



**CRIMINAL BAR ASSOCIATION RESPONSE TO THE YOUTH JUSTICE COMMITTEE CALL FOR EVIDENCE ON THE PROPOSED ABOLITION OF THE YOUTH JUSTICE BOARD.**

The Criminal Bar Association ('CBA') represents about 3,600 employed and self employed members of the Bar who prosecute and defend the most serious cases across the whole of England and Wales. It is the largest specialist bar association. The high international reputation enjoyed by our criminal justice system owes a great deal to the professionalism, commitment and ethical standards of our practitioners. Their technical knowledge, skill and quality of advocacy guarantee the delivery of justice in our courts; ensuring on our part that all persons enjoy a fair trial and that the adversarial system, which is at the heart of criminal justice is maintained.

The CBA welcomes the opportunity to respond to the Justice Committee's call for evidence but our input is limited as the specific headings that the inquiry intends to explore are generally outside the ambit of the working criminal practitioner and are not essential considerations for advocates conducting trials, particularly in the higher courts. However we make the following general observations;

- i) As a result of the increasing numbers of knife Homicide and related cases, we have noted an accompanying increase in the number of children and young people appearing as defendants in serious criminal cases at the Crown Court where the hearings are formal and cater to the needs of young defendants far less than the Youth Court.
- ii) Those of us who deal with these cases see little or no input from the Youth Justice Board: the trial is governed by the application of a very limited range of 'Special Measures' for defendants allowed only at the discretion of the individual judge presiding and often only at the insistence of the defence advocate.
- iii) Sentence is in accordance with the Sentencing Guidelines Council's Overarching Principles – Sentencing Youths.
- iv) There is a current perception that young people are more likely to be charged and brought before the courts for minor offences; thus criminalising them when historically, they would have been dealt with by the schools. We make it clear that we have no empirical evidence but Regular Youth Court practitioners report a greater tendency to

charge, for example, low level assaults or public order matters arising out of what are essentially silly disputes between school children.

And in response to the specified headings:

1. We are unable to comment on the targeting of resources within the Youth Justice System as we do not know how they are allocated or on what basis.
2. We support the notion of restorative justice programmes involving young offenders but we are unaware of any so are unable to comment on its effectiveness. However, in theory, we commend its use;
  - Junior members of the Bar (who inevitably represent young clients in the Youth Courts) report that in reply to the question “Why did you do this” the response is “I don’t know” or “I just wasn’t thinking” - thus demonstrating that often young clients have never stopped to think about the impact of their offending; restorative justice at least goes some way to addressing this.
3. In our experience custody is always considered as a last resort, it is the severity of the offence that dictates whether the custody threshold has been crossed. However, age is always an acknowledged mitigating factor and experience has shown that;
  - short periods of detention often expose a vulnerable young person to others with far more experience of the criminal justice system than themselves to the detriment of the former,
  - first time periods of detention are unlikely to be long enough for the young person to receive much by way of education, training or rehabilitation as facilities are limited,
  - those who are sentenced to short term periods of detention will often go on to re-offend.
4. The majority of young people appearing in the criminal courts have troubled and deprived upbringings;
  - often their parents are drink/drug addicts and many have experienced violence in the home,
  - it is not uncommon for many to have spent time being cared for by either members of their extended family or social services
  - more often than not, they will not be in mainstream education or work.

By the time the young person becomes embroiled in the system, the damage has often been done and it is difficult to see how the Youth Justice System can really address offending alone without addressing the other aspects which have contributed to the circumstances of offending. By its very nature, the Youth Justice System addresses the symptoms but not the cause of youth offending.

- 5. We are unable to comment on the governance of the Youth Justice System as we have nothing to do with it**
- 6. We do not believe that the Youth Justice System meets the needs of all young offenders regardless of age, gender, ethnicity or mental health because their needs differ so greatly and they need considerably more help than adult offenders.**