

## **A Miscarriage of Justice:**

### **Why is policy not implemented for young offenders?**

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In her recent State Opening of Parliament statement (May 2016) Her Majesty the Queen announced that action will be taken to ensure better mental health provision for individuals in the criminal justice system. We are optimistic that this welcome initiative means that all offenders, including those under 18 years old, will soon benefit from much needed and improved mental health services. Young offenders are known to have high levels of unmet and untreated mental health needs, they have frequently been 'in care' and often come from violent and neglected backgrounds. This year's legislative programme is the opportunity to implement prevention, early intervention and treatment that suits young offenders and will improve young people's life outcomes.

[Marie-Ann Ha, Woody Caan and Jan Cassidy reflect on the scope for mental health improvement, for Young People in custody.](#)

## **Background**

In many countries, *Young Offenders* have some of the worst health of any group of young people. Deaths of young offenders are ten times higher than in other adolescents due to drug overdose, suicide, accidental injury, and homicide.<sup>1</sup> In England, there are wide spread concerns about the organisational fragmentation and poor care in the secure services for young people. This came to light on film at the private sector Medway centre.<sup>2</sup> In relation to custody across all ages the policy-makers responsible for mental health have 'taken their eye off the ball': In Parliament recently, Luciana Berger (Shadow Cabinet) requested information on the number of people with diagnosed mental health conditions receiving a custodial sentencing in the last five years. Jeremy Hunt (Secretary of State for Health) was unable to give an answer.<sup>3</sup>

Young people with mental disorders are especially vulnerable whilst in custody. The Board responsible for monitoring their care since 2000 (Youth Justice Board) has failed to implement good mental health practices.<sup>4</sup>

Research funded by the Wellcome Trust shows there has been a gulf between well intentioned policies on mental health in prisons and their implementation, for over a century.<sup>5</sup> Deaths in custody of young people demands effective implementation<sup>6</sup> - this year, the whole system of Youth Justice is currently under review.<sup>7</sup> In addition, young people have given their priorities through the Association for Young Peoples Health. AYPH underline two measures from the *Public Health Outcomes Framework*: reducing first time entrants to the youth justice system and reducing the suicide rate.<sup>8</sup>

### **Wishful thinking?**

Under the Health and Social Care Act 2012<sup>9</sup>, NHS England has overall responsibility for health including mental health in prisons and immigration detention centres. This year the Government introduced a *Five year forward view on mental health*.<sup>10</sup> There is acknowledgement that half of all mental health problems are established by the age of 14 and this rises to three quarters by the age of 24. The risk factors for a mental illness are similar to the risk factors for becoming a young offender. In 2016 the National Audit Office estimates 90% of prisoners have mental health, drug and/or alcohol problems.<sup>11</sup> The limited evidence we have from youth justice suggests this could be true for young offenders<sup>12</sup>, who may have similar levels of *unmet* mental health needs. This could be aggravated by high levels of traumatic brain injury, recently estimated to be between 49-72% in young offenders.<sup>13</sup> A risk factor for childhood traumatic brain injury is violence in the home and having come from a violent home is a risk factor for later offending. Longitudinal and inter-generational studies have shown that the more adverse events a growing child experiences, the more likely they are to develop mental disorders and antisocial behaviours. Of the sons of male prisoners, 60% are eventually imprisoned.

There is insufficient provision for prevention, early intervention or continuing treatment of mental illness in young offenders. In this population, Government fails to meet the UN's Sustainable Development Goals. Goal 3 is to ensure healthy lives and

to promote wellbeing for *all* at *all* ages. Mentally ill people in custody without treatment risks becoming a human rights issue.

### **What can be done?**

Prison health policies have come and gone in the UK since the 19<sup>th</sup> Century, but the same unmet health needs persist, especially for young people. Public health skills are needed, specifically an understanding of trajectories across the lifecourse, the social determinants of health, and the operation of systems for health.

Thus, across a fragmented system including child public health, courts, prisons and healthcare providers, where can manageable changes improve population health and reduce pressures on the criminal justice system?

First think upstream, to keep vulnerable young people out of custody. For example, the RSPH led the move to include school attendance in the Public Health Outcomes Framework: frequent truancy becomes associated with habitual offending.

Imprisonment itself may precipitate illness in some vulnerable young people and expose them to violence or high risk substance use. One preventive measure is to keep young people out of custody, unless they need to be removed to a secure setting for public safety. Less than 1% of all children have ever been looked after in Local Authority care. However, over 40% of children aged under 18 in custody were looked after children. This estimate was obtained by combining the Prison Reform Trust data <sup>14</sup> with The Children's Commissioner data for England and Wales (Press Statement 8 February 2016).

NHS England recently identified a need within their Commissioning role: to develop Liaison and Diversion services in police custody and courts that are suitable to meet the needs of children and young people. This support need for Diversion away from custody is also part of the current Ministry of Justice review.<sup>7</sup> MoJ are less clear about which interventions are evidence-based. In 2016 the *Lancet Commission* <sup>1</sup> reviewed international, lifecourse evidence for effective Diversion programmes that offer second chances for young offenders.

Understanding the determinants of mental illness in the population entering custody needs a blend of epidemiology and therapeutic alliance. For example, there are adult

prisoners benefiting from group therapy addressing past childhood abuse and neglect.<sup>15</sup> A parallel early intervention approach suitable for young offenders could be developed to address such traumas.

The incidence of suicide among young men in Brixton Prison (London), used to be comparable to the rates for whole English Counties. Prisoners labelled mentally ill were isolated in a counter-therapeutic wing known to all as 'Fraggle Rock'. A systems approach was used to reduce suicides, including skilled in-reach by NHS Psychiatrists, retraining both Health and Discipline staff in the prison, involving Non-Governmental Organisations and taking a more person-centred approach to widespread drug dependence.

In 2016 a comparable systems approach to preventing suicide is required for young offenders. The environment is more complicated than one adult prison, because young boys and girls are frequently moved between different custodial settings. Many girls in custody are pregnant as well as mentally vulnerable and self-harm frequently<sup>5</sup>. Perhaps for public health impact, they should be the population to help first. In the *Five year forward view on mental health*<sup>10</sup> both the tasks of preventing mental illness and of suicide prevention fall to Public Health England. By 2017 PHE must negotiate a Concordat between all stake holders. This will formulate broad prevention plans that include mental health, drug and alcohol misuse, parenting and housing.

To achieve Sustainable Development Goal 3, it is vital that young people in the Criminal Justice System are included in the comprehensive prevention plans.<sup>10</sup>

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