

*Inside Out*  
**Custodial Sentencing for Young  
People in Derby City**



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## Executive Summary

It has been acknowledged by many, notably the Lord Chief Justice, that youth custody is 'not always the answer'<sup>1</sup>. The Youth Justice Board have set Youth Offending Teams the target of reducing the use of custodial penalties, thus supporting this view. In England and Wales we lock up a higher proportion of our young people than any other European country, despite low youth crime levels. It is predicted that the total prison population will rise from 73,000 to 110, 000 in the coming decade. According to Youth Justice Board data 2,874 10-17 year olds were in the Secure Estate in March 2003<sup>2</sup>. Given that the total prison population is set to rise, it can only be assumed that the 10-17 population will rise accordingly. This seems to be at odds with the Youth Justice Board (Home Office) commitment to reduce the use of custody for young people during their formative years. At present Youth Offending Teams are bound by Key Performance Measure Four to reduce the use of custody to 6% by 2004. With a predicted rise in prison population and the absence of a national framework to reduce the use of custody, this seems a somewhat ambitious target. This is particularly acute for Derby City, being in the top ten highest custody areas nationally.

In order to reduce custody, this report aims to understand why and how custody is used in Derby with a view to developing evidence based policy and strategy to reduce use of the Secure Estate. This research will inform the Youth Offending Service and Community Safety Partnership about the best methods of reducing the use of custody. In doing so, it will explore and assess a variety of factors that impact upon the use of custody; focussing on Derby. Based upon this, the report looks towards evidence based solutions in order to reduce the use of custody. This work will obviously impact upon local service providers and practitioners. Additionally, the report highlights existing good practice and offers proposals for further development making it relevant where issues evidenced in Derby are replicated nationally.

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<sup>1</sup> BBC News Online, *Youth custody 'not always the answer'* (23 November, 2000) <http://news.bbc.co.uk/1/hi/uk/1036309.stm>, reporting on Lord Wolf's speech to the Howard League.

<sup>2</sup> Youth Justice Board data (2003)

The report's key themes are offence analysis; magistrates and legal issues; assessments and reports; practitioner knowledge and skills, and court interface and communication.

## **Offence Analysis**

The evidence presented here indicates that the profile of Derby young offenders is very similar to that evidenced nationally and regionally.

Derby is distinct in the volume of burglary offences committed by young people in the city. Burglary is a serious offence for which custody is permitted and this impacts upon the numbers of 'potential' custodial sentencing. It is useful, therefore, to look at this as one of the key factors influencing sentencing in Derby.

In terms of the sentencing threshold in Derby it would appear that more serious offences are sentenced to custody, whilst lesser offences attract community penalties. There is a distinct gap between the case seriousness scores<sup>3</sup> of those sentenced to custody and community sentences. This means there is little overlap in the use of sentencing for certain offences. In other words, whilst it is acknowledged that high tariff community penalties can be used as an alternative to custody, this is not evidenced in Derby.

## **Magistrates and legal issues**

It is evident that Magistrates lack detailed knowledge relating to community penalties and do not consider them a viable alternative to custody.

Sentencers vehemently argue that the high custody rate is not a reflection on the YOS. It was due to "a hardcore of around thirty PYOs for whom custody is the only available option".

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<sup>3</sup> Case seriousness scores are calculated in accordance to the Youth Justice Board (2001) *Counting Rules for Quarterly and Annual Returns, Annex B*. Annex B categorises offences and attaches a score to the offence. Scores range from 1 (low seriousness) to 7 (very serious).

Magistrates have high expectations of ISSP and feel that it will reduce their use of custody considerably. There is doubt over whether these expectations will be sustained, given the reality of the intended ISSP initiative and the lack of knowledge displayed by Magistrates as to the specifics of the programme.

### **Assessments and reports**

Following an audit process it is evident that Derby YOS PSRs are not as effective as they could be. Overall the reports are ‘less than satisfactory’ meaning that they are failing to fulfil their basic function. Additionally there is an issue concerning the high level of ‘All Options’ requests. The efficacy of Gatekeeping procedures was also questioned.

### **Practitioner knowledge and skills**

The image projected by the YOS as a service was considered, identifying issues of professionalism and confusion as to role and remit.

Additionally skills gaps were identified in terms of reasoned report writing and time management.

### **Court interface and communication**

There appear to be issues concerning training and information exchange between the Court and YOS. This was evident in the format and attendance at Court Users’ Groups.

Additionally resistance displayed by Magistrates concerning training facilitated by the YOS, particularly in the range and content of community penalties was noted. This clearly impacts upon the knowledge and understanding of community penalties available to sentencers.

## **Summary**

The use of the Secure Estate needs to be reduced. In order to facilitate this, this report investigates the factors influencing custodial sentencing in an attempt to understand how and why the custody rate is so high. This will be used to inform evidence-based strategies to target specific areas with a view to reducing the use of custodial sentencing.

This research was commissioned by Derby Youth Offending Service and has been undertaken by Zeena Ashaa, University of Derby. Tim O'Neill, Research and Information Officer, Derby City YOS has managed the research.

## **Introduction**

Derby City Youth Offending Service has been identified as one of ten Youth Offending Teams (YOTs) nationally with a high custodial sentencing rate. 2001 data submitted to the Youth Justice Board (YJB) indicated that Derby had a custody rate of 13.1%. This figure is considerably larger than the national average of 8.7%<sup>4</sup>. To place this in context, it is helpful to consider the YJB performance measure relating to the use of the Secure Estate.

### **Youth Justice Board Performance Measure 4: The Use of Secure Facilities**

**Reduce the use of secure estate for custodial sentences to no more than 6% of all sentences imposed, by December 2004 (sentencing episodes)**

Clearly it can be seen that if Derby City is to meet these targets then considerable progress needs to be made.

A further issue for consideration is the degree of responsibility that the YOS holds for custody rates. It cannot be denied that the YOS has an impact upon custody rates. However, the impact of other agents in the Youth Justice System must be considered. The YOS has a multi-agency structure and, as such, responsibility for custody rates must be shared amongst the key agents. Within the YOS there are a key number of service personnel, but the majority of service deliverers are seconded from partnership agencies such as the Police, Probation and Social Services. These seconded posts provide and action the service beyond the central strategic core and as such are influenced by factors external to the YOS.

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<sup>4</sup> Youth Justice Board (2001) *Youth Justice Data by Youth Offending Team: Performance Review Data*

## **Aims of the report**

This report aims to:

- Identify the factors contributing to the high custody rate in Derby City.
- Evaluate and contextualise these factors in an attempt to isolate the relevant issues.
- Highlight areas of progress, identify good practice and make recommendations.

With the identification of the ‘key’ factors contributing to the custody rate it is anticipated that strategic development can be implemented in order to meet YJB Performance Measure Four.

This research both pre- and post-dates research that has been commissioned by the YJB on custodial sentencing. PA Consulting has undertaken research aimed at identifying the reasons for high custody rates in ten target YOTs nationally. Derby has been identified as one of the targeted YOTs in need of improving its custodial remands and sentencing by December 2004. Although there is some overlap in research, this report focuses primarily upon Derby and looks at issues specific to the YOS and the Youth Court.

## **Methodology**

- Investigation into existing data and secondary sources in relation to custodial sentencing amongst young people. This includes:
  - Interrogation of local, regional and national data produced by YOTs
  - Analysis of secondary data, both academic and strategic
  - Examination of policy and practice nationally and locally
- Collation and analysis of primary sources, including:

- Youth Offending Information System (YOIS) database
  - Semi-structured interviews with YOS Managers and practitioners
  - Semi-structured interviews with Youth Court personnel, including Magistrates
- 
- Audit and analysis of Pre-Sentence Reports (PSRs) for those sentenced to a Detention and Training Order (DTO) in 2002
  
  - Audit and analysis of start ASSET reports for 25% sample of those sentenced to a DTO in 2002

## **Glossary of terms**

|              |  |
|--------------|--|
| <b>APO</b>   | Action Plan Order                                |
| <b>ASSET</b> | Youth Justice Assessment Tool                    |
| <b>CPO</b>   | Community Punishment Order                       |
| <b>CPRO</b>  | Community Punishment and Rehabilitation Order    |
| <b>DTO</b>   | Detention and Training Order                     |
| <b>DTTO</b>  | Drug Treatment and Testing Order                 |
| <b>ISSP</b>  | Intensive Supervision and Surveillance Programme |
| <b>PSR</b>   | Pre Sentence Report                              |
| <b>PYO</b>   | Persistent Young Offender                        |
| <b>RO</b>    | Referral Order                                   |
| <b>SO</b>    | Supervision Order                                |
| <b>YJB</b>   | Youth Justice Board                              |
| <b>YOI</b>   | Young Offenders Institution                      |
| <b>YOIS</b>  | Youth Offending Information System               |
| <b>YOS</b>   | Youth Offending Service                          |
| <b>YOT</b>   | Youth Offending Team                             |

## **Section One: Young Offenders in Derby**

When questioning high levels of custodial sentencing, often the ‘blame’ is attributed to the ‘type’ of offender and offence that is committed in a particular area (the logic being that high levels of serious crime equates to high custody). Whilst this is undoubtedly a simplistic analysis (such a complex issue cannot be viewed so narrowly), it does serve as a good starting point for research. The profile of offender and offence is significant in its impact upon the levels of custodial sentences imposed. Therefore, this analysis will begin by looking into the offender and offence profiles displayed by Derby’s young people. This will then be compared with regional and national trends in order to place Derby in context and facilitate a meaningful analysis.

### **Does Derby have an offender/offence profile that predisposes custody?**

#### **Offender: General offending population (10-17 years)**

Data from 2001 indicates that in Derby, high levels of offending are initiated at the ages of 12, 13 and 14, peaking at 17<sup>5</sup>. This has been attributed to factors such as the onset of adolescence, transition to secondary school, poor provision of recreational facilities and lack of parental/carer support in addressing the issues raised by this age group. In terms of ethnicity 79.6% of offenders are white, and 87% are male<sup>6</sup>. This compares with national data, which indicates that by far the most prevalent offenders are white and male<sup>7</sup>. Regionally, the data is very similar<sup>8</sup>.

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<sup>5</sup> Derby City Youth Offending Service (2001) *Youth Justice Plan*, p. 12

<sup>6</sup> Ibid

<sup>7</sup> National Youth Survey 2002, p 12

<sup>8</sup> Leicester City Youth Offending Team (2002) *Youth Justice Plan 2002/03 – 2004/2005*

### **Note on comparators**

Leicester City has been used as a regional comparator as it is a YOT of similar size and is grouped by the Department of Health (DOH) in the same 'family' as Derby. Sandwell YOT appears in the aforementioned 'family' group and hence is used as a Midlands comparator. Birmingham, although much larger than Derby YOS, is used as a Midlands comparator. Birmingham has been chosen as it, like Derby, has been identified as one of the Youth Justice Board's ten high custody areas<sup>9</sup>.

Nottingham is placed in the same DOH 'family' as Derby. The YOT has, to some degree, been used as a comparator, but there are some data quality issues to consider here.

In Birmingham City and Sandwell the picture is very similar, again the typical young offender is male and white peaking at 16-17 years of age.

In Leicester City 86.6% of offenders are male, with the majority being identified as white (69.8%). It must be noted that in Leicester it is anticipated from the 2001 census that persons from minority ethnic backgrounds will exceed 50% of the 10-17 population<sup>10</sup>. The 69.8% of offences committed by a white ethnic background must, therefore, be considered in this context, meaning that the disparity is not as significant as it initially appears.

What is unclear, however, is whether Derby's young offenders begin their offending career at a younger age than the national and regional data demonstrates. In Leicester City the peak age of offending is 17 years, with 85.5% of offences being committed by those aged 14-17. Offending by those aged 10-13 represents 15% of total offences committed by all young people aged 10-17. In Derby 14 year olds commit 15% of total offences committed by the 10-17 age group. This compares with a figure of

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<sup>9</sup> See PA Consulting/YJB (2003) *Managing Custody Report* (unpublished at time of writing).

<sup>10</sup> Ibid

13.7% for Leicester City. Whilst this is a small disparity, this could no doubt have some impact upon the severity and prevalence of offences committed by the older age groups. That is to say that if the onset of offending is earlier amongst the young people of Derby City, then the cumulative effect may mean that by age 17, the point at which YOS responsibility ceases, their offending behaviour may be more entrenched. Hence Derby would see a population of 'experienced' offenders committing more serious offences more often. The knock-on effect of this may mean that a higher proportion of young people are sentenced to custody.

### **Offender: Custodial population (10 –17)**

In 2002 Derby Youth Court sentenced 57 young men to custody by way of a Detention and Training Order (DTO), and 90.5% of DTO outcomes were issued to males. 84.1% (53) in receipt of a DTO sentence were white. This means that that young people from minority ethnic backgrounds are still over-represented in the Secure Estate. In terms of the regional data, Leicester City Youth Court, like Derby, has been labelled as one of the top 10 nationally in its use of secure facilities. At 1 to 4, currently Leicester has a high ratio of custody to community sentences. However, their custody rate remains below that of Derby which also has a ratio of 1 to 4<sup>11</sup>. This is higher than the average ratio for the East Midlands (1 to 5<sup>12</sup>) and also nationally (1 to 6<sup>13</sup>). Still, it is acknowledged by the Youth Justice Board that figures for individual YOTs differ greatly. The latest figures demonstrate this<sup>14</sup>, indicating a range of custody: community penalty ratios between 1:2.5 (very high) and 1:81 (very low).

The average age of a young person sentenced to custody in Derby was 16 years and 5 months, with the majority, 90.67%, being male<sup>15</sup>. 48% were classed as persistent

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<sup>11</sup> Ratios taken from Youth Justice Board (September 2001) *Youth Justice Data by YOT: Youth Justice System – England and Wales 01.10.00 – 31.03.01*

<sup>12</sup> Ibid

<sup>13</sup> Ibid

<sup>14</sup> YJB Press Release (27.03.03) *Youth Justice Board renews call for consistent sentencing*, <http://www.youth-justice-board.gov.uk/YouthJusticeBoard/AboutUs/PressReleases/PressReleases/27March2003.htm>, accessed 25/06/2003 11:15

<sup>15</sup> Based on 2002 YOS data

young offenders (PYOs), indicating that the majority (52%) did not have an entrenched offending history.

**A persistent young offender:**

*... "is a young person aged 10-17 years who has been sentenced by any criminal court in the UK on three or more occasions for one or more recordable offences and within three years of the last sentencing occasion is subsequently arrested or has an information laid against him for further recordable offence"<sup>16</sup>.*

**The ASSET document**

The ASSET document is a risk assessment tool devised by the YJB and used by the YOS. The young person's Case Manager completes this during an interview with the young person/and parent/guardian. It assesses the young person's likelihood of re-offending according to different aspects of his/her life (this is called assessing 'criminogenic needs'), such as family circumstances, the way they think and behave, their educational and accommodation needs, and so on. Each section of the document is scored according to need, from zero to four. Generally, a score of two or above in an individual category indicates that intervention is necessary. The document is completed at the start of an intervention, and subsequently reviewed every three months until intervention is complete. One aspirational aim is to achieve a lower score at the end of an intervention than at the start, which would point towards successful work with the young person and a reduction in the likelihood of re-offending.

The average start ASSET score for a young person upon sentence to custody in the calendar year 2002 was 19.4. A 50% sample of the 47 ASSET reports for this group of young people was analysed. Three quarters (75%) of this sample had a score of two or above with regard to their thinking and behaviour. Across the sample scores were high (i.e. 2 and over) in most categories, indicating that a specific ASSET classification cannot be isolated in order to link a young person's criminogenic needs

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<sup>16</sup> *Tackling Delays in the Youth Justice System: A Consultation Paper. October 1997. Home Office*  
<http://www.homeoffice.gov.uk/cpd/jou/tdyjs.htm>

and background to a custodial outcome. Indeed, bearing in mind that all ASSET categories of analysis can impact upon a young person's 'thinking and behaviour', it would seem that those sentenced to custody have more acute needs and issues as compared with those offenders who are not sentenced to custody. In itself this is no surprise, and correlates with numerous theories relating a young person's lifestyle, thinking and behaviour to persistent and serious offending.

### **Offence: General offending population (10-17 years)**

The baseline data on Court outcomes for youth crime in 2001 (calendar year 01.01.01 – 31.12.01) showed the following crimes (offences) to be prevalent in **Derby City**:

| <b>Offence</b>     | <b>% of all recorded crimes (offending)</b> |
|--------------------|---|
| Theft and handling | 32  |
| Violence           | 18  |
| Burglary           | 14  |

Data taken from Derby City Youth Offending Service (2001) *Youth Justice Plan 2002-2005*, p 12

| <b>Offence</b>     | <b>% of all recorded crimes (offending)</b> |
|--------------------|---|
| Theft and Handling | 28.6  |
| Other              | 15.7  |
| Violence           | 14.1  |
| Burglary           | 6   |

Data taken from Birmingham City YOT (2001) *Youth Justice Plan 2002/2005*

| <b>Offence</b>     | <b>% of all recorded crimes (offending)</b> |
|--------------------|---|
| Theft and Handling | 21  |
| Violence           | 17  |
| Criminal Damage    | 13  |

Data taken from Sandwell YOT (2001) *Youth Justice Plan 2002/2005*

| Offence       | % of all recorded crimes (offending) |
|---------------|--------------------------------------|
| Violence      | 17.7                                 |
| Vehicle Crime | 11.8                                 |
| Robbery       | 6.5                                  |
| Burglary      | 6                                    |

Data taken from Nottingham City YOT (2001) Youth Justice Plan 2002/2005

The average case gravity score<sup>17</sup> in Derby during the calendar year 2002 (where 2998 offences were recorded) was 3.05, a fairly low score, correlating with most theft and handling offences (significantly the most common offences committed by young people in Derby).

The data for Derby displays a slight disparity when compared with regional trends. For example, **Leicester City YOT** reported upon performance review data for 2001/02<sup>18</sup> that the common offences within that area were as follows:

### **Leicester City YOT**

| Offence                        | % of all recorded crimes (offending) |
|--------------------------------|--------------------------------------|
| Other (predominantly motoring) | 28.2                                 |
| Theft/handling                 | 23.1                                 |
| Violence                       | 12.6                                 |
| Criminal damage                | 11.4                                 |

Data taken from Leicester City Youth Offending Team (2001) *Leicester City Youth Justice Plan 2002/03 – 2004/05*, pp 36-37

From the tables above it can clearly be seen that the most common youth crime in Leicester City is categorised as ‘other’. We are, however, able to ascertain that the majority of these offences are classed as motoring offences representing a stark contrast to the most common offences reported in Derby. Interestingly, Leicester City has a lower use of custodial sentencing, despite its most common offences lying in a category that typically attributes higher case gravity scores than theft and handling.

<sup>17</sup> Youth Justice Board (October 2001) *Counting Rules for Quarterly and Annual Returns*, Annex B: Offence Categories and Offences by Seriousness Score.

<sup>18</sup> Leicester City Youth Offending Team (2001) *Leicester City Youth Justice Plan 2002/2003 – 2004/2005*, p 36-37

Below, it can be seen that both Birmingham and Nottingham City have much lower burglary rates than Derby with the most common offences correlating closer to the national profile (see below). It can be assumed that Sandwell also has a lower burglary rate than Derby, given that the YOT's third most prevalent offence, criminal damage at 13%, is lower than the burglary rate in Derby which is 14%

### **Birmingham City YOT**

| <b>Offence</b>     | <b>% of all recorded crimes (offending)</b> |
|--------------------|---|
| Theft and Handling | 28.6  |
| Other              | 15.7  |
| Violence           | 14.1  |
| Burglary           | 6   |

Data taken from Birmingham City YOT (2001) Youth Justice Plan 2002/2005

### **Sandwell YOT**

| <b>Offence</b>     | <b>% of all recorded crimes (offending)</b> |
|--------------------|---|
| Theft and Handling | 21  |
| Violence           | 17  |
| Criminal Damage    | 13  |

Data taken from Sandwell YOT (2001) Youth Justice Plan 2002/2005

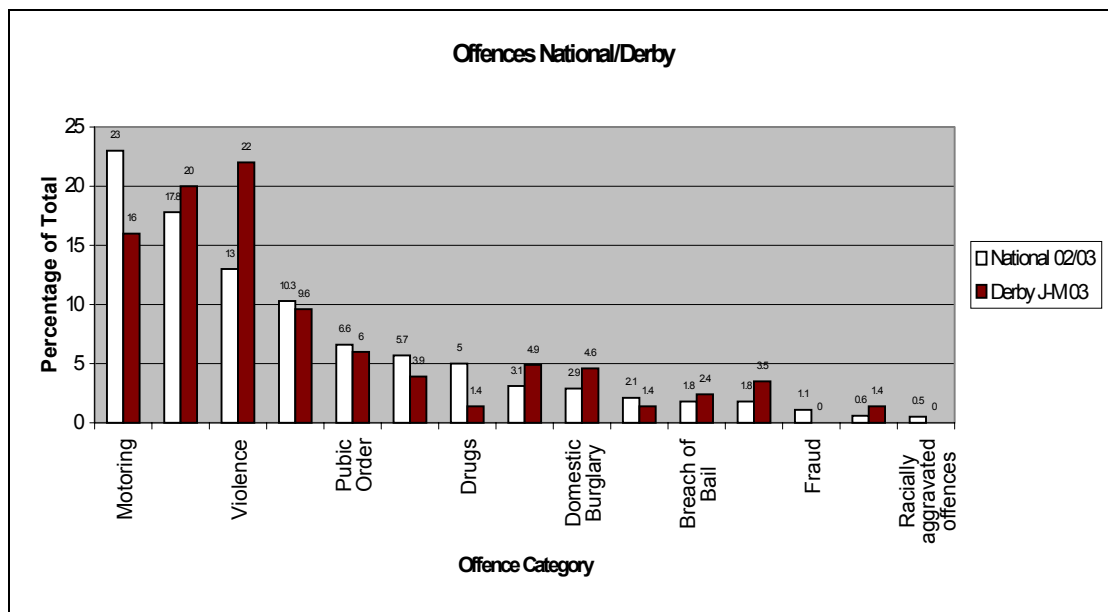
### **Nottingham City YOT**

| <b>Offence</b> | <b>% of all recorded crimes (offending)</b> |
|----------------|---|
| Violence       | 17.7  |
| Vehicle Crime  | 11.8  |
| Robbery        | 6.5   |
| Burglary       | 6   |

Data taken from Nottingham City YOT (2001) Youth Justice Plan 2002/2005

Nationally the most prevalent offences committed by the 10-17 age group are reported to be theft and handling followed by violence, followed by burglary<sup>19</sup>. It would appear that Derby City correlates closely to the trends displayed in England and Wales, suggesting perhaps that the local offence profile does not predicate high custody rates; either that, or else this factor does not operate in isolation. However, what must be noted is that nationally the burglary rate is 5%<sup>20</sup>, and in the East Midlands it is slightly higher at 6.4%<sup>21</sup>. Therefore although burglary may be third most common in terms of offences committed nationally, it is more prevalent in Derby.

Recent YJB data (Jan – Mar 03) shows that domestic burglary, robbery and violence (serious offences) make up a significantly higher proportion of East Midlands offences than they do nationally. This can also be seen in Derby, where offences that warrant custody are disproportionately represented:



Derby City Youth Offending Service: Performance Report , July 2003 (data January-March 2003)

It appears that Derby has a similar offence profile to Leicester City in terms of theft and violent offences. However, Derby is different in that it experiences relatively high levels of burglary. Leicester City has a burglary rate of 4.7% of all youth crimes compared with 14% in Derby. This is obviously highly significant as burglary – either

<sup>19</sup> NACRO (2001)

<sup>20</sup> YJB Data 2001 - 2003

<sup>21</sup> Ibid

domestic or non-domestic – typically has a high case gravity score<sup>22</sup> (the highest being a score of 7 for this category: to contextualise, 8 is the highest possible score and this is for murder). It is logical to assume, therefore, that more ‘serious’ offences lead to more ‘serious’ penalties. As such one would expect that if an area has a higher proportion of serious offences committed then it would display a higher custody rate. This is especially relevant bearing in mind that DTOs can only be sanctioned when the offence committed is deemed to be ‘grave’. The main grave crimes for which a child or young person may be detained under the Children and Young Persons Act 1933 are as follows (note: this is not a comprehensive list):

- **Aggravated burglary**
- Assault with intent to rob
- Attempted murder
- **Burglary of a dwelling**
- GBH with intent
- Handling stolen goods
- **Robbery**

Perhaps, therefore, it is not all that surprising that Derby has a high custody rate seeing that a greater percentage of it’s most common offences may be classified as ‘grave’. It is important to note, however, that even though custody is an option for such offences, it does not have to be used. Therefore the offence profile in Derby should be viewed merely as a contributor to the high custody rate, and not the sole basis.

### **Offence: Custodial population (10-17 years)**

To assess whether this is a contributing factor to the high custody rate in Derby it is necessary to look at the sample of young people sentenced to a DTO in the 2002 calendar year looking at the principal charge. **Significantly, 2002 data produced by Derby City YOS identified that one third (33.33%) of cases resulting in a DTO (21 out of 63) were for Burglary.** This is threefold compared to 10.9%<sup>23</sup> for Leicester

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<sup>22</sup> Youth Justice Board (October 2001) *Counting Rules for Quarterly and Annual Returns*, Annex B: Offence Categories and Offences by Seriousness Score.

<sup>23</sup> Data for April – June 2001, Leicester City YOT, *Youth Justice Plan* p59

City. This figure must, however, be treated with caution as the figure for Derby represents a calendar year and the Leicester data represents a three-month period. However, all comparative data demonstrates considerably lower percentages of Burglary offences as resulting in custody. Therefore, in terms of burglary offences, Derby is different.

| <b>Offences resulting in custody</b> |   |                                     |                                   |
|--------------------------------------|---|-------------------------------------|-----------------------------------|
| <b>Derby City<sup>24</sup></b>       | <b>Leicester City<sup>25</sup></b>          | <b>Birmingham City<sup>26</sup></b> | <b>Sandwell<sup>27</sup></b>      |
| Burglary (33.33%)                    | Robbery (21.7%)                             | Robbery (19%)                       | Violence against the person (24%) |
| Robbery (20.63%)                     | Other (predominantly vehicle crime) (14.8%) | Violence against the person (16%)   | Burglary (20%)                    |
| Violence (17.46)                     | Theft/handling (11.8%)                      | Theft and Handling (14.5%)          | Robbery 15%                       |
|                                      | Burglary (10.9%)                            |                                     |                                   |

Data for Nottingham City not available

The burglary rate obviously impacts upon the custody rate in Derby and could feasibly be seen as a factor contributing to Derby's high custody rate. However, as with many social issues it is unlikely to operate in isolation. Indeed when specifically looking at custodial sentencing the issues must be dealt with in a holistic manner. That is to say that a multiplicity of factors can influence the decision of the court. Whilst the offence is the key starting point in the decision-making process this is not the sole basis upon which a sentence is passed. Indeed, it is difficult to determine as to whether Derby has an offender and offence profile that is more likely to result in a custodial outcome. Whilst there are some disparities regionally and nationally in terms of offence and offender, and these factors no doubt contribute to custody rates,

<sup>24</sup> Based on YOIS data for calendar year 2002

<sup>25</sup> Based on Data for April – June 2001, Leicester City YOT, *Youth Justice Plan* p59

<sup>26</sup> Based on Birmingham City YOT, *Youth Justice Plan*

<sup>27</sup> Based on Sandwell YOT, *Youth Justice Plan* p8

they interact with other factors in the decision-making process. It is important, therefore, to consider the processes beyond the offence and the offender: the input of external agencies and services (including the YOS), and the culture and attitude of the court. These issues will be considered in later sections.

## Section Two: Custodial Sentencing in Derby

Prior to detailed analysis of sentencing trends in Derby it is useful to gain an awareness of the relative merits and disadvantages of custodial sentencing. If the wider context is considered we are better placed to understand the factors that may influence the sentencing process.

### Does Custody *work*?

Sentencing young people to custody has always been a contentious issue. The sentence is supposed to be used as a last resort, that is to say when no other penalty is deemed suitable. To reiterate, custody is only permitted where the offence committed is considered to be ‘grave’<sup>28</sup>. Although this restriction remains in place, the interpretation appears to have been somewhat relaxed. Custody originally reserved for ‘grave’ crimes such as murder and manslaughter<sup>29</sup>, now used for lower level offences such as burglary and robbery. In recent years ‘popular punitiveness’ has been embraced by UK governments. The Labour Party penned slogans such as ‘tough on crime, tough on the causes on crime’ and attention was focussed on the perceived proliferation of young offenders. The Conservative Party based its general election campaign of 1979 on issues of ‘law and order’, the result of which clearly reflected the general public’s concerns. A progression towards ‘short, sharp shocks’ since the late 1980s has inevitably meant increases in custody for young offenders, despite little concrete evidence to suggest that custody actually ‘works’ in preventing and reducing offending.

The Lord Chief Justice, Lord Wolf has been quoted as saying that youth custody ‘is not always the answer’. There is a growing trend towards questioning the effectiveness of custody for young people. Indeed, in researching this paper, very little information has been found that advocates custody as a broad solution for youth crime. Whilst it is acknowledged that in some cases custody is the only option, it appears that a pro-custody culture serves to placate the general public who have

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<sup>28</sup> Children and Young Persons Act 1933

<sup>29</sup> NACRO (2001)

entered into some kind of ‘moral panic’ regarding the ‘problem’ of youth offending. Whilst there has been an overall decline in youth crime in recent years,<sup>30</sup> there has been an upturn in the use of the Secure Estate for young people. England and Wales currently locks up a higher proportion of young people than any of its European counterparts, it experiences some of the lowest youth crime rates in the EU<sup>31</sup>. The impact of sentencing young people to custody is now being questioned, and slowly there is a realisation that custody may serve to actually exacerbate youth crime; far from deterring recidivism, it encourages it by exposing vulnerable young people to more established offenders.

We must also consider the negative impact that a spell in custody can have upon the individual. Even the so-called ‘short term’ four month DTOs can severely disrupt a young person’s future development and life chances. It is difficult to remove the ‘young offender’ label, once education and training has been severely disrupted, and offending behaviour fostered. Health care within the Secure Estate has been accused of being inadequate<sup>32</sup>, and restricted contact with support systems such as friends and family can be damaging and counter-productive. Indeed the limited data available on DTOs only serves to support this view: in a YJB assessment report on DTOs<sup>33</sup> it was noted that a nearly a quarter of trainees (24%) were returned to custody before the end of the community period was complete for either breaching their order or for subsequent offending.

## **How does Derby use custodial sentences?**

Given the plethora of arguments against locking up young people, it appears surprising that Derby maintains a custody rate that is higher than average. Having looked at whether the answer to this question lies in the offender and offence profile displayed in Derby, we must now consider the sentencing profile.

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<sup>30</sup> 1993 – 2001, Home Office data

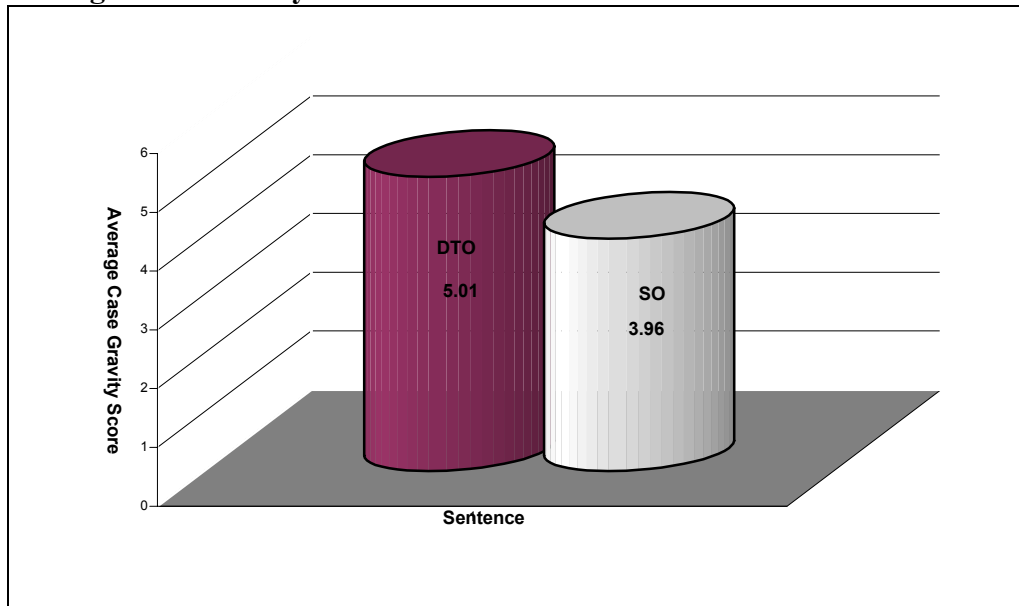
<sup>31</sup> NACRO (2002)

<sup>32</sup> Chief Inspector of Prisons (2000) Report on Chelmsford Prison and YOI

<sup>33</sup> Hazel, N, Hagell, A, Liddle, M, Archer, D, Grimshaw, R, King, J (2002) *Detention and Training: Assessment of the Detention and Training Order and its impact upon the secure estate across England and Wales* Youth Justice Board p 95

It is important to identify where the custody ‘threshold’ is set in order to gauge the use of custody. For instance, does Derby use custody for lower level offences? The average case gravity score for a young person sentenced to custody in 2002 was 5.01, contrasting with almost 4 (3.96) for Supervision Orders (for our purposes classed as a ‘high tariff’ community sentence).

**Average Case Gravity Scores: DTO and SO**



Therefore, it would seem that, initially at least, custody is used for more serious offences. It would help to compare the breakdown of offences for DTOs and Supervision Orders:

| <b>Principal Offence</b>            |        |                          |       |
|-------------------------------------|--------|--------------------------|-------|
| <b>Detention and Training Order</b> |        | <b>Supervision Order</b> |       |
| Burglary                            | 33.33% | Theft and handling       | 16.6% |
| Robbery                             | 20.63% | Robbery                  | 14.5% |
| Violence                            | 17.46% | Violence                 | 14.5% |
|                                     |        | Burglary                 | 10.4% |

Here, the data paints a similar picture. However, robbery and violent offences are both frequently sentenced to DTO and SO. What may be significant is to question why

some young people receive DTOs and others SOs. From the sample of young people sentenced to DTO for burglary it can be seen that on average the particular offences that they commit have a case gravity score of 5.86. The average case gravity score for those sentenced to a SO for Burglary is 5.2. Therefore the court is dealing with similar offences.

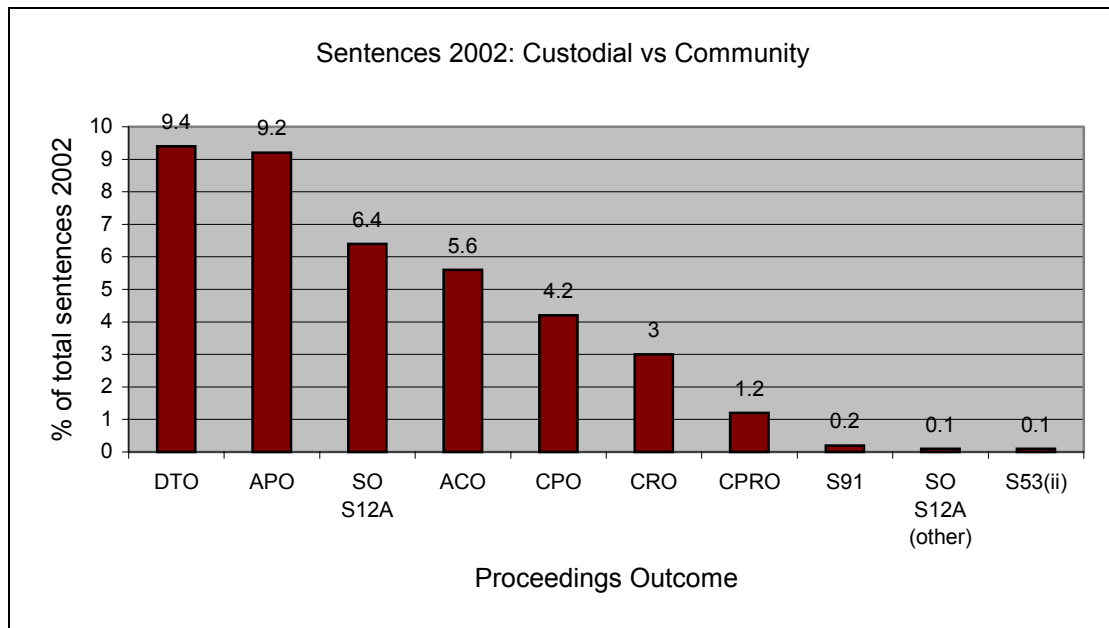
| Offence  | Average Case Gravity Score (2002) |      |
|----------|-----------------------------------|------|
|          | Sentence                          |      |
|          | DTO                               | SO   |
| Burglary | 5.86                              | 5.2  |
| Robbery  | 6                                 | 5.86 |
| Violence | 5.33                              | 4.14 |

Similarly, the margin of seriousness between robbery offences sentenced to custody, and those sentenced to a community sentence is only slight. Indeed, the average case gravity score for those committing robbery placed on a Supervision Order is the same as that for burglary offences sentenced to DTO. We must ask, therefore, whether it is the offence *per se* or the current attitudes surrounding the offence that predispose it to custody. Indeed, in Derby there is a general perception amongst the public and those working within the criminal justice system that burglary is a particular ‘problem’ in Derby<sup>34</sup>. Perhaps this has led to an ‘up-tariffing’ of the offence, thus explaining the high burglary to custody ratio as compared with that of robbery and custody.

So it would appear that, although the custodial/community sentence threshold is difficult to distinguish, it might be safe to assume that burglary offences are a particular target for custodial sentencing in Derby. It may be helpful to look at the use of community penalties in order to ascertain whether Derby Youth Court has a high custodial output because it fails to utilise community based penalties.

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<sup>34</sup> Derby City Council (2001) Crime and Disorder Audit 2001  
Also highlighted in interviews with YOS and Court personnel.



Interestingly, it would appear there is a similar uptake of Detention and Training Orders to Action Plan Orders. However, there is a considerable difference in the use of Supervision Orders (6.4%) and DTOs (9.4%) despite the two penalties overlapping in terms of the type of offenders for which they are deemed suitable. There is also a relatively low uptake of community penalties other than Supervision and Attendance Centre Orders. This low uptake of certain community sentences, especially the acknowledged vigorous ‘high tariff’ Supervision Order, may suggest a lack of understanding about community penalties as a viable alternative to custody. Research into Youth Court culture and information exchange between court and YOS tends to support this hypothesis, as we shall see later.

The uptake of Reparation Orders is also low at 4%. Research into patterns of sentencing<sup>35</sup> has identified that a low use of Reparation Orders is a distinguishing feature of high custody areas. A low use of reparative penalties is defined as less than 10% of all orders, and a high custody area is defined as an area with a rate above the national average of 8.3%. Derby has a reparation uptake of only 4%, correlating with the characteristics of a ‘high custody area’. The findings of the *Patterns of Sentencing* report indicated that the following were **characteristics of high custody areas** in comparison to low custody areas<sup>36</sup>:

<sup>35</sup> Batreman, T, and Stanley, C (2002) *Patterns of Sentencing: Differential Sentencing Across England and Wales*, London: Youth Justice Board, p 4

<sup>36</sup> Ibid, p 4

- **Lower use of 'lower level' penalties\***
- **Lower use of Reparation Orders\***
- Higher use of community penalties
- Higher use of 'adult type' disposals
- **Lower average case gravity scores for community sentences\***
- Greater imposition of conditions on bail and refusal of bail
- Magistrates' rate quality of youth justice service less highly
- Magistrates' rate court users' group meetings as a forum for exchanging information less highly
- **PSRs less effective as a mechanism for provision of information\***

Taken from Batreman, T, and Stanley, C (2002) *Patterns of Sentencing: Differential Sentencing Across England and Wales*, London: Youth Justice Board, p 4

\* Factors in bold have been evidenced in Derby and will be referred to in the relevant section of the report.

## **Section Three: Factors influencing Sentencing in Derby**

In order to ascertain the reasons behind Derby's high rate of young people sentenced to custody, it is imperative that we look to factors that can have an impact upon sentencing. Whilst in earlier sections the relationship between Derby's demographic profile and its impact upon offending behaviour has been addressed, we have yet to investigate the actual court process – that is to say the role and impact of the YOS and sentencer practice. In order to analyse the court process we shall investigate the relationship between the Youth Court and the YOS, and the efficacy and quality of Pre-Sentence Reports (PSRs) as factors that have a direct impact upon the sentencing culture of the Youth Court. This leads on to an assessment of Youth Court sentencing policy, looking at the views expressed by magistrates and other court personnel upon sentencing options and attitudes. The former is impacted upon by locally available services to support both custodial and community sentences. Therefore, an evaluation of service provision and the impact of the quality and availability of services upon custody rates, will be conducted in order to gain a holistic view.

### **Court Process**

#### **Pre Sentence Reports (PSRs)**

Whilst it cannot be denied that numerous factors contribute to custodial sentencing policy, the impact of the PSR upon sentencing outcome is a potentially powerful tool in the decision-making process. In both the youth and adult courts the PSR is a central decision-making tool in relation to more serious offences. PSRs were introduced by the Criminal Justice Act 1991 which renamed the old 'social enquiry reports' and gave them a more structured format. In addition, preparation and content of these reports became subject to the Home Office National Standards (currently 2000), describing the purpose of a PSR as:

...to provide information to the sentencing court about the offender and the offence(s) committed and to **assist the court to decide** on a suitable sentence.

## Basic principles

The relevant provisions are now located in the *Powers of Criminal Courts (Sentencing) Act 2000*, s.162, which defines a PSR as ‘a *report in writing*’:

- (a) with a view to assisting the court in determining the most suitable method of dealing with an offender, is made or submitted by an appropriate officer<sup>37</sup>; and;
- (b) contains information as to such matters, presented in such manner as may be prescribed by rules made by the Secretary of State<sup>38</sup>.

In June 2001 the YOS identified PSR quality as an area of practice in need of improvement. As a result independent research was carried out by PA Consulting centred upon the PSR quality and sentencer satisfaction. This research concluded that the quality of PSRs was variable, with particular weaknesses in the areas of offence analysis, victim impact, risk of reoffending and proposal<sup>39</sup>.

## The Youth Court

Whilst the Youth Court is obliged to consider the PSR, it is difficult to determine the actual extent to which these documents influence decision-making. Whatever the contents of the PSR, it remains for the court to decide what sentence to impose. Additionally, where a community sentence is appropriate it is for the court to consider whether to impose the author’s proposed order; however they must take proper account of the contents of the report. There will be times when the court declines to follow even a well-reasoned PSR,<sup>40</sup> and this is well within the Bench’s rights as long as the court and the report author have both followed correct practice and procedures.

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<sup>37</sup> Further defined as a probation officer or social worker of a local social services department or member of YOT in the case of those under 18.

<sup>38</sup> Item (b) refers to the National Standards, mentioned in preceding paragraph.

<sup>39</sup> Derby City Youth Offending Service (2002) *Youth Justice Plan 2002 – 2005* p 39.

<sup>40</sup> Brian Gibson (Ed) (2000) *The Sentence of the Court. A Handbook for Magistrates*, Winchester: Waterside Press. P.135.

Derby appears to have a problem with the high volume of ‘all options’ requests that are called for by the Bench. In other words, the Youth Court avoids making initial indications of seriousness that may serve to give the PSR author a starting point from which to base the Report. Instead the court chooses to keep open all its sentencing options. Out of the sample, half of all PSRs were requested on an ‘all options’ basis. These open-ended requests have become more prevalent post *R v Gillam*<sup>41</sup> where it was held that if a court makes an initial indication requesting that the report consider community service, and if subsequently the report indicates suitability, then a higher penalty should not be imposed.

## **PSR Audit**

### **Methodology**

Taking the period July 01 2002 – January 31 2003, the YOSs YOIS database was used to identify all cases resulting in the imposition a custodial sentence.

The PSRs for these 30 cases were collated and assessed. The assessment focused upon offence analysis, information about the young person, risk of reoffending, quality of the proposal, information contained in the proposal and consideration of ‘general’ issues. The pro forma used for this audit was taken and adapted from that utilised in the YJB report *Patterns of Sentencing. Differential sentencing across England and Wales*.<sup>42</sup> The pro forma used is appended.

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<sup>41</sup> (1980) 2 Cr. App. R. (S.) 267

<sup>42</sup> Batreman T, Stanley, C (2002) *Patterns of sentencing. Differential sentencing across England and Wales*, London: Youth Justice Board. Appendix 4.

**Note on scoring**

Each category of analysis was assessed and a numerical value was allocated. Scores ranged from 1 to 5. A score of 1 represented 'excellent' and 5 represented 'poor'. An overall score for the PSR was calculated from these (see Appendix 1 for further details) giving a result in the range of 6 (where each category was rated as excellent) to 30 (where each category was assessed as poor).

**Findings:****Offence Analysis**

Almost all (97%) of the reports gave a satisfactory outline of the offence. The assessment of circumstances and nature in which the offence was committed was generally viewed as highly satisfactory (average score of 2.73: a score of 3 denoting satisfactory, 2 denoting good.).

An assessment of the consequences of the offence was sometimes weak in terms of the consequences for the victim, and was not addressed in 40% of reports. However, this may be due to a lack of information available from the Crown Prosecution Service (CPS) papers or victim statement. The assessment of the offender's attitude towards the offence and awareness of its consequences was generally satisfactory.

The prevailing criticism of this aspect of the reports would be that authors have a tendency to describe the offence rather than analysing it in a meaningful way. This leads to the reader inferring conclusions from this description, rather than being presented with a concise analysis of the offence. Interestingly, when questioned on the quality of this aspect of PSRs, one sentencer stated that offender analysis was "realistic not theoretical" and another stated that "offence analysis is appalling".

## **Information about the young person**

The reports tended to be satisfactory in terms of the information presented about the young person (average score 2.9). Detailed information about the young person's circumstances, family background and education and/or training was presented. This level of detail assisted in understanding the young person's current and/or previous offending. However, this was sometimes presented in an unstructured way, again leaving the reader free to draw (perhaps unsupported) inferences from the information provided.

In general reports failed to address issues of numeracy and literacy, and where the young person was absent from education, there was little indication how this need could be addressed. Again, the reports tended to state the facts as presented rather than effectively assessing and analysing the young person's situation.

Where there had been previous convictions, the assessment of past disposals was patchy and ineffective in 40% of the sample. This assessment, where presented, typically consisted of a list of offending and/or breach, rather than effective analysis. This element of the report was often unnecessarily verbose, and the volume of information presented about the young person was often poorly assessed.

The young person's level of maturity, physical or mental, was rarely directly addressed (36.66%).

## **Risk of reoffending**

An assessment of the likelihood of further offending was made in 97% of reports. However, an assessment of the likely harm resulting from any further offending was addressed in only 43.33% of reports. Where seriousness was considered it was very rarely distinguished from the likelihood of offending (16.66%). Concerns were raised by one sentencer regarding the quality and utility of this element of the report, in that it was felt that the risk assessment lacked any real meaning, as it was often poorly reasoned.

Risk of self-harm was addressed only where psychiatric assessment had highlighted risk (1 case: 3.33%).

### **The proposal**

A proposal for a non-custodial sentence was presented in the majority of cases (86.66%), even where the proposed community sentence was not the 'main' proposal. Where a custodial sentence was proposed this was only where the young person had been classified as a PYO (2 cases).

The proposal took into account any non-binding indications of seriousness given by the bench. However, the prevalence of 'All Options' requests (50%) negated direct consideration, and often meant that a series of 'options' were presented routinely. Where a community penalty was deemed suitable (28 cases), the report tended to indicate generally how the intervention would reduce offending (60.7%), although, again, the opinion of the report author was sometimes difficult to ascertain directly. The number of options offered was sometimes confusing and often diluted the impact of the proposal itself; indeed, on some occasions this made it difficult to ascertain which was the proposed penalty. The argument in favour of the proposed penalty was very weak in two thirds (66.66%) of cases.

Where a community penalty was presented, reports normally included a brief outline of the intended programme (66.66%). The aims and objectives or desired outcomes could often be described as vague and generic, with the personnel to be involved often omitted (53.33%) and the timescale undefined (70.00%).

If custody was likely, the negative consequences of such an outcome in terms of reoffending was addressed in half of reports. The impact of custody upon family/community support was mentioned in only a third of reports. Similarly the impact of custody upon education and/or training was rarely considered (23.33%). The latter can be attributed to the failure of the report to identify the young person's future plans and goals, as these factors were considered in only 46.66% of reports, typifying an over-emphasis on the past.

## **General Considerations**

Most reports were free from discriminatory or stereotypical language or assumptions (93.33%). In addition 93.33% of reports refrained from presenting an unduly negative picture of the young person.

All reports followed the required headings, contained the required front sheet, and other relevant information. In respect of continuity, all reports followed the same structure and headings. Reports often failed to be concise in 30% of cases, usually due to over detailed reporting of facts and circumstances rather than including a succinct analysis. This was particularly in regard to information about the young person and details of the offence.

A frequently occurring criticism of the PSRs would be that they often reported the offence and/or the circumstances/background of the young person. This preoccupation with narrative has impacted upon the quality of real analysis (offence analysis score 2.7) and assessment (which is often weak). Whilst the reports read well, it is apparent that little reasoned opinion and argument was presented, resulting in consideration of the PSR being unnecessarily a task concerned with inference and interpretation rather than consideration of professional opinion.

Welfare of the young person was addressed in a satisfactory manner, avoiding inviting intervention based purely on welfare in 76.66%, marking the changing culture of Youth Justice. However, undoubtedly, the welfare of the young person remains a key consideration. Section 44 of the Children and Young Persons Act (CYPA) 1933 provides that all courts should have regard to the child's welfare. Additionally, section 1(1) of the CA 1989 requires that the child's welfare shall be the court's paramount consideration in any proceedings under the legislation with section 17(1) placing a duty on every Local Authority to safeguard and promote the welfare of children who are in need. Furthermore the UN Convention on the Rights of the Child 1989 requires that in Courts of Law in undertaking all actions relating to Children under 18, the best interest of the child shall be the primary consideration. The 1998 Crime and Disorder Act recognises the welfare of the child, but within the context of this, also talks about the delivery of justice for all. A framework document

drawn up by the Home Office, and various other governmental departments in respect of the Act reads as follows:

‘An effective youth justice system must ensure that justice is delivered for all concerned and that the best interests of all are served. There must be consideration, by all agencies and individuals, of the welfare of the child or young person: this is required by the UN Convention on the Rights of the Child to which the UK is a signatory... But there must also be a balance between the interests of the child or young person who has offended and the interests of the victim, or potential victims. The absence of any guiding principle across the youth justice system about what that balance should be or about what the practical outcomes are which the youth justice system should seek to deliver in respect of children and young people who offend has encouraged a sense of conflict. The new principal statutory aim fills that gap. Preventing offending is in the best interests of the child or young person. It is also in the best interests of the victim and the wider public. The new aim makes clear the priority, within the youth justice system, that should be given to preventing offending in considering the welfare of the child or young person and in balancing the interest of all concerned<sup>43</sup>.’

Linked to this, the statutory aim to prevent offending was clearly considered<sup>44</sup> (80%).

### **Impact of Training**

Overall, the reports were considered to be less than satisfactory with a mean score of 18.5, with 6 being the highest rating and 30 the lowest. The range was high, at 16 (10-26), reflecting the fluctuating and inconsistent quality of PSRs submitted to court.

PSR training was provided by the YOS for PSR authors in October 2002. This would appear to have been successful. The average score for PSRs sampled before the training was 19.5, this has now been reduced by almost 4% to 15.6%. All criteria showed marked improvement, which is encouraging. Both YOS staff and Court personnel have noted the improvement in quality, with one senior magistrate declaring that Derby City YOS PSRs were “top class” and that he had “no complaints about PSRs”. This conflicts starkly with another sentencers view that “offence analysis is appalling”. Therefore these assertions must be viewed with caution.

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<sup>43</sup> Home Office October 1998, *Framework Document to the Crime and Disorder Act 1998*  
<http://www.homeoffice.gov.uk/docs/youjust.htm> accessed 24/06/2003, Page 5 para 6

<sup>44</sup> Crime and Disorder Act 1998, s.37

However, the audit results must also be treated with caution as only 8 reports were analysed post October 2002, compared with 22 pre-training. This difference in sample size will obviously be significant. Another factor to be considered is that, post training, the majority of PSR writing has been undertaken by the YOS Court Officers, who have proven to be more effective PSR authors. Therefore, it may be necessary to investigate this matter further.

## **Gatekeeping**

Whilst it is evident that a system of gatekeeping is operational within the YOS, the overall quality of reports submitted to court does not reflect this. The YOS PSR Quality Assurance Checklist is, in principal, very comprehensive and if utilised correctly could be highly effective. The major concern would be that although the ‘right’ elements of the PSR are being challenged, it is difficult to ascertain whether the meaning of each requirement is sufficiently understood. To illustrate this point the following ‘check point’ can be used:

*‘Is there an assessment of the child or young person’s culpability and degree of premeditation?’<sup>45</sup>,*

There is little doubt that this is a relevant and pertinent question to ask in the quality assurance procedure. However, when asking this question one must consider whether the ‘gatekeeper’ actually understands what is meant and expected by the checkpoint. Otherwise gatekeeping can be a fruitless task; to put it simply, the gatekeeper cannot effectively ‘gatekeep’ if s/he does not know what to ‘look for’. Therefore, whilst gatekeeping can be a highly effective practice, it can also be rather meaningless.

It was noted that some basic grammatical and typing errors were going unchecked. This may not appear significant, but presenting poorly checked reports to court does not promote a positive view of the YOS in terms of professionalism and quality. The prevalence of such errors has been attributed to the lack of time allocated to YOS personnel for the purpose of writing such reports. Whilst this may be an issue to an

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<sup>45</sup> Derby City YOS (2002) *PSR Quality Assurance Checklist*

extent, it appears that time allocated to PSR writing within the YOS is above that required by national standards. On average a PSR takes around five hours to produce in Derby, although eight hours is allowed for the purposes of time management. The YOS produces a relatively small number of reports at 40 –50 per quarter. At present there are around 3.5 PSRs per week divided up between the two main writers (court officers) and additional staff where necessary. This means that each worker has a relatively light PSR workload each month. The issue, therefore, is not lack of time but inappropriate use of the time allocated. It must also be noted that the overall quality of reports increased over the period when the Court Officers were undertaking the bulk of report writing. Thus familiarity and practice for a few specialist writers may increase the quality. As they have clearly been taking on a greater workload in terms of PSR writing and researching, this would indicate that the problem lies not with the volume of reports and the time allocated to producing such reports, but the ability and skill of the author to utilise their time effectively.

A further issue relating to PSRs concerns the requirement that the PSR is based on at least two interviews with the young person. Interviews with YOS personnel have revealed that often PSRs are based on less. The lack of time spent on collating background information will undoubtedly affect the quality of PSRs and their impact upon the court.

### **Recommendations**

- Training focused upon developing:
  - analytical skills, focussing upon difference between description and analysis
  - time management skills to cut down PSR research and writing time without compromising upon quality of content
  - persuasion/reasoning skills to strengthen proposal writing
- Knowledge and understanding of available interventions and their appropriate application to foster meaningful use of supervision plan templates
  - Develop detailed menu of options to facilitate needs analysis and to support supervision plans.
- Application of more stringent gatekeeping practices
- Training focused on developing quality assurance culture

- Standard PSR proforma to standardise reports whilst providing guidance to authors in terms of required content and detail.

## **Relationship between court and YOS**

Interviews were conducted with key court and YOS personnel (see methodology section) in order to gauge the relationship between court and YOS, and to assess the impact of this upon custody rates. From these interviews the following considerations were identified:

- YOS image
- Information exchange and training
- Knowledge and understanding of sentencing options
- Views on reducing custody

## **YOS image**

A key concern raised by both YOS and Court personnel was the image projected by the YOS as a service. As the emergence of YOTs has been relatively recent, in common with all other YOTs, effectively Derby YOS has had to ‘re-brand’ youth justice in the light of political and legislative change. This has been particularly difficult considering that the roots of youth justice have traditionally been placed in the remit of Social Services. Establishing the current multi agency format has meant importing some existing staff and roles whilst attempting to re-brand and re-define the service, and as such it has been difficult to challenge the perceptions held by service users, the general public and sentencing personnel. However, these concerns have not been specific to Derby, and in themselves they do not explain the custody rate in the City. These factors simply place the particular difficulties and successes experienced in Derby within the broader context of radical and wide-ranging youth justice reforms.

Concerns were raised by YOS employees and, to a lesser degree, the Court, relating to the level of professionalism displayed by YOS personnel in Court. It was noted that YOS personnel had often been unprepared, and on occasion failed to attend hearings. This obviously impacts upon the confidence with which sentencers view the YOS. If the YOS is perceived as unprofessional and unprepared then it is unlikely that the specialist knowledge and expertise presented by the YOS will be given the weight it deserves. It must be noted, however, that during interview, court personnel stated that they had noted improvement in the image presented by YOS personnel in recent months. It was stated that YOS personnel were better prepared and more confident, and court officers were considered “very good and as effective as they could be”. It was acknowledged that they were seen to provide information where it was required, even if it was what the bench did not want to hear. Sentencers were generally happy with the information given to court and the relationship between the YOS and the Court. This attitude displays the improvements made by the YOS in recent months.

## **Recommendations**

- Build relationship with Court Clerks so that Court Officers are informed when their presence in court is required
- Conduct further research into the lack of preparation and make proactive changes. For example, if YOS personnel are unprepared due to lack of time for preparation, re-evaluate workload and productivity.
- Develop quality assurance culture

## **Progress noted**

- Court Officer base moved to a more central and visible location in the Court to facilitate integration and co-operation
- Court Manager and Officers adopting more professional outlook. Court Officers’ workload adjusted to allow for greater preparation.
- YOS providing training on presentation skills

## **Information exchange and training**

It was evidenced that attendance at court users' groups by both Youth Court Magistrates and YOS Court Officers was somewhat infrequent. Some magistrates attended users' meetings often, whereas others regularly failed to attend. Whilst the Court Manager attended the users' group meetings regularly it was noted that the Court Officers did not. This is significant in that, in effect, these personnel are the 'face' of the YOS in Court and should, therefore, establish themselves in this context. Additionally, if sentencers do not attend these meetings they become isolated and ignorant of sentencing options and developments

The evidence suggests that the actual time allocated to the YOS and youth justice matters in these meetings is a key concern for YOS staff. The 40 minutes allocated for 'Any Other Business' in these meetings is not sufficient to effectively deal with issues arising. The format of the meetings was also ineffectual, with too much emphasis placed upon passive dissemination of ideas and little time for meaningful engagement to occur. This interface needs to be built upon to facilitate engagement and communication amongst court users. Dedicated sessions focussed around the YOS would reduce the volume of material and allow the level of interface to be broken down, allowing for engagement. Smaller groups would mean that issues could be given appropriate consideration. Increasing the level of interaction between court users would allow for more meaningful discourse, and also reduce resistance to change as the YOS and court would no longer be faceless, remote entities.

However, it was noted that Magistrates and the Youth Court afforded a healthy level of respect to the YOS, with sentencers believing that a well-developed user group exists. The level of openness and participation evidenced in meetings had impressed one sentencer. This level of satisfaction on the part of sentencers does not correlate with the feelings expressed with the YOS. We are inclined to question why sentencers perceive as adequate the court users' group's passive and limited format. Again, perhaps this fits in with maintaining the *status quo*; if practices and attitudes cannot be effectively challenged via this forum, then change cannot take place.

## **Recommendations**

- YOS Court Officers to attend Court Users' Meetings to develop relationship with court users and become further integrated as part of court process.
- *All* Youth Court Magistrates to be encouraged to attend court users' meetings
- YOS to propose scheduling of Court Users' Groups prioritising YOS concerns.

Each quarter there is a court user meeting chaired by the Chair of the Youth Court Bench and their Deputy. All criminal justice service agencies are represented at this meeting. In addition to this there are evening liaison meetings, occurring generally about three per year. Information about the YOS is presented at these events, for example: performance information, business planning, Orders.

## **Youth Court sentencing personnel**

Interviews with sentencing personnel identified that considerable gaps in knowledge and understanding were evident. Areas where knowledge was lacking can be categorised in the following manner:

- Penalties available
- YOS role and remit
- Training and feedback

### **Penalties available**

It was evident that magistrates were unable to distinguish between the different community penalties and what they entail. This was particularly evident in the case of 'high tariff' community penalties that were feasible alternatives to custody, notably Supervision Orders. One sentencer admitted that she had "*no idea*" about what the YOS could offer in terms of specified Supervision Orders. The same sentencer maintained that low numbers of Supervision Orders were imposed because they were

rarely proposed. This is evidently not the case for young people sentenced to a DTO in 2002. Where a DTO was recorded on YOIS, 37% had a Supervision Order proposed.

Doubt was cast over the effectiveness of Referral Orders, as it was felt that often Referral Panel members did not have sufficient understanding of young people's needs, and that professional specialist intervention was favourable. It was admitted that the results of Referral Orders had never really been seen, and the level of breach was the only measure of effectiveness available. Thus far, the rates of breach and reoffending for this order were considered poor and a general apathy surrounding the utility of such penalties. This was affirmed by the assertion that the sentencers felt "stuck with them". Interviews revealed that sentencers held considerable reservations about Referral Orders, and considered that the general public needed to be educated in this area in order for them to become a more favourable sentencing option. This attitude is not reflected in the use of Referral Orders, which during 2002 accounted for the highest proportion of total sentences at 20% and at time of writing have increased to 39%. This disparity between attitude towards sentences and their usage is inclined to promote suspicion over the actual consideration afforded to sentencing. If sentencers do not have faith in Referral Orders then why do they continue to be used? This either demonstrates a lack of consideration in terms of sentencing decisions, a lack of knowledge on viable alternatives, or a government target for the number of ROs issued. All theories are somewhat worrying.

## **Recommendations**

- Distribute 'menu' of sentencing options detailing content, nature and suitability per penalty
- Feedback on success of community penalties

## **Progress noted**

- YOS newsletter to Court detailing successes

## YOS role and remit

During interviews it was noted that confusion existed as to the role and responsibility of the YOS. To an extent this can be attributed to a lack of understanding of the 1998 Youth Justice reforms, and a tendency to blur the roles of Social Services with that of the YOT.

This blurring is understandable in some respects, especially in defining responsibility for remand accommodation. However, in other respects it is more problematic as the remit of the two services is materially different. Whilst Social Services are primarily concerned with the welfare of the child<sup>46</sup>, the 'welfare principle' is not the paramount objective for the YOS. Obviously, welfare is one concern for the YOS, but the Service was created to prevent and reduce offending, and as such has a different set of objectives to Social Services. If sentencers are holding on to an image of an old-style welfare based service that actively seeks to avoid custody, then they are less likely to respect the arguments put forward by the YOS against custodial penalties, perhaps believing them not be based upon reasoned opinion. This is obviously a concern, as the YOS does not simply propose community sentences without reason. This misunderstanding is evidenced by an attitude displayed by sentencers surrounding proposals. It was suggested that if the YOS were more honest and realistic in its proposals (for instance if the PSR author genuinely believes that a DTO is the only option), then it would prefer that to be stated rather than proposing a community penalty routinely. Interviews with the court team have negated this assumption, stating that DTOs are advocated where necessary, and proposals for community penalties are not simply added as a matter of routine. Indeed this is supported by the PSR audit, where it was noted that in some cases a DTO, and only a DTO was proposed. Perhaps this is not a case of being honest and realistic, it is more a case of differing opinion as to what community penalties are suitable for. Indeed, it would appear that the court, like some members of the public, perhaps, view youth justice as a Police-court-prison process. Indeed, one sentencer describing the expectations of the public regarding youth justice system used the very phrase 'Police-court-prison'.

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<sup>46</sup> Children Act 1989

## **Recommendations**

- Promote and actively investigate further ‘re-branding’ the YOS, emphasising the principal aim to prevent and reduce offending.

Interestingly, having spoken to a number of YOS personnel, it has become evident that internally there is a degree of confusion as to the remit of the YOS. It was suggested that YOS court personnel should be equipped with more formal legal knowledge so that they could be more active representatives, challenging inappropriate requests. Herein lies the confusion: YOS personnel are not the legal representatives of the young person. They have a duty to provide professional opinion upon that individual to aid the decision-making process. Whilst it is important that the YOS worker acts in the interests of the young person, it is not their role to engage in legal arguments as to the legal plausibility and basis of a decision or remark. If additional legal expertise was gained, then this may serve to dilute the YOS’ impact in court as this could cause resentment amongst the bench. Indeed, this may be an issue as a particular point of merit noted by sentencers was that the standard of YOS Court Officers was high and that they were “*not intrusive.*”

## **Training and feedback**

Linked to the problems relating to available penalties, lack of training has been evidenced amongst court personnel. That is to say that despite gaps in knowledge and understanding, court personnel have not received sufficient training from the YOS. It has been argued by some at the YOS that training has been offered and not been utilised, whilst the Youth Court has maintained that some training initiatives have been inappropriate.

The YOS has invited magistrates and other court personnel to various briefing sessions concerning the role of the service. In 2002 the YOS held two training events for magistrates and approximately 8 - 10 attended on each occasion. In addition to this

a bi-annual newsletter is issued to magistrates every six months and incorporates information about service developments.

However, data suggests that uptake for other training initiatives has been low, suggesting a degree of apathy amongst sentencers. When questioned on training and development initiatives put forward by the YOS, sentencers stated that they actively take up the opportunity to attend open days and visits. Shadowing YOS intervention work is viewed as problematic because the magistrate must remain impartial and cannot associate with the young person. Whilst association could become an issue, it is easily prevented; indeed, on occasion Derby Magistrates have shadowed the Probation Service's work. The bench is starting to sit in on referral panels (from April 2003). Referral panel members have sat in court and their feedback has been very helpful. This is clearly an example of good practice. However, one must tackle the motives behind such practice, given that there is such a negative attitude towards Referral Orders, yet a high uptake. That is to say that Referral Orders are already frequently utilised whereas Supervision Orders are not. To reiterate, it has been acknowledged by sentencers themselves that they are 'stuck' with Referral Orders. This is unlike Supervision Orders, where a DTO can often be used as a viable, and public-pleasing alternative. If sentencers were to become more aware of what is entailed in a high tariff community penalty, such as the Supervision Order, then it may become the viable alternative to custody that it invariably is. Perhaps, therefore, the 'association' argument is merely a smokescreen hiding broader political motives.

## **Sentencer's views on sentencing**

### **Why is the custody rate so high?**

When asked this question sentencers vehemently argued that the high custody rate was not a reflection on the YOS. It was argued that Derby had a high custody rate because it had a "hardcore of around thirty PYOs for whom custody was the only available option". Emphasis was placed upon Derby in terms of its urban location and the prevalence of crimes such as burglary. Whilst this is to some extent correct, it is clearly not the only factor contributing to high custody rates. It is argued that the East

Midlands has a history of being pro-custody<sup>47</sup>, but this does not explain why custody rates are so high in Derby. Of key importance is the assumption displayed that there is no option other than custody for Derby's 'hardcore' PYOs. Indeed, Derby Magistrates seem to be attracted to high profile penalties. One sentencer admitted that since the introduction of Curfew Orders for adults, she has keenly utilised them. Bearing in mind that ISSP is another much-hyped initiative, it comes as no surprise that this sentencer claimed that ISSP was viewed in the same light. Considering that the principal aims of the Youth Justice System are to prevent and reduce offending, it seems strange to note that Magistrates sentence young people to custody so regularly. This is when it is widely acknowledged that custody does not necessarily reduce offending, as it does not always tackle the roots of offending behaviour resulting in re-offending upon release. Whilst DTOs have an element of 'training' that is aimed at tackling offending behaviour, this is nonetheless coupled, and one could say diluted, with a sentence in an institution with other offenders. Surely, the key to reducing offending is tackling offending behaviour rather than incubating it in custody. Therefore a broad range of community interventions should be advocated before custody is considered. Given that only 48% of the young people subject to DTO in 2002 were classed as PYOs, and that there is low uptake of some community penalties, suggests that community alternatives are not being exhausted before custody is imposed. The relatively low use of Supervision Orders demonstrates that this Order is not considered as an alternative to custody. Perhaps what is most worrying is that a member of the YOS Court Team admitted that custody was high in Derby because "there is no viable alternative to ISSP". This is despite the fact that Derby is currently operating an Enhanced Supervision Programme.

In contrast to the need for pre-custodial interventions, the uptake of community-based initiatives in Derby is relatively low (to reiterate, the custody to community ratio is 1 to 4; the ratio for England and Wales is 1 to 8). If the principal aim of youth justice is to prevent, and reduce offending then why are community penalties not being used? There could be two possible reasons for this:

1. That magistrates have little faith in community provision and;

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<sup>47</sup> Leicester City Youth Offending Team (2002) *Youth Justice Plan 2002/03 – 2004/2005*

2. That the expectations of custody are unrealistic.

In terms of service provision, this research has highlighted that Derby has particular problems with accessing certain services, particularly those concerned with tackling substance misuse. Drug and alcohol services are provided by Addaction and the NHS. However, sentencers have highlighted concerns in this area. One Magistrate stated that currently, the demand outstrips the supply of drug treatment services and as such there is a three-month waiting list. This obviously impacts upon their use of DTTOs. Sentencers admitted that DTTOs would be an asset and could reduce the use of the Secure Estate. However, at present the option was not available to them. This is interesting considering that after investigating this within the YOS conflicting information was supplied.

**Addaction** is a voluntary organisation funded by the DAAT (government body). Addaction young persons service provides, needs assessment, one to one support to address or reduce drug or alcohol use, advice information, harm minimisation, group work and diversion, referral to other young peoples services, counselling, support and information to parents carers, siblings and other professionals. The service is for people aged 18 and under. This service also works with NHS drug treatment service who provide a prescribing service to young people. The young persons service has a worker at the youth offending service, a worker at a drop in centre called The SPACE, a worker who works with Sure Start, and three generic workers.

The drug and alcohol service is fairly new, it was set up in September 2002, demand is fairly high, with 84 referrals made from Derby YOS during the period April to December 2002<sup>48</sup>, and supply matches this. The service will be improved by having designated premises where young people can be seen, as presently it relies on host venues. There is no waiting list and a young person can be referred based on any ASSET score (even below three). This evidence clearly contrasts with the view voiced by Magistrates that DTTOs were not a serviceable option.

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<sup>48</sup> Addaction (2003) Young Person's Service Quarterly reports, April – December 2002

In terms of accommodation for young people, interviews with YOS personnel and Magistrates have identified problems in obtaining accommodation for young people. How this impacts upon custody rates is difficult to ascertain. Magistrates identified accommodation for post 16s as an issue, stating that this impacted upon their use of remand. It has, however, been noted by YOS personnel that the court is becoming more responsive and will not hold a young person without accommodation in remand if it is clearly not suitable. However, the evidence points to the YOS as being very pro-active in terms of obtaining accommodation for young people. At present the YOS has a designated Accommodation Officer who is able to meet the needs of most young people. Progress is also being made in terms of increasing the number of beds available for young people identified as in need. This is aided by partnership working with organisations such as English Churches. Evidence suggests that few, if any, young people leave custody without accommodation, conversely, this suggests that accommodation could easily be obtained before sentencing and should not influence the use of custody.

### **What can be done to reduce the use of custody?**

Magistrates tend to feel that the introduction of Intensive Supervision and Surveillance Programme (ISSP) will form a panacea to remedy the high custody rates in Derby. The major concern relating to this view is that the expectations of sentencers of ISSP may not be matched by the reality. This is particularly worrying given that when interviewed, court personnel had little knowledge of ISSP nationally, let alone regionally.

#### **Intensive Supervision & Surveillance Programme**

“An Intensive Supervision & Surveillance Programme (ISSP) can be included as part of a Supervision Order or attached to a Community Rehabilitation Order. ISSP is targeted at the most persistent or serious young offenders, for example those who commit 4 offences within a 12 month period or grave offences. An ISSP can also be included as part of a bail supervision and support programme or a Detention & Training Order.

On an ISSP, a young person receives 25 hours a week of intensive support involving education, offending behaviour programmes and repairing the harm caused by their offence. They can also be electronically tagged<sup>49</sup>.

ISSP is due to be rolled out in Derby during October 2003. At time of writing it appears that Derby City YOS will share provision with Derbyshire YOT and will have approximately 28 places available for those meeting the ISSP criteria. This is a relatively small amount of places, and when it is considered that each young offender has particular needs, ISSP programmes may not be suitable in every case. It is unlikely that ISSP will provide a large reduction in custody rates given that, presently, the positive attitude displayed by Magistrates towards the penalty is not supported by detailed understanding of what an ISSP programme will entail. When questioned regarding ISSP magistrates were able to display little knowledge and understanding relating to the Programme. Sentencers did seem eager to receive information on ISSP. However, it is worrying that the attitudes and expectations surrounding ISSP have been developed in the relative absence of such knowledge. Whilst Magistrates failed to give reasons for their perception that ISSP will reduce the use of custody, research conducted on behalf of the YJB<sup>50</sup> has found that the level of constructive work with young people is significantly higher on ISSP than on short term DTOs. Whilst in custody on a DTO a young person will receive weekly, on average, 12.7 hours of structured activity, whereas on an ISSP programme 25 hours are scheduled. This does indeed make ISSP an attractive sentence option.

Admittedly ISSP has a high public profile and is viewed as a vigorous alternative to custody, but what must not be forgotten is that elements of ISSP can be echoed in well-structured Supervision Orders. It seems that the actual substantive content of ISSP has been clouded by the high profile that it has received in the media. The attractiveness of ISSP as an alternative to custody ties in with the belief that custody is over-used in Derby because custodial sentences are well received by the general public. The same can be said for ISSP.

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<sup>49</sup> Youth Justice Board, <http://www.youth-justice-board.gov.uk/YouthJusticeBoard/Sentencing/IntensiveSupervisionandSurveillanceProgramme.htm>  
Accessed 20 June 2003 at 11:45 AM

<sup>50</sup> Ibid

Indeed, it can be seen from the evidence collated here that Magistrates in Derby are attracted to high profile penalties. One sentencer admitted that since the introduction of curfew orders for adults she has keenly utilised them. Bearing in mind that ISSP is another much-hyped initiative, it comes as no surprise that this sentencer stated that ISSP was viewed in the same light. Considering that the principal aims of the Youth Justice System are to prevent and reduce offending, it is strange to note that Magistrates so regularly sentence young people to custody. This is when it is widely acknowledged that custody does not necessarily reduce offending, as it does not always tackle the roots of offending behaviour leading to re-offending upon release. Whilst DTOs have an element of ‘training’ that is aimed at tackling offending behaviour, it is nonetheless coupled, and one could say diluted, with a sentence in an institution with other offenders.

## **Conclusions**

### ***So why does Derby have such a high custody rate?***

At this stage of the report it is helpful re-visit the aims of the research in order to assess the extent to which the findings allow us to draw conclusions or ‘answers’ to the questions posed.

The report was commissioned in order to identify the factors contributing to the high custody rate in Derby City. In order to do this in a meaningful way an evaluation of these factors must be undertaken in an attempt to isolate the cogent issues and form a thesis. Whilst it has been difficult to ascertain a single factor contributing to the high custody rate in Derby City, as a multiplicity of factors operate in the Youth Justice System, some variables have proved to be highly significant in the decision-making process.

Research has indicated that the contributing factors to Derby’s high custody rate can be categorised into the following themes:

- Offence analysis;
- Magistrates and legal issues;
- Assessments and reports;
- Practitioner knowledge and skills;
- Court interface and communication.

## **Offence Profile**

It is evident that Derby differs from regional and national trends in terms of its burglary rate. Burglary is considered a serious offence for which custody may be deemed appropriate. Therefore, it is significant that Derby has higher than average burglary rate that contributed to one third of DTOs imposed in 2002. The prevalence of this offence surely impacts upon overall custody rates. It is not reasonable to suggest that this is the only factor contributing to the high custodial sentencing rates

in Derby. Indeed, other factors can and do influence the decision making process, as it is not simply the offence that predicates the penalty. However, it probably best to see Derby's offence profile as key. That is to say that if Derby did not have a high burglary rate amongst young people then custodial sentences would not be considered an option as frequently and hence the custody levels would almost certainly be lower. However, just because custody is an option available as a penalty to offences such as burglary, it does not mean that it has to be utilised. Therefore, we need to consider the negative side of the argument: why are community penalties 'under-utilised'?

Another point to consider is the theory that certain offences may be 'up-tariffed'. That is to say that certain offences are targeted and punished more severely than would otherwise be. It is generally perceived that Derby has a high burglary rate amongst young people, and this is supported by baseline data. Indeed, Derbyshire Constabulary and the Community Safety Partnership target burglary with specific reduction strategies. However what is unclear is why the mean case gravity score for those sentenced to a DTO is 5.86 for burglary and yet there are young people on Supervision Orders with a mean score of 5.86 for a different offence (robbery), and yet they are sentenced to a community penalty (SO). Do differing thresholds exist for different offences?

It is clear that there is a low uptake of certain community penalties as an alternative to custody. This is particularly evident in the case of Supervision Orders that are a 'high tariff' and a potentially vigorous alternative to custody. The research has indicated that the relatively low uptake of certain community penalties as a pre-custodial measure is a significant factor in the high level of custody. Whilst Derby uses Supervision Orders the proposal for such a penalty is often declined in favour of custody<sup>51</sup>

It was identified that resistance to the use of pre-custodial community sentences could be attributed to problems in the following areas of practice:

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<sup>51</sup> Where the proposal was recorded on YOIS, 37% of those sentenced to DTO in 2002 had a SO proposed in their PSR

## Magistrates and legal issues

It is evident from interviews with sentencing personnel that the level of information accessed by, and provided to, sentencers is unsatisfactory. Sentencers have relatively little knowledge and understanding of the range of services and penalties available to them. This was again evident in the case of Supervision Orders. This lack of knowledge means that some high tariff community penalties cannot effectively be considered in the decision-making process. This narrows the choices available to sentencers, and when it is perceived that no viable alternative to custody exists, this will obviously influence the use of custody, leading to higher uptake. Indeed, this is supported by the lack of Supervision Orders used; there is a distinct lack of higher-level community penalties used for young people in Derby (compared to, for example Coventry<sup>52</sup> where 17.7% of total sentences were SOs). Indeed when case gravity scores are considered there is a distinct gap between the mean score for those on DTO (5.01) and those on Supervision Orders (3.96). If Supervision Orders were considered to be a viable alternative to custody then these scores would be similar.

Magistrates vehemently argue that the high custody rate was not a reflection on the YOS. Linked to the former theme, it is perceived that Derby had a ‘hardcore of around thirty PYOs for whom custody is the only option’. What the evidence leads us to question, however, is why custody becomes inevitable. Is this because high tariff community penalties are not seen as alternative to custody? In other words, is there a jump from lower level community penalties straight to custody, bypassing stringent Supervision Orders?

It will be interesting to see whether the introduction of ISSP will reduce the custody rate. Magistrates’ expectations of the programme’s scope and range seem unlikely to be met, as at this time the plans suggest that provision is likely to be limited.

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<sup>52</sup> YJB (2001) *Youth Justice Data by YOT: Youth Justice System Data 01.10.01 – 31-03.01*  
London:YJB, Tables 6a and 6b

## Assessments and reports

This research has highlighted that overall Derby YOS PSRs are less than satisfactory. That is to say that through ineffective research and writing of PSRs, the YOS is limiting the impact that its specialist knowledge and opinion may have upon the bench. PSRs are a key decision-making aid and can be highly effective in influencing decisions. Conversely, if PSRs are weak, then, coupled with the lack of information exchange, there can be little to challenge the sentencing decision. If the aim is to reduce the use of the Secure Estate (as per YJB Performance Measure Four), then solid arguments need to be presented in order to challenge the provision of custody. At present Derby YOS PSRs are not fulfilling this requirement. In addition to the professional opinion put forward to the court there are also issues with quality, meaning that the service is not promoting itself in the best possible light.

In response to these findings the YOS may wish to:

- Provide training for PSR authors focused upon developing:
  - Analytical skills, focussing upon difference between description and analysis
  - Time management skills to cut down PSR research and writing time without compromising upon quality of content
  - Persuasion/reasoning skills to strengthen proposal writing
  - Knowledge and understanding of available interventions and their appropriate application to foster meaningful use of supervision plan templates
- Develop a detailed menu of options to facilitate needs analysis and to support supervision plans.
- Review and reform gatekeeping practice and procedure

- Devise a PSR pro forma to standardise reports whilst providing guidance to authors in terms of required content and detail.
- Design training focused on furthering quality assurance culture

## **Practitioner knowledge and skills**

Leading on from the previous section, the evidence presented here suggests that issues of professionalism and confusion as to role and remit are an issue.

In terms of professionalism, it is noted in court that YOS team members had sometimes arrived in court unprepared or actually failed to attend. The latter is been attributed to lack of communication with Court Clerks and the segregation of the Court Officers from other court personnel. This is being remedied by the provision of a centrally based YOS office within the Youth Court, providing a higher level of visibility and interaction.

In addition to this, skills gaps are evident in terms of reasoned report writing and time management in relation to PSR writing. It is also noted that some confusion as to the role and remit of the YOS in terms of legal awareness and legal expertise required in court. It is felt that YOS staff would be better able to challenge remarks made in court if they had sound legal knowledge. Whilst a basic legal awareness is an asset, it must be remembered that the YOS provides professional assessment and support and is not 'representing' the young person in a client-advocate fashion.

Practitioner skills and knowledge could be improved by implementing the recommendations detailed in the previous section. In addition, the YOS may want to:

- Promote and actively investigate further 're-branding' the YOS, emphasising the principal aim to prevent and reduce offending.

## **Court interface and communication**

The evidence presented highlights issues relating to training and information exchange between the Youth Court and YOS.

The root of the communication problem is the ineffective format of court users meetings, and the low uptake of training/information sessions offered by the YOS. If the court users' group cannot address the needs of the YOS as a court user then this impacts upon the level of information exchange. It is imperative that sentencers are aware of, and also understand, not only developments in youth justice but also the sentencing options that are available to them. This leads to a better-informed sentencing process. This is why it would be useful to provide sentencers with a detailed 'menu' of sentencing options, and also to feedback the success of various penalties, especially those that are community based. Court users meetings are too passive, and insufficient time is allocated to YOS issues. Additionally attendance by some sentencers is poor, generating a generally apathetic atmosphere.

The YOS has initiated various training and information events to keep sentencers informed. The gap in sentencers' knowledge of penalties, in particular, confirms that these events have not been entirely effective. There has been low uptake of these events, and resistance has been demonstrated towards some initiatives, namely shadowing young people. It is difficult to accept that informed sentencing options are always being made, when the evidence suggests that training and information exchange is not taking place. Indeed, this lack of information may lead to sentencers entrenching what may be highly inaccurate perceptions. If these perceptions, particularly those relating to the 'effectiveness' of custody and community penalties, go on unchallenged, then it seems unlikely that the custody rate will be reduced.

That is not to say that the responsibility for Derby's custody rate lies solely on the shoulders of sentencers. It is for the YOS to encourage information exchange and promote feedback to the court. In addition, the YOS can have considerable impact upon sentencing by presenting professional opinion to aid the decision making process. This is where the role of Pre-sentence Reports is important.

This report makes an assessment of the factors contributing to the high custody rate in Derby. The evidence presented indicates that the offences committed by young people in Derby significantly impact upon custody rates. The high incidence of burglary offences committed by young people provides a source for ‘potential’ custodial sentences as the offence seriousness warrants the use of custody. Issues concerning intra and extra YOS communication exacerbate the impact of the high burglary rate upon the use of custody. Ineffective communication has been evidenced in terms of PSRs and also dissemination of information concerning sentences available to the court. It is important to note that it is not YOS personnel who are unable to communicate effectively; it is simply that barriers to effective communication exist. The problem is better attributed to enabling reception of the information, not the communicators themselves. Additionally, little feedback on successful interventions is evident; hence no empirical evidence is being provided to sentencers to suggest that alternatives to custody actually work.

This suggests that the YOS may like to consider:

- Distributing a ‘menu’ of sentencing options detailing content, nature and suitability per penalty
- Facilitating feedback on success of community penalties

It is best to view the youth custody rate in Derby as a two-fold issue. Firstly, the high level of burglaries, and other grave offences, committed by young people provides a foundation for the use of custody. This foundation is then strengthened and built upon by the perception by sentencers that no alternative to custody is available. In turn, this results in a high custody rate. Whilst these variables do not operate in isolation, the evidence presented points to these as two principal factors fuelling the custody rate in Derby.

## **Implications**

In the light of this research the implications upon Derby City YOS are the following:

### ***Derby Community Safety Partnership (CSP)***

In terms of the Derby CSP arena, this report paves the way for the development of the Partnership strategy and more effective partnership working. In the light of the report findings it can be seen that issues concerning certain youth crimes, most notably burglary, need to be addressed in a partnership setting in order to bring about a reduction in the youth custody rate.

### ***Magistrates***

This report indicates that the court interface needs to be improved. The Youth Offending Service needs to become pro-active and assert its professional expertise via effective communication. The report findings signal that an improvement in this interface will be most effective in reducing the custody rate.

### ***Pre Sentence Reports (PSRs)***

The quality and effectiveness of PSRs has been highlighted as an issue by this report. The need for continuous improvement of PSRs in terms of content and quality is particularly important in an organisation where secondments are commonplace. Clarity and a combined cohesive approach encompassing a shared vision will result in PSRs being used effectively as a powerful persuasive tool.

### ***Role and remit***

The findings from this report have identified the need for the YOS to effectively 're-brand' and assert its role within the modern Youth Justice System. In other words roles need to be defined and substantiated internally and externally to differentiate the YOS from old style Youth Justice. Emphasis upon the statutory aim of reducing offending needs to be made to challenge dated perceptions.

## Summary of conclusions

1. Derby City Youth Offending Service commissioned the University of Derby to conduct research into custody rates in the Derby City area. The research aimed to:
  - Identify the factors contributing to the high custody rate in Derby City.
  - Evaluate and contextualise these factors in an attempt to isolate the relevant issues.
  - Highlight areas of progress, identify good practice and make recommendations.
2. There is a marked variation in the use of custody throughout England and Wales. The average custody rate nationally is 8.4%. Derby City currently has a custody rate of 13.1%. Derby City has a higher custodial to community sentence ratio, with 1 custodial sentence passed for every 4 community sentences. This is also experienced in Leicester City; however, the national average is 1 to 5.
3. The youth offending population in Derby does not differ greatly from that nationally in terms of offender profile: the 'typical' young offender is most often male and white commencing offending at the onset of adolescence.
4. There are, however, substantial differences in the offence profile demonstrated by Derby City young people. It has been found that Derby City young people commit a high number of burglary offences when compared regionally to Leicester City. Indeed, when the use of DTOs was investigated it was found that one third of young people sentenced to a DTO in 2002 had committed burglary as their principal offence.
5. The average case gravity score for a young person sentenced to custody in 2002 was 5.01, contrasting with almost 4 (3.96) for Supervision Orders (for our purposes classed as a high tariff community sentence). This, in addition to

further investigation into the use of SOs indicates that custody is used for more serious offences.

6. However, it would appear that robbery and violent offences are both frequently sentenced to DTO **and** SOs. There appears to be little to differentiate between those sentenced to custody and those sentenced to community penalties in respect of this. This has led us to question whether it is the offence *per se* or a case of popular punitiveness. As the custody/community penalty is difficult to distinguish it may be safe to assume that burglary offences are a particular target for custodial sentencing in Derby.
7. There is a considerable difference between the uptake of Supervision Orders (6.4%) and DTOs (9.4%) despite the penalties overlapping in terms of suitability. It would appear that a feasible alternative to custody is not recognised or available to sentencers.
8. In Court it seems that Derby PSRs are not as effective as they could be; the results of the PSR Audit revealing that overall the reports were 'less than satisfactory'. However, an improvement was noted after provision of training for YOS staff. There is room for improvement in terms of offence analysis, reasoning and detail supporting proposals. Additionally there is an issue of the high level of 'All Options' requests, which were utilised in 50% of our sample. There were also issues of quality, with basic grammatical errors going unchecked.
9. The relationship between the Youth Court and YOS was ascertained through semi-structured interviews with Court and YOS personnel. There appear to be issues concerning the 'image' of the YOS with regard to a perceived lack of professionalism displayed by the YOS in Court and also a misunderstanding of the role and remit of the YOS post 1998. It must be noted, however, that progress has been made in recent months in terms of the YOS' professionalism. The Court has also noted this improvement.

10. The format and attendance at Court Users Groups was highlighted as an issue in relation to information exchange and feedback. The meetings were considered to be inadequate in both time allocated and the passive format used to disseminate information. It was also noted that poor attendance meant that information was not being as widely distributed as is desirable.
11. Interviews with Youth Court sentencing personnel revealed gaps in knowledge and understanding of penalties available and in training and feedback.
12. It was evident that Magistrates were unable to distinguish between the different community penalties and what they consisted of. This was particularly evident in the case of ‘high tariff’ community penalties, notably Supervision Orders. Making it evident that there was little understanding of viable alternatives to custody.
13. Linked to the above, resistance to training was evidenced by sentencers. Training initiatives facilitated by the YOS had received low uptake and initiatives such as shadowing have been rejected.
14. Sentencers vehemently argued that the high custody rate was not a reflection on the YOS. It was due to “a hardcore of around thirty PYOs for whom custody is the only available option”. Again emphasis was placed upon burglary rates and the lack of a viable alternative to custody. Magistrates felt that ISSP would reduce their use of custody, and much emphasis was placed on the need for this provision in Derby. This further strengthened the view that no viable alternative to custody is perceived. This is despite the Enhanced Supervision programme offered by the YOS.
15. Community penalties are not being sufficiently utilised by Derby City sentencers. There could be two possible reasons for this:
  - That Magistrates have little faith in community provision and;
  - That the expectations of custody are unrealistic.

16. There are clearly many factors that influence the use of custody in Derby. However, this report suggests that the following are most pertinent:

- Offence Profile
- Communication between Court and YOS
  - Information exchange and training
  - Pre-Sentence Reports

17. The offences committed in Derby City provide a foundation for the City's high custody rate. The burglary level is relatively high and being a serious offence, burglary charges open up the possibility of custodial sentencing.

18. Impacting upon this baseline of offences is the effectiveness of communication between the Court and the YOS. The impact of this upon sentencing can be attributed to the following elements:

- Information exchange and training
- Pre-Sentence Reports

These factors do not necessarily act in isolation, however, they would appear to be the most significant factors distinguishing Derby City from other YOTs.

## **Summary of issues for consideration**

The YOS may wish to:

- Provide training for PSR authors focused upon developing:
  - Analytical skills, focussing upon difference between description and analysis
  - Time management skills to cut down PSR research and writing time without compromising upon quality of content
  - Persuasion/reasoning skills to strengthen proposal writing

- Knowledge and understanding of available interventions and their appropriate application to foster meaningful use of supervision plan templates
- Develop a detailed menu of options to facilitate needs analysis and to support supervision plans.
- Review and reform gatekeeping practice and procedure
- Devise a PSR pro forma to standardise reports whilst providing guidance to authors in terms of required content and detail.
- Design training focused on furthering quality assurance culture
- Promote and actively investigate further ‘re-branding’ the YOS, emphasising the principal aim to prevent and reduce offending.
- Distribute a ‘menu’ of sentencing options detailing content, nature and suitability per penalty
- Facilitate feedback on success of community penalties

## References

Addaction (2003) *Young Person's Service Quarterly reports: April – December 2002*, DAAT: Derby

Archer, D., Grimshaw, R., Hagell, A., Hazel, N., King, J., Liddle, M. (2001) *Detention and Training. An assessment of the Detention and Training Order and its impact on the secure estate across England and Wales*, London: Youth Justice Board

Audit Commission (1996) *Misspent Youth 1996. Young People and Crime*, London: The Audit Commission

Audit Commission (1998) *Misspent Youth 1998. The Challenge for Youth Justice*, London: The Audit Commission.

Batreman, T., Stanley, C. (2002) *Patterns of sentencing. Differential sentencing across England and Wales*, London: Youth Justice Board

BBC News Online (2001) *Youth Justice: How it works*, <http://news.bbc.co.uk/1/hi/uk/1506013.stm> accessed 11.12.02.

BBC News Online (2000) *Youth custody 'not always the answer'*, <http://www.news.bbc.co.uk/hi/uk/1036309.stm> accessed 02.12.02

Connexions, Cheshire and Warrington (2002) *Young offenders: your options when you leave custody* [www.connexions-cw.co.uk/young/contpage.asp?subid=103](http://www.connexions-cw.co.uk/young/contpage.asp?subid=103) accessed 02.12.02

Crime Reduction (2002) *Crime reduction toolkits: anti-social behaviour*, <http://www.crimereduction.gov.uk/toolkits/as020207.htm> accessed 23.01.03

Derby City Youth Offending Service (2000) *Youth Justice Plan 2002-2005*, Derby: Derby City Youth Offending Service.

Derby City Youth Offending Service (2002) *Quarterly Returns to the Youth Justice Board: January – March 2002*

Derby City Youth Offending Service (2002) *Quarterly Returns to the Youth Justice Board: April – June 2002*

Derby City Youth Offending Service (2002) *Quarterly Returns to the Youth Justice Board: July – September 2002.*

Derby City Youth Offending Service (2003) *Performance Report, July 2003 (data January-March 2003)*

Donnellan, C (Ed.) (1997) *Young Offenders, Issues for the nineties* vol. 7 London: Independence.

10 Downing Street Newsroom (July 2001) *New programme to tackle persistent young offenders goes live*, <http://www.pm.gov.uk/output/page3202.asp> accessed 23.01.03

East, Kate and Campbell, Siobhan (1999) *Aspects of Crime: Young Offenders 1999*, London: Home Office (HMSO).

Home Office, Lord Chancellor's Department (2001) *The Youth Court 2001. The changing culture of the Youth Court. Good Practice Guide*, London: HMSO

Johnson, K. et al (November 2001) *Cautions, court proceedings and sentencing: England and Wales, 2000*, Statistical Bulletin 20/01 issued November 2001).

Jones, K, Bickle, C (2003) *Youth Justice Board. Managing demand for custody: Interim report 14 April 2003*, London: PA Consulting

Leicester City Council (2002) *Praise for plan from Youth Justice Board*, [www.leicester.gov.uk/departments/page.asp?pgid=3220](http://www.leicester.gov.uk/departments/page.asp?pgid=3220) accessed 11.12.02

Leicester City Youth Offending Team (2002) *Leicester City Youth Justice Plan 2002/2003 – 2004/2005*, Leicester: Leicester City YOT.

Lifeline Research (August 2003) *Substance Misuse Needs Assessment in Derwent, Derby*, Derby: DAAT

Lifeline Research (August 2003) *Substance Misuse Needs Assessment in Normanton, Derby*, Derby: DAAT

Munce, J, Hughes G, McLaughlin, E (Eds) (2002) *Youth Justice: Critical Readings*, London: Sage

Nacro (February 2003) *Pre-sentence reports for young people. A good practice guide*, London: Nacro Youth Crime Section

Nacro (April 2002) *Youth custody levels in England and Wales highest in Europe despite low youth crime*,  
<http://www.nacro.org.uk/templates/news/newsitem.cfm/2002041700.htm/archive>  
accessed 18.12.02

Nacro (January 2002) *UK attitudes to youth crime most punitive in Europe The USA, Nacro briefing reveals*,  
<http://www.nacro.org.uk/templates/news/newsitem.cfm/2002010400.htm/archive>  
accessed 18.12.02.

Nacro (July 2001) *Youth Crime Factsheet: Some facts about young people who offend*, London: Nacro Youth Crime.

Nacro (February 2001) *Factsheet 2: Young People and Crime*, London: Nacro Youth Crime.

Nacro (December 2000) *Pre-sentence reports and custodial sentencing*,  
<http://www.nacro.org.uk/data/briefings/nacro-2000120100-yces.doc>

Nacro (November 2000) *'Let's end prison for under-18s'*, *Nacro conference hears*,  
<http://www.nacro.org.uk/templates/news/newsitem.cfm/2000222500.htm/archive>  
accessed 18.12.02

Nacro (April 2000) *Cut youth prison population to cut crime*,  
<http://www.nacro.org.uk/templates/news/newsitem.cfm/2000042600.htm/archive>  
accessed 18.12.02

O'Neill, T. (2002) *Report to Derby City Youth Offending Service Management Board.  
Performance Report January 10<sup>th</sup> 2003*

Prasad, Raekha, *Justice for All, The Guardian Make a Connection supplement The  
Guardian: Wednesday 28 January 2003.*

UKonline Newsroom (December 2001) *Youth justice targets hit*,  
<http://www.ukonline.gov.uk/NewsRoom/NRArticle/0,1169,203414~801b22~fs~en,00.html>  
accessed 23.01.03

Youth Justice Board (2001) *YJB launches plan to improve education for young  
offenders* [http://www.youth-justice-board.gov.uk/view\\_pr.cfm?PRID=97](http://www.youth-justice-board.gov.uk/view_pr.cfm?PRID=97) accessed  
02.12.02

## Appendix I

### PSR Audit Pro forma

#### NB

This pro forma was used by Batreman, T., Stanley, C. (2002) *Patterns of sentencing. Differential sentencing across England and Wales*, London: Youth Justice Board. It has been slightly amended to for the purposes of this report.

| Name of young person | Date of report | Proposal | Sentence received | Author of PSR |
|----------------------|----------------|----------|-------------------|---------------|
|                      |                |          |                   |               |

#### Reference Details / Basis of the report

| SOURCES OF INFORMATION  | Yes | No |
|---|-----|----|
| 1.1 Was CPS documentation available?  |     |    |
| 1.2 If no, does report indicate what steps were taken to obtain or ascertain information in another manner? |     |    |
| 1.3 If yes, were these steps reasonable / adequate in the circumstances                                     |     |    |
| 1.4 Does report outline authority to produce the PSR  |     |    |

#### Offence analysis

|  | Yes | No |
|--|-----|----|
| 2.1 Are agreed/found facts clearly outlined?                                     |     |    |
| 2.2 Is offence placed in context which assists understanding of why it occurred? |     |    |
| 2.3 Does the report convincingly assess level of culpability/premeditation?      |     |    |
| 2.4 Where there are previous convictions, is the pattern of                      |     |    |

|   |  |  |
|---|--|--|
| offending analysed in a convincing manner?  |  |  |
| 2.5 Does the PSR outline consequences of the offence (for offender, family and victim)? |  |  |
| 2.6 Is the young person's attitude to the offence assessed?                             |  |  |
| 2.7 Is the impact on the victim assessed?   |  |  |

Overall consideration for scoring: Does the section convey a convincing assessment of offending (i.e. not simply a description) which complements other information given about the young person, forms a useful basis for an assessment of risk and begins to suggest what level of sentence might be appropriate.

Assessed quality of this aspect of the report:

|              |         |                 |                     |         |
|--------------|---------|-----------------|---------------------|---------|
| 1. Excellent | 2. Good | 3. Satisfactory | 4. Not satisfactory | 5. Poor |
|--------------|---------|-----------------|---------------------|---------|

### Information about the young person

|  | Yes | No |
|--|-----|----|
| 3.1 Does PSR include relevant details of the young person's circumstances and family background?                       |     |    |
| 3.2 Does PSR include relevant details of young person's future plans/goals?  |     |    |
| 3.3 Does PSR include relevant information about education and employment?  |     |    |
| 3.4 Is background information presented in a fashion which assists in understanding current and/or previous offending? |     |    |
| 3.5 Is the young person's level of maturity assessed?  |     |    |
| 3.6 If there are any previous convictions, is the young person's response to previous disposals assessed?              |     |    |
| 3.7 Is information presented in a way which is consistent with providing personal mitigation?                          |     |    |
| 3.8 Is irrelevant material excluded? – i.e. is all information   |     |    |

|   |  |  |
|---|--|--|
| relevant to offending, suitability for sentencing options or personal mitigation. |  |  |
|---|--|--|

Overall consideration for scoring: Does the information about the young person enhance the earlier offence analysis and convey what forms of community penalty the young person might be suitable for or unsuitable for, is it presented in a way which is consistent with personal mitigation or does it present an unduly negative image of the young person? Overall, is an independent assessment made of the young person and which aids an understanding of the offending behaviour and what penalties might be suitable?

Assessed quality of this aspect of the report:

|              |         |                 |                     |         |
|--------------|---------|-----------------|---------------------|---------|
| 1. Excellent | 2. Good | 3. Satisfactory | 4. Not satisfactory | 5. Poor |
|--------------|---------|-----------------|---------------------|---------|

### **Risk of Reoffending**

|   | Yes | No |
|---|-----|----|
| 4.1 Is there an assessment of the likelihood of any further offending?  |     |    |
| 4.2 Is there an assessment of the likely harm arising from any further offending?   |     |    |
| 4.3 Is the likelihood of further offending distinguished from the likely seriousness if any future offending?                     |     |    |
| 4.4 Does the PSR indicate what forms of intervention would reduce the risk of reoffending/ and or harm?                           |     |    |
| 4.5 If the offence is a sexual or violent one, is the information adequate to indicate level of risk and how it would be managed? |     |    |

Overall consideration for scoring: Is the risk assessment convincing in the light of the foregoing sections without encouraging a more serious disposal than might otherwise be warranted on the basis of past offending? Does it act as a conduit from the previous

sections leading the reader, in a logical way, to the subsequent decision of what would constitute a suitable penalty that would reduce offending? Are all potential areas of concern, either those alluded to elsewhere in the report or those which naturally occur to the reader, adequately addressed?

Assessed quality of this aspect of the report:

|              |         |                 |                     |         |
|--------------|---------|-----------------|---------------------|---------|
| 1. Excellent | 2. Good | 3. Satisfactory | 4. Not satisfactory | 5. Poor |
|--------------|---------|-----------------|---------------------|---------|

### Quality of Proposal

|  | Yes | No |
|--|-----|----|
| 5.1 Is there a clear proposal for a non custodial sentence?  |     |    |
| 5.2 Does the proposal follow logically from the body of the report?  |     |    |
| 5.3 Does the proposal take into account the seriousness of the offence and any non binding indication of seriousness given by previous bench |     |    |
| 5.4 Does the proposal take into account any personal mitigation included in the information about the young person?                          |     |    |
| 5.5 If the proposal is for a community penalty, does the report indicate how the intervention will reduce offending?                         |     |    |
| 5.6 Does the proposal relate clearly to the offence analysis?  |     |    |
| 5.7 Is the proposal suitable in the light of the information given about the young person's needs, background and circumstances?             |     |    |
| 5.8 Is the proposal compatible with the risk assessment and indication of how risk may be reduced?   |     |    |
| 5.9 Overall, is there a strong argument presented in favour of the preferred proposal?   |     |    |

Overall consideration for scoring: Is the proposal consistent with the information contained in the earlier section of the reports, informed by the earlier assessments in a way which suggests that it would also reduce the risk of further offending/harm?

Assessed quality of this aspect of the report:

|              |         |                 |                     |         |
|--------------|---------|-----------------|---------------------|---------|
| 1. Excellent | 2. Good | 3. Satisfactory | 4. Not satisfactory | 5. Poor |
|--------------|---------|-----------------|---------------------|---------|

**Information contained in the proposal**

|   | Yes | No |
|---|-----|----|
| 6.1 If the proposal is for a community penalty or otherwise involves YOS intervention, is there a clear indication of what work will be done with the young person? |     |    |
| 6.2 Is there a clear indication of levels of contact and the duration over which that contact would be maintained?  |     |    |
| 6.3 Is there an indication of who would carry out the each element of the proposed work?  |     |    |
| 6.4 Is there any reference to how the young person is likely to respond to the programme and how it will impact upon them?  |     |    |
| 6.5 If custody is likely, does the report clearly indicate the potential negative consequences of such an outcome in terms of community/family support?             |     |    |
| 6.6 If custody is likely does the report clearly indicate the potential negative consequences of such an outcome in terms of education/training?                    |     |    |
| 6.7 If custody is likely does the report clearly indicate the potential negative consequences of such an outcome in terms of reoffending?                           |     |    |

Overall Consideration for scoring: Is the information provided in support of the proposal sufficiently detailed to make clear how the author considers it will reduce the

risk of offending and, where appropriate, its likely success relative to a custodial sentence?

Assessed quality of this aspect of the report:

|              |         |                 |                     |         |
|--------------|---------|-----------------|---------------------|---------|
| 1. Excellent | 2. Good | 3. Satisfactory | 4. Not satisfactory | 5. Poor |
|--------------|---------|-----------------|---------------------|---------|

### General

|   | Yes | No |
|---|-----|----|
| 7.1 Is PSR free from discriminatory / stereotypical language and assumptions?   |     |    |
| 7.2 Is PSR well structured, concise and easily comprehensible?  |     |    |
| 7.3 Does the report avoid irrelevant material?  |     |    |
| 7.4 Does the report avoid presenting an unduly negative picture of the young person which might lead the court to impose a harsher penalty than warranted by the offending? |     |    |
| 7.5 Does the report take into account the welfare of the child without inviting intervention based purely on welfare?   |     |    |
| 7.6. Does the report take due account of the statutory aim – to prevent offending?  |     |    |

Overall consideration for scoring: Overall does the whole report read as one which leads naturally and convincingly towards the conclusion contained in the proposal in a way which is consistent with the legislative provisions for sentencing (i.e. proportionality, welfare considerations, prevention of offending, human rights issues).

Assessed quality of this aspect of the report:

|              |         |                 |                     |         |
|--------------|---------|-----------------|---------------------|---------|
| 1. Excellent | 2. Good | 3. Satisfactory | 4. Not satisfactory | 5. Poor |
|--------------|---------|-----------------|---------------------|---------|

## Overall Score

Indicate, in the table below, the number of categories achieving each of the available scores.

A total should then be calculated for each row (the score multiplied by the number of categories which achieve it). Thus, if four of the report sections were assessed as 'excellent', the total for the first row would be 4.

The overall score is then the sum of the total column in a range of from 6 (where each category was assessed as excellent) to 30 (where each category was assessed as poor).

| SCORES              | Number | Total (number x score) |
|---------------------|--------|------------------------|
| 1. Excellent        |        |                        |
| 2. Good             |        |                        |
| 3. Satisfactory     |        |                        |
| 4. Not satisfactory |        |                        |
| 5. Poor             |        |                        |
| OVERALL SCORE       |        |                        |

