in their personal affairs, belongings and space. *Cdl spins* were often resented because it was perceived that staff displayed little respect and would root through belongings, disrupting them without returning them to their proper place.¹³³

5.3.4 'My pad mate'

Since the YOI was originally intended for both young adult and juvenile offenders, it contained a number of double cells, in which young people could request to *double up* or *pad up*.¹³⁴ Although there are significant safeguarding concerns attached to such arrangements,¹³⁵ young people suggested that cell sharing could help mitigate the sense of isolation and the lack of stimulation. David commented:

¹³¹ Goffman (n3) 62.

¹³² Toch (n100) 180.

¹³³ This was a common complaint.

¹³⁴ Young people were assessed on arrival to determine whether they posed a risk to another young person. Certain index offences, such as those of violent nature, would bar accommodation with a double cell until such a time as a young person had proved that they were no longer a *risk*. This was true for Andray who wanted to be padded up with his co-defendant but since both were convicted of violent offences, they were required to demonstrate that they did not present a risk to each other before they could be padded up.

¹³⁵ The murder of Zahid Mubarek provides an example of the very grave harm that can result from the inappropriate pairing of certain prisoners together. See Home Office, *Report of the Zahid Mubarek Inquiry* (HMSO 2006).

... if you are together because you have got someone to chat to and that, but if you are in a single cell, it's a bit boring, start talking to yourself and that.

Living with another pad mate could alleviate boredom by providing social interaction and enabled young people to engage in prohibited activities such as *horse play*.¹³⁶ This behaviour is indicative of the kind of *secondary adjustments* young people might make.¹³⁷

Cell sharing could also protect against poor coping by forcing a young person into a continual state of frontage.¹³⁸ It seems that the perpetual need to present a secure and competent public transcript can prevent a young person from sinking into the private sense of despair simply out of necessity. However, not all young people preferred the distraction of having another person in their cell and preferred their solitude. Scott commented:

Like it's your own space and that, chill out, kick back when you're pissed and all that, just chill back.

Being alone in a cell could reduce the intensity of sharing a cell with another person. Whilst some young people will find the forced state of frontage an effective mechanism to assist coping, for others, it will prove too great a challenge.

¹³⁶ This was true for all six young people who had a *pad mate* (Ryan, Tyrone, Tre, Rische Chris and Nathan). Chris and Nathan particularly spoke about engaging in *horseplay*.

¹³⁷ Goffman (n3) 56. This theme is discussed in greater detail in Chapter 7, 332-333.

¹³⁸ This point was particularly made by Tyrone and Rische. Also see Y Jewkes, *Men Behind Bars: Doing Masculinity as an Adaptation to Imprisonment* (2005) 8 *Men and Masculinities* 44, 54.

5.3.5 'I'm not an offender'¹³⁹

A final element of the adjustment process may involve young people seeking a satisfactory explanation for their imprisonment, deflecting the imposition of a prisoner identity. Such a label is in some ways incidental to their incarceration; that person is in prison and thereby characteristic of it. However, as noted in Chapter 3,¹⁴⁰ this 'spoiled identity'¹⁴¹ must be resisted if prisoners are to endure psychologically. Young people presented five specific rationalisations for their imprisonment. The first, illustrated by Ryan, simply involved outright denial:

I'm not an offender, it was just a one off, just one day, it was stupid man ... I'm not a fan of doing crime and that. I don't even know why I'm in here ... for me it's easy [to stop offending] because I don't offend for money or nothing like that.

Ryan viewed his imprisonment as an ill considered, isolated incident, an aberrant moment. Ryan manages to demonstrate his aversion to criminal activity (‘*I'm not a fan of doing crime*’) as well as indicating his own capacity for rehabilitation (‘*for me it's easy*’). In some ways, Ryan inadvertently denies the power of institutional methods to assist his rehabilitation by suggesting that he can easily avoid further acts of criminal activity in and of his own volition. In this way, Ryan is able to invoke and deploy a degree of agency.

For Tre, the denial of a prisoner identity was more extreme. Tre, unlike Ryan, believed that his imprisonment was not only unfortunate but he was simply not a criminal:

¹³⁹ Quote taken from interview with Ryan.

¹⁴⁰ See Chapter 3, 96-95.

¹⁴¹ E Goffman, *Stigma: Notes on the Management of a Spoiled Identity* (Penguin 1963)

I find it awkward like, when I first came ... I don't think I'm a criminal why am I here? Never carried a knife, never carried a gun, never robbed someone, I never, like I rarely get into fights, why am I here? ... certain people are here because they were at the wrong place, wrong time, especially when it comes to murders as well, when it comes to murders, police just want to put somebody behind bars ... My mum ... knows that I'm not the type of guy who is a criminal ... My dad's always said since when I was small, "Oh, expect to have bad luck when you get older," and now I see it, because I'm not even a criminal.

Tre contrasted his behaviour with that of his own image of the criminal identity, denying any correspondence to such imagery. He implies that a criminal is someone who carries a weapon or becomes involved in physical violence. This is ironic since Tre was convicted of conspiracy to commit a violent offence. Tre adds that others within the prison were in the wrong place at the wrong time and draws on the views of his parents to confirm his analysis that he is not a criminal.

The third technique, illustrated by John, involved blaming the efficiency of the police. He commented:

They had me bang to rights, stuck in the car, couldn't really get out. If they had given me that extra, well literally two minutes, that would have been it, would have been gone, end of story.

In some ways, John's account reflects his personal experience that not all offences are detected and/or prosecuted. During his interview, he also described a rather nasty assault

against a member of the public for which he was not prosecuted. On a related but distinct theme, Mark criticised not only the criminal justice process, but the criminal law itself:

I shouldn't have been so stupid ... What's so stupid to me is that the crimes that I am in here for, I was part of but I didn't actually commit myself. Everything I got convicted off was joint enterprise ... So I got done, basically for nothing but for everything as well. So it's, the criminal justice system is kind of messed up.

In this account, Mark illustrates a familiarity with legal jargon and terminology. It is not his conduct but the principles of the criminal law which are problematic. He suggests that his punishment is disproportionate.

Nathan was more fatalistic about his confinement. During the fieldwork, London witnessed a spate of fatal stabbings, attracting substantial media attention.¹⁴² Consequently, Nathan believed that his incarceration had not only prevented his own murder but had also prevented him murdering someone else. Unlike the accounts above, Nathan is not suggesting that he is not a criminal, but deflects responsibility for his criminal activity by suggesting that it was some act of fate. He is simultaneously able to reinforce his own masculine credentials and status as a courageous assailant with violent potential.

¹⁴² See for example, C Gill and P Sims, 'After another stabbing, London Mayor Boris Johnson warns: Don't get involved if you see trouble' *Daily Mail* (London, 3rd July 2008) <<http://www.dailymail.co.uk/news/article-1031282/After-stabbing-London-Mayor-Boris-Johnson-warns-DONT-involved-trouble.html>> accessed 11th January 2013; S Jones, 'Turf War Theory in Knife Murder of Teenager' *The Guardian* (London, 26th August 2008) <<http://www.guardian.co.uk/uk/2008/aug/26/knifecrime.ukcrime>> accessed 11th January 2013.

These attempts by some of the young people interviewed to deny or deflect responsibility for their criminal behaviour represent a technique of neutralization.¹⁴³ However, this identity work may constitute an ineffective coping strategy. For example, young people such as Tre, who insisted that their confinement was illegitimate and unjust found their continued confinement more difficult to accept. Tre's disbelief leads to despair; he believed life is finished.¹⁴⁴ Ultimately, Tre's identity work could do little to avoid the inescapable conclusion that he was in fact incarcerated and there will be inevitable consequences that flow from this reality. The impulse towards the collective prisoner identity may be difficult to resist and is continually reinforced implicitly, if not overtly, through interactions with staff, administrative and security procedures.¹⁴⁴

5.4 'I'm getting on with the time.'¹⁴⁵ Negotiating the Time Problem

Time is a central feature of much of the prison experience.¹⁴⁶ Several different descriptions emerged from the young people interviewed: doing time,¹⁴⁷ passing time, losing time, wasting time, and using time. Once young people began to adjust to this reality, the time game¹⁴⁷ must again be addressed in a meaningful way so as to avoid a continuing state of shock and despair. Hard time,¹⁴⁸ a long term sentence, was seen to require more stamina and strength than shorter sentences, described as petty,¹⁴⁸ pissy little sentences¹⁴⁹ or little time.¹⁵⁰ For young people serving long-term sentences, serving time was not simply a short intermission¹⁴⁷

¹⁴³ GM Sykes and D Matza, Techniques of Neutralization: A Theory of Delinquency (1957) 22(6) *American Sociological Review* 664.

¹⁴⁴ See Chapter 7, 280-282 for further discussion on this point.

¹⁴⁵ Quote taken from interview with Tyrone.

¹⁴⁶ See Chapter 3, 112-114.

¹⁴⁷ T Manocchio and J Dunn, *The Time Game: Two Views of a Prison* (Sage 1970).

¹⁴⁸ Quote taken from interview with Darren.

¹⁴⁹ Quote taken from interview with Mark.

¹⁵⁰ Quote taken from interview with Tyrone.

to life on the road, but the rreal business of life.¹⁵¹ Tyrone, who was serving an indeterminate sentence, stated:

Been reflecting back and that, everyday, it's in my head. People said I can't handle this sentence, well I can handle it what else can I do. I've got so much going on in my life now that if I ever let that get to me, it would be something else. I can't let that get to me, I'm just got to face the good path and hopefully get out when my time comes.

In order to survive, Tyrone had to handle¹⁵² the time problem, he had no other choice. Attending numerous courses, attempting to face the good path¹⁵³ and taking steps to help secure his release appeared to help Tyrone in coping with his long sentence. Handling time was a survival tactic. To fail to do so and to consider the terror of the misty abyss¹⁵⁴ would be too overwhelming: „I can't let that get to me.“

Although new arrivals typically believed that the prison world was a violent one, as young people adjusted to the daily realities of institutional life, the prison world gradually became boring and predictable.¹⁵³ Concerns for personal safety remained,¹⁵⁴ but the perpetual tedious rhythm of prison life produced its own frustrations. Scott complained:

...this is just shit now. When I first came in it was like an experience, it's like shit now, it's boring. So I just can't be fucked to come back. ... Wake up, come to education, come back, after dinner, come back here [education], go back, after dinner, so [association], bang up. Every day the same n"it.

¹⁵¹ Cohen and Taylor (n6) 100.

¹⁵² Serge (n92) 68; Cohen and Taylor (n6) 105.

¹⁵³ This mirrors findings by Jones and Schmid. See Jones and Schmid (n8) 27.

¹⁵⁴ See Chapter 6, 255-267.

The regimentation is frustrating because of the loss of autonomy experienced and the enforced inactivity. Goffman argues that it is precisely the insufficiency of activities that presents an important deprivation in the total institution.¹⁵⁵ He remarks that *“[e]very total institution can be seen as a kind of dead sea in which little vivid, enrapturing activity appear.”*¹⁵⁶ Toch observes that the boredom and inactivity associated with prison life was a *“general stressor”* but acquired more salience for some prisoners.¹⁵⁷ For children at the YOI, inactivity appeared to be stressful for all.

5.4.1 Activity and Education

Like adult prisoners,¹⁵⁸ young people prized activity as a way to alleviate boredom and pass the time.¹⁵⁹ For the most part, the vast majority of young people prioritised those *“removal activities”*¹⁶⁰ which occurred beyond the realms of their cell. In some cases, the sole function of these removal activities was to resolve the boredom experienced and expedite the passage of time.¹⁶¹ Physical sport was frequently mentioned as a popular activity and most young people wanted to use the free weights, a privilege that was only available to those on gold regime.¹⁶² For those who were keen footballers on the outside, continuing this activity on the inside not only allowed them to demonstrate skill and physical fitness, but also helped to normalise the experience.¹⁶³ Football was also believed to be a sport *“men play.”*¹⁶⁴ Two

¹⁵⁵ Goffman (n3) 68.

¹⁵⁶ Goffman (n3) 68.

¹⁵⁷ Toch (n100) 22.

¹⁵⁸ Jewkes (n9) 101.

¹⁵⁹ For example, Rize commented: *“Very boring unless you participate in the activities.”* This was also true for seven others (Terror, Darren, David, Aaron, Scott, John and Ryan).

¹⁶⁰ Goffman (n3).

¹⁶¹ Jewkes (n9) 103.

¹⁶² Only one person, Ollie, mentioned a dislike for sport.

¹⁶³ For example, when asked what activities he enjoyed, Tre responded: *“Probably football, play football because that’s what I used to do, so just carry on, just play how I used to when I was on the outside as well.”* This was also true for Tyrone.

¹⁶⁴ Quote taken from interview with Nathan. Other sports, such as volleyball, were criticised for being a *“girl’s game.”*

young people enjoyed reading or playing board games in the library.¹⁶⁵ The sense of quiet and relative calm that characterised the library environment was an attractive respite from the sometimes turbulent and noisy wing. David commented: *The library is quite good actually. So you go there and there's loads of books and magazines, chess. It's just quiet as well so chilled out.*¹⁶⁶ Such activities allowed young people to transcend their immediate environment, particularly for those young people who particularly prized privacy.¹⁶⁶

Often young people valued education primarily because it served to aid the passage of time rather than because of it offered an opportunity for any educational advantages.¹⁶⁷ Attendance in education provided an opportunity for social interaction and physical exercise, however brief. The utilisation of education as a coping strategy was sometimes counterproductive if and when young people perceived that they were being *mugged off*¹⁶⁸ with easy work or reminded of their prison life. Nathan complained:

It's always about prison, we are already sad enough we are in prison, why do we need. It's ... especially English, none stop, always about prison ... some made up story of some guy James, he came to prison ... It's always stories about someone coming to prison, someone's bad day in prison, someone getting bullied in prison, it's always about prison.

Attending education classes was an imperfect solution to the temporal problem, especially if the lessons were boring and appeared to hinder rather than progress the passage of time.¹⁶⁹ These comments appeared to be restricted to classes such as Maths and English; young

¹⁶⁵ Both Ollie and David commented on this.

¹⁶⁶ Toch (n102).

¹⁶⁷ This was true for eight young people (Terror, Jason, Tyrone, Kyle, Tre, Chris, Mark and Ryan).

¹⁶⁸ Quote taken from interview with Terror.

¹⁶⁹ This was particularly true for six young people (Ryan, Terror, Nathan, Darren, Rische and Chris).

people generally appeared to enjoy and engage in vocational classes.¹⁷⁰ Indeed, vocational training is one aspect in which the YOI appears to excel.¹⁷¹

5.4.2 Cellular Activity

Whilst in their cells, young people engaged in a variety of activities including: watching television,¹⁷² listening to the radio,¹⁷³ letter writing,¹⁷⁴ drawing,¹⁷⁵ exercise routines,¹⁷⁶ writing ‘bars’ (lyrics),¹⁷⁷ reading¹⁷⁸ or chatting to friends through the window.¹⁷⁹ Some young people were very passive, preferring to simply sleep or think.¹⁸⁰ Of those young people who completed a questionnaire, 83% reported that they would write letters, 77% would sleep, 73% would watch television, 60% would read and 17% would play a games console. The range of available activities could be very limited either because they lacked self-motivation, a television or radio had been removed, or because there were few social contacts with whom to maintain communication. Television viewing appeared to assist psychological survival by diverting the mind from what frightens, worries or overwhelms young people.¹⁸¹ Television viewing was an imperfect solution to the boredom of confinement in a cell since television in and of itself could become monotonous and boring, compounding the sense of timelessness

¹⁷⁰ This was reflected in the narrative of young people interviewed for the purposes of this study as well as the general observations of the education department.

¹⁷¹ Also see Chapter 4, 126.

¹⁷² This was mentioned by eight young people during the interviews (David, Ollie, Mark, Ryan, Tre, Rize, John and Kyle).

¹⁷³ Fieldwork notes (2008). This was also mentioned during the interviews with three young people (Andray, Ollie and Stephen).

¹⁷⁴ This was mentioned during the interviews with four young people (Nathan, Mark, Rize, John and Stephen).

¹⁷⁵ Fieldwork notes (2008).

¹⁷⁶ This was mentioned by five young people during their interviews (Andray, Mark, Ryan, Rize and Clark).

¹⁷⁷ Fieldwork notes (2008). This was also mentioned by Andray and Rize.

¹⁷⁸ This was mentioned by three young people during their interviews (Ollie, Mark and Rize).

¹⁷⁹ Fieldwork notes (2008). This was also mentioned in all of the young people’s interviews.

¹⁸⁰ This was mentioned by three young people during their interviews (John, David and Andray).

¹⁸¹ Also see Jewkes (n9) 102.

and inactivity.¹⁸² Furthermore, media was used to maintain or restore a connection with the outside world¹⁸³ but, as Jewkes notes, it does little to remove the restrictions on liberty.¹⁸⁴

Only Kyle commented that he preferred the solitude of their cells, stating that time spent out of their cell *dragged*.¹⁸⁵ Cellular solitude could provide the necessary time to resolve feelings of frustration and anxiety, ultimately ensuring that the young people were able to *keep cool* in public. Privacy, unlike activity, reduces external stimuli and resolves the threat created by situational *overload*.¹⁸⁵ Kyle, for example, explained that being alone in your cell was sometimes important for diluting stress and resolving negative feelings. Compulsory attendance at education meant that young people had little opportunity to remain in their cell during the *core day* if they chose to do so without attracting a disciplinary sanction.¹⁸⁶ For Kyle, this was foolish; he argued that young people should be allowed to make a choice so, if needed, they could compose themselves. For some young people, the wing environment is so overwhelming that they choose the solitude of the segregation unit and *imprison* themselves beyond that called for by the prison routine.¹⁸⁷ At the time of the fieldwork, two children were held in segregation for their own protection.¹⁸⁸

Cellular solitude offered large portions of *thinking time* which was considered to be both a positive and negative feature of prison life.¹⁸⁹ Andray, for example, commented that one of the positive aspects of incarceration was having *time to think, time to meditate on*

¹⁸² Tre particularly expressed the view that television viewing exaggerated rather than relieved the sense of boredom.

¹⁸³ This was specifically mentioned by Tyrone.

¹⁸⁴ Jewkes (n9) 91-91, 173-181.

¹⁸⁵ Toch (n100) 27.

¹⁸⁶ The YOI was required to ensure that 90% of young people were attending education. Therefore, this discouraged flexible arrangements regarding attendance at education.

¹⁸⁷ Toch (n100) 28.

¹⁸⁸ See Chapter 7, 301-306 for further discussion.

¹⁸⁹ This endorses Peterson-Badali and Koegl who made a similar finding in their study of the experience of juveniles in a Canadian institution. See M Peterson-Badali and CJ Koegl, *Juveniles' experiences of incarceration: The role of correctional staff in peer violence* (2002) 30 *Journal of Criminal Justice* 41, 44.

*what you've done and what you will do in the future.*¹⁹⁰ Ollie added that *some of them thoughts are bad thoughts* and suggested that it might give rise to the desire to *kill someone or get revenge on them.*¹⁹¹ This negative view was expressed by all. Too much time alone caused previously suppressed or unresolved feelings about their past, present or future to re-surface. It provided the *propitious* conditions for dwelling on one's problem, preoccupations which can generate counterproductive reactions.¹⁹¹ The true gravity of this is evidenced in the way in which time to think was associated with self-harm and depression.¹⁹² For example, Risze commented:

It's hectic when you are in a pad, if you are in a single cell, you get really depressed at times like that and makes, you've got a lot left to think, because you've got so long to think, you've have all these different options in your head ... it's difficult if you are in a single cell, trust ... little things like the TV and stuff like that, being out on soc [association] with the boys, it makes time go quicker. If you don't have it, it just drags. You have lots of time to think, that's when all your problems start.

Risze suggests that having too much time to think focused young people on issues that they sought to ignore. It caused young people to consider their *options.*¹⁹³ This is concerning given Liebling's findings regarding prison suicide that young people tend to be susceptible to imitation and more likely to respond impulsively.¹⁹³ The use of the word *hectic*¹⁹³ implies something of the difficulties involved in managing the range of emotions and feelings experienced. Peer dialogue, association time and the presence of a pad mate appeared to

¹⁹⁰ Stephen, Kyle and Aaron had the same opinion.

¹⁹¹ Gibbs (n37) 40.

¹⁹² This was true for Ollie, Stephen and Risze.

¹⁹³ See above, 149.

mitigate the difficulties of this thinking time.¹⁹⁴ Like other aspects of young people's behaviour,¹⁹⁵ young people sought to convey an image of fortitude and 'manliness' - that they could *handle it*.¹⁹⁶ However, this often represented a 'front,' masking the very real difficulties faced coping with imprisonment.

5.4.3 'Doing your own time'

'Doing time' was a universal challenge, however, it was an essentially individual affair. Group activities and interactions could help assist the passage of time, but each young person had to learn to 'do their own time.' When asked if there was anything that could help him whilst he was in custody, Tom replied: *Just going to have to do it myself n'it so.* Young people were required to draw on personal resources, skills and abilities. Others were not to be trusted or drawn into this process, either by design or default. Rize added:

I think you've got to do it for yourself. There is always activities that help you but you've got to push yourself to do it.

Rize indicated that time had to be done not only *by* yourself but also *for* yourself. It could not be compelled or enforced by others. Whilst there is a degree of agency implicit in such a notion, by yielding to the demand to 'do their time,' young people were actually complicit in their own domination. Like attempts to present personal transformation as a personal choice,¹⁹⁷ this construction of agency was somewhat ironic.¹⁹⁸ Furthermore, young people were more likely to be preoccupied with their own interests, ultimately seeking to *just do*

¹⁹⁴ Rize, Nathan and Tyrone all indicated such.

¹⁹⁵ In the context of personal insecurities and prison victimisation, see Chapter 6, 246-250. For a similar discussion regarding the importance of 'respect' with staff, see Chapter 7, 283-291.

¹⁹⁶ Quote taken from interview with Nathan.

¹⁹⁷ See Chapter 7, 326-329, and Crewe (n112) 224.

¹⁹⁸ See Crewe (n112).

*me*¹⁹⁹ and progress through their sentence as easily as possible. Wacquant observes that prisoners in some American prisons were more likely to be *‘doing gang time’* rather than *‘doing your own time.’*²⁰⁰ However, it was clear that such a shift to *‘doing gang time’* had not occurred at the YOI involved in the empirical research.

‘Doing time’ implied that a young person was not only passing time but that they were also *‘keeping their head down’*²⁰¹ and engaging in the opportunities available to them. Whilst all young people spoke of the need to *‘do their time,’* they displayed differences in their willingness to comply with, and engage in, the institutional regime.²⁰² There was some separation between those who were willing to *‘keep their heads down’* and those who were willing to simply *‘ride jail,’* accepting and tolerating any additional restrictions on their privileges imposed for misbehaviour. Young people who were serving short sentences appeared to be more willing to *‘ride jail.’*²⁰³ For example, Terror who was on bronze stated:

But I get out in a month and a week. I’m not really bothered. Can’t really do anything, just ride it n’it.

In general, there appeared to be a number of explanations for the apparent willingness to remain on bronze: a lack of motivation; a lack of maturity; a lack of personal behaviour management skills; a lack of faith in the reward and sanctions scheme; and/or, the reality that some losses could simply be endured albeit for a short time. The extent to which *‘riding jail’*

¹⁹⁹ Quote taken from interview with Tyrone.

²⁰⁰ L Wacquant, *‘Deadly Symbiosis: When Ghetto and Prison Meet and Mesh’* (2001) 3(1) *Punishment and Society* 95, 111.

²⁰¹ Quote taken from the interview with Ryan.

²⁰² This is a theme that is taken up in Chapter 7.

²⁰³ This was true for Terror and Ollie. This was also confirmed by Mark and noted during the observation period.

might represent a strategy of resistance and an attempt to construct agency is discussed in further detail in Chapter 7.²⁰⁴

For a number of young people, *riding bronze* was believed to cause unnecessary hardship and, therefore, *doing time* was simply viewed as the most prudent response.²⁰⁵ For example, Shane commented:

I've been down that road when you have no TV, stuff like that, bronze, got nothing in your cell, no TV, gets to you after a bit, you think it's not a way to do your sentence, prefer to do my sentence with TV everything, Xbox, I've been down that road, smashed up cells, TVs, don't get you nowhere. You realise that if you've got a long sentence, not a way to go.

Shane describes his own realisation that being on bronze exaggerates the sense of timelessness and does little to change their experience or resolve their frustrations. This realisation can be seen as another aspect of adjustment to prison; young people must adjust to the way that they are expected to behave and progress during their sentence. In some senses, it is a survival instinct. For some young people, *doing time* may be a *front* which masks other covert *back stage* illegitimate behaviour. These *secondary adjustments*²⁰⁶ as a form of cooperation and resistance are explored in further detail in Chapters 6 and 7.²⁰⁷

None of the young people interviewed sought to immerse themselves entirely in the prison social world to the exclusion and denial of the outside world. Thus, Irwin's *jailers*,

²⁰⁴ See Chapter 7, 329-330.

²⁰⁵ This was mentioned by Kyle, Mark and Shane.

²⁰⁶ Goffman (n3) 64.

²⁰⁷ See Chapter 6, 233-234, and Chapter 7, 329-332.

state-raised youth and disorganised criminals who adapted to prison life by making a world out of prison,²⁰⁸ were largely absent from the YOI discussed here. This is possibly because of the prisoners' youthful age, the lack of long-term institutional experience and the reality that most could anticipate release at some future point. Rather attempts to deny the existence of the outside world were limited to attempts to minimise the pains of imprisonment. For example, the observations of the residential units occurred during the summer months of July and August yet some young people appeared to close their crimson curtains throughout the day. Darren explained why:

... but like summer day, you look out your window and makes you think and that, makes me feel depressed and that, because I just want to be out. That's why when I'm in my cell, I close my curtains. Do you know what I mean? ... It does your head in. „Cause obviously you are away from your friends, your family, everything like, everything you could do, you can't do no more.

Closing the curtains served as a futile attempt to deny the outside world. This highlights the inevitable contradictions inherent in the need to pass time: young people wanted to pass the time and progress towards release, but the passing of time and the reality that they were missing the enjoyment of different seasonal activities only reinforces their current predicament. Jewkes notes how prisoners at Alcatraz most feared being placed in the punishment cell where they could witness people enjoying themselves along San Francisco Bay: To be exposed constantly to a place that they could not go and to witness scenes of enjoyment in which they could not participate served only to heighten the inmates' sense of

²⁰⁸ J Irwin, *The Felon* (Prentice Hall Inc 1970) 74.

separation, and was seen as the severest kind of punishment.²⁰⁹ Similarly, at the YOI discussed here, viewing the outside world confirmed their lives were temporarily frozen in time, whilst those of their family members and friends were very much moving forward without them.

5.5 ‘Prison’s a lot:’²¹⁰ The Pains of Imprisonment

For different reasons, both staff and young people stressed the relative ease of prison life, suggesting it was best characterised as a holiday camp surrounded by prison bars and walls.²¹¹ Terror explained:

It’s basically Butlins behind bars ... they’re people in here who are not as big as other boys, they are proper small and they get on in here. They just ride it like it’s Pontins n’it so it’s shit in here. The only thing about it is it’s boring. You don’t get to come out of your cell.

There appeared to be three possible explanations for this assertion by young people. Quite simply, some might believe that it is easy, or at least easier than expected. This could be partially explained by the revised prison imagery and the reality that the conditions in the YOI were not as poor as they had imagined.²¹² Secondly, the ‘*Butlins behind bars*’ rhetoric represented another form of self dialogue, reassuring young people that they could *handle it*.⁶ Finally, and linked to the previous point, they felt that they had to look like they could

²⁰⁹ Jewkes (n9) 91.

²¹⁰ Quote taken from interview with Tyrone.

²¹¹ This assertion is based on informal conversations with staff and young people during the observation phase as well as the responses given by staff and young people during the interview process and, as noted in Chapter 7, the majority of staff interviewed for the purposes of this study felt that life inside could be more painful, less tolerant or provide fewer privileges. The implications of this for staff-child relations are discussed in Chapter 7, 318-320.

²¹² See comments above, 153-154.

handle it in front of staff members and their peers, aware of the communicative value of such assertions.

5.5.1 Positive Aspects of Life Inside

It was clear that several young people could pinpoint aspects of imprisonment that were positive. These included the ability to regain physical health and quit substance misuse habits;²¹³ gain qualifications to assist them in securing employment or a college placement;²¹⁴ the vocational options available;²¹⁵ and, paradoxically, time to think.²¹⁶ However, the overwhelming feature of prison life was that it was difficult, burdensome and painful. Although some reiterated that prison life was akin to a secure holiday camp, the reality was that such young people simultaneously spoke of their frustrations, anxieties and deprivations. Despite the view expressed above, Terror also explained that life inside was shit:

It's boring, nothing to do, nowhere to go, nothing to smoke. Even though you can smoke in here, you're not allowed. You can, you're not allowed. So you just do it, you do it. You smoke when you wanna smoke. But if you want to get into trouble, you smoke. If you just want to get your time over and done with, then you don't smoke.

Terror's principal reasons for claiming that life within the YOI was shit related to boredom, the deprivation of autonomy, the deprivation of liberty and the restrictions on tobacco use. It is possible that the apparently contradictory descriptions of prison life - Butlins behind bars versus it's shit - may simply be symptomatic of the way in which young people seek to break down the overwhelming prospect of serving time and the denial of thoughts that were

²¹³ This was true for John and Risze.

²¹⁴ This was true for Shane, Tre and Mark.

²¹⁵ This was true for Scott, Risze and Chris.

²¹⁶ See above, 181-182.

too painful.²¹⁷ When they are forced to confront the reality of their situation again, it quickly leads to the conclusion that prison life is *shit*.²¹⁸

5.5.2 *'All I think about is freedom'*²¹⁹

The loss of liberty was the most dominant *pain* of imprisonment. 'All of the young people interviewed commented on the lack of freedom and their strong dislike of being *banged up*.' For example, Tyrone explained: *nothing is good about prison but, nothing at all, all I think about is freedom and that.* "Sykes comments that the deprivation of liberty not only involves confinement to an institution but also confinement within the institution²²⁰ and, on that theme, several young people found the restrictions on physical space painful.²²¹ It was the very act of confining them not only behind prison walls, but also in a small cell where movement, social interaction and physical activity were significantly limited, that was painful.²²² Unsurprisingly, it appeared that the cell could feel claustrophobic and this, in and of itself, was frustrating.

Young people commented that *seeing the same four walls*,²²³ the boredom experienced²²⁴ and being reminded of the loss of liberty, added to the frustration felt trying to pass time whilst confined in a small cell. This was exacerbated by the fact that opportunities

²¹⁷ See Jones and Schmid (n8) 95; Zamble and Porporino (n11) 112.

²¹⁸ This was a consistent theme of both the young people's interviews and the informal conversations with young people. Whilst some young people could identify at least one positive aspect, seven young people could not, simply concluding that there was *nothing good* about imprisonment or simply that it was *shit*.

²¹⁹ Quote taken from interview with Tyrone.

²²⁰ Sykes (n25) 65.

²²¹ This aspect of the deprivation of liberty was specifically mentioned by 8 young people, slightly over a third of the sample.

²²² For example, Tom commented: *The only thing that pisses me off in here is that you're banged up all the time.*

²²³ Quote taken from interview with Shane. This was also mentioned by Ryan, Tre, Clark and by a staff member (Alison (PCO)).

²²⁴ All of the young people interviewed as part of the fieldwork mentioned the boredom experienced. The general sense of boredom was also noted during the observation period, even during the association periods where young people walked aimlessly around the wing.

to leave their cell meant confinement in a different area.²²⁵ Therefore, the restrictions on space interacted with the difficulties presented by time. The frustration caused by the loss of liberty was compounded by somewhat benign problems that were associated with *_batch* living.²²⁶ Young people mentioned frustrations such as people banging on the pipes at night, the inability to get a haircut,²²⁷ the limited access to razors for shaving,²²⁸ the quality of the food,²²⁹ restrictions on or difficulties with telephone calls,²³⁰ the continual shouting and banging.²³¹ These were not *_major* problems, but they contributed to the more general frustration of simply being inside.²³²

***5.5.3 'It's the one place you really need your mum'*²³³**

For a number of young people, time spent in custody represented the first significant period spent away from their families²³⁴ and, understandably, this separation was difficult. This was also true for those who had experienced local authority care, were homeless or had previous periods of incarceration.²³⁵ The isolation from family and friends was an enduring difficulty for many young people, which for some young people was aggravated by the long distances they were held away from home. For example, 49% of those young people who completed a questionnaire were held more than 50 miles away from home and a further 26% were held

²²⁵ For example, Ryan and David both commented that even they were even held in a locked classroom during education sessions.

²²⁶ E Goffman, *Asylums: Essays on the social situation of mental patients and other inmates* (Penguin 1961)

²²⁷ This was raised by Ollie.

²²⁸ This was raised by Ollie.

²²⁹ This was raised by Terror.

²³⁰ This was raised by Terror, Nathan, John.

²³¹ This was raised by Darren.

²³² Jones and Schmid document simply findings amongst adult prisoners who suggest that custodial life *_get's* on their nerves'. See Jones and Schmid (n8) 100.

²³³ Quote taken from interview with Darren.

²³⁴ This was true for five young people (Jason, Terror, Tyrone, Mark and Stephen). Also see FH Biggam and KG Power, *'Social Support and Psychological Distress in a Group of Incarcerated Young Offenders'* (1997) 41(3) *International Journal of Offender Therapy and Comparative Criminology* 213.

²³⁵ Four young people (Chris, Aaron, Risze and Darren) had all been separated from their family before their imprisonment. The sense of loss whilst in custody appeared to reflect a more general sense of loss in these young people's lives. Six young people (Chris, Nathan, Tom, Shane, Clark and David) had been incarcerated on at least one previous occasion.

more than 100 miles away from home. Darren summarised the dilemma: *‘It’s the one place you really need your mum really.’* Similarly, Kyle commented:

‘Can’t get any money, can’t really be with your family, that’s one of the main things people start crying and that.’

This was one of few acknowledgements that *‘boys do cry’* despite the expressed need for emotional fortitude and the desire to avoid looking weak and vulnerable. The lost contact with family members was also attributed to self-harm.²³⁶

Family members were a vital source of support.²³⁷ Contact with family members and friends helped prevent young people feeling like they were entombed in an existence divorced from life *‘on road.’*²³⁸ It also helped to reduce the sense of desperation and anxiety that such relationships had been irrevocably lost, forsaken or distorted. Scott commented:

‘... it’s just shit because you lose everything when you’re in here, you could lose it for good but if they’re real right they’ll let you stay but fuck knows. Like their parents, lose them and that won’t they’

The separation from loved ones appeared to exacerbate the sense of timelessness. Clark explained that it felt *‘long’* because of the enforced separation and reduced contact. In addition, young people were concerned about missing key family events and that

²³⁶ This was mentioned by Tyrone and Aaron.

²³⁷ Harvey (n74) 235-236; Gibbs (n4) 106-107; Zamble and Porporino (n11) 91.

²³⁸ This was a frequently used description of life in the community (see fieldwork notes (2008). Young men (18-21 years old) in Earle’s description also used this description of prison life (see Earle (n124)).

grandparents may fall ill or pass away whilst they were inside, exacerbating the sense of frustration and loss.²³⁹

Isolation from family members and friends was particularly difficult if the desired contact was inconsistent or not forthcoming.²⁴⁰ Tyrone's mother, for example, had disappeared shortly after Tyrone's arrest and he commented:

It is, it is, very hard for her. Three of her kids are in jail, in a way I do understand she ran away and that. I do. In a way I don't n"itbecause I expect her to be there for me.

Relationship difficulties could lead to feelings of betrayal.²⁴¹ Toch comments that this sense of abandonment can, in turn, create feelings of betrayal, a feeling that is compounded if the individual perceives this experience to be _the latest link in a career of abandonment.²⁴² For Tyrone, this was a source of great distress and generated extra pressure to secure conditional release at the earliest possibility. He commented:

With my parole, I'm thinking ahead, what if my family does try and come back to me and then they heard I've been bad, they might just run away again and bring up the whole scenario so I just keep myself back.

Tyrone's account illustrates the way in which young people perceived their own criminal career in relation to family contact. The reaction of family members is thought to be

²³⁹ This was mentioned by five young people (Clark, Mark, Andray, John and Stephen).

²⁴⁰ This was true for Darren and Tyrone.

²⁴¹ Also see Gibbs (n4).

²⁴² Toch (n13) 74.

inextricably linked to their criminal career and progression towards a positive, law-abiding life.

5.5.4 *'Missing my girlfriend'*²⁴³

Although important, the absence of girls and sex from the lives of the young people during their incarceration generally appeared to be of less concern than some other pains of imprisonment.⁴ Clark was concerned about the forced separation from his girlfriend but only David stated that the worst thing for him was the absence of girls - *that probably is the hardest bit for every boy.*⁵ Most young people were pre-occupied with other concerns. Those young people who did have girlfriends were concerned about sustaining the relationship and found it difficult to do so.²⁴⁴ Like other studies, this difficulty appeared to relate to difficulties maintaining contact and concerns regarding their fidelity.²⁴⁵ As noted in studies with adult prisoners,²⁴⁶ for young people, such as Chris, the ongoing anxiety regarding the fidelity of the girlfriend outweighed the benefits of continued contact.

It is perhaps unsurprising that only a few young people in custody were concerned about the separation from girlfriends. During adolescence, such relationships are more likely to be relatively transitory and, although possibly intense, will often lack the level of commitment, such as marriage or children, more typical of relationships formed by adult prisoners.²⁴⁷ However, Sykes' conception of the deprivation of sexual relations was related to the imposition of enforced celibacy rather than simply the separation from partners.²⁴⁸ Only John and Terror mentioned, in somewhat cavalier terms, a desire for shared accommodation

²⁴³ Quote taken from interview with Stephen.

²⁴⁴ Two young people of those who were interviewed had girlfriends who they maintained contact with.

²⁴⁵ Crewe (n110) 425.

²⁴⁶ See Chapter 3, 99-100.

²⁴⁷ None of the interviewees had civil partners or wives. One interviewee, John, had two children.

²⁴⁸ See Chapter 3, 99-100.

with girls, sex and access to contraception. Beyond this, celibacy was not raised as an issue; masturbation and homosexual satisfaction were not raised at all. It is unclear whether this was because it was regarded as ‘taboo’ or because young people felt too uncomfortable or embarrassed to discuss this. Perhaps the key outcome of the male dominated, child prison environment was simply the way in which questions of masculinity and, by association, ‘toughness’ were brought to the fore.²⁴⁹

5.5.5 The Deprivation of Autonomy

Life *en masse* serves to jeopardise many aspects of an individual’s ability to select or dictate their choices, activities, movement and location. The true significance of the deprivation of autonomy is the forced sense of childlike subservience and the imposed dependence on, and deference to, staff.²⁵⁰ For example, Tyrone commented:

...even the most simple thing, you can't, like for you to get canteen, they put your name down for this, you have to do that. To go gym, you have to put your name down, on the road ... like when you get snickers, they have to bring it to you, you can't even pick up a little juice and pay for it, not having money, it's just all of that hits you harder, not able to do things on your own and that.

It might be assumed that teenagers approaching adulthood will not resent the enforced childlike dependence in quite the same way as adult prisoners. However, it is precisely because such young people had been attempting to carve a degree of independence that the forced infantilisation was just as painful. Toch notes that children from lower class backgrounds may be ‘pushed into the quasi-adult world of city street corners at a very early

²⁴⁹ Cf. Chapter 3, 93-94.

²⁵⁰ See Chapter 3, 101 and Chapter 7 for a discussion of young people’s perceptions of staff authority.

age, and he may never experience the support of adults in his intimate environment.²⁵¹ Such young people are able to exercise complete autonomy at a young age with little direction, help or support from anyone other than their peers.²⁵² Whilst this may not be true for all, the vast majority of young people interviewed had been pushed into a ‘quasi-adult world’ at an early age and keenly felt the loss of autonomy. Ollie commented: ‘*„[i]f makes you feel like a kid.’*

5.5.6 ‘Being a young man, it’s all gone’²⁵³

It is not unusual for prisoners to experience prison time as a sense of ‘wasted time’ or describe it in terms of time being taken away from their very lives.²⁵⁴ There was no doubt that all young people experienced prison time as ‘wasted time,’ magnifying the sense of personal loss. Shane commented:

Prison time is just wasting your life away ... Fucking shit ... It’s a waste of time man, should be out there enjoying yourself, not this shit.

Scott illustrates the very real pain that young people in custody experience: the loss of their childhood and ‘disrupted lifecourse.’²⁵⁵ There was a sense that they had not only lost time, but they had also lost a vital period of their childhood. This created an additional ‘pain of imprisonment.’

²⁵¹ Toch (n100) 98.

²⁵² Toch (n100) 98.

²⁵³ Quote taken from interview with Rische.

²⁵⁴ See Jones and Schmid (n8) 95 and Goffman (n3) 67.

²⁵⁵ Jewkes (n79).

Although the ‘deprivation of time’ did not feature in Sykes’ original typology,²⁵⁶ the idea of disrupted lifecourse has recently been raised in reference to adult prisoners serving life sentences. Jewkes highlights the way in which a life sentence ‘seismically’ disrupts the lifecourse and forcibly suspends future expectations.²⁵⁷ Jewkes uses the idea of lifecourse to describe the transitions and rites of passage that go beyond birth and death, including events such as entry into the workforce, marriage or commitment to a long-term partner, raising children and retirement.²⁵⁸ These significant events mark the transition from one stage of life to another and must occur at the ‘right time.’²⁵⁹ The failure to experience certain events, or their disruption or interruption may ‘pose’ a serious and intractable challenge to an individual’s self-identity.²⁶⁰ Young people at the YOI where the fieldwork was conducted were in a different position to older prisoners, those entering prison late in life or adults serving indeterminate life sentences.²⁶¹ They could look forward to a life upon release and, as a result, their experience of disrupted lifecourse related to loss of childhood rather than a loss of some future life.

For young people serving short- and long-term sentences, they must come to terms with the fact that they have lost periods of their childhood and, consequently, will never experience, or will have a delayed experience of, certain formative events. Many landmarks are missed or temporarily suspended for young people in custody, something which several young people were keenly aware.²⁶² This did not mean that such events lost significance;

²⁵⁶ See R Jamieson and A Grounds, ‘Release and Adjustment: Perspectives from Studies of Wrongly Convicted and Politically Motivated Prisoners’ in A Liebling and S Maruna (eds), *The Effects of Imprisonment* (Willan 2005) for a discussion of this.

²⁵⁷ Jewkes (n79) 366.

²⁵⁸ Jewkes (n79) 367.

²⁵⁹ Jewkes (n79) 367.

²⁶⁰ Jewkes (n79) 368.

²⁶¹ See Cohen and Taylor (n6); Jewkes (n79) and Crawley and Sparks (n5) for a discussion of the perceptions and experience of time, identity and lifecourse for these prisoners.

²⁶² Young people mentioned learning to drive, buying houses, finding a partner, having children and seventeenth or eighteenth birthdays.

rather, they could assume a disproportionate significance. Kyle, for example, was particularly concerned about being denied early release and spending his eighteenth birthday inside. He commented:

...but I'm trying, but I really do want to come out for my birthday, that's one of the main things, because if I don't yeah, I don't reckon, I don't reckon I can hold it in, I don't reckon I can be good any more. Once after my birthday goes in here, I reckon they can't take anything anyway, they can't take early release or anything, I just reckon, I'm going to lose it.

To Kyle, his eighteenth birthday spent in the community was the final loss that could be taken away from him. However, he is not optimistic either about securing early release or that he would be able to „hold it in“ if his application was declined.

The loss of childhood created an impossible dilemma; young people wanted time to pass so that they could be released but simultaneously did not want to be forced to grow up. For example, Tyrone commented:

...even though you want to stay young, you need your time to go, you need your time to go ... I had to grow up real quick n'it, I've grown up fast but I don't really want to grow up fast. I want to stay as a kid, just enjoying myself but I had to grow up fast and it's still happening, I had to grow up fast.

The demand to ‘do your time’ and the desire to gain release at the earliest possible opportunity, produced a conflicted and confused attitude towards time. Not only had their

lives been foreshortened, as in the case of Jamieson and Ground's research with adult prisoners,²⁶³ but they had been or would soon be catapulted into the next stage of their lives.

For young people at the YOI, the sense of a *'missed life'* during their adolescence confronted them with the fact that would be released as a *'bloke'*.²⁶⁴ Risze commented:

Obviously, if you've got a six month sentence, you just have to say, we are going to get through this ... but when you realise you are going to get a good six year, seven year, you realise that you, your kids, your kids, from when you've been a kid, being a teenager, it's all gone. Being a young man, it's all gone. I'm going to get out and be a bloke, so you think to yourself, "fucking hell," I could have a wife and kids by then. So you think you've ruined it all.

It was not only the loss of childhood which was significant but also the need to *'grow up'* inside and be ready to face an adult custodial environment which, in turn, produced additional anxieties.²⁶⁵

Those who were serving indeterminate sentences were keenly aware that they had several years to serve before they were eligible for parole. This presented additional challenges, for example, Risze commented:

²⁶³ Jamieson and Grounds (n256) 38. Also see Jewkes (n79) 372.

²⁶⁴ Quote taken from the interview with Risze.

²⁶⁵ Stephen also commented that he was worried about moving to an adult prison, a transfer which would occur just a month after the interview.

...I know as much as I start getting my head down now, there's all the years that pop up, when you're in prison, there's always going to be problems isn't there, I'm worried how do I get parole.

Serving a long, indeterminate sentence not only presents the challenge of ‘doing time’ for many years, but the need to maintain a compliant front over a longer period. Whilst they might be able to constrain themselves for a short period, this state of continually suppressing frustrations or avoid violent confrontation could be difficult to maintain over a prolonged period.²⁶⁶ The ‘pain of uncertainty’²⁶⁷ is not simply associated with the uncertainty of securing release, but whether a child can demonstrate suitability for release in the adult prison environment.

For young people serving short-term sentences, the loss of childhood confronted them with the reality that any further sentences would certainly secure the prospect of imprisonment within an adult establishment. Since the majority of young people experienced considerable conflict negotiating their desire to stop re-offending and the inevitability of receiving another custodial sentence,²⁶⁸ the fact that such subsequent incarceration was a realistic possibility was difficult to accept. Darren had previously been to a STC and SCH, but, to him, the prospect of continuing to spend his life in confinement was unappealing. He stated:

Shit I want to get out of here, I don't want to start getting old, start going up the system, at the moment this jail's easy, there's harder jails do you know what I mean?

²⁶⁶ Also see Chapter 6 and 7 below for further discussion regarding these concerns.

²⁶⁷ See Chapter 3, 102.

²⁶⁸ For example, Ollie stated ‘I'm willing not to do it anymore but it probably won't happen ... I doubt I'll stop but I'm willing.’

... I don't want to start going jail and that when I'm older. At the moment I'm young, I can change my life around and they can see yeah he did it when he was younger. Obviously when you are an adult and you go to jail, he's just a dickhead look.

In this account, progression to an adult prison establishment was not perceived to be praise worthy conduct. Darren relied on the fact that he was, at age 15, serving a short eight month DTO²⁶⁹ and *'still young'* to reinforce the belief that he still had the capacity to change his life and avoid entry to the adult prison estate. His ability to change is portrayed as a personal choice rather than as the natural result of (custodial) intervention.

Regardless of the length of their sentence, the sense of a wasted life was often linked to the fact that their career choices were now limited, that they would have a criminal record and essentially that they had thrown their whole life away - *'my days are gone.'*²⁷⁰ Young people experienced ongoing difficulties coming to terms with the implications of serving a custodial sentence. An example of this is provided by Scott who, at 17, had been recalled to serve the remaining nine months of a two year DTO:

Scott:

It's ridiculous because now I'm going to have a shit job because of my criminal record n' it but it's too late now, it's all done.

Interviewer:

Do you feel disappointed?

²⁶⁹ Darren had served the custodial half of the DTO but was shortly recalled about release and had served 11 days of the remaining three months left to serve.

²⁷⁰ Quote taken from interview with Risze.

Scott:

A little bit but it's part of growing up, everyone ain't the same man.

Like other aspects of *identity work*,²⁷¹ Scott relieves his disappointment by relying on the fact that he is *growing up*²⁷² and not all people will behave in the same manner. In this respect, young people relied on the fact that there were still children in order to negotiate the difficulties faced in coming to terms with the social rejection experienced.

5.6 'Gotta keep cool':²⁷¹ Resolving Ongoing Difficulties

Typically, young people experienced anxiety and frustration at different stages of their custodial term. Managing the *pains of imprisonment*²⁷² presented a perpetual problem and rather than speak of polarised states of *coping*²⁷³ or *not coping*,²⁷³ young people spoke of a continuum or *circle*²⁷⁴ - drifting between *coping*,²⁷³ *not coping*²⁷³ and looking like they can *handle it*.²⁷² *Coping*²⁷³ was not static, but an ongoing, dynamic process. It required a continual management of the realities of incarceration.²⁷³ For young people at the YOI, this could take considerable effort and any sense of *coping*²⁷³ could be quickly destabilised by minor events or triggers.

When confronted with such feelings, there were few positive outlets and young people would sometimes resort to violence, cell destruction, self-injury and attempted suicide.²⁷⁴ Such coping difficulties were not necessarily the result of personal vulnerability

²⁷¹ Quote taken from interview with Chris.

²⁷² Quote taken from interview with Nathan.

²⁷³ Also see Zamble and Porporino (n11) 15.

²⁷⁴ Fieldwork notes (2008). This behaviour was a consistent theme of the interviews with both young people and staff. Of the young people interviewed, all engaged in violence. Stephen and John disclosed that they had self-harmed but it was clear that Terror and Mark had also engaged in such behaviour. None had attempted suicide but all young people reported witnessing others attempt suicide or self-harm. Three young people (Chris, John and Shane) reported deliberately damaging their cells but, again, had witnessed such behaviour.

but could relate to a range of situational and contextual factors, including frustrations with staff.²⁷⁵ Self-injury and cell destruction were described as symptomatic of the inability to *keep cool*²⁷⁶ or *hack jail*²⁷⁷ rather than a natural response to the difficulties encountered. In some respects, young people varied in their capacity to empathise with those who self-harmed or destroyed their cell.

5.6.1 *'Slicing yourself'*²⁷⁸

All of the young people interviewed could suggest reasons why someone might be tempted to self-harm - the loss of freedom, boredom, bullying, separation from loved ones or simply because prison was difficult to cope with. However, for the most part, those young people who self-harmed were perceived to lack the requisite *mental strength*.²⁷⁹ Aaron explained:

...because they can't hack it and so they have to try to do something to themselves because they can't hack jail n'it, i's too hard for them.

Constructing those who self-harm as being unable, *handle it* is important because it serves to bolster the sense of personal strength and fortitude of those who did not resort to such actions. Liebling comments, *[u]nlike all other efforts to manipulate, this technique is considered to be weak and negative: no status is conferred on those who declare their bankruptcy.*²⁷⁹ This theme is explored further in Chapter 6 in so far as it relates to interpersonal victimisation.²⁸⁰

²⁷⁵ See Chapter 7, 330-331.

²⁷⁶ Quote taken from interview with Chris.

²⁷⁷ Quote taken from interview with Aaron. This same phrase was also used by Tom.

²⁷⁸ Quote taken from interview with Nathan.

²⁷⁹ Liebling (n21) 232.

²⁸⁰ See Chapter 6, 241-242.

Some young people saw self-injury as a *‘stupid’* and short-sighted response.²⁸¹ When discussing, the prevalence of self-harm, Nathan stated:

Personally I think they are crack heads. What's slicing yourself going to do, who are you hurting, what pain is that taking away from you, I think it's just stupidity like ... some people have fights, some people have arguments with other people, they go back and slice themselves. Okay, you had an argument with him, I thought you were going to slice him but you went back and cut yourself. What happened there, where's the justice in that, wimp.

Victimising behaviour towards others was perceived to be a more prudent response than self-injury, illustrating the real potency of the *‘survival of the fittest’* mentality. For example, Tre commented:

...if you kill yourself, what are you going to do after five months, you are not going to be able to do everything, just do your five months, if you have a fight, you have a fight, after the five months, you are free, they are not going to take your freedom if you just don't do nothing again.

Self preservation was perceived to be the most pressing need and the impact of their own personal survival strategy - physical violence - on others was ignored. Violence was used to display *‘unmanly feelings’* in a manner which preserves their masculinity.²⁸²

²⁸¹ This was true for five young people (Nathan, Ryan, Andray, Tom and Tre).

²⁸² H Toch, *‘Hypermasculinities and Prison Violence’* in L Bowker (ed), *Masculinities and Crime* (Sage 1998) 173.

Young people generally avoided disclosing their difficulties to staff.²⁸³ John, when discussing his own attempts to self-harm, appeared to deflect this by stating that he had blacked out and acted in an essentially autonomous state:

I did [commit self-harm] a while ago but I didn't remember doing it though, I just blanked out like, do you get me ... I felt down and that and that I got really angry and that, had a fight with the screws ... I just remember waking up the next morning ... My cell was in a million pieces like, I was like wow. Just a few scratches like. Nothing really bad really, like scars ... I didn't show [a member of staff], I just kept it to myself, do you get me because I didn't feel depressed or nothing then but I don't know like, I don't really like to fuss over things like.

John clearly attempts to minimise and disguise his self injury. This is concerning since shortly before entering custody, at the age of 14, John had deliberately taken an overdose. In many other ways though John was keen to present a tough image and very much relied on his reputation for good order and discipline violations to construct his status and identity within the YOI. He later acknowledged that he did get depressed but then added „*everyone does though you get me?*“ By identifying this as collective behaviour, John again seeks to deflect this as a personal failing or inability to cope. This may be important identity work for young people. However, it suggests that there may be a dark figure of self-harm which is not revealed by official statistical data.

Although young people spoke of self-harm mainly in terms of those who could not handle it and would indicate that they themselves had not engaged in self-harm, they would

²⁸³ This mirrors findings amongst a slightly younger cohort in a custodial setting. See C Cesaroni and M Peterson-Badali, Young Offenders in Custody: Risk and Adjustment (2005) 32(3) *Criminal Justice and Behaviour* 251, 269.

state that they did or had hit walls when distressed, angry or frustrated.²⁸⁴ For example, Mark reported:

... I go in my cell and start beating and punching the wall. I've got a scar on my knuckle where I cut it open the other day ... when you are going crazy at the wall, you don't really feel it, you just have your blood marks on the wall ... [the staff] didn't know. I cleaned the blood of my wall, cleaned up my hand. They didn't notice. Keep your hand in your pocket, they are never going to see.

'Hitting a wall' was separated from 'self-harm' but, like self-harm, was related to stress and anxiety. Whilst the outcome of the physical violence is the same - self-injury - young people appeared to construct hitting a wall as a more acceptable form of behaviour. It also appeared to be associated with 'masculine' behaviour rather than being indicative of personal weakness. Like John, Mark is keen to avoid advertising the injuries to his hand or alerting staff to his actions. This is possibly so as to avoid being labelled as someone who is 'vulnerable,' something which carries negative repercussion and may lead to victimisation.²⁸⁵

5.6.2 Cell Destruction

Some young people attempted to destroy or damage their cells by, for example, flooding or setting fire to them, pulling sinks or toilets off the wall or smashing their television screen.²⁸⁶

Cell destruction could attract the disdain of their peers. If a wing was flooded and water began to seep into the cells of other young people, this angered them and could attract a

²⁸⁴ Young people such as Stephen and Mark failed to disclose acts of 'self-harm' but also stated that they had hit a wall with their fists.

²⁸⁵ See Chapter 6, 237-238.

²⁸⁶ This was a consistent theme in the interviews of both staff and young people. It was also clearly evidence during the observations of the residential unit (see fieldwork notes (2008)).

physical reprisal.²⁸⁷ Six young people appeared to believe that cell destruction was considered to be infrequently worthwhile due to the threat posed to self and the inevitable forfeiture of privileges.²⁸⁸ David, for example, commented that it was *__dumb*²⁸⁹ because staff may not come to their rescue in sufficient time to rescue them. Like young people's narratives about self-harm, there was a preference for coping strategies which did not impose additional personal harm or pain.

5.6.3 'Handling Jail'

Feelings of anxiety, despair and stress cannot be suppressed indefinitely. As Johnson argues, the *__manly man*' solves problems by stipulating that such feelings do not exist but may violently erupt, discharging emotional tension and pent up frustration.²⁹⁰ Jason reported:

...then once in a blue moon you'll see a snooker cue go flying around someone's head, that's what it's like. You know we are all young lads and we have all got our, some of us don't know what other people are going through. Pressure that's all it is.

Responding to the sense of pressure in this way was seen as preferable to *__losing your head*' in the form of self-harm and cell destruction, which exaggerated the personal experience of pain. Such actions are also constrained since loose cannons did not gain respect. What is striking about the accounts of young people at the YOI is that they are expected to endure like *__real men*²⁹¹ something that adult prisoners find painful and frustrating.²⁹² Indeed, prison

²⁸⁷ For example, Clark commented that a young person on his wing who had flooded their cell and now could not leave the cell because *__everyone wants to punch him up*. This was also noted during the observation period.

²⁸⁸ This was mentioned by six young people (Mark, David, Darren, Kyle, Tre and Ryan).

²⁸⁹ Quote taken from the interview with David.

²⁹⁰ R Johnson, *Culture and Crisis in Confinement* (Lexington Books 1976) 6.

²⁹¹ Toch (n282); JW Messerschmidt, *__Becoming Real Men: Adolescent Masculinity Challenges and Sexual Violence*' (2000) 2(3) *Men and Masculinities* 286. Also see Chapter 3, 108.

²⁹² See Chapter 3, 93-94.

researchers note that adult prisoners experience the need to maintain a macho facade and contain distress as a secondary pain of imprisonment.²⁹³ The need to ‘_mask’ and ‘_front’ presents a persistent and perpetual problem.²⁹⁴ It is striking that child prisoners, like adult prisoners, cannot advertise or express their vulnerabilities.

5.7 Conclusion

It is clear that life inside the YOI was difficult and painful for all those young people interviewed. This was no less true for those with previous custodial experience, for older young people, for those who had committed serious offences, those who were regularly resistant to staff or who presented a confident ‘_tough’ stance. Thus, it cannot be assumed that vulnerability is simply a question of individual pathology or is isolated to those who have already been identified as ‘_vulnerable.’ This finding is also significant because practical limitations meant that the most vulnerable young people were excluded from the interview sample.²⁹⁵ The fact that the ‘_non-vulnerable’ population still experienced such profound difficulties suggests that, as Adams comments,²⁹⁶ the apparent absence of adjustment problems does not imply positive adjustment and the routine struggles of the general population should not be underestimated.

The early period of confinement was experienced as a liminal phase during which the young people must come to terms with the reality of living in prison and may experience a profound sense of anxiety, loss and distress. Although many recognised that prison life gradually became easier, it was far from easy. Young people may go to great lengths to present an appearance of ‘_coping,’ when in reality they are privately engaging in self harming

²⁹³ Crewe (n110) 409; Toch (n13) 7.

²⁹⁴ Also see M Bosworth, *Engendering Resistance: Agency and Power in Women’s Prison* (Ashgate 1999) 112-113; Johnson (n290) 7.

²⁹⁵ See Chapter 4, 130.

²⁹⁶ Adams (n10) 291.

behaviour or sinking into quiet despair. Signs of breakdown or deterioration had to be carefully managed. The perceived need to present an ability to *hack jail*²⁹⁷ provided a stark contrast to the private recognition that cellular solitude and the enforced time to think and reflect was excruciatingly difficult to the extent that it was described as *kill*²⁹⁸ them or *getting to their head*.²⁹⁹ The presentation of a 'public transcript' or 'mask' is explored in greater detail in both Chapters 6 and 7 in relation to peer victimisation and compliance with the system of power.

Young people identified several 'pains of imprisonment' which, for the most part, mirrored Syke's typology, as discussed in Chapter 3,³⁰⁰ with a particular emphasis on the deprivation of liberty and autonomy. Other 'pains of imprisonment' emerged, which were specifically related to the consequences of imprisonment in childhood and recent shifts in youth justice policy. While there are of course some similarities between the narratives of child and adult prisoners, it is the 'loss of childhood' and the enforced requirement to 'grow up' inside which are particularly notable. The 'pains of imprisonment' is a theme that is developed in the remaining empirical chapters. Chapter 6 specifically addresses the 'deprivation of security'³⁰¹ whilst Chapter 7 evaluates the negotiation of power between staff and young people at the YOI.

Young people described several adaptations to the 'time problem.' Young people were expected to *keep their head down* and *do their time*. Those young people who performed tasks stood in marked contrast to those *bronze warriors* who were simply prepared to *ride bronze*. Young people engaged in identity work to construct their

²⁹⁷ Quote taken from interview with Aaron.

²⁹⁸ Quote taken from interview with Nathan.

²⁹⁹ Quote taken from interview with Stephen.

³⁰⁰ See Chapter 3, 94-104.

³⁰¹ See Chapter 3, 101-102.

compliance on their own terms and in such a way as to deny the full force of penal power: it was an individual and personal choice. Compliance with the demands of penal power was constructed in such a way as to provide personal space for agency and the expression of self and personal identity. The capacity of young people to accomplish agency is further explored in Chapter 6 in relation to personal victimisation and in Chapter 7 in relation the manifestation of power.

CHAPTER 6

‘IT’S ALL BEEFS AND EVERYONE’S IN A STRUGGLE.’¹

INTERPERSONAL VICTIMISATION INSIDE A YOI

6.1 Introduction

Violence is an enduring problem within the prison environment.² Prison life has been described as ‘a continuing series of close calls in which violence is narrowly avoided.’³ Whilst homicide occurs relatively infrequently,⁴ recorded rates of serious prison violence and physical assault in British prisons and YOIs significantly increased in the last decade, reaching something of a peak in 2008 and remaining high thereafter.⁵ This increase cannot solely be attributed to a general rise in the prison population.⁶ Of great concern is the disproportionate number of serious assaults, assaults and fights involving child prisoners.⁷ Official statistics may present an imperfect and inaccurate measure of prison violence since a

¹ Quote taken from interview with Risze.

² See Chapter 3, 101-102.

³ L Bowker, ‘An Essay on Prison Violence’ (1983) 63(1) *The Prison Journal* 24, 29.

⁴ For example, between 1990 and 2001, there were an average of two prisoner-on-prisoner homicides a year in England and Wales. Between 2001 and 2010, there were twelve deaths in prison custody which were classed as homicide. See G Sattar, *Prisoner – on – Prisoner Homicide in England and Wales*, (Home Office 2004); Ministry of Justice, *Safety in Custody Statistics 2010: England and Wales* (Ministry of Justice 2011). The murder of Zahid Mubarek at Feltham YOI illustrates the importance of good communication, information sharing and safeguarding practices not just within a specific prison but across the Prison Service. See Home Office, *Report of the Zahid Mubarek Inquiry* (HMSO 2006).

⁵ HC Deb 30 March 2009, vol 490, col 1003W. Also see Ministry of Justice, *Safety in Custody Statistics 2009: England and Wales* (Ministry of Justice 2010) 7 and Ministry of Justice, *Safety in Custody Statistic Quarterly Update to June 2012 England and Wales*, (Ministry of Justice 2012) 16.

⁶ Ministry of Justice, *Safety in Custody Statistics 2009: England and Wales* (Ministry of Justice 2010) 7; Howard League for Penal Reform, *Prison Violence up by almost two thirds in a decade* (Howard League 28 July 2010) <http://d19ylpo4aovc7m.cloudfront.net/fileadmin/howard_league/user/pdf/Press/Press_2010/Violence_figures_28th_July_2010.pdf> accessed 10th December 2012; Prison Reform Trust, *Bromley Briefings Prison Fact file: July 2011* (Prison Reform Trust 2011) 36 <<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Fact%20File%20June%202011%20web.pdf>> accessed 10th December 2012.

⁷ Ministry of Justice, *Safety in Custody Statistics 2009: England and Wales* (Ministry of Justice 2010) 8; Ministry of Justice, *Safety in Custody Statistics 2010: England and Wales* (Ministry of Justice 2011) 14; Ministry of Justice, *Safety in Custody Statistic Quarterly Bulletin: January to March 2012 England and Wales* (Ministry of Justice 2012) 16; Ministry of Justice, *Safety in Custody Statistic Quarterly Update to June 2012 England and Wales*, (Ministry of Justice 2012) 18 <<http://www.justice.gov.uk/downloads/statistics/prison-probation/safety-custody/safety-custody-june-2012.pdf>> accessed 10th December 2012.

significant proportion of incidents are likely to go unreported⁸ and, therefore, it is likely that there is a much higher “dark figure” for prison violence.⁹

Bullying is also believed to be “endemic” in YOIs¹⁰ and, despite persistently expressing concern,¹¹ the Inspectorate of Prisons continues to find YOIs struggling to effectively reduce levels of bullying.¹² The prevalence of violence and bullying has a significant impact on the texture and quality of prison life. It has long been recognised that youth is a predictive factor both in terms of engaging in, and being subject to, victimising behaviour.¹³ When comparing victimisation in male American prisons with institutions for juveniles or women, Bowker suggests that the violence and degradation is paralleled in these

⁸ RC McCorkle, ‘Personal Precautions to Violence in Prisons’ (1992) 19(2) *Criminal Justice and Behaviour* 160, 160; I O’Donnell and K Edgar, *Bullying in Prisons* (Occasional Paper 18) (University of Oxford Centre for Criminological Research 1998); AE Bottoms, ‘Interpersonal Violence and Social Order in Prisons,’ (1999) 26 *Crime and Justice* 205, 223; E Renold and C Barter, ‘“Hi I’m Ramon and I Run This Place”: Challenging the Normalisation of Violence in Children’s Homes from Young People’s Perspectives,’ in E Stanko (ed), *The Meanings of Violence* (Routledge 2003) 109.

⁹ AE Bottoms, ‘Interpersonal Violence and Social Order in Prisons’ (1999) 26 *Crime and Justice* 205, 230.

¹⁰ B Goldson, *Vulnerable Inside: Children in Secure and Penal Settings* (The Children’s Society 2002) 143.

¹¹ See Her Majesty’s Inspectorate of Prisons, *Young Prisoners: A Thematic Report by HM Chief Inspectorate of Prisons for England and Wales* (Her Majesty’s Inspectorate of Prisons October 1997) para 3.22; Her Majesty’s Chief Inspector of Prisons, *Annual Report of Her Majesty’s Chief Inspector of Prisons 2004/2005* (Stationery Office 2006) 56; Her Majesty’s Chief Inspector of Prisons, *Annual Report of Her Majesty’s Chief Inspector of Prisons 2011/2012* (Stationery Office 2012) 74.

¹² A recent inspection of Warren Hill YOI revealed that ‘high levels of bullying were not effectively addressed.’ See Her Majesty’s Inspectorate of Prisons, *Report of an unannounced full follow-up inspection of HMYOI Warren Hill: 9-13 May 2011* (Her Majesty’s Inspectorate of Prisons 2011) 10. An inspection of Werrington YOI found that ‘bullying and intimidation were significant problems.’ See Her Majesty’s Inspectorate of Prisons, *Report of an announced inspection of HMYOI Werrington: 7-11 March 2011* (Her Majesty’s Inspectorate of Prisons 2011) 10. Bullying was also identified as a ‘significant problem’ at Hindley YOI. See Her Majesty’s Inspectorate of Prisons, *Report of an announced inspection of HMYOI Hindley: 19-23 October 2009* (Her Majesty’s Inspectorate of Prisons 2010) 11, 37. Also see Her Majesty’s Inspectorate of Prisons, *Report of an unannounced short follow-up inspection of HMYOI Hindley: 6-8 September 2011* (Her Majesty’s Inspectorate of Prisons 2012) 11. Shouting out of windows and name calling were problems at HMYOI Wetherby but bullying was monitored and victims well supported. See Her Majesty’s Inspectorate of Prisons, *Report of an announced inspection of HMYOI Wetherby: 30 January- 3 February 2012* (Her Majesty’s Inspectorate of Prisons 2012) 35.

¹³ D Ellis and others, ‘Violence in Prisons: A Sociological Analysis’ (1974) 80(1) *American Journal of Sociology* 16; R Johnson, *Culture and Crisis in Confinement* (Lexington Books 1976) 8; AK Cohen, ‘Prison Violence: A Sociological Perspective’ in AK Cohen and others (eds), *Prison Violence* (Lexington Books 1976) 10; D Fuller and T Orsagh, ‘Violence and Victimisation within a State Prison System’ (1977) 2 *Criminal Justice Review* 35, 41; LH Bowker, *Prison Victimisation* (Elsevier 1980); RC McCorkle, ‘Personal Precautions to Violence in Prison’ (1992) 19(2) *Criminal Justice and Behaviour* 160, 168; I O’Donnell and K Edgar, ‘Routine Victimisation in Prisons’ (1998) 37(3) *Howard Journal* 266, 268; AE Bottoms, ‘Interpersonal Violence and Social Order in Prisons’ (1999) 26 *Crime and Justice* 205, 227-288; EJ Palmer and S Farmer, ‘Victimising behaviour among juvenile and young offenders: how different are perpetrators?’ (2002) 25 *Journal of Adolescence* 469; MD Cunningham and JR Sorenson, ‘Predictive Factors for Violent Misconduct in Close Custody’ (2007) 87(3) *The Prison Journal* 241, 246.

institutions, the only difference is the degree.¹⁴ Institutions for boys were considered to be a little worse than male prisons and significantly worse than those accommodating women and girls.¹⁵ Typical explanations of this trend tend to stress the relatively immature, impulsive and short-sighted reactions of young people.¹⁶ Whilst such explanations do hold some value, they appear to overlook the extent to which young people may participate in the hypermasculine contests common amongst adult prisoners¹⁷ and the variety of material and non-material gains sought by young people in such encounters.

The purpose of this chapter is to explore the experience of interpersonal victimisation amongst the young people at the YOI where the empirical research was conducted. The prevalence of violence and bullying within the YOI represents the second of three key themes which emerged from the fieldwork. Few studies have sought to specifically examine the role of prison victimisation amongst juvenile offenders and the available research tends to be dominated by studies of North American and Canadian juvenile institutions.¹⁸ Whilst informative, the conclusions of these studies cannot generalise about the experience of child

¹⁴ LH Bowker, *Prison Victimisation* (Elsevier 1980) 54.

¹⁵ *ibid.*

¹⁶ See, for example, D Fuller and T Orsagh, 'Violence and Victimisation within a State Prison System' (1977) 2 *Criminal Justice Review* 35, 41; AE Bottoms, 'Interpersonal Violence and Social Order in Prisons' (1999) 26 *Crime and Justice* 205, 227-228.

¹⁷ See Chapter 3, 93-94. One of the exceptions is Irwin's *The Felon* where Irwin argues that 'toughness is raised to extreme heights' amongst 'state-raised youths' in the youth prison. See J Irwin, *The Felon* (Prentice-Hill 1970) 27.

¹⁸ HW Polsky, *Cottage Six: The Social System of Delinquent Boys in Residential Treatment* (Robert E Krieger Publishing 1976); C Bartollas and others, *Juvenile Victimisation: The Institutional Paradox* (Sage 1976); RJ Mutchnick and M Fawcett, 'Violence in Juvenile Corrections: Correlates of Victimisation in Group Homes' (1990) 34(1) *International Journal of Offender Therapy and Comparative Criminology* 43; RJ Mutchnick and M Fawcett, 'Group Home Environments and Victimisation of Resident Juveniles' (1991) 35(2) *International Journal of Offender Therapy and Comparative Criminology* 126; A Kupchik and R Bradley Snyder, 'The impact of Juvenile Inmates' perceptions and facility characteristics on Victimisation in juvenile correctional facilities' (2009) 89(3) *The Prison Journal* 265; IW Shields and DJ Simourd, 'Predicting Predatory Behaviour in a Population of Incarcerated Young Offenders' (1991) 18(2) *Criminal Justice and Behaviour* 180; A Connell and DP Farrington, 'Bullying among incarcerated young offenders: developing an interview schedule and some preliminary results' (1996) 19 *International Journal of Adolescence* 75; A Connell and DP Farrington, 'The reliability and validity of resident, staff and peer reports of bullying in young offender institutions' (1997) 3(4) *Psychology, Crime & Law* 287. Also note a more recent study has been conducted in a German YOI with prisoners aged 16-21 years old. See H Kury and U Smart, 'Prisoner on Prisoner Violence: Victimisation of Young People in Prison: Some German Findings' (2002) 2(4) *Criminology and Criminal Justice* 411.

prisoners English YOIs.¹⁹ The available English studies concerning juvenile offenders explore specific types of victimisation such as sexual victimisation²⁰ or bullying,²¹ rather than adopting a broader view of prison victimisation and violence.²² Therefore, this chapter contributes to the literature in this area. This chapter focuses on the interpersonal victimisation between young people whilst Chapter 7 focuses on the role of violence against staff and state sanctioned violence²³ against young people.²⁴

The chapter begins by defining the rather fluid and imprecise terms 'victimisation', 'violence' and 'bullying' as well as analysing the particular methodological choices made when investigating prison victimisation. Second, the chapter examines the nature and prevalence of prison victimisation within the YOI based on the responses of those who took part in this study. Third, the chapter explores the distribution and stratification of the juvenile population into victimisers and victims. It is argued that polarising engagement in these terms is unduly simplistic and fails to account for the rather fluid way engage in victimising behaviour. Fourth, the chapter explores the relationship between victimisation and young people's identity and reputation.²⁴ Fifth, the chapter analyses the young people's perceptions

¹⁹ In the training school studied by Bartollas *et al*, release from the institution was dependent on positive changes in behaviour and attitude and therefore, some observations about adjustment, victimisation and behaviour modification do not hold true for the YOI studied since behaviour modification is not required for release, nor can days be added to a sentence for poor behaviour. There are also some key differences in the way that gang culture and ethnic or racial tensions permeate the American prison system. See C Bartollas and others, *Juvenile Victimization: The Institutional Paradox* (Sage 1976).

²⁰ BJ McGurk and others, *Sexual Victimization among 15 – 17 year old offenders in prison* (RDS Occasional Paper 65) (Home Office 2000).

²¹ BJ McGurk and C McDougall, 'The Prevention of Bullying among Incarcerated Delinquents' in DK Smith and DA Thompson (eds), *Practical Approaches to Bullying* (Fulton 1991); G Beck, 'Bullying among young offenders in custody' (1995) 22 *Issues in Criminological and Legal Psychology* 54; J Ireland, 'Do juveniles bully more than young offenders?' (2002) 25 *Journal of Adolescence* 155; J Ireland and J Archer, 'Association between measures of aggression and bullying among juvenile and young offenders' (2004) 30 *Aggressive Behaviour* 29; J Ireland and R Monaghan, 'Behaviours indicative of Bullying among Young and Juvenile Male offenders: A study of perpetrator and victim characteristics' (2006) 32 *Aggressive Behaviour* 172.

²² Note that Edgar *et al's* study of prison violence was conducted in two prisons and two YOIs, however, it is not clear whether juvenile offenders were included in the sample.

²³ B Goldson, 'Child Incarceration: Institutional Abuse, the Violent State and the Politics of Impunity' in P Scraton and J McCulloch (eds), *The Violence of Incarceration* (Routledge 2009).

²⁴ See Chapter 7, 291-305.

of safety, drawing on Bottoms' notion of the 'safety paradox,' and explores its application to the juvenile cohort. It is argued that the *threat* of prison victimisation remains an ongoing feature of a child's custodial experience. Victimising behaviour was a routine aspect of prison life and the 'deprivation of security'²⁵ remained an ongoing feature of prison life.

6.2 Defining Prison Victimisation, Bullying and Violence

Conceptualising prison victimisation, to some extent, is fraught with difficulty. There is a substantial degree of fluidity and overlap in the terms typically used to examine and measure its incidence and prevalence. Terms such as 'victimisation,' 'bullying,' 'violence,' 'conflict,' and 'aggression' may be used interchangeably, lack precision and cannot be neatly compartmentalised. For example, violence and bullying can be both mutually exclusive and interlinked forms of victimisation, and both can involve direct and indirect acts of aggression.²⁶ While a bullying relationship may invoke violence, it can also occur independently of a bullying relationship and can involve isolated incidents or be seen as a form of conflict resolution.²⁷

Bullying is a form of victimisation. However, it is also possible to see victimisation as distinct from 'bullying' - a prisoner could feel victimised without feeling bullied. One of the

²⁵ See Chapter 3, 101-102.

²⁶ D Olweus, 'Bully/Victim Problems in School' (1996) 26(2) *Prospects* 331, 334; J Ireland and J Archer, 'Descriptive Analysis of Bullying in Male and Female Adult Prisoners' (1996) 6 *Journal of Community and Applied Social Psychology* 35, 39; J Ireland, *Bullying among Prisoners: Evidence, Research and Intervention Strategies* (Brunner – Routledge, 2002) 23; J Ireland and R Monaghan, 'Behaviours indicative of Bullying among Young and Juvenile Male offenders: A study of perpetrator and victim characteristics' (2006) 32 *Aggressive Behaviour* 172; J Ireland and others, 'Characteristics of Male and Female Prisoners Involved in Bullying Behaviour' (2007) 37 *Aggressive Behaviour* 220, 226.

²⁷ See, for example, AK Cohen, 'Prison Violence: A Sociological Perspective' in AK Cohen and others (eds), *Prison Violence* (Lexington Books 1976); J Jacobs, *Stateville: The Penitentiary in Mass Society* (University of Chicago Press 1977); H Toch, *Living in Prison: The Ecology of Survival* (Free Press 1977); J Irwin, *Prisons in Turmoil* (Little, Brown and Company 1980); DJ Cooke, 'Violence in Prison: The Influence of Regime Factors' (1991) 30(2) *Howard Journal* 95; P Scraton and others, *Prisons under Protect* (Open University Press 1991); AE Bottoms, 'Interpersonal Violence and Social Order in Prisons' (1999) *Crime and Justice* 205; K Edgar and others, *Prison Violence: The Dynamics of Conflict, Fear and Power* (Willan 2003); M Butler, 'What are you looking at?: Prisoner Confrontations and the Search for Respect' (2008) 48 *British Journal of Criminology* 856.

difficulties in conceptualising bullying is that many of the behaviours which may form part of a bullying relationship can occur in its absence.²⁸ Victimisation can involve a single incident of aggression whereas definitions of bullying typically include the element of persistence²⁹ although the importance of this element is disputed by some.³⁰ In addition, bullying will typically involve a power imbalance³¹ whereas an incident of ‘victimisation’ may occur where ‘the balance of power is irrelevant, equal or contested.’³² Moreover, Edgar argues that ‘[p]risoners can gain power over others, abuse and exploit that power, without engaging in any of the behaviour listed in an anti-bullying statement.’³³ Like bullying, violence is an elusive and ambiguous concept.³⁴ Edgar *et al* state that simplistic distinctions between violent and non-violent incidents became untenable due to the wide range of conflicts described.³⁵ They cite examples of extreme psychological violence, intimidation and threats as well as incidents where inmates were in serious fear for their physical safety without the use of physical force.³⁶

²⁸ K Edgar, ‘Bullying, Victimisation and Safer Prisons’ (2005) 52(3) *Probation Journal* 390.

²⁹ See DP Farrington, ‘Understanding and Preventing Bullying’ (1993) 17 *Crime and Justice* 381; DP Tattum and G Herbert, *Bullying- A Positive Response* (South Glamorgan Institute of Higher education 1990) cited in G Beck, ‘Bullying among young offenders in custody’ (1995) 22 *Issues in Criminological and Legal Psychology* 54, 54; D Olweus, ‘Bully/Victim Problems in School’ (1996) 26(2) *Prospects* 331, 334; A Connell and DP Farrington, ‘The reliability and validity of resident, staff and peer reports of bullying in young offender institutions’ (1997) 3(4) *Psychology, Crime & Law* 287, 291-292; PK Smith and P Brain, ‘Bullying in Schools: Lessons from two decades of research’ (2000) 26 *Aggressive Behaviour* 1, 2.

³⁰ Ireland, for example, argues that single incidents of aggression could constitute bullying since such incidents tend to be severe or have long-term consequences. See J Ireland, ‘Distinguishing the perpetrators and victims of bullying behaviour in a prison environment: a study of male and female adult prisoners’ (2001) 6 *Legal and Criminological Psychology* 229, 243-244; J Ireland, *Bullying among Prisoners; Evidence, Research and Intervention Strategies* (Brunner – Routledge 2002).

³¹ PK Smith and S Sharp, ‘The Problem of School Bullying’ in PK Smith and S Sharp (eds), *School Bullying: Insights and Perspectives* (Routledge 1994) 2; DP Farrington, ‘Understanding and Preventing Bullying,’ (1993) 17 *Crime and Justice* 381; PK Smith and P Brain, ‘Bullying in Schools: Lessons from two decades of research’ (2000) 26 *Aggressive Behaviour* 1, 2. Again this requirement is not universally accepted. See J Ireland, ‘Bullying among Prisoners: A Review of Research’ [2000] 5(2) *Aggression and Violent Behaviour* 201, 203; J Ireland, *Bullying among Prisoners: Evidence, Research and Intervention Strategies* (Brunner – Routledge 2002) 22.

³² Edgar (n28) 393.

³³ Edgar (n28)395.

³⁴ K Edgar and others, *Prison Violence: The Dynamics of Conflict, Fear and Power* (Willan 2003) 22-24.

³⁵ *ibid* 24.

³⁶ Edgar and others (n34) 24 - 25.

The terminology used does have implications for the data collection process. Since the term ‘bullying’ is an inherently subjective concept, researchers appear to be divided in terms of whether respondents should be provided with a definition of bullying or rely on their own understanding.³⁷ Power *et al* argue that ‘problems exist when providing definitions of bullying or victimisation as such behaviour may not be compatible with inmate’s own perceptions of definitions of such behaviour.’³⁸ Young people involved in my study were not provided with a definition of bullying but were simply asked to explain what bullying was. The primary purpose of the research was to offer young people ‘a voice’ and, thus, it was the subjective interpretations of these young people that were deemed important.³⁹ In this chapter, the term ‘victimisation’ serves as a convenient overarching term to describe the range of violent, aggressive and bullying behaviours evident in the prison environment. Where appropriate, a distinction is made between ‘victimisation,’ ‘violence’ and ‘bullying.’

6.3 ‘Terrorising’⁴⁰ Others: Victimisation Inside

Young people at the YOI described a variety of victimising behaviour including physical and sexual assault, verbal abuse, robbery and extortion, cell theft, exclusion, control and intimidation.⁴¹ Often such behaviour was referred to as ‘terrorising’ others, indicating the real intention was to strike fear into the heart of the victim(s).⁴² Since previous research had identified bullying as a particular concern in YOIs,⁴³ initially the interviews were conducted

³⁷ KG Power and others, ‘Bullying among Scottish Young Offenders: Inmates’ Self Reported Attitudes and Behaviour’ (1997) 7 *Journal of Community and Applied Social Psychology* 209; R Blaauw and others, ‘Bullying and Suicidal Behaviour in Jails’ (2001) 28 *Criminal Justice and Behaviour* 279.

³⁸ KG Power and others, ‘Bullying among Scottish Young Offenders: Inmates’ Self Reported Attitudes and Behaviour’ (1997) 7 *Journal of Community and Applied Social Psychology* 209, 211

³⁹ See Chapter 4, 118.

⁴⁰ Quote taken from interview with Darren.

⁴¹ This reflects the findings of previous research that victimisation includes physical, psychological, economical, and, to a lesser extent, sexual aggression. See Bowker (n4).

⁴² This conclusion is drawn from observations made during the fieldwork and was used by David and Tyrone. One young person chose ‘Terror’ as a pseudonym.

⁴³ See, for example, BJ McGurk and C McDougall, ‘The Prevention of Bullying among Incarcerated Delinquents’ in DK Smith and DA Thompson (eds), *Practical Approaches to Bullying* (Fulton 1991); G Beck,

with a view to determining the prevalence and nature of bullying. It soon became clear that bullying was only one, and not always the most important, facet of the range of victimising behaviours encountered by young people at the YOI.

6.3.1 Verbal Abuse

Verbal abuse has been identified as a discreet and especially prevalent form of prison victimisation, particularly in YOIs.⁴⁴ It is clear that this trend was equally evident at the YOI. Verbal abuse was the most common form of victimisation and included: insults; name calling;⁴⁵ *‘little comments’*;⁴⁶ *‘taking the piss’*;⁴⁷ and, shouting through the windows.⁴⁸ Of those young people who completed a questionnaire, 49% had been insulted in some way and 33% reported that other young people shouted or sometimes shouted at them in an offensive manner. Like Edgar *et al*’s research,⁴⁹ there was a certain element of verbal abuse and *‘banter’* that was perceived to be a legitimate social interaction, blurring the distinction between playful behaviour and abusive exchanges.⁵⁰ Although verbal abuse was often regarded as a *‘trivial event’*,⁵¹ it functioned as a *‘catalyst’*,⁵² precipitating physical violence if

‘Bullying among young offenders in custody’ (1995) 22 *Issues in Criminological and Legal Psychology* 54; A Connell and DP Farrington, *‘Bullying among incarcerated young offenders: developing an interview schedule and some preliminary results’* (1996) 19 *International Journal of Adolescence* 75; A Connell and DP Farrington, *‘The reliability and validity of resident, staff and peer reports of bullying in young offender institutions’* (1997) 3(4) *Psychology, Crime & Law* 287; J Ireland, *‘Do juveniles bully more than young offenders?’* (2002) 25 *Journal of Adolescence* 155; Goldson (n10).

⁴⁴ I O’Donnell and K Edgar, *‘Routine Victimisation in Prisons’* (1998) 37(3) *Howard Journal* 266; K Edgar and I O’Donnell, *‘Assault in Prison: The Victim’s Contribution’* (1998) 38(4) *British Journal of Criminology* 635; K Edgar and others, *Prison Violence: The Dynamics of Conflict, Fear and Power* (Willan 2003).

⁴⁵ This was highlighted in the interviews with Ollie and Mark.

⁴⁶ Quote taken from interview with John. This was also mentioned by Ryan, Terror and Shane.

⁴⁷ Quote taken from interview with Ryan. This was also highlighted by four young people (Tom, Terror, Shane and David).

⁴⁸ This was highlighted in the interview with Shane. It was also mentioned by six other young people (Joshua, Andray, Terror, Darren, Tyrone and Nathan). To Tyrone, this was part of the *‘prison code’*. During the observation process, several young people were separated and moved to different wings following concerns that they were bullying and planning to physically assault another young person whom they had nicknamed *‘Smelly’* after a period of time shouting out the windows at him and taunting him.

⁴⁹ See Edgar and others (n34).32.

⁵⁰ Fieldwork notes (2008).

⁵¹ Edgar and others (n34) 34.

⁵² Edgar and others (n34).

another young person was unacceptably provoked by the exchange. Kyle suggested that such provocation could be relatively minor:

...when you spend some time in your cell away from people, when someone says one word to you and they piss you off, you just want to fight them, that's how fights start.

The real sting of this provocation is intensified by cellular confinement, which acts to exaggerate feelings of intolerance and impatience.⁵³ As one young person put it, it *_shortens the fuse_*.⁵⁴ The totality of the prison environment acts as an incubator, fomenting and fostering the kind of conditions that make physical violence more likely. Consequently, although a degree of banter and verbal abuse was tolerated or not defined as *_abusive_*,⁵⁵ it was clear that young people still felt the sting of the slur and were often enraged by it.

The interviews revealed that conversing through the cell windows was a frequent and routine aspect of prison life, allowing young people to *_chat_* whilst locked in their cells.⁵⁵ However, shouting through windows at night was often a precursor to physical violence the following day.⁵⁶ For example, Shane commented:

A lot of fights go on there, when someone is shouting through the window. At night, if someone shouting through the window, starts getting cheeky, straight in the morning, that's a fight

⁵³ This was particularly mentioned by Mark and Jason.

⁵⁴ Quote taken from interview with Mark.

⁵⁵ Fieldwork notes (2008). This was also mentioned by Jason,

⁵⁶ This was mentioned by six young people (Jason, Nathan, Aaron, John, Stephen and Shane). This was also noted during the observations of the residential units.

In this account, a young person who is *getting cheeky* will be confronted at the earliest opportunity.⁵⁷ It implies that *cheekiness* constitutes an attempt to undermine the young person at whom it is directed and invites a physical reprisal.

Shouting through the windows was not only a risky strategy because of this possibility for physical violence; it could also endanger attempts to perfect a *tough*, masculine identity. Nathan suggested that those who were shouting through the windows lacked the necessary boldness and courage:

I hate shouting through windows. That just agitates me like, just agitates me, because you know someone is going to get more braver when they are behind locked doors than when they are face to face ... And they will say it in disguise voice as well, never say it in their original voice ... I could wake up in the morning and whoever I think it is in my head is not going to be happy even if it's not him.

As in Shane's account, Nathan suggests that such a lack of bravery would be punished, even if he incorrectly identifies the perpetrator. Shouting through the windows was deemed to be evidence of weakness since a young person could antagonise another without an immediate risk of retaliation. Nathan's agitation appeared to relate to the fact that another young person can exaggerate his sense of bravery behind closed doors when immediate retaliation is impossible. However, Nathan's irritation might also relate to the potential threat to self image and his account illustrates the very real weight attached to such concerns.

⁵⁷ This was also mentioned by John.

The cultural acceptance of verbal sparring as a feature of ‘normal’ social interaction was partially encouraged by the way that staff members related to both each other, and to the young people in their care. Some staff members suggest that ‘banter’ was seen to be a way of effectively engaging with young people and, in some ways, served to reduce social distance and alleviate tension by ‘lightening’ the atmosphere.⁵⁸ In the worst cases, there was a clear possibility that staff could deliberately seek to engage in hurtful and harmful acts of verbal aggression.⁵⁹ For example, Jason reported:

Some of the govs say stuff about people’s mums. Like one of the boys was telling me yesterday, one of the govs said to him, “I’ve fucked your mum” or something like that. “But my mum’s dead!” Went for him, closed his door. So that boy’s in his cell, wound up, probably crying, and he’s like doing what he does. And this man is carrying on with his life, acting like nothing’s wrong.

Jason’s account was one of the few acknowledgements that, contrary to the belief that young people must maintain emotional fortitude, boys *did* cry, something which was perceived to be a predictable response to any verbal abuse targeted at one’s mother.⁶⁰ Unsurprisingly, slights at the expense of loved ones were taken very personally, replicating Clemmer’s findings.⁶¹ Jason highlights the perceived injustice associated with the ability of the officers to continue with their daily tasks, disregarding the impact of their behaviour on the young people. Staff who participated in such behaviour exceed the scope of their power and magnify the power

⁵⁸ See Chapter 7, 274-275.

⁵⁹ This included swearing at young people, using dehumanising language or deliberately seeking to ‘wind them up.’ See Chapter 7, 286-291.

⁶⁰ Also see Chapter 5, 190 for similar acknowledgements made regarding separation from family members.

⁶¹ D Clemmer, *The Prison Community* (2nd Edn, Holt, Rinehart and Winston 1958) 91.

differential. Such incidents served to exaggerate the ‘pains of imprisonment’ for the young people concerned.⁶²

6.3.2 Exclusion, Control and Intimidation

Exclusion, control and intimidation were more subtle forms of victimisation reported by the young people but were nonetheless pertinent. Unlike verbal abuse, such behaviour was not regarded as a form of normal social interaction but was a very deliberate attempt to demonstrate power. Control could be exacted in a number of simple but often crucial ways, including restricting access to pool or table tennis by removing the name from the list or taking their turn as well as restricting access to the showers or telephone box and demanding canteen orders.⁶³ Although exclusion, control and intimidation were somewhat subtle forms of aggression, their effect was particularly pernicious and sent a clear signal to the person at whom it was aimed. Such behaviour defined the terms of social relations and established the balance of power. Exclusion, control and intimidation could be particularly hazardous for the victim since it served to entrench their weakness and subordination. Since the behaviour was often subtle, it was less likely to lead to staff detection but still bolstered the status of the aggressor. Unlike other forms of victimisation, it was difficult for a victim to repay such behaviour in kind.⁶⁴ If a young person sought to confront their aggressor, he would need to do so in overtly physically aggressive ways.⁶⁵

6.3.3 Physical Violence

Incidents of physical violence occurred on a daily basis, although they often occurred more frequently. The questionnaire data revealed that 35% of young people had been physically

⁶² This theme is explored in more detail in Chapter 7, 286-289.

⁶³ This was mentioned by Jason and Kyle.

⁶⁴ This was also true in Edgar *et al*'s study. See Edgar and others (n34) 37.

⁶⁵ See 246-247 below.

assaulted, replicating statistics provided by Her Majesty's Inspectorate of Prisons.⁶⁶ This evidence also confirms that the rate of physical assault tends to be higher amongst young adult and juvenile offenders than amongst adult offenders.⁶⁷ The centrality of prison violence in young people's everyday lives meant that minor fights or assaults were a 'taken for granted' aspect of prison life.⁶⁸ The routine nature of prison violence mirrors findings elsewhere regarding adult prisons.⁶⁹

Accounts of physical violence from the teenage boys who took part in the study appeared to centre around two key themes: its unpredictability and the potential for serious violence. The severity of the injuries inflicted ranged from minor to life threatening.⁷⁰ Excessive physical violence was often regarded as gratuitous and, even if some young people might suggest that *'he had it coming'* or may consent to the punishment of a bully, 'few prisoners took pleasure in seeing another man beaten to a pulp.'⁷¹ Whilst a variety of behaviours associated with victimisation were viewed as part of the 'everyday framework of the prison's social order,'⁷² serious acts of physical violence appeared to create an interruption to both the social order and an individual's sense of equilibrium. Jones and Schmid argue that, for most prisoners, violent events lose their shock value as they progress through their sentence and become 'explained' rather than random acts.⁷³ However, it was

⁶⁶ In order to preserve the anonymity of the institution,

⁶⁷ Edgar and O'Donnell discovered that 30% of young offenders had been assaulted and 19% of adults had been assaulted at least once in the previous month. See K Edgar and I O'Donnell, 'Assault in Prison: The Victim's Contribution' (1998) 38(4) *British Journal of Criminology* 635, 636. NB: It should be noted that the slightly higher figure amongst the juvenile population at the YOI studied could result from the failure to specify a timeframe in the questionnaire or interview schedule where as Edgar and O'Donnell's respondents were asked to indicate whether they had been assaulted in the last month.

⁶⁸ Also see J Sim, 'Tougher than the rest? Men in prison' in T Newburn and EA Stanko (eds), *Just Boys Doing Business: Men, Masculinities and Crime* (Routledge 1994) 103.

⁶⁹ I O'Donnell and Edgar, 'Routine Victimization in Prisons' (1998) 37(3) *Howard Journal* 266.

⁷⁰ *ibid* 268.

⁷¹ B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) 413.

⁷² AE Bottoms, 'Interpersonal Violence and Social Order in Prisons' (1999) 26 *Crime and Justice* 205.

⁷³ RS Jones and TJ Schmid, *Doing Time: Prison Experience and Identity among First Time Inmates* (Jail Press 2000).

clear for those young people at the YOI that very serious events were not ‘explained’ acts and appeared to ‘shock’ young people in such a way that they returned to their pre-prison imagery and were reminded of the overriding need to ‘survive’ the violent prison world.⁷⁴

‘Snaking people’ was identified as a specific form of physical assault, which appeared more likely to end in serious violence.⁷⁵ The aggressor approached and assaulted the victim from behind. Nathan was especially critical of such behaviour:

...this is the most unsafest prison I've been to ... they have a thing called snake, snaking people. Wow, it's popular in this prison; you can never catch someone fighting face to face. It's always from behind, always from behind ... And it don't always happen with fists, even on the wing with pool balls in socks and pool cues and that. This is far for me. „Cause in another prison, you can at least tell someone, “Come here, come here,” not even loud but just tell them, “Come here, I'm going to whack you up,” but they at least have a chance to get ready to know that you are going to hit them or something ... But if it was by surprise, I was doing something else and someone just hit with a pool cue, at the same speed and that, I reckon I've got more chance of getting knocked out then „ause I don't know where but if I'm expecting it, I know I'm about to, I know I could tense up my face or something but yeah, this jail is just disgusting when it comes to fighting.

It might be assumed that physical violence in and of itself was sufficient to bolster a masculine identity, however, to Nathan, this behaviour was seen as cowardly. The use of the word ‘snake’ denotes an image of deceit and, again, is viewed as cowardly and ‘disgusting.’

⁷⁴ See Chapter 5, 152-153 for further discussion.

⁷⁵ This specific phrase was used by Nathan and Chris. This behaviour was also mentioned by seven other young people (Jason, Mark, Ryan, Andray, Aaron, Shane and Kyle).

This account indicates that assaulting someone from behind lacked something of the perceived masculine nature of violence; the inability to fight ‘face to face’ was not ‘manly violence.’

The vehement injunction against ‘snaking people’ may result from the risk posed to a young person’s reputation. First, young people appeared to select, as far as possible, the level of danger and risk posed to them; few would initiate a fight with someone whose emotional fortitude and physical strength were unknown.⁷⁶ Second, the element of surprise presents an added element of danger since the victim cannot prepare himself for the physical assault and may be easily overcome. This was perceived to be deplorable because of the added risk to personal safety: ‘got more chance of being knocked out.’ This could easily tarnish a reputation of physical strength, bravery and courage. Nathan was also concerned that those who were tempted to ‘snake’ people might use a pool cue or ball rather than their fists. Nathan’s concern indicates a preference for the use of physical body as a weapon and the way in which hegemonic masculine constructions are predicated upon physical strength.⁷⁷ It also illustrates the concern that weapons were more likely to inflict serious injury than fists alone and rendered the assault unevenly balanced in favour of the aggressor. Linked to this, ‘snaking people’ was also criticised for its inexplicable nature.⁷⁸ The incomprehensible and unpredictable nature of such acts accentuates the turbulent nature of the prison environment. It also reinforces a dislike for those who are unquantifiable and who may erupt or explode.⁷⁹

⁷⁶ See 255-258 below

⁷⁷ See, for example, JW Messerschmidt, ‘Becoming —Reh Men’: Adolescent Masculinity Challenges and Sexual Violence’ (2000) 2(3) *Men and Masculinities* 286, 229.

⁷⁸ This was suggested by Chris.

⁷⁹ Cf. Sykes’ ‘ball busters.’ See Chapter 3, 108.

6.3.4 Property Victimization

In the adult prison environment, studies suggest that property victimisation occurs to a lesser extent than physical victimisation but remains prevalent.⁸⁰ At the YOI where the fieldwork was conducted, cell theft was rarely reported. Only John reported stealing items from his *pad mate*':

He [referring to pad mate] was just, he was from Wales n''it, should be safe but he was just irritating. You get me. I've never bullied anyone in my life but it got to the point that where I was tipping tea bags on him, just to show him like that he was nothing and that he was irritating me. So I tipped tea bags on him, he didn''t learn his lesson, so he got slapped.

Cell theft in this case was designed to send a message to John's pad mate that he was no longer welcome in *his*' cell and that he was *nothing*.' Although somewhat indirect, John clearly attempted to send certain *signals*'⁸¹ to his pad mate. However, this did not seem to intimidate his pad mate and ultimately led to physical assault. It is possible that, whilst physical victimisation, robbery and exploitation imply power, domination and control, cell theft may be perceived as deceitful and opportunistic, lacking the requisite *toughness*.' It is perhaps for this reason that John's pad mate did not respond to the theft of his tea bags: either he did not notice, did not care or did not perceive that it was threatening behaviour. It is also possible that John had an exaggerated sense of his own reputation and his pad mate did not regard him with the same level of respect and esteem. That said, it appears that John's pad mate did respond to physical assault, which may have served as a warning that he either must leave or would be forced to fight for territory, something he was clearly unprepared to do.

⁸⁰ D Cooley, *'Criminal Victimization in male federal prisons'* (1993) 35 *Canadian Journal of Criminology* 479, 84-485; O'Donnell and Edgar (n69) 268; Edgar and others (n34); Bowker (n4).

⁸¹ D Gambetta, *Codes of the Underworld: How Criminals Communicate* (Princeton University Press 2009) 78.

Edgar *et al*, when comparing reports of victimisation amongst prisoners in YOIs and prisons, found that cell theft was more readily reported by adult rather than young offenders.⁸² The findings from my study of the YOI support this. The under reporting of cell theft by young people could be a feature of age; they may prefer to engage in acts of physical violence. Another explanation is the limited opportunity within some YOIs to access other cells. O'Donnell and Edgar note that cell theft was purely opportunistic; the perpetrator saw an open door and took what he could.⁸³ Unlike adult prisons, young people at the YOI cannot freely drift in and out of their cells. Young people are either locked in or locked out of their cells, even during association and meal times. In John's case, the fact that he was sharing a cell with another young person provided the opportunity to steal from his pad mate. Therefore, it is likely that the comparatively low levels of cell theft reflect the limited access afforded to the cells of others.

Robbery was identified as a problem, however, young people were less likely to report direct experience of robbery and were more likely to disclose perpetrating such behaviour or discuss the subject in more general terms.⁸⁴ Similarly, Tyrone included 'taxing' in his definition of bullying:⁸⁵

...people get fed up, totally fed up when it's things to do with bullying and that, getting taxed for your money and that. Say you got £10 and that and someone is shouting out the window buy me this, buy me that. Oh, I've only got £10 for this week, even two

⁸² Edgar and others (n34) 35. Also see O'Donnell and Edgar (n69) 268.

⁸³ O'Donnell and Edgar (n69) 274.

⁸⁴ For example, five young people (Andray, Tyrone, Nathan, Mark and Kyle) mentioned robbery but none of the young people interviewed stated that they were a victim of robbery.

⁸⁵ Tyrone was the only interviewee to specifically mention this behaviour, however, it was alluded to more generally by the vast majority of young people.

weeks, I just have this and then the boy saying I'm going to beat you up and you think I'm going to have to do it for him.

The use of the phrase *taxing*, *legitimises* and *trivialises* the behaviour by drawing a parallel with revenue collection by the State.⁸⁶ *Taxing* appeared to be targeted at inmates who were *newbies* or *new boys*.⁸⁷ However, O'Donnell and Edgar found in their research that the *taxing* relationship may intensify and be replaced with more serious demands and the expectation that the victim would surrender their goods.⁸⁸

Physical assaults were linked to debt collection and failure to pay trading debts.⁸⁹ Gambling on the outcome of a pool game could generate debts.⁹⁰ Other debts were related to the acquisition of drugs and tobacco within the prison.⁹¹ Edgar and O'Donnell, in seeking to unpick the victim's contribution to physical assault, illustrate that the engagement of individuals in trading, lending and borrowing is *high risk* activity.⁹² The argument is not that victims intentionally engage in such behaviour in order to become the victim of assault but that, by engaging in such activities, prisoners bring themselves into *dangerous interactions* with other prisoners.

⁸⁶ O'Donnell and Edgar (n69) 272.

⁸⁷ Fieldwork notes (2008). The targeting of new arrivals was a consistent theme of the interviews with young people.

⁸⁸ O'Donnell and Edgar (n69) 272-273.

⁸⁹ This was particularly mentioned by Shane.

⁹⁰ For example, Mark indicated that he had engaged in gambling to secure items that were in short supply.

⁹¹ This was a common theme amongst the interviewees.

⁹² O'Donnell and Edgar (n69) 639.

6.4.5 Sexual Victimization

In accordance with earlier British studies of adult prisoners,⁹³ sexual violence at the YOI was rarely reported.⁹⁴ This marks one contrast between American and British juvenile custodial establishments.⁹⁵ There are several explanations for the relatively low levels of reporting sexual violence. The most obvious explanation is that sexual victimisation rarely occurred. This is possibly confirmed by a lack of clear argot roles that delineate engagement in sexual violence. Labels such as ‘_booty bandit,’ ‘_queen,’ ‘_scapegoat’ or ‘_punk’ highlighted in the American literature,⁹⁶ did not feature within the dialogue of young people at the YOI. O’Donnell, in reference to British prisons, comments that the ‘_lack of a developed slang is evidence that such activity is uncommon.’⁹⁷ It might also be supposed that the use of single showers at the YOI and the limited opportunity to access another person’s cell may have reduced the incidence of sexual violence. However, showers were still frequently used for serious physical violence⁹⁸ and, therefore, it is difficult to determine whether the prison architecture had any discernible effect on the apparently low levels of sexual violence.

The under-reporting of sexual victimisation might be symptomatic of the fact that homosexuality was largely seen as transgressing social norms, hindering disclosure.⁹⁹ This under-reporting may also be a feature of the research design, which allowed young people

⁹³ I O’Donnell, ‘_Prison Rape in Context’ (2004) *British Journal of Criminology* 241; BJ McGurk and others, *Sexual Victimization among 15 – 17 year old offenders in prison* (RDS Occasional Paper 65) (Home Office 2000); K Edgar and C Martin, *Conflicts and Violence in Prison* (Economic and Social Research Council 2001).

⁹⁴ Sexual victimisation was only mentioned by one respondent and this was a description of an incident witnessed where two young people threatened to rape a known bully in order to exploit him for material gain.

⁹⁵ See J Felon, *The Felon* (Prentice-Hall 1970) 28; C Bartollas and others, *Juvenile Victimization: The Institutional Paradox* (Sage 1976) 72-74.

⁹⁶ See Chapter 3, 99-101. C Bartollas and others, ‘_The –Booty Bandit’: A Social Role in a Juvenile Institution’ (1974) 1 *Journal of Homosexuality* 203.

⁹⁷ I O’Donnell, ‘_Prison Rape in Context’ (2004) *British Journal of Criminology* 241, 245.

⁹⁸ See 257-258 below.

⁹⁹ Also see C Struckman-Johnson and D Struckman-Johnson, ‘_Sexual Coercion Rates in Seven Midwestern Facilities for Men’ (2000) 80(4) *The Prison Journal* 379, 380. Also see C Struckman-Johnson and others, ‘_Sexual Coercion Reported by Men and Women in Prison’ (1996) 33(1) *Journal of Sex Research* 67, 75; TR Jones and TC Pratt, ‘_The Prevalence of Sexual Violence in Prison’ (2008) 52(3) *International Journal of Offender Therapy and Comparative Criminology* 280, 289.

some freedom to direct the conversation, possibly hindering the likelihood of exploring subjects regarded as culturally taboo. In McGurk's British study, young people appeared to accept that threats and bullying occurred and that it was a reasonable topic for discussion but expressed incredulity about the fact that questions regarding sexual victimisation were being posed or taken seriously.¹⁰⁰ Therefore, if it is accepted that young people may find it difficult to disclose sexual victimisation, the reliance on them to raise it as a topic of conversation may make such discussion unlikely.

6.4.6 Bullying

Bullying was an identifiable problem; 71% of young people in this study believed that bullying was common and 14% stated that they needed help with bullying at the time of completing the questionnaire.¹⁰¹ It was anticipated that bullying would be the dominant concern, however, during the interview process, young people appeared more concerned about other forms of victimisation, such as physical violence. There was noticeable overlap between the terms 'violence' and 'bullying'; young people did not necessarily present clear distinctions in their accounts thereby mirroring the findings of Edgar *et al*'s study.¹⁰² When young people were asked to explain or define 'bullying,' they typically offered explanations which included robbery and physical assault. Indeed, the most common explanation described bullying in terms of the threat or actual use of physical force for material gain.¹⁰³ It transpired that bullying could lead to physical assault, either because the aggressor meets resistance or because the bully did not receive the demanded items, attracting a physical reprisal.

¹⁰⁰ BJ McGurk and others, *Sexual Victimisation among 15 – 17 year old offenders in prison* (RDS Occasional Paper 65) (Home Office 2000) 17.

¹⁰¹ Such disclosures were reported to the anti-bullying co-ordinator.

¹⁰² Edgar and others (n34) 56.

¹⁰³ Such items would include canteen, CDs, telephone pin numbers, toiletries or prohibited items such as tobacco and cannabis.

The perception that material gain was a key feature of bullying meant that relatively benign objects attracted disproportionate significance. Rosary beads, in particular, appeared to become a *status symbol* divorced from any religious connotations. Each young person was permitted one set of rosary beads from the Chaplaincy. Since some YOIs distributed rosary beads of different colours, possessing more than one set was indicative of prison experience and appeared to attract respect. Young people would go to great lengths to solicit another set of rosary beads.¹⁰⁴ Stephen remarked that *jaws [are] broken for these rosary beads that they've got around their necks, different colours, it's ridiculous.* Rosary beads were compared to *gold chains on the out*¹⁰⁵ and Chris noted that beads were *fashion here*.¹⁰⁶ When forced to dress uniformly, young people can only display particular aspects of their identity through their choice of trainer: *most inmates ... literally wear their masculine credentials on their feet.*¹⁰⁷ In this context, the acquisition of rosary beads provides another visible display of status and their masculine credentials since they imply (custodial) experience and the ability to acquire restricted items.

The function of bullying was not simply to access scarce resources, rather it also carried a form of social capital and allowed young people to *communicate* to others. David commented:

Taking things off them, getting things off them from canteen, like making them look like an idiot in front of loads of people and that, that's probably the main ones.

¹⁰⁴ The importance of rosary beads was highlighted by Terror, Stephen and Chris.

¹⁰⁵ Quote taken from interview with Stephen.

¹⁰⁶ Quote taken from interview with Chris.

¹⁰⁷ Y Jewkes, *Men Behind Bars: Doing Masculinity as an Adaptation to Imprisonment* (2005) 8 *Men and Masculinities* 44, 57.

Here, bullying involved robbery as well as psychological threats to self. Young people could accumulate objects in contravention of the restrictions imposed by the institution. Whilst such items might be confiscated, the accumulation of such items by young people was a visible reminder to others of their reputation. Such young people could also be seen to be manipulating the limitations on material goods specified by staff. Goffman describes such behaviour as a 'secondary adjustment'.¹⁰⁸ Bullying was designed to indicate that the aggressor was powerful than the inmate, lowering them in the esteem of other and potentially, themselves. In some instances, this could 'backfire' and bullies were sometimes punished.¹⁰⁹ However, a certain amount of victimising behaviour was deemed to be justifiable,¹¹⁰ allowing young people to order themselves in a social structure however fluid.

Verbal abuse in the form of name calling and threats has been identified as one of the most prevalent forms of bullying.¹¹¹ The questionnaire data revealed that half of the respondents stated that bullying at the YOI included insults (52%) and swearing (48%), with slightly fewer also including shouting (39%) and shouting through windows (44%). It appears that the chief purpose of verbal abuse in this context was to belittle and undermine the 'victim' as a precursor for the formation of a bullying relationship. John suggested:

¹⁰⁸ E Goffman, *Asylums: Essays on the social situation of mental patients and other inmates* (Penguin Books 1961) 56.

¹⁰⁹ See 234-235 below

¹¹⁰ See 240-241 below.

¹¹¹ G Beck, 'Bullying among young offenders in custody' (1995) 22 *Issues in Criminological and Legal Psychology* 54; KG Power and others, 'Bullying among Scottish Young Offenders: Inmates' Self Reported Attitudes and Behaviour' (1997) 7 *Journal of Community and Applied Social Psychology* 209; EJ Palmer and S Farmer, 'Victimising Behaviour among juvenile and young offenders: how different are perpetrators?' (2002) 25 *Journal of Adolescence* 469; J Ireland and J Archer, 'Descriptive Analysis of Bullying in Male and Female Adult Prisoners' (1996) 6 *Journal of Community and Applied Social Psychology* 35; J Leddy and M O'Connell, 'The prevalence, nature and psychological correlates of bullying in Irish prisons' (2002) 7 *Legal and Criminological Psychology* 131.

Say someone was in there and I wanted to bully him like, just say little comments to him that are going to make him feel low and that, do you get me so, loads of different bullying goes on in here really like.

John indicates that these *‘little comments’* were preparatory activities, allowing the perpetrator, and possible bully, to test other young person in a somewhat covert and stealthy manner. If victims fails to *‘stand up’* for themselves, the bullying relationship begins to be solidified. The emotional impact on the victim is also important; the comments are designed to *‘make him feel low.’* These *‘little comments’* reinforce the relative powerlessness of the victim and endorses masculine ideals of power and domination.¹¹²

For some young people, bullying was primarily understood in terms of physical assault rather than threatening behaviour.¹¹³ Aaron commented:

...I used to talk out my window to different guys, tell them to, “Shut up n’it before I have to break their face” but I ain’treally physically did nothing to them, do you get me?

Threatening behaviour was not regarded by Aaron as bullying behaviour, despite the potential power imbalance involved. There are several possible reasons for this. Young people, such as Aaron, may perceive that they have a right to tell others to *‘shut up.’* Equally, young people may recognise a power hierarchy and accept the legitimacy of such demands. Furthermore, since verbal abuse was a routine aspect of social interactions, the delineation between *‘nomal’* behaviour and *‘bullying’* may be difficult to discern. It is possible that

¹¹² LS Abrams and others, *‘Constructing Masculinities in Juvenile Corrections’* (2008) 11(1) *Men and Masculinities* 22, 30.

¹¹³ This appeared to be true for Kyle and Aaron.

young people, such as Aaron, believe physical violence is the primary means by which one demonstrates the requisite strength and courage. Although Aaron may simply want to avoid being identified as a ‘bully,’ his tendency to define bullying in a particular way illustrates the potential discrepancy between prisoner’s own views of prison bullying and the definitions posed by researchers.¹¹⁴

6.4 ‘Everybody does it:’¹¹⁵ Perpetrators, Bullies and Victims

It is often tempting to distinguish between victims and perpetrators as if they were polar opposites. However, that patterns of victimisation are more complex than this and do not necessarily conform to such polarised typologies.¹¹⁶ At the YOI, young people could be divided into groups of perpetrator/bully, bully/perpetrator-victim, victims or the ‘not involved’ group.

6.4.1 Perpetrators and Bullies

The prevalence of prison violence was such that young people frequently reported physically assaulting or fighting others.¹¹⁷ Moreover, a third of those young people interviewed had been, or were involved, in behaviour that might be described as ‘bullying behaviour.’¹¹⁸ In light of the significant overlap between bullying and victimisation more broadly, the real

¹¹⁴ See 213-215 above.

¹¹⁵ Quote taken from interview with David.

¹¹⁶ See, for example, C Bartollas and others, *Juvenile Victimisation: The Institutional Paradox* (Sage 1976) 132; KG Power and others, ‘Bullying among Scottish Young Offenders: Inmates’ Self Reported Attitudes and Behaviour’ (1997) 7 *Journal of Community and Applied Social Psychology* 209; J Ireland, ‘Distinguishing the perpetrators and victims of bullying behaviour in a prison environment: a study of male and female adult prisoners’ (2001) 6 *Legal and Criminological Psychology* 229, 230; J Ireland, *Bullying among Prisoners: Evidence, Research and Intervention Strategies* (Brunner – Routledge 2002); Howard League for Penal Reform, *Children in Prison: provision and practice at Castington* (Howard League for Penal Reform 2002) 10.

¹¹⁷ For example, six young people (Shane, John, Stephen, Darren, David and Aaron) reported being involved in a fight, some of whom received adjudications for such actions.

¹¹⁸ Of the young people who were interviewed, two has been placed on a bullying log. Clark was on stage 1 while Tyrone reached stage 3. Several other young people reported behaviour that was indicative of bullying but without casting themselves in the role of a ‘bully.’ This was true of five interviewees (Mark, Nathan, Andray, John and Aaron).

difficulty is trying to determine whether such young people were actually in a bullying relationship that would be viewed as such by both parties.

Those who were, or who had been, on a bullying log were keen to avoid being known as a bully. For example, Tyrone was placed in segregation and transferred to the YOI from another prison after receiving a stage three warning for bullying. He commented:

...they said I was telling people I was a gang leader and I was telling people to do hits for me, like ... I was telling my friend to go beat this person up for me, said all like, and I just didn't understand it all ... anything that happened, they would come to me. I was always there with friends and that but I'm not involved ... and I repeat that ... I get done for it all the time, it's so mad.

For Tyrone, being placed on a bullying log was perceived to be a personal injustice and a source of frustration. Whilst it is clear that he may not recognise his behaviour as bullying, the stigma attached to being identified as a bully was such that he was keen to deflect that label. Such identity work was also exemplified in Mark's account who commented:

So I play pool on the wing and I say to people, "I bet you'll lose, I bet you I'll win." I get quite of lot of stuff brought from the canteen, I'm not really supposed to. If they knew that I was getting passed shower gels, they would say that I was bullying people but they know I don't, I'm not bullying people, I ain't had one fight since I've been here.

Mark indicates that he understands that he is *not really supposed* to gamble but indicates that he knows that it is not bullying because he has not *had one fight*.⁶ Again, like Aaron, Mark suggests that physical acts of aggression constitute bullying, not gambling. This may suggest that elements typically included in definitions of bullying, such as persistence, were not present in this scenario and, therefore, whilst the behaviour resulted in some form of victimisation, it could not be defined as *bullying*.⁶ It is nonetheless clear that young people disagreed with the institution's depiction of bullying behaviour and attempted to distance themselves from such definitions.

Generally, young people appeared to draw a distinction between *bullying*,⁶ which was particularly unpopular, and acceptable forms of victimisation. It was suggested that bullies might be *punished*⁶ and indeed during the research study, a young person assaulted a known bully in the gym.¹¹⁹ This is a form of *private justice*¹²⁰ which seeks to circumvent official disciplinary measures. The ability to exact punishment against a known or suspected bully is, as Edgar and Martin note,¹²¹ in and of itself, an indication of power and domination. Therefore, whilst it is largely assumed that bullying requires an asymmetrical power relationship, this does not necessarily guarantee power and status within the juvenile population as a whole.

Young people suggested that bullying was childish and *unmanly*,⁶ especially if the bully sought to exploit a much younger or smaller *little kids*.¹²² Ryan commented:

¹¹⁹ Fieldwork notes (2008). This was Ryan and Jason's interview. John reported punishing a bully for *picking* on a *weaker* boy.

¹²⁰ Edgar and others (n34) 142. Also see K Edgar and C Martin, *Conflicts and Violence in Prison* (Economic and Social Research Council 2001).

¹²¹ K Edgar and C Martin, *Conflicts and Violence in Prison* (Economic and Social Research Council 2001).

¹²² Quote taken from interview with Tyrone.

There are people in here that act like kids still and there are people who have grown up and know what it feels like to get bullied ... I've heard bare [a lot] people say that he's been bullying so I smacked him up so there are a couple of people in here, you get me.

Ryan makes a distinction between those who are childish and those who have *grown up*¹²³ and did not engage in such behaviour. Ireland suggests [b]ullying is often seen as a childish activity limited to school children ... The term [bullying] holds negative connotation for the bullies as well as the victims because it labels their behaviour as immature.¹²⁴ This has significant repercussions for young people seeking to construct themselves as *real men*,¹²⁵ those who had *grown up*. Ryan casts himself in a paternalistic role, legitimising his own acts of victimisation and deflecting them through a collective stance - *„everybody does it.* The distinction between *manly* violence and childish behaviour is important and indicates something of the constructions of hegemonic masculinity.

The tendency to deflect the label *bully* may result from the need to present oneself as a compliant prisoner in order to maintain or increase regime privileges.¹²⁵ The reward scheme does not encourage young people to accept responsibility for their behaviour but to ensure that, as far as possible, they are seen to be *doing their time* and *keeping their head down*.¹²⁶ Being identified as a *bully* would generate far more intrusive supervision in the form of a bullying log, which could, if a young person did not appear to cease such activity,

¹²³ Similarly, Stephen stated that he had bullied young people but had grown older, suggesting that such behaviour was reflected more childish ways.

¹²⁴ JL Ireland, *„Bullying” among Prisoners: A Review of Research* (2000) 5(2) *Aggression and Violent Behaviour* 201, 203.

¹²⁵ This theme is explored above in Chapter 3, 85-86 and below in Chapter 7, 306-310.

¹²⁶ The reward scheme is discussed in more detail in Chapter 7, 306 and 310. See Chapter 5 175, 182-186 for a discussion of these adaptations to the time problem.

eventually result in a transfer to segregation or another YOI. Therefore, it was in young people's interests to avoid any suspicion of bullying behaviour.

6.4.2 Perpetrators and Bullies as Victims

It is clear from the narratives above that the identification of victimisers, victims and bullies is not a straightforward task. Previous research suggests that there may be some overlap between perpetrators/bullies and victims,¹²⁷ a trend that was equally reflected at the YOI studied. An identified bully may attract the disapproval of his peers and become a victim himself.¹²⁸ It appears that those who are successful perpetrators are vulnerable to retaliation from the victims.¹²⁹ A young person may make an inaccurate assessment of his ability to defeat the intended victim and find that he is defeated instead. The initial aggressor may be forced into trying to protect himself from an unexpected physical attack. For example, Kyle commented: *Some guy tried to punch me on the wing but I defended myself n'it, basically beat him up.*⁶ In this example, Kyle was the intended victim but was able to defend himself and overcome his aggressor. Young people who were able to protect themselves in this way were able to reduce the risk to personal safety. However, they did risk being incorrectly identified as the initial or primary perpetrator by staff.

The large volume of fights and assaults indicates that there was a substantial amount of mutual or reciprocal victimisation where the distinction between victim and victimiser was difficult to determine and where the distribution of power may be unclear or not yet determined. Mark replied: *If you punch me, I'll punch you back. I'm not going to take no shit*

¹²⁷ I O'Donnell and K Edgar, *Victimisation in Prisons* (Home Office Research Findings 37) (Home Office 1996) 3. Also see 284-285 above.

¹²⁸ For example, John reported *battering* those who were responsible for bullying another young person.

¹²⁹ See, for example, Bowker (n4) 31.

from you. This kind of reciprocal victimisation appeared commonplace¹³⁰ and often took the form of a simple exchanging blows or fights. Returning a punch with another punch could be seen as an act of self-defence.

6.4.3 Victims

In line with previous research examining bullying and other forms of victimisation,¹³¹ victims were typically those young people who were perceived to be weak, unacceptably different, socially inept, of small physical size, sex offenders or homosexual.¹³² Of those who were interviewed, several young people reported experiencing some form of victimisation.¹³³ Importantly, though, none identified themselves as a victim at the time of the interview. This is possibly because the young people interviewed had learned to negotiate and avoid potential aggressors as their custodial experience increased. It is also possible that young people wanted to avoid being seen as a rat¹³⁴ since there was a general imperative against informing on fellow inmates.¹³⁵

It appeared that young people were particularly sensitive to cues about another's relative vulnerability and weakness.¹³⁶ Young people were vigilant and attentive to the behaviour and conversation of others. For example, Tom commented that a boy on his wing never has a shower and everyone just picks on him n'it. Chris provides an example of one of the ways in which a potential victims can be identified by the peer group:

¹³⁰ This assertion is based on observations during the research study. In addition, five young people spoke of similar actions (Nathan, Mark, David, Shane, Tom - fights are common).

¹³¹ KG Power and others, Bullying among Scottish Young Offenders: Inmates' Self Reported Attitudes and Behaviour (1997) 7 *Journal of Community and Applied Social Psychology* 209; R Blaauw and others, Bullying and Suicidal Behaviour in Jails (2001) 28 *Criminal Justice and Behaviour* 279.

¹³² For example, Terror stated that young people took the piss out of him because he had a big head. Similarly, Shane spoke of his experience of being bullied, attributing this to his small size and relative youthfulness.

¹³³ Four young people reported being the subject of victimisation (Joshua, Terror, Shane and Stephen).

¹³⁴ Quote taken from interview with Nathan.

¹³⁵ This was reflected in Nathan, Kyle and John's interviews. Also see Chapter 3, 108.

¹³⁶ Also see Chapter 5, 200-206.

Like there was a lad ...who one of the lad"s was like "ahh sing baa baa black sheep" and he done it and I was thinking nah, I"d never do that. And then he got knocked down ... Come out the phone box and boom, stamping on their head and everything. Because he come on the wing saying, "my dad"s a pervert, my dad"s a pervert" ... that ain"t the sort of thing you wanna do in prison ... Got put down healthcare, think he had a couple of broken ribs, head fucked up.

In this scenario, the *lad*⁶ mentioned indicates his vulnerability by singing nursery rhymes. The more critical mistake was telling other young people that his dad was a *pervert*,⁶ which attracted serious physical reprisals.

It appeared that young people who brought drugs into the prison were targeted for bullying or might simply have such contraband confiscated by another young person.¹³⁷ For example, Nathan explained:

... say for example, I'm here and another trainee goes on a visit and comes back with weed or something, and I tell him you are on my wing, if you are coming through with something then I went half or I'm going to beat you up. That"s not really bullying because he shouldn"t be coming through with that ... so it"s their own fault.

This was perceived to be justifiable due to some belief in the territorial rights of the perpetrator; if another young person was bringing drugs on to *their* wing, they had the right to seize such goods. It is not simply the case, as suggested by Ireland,¹³⁸ that the reason for drug-related bullying is debt collection. Staff appeared to be aware of the relationship

¹³⁷ This was mentioned by Nathan and Shane.

¹³⁸ J Ireland, Distinguishing the perpetrators and victims of bullying behaviour in a prison environment: a study of male and female adult prisoners⁶ (2001) 6 *Legal and Criminological Psychology* 229, 242.

between bullying and contraband. Daniel, an officer, suggested that if staff cannot find the cannabis or tobacco, they will tell the owner to simply dispose of it rather than allow such items to circulate around the wing. This indicates something of the limitations of the system of power to respond to some disciplinary infractions and the tendency of officers to overlook some transgressions to achieve a particular end.¹³⁹

Victims were often labelled as *meeks* (weak), *fraggles* (generally inadequate) or *faggots* (homosexual) and *nonces* (homosexual/sex offenders) or *rats* and *grasses* (informers). Such labels were similar to those reported amongst older inmates.¹⁴⁰ The only exception to this is that *faggles* was not used to denote a mentally ill prisoner, unlike Crewe's research,¹⁴¹ but was used far more widely to indicate contempt. Sometimes these labels were used interchangeably. However, such terms were readily understood by the juvenile population and sent a clear signal that such young people were *fair game*. It appeared that young people were not necessarily concerned with the evidential proof for such labels. For example, John commented:

...it was just there was this one boy, everyone was bullying him, saying he was a nonce, stuff like that, just because he was the weaker one like.

Such labels, then, were a powerful signal to the juvenile population more generally and could exact very real damage. These accounts indicate how such labels served to isolate young people from their peers, removing essential social support.¹⁴² This again indicates something of the inherent communicative and symbolic function of prison victimisation.

¹³⁹ See Chapter 3, 86-88.

¹⁴⁰ O'Donnell and Edgar (n69) 275.

¹⁴¹ Crewe (n71) 250.

¹⁴² O'Donnell and Edgar (n69).

It was largely assumed that a young person would not be bullied or victimised for no reason at all.¹⁴³ For example:

Darren:

Obviously, they wouldn't just come up and do it for no reason ... Obviously they come in and see that they're a bit of a faggot or something.

Shane:

... if they are getting bullied it's for something, they don't bully them for nothing. If they own stuff, they are just going to get bullied all the time.

The suggestion in both accounts is that the victim is somehow to blame for the acts occasioned against them; they are either a certain type of individual (e.g. a *faggot*) or have failed to meet their obligations (e.g. they are in debt to others). This appeared to lead to the belief amongst some young people that victims had contributed in some way to their own victimisation,¹⁴⁴ legitimatising such action.¹⁴⁵ This reinforces the masculine prescript: if you cannot behave like a man you deserve to be bullied.

Young people were expected to *hack it* and simply endure this aspect of prison life.¹⁴⁶ For example, when asked if bullying was common, Nathan remarked:

¹⁴³ This was reflected in the accounts of Shane and Darren.

¹⁴⁴ Crewe made a similar finding in respect of adult prisoners at Wellingborough Prison. See B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) 251. Also see K Edgar and I O'Donnell, 'Assault in Prison: The Victim's Contribution' (1998) 38(4) *British Journal of Criminology* 635 for further analysis on this point.

¹⁴⁵ O'Donnell and Edgar's find similar patterns amongst a cohort of adult and young offenders. See I O'Donnell and K Edgar, 'Fear in Prison' (1999) 79(1) *The Prison Journal* 90, 98.

¹⁴⁶ Also see Chapter 5, 200-201.

Here? Oh yeah. But what they call bullying here, I just call normal, that's just life, you are in prison once again, what did you come prison if you can't hack someone telling you to shut up every now and then. Obviously it gets to your head but that's life n'it.

Such young people justified the victimisation of others by virtue of the fact that *'it's prison'* and such behaviour is a natural and an expected consequence of their imprisonment.¹⁴⁷

The attribution of blame to the victim partially conceals some of the selfish behaviour that actually stimulated such behaviour. John commented, *'If they've got something that someone likes or wants, they get them taken off them do you get me, there ain't nothing they can do about it.'* In this way, victimisation is not actually a failing of the victim but the product of self-interested behaviour. It is also apparent that, by deflecting the responsibility for the victimisation to the victim, young people can *explain* why such incidents occur. As noted in Chapter 5,¹⁴⁸ this may be important in easing their adjustment to the prison environment. Bartollas *et al* suggest that juvenile offenders justify the exploitation of others because they feel that they have been victimised all their lives and, therefore, have the right to victimise others.¹⁴⁹ However, this did not hold true of the accounts of the young people interviewed in this research study. Rather, they attached blame to the victim by suggesting that victimisation was simply a feature of prison life that they should be able to cope with.

Young people who were being victimised could be moved to another residential wing or placed on *'access'*. *'Access'* allowed young people to move around the prison at different

¹⁴⁷ Quote taken from interview with Nathan. This was also mentioned by Tyrone. Also see A Connell and DP Farrington, *'Bullying among incarcerated young offenders: developing an interview schedule and some preliminary results'* (1996) 19 *International Journal of Adolescence* 75.

¹⁴⁸ See Chapter 5, 200-206.

¹⁴⁹ C Bartollas and others, *Juvenile Victimisation: The Institutional Paradox* (Sage 1976) 62.

times to the general population, limiting the perpetrator's access to their victims or potential victims.¹⁵⁰ This, however, appeared counterproductive since it reinforced the vulnerability and weakness of the victim and further entrenched their status as such. Darren, like several other young people,¹⁵¹ commented:

Put the matie who is getting bullied on access but the problem is once you get put on access is the whole jail knows that you are a faggot ... Once you are on access, always with the govs and that, it's not just your wing that can see it, all the wings can see it. When you go to education, all the jail can see yeah you're on access. You know they would boy him off about it.

In a similar way that 'getting tough' sends a message to the wider audiences that he is not to be 'terrorised,' being placed on access sent a message to the general population that the young person was vulnerable. This status could instigate and stimulate further victimisation and illustrates the ineffectiveness of institutional responses. In one exchange, a prison officer joked with a young people about placing them on access.¹⁵² This inadvertently reinforced the belief that being placed on access indicated a lack of masculinity or 'toughness.' It also signalled to young people that access was not perceived to be a legitimate or sought after option.

6.4.4 'I'm not involved'¹⁵³

Several young people spoke of the desire to keep their head down and 'chill out'¹⁵⁴ but the success with which they achieved this varied. This group could be characterised as the 'not

¹⁵⁰ Young people would begin and leave education ten minutes before or after the 'mass move' of the entire population across to the residential units.

¹⁵¹ This was true for four young people (Andray, Kyle, Nathan and Terror).

¹⁵² Fieldwork notes (2008).

¹⁵³ Quote taken from interview with Tyrone.

involved group' or 'independents':¹⁵⁵ prisoners who do not victimise others and are not victimised themselves. In some ways, and in accordance with other research,¹⁵⁶ young people could substantially reduce their risk of violent encounter by simply 'keeping to themselves.'¹⁵⁷ This often meant finding alternative methods to release their frustration, aggression and manage the passage of time. At the time of the interview, the majority of young people appeared to suggest a lack of active involvement in victimisation. It was clear that precautionary behaviour may be transitory and that the 'not involved' group was a relatively fluid one. Even those young people who chose to avoid potentially fractious situations suggested that they would act to defend or protect themselves if necessary.¹⁵⁸

When asked if it was safe inside, Clark replied:

Safe for some of the people. If they've got beef with all different people on different wings, then they are fucked really. I just keep myself to myself, if it comes to it, it comes to it. I ain't basking down for nobody.

Those in the 'not involved group' could quickly choose, or be forced into, the position of perpetrator again. Across their custodial career, far fewer young people had consistently been uninvolved in such activity.¹⁵⁹

Ellis suggests that young inmates may be more aggressive because they see themselves as 'having less to lose by being busted and they see their chance of actually

¹⁵⁴ This was reflected in the accounts given by three young people (Kyle, Tyrone and Clark).

¹⁵⁵ C Bartollas and others, *Juvenile Victimization: The Institutional Paradox* (Sage 1976).

¹⁵⁶ RC McCorkle, 'Personal Precautions to Violence in Prison' (1992) 19(2) *Criminal Justice and Behaviour* 160, 164.

¹⁵⁷ *ibid* 164.

¹⁵⁸ This was also reinforced during Darren's interview.

¹⁵⁹ This was as little as two young people - Ryan and David.

getting busted by custodial staff as pretty low.¹⁶⁰ This did not hold true for all young people in this study. Rather, it appeared that young people who had been incarcerated for a long period of time and were familiar with the prison rules were possibly more likely to be engaged in victimisation indirectly, using others to do their ‘dirty work.’ For example, Mark and Tyrone, both of whom were serving long-term sentences, commented:

Tyrone:

...but if I got a problem with a kid and that, like if he “screwing me and that, before I even get to him, other people have got to him. I don’t even need to say nothing anymore. I’ve got such, that influential figure that as soon as I do, nex [next] kid would tell him, don’t mess with Tyrone, that’s the wrong person ... I like it like that but I don’t want them to be scared of me so that I can’t have any friends.

Mark:

...well if someone was trying to give me trouble and I didn’t want to deal with it myself because I didn’t want to risk my chance of platinum and that, I would just get other people to go in and do it. I mean lynx, shower gel, there’s a lot of things, a lynx shower gel does a lot of things. You give someone a shower gel and they do anything basically.

In both scenarios, Tyrone and Mark were able to avoid directly engaging in acts to defend themselves. However, there are notable differences between the two accounts; Mark buys his protection using the scarce resources available to him whereas Tyrone can rely on his reputation within the prison. The avoidance of direct engagement with the aggressor was

¹⁶⁰ D Ellis and others, ‘Violence in Prisons: A Sociological Analysis’ (1974) 80(1) *American Journal of Sociology* 16, 33.

largely associated with the fact that this would jeopardise their regime status as well as impacting on their hope of getting parole at the earliest opportunity. Having other peers who were active in protecting their interests also allows perpetrators to send a powerful message that they are not alone and that attempting to *‘mess with them’* will also incur victimisation by the peer group as a whole. In some ways, this behaviour allows young people, such as Tyrone and Mark, to engage in precautionary behaviour continuing the possibility of maintaining the *‘right’* prisoner identity (compliant and co-operative) but without tarnishing their reputation, image and status.¹⁶¹

6.5 ‘If you’ve got a reputation’¹⁶²

It is clear from the accounts above that victimising behaviour had meaning beyond simply the imposition of physical injury or material gain. Material gain may be the obvious and direct outcome of victimising behaviour, however, in accordance with previous research,¹⁶³ this was not its sole aim nor was it relevant in all the conflicts and incidents discussed. Edgar and Martin comment: *‘most common types of situations from which violence arose were power struggles (contests of power), punishment beatings and misunderstandings. Other non-material interests, such as respect, fairness, loyalty, or honour also influenced every situation.’*¹⁶⁴ In the context of the YOI, these non-material gains were particularly significant. Taken together, young people offered at least eight possible reasons for engaging in prison victimisation including: punishment; self-defence; retaliation; conflict resolution; resolving boredom and/or releasing tension; material gain; to demonstrate *‘toughness’* and defend honour. This list is broadly similar to findings from earlier research studies.¹⁶⁵

¹⁶¹ Also see McCorkle (n156)170.

¹⁶² Quote taken from interview with John.

¹⁶³ Edgar and Martin (n121).

¹⁶⁴ Edgar and Martin (n121).

¹⁶⁵ Edgar and others (n34); M Butler, *‘What are you looking for? Prisoner Confrontations and the Search for Respect’* (2008) 48 *British Journal of Criminology* 856, 858.

6.5.1 Identity, Reputation and Social Capital

Although it is clear that prison victimisation serves a variety of purposes, the creation or protection of one's identity and reputation is at the heart of the issue in most situations. Adams suggests that perhaps younger inmates tend to resolve conflict in ways that are demonstrably visible and that advertise their toughness and strength.¹⁶⁶ This was clearly evident in the explanation of prison victimisation presented by young people at the YOI. In this context, getting tough had two interlinked purposes: to form and strengthen a no-nonsense reputation and to prevent victimisation and exploitation or reduce its likelihood. This was a clear theme within the young people's narratives. For example, John explained:

It depends what reputation you've got in here really. It's like one of the screws the other day, they got stabbed for giving a dirty look. Like if you've got a reputation like, say one of the boys knows that if they jump up and whack you, you are just going to sit there and take it, then they will jump up and whack you ... it's like whether you choose to take it, or whack them, you hear me, that's show you get your reputation, you either stand up and say something or sit down, put your head down and take it. That's show you get your rep really like.

Standing up for yourself did not necessarily require a physical response,¹⁶⁷ but it did require a response. The failure to stand up to a potential aggressor, even to very minor provocation such as telling someone to shut up,¹⁶⁸ is interpreted as evidence of weakness. It is viewed as a personal failing, justifying the infliction of more verbal abuse or other forms of

¹⁶⁶ K Adams, Adjusting to Prison Life (1992) 16 *Crime and Justice* 275, 302.

¹⁶⁷ See PL Faulkner and WR Faulkner, Effects of Organisational Change on Inmate Status and the Inmate Code of Conduct (1997) 10(1) *Journal of Crime and Justice* 55, 61 for similar comments regarding the inmate code in an American penitentiary.

¹⁶⁸ This was mentioned in the interview with Nathan and David.

victimisation. It is clear that victimising behaviour had a communicative function.¹⁶⁹ A key feature was to send signals to the aggressor, and to the wider audience of inmates, that is target is willing to use violence in defence of self.¹⁷⁰

It was clear that the early period of confinement were crucial for projecting the right image. New arrivals were tested to determine their relative strength and resolve.¹⁷¹ Jason, for example, explained:

Once you let someone talk to you, then they are all going to start. From the first moment, that's what a lot of people don't realise, from the first moment, if they make a mistake then it will stick with them. The first time someone says something, go smack, might escalate from there but after it's all over, it will go back to the same and you'll have a bit of you name, that's how it goes.

It appeared that the failure to respond to these masculinity challenges¹⁷² and character contests¹⁷³ signalled that such young people were easy targets and potential victims. Jason, like others,¹⁷⁴ indicates that it is viewed as a choice: once you let someone talk to you. In this account, victims are perceived as choosing to disengage.¹⁷⁵ The testing of new arrivals provides an initiation ceremony the failure of which generates significant problems for a newcomer's short and long-term adjustment to prison life. In his study of adult prisoners,

¹⁶⁹ Gambetta (n81) 78.

¹⁷⁰ McCorkle (n156) 166. Also see F Brookman and others, 'The "Code of the Street" and the Generation of Street Violence in the UK' (2011) 8(1) *European Journal of Criminology* 17, 22; Edgar and Martin (n121).

¹⁷¹ For similar findings amongst American juvenile prisoners, see C Bartollas, 'Survival Problems of Adolescent Prisoners' in R Johnson and H Toch (eds), *The Pains of Imprisonment* (Sage 1982) 165; C Bartollas and others, *Juvenile Victimization: The Institutional Paradox* (Sage 1976) 54.

¹⁷² Messerschmidt (n77) 298.

¹⁷³ H Toch, 'Hypermasculinities and Prison Violence' in L Bowker (ed), *Masculinities and Crime* (Sage 1998) 174.

¹⁷⁴ This was also mentioned by John and Stephen.

¹⁷⁵ Also see 240-241 above.

McCorkle states that '[u]nless an inmate can convincingly project an image that conveys the potential for violence, he is likely to be dominated and exploited.'¹⁷⁶ McCorkle's comments clearly resonate with the construction of prison victimisation by the young people at the YOI.¹⁷⁷

There was a perception among young people that there were only two available responses in the face of provocation or intimidation; fight or flight. Toch describes this as a 'prevailing myth' within the prison population.¹⁷⁸ Simply ignoring an attempt to 'stick on you,' a young person may find that this is not interpreted as taciturn restraint but as weakness and cowardice. He must demonstrate willingness to fight and, thus, the 'potential for violence is an asset.'¹⁷⁹ Simply 'standing up' to a threat may be sufficient, whether or not one actually has the physical strength and ability to conquer their opponent. Thus, a young person's reputation or perceived capacity for violence may be 'far more important than empirical reality.'¹⁸⁰ What is important is that a young person must actively engage; he cannot afford to withdraw from any potential threats. If a young person can prove that he 'won't back down,' he may be able to avoid identification as a 'mæk' or 'faggie.' It also sorts young people into 'cruder' categories of those who were and were not prepared to defend themselves by physical means.¹⁸¹ The paradox is that the creation of the 'right' reputation often involved the threat, or the actual use of violence, perpetuating the belief that physical violence was a necessary survival tactic.

¹⁷⁶ McCorkle (n156) 161.

¹⁷⁷ Also see similar comments by JJ Gibbs, 'Violence in Prison: its extent, nature and consequences' in R Roberg and V Webb (eds), *Critical Issues in Corrections* (West Publishing 1981) 115 cited in KN Wright, 'The Violent and the Victimised in the Male Prison' (1991) *Journal of Offender Rehabilitation* 1, 4.

¹⁷⁸ H Toch, *Living in Prison: The Ecology of Survival* (Free Press 1977) 158.

¹⁷⁹ D Lockwood, *Prison Sexual Violence* (Elsevier 1980) 33.

¹⁸⁰ Bowker (n4) 32.

¹⁸¹ Crewe (n71) 413.

Being able to respond to a threat sent a message not only to the immediate aggressor but also to the wider audience monitoring a new arrival's response. Failure to rebuff the threat could lead to victimisation not only by the initial aggressor but also from the juvenile peer group as a whole. Once labelled as weak or vulnerable, it could be difficult to recover or alter this view in the mind of others. As Jason stated, *it will stick with them.*¹⁸² This mirrors Clemmer's suggestion that an inmate will tend to rely on his first impression of people and, although he will modify his behaviour if he finds that he was wrong, he will still insist that his initial impression was correct but the *the guy changed.*¹⁸³ Thus, the *first moment,*¹⁸³ when young people are intensely vulnerable and often struggling to come to terms with the realities of their new environment, that they must also effectively negotiate social interactions with their peers.¹⁸³

Attempts to establish one's susceptibility and vulnerability could be very subtle; cues that could be missed by naive young people unfamiliar with institutional norms and behaviour. *Testing* did not necessarily engage physical combat and could simply involve letting someone *talk to* or undermine them. For example, David explained:

They stick on them or something, it's like, say someone's on table tennis and someone like pushes in front and they don't say that and they know that like, they've got that over on them and they know they can do it again. Obviously if they know they can do it again, they will do it again.

Routine activities, such as table tennis, were transformed into attempts to test others and determine their *nerve* and the extent to which they can be exploited. There is also a power

¹⁸² Clemmer (n61) 100.

¹⁸³ Also see Chapter 5, 166-169. Young people may prepare themselves for physical combat but fail to appreciate the very subtle ways in which they are tested.

dynamic at work. If the initial aggressor is successful, they *have that over them and know that they can do it again*¹⁸⁴ and a relationship is formed where the new arrival can be dominated, exploited and bullied.

Newcomers could also be targeted for public forms of intimidation such as the demand to sing nursery rhymes.¹⁸⁵ This had a very public dimension since this would often occur when the entire population was locked in their cells and could hear the *new boy*¹⁸⁶ singing. For the aggressors, this provided a degree of perverse entertainment and served to enhance their sense of power and domination whilst reinforcing the vulnerability of the newcomer. The use of nursery rhymes as a tool to belittle and intimidate another young person is significant in terms of the connotations with childhood and the fact that it imposes a childlike role on the victim, ultimately aborting any attempts to distinguish themselves as *real men* and publicly humiliating them. The effects of this in the early days of confinement are likely to be profound, particularly since some young people were also forced to sing nursery rhymes next to the window with a red pillowcase covering their head.¹⁸⁷

As the saying goes, *talk is cheap* and the tendency to initially test someone verbally rather than physically incurs far less personal risk than physical combat alone but still sends the right signals.¹⁸⁸ Furthermore, it is clear that young people, as far as possible, would select the level of risk posed to self and would only victimise those whom they believed they could defeat. For example, David commented: *Everyone does it but they just do it to people they*

¹⁸⁴ Fieldwork notes (2008).

¹⁸⁵ This was noted by Terror.

¹⁸⁶ Quote taken from interview with Tre.

¹⁸⁷ See Chapter 5, 149-150 and 203-205 for the discussion of the possibility for self-injury and suicide. Also note that bullying featured in Liam McManus' death at Lancaster Farms YOI in November 2007. See Prison Reform Trust and Inquest, *Fatally Flawed: Has the state learned the lessons from the deaths of children and young people in prison?* (Prison Reform Trust and Inquest 2012) 23 <<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Fatally%20Flawed.pdf>> accessed 1st December 2012.

¹⁸⁸ Gambetta (n81) 78.

know that they can do it to. “Young people at the YOI did not exhibit unbridled aggression or a complete disregard for personal safety. The potential consequences of attacking but falling prey to a newcomer may be severe. Very few young people suggested that they would instigate physical violence against anyone although it was suggested that they would always act to defend themselves, *‘even if I’m David and they’re Goliath.’*¹⁸⁹ A new inmate may also be perceived as a potential threat to the existing social hierarchies as well as a potential perpetrator and, therefore, *‘testing’* may be important for existing members of the prison community in guaranteeing continued personal safety and status. Those inmates who had not achieved a high social position or who were targets themselves might also perceive the victimisation of new inmates as a means to bolster their own reputation and social status, as well as mitigating their own deprivations and *‘pains of imprisonment.’*

The need to create a *‘tough’* reputation or *‘front’* appeared to be appreciated differentially amongst the juvenile population. For example, John explained how he tried to force another young person to defend himself:

Like one boy in here let some little idiot say to him, “Oh I’m going to suck your daughters pussy,” like that. I was like, “how do you let him say that.” ... He was like “Oh.” So I got the kid and put him in the shower and I said get in here with him and he was like a little shit ... He’s getting bullied now because he still ain’t done nothing.

John was so concerned with the potential threat posed to the young person that he attempts to force the young person to confront his aggressor. John seemed particularly indignant that the victim was slighted by a *‘little idiot,’* indicating that John believed that this young person’s

¹⁸⁹ Quote taken from interview with Tre.

behaviour could and should have been punished. The fact that John and the victim perceived the threat very differently is perhaps indicative of their prison experience. John had previous institutional experience and had secured his reputation by repeated ‘good order and discipline violations’ at another YOI. This mirrors research by Smith and Wood who found that those who are more immersed in the social hierarchy are more likely to value social status.¹⁹⁰ It is also true that the victim in this scenario may not share John’s view that the particular expression or accomplishment of masculinity in the prison environment should be achieved through this form of tough and violent behaviour.

6.5.2 Constant Surveillance

Once established, a young person’s reputation required constant attention. Like adults, their reputation and masculinity is ‘under constant surveillance and constant threat.’¹⁹¹ Butler argues that ‘prisoners report being aware of others monitoring their behaviour so as to judge how able and/or willing they are to defend themselves.’¹⁹² Like the initial testing of newcomers, subsequent attempts to test young people could also be subtle. The majority of young people spoke of the fact that fights were initiated by minor triggers.¹⁹³ Such slights were keenly felt, even if they may seem trivial when viewed in isolation. It is the ‘not the slur but the failure to expunge it by physical combat that destroys one’s manhood, which is the core of his identity, and makes him contemptible.’¹⁹⁴ Minor comments or provocation could

¹⁹⁰ CR South and J Wood, ‘Bullying in Prisons: The importance of Perceived Social Status, Prisonisation and Moral Disengagement’ (2006) 32 *Aggressive Behaviour* 490.

¹⁹¹ J Sim, ‘Tougher than the rest?: Men in prison’ in T Newburn and EA Stanko (eds), *Just Boys Doing Business: Men, Masculinities and Crime* (Routledge 1994) 107.

¹⁹² M Butler, ‘What are you looking for? Prisoner Confrontations and the Search for Respect’ (2008) 48 *British Journal of Criminology* 856, 856-866.

¹⁹³ Young people indicated that these minor triggers included: stepping on someone’s trainers (Ryan); arguing over a pen (David); someone laughing at them (David); pushing in line for the telephone (Stephen); shouting whilst others are trying to sleep (Kyle); and, looking at someone the wrong way (Chris).

¹⁹⁴ AK Cohen, ‘Prison Violence: A Sociological Perspective’ in AK Cohen and others (eds), *Prison Violence* (Lexington Books 1976) 11.

not go unanswered and could quickly progress to physical violence. For example, Chris commented:

If they say [give me a burn], you just turn around and say what the fuck are you on about, like just stand up them and if they say lets fight it out, you fight it out, if you get knocked out, you get knocked out, defended yourself.

In this example, having a fight was perceived to be a natural way to resolve the verbal exchange. Chris acknowledges that there is a risk that he may be *knocked out* but indicates that the intention to act in defence of self is more important. A request or demand to *fight it out* could not go unanswered without further consequences for social capital and those non-material interests vested in the exchange.

During the interview process, young people also highlighted a phenomenon known as *boying off* or *mugging off*.¹⁹⁵ This referred to the public embarrassment and humiliation caused by slights, verbal abuse or slurs. For example, Ryan commented:

I would say mostly comments, things that have happened, people taking the mick, stupid things, I've seen people fight over stupid things like someone just stepping on their trainers, blatantly someone saying sorry for stepping on their trainers, that would cause a fight, bringing up the past, trying to mug someone off. Anything like that will bring it out, anything, minor things, minor.

This form of victimisation appears, at first glance, to be relatively minor with very little real physical harm attached. However, it seemed to be viewed as particularly significant because

¹⁹⁵ So called by Risze and Ryan, This was also mentioned by David.

it represented an affront to the reputation of the victim and because it involved embarrassment in front of their peers. It serves to both undermine the masculine credentials of the victim whilst bolstering those of the aggressor. The significance of *boying off* and the public attempts to undermine a young person is the damage that this could do to one's reputation and the diminution of his status as a *real man* to that of a *boy*.

Such attempts to *mug someone off* may require a physically violent response. To Aaron, it was interpreted as a *violation* that could not go unanswered. He explained:

Aaron:

The boy had tried to violate one of my other friends n'it, and I punched him in his face yeah and he tried to come to me n'it and so then I took my stuff off and went to him, started punching him, kicking him, both fighting and then I picked up a pool ball, flinged it at his head and it bounced off his head and bear blood just starting spilling out.

Interviewer:

So when you said that he tried to violate your mate, what do you mean by violate?

Aaron:

Like obviously like the pool game yeah, we were playing pool and he was left and the gov was like he's next and he was like no I'm next, do you get me, and obviously that's a violation, do you get me because he has to wait ,til the end n'it before.

What might appear to be a relatively benign incident to an outside observer is, to the young person concerned, serious enough to justify physical violence. It is the *interpretation* of the

incident that matters.¹⁹⁶ Young people felt they were required to respond to any attempt to *violate* their status and reputation.

6.5.3 „You Know I’m Frontin’”

Although it is true that young people may arrive already socialised and orientated to particular views of manhood and victimisation,¹⁹⁷ it is also true that *it is...difficult just to be yourself*” in prison.¹⁹⁸ Therefore, whilst prisoners, including young people, may attempt to reconstruct fragments of their pre-prison identity, they may seek to present a *front* or *mask* which they want others to accept, one that they consider will ensure their survival. As recognised by Jewkes,¹⁹⁹ it may be impossible to sustain the conscious presentation of a front for prolonged periods and, therefore, such compromises might simply be a pragmatic response to the intense pressure of maintaining the facade. The crucial importance of a masculine identity meant that young people were often tempted to make compromises if they wanted to answer a threat but without risking personal safety. For example, Terror remarked:

Do you know what they should do in this jail? Sell more rosary beads. In this jail yeah, you only get one set of rosary beads so people that want five sets, go round bullying people for theirs and then they don’t get none. So basically you’re going to guaranteed to not have a pair of rosary beads by the time you go. I’ve got mine. They rein my cell.

Although Terror appeared to be proud of the fact that he retained his own rosary beads, to some extent, this is a feigned image of *toughness* since he did not display his rosary beads

¹⁹⁶ Edgar and Martin (n121); K Edgar, *Cultural Roots of Violence in England’s Prisons: An Exploration of Inter-Prisoner Conflict* in JM Byrne and others (eds), *The Culture of Prison Violence* (Pearson 2008).

¹⁹⁷ See below 259-262.

¹⁹⁸ M Bosworth, *Engendering Resistance: Agency and Power in Women’s Prison* (Ashgate 1999) 113.

¹⁹⁹ Jewkes (n107) 53.

in situations where they could be taken from him. It indicates something of the imperfect accomplishments of ‘toughness’ and the compromises made by young people attempting to manage the need to be ‘real men’ when faced with the reality of their weakness and vulnerability. Terror’s wing file indicated that he had disclosed being a victim of bullying and had engaged in ‘bizarre behaviour’ such as holding blood in his mouth.²⁰⁰ In this context, his choice of the pseudonym ‘Terror’ appears almost ironic.

Young people also appeared to rely on peer support and spoke of the importance of having someone who ‘*had their back*’.²⁰¹ For example, David commented:

I wouldn't say I could trust anyone in here but people are like, I think that they would back me if I got in a fight, I would back them, they would back me ... if your haven't got people backing you ... then you will probably get rushed, like jumped on by three, four people.

Those young people who believed that they did not have the requisite strength or fortitude to overcome potential aggressors would seek to rely on convenient alliances forged either in the community or upon arrival into custody. Some young people did not wish to fight without knowing that they would have peer support.²⁰² As noted by Earle in his study of young adult offenders, the phrase ‘*my boys*’ is used to describe a ‘loose, but close and relative significant collectivity of male friends and associates.’²⁰³ The availability of peer support serves to temper any feelings of cowardice, feelings that would be perceived both internally and externally as an indication of weakness. There was a real sense that there was ‘safety in

²⁰⁰ Fieldwork notes (2008).

²⁰¹ This was mentioned by eight young people (Mark, Stephen, John, Chris, David, Ryan, Andray and Kyle).

²⁰² This was specifically mentioned by Darren, David and Chris.

²⁰³ R Earle, ‘Boys’ Zone Stories: Perspectives from a Young Men’s Prison’ (2011) 11(2) *Criminology and Criminal Justice* 129, 136.

numbers.‘ This was partly precipitated by the fear that there were gangs within the prison and this appeared to intensify fear but also the nature of the confrontation.²⁰⁴

Paradoxically, the protective function offered by group membership also increases the risk that they will engage in more altercations to protect the group or individuals within it. This was clearly demonstrated by Aaron’s attempt to protect his friends against perceived _violations.²⁰⁵ The group dimension was such that one of his friends had given him a knife with the intention that Aaron would stab the opponent. This corresponds with research examining the protective function of gang membership amongst young people on the streets.²⁰⁶ Gang membership may simply reduce the fear of violence rather than preventing its actual experience. Moreover, it did not appear that there was a similar level of gang penetration to that described by Wacquant in his study of American prisons.²⁰⁷ Gang members were present in the YOI evaluated and young people often connected with each other on the basis of territorial or geographical loyalties. However, it was unclear just how entrenched such gang activity was and the extent to which they such peer group alliances could be defined as _gangs‘ or simply convenient but transitory formations.

It was a commonly held belief that minor and serious fights were more likely to occur in certain areas and that those perpetrating incidents could, to some degree, select the level of risk posed.²⁰⁸ It was well known that certain locations, such as the showers, offered the possibility of a serious altercation and permitted the resolution of conflict or the settling of

²⁰⁴ The presence of gangs within the YOI was mentioned by John, Ryan and Shane. The prevalence of gangs was also mentioned by four members of staff: Stanley (PCO), Daniel (SCM), Stuart (SCM), Danny (SCM). It also reflects a concern across the juvenile secure estate as a whole. Her Majesty’s Chief Inspector of Prisons, *HM Chief Inspector for England and Wales: Annual Report 2011-12* (Stationery Office 2012) 74.

²⁰⁵ See 254-255 above.

²⁰⁶ C Melde and TJ Taylor, ‘_I got your back’: An examination of the protective function of gang membership in adolescence‘ (2009) 47(2) *Criminology* 565.

²⁰⁷ L Wacquant, ‘_Deadly Symbiosis: When Ghetto and Prison Meet and Mesh‘ (2001) 3(1) *Punishment and Society* 95. See Chapter 3, 111 for further discussion on this point.

²⁰⁸ This was mentioned by four young people (John, Tre, Rische, Scott).

differences without staff intervention.²⁰⁹ Conversely, other locations within the prison, such as *‘mass move’*²¹⁰ and education, were seen as ideal times to assault or fight where staff intervention was likely to be swift and the incident short-lived. On such occasions, young people were able to *‘save face’* but without the risk of significant harm: *‘you can scrap them and be safe.’*²¹¹ It was also a very public display of physical aggression and would be witnessed by a vast proportion of the prison population. Therefore, once the fight was broken up *‘the primacy purpose was often already served.’*²¹² This distinction between *‘proper’* fights and *‘little’* fights is indicative of the compromises made by young people seeking to maintain a tough image whilst limiting the risk of personal injury or mitigating further damage to their reputation.

Some young people may completely withdraw because they cannot, or do not want to, engage and actively participate in the prison social world.²¹³ For such young people, it may be that, as Jewkes argues, the projection of a *‘false identity’* is beyond their impression management skills and they instead, result to the backstage, private self.²¹⁴ They simply *‘tune out.’*²¹⁵ However, this may have significant drawbacks, particularly if a young person feels that they must seek the isolation, protection and solitude of the segregation block as a result. Toch argues that *‘protective custody is an escape hatch with a boomerang. It can be a sanctuary from which there is not return, a short term solution at the cost of long range social*

²⁰⁹ Showers were located at the end of the first floor landing and therefore, such activity may go undetected by staff or there may be some delay before intervention became available. This was particularly mentioned by five young people (Mark, John, Joshua, Darren and Ollie).

²¹⁰ The phrase *‘mass move’* was used to describe the movement of entire house blocks from the residential units to the education block at key points in the day.

²¹¹ Quote taken from interview with Rische.

²¹² Crewe (n71) 431.

²¹³ For example, one young person was placed in segregation because he was thought to be a *‘racist’* and was surrounded by 50 young people whilst exercising in the *‘yard’* who threatened to *‘batter’* him. See fieldwork notes (2008). This was also mentioned by Chris during his interview.

²¹⁴ Y Jewkes, *Captive Audience: Media, Masculinity and Power in Prisons* (Willan 2002) 135.

²¹⁵ Jewkes (n107) 56.

consequences.²¹⁶ Other forms of passive precautionary behaviour include avoiding certain prison locations, spending time in their cell, keeping to themselves and avoiding certain activities.²¹⁷ However, avoidance behaviour may be a risky activity in and of itself. It could instigate the very behaviour that the inmate is attempting to avoid by signalling by distinguishing the young people and leading to the belief that *“there’s something wrong with [them]”*.²¹⁸

In Chapter 3,²¹⁹ it was suggested that the academic debate regarding the origins of the inmate counterculture has reached something of a *“stalemate”*,²²⁰ with scholars divided between the integration model, the deprivation model or a combination of the two. This is no less true for explanations of prison victimisation.²²¹ The application of the importation, deprivation and integration models was not specifically examined; however, its relevance to incidence of violence clearly emerged from the narratives. It was apparent that there was a clear tension between the *“road mentality”* (imported factors) and the *“prison code”* (institutional factors). It may be that the relevance of particular models is relatively subjective and will vary between individuals.

It was clear that a significant proportion of young people reported prior experience of violence.²²² This ranged from fights and assaults amongst friends or rival groups of peers to witnessing the murder, rape or abuse of family members and peers. For example, Tyrone commented,

²¹⁶ Toch (n180) 211.

²¹⁷ McCorkle (n156) 166.

²¹⁸ Quote taken from interview with Tre. Also see McCorkle (n136).

²¹⁹ See Chapter 3, 91.

²²⁰ Adams (n166)280.

²²¹ For example, to Toch, prison violence may simply represent the interaction between violence prone inmates and environmental stimuli. See H Toch, *‘Social Climate and Prison Violence’* (1978) 42 *Federal Probation* 21.

²²² This was true for nearly all of the young people interviewed (including Tyrone, Darren, Jason, Terror, Tre, Nathan, Clark, Mark, David, Stephen, Rische, Andray, Aaron, John, Shane, Tom and Chris).

I see my dad die right in front of me, got beaten to death... I seen what happened to my Dad and I didn't want that the same thing to happen to me so I started using violence against other people.

This early experience may have a significant role in desensitising young people to the incidence of violence. Such aggressive role models or the experience of sexual abuse may generate particular depictions of manhood that socialise young people to sexually deviant behaviours or ultra-masculine identities.²²³ Even in the absence of such early experiences of victimisation, a significant proportion of young people were incarcerated for violent offences. For example, 52% of those young people who completed a questionnaire were remanded for, or convicted of, a violent offence. Andray, who identified himself as a gang member and who was serving a long-term sentence for grievous bodily harm with intent, admitted that he had bullied others and identified himself as a violent person:

I would say that I'm a violent person from road, when there's violent people, I get along with them ... My dad always told me to fight with your fists and stuff and so, that's what I do.

That said, not all young people were prone to violence in the prison environment simply because they had committed acts of violence *on the road*.²²⁴ Indeed, one young person who was convicted of wounding with intent requested protective custody because he could not cope with life on the wing.²²⁴ This perhaps is indicative of the way in which serious sexual

²²³ Messerschmidt (n77).

²²⁴ Fieldwork notes (2008).

and violent offending may indicate intense vulnerability which, in the custodial environment, may cripple the ability to cope and adjust.²²⁵

For some young people,²²⁶ the *‘road mentality’* reinforced the belief that establishing one’s social position and reputation justified any violent action. For example, Risze reported:

From a young age, everyone wants to create a pecking order ramped. It’s like if you are not in that pecking order, then you are victimised. So sometimes, whether you like it or not, you end up victimising other people, whether you feel that you are right or wrong. It doesn’t mean that you are a bully it just means that because you are in that pecking order, you are seen as one as well.

Thus, some young people arrived in the prison with experiences that suggested that their reputation was important and could only be established through physical and verbal aggression. This indicates the importance of the *‘code of the street’* in informing or encouraging prison victimisation within the prison. Anderson argues, *‘In the inner-city environment respect on the street may be viewed as a form of social capital that is very valuable, especially when other forms of capital have been denied or are unavailable.’*²²⁷ It is clear that there is a substantial degree of similarity between the *‘code of the street’* and behaviour within the YOI. These similarities may be an inevitable result of the fervent attempts to express and embody ultra-masculine ideals. The importance of *‘respect’* may be derived from the sense of powerlessness, the desire to mitigate the *‘pains of imprisonment’*

²²⁵ See G Boswell, *Young and Dangerous: The backgrounds and careers of section 35 offenders* (Aldershot 1996) and G Boswell, *‘The Backgrounds of Violent Young Offenders’* in V Varma (ed.), *Violence in Children and Adolescents* (Jessica Kingsley Publishers 1997) for a discussion of the links between serious sexual and violent offending and the experiences of loss, trauma and abuse during childhood.

²²⁶ This was true for six young people (Tyrone, Risze, Tre, Mark, Aaron and John).

²²⁷ E Anderson, *Code of the Street: Decency, Violence and the Moral Life of the Inner City* (Norton 1999) 66.

and deflect the imposed ‘criminal’/‘prisoner’ identity. It might be questioned whether Anderson’s ‘code of the street’ is seen as a cause of behaviour but a justification/account of behaviour.²²⁸ In some ways, the need for ‘respect’ may provide fertile ground to rationalise and justify victimising behaviour; it may constitute a ‘technique of neutralisation.’²²⁹

Although the prison culture may mirror or have its roots in the ‘code of the street,’ the prison environment also seemed to foster new ways of victimising others or simply accelerated the extent to which victimisation was used to gain social or material capital. Familiarity with the prison environment generated a working knowledge of ‘acceptable’ means of exploiting others and, as previously stated,²³⁰ such activity was justified by virtue of the fact that *‘it’s prison.’* For example, Jason was bullied in the early days of his confinement. However, when he moved to another YOI, Jason was able to respond to those who attempted to threaten him and had learned that he must directly confront such aggression. Learning to respond to threats in such a way so as to avoid victimisation was an adaptation response. Therefore, although Connell and Farrington found that young people who transferred between residential facilities may find that their reputation as a bully or a victim may be carried with them,²³¹ as indicated here and illustrated by Toch, young people can ‘prevent new victimisation by simulating the stigmata of manliness they observe amongst other inmates around them.’²³² Jason not only learned how to avoid victimisation, he learned how to become an aggressor if he so wished. He added: *‘I’m not a horrible person but you got to teach them the way that I got taught.’*

²²⁸ F Brookman and others ‘The “Code of the Street” and the Generation of Street Violence in the UK’ (2011) 8(1) *European Journal of Criminology* 17, 28.

²²⁹ GM Sykes and D Matza, ‘Techniques of Neutralization: A Theory of Delinquency’ (1957) 22(6) *American Sociological Review* 664.

²³⁰ See 240-241 above.

²³¹ A Connell and DP Farrington, ‘Bullying among incarcerated young offenders: developing an interview schedule and some preliminary results’ (1996) 19 *Journal of Adolescence* 75, 83.

²³² H Toch, *Living in Prison: The Ecology of Survival* (Free Press 1977) 154.

6.6 ‘I feel safe anywhere’²³³ v. ‘You’ve got to watch your back:’²³⁴ Perceptions of Fear and Safety

The frequency with which physical assault, threats and verbal abuse occur might lead to the assumption that prisoners live in the constant fear of others. However, a significant proportion of the prison population do not perceive the prison environment to be perpetually unsafe and dangerous. For example, McCorkle, like others,²³⁵ found that only small proportion of inmates (14%) considered prison very unsafe, despite the fact that a significant proportion of his sample reported being victimised.²³⁶ This would, as McCorkle suggests, appear remarkable.²³⁷ Bottoms identifies this apparent contradiction as the Safety Paradox.²³⁸ This safety paradox was also identifiable within the narratives and questionnaire data of young people at the YOI where the fieldwork was conducted. The questionnaire data revealed that over 50% reported that they never feel unsafe whilst 34% sometimes felt unsafe, 6% reported that they often felt unsafe and 4% reported that they felt unsafe all the time.²³⁹

6.6.1 ‘I feel safe anywhere’²⁴⁰

Several possible reasons were offered by young people for the apparent safety paradox. First, some young people who were confident in their ability to defend themselves or their fighting prowess believed that, if necessary, they could take care of themselves.²⁴¹ For

²³³ Quote taken from interview with Chris.

²³⁴ Quote taken from interview with Tyrone.

²³⁵ BJ McGurk and others, *Sexual Victimisation among 15 – 17 year old offenders in prison* (RDS Occasional Paper 65) (Home Office 2000) 13; K Edgar and others (n34) 86.

²³⁶ R McCorkle, Living on the edge: fear in a maximum security prison (1993) 20 *International Journal of Offender Rehabilitation* 73, 82-83.

²³⁷ *ibid* 82.

²³⁸ AE Bottoms, Interpersonal Violence and Social Order in Prisons (1999) 26 *Crime and Justice* 205, 269.

²³⁹ This is broadly comparable with research completed by Her Majesty’s Inspectorate of Prisons and the Youth Justice Board which found that 30% of young people felt unsafe. See A Summerfield, *Children and Young People in Custody 2010 – 2011* (Her Majesty’s Inspectorate of Prisons 2011).

²⁴⁰ Quote taken from interview with Chris.

²⁴¹ This was true for Mark, Chris and Andray.

example, Chris commented: *I feel safe anywhere, I've got two fists, that's all I need. Nah but in here people do get quite, quite banged up.*²⁴² The emphasis was on using your *two fists*²⁴³ rather than resorting to the use of weapons. Such young person believed that they could protect themselves from both planned and spontaneous incidents. Second, some young people suggested that staff supervision and surveillance significantly reduced the risk of sustaining serious physical harm.²⁴³ Edgar *et al* also found that some prisoners were confident that staff would come to their rescue; a view which was more common among young offenders in their study.²⁴⁴ Confidence in their own popularity or perceived social status also accounted for low levels of fear. Whilst stating that it was the *most unsafest prison*,²⁴⁵ Nathan subsequently stated that he did not feel vulnerable because:

...I'm a bit, what you would kind of call popular here so I don't need to worry, most of the others are scared anyway.

The implication here is that others around Nathan are scared so they would not present a threat to him. Some young people were simply accustomed to the use of violence and believed they knew how to handle themselves and could respond to most acts, albeit not serious surprise acts.²⁴⁵

6.6.2 'You have to watch your back'²⁴⁶

Despite the fact that the majority of young people did feel safe, it cannot be ignored that a significant number of young people still did not feel safe.²⁴⁷ Young people reported that

²⁴² This appears to tie in with Messerschmidt's point that teenage boys accomplish agency through the physical

²⁴³ This was true for four young people (John, Tre, Rize and Scott).

²⁴⁴ Edgar and others (n34). Also see I O'Donnell and K Edgar, 'Fear in Prison' (1999) 79(1) *The Prison Journal* 90, 98.

²⁴⁵ This was true for Jason, Tyrone and Darren.

²⁴⁶ Quote taken from interview with Tyrone.

vigilance was continually required and they could never let their guard down.²⁴⁸ Kyle, for example, explained:

It's just like if I have an argument with someone at the pool table ... I would be aware n'tit. I would keep my eyes on them, I wouldn't turn my back to them just in case they try to hit me with [a pool cue].

In this scenario, Kyle notes that if you have an argument then you have to remain aware and alert. There was a sense that anything could happen²⁴⁹ and this seemed to perpetuate feelings of fear. These feelings were exacerbated by the belief that staff in such situations, could do little to intervene, prevent or stop an incident occurring. There is a discrepancy between those minor fights which young people engage in to save face but also to benefit from staff intervention and those serious acts of violence which staff may do little to prevent.²⁵⁰ Close confinement and the lack of personal space may produce a sense that continually being watched.²⁵¹

It was a commonly held belief that serious acts of physical violence could occur for no good reason.²⁵² When asked if he felt safe, Ryan replied

No. I've seen some people have serious injuries n'tit. Like the other day, some boy got punched in his face, his head hit the wall, and then his head smacked the floor and he just started having a fit ... people getting hit, getting hit over the head with a kettle.

²⁴⁷ See 263 above.

²⁴⁸ This was a consistent theme of all the young people's interviews.

²⁴⁹ Quote taken from interview with Ryan.

²⁵⁰ Also see, in the context of adult prisons, Toch (n178) 153.

²⁵¹ See Chapter 3, 91 for a discussion of the breakdown of public and private space in the prison environment.

²⁵² Quote taken from interview with Chris.

Things like that govs can't stop, it happens in a couple of seconds and the govs can't stop that so anything can happen ... „Cause anyone can make a weapon out of anything ... Govs can't stop you from stabbing someone, that can happen if five seconds, they can't stop that.

The speed at which incidents erupt appeared to be beyond the ability of staff to control or prevent. Ryan emphasises that *‘anyone can make a weapon’* suggesting that no one person can be viewed as an ally and staff are relatively powerless to prevent or stop some assaults. The belief that the environment is dangerous is important because it *‘colours the reading of specific encounters, it becomes a self-fulfilling prophecy.’*²⁵³ Although young people may revise their pre-prison imagery,²⁵⁴ the possibility for unexplained, random acts may remain a perpetual concern.²⁵⁵

It was clear that those who were known to victimise others or who had achieved a degree of notoriety were not alleviated of concerns for their own safety. For example, Tyrone, whose history was such that young people appeared unlikely to try and victimise him, still reported:

Sometimes, obviously it's prison so you have to watch your back 24-7 you don't know what next man are thinking off, thinking of doing. So it gets you more aware, alert. Sometimes you get paranoid too because you just see a shadow walking behind you and you think, who the hell is that. You look back all the time. It's all the same. I remember some kids have only got eight months to do so they've got nothing to lose,

²⁵³ Edgar and Martin (n121).

²⁵⁴ See Chapter 5, 152-154.

²⁵⁵ Also see Jones and Schmid (n75) 28.

*or four months or a year and they are out so they just be bad as much as they can.
You just have to be alert.*

Tyrone indicates that the constant need to maintain a state of alert, unsurprisingly, leads to a paranoid state of mind and an overactive imagination that threats lurk closely all the time. There is an implied belief that young people with short-term sentences will be less constrained and so with *‘nothing to lose,’* will attempt anything. This view was reinforced by others.²⁵⁶ No one person claimed complete and unequivocal immunity from victimisation.

6.7 Conclusion

Victimisation was part of the everyday fabric of prison life at the YOI. Certain aspects of victimisation, such as physical violence and verbal abuse, occurred frequently. In this respect, the difference between adult prisons and YOIs is one of degree. Like adult and young adult prisoners, juveniles engage in physical violence and verbal abuse but it appears that they may do so to a far greater extent. Cell theft or sexual violence was rarely reported, marking another difference with adult prisons. Rather loose and disparate concepts of bullying emerged. It was clear that there was a significant degree of overlap between bullying and other acts of victimisation, which were, in some instances, a precursor to bullying. However, as noted by Edgar *et al*,²⁵⁷ much victimisation was unrelated to bullying. Thus, the institutional imperative to identify *‘bullies’* overlooks the impact of other forms of victimisation on young people’s experience of custodial life.²⁵⁸ Moreover, it is clear that groups of *‘victims,’* *‘perpetrators,’* *‘victim-perpetrators’* and *‘independents’* were not

²⁵⁶ This is true for Mark, Tyrone, Tre and, Ryan.

²⁵⁷ Edgar and others (n34) 23.

²⁵⁸ Similarly, Edgar suggests that if staff could focus on reducing prison victimisation and confronting harmful behaviour, prisons can be effective in reducing bullying but that focuses specifically on bullying does not in turn reduce harmful behaviour. See Edgar (n28) 398-399.

necessarily rigid, discreet categories but represented a continuum of behaviour in which young people might shift between categories.²⁵⁹

The routinisation of prison victimisation shapes the dynamics of social intercourse in very subtle and intangible ways.²⁶⁰ Despite the fact that certain aspects of prison victimisation were largely ‘taken for granted’ by the young people themselves, the deprivation of security²⁶¹ remained an underlying concern. The incidence of serious physical violence only served to increase levels of anxiety, reinforcing the hostile nature of the prison environment and the need to maintain a constant vigil. Young people were not only expected to ‘do their time’, as discussed in Chapter 5,²⁶² but also to negotiate the threat posed by others. A proportion of young people will engage in victimisation to secure access to limited range of available resources or contraband such as drugs and tobacco. In this way, they were able to mitigate other ‘pains of imprisonment.’ Chapter 7 expands this theme further still, detailing how the relationship between staff and prisoners and the ‘tightness of imprisonment’ serve to produce additional ‘pains of imprisonment’.

Young people at the YOI defined personal ‘threat’ and ‘harm’ broadly. Threats to self did not merely pertain to physical risks, but also constituted attempts to threaten their status and reputation. Achieving successful adjustment to custodial life required the acquisition of a ‘tough’ reputation, established through an advertised capacity and willingness for physical violence. Failure to expunge potential threats, however subtle, justified, in the minds of their peers, further acts of victimisation. Young people were expected to ‘hack jail,’ reinforcing

²⁵⁹ See also J Ireland, ‘Distinguishing the perpetrators and victims of bullying behaviour in a prison environment: a study of male and female adult prisoners’ (2001) 6 *Legal and Criminological Psychology* 229; A Connell and DP Farrington, ‘The reliability and validity of resident, staff and peer reports of bullying in young offender institutions’ (1997) 3(4) *Psychology, Crime & Law* 287.

²⁶⁰ O’Donnell and Edgar (n69) 277.

²⁶¹ See Chapter 3, 101-102.

²⁶² See Chapter 5, 183-187.

the conclusions presented in Chapter 5,²⁶³ and, therefore, a young person's failure to engage was perceived to justify further victimisation. There is a stark similarity between the behaviour of child prisoners and the 'hypermasculine' contests evidenced in adult prisons.²⁶⁴ The presentation of a 'tough' image contrasts sharply with the sense of fragility in Chapter 5.²⁶⁵ It again illustrates the difference between the public and private transcript, a theme which is developed further in the context of compliance with penal power in Chapter 7.²⁶⁶ Moreover, the centrality of 'respect' in the prison environment is also developed in Chapter 7 in the context of staff-prisoner relationships.²⁶⁷

²⁶³ See Chapter 5, 200-206.

²⁶⁴ See Chapter 3, 93-94.

²⁶⁵ See Chapter 5, 200-206.

²⁶⁶ See Chapter 7, 321-332.

²⁶⁷ See Chapter 7, 283-286.

CHAPTER 7

‘WE’RE CRIMINALS WEARING GREEN ... THEY’VE GOT A SET OF KEYS:’¹ POWER, ORDER AND CONTROL IN A YOI

7.1 Introduction

In April 1990, the prison system was ‘locked’² by the most serious prison disturbances in the history of the British penal system.³ The 25 day siege of HMP Strangeways⁴ sparked riots in 20 other institutions, most notably HMP Cardiff, HMP Bristol, HMP Dartmoor, HMP Pucklechurch and HM YOI Glen Parva.⁵ The subsequent Woolf Inquiry reported that these disturbances were not symptomatic of localised problems but reflected a series of serious underlying difficulties characterising the prison system as a whole.⁶ Woolf concluded that the riots occurred because three central elements - security, control, and justice - were not ‘at the right level or held in balance.’⁷ Central to his analysis was the recognition that the prison must discharge its custodial tasks (security) and maintain prison social order (control) whilst also achieving the ‘necessary standards of justice,’ a concept which loosely referred to ‘humanity’ and ‘fairness.’⁸ To Woolf, each element was dependent on the other.⁹

¹ Quote taken from interview with Darren.

² JR Sparks and AE Bottoms, ‘Legitimacy and Order in Prisons’ (1995) 46(1) *British Journal of Sociology* 45, 45

³ Home Office, *Prison Disturbances April 1990: Report of an Inquiry by the Rt. Hon. Lord Justice Woolf and His Honour Judge Stephen Tumin* Cm1456 (The Woolf Report) (HMSO 1991) 1.

⁴ HMP Strangeways was rebuilt following the riots and renamed HMP Manchester.

⁵ Home Office (n3) 1; A James and K Bottomley, ‘Prison Privatisation and the Remand Population: Principle versus Pragmatism?’ (1998) 37(3) *Howard Journal of Criminal Justice* 223, 230; E Carrabine, *Power, Discourse and Resistance: A Genealogy of the Strangeways Prison Riot* (Ashgate 2004) 1.

⁶ Home Office (n3)16.

⁷ Home Office (n3)17. Also see Chapter 3, 88-91

⁸ Home Office (n3)17.

⁹ Home Office (n3)17.

The Government responded by producing the White Paper, *Custody, Care and Justice*,¹⁰ distorting Woolf's notion of justice and replacing it with the concept of 'care'.¹¹ Officers misunderstood what was required and essentially took a 'back seat'; prisons underwent a 'crisis of authority'¹² leading to an increase in prison violence and drug misuse.¹³ The move towards liberal regimes quickly came to an end following high profile escapes from two maximum security prisons, Whitemoor Special Security Unit and HMP Parkhurst, in 1994 and 1995.¹⁴ The Learmont report concluded that the escapes from Parkhurst Prison revealed a 'chapter of errors at every level and a naivety that defies belief'.¹⁵ This, combined with the punitive shift in penal policy¹⁶ and concerns about increasing prison disorder, led to a 'backlash' against the recommendations of the Woolf report and 'one of the most dramatic transformations of the inner life of prisons witnessed to date'.¹⁷ Prison security

¹⁰ Home Office, *Custody, Care and Justice: The Way Ahead for the Prison Service in England and Wales* Cm 1647 (HMSO 1991).

¹¹ A Liebling, *Prisons and their Moral Performance: A Study of the Values, Quality and Prison Life* (Clarendon Press 2004) 14; A Liebling, 'Incentives and Earned Privileges Revisited: Fairness, Discretion and the Quality of Prison Life' (2008) 9(1) *Journal of Scandinavian Studies in Criminology and Crime Prevention* 25, 27.

¹² A Liebling, *Prisons and their Moral Performance: A Study of the Values, Quality and Prison Life* (Clarendon Press 2004) 12.

¹³ *ibid* 14; R Morgan and A Liebling, 'Imprisonment: An Expanding Scene,' in M Maguire, R Morgan and R Reiner (eds), *Oxford Handbook of Criminology* (4th Edn, Oxford University Press 2007) 1103; A Liebling, 'Incentives and Earned Privileges Revisited: Fairness, Discretion and the Quality of Prison Life' (2008) 9(1) *Journal of Scandinavian Studies in Criminology and Crime Prevention* 25, 28; B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison*, (Clarendon Press 2009) 21.

¹⁴ A James and K Bottomley, 'Prison Privatisation and the Remand Population: Principle versus Pragmatism?' (1998) 37(3) *Howard Journal of Criminal Justice* 223, 230; A Liebling, 'Prison Officers, Policing and the Use of Discretion' (2000) 4(3) *Theoretical Criminology* 333, 348. See Home Office, *Report of an Enquiry into the Escape of Six Prisoners from the Special Security Unit at Whitemoor Prison* Cm 2741 (The Woodcock Report) (HMSO 1994); Home Office, *Review of Prison Service Security Systems in England and Wales and the escape from Parkhurst Prison on Tuesday 3rd January 1995* Cm 3020 (The Learmont Report) (HMSO 1995).

¹⁵ Home Office, *Review of Prison Service Security Systems in England and Wales and the escape from Parkhurst Prison on Tuesday 3rd January 1995* Cm 3020 (The Learmont Report) (HMSO 1995) 72.

¹⁶ M Feely and J Simon, 'The New Penology: Notes on the Emerging Strategy of Corrections and its Implications' (1992) 30(4) *Criminology* 449; T Caplow and J Simon, 'Understanding Prison Policy and Trends' in M Tonry and J Petersilia (eds) *Prisons* (University of Chicago Press 1999); P O'Malley, 'Volatile and Contradictory Punishment' (1999) 3(2) *Theoretical Criminology* 175; D Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Oxford University Press 2001); J Pratt, *Punishment and Civilisation* (Sage 2002); J Pratt (ed), *New Punitiveness: Trends, Themes and Perspectives* (Willan 2005). B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) 14-20. For an alternative perspective, see R Matthews, 'The Myth of Punitiveness' (2005) 9(2) *Theoretical Criminology* 175.

¹⁷ A Liebling, 'Incentives and Earned Privileges Revisited: Fairness, Discretion and the Quality of Prison Life' (2008) 9(1) *Journal of Scandinavian Studies in Criminology and Crime Prevention* 25, 28.

was reconceptualised.¹⁸ Liebling argues that prison security was no longer concerned with the perimeter wall, but was ‘made up of thousands of daily practices inside the prison.’¹⁹ Thus, the prison wall was no longer the sole focus of prison security but ‘procedures and practices mattered too.’²⁰

The post-Woolf era has witnessed a general improvement in basic living conditions within prisons. However, the introduction of the IEP scheme has served to redefine ‘entitlements’ as ‘privileges’ to be earned through good behaviour and compliance.²¹ This has created a ‘higher baseline of basic legitimacy’ and alleviated basic frustrations but has also created another instrument for penal and coercive control.²² In addition, penal power has been re-dispersed within the prison. Prison officers no longer have the appearance of absolute authority typical of earlier prison regimes - they ‘make the prison run, but they [do] not run the prison.’²³ That said, it is clear that the conduct of prison officers significantly impacts upon the social and moral quality of the prison.²⁴ For prisoners, modern penal power demands not only visible compliance with the prison regime, it also requires their active participation in their own personal transformation.²⁵ To date, the extent to which this reconfiguration of penal power is evident in juvenile YOIs has not been documented and, therefore, this thesis seeks to contribute to the literature in this area.

¹⁸ A Liebling, ‘A “Liberal Regime” within a Secure Perimeter?’ in AE Bottoms and M Tonry (eds), *Ideology, Crime and Criminal Justice* (Willan 2002) 119.

¹⁹ *ibid* 119.

²⁰ Liebling (n18) 119.

²¹ B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison*, (Clarendon Press 2009) 22.

²² B Crewe, ‘Power, Adaptation and Resistance in a Late-Modern Men’s Prison’ (2007) 47(2) *British Journal of Criminology* 256, 260.

²³ Crewe (n21) 103. Also see Liebling (n12) 487.

²⁴ Crewe (n21) 103.

²⁵ Crewe (n21). Also see Chapter 3, 102-103.

The purpose of this chapter is to address the third and final key theme emerging from the narratives of child prisoners interviewed as part of this research study - the use of power, the pursuit of social order and the relationships between staff and young people. The assessments prisoners make about the quality of the relationships they share with staff and the way staff exercise their authority and 'wield power'²⁶ are situationally specific. Liebling asserts that prisons do not necessarily differ in the amount of power that prisoners perceive that staff have over them but in 'the way in which power is used and how it feels.'²⁷

The chapter begins by exploring how young people perceived their relationship with staff. Second, the chapter considers how 'hard power' was deployed within the YOI. Third, the chapter evaluates the use of 'soft', discretionary power. Fourth, the chapter examines how young people expressed the experience of imprisonment. Finally, the chapter explores why and how young people chose to comply with, or resist, prison authority. It is argued the quality of the relationships that young people shared with staff and the way staff exercised their authority had a dramatic influence on the assessments the young people made about the quality of prison life they experienced- it produced another 'pain of imprisonment.'

7.2 'Power Happy':²⁸ Reinforcing the Power Imbalance

It is a well-quoted maxim that staff-prisoner relationships are at the heart of 'what matters' in prison.²⁹ 'Right' staff-prisoner relationships are identified as those that find an appropriate

²⁶ See Crewe (n22).

²⁷ A Liebling, 'Why Prison Staff Culture Matters,' in JM Bryne, D Hummer and FS Taxman (eds), *The Culture of Prison Violence* (Pearson 2008) 117

²⁸ Quote taken from interview with Risze.

²⁹ Home Office, *Managing the Long Term Prison System: The Control Review Committee* (HMSO 1984) para 16; R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996); A Liebling 'Prison Officers, Policing and the Use of Discretion' (2000) 4(3) *Theoretical Criminology* 333, 335; Liebling (n12) 228-229, 462; Crewe (n22) 455; A Liebling, 'Moral performance, inhumane and degrading treatment and prison pain' (2011) 13(5) *Punishment and Society* 530, 533-534; A Liebling, 'Distinctions and Distinctiveness in the work of prisons: Legitimacy and authority revisited' (2011) 8(6) *European Journal of Criminology* 484, 485; A Liebling and others, *The Prison Officer* (2nd Edn, Willan 2011) 83; A Liebling and others, *An Exploration of*

balance between formality and informality, which involve professional, respectful treatment and the appropriate use of authority by officers.³⁰ ‘Right’ staff-prisoner relationships do not involve the abdication of authority but the use of power fairly and consistently and, in this respect, right relationships can be distinguished from ‘good’ relationships.³¹ For example, prisoners may describe their relationships with officers who are barely visible and distant as ‘good’ but such relationships are not necessarily ‘right,’ thus, potentially encouraging the formal use of powers, social disorder and the imposition of more restrictive regimes.³² Relationships between staff and prisoners can easily ‘go wrong’.³³ They can be ‘too close,’ ‘too informal,’ ‘too flexible’ or ‘too rigid.’³⁴ The quality of staff-prisoner relationships has a discernible impact on prisoners’ well-being, their perceptions of safety, prison social order and the extent to which prisoners perceive their incarceration to be more or less punishing and/or painful.³⁵

7.2.1 ‘Some of the staff will help you out or do things for you’³⁶

The vast majority of young people interviewed could identify at least one member of staff with whom they enjoyed a positive relationship.³⁷ Similarly, all of the staff interviewed

Staff-Prisoner Relationships at HMP Whitemore: 12 years on (Ministry of Justice 2011) 3 <<http://www.justice.gov.uk/downloads/publications/research-and-analysis/moj-research/staff-prisoner-relationships-whitemoor.pdf>> accessed 13th December 2012.

³⁰ A Liebling, ‘Distinctions and Distinctiveness in the work of prisons: Legitimacy and authority revisited’ (2011) 8(6) *European Journal of Criminology* 484, 490; A Liebling and others, *The Prison Officer* (2nd Edn, Willan 2011).

³¹ A Liebling, ‘Distinctions and Distinctiveness in the work of prisons: Legitimacy and authority revisited’ (2011) 8(6) *European Journal of Criminology* 484, 490; A Liebling and others, *The Prison Officer* (2nd Edn, Willan 2011).

³² A Liebling, ‘Distinctions and Distinctiveness in the work of prisons: Legitimacy and authority revisited’ (2011) 8(6) *European Journal of Criminology* 484, 490.

³³ A Liebling and others, *The Prison Officer* (2nd Edn, Willan 2011) 84.

³⁴ A Liebling, ‘Distinctions and Distinctiveness in the work of prisons: Legitimacy and authority revisited’ (2011) 8(6) *European Journal of Criminology* 484, 491; A Liebling and others, *The Prison Officer* (2nd Edn, Willan 2011) 84. Also see R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996); E Crawley, *Doing Prison Work: The Public and Private Lives of Prison Officers* (Willan 2004) 106.

³⁵ A Liebling, ‘Moral performance, inhumane and degrading treatment and prison pain’ (2011) 13(5) *Punishment and Society* 530, 534.

³⁶ Quote taken from interview with Stephen.

believed that they had a positive relationship with the young people with whom they worked. The domesticity of prison life and the shared physical and social spaces inevitably served to reduce the social distance between young people and staff.³⁸ Social interaction was a necessity and, consequently, familiarities did develop. Young people and staff often engaged in ‘banter’ and this appeared to ‘ease’ the management of daily tasks.³⁹ The banter, humour and ‘messing around’⁴⁰ with staff were something that, within certain limits, young people appeared to enjoy.⁴¹ Young people disliked officers who were perceived to be authoritarian and had a ‘chip on their shoulder.’⁴² A wing officer’s mood, personality and ethos could also make a significant difference to the atmosphere of the wing and, in turn, the social environment experienced.⁴³ Officers could lighten the atmosphere, providing a welcome relief in the highly charged prison environment.⁴⁴ This powerfully illustrates Crawley’s point that prisons are ‘emotional places.’⁴⁵ The ability of prison officers to manage the emotional environment of the prison and discharge tension could impact on how painful the prison was perceived to be by the young people.

Generally, staff believed that the use of banter was an effective method of engaging young people,⁴⁶ providing what Liebling refers to as the ‘oil’ that smoothes the flow of the

³⁷ This was true for Tom, Stephen, Chris, Shane, Aaron, Tre, Andray, Ryan, Mark, Scott and Darren. Two young people gave an ambivalent or mixed response (Kyle and Jason). Three young people gave a strong, negative answer (Nathan, Tyrone and Terror).

³⁸ R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996) 196; E Crawley, *Doing Prison Work: The Public and Private Lives of Prison Officers* (Willan 2004) 128-130; E Crawley, ‘Emotion and Performance: Prison Officers and the Presentation of Self in Prisons’ (2004) 6(4) *Punishment and Society* 411, 415-416; S Tait, ‘A Typology of Prison Officer Approaches to Care’ (2011) 8(6) *European Journal of Criminology* 440, 441.

³⁹ Fieldwork notes (2008).

⁴⁰ Quote taken from interview with Terror.

⁴¹ Fieldwork notes (2008).

⁴² Quote taken from interview with Risze. This was a consistent theme of the interviews with young people and also evident during the observation period.

⁴³ This was mentioned by Mark and Risze.

⁴⁴ See Chapter 6 above for an account of the tensions that can arise between young people.

⁴⁵ E Crawley, ‘Emotion and Performance: Prison Officers and the Presentation of Self in Prisons’ (2004) 6(4) *Punishment and Society* 411, 414-415.

⁴⁶ Fieldwork notes (2008). This was true for Rob (PCO), Mike (PCO), and Danny (SCM).

prison.⁴⁷ The importance attached to the use of banter resonates with studies of adult prisons.⁴⁸ It is possible there is greater opportunity for such interaction with young people who are unlocked for longer periods and, potentially, more receptive to such interaction with adults. However, verbal sparring may not only contribute to the normalisation of behaviour which could easily become abusive,⁴⁹ it may also reinforce an element of ‘_competition’ and ‘_modds’ hegemonic masculinity.⁵⁰

Young people relied on staff for the simplest of tasks and, therefore, they were heavily dependent on the willingness of staff to respond to their requests. Several staff appeared to be particularly conscientious in their duties and genuinely concerned about the young people’s wellbeing.⁵¹ This was also reflected in the questionnaire answers: over half of the young people felt staff were helpful (55%). Young people were more positive on this measure of staff-prisoner relationships than measures such as ‘_respect’ and ‘_fairness’: 40% of young people reported that staff treated them fairly but only 36% thought staff treated them with respect. It appeared that prison officers could make a very real difference with very small acts of kindness. For example, the Unit Manager allowed Stephen to use the wing office telephone because telephone credit had not been correctly added to his account. Stephen added that such acts were ‘_just little things like that make it easier for you.’ What

⁴⁷ A Liebling ‘_Prison Officers, Policing and the Use of Discretion’ (2000) 4(3) *Theoretical Criminology* 333, 342.

⁴⁸ R Sparks and others, *Prisons and the Problem of Order* (Clarendon Press 1996) 196.

⁴⁹ See Chapter 6, 247-259 for a discussion of the importance of masculinity in the avoidance of interpersonal victimisation.

⁵⁰ LS Abrams and others, ‘_Constructing Masculinities in Juvenile Corrections’ (2008) 11(1) *Men and Masculinities* 22.

⁵¹ Fieldwork notes (2008). For example, officers were telephoned in advance of a young person’s return from court to notify them that he had been convicted of murder and were quick to put in place measures to ensure that he received appropriate support on his return and could not harm himself. On another occasion, a young person experienced a difficult family visit and the officers managing the visitor’s hall telephoned the wing to alert them. On the young person’s return, an officer on the wing responded by asking how the visit had gone and if he was okay

Stephen, like others,⁵² was expressing was a positive consideration,⁵³ treating them as an individual rather than always rigidly playing by the book.⁵⁴ The practical support received by the young people was a form of care⁵⁴ which mattered throughout a prison term and was viewed as more important than emotional support.⁵⁵ Young people found the inability to access personal items or material goods at a time of their choosing disempowering and, therefore, the extent to which officers were willing to provide the required items could alleviate, rather than exacerbate, feelings of powerlessness⁵⁶ and ameliorate distress.⁵⁷

Whilst young people could clearly identify positive aspects of their relationships with staff, a small number of young people expressed the desire for staff to listen to them a little more.⁵⁸ This was described by one of the young people, Risze, as being a good member of staff.⁵⁹ David preferred secure unit staff because they were prepared to converse with him:

I dunno, just like sitting down having a conversation, like a proper conversation, that can help. The govs [at the YOI] wouldn't really listen in here like, they would just laugh really, some of them anyway.

⁵² Risze offered examples during his interview.

⁵³ Liebling (n12) 212.

⁵⁴ S Tait, Care and the prison officer: beyond "turn-keys" and "care bears" (2008) 180 *Prison Service Journal* 3, 6.

⁵⁵ This reflects Hobbs and Dear's finding that adult prisoners were more likely to see practical assistance than emotional support. GS Hobbs and GE Dear, Prisoners' Perceptions of Prison Officers as Sources of Support (2000) 31 *Journal of Offender Rehabilitation* 127, 135.

⁵⁶ Tait (n54) 11.

⁵⁷ Similarly, Biggam and Power argue that support is an important psychological and social variable that contributes to adjustment to prison and the amelioration of distress.⁵⁸ See FH Biggam and KP Power, Social Support and Psychological Distress in a Group of Incarcerated Young Offenders (1997) 41(3) *International Journal of Offender Therapy and Comparative Criminology* 213, 214.

⁵⁸ Risze and David particularly commented on this.

⁵⁹ Quote taken from interview with Risze.

Although young people spend up to 10 hours out of their cells each day,⁶⁰ this does not necessarily create close relationships between staff and young people. At the YOI, it appeared that opportunities for social interaction, such as association, were often overtaken by the perceived need to maintain control.⁶¹

Whilst there was a sense that a small number of young people wanted further emotional support from staff, in line with previous research,⁶² this was not without its limits. Although Jason suggested that talking to officer meant that *‘you know someone cares’* he added that he had *‘just got to deal with it.’* Jason’s observation shows his awareness that officers could only provide a limited amount of assistance and, ultimately, could not absolve the central concern - *‘doing time.’*⁶³ For Kyle, *‘keeping your head down’* and *‘doing your time’* was the most prudent approach:

I never sat down with any gov and said I need to talk to anyone, nothing like that. I never really talked to anyone when I first came, I was just by myself. Kept myself to myself.

Kyle’s comments reflected a more general consensus that, ultimately, young people could only trust and rely on themselves.⁶⁴ The tendency to keep to themselves partly reflected the individualisation of penal power and the need to *‘do your own time.’*⁶⁵ This stoicism is a reflection of the construction of hegemonic masculinity at the YOI and further supports the

⁶⁰ Fieldwork notes (2008). This number varied depending on whether or not they attended every available lesson or could associate with others in the evenings.

⁶¹ Fieldwork notes (2008).

⁶² A Liebling, *Suicides in Prison* (Routledge 1992); FH Biggam and KP Power, *‘Social Support and Psychological Distress in a Group of Incarcerated Young Offenders’* (1997) 41(3) *International Journal of Offender Therapy and Comparative Criminology* 213, 225; Liebling (n12) 253.

⁶³ Also see Chapter 5, 182-186.

⁶⁴ This was also mentioned by Tyrone, Risze, Andray, Tre, Risze and Shane.

⁶⁵ See Chapter 5, 182-186.

argument made in Chapter 5.⁶⁶ It may also have been a result of the low trust environment evident in the YOI and typical of adult prisons.⁶⁷

There was some suggestion by staff that offering advice to the young people could be difficult, either because staff did not know what to say or because they found it difficult to respond to *criers*.⁶⁸ There was a cultural bias against unnecessary proximity or empathising with the young people; officers who did so were labelled *care bears*.⁶⁹ Providing emotional support was complicated by the perceived need to remain aloof and maintain a constant vigil. Mike (PCO), for example, commented:

...you deal with unpredictable yps, you've always got to have that edge, it's good to have the edge, it keeps you on your toes. It's good not to be too lax. Anything can happen, when you hit that point ... it's been very settled for a while and we was talking, "Yeah, it's starting to go really settled." Next thing I know fight broke out, sat back wow, didn't see it coming, didn't see it coming, broke it up and you think, right get back on it, it's good, it's part of the job ain't it

Typically, staff were very concerned about the possibility of physical assault to the extent that this was of greater concern than the possibility of peer violence amongst the young people themselves.⁷⁰ This concern reflects Liebling *et al*'s finding that, for prison officers,

⁶⁶ See Chapter 5, 201-207. Also see C Cesaroni and S Alvi, 'Masculinity and Resistance in Adolescent Carceral Settings' (2010) 52(3) *Canadian Journal of Criminal Justice and Criminology* 303, 309.

⁶⁷ See Liebling (n12) 258, 361.

⁶⁸ Rob (PCO) stated that he believed that offering advice was 'awkward' and difficult. Mike stated that he preferred the 'aggressive fighters' to the 'criers' and that, when faced with criers, he would find a colleague to support them.

⁶⁹ Fieldwork notes (2008).

⁷⁰ This was true for Danny (SCM), Stuart (SCM) and Daniel (SCM). It was also noted during the observation period (see Fieldwork notes (2008)). See Chapter 6 for an analysis of interpersonal victimisation amongst young people in the YOI.

‘life at its best’ if a working day is free from ‘trouble.’⁷¹ However, in the YOI, fears about personal safety appeared to lead to a desire for ‘zero tolerance’ and an emphasis on the control of young people and the denial of privileges, which is discussed further below.⁷²

7.2.2 ‘They think they are better than you’⁷³

Despite the inevitable social proximity, social relations between officers and young people who took part in the study were heavily ‘power laden.’⁷⁴ The power imbalance was keenly felt by young people. For example, Darren commented:

Like they’ve got a set of keys, they think they are better than you. We’re criminals wearing green...they just think that because they can tell us what they want to, you know what I mean ... „ause obviously you couldn’t tell them to bang up or give them a R&S [rewards and sanctions warning] so obviously you’ve got to be sound to them. If you piss them off, they piss you off a lot more, because they can do that, they can take advantage of it. ... „Cause they’ve got a set of keys they think they are better than us.

To Darren, prison officers held the ‘monopoly of power,’⁷⁵ not only in the sense that they possessed the power to lock and unlock doors, but also because they could ‘take advantage of you’ or deliberately antagonise young people in far more wide reaching ways - ‘they can piss you off a lot more.’ This clearly left some young people feeling powerless and vulnerable, especially if they perceived the use of power to be illegitimate.

⁷¹ Liebling and others (n33) 6-7.

⁷² See 311-320.

⁷³ Quote taken from interview with Darren.

⁷⁴ Liebling and others (n33) 85.

⁷⁵ Crewe (n21) 61.

The difference between prison officers and young people was symbolically marked by dress and the possession of keys. The green, prison issue clothes worn by young people served as a visible reminder of the social stigma and marginalisation experienced as a prisoner.⁷⁶ The possession of keys by staff was specifically mentioned by three young people and held a distinct symbolism: staff held and maintained the state's power to punish in their hands.⁷⁷ Keys represented the freedom and the capacity to lock and unlock doors. To Chris and David, the possession of keys appeared to give officers an inflated view of their own power, authority and masculine credentials. For, example, Chris commented:

...they think they're all big and hard just 'cause they've got keys but they're probably puffs in the out. They think there all big and hard in here 'cause they've got the keys, give you an R&S; as soon as they're on the out, they'll be like oh I'm sorry - just deck 'em.

The possession of keys symbolises power and authority but, to Chris, this is not a genuine power or authority and is only produced by the peculiar situation of prison confinement. To Chris, the issue of power is central to, and interpreted as, an issue of masculinity. Being tough - *„they think they're all big and hard“* - is clearly an aspect of hegemonic masculinity, as noted in Chapter 6,⁷⁸ but again, it must be a real toughness in order to attract respect. Chris alleges that officers have a feigned toughness,⁷⁹ that they are probably homosexual and effeminate, that on the out,⁷⁹ he could easily assault them. It is indicative of the tendency of young people to assess the masculine credentials of those around them.⁷⁹

⁷⁶ See Chapter 5, 158.

⁷⁷ To include Chris, Darren and David.

⁷⁸ See Chapter 6, 246-249.

⁷⁹ Also see Chapter 5, 168, 201-205 and Chapter 6, 247-248.

The power differential generated cynicism amongst the young people regarding the intentions of individual officers and the prison administration more generally. The use of power was perceived to lack transparency and conceal ulterior motives. For example, on a particularly hot day, the Director organised the distribution of ice creams to all young people. Some young people commented that staff were simply ‘_buttering them up’ in preparation for some future negative action or news.⁸⁰ Other administrative decisions, such as requiring a young person to move to another wing, were also viewed with suspicion.⁸¹ Nathan, for example, was particularly resentful of a recent command to move to another wing and commented, ‘_they are just playing with my head, they want me to go mad.’ To Nathan, this was perceived as a form of ‘_mind games’,⁸² ‘_head games’⁸³ or ‘_wind ups.’⁸⁴ It is seen as a ‘_psychological threat’⁸⁵ and a deliberate attempt to provoke him. Since such administrative decisions felt very personal to the young person concerned - Nathan feels specifically targeted - it is hard for them to imagine that their feelings and wishes may be at the mercy of other priorities. Not only was ‘_going mad’ problematic in terms of its repercussions for their regime status, but as noted below, some young people perceived that staff might deliberately antagonise them so as to physically restrain them and so ‘_keeping cool’⁸⁶ meant the avoidance of pain and violence.

⁸⁰ This observation is based on informal conversation with young people during the observation phase of the research study.

⁸¹ For example, Tyrone suggested that the cell spin for drugs he had recently experienced concealed ulterior motives because he did not use drugs.

⁸² K McDermott and RD King, ‘_Mind Games: Where the Action is in Prisons’ (1988) 28(3) *British Journal of Criminology* 357.

⁸³ Crewe (n22) 458.

⁸⁴ Sparks and others (n48).

⁸⁵ Crewe (n22) 458.

⁸⁶ See Chapter 5, 200-206 for further discussion on this point.

7.2.3 *'Respect, that's all you need'*⁸⁷

The issue of *'respect'* was central to the construction of staff-prisoner relationships in the YOI. Respect was the *'relational dimension'*⁸⁸ against which prisoners made assessments about their treatment and, crucially, represented a determining factor in the treatment they could expect from staff. *'Respect'* was given to young people conditionally; it was an often quoted maxim that: *'If you give them respect, they give you respect.'*⁸⁹ To staff, young people were required to demonstrate *'respect'* through politeness, obedience and co-operation. To question or challenge the instructions or demands of staff was to be *'disrespectful.'* Young people referred to *'respect'* in terms of considerate, kind and fair treatment. Like Liebling's study, it was a *'positive consideration,'* incorporating *'recognition for the inherent dignity and worth of the person.'*⁹⁰ The young people wanted staff to treat them as an individual (rather than as a *'criminal wearing green'*) and to recognise their positive qualities and their capacity for change.

Significantly, only 36% of young people who completed a questionnaire believed staff treated them with respect.⁹¹ Young people wanted to be treated with respect not simply because of their subordinate role, or because staff held the monopoly of power, but also because they were *'young lads.'*⁹² In line with Liebling's findings regarding adult prisons, the *'uneven power'* possessed by staff was seen to create a moral obligation to *'start relationships off.'*⁹³ The respect mantra was biased in favour of staff but, conversely, young people voiced the view that *'you need respect'* and that staff should not *'treat you like an idiot.'*⁹⁴ However,

⁸⁷ Quote taken from interview with Jason.

⁸⁸ Liebling (n12).

⁸⁹ Quote taken from interview with Rize. This phrase was also mentioned by Ollie, Mark and Jason.

⁹⁰ Liebling (n12)212.

⁹¹ A further 57% of young people questioned believed staff did so sometimes and 6% stated staff did not treat them with respect.

⁹² Quote taken from interview with Jason.

⁹³ Liebling (n12) 346.

⁹⁴ Quotes taken from interview with Ollie.

prison officers had an inherent belief in the legitimacy of their own authority and did not believe that they should earn the respect of young people. The prison officers failed to appreciate that model appropriate behaviour irrespective of the behaviour of young people.⁹⁵ The *impasse* was typically resolved in favour of staff. Young people had to prove that they were worthy of respect and, as a consequence, sound treatment. Thus, the entitlement of prisoners to moral agency and status is an earned privilege.⁹⁶

The obligation on young people to demonstrate respect led to bitterness and frustration amongst some young people.⁹⁷ Jason, for example, felt frustrated when this injunction was not followed:

Respect, that's all you need. When they don't respect you and you respect them, you think to yourself, you go back to your cell, TV or no TV I'll turn it off and I'll think, how did I say that to him? Why did I say that nice comment to him when he just threw it back in my face? And you don't realise at that moment when it happens, it plays on your mind.

It appeared that some young people would make efforts to earn the approval of adults. It is also clear Jason expected that such attempts, however subtle, should be recognised. To Jason, one *nice comment*⁹⁸ deserved recognition. Similarly, Ollie felt that his attempts *to be good*⁹⁸ should also be acknowledged. In some ways, this may stem from the recent shift towards the individualisation of penal power.⁹⁸ There seemed an obsessive concern about their treatment,

⁹⁵ This was mentioned by Nathan and Ollie.

⁹⁶ A Liebling, *Prisons and their Moral Performance: A Study of the Values, Quality and Prison Life* (Clarendon Press 2004) 487.

⁹⁷ This was true for Jason and Ollie.

⁹⁸ B Crewe, 'Power, Adaptation and Resistance in a Late-Modern Men's Prison' (2007) 47(2) *British Journal of Criminology* 256, 273.

self and *manliness*; Jason admitted that incidents of disrespect would *play on your mind*.⁹⁹ Thus, the details of social interaction were, as argued by Mathiesen and discussed in Chapter 3, *amplified*.⁹⁹ It also illustrates how easily young people may become disengaged and disenfranchised if they feel their compliance is unrewarded or respect is not reciprocated.

Young people were conditioned to thinking about their relationship with staff in terms of *respect* and were keenly attuned to slights, attitudes and conduct which suggested that they were being *taken for a mug*.¹⁰⁰ The notion of *conditional respect* embeds the importance of respect within the institutional culture, intensifying respect based conflict and framing constructions of identity.¹⁰¹ It reinforces the belief that young people are acting as rational agents, capable of choosing the terms of their confinement rather than viewing any such *troublesome* behaviour in the wider institutional and social context. Strict power relationships also reinforce a construction of hegemonic masculinity that celebrates power and domination.¹⁰² Against this backdrop, young people were sensitive to attempts by staff to *violate them*,¹⁰² Nathan in particular commented:

Nathan:

...when the govs violate you, it just makes you just think, why am I in jail?

Interviewer:

When you say violate, what do you mean by that?

⁹⁹ T Mathiesen, *The Defences of the Weak: A Sociological Study of a Norwegian Correctional Institution* (Tavistock 1972) 78. See Chapter 3, 85 for a discussion of this point.

¹⁰⁰ For example, David believed that staff treated him *differently* and when slighted, responded by assaulting a member of staff.

¹⁰¹ Cf. Chapter 6, 254.

¹⁰² Abrams (n40) 35.

Nathan:

By like, turn off you electric, for example...when you call him he don't listen and he's not going anything, you carry on yelling, yelling, yelling, I don't know what they are thinking in their head, but they just come and turn off you electric and they say, "That's for shouting, that's for shouting" ... that makes me tick, especially when they turn off your electric because you have already done wrong by not answering to my call when you are blatantly not doing nothing ... he could easily come back and open your flap and say right, what do you want. Just them words then, and you could have told them and he could have went and done it ... That's just mad.

For Nathan, what poses the greatest affront is that it took more effort to switch off the electricity supply than answer the request of the young person concerned. The fact that this is interpreted as a *violation*¹⁰³ is reminiscent of the comments made in Chapter 6¹⁰³ regarding interpersonal victimisation. It is apparent that, for young people such as Nathan, the desire for a particular image was such that violations could not be permitted, even from staff. It was not necessarily the case that young people did not believe that staff should exercise authority - some conceded that they were just doing their job¹⁰⁴ - it was rather the misuse, abuse or excessive use of that authority that was perceived as an affront. Such *violations*¹⁰⁵ were not easily forgotten by the young people interviewed.

7.2.4 'They'll make your life hell'¹⁰⁵

*Respect*¹⁰⁶ could be withheld from those young people who were difficult, disruptive or abusive.¹⁰⁶ Young people frequently suggested that staff might employ the *suffeit* of

¹⁰³ See Chapter 6, 254.

¹⁰⁴ Jason accepted that staff were *just doing their job*¹⁰⁴ when restraining but went on to criticise his treatment.

¹⁰⁵ Quote taken from interview with Risze. This description of staff behaviour was also used by Tyrone.

power¹⁰⁷ to indicate their dislike for young people.¹⁰⁸ They could *‘make it hard for you’*¹⁰⁹ by issuing Rewards and Sanctions (R&Ss) warnings and imposing a more restrictive regime, such as reducing young people’s access to canteen, showers and association.¹¹⁰ Disrespectful treatment by staff could range from withholding items¹¹¹ to deliberately *‘winding up’* young people,¹¹² being more *‘gung ho’* in the use of physical restraint¹¹³ or retracting early release.¹¹⁴ David, for example, commented:

...if you are an idiot to them, they can be an idiot, they can make it hard for you ... Just like little things what would wind you up, which would make you like switch so they can twist you up [physically restraint], give you R&Ss which if you get two, you go down to bronze [regime], just little things like that.

Again, it was the *‘little things’* that mattered. In this scenario, prison officers were said to create a situation that allowed them to use physical force or that could give rise to warnings, too many of which led to a forfeiture of privileges.¹¹⁵ It is impossible to estimate the scale of such acts, however, the perception that officers would deliberately make prison life *‘hard’*

¹⁰⁶ This was mentioned by all of the young people interviewed and mirrors Crewe’s findings in an adult prison. See Crewe (n21) 63.

¹⁰⁷ Crewe (n21) 225.

¹⁰⁸ For example, Terror in particular felt that staff treated him *‘like shit.’*

¹⁰⁹ Quote taken from interview with David.

¹¹⁰ This was mentioned by Darren.

¹¹¹ This example was given by Mark.

¹¹² This example was given by David.

¹¹³ Quote taken from interview with Daniel (SCM). This example was also given by Risze.

¹¹⁴ This was mentioned by Darren.

¹¹⁵ Testimonies of officers provoking young people in order to be physically restrained them has been documented elsewhere. See P Smallridge and A Williamson, *Independent Review of Restraint in Juvenile Secure Settings* (Ministry of Justice 2008) 17; Howard League for Penal Reform, *Twisted: The Use of Force on Children in Custody* (Howard League for Penal Reform 2011) 5 <http://www.howardleague.org/fileadmin/howard_league/user/pdf/Publications/Restraint.pdf> accessed 16th December 2012; Office of Children’s Commissioner, *Young People’s Views on Physical Restraint in the Secure Estate* (Office of the Children’s Commissioner 2011) 19 <http://www.childrenscommissioner.gov.uk/content/press_release/content_415> accessed 16th December 2012.

clearly impacted on assessments of legitimacy amongst young people and reinforced their vulnerability.¹¹⁶

There was a clear sense from most of the young people that staff behaviour could exacerbate the pains of imprisonment.¹¹⁷ This was a consistent theme of the interviews. For example:

John:

They can make your sentence as hard like as they want it to be but they can make it easy as well.

Risze:

...they will treat you with respect but if they take something personal against you, they'll make your life hell, they don't care .. .Sometimes, like I said they get a bit power happy, that's when it makes it difficult for you.

The behaviour of staff had a very real influence on how painful and punishing¹¹⁸ the experience of imprisonment was perceived to be. It was also clear that young people, such as Risze, felt that staff were indifferent to the impact of their behaviour - they don't care.¹¹⁷ Such behaviour was seen to be outside the scope of legitimate power - staff were getting *„power happy*.¹¹⁷ Young people also believed that prison officers could or would simply deny any such improprieties had occurred, further reinforcing the monopoly of power that officers were

¹¹⁶ See Chapter 3, 88-91 for an explanation of this concept.

¹¹⁷ This was mentioned by eight young people (Darren, Shane, John, Risze, Tom, Stephen, David and Kyle).

¹¹⁸ Liebling (n28) 117.

perceived to have at their disposal.¹¹⁹ Consequently, complaining against such actions was viewed as an unattractive, infrequently worthwhile and ineffective option.¹²⁰

In this context, relationships between staff and prisoners were instruments of control.¹²¹ The extent to which this mirrors the experiences of adult prisoners is striking.¹²² Liebling suggests that staff could distribute civility¹²³, only permitting respect and civility to those who were judged to belong to the compliant category.¹²³ Liebling observes that prisoners from whom respect was being withheld got what they were entitled to and no more. It was as if Garland's criminology of self and criminology of the other was being worked out in prison.¹²⁴ This finding illustrates Liebling's point that prison officers use their discretion to make exceptions to the stated rules on a continual basis and that such decisions were embedded in relationships.¹²⁵

¹¹⁹ This was reflected in the accounts of Mark and Kyle. Tyrone stated that prison applications used to make a complaint would simply be torn up. Tyrone stated that if you submitted a complaint, the officer might start moving dodgy and making your life hell.

¹²⁰ For example, Clark complained because officers nearly broke his arm during a physical restraint incident but nothing happened.¹²⁰ This was also mentioned by Tyrone and Ollie. The perceived inadequacies of the complaints system has been documented elsewhere. European Committee for the Prevention of Torture, *Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)* (Strasbourg: Committee for Prevention of Torture 2009) <<http://www.cpt.coe.int/documents/gbr/2009-30-inf-eng.htm>> accessed 17th December 2012; User Voice, *Young People's Views on Safeguarding in the Secure Estate: A User Voice Report for the Youth Justice Board and the Office of the Children's Commission* (YJB 2011) <http://www.childrenscommissioner.gov.uk/content/press_release/content_408> accessed 17th December 2012; User Voice, *Why are they going to listen to me?: Young People Perspectives on the Complaints System in the Youth Justice System and Secure Estate* (Office of Children's Commissioner 2012) <<http://www.uservice.org/our-work/our-services/consultations/young-peoples-perspectives-on-complaints-in-the-secure-estate/>> accessed 17th December 2012; Howard League for Penal Reform, *Twisted: The Use of Force on Children in Custody* (Howard League for Penal Reform 2011); YJB, *Review of the Complaints System in the Secure Estate for Children and Young People* (YJB 2011) <<http://dera.ioe.ac.uk/2650/1/Review%20of%20the%20Complaints%20System%20in%20the%20Secure%20Estate.pdf>> accessed 17th December 2012.

¹²¹ Liebling (n47) 342.

¹²² Similar findings were noted by Ben Crewe in a study of adult prisoners. See B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) 63.

¹²³ Liebling (n47) 349.

¹²⁴ Liebling (n47) 349.

¹²⁵ Liebling (n32) 490

How young people were treated by staff for good or for ill clearly factored into the thinking time documented in Chapter 5.¹²⁶ Kyle, for example, commented:

[Time to think] also makes you frustrated. I don't really like being in here. A lot of stuff goes through your, some of the govns don't like you, just don't get along with you.

As Kyle illustrates, if officers failed to engage positively with a specific individual, this could be difficult to accept and resolve. The situation is even more precarious because young people cannot hope to avoid interaction with those individuals who dislike them and perhaps who they also dislike.

The demand that young people demonstrate 'respect' was sometimes at odds with the behaviour modelled by officers themselves. Staff frequently took exception to young people swearing at them or demonstrating threatening or intimidating behaviour.¹²⁷ However, officers would sometimes swear at young people, use dehumanising language and, on one occasion, admitted deliberately 'winding up' young people and inciting conflict as a form of perverse entertainment.¹²⁸ Staff were observed calling young people 'rats', 'apæ', 'little pricks' and were seen telling young people to 'fuck off'.¹²⁹ This kind of depersonalised and derogatory language is not unusual. Crewe found that officers working with adult prisoners often used highly derogatory language in backstage areas; describing prisoners as 'shitbags or

¹²⁶ See Chapter 5, 180-182.

¹²⁷ Fieldwork notes (2008). This was also noted in Jason's and Kyle's interview. Young people who use 'threatening, abusive or insulting words or behaviour' can be charged with an offence against discipline under the Young Offender Institution Rules 2000 as amended (rule 55(22)). Also see Her Majesty's Prison Service, *Prison Service Order 2000: Adjudications* (Her Majesty's Prison Service 2005), which was in force at the time of the fieldwork, and MoJ, *Prison Service Instruction 47/2011: Prisoner Discipline Procedures* (MoJ 2011), which replaces it.

¹²⁸ Fieldwork notes (2008). During association, a Senior Care Manager proudly disclosed that he would often wind young people up when they were 'behind their doors' and would, for example, insult their mothers and hurl abuse. This appeared to be an isolated example of unprofessional practice. Meal times were described as 'feeding time' and compared to being on a farm.

¹²⁹ Fieldwork notes (2008).

‘arises’.¹³⁰ In Crewe’s study, such language was confined to these backstage areas rather than used in public exchanges.¹³¹ However, this was not the case at the YOI and behaviour of some staff to young people often became ‘condescending and insulting.’¹³² Such examples of behaviour were a clear manifestation and misuse of power.

7.3 The Use of Hard Power

‘Hard power’ involves the use of coercive force to implement and exercise power. It is the use of ‘direct commands and coercion.’¹³³ Staff at the YOI do not use physical violence to secure compliance, nor do children live in fear of such acts.¹³⁴ This is not to say that violence is not used against children. Physical restraint is a form of state sanctioned violence against children,¹³⁵ employed in response to potential risks to safety and discipline within the prison environment. Direct coercive force is also deployed through the use of segregation, which restricts the liberty of young people and permits only a very limited regime, the excesses of which are illustrated with the use of ‘Supermax’ prisons in the United States.¹³⁶ The use of physical restraint and segregation is prescribed by law¹³⁷ and should be used only in accordance with the obligations imposed on the State under international human rights law.¹³⁸

¹³⁰ Crewe (n21) 61.

¹³¹ Crewe (n21) 61.

¹³² Fielwork notes (2008); Crewe (n21) 62.

¹³³ Crewe (n22) 456.

¹³⁴ Cf. Chapter 3, 102-103.

¹³⁵ B Goldson, ‘Child Incarceration: Institutional Abuse, the Violent State and the Politics of Impunity’ in P Scraton and J McCulloch (eds), *The Violence of Incarceration*, (Routledge 2009).

¹³⁶ See, for example, RD King, ‘The Rise and Rise of Supermax’ (1999) 1(2) *Punishment and Society* 163; J Pizarro and VMK Stenius, ‘Supermax Prisons: Their Rise, Current Practices and Effects on Inmates’ (2004) 84(2) *The Prison Journal* 248; S Shalev, *Supermax: Controlling Risk through Solitary Confinement* (Willan 2009); RD King and SL Resodihardjo, ‘To Max or not to Max: Dealing with High Risk Prisoners in the Netherlands and England and Wales’ (2010) 12(1) *Punishment and Society* 65 for a discussion of the role of supermax and solitary confinement.

¹³⁷ Young Offender Institution Rules 2000 (as amended by the Young Offender Institutions Rules 2002) Rules 49 - 52, 55 and 60.

¹³⁸ The use of physical force and solitary confinement engages Article 3 and Article 8 of the European Convention on Human Rights. In addition, there are a range of international human rights instruments of relevance, most notable, the United Nations Convention on the Rights of the Child and European Prison Rules are also relevant. In *R. (on the application of BP) v Secretary of State for the Home Department* [2003] EWHC 1963 (Admin), a 17 year old unsuccessfully challenged his confinement on two occasions in the segregation unit of Warren Hill YOI.

7.3.1 'Twisted Up': Physical Restraint

Physical restraint¹³⁹ is the use of coercive force to overpower and/or restrict the liberty and movement of a young person in response to a specified risk. It is the most extreme method for controlling children who have lost self-control.¹³⁹ Staff and young people at the YOI commonly refer to physical restraint as being 'twisted up', 'wrapped up' and 'bent up'.¹⁴⁰ During the research, the YOI used a restraint method known as 'Control and Restraint' (C&R),¹⁴¹ an adult, pain-compliance technique derived from the martial arts of Aikido.¹⁴² This technique relies on the use of locks and the application of pain to gain control of a prisoner.¹⁴³

The use of force at the YOI appeared high, replicating the Howard League for Penal Reform's findings¹⁴⁴ and reproducing historic¹⁴⁵ and ongoing¹⁴⁶ trends in relation to the use

¹³⁹ Her Majesty's Chief Inspector of Education and others, *Safeguarding Children: The Joint Chief Inspectors' Report on Arrangements to Safeguard Children* (OFSTED 2008) 51.

¹⁴⁰ Also see P Smallridge and A Williamson, *Independent Review of Restraint in Juvenile Secure Settings*, (Ministry of Justice 2008) 17 and Howard League for Penal Reform, *Twisted: The Use of Force on Children in Custody* (Howard League for Penal Reform 2011) for similar findings.

¹⁴¹ A new restraint method, Minimising and Managing Physical Restraint, will be introduced in YOIs and STCs from September 2012 onwards. Thus far, however, STCs have had their own method of physical restraint, known as Physical Control in Care. SCHs are not obliged to use a particular method; rather, that choice is taken at a local level within individual homes. For further information about the new restraint method, see Ministry of Justice, *Minimising and Managing Physical Restraint* (Ministry of Justice 2012); YJB *Minimising and Managing Physical Restraint: Safeguarding Processes, Governance, Arrangements, Roles and Responsibilities*, (YJB 2012); YJB, *Use of Restraint - Policy Framework for the Under 18 Secure Estate* (YJB 2012).

¹⁴² D Hart and S Howell, *A report to the Youth Justice Board on the Use of Physical Intervention within the Juvenile Secure Estate* (National Children's Bureau 2004) 4.

¹⁴³ Ministry of Justice, *Use of Force Training Manual* (Ministry of Justice, 2006) <<http://www.statewatch.org/news/2012/jan/uk-prisons-use-of-force-manual.pdf>> accessed 16th December 2012

¹⁴⁴ The reference to the Howard League for Penal Reform's report has been omitted to preserve the anonymity of the institution.

¹⁴⁵ United Nations Committee on the Rights of the Child, *Committee on the Rights of the Child Thirty-First Session - Concluding Observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland* (Office of the United Nations High Commissioner for Human Rights 2002); R Hodgkin, *Rethinking Child Imprisonment: a report on young offender institutions* (Children's Rights Alliance for England 2002) 85; Howard League for Penal Reform, *Children in Prison: Barren Rights. Independent Submission to the United Nations Committee on the Rights of the Child* (Howard League for Penal Reform 2002) 13; Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children's homes* (Howard League for Penal Reform 2006) 39-40; United Nations Committee on the Rights of the Child, *Committee on the Rights of the Child Forty-Ninth Session - Concluding Observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland* (Office of the United Nations High Commissioner for Human Rights 2008).

of physical restraint. 35% of those young people who completed a questionnaire had been restrained at the YOI. Similarly, of those young people who were interviewed, 36% had been restrained at the YOI and a further 9% had been restrained elsewhere within the juvenile secure estate.¹⁴⁷ Staff at all levels appeared to be aware of the need to reduce the levels of physical restraint.¹⁴⁸ High levels of physical restraint were typically blamed on the *‘type of young person’* and the nature of the incidents encountered.¹⁴⁹ Such attitudes clearly influenced the extent to which physical restraint was regarded as necessary by staff. In particular, the desire to gain control quickly appeared to stimulate the use of physical restraint in circumstances where its use could have been prevented.

Young people offered examples where physical restraint may indeed be necessary, such as assaulting an officer or another young people.¹⁵⁰ Physical restraint was also used in response to disobedience or non-compliance, replicating broader trends across the juvenile secure estate.¹⁵¹ Officers did attempt to de-escalate conflict by *‘talking a young person*

¹⁴⁶ Her Majesty’s Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2007-08* (Stationery Office 2009) 68; Her Majesty’s Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2008-09* (Stationery Office 2010) 25; Her Majesty’s Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2010-11* (Stationery Office 2011) 62; Her Majesty’s Inspectorate of Prisons, *The Carlile Inquiry: Five Years On – The Use of Force on Children in Custody. Memorandum: Her Majesty’s Inspectorate of Prisons* (Her Majesty’s Inspectorate of Prisons 2011) <<http://www.howardleague.org/carlile-inquiry/>> accessed 17th December 2012; Office of the Children’s Commissioner, *I think I must have been born bad’: Emotional wellbeing and mental health of children and young people in the youth justice system* (Office of the Children’s Commissioner 2011) 49 <http://www.childrenscommissioner.gov.uk/content/publications/content_503> accessed 17th December 2012.

¹⁴⁷ This is slightly higher than the overall national average (29%) but in line with the general deviation from this national average within certain institutions. See D Tye, *Children and Young People in Custody 2008 - 2009: An analysis of the experiences of 15 - 18 year olds in prison* (Her Majesty’s Inspectorate of Prisons, 2009) 29. This general variation is also reflected in more recent reports. See A Summerfield, *Children and Young People in Custody 2010 - 2011: An Analysis of the Experiences of 15-18 year olds in Prison* (Her Majesty’s Inspectorate of Prisons and Youth Justice Board 2011).

¹⁴⁸ This was apparent from the informal dialogue with staff and the staff interview process.

¹⁴⁹ Fieldwork notes (2008). This was also reflected in the interviews with Alison (PCO), Stanley (PCO), Rob (PCO), Danny (SCM), Stuart (SCM), Mike (PCO) and Daniel (SCM). Only Bridget (Nurse) and Jean (Teacher) conceded that physical restraint could be used far less.

¹⁵⁰ Fieldwork notes (2008). This was confirmed by Terror, Ollie, Mark

¹⁵¹ P Smallridge and A Williamson, *Independent Review of Restraint in Juvenile Secure Settings*, (Ministry of Justice 2008); Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children’s homes* (Howard League for Penal Reform 2006).

down,¹⁵² particularly, it seems, if a young person simply refused to follow the prison schedule or ‘bang up.’ However, it was less clear whether this always represented a real attempt to avoid physical restraint or whether officers were simply ‘going through the motions.’ In addition, the ability of staff to devote the necessary time and resources to such issues is a live issue in YOIs, which characteristically have low staff to child ratios.¹⁵³

Understandably, de-escalation strategies were typically focused on responding in ‘the heat of the moment’ to a crisis or confrontation as it unfolds. However, this unduly narrow approach overlooks the extent to which conflict could be avoided by improving the quality of staff-prisoner relationships. For example, Nathan described a recent restraint incident:

I asked her to change me food, she [a PCO] refused because I accidentally signed the wrong thing ... I made a mistake. I tried comprising with her and told her it was a mistake. She was like, “Tough Nathan, you always do this,” and I had never done this before, that was my first time on the wing. So I told her, “Okay let me wait until the end and I’ll take whatever is left as long as it’s not this” and she was like, “No, anything left is going in the bin,” so I said, “Okay, I might as well keep this then” and stuck it in her face.

Since Nathan had thrown food at a member of staff, he was physically restrained. However, this confrontation could have been avoided. At face value, Nathan’s initial request was not unreasonable. Of course, staff may fear that acquiescing young people’s requests may form

¹⁵² Fieldwork notes (2008). This was also mentioned by Danny (SCM), Daniel (SCM), Rob (PCO), Stanley (SCM) and Stuart (SCM). On two occasions, staff talked to a young person to avoid the use of physical restraint although on one occasion it seemed that this was more for my benefit than it was for the young persons.

¹⁵³ Stuart and Daniel (SCMs) both commented on this. Similarly, a recent survey conducted on behalf of the YJB found that staff were not able to devote the necessary time to de-escalate conflict effectively. See YJB, *Behaviour management across the secure estate for children and young people: A Study Conducted by Ipsos MORI for the Youth Justice Board* (YJB 2011)

the ‘thin end of the wedge’¹⁵⁴ and, therefore, may prefer to ‘play it by the book’ rather than permit or offer additional ‘privileges.’ However, a degree of compromise may have avoided the escalation of the incident and the use of physical restraint. For Nathan, the real sting is that the food would simply go to waste.

It would be unrealistic to assume that young people will not seek to challenge or question the instructions of staff. Further, Sparks *et al* note that it can be difficult for officers to enforce rules without ‘losing face or appearing to act in a petty manner’ yet ‘they see the challenge as demanding as response.’¹⁵⁵ This assessment of officers’ interactions with adult prisoners also appeared evident at the YOI. Jason, for example, had asked whether he could have a shower and use the telephone during his next free period. His request was denied without a clear rationale and the incident then escalated:

He’s [Unit Manager] like, “Are you banging up or not? Put up or shut up?” “I wanna know if I’m getting my shower and phone call.” “Well I’m not the one who to ask. No, there’s you answer.” “Go fuck yourself.” “Open his cell.” ... He grabbed me and smashed my face off the floor ... He cut me there... put his knee in my back ... and then he got my arm eventually, then he bent my wrist back and put his knee on it and said to me in my ear, “You little prick, you bang up when I tell you to you little prick.”

Although it is not possible to speculate how widespread such behaviour was, this account illustrates how the tone and the manner of an officer’s engagement with a young person can impact the outcome. When young people are simply refusing to co-operate, officers need to

¹⁵⁴ Sparks and others (n48) 166.

¹⁵⁵ Sparks and others (n48) 123.

be aware that a successful conclusion is not necessarily one that places the young person in their cell by force at the earliest possible opportunity. The response of the Unit Manager did little to prevent the escalation of the incident and, in the final analysis, his language and actions were inappropriate and abusive.

Physical restraint is intrinsically unsafe.¹⁵⁶ The possibility for serious injury and harm will always be an underlying concern, particularly if young people are restrained for a prolonged period, in a confined space or are held in such a way as to restrict normal ventilation. The range of possible injuries reported by young people and staff at the YOI included broken bones, carpet burns, muscle strain, swelling, pain, scratches, bruising and abrasions. John commented: „*One of them twisted my arm up, almost snapped it.*‘ Rize, who had not been physically restrained, thought that staff would try to snap‘ young people’s arms. This is broadly consistent with the findings of other studies.¹⁵⁷

Generally, young people reported that the permitted range of restraint techniques was used. However, nine young people commented that officers used too much force sometimes¹⁵⁸ and/or used unauthorised techniques. Such examples included officers rugby tackling,‘ slapping,‘ stamping‘ on and smacking‘ young people as well as putting their whole body weight on vulnerable body parts and kneeling them in the genitals.¹⁵⁹ Several

¹⁵⁶ P Smallridge and A Williamson, *Independent Review of Restraint in Juvenile Secure Settings*, (Ministry of Justice 2008) 5.

¹⁵⁷ Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children’s homes* (Howard League for Penal Reform 2006) 44; L Steckley and A Kendrick, Physical restraint in Residential Childcare: The Experiences of Young People and Residential Workers‘ (2008) 15(4) *Childhood* 552; Howard League for Penal Reform, *Twisted: The Use of Force on Children in Custody* (Howard League for Penal Reform 2011).

¹⁵⁸ Quote taken from interview with Shane.

¹⁵⁹ These examples were provided by Nathan, Andray, Tyrone, Clark and Chris. These findings mirror those of other. See Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children’s homes* (Howard League for Penal Reform 2006) 45, 51; Her Majesty’s Chief

young people perceived that officers would deliberately *“go hard”* at them, liked restraining them and saw it as an opportunity for revenge.¹⁶⁰ Two members of staff also commented that officers could get *“carried away”* or be a *“little gung ho.”* These complaints are not unique to this study, raising broader concerns about the use of physical restraint.¹⁶¹ In addition, the use of pain compliance techniques is particularly controversial¹⁶² and, reflecting these concerns, the pain experienced was a common complaint amongst young people at the YOI who believed that staff were deliberately trying to hurt them.¹⁶³

Young people remarked that the use of physical restraint led to feelings of resentment, anger and frustration.¹⁶⁴ That said, very little is known about the physical harm caused by

Inspector of Prisons, *Annual Report of HM Chief Inspector for England and Wales: 2004-2005* (Stationery Office 2006) 56; Her Majesty’s Chief Inspector of Education and others, *Safeguarding Children: The Joint Chief Inspectors’ Report on Arrangements to Safeguard Children* (OFSTED 2008) 51.

¹⁶⁰ This was mentioned by Scott, David, Darren, Ollie and Terror. Jean (Teacher) also remarked that some officers appeared to enjoy physically restraining young people.

¹⁶¹ P Smallridge and A Williamson, *Independent Review of Restraint in Juvenile Secure Settings*, (Ministry of Justice 2008) 16; Howard League for Penal Reform, *Twisted: The Use of Force on Children in Custody*, (Howard League for Penal Reform 2011) 4; Office of the Children’s Commissioner, *I think I must have been born bad’’: Emotional wellbeing and mental health of children and young people in the youth justice system* (Office of the Children’s Commissioner 2011) 19.

¹⁶² See, for example, D Hart and S Howell, *A report to the Youth Justice Board on the Use of Physical Intervention within the Juvenile Secure Estate* (National Children’s Bureau 2004); J Davidson and others, *Holding Safely: A guide for residential child care practitioners and managers about physically restraining children and young people* (Scottish Institute of Residential Child Care, University of Strathclyde 2005) 77; Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children’s homes* (Howard League for Penal Reform 2006); P Smallridge and A Williamson, *Independent Review of Restraint in Juvenile Secure Settings* (Ministry of Justice 2008) 40; House of Lords House of Commons Joint Committee on Human Rights, *The Use of Restraint in Secure Training Centres: Eleventh Report of Session 2007-2008* (House of Lords House of Commons Joint Committee on Human Rights 2008) 28; *The Carlile Inquiry: Five Years On – The Use of Force on Children in Custody. Memorandum: Her Majesty’s Inspectorate of Prisons* (Her Majesty’s Inspectorate of Prisons 2011) <http://d19ylpo4aovc7m.cloudfront.net/fileadmin/howard_league/user/pdf/Events/HMIP_Evidence_to_Carlile_Hearing_on_Use_of_Force_Final_edited.pdf> accessed 17th December 2012; Equality and Human Rights Commission, *Human Rights Review 2012: Article 3 - Freedom from Torture and Inhumane and Degrading Treatment or Punishment* (Equality and Human Rights Commission 2012) <http://www.equalityhumanrights.com/uploaded_files/humanrights/hrr_article_3.pdf> accessed 21st January 2013; Office of Children’s Commissioner, *Submission to the UN Committee against Torture’s Periodic Review of the United Kingdom of Great Britain and Ireland: August 2012* (Office of Children’s Commissioner 2012) <http://www.childrenscommissioner.gov.uk/content/publications/content_609> accessed 21st January 2013.

¹⁶³ This was mentioned by nine young people who had been physical restrained (Darren, Nathan, Clark, Andray, Shane, Tom, Ryan, David and Tre). Stephen and Tyrone had not experienced the use of physical restraint but commented that it looked and sounded painful.

¹⁶⁴ This was true for seven young people (Jason, Darren, John, Clark, Terror, Kyle and Nathan).

physical restraint.¹⁶⁵ In light of the profound vulnerabilities of children in the juvenile secure estate,¹⁶⁶ the lack of a sound knowledge base is a matter of concern. The possibility that some young people will deliberately goad officers in order to be restrained is a further matter of concern.¹⁶⁷ Sean, who wanted to be known as ‘Rambo’ stated that he enjoyed being restrained because it helped release his aggression.¹⁶⁸ It was clear that he was very vulnerable in the YOI environment¹⁶⁹ but his behaviour was enormously challenging for officers and, ultimately, led to the violent interventions sought.¹⁷⁰ Little is known about why children may seek out such negative interactions with the adult. One explanation is that physical restraint functions as a form of catharsis.¹⁷¹ The danger, of course, is that young people do not develop appropriate and suitable coping mechanisms and that the use of physical restraint simply perpetuates inappropriate patterns of behaviour.¹⁷² The Carlile Inquiry noted that, for some young people, their only experience of physical contact with an adult was by force and this

¹⁶⁵ See, for example, R Morgan, *Children’s Views on Restraint* (Commission for Social Care Inspections 2005). The Independent Review of Physical Restraint concluded that the YJB should investigate the psychological harm caused to children during physical restraint. See P Smallridge and A Williamson, *Independent Review of Restraint in Juvenile Secure Settings*, (Ministry of Justice 2008) 40. The YJB responded to this recommendation but relatively little information is provided. See YJB, *Behaviour Management Across the Secure Estate for Children and Young People: A Study Conducted by IpSOS MORI for the YJB* (YJB 2011) <<http://yjbpublications.justice.gov.uk/en-gb/Resources/Downloads/Behaviour%20management%20across%20the%20secure%20estate%20for%20children%20and%20young%20people.pdf>> accessed 21st January 2013.

¹⁶⁶ See Chapter 1, 10-13.

¹⁶⁷ See, for example, J Davidson and others, *Holding Safely: A guide for residential child care practitioners and managers about physically restraining children and young people* (Scottish Institute of Residential Child Care, University of Strathclyde 2005); R Morgan, *Children’s Views on Restraint* (Commission for Social Care Inspections 2005); Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children’s homes* (Howard League for Penal Reform 2006) 47; L Steckley and A Kendrick ‘Physical restraint in Residential Childcare: The Experiences of Young People and Residential Workers’ (2008) 15(4) *Childhood* 552; Howard League for Penal Reform, *Twisted: The Use of Force on Children in Custody*, (Howard League for Penal Reform 2011).

¹⁶⁸ Fieldwork notes (2008).

¹⁶⁹ Sean had made serious attempts to self-harm or commit suicide by covering his face and tying things around his neck. He was on remand for a serious sexual offence, only increasing his levels of anxiety. He had an open ACCT (Assessment, Care in Custody and Teamwork) document, designed to respond to self-harm and suicide concerns, but was detained in the segregation unit.

¹⁷⁰ Stanely (SCM) confirmed that some young people do deliberately goad staff and all staff felt unable to respond to such behaviour and, often, officers were required to use force.

¹⁷¹ Also see L Steckley and A Kendrick ‘Physical restraint in Residential Childcare: The Experiences of Young People and Residential Workers’ (2008) 15(4) *Childhood* 552.

¹⁷² *ibid*, 563.

experience was then replicated in custody.¹⁷³ It also suggested that young people with experience of past sexual abuse might seek out physical restraint to gratify their needs, compounding their abuse experience.¹⁷⁴ This again raises questions about the appropriateness of physical restraint with vulnerable young people and, ultimately, its use simply perpetuates a language of violence.¹⁷⁵

The use of physical force, especially when perceived to be excessive, inappropriate or disrespectful, was very much viewed with disdain and was not perceived to be a legitimate use of power. For example, Shane commented that he never felt that he has been treated with respect when he has been physically restrained. Tom commented: *Don't know what respect means when you get twisted up.* Chris, who had not himself been restrained, commented that they treat them *like pigs.* The fact that some young people felt the use of physical restraint was illegitimate produced a desire to retaliate through physical violence.¹⁷⁶ It was suggested by the young people concerned that they would wait until a later, more opportune moment to seek their revenge. Terror explained:

I struggled yeah and he twisted my wrist all the way back and pulled a muscle in it and he was holding it back but now when I call the govs to come to my door, he won't come to my door to let me out ,,ause he knows next time he comes to my door, I'm going to knock him out because he knows that the other officer was like, "Let go of his wrist, let go of his wrist," and he was just pushing it back and back.

¹⁷³ Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children's homes* (Howard League for Penal Reform 2006) 47.

¹⁷⁴ *ibid.*

¹⁷⁵ J Stott, *Held to account: Physical restraint of volatile young offenders is both controversial and risky. So why are ministers keen on rule changes that could see it used more widely?* *The Guardian* (London, 28 November 2007) <<http://www.guardian.co.uk/society/2007/nov/28/guardiansocietysupplement.youthjustice>> accessed 27th December 2012.

¹⁷⁶ Terror, Nathan and Shane all mentioned this.

None of the young people stated that they had in fact assaulted a member of staff who had been responsible for the physically restraining them.¹⁷⁷ However, the possibility that the use of physical restraint might precipitate assaults on staff not only perpetuates violence but will most likely lead to further use of physical restraint.

7.3.2 'The Block:' Segregation

Throughout the last 200 years, custodial institutions for juveniles have frequently employed policies and practices that exclude the most difficult or troublesome incarcerated young people;¹⁷⁸ YOIs are no exception. YOIs have segregation units which, at the YOI where the fieldwork was conducted, had been renamed to project a more 'child friendly' image.¹⁷⁹ Young people could be held in the segregation unit, also known as 'the block' or 'seg', for the purposes of good order or discipline or for their own protection.¹⁸⁰ 10% of those young people who completed a questionnaire had been segregated.¹⁸¹ Young people should only be

¹⁷⁷ This possibility that staff who get 'involved' or 'carried away' might be at risk of assault from the young person involved was noted by Danny (SCM) and Daniel (SCM).

¹⁷⁸ See Chapter 2.

¹⁷⁹ The name of the unit has not been disclosed in order to preserve the anonymity of the institution. For general comments on the 'renaming' of units, see Her Majesty's Chief Inspector of Prisons, *Annual Report of HM Chief Inspector for England and Wales: 2004-2005* (Stationery Office 2006) 56 <<http://www.official-documents.gov.uk/document/hc0506/hc08/0883/0883.pdf>> accessed 16th December 2012; Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children's homes* (Howard League for Penal Reform 2006) 62; Her Majesty's Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2005-06* (Stationery Office 2007) 41 <<http://www.official-documents.gov.uk/document/hc0607/hc02/0210/0210.pdf>> accessed 27th December 2012; Her Majesty's Chief Inspector of Prisons, *HM Chief Inspector for England and Wales: 2008/2009* (The Stationery Office 2010) 67 <<http://www.official-documents.gov.uk/document/hc0910/hc03/0323/0323.pdf>> accessed 13th December 2012.

¹⁸⁰ Young Offender Institution Rules 2000 section 49; Her Majesty's Prison Service, *Prison Service Order 1700: Segregation* (2nd Edn, Her Majesty's Prison Service 2003) <http://www.justice.gov.uk/offenders/psos/ps0_1700/?SQ_DESIGN_NAME=blank> accessed 27th December 2012. Examples given for moving a young person to segregation include assaults against a member of staff, serious assaults against peers; protection for sex offenders who feared personal attack; difficulties coping with life on 'normal location'; and, whilst awaiting the outcome of police investigation for institutional misconduct. Fieldwork notes (2008). This was also mentioned by Rob (PCO) during his interview.

¹⁸¹ Of those who were interviewed, four young people had been segregated at the YOI, four had been segregated at another YOI and one young person, David, had experienced single separation in a STC. See Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children's homes* (Howard League for Penal Reform 2006) 63 for further discussion regarding the use of single separation in STCs.

segregated for the purposes of ‘good order and discipline’ for the ‘shortest period of time’¹⁸² although this injunction is not always followed.¹⁸³ Of those who were interviewed, four young people had been segregated at the YOI for a period ranging between 1-4 weeks. Whilst detained in another YOI, Tyrone was held in the segregation unit for two months before being transferred to the YOI. Staff within the YOI’s segregation unit conceded that population pressures meant that it could take some time to secure the transfer of a young person to another YOI.¹⁸⁴ It seemed possible that young people could spend long periods of time on the segregation unit.¹⁸⁵ During the empirical study, Sean (‘Rambo’)¹⁸⁶ was continually moving ‘back and forth’ between the segregation unit and ‘normal location.’¹⁸⁷ It appeared that young people who were particularly difficult to manage could experience multiple stints in segregation.¹⁸⁸ In Sean’s case, senior staff spent some time trying to ‘build a case against’ him on what appeared to be relatively poor grounds to ensure that he continued to be held in segregation and that he was transferred to another YOI.¹⁸⁹

Segregation typically involved long periods of idleness with little human interaction and, apart from these brief respites, life in the segregation unit was typically spent in ‘solitary

¹⁸² Her Majesty’s Prison Service, *Prison Service Order 1700: Segregation* (2nd Edn, Her Majesty’s Prison Service 2003) <http://www.justice.gov.uk/offenders/psos/psos_1700/?SQ_DESIGN_NAME=blank> accessed 27th December 2012.

¹⁸³ Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children’s homes* (Howard League for Penal Reform 2006) 64; Office of Children’s Commissioner, *Submission to the United Nations Human Rights Council Universal Periodic Review: 13th Session 2012 - United Kingdom* (Office of Children’s Commissioner 2011) 8-9 <http://lib.ohchr.org/HRBodies/UPR/Documents/Session13/GB/OCC_UPR_GBR_S13_2012_OfficeoftheChildrensCommissioner_E.pdf> accessed 27th December 2012.

¹⁸⁴ Fieldwork notes (2008).

¹⁸⁵ For example, Rob (PCO) conceded that one particular young person who had a personality disorder spent a ‘very long time’ in segregation before being transferred to a mental health facility but could not specify an exact time period.

¹⁸⁶ See 298 above.

¹⁸⁷ This was mentioned by Rob (PCO) during his interview and also noted during the observation period.

¹⁸⁸ This is evidenced in the statistical data noted in the House of Commons. The reference to Hansard has been removed to preserve the anonymity of the institution.

¹⁸⁹ Fieldwork notes (2008).

confinement.¹⁹⁰ The recurring description of life in the block was that it was *__boring*‘; there was *__nothing to do*.¹⁹¹ This creates an element of *__timelessness*‘ since the prison routine no longer serves to structure time nor do young people have access to items which previously served to occupy or distract them. Young people become disconnected from the essential task of *__doing time*,¹⁹² which is reduced to a simple *__waiting game*.‘ Essentially, segregation *__marks the end of one’s mastery over time*,¹⁹³ something which was painful.¹⁹⁴

With little to occupy them, young people could quickly drift into thinking about worries, concerns or anxieties which they sought to suppress.¹⁹⁵ For example, Tyrone commented:

That was hell ... Loads of thinking, I did loads of thinking. Started to hurt my head a lot, all the things started to hit me hard. Start thinking about your family and everything you did, it did hurt, it hurt a lot ... There’s no escape. In block, there’s no escape or nothing ... it was hell ... I had to do it n’it. It was like being on remand again, they didn’t tell you a date to come out, I didn’t have no date to come back, I just waited ... It was miserable, hell.

¹⁹⁰ Fieldwork notes (2008). Young people held in the block might be visited by a learning support assistant and given access to the yard for physical exercise. Telephone calls were only permitted twice week. Also see Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children’s homes* (Howard League for Penal Reform 2006).

¹⁹¹ This was mentioned by all those young people who had been segregated, which included Clark, Andray, Darren, Tom, Andray, Nathan and Tyrone.

¹⁹² See Chapter 3, 112-114 and Chapter 5, 175-186.

¹⁹³ J Martel, *‘To Be, One has to be Somewhere’* (2006) 46(4) *British Journal of Criminology* 587, 597.

¹⁹⁴ For example, Andray commented that it *__hurts*.‘ Similarly, Aaron remarked *__I just I don’t even know how I managed to cope*.‘

¹⁹⁵ Also see Chapter 5, 180-182.

The association made by young people between extended ‘thinking time’ and depression and self-harm as discussed in Chapter 5¹⁹⁶ raises concern about the extent to which segregation could provide the precipitous conditions for self-harm and suicide.¹⁹⁷

The alternative name given to the segregation unit simply represented a ‘euphemism’¹⁹⁸ for what is essentially a segregation unit with little dispensation for the age of the prisoners or attempts being made to function with a different ‘focus or ethos.’¹⁹⁹ It remained a segregation unit in ‘all but name.’²⁰⁰ The tendency of juvenile YOIs to ‘rebadge’ segregation units has been criticised for failing to stimulate an appropriate behaviour management strategy.²⁰¹ For young people accommodated in the reorientation unit for their own protection, the very sparse, austere and monotonous environment is also a matter of concern. Staff did make an effort to reproduce, as far as possible, the regime level that young people would have been entitled to on the wing.²⁰² However, it was not possible to offer association or the full education timetable to which they would normally be entitled.²⁰³

¹⁹⁶ See Chapter 5, 180-182.

¹⁹⁷ The possibility for this is demonstrated in the death of Gareth Price at Lancaster Farms YOI. See INQUEST, *Damning Critical Verdict into the Death of 16 Year Old Gareth Price* (INQUEST 2008) <http://inquest.gn.apc.org/pdf/2008/INQUEST_press_release_gareth_price_inquest_verdict.pdf> accessed 27th December 2012.

¹⁹⁸ Lord Carlile, *The Lord Carlile of Berriew QC: An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children’s homes* (Howard League for Penal Reform 2006) 62; B Goldson, ‘Child Incarceration: Institutional Abuse, the Violent State and the Politics of Impunity’ in P Scruton and J McCulloch (eds), *The Violence of Incarceration* (Routledge 2009) 95.

¹⁹⁹ Her Majesty’s Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2005-06* (Stationery Office 2007) 41 <<http://www.official-documents.gov.uk/document/hc0607/hc02/0210/0210.pdf>> accessed 27th December 2012.

²⁰⁰ Her Majesty’s Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2007-08* (Stationery Office 2009) 68 <<http://www.official-documents.gov.uk/document/hc0809/hc01/0118/0118.pdf>> accessed 17th December 2012.

²⁰¹ Her Majesty’s Chief Inspector of Prisons, *HM Chief Inspector for England and Wales: Annual Report 2008/2009* (Stationery Office 2010) 67 <<http://www.official-documents.gov.uk/document/hc0910/hc03/0323/0323.pdf>> accessed 13th December 2012.

²⁰² This was mentioned by Rob (PCO) during his interview and also noted during the observation period.

²⁰³ This was mentioned by Rob (PCO) during his interview and also noted during the observation period.

The segregation unit had been reinstated as a segregation unit only a fortnight before the fieldwork began.²⁰⁴ Prior to that, it had been used as a resettlement unit; segregated young people were held in the wing's nominated 'segregation cell.' However, without exception, staff consistently spoke of the 'need' for the segregation unit.²⁰⁵ Rob (PCO) stated that he 'enjoyed the day' that the reorientation unit had re-opened and that day represented the 'best day' during his time at the YOI. Mike (PCO) commented:

I could see that the discipline was starting to go, and as soon as they opened the block ... I felt like I was getting back, I felt like I was losing a bit of control, and in the job you do, you've got to be in control. I feel like I've got to be in control ... they've got to know you are the boss like or they will try it on.

To staff, segregation was seen as a method of control and deemed a necessary deterrent, particularly because staff were concerned about protecting themselves from physical assault and wanted stiff sanctions for young people who did assault staff.²⁰⁶

The segregation unit at the YOI had a 'special cell', which had been stripped of all furniture, bedding and sanitation; containing little more than a raised platform which acted as a bed.²⁰⁷ Like adult prisons, special cells accommodate 'violent or refractory' prisoners for a short period of time. It should not be used as punishment.²⁰⁸ Only one young person involved

²⁰⁴ Fieldwork notes (2008).

²⁰⁵ This was true for Danny (SCM), Stuart (SCM), Mike (PCO) and Rob (PCO).

²⁰⁶ Both Mike (PCO) and Bridget (Nurse) also commented that segregation was under-used.

²⁰⁷ Fieldwork notes (2008).

²⁰⁸ Her Majesty's Prison Service, *Prison Service Order 1700: Segregation* (2nd Edn, Her Majesty's Prison Service 2003) <http://www.justice.gov.uk/offenders/psos/psos_1700/?SO_DESIGN_NAME=blank> accessed 27th December 2012; Her Majesty's Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2005-06* (Stationery Office 2007) 41-42 <<http://www.official-documents.gov.uk/document/hc0607/hc02/0210/0210.pdf>> accessed 27th December 2012; Her Majesty's Chief Inspector of Education and others, *Safeguarding Children: The Third Joint Chief Inspectors' Report on the*

in the study had been in special accommodation.²⁰⁹ Special cells are not used in SCHs or STCs and their use reflects a broader problem across the child prison estate.²¹⁰

7.4 'In the Shadows': The Use of Soft Power

For the most part, 'hard power' is, and must be, 'converted into softer means'²¹¹ in order to gain the co-operation of prisoners and to avoid the daily war that may result from the routine use of violence to secure order and control.²¹² Soft power is defined as 'those aspects of treatment and regulation that are accomplished directly through staff-prisoner relationships and indirectly through policies that officers assist or put into effect.'²¹³ Prison officers, as noted in Chapter 3,²¹⁴ have substantial 'soft,' discretionary power, which is evident in the distribution of 'privileges and in [prison officers'] everyday use of authority.'²¹⁵ This discretionary power is inevitable when prison officers are armed with rules and policies to guide the use of power and authority, tools which inevitably are 'blunt instruments.'²¹⁶ Such instruments cannot hope to provide the kind of specificity required to deal with each and every situation, and the 'vagaries of language'²¹⁷ are such that the guiding rules and principles require interpretation by individual officers.

Arrangements to Safeguard Children (OFSTED 2008) 51; YJB, *A Review of Safeguarding in the Secure Estate 2008* (YJB 2008) 33.

²⁰⁹ This was one of the young people who completed a questionnaire rather than an interview.

²¹⁰ Her Majesty's Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2005-06* (Stationery Office 2007) 41-42 <<http://www.official-documents.gov.uk/document/hc0607/hc02/0210/0210.pdf>> accessed 27th December 2012; Her Majesty's Chief Inspector of Education and others, *Safeguarding Children: The Third Joint Chief Inspectors' Report on the Arrangements to Safeguard Children* (OFSTED 2008) 51; YJB, *A Review of Safeguarding in the Secure Estate 2008* (YJB 2008) 33.

²¹¹ Crewe (n22) 81.

²¹² See Chapter 3, 86-88 for a more detailed discussion on this point.

²¹³ Crewe (n22) 456.

²¹⁴ See Chapter 3, 86-88.

²¹⁵ Crewe (n22) 456.

²¹⁶ Liebling (n32) 489.

²¹⁷ A Liebling and others, *The Prison Officer* (2nd Edn, Willan 2011) 124.

The use of soft power could operate in the shadows since staff were afforded significant latitude in the *interpretation* of the rules and could make quite far-reaching decisions about the distribution of privileges. As discussed in the following section, it was not that staff were necessarily acting in contravention of the rules, but they could use them to their advantage and could interpret the rules to serve their own purposes. Similarly, in the context of adult prisoners, Crewe asserts that abuses of power by prison officer occur less often but that the IEP scheme has created new forms of punishment which occur *within* the bureaucratic folds of the system.²¹⁸ It is the gap between rules and practice which exposes both the best and worst aspects of prison officer work.²¹⁹

7.4.1 The Rewards and Sanctions Scheme

The YOI's rewards and sanctions scheme operated in an analogous manner to the IEP scheme available in public sector prisons. Young people were assigned to bronze, silver, gold or platinum regime. Bronze regime offered only limited privileges.²²⁰ Advancing to silver or gold regime offered an in-cell television and extra periods of association. Those on gold were eligible for ROTL could use the weights in the gym, could access a games console and in-cell phone access. On arrival, young people are automatically assigned to silver regime. Of those young people interviewed, 23% were on bronze, 50% were on silver, 27% were on gold and none were on platinum regime.

²¹⁸ B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) 105.

²¹⁹ Alison Liebling, Distinctions and Distinctiveness in the Work of Prison Officers: Legitimacy and Authority Revisited (2011) 8(6) *European Journal of Criminology* 484, 489.

²²⁰ For example, association was only offered twice a week to those on bronze regime, in turn restricting their access to showers and telephones. This is also discussed in an Inspection report published by Her Majesty's Inspectorate of Prisons. NB: The reference to the Inspection report has been removed to preserve the anonymity of the institution.

For the officers interviewed during this empirical research, the IEP scheme was seen as a particularly important tool for order and social control.²²¹ Decisions were made on a weekly or fortnightly basis by the wing's SCM, taking into account the comments made on the young person's wing file and any adjudications. Young people could appeal against the decision of the SCM, although it is not clear how many young people exercised this right.²²² Procedural fairness mattered, not only for how young people perceived the benefits of adhering to scheme, but also in their assessments of their treatment by staff and the quality of prison life. 55% of young people interviewed and 57% of those who completed a questionnaire believed that the regime levels were fair.²²³ 32% of young people did not and a further 13% were undecided or gave a mixed response. Complaints about the rewards and sanctions scheme appeared to centre on two key themes: inconsistency in decision making and the inability to attain a higher regime level.

Inconsistency in the decision making process was a feature of many young people's accounts.²²⁴ For example, Chris, who was on silver, believed that the regime and sanctions scheme was unfair because of inconsistencies regarding the decision to promote young people to gold:

I should have been on gold a couple of weeks ago but they bumped me off ... I had two bad comments they didn't put me up and I know people who've had six, seven bad

²²¹ This was noted in the interviews with Alison (PCO), Rob (PCO), Mike (PCO), Stuart (SCM) and Daniel (SCM).

²²² Liebling's study discovered that the appeal procedure was little understood and under-developed. See Liebling (n17). However, this research was undertaken when the policy was still being embedded.

²²³ This is comparable with the national average provided by Her Majesty's Inspectorate of Prisons (H Cripps, *Children and Young People in Custody 2009 - 2010: An analysis of the experiences of 15 - 18 year-olds in prison* (Her Majesty's Inspectorate of Prisons 2010) 38).

²²⁴ Five young people made particular comments about this (Chris, Kyle, Stephen, John and Aaron).

*comments and they've been put up. But they probably just didn't want me to go up.
Oh well, it's only a regime.*

To Chris, the decision not to raise a young person's regime level is taken very personally, as an indication that officers have prejudicial attitudes towards them.²²⁵ This is perhaps an inevitable consequence of the construction of social interactions and relationship as a question of (earned) respect. It also illustrates how the IEP scheme serves to individualise prisoners.²²⁶

The reward scheme is premised on the basis that good behaviour and (visible) engagement with the demands of the prison regime and administration is rewarded. A proportion of young people felt that higher regime levels were unattainable.²²⁷ For example, Aaron commented:

I've tried everything, I've tried behaving myself, no fights, no bad comments, no R&S nothing, still not gone up ... I've been trying for five weeks, no bad comment nothing and I didn't get it so I've stopped trying.

If standards of behaviour are too low, they are unlikely to promote any change in behaviour and the use of four different regime levels becomes a redundant exercise. However, if the bar is set too high, this can be de-motivating for young people and will do more to discourage

²²⁵ This was also reflected in Kyle's interview.

²²⁶ For further discussion in the context of adult prisoners, see B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison* (Clarendon Press 2009) 455-457.

²²⁷ This was emphasised in the interviews with John, Chris, Nathan, Kyle, Risze and Aaron.

than encourage them.²²⁸ The perceived inability of young people to attain platinum regime has attracted the criticism of Her Majesty's Inspectorate of Prisons.²²⁹

Young people, such as Tyrone, suggested that the likelihood of securing gold or platinum regime was enhanced on certain wings:

Everyone wants to get on [gold] but it's hard to get. If you can chill, you can chill but you just have to be on the right wing to get gold. Have to be on the right wing. Like the wing I'm on now, is the right wing to get gold but there's one big [SCM], the manager that doesn't like me there so that is a big problem but not all of the time is he in. When he's in, I just full chill out, fully chill out. „Cause if you start playing with your friends, that's called horse playing and you get a bad comment for that. So you can't really. Sometimes the rules are strict, but you get used to it and that, get used to it.

Tyrone's assessment that this was the 'right wing' for gold could reflect the attitudes of staff members, the young people on the wing or the stability of the wing and ability to maintain an enhanced regime level. If a wing is 'quiet'²³⁰ there will potentially be less conflict and, therefore, a decreased likelihood of the enhanced regime being jeopardised. Staff were equally aware that there was some variation in approaches to behaviour management,

²²⁸ For example, Aaron, after failing to secure a promotion to gold regime after several weeks of trying, simply *stopped trying*.

²²⁹ The reference to the Inspection report has been removed to preserve the anonymity of the institution.

²³⁰ Description taken from interview with Risze.

however, the ability to run a *‘tight’* rather than a *‘soft’* regime was seen as indicative of professional skill.²³¹

7.4.2 Inaction and Inconsistency

Inaction was another form of *‘soft’* power. Such inaction could include a failure to answer requests, provide essential goods, adhere to the institutional timetable and *‘keep their word.’* Staff *‘had the power not to listen, not to respond, and not to carry through action.’*²³² The choice not to act was another use of discretionary power by prison officers. Ryan complained:

Like once I wanted a slip to top off the money but I didn’t speak to my mum for three days because the night staff wouldn’t give me one so that pissed me off ... Three days in a row I asked them in the morning, “Can you get someone to drop one off tonight?” They said “yeah” and you won’t hear nothing from them and then they say the next day, the next day, piss you off.

Young people did not necessarily expect staff to grant outrageous or inappropriate demands, however, they did want them to respond to their calls and requests; the failure to do was enormously frustrating.²³³ Hulley *et al* have recently suggested respect in prisons might involve not only a *‘respect for human dignity and worth’* but also an *‘organizational respect’* which, they suggest, is described by prisoners as *‘getting things done’* or *‘sorting things*

²³¹ For example, Stuart (SCM) commented: *‘but on my wing, we are quite strict and it works quite well whereas on other wings, the lads will get away with blue murder.’* This was also evident in the informal interactions with staff during the fieldwork.

²³² Liebling (n12) 345.

²³³ This was true for six young people (Terror, Ollie, Nathan, John, Stephen and Scott).

out'.²³⁴ This element of respect may be perceived to be as important as the interpersonal aspects of respect' previously documented.²³⁵ The finding that young people at the YOI wanted staff to respond to their needs appears to support this view.

Young people resented being told that a particular action was going to be undertaken at a particular time to find that it did not materialise.²³⁶ In Kyle's interview, he complained that staff sometimes fail to unlock their doors to allow them to engage in association at the required times. He referred to this as time being taken away.' Thus, time was defined as having a property value and right. Young people also fell foul of the apparently inconsistent messages given by different members of staff. Staff appeared to get annoyed if young people shouted or banged their door, but young people believed that induction staff told them that this was how to gain staff attention.²³⁷ Young people who persistently kicked or banged their door or attempted to get the attention of staff by shouting sometimes found that they were answered by a shout from the wing office to stop or by an officer turning off their electric.²³⁸ They might also be the recipient of a R&S warning, potentially leading to the forfeiture of privileges. Thus, the impact of these inconsistent messages could be very negative.

7.5 The 'Depth', 'Weight' and 'Tightness' of Imprisonment

The experience of imprisonment has been described in terms of its depth,²³⁹ weight,²⁴⁰ and tightness.²⁴¹ Downes originally used the concept of depth' to distinguish between the length of imprisonment and the psychological invasion by the prison' caused by relations

²³⁴ S Hulley and others, Respect in Prisons: Prisoners' Experiences of Respect in Public and Private Sector Prisons (2012) 12(3) *Criminology and Criminal Justice* 3.

²³⁵ *ibid* 3.

²³⁶ This was raised in the interviews with Jason and Kyle.

²³⁷ Fieldwork notes (2008).

²³⁸ Fieldwork notes (2008). Also see 286 above.

²³⁹ D Downes, *Contrasts in Tolerance: Post-War Penal Policy in the Netherlands and England and Wales* (Clarendon Press 1988) 166.

²⁴⁰ RD King and K McDermott, *The State of Our Prison* (Clarendon Press 1995) 89.

²⁴¹ Crewe (n21) 10.

with staff, relations with prisoners, rights and privileges, material standards and conditions and the overall quality of the life made possible or withheld by the prison regime.²⁴² In a later study, King and McDermott developed Downes' thesis. Prisoners in King and McDermott's study saw their relationship to the system in terms of 'how deep they were in.'²⁴³ Prisoners who were not due for release for some time, or who were repeatedly subject to control measures, believed that they were 'buried deep.'²⁴⁴

In relation to the other aspects of imprisonment noted by Downes, King and McDermott observe that prisoners spoke of having 'the weight on their shoulders.'²⁴⁵ Prisoners felt that these aspects of imprisonment 'bore down on them' to the extent that they could no longer cope.²⁴⁶ King and McDermott argue that Downes' idea of depth applied to the issue of security but that the 'weight' of imprisonment more aptly described all other aspects of imprisonment.²⁴⁷

The reconfiguration of penal power during the 1990s and 2000s has also altered how prisoners describe the experience of imprisonment. Crewe argues that imprisonment has become both deeper and heavier since the early 1990s.²⁴⁸ He argues that, while the carceral experience is less authoritarian and less destructive than its previous forms, the system of power exercises a tighter 'grip.'²⁴⁹ The carceral experience, '[i]nstead of brutalising, destroying and denying the self, it grips, harnesses, and appropriates it for its own project. It turns the self into a vehicle of power rather than a place of last refuge.'²⁵⁰ Consequently, the

²⁴² Downes (n239) 166.

²⁴³ King and McDermott (n240) 89.

²⁴⁴ King and McDermott (n240) 89.

²⁴⁵ King and McDermott (n240) 90.

²⁴⁶ King and McDermott (n240) 89-90.

²⁴⁷ King and McDermott (n240) 90.

²⁴⁸ Crewe (n21) 449.

²⁴⁹ Crewe (n21) 10, 449.

²⁵⁰ Crewe (n21) 449.

experience of imprisonment is described as not *‘deep’* or *‘heavy’* but as being *‘tight,’* producing a form of psychological and emotional tension.

For young people at the YOI, the depth of imprisonment was felt in terms of the placement within the juvenile secure estate. Young people typically referred to the YOI as *‘jail’*²⁵¹ and were keenly aware of the possibility of incarceration in an adult prison either during their current or any future sentences.²⁵² They were on the cusp of the adult prison estate and, although they were in at the deep end of the juvenile secure estate, they knew that they could go *‘deeper’* still. As noted in Chapter 5,²⁵³ the possibility that young people may be incarcerated in an adult prison, either during their current sentence or as a result of any future custodial sentences, was alarming. However, young people typically believed that they would struggle to stop re-offending.²⁵⁴ This was reinforced by the frequency with which they saw other young people return to the YOI. Young people clearly experienced the weight of imprisonment, as discussed in Chapter 5,²⁵⁵ however, particularly in the context of penal power and the relationship with the staff, the tightness of imprisonment emerged as a pressing concern.

7.5.1 ‘The staff are strict’²⁵⁶

The sense of the tightness of imprisonment clearly came out in the interviews with young people who frequently spoke of having little room or space to behave normally. It was sensed

²⁵¹ This was true for 18 young people (Tyrone, Rische, Jason, Clark, Tom, Nathan, Stephen, Shane, John, Kyle, Aaron, Andray, David, Scott, Ollie, Ryan, Darren and Terror).

²⁵² See Chapter 5, 198-199.

²⁵³ See Chapter 5, 198-199.

²⁵⁴ This was a consistent theme throughout the interview process. During the observation period, young people were also seen discussing the high probability that they would return to custody.

²⁵⁵ See Chapter 5, 186-200.

²⁵⁶ Quote taken from interview with Tom.

in the way in which staff did not allow any *messing* or *pissing* around.²⁵⁷ Young people particularly resented what appeared to be tedious rules, such as restrictions on *talking* at doors, *horseplay* and *swearing* and the need to maintain a tidy cell.²⁵⁸ The sense that prison rules were *petty* or too readily applied led some young people to engage in prohibited behaviour in private or where they could avoid staff detection.²⁵⁹ However, it also appeared that it was easy for staff to get locked into the dogmatic recording of minor misbehaviour. Young people believed that staff would *take things to heart* and this would be manifested in the use of formal warnings and sanctions.²⁶⁰ For example, Tyrone commented, *there's no leeway, things get written up all the time.*²⁶¹ This serves to cage young people within the available forms of coercive power and exaggerate this sense of *tightness*.

Young people often felt frustrated that their wing file would become *flooded* with negative comments and that staff were slow to record positive comments.²⁶² The view that staff were *stitch ups* was common, even amongst those who were on gold regime.²⁶³ For example, Scott commented:

Just like, stitch you right up man n'it ... Say if you was on bronze, they would write things in your file even though it weren't true and that just to keep you on bronze.

²⁵⁷ This was particularly true for eight young people (Tom, Jason, Nathan, Mark, Aaron, Tyrone, Ollie and Clark).

²⁵⁸ This was mentioned by six young people (Jason, Ollie, Nathan, Clark, Andray and Stephen).

²⁵⁹ For example, Chris and Nathan admitted play-fighting with their pad mates to avoid the prohibition against *horseplay*.

²⁶⁰ Quote taken from interview with Jason. This was particularly true for the interviews with five young people (Mark, Tyrone, Tom, Jason and Nathan).

²⁶¹ Quote taken from interview with Tyrone.

²⁶² For example, Aaron commented that officers would *wait ages* to record a positive comment but would write negative comments in his wing file *straight away, no hesitation*.

²⁶³ This view was expressed by 10 young people (David, Nathan, Tyrone, Scott, Ollie, Ryan, John, Scott, Tom and Terror). Stuart (SCM) also used this terminology when explaining his approach strict approach to behaviour management. Mark did not use the phrase *stitch up* but suggested that some officers would distribute rewards and sanctions warnings for no reason.

The frustration with the formal recording of any perceived wrong doing or infractions was exaggerated if young people believed that that wing comments or R&S warnings were incorrect or lacked evidential proof. As Crewe observes, “[p]ower was indirect, operating –behind your back” rather than face to face.²⁶⁴ It appeared that young people felt relatively powerless and unable to contest the recordings made against them on their file.²⁶⁵

The use of wing files to justify decisions about a young person’s regime level encapsulated the idea that ‘the pen is mightier than the sword.’ For young people serving long-term or indeterminate sentences, there was a keen awareness of the impact of such ‘comments’ on the possibility of securing early release and parole.²⁶⁶ For such young people, there was an element of uncertainty and unpredictability since it was impossible to judge how, or in what ways, such decisions and the wing file record may *go against you*.²⁶⁷ For example, Tyrone commented:

As long as you are cool with them, they are cool. If they do take the mickey out of you, they come down hard on you but I don't do that, I ain't got time for none of that so that's what I'm saying ... I don't want nothing on my file. Like there's things that I used to say, used to say a lot and it got goes against me so I tend to hold it down, so if I don't say nothing, nothing will go against me ... I just chilled, I'm getting on with the time.

For Tyrone, it was imperative that there was nothing in his file that could not *go against* him. Time has another dimension here. For Tyrone, not only is there too much time, there is

²⁶⁴ Crewe (n21) 114.

²⁶⁵ This was mentioned by five young people (Ollie, Kyle, Jason, Nathan, Aaron).

²⁶⁶ This was noted by Tyrone and Kyle.

²⁶⁷ Quote taken from interview with Tyrone.

also too little: *I ain't got time for none of that.* Time could not be wasted on unnecessary disciplinary infractions that would be forever caught and captured on file. However, Tyrone's commitment was in a number of ways superficial and insecure. The need to *hold things down* appeared to produce an inordinate amount of stress. Furthermore, his engagement in attempts to *riot* and take collective action were largely unsuccessful and led to him being *shipped out* (for a second time) before they could come to fruition.²⁶⁸

Staff appeared to be disinclined to permit young people to move up to a higher regime too readily. Daniel (SCM) explained some of the complexities in deciding the regime level:

Most of the golds that we have got on there now probably are golds, there are a couple of them who are iffy like ... I had to put five up ... because their wing files were, they behaved and that so that they had to go up ... a lot of the staff say, "how is he going up? He was a so and so Thursday." "It's not in his wing file." So, it's not the boy's fault that they haven't put it in, it's the staff's for not putting it in sort of thing and I've got to put them up there because if the boy appeals against it, and it goes to the unit manager above me would say that there's nothing in his file.

Daniel (SCM) noted the importance of *give and take* at appropriate times, indicating the balancing act required in making decisions about regime levels. Thus, the use of discretion in the decisions about regime levels has the potential for bias and being vulnerable to subjective perceptions of staff.²⁶⁹ The fact that several aspects of institutional life were contingent on decisions about the reward scheme indicates that this is one area where the use of discretionary power is particularly important. The tendency to *evidence* decisions noted by

²⁶⁸ Fieldwork notes (2008).

²⁶⁹ Also see Liebling (n17).

Daniel (SCM) may be exaggerated by the belief shared by frontline staff that senior management would always side with young people and that resources would be more readily spent on young people whilst the needs of staff were ignored.²⁷⁰

It was typical for staff to prefer more formal ways of responding to institutional misconduct. It was recognised by senior management that staff did not make sufficient or appropriate use of minor reports and would rather resort to ‘niddings’ instead.²⁷¹ Although relatively less attention has been focused on the issue of ‘niddings’ and minor reports compared with the use of physical restraint and segregation, the overuse of adjudications is a national issue.²⁷² Moreover, young people believed that the available punishments were particularly severe. When asked if the adjudication process was fair, Risze replied:

No, some of the niddings were a bit over the top, like ten days is a long time, ten days in jail is a very, very long time ,cause basically when you haven't got a TV and that, it drags, it drags. And you get education bans, they drag as well because you are in your cell all day and all night.

The impact of losses extended beyond the imposition of penalties for misbehaviour but added to the difficulty experienced doing time in the solitude of a sparse cell. The sense that 10 days may be a ‘very, very long time’ mirrors the views of adult prisoners and indicates how time is distorted in the prison environment.²⁷³

²⁷⁰ This was mentioned by Alison (PCO), Rob (PCO), Stuart (SCM) and Daniel (SCM). Again mirrors the sentiments expressed in Crewe’s study where managerial decisions were seen as ‘zero-sum equations, where anything that benefitted one party worked to the detriment of the other.’ See Crewe (n21) 61.

²⁷¹ This was mentioned in the interview with Mark, Deputy Director. This appears to be an ongoing problem. A recent inspection noted that the use of adjudications and minor reports remains high. NB: Reference to the Inspection report has been removed to preserve the anonymity of the institution.

²⁷² Her Majesty’s Chief Inspector of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2010-11* (Stationery Office 2011) 62.

²⁷³ Crewe (n21) 114.

7.5.2 *'It should be zero tolerance'*²⁷⁴

Generally, staff believed that the overall regime should be stricter.²⁷⁵ In fact, this opinion was voiced by nearly every single member of staff in both formal interviews and informal conversation regardless of their location or responsibilities within the prison. For example, Alison (PCO) commented:

I think it should be zero tolerance all the way, they should have a very, very strict core day to adhere to ... Zero tolerance on everything, zero tolerance on abuse, zero tolerance on aggressive anger ... I know that they are frustrated about different things and I can understand that, but when it leads to a fight happening or an assault, it should definitely be zero tolerance on all of kind of fights and assaults. It should be dealt with very severely ... send a message through to the rest of the prison that if you have a fight, or assault any yp or member of staff then you, the consequences of that are disastrous for you.

The view that the young people were afforded too many privileges was often voiced by staff. I was often told to *'think of the victim'* and reminded that these prisoners get three free meals a day, a bed and education and then asked, *'what does the victim get?'*²⁷⁶ To staff, the experience itself should be strict, tough and punishing or, at the very least, should not offer the young people any advantages. The perceived need to deter young people from future criminal behaviour was difficult to reconcile with the need to care for a young prison population.

²⁷⁴ Quote taken from interview with Alison, a Prison Custody Officer (PCO).

²⁷⁵ The only exception was the Deputy Director.

²⁷⁶ Fieldwork notes (2008). I was also reminded about this by Bridget (Nurse) during her interview.

Staff appeared to be torn between a desire to parent young people on the one hand, and a tendency to treat them as responsible agents on the other. This was exhibited in a number of actions including teaching young people manners and teaching them that no means no.²⁷⁷ In so doing, staff were seeking to remedy parenting deficits. For example, Mike (PCO) commented:

One of my big, I know this sounds really petty and minor, one of my things is, when I've got a yp saying please and thank you, I know it seems petty but when I've got that, I know that I've got [that] yp. It's not manipulating them, yeah I suppose it is manipulating them to my way but it's manners. But like I say 90% haven't got any manners, they haven't been brought up to. I like to think that I have made a bit of a difference.

In some sense, the belief by some staff that the young people needed to be taught that no means no⁴ provided a very inflexible approach. Young people who were told no⁴ were not permitted an opportunity to explain their requests or reason with a staff. This was frustrating for young people who felt that they were not heard or listened to. Alison (PCO) said I put my foot down quite a lot and just say no, and they don't like that.⁴ She believed that the way in which good order and discipline was maintained was through challenging the lads all the time.⁴ Alison's approach illustrates the way in which staff may seek to enforce their authority simply for its own sake. Young people were placed in a double bind: required to behave like responsible adults but simultaneously taught how to behave in an analogous way to young children.

²⁷⁷ Rob (PCO), Danny (SCM), Alison (PCO), Bridge (Nurse) and Stanley (SCM) all shared this view.

The idea that such young people were ‘undeserving’ was so engrained that some staff resented even basic ‘privileges’ such as the use of a television or access to educational provision.²⁷⁸ Minimum levels of entitlements were interpreted as privileges. Crewe argues that the political climate of the 1990s shifted the emphasis of the IEP scheme: ‘Rights had been conceived as privileges, the notion of “minimum standards” was no longer a key priority and the policy’s punitive role has been clearly foregrounded.’²⁷⁹ This consensus replicates broader attitudes towards juvenile crime and punishment, which expand beyond the prison walls. Liebling acknowledges that staff attitudes towards prisoners may be influenced by the policy and political climate, the institutional character and their own character.²⁸⁰ It is possible that the intolerant attitudes towards youth documented in Chapter 2²⁸¹ are influencing responses within prison environment itself.

7.6 ‘It’s a no win situation:’²⁸² Choosing When to Comply and When to Resist

Whilst young people clearly did seek to question the legitimacy of their treatment, they often co-operated on a routine basis, at least at face value. As with other aspects of prison life and the experience of imprisonment, young people did not respond homogeneously to the system of power or to the relative sense of powerlessness. Originally, the empirical research did not seek to explore patterns of compliance and resistance, however, such themes were clearly evident in young people’s accounts. The young people’s relationship with the system of power, and the meanings they attached to their engagement, featured heavily in their narratives.

²⁷⁸ This was particularly true for Mike (PCO). Other staff spoke of young people earning their television rather than receiving a television as an ‘entitlement’ on entry.

²⁷⁹ Crewe (n21) 107-108.

²⁸⁰ Liebling (n12) 233.

²⁸¹ See Chapter 2, 63-67.

²⁸² Quote taken from interview with Nathan.

7.6.1 Compliance

The majority of young people appeared to exhibit *fatalistic compliance*.²⁸³ This fatalistic compliance is not necessarily based on an acceptance of a subordinate, deviant status; few accepted their social rejection by society.²⁸⁴ Rather, compliance was produced by the routinisation of conduct and ritualistic rhythms of prison life. For the most part, these structures are reproduced ‘most of the time’ and ‘without force.’²⁸⁵ It is the sense that the ‘prison machinery’²⁸⁶ will continue to function, notwithstanding any attempt to resist its demands that produces the sense of overt resistance futile. Young people, particularly those who had been excluded, who had voluntarily truanted or who were over the statutory school leaving age, resented the compulsion to attend education.²⁸⁷ For the most part, perpetual resistance to the requirement to attend education was quite simply a waste of time. To determine to do so would inevitably lead to the escalation of disciplinary procedures. This is not to say that the prison routine was unimpeachable. Mark explained that he had refused to comply with the demand to attend education for a three month period. Although he spent the duration of that period on bronze regime, eventually, there was a degree of compromise and agreement by both Mark and the officers concerned. Staff allowed him to simply attend vocational courses rather than demand his attendance at English and Maths, lessons that were compulsory for all but disliked by most.²⁸⁸ The ability for Mark to opt out of certain lessons and defy staff illustrates something of the inherent fragility of the prison routine.²⁸⁹

²⁸³ This was true for Darren and Ollie.

²⁸⁴ For similar comments in the context of adult prisoners, see E Carrabine, ‘Prison Riots, Social Order and the Problem of Legitimacy’ (2005) 45 *British Journal of Criminology* 896, 904-905.

²⁸⁵ Liebling (n12) 287.

²⁸⁶ Crewe (n21) 107.

²⁸⁷ Even at 15 years old, Darren felt that education was pointless because he had left school but stated ‘I’ve got no choice.’

²⁸⁸ Example derived from interview with Mark.

²⁸⁹ This point is also made by Liebling in her study of adult prisons. See Liebling (n12) 287.

For some, the penalties of non-compliance were predictably severe and, therefore, resistance was deemed to be infrequently worthwhile. Chris explained:

You get some teachers that will come up to you and say “do your fucking work you stupid pricks and that” and if you turn around and say anything to them, they will kick you out so the only way that you can really show it to them is to knock them out but then you will get a nicking or get put down the block.

It is clear that Chris did not accept that the use of such language, or that framing an instruction in such terms, was an acceptable or appropriate use of power. Indeed, he believed that the only way to really indicate an appropriate level of disapproval is to assault the teacher responsible. However, such action was not taken since the system of power simply imposes itself in a far greater way and young people cannot circumvent or usurp it.²⁹⁰ Such interactions were not perceived to be legitimate, but it is simply the futility of a suitable response that produces tolerance. Fatalistic compliance could produce the impulse to comply when in all other ways they were tempted to refuse or resist. This dimension of fatalistic compliance was not simply a question of the inevitability of the institutional timetable, but the inevitability of staff victory and the use of coercive force if cooperation was not secured.²⁹¹

Young people suggested that they could achieve little by resisting or disobeying the requests or instructions of staff: it was a *no win situation*.²⁹² When describing how he felt when he learned that his early release had been revoked, Darren replied:

²⁹⁰ This mirrors Crewe's findings of adult prisoners in a Category C prison. See Crewe (n22) 267.

²⁹¹ Also see GM Sykes, *The Society of Captives* (Princeton University Press 1958) 81.

²⁹² Quote taken from Nathan's interview. This was also reflected in Ollie and Darren's interview.

I dunno, I didn't really know what to do. There's not really much you can do. It's alright kicking and shouting and swearing but that ain't going to get me nowhere, so I just though fuck it, I'll just get on with it.

Fatalistic compliance produces a degree of stability but co-operation may be produced despite a *lack* of legitimacy. Indeed, legitimate grievances are frequently suppressed.²⁹³ ‘Doing your time’ meant *keeping your head down* and *keeping cool* even when pressed. This ultimately meant that young people complied and ignored the illegitimate use of power, exercising restraint even in the face of provocation. Although this forced young people to *take the moral high ground*,²⁹⁴ it appeared to be a source of great frustration for the young people concerned. Like the reliance on the prison routine to create a sense of dulled acceptance,²⁹⁴ the inevitability of disciplinary sanctions may be an imperfect solution to the problem of social order.²⁹⁵ Instead of relying on the *prisoners’* ideological incorporation into a dominant value system that justifies their subordination [it] relies on their grudging acceptance that the perceived despotism is a given and unalterable feature of prison life.²⁹⁶ It is possible that in some circumstances, as detailed below, the suppression of frustration or discontent may become too much to endure and a reticent, composed front may collapse.

A smaller number of young people appeared to demonstrate a degree of *instrumental compliance*.²⁹⁷ Such young people desired an enhanced regime level, early release or parole

²⁹³ Crewe (n21) 225.

²⁹⁴ S Cohen and L Taylor, *Psychological Survival: The experience of long term imprisonment* (2nd Edn, Penguin Books 1981) 141.

²⁹⁵ E Carrabine, *Power, Discourse and Resistance: A Genealogy of the Strangeways Prison Riot* (Ashgate 2004) 183.

²⁹⁶ E Carrabine, ‘Prison Riots, Social Order and the Problem of Legitimacy’ (2005) 45 *British Journal of Criminology* 896, 905.

²⁹⁷ This was true for four young people (Jason, Tyrone, Nathan and Shane).

at the earliest opportunity and complied because, in this context, resistance would be counterproductive. For example, Shane commented:

Got to keep my head down, stay on gold. I've done victim awareness, offending behaviour programmes, YPSM [young people's substance misuse], drugs, stuff like that, done all that stuff. You've just got to prove to them that you are not a risk to the public when you get out, that's about it Not going to breach your tag again.

This form of compliance was something of a passive resignation...that self-government formed part of a reciprocal contract with the institution.²⁹⁸ This marks a key similarity between the experiences of child and adult prisoners.²⁹⁹

For those young people seeking an enhanced regime or early release, amicable relations with staff was less a matter of choice than compulsion.³⁰⁰ Open hostility and dissent was unlikely to secure the desired improvement in material living conditions or liberty at the earliest possible time. For example, Tre suggested:

I just do my own thing, I just keep myself to myself, try and get my early and stuff like that, so I don't really, at the end of the day, it's the staff who can get you your early so there's no point in hating on the staff, I obviously treat the staff like they are my best friend so I can get my early ,cause I want my early.

Here, Tre's assent and consent was less a question of his belief in the legitimacy of penal power exercised by officers than it was a functional solution to his present predicament. It

²⁹⁸ Crewe (n22) 265.

²⁹⁹ See Crewe (n21); Crewe (n22). Also see Chapter 3, 102-103.

³⁰⁰ Crewe (n21) 106

illustrates how easily young people accept the rationality of the prison discourse and the demands of penal power, rendering themselves an object of it but stressing such in terms of personal agency - *I just do my own thing*.³⁰¹ Officers rewarded their compliance with additional ‘privileges’ and, therefore, this instrumental approach was highly effective, particularly if young people perceived that they could negotiate such whilst manipulating the system for personal gain.

However, unlike adult prisoners, none of the young people interviewed had been jilted by the Parole Board and few young people would be subject to such decisions whilst detained at the YOI. Consequently, although young people tried to focus on performing appropriate behaviour and visibly demonstrating their compliance, unlike adult prisoners,³⁰² they did not recognise any form of ‘psychological power.’ Nor had they had an opportunity to form opinions about how bureaucracy, professional expertise or the opinions of prison personnel acted against them in parole decisions. This is an important distinction between the experiences of child and adult prisoners.

None of the young people interviewed appeared to demonstrate what Crewe describes as *committed compliance*.³⁰³ This form of compliance is based on a commitment to personal transformation, not as a form of instrumental compliance, but in a manner that sought to depart from and renounce their criminal past, embracing self-improvement for its moral value.³⁰⁴ Prisoners in Crewe’s study who demonstrated committed compliance were attempting to make ‘moral reparation’ rather than a resigned acceptance of the terms by

³⁰¹ Similarly, this is illustrated in the accounts of prisoners in Crewe’s study of an adult training prison. See Crewe (n22) 266.

³⁰² Crewe (n21).

³⁰³ Crewe (n22) 265.

³⁰⁴ Crewe (n22) 265-266.

which the system operated and rewarded behaviour.³⁰⁵ However, at the YOI, none of the young people saw their imprisonment as a form of ‘righteous intervention,’³⁰⁶ nor did their compliance represent a commitment to a law-abiding lifestyle. Young people were not taking personal responsibility, making amends and fundamentally rethinking their moral and social values.³⁰⁷ Rather, their desire to change was less evangelical and more self-interested. Although a small number of young people demonstrated a degree of commitment to personal transformation, this was primarily portrayed as the most prudent strategy for acquiring the most comfortable lifestyle and early release. It did not indicate that they had ‘embraced the prison’s moral rectitude.’³⁰⁸ This limited evidence of committed compliance may be a feature of age since young people emphasised, as noted in Chapter 5³⁰⁹ and despite their insecurities about doing so, that they had the capacity to change because they were still ‘young.’

7.6.2 Constructing Compliance

Young people had to achieve the right balance between ‘respectful’ relations with staff and not appearing ‘close’ or too deferential to staff. For example, Mark commented:

...you’ll notice when people are on bronze and they want to get back up to silver, I mean there’s only one word, that’s rambler, they basically stick their heads up the gov’s ass to get back to silver ... It’s unbelievable the difference when people are trying to get back up to silver or go from silver to gold. All I do was keep my head down and just go to my lessons and that. They didn’t expect you to come out and offer you to do wing clean and that. I didn’t, just did nothing, just behaved and I got to gold but to do platinum, I’ve been doing wing cleaning and that.

³⁰⁵ Crewe (n22) 266.

³⁰⁶ Crewe (n22), 266.

³⁰⁷ Cf. Crewe (n22) 266.

³⁰⁸ Crewe (n22) 266.

³⁰⁹ See Chapter 5, 199-200.

Compliance and, particularly, compliant behaviour to secure a more privileged prison regime had to be carefully constructed to avoid being seen as a rambler.⁶ Rize commented:

I think when you are on bronze, it's very, very difficult to get back up to silver, very difficult. When you are on silver, it's quite easy to maintain it, people are like, they know what to do, obviously, if, this bit, feel rude saying this, if you start kiss their asses, they get a bit hard happy, basically you've got to show respect, just because the govs are govs, doesn't mean that you have got to be a bit helping them out here basically.

In both Rize and Mark's account there was a clear sense that you should avoid kissing ass⁶ or sticking your head up the gov's ass.⁶ There was a difficult balance to be found between taking advantage of the system and doing your time⁶ without selling out to the system and explicitly or obviously seeking to conform and attract the favour of staff. Interactions with staff had to be carefully constructed since a young person's behaviour was monitored by peers. Rize makes a connection between bolstering an officer's power and authority and their sexuality and masculinity - they get a bit hard happy⁶ - illustrating the way in which masculinity was so keenly tied to expressions of power and control.

The desire to avoid being identified as a rambler⁶ was coupled with the need to ensure that any attempt to engage with the demands of penal power was constructed as a personal choice. For example, Tyrone commented:

I'm going the courses I'm supposed to be doing and that, for me, not for no one else. I want to change, I want to make that change, so I'm doing it for me, no one else.

This was not an untypical approach.³¹⁰ *Change* was a personal choice and decisions and vocalising compliance in these terms deflects the ability of the institution and penal power more broadly to impose and demand such from young people.

Young people at the YOI could choose to *ride jail* or *ride bronze*,³¹¹ simply accepting the consequences of disobedience, however, the system could neither be ignored or surmounted.³¹² In Tyrone's case, the *choice* to simply ride bronze was also constructed as a deliberate one:

Even when I was on silver, I gave it up because it was too stressful n'it. I had so much stuff in my head and the govs they tell you to do this, do that and it just gets to you and I just thought, you know what, I'm just giving up n'it. I just need to chill out by myself, be in a room and away from the staff and the kids, just be away and that so I just quitted it.

Tyrone constructs the inability to manage the sense of excessive stimulation as act of agency rather than one of fragility. He opts out of the demands of penal power and *gives up* silver regime: he is able to *sidestep* institutional power.³¹³ Crewe argues that such decisions can *provide* prisoners with psychological certainty, give them a sense of masculine dignity, and liberate them from the need to manage their impressions.³¹⁴

³¹⁰ For example, Jason, Terror, Darren and Mark made similar comments.

³¹¹ See Chapter 5, 182-184.

³¹² Crewe (n22) 271.

³¹³ B Crewe, *Soft Power in Prison: Implications for Staff-Prisoner Relationships, Liberty and Legitimacy* (2011) 8(6) *European Journal of Criminology* 455, 458.

³¹⁴ *ibid* 458.

Inherent in each of the young people's accounts above is the expressed need to be seen as agents rather than the objects of power.³¹⁵ This is presented as important identity work. However, this construction of agency produces a certain irony. As Crewe observes, the subjectifying tendencies of penal power were in some ways highly effective - allowing prisoners to feel responsible for making choices and resolutions that, in reality, they could barely refuse.³¹⁶ The attempt to accomplish agency actually reconstructs the individual as the subject and object of penal power.

7.6.3 Choosing to Resist

The balance of penal power and constructions of agency cannot be adequately understood without moving beyond an understanding of why young people comply to evaluating how young people seek to resist penal power and in what circumstances. Resistance is not only used to negotiate power, it is, in and of itself, a form and use of power.³¹⁷ Young people were not simply engaged in either brazen attempts to overthrow prison officers or quiet acquiescence and co-operation. Rather, there was a considerable gulf and broad terrain between quiescence and revolt.³¹⁸ Acts and strategies of resistance included: 1) intentional protests (including individual and collaborative acts); 2) explosive eruptions; 3) concealed transgressions; 4) victimisation, bullying and violence; and 5) minor challenges. As with many typologies and schemes, there was a degree of overlap between these forms of resistance. For example, an assault on a member of staff might also form an intentional protest against perceived ill-treatment or illegitimacy.

³¹⁵ Crewe (n21) 224.

³¹⁶ Crewe (n21) 224.

³¹⁷ M Bosworth and E Carrabine, 'Reassessing Resistance: Race, Gender and Sexuality in Prison' (2001) 3 *Punishment and Society* 505.

³¹⁸ JC Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (Yale University Press 1990) 190.

Intentional protests included: hunger strikes, refusing instructions (e.g. refusing to bang up), hanging from wing landing railings, cell destruction, ‘riots’ and collaborative efforts to refuse the instructions of staff. The gravity of the incidents and the threat posed to the individual concerned, to other young people and to staff varied greatly, as did the purpose for which such protests were instigated. During the fieldwork, a young person was on a hunger strike but healthcare staff could do little more than offer meals until either urgent hospital treatment was required or the young person ended the strike. To go on hunger strike created an ability to resist the system of penal power although such resistance could not continue indefinitely without endangering life.³¹⁹

It has already been noted that cell destruction can be a result of boredom, frustration or a product of overwhelming feelings regarding a young person’s confinement.³²⁰ However, cell destruction can also form a deliberate attempt to show disapproval of an officer’s actions or simply *‘piss them off’*.³²¹ For example, Chris explained:

They were doing my head in so I decided to set my cell on fire and just trashed it ... All of them are just them were just doing my head in, they just think they’re all big .. ‘cause they’ve got keys and that. Reckon they’re the top dog, reckon they can say this and it goes but obviously it does in here but on the out they probably wouldn’t say any of that to me. But gotta keep cool.

Young people typically drew causal connections between the behaviour of staff and a later assault, assaults which could include stabbings, the use of pool balls and pool cues, or waiting

³¹⁹ See R Godderis, ‘Dining In: The Symbolic Power of Food in Prison’ (2006) 45(3) *Howard Journal of Criminal Justice* 255.

³²⁰ See Chapter 5, 204-205.

³²¹ Quote taken from interview with Darren. This was mentioned by Scott, Chris, John and Ryan.

until their back was turned and strangling them with a kettle lead.³²² In some cases, resistance was simply an attempt to alleviate the boredom experienced and provide a disruption to an otherwise monotonous daily regime.³²³

Explosive eruptions represented a form of resistance that was not necessarily intended as a form of protest but presented a challenge to prison authority. They could include violence, cell destruction and verbal exchanges with staff that escalate. *Concealed transgressions* included acts of resistance that were not overtly visible, nor did they represent a public display and challenge to staff authority. Such actions included trafficking and using drugs and tobacco into the prison,³²⁴ ‘horseplay’ with pad mates, bullying and victimisation. Such resistance did not present a visible challenge to staff authority, however, such actions nonetheless subverted prison rules.

Minor challenges included verbal abuse, swearing and ‘mouthing off’, ‘horseplay’, ‘talking at doors’ and keeping an untidy cell. Such acts, particularly ‘horseplay’, were not often defined as acts of deviance by the young people concerned but could lead to sanctions and the loss of privileges. Unlike violent outbursts or cell destruction, these acts represented minor misbehaviour. However, such incidents could accrue and result in the loss of privileges.³²⁵ Persistent nicks for minor misbehaviour could eventually amount to a ‘good order and discipline’ warning. The effect of minor misbehaviour could also be subtle and

³²² Fieldwork notes (2008). This was also evident in the interviews with Shane, Stephen, Tom, Darren and Scott.

³²³ There was a clear sense that prolonged periods in their cell, particularly if on bronze regime, could cause young people to feel like they were ‘going mad’ or ‘going crazy’. This was mentioned by Terror, and Ollie, both of whom were on bronze.

³²⁴ This was mentioned by eight young people (Terror, Mark, Nathan, Ryan, John, Clark, David and Andray).

³²⁵ For example, too many R&S warning or negative wing file comments could also result in a regime status reduction.

more pernicious: a child could become known for being a disruptive nuisance and this would sometimes alter their treatment as staff became impatient and intolerant.³²⁶

7.7 Conclusion

The relationships between staff and young people *shaped*³²⁷ the very nature and dynamics of prison life. This dimension of prison life influenced the young people's perceptions of the quality of prison life. Staff had the power to create and dictate the terms of their interaction with young people. In particular, this was focused on the issue of *respect*. Such relationships operate as a form of *quiet power*,³²⁸ yet its quietness did not divorce such interactions of their potency. There was a clear sense that staff could have a very tangible effect on how punishing, frustrating and painful custodial life was perceived to be - they could *make your life hell*. Staff could *make* the difference between a survivable experience of imprisonment and a destructive one.³²⁹ This was frequently conceptualised as a *pain* of imprisonment but one that is missing from Sykes' original typology.³³⁰ The relationships between staff and young people were clearly *instruments of control*,³³¹ mirroring research findings concerning prison officer work in adult prisons.³³¹

The tendency to use, and even over-use, adult forms of control such as physical restraint, segregation, the IEP scheme and adjudication is particularly problematic. The impact of such measures on the young people themselves is overlooked by officers who are far more concerned about gaining control, enforcing their authority and guaranteeing personal

³²⁶ Fieldwork notes (2008). Also see 286-289.

³²⁷ Liebling and others (n33).

³²⁸ Liebling and others (n33)100.

³²⁹ Liebling (n47) 347.

³³⁰ See Chapter 3, 94-104.

³³¹ Liebling (n47) 342.

safety. Imprisonment was experienced as being *_tight*³³² and *_heavy*³³³ to the extent that the cage within which young people found themselves was also sensed figuratively and symbolically. It had an invisible and intangible quality but its effects were very real. This *_aging* of young people has the effect that, even if young people want to resist, such action was not taken because young people were fully aware of the potential repercussions.

The underlying theme is that staff were primarily concerned with *controlling* rather than *caring* for young people. Little dispensation was made for the relative inexperience, immaturity and young age of the young people at the YOI. Rather, the fact that these young people were teenagers only appeared to attract a greater sense of punitiveness. The adulteration of youth justice policy as documented in Chapters 1 and 2³³⁴ has clearly seeped into the inner working of the prison and, as observed by Liebling in the context of adult prisoners, the *_criminology of other*³³⁵ was clearly being worked out inside. The similarities between the experience of adult prisoners and child prisoners are remarkable and serve to illustrate the similarity between YOIs and adult prisons, particularly in the context of security, social order and control.

³³² Crewe (n21)

³³³ King and McDermott (n242).

³³⁴ See Chapter 1, 22 and Chapter 2, 63-67.

³³⁵ Liebling (n47) 349.

CHAPTER 8

CONCLUSION

‘Jail doesn’t help anybody, it just makes them worse. It can either make you worse or gets you better, but most of the time it gets you worse.’ (Andray)¹

The purpose of this thesis was to explore the lived experience of child prisoners, a marginalised group whose accounts are often overlooked in prison ethnographic research. ‘Unlocking’ the narratives of juvenile offenders was and continues to be of paramount importance. Although there has been a fall in the youth custody population, as noted in Chapter 1,² the experience of child prisoners remains a matter of concern. The empirical research was developed with a view to understanding the nature and dynamics of prison life for teenage boys in an English YOI. It sought to discover how it felt to be in prison and how teenage boys lived through a custodial term. In so doing, this thesis sought to advance the debate regarding the abolition of child imprisonment as well as exploring the application of key themes within the prison ethnographic literature to a younger cohort.

8.1 Key Findings

The thesis began by arguing that the State owes ‘special obligations’³ to child prisoners; it is their status as *children* not as offenders or prisoners that should take priority whilst detained in penal custody.⁴ The State has a duty to set high standards in the custodial treatment,

¹ Andray was 16 years old and serving a 3 year sentence for assault occasioning grievous bodily harm with intent. During his current sentence, he had also been detained at two other YOIs.

² See Chapter 1, 9.

³ *R (on application of C) v Secretary of State for Justice* [2008] EWCA Civ 882 para 64.

⁴ See Chapter 1, 19-24. Also see *R. (on application of Howard League for Penal Reform) v Secretary of State for the Home Department* [2002] EWHC 2497 (Admin); K Hollingsworth, ‘Judicial Approaches to Children’s Rights in Youth Crime’ (2007) 19 *Child and Family Law Quarterly* 42.

conditions and provision in the juvenile secure estate where the emphasis should be on the care and not the control or punishment of child prisoners. To date, the State has been unable to provide a child-centred approach across the child prison estate. There have been persistent calls to reduce the youth custody population and abolish child imprisonment.⁵ However, juvenile offenders are typically conceptualised as a ‘threat’ to society, thereby justifying their exclusion from society and perpetuating insensitivity to the harm experienced in YOIs.

Chapter 2 demonstrated that there has been a general trend towards carceral experiments for the young. These custodial institutions have not survived because they have been able to provide a suitable, constructive and child-centred approach to the confinement of children; quite the reverse. Typically, juvenile penal establishments have drifted towards punitive excesses and have been scarcely distinguishable from the regimes available in adult prisons. The welfare or treatment orientated institutions for the ‘deprived’ and ‘depraved’ children have frequently struggled to offer a distinct alternative to the penal establishments. Poor outcomes do not and have not stimulated a move to deal with juvenile offenders solely through the use of community measures. Rather, juvenile custody, like ‘the Prison’ has a ‘self evident’⁶ quality. It is symbolic of the State’s power to punish and serves not only to maintain

⁵ See, for example, Her Majesty's Chief Inspectorate of Prisons, *Young Prisoners: A Thematic Report by HM Chief Inspectorate of Prisons for England and Wales* (Her Majesty’s Inspectorate of Prisons 1997) para 2.21; B Goldson and E Peters, *Tough Justice* (The Children’s Society 2000); T Bateman, ‘Custodial Sentencing for Children: Prospects for Reversing the Tide’ (2001) 1(1) *Youth Justice* 28; R Hodgkin, *Rethinking Child Imprisonment: A report on young offender institutions* (Children’s Rights Alliance for England 2002); Her Majesty's Chief Inspector of Prisons, *Annual Report of HM Chief Inspector of Prisons for England and Wales 2001/2002* (Stationery Office 2002) 36-7 <http://webarchive.nationalarchives.gov.uk/20110204170815/http://www.justice.gov.uk/inspectorates/hmi-prisons/docs/annual_report01-02.pdf> accessed 30th December 2012; B Goldson, ‘Child Imprisonment: A Case for Abolition’ (2005) 5(2) *Youth Justice* 77; B Goldson, ‘Penal Custody: Intolerance, Irrationality and Indifference’ in B Goldson and J Muncie (eds) *Youth Crime and Justice* (Sage 2006); Barnardo’s, *Locking up or giving up – is custody for children always the rights answer?* (Barnardo’s 2008); Children’s Rights Alliance for England and NSPCC, ‘You Feel Like You’re Nothing’: *The UN Study on Violence Against Children* (NSPCC 2008); J Jacobson and others, *Punishing Disadvantage: a profile of children in custody* (Prison Reform Trust 2010).

⁶ M Foucault, *Discipline and Punish: The Birth of the Prison* (Penguin Books 1977) 232.

the exercise of the State's power to punish, but also to express the power and might of the State.

Chapter 3 evaluated the rich prison ethnographic literature in order to understand its central themes. The prison has features which are characteristic of a total, all encompassing institution. However, the inner dynamics of a prison are shaped by a number of factors to include shifts in penal policy, organisational goals, race relations, gang culture, political and managerial decisions and those variables imported by the prisoners themselves. The prison is a coercive and depriving institution and prison life can be painful and frustrating, particularly because of the sense of timelessness. Within the available literature, the experiences of child prisoners are often neglected and, therefore, the empirical research presented in this thesis sought to contribute to the established literature.

It was argued in Chapter 4 that few publications appear to deal with the task of conducting prison research with children. The approach adopted in this study represented an attempt to draw on the available literature regarding both the task of prison ethnography in the adult estate and social research with children more broadly. The teenagers who participated in this research were seen as social actors capable of providing meaningful narratives about their own lives. Both qualitative and quantitative data was collected and analysed, allowing a rich insight into the lives, attitudes and experiences of young people and staff at the YOI. Three key themes emerged from the fieldwork: surviving a prison term; interpersonal victimisation; and, the use of power and the quality of staff-young person relationships.

Chapter 5 argued that during the early days of imprisonment, young people often experienced a liminal phase where they described feeling *lost*.⁶ Initially, time is an elusive concept; to think about the time only adds to the overwhelming sense of shock and trauma. This liminal phase did not continue indefinitely and most young people believed that imprisonment became easier to bear. However, *coping* was a dynamic process, not an event. Young people drifted between *coping*, *not coping* and *fronting*.⁶ It was clear that all the young people interviewed felt that *prison* was a lot.⁷ They were required to carefully manage the task of *doing time*,⁶ which was enormously difficult due to the inactivity, boredom and sense of *timelessness* created by prison routine. Although young people employed various strategies to transcend or expedite the perceived passage of time, most of these activities only provided temporary relief. One of the greatest threats was produced by the time to think that could develop in the solitude of a prison cell.

The imperative that young people should *keep cool*⁶ incorporated two themes: firstly, that young people should carefully manage any feelings of despair; and, secondly, that they should choose their strategies of resistance wisely so as to avoid exacerbating the *pains* of imprisonment.⁶ There were few positive avenues to discharge emotional angst or frustration. Typically, young people responded through self-harm, cell destruction, substance misuse and interpersonal violence. Generally, young people believed that those who self harmed could not *handle jail*⁸ and many dismissed self-harm as pointless behaviour. Cell destruction, unlike self-harm, was also used to protest against the perceived inappropriate and illegitimate behaviour of staff. In general, it was deemed far more acceptable to respond to *pressure*⁹ by hitting a wall or victimising others. This indicates a preference for outlets that demonstrate violent potential rather than those perceived to be indicative of weakness, which may lead to

⁷ Quote taken from interview with Tyrone.

⁸ Quote taken from interview with Nathan.

⁹ Quote taken from interview with Jason.

self-loathing, the fear of peer disapproval and identification as a *meek*.¹⁰ The infliction of this label could be dangerous and carried a risk to personal safety, as discussed in Chapter 6.¹⁰ The belief by many young people that self-harm and difficulties *coping* should be masked is in part the expression of hegemonic masculinity at the YOI and contributed to the *survival of the fittest* mentality.

Chapter 6 concluded that prison violence and victimisation was a routine aspect of prison life for young people at the YOI. Most prison victimisation was perceived to be *normal* and was largely *taken for granted*, indicating something of the centrality of violence in the lives of these young people. It reinforced the belief that *only the strong survive*.¹¹ Victims were generally afforded little sympathy and were believed to *bring it on themselves*.¹² That said, young people were often tempted to punish bullies if they exploited *little kids*,¹³ since such behaviour was not *tough*. The serious and unpredictable nature of some acts of physical violence meant that the possibility of victimisation remained an underlying concern and young people felt compelled to remain vigilant against any potential threats.

Victimising behaviour largely constituted of physical violence, verbal abuse, bullying, robbery, exclusion, intimation and control. By far the most prevalent form of victimisation was verbal abuse and physical violence. Whilst bullying was believed to be common, young people were primarily concerned about victimising behaviours unrelated to a bullying

¹⁰ See Chapter 6, 239.

¹¹ Also see C Bartollas, *Survival Problems of Adolescent Prisoners* in R Johnson and H Toch (eds), *The Pains of Imprisonment*, (Sage 1982) 165. It was clear that victimising behaviour had a communicative role, designed to send signals to the immediate victim or aggressor as well as the wider audience regarding one's masculine credentials. Such signals could be made by *standing up* to someone, threatening violence or in some cases, actually perpetrating violence. Bullying also served a communicative role, indicating and establishing power hierarchies.

¹² Quote taken from interview with Nathan.

¹³ Quote taken from interview with Tyrone.

relationship. Unlike adult prisoners, the young people at the YOI rarely appeared to engage in cell theft or sexual violence. It is possible that the structural features of the YOI environment reduced the likelihood of such acts occurring. Young people frequently engaged in victimisation and violence although it was difficult to neatly divide young people into ‘perpetrators’ and ‘victims.’ Rather, young people’s involvement in victimising behaviour was rather more fluid and nuanced and included two further groups: perpetrator/bully-victims and the ‘not involved’ group. The relationship between victimisation, identity and masculinity was such that, even if young people were keen to *keep their head down*, they may find that they are quickly drawn into attempts to defend themselves and reinforce their masculine credentials. Victimisation served a variety of purposes to include: punishment; self-defence; retaliation; conflict resolution; resolving boredom and/or releasing tension; accessing scarce resources; and, to demonstrate toughness and defend honour. Victimisation had a clear communicative function and was used to counter anxieties regarding masculinity, adjustment and the ability to *do your time*.

How staff utilised power and enforced their authority within the YOI was the focus of Chapter 7. Young people experienced the exercise of power as a *pain of imprisonment*. This related to the use of *hard* and *soft* power, as well as the sense of the *tightness of custody*. This tightness not only related to the need to comply with the system of power but also to the restrictions on activities that were considered to be a normal aspect of adolescence. The *tightness* of imprisonment was reinforced with formal, rather than informal, sanctions and measures. Young people not only felt confined by the prison walls but also within a symbolic cage that tightly controlled, regulated and restricted their behaviour. Although the preference for formal measures amongst staff varied, there was a clear belief amongst staff that the

custodial regime was not tough enough and imprisonment failed to act as an effective deterrent.

8.2 Key Concepts and Themes

In seeking to understand the narratives and experiences of child prisoners, a deliberate choice was made to construct reasonably broad research instruments. Not only did this allow the issues of central importance to the young people concerned to emerge, it also made it possible to identify key concepts that underpinned the three overarching themes presented in Chapters 5-7. These key concepts include: care and control; power; agency, compliance and resistance; the *‘pains of imprisonment’*; *‘doing time’*; identity and masculinity.

The YOI regime is predicated on the award of privileges and entitlements for good behaviour. Warnings about poor behaviour are rarely informal and it was difficult for young people to challenge the formal records that were made regarding their institutional conduct, assessments that were heavily subjective. In this respect, young people accused staff of being *‘stitch ups’*.¹⁴ Such records could affect the severity of the regime experienced. How such decisions might also weigh into the decision to release children at some later date was difficult to predict. The relationships shared by staff and young people were *‘instruments of control’*,¹⁴ *‘respect’* was an *‘earned privilege’*.¹⁵ Whilst there was evidence of positive relationships between staff and young people, the primary concern of staff was to feel *‘in control’* and, as Liebling notes,¹⁶ to make it through the day peacefully. The difficulties associated with providing a caring, child-centred environment is a theme that characterises

¹⁴ A Liebling, *‘Prison Officers, Policing and the Use of Discretion’* (2000) 4(3) *Theoretical Criminology* 333, 342.

¹⁵ See Chapter 7.

¹⁶ (A Liebling and others, *The Prison Officer* (2nd Edn, Willan 2011) 6-7.

the evolution of juvenile penal custody as a whole.¹⁷ The use of YOIs, coercive and depriving ‘prison’ establishments, only reproduces this trend.

The use of coercive and state-sanctioned violence against children is a matter of concern. The desire for control by staff manifested itself in the use of physical restraint to secure compliance and a preference for the retention of segregation. However, the use of penal power within the YOI was not simply concerned with the use of hard power but also extended to the use of discretionary power. The use of adjudications and the regime scheme is often overlooked in evaluations of youth custody. However, at the YOI such measures were frequently used to respond to minor, childish behaviour, to reinforce the authority of staff and to control children. Moreover, the practice of strip-searching young people shortly after arrival and routinely thereafter through regular ‘cell spins’ was a clear manifestation of the power relations between staff and young people. Young people felt the imbalance of power keenly to the extent that it threatened attempts to deflect a prisoner identity and perfect a stable sense of self. Young people wanted to be seen as moral agents, not as *prisoners wearing green*.¹⁸

Young people were aware that their compliance was an act of agency. They had to actively consent to staff control and authority but rarely conformed as a product of some moral imperative. Whilst legitimacy was important, young people sometimes felt compelled to comply even if their treatment was perceived to be unjust, illegitimate or abusive. Fatalistic compliance appeared to be the primary adaptation but was far more nuanced than simply accepting their identity as prisoners. In fact, many engaged in substantial identity work to avoid the label of ‘prisoner’ or ‘criminal.’ Rather, fatalistic compliance was based on the

¹⁷ See Chapter 2, 69-70.

¹⁸ See Chapter 7.

notion that there was little to be gained from overt, explicit resistance. Victory by staff was assured and to resist would only serve to worsen the existential problems of life inside. Compliance was, then, a pragmatic choice. Young people did of course choose to resist. The strategies employed, the objectives intended and the severity of such actions varied.

Young people were expected to *do their time* and *keep their head down*.⁴ When confronted with a mundane prison regime, the threat of victimisation, the tight restrictions on behaviour and the limited means to transcend the problem of timelessness, *doing your time*⁴ became enormously challenging. For those teenagers long-term sentences, the added anxiety of *keeping their head down*⁴ over a longer period of time and in an adult prison was particularly pronounced. *Doing time*⁴ was linked to visible compliance and co-operation with the demands of penal power, those who were not *doing time*⁴ were deemed to be *riding jail*.⁴ Implicit in this is the demand for self government and visible compliance with the demands of penal power.

The *pains of imprisonment*⁴ is a central theme of the prison ethnographic literature. Several of Sykes⁴ original pains of imprisonment, as outlined in Chapter 3, remained painful for young people at the YOI. The deprivation of liberty was painful, not just because of the associated loss of familial contact or social marginalisation, but also as a result of the physical confinement and perpetual *bang up*.⁴ It is possible that young people feel this deprivation to a greater extent than adult prisoners and that the physical restrictions exacerbate the sense of pent up energy, frustration, anger. Similarly, young people keenly felt the deprivation of autonomy. With so much unstructured time *on the road*,⁴ young people were not, by virtue of their age, simply accustomed to deferring to adult authority and

resented being made to feel *like a kid*¹⁹ again. Whilst the deprivation of heterosexual relations was not a dominant concern, as noted in Chapter 6, the deprivation of security was. This is particularly acute amongst young people in prison; young people are both more likely to be victimised and to victimise others.

More recently, prison researchers have documented pains of imprisonment that relate to the construction of penal power in the late modern prison, including the pain of uncertainty; the pain of psychological assessment and the pain of self government. The pain of uncertainty in so far as it relates to the ability to achieve release was a concern for those young people serving long-term sentences, particularly since many were aware that they had several years to serve in the adult prison estate. Unlike Crewe's study of adult prisoners, few young people interviewed at the YOI had appeared before the Parole Board nor did they speak of any negative experience with professionals. Therefore, the tightness and pains of imprisonment did not appear to relate to the sense of *psychological power*.⁴

Young people at the YOI demonstrated an uneasy engagement with the demand for self-government. The compulsion to visibly demonstrate their compliance was painful at times. Young people wanted room to *mess around*²⁰ and discharge energy. Those who did comply attempted to construct this choice as a personal one but, in reality, the decision to do so rendered young people the subjects of penal power and they ultimately surrendered to its demands. Those who were serving long-term sentences or who had spent some time in the custodial environment were more likely to express a desire to *keep your head down*" and

¹⁹ Quote taken from interview with Ollie.

²⁰ Quote taken from interview with Terror.

engage with the demand to put a *tick in the box*.²¹ Others were simply prepared to *ride jail* and opted out of the demands of penal power, thereby exposing its limits.

The empirical research identified a pain of imprisonment which appears to be peculiar to the child prison population – the loss of childhood. The sense of a wasted life has been documented in previous studies.²² However, for young people at the YOI it was not the fear of dying in prison, the inability to parent children or the gradual demise of family life that concerned them. It was the lost opportunity to experience formative events, opportunities which were either delayed or irrevocably lost. This *loss* was perpetuated by the realisation that they would simply *grow up* inside and, when released, they would be a *bloke* and not a *young man*.²³

Implicit in this discussion is the ways in which young people attempt to construct and accomplish identity and, in particular, a masculine identity. The need to present a masculine front has previously been identified as a secondary pain of imprisonment²⁴ and this was a particularly pertinent issue amongst juveniles at the YOI. In a number of ways, this produced additional pressure because hegemonic masculinity was constructed in terms of an ultra-masculine identity that required stoicism, emotional fortitude, physical strength, courage and the potential for violence. Any attempt to *violate* this masculine identity, whether by staff or by young people, was perceived as a serious infraction, punishable by the threat or actual use of physical violence. Notably, such violations were not punished by other forms of victimisation such as robbery, theft, or exclusion.

²¹ Quote taken from interview with Nathan.

²² See Chapter 5, 194.

²³ See Chapter 5, 194-200.

²⁴ B Crewe, *The Prisoner Society: Power, Adaptation and Social Life in an English Prison*, (Clarendon Press 2009) 409.

Despite the universality of the privately expressed problem that life inside was painful, the popular understanding of “maleness” is still constricted by the notion that “boys don’t cry”.²⁵ Although there were references to the fact that boys might indeed cry, particularly in relation to separation from loved ones, such emotional vulnerability could not be publicly expressed. Indeed, any sense of weakness or vulnerability was associated with subordinate masculinities. In many ways, hegemonic masculinity was a mask. Young people perpetuated the facade whilst recognising its deception. The ‘tough’ bravado enabled young people to mask difficulties with ‘coping’ and expunge personal anxieties about whether they could ‘handle jail’ and ‘do their time.’

The ultra-masculine culture, and the tendency towards violent and domineering responses to prove one’s manhood, in many ways, is produced and sustained by the structural features of the YOI.²⁶ These features perpetuate a particular vision of manhood whilst denying opportunities to accomplish it. It is possible that the demand for an ultramasculine identity is not only a function of the deprivations experienced, but also a function of age. Butler argues that men who have an insecure identity may be ‘especially inclined to behave aggressively’ in order to confirm to the culture of masculinity.²⁷ During a period of emotional and physical development, adolescent boys may be more likely to feel insecure about their identity and may fear that their identity as a ‘real man’ is in greater jeopardy than adult prisoners. The depiction of ‘appropriate’ prison victimisation indicates something of the complexities of hegemonic masculinity within the YOI. It was not simply the capacity to be aggressive that was important, rather a young person had to demonstrate their ‘toughness’ and physical strength in particular ways in order to avoid being considered ‘weak,’

²⁵ J Goodey, ‘Boys Don’t Cry: Masculinities, Fear of Crime and Fearlessness’ (1997) 37(3) *British Journal of Criminology* 401, 402.

²⁶ See Chapter 3, 93-94.

²⁷ M Butler, ‘What are you looking for? Prisoner Confrontations and the Search for Respect’ (2008) 48 *British Journal of Criminology* 856, 867.

cowardly‘ and essentially a *pussy*.‘ The suggestion that *boying off*‘ or *mugging off*‘ is a particular concern illustrates how behaviour that is also evident in the adult prison estate (public humiliation and intimidation) are re-constructed in terms of *manhood*‘ rather than *childhood*.‘

8.3 Research Limitations and Future Research

The empirical research presented in this thesis represents an exploratory case study of one particular institution, at a particular time with a particular group of participants. It is not then possible to make more general claims about the extent to which these findings are mirrored in other institutions. This relatively short study represented the views and experiences of a relatively small sample of participants but this, in part, is a product of the difficulties experienced by many seeking to access the closed prison world. Several compromises and *research bargains*‘ were made in order to allow the project to continue and to secure access to the desired areas of the prison and to the desired participants. Whilst these compromises did not threaten the integrity or validity of the research, they do illustrate the power imbalance that can exist when conducting prison research.

It is possible to identify future research as a result of this exploratory case study of a YOI. The use of segregation, special accommodation, adjudications and the regime levels all merit further attention. The findings presented above suggest that it is very possible that such measures may be over-used and, possibly, abused. The effect of disciplinary records on a young person’s long-term institutional career is also a matter of concern.²⁸ Staff were very concerned about personal safety but the possibility that assaults against staff are occasioned as a result of perceived violations and the illegitimate use of power requires further analysis.

²⁸ The Legal Aid, Sentencing and Punishment of Offenders Act 2012 repealed and amended the dangerousness provisions but the custodial careers of those young people who are yet to serve sentences for public protection still merits consideration.

Edgar *et al*'s²⁹ argument that prison violence can be seen through the lens of both victimisation and conflict suggests that the conflicts or perceived affronts may feature into young people's decisions to assault a member of staff. However, little research to date appears to explore this relationship.

8.4 Abolishing Child Imprisonment

This thesis sought to advance the debate regarding the abolition of child imprisonment. The findings presented here illustrate that child imprisonment is far from a neutral experience.³⁰ The narratives of young people at the YOI illustrate that, for most, imprisonment is a profoundly painful, damaging and harmful experience. Vulnerability assessments may permit identification of those children who are *most* at risk, but the failure to identify individual as 'vulnerable' does not render their imprisonment a 'safe' or risk free option. Although the title YOI seeks to reflect a distinction from adult prison establishments, the YOI was still a prison. 'Boys' had to 'grow up' and face their incarceration like 'real men.' For young people serving long-term sentences, they would simply transition from childhood to adulthood inside; they had to 'grow up quick'³¹ and be ready to face the adult prison environment, something which produced additional anxiety and uncertainty.

Many features of the adult prison environment were evident at the YOI and the typical pains of imprisonment were also experienced by the juvenile population including: physical restraint, segregation, routine strip-searching, an IEP scheme, adjudications, restrictions on access to material goods and familial contact, large units, low officer to prisoner ratios, routine exposure to prison violence; exposure to suicide and self-harm; the demand for self-

²⁹ K Edgar and others, *Prison Violence: The Dynamics of Conflict, Fear and Power* (Willan 2003).

³⁰ Her Majesty's Chief Inspectorate of Prisons, *Young Prisoners: A Thematic Report by HM Chief Inspectorate of Prisons for England and Wales* (Her Majesty's Inspectorate of Prisons 1997) para 8.02.

³¹ Quote taken from interview with Tyrone.

government and personal transformation; the requirement to earn the respect of staff; an emphasis on security and control; and a prevailing culture of masculinity. At the YOI studied, ‘boys’ are exposed to an essentially adult environment with limited recognition for their status as children.

Certain features of imprisonment are simply worse for children. Young people are more likely to initiate and experience victimisation. They are more susceptible to and lack the resilience to constructively deal with stress. The impact of adult methods of control may be far greater on the young, especially for those children with mental health concerns or from abusive backgrounds. Little recognition was given to the relative age and immaturity of children to the extent that officers placed them in a double bind, penalising normal adolescent behaviour whilst demanding that they learned their manners and that ‘no means no.’ These findings illustrate the fallacy of attempting to create a prison regime that is distinct from adults. Age matters. Incarceration at such a crucial time in their development and maturation will potentially establish rather than prevent a ‘criminal’ identity and encourage a particular life trajectory. In short, the imprisonment of adolescent boys is more risky, more painful and more costly.

It is possible to suggest that the YOI was not a ‘warehouse’ prison.³² However, it was also far from being the ‘educational establishment with fences’ it has been described.³³ There was certainly evidence of innovative approaches but the YOI was clearly a prison. The more recent upsurge in the incidence of prison violence, the high use of force and the routine use of segregation as well as the declining assessments of the quality of staff-prisoner relationships

³² D. Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Oxford University Press 2001) 177; J Simon, ‘From the Big House to the Warehouse: Rethinking Prisons and State Government in the Twentieth Century’ (2000) 2(2) *Punishment and Society* 313; J Irwin, *The Warehouse Prison: Disposal of the New Dangerous Classes* (Oxford University Press 2004).

³³ The reference to this newspaper report has been removed to preserve the anonymity of the institution.

illustrate the very real problems experienced trying to provide a positive regime for teenage boys at the YOI.³⁴ The recent fall in the size of the youth custody population represents an ideal opportunity to decommission the use of YOIs entirely, finally abolishing child imprisonment.

³⁴ The reference to the Inspectorate report has been removed to preserve the anonymity of the institution.

APPENDIX 1
APPLICATION FOR ETHICAL REVIEW

APPENDIX 2
INFORMATION SHEETS

Participant Information Letter (Young Person)

Hi,

This is a letter inviting you to take part in a research project that is being conducted at Birmingham Law School. This research wants to know your views about life here.

The research will be conducted by an interview and questionnaire. The questions will look at:

- How you came to be here
- What it is like being here
- Your release and future

Anything you say to the interviewer will be completely confidential and no one else will be told what you have said. There are only 3 situations in which the researcher may have to pass on any information to another person. These are:

- If someone else is threatening, bullying or abusing you
- If you are planning to harm yourself or others
- If you are planning an escape

You will be told if the researcher thinks that another person needs to know.

You will not be identified in anything written regarding this research. Your name will be disguised by using a different name. In fact, you can choose what name you are given.

The interviews will be tape recorded. If you do not want to have your interview tape recorded you can still take part in the research study.

The interviews will be kept fairly short and you can stop the interview or have a break at any point.

You do not have to take part but it would be great if you could help with this study. If you do not reply to this letter, it will be assumed that you do not mind being contacted with the researcher to be interviewed.

If you have any questions about this study, please ask the researcher who will be happy to help.

Thank you for your help!

I do not wish to be contacted in connection with this research project.

NAME: _____ (please print)

SIGNED: _____

DATE: _____

Participant Information Letter (Staff)

Hi,

This is a letter inviting you to take part in a research project that is being conducted at Birmingham Law School. The aim of the study is to look at the use of custody for young people, the views of young people and the views of staff. This research wants to know **your** views about working here and the use of custody for young people. The research will be conducted by way of an interview and questionnaire.

Anything you say to the interviewer will be completely confidential and no one else will be told what you have said. Confidentiality cannot be preserved if there is actual or intention to deliberately harm a young person or a member of staff. In such situations, you will be told if someone will be informed about what you have said. You will not be identified in anything written regarding this research. Your name will be disguised by using a different name, which you can choose if you wish.

The interviews will be tape recorded. If you do not want to have your interview tape recorded you can still take part in the research study. The interviews will be kept fairly short and you can stop the interview or have a break at any point. The interviews can be arranged at a time of your convenience.

You can decide to withdraw at any point from this project. If you do, any data relating to you will be destroyed.

You are not obliged to take part but it would be great if you could help with this study. If you do not reply to this letter, it will be assumed that you do not mind being contacted with the researcher to be interviewed.

If you have any questions about this study, please ask the researcher who will be happy to help.

Thank you for your help!

I do not wish to be contacted in connection with this research project.

NAME: _____ (please print)

SIGNED: _____

DATE: _____

APPENDIX 3
CONSENT FORM

Interview Consent Letter

The research has been explained to me and I have read the information leaflet.

I agree to the interview being tape recorded.

I would like to be known as _____ when anything is written about my answers.

I agree to take part.

SIGNED: _____ (Participant)

SIGNED: _____ (Researcher)

DATE: _____

APPENDIX 4
INTERVIEW SCHEDULES

Interview Schedule

Young People

Introductions

About Your Experience

Why do you think young people commit crime?

Is this why you started offending?

Did anyone try to stop you offending?

What might have stopped you offending?

Have you ever had an ASBO, community sentence, tag?

Before you arrived here, what did you do during the day?

What was it like at the school that you went to?

How did you spend your free time?

Why do you think that young people drink, smoke and use drugs?

Did alcohol and drugs influence your offending?

Some young people need help with using drugs and alcohol. Would you say that you need help with drugs and alcohol?

What was it like growing up in your family?

Before you arrived here, had you ever been in foster care or children's home?

Can you describe the offence that you are alleged to have committed/ have been convicted of?

Before you arrived here, what did you think custody would be like?

What did you think when you were told that you were being sentenced to custody/remanded to custody?

About Life Here

Can you remember what it was like when you first arrived here?

How would you describe an average day and night?

Have you been able to stay in contact with your family?

Is education here different to school?

Do you find education helpful?

What activities do you like doing?

What activities do you dislike?

Is there any activities that might be helpful to you which you don't do now?

What level of the reward scheme are you on at the moment?

What are the main ways that staff try to keep order in here?

Have you ever had an adjudication?

Have you ever made a complaint?

Sometimes young people are physically restrained by staff (C&R/PCC). Has this ever happened to you?

If yes, how would you describe it? What was this for? Did it stop you doing this again? Were you hurt in anyway? What did you think afterwards? How did the staff treat you when they restrained you?

If no, have you seen it happen to others? What did you think about the use of restraint? Did it stop you from doing the same thing?

Sometimes young people spend time in the segregation unit. Has this ever happened to you?

If yes, can you describe it to me. how long for? What was this for? What was it like in segregation?

If no, would you say it was common here then?

Sometimes young people are searched by staff. Has this ever happened to you?

If yes, can you describe it to me? when and why was this, was it done during restraint, what did you think of the way it was done?

If no, have you seen it happen to anyone?

Do you think that it is safe in here?

Some young people shout through the windows at others and often at night. Has this ever happened to you? Have you ever done it to others?

Sometimes young people try to hurt themselves. Why do you think this happens?

What do the staff do when this happens?

What do other young people do when this happens?

What do you think bullying means?

Did you experience bullying or violence before you came here?

Do you think that bullying and violence is common here?

If yes, how often would you say it happens and what kind of bullying normally takes place? Would you say that bullying is done by everyone or by a few people?

If no, why do you think this is?

What do the staff do to prevent bullying?

What do the staff do if they find out that someone is bullying them?

What do other young people do when this happens?

If you had a problem, who would you talk to?

Would you say you have a good relationship with the staff?

How have staff helped you?

Do they do anything that makes it hard for you in here?

What could they do that they aren't doing at the moment?

About Your Future

What do you think is most likely to help young people stop offending?

Is this what would help you stop offending?

Would you say that it is hard to stop offending?

Have you done anything here, or has anything happened that would make it less likely that you would offend in the future?

What are you planning to do when you leave here?

Does this YOI/STC help prepare you for release?

What do you think that this YOI/STC could do to help you prepare for release?

What do you think you will be doing in a year?

What do you think you will be doing in five years?

About Custody (Overall Impressions)

What would you say that is good about being here?

What would you say is the best thing about being here?

What would you say is bad about being here?

What would you say is the worst thing about being here?

Is there anything that could be changed to help you whilst you are in here?

Do you think that most young people know what it is like to be in here?

What would you tell other young people about life here?

Conclusion

Interview Schedule

Staff

Introductions

About You

How long have you been in this job?

What made you decide to apply for this job?

About Working Here

How would you describe an average day?

What are the positive aspects of this job?

What are the negative aspects of this job?

Are there any things that prevent you from doing your job as you would like?

How would you describe the training that you have been given to work with juvenile in here?

How would you describe your relationship with the young people here?

About the Use of Custody for Juveniles

Why do you think young people commit crime?

What do you think might help prevent young offenders from being imprisoned?

What happens when a young person first arrives here?

How do young people first react to being in custody?

Does their approach change during the time that they spend in custody?

What aspects of being in custody do juveniles find most difficult?

Do those who are on remand react differently to those who are sentenced?

How is an average day structured?

How easy is it to provide education here?

How do young people normally respond to or behave in education?

What activities are available for young people to engage in other than education?

What activities do young people enjoy the most/least?

Is there any activities that could be done that aren't already or that you would like to do?

In general, do families maintain contact with their children/relatives?

How is discipline and order maintained here?

How is the segregation unit used?

In what circumstances is physical restraint used?

How are searches used?

How often do adjudications take place?

What kinds of incidents generally give rise to adjudications?

What happens if a young person makes a complaint?

Does the IEP scheme help?

Would you say that young people feel safe here?

If yes, where do you think that they feel most unsafe? Why do you think they feel unsafe? Is it certain groups of the population?

If no, would you say that there are any groups of young people here who feel unsafe?

Would you say that bullying is common here?

What forms of bullying generally take place?

What is done to prevent bullying?

Could anything be done differently to help prevent bullying?

Would you say that self harm is common here?

What is done to prevent self harm?

Why do you think young people self harm?

What can trigger incidents of self harm?

Could anything be done which is not being done now to prevent self harm?

About Resettlement and Release

How are young people prepared for release here?

How do the sentence/training plans work?

Would you say that juvenile offenders find it hard to stop offending?

Some people have suggested that imprisonment does not prevent re-offending. What would you say?

What do you think that this YOI/STC could do to help you prepare for release?

About Custody (Overall Impressions)

What do you think custody should _do_?

What would you say was beneficial about being here for young people?

What would you say was detrimental about being here for young people?

Are there any improvements that could be made to improve the custodial experience for young people?

APPENDIX 5

INTERVIEW TIMETABLE AND PROFILE

APPENDIX 6

SUMMARY OF KEY FINDINGS FROM QUESTIONNAIRE DATA

This table summarises the key findings emerging from the young peoples' questionnaires:

<i>Number of young people serving a detention and training order</i>	73%
<i>Number of young people serving a long-term sentence</i>	21%
<i>Number of young people convicted of, or remanded for, a violent offence</i>	52%
<i>Number of young people convicted of, or remanded for, property or deception offences</i>	23%
<i>Number of young people detained more than 50 miles away from home</i>	75%
<i>Number of young people arriving after 8pm</i>	25%
<i>Number of young people travelling more than 3 hours before arrival</i>	33%
<i>Number of young people who had experiencing problems contacting family members</i>	38%
<i>Number of young people who have been excluded from school</i>	91%
<i>Number of young people who have truanted from school</i>	80%
<i>Number of young people who felt that education was helpful</i>	29%
<i>Number of young people who reported self-harming</i>	13%
<i>Number of young people who feel unsafe often, all or most of the time</i>	13%
<i>Number of young people who feel unsafe sometimes</i>	34%
<i>Number of young people who have been assaulted</i>	35%
<i>Number of young people who have been insulted</i>	49%
<i>Number of young people who needed help with bullying</i>	14%
<i>Number of young people on bronze regime</i>	28%
<i>Number of young people on silver regime</i>	31%
<i>Number of young people on gold or platinum regime</i>	41%
<i>Number of young people who thought the regimes were fair</i>	57%
<i>Number of young people who have received a nicking</i>	54%
<i>Number of young people whose cell had been searched</i>	87%

<i>Number of young people who have been restrained</i>	35%
<i>Number of young people who have been held in segregation</i>	11%
<i>Number of young people who had been held in a special cell</i>	2%
<i>Number of young people who thought staff were respectful</i>	36%
<i>Number of young people who thought staff treated them fairly</i>	40%
<i>Number of young people who thought staff were helpful</i>	55%
<i>Number of young people who saw their personal officer once a week</i>	70%
<i>Number of young people who thought their personal officer was helpful</i>	49%

APPENDIX 7

YOUNG PEOPLES' QUESTIONNAIRE

Hi!

This is a questionnaire about your experience here. This questionnaire is interested in YOUR VIEWS.

You do not need to put your name on the questionnaire.

All answers will remain CONFIDENTIAL. Only the researcher will read it.

Please answer the questions by either marking a box or writing in the space provided.

If an answer has an arrow next to it, you must answer another part of the question.

For example:

1) Do you like football?

Yes No

2) Do you have a favourite player?

Yes No

 David Beckham Steven Gerrard Michael Owen John Terry

Sean Wright Phillips Wayne Rooney Other _____

About You

1) What is your age?

12 13 14 15 16 17 18

2) Are you Male or Female?

Male Female

3) What is your ethnic background?

White – British White – Irish White – Other Caribbean White and Caribbean
 African White and African Black – Other Indian Pakistani Bangladeshi
 White and Asian Asian – Other Chinese Other_____

4) What town/area did you live in before arriving here? _____

5) Have you been in care (foster care or children's home)?

Yes No

6) Are you on a care order?

Yes No

7) Are you a parent?

Yes No

8) How long have you been here?

- Less than 2 months 2-4 months 5-7months 8 -11months 12-17 months 18-23 months
- 2-4 years 4 years or more Don't Know

9) Are you sentenced?

- Yes No – waiting for trial No – waiting for sentence No – waiting for deportation

What is the length of your sentence?

- 4 months 6 months 8 months 12 months 18 months 2-4 years 4 years or more Don't Know

10) Have you been to any other YOI secure training centre or secure children's home during this sentence/remand?

- 0 1 2 3 4 5 or more

11) How many times have you been in an YOI, secure training centre or secure children's home before this sentence/remand?

- 0 1 2 3 4 5 6 7 8 or more

About Your Experience

12) Is this the first offence you have committed/alleged to have committed?

- Yes No

13) How old were you when you committed your first offence?

- Under 7 7 8 9 10 11 12 13 14 15 16 17 18

14) What offence(s) have you been charged with/convicted of that has brought you here?

15) Have you ever had any of these community sentences? (more than one box may be ticked)

- | | |
|---|---|
| <input type="checkbox"/> ASBO | <input type="checkbox"/> Supervision Order |
| <input type="checkbox"/> Action Plan Order | <input type="checkbox"/> ISSP (may include tag) |
| <input type="checkbox"/> Attendance Centre Order (attend centre at weekend) | <input type="checkbox"/> Community Rehabilitation Order |
| <input type="checkbox"/> Referral Order (see a panel and agree a contract) | <input type="checkbox"/> Community Punishment Order |
| <input type="checkbox"/> Reparation Order | <input type="checkbox"/> Drug Treatment and Testing Order |

16) Where did you live before here?

- With parents With relatives With friends Hostel Foster Care
- Children's Home Hotel Other _____

17) Have you ever run away from home?

- Yes No

19) Which describes you:

- I have never tried alcohol I needed help with alcohol when I came here
- I have tried alcohol but it isn't a problem I had a problem with alcohol in the past but not when I came here

19) Which describes you:

- I have never tried drugs I needed help with drugs when I came here
- I have tried drugs but it isn't a problem I had a problem with drugs in the past but not when I came here

20) Would you say that drugs and alcohol impacts on your offending?

- Yes No Sometimes

21) Do you know anyone else who has been in custody?

Yes No



If yes, who?

- Parent or Step Parent Brother, Sister, Step or Half brother or sister Grandparent or Step-grandparent
- Uncle or Aunt Cousin Friends Partner, girlfriend or boyfriend

22) Do you think that young people know what it is like here?

Yes No Only some do

Here you can write anything about your experiences BEFORE coming here e.g. school, your free time, your family



About Life Here

23) What time of day did you arrive in reception?

- 9am – 12.30pm 12.30pm – 5pm 5pm – 8pm 8pm -12am 12am - 9am

24) How long did you spend travelling here?

- Less than 1 Hour 1-2 hours 3-4 hours 5-7 hours Over 7 hours

25) Were you interviewed by staff on the first day of your arrival?

- Yes No Don't know

 **Were you interviewed in a private room?**

- Yes No

How long did your interview last?

- Less than 10 mins 10-20mins 20-40 mins 40-60 mins 1-2 hours Over 2 hours

26) Were you given a shop pack on arrival?

- Yes No Don't know

27) Were you strip searched on arrival?

- Yes No Don't know

28) Was there an induction programme?

Yes No Don't Know

29) Were you assessed by a doctor or nurse within 24 hours of arrival?

Yes No Don't know

30) Is it easy to see the following people:

	Yes	No	Don't Know
Doctor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nurse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dentist	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Optician	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Solicitor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
YOT worker	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social Worker	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

31) Are you able to wear clean clothes each day?

Yes No Sometimes



32) What is the food like here?

- Very Bad Bad Okay Good Very Good

33) Do you get enough food?

- Yes No Sometimes

34) Are you able to buy things from the canteen?

- Yes No Sometimes

35) Can you buy what you want from the canteen?

- Yes No Sometimes

36) Are you able to exercise outside everyday?

- Yes No

37) Are you able to have a shower everyday?

- Yes No

38) Are you able to use the toilet when you want to?

- Yes No

39) Do you have difficulty sleeping?

Yes No Sometimes

40) Are you able to get help here with drugs and alcohol if you need it?

Yes No

41) Would you say that you needed help with drugs and alcohol use?

Yes No

Contacting your family and friends

42) Were you able to telephone your family or friends when you first arrived here?

Yes No

43) Is it easy to use the telephone to contact your family?

Yes No



44) Is it easy to send and receive letters?

Yes No

45) Is it easy for your family to visit?

Yes No

46) Have your family or friends been able to visit you yet?

Yes No

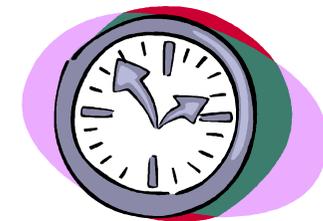
47) Would you like to be able to contact your friends and family more?

Yes No

48) Have you had problems in staying in contact with your family and friends?

Yes No

Using Your Time



49) How much time do you spend out of your cell?

Less than 1 hour 1-2 hours 3-4 hours 5-6 hours 7-8 hours 9-10 hours
 11-12 hours More than 12 hours

50) What do you do when you are in your cell?

Read Write letters Watch TV Computer Games Sleep Talk to mates
 Nothing Eat Other _____

51) Can you attend religious services if you want to?

Yes No Sometimes

52) Do you go to association?

- Yes No Sometimes

53) How often do you go to association here each week?

- Everyday 6 5 4 3 2 1 Never

↙ **How long does association normally last?**

- Less than 10 mins 10-20mins 20-40 mins 40-60 mins Over 60 mins

54) How often do you go to the gym here each week?

- Everyday 6 5 4 3 2 1 Never

56) Do you have a job here?

- Yes No

57) Are you learning any trades or skills which will help you get a job when you leave here?

- Yes No



About Your Education

58) Before you came here were you attending school, college, training or employed?

- Yes No

59) Did you ever not go to school when you should have done?

- Yes No

60) Were you ever excluded from school, either fixed exclusion or permanent?

- Yes No

61) Do you need help with reading, writing or maths?

- Yes No

→ **Were you able to get this help at school?**

- Yes No



62) How often do you do education here each week?

- 5 times 4 times 3 times 2 times 1 times Never

→ **How long does education last for?**

- Less than 20 mins 20-40 mins 40-60 mins 1-2 hours 2-3 hours
- Over 3 hours Don't know

63) What do you normally do when you go to education?

64) Does education help you?

Yes No Sometimes

65) What is good about education?

66) What is bad about education?

67) Do you receive EMA (money for attending education) here?

Yes No Sometimes

About Rewards and Discipline

68) Is there a reward scheme here?

Yes No

 ↘ **What level of the reward scheme are you on?** _____

→ **Do you think that the reward scheme is fair?**

- Yes No

69) Have you ever had an adjudication or minor report (nicks)?

- Yes No

→ **What was it for?** _____

70) Have you ever been physically restrained (C& R)?

- Yes No

→ **How often would that this has happened?**

- Rarely Once a month 2-3 times a month Once a Week 2-6 times a week
 Once a day More than once a day

→ **What kind of technique has been used on you?**

- Body Belt Ratchet handcuffs Special cells/accommodation Bent thumb back
 Pressure on nose Put thumb in ribs Arm lock Wrist lock
 Pain applied in arm or wrist lock Taken to floor face down

How would you describe being physically restrained?

71) Have you ever had your cell searched here?

- Yes No

72) Have you ever been searched here?

- Yes No

How often would you say you were searched?

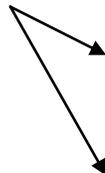
- Rarely More than once a month 2-3 times a month Once a Week
 2-6 times a week Once a day More than once a day

What kind of search is it normally?

- Mouth, ears Lower Body Full strip search

Where were you searched? (more than one box may be ticked)

- Reception In cell On wing Other _____

 **Have you ever been searched whilst restrained?**

- Yes No

Did staff treat you with respect?

- Yes No Sometimes

73) Have you ever spent time in segregation (intensive support unit)?

- Yes No

 **How often would you say you have been placed in segregation?**

- Rarely More than once a month 2-3 times a month Once a Week
 2-6 times a week Once a day More than once a day

Did staff treat you with respect?

- Yes No Sometimes

What was segregation like?

What did you do in segregation?

74) Do you know how to make a complaint if you want to?

- Yes No

75) Have you ever made a complaint?

- Yes No

What was it for? _____

Did anything happen after you made the complaint?

About Your Safety

76) How often do you feel unsafe here?

- Never Sometimes Often Most of the time All the time

77) Where do you feel most unsafe?

- Gym Association Exercise On Wing In Cell Education Reception
- Segregation Unit (Intensive support unit) Induction Unit Showers Other _____

78) Did you experience bullying or violence before you came here?

- Yes No

79) Would you say that bullying is common here?

- Yes No



What kind of bullying normally takes place?

- Insults Racist insults/attacks Gender/Sexual orientation insults/attacks Hitting, punching or kicking
- Swearing Assaults Bullying to get objects such as food, toiletries etc Bullying to do with 'debts'
- Bullying to do with crime(s) committed Bullying to do with Initiation Shouting through the windows
- Shouting Other _____
-

80) Do people shout through the windows at you at night?

- Yes No Sometimes

81) Do you shout through windows at others?

- Yes No Sometimes

82) Have you ever been insulted since you have been here?

Yes No

How often would you say you this happened?

Rarely Once a month 2-3 times a month Once a Week 2-6 times a week
 Once a day More than once a day

Who insulted you?

another young person a member of staff a visitor

83) Have you ever been hit, kicked or assaulted since you have been here?

Yes No

How often would you say you this happened?

Rarely Once a month 2-3 times a month Once a Week 2-6 times a week
 Once a day More than once a day

Who hit kicked or assaulted you?

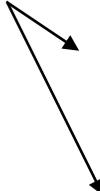
another young person a member of staff

Were you injured?

Yes No

84) Is there someone you can speak to if you are being bullied?

Yes No

 **Would you say that you needed help with bullying?**

Yes No

Are you getting that help at the moment?

Yes No

85) Would you say that self harm is common here?

Yes No

86) How often would you say that someone self harmed?

Rarely Once a month 2-3 times a month Once a Week 2-6 times a week

Once a day More than once a day

87) Why do you think that young people sometimes self harm?

88) Would you say that you have tried or actually self harmed?

Yes No

 **Would you say that you need help with self harm?**

Yes No

 **Are you getting that help at the moment?**

Yes No

About the Staff

89) Do you have a personal officer or key worker?

Yes No

 **Did you meet your personal officer in the first week?**

Yes No

 **Do you see your personal officer on a regular basis?**

Yes No

 **Has your personal office or key worker been helpful?**

Yes No Sometimes

90) Do staff treat you with respect?

Yes No Sometimes

91) Do the staff treat young people fairly?

Yes No Sometimes

92) Do staff try and help you if you have a problem?

Yes No Sometimes

93) Do staff check up on you to see how you are doing?

Yes No Sometimes

Here you can write what you think about life here;



If you want to write more, please **write on the back...**

About Your Future

94) Would you say that it is hard to stop offending?

- Yes No

95) Do you want to stop offending?

- Yes No

96) What do you think would help you stop offending? (more than one box maybe ticked)

- | | |
|--|---|
| <input type="checkbox"/> Getting a job or apprenticeship | <input type="checkbox"/> Having your own place |
| <input type="checkbox"/> Getting back into school or college | <input type="checkbox"/> Having something to do with your free time |
| <input type="checkbox"/> Making new friends | <input type="checkbox"/> Having a girlfriend or boyfriend |
| <input type="checkbox"/> Nothing | <input type="checkbox"/> Having help from YOT, probation or social worker |
| <input type="checkbox"/> Not using drugs or alcohol | <input type="checkbox"/> Being in here |
| <input type="checkbox"/> Having children | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Living with my family | |

97) Do you have a sentence or training plan?

Yes No Don't Know



Do you know what is on your plan?

Yes No

98) Do you have any outstanding cases?

Yes No

99) Do you need help with finding accommodation?

Yes No

100) Do you need help with finding education, training or a job?

Yes No

101) Have you done anything here, or has anything happened here, that would make it less likely that you would offend in the future?

Yes No

102) Have you had the help you have needed to prepare you for release?

Yes No

103) Are you worried about being released?

Yes

No

Here you can write what you think about preparing for release and your future;



About Custody Overall

104) What is good about being here?

If you want to write more, please write on the back...

105) What is bad about being here?

If you want to write more, please write on the back...

Here you can put what you think about custody overall;



If you want to write more, please write on the back...

You have reached the end of the questionnaire!
Thank you for completing it!

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