



Justice Select Committee inquiry into children & young people in custody

[Khulisa's contribution to the Justice Select Committee's call for written responses to the Inquiry into children and young people in custody.](#)

About Khulisa

We are a national, award-winning charity that places wellbeing at the heart of support for young people. We work with young people and adults in schools, prisons and in the community, who are vulnerable and at risk of exploitation and exclusion. Our programmes effectively target the emotion & social support needs of the most vulnerable, volatile and violent young people; drawing on robust evidence that improved social and emotional wellbeing lies at the heart of a multitude of positive life outcomes.

Khulisa – which means ‘to nurture’ in Zulu – represents our South African heritage and sister charity, as well as our core belief that everyone – no matter their background – has capacity to learn and grow, which is why we practice and preach unconditional support to socially excluded people who want to make a change in their lives.

We believe that schools, prisons, communities and government need a much more joined-up approach to help people escape the vicious cycle of social exclusion and crime, which is why we are Britain's only charity committed to delivering support for young people, training the professionals who work with them and researching ‘what works’ at all key stages of the criminal justice system, which gives us an unrivalled breadth of expertise in and evidence of what works.

With this, we are pushing for policy changes, so that we better support our schools, prisons and communities to reduce social exclusion and crime, and create a more harmonious and prosperous society.



The Youth Justice Population & entering the system

How has the young offender population changed and what are the challenges in managing this group?

b) What is the experience of Black, Asian and Minority Ethnic offenders of the youth justice system and secure estate and what progress has been made in implementing the recommendations of the Lammy Review?

While major progress has been made on a number of fronts in the youth justice estate, we continue to see a disproportionate representation of children from BAME backgrounds: in July 2019 the number of BAME young children in custody outstripped the number of white children.¹ It is concerning that 2 years after the Lammy review, disproportionality has in fact grown – rather than decreased.

In addition to the disproportionality of BAME young people in custody, there remain key differences in their custodial experiences:

- Young people from BAME backgrounds are more likely to end up in YOIs and STCs than at secure children's homes, which tend to have a much more welfare based approach to rehabilitating children;²
- BAME boys are significantly less likely than white boys to report being treated with respect when it comes to being searched on entering a YOI, or being offered help and support with smoking, loss of property, feeling scared, or feeling worried and upset/needing someone to talk to;³
- BAME boys' access to a member of the Independent Monitoring Board appeared more restricted – fewer BAME than white boys felt that they were treated with respect by staff (57% BAME vs. 73% white);⁴
- 53% of BAME boys report experiences of physical restraint – compared to 38% of white boys in custody;⁵
- BAME boys are also significantly less likely than white boys to report being granted association (ie social contact) every day (37% BAME vs. 62% white). This might indicate that they are subject to more formal or informal disciplinary sanctions.
- Fewer BAME boys said their caseworker had helped prepare them for release (43% BAME vs. 55% white).⁶

For these reasons, as a member of the Standing Committee for Youth Justice (SCYJ), we reiterate the SCYJ's concern that the Lammy Review's principle – "explain or reform" (to address disparities in treatment and outcomes of ethnic groups) – has not been appropriately or sufficiently adopted.

¹ Robins, J., "The number of BAME young offenders in custody outstrips the number of white for first time"(2019) *Justice Gap* <https://www.thejusticegap.com/19229-2/> [Accessed 24 September 2019]

² Youth Custody Data, "Youth custody data: July 2019" <https://www.gov.uk/government/statistics/youth-custody-data> [Accessed 24 September 2019]

³ Barn, R., Feilzer, M., and Hardwick, N., "Black and Minority Ethnic Boys and Custody in England and Wales: Understanding Subjective Experiences through an Analysis of Official Data" Vol.7(11) (2018) *Social Sciences* pp226-242

⁴ Ibid

⁵ Ibid

⁶ Ibid

Suitability of the Secure Estate

Is the secure estate a fit and proper place to hold children and young people?

a) What impact has the changing nature of the population had on the management of the secure estate?

Over the last 15 years there have been some remarkable successes in the youth justice system including:

- 85% reduction in the number of children entering the secure estate for the first time⁷
- Reduction of approx 2/3rds in the numbers of young people in custody⁸

With success however, comes new challenges. While the volume of young people entering the youth secure estate has gone down alongside the numbers of young people *in* the system, a core group of young people with very complex needs are stuck in a revolving door of reoffending: ***nearly 2/3rds of children in the secure estate reoffend within a year of release.***⁹

We would argue that this high reoffending rate persists largely because the secure estate has not changed to meet the needs of those vulnerable young people left in its care and we are not alone in this belief. As Rt. Hon. Phillip Lee MP commented to the Justice Select Committee, during his tenure as Parliamentary Under-Secretary of State for the Ministry of Justice, *"the admirable decision to reduce the number of young people being held in the youth justice estate [did not] anticipate the type of institutions [we] would need to look after very troubled individuals, of whom we have about 900 to 1,000 at any one time."*¹⁰

It is our experience that the management of the secure estate has failed to respond to the changing nature of its' population on two main counts:

- a) failure to take account of the vulnerabilities of these young residents - ***90% of the prison population are estimated to have mental health problems, personality disorders and/or substance misuse problems***
- b) failure to provide necessary practical and financial support, for young people in the custodial estate. (Prison staff lack skills and resources to provide this support.)

Given that young prison residents suffer a high prevalence of neurodevelopmental disorders (ie. impaired cognitive, emotional and communicative functions) and deeply entrenched complex needs, there's a clear and urgent need to improve social & emotional skills education for prisoners before release, to enable them to engage with pro-social choices post release.

As trauma informed practitioners, we also know that prison staff are struggling to manage

⁷ Youth Justice Board, "Annual Report & Accounts 2017/18"(2018)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/726302/YJB_Annual_Report_and_Accounts_2017-18.pdf [Accessed 17 September 2019]

⁸ Ibid

⁹ Proven reoffending statistics: April to June 2017; 2013 Compendium of re-offending statistics and analysis and Hillier, J. and Mews, A. (2018) Do offender characteristics affect the impact of short custodial sentences and court orders on reoffend

¹⁰ House of Commons Justice Committee, "Oral Evidence: Young Adults in the Criminal Justice System and Youth Custodia Estate" (2017) HC 419

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/young-adults-in-the-criminal-justice-system/oral/73285.pdf> [Accessed 17 September 2019] page 7

the impact that austerity cuts have had on resourcing and therefore on their ability to manage the objectives of their role (many appear to be struggling with the effects of vicarious trauma, compassion fatigue etc); let alone provide effective support to those in their care. Prison staff need to understand how trauma impacts young people, otherwise they may misread the behaviour that presents and exacerbate an existing neurodevelopmental issue, rather than promoting effective rehabilitation. We also know that 40% of prisons do not currently offer existing staff any mental health awareness refresher training ([House of Commons, Committee of Public Accounts, 2017](#)); this has to change. We need to prioritise staff training in the impact of trauma and how to respond appropriately to neurodevelopmental impairment, if we are to stem the flow of young people through the revolving (prison) door.

b) What does a good quality custodial place for a child or young person look like and is there sufficient provision across England and Wales?

As a starting point, we would join many in our sector, and more specifically our partners at the SCYJ, to argue that the custodial estate is not a suitable place for children at all.

We support the work of [The End Child Imprisonment](#) campaign in calling for alternatives to custody for the bulk of children. For those who cannot be supported safely in the community, we would call for high quality child welfare based, human rights compliant secure model of provision; underpinned by 'child-first/offender-second' principles and staffed by professionals who are developmentally aware and trauma-informed.

Evidence suggests that the bulk of young prison residents struggle with special educational needs (children with SEN are 4 times more likely to become young offenders)¹¹ These young people are often highly traumatised and lack capacity to regulate their own emotions and behaviour.¹² This biological reaction is mistaken for defiance and intentional aggression, when it may purely be a function of a hyper-arousal response (agitation, aggression, anxiety, rage, etc).¹³ Equally the incidence of self-harm, suicide and related disorders in young people entering the criminal justice system is synonymous with children who are suffering a hypo-arousal response (depression, numbing, disassociation etc). Add to this the fact that 60-80% of young people entering the system suffer a traumatic brain injury versus the national average across the population of just 8%¹⁴ and it becomes clear that we're dealing with a pandemic of traumatised young people, who need specialist care, not detention.

This in turn will require that frontline staff in the custodial estate are better supported with knowledge about the impact of trauma and mental health issues on a person's ability to sustain pro-social behaviours and function outside of the secure environment. We know as trauma-informed practitioners that unless custodial staff and other practitioners understand how trauma impacts young people, they may struggle to understand the behaviour that presents with these young people, let alone manage this behaviour

¹¹ Children's Commissioner, Vulnerability Report (2018)

¹² Bellis, M., Hughes, K., Perkins, C. & Lowey, H. (2014). National household survey of adverse childhood experiences and their relationships with resilience to health-harming behaviors in England. BMC Medicine, Vol.12(72).

¹³ Perry, B D (2009) Examining Child Maltreatment through a Developmental Lens: Clinical Applications of the Neurosequential Model of Therapeutics, Journal of Loss and Trauma, 14:4, 240-255

¹⁴ Hughes, N., Williams, H., Chitabesan, P., Davies R., and Mounce, L., Nobody Made the Connection: The Prevalence of Neurodisability in Young People Who Offend [London, Children's Commissioner for England, 2012] page 29

effectively or put together the targeted and tailored interventions required by a welfare and child-focused system.

For this reason, we call for trauma-informed training and reflective practice (also known as supervision) to be provided to staff, so as to manage and understand the needs of those they are supervising; as well as to enable all prison and probation officers to avoid the costly impact of compassion fatigue, toxic stress and vicarious trauma.

These issues are inevitable for those working in high risk/high stress environments such as the custodial estate. Not to mention the reduced cost of sickness and absence due to ill health across the system, that inevitably occurs, due to these kinds of pressures.

We would argue that the only provision in the secure estate currently equipped to work towards this ideal system are Secure Children's Homes which:

- are staffed by qualified social workers & other staff who have extensive training in child care
- have a higher ratio of staff to children and are small facilities of between 7 to 38 beds¹⁵
- provide children and young people with support tailored to their individual needs and;¹⁶
- are characterised by a child care rather than a custodial ethos¹⁷

The distribution of the child population remains heavily weighted towards YOIs (which house 70% of children in custody) and Secure Training Centres (19%).¹⁸

Just 2 years ago, HM Inspectorate of Prisons' 2017 report found that no Secure Training Centre or YOI was safe enough to hold children.¹⁹ While the Inspectorate's 2019 report references pockets of encouraging improvements in the secure estate,²⁰ we heed the caution of the Chief Inspector of Prisons warning: "*history tells us that all too often early signs of improvement have not been sustained.*"²¹ With this as a context, we would argue that we seriously lack provision of good quality custodial places across England and Wales. However, as the National Association for Youth Justice have been arguing for a number of years, the reduction of the population in the youth justice estate provides a welcome opportunity to work to "*ensure a substantial transfer to more child-appropriate forms of secure provision.*"²²

c) What is the physical condition of the secure estate and is it an appropriate environment to hold children and young people?

We do not believe the secure estate is an appropriate place to hold children and young people (as highlighted in our answer above).

¹⁵ Beard, J., "Youth Custody" (2019) *House of Commons Library*
<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8557> [Accessed 17 September 2019]

¹⁶ Department for Education, "Children accommodated in secure children's homes at 31 March 2019: England and Wales" (2019)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/806662/SCH_2019_Text.pdf [Accessed 17 September 2019]

¹⁷ National Association for Youth Justice, "The State of Youth Justice" (2016)

¹⁸ Beard, as above, (2019)

¹⁹ HM Inspectorate of Prisons, "Children in Custody 2017-18" (2019)

https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/01/6.5164_HMI_Children-in-Custody-2017-18_A4_v10_web.pdf

²⁰ Ibid

²¹ Ibid

²² National Association for Youth Justice, as above, (2016)

d) Do staff receive appropriate training and support and what more can be done to improve this?

Staff in the custodial estate, especially those in the youth justice estate, often find themselves playing many roles which range from being an independent authority figure to being the closest person young people has to a primary care-giver.

In the past 11 years of working in prisons, we have found that many young people we work with have missed out on key developmental milestones including the ability to self-regulate emotions. As humans, we develop our social emotional skills in early childhood, learning this through our relationship with primary caregivers.²³ Children who miss out on this, rely on current relationships with adults to develop this capacity and learn new and appropriate relational skills. To effectively support this, prison staff “must be aware of the behavioural presentation and the underlying emotional needs behind behaviour and respond in a way that co-regulates the young person’s emotional affect.”²⁴

However, as we highlighted in our answer to question A of this section, 40% of prisons do not offer existing staff any mental health awareness refresher training ([House of Commons Committee of Public Accounts, 2017](#)) much less trauma informed training which would allow professionals to provide appropriate and effective sensitive, responsive care, required to effectively support the young people in the custodial estate.

Evidence suggests that this lack of appropriate and trauma informed care in turn intensifies the distress and aggression shown by young people, who interpret the detachment of staff as rejection or abandonment; and this furthers the spiral of compassion fatigue in staff.²⁵ We believe we’re already seeing the effects of this in the justice system with the high level of staff turnover (the number of prison officers resigning from their jobs more than doubled in two years, with figures showing one in 16 officers resigned last year, compared with one in 33 officers two years before and just one in 100 in 2009-10).²⁶

This means that many prison officers working with young people are not only new to the role and therefore largely inexperienced, but also often lack the knowledge required to provide youth-specific support (often being only a few years older than the residents in their care)..

That’s why, as highlighted in our answer to question (b) in this section, we call for (and provide) trauma informed training for professionals which helps these professionals:

- understand the impact of trauma on the brain and body and therefore behaviour;
- understand how to effectively respond to young people in a way which co-regulates and helps them feel safe;
- develop self-support techniques which enable them to pick up on and tackle the signs of compassion fatigue and burnout.

²³ Skuse, T., and Matthew, J., “The Trauma Recovery Model: Sequencing Youth Justice Interventions For Young People With Complex Needs” (2015) Prison Service Journal pp16- 25

²⁴ Ibid

²⁵ Winstanley, S., and Hale, L., “A Preliminary Study of Burnout in Residential Social Workers Experiencing Workplace Aggression: Might It Be Cyclical?” Vol.45(1) (2014) *British Journal of Social Work* pp24-33

²⁶ Bulman, M., “Third of prison officers who quit leave within a year of starting, figures show” The Independent (2019) <https://www.independent.co.uk/news/uk/home-news/uk-prison-jail-crisis-officers-quit-violence-harassment-a8507951.html>

In one study,²⁷ the provision of trauma training for prison staff was shown to result in a:

- 62% decrease in inmate assaults on staff and;
- 54% decrease in inmate on inmate assaults
- 60% decline in suicide attempts

Given the issues with high turnover in the prison system, we call for trauma training to be coupled with the provision of reflective practice/clinical supervision for all staff. Reflective practice is shown to be useful in preventing staff burnout and stress as it “allows the exposure of difficult feelings before they reach crisis point.”²⁸

This will of course require a whole system investment to support efforts for the custodial estate to be trauma informed at all levels..

f) Is the use of force in the secure estate proportionate and properly monitored?

As a starting point, we oppose the use of force in the secure estate. We believe in the need to reconsider restraint and segregation as methods for rehabilitation. Otherwise, we run the risk of creating an ex-offender population that have reduced social-emotional wellbeing on return to society, and create a greater pressure on our police and health services; as well as struggling to effectively parent with their own children - while the ever increasing spiral of violence and imprisonment continues.

We also do not believe that the use of force in the custodial estate is always proportionate or appropriate. In fact, the most recent Human Rights Committee Inquiry into Youth Detention identified that restraint is being used partly due to:

- insufficient staffing levels,
- insufficient staff training and experience, and
- inappropriate facilities

This can only be indicative of a lack of proper monitoring.

The data that does exist confirms the number Restrictive Physical Interventions was 20% higher year on year, despite a population increase of just 3% in the same period; with restraint and separation rates far higher for BAME children in particular. These figures are incompatible with the threshold of 'last resort' & in breach of children's rights.²⁹

²⁷ Benedict, A., "Using Trauma-Informed Practices to Enhance Safety and Security in Women's Correctional Facilities" (2014) National Resource Center on Justice Involved Women

²⁸ Oelofsen as cited in Timmins, F., A-Z of Reflective Practice [New York: Palgrave Macmillan Publishers, 2015] p22

²⁹ Human Rights Committee, "Youth detention: solitary confinement and restraint" (2019) https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/994/99403.htm#_idTextAnchor000 (Accessed 17 September 2019)