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The sleep of (criminological) reason: Knowledge–policy rupture and New Labour’s youth justice legacy

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Abstract
For over a decade, three successive New Labour administrations have subjected the English youth justice system to a seemingly endless sequence of reforms. At the root of such activity lies a core tension between measured reason and punitive emotion; between an expressed commitment to ‘evidence-based policy’ and a populist rhetoric of ‘tough’ correctionalism. By engaging a detailed analytical assessment of New Labour’s youth justice programme, this article advances an argument that the trajectory of policy has ultimately moved in a diametrically opposed direction to the route signalled by research-based knowledge and practice-based evidence. Moreover, such knowledge–policy rupture has produced a youth justice system that ultimately comprises a conduit of social harm. All of this raises serious questions of knowledge/evidence–policy relations and, more fundamentally, of democracy, power and accountability.

Keywords
evidence, knowledge, policy, youth justice

Introduction
Since the election of the first New Labour government in the UK, in 1997, the youth justice system has been a locus of near-permanent reform. Indeed, soon after taking office, the first New Labour Home Secretary, Jack Straw (1997: 1), promised ‘root and branch reform’. Subsequently, by reconstructing the shape, composition and size of the system and by remaking law, policy and practice, three successive New Labour administrations (1997–2001, 2001–5 and 2005–) have effectively ushered in a ‘new youth justice’ (Goldson, 2000). At national level, the establishment of the Youth Justice Board (YJB)—an executive non-departmental public body—has been accompanied, at local level, by the
creation of multi-agency Youth Offending Teams (YOTs). Taken together, the YJB and the YOTs have: transformed the architecture of the youth justice apparatus; radically reconfigured lines of power, management and responsibility; and facilitated substantial system growth. Alongside such sweeping organizational change the pace of legislative activity, producing an almost perpetual stream of new statute and fundamentally restructuring the sentencing framework, has also been extraordinary. Key milestones include the: Crime and Disorder Act 1998; Youth Justice and Criminal Evidence Act 1999; Criminal Justice and Court Services Act 2000; Powers of the Criminal Courts (Sentencing) Act 2000; Criminal Justice and Police Act 2001; Police Reform Act 2002; Anti-Social Behaviour Act 2003; Criminal Justice Act 2003; Cleaner Neighbourhood and Environment Act 2005; Serious Organized Crime and Police Act 2005; and the Criminal Justice and Immigration Act 2008. Additionally, the broad corpus of new legislation has been laced with a seemingly endless sequence of consultation papers, government ‘action plans’, ‘task force’ reports, experimental initiatives and practice innovations.

Ostensibly the driving energy behind New Labour’s youth justice reforms, together with its legitimizing ‘talk and text’ (Fairclough, 2000), are anchored to incongruous logics. On one hand notions of rationality are privileged, most commonly expressed as ‘evidence-based policy’. On the other hand an impatient emotive punitivity, emphasizing ‘toughness’ and ‘no excuses’ sentiments, is apparent. The intrinsic tensions, even contradictions, between measured reason and punitive emotion within the English youth justice policy context are intriguing, therefore, meriting further analysis. Moreover, following Sabatier’s (1986) contention that a period of up to 10 years is required in order to assess meaningfully the impact and efficacy of public policies and programmes, it seems timely to expose New Labour’s youth justice reforms—particularly the relations between knowledge (or evidence)3 and policy—to closer and more rigorous scrutiny.

Constructing the knowledge/evidence–policy relation

Philip Davies (2004a: 3)—representing the UK Government’s Chief Social Researcher’s Office, Prime Minister’s Strategy Unit—has observed that ‘putting the best available evidence from research at the heart of policy development and implementation’ provides ‘well informed decisions about policies, programs and projects’. Such approaches to policymaking, deriving from reason and rationality, are not entirely new of course. Davies et al. (2000: 25), for example, argue that evidence-based policy, in one form or another, can be traced back to Francis Bacon’s early 17th-century vision of the ‘New Atlantis’ where ‘policy is informed by knowledge, truth, reason and facts’. Similarly, Freiberg and Carson (2009: 2) recall:

the great evidence-supported reforms of the 19th century, like the 1834 Poor Law, the subsequent pioneering influence of a pantheon of social analysts such as the Booths, Rowntree and the Webbs, and the Keynesian inspired plethora of reports and evidence-based argument … from the end of the Second World War.

Knowledge/evidence-based policy relations are, therefore, historically embedded. Even if Thatcherite ‘conviction politics’ signalled their demise in the UK during the late
1970s and 1980s, a more widespread and recent wave of so-called ‘post-ideological’ political imperatives—symptomatic of ‘modernized’ government—appears to have marked their recovery.4

Shortly after the 1997 general election the first New Labour government published a series of documents through which it expressed a clear commitment to ‘modernization’ and evidence-based policy formation (see, for example, Cabinet Office, 1999a, 1999b, 2001). As noted, such developments have deep historical roots, but Freiberg and Carson (2009: 3) comment: ‘what was different about the Blairite project was … its scale and its professed willingness to engage academia in the policy making process’. The agenda is set out in the ‘Modernising Government’ White Paper (Cabinet Office, 1999a: 31):

policy decisions should be based on sound evidence. The raw ingredient of evidence is information. Good quality policy making depends on high quality information, derived from a variety of sources—expert knowledge; existing domestic and international research; existing statistics; stakeholder consultation; evaluation of previous policies ...

So how might this relate to policymaking in the youth justice sphere?

Wilcox (2003: 21) has noted that ‘in the criminal justice field the government has made repeated claims that it is using evidence to help inform policy’. More specifically, successive Government Ministers have asserted consistently that ‘evidence’ comprises a foundation stone of youth justice policy. Furthermore, the Youth Justice Board—the executive non-departmental public body established by the first New Labour administration with a statutory function to advise the Secretary of State on matters of policy and practice—claims: ‘we base all our work on evidence’ (Youth Justice Board, 2009a: 1, emphasis added), reporting further that:

The YJB is committed to developing and expanding research … our research programme … seeks to provide evidence that can constructively influence central policy decisions … The YJB welcomes and encourages academic research and debate that will influence policy and practice at a national and local level … we seek to support universities and other organisations interested in making bids to research councils, or conducting in-house research in areas of policy and practice that are key to the youth justice system … [and] will enhance the existent knowledge base or fill gaps in knowledge.

(Youth Justice Board, 2009b: 1–2)

Indeed, such is the YJB’s professed commitment to knowledge/evidence-based approaches to policy formation and practice development that it has created—in partnership with the Open University—a specialist qualification, the ‘Professional Certificate in Effective Practice (Youth Justice)’, in order to develop in practitioner-students: ‘a sound knowledge and critical understanding of the youth justice system … [and] teach the principles of evidence-based practice’ (Youth Justice Board, 2009c: 1, emphases added).

At face value, New Labour’s stated commitments to knowledge and rationality as a basis for youth justice policy formation and practice development can only be welcomed. Indeed, as argued elsewhere, it is difficult to quarrel with any tendency that claims to apply evidence in this way (Goldson, 2001). This is particularly seductive—to the academy at
least—when the ‘evidence’ in question might derive from social science research. Here too, New Labour senior ministers have made positive ‘noises’. For example, David Blunkett (2000: passim)—speaking as Secretary of State for Education and Employment but later to become Home Secretary—set a seemingly encouraging agenda when addressing the Economic and Social Research Council (ESRC), the UK’s leading agency for social science research funding and training:

In the past there has been a seam of anti-intellectualism running through government both at the political level and amongst officials, which has served to alienate academia … for social science to be more influential there also has to be a major change in the way that those working in government approach and use research evidence … it is vital that we overcome a culture in which ideas are unwelcome … We need to build a genuine partnership and interchange between the worlds of policy and research … [to] challenge fundamental assumptions and orthodoxies. This may well have big policy effects further down the road. Good government is thinking government. And a good department is a thinking department. I invite social scientists to work with us to find out what works and why and what types of policy initiatives are likely to be most effective. This is crucial to our agenda for modernising government.

But of course Blunkett’s notion of evenly balanced reciprocal exchange implies oversimplified, linear and unproblematic academy-government and/or knowledge/evidence–policy relations; thus overlooking a range of more complicated, even controversial, issues. For example: Solesbury (2003: 96) presents persuasive grounds for exercising caution in interpreting the ‘ascendancy’ of evidence-based rationales as the ‘long awaited triumph of social science’; Packwood (2002: 267) argues that applications of evidence-based policy do little more than ‘support particular beliefs and values compatible with dominant cultural paradigms that define how people and society function’; Sanderson (2002) notes that conventional applications of the evidence–policy relation are limited to evaluating ‘effectiveness’ and, in essence, providing legitimacy for, and sustaining, the status quo, as distinct from critically defining core problems in the social order that require policy attention (see also Newman, 2002); Muncie (1999a), Davies et al. (2000) and Freiberg (2005) each contend that evidence-based priorities can be conceptualized as integral components of a wider managerialist project underpinned by an obsession with performance indicators and audit regimes; similarly, Oliver and McDaid (2002) comment upon the popularity of ostensibly evidence-based approaches within a climate of public expenditure pressures and organizational drives to economize; Goldson and Muncie (2006b) identify the privileging of particular bodies of ‘evidence’ and, conversely, the negation of ‘inconvenient evidence’—indicative of what Boaz and Ashley (2003: 6) term the ‘hierarchy of evidence’; Hope (2008) elucidates the means by which government departments can misinterpret or ‘spin’ research results, undermine their authority and/or delay publication in circumstances where the ‘evidence’ does not suit particular political interests; Campbell (2003) and Leicester (1999) argue that the political management and exploitation of evidence is at least as important as the evidence itself; Walters (2008: passim) claims that processes of ‘concealment’, ‘manipulation’, ‘suppression’, ‘distortion’ and ‘deceit’ disfigure relations between government and the
academy; Bottoms (2005) and Leigh (2009) draw attention both to the methodological complexities in gathering ‘evidence’ and the profound deficits intrinsic to much that is counted as ‘evidence’; whereas Oakley (2000) illuminates deep-seated contestations between logical positivism, quantitative methods and functionalism on one hand, and interpretivism/subjunctivism, qualitative methods, analytic induction and constructivism on the other. In short, both the relations between knowledge/evidence and policy, and the very processes of gathering, defining and interpreting ‘evidence’, are complex, thorny and pitted with dispute.

Equally, it would be naïve to assume that policymaking rests solely upon knowledge/evidence. Davies (2004b) identifies and discusses a range of extraneous factors—other than knowledge/evidence—that impact upon processes of policy formation and development including: experience and expertise (of policymakers); professional judgement; available resources; values and value systems; habits and traditions; lobbyists and pressure groups; political pragmatism and related contingencies; ideological convictions; party political manifesto commitments and, finally, unforeseen events.

For present purposes, it is neither practical nor possible to analyse rigorously the nuanced and sophisticated nature of knowledge/evidence–policy relations per se, or to assess comprehensively the range of factors that bear down on policymaking processes at any given time. Rather the more sharply focused and immediate objective is to review key elements of the youth justice ‘evidence-base’ and to evaluate critically their relation with, and application to, policymaking during the New Labour epoch. Fundamentally, the general query that Tonry (2003a: 2) raises is particularly apposite in this regard: ‘the important question ... is whether policy making gives good-faith consideration to the credible systematic evidence that is available, or whether it disregards it entirely for reasons of ideology or political self-interest’.

**Knowledge accumulation in the youth justice sphere: The ‘evidence-base’**

Youth offending has comprised a key site of sociological/criminological research and official inquiry for the best part of two centuries. From the time when ‘juvenile delinquency’ was first officially recognized as a discrete ‘social problem’ in the early part of the 19th century (see, for example, May, 1973; Magarey, 1978; Cox and Shore, 2002), to the emergence of a spectrum of modern day concerns—ranging from ‘disorderly’ and/or ‘anti-social’ behaviour to violent crime and youth gangs (see, for example, Hughes, 2007; Pitts, 2008; Squires, 2008; Crawford, 2009; Millie, 2009; Muncie, 2009; Goldson, 2010)—a preoccupation with ‘youth’ has provided a core focus for social science research. In particular, ‘youth’ is deeply embedded within and across criminology; from its classicist and positivist foundations through multiple administrative, realist, radical, critical and cultural manifestations. It follows, therefore, that the centrality of youth within criminological research has produced a deep reservoir of knowledge. Furthermore, as Tonry (2003b: xi) has observed, given that ‘practitioners and academics working together will see more than will either group working alone’, the accumulated lessons that can be drawn
from national and international youth justice practice experience offer additional insights. In this way, the synthesis of research-based knowledge and practice-based evidence articulates five core messages.

**Youth offending is relatively ‘normal’**

For well over 60 years researchers have been conducting self-report studies in order to elicit—otherwise ‘unknown’—data relating to patterns of ‘offending’. Such studies reveal that youth offending is significantly more widespread than the official data sources suggest, so much so, in actual fact, that it might even be regarded as ‘normal’.

Porterfield (1943, 1946) provided the first published results from a self-report survey in the USA. He analysed the court records of 2049 children and young people in the Fort Worth area of Texas and identified 55 offences for which they had been adjudicated ‘delinquent’. This was followed by a survey of 200 male and 137 female students—drawn from three colleges in Texas—in order to determine if, and how frequently, they had committed any of the 55 offences attributed to the ‘delinquent’ youths. Porterfield found that, without exception, each of his college-based respondents reported having committed at least one of the specified offences. Following Porterfield, Wallerstein and Wylie (1947) sampled a group of 1698 adult men and women and collected retrospective self-reports of their ‘delinquent behaviour’ as children and young people (before reaching the age of 16). Almost the entire sample admitted at least one delinquent act, whereas 64 per cent of the men and 29 per cent of the women reported committing at least one of 14 offences specified by the researchers.

Thirty years later Belson (1975), in a study of 1400 London schoolboys, found that 70 per cent self-reported theft from a shop and 88 per cent theft from school. Rutter and Giller (1983) made similar discoveries, whereas Loeber et al. (1989) made one of the few attempts to gather self-report data from children younger than 10. By applying what they considered to be an age-appropriate research design—using a 33-item ‘behaviour scale’—the researchers surveyed 849 7-year-old and 868 11-year-old boys. They discovered that 26 per cent of the boys aged 7 reported damaging property and theft, while 51 per cent of the 11-year-olds reported vandalism and 53 per cent admitted theft. An even higher percentage of both 7- and 11-year-olds reported a ‘violent offence’—normally involving siblings and/or schoolmates—(66% and 91% respectively).

More recent still, a frequently cited study conducted by Graham and Bowling (1995: x) found youth offending to be ‘widespread’. Indeed, 55 per cent of males and 31 per cent of females ‘admitted committing at least one of … 23 [specified] criminal offences at some time in their lives’ (1995: 11–12). Similarly, in a survey comprising 14,500 11–17-year-olds and extending across England, Scotland and Wales, Beinart et al. (2002) reported that almost 50 per cent of the children and young people had knowingly committed a criminal offence while growing up, whereas the most recent UK-based studies reveal that approximately a quarter of children and young people admit having committed offences in the previous 12 months (see, for example, Roe and Ashe, 2008; MORI, 2009).

The results of self-report offending surveys certainly need to be interpreted and analysed carefully. Notwithstanding their imperfections (Coleman and Moynihan, 1996),
however, they serve to remind us of the relative normality of youth ‘crime’. In fact, youth ‘crime’ is almost certainly more ‘normal’ than such surveys reveal. Graham (2008: 321), for example, concludes that self-report surveys ‘tend to underestimate [both] the prevalence [and] incidence … of offending by young people’ and Thornberry and Krohn (2000: 58), in a meticulous and scholarly assessment of such surveys, also detect a tendency towards ‘considerable under-reporting’.

**Youth crime trends are relatively stable**

The task of identifying and analysing crime trends over time is notoriously difficult. In particular, Reiner (2007: 44), reflecting upon what he terms ‘Mephistophelean calculas’, recalls: ‘criminologists and statisticians have long been aware that official crime statistics suffer from many pitfalls which make their interpretation hazardous’ (2007: 45). For a multitude of reasons, the coterminous relations between the categories of ‘reported’, ‘recorded’ and ‘actual’ crime are limited and, as such, the validity and reliability of the available data—be they derived from police statistics, victimization surveys or other sources—is questionable. It follows that comparing youth crime statistics over time, particularly if such data are taken at face value, can be misleading owing, for example, to: temporal and spatial fluctuations in the definition of ‘offences’; the partial and/or incomplete nature of (police) recorded data; the problems associated with documenting ‘victimless crimes’; the difficulties in attributing (and thus recording) responsibility in cases where no ‘offender’ is apprehended/known; and the tendency for statistical variability to reveal as much, if not more, about phenomena other than actual crime trends— for example, revised methods of recording, modified system behaviour and/or changes in legislation, policy and practice. In addition to such difficulties, the processes of publicly reporting and/or applying crime statistics can be distorted by ulterior motives and political interests (see, for example, Walters, 2003, 2008; Hope, 2004; Booth, 2008). In short, it is extraordinarily difficult, if not impossible, to be absolutely certain about youth crime levels, rates or trends.

Notwithstanding the above, Bateman (2006: 69, emphasis in original) provides a detailed and authoritative analytical account of evidence pertaining to the patterning of recorded youth crime in which he contends:

> Making the data useful depends upon asking the right questions … Providing that judicious caution is exercised, and proper account is taken of supplementary contextual information … it [is] possible to draw reasonable conclusions about youth crime trends in cases where different data-sets point in a consistent direction or, alternatively, inconsistencies in such sets can be analytically explained.

By reading objectively across various sources of data—derived from different collection and collation methodologies—and by taking necessary account of the qualifying caveats and cautions, therefore, it is not unreasonable to conclude that youth crime trends over time are, at least, relatively stable. Moreover, some commentators contend that patterns of youth offending signal a downward trend. On the basis of their rigorous analyses of
self-report data, for example, Budd et al. (2005: 69, emphases added) conclude that the ‘stability in the offending levels … might point, then, to a picture of little change in offending by young people’, whereas Bateman (2006: 71, emphases added) claims:

There are positive reasons … to take seriously the fall in youth offending, evidenced by data on detected crime. Other measures are broadly consistent with such a trend … The British Crime Survey … also shows sharp reductions … On this measure the risk of being a victim is currently at the lowest level since the survey began in 1981.

As noted, the validity, reliability, interpretation and application of statistical data pertaining to youth crime raise complex and contested questions and the discussion here is necessarily schematic. That said, and while longitudinal data sets will almost certainly signify some peaks and troughs, the most cautiously considered reading of ‘evidence’ suggests that temporal trends in youth crime are essentially ‘flat-lining’. To put it another way, despite discernible limited fluctuations, the evidence indicates that youth offending is neither becoming substantially more or less ‘normal’ with the passage of time.

**Diversion and minimum necessary intervention are key**

More than 40 years have passed since Howard Becker (1963) first discovered that formalized modes of ‘justice’ system intervention, ‘labelling’ as he famously termed it, regularly invoke negative ‘social reactions’ that, in turn, carry damaging consequences. This led Becker, together with other colleagues from the University of Chicago, to argue that both the application of stigmatizing labels and the activation of negative social reactions, are routine and inevitable outcomes of formal system contact. Moreover, the researchers explained how conventional ‘justice’ systems are driven by self-fulfilling rationales, self-perpetuating processes and spiralling motions. By creating ‘outsiders’, in other words, labelling invariably gives rise to repeat interventions of increasing intensity that, in turn, ultimately establish, consolidate and/or confirm offender ‘identities’. Such ‘identities’ attract further intervention and/or negative reaction and so the process continues.

Notwithstanding its arguable limitations (see, for example, Taylor et al., 1973; Ditton, 1979), the ‘Chicago School’s’ ‘labelling’ and ‘interactionist’ research is especially important in fixing the analytical gaze on the impact of intervention as distinct from the actual deviant, delinquent or criminal transgression. Conventionally youth justice agencies are perceived as reactive; merely responding to ‘delinquent’ and/or offending behaviour, but Becker and his colleagues questioned this and instead focused attention on the ways in which interventions might actively produce and/or perpetuate deviance. As Edwin Lemert and David Matza each put it:

[O]lder sociology … tended to rest heavily upon the idea that deviance leads to social control. I have come to believe that the reverse idea, i.e., that social control leads to deviance, is equally tenable.

(Lemert, 1967: v)
the very effort to prevent, intervene, arrest and ‘cure’ ... [can] precipitate or seriously aggravate the tendency society wishes to guard against.

(Matza, 1969: 80)

By illuminating the iatrogenic and counter-productive tendencies of criminogenic ‘labeling’ and system contact, therefore, the work of Becker, Lemert, Matza and others—see, for example, Kitsuse (1962); Erikson (1966); Blumer (1969); Schur (1973)—challenges the legitimacy and unsettles the logic of both pre-emptive (‘preventive’) and reactive (‘correctional’) modes of youth justice intervention. In fact, the knowledge/evidence that derives from the Chicago-based research is fundamental to the theory and practice of diversion.

Diversionary principles provide that, whenever possible, children and young people in conflict with the law should be directed away (diverted) from the youth justice apparatus. In cases where absolute diversion is deemed inappropriate, the level of formal criminal/youth justice intervention should be limited to the minimum that is judged to be absolutely necessary. McAra and McVie (2007: 315; see also this issue), for example, contend: ‘the key to reducing offending lies in minimal intervention and maximum diversion’. By drawing on their detailed longitudinal research on pathways into and out of offending for a cohort of 4300 children and young people in Edinburgh, and informed more broadly by a growing body of international studies, they conclude:

Doing less rather than more in individual cases may mitigate the potential for damage that system contact brings ... targeted early intervention strategies ... are likely to widen the net ... Greater numbers of children will be identified as at risk and early involvement will result in constant recycling into the system ... As we have shown, forms of diversion ... without recourse to formal intervention ... are associated with desistance from serious offending. Such findings are supportive of a maximum diversion approach ... Accepting that, in some cases, doing less is better than doing more requires both courage and vision on the part of policy makers ... To the extent that systems appear to damage young people and inhibit their capacity to change, then they do not, and never will, deliver justice.

(McAra and McVie, 2007: 337 and 340)

Such work reaffirms, builds upon and extends a substantial volume of knowledge and a significant body of practice experience. Although counter-intuitive, the ‘evidence-base’ provides that positively effective policy and practice serves to: avoid criminogenic labelling; divert children from formal system contact; limit intervention to the minimum necessary and deliberately restrict young people’s formal engagement with youth justice agencies (see, for example, Haines and Drakeford, 1998; Bell et al., 1999; Kemp et al., 2002; Pragnell, 2005). As Evans (2008: 147) concludes: ‘diversion is cost effective, proportionate and works in the sense that young people who are cautioned are less likely to be reconvicted than those who are prosecuted’. Perhaps removing children and young people from the reach of the youth justice system altogether, by significantly raising the age of criminal responsibility, comprises the most effective diversionary strategy. There are strong grounds to support this proposition (Cipriani, 2009; Goldson, 2009d), not least...
international evidence where ‘it can be shown that there are no negative consequences to be seen in terms of crime rates’ (Dunkel, 1996: 38).

**Universal services, holistic approaches and ‘decriminalizing’ responses comprise the most effective and least damaging forms of intervention**

Although the knowledge/evidence-base reveals that youth offending is relatively normal, that youth crime trends are more-or-less stable and that diversion and minimum necessary intervention strategies comprise the most legitimate foundations for youth justice law, policy and practice, it provides absolutely no grounds for either complacency or inaction. The young people most heavily embroiled within youth justice systems are drawn invariably from the most distressed, damaged and disadvantaged families, neighbourhoods and communities. Indeed, irrespective of time and place, international research and practice experience affirms consistently that youth justice systems typically process (and punish) the children of the poor. This is not to imply crude positivist aetiology—to suggest that all poor children commit crime or that only poor children ‘offend’—but the corollaries linking chronic socio-economic disadvantage, youth crime, processes of criminalization and state intervention are etched deep into the knowledge/evidence-base (see, for example, Box, 1987). Furthermore, the negative consequences of youth crime and youth criminalization—compounded by processes of social, political and economic exclusion and underpinned by the intersecting structural relations of class, ‘race’ and gender—routinely impact disproportionately on people living in the most impoverished locales (Pantazis and Gordon, 1997; McAuley, 2006; Hughes, 2007). These are issues that must be taken ‘seriously’ (Young, 1981).

Here too the knowledge/evidence-base is instructive. Excessive reliance on youth justice systems to ‘manage’ profound contradictions in the social order is shown to be both ethically unsustainable and practically counter-productive. On the one hand it amounts to the criminalization of social need and the intensification of social injustice. On the other hand, as noted, it is a spectacularly ineffective strategy when measured in terms of crime prevention and community safety and it often serves to exacerbate the very problems that it ostensibly aims to resolve. Bateman and Pitts (2005: 257), for example, note: ‘those factors which appear to be most closely associated with persistent and serious youth crime ... are those which are least amenable to intervention by agents of the youth justice system’. Alternatively, guided by a series of international standards, treaties, rules and conventions and drawing upon comparative analysis and a wide range of both research- and practice-based evidence, Goldson and Muncie (2006c: 100) contend:

‘Normal’ social institutions—including families (however they are configured), ‘communities’, youth services, leisure and recreational services, health provision, schools, training and employment initiatives—need to be adequately resourced and supported ... and resources re-directed to generic ‘children first’ services ... normalising and decriminalising approaches— intrinsic to the principles of universality, comprehensiveness and re-engaging the ‘social’—are substantiated by robust research evidence.
This requires providing holistic non-criminalizing services and developing genuinely inclusionary and redistributive strategies. One of the most ambitious and comprehensive research analyses of youth crime prevention programmes in the world, for example, has demonstrated that, even for ‘serious, violent and chronic juvenile offenders’, some of the most effective responses emanate from initiatives that are located outside of the formal youth justice system (Howell et al., 1995). Howell and Krisberg (1995: 275–6) explain:

It is an alternative to the currently popular response of state legislators and other policymakers that translates into punishment … and an increasing reliance on the criminal justice system … Neither offers much promise as a juvenile [crime] reduction strategy … This startling finding implies that community-based prevention holds the most prospects for reducing the bulk of juvenile crime … To be successful [policy and practice] … must address the wide range of co-occurring problems in a comprehensive manner … over a long period of time.

**Custodial sanctions comprise the least effective and most damaging forms of intervention**

Since the establishment of Parkhurst Prison for boys in 1838, a range of institutions in England have been used to detain children and young people in conflict with the law, including: Reformatories; Industrial Schools; Borstals; Approved Schools; Remand Centres; Detention Centres; Youth Custody Centres; Detention and Training Centres; Young Offender Institutions; and Secure Training Centres. More broadly, although it is difficult to gather reliable comparative data, certain sources estimate that at any given time approximately one million children are incarcerated worldwide (Pinheiro, 2006). This is almost certainly an under-estimate, however, given that 600,000+ young people are imprisoned annually in the USA alone (Annie E. Casey Foundation, 2004). Notwithstanding this, there is substantial inter-jurisdictional unevenness in the use of custodial sanctions. Some youth justice jurisdictions (particularly in Scandinavian and Nordic states) make minimal use of custodial disposals (see, for example, Lappi-Seppala, 2006), whereas others (including England) are significantly more inclined to lock up children and young people. Indeed, greater use of penal custody for children is now made in England than in most other industrialized democratic countries in the world (Youth Justice Board for England and Wales, 2004). Hagell (2005: 157) has observed: ‘it is clear from a range of statistics and research that levels of custody … do not necessarily reflect levels of juvenile crime nor do they particularly reflect evidence on its effectiveness’. In this sense, the variable use of custodial sanctions—over time and/or across space—is determined independently; it has little or no direct relation either to the actual volume and/or seriousness of youth crime or to the outcomes of incarcerative interventions.

Indeed, the knowledge/evidence-base provides no legitimacy for the enduring nature and/or the excessive application of custodial sanctions in the youth justice sphere. A voluminous research literature, together with deeply embedded practice experience, confirms that custody comprises the least effective (crime-reducing) disposal available to the courts. McGuire and Priestley (1995: 10), widely regarded as doyens of evidence-based approaches
and ‘what works’ imperatives, note that ‘the meta-analytic evidence’ indicates that punishment by incapacitation has a ‘destructive effect in that [it] serves primarily to worsen rates of recidivism’. More specifically, the Government’s own evidence suggests that post-custodial re-conviction rates for children and young people stand at 75 per cent during a one-year follow-up period (Ministry of Justice, 2009), and 80 per cent during a two-year follow-up period (House of Commons Committee of Public Accounts, 2004).

Custodial sanctions not only fail as a means of reducing youth crime and providing community safety, however, they also impose serious harm. Indeed, international evidence provides that the conditions and treatment typically experienced by child prisoners routinely violate their emotional, psychological and physical integrity (Pinheiro, 2006; Goldson, 2009e). High rates of self-harm among child prisoners, together with the deaths of 30 children in penal institutions in England between 1990 and 2007, signal the most extreme forms of damage (Goldson and Coles, 2008).

Knowledge–policy rupture and the New Labour legacy

In general, the modern history of youth justice is pitted with ‘conflict, contradictions, ambiguity and compromise’ (Muncie and Hughes, 2002: 1) and, as such, policy analysis is a complex and challenging enterprise. New Labour’s youth justice is no exception and the wide-ranging policies that evolved throughout the 1990s, and have been implemented since 1997, express little by way of coherent narrative. Indeed, Fergusson (2007: 180) astutely detects the ‘ambivalent and ambiguous character of New Labour’s copious youth justice policies’—a ‘melting-pot of contending, competing or directly contradictory measures’ (2007: 192)—and cautions against ‘over-ready classification of policies as falling within a single discursive framework’ (2007: 181).

A number of pre-election milestones gave flavour to New Labour’s evolving youth justice policies (for a fuller discussion see Jones, 2002). If Tony Blair’s ‘tough on crime, tough on the causes of crime’ pledge—first uttered in January 1993—became a defining motif of the wider project, the detail developed through various policy documents. For example: *Getting a Grip on Youth Crime* (Michael, 1993) expressed a view that the youth justice system was slow and inefficient—a precursor to what became known as ‘fast tracking’; *Partners against Crime* (Labour Party, 1994) introduced ‘partnership working’, a key plank of New Labour’s youth justice; *Safer Communities, Safer Britain* (Labour Party, 1995) invoked community justice and community safety imperatives; *Tackling Disorder, Insecurity and Crime* (Straw, 1996) signalled the conceptual conflation of ‘disorder’, ‘insecurity’ and ‘crime’—subsequently extended through a pre-occupation with ‘anti-social behaviour’; and ‘Parenting’ (Straw and Anderson, 1996) gave vent to notions of parenting ‘deficit’ and associated constructions of ‘willful irresponsibility’.

The ‘toughness’ promised by Blair in 1993 was provided by a defining White Paper—published within months of New Labour’s landslide first election victory—rather ominously entitled ‘No More Excuses: A New Approach to Tackling Youth Crime in England and Wales’ (Home Office, 1997). Moreover, as noted, a raft of subsequent legislation served to institutionalize New Labour’s youth justice experiment. Most significantly, the Crime and Disorder Act 1998 completely restructured the youth justice apparatus,
abolished the principle of *doli incapax* and introduced a range of new powers and sentencing disposals including: Anti-Social Behaviour Orders; Parenting Orders; Local Child Curfew Schemes; Reprimands and Final Warnings; Reparation Orders; Action Plan Orders and Detention and Training Orders. The Youth Justice and Criminal Evidence Act 1999 provided the Referral Order for almost all children and young people appearing in court on first conviction—effectively making it a mandatory sentence—and placed a clear emphasis on early intervention. The combined effect of the Criminal Justice and Court Services Act 2000, the Powers of the Criminal Courts (Sentencing) Act 2000, the Criminal Justice and Police Act 2001 and the Police Reform Act 2002 served to: increase the courts powers to penalize the parents of children who do not attend school regularly; make further provision for the electronic monitoring and surveillance of children; extend the application of child curfew schemes; increase the powers of the courts to send children to prison and other locked institutions on remand; and introduce interim Anti-Social Behaviour Orders that might be imposed prior to a full court hearing. The Anti-Social Behaviour Act 2003 further targeted ‘conduct which causes or is likely to cause harm, harassment, alarm or distress’ by extending the application of antisocial behaviour orders. The Criminal Justice Act 2003 introduced powers to drug test children under the age of 16 and increased powers to impose parenting orders. The Cleaner Neighbourhood and Environment Act 2005 addressed a wide range of ‘nuisance behaviours’ and ‘incivilities’, with its provisions relating to ‘littering’, ‘graffiti’ and ‘other defacement’ being particularly pertinent to youth justice. The Serious Organized Crime and Police Act 2005 contained a number of provisions that might be applied to children, young people and/or parents in neither ‘serious’ nor ‘organized’ circumstances, including extended stop and search powers, further powers in respect of anti-social behaviour and the imposition of Parental Compensation Orders. The Criminal Justice and Immigration Act 2008 introduced radical reform by way of ‘menu-based sentencing’ and the Youth Rehabilitation Order.

Since 1997, therefore, New Labour governments have introduced an unprecedented corpus of youth justice legislation—both in terms of volume and reach. If the combined effect may ultimately be conceptualized as a ‘toughening up’ of every aspect of the criminal justice system’ (Blair, 2004a) it is, nonetheless, difficult to discern any unifying jurisprudential basis or coherent philosophical principles. Rather, New Labour’s youth justice comprises a hybrid and uneasy mix of impulses and rationales; the ‘melting pot’ to which Fergusson (2007) refers. It is not practical here to unpack comprehensively its constituent elements but even a brief review reveals a sense of intrinsic tension and complexity. Actuarialist logics, a calculus of ‘risk’ and the so-called ‘scaled approach’ premise constructions of early (often intensive) intervention, including ‘pre-emptive’ intervention. Awkward linkages/slippages between civil and criminal statute, together with the tenuous conflation of ‘anti-social behaviour’, ‘disorder’ and ‘crime’, are seemingly underpinned by varying interpretations of communitarianism. Derivations of ‘restorative justice’ are rather inelegantly bolted on to otherwise retributive powers and statutory orders. The intensification of community-based supervision and surveillance accompanies, rather than substitutes, processes of re-penalization and the significant escalation of custodial detention. ‘Every child matters’ (HM Government, 2005) and ‘Youth matters’ (Secretary of State for Education and Skills, 2005) imperatives sit uncomfortably alongside ‘tough’ legislation and ‘no more excuses’ (Home Office, 1997)
priorities and are located within a context where: the courts exploit their expanded powers; practitioners are bound more tightly by centrally imposed national standards; the professional ‘contract’ with children and young people becomes more technical, more unbalanced, more demanding and more subject to breach; practice is increasingly managerialized, target-driven, audit-conscious and performance-indicator oriented; and the interface between child welfare and youth justice is progressively distanced at both central and local government levels. Perhaps the ‘triple track’ policy emphasis on ‘better and earlier prevention’, ‘non-negotiable support’ and ‘enforcement and punishment’ best encapsulates the seemingly incongruous drivers of New Labour’s youth justice policy programme (Home Office et al., 2008, 2009).

The uneasy hybridity of New Labour’s youth justice is not the only point of interest, however. Rather, when the five core messages distilled from research and practice experience are juxtaposed with the trajectory of contemporary youth justice policy in England, profound rupture is apparent. In fact, policy appears to be travelling in a diametrically opposed direction to the route signalled by knowledge/evidence ultimately implying that, as elsewhere in the wider criminal justice system, ‘evidence that questions the wisdom of many … reforms … [is] completely disregarded’ (Naughton, 2005: 47). The point can be illustrated diagrammatically as shown in Figure 1 together with brief elaboration.

Irrespective of the relative normality and stability of youth offending and youth crime, New Labour policy discourse is underpinned by essentialized moral binaries: the

Figure 1. Knowledge/Evidence–Policy rupture
'responsible ... decent law abiding majority' and the ‘out of control minority’ (Home Office, 2003: 2); ‘decent law abiding citizens’ and ‘offenders’ (Blair, 2004b: 5). An obsessive emphasis on preventing youth offending, and the concomitant politicization of youth crime, have given rise to ‘no excuses’ sentiments (Home Office, 1997), ‘institutionalised intolerance’ (Muncie, 1999b) and increasingly ‘tough’ policy responses. Seemingly relentless legislative activity, accompanied by a ‘blizzard of initiatives, crackdowns and targets’ (Neather, 2004: 11), has effectively served to amplify youth offending and define youth crime up. Moreover, industrial-level expansion of the youth justice apparatus has been facilitated by enormous public expenditure. Since 2000–1 spending on youth justice has increased in real terms by 45 per cent’ (Solomon and Garside, 2008: 9) and, more generally, ‘the UK now spends proportionately more on law and order than any other country in the OECD [Organization for Economic Co-operation and Development]’ (Solomon et al., 2007: 10). Taken in the round, the Independent Commission on Youth Crime and Antisocial Behaviour (2009: 40) has estimated that: ‘dealing with young offenders could cost criminal justice services as much as £4 billion a year’.

Similarly, notwithstanding the evidential basis for diversion and minimum necessary intervention, youth justice policy has moved in precisely the opposite direction. Actuarial imperatives, ‘risk’-based technologies and interventionist zeal have precipitated a multitude of early (and earlier) intervention strategies, directed not only towards convicted ‘offenders’ but also children who are deemed to be ‘latent offenders’, ‘near criminal’, ‘possibly criminal’, ‘sub-criminal’, ‘anti-social’, ‘disorderly’ or ‘potentially problematic’ in some way or another (Goldson, 2008d; for a broader discussion see Case and Haines, 2009). If the 187,000+ ‘first time entrants’ to the youth justice system during the two-year period 2006/7–2007/8 (Youth Justice Board, 2007, 2008) represent an overt expression of this expansionist criminalizing drift, a more insidious example of the same process involves the 1954 children under the age of 10 who, in a single year, were subjected to formal police ‘stop and search’ procedures in London (Greenwood, 2009).

Equally, if the knowledge/evidence-base suggests that universal services, holistic approaches and ‘decriminalizing’ responses comprise the most effective and least damaging forms of intervention, the message has apparently been lost on New Labour. Intervention is increasingly reserved for children and young people perceived to be facing risk (normally code for those at the sharpest end of the child protection system) or posing risk (potential or actual ‘anti-social’, ‘disorderly’ and/or offending children and young people). The passport to services, therefore, is essentially defined along purely negative lines. In order to ‘qualify’—to be ‘targeted’ by an intervention—children and young people must be regarded as having been ‘failed’ or deemed to be ‘failing’. In this way, conceptualizations of universal services for all children and young people, retreat into a residual context of individualized classification, control and correction where child governance is increasingly legitimized by reference to crime prevention. Meanwhile, Unicef (2007) has reported that when account is taken of key measures of ‘well-being’—including material well-being, health and safety, education, peer and family relationships—children in the UK are more disadvantaged than those in any of the 21 OECD countries surveyed. Similarly, Pickett and Wilkinson (2009: 7) note: ‘Britain is now one of the most unequal of the developed countries and the scale of problems faced by children … is shocking.’ A staggering 2.9 million children endure poverty in the UK (Brewer et al., 2009) and,
perhaps most significantly, there is evidence of ‘an apparent loss of policy momentum’ with regard to tackling this corrosive phenomenon (Hills et al., 2009: 5).

Finally, while the evidence unequivocally reveals that custodial sanctions are by far the least effective and most damaging forms of intervention, under New Labour penal capacity has diversified in form and expanded in size. Increasing numbers of child prisoners—including the incarceration of 12-, 13- and 14-year-olds (Glover and Hibbert, 2009)—are detained in penal custody, many in institutions recognizably unfit for purpose (Her Majesty’s Chief Inspector of Prisons, 2008; Goldson, 2009e). In terms of its readiness to incarcerate children, England now comprises one of the most punitive youth justice sites in the western world. The Youth Justice Board commits up to 70 per cent of its annual budget on penal custody or, to put it another way, it spends 10 times more on child imprisonment each year than it invests in crime prevention programmes (Prison Reform Trust, 2008).

While it may be difficult to discern intelligible coherence within New Labour’s youth justice programme, its ultimate effect authenticates the ‘toughness’ rhetoric within which it is shrouded. At the ‘shallow end’ of the system, distorted actuarial constructs, risk-based priorities and interventionist strategies have given rise to substantial ‘net widening’. At the system’s midriff, modes of intensive supervision and correctional regulation are bolstered by surveillance and electronic monitoring technologies. At the ‘deep end’ more and younger children are being detained in penal custody for longer periods. In sum, the youth justice apparatus has extended its reach and deepened its penetration and, in the final analysis, its bloated and obese form represents the antithesis of knowledge and evidence. All of this is completely irrational unless the application of knowledge/evidence to the policymaking process is not the main priority.

### The politics of policy formation: Negated knowledge, mutated justice

It is widely recognized that policymaking processes are complex and ‘messy’. To begin, as Fergusson (2007) has noted, the relations between the rhetorical, the codificational and the implementational modes of the policy process are not necessarily harmonious or consistent. Furthermore, rarely, if ever, is ‘evidence’ exclusively determinative and/or is policy the product of incremental, evolutionary and linear (social) scientific process. Similarly, it is erroneous to imagine that ‘experts’ are either ‘on top’ (whereby knowledge/evidence drives policy) or ‘on tap’ (whereby they can readily provide the necessary evidence to resolve policy problems) (Young et al., 2002). Equally, the notion that policy decisions comprise ‘purposive choices made by informed, disinterested and calculating actors working with a clear set of individual or organisational goals’ (Hawkins, 1992: 21) is, at best, naïve. It follows, as noted earlier, that many considerations other than (social) scientific rationality might impact on policymaking processes including: economic and financial factors; tactical and strategic factors; subjective experience and judgement; habit, tradition and bureaucratic logic; emotion; and specific political imperatives (for which ‘evidence’ might even be perceived as a complicating inconvenience) (for fuller discussions see Naughton, 2005; Freiberg and Carson, 2009). Indeed, in order to account
for the rupture between knowledge/evidence and policy formation within New Labour’s youth justice programme the question of political imperative is particularly salient.

The origins of New Labour’s youth justice policies have been considered. In key respects they resonate with broader Anglo-American ‘exceptionalist’ tendencies, where ‘populist punitiveness’ (Bottoms, 1995) has come to comprise a pivotal variable in the policymaking process. Garland (2001: 172–3) detects:

[A] new relationship between politicians, the public and penal experts ... in which politicians are more directive, penal experts are less influential, and public opinion becomes a key reference point for evaluating options. Criminal justice is now more vulnerable to shifts of public mood and political reaction ... The populist current in contemporary crime policy is, to some extent, a political posture or tactic, adopted for short term electoral advantage ... Almost inevitably the demand is for more effective penal control ... What this amounts to is a kind of retaliatory law-making, acting out the punitive urges and controlling anxieties of expressive justice. Its chief aims are to assuage popular outrage, reassure the public, and restore ‘credibility’ of the system, all of which are political rather than penological concerns.

In this way, the political imperative to appear ‘tough’, exercises greater influence over policy formation than criminological expertise, research-based knowledge and/or practice-based experience. And so it is with contemporary youth justice in England.

The treatment of children—perhaps particularly those in conflict with the law—is an important signifier of a society’s civility, maturity and humanity. It represents a profound symbolic marker of its core values, principles and moral integrity. By effectively negating knowledge/evidence in the construction of policy, successive New Labour Ministers have mutated justice and surrendered their claim to be regarded as honest brokers in the complex debates surrounding children, young people and crime. Ultimately, the youth justice system in England has become a conduit of social harm, the consequences of which will be felt for many years. All of this raises serious questions pertaining not only to knowledge/evidence–policy relations but also to the democratic process itself, political power and public accountability.

Notes

1. This article has evolved through a rather lengthy period of gestation. In general, it forms part of a long-term project centred on national and international youth justice policy analysis (for example, Goldson, 1999, 2000; Goldson and Muncie, 2006a; Muncie and Goldson, 2006). More specifically, developing versions of the article have been rehearsed at various conferences and meetings over the last year or two (for example, Goldson 2008a, 2008b, 2008c, 2009a, 2009b, 2009c). I wish to acknowledge and thank numerous colleagues, therefore, for their insightful comments, debate and critique along the way.

2. The UK is the site of three separate territorial jurisdictions—England and Wales, Northern Ireland and Scotland—and each has produced, to a greater or lesser extent, quite distinctive youth justice systems. Furthermore, the value of continuing to regard England and Wales as a single jurisdiction is itself questionable. Several commentators have observed how processes
of political devolution are serving increasingly to define and distinguish discrete approaches to youth justice in both England and Wales in ways that appear to undermine the notion of a unified and monolithic jurisdiction (see, for example, Cross et al., 2002; Haines, 2009; Hughes et al., 2009; Drakeford, this issue; Goldson and Hughes, this issue). Accordingly, the primary focus here centres on the youth justice system in England.

3. The terms ‘knowledge’ and ‘evidence’ are used interchangeably throughout this article.

4. Although the emphasis here rests with England in particular and the UK more generally, it is important to note that a resurgence of interest (rhetorical or otherwise) in evidence-based policy is apparent in many—particularly Anglophone—countries including: Australia; Canada; New Zealand; and the USA. See, for example, ‘The Campbell Collaboration’ (http://www.campbellcollaboration.org/) and ‘The Cochrane Collaboration’ (http://www.cochrane.org/).

5. It is important to acknowledge such complexity, however, and we shall return to it later.

References


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**Biography**

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