

Research Paper

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Outnumbered, locked up and overlooked? The use of penal custody for girls in England and Wales

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Executive Summary

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The overall numbers of girls in the youth justice system and in the secure estate have fallen rapidly over the past decade. The recent decline in the use of custody is very welcome but poses significant challenges for the commissioning of placements, custodial establishments and resettlement services. Girls have become increasingly overlooked by the penal system at both a policy and a practice level and their diminishing minority in custody has exacerbated the marginalisation of their needs. Relative to boys the numbers of girls in the system and in custody are low, but the aetiology of their offending and particular vulnerabilities they display provide the justification for the need to consider them from a gendered perspective. Analysis of the existing literature has underlined the damaging and disruptive nature of incarceration, identified a lack of policy focus on the female population in the youth secure estate and found a paucity of available data about the nature of recent custodial sentencing, remand and placements for girls.

Key objectives

The primary aim of this research project is to critically examine the use of penal custody for girls in England and Wales, in order to fill a gap in the existing research, policy and practice literature. This study aimed to address this gap by analysing recent custody data, to investigate how penal detention is being used for girls from a gendered perspective. In meeting this aim the research seeks to analyse the offences and types and lengths of custodial sentences; examine patterns in the use of custodial remand; analyse patterns in the placements of girls into custodial establishments and measure the distances that girls are held from home.

Methodology

Empirical research comprised analysis of case level custody data for all girls detained in the youth secure estate during the period April 2014 to March 2016, provided by the Youth Justice Board. This census of a full population of girls in custody has the methodological advantage that the data analysis is highly reliable, maintaining a high level of confidence in the findings. The study examines this new data and then considers the implications of the findings in light of existing knowledge.

Key Findings

Remand

This research has found that the majority (56%) of girls held on remand do not subsequently receive a custodial sentence. Nearly one third (32%) of girls were remanded to custody for non-violent alleged offences. More than half of remanded girls who were not given a custodial sentence were detained for less than three weeks and three quarters of remands were for periods of less than two months. These findings suggest that for many girls they are experiencing the equivalent of serving a short custodial sentence prior to receiving a community-based disposal at court. Ethnic disproportionality of girls on remand is significantly higher (36% BAME) than in the sentenced population (28% BAME).

Sentencing and the custody threshold

Analysis of sentencing data has revealed that one third (34%) of girls were sentenced to custody for non-violent offences and three fifths were sentenced to custody for offences that were at the less serious end of the spectrum of offending (according to YJB guidelines). One fifth (22%) of girls were sentenced to custody for primary offences that were neither violent nor in the more serious gravity range. This research also highlights the prevalence of short sentences imposed, with three quarters of girls being sentenced to a custodial period of six months or less and 90% of girls sentenced to a custodial period of 12 months or less. More than one third (37%) of all Detention and Training Orders (DTOs) were for just four-months in length, with a custodial element of two months. Concerningly, the number of girls passing through the secure estate for very brief periods on short sentences, means that a larger number of girls are experiencing custody than a 'snapshot' at a static point in time might suggest. These findings raise important questions over the necessity of incarceration on the basis of public protection or rehabilitation and have significant implications for the legitimacy of the current use of custody for girls in England and Wales.

Placements of girls into custody

The sharp fall in the number of girls being admitted to custody over the past decade has seen female places in Young Offender Institutions (YOIs) decommissioned but has not resulted in all girls being transferred into welfare-based and child-centred forms of provision. The majority (60%) of girls are initially placed in Secure Training Centres (STCs), but it is likely that transfers from Secure Children's Homes (SCHs) to STCs throughout the period of detention in custody may mean that the presence of girls in STCs is even greater. A higher proportion of BAME girls (67%) were placed in an STC compared to white girls (58%), potentially indicating that they are being assessed as less vulnerable. The findings in this report demonstrate that girls being placed in both types of establishment have high levels of assessed concerns over multiple vulnerabilities and problems.

Distance from home

As the number of girls in custody has fallen, places have been decommissioned and the available placements are now more thinly spread across the country. This research confirms that girls in England and Wales are held on average 72 miles from home, compared to 49 miles for all children (as reported by HMI Prisons in 2016). Over half (56%) of girls were held more than 50 miles away from home and nearly a quarter (24%) over 100 miles from home. Longer distances from home were an issue for girls across every region, and particularly so for girls from Wales. Reducing the distances that girls are held from home is problematic, particularly in the event that levels of detention decrease even further, so a specific focus on minimising the impact of distance from home and maintaining links with important connections in the community should be a clear priority.

Moving on from youth custody

The vast majority of girls are released into the community from youth custody, highlighting the importance of coordinated and consistent resettlement support, tailored to meet gender-specific needs. Many of the issues highlighted in this report exacerbate the challenges faced by girls upon their release from custody and attempts by professionals to effectively support their transition. Very small numbers of girls sent to custody from each geographical area mean that there is a need for distinct support and guidance for YOTs and their partners to support the resettlement of females in

the community. For the small number of girls who are transferred to adult women's prisons, careful and individualised planning and support is critical through a significant transition where they will be particularly vulnerable.

Summary conclusions

While the youth justice system in England and Wales has been under a great deal of scrutiny in recent years, there has evidently been a lack of specific attention given to girls. Extensive changes to youth custody and the broader youth and criminal justice systems have been recommended in a number of reviews, but have not specifically addressed gender-specific needs or considered the implications for girls in custody. Proposed changes that are envisioned as gender-neutral may have unintended, gendered impacts for girls and inadvertently bring about counterproductive consequences.

Findings from the analysis of custody data in this report have significant implications in light of existing knowledge. Concerns have been highlighted over the possible overuse of custodial sentencing and remand and emphasised the opportunity to further reduce the use of custody to an absolute minimum. Girls are being sent to custody for offences that are either non-violent, less serious, or both. This report also reveals the difference between a static and a dynamic picture of the custodial population. The small number of girls in custody at any one time disguises the true picture of the number detained over a longer period, caused by a frequent flow of girls through custody for brief periods on short custodial sentences and periods of remand. Girls in custody were assessed as having high levels of concerns over multiple vulnerabilities and problems, while the majority were placed into penal institutions lacking adequate safety and care. In the context of what is known about the impact of custody on girls, these periods in detention are likely to be causing huge damage and disruption to girls' lives and negatively impacting their self-esteem and wellbeing.

In recent years, girls in custody appear to have paled into insignificance from a policy perspective, with the small numbers providing the justification for this oversight. Instead, the very small population of girls currently in custody should be seen as presenting a timely opportunity to develop more innovative and appropriate responses to their needs. A distinct, critical and imaginative review is required to carefully deliberate how to maximise this opportunity; to ensure that detention is restricted to an absolute last resort, in gender-sensitive and age-appropriate placements, and to guard against future rises. Policy recommendations should be compared with those of previous

reviews and current proposals, with considerable attention given to the implications of any planned changes for girls. While it may seem inevitable that girls will continue to be outnumbered by boys in the youth justice system, the issues highlighted in this report should be instructive in determining improved systemic responses that significantly minimise the extent to which girls are locked up and ensure that they are no longer overlooked.

Recommendations

The absence of a specific focus on girls in previous reviews, along with findings in this report, strongly point to the need for a discrete and strategic focus on the use of penal custody for girls at a national policy level. Consideration should be given to a range of problematic and unaddressed dynamics, and decisive action should be taken with regard to the following recommendations:

- **A strategic review of the use of custody for girls** should be undertaken without delay.
- The review should **bring forward a policy to end the imprisonment of girls in all penal detention facilities** including STCs.
- A review of custodial provision for girls should **consider designation of alternative places as approved places of detention** for girls that meet their individual needs.
- The **Ministry of Justice should consider a presumption against sentencing girls to short periods in custody**, alongside measures to guard against the potential for sentence inflation.
- **Her Majesty's Courts and Tribunals Service and the Ministry of Justice should record and review data regarding gender, ethnicity and age, and the decisions to sentence and remand girls to custody.**
- **The Youth Custody Service and the Youth Justice Board should jointly undertake work with a specific focus on minimising the impact of distance from home and maintaining links** with important connections in the community as a priority for girls, including the extended and assumed use of temporary release.
- **The Youth Justice Board should put in place arrangements to facilitate training, good practice guidance and sharing of expertise** between individuals and agencies around the country who are responsible for the resettlement of girls.

- **The Ministry of Justice should publish official data on children in custody** (the monthly custody report and annual youth justice statistics) in a format **that allows for disaggregation by gender combined with other variables.**
- **The Joint Inspectorates should regularly carry out inspections with a discrete focus on girls in the youth justice system and those in custody, and the extent to which their gender-specific needs are being met.**

ENDS

