

Children: Innocent until proven guilty

A report on the overuse of remand for children in England and Wales and how it can be addressed

Penelope Gibbs & Simon Hickson



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London Solicitor:

'I do not expect to get bail applications granted anymore. Ten years ago hardly any under-18 year olds got remanded'.

Key Facts

- **Three quarters of under-18 year olds locked up on remand by magistrates or district judges are either acquitted or given a community sentence**
- **One fifth of children in custody in England and Wales are locked up on remand – approximately 600 at any one time**
- **The number of children imprisoned on remand has increased by 41% since 2000**
- **95% of those remanded in custody have pleaded innocent and are awaiting trial, 5% are awaiting sentence**
- **Use of the important alternative to custodial remand – remand to non-secure local authority accommodation (RLAA) – has declined by 43% in the last four years**
- **In most areas of England and Wales there is no specialist accommodation for under-18 year olds on bail or remand to non-secure local authority accommodation**
- **29% of boys and 44% of girls in young offender institutions (YOIs) have previously been 'looked after' by their local authority**
- **If a child is detained overnight by the police, the youth offending team (YOT) and defence representative often only have a couple of hours to develop a relationship with, and assess, the child, prepare a bail package and present this to the court**
- **In the year 2008/9, 1,484 children were locked up on remand for a week or less.**

Today, children on remand make up one fifth of children in custody and nearly half of all receptions into custody. In the last seven years the number of children locked up on remand has increased by 41%.¹ Imprisonment is often a damaging experience for children. The latest survey of children in young offender institutions (YOI) reveals that over half hardly ever, or never, get visited by friends and family and that a quarter of young men have been victimised by other boys while inside.² Children who have not been sentenced to custody, should only rarely be imprisoned.

¹ Youth Justice Board supplied data to the Prison Reform Trust

² *Children and Young People in Custody 2006-2008* HM Inspectorate of Prisons, Youth Justice Board

They have a right to their liberty whilst awaiting trial or sentence unless there is strong evidence of their posing a danger to others. The UN Convention on the Rights of the Child says that imprisonment of children should be used 'only as a measure of last resort and for the shortest appropriate period of time',³ but a third of the children locked up on remand have been charged with a non-violent crime, and three quarters are either acquitted or given a community sentence when they come to trial.

Something is going very wrong when so many children are locked up on remand, but deemed safe enough to be released into the community if convicted and sentenced. Since September 2007, the Prison Reform Trust (PRT), supported by the Diana, Princess of Wales Memorial Fund, has been working to reduce the number of children and young people imprisoned in England and Wales. In June 2008, PRT published a twelve point plan for reducing the child custody population of England and Wales.⁴ Point one of that plan was to reduce the number of children remanded in custody. Since then we have examined why so many children are being locked up on remand and how the tide could be reversed. It's not an easy process because so many agencies are involved – police, defence solicitors, courts, social workers, housing officers and youth offending team (YOT) workers – as well as the children themselves and their families. But reducing child custodial remands would save many children from unnecessary and harmful effects of imprisonment and allow the government to redistribute funds towards meeting the welfare and housing needs of these vulnerable children.

We have gathered information from a number of sources: interviews with senior practitioners and sentencers, a literature review of research and statistics, a survey of bail and remand officers, in-depth interviews with a cross section of the latter and a national seminar on this subject. As we have gathered information, we have sought to analyse the processes which contribute to remand decisions. In this report we present the problem – the rise in child custodial remands; we assess why the problem has arisen; and we present a series of policy and practice solutions. There are many ways of reducing child custodial remands, but the main approaches can be summarised in twelve points, which we will expand in the report:

- 1 Change bail law so that the legal criteria for refusing bail to children are stricter
- 2 Change legislation so that 17 year olds are treated comparably to other children
- 3 Address justice by geography
- 4 Provide incentives for local authorities to reduce custodial remands
- 5 Improve the way defendants are dealt with by the police
- 6 Reduce the time pressure in court
- 7 Prevent 'remands of convenience' by Saturday courts
- 8 Improve the training of magistrates, district judges and defence practitioners
- 9 Improve the system for defendants with mental health problems, learning disabilities or learning difficulties
- 10 Engage parents better in the court and bail process
- 11 Reduce the disproportionate number of black children locked up on remand
- 12 Improve bail supervision.

³ Article 37 UN Convention on the Rights of the Child, 1989

⁴ *Criminal Damage: why we should lock up fewer children*. Prison Reform Trust 2008

CONTEXT

The legal system

As with adults, under-18 year olds are considered innocent unless and until proven guilty in the eyes of the law. So the presumption is that children who have pleaded not guilty should get unconditional bail, allowing them to live at home and lead a normal life while they await their trial. Where the court (the bench or the judge) considers that unconditional bail is unsuitable, they have a ladder of options with progressive increases in restrictions on liberty. Which option is chosen depends to some extent on the child's age. No child under 12 can be locked up on remand. If the court feels that a ten or eleven year old needs to await trial or sentence in a secure place, they can make strong representations to the local authority to that effect. The options for other ages depend on gender and vulnerability as well as age.

The law on grant of bail is based on the Bail Act 1976. Most criteria for refusing bail are the same for under-18 year olds as they are for adults: risk of committing further offences, risk of intimidating witnesses, risk of not turning up for appointments in court or with other professionals. There is no specific custody threshold, no recognition of children's lesser maturity and greater capacity for change, no general requirement to consider vulnerability, no obligation to seek out positive factors in children's lives on which bail solutions could be based and indeed no explicit reference to families. Courts consider such factors as a matter of practice rather than a legal requirement, taking account of youth offending team (YOT) recommendations. YOTs are expected to operate to Youth Justice Board (YJB) national standards and guidance.

It is in the law governing what happens when bail is refused that the biggest changes have occurred. Under the 1969 Children and Young Persons Act, refusal of bail for under-17 year olds led automatically to a remand to the care of a

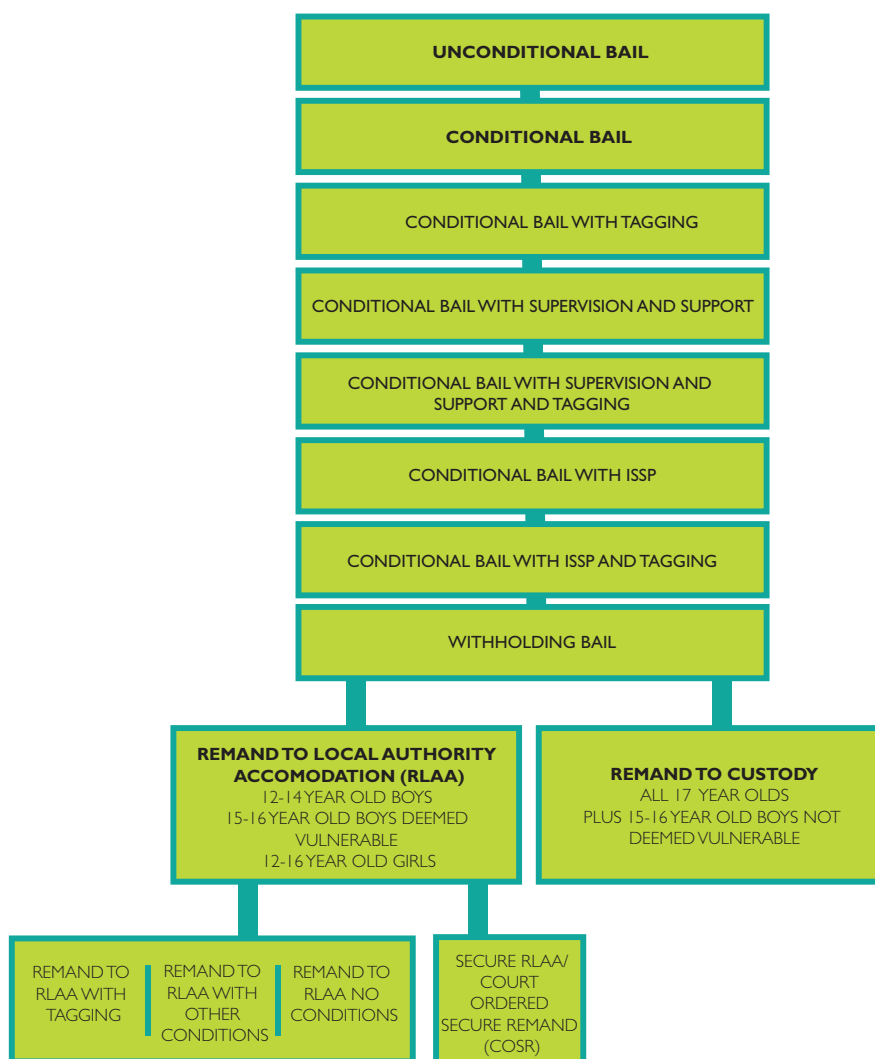
local authority. The local authority decided how and where the child should be looked after. Since then use of custodial remand for children has waxed and waned in popularity according to the political climate (see appendix for a recent history of remand). The Criminal Justice Act 1991 marked the peak of enthusiasm for curbing the use of remand for children – it provided for the complete abolition of custodial remands for under-17 year olds. But this was never implemented and succeeding years saw a succession of legislative changes extending the power of the court to imprison ever younger children on remand. These changes culminated in the Criminal Justice and Police Act 2001. This empowered the courts to impose secure remands on children who had committed repeat offences while on bail, irrespective of whether or not such offences were considered to expose the public to serious harm.

17 year olds are treated differently

Throughout all these legislative changes, the bail law concerning 17 year olds changed little. If refused bail, however vulnerable, 17 year olds will always be remanded to a young offender institution (YOI) or adult prison. They continue to be treated the same as 18 year olds, unlike in other areas of youth justice legislation. This is incompatible with international norms.

The UN Convention on the Rights of the Child states that all under-18 year olds are considered children, should be treated differently to adults if charged with criminal offences and should be imprisoned only as a last resort and for the shortest possible period of time. In addition UN Standard Minimum Rules for the Administration of Juvenile Justice say that 'whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home'.

MENU OF BAIL OPTIONS



Trends in remand

Approximately 100,000 children are refused bail every year; of whom 6% receive custodial remands (either remand in custody or court ordered secure remand).⁵ At any one time there are usually 550 to 600 locked up on remand – a fifth of all the children in custody. This is higher than the adult rate, where remandees make up 16% of the adult prison population. The number of children remanded to custody has increased considerably since the beginning of the century, far more than the number sentenced to custody. The

number reached a peak during the street crime initiative of 2002/3, but even since then levels have remained high, with the number in custody awaiting trial still nearly 50% above the level in 2000. Also, despite government commitments to accelerate the legal process for persistent and prolific offenders, the average length of time spent on custodial remand has changed little – from 37 to 36 days. Many remandees spend a very short time in custody. In 2008/9, 1,308 young people were remanded in custody and 176 young and vulnerable children remanded in secure local authority accommodation for a week or less.⁶

⁵ This and subsequent national figures on child remand decisions use the published YJB Annual Workload Statistics, which count each case at initial decision and later if the type of remand changes. <http://www.yjb.gov.uk/NR/rdonlyres/6AF6AB96-A597-43E8-B66C-DC72EF5E54A2/0/Courtremandsregionally.xls>. We have not included YJB remand episode data for 2007/8 since there are some concerns about the reliability of this particular year's data.

⁶ Answer to Parliamentary Question from David Howarth MP, 28 April 2009 Hansard

Table 1: Average under-18 custodial population at any one time

	2000-2001	2007-2008	% change
Average custody total	2,807	2,942	+5%
Average custodial remands total (un-convicted plus those awaiting sentence)	429	606	+41%
Average un-convicted	391	575	+47%
Custodial remands as % total of those in custody	15%	21%	+35%

Source: YJB (see appendix for inter-year data)

Remand rescue

The most concerted effort to reduce child custodial remand in the last 20 years focused not on changing the law or preventing children being locked up on remand, but on securing the release of children who had been wrongfully remanded in custody. The Troubleshooter scheme was started by the Howard League for Penal Reform in 1993 and later expanded into The Children's Society's Remand Rescue project.

From 1999 to 2002 the Youth Justice Board (YJB) funded The Children's Society's work in a broader national remand review initiative (NRR). Thirty remand review workers tried to 'rescue' 12-17 year olds who had been inappropriately remanded to 27 young offender institutions (YOIs). They interviewed children in custody within 72 hours of arrival and made contact with youth offending teams (YOTs), social services, solicitors, parents/carers and YOI staff. They explored why bail had been refused, mediated to find suitable accommodation (for example with extended family members) and lobbied for the home local authority to support bail. 28% of the 4,358 children reviewed were 'rescued', and able to return home while they waited for their trial or sentence.⁷

The scheme highlighted some key weaknesses – children appearing in court without any youth offending team representative, local services writing off children who had failed to respond earlier in their lives, lack of bail support accommodation, competing staff priorities, distance from home and complex, poorly-explained documents. It was discontinued in 2002, by which point most YOTs had their own bail and remand officer or team and the YJB also introduced YOT staff into young offender institutions.

Now the YJB's national standards require YOTs to initiate reviews of children's initial remands into custody, to attend remand planning meetings and to develop fresh recommendations to courts where appropriate. Practice is better than before the remand rescue schemes but not as good as the national remand review initiative (NRR) at its height. In 2007/8, 68% of YOTs met the YJB National Target for a remand planning meeting attended by the home area YOT officer within five days of a custodial remand decision.

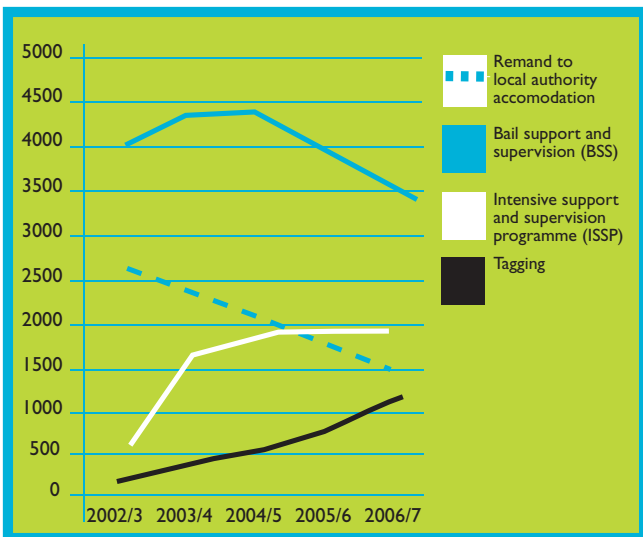
⁷ Moore, S. & Peters, E. (2003) *A Beacon of Hope: Children and Young People on Remand: Final Report of the National Remand Review Initiative*. The Children's Society

The establishment of bail support and the decline of remand to local authority accommodation (RLAA)

Since the beginning of the century, the availability and choice of bail options has expanded considerably. First bail supervision and support (BSS) was introduced as a standard bail option.⁸ The standard core menu for courts⁹ now consists of unconditional bail, bail to a private address, BSS, intensive supervision and support programme (ISSP)¹⁰ and electronic tagging, either freestanding or in support of other options.

In recent years the use of tagging (electronic monitoring) has increased considerably: it has been promoted by the Ministry of Justice and the Youth Justice Board and it offers reassurance to courts that children’s opportunity to re-offend will be reduced. However the electronic monitoring conditions can be overly stringent, particularly for children with family or mental health difficulties. This increases the risk of breach, which in turn can lead to a net increase in custody.

Graph 1: Community remands with interventions 2002/03 – 2006/07



Source: YJB Annual Workload Data (see appendix for further information)

The steep decline in the use of non-secure remand to local authority accommodation (RLAA) is one of the most pronounced recent trends. Remand to local authority accommodation involves a child being looked after by their local authority, either in a community setting or in a secure place under court-ordered secure remand (which must be a secure children’s home or a secure training centre). Use of non-secure RLAA is resource intensive, given the costs of taking a child into care. It is particularly expensive for the local authority if it involves the provision of specialist accommodation. There is no research on the causes of the recent decline in the use of non-secure remand to local authority accommodation but the following factors appear to have contributed:

- A waning in the court’s confidence in the supervision and accommodation available under non-secure RLAA
- Declining availability of specialist bail accommodation, which may be a cause or a result of lack of use
- Increased availability of ISSP and electronic monitoring (which can be used with or without RLAA)
- Pressure to meet key local authority national indicator number 65 (stability of looked-after children) which seeks to minimise the number of moves looked-after children experience.

⁸ It entails a minimum of three contacts a week with a YOT staff member - two face-to-face or by telephone and one focusing on meeting individual assessed needs – with YOTs also encouraged to negotiate service, supervision and referral support from other local services
⁹ Published in the Youth Court Bench Book <http://www.jsboard.co.uk/magistrates/ycbb/index.htm>
¹⁰ BSS and ISSP can include reporting to the police, voice verification (telephone calls by external contractors using voice recognition technology to check whether the person is at a planned activity such as college classes), exclusions from certain areas or from association with certain people; and more supportive options such as attendance at activity centres or workshops, family support, personal and lifestyle support for children and work on finding training placements. However these are not consistently available.

WHO IS REMANDED?

Age

Three quarters of custodial remands are received by 16 and 17 year olds. Less than 3% go to those under 14.

The likelihood of getting a custodial remand is considerably increased for 17 year olds. They account for 29% of remand decisions but 49% of custodial remands (whereas 16 year olds account for 28% and 27% respectively).¹¹ This difference in the treatment of 17 year olds is likely to be related to the anomaly of the law. The criteria for bail are the same for a 17 year old as for a 16 year old, but the options are different if bail is refused. RLAA can be used for young people aged 16 or under, but not for 17 year olds. If the court is concerned that a 17 year old does not have suitable accommodation and/or supervision in the community, they may see little choice but to remand the child into custody.

Equal treatment of 17 year old children under the law was urged by the UN Committee on the Rights of the Child in its 2002 review of UK compliance with the Convention, and the government committed itself to this in its follow-up to the 2003 Youth Justice – The Next Steps consultation.¹² However the government still has not brought about this change.

During the passage of the Criminal Justice and Immigration Act 2008, Baroness Falkner tabled an amendment to abolish the differential treatment of 17 year olds but this was rejected by the government. Lord Bach, the minister in the Lords, agreed that the treatment of 17 year olds was inconsistent but said that a workable legislative solution had not yet been found: 'It is an anomaly that 17 year olds are treated as adults for remand placement purposes, but as children in every other part of the youth justice system. However, this has proved to be more

problematic than merely changing the age in the current legislation. We do not think it appropriate to introduce 17 year olds to local authority accommodation and to allow them to mix with a vulnerable group of younger children, particularly those who are there for welfare reasons alone'.

Despite Lord Bach's assurance that 'we will not lose sight of this issue and we will pursue a resolution of the problem', no progress has been made.¹³

Gender and ethnicity

Boys are more likely to be locked up on remand than girls – boys account for 85% of remand decisions but 95% of custodial remands. 91% of custodial sentences go to boys. Girls under 17 cannot be remanded into custody, whereas non-vulnerable (and sometimes vulnerable) boys can. Ethnic minority teenagers are much more likely to get a custodial remand than white teenagers. In particular, 10% of those coming before the courts are black and black British boys but they account for 18% of custodial remands – nearly double the rate. In practice, because ethnic minority teenagers are concentrated in particular localities they can account for the vast majority of custodial remands in some areas. The difference in remands cannot be explained by significant differences in the seriousness of offences. Though black boys receive 18% of custodial remands, the same group receives 12% of custodial sentences.

It is not clear why this disproportionality in youth remands exists but practitioner experience and research to date suggest social, cultural and inter-racial factors all play a part – high social exclusion, low educational participation, greater family disruption and apparent defensiveness towards authority (sometimes misread, sometimes a genuine product of past experiences,¹⁴ sometimes inferred from more frequent not guilty pleas).

¹¹ YJB *Youth Justice Annual Workload Data 2006/07*

¹² Youth Justice – the Next Steps: Companion to 'Every Child Matters' (Home Office 2003)

¹³ Lord Bach as quoted in Hansard 21 April 2008

¹⁴ Past discrimination, actual and perceived, can seriously complicate further encounters with the criminal justice services: *Serve and Protect? Black young people's experience of policing in the community* Professor Douglas Sharp, University of Central England 2005 – part of The Children's Society's *Just Justice* research series.

North London YOT officer:

'There is a problem among BME groups, who tend to suffer from social exclusion and cultural misunderstanding. For instance, black boys sometimes get accused of behaving aggressively when that was not their intention at all. There is also a problem with their educational attainment.'

The Children's Society's Right Track project in Bristol works with young people from a range of Black and Minority Ethnic (BME) groups who are in trouble with the law – on remand or sentenced. The YOT remains responsible for statutory supervision.

Right Track's staff, some paid and some volunteers, are mostly from similar backgrounds to the young people. They work to build trust: listening to the young people; advising and helping them with problems such as school exclusions, difficult family relationships, drug misuse and low-self-esteem; informing them of their rights; making clear the bail conditions and consequences of breach; and in the process gaining information which helps the YOT with sentence recommendations.

The key ingredients of the work are its exclusive focus on young people from ethnic minorities, its use of staff with inside knowledge of the relevant community and its holistic approach to life and relationship problems which underlie crime and other adverse outcomes.

Family and health issues

Children in custody are particularly likely to have been affected by family breakdown or separation and by a range of mental health problems. 29% of boys and 44% of girls in young offender institutions (YOIs) have at some stage been 'looked after', according to the Joint Chief Inspectors' Safeguarding Children Report 2008. A 2003 study for The Children's Society's

national remand review initiative (NRRI),¹⁵ found that no less than half of custodially-remanded children had been involved with social services – a strong indicator of social, family, welfare or safeguarding problems.¹⁶

Children in custody are particularly prone to mental health problems, learning disabilities or learning difficulties. A 2005 study for the Youth Justice Board (YJB) found that 19% of children remanded and sentenced to custody had experience of depression, 8% self-harm, 11% anxiety states, 11% post-traumatic stress disorder, 5% psychotic-like symptoms, 6% hyperactivity and 17% substance misuse. In addition 23% of young offenders have learning difficulties (sic) (IQ below 70) and 36% borderline difficulties (IQ 70-80)¹⁷ – and at least 60% have difficulties with speech, language and communication that adversely affect their ability to participate in certain elements of the custodial regime.¹⁸ The NRRI caseworker found equivalent problems, with many children in custody pending trial distressed, suicidal, self-harming and suffering exacerbated mental health problems.

Two of the children who have committed suicide in custody in recent years were on remand. Gareth Price was remanded in custody accused of rape when he committed suicide in January 2005. Adam Rickwood was subject to court-ordered secure remand for an attempted stabbing when he was fourteen years old. He committed suicide in 2004 after being restrained by staff. Both boys had a history of mental health problems and self-harm.

¹⁵ For the NRRI see footnote 5. The statistics given here are based on the total of 4358 children dealt with by the NRRI.

¹⁶ Over 40% were not living with either natural parent (16% of these were in no fixed abode, 15% in unstable accommodation and 15% in bed and breakfast or hostel places); over 80% of the under-16s were not attending school at the time (nearly 30% having been excluded by the school authorities and 34% being long-term non-attenders); and two thirds of the 16-17 year olds were NEETs (not in education, employment or training)

¹⁷ Harrington, Bailey et al. (2005) *Mental Health Needs and Effectiveness of Provision for Young Offenders in Custody and the Community* (YJB)

¹⁸ Bryan, K. and Mackenzie, J. (2008) *Meeting the speech, language and communication needs of vulnerable young children* (RCSLT)

Geography

The national average rate of child custodial remands conceals large and often inexplicable differences at the local, YOT area, level.¹⁹ On average, 6% of children awaiting trial or sentence receive a custodial remand, but across YOTs, the percentage of custodial remands differs considerably – from 1.4% in Ceredigion to 15.2% in Lambeth.²⁰ The pattern of ‘post code sentencing’ for children has been documented in a YJB report, which suggested that similar crimes attract different sentences according to area/court. The phenomenon of ‘post code remand’ is less researched, though the YJB report²¹ did show that custodial and court-ordered secure remands were relatively more frequent in high custodial sentencing areas, and unconditional bail more prevalent in low custody areas. The gravity score (that is the seriousness of the index offence) of offences attracting unconditional bail was compared: ‘cases where unconditional bail was granted do show a significant difference between high and low custody areas in terms of the mean gravity score: 4.51 in the former compared with 6.02 in the latter’. Studies such as this would suggest that differences in custody rates are often long-standing and reflect different court cultures and attitudes. Low custody rates have been linked to good communication and high levels of trust between the YOT or probation service and the court.

The YJB has established YOT area ‘families’, grouping each area with the nine others most similar by reference to youth crime-related socio-economic factors. All such groupings show large remand variations. For example, in 2006/7 Lambeth remanded 15% of children in custody while Greenwich remanded 7%; Walsall remanded 8% while North Tyneside remanded 3%; and Lancashire remanded 11% while Kent remanded 4%.

Home Counties YOT operations manager:

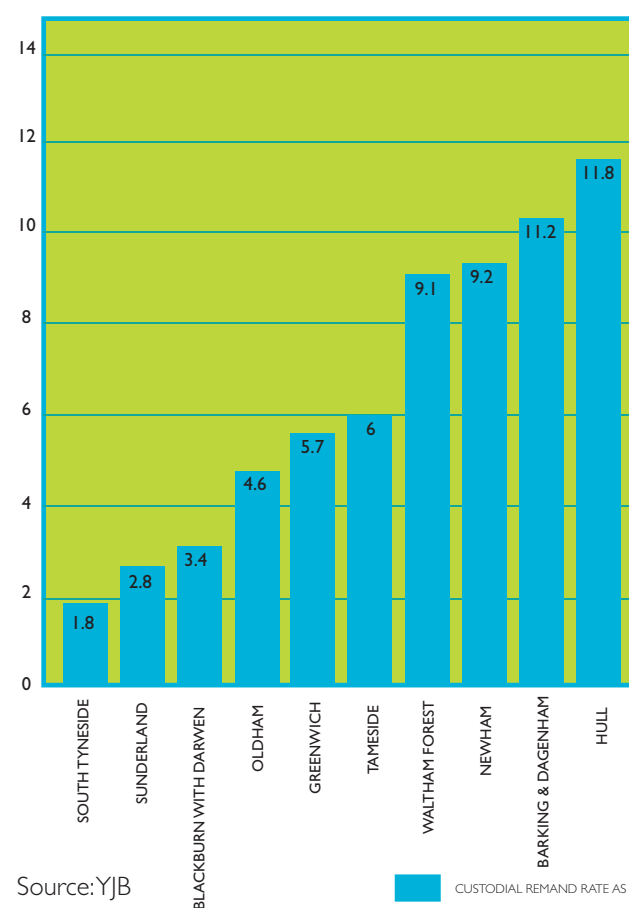
‘There is an inconsistency across different courts. Other courts tend to have a negative view of kids from our area. We are the big town, our kids come to cause trouble in their area etc. For the same case - say an assault in a teenage street fight - our local court would typically look to BSS conditions, another court might insist on ISSP with tagging and a third order remand in custody’.

Two Northern YOT managers:

‘The magistrates and court staff know all our YOT personnel by name and face. This helps our relationship, and helps them trust our recommendations’.

‘There is something missing in our relationship with magistrates. We’ve only been to one training session with them. We asked them for a lot more youth training but it hasn’t happened. Magistrates are supposed to go to youth cases training but the attendance there is very poor’.

Graph 2: Proportion of children awaiting trial/sentence receiving a custodial remand across a group of comparable youth offending teams 2006/7



¹⁹ Analysis based on YJB tables of 2006-07 remand and sentencing decisions by YOT area

²⁰ YJB Annual Workload data 2006/7

²¹ Bateman, T and Stanley, C (2002) *Patterns of sentencing: differential sentencing across England and Wales* (YJB)

As might be expected, there is some correlation between areas of high remand and high custodial sentences but the correlation is not consistent (see table 3 in appendix). There are areas, like Walsall, where remand rates are higher than custodial rates, and others, like Camden, where the opposite is true. This pattern suggests that some of the cultural differences in court attitudes are specific to remand. Perhaps also, regional differences in the availability of good non-secure RLAA and bail packages may affect decision making.

What offences have remanded children been charged with?

A third of children remanded to custody are charged with non-violent offences: of 15-17 year olds remanded in custody in July 2008, 36% were charged with violent or sexual offences, 31% with robbery (which embraces a wide range of behaviour) and 33% with burglary, theft, fraud, drugs, motoring or 'other' offences.²²

In practice custodial remandees charged with non-violent crimes often have repeat offending or bail absconding histories;²³ but the fact remains that a high proportion of children locked up on remand do not pose a real physical threat to others.

Magistrates and district judges conclude that the majority of children subject to custodial remand do not need to be imprisoned on sentence. Three quarters of under-18 year olds who have been subject to court-ordered secure remand or remanded in custody are either acquitted or receive a community sentence in the magistrates' court. This is a much higher proportion than adults – of adults who have been remanded in custody and whose cases are dealt with in the magistrates' courts, a third are either acquitted or receive a community sentence.

Both international and English law suggest imprisonment should be a last resort for children. In their most recent report, the UN Committee on the Rights of the Child expressed concern about the number of children on remand in the UK.²⁵ That three quarters of custodial remands in magistrates' courts are not converted into custodial sentences suggests that the decision to imprison children on remand is often being taken too readily, with inadequate information. In this report we will examine why this is happening.

Table 2: Estimated proportion (%) of 10-17 year olds remanded in custody who were subsequently acquitted, and the proportion who received a non-custodial sentence (A), in magistrates' courts and the crown court, England and Wales 2003-2007²⁴

	2003	2004	2005	2006	2007
Magistrates' courts					
Acquitted(B)	34	31	28	26	24
Non-custodial	42	43	44	45	51
Crown court					
Acquitted(B)	18	16	14	12	14
Non-custodial	26	21	21	18	18

Notes:

A Non-custodial sentences given following a finding of guilt include: discharges, fines, community sentences, fully-suspended sentences and other sentences that do not involve incarceration.

B Acquitted includes proceeding discontinued, discharged, withdrawn and dismissed.

²² Ministry of Justice, Population in Custody Statistics, 31 July 2008

²³ This is based on practitioner experience; the statistics do not detail past records

²⁴ Prepared by OCJR Evidence and Analysis Unit in response to a Parliamentary Question tabled by David Kidney MP 24 November 2008

²⁵ UN Committee on the Rights of the Child forty-ninth session October 2008

THE PROCESSES LEADING TO REMAND

The police station: where things start to go wrong

When a child or teenager is charged with a crime they are interviewed at the police station. They should be accompanied or joined by a family member or an appropriate adult. They should also be strongly encouraged to have a legal advisor present. But, as the system currently stands, some children are not exercising their right to consult privately with a solicitor. If the child is charged, the police must either release them unconditionally, or on police bail, or detain the child overnight. The appropriate adult should support, assist and advise a child detained by the police and ensure they understand their rights. But research published by the Prison Reform Trust's *No One Knows* programme indicates that the input of appropriate adults is not always effective.²⁶

If the police wish to detain an under-17 year old overnight, under Police and Criminal Evidence Act legislation (PACE)²⁷ they should be detained in the care of the local authority in preference to police station cells. In reality this rarely happens. Local authorities so frequently say they cannot provide the accommodation required that police officers have generally given up asking – meaning that the vast majority of children detained by the police are held in their cells.

The risk of the court giving a custodial remand is likely to be increased if a child is detained by the police. One factor is that the child appears in court from the cells, normally accompanied by security guards. This gives signals about the remand decision most appropriate for the court.

YOT officer:

'The problems for some young offenders start right at arrest. If the police don't like you – you have offended before, you've annoyed officers, you come from a 'known' family – you are more likely to be held. This influences remand decisions, court decisions etc.'

The other problem associated with overnight detention is that it creates time pressure on the system. A child who has been given bail will await the next sitting of their local youth court (many, for instance, have a weekly remand day) but a detained child needs to appear in court the next morning or on Monday if detained on Saturday night. So they have to appear before whatever court is available. This may be an adult court, with a bench which has no youth court experience. Prosecution advice may be given by a Crown Prosecution Service representative who also has little youth court experience.

When a child is detained overnight the YOT and defence frequently have only a couple of hours in which to put together and discuss a suitable bail or non-secure RLAA package. Often they don't know a child has been charged until the morning of the court appearance and the YOT and/or defence may have no prior knowledge of the child. With very little time, it is difficult for the YOT to develop a relationship with the child and contact parents, other family members, carers, other YOT staff or children's services to put together the best proposal. Time pressure also makes it difficult for the defence to prepare their plea for bail properly.

²⁶ *No One Knows – police responses to suspects with learning disabilities and learning difficulties: a review of policy and practice* Prison Reform Trust 2008

²⁷ Legislative provision for the 'PACE beds' alternative was made in s.38(6) of the Police and Criminal Evidence Act 1984, and s.21(2) of the Children Act 1989 requires local authorities to provide them in practice. The police are required to transfer unless they certify in the individual case that it was impracticable for specified reasons or that no local authority secure accommodation was available and other accommodation was not adequate to protect the public from serious harm

Saturday and out of area courts

Saturday courts pose a particular problem. A child detained on a Friday must be produced on Saturday but a Saturday court is least likely to have access to defence, CPS, clerk and magistrates with substantial youth experience. In addition there may be no representative of the YOT present.

There are similar problems associated with 'out of area' crimes. If a child is charged and detained in an area far from their home, they will be produced in the court nearest the police station. The YOT there will need to contact the child's home YOT to get information and proposals for bail/RLAA. This information often does not arrive in time, particularly if it is a Saturday court. YJB guidance says that the YOT or social worker in court must be able to get information about the child from their home YOT and communicate with them,²⁸ but in reality the system frequently breaks down. Problems are eased when YOTs make a formal arrangement to work with each other - the four YOTs which service Camberwell Youth Court share a court duty officer for Saturday remand hearings. This court duty officer has access to supporting information and advice from the individual YOTs.

The government suggested in the July 2008 youth crime action plan (YCAP) that YOT officers should be placed in police stations 'so that young offenders can be assessed immediately post arrest and directed to necessary services'.²⁹

In YCAP the emphasis is on YOT officers helping police divert children from the criminal justice system. A number of areas are piloting this scheme, including Lewisham and Greenwich. So far, the pilot has concentrated on low-level and first time offenders, but the model could be adapted to improve the assessment of children the police are considering detaining. If a YOT officer was on site, they could help the police contact family or carers, advise the child on the importance of getting legal representation and start preparing a bail or RLAA package for those whom the police do detain initially.

London defence solicitor:

'On Saturday mornings my local court is staffed by one member of a rota of local borough YOTs. It is nigh on impossible for them to get in contact with another Borough. This is extremely problematic when for example an ISSP could have been part of a bail-support package but can only be assessed by the ISSP worker for that borough. It can result in weekend remands in custody, so that more information can be gathered on the Monday'.

²⁸ YJB standard 2.24

²⁹ Youth Crime Action Plan 2008 1.16

City court and bail officer:

'Weekend courts can be a problem. The magistrates are not youth magistrates and the support mechanisms are not there, e.g. admin staff, legal staff etc. It can be chaotic...a 17 year old was recently arrested. The CPS wanted standard BSS, then a requirement for tagging. Tagging support is not available on Saturday, so he spent another two nights in custody...if the court had the means, he would have been bailed on Saturday.'

Midlands YOT operation manager:

'Courts on Saturday especially are more likely to remand in custody. Magistrates on Saturday are more inexperienced. More often middle aged, middle class, white people, bit out of touch with youth culture, society. Also the quality of solicitors on Saturday is not so high.'

Home Counties town YOT manager:

'Aaron, 17, was charged alongside two adults with burglary in the next county. He appeared in their adult magistrates' court, which had no YOT staff present, and was remanded directly to Feltham with no assessments or vulnerability documents. The first we knew of the case was when contacted by Feltham the next day. We put a bail information report to our court's next weekly hearing. They agreed to bail on BSS, commenting that such a report would have been very helpful originally. Aaron successfully completed bail and received a community sentence.'

The quality of defence representation and of prosecution

Children in the youth justice system are represented by solicitors, barristers or paralegals. Ideally every child should be represented at every stage of the process, but children do not always have representation at the police station while being charged and detained.

In court, children are expected to be represented and are offered the services of a duty solicitor if they appear to have no other. However there are problems with the quality and training of defence representatives. Increasingly, youth cases are being taken on by lawyers with little or no youth court expertise or understanding of how children in trouble differ from adults.

Voluntary sector programme manager:

'Progressively, fewer of the children we work with are being represented in court by youth specialist solicitors. My experience is that they will use local or known solicitors but they are not always a.) able to speak to young people, b.) fully aware of the different laws for young people, or c.) able to get proper information from them due to their misconceptions about young people - especially those who are in trouble, vulnerable, difficult and/or from minority communities. This makes it difficult for them to get fair treatment at either remand or sentence stage.'

The variable quality of the defence available to children affects remand in a number of ways. An inexperienced defence practitioner may fail effectively to promote a particular bail package. Equally, they may lack the skills successfully to appeal a decision to refuse bail. The high numbers of children who are imprisoned on remand, but are subsequently acquitted or receive a community sentence, indicate that the appeals system is not working efficiently.

The Crown Prosecution Service (CPS) makes the decision whether to oppose bail or recommend bail with conditions or non-secure RLAA. Our research with YOT officers revealed concern at the lack of youth expertise of some CPS practitioners (particularly on Saturday) and a consequent increasing propensity for the CPS to oppose bail.

Midlands YOT officer:

'We used to have a very good relationship with the old guard of the CPS. If they wanted a young person remanded in custody, the YOT could often convince them otherwise. Newer generations of CPS want more remands in custody. They are afraid of making mistakes and are target led. The old guard seemed to trust their judgement more.'

Mental health problems, learning disabilities and learning difficulties

Too many vulnerable children with mental health needs and/or learning disabilities or difficulties end up in custodial remand or on unsuitable bail packages. A study by Dr Jo Lipscombe of 46 children who had experienced remand foster-care revealed that a third had mental health needs and/or learning disabilities or difficulties.³⁰ If conditions for bail are too stringent, those with mental health problems, learning disabilities or difficulties may find compliance too difficult and breach them. Also those with learning disabilities or difficulties may find it hard to understand bail conditions.

Detailed information on a child's health issues need to be known to the court when they are making a decision about bail. But this information is frequently not available, or the problem not recognised. Lack of proper health information is a particular problem when a child has been detained by the police and is produced the next day. Screening for a mental health

problem, learning disability or difficulty may not happen until after a child has been remanded into custody, if at all, and, if they are bailed, professional advice focuses on the possible future sentence. In some cases, mental health problems may increase the risk of custodial remand, if those problems are perceived to be contributing to offending behaviour and if the child does not appear to be receiving the help they need. The system does not reflect the importance of these mental health issues, and of learning disabilities or difficulties, to remand decisions and the design of RLAA or bail packages.

A recent inspectorate report on healthcare in the community for those who offend was critical of the lack of health input into bail packages. 'Since the relevant legislation is nearly ten years old, we might expect to see that health workers and health services contribute well to packages of support for people on bail... This was disappointingly not the case in too many areas'.³¹

The Bradley Review highlighted the courts' use of remand to custody as 'prison offers a speedy and reliable 'place of safety' for vulnerable individuals presented at court. Quite often the police, the Probation Service and the courts are unclear what other alternatives are available, and will default to the prison option'.³² To address this concern, the Review highlighted the potential for the introduction of a short interview on arrest to prevent the inappropriate use of remand for those with mental health problems.

³⁰ *Another Side of Life: Foster Care for Young People on Remand*. Youth Justice Vol. 3 No. 1 2003

³¹ *Actions speak louder: a second review of healthcare in the community for young people who offend* Healthcare Commission and HM Inspectorate of Probation, February 2009

³² *The Bradley Report: Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system* Department of Health, April 2009

A pilot diversion project has been funded by the Department of Health, Sainsbury Centre for Mental Health and the Youth Justice Board. Lewisham and five other YOTs nationwide will be putting a child and adolescent mental health service (CAMHS) worker in the police custody suite to contribute at the point of arrest to the mental health, emotional and learning difficulty (LD) aspects of initial YOT assessments.

They will identify any cases suitable for mental health/LD diversion from prosecution, and otherwise advise the police and the YOT on mental health and learning issues relevant to police detention and remand decisions. They will also alert the wider CAMHS service to children likely to require mental health/LD support if sentenced.

The presence of a family member in court

In considering bail options, the court seeks reassurance that a child will be well supervised while on bail – so that they do not commit further offences, breach their bail conditions or fail to turn up for their court appearance. The best person to provide that reassurance is the parent or carer.

The presumption for children is that they will be granted unconditional bail, and live at home while awaiting sentence or trial. But the court wants to know that the home is stable, and that the child is not at high-risk of reoffending in the interim. If the parent or carer does not appear in court, the sentencer has to take the YOT's word about the home circumstances. Even where there is a stable home, this may not be sufficient re-assurance for the court.

In some areas, practitioners find that at least half the children living at home appear in court without their parents. The likelihood of a parent not appearing at the remand hearing is exacerbated if the child is produced from the police station since they have little time to make arrangements to attend court.

There is no national research on why so few parents appear, but it is clear that further efforts need to be made by police, YOTs and the defence to engage and mediate with parents and carers (or where that relationship has completely broken down, with wider family members) and to persuade them of the importance of their presence. Parents of children under 16 are required by law to attend court 'unless the court is satisfied that it would be unreasonable to require their attendance'³³ but this legislation is not enforced.

Midlands city court and bail officer:

'Even simple things like having your parents around can make all the difference to your chances of getting bail'.

London youth court chair:

'Peter and Jack were brothers jointly charged with an attack on a neighbour in east London. Their mother managed to have Peter housed at her parents in Liverpool, and the court bailed him to that address. However no family member was able to accommodate Jack in the run-up to the trial. He was therefore remanded into custody'.

³³ Criminal Justice Act 1991 imposes duty subject to caveat cited in Children and Young Person's Act 1933

In Harrow parents are seen as crucial in making bail successful.

YOT officer:

'There is often a need to provide support for parents, as it can be tough for them too and often parenting can be inadequate. We now offer home visits and specific parenting schemes as part of bail packages. Sometimes it is hard for the child to know what the boundaries of behaviour are, or what is expected of them. We can draw up a behaviour contract that states what expectations are, from major things like curfew hours to day-to-day stuff like who does the washing up.'

London youth court chair:

'Too often the bench's only involvement with local authority services is the presence in court of a 'caseworker' accompanying a looked-after child defendant. Generally, this is in reality an escort with very little knowledge of the young person. In court the caseworker is typically silent, passive, and shows through body language a total lack of involvement with the young person. Their lack of briefing, knowledge or involvement with the defendant offers the bench little confidence in the local authority's wider powers of supervision. Not only does this affect the bail decision for the young person in court but it also spills over into the bench's perception of local authority bail placements in general, making them quite often unsuitable options.'

Magistrate:

'There was this 15 year old and he'd attacked a worker in the care home where he was. We remanded him into custody for a short while before the case because the local authority wouldn't take him anymore and they couldn't find secure accommodation for him - he was already in care. And I can't remember where we ended up with him. I have a feeling he ended up in custody. There wasn't anywhere else that he could go at the time.'

Looked after children

29% of boys and 44% of girls remanded in custody have at some stage been 'looked after' - a strong indicator of social, family, welfare or safeguarding problems. For the purpose of a court hearing, the local authority's children's services department have parental responsibility for looked-after children.³⁴

In taking remand decisions, courts need the benefit of their knowledge of the looked-after child, their views on what has gone wrong and their advice - through or in conjunction with the YOT - on how their care or supervision could be changed to help make unconditional bail or a bail package viable. Yet often, children's services offer no advice to the YOT or the court until after a remand decision has been taken, sometimes even as a matter of deliberate local policy. It is one of the greatest complaints of magistrates and district judges that looked-after children are practically never accompanied by their key social worker. Instead they have a foster carer or a general representative of children's services with them - someone not responsible for decisions about the care of the child.

³⁴ Safeguarding Children – the Third Joint Inspector's Report on Arrangements to Safeguard Children, 2008

Cambridgeshire social care department and YOT share a regularly-reviewed joint working protocol designed to clarify respective roles and responsibilities when children (looked after and otherwise) are in trouble with the law. It emphasises the need to balance care and control, and for joint work to support young people and their families and tackle risk factors including offending. When a child is due in court on a new charge or for bail breach, the YOT court officer is able immediately to liaise with the child's existing social worker or, if none exists, a social work duty officer.

The latter considers likely remand options, including RLAA, with the head of social care, and either attends court to advise them direct on what social care could do or gives the YOT officer a written or oral report for use in court and stands ready to give telephone advice if new issues arise in court.

Accommodation

Accommodation is one of the greatest problems facing YOTs and courts in relation to remand. Unavailability of a suitable bail or RLAA address is not a criterion for refusing bail but in practice concerns about lack of suitable accommodation underpin many custodial remand decisions. In *Youth Justice: The Next Steps 2003*, the government said it would like to consider 'how to develop community bail hostels for young people in major cities'. But this idea was not pursued and in 2005 it was estimated by the YJB that 1,000 children were locked up on remand because they had accommodation problems.³⁵ Since then there has been no shift in central or local government policy.³⁶

Many older teenagers in trouble with the law - 16, 17 and sometimes even 15 year olds - no longer have settled homes. Among the national remand review initiative (NRRRI)³⁷ findings were that over 40% of children remanded in custody were not living with either natural parent. Many have been thrown out from, or refused to stay in, family homes following serious conflict with parents or step-parents, and end up 'sofa-surfing' in risky places. More recently, in some areas foreign national child migrants who have lost or been separated from their parents abroad are arrested for offences here and will not say where they live, do not have anywhere to live or prove to be living with unsuitable and exploitative adults. Both these groups are at high-risk of custodial remand because it is the only accommodation immediately available pending their trial.

London solicitor:

'Social services are unlikely to care for anyone who shows up from outside the area – particularly foreign national children. You have foreign national juveniles remanded'.

London youth court chair:

'Ryan, a 16 year-old from east London, was charged with carrying a bladed article discovered during a search for cannabis. He was living on his own in a local authority flat found by his social worker after he had fallen out with his mother and her current partner. Because he lived alone with no one supervising him, the court felt unable to grant him bail and he was remanded into custody'.

³⁵ <http://www.communities.gov.uk/youthhomelessness/widerneeds/offenders/bail>

³⁶ This accommodation shortage has most recently been highlighted in the interim evaluation report on the Local Government Association/ Howard League for Penal Reform *Children in Trouble* project (National Foundation for Educational Research, 23rd October 2008). The project is piloting accommodation support workers in 3 areas for, amongst others, children at risk of remand in custody. It is being hampered by the absolute shortage of places for young people and providers' reluctance to accept those with a history of offending behaviour or without regular benefits income.

³⁷ Moore, S. & Peters, E. (2003) *A Beacon of Hope: Children and Young People on Remand: Final Report of the National Remand Review Initiative* The Children's Society

Midlands bail officer:

'We can remand to local authority care but this is often problematic. Fostering places are often full, and other emergency accommodation is in b&bs. These are usually inadequate – we do not know who is staying there; often other residents have committed serious offences or are a danger to vulnerable children. They do not represent a supportive environment for young people... The politics of this are so entrenched. It is not in certain boroughs' interests to have bail hostels'.

South West YOT operational manager:

'We use non-specialist hostel accommodation including YMCA. But both YMCA and the local Foyer have been known to evict young people because they are on bail'.

North East YOT manager:

'Local housing provision won't allow itself to be used as a bail house. One of the conditions of the local hostel is that people potentially staying there must be interviewed face to face. There is a catch-22 situation of young offenders not being able to get out of remand without a place in accommodation like this secured, but not being able to secure this place on remand. The main bail hostel also used by adults takes sex offenders, so it is inappropriate to place young offenders there too'.

Central London bail and remand officer:

'There is a need for intensive fostering to address accommodation issues... There was a 16 year old who kept stealing bikes. No violent offences, never any particularly serious offences. However he continually reoffended. There were welfare issues at home. The court went with intensive fostering which took him away from his friends and family... This worked out very well for him. In a more stable environment, without bad influences, he stopped offending'.



Where a court would like to keep a child in the community but are concerned about the suitability of the child's current accommodation, they have two options:

1 Remand the child to non-secure local authority accommodation (RLAA). This automatically involves the child being looked after by their authority and committing to help the child attend court. However RLAA does not necessarily involve finding the child new, more suitable accommodation. If the local authority chooses, they can leave the child living at home. Magistrates have told us that if the child lives with their family, children's services usually opt to leave them at home. Given that courts use non-secure RLAA because they are concerned about the child's home circumstances, they will often be unhappy to learn or be told that a child subject to RLAA will still be at home/in a bed and breakfast/in a lightly-supervised hostel. In these circumstances many courts opt for court-ordered secure remand instead. It seems likely that the decline in the use of RLAA is connected with the lack of specialist accommodation associated with it.

2 Use sections 17 and 20 of the Children Act 1989 to encourage local authorities to provide accommodation for children in need of it. Under Section 17, local authorities are responsible for safeguarding and promoting the welfare of children in their area and are required to provide an appropriate range of services for children in need. Under the Children Act, a child faced with the prospect of being imprisoned because their home address is not deemed suitable, would meet the definition of a child in need, and under Section 20 it is the duty of every local authority to make accommodation available for these children.

The Howard League for Penal Reform has pioneered the use of Section 20 for children who have inadequate accommodation on release from prison but the legislation is equally applicable to remandees. Through test cases taken by the Howard League for Penal Reform, the courts have clarified that the accommodation provided under Section 20 must meet certain criteria – unsupervised bed and breakfast do not.

The routine placement of under-18 year olds on bail in bed and breakfast accommodation has been recognised as a problem but as yet no mechanism has been found to stop it happening. The YJB wishes to have such placements phased out³⁸ and government guidance makes it clear that they should only be used as a last resort. However, there is some evidence of a substantial increase in the use of bed and breakfasts³⁹ at the beginning of the century and our research with YOT officers suggests use is still common.

Children's services in Hampshire – the shire county, Portsmouth and Southampton - and the Isle of Wight - jointly fund 10 remand foster places provided by the charity Action for Children. Seven of the places have to be available at any one time for overnight remand (PACE) cases - for children required to appear in court the morning after charge because the police detained the child overnight. All the foster carers are trained to look after young people in trouble with the law and aim to help the children improve their behaviour. Foster placements can be used under either remand to local authority accommodation or on bail. These remand fostering placements were used for 17 year olds on bail but their use has now been restricted to those 16 and under.

Evaluation of this programme shows that 76% did not offend on their placement and all the young people were engaged in school, training or employment by the time they left the placement. A child who had experienced remand foster care said: 'It made me think about my offending a lot. It made me think well I was out of order, I was bang out of order. ...I realised that I was a b**d for what I done and I realised there is people like S (remand foster carer) that are willing to give you a chance...and get you away from that life'.

As quoted in a presentation by Action for Children, PRT Seminar 15th January 2009

³⁸ YJB, (2006) *Suitable, sustainable, supported: a strategy to ensure provision of accommodation for children and young people who offend*

³⁹ YJB, (2002) *Housing Needs and Experiences*

The problem of accommodation is particularly acute for 17 year olds, given that RLAA, however imperfect, is not an option for them and few courts use the Children Act 1989 to impel local authorities to provide suitable accommodation for children.

If courts are to be confident in their decision to give bail or use non-secure RLAA, they want to know that the accommodation is stable, well-supervised and does not house unsuitable peers or adults. This is not often the case but there are a few beacons of good practice around the country.

Birmingham Youth Offending Service commissions a ring-fenced bed space from the St Basils charity specifically for short-term use to prevent young people being remanded into custody unnecessarily. A fixed annual fee covers the costs of keeping the space free and the rapid intensive support often required when someone needs the space.

Young people typically stay a few days while staff work with them to identify longer-term accommodation – including elsewhere with the charity or return to the family home with mediation and support. In the initial pilot period this single reserved bed space reduced the numbers of young people taken into custody by 78%.

<http://www.communities.gov.uk/youthhomelessness/widerneeds/offenders/bail/casestudy4/>

The root of the accommodation problem: money

When a child is remanded in custody, central government (via the YJB) pays for all their costs. When a child is subject to a court-ordered secure remand, the local authority pays one third and central government two thirds. When a child gets conditional bail or non-secure RLAA, all the costs are paid from local budgets - the YOT's or children's services. It has been estimated that in the year 2007/8 child custodial remands cost £46,201,000⁴⁰ - which is likely to understate the true costs because it does not count transport, or all the costs of induction and release.

If the local authority uses specialist accommodation, like St Basils or remand fostering, all the costs are borne by them. This means that there is no incentive for local authorities to invest in establishing and running specialist accommodation for those on remand (except the potential saving of one third of the cost of court-ordered secure remand).

There is anecdotal evidence of a decline of remand fostering in some areas of the country. This illustrates how pressure on local authority budgets may have affected specialist remand accommodation. Some areas which had remand beds found demand did not match supply - at times they were empty, or at other times, more were needed than available. Given the expense of maintaining empty beds, many authorities decided to abandon remand fostering. Others have closed down other specialist remand accommodation.

⁴⁰ Commons Hansard – written answers 17.03.09. Question from David Kidney MP

Harbour House was set up in the 1990s and could accommodate seven 16-18 year olds, both young men and young women, who had either been bailed or were under supervision. It was run by the Bournemouth churches housing association and funded from the old probation grants scheme plus contributions from Bournemouth, Poole and Dorset social services and Bournemouth Supporting People. Social services subsequently withdrew their funding because they perceived it as a youth justice facility and not contributing to their service needs.

It worked closely with the original youth justice team and then the YOT to provide accommodation in an emergency or in a planned manner for those who needed high support/high control accommodation, and was very much seen as an alternative to custody. Referrals were only taken from the YOT whose assessments were trusted, and thus young people could be taken in on the basis of a phone call from YOT court duty officers. The regime was very disciplined, especially in the early stages of residence, with a tightly enforced curfew, varied according to individual need. Young people were given strong controls, close support, health needs were assessed and referrals made where necessary, contact was encouraged with families as appropriate, residents were given skills in cooking, money management and independent living, help was given with accessing education, training and employment services. Staffing levels were high, with double cover at night because of the high-risk nature of the young people in residence.

It ceased to function in this way in 2006 when Supporting People withdrew half of their funding support. Their argument was that this was a very expensive facility and the amount of support being given to individuals went beyond that necessary for them to retain accommodation. Pauline Batstone, Bournemouth's YOT manager said: 'The implications of the loss of HH are that some young people have gone into custody who otherwise would have gone to HH, some have not got early-release, and some are 'sofa surfing' etc. who would otherwise have benefited from the regime. It is hard to quantify the impact of the loss but the YOT feel this has been extremely detrimental to young people in Dorset as a whole'.

Our research with YOT staff shows a severe lack of specialist accommodation nationwide, particularly for 17 year olds. Of the 44 officers we polled, none had access to specialist accommodation for 17 year olds on bail. All said that 17 year olds were accommodated in bed and breakfast accommodation or in hostels. Most did not have specialist accommodation for those aged 16 and under; where available they used mainstream foster care or children's homes. A third of our sample said accommodation issues were a key driver in increasing custodial remands. Two thirds of those polled felt that if local authorities paid the full cost of remand in custody and court-ordered secure remand, custodial remands would fall.

Team manager Northern YOT:

'I know there are occasions when social care feel a secure welfare order to be appropriate, however due to the cost, they allow a young person to continue to behave in such a way that he/she is eventually remanded in custody'.

Nationally, there is a need for emergency bail/ RLAA accommodation and bail accommodation that can be used throughout the period children are awaiting sentence or trial. Emergency beds are needed to accommodate children detained by the police, or for whom a bail package is not yet ready.

London YOT officer:

'Instead of remand in custody when young people are produced at short notice, I would like to see some kind of assessment centre/halfway house they could be bailed to, to allow an assessment to be completed'.

Other specialist accommodation is needed for those who cannot stay at home or with relatives while on bail or RLAA. Bed and breakfast accommodation and hostels with little supervision are not suitable for under-18 year olds, given their general vulnerability and risk of re-offending.

Bail support and supervision

In our survey of 44 YOT officers, breach of bail conditions or reoffending while on bail was cited as the most important driver to custodial remands. Unpublished YJB figures indicate that at least a tenth of children are locked up on remand for this reason. Most of these have simply breached their bail conditions, not reoffended.

Courts have substantial powers to resort to custodial remands when bail conditions are breached, even if the original offence is non-imprisonable. Unfortunately, teenagers often don't understand their bail conditions, or find them over-stringent, and find it difficult to comply. Teenagers on bail are also frequently living in circumstances which are unlikely to help prevent them reoffending. There are no up-to-date statistics on the numbers of children who reoffend while on bail but previous research indicates that the level can be high.⁴¹

Teenagers who are not in full-time education, training or work (NEETs), and/or are regularly out late at night with groups of friends, are particularly at risk of offending on bail. The 2003 study conducted for The Children's Society's NRR1 reported that over 80% of under-16s remanded in custody were not attending school and two thirds of 16 and 17 year olds were NEETs. Accommodation difficulties can also put children at a higher risk of reoffending. An under-18 year old placed in a bed and breakfast or in a hostel may have little or no adult supervision at night and be surrounded by unsuitable peers.

Home Counties bail and remand officer.

'Three visits a week (on BSS) is fine, but kids do get bored. The most important thing we need is a project to keep them engaged during the day. It would give them something positive to do, something planned in their lives. Even if it is only a few hours a week it would be more productive than hanging around with their mates.'

The Wessex YOT includes a dedicated Connexions service team operating on the same site, with close daily working links with mainstream YOT staff. For children awaiting trial this team is able to start immediate work providing advice on, and help with, securing education, training and work placements. This is accepted by the courts as a constructive use of bail, enables the children concerned to start piecing their lives together without awaiting conviction and sentence and provides a basis for subsequent community sentence packages.

⁴¹ 35% of those on unsupported bail, 58% of those on RLAA Brown D (1998) *Offending on Bail and Police Use of Conditional Bail*, Research Findings 72, London: Home Office Research, Development and Statistics Directorate

Children spend too long on remand

The average length of custodial remands is over a month, with some crown court cases running to many months. Given that the majority of children on custodial remand have pleaded innocent and most of those dealt with in the magistrates' court are eventually acquitted or given a community sentence, the length of time children spend on custodial remand is too long.

Exercising the right to plead not guilty lengthens custodial remands, because of the time the prosecution and defence need to prepare for trial. The government has paid much attention to speeding up justice, but with largely incidental effects on child custodial remands. There are statutory custody time limits⁴² but these set a 'floor' rather than a performance norm, exclude pre-court, trial and sentencing time, and are extendable at special request by the prosecution.

Average case lengths are monitored – 78 days from offence to completion in June 2008 – but without distinction by type of plea or remand and only in the youth courts. They exclude children tried in the crown court and as co-defendants in adult magistrates' courts.⁴³ For some years, 'persistent young offenders' were fast-tracked by courts and other services to achieve the government's 'PYO Pledge' arrest to sentence target; but the 56 days achieved by April-June 2008 concealed great variations, with lower court cases averaging 46 days (guilty plea and contested cases together) and crown court cases taking 201 days i.e. on average over 6 months.

Home Counties bail and remand officer:

'Being co-accused with an adult can slow down the judicial process for young people. We had a 17 year old accused with an adult of assault with a weapon. He was initially on remand in custody, and we were able to bail him only when the alleged victim moved out of the area. If they had stayed he could have spent up to year in custody.'

Under the government's *Simple, Speedy Summary Justice* initiative,⁴⁴ currently being introduced, Crown Prosecution Service (CPS) lawyers will aim to make prosecution evidence available by 8am on the day of first hearing in the lower courts. Early practitioner experience suggests it is shortening cases by prompting more initial guilty pleas and enabling earlier dates to be set for contested trials. In the crown court a package of case management improvements is intended over time to lead to most cases being commenced and dealt with within 16 weeks. These measures should reduce the length and to some extent the frequency of custodial remands; but again as a variable, indirect result of measures directed to secure quicker outcomes.



⁴² 56 days to the start of youth court trial, 70 days to committal to the crown court and a further 112 days to crown court trial – (Custody Limits, Crown Prosecution Service website)

⁴³ *Ministry of Justice Time Intervals Survey*, June 2008.

⁴⁴ *Delivering Simple, Speedy, Summary Justice*, Home Office, Department for Constitutional Affairs and Attorney-General's Office, July 2006.

CONCLUSION

The number of children locked up on remand has increased much more than the number sentenced to custody but this increase has had little public or parliamentary scrutiny. It is almost as if remand has been put in the too difficult box, to be left to practitioners to deal with.

The lack of governmental focus is reflected in recent publications. The only mention of remand in the Youth Crime Action Plan is a reference to the financing of court-ordered secure remands. The Criminal Justice and Immigration Act 2008 only reference to bail is a change in the circumstances in which electronic monitoring (tagging) can be imposed and an allowance for time spent tagged when deciding a custodial sentence. The government has made no progress on removing the legal discrimination facing 17 year olds despite committing to do this five years ago. There has been no major government sponsored research on child remands and some crucial data is uncollected or not in the public domain.

Despite difficulties in finding some information, the Prison Reform Trust has identified the main drivers for the high rate of child custodial remands and suggested many ways in which we could avoid children being locked up on remand. Various practical changes could reduce unnecessary use of custodial remands – better training and guidance for custody sergeants, better YOT representation in Saturday courts, more remand fostering places – but ultimately the greatest difference would be made by a change in primary legislation. While the criteria for the refusal of bail remain broadly the same for children as adults, courts will always have wide discretion to lock children up on remand. And new legislation over the last ten years has given courts greater discretion to imprison children on remand. Now is the time for the government to review bail law and practise and ensure that thousands of children every year do not continue to be unnecessarily imprisoned.

12 point action plan

1 Change bail law so that the legal criteria for refusing bail to children are stricter

These criteria should be significantly different to those used for adults and address child characteristics and vulnerability. The Bail Act 1976 sets the criteria for refusing bail and most criteria are the same for adults and children. No account is taken of children's greater vulnerability, lesser maturity or their welfare needs. A major reform of bail for children is needed so that it is no longer possible to refuse bail to children who have been accused of a non-violent offence and who do not pose a clear threat of committing a violent offence while on bail.

*Action by: Ministry of Justice (Moj)/DCSF
/Department for Children Schools and Families (DCSF)*

2 Change legislation so 17 year olds are treated comparably to other children, in particular with access to suitable community remand accommodation and to emergency accommodation in place of police detention.

Legislation affecting child remands discriminates against 17 year olds. If the police detain a 17 year old overnight, they have no legal access to emergency accommodation in the community, unlike those aged 16 and under. If refused bail, 17 year olds are treated the same as adults by being automatically remanded to custody. By contrast a 15 or 16 year old has a chance of being remanded to local authority accommodation.

This difference in the treatment of 17 year olds contravenes the UN Convention on the Rights of the Child and contributes to a disproportionate number of 17 year olds being locked up on remand - 17 year olds get half of all custodial remands given to children though they make up less than a third of those on remand (awaiting trial or sentence).

Action by: Moj/DCSF

3 Address justice by geography

There are huge differences in the use of remand from area to area. In 2006/7, 15% of those from Lambeth awaiting trial or sentence were locked up, whereas in Ceredigion 1% were. The level of serious crime in an area explains some of the difference, but far from all - even similar areas' rates vary widely. The government and the Youth Justice Board (YJB) should focus on areas with particularly high remand rates, analysing the drivers to high remand and the proportion of custodially remanded children who are acquitted or get a community sentence. The YJB, Crown Prosecution Service, the Judicial Studies Board and HM Courts Service should offer support and training to youth offending team (YOT) practitioners, prosecutors and magistrates in those areas.

Action by: MoJ/DCSF, Youth Justice Board (YJB), Crown Prosecution Service, sentencers, Judicial Studies Board, Her Majesty's Courts Service

4 Provide incentives for local authorities to reduce custodial remands

Local authorities can make a huge difference to whether a court resorts to a custodial remand. If the court trusts the local authority to support a child remanded to non-secure local authority accommodation, or if the court is assured that a 17 year old has well supervised accommodation in which to live while on bail, it will be more inclined to avoid a custodial remand. There are no financial and few other incentives for local authorities to invest in accommodation or services for those on bail/non-secure remand to local authority accommodation (RLAA). Two measures would change this situation:

- Delegate the budget for court-ordered secure remand and for remand in custody to local authorities
- Introduce a national indicator for reducing the number of children subject to court-ordered secure remand (COSR) and remand in custody.

Action by: MoJ/DCSF, YJB, local authorities

5 Improve the way defendants are dealt with by the police

Police have the power to bail or detain children they have charged prior to their appearing in court. If they detain a child under

17 overnight, emergency accommodation (a 'PACE' bed) should be provided by the local authority but in reality it is rarely asked for and even more rarely provided. Children are sometimes detained without having seen a defence solicitor or practitioner. Police detention is in effect a custodial remand and also puts huge time pressure on the system, since a detained child must be produced in court the next morning and court decisions on bail or remand made then. The police should inform the YOT as soon as they expect to charge a child. They should also be trained to assess risk so that detention is only used when absolutely necessary and no child should be detained unless they have met with a legal representative. If overnight detention is considered necessary, a PACE bed should be provided. The youth crime action plan suggestion of having YOT officers in police stations to help divert minor offenders from the criminal justice process is a good one but they should also be used to help divert children from police detention and to prepare court bail packages.

Action by: the police, local authorities, youth offending teams, YJB.

6 Reduce the time pressure in court

When a child is detained by the police, they must be produced in court the next possible day (Monday for those detained on Saturday), even if the bench sitting has no youth court experience or training. These children are the most at risk of being locked up on remand, yet practitioners have least time to prepare a bail/RLAA package for them.

In order to prevent unnecessary custodial remands, the YOT should start work on bail options on the day or evening of charge. If, despite this, they are not ready when the child is due in the courtroom, the court must allow the YOT and defence lawyers at least half a day to gather information and to discuss the situation with the CPS. If the detail of a bail/RLAA package does not sufficiently satisfy the court, for instance, if more information is needed, the child should be bailed or detained in an emergency local authority bed overnight. Custodial remand should not be used to buy time until the court obtains further information about the child or their circumstances or until a new bail/RLAA package is ready to be presented

to the court.

Action by: the police, local authorities, YOTs, sentencers

7 Prevent 'remands of convenience' by Saturday courts

If a child is detained by the police on Friday, they must be produced in front of the court on Saturday. In a Saturday court the odds are stacked against community remand:

- The bench is frequently an adult bench with no youth court experience
- The youth offending team officer may not be in court and if they are, may have great difficulties in getting the information needed for a robust bail/RLAA package
- The CPS and defence may have little youth court experience
- The child may live in a different area to that of the court. Even on a weekday it may be difficult to contact their 'home' YOT. On a Saturday this is doubly difficult.

YOT officers we polled said Saturday courts were one of the key drivers to custodial remands, for all the above reasons. In order to reduce the discrimination suffered by those who appear in a Saturday court, the police should be encouraged to detain as few young people as possible, and the information available to Saturday courts improved.

Action by: the police, YOTs, HMCS, sentencers

8 Improve the training of magistrates, district judges and defence practitioners

A youth court magistrate gets just a couple of hours' training in child remand law and no training in the UN Convention on the Rights of the Child. A magistrate who sits in the adult court may have had no specific training in youth legislation, but still have to make a bail decision about a child.

It should be mandatory for all sentencers to be trained in detail about the range of child bail support and RLAA options; and for youth court magistrates to learn how the Children Act 1989 can be used to get local authorities to provide suitable housing for young people.

Magistrates and district judges also need more training in assessing risk, particularly in the case of children who have breached bail conditions or re-offended while on bail. If three quarters of young people who get custodial remands in the magistrates' court do not get custodial sentences, the initial assessment of the risk they posed in the community must frequently be inaccurate.

Action by: Judicial Studies Board, sentencers

Children are frequently represented by solicitors or junior barristers who have little experience of working with vulnerable children and/or of defending in the youth court. Children at risk of being locked up on remand need to be defended by experienced practitioners who understand both youth justice and childcare law, and can competently oppose an inappropriate proposal for refusing bail. All solicitors and barristers who defend children need enhanced training in the relevant law. As with the family courts, there should be a panel of solicitors who specialise in youth court matters or solicitor's firms should be accredited for child defence work.

Action by: MoJ/DCSF, Legal Services Commission, the Law Society

9 Improve the system for defendants with mental health problems, learning disabilities or learning difficulties

Children who have mental health problems, learning disabilities or difficulties often find it hard to understand and cope with the criminal justice system. A comprehensive system for screening children for such needs at the police station and at court needs to be developed.

Clear guidance should be issued on how to deal with those with mental health problems, learning disabilities or difficulties at charge, remand consideration and trial stage. Bail packages need to be adapted to accommodate children with these needs. Clarification on diversion from the criminal justice system for such children is urgently required; the use of custodial remand is inappropriate.

Action by: MoJ/DCSF, Department of Health, YJB, JCB, Sentencing Guidelines Council, YOTs, the police

10 *Engage parents better in the court and bail process*

The support of parents is an important factor in reassuring the court that a child on bail will be well supervised. A supportive parent in court can be pivotal in preventing a custodial remand. But legislation mandating the appearance of parents in court is not enforced and anecdotal evidence suggests many children are not accompanied by their parents.

Punitive approaches will not improve the situation, but youth offending teams and police must make strenuous efforts on the day of charge to contact parents (or failing them a wider family member), and persuade them of the importance of attending court. Where there is a risk of custodial remand, courts should adjourn remand decisions to allow more time for parents to be contacted and persuaded to attend court.

Action by: YOTS, the police, the courts

11 *Reduce the disproportionate number of black children locked up on remand*

Black under-18 year olds are far more likely to receive a custodial remand than their white or Asian peers. There is very little research on why this is, but is likely to be related to social and cultural factors. The propensity of courts to use custodial remand in the case of foreign national children with no known address may also contribute to the numbers.

The drivers to high custodial remand for black children need to be identified in research and appropriate steps taken to prevent discriminatory practice. YOT areas where there are a disproportionate number of black children in remand should consider commissioning culturally-based bail support packages using community workers, mentors and mental health workers with a good understanding of local black communities. For minority ethnic children for whom English is not their first language, translation services should be made readily available.

Action by: Youth Justice Board, YOTs, MoJ/DCSF

12 *Improve bail supervision*

Our survey of youth offending team officers revealed that offending while on bail and breaching bail conditions are key drivers to custodial remands. Steps must be taken to ensure that, when bail conditions are set, children are not being set up to fail. Young children, and those with family and/or health problems, may find it very difficult to comply with stringent bail conditions. Courts need to set bail conditions which suit the individual child. The present bail 'menu of options' is insufficiently flexible and needs to be revised.

Other measures need to be taken to reduce offending while on bail. Children living in bed & breakfast or hostel accommodation, who are not in education or training, are particularly liable to reoffend while on bail. Such children need better supervision during the day and in the evening.

Action by: MoJ/DCSF, YJB, YOTs, local authorities



APPENDIX I: Sources

I In addition to reviewing existing data and relevant reports/articles, Simon Hickson, co-author of the paper, interviewed selected key stakeholders, about the drivers to child custodial remands and their views on how the latter could be reduced. These interviews were conducted in Summer and Autumn 2008.

- Sally Averill - CPS senior policy adviser
- Tim Bateman - Nacro youth crime section
- Jennifer Bracher - Thames Youth Court team legal manager
- Catherine Bradd - solicitor
- Ian Carter - ACPO CYP team and Essex police
- Julia Carter - Thames Youth Court chair
- David Chater - Rainer Crime Concern
- John Coughlan - Hampshire children's services director
- Steve Crocker - Wessex YOT manager
- Mary Duff JP - Magistrates' Association Youth Courts Committee Chair
- Clive Grimshaw - Local Government Association
- Rakesh Gupta - YJB
- Lorna Hadley - Newham YOT manager
- Elizabeth Lovell - The Children's Society policy adviser
- Bill Kerslake - YJB
- Lorraine Khan - Sainsbury Centre for Mental Health
- Geoff Monaghan - Nacro youth crime section
- Sharon Moore - Staffordshire YOT manager
- Ann Nkune - Lewisham YOT manager
- Barbara Russell - Action for Children fostering service manager
- Andy Shorrocks - Magistrates Association YC committee
- Melanie Stooks - solicitor
- Chris Stanley - formerly Nacro youth crime head
- Chris Stevens - YJB
- Emma Sutton - Feltham YOI offender supervision manager
- Ann Tolaini - Bristol Right Track manager, The Children's Society

2 PRT held a roundtable discussion on remand on Monday 21 April 2008. The following delegates participated and the minutes of the round-table have informed this report:

- Catherine Bradd - solicitor
- Julia Carter - Thames Youth Court chair
- Gill Clark - West Sussex YOT
- Kathy Evans - The Children's Society
- Maureen Foster - HMP Feltham
- Penelope Gibbs - Prison Reform Trust (facilitator)
- Clive Grimshaw - LGA
- Lorna Hadley - Newham YOT
- Geoffrey Monaghan - Nacro
- Laura Padoan - Rainer Crime Concern
- John Plummer - East Potential
- Barbara Russell - NCH
- Andy Shorrocks - Magistrates Association youth court committee
- Claire Sims - G4S Care and Justice services
- Emma Sutton - HMP Feltham
- Melanie Stooks - solicitor

3 Will de Freitas, PRT researcher, conducted telephone interviews with YOT staff from the following areas:

- Birmingham
- Camden
- Cumbria
- Derbyshire
- Greenwich
- Hammersmith
- Harrow
- Hull
- Kent
- Lambeth
- Leicestershire
- Luton
- Manchester
- Peterborough
- Sefton (Merseyside)
- Windsor

4 PRT held a follow-up seminar on remand on 15 January 2009. This was attended by approximately 60 YOT staff from across England and Wales, all of whom were asked to complete a survey about custodial remands and how to reduce unnecessary use. The survey and results follow.

APPENDIX 2: A recent history of remand

1969 Children and Young Persons Act

Set up system whereby refusal of bail for under-17 year olds led automatically to a remand to the care of the local authority. The court could only remand into custody or secure accommodation in rare circumstances without an application (for a secure accommodation order) or a written report (for a certificate of unruly character) from the local authority. If a child was subject to a secure accommodation order, they were placed in a secure children's home. Children who had certificates for unruly behaviour could be detained in remand centres or in prison.

1976 Bail Act

Set criteria for refusing bail.

1991 Criminal Justice Act

Replaced remand to local authority care with remand to local authority accommodation for under-17 year olds and that has remained the default outcome when bail is refused. This Act also abolished custodial remands for those aged 16 and under altogether, but this aspect was never implemented. Instead, temporary provisions allowed 15 and 16 year old boys to be remanded in custody and those provisions stuck. The Act abolished unruly character regulations.

1999 Implementation of changes to bail/remand from Criminal Justice Act 1991, the Criminal Justice and Public Order Act 1994, the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 This introduced a new form of custodial remand – court-ordered secure remand – for 12 girls, 12-14 boys and 15-16 year old boys who were deemed to be vulnerable by their local authority. In recognition of the shift in power from the local authority to the court, the current payment arrangements were introduced – whereby the local authority pays a third of the cost of COSR and central government the rest.

2001 Criminal Justice and Police Act

The Act empowered the courts to refuse bail and impose secure remands on children who have committed repeat offences whilst on bail, irrespective of whether or not such offences are considered to expose the public to serious harm. The 'seriousness threshold' was thereby replaced by a 'nuisance test'¹. The Home Office website reflects contemporary thinking: 'The powers will apply to persistent young offenders who have committed medium level offences such as criminal damage, non domestic burglary, vehicle crime, theft and affray....Implementation of Section 30 closes the loophole in the law that allows persistent young offenders to walk away from court on bail and carry on committing offences'.²

2008 Criminal Justice and Immigration Act

Provides for custodial sentences to be reduced if the child has spent time on bail subject to electronic tagging.

¹ Goldson, B. (2002) *Vulnerable Inside: Children in Secure Penal Settings* The Children's Society

² www.crimereduction.homeoffice.gov.uk/streetcrime/streetcrime04.htm

APPENDIX 3: Prison Reform Trust remand expert seminar survey

**Attendee Survey
Prison Reform Trust Seminar: bail and remand
15 January 2009**

This survey is intended to help us obtain a clearer picture of the use of custodial remand in your area. Please return it to us at the seminar or email your response to

Jolene Tan at jolene.tan@prisonreformtrust.org.uk.

Name: _____
 Role: _____
 Area: _____

1 Apart from the seriousness of the current crime, what are the key drivers to custodial remand (remand in custody or COSR) in your area?

Please rank the following from 1-10, with 1 being the most important and 10 the least important.

Factor	Rank
Age	_____
Ethnicity	_____
Looked after	_____
Parents absent from court /unsupportive	_____
Lack specialist accommodation for those whose home is not deemed suitable	_____
Previous breach of order/conditions	_____
Lack ISSP capacity	_____
Mental, emotional and/or learning problems	_____
Police detain, child in court next morning so lack time to produce bail package	_____
Produced at Saturday court	_____

2 Is there any other key driver?

If YES, please specify: _____
 Where would you rank it? _____

3 Is there specific local authority funded accommodation in your area for under 18s awaiting trial/sentence?

- 4 What sort of accommodation is used?
- 5 What one change would be most effective in reducing custodial remands (remand in custody or COSR)?
- 6 If local authorities had to pay the cost of all custodial remands, would the number of under-18s subject to remand in custody/ COSR reduce?

APPENDIX 4: Remand expert survey responses

1 Apart from the seriousness of the current crime, what are the key drivers to custodial remand (remand in custody or COSR) in your area? Please rank the following from 1-10, with 1 being the most important and 10 the least important.

REMAND DRIVERS

Average rating with ten highest importance

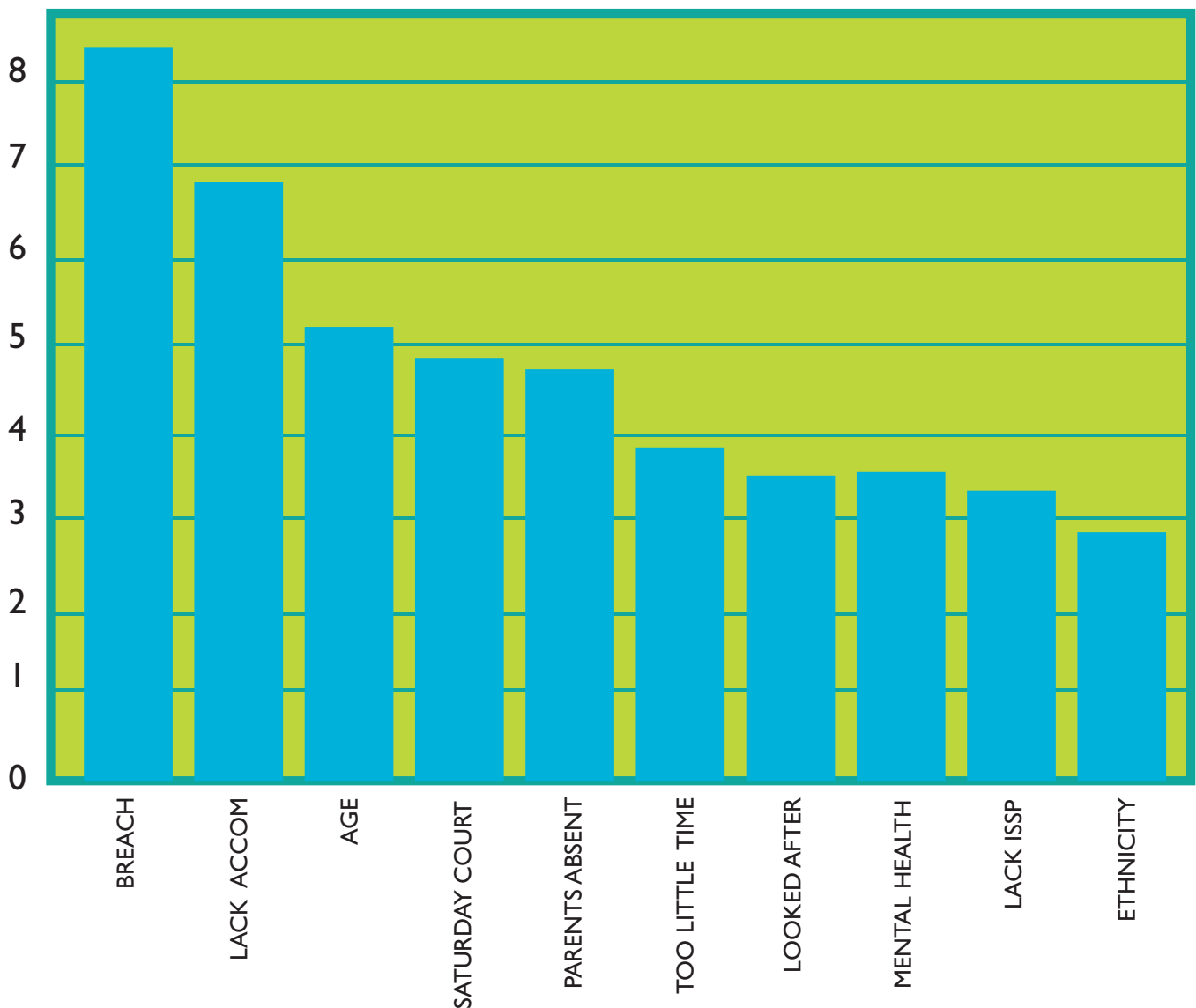
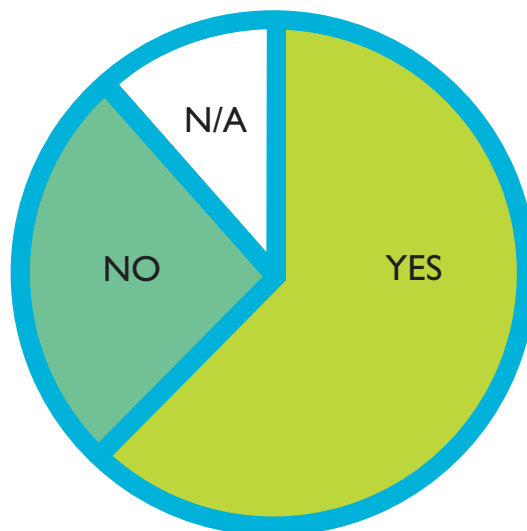


Chart 4

If local authorities had to pay the cost of all custodial remands, would the number of under-18s subject to remand in custody/COSR reduce?



APPENDIX 5:

Average under-18 custodial populations at any one time

	00/01	01/02	02/03	03/04	04/05	05/06	06/07	07/08	% change
Average under-18s in custody	2,807	2,801	3,029	2,771	2,746	2,820	2,915	2,942	+5%
Average remands total	429	508	579	575	569	615	638	606	+41%
Average unconvicted	391	481	559	563	544	571	606	575	+47%
Average convicted awaiting sentence	38	27	19	12	24	45	32	32	-16%
Remands as % of total custody	15%	18%	21%	21%	21%	22%	22%	21%	+35%

Source:YJB

APPENDIX 6: Community remands with interventions, and custodial remands

	00/01	01/02	02/03	03/04	04/05	05/06	06/07	07/08	% change
Tagging	n/a	n/a	224	380	496	725	1,243	n/a	+454%
BSS	n/a	n/a	4,037	4,349	4,350	3,890	3,430	n/a	-15%
ISSP	n/a	n/a	714	1,614	1,915	1,870	1,905	n/a	+125%
RLAA	n/a	n/a	2,613	2,360	1,957	1,655	1,493	n/a	-43%
CUSTODY	n/a	n/a	7,553	7,420	6,969	6,561	6,360	n/a	-16%

Source: YJB Annual Workload Statistics

APPENDIX 7: Remand rates ranked by youth offending team 2006/7

Rank by custodial remand rate	YOT	Custodial remand rate	Custodial disposals rate	Difference	% Variance
1	Lambeth	15.2%	11.9%	+3.4%	+28.5%
2	Southwark	12.9%	10.8%	+2.1%	+19.2%
3	Harrow	11.8%	8.4%	+3.4%	+40.7%
4	Kingston-upon-Hull	11.8%	10.3%	+1.5%	+14.3%
5	Barking and Dagenham	11.2%	9.7%	+1.5%	+15.8%
6	Manchester	11.2%	10.7%	+0.5%	+4.6%
7	Lancashire	11.1%	4.5%	+6.6%	+148.5%
8	Birmingham	10.9%	9.3%	+1.6%	+17.3%
9	North Lincolnshire	10.8%	8.4%	+2.3%	+27.5%
10	Haringey	10.6%	6.9%	+3.7%	+53.9%
11	Tower Hamlets and City of London	10.6%	8.0%	+2.6%	+32.1%
12	Thurrock	10.5%	7.0%	+3.4%	+48.5%
13	Redbridge	10.5%	8.4%	+2.1%	+24.9%
14	Ealing	10.4%	8.1%	+2.4%	+29.2%
15	Barnet	10.0%	11.1%	-1.2%	-10.4%
16	Hackney	9.6%	10.2%	-0.6%	-5.7%
17	Brent	9.4%	8.9%	+0.5%	+5.6%
18	Sheffield	9.3%	7.5%	+1.7%	+22.8%
19	Wandsworth	9.2%	6.0%	+3.3%	+54.7%
20	Newham	9.2%	9.5%	-0.4%	-3.8%
21	Waltham Forest	9.1%	9.0%	+0.1%	+0.6%
22	Lewisham	8.9%	6.4%	+2.5%	+39.5%
23	Merthyr Tydfil	8.9%	18.5%	-9.6%	-51.7%

24	Carmarthenshire	8.8%	6.2%	+2.6%	+41.2%
25	Hammersmith and Fulham	8.5%	6.9%	+1.6%	+23.7%
26	Walsall	8.3%	5.6%	+2.6%	+46.6%
27	Enfield	8.1%	8.5%	-0.3%	-4.0%
28	Sandwell	8.1%	9.8%	-1.8%	-18.0%
29	Reading and Wokingham	8.1%	8.6%	-0.6%	-6.5%
30	Liverpool	8.0%	10.1%	-2.1%	-20.5%
31	Sefton	8.0%	6.8%	+1.2%	+17.3%
32	Wessex	8.0%	6.1%	+1.9%	+30.6%
33	Swansea	7.9%	9.2%	-1.3%	-14.4%
34	Wolverhampton	7.7%	7.8%	-0.0%	-0.1%
35	Leeds	7.7%	10.7%	-2.9%	-27.6%
36	Camden	7.7%	10.8%	-3.2%	-29.3%
37	Bolton	7.6%	5.8%	+1.8%	+30.6%
38	Neath Port Talbot	7.6%	5.7%	+1.9%	+32.5%
39	North East Lincolnshire	7.5%	10.1%	-2.6%	-25.8%
40	Croydon	7.5%	8.9%	-1.4%	-15.6%
41	Nottingham	7.4%	9.3%	-1.9%	-20.5%
42	Brighton and Hove	7.3%	4.5%	+2.9%	+64.3%
43	Salford	7.3%	6.3%	+1.0%	+15.3%
44	Islington	7.2%	4.2%	+3.0%	+72.2%
45	Kensington and Chelsea	7.1%	8.5%	-1.4%	-16.2%
46	Plymouth	7.0%	4.7%	+2.2%	+47.1%
47	Cardiff	7.0%	9.1%	-2.2%	-23.8%
48	Coventry	6.9%	6.7%	+0.1%	+2.2%
49	Bristol	6.9%	5.3%	+1.6%	+30.1%
50	Knowsley	6.8%	5.4%	+1.4%	+26.9%
51	Hounslow	6.7%	5.6%	+1.1%	+19.1%
52	Bradford	6.7%	5.6%	+1.1%	+19.5%
53	Cornwall	6.7%	2.3%	+4.4%	+189.8%
54	Trafford	6.5%	8.7%	-2.2%	-24.9%
55	Bury	6.4%	5.7%	+0.7%	+12.9%
56	Doncaster	6.3%	6.3%	-0.0%	-0.2%
57	Westminster	6.3%	3.9%	+2.4%	+59.8%
58	Cumbria	6.3%	4.1%	+2.2%	+53.2%
59	Pembrokeshire	6.3%	2.0%	+4.3%	+218.8%
60	Total	6.2%	5.9%	+0.3%	+4.4%
61	Derby	6.2%	9.6%	-3.5%	-36.1%
62	Kirklees	6.1%	8.3%	-2.1%	-25.7%
63	Stockton-on-Tees	6.1%	4.6%	+1.6%	+34.1%
64	Gloucestershire	6.1%	6.8%	-0.7%	-10.5%
65	Rotherham	6.0%	5.3%	+0.7%	+13.4%
66	South Tees	6.0%	5.2%	+0.8%	+15.7%
67	Luton	6.0%	6.5%	-0.5%	-7.2%
68	Tameside	6.0%	8.5%	-2.5%	-29.4%
69	Northamptonshire	6.0%	9.6%	-3.6%	-37.8%
70	Havering	5.9%	5.9%	-0.0%	-0.7%
71	Southend-on-Sea	5.8%	8.4%	-2.5%	-30.4%
72	Blaenau, Gwent and Caerphilly	5.8%	6.1%	-0.3%	-5.2%

73	Hillingdon	5.7%	5.7%	+0.0%	+0.9%
74	Greenwich	5.7%	6.5%	-0.9%	-13.1%
75	West Sussex	5.6%	3.8%	+1.8%	+46.6%
76	Bath and North East Somerset	5.6%	4.7%	+0.9%	+19.1%
77	Bracknell Forest	5.6%	7.5%	-1.9%	-25.7%
78	Newport	5.5%	11.1%	-5.5%	-50.0%
79	Leicester City	5.5%	4.7%	+0.8%	+17.3%
80	Bedfordshire	5.5%	6.7%	-1.2%	-18.2%
81	Barnsley	5.4%	6.0%	-0.6%	-9.5%
82	Cheshire	5.4%	5.5%	-0.1%	-1.1%
83	Hartlepool	5.2%	5.0%	+0.2%	+4.9%
84	Bexley	5.2%	8.8%	-3.6%	-41.0%
85	Wakefield	5.2%	4.9%	+0.3%	+6.5%
86	East Riding of Yorkshire	5.0%	3.6%	+1.4%	+38.5%
87	Dudley	4.9%	6.2%	-1.3%	-20.5%
88	Slough	4.9%	7.3%	-2.4%	-33.0%
89	Warwickshire	4.9%	4.1%	+0.7%	+18.1%
90	Derbyshire	4.9%	5.5%	-0.7%	-12.4%
91	Essex	4.8%	5.2%	-0.4%	-6.9%
92	Calderdale	4.8%	5.9%	-1.2%	-19.4%
93	Wirral	4.7%	5.0%	-0.3%	-5.6%
94	Bridgend	4.7%	9.4%	-4.7%	-50.0%
95	York	4.7%	3.9%	+0.8%	+19.2%
96	West Berkshire	4.7%	2.6%	+2.1%	+78.5%
97	North Somerset	4.7%	4.2%	+0.4%	+10.3%
98	East Sussex	4.7%	5.8%	-1.1%	-19.5%
99	Stockport	4.7%	5.0%	-0.4%	-7.6%
100	Oldham	4.6%	8.1%	-3.4%	-42.6%
101	Merton	4.6%	7.9%	-3.3%	-42.1%
102	Flintshire	4.5%	6.3%	-1.8%	-28.1%
103	Halton and Warrington	4.5%	5.4%	-0.9%	-16.9%
104	Devon	4.5%	3.0%	+1.5%	+51.8%
105	Suffolk	4.5%	4.9%	-0.5%	-9.6%
106	Blackpool	4.5%	6.1%	-1.6%	-26.5%
107	Nottinghamshire	4.4%	7.0%	-2.5%	-36.4%
108	Lincolnshire	4.3%	2.1%	+2.2%	+105.6%
109	Wigan	4.3%	6.0%	-1.7%	-28.5%
110	Conwy and Denbighshire	4.3%	4.6%	-0.3%	-6.7%
111	Buckinghamshire	4.3%	5.2%	-0.9%	-18.0%
112	Rhondda Cynon Taff	4.2%	6.5%	-2.3%	-35.6%
113	Wrexham	4.1%	8.1%	-4.0%	-49.1%
114	Surrey	4.1%	3.7%	+0.4%	+11.0%
115	Cambridgeshire	4.1%	4.2%	-0.1%	-2.4%
116	Medway	4.1%	4.1%	+0.0%	+1.0%
117	Rochdale	4.0%	8.6%	-4.6%	-53.5%
118	Hertfordshire	3.9%	3.2%	+0.7%	+20.8%
119	Solihull	3.8%	2.0%	+1.9%	+93.9%
120	Kent	3.8%	4.1%	-0.3%	-6.4%
121	Powys	3.8%	3.0%	+0.8%	+26.0%
122	Sutton	3.7%	5.7%	-2.0%	-35.0%

123	Somerset	3.7%	1.9%	+1.8%	+94.9%
124	Stoke-on-Trent	3.7%	5.8%	-2.1%	-35.7%
125	Bromley	3.7%	5.4%	-1.7%	-31.5%
126	Windsor and Maidenhead	3.7%	8.0%	-4.3%	-54.3%
127	Peterborough	3.6%	9.2%	-5.6%	-60.6%
128	Kingston-upon-Thames	3.6%	2.7%	+0.9%	+33.1%
129	Oxfordshire	3.5%	4.4%	-0.9%	-20.1%
130	Blackburn with Darwen	3.4%	4.2%	-0.8%	-18.7%
131	Darlington	3.3%	2.0%	+1.3%	+68.3%
132	Torbay	3.3%	2.4%	+0.9%	+36.9%
133	Northumberland	3.3%	2.2%	+1.0%	+45.3%
134	Worcestershire and Herefordshire	3.2%	3.7%	-0.5%	-12.9%
135	Bournemouth and Poole	3.2%	2.9%	+0.3%	+10.5%
136	Vale of Glamorgan	3.1%	2.8%	+0.3%	+9.8%
137	North Yorkshire	3.1%	3.5%	-0.4%	-12.5%
138	Gwynedd Mon	3.1%	6.5%	-3.4%	-52.6%
139	Milton Keynes	2.9%	3.9%	-0.9%	-24.3%
140	Durham	2.9%	3.2%	-0.3%	-8.0%
141	Newcastle-upon-Tyne	2.8%	2.1%	+0.8%	+36.7%
142	Sunderland	2.8%	2.8%	+0.0%	+0.1%
143	St. Helens	2.7%	5.1%	-2.4%	-46.7%
144	Leicestershire	2.7%	3.9%	-1.2%	-31.4%
145	Shropshire, Telford and Wrekin	2.7%	3.1%	-0.4%	-13.7%
146	Norfolk	2.6%	2.8%	-0.2%	-6.0%
147	Staffordshire	2.5%	4.2%	-1.7%	-41.0%
148	North Tyneside	2.5%	2.9%	-0.5%	-16.2%
149	Gateshead	2.3%	2.7%	-0.4%	-15.0%
150	Dorset	2.3%	3.2%	-0.9%	-28.3%
151	Monmouthshire and Torfaen	2.2%	2.5%	-0.3%	-13.2%
152	South Gloucestershire	2.0%	2.2%	-0.2%	-7.6%
153	Swindon	1.8%	4.5%	-2.7%	-59.7%
154	South Tyneside	1.8%	2.0%	-0.2%	-9.7%
155	Richmond-upon-Thames	1.7%	1.9%	-0.2%	-11.3%
156	Wiltshire	1.6%	2.6%	-1.0%	-39.7%
157	Ceredigion	1.4%	2.0%	-0.6%	-30.8%

Source: YJB Workload Data 2006/07

**Children: Innocent until proven guilty?
A report on the overuse of remand for
children in England and Wales and how
it can be addressed.**

The child remand population in England and Wales has increased much more than the sentenced prison population but this increase has had little public or parliamentary scrutiny. It is almost as if remand has been put in the too-difficult box, to be left to practitioners to deal with.

Today, children on remand make up one fifth of children in custody in England and Wales and nearly half of all receptions into custody. In the last seven years the number of children locked up on remand has increased by 41%. The UN Convention on the Rights of the Child says that imprisonment of children should be used 'only as a measure of last resort and for the shortest appropriate period of time', but a third of the children locked up on remand have been charged with a non-violent crime, and three quarters are either acquitted or given a community sentence when they come to trial in the magistrates' court.

Something is going very wrong when so many children are unnecessarily locked up on remand. In this report the Prison Reform Trust examines why remand is being over-used for under-18 year olds in England and Wales and suggests practical ways in which the numbers can be reduced.

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