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Submission to MOPAC's consultation on policing and crime in London

Dear Sir or Madam

About us

Founded in 1866, the Howard League is the oldest penal reform charity in the world and has around 12,000 members, including prisoners and their families, lawyers, criminal justice professionals and academics. The Howard League has consultative status with both the United Nations and the Council of Europe. It is an independent charity and accepts no grant funding from the UK government.

The Howard League works for less crime, safer communities and fewer people in prison. It aims to achieve these objectives through conducting and commissioning research, carrying out investigations aimed at revealing underlying problems and discovering new solutions to issues of public concern. Its objectives and principles underlie and inform the charity's parliamentary work, research, legal and participation work as well as its projects.

The Howard League has a legal department that provides front line advice and representation to young people in the criminal justice system aged 21 and under in relation to prison law and public law matters. Where appropriate, the Howard League's legal practice informs its policy and research work within the organisation.

The Howard League welcomes the opportunity to submit expert evidence on MOPAC's policing and crime plan. We have significant expertise in children in conflict with the law, most recently launching a major programme of work to end the criminalisation of looked after children in residential care.

Child arrests

The Howard League has been campaigning for improvements in the policing of children for a number of years. We work with police forces across the country, as well as relevant bodies and stakeholders, to reduce the unnecessary criminalisation of children.

The Howard League has been publishing annual data on the number of child arrests in England and Wales since 2008. The indication in the early years was that there were approximately a third of a million child arrests annually. The latest annual data, obtained and published by the Howard League (2016a), shows that in 2015 there were 101,926 child arrests. Every police force in the country has reduced the number of child arrests, including the Metropolitan police, which has achieved a 52 per cent reduction in child arrests in the last five years.

	2010	2011	2012	2013	2014	2015
No. of child arrests	46,079	39,901	30,155	26,442	23,402	22,328

As gatekeepers to the system, the reduction in child arrests has led to huge reductions in the number of first time entrants to the youth justice system and the number of children in prison. In the last five years, the number of children from London who were first time entrants to the youth justice system reduced by 54 per cent to 3,088 and the number who received a custodial sentence reduced by 50 per cent. The rate of reduction in arrests and custody shows a clear relationship – if we reduce entrants to the system we stem the flow into custody.

Improvements in policing practice mean that thousands of children have not had their life chances blighted. The majority of childish misbehaviour is best dealt with by parents, carers and schools. An arrest has the potential to affect a child’s life adversely in many ways, from the immediate traumatic experience of being detained overnight in the police station, to the uncertainty of a criminal trial and even the potential to be imprisoned far away from their families and communities. It can also blight their futures, for example through Disclosure and Barring Checks that can result in a job offer or university place being withdrawn. The evidence shows that the more contact has with the formal criminal justice system, the more entrenched they are likely to become, which increases reoffending rates, crime and victimisation (McAra and McVie, 2007). It is therefore welcome that MOPAC acknowledges this in the consultation document: “Once a young person has offended and entered the criminal justice process, it is difficult to get out.”

The Howard League is concerned, however, that too many children are still being brought into conflict with the criminal justice system and we will continue to work with forces, including the Metropolitan police, to reduce the number of child arrests to an irreducible minimum. We particularly welcome the plans set out in the consultation document to scrap the MOPAC 7 targets and focus on volume crime, which skew policing priorities. The recent success in reducing child arrests in England and Wales was instigated when the national policing targets were abandoned in 2008, which may have led to the police focusing on ‘low hanging fruit’, including children. This target-driven approach led to children being criminalised rather than educated or supported (Newburn, 2011; Police Foundation, 2010).

In order to reduce the unnecessary criminalisation of children further, the Howard League would encourage MOPAC to talk to other forces to learn from good practice that has developed in local areas. The Howard League works with police to highlight examples of innovative practice.

- Humberside police has achieved a 77 per cent reduction in child in the number of child arrests, making it the most successful force in the country. In 2009, the Hull Youth Crime Partnership launched an innovative triage assessment scheme, sited within the police custody suite in Hull. The aim was to identify children who admit an offence and who might be dealt with effectively by a short voluntary intervention with the Hull Youth Justice Service. The objective of the scheme was to reduce unnecessary formal criminal

prosecution, thus reducing the numbers of children entering the youth justice system. Between July 2009 and March 2016, 8,863 children were interviewed and assessed by staff from the Youth Justice Service. Of this group, no further action was taken against 43 per cent of children, 26 per cent received an out of court disposal and 31 per cent went to court. This partnership has resulted in a 60 per cent reduction in the number of first time entrants to the formal criminal justice scheme. The reoffending rate for those children who were diverted from charge has now reached a record low of 13 per cent.

- Greater Manchester Police (GMP) has reduced the number of child arrests by 58 per cent since. The force has prioritised local restorative resolutions, which were used 4,176 times for children in 2014, rather than officers arresting them, resulting in a more formal criminal justice sanction. GMP also analyses reoffending rates relating to these low level solutions compared to sanctions and shares them with officers so that they understand the value of their impact, which in turn encourages an increase in their use. GMP have also focused on training custody sergeants to challenge arrest decisions and refuse unnecessary detentions. As one custody sergeant reported: *“Custody Sergeants have been pretty brutal with this (in my experience) in particular any late evening arrests. You find that you only need to tell people once or twice at the most that they are dealing with the case and the detainee is not getting bedded down, and all of a sudden you see a drop in all of the most deserved of child arrests”*.
- West Mercia and Warwickshire Police have created a Children and Young Person’s Strategic Oversight Board to provide a focus on the issues of children entering the criminal justice system. In addition, they have formed a Regional Group, which meets quarterly, to identify common themes and share best practice across the region.
- Northumbria Police has committed to working in partnership with other services to reduce unnecessary arrests and first time entrants to the youth justice system. All officers have had training on community resolution and this is now fully integrated into force procedures and protocols. In addition, a triage approach operates in all Northumbria custody suites for child arrests. Here, police officers based with the youth offending service (YOS) review all young people bailed for ‘youth surgeries’ and, where appropriate, ensure a restorative justice approach is undertaken rather than a formal reprimand/warning. This system allows interventions and referrals to appropriate agencies to be considered at an early stage.
- The Chief Constable of Durham Police is meeting with each of his officers individually to impress on them the importance of problem solving rather than arresting children.

The Howard League annual Community Awards celebrate good practice in policing and the community. Further information on the awards, including case studies of nominees and winners are available at: <http://howardleague.org/community-awards/>

Overnight detention

The Howard League has also been working for a number of years to get the number of children detained overnight in police stations to an irreducible minimum.

The law is clear that there are very limited circumstances to justify the detention of children at police stations. Yet, through our legal work and our programme of work with the police, the Howard League is aware that children’s interests are not being sufficiently protected and local authority children’s services are not providing sufficient, if any, accommodation, for the few children who can be lawfully refused police bail.

Police custody is a distressing experience for children and it is for this reason that the legislation is designed to keep a child’s stay in police custody to a minimum. Very few children arrested pose a risk of serious harm to the public and almost all should be returned home immediately. If

necessary they can be asked to return to the police station the next day or at a suitable time. The vast majority of children charged with an offence do not require detention.

The Howard League has been collating and reviewing overnight detention figures since 2008. In 2015 the Howard League submitted requests under the Freedom of Information Act to all police forces in England and Wales, asking about the number of children held overnight in police custody. Specifically, the Howard League asked: "How many children aged 17 years and under have spent one or more nights in police cells from 1 January 2014 to 31 December 2014."

The data the Howard League obtained shows that there were 22,089 instances of children being detained overnight, with the Metropolitan Police detaining the highest number of any force – 7,660. The figures are likely to be a vast underestimate of the true scale of the problem. While forces have improved their monitoring of overnight detention, twelve forces were unable to provide figures. The data is also based on wide variations in the way police forces record and monitor children held overnight.

The Howard League is aware that the issue of overnight detention is not just one for the police – local authorities and deficiencies in appropriate adult services also lead to the unnecessary detention of children. We are currently involved in a number of legal proceedings against London boroughs for their failings in this regard.

The Howard League has completed an analysis of inspections of police custody suites between October 2013 and June 2016. In the inspection of police custody suites in Islington, HM Inspectorate of Constabulary found:

"Staff said that they contact social services to check the availability of 'safe beds' for young people held overnight who could not be bailed, even though they knew that beds would not be available. Custody officers told us that wherever possible they would prefer to bail a child or young person so that they returned to the police station at a later date, rather than keep them in overnight. All detainees under the age of 18 would be interviewed in the presence of an appropriate adult (AA). Staff told us that in the first instance they tried to find relatives to act as AAs. When this was not possible, the Appropriate Adult Service (TAAS) provided someone. This service was available seven days a week, but rarely after 10pm."

In the inspection of police custody suites in Metropolitan South, HM Inspectorate of Constabulary found:

"In one case, a 17-year-old girl arrived at Croydon with her AA. She had never been in custody before and disclosed that she had self-harmed earlier in the day. The custody record noted that no one was available on the late shift to deal with the girl, so her AA was sent home and asked to attend again the following morning. The girl was held in custody overnight. The records did not explain why the girl was not allowed to return home with her AA. The AA returned to the station the following morning and within two hours of their arrival, the girl was released after having spent just over 16 hours in police custody."

The Howard League strongly encourages MOPAC to take the lead in eliminating the overnight detention of children. We are aware that there is a perception that London is in a particularly difficult situation due to the lack of secure provision in the area. This, however, should be considered an opportunity to lead in developing best practice.

Secure provision should be the absolute exception. In a small number of circumstances, where children cannot be returned home, it may be that children require a safe bed for the night under

s38 of the Police and Criminal Evidence Act. Some local authorities are failing in their statutory duties to provide this safe accommodation. The Howard League would suggest that MOPAC works with partners to explore the development of specialist fostering placements to care for these children which is being used successfully in areas like Lancashire.

Looked after children

The Howard League particularly welcomes MOPAC's commitment to reduce the arrest and charge rates of looked after children in children's homes and fostering placements and, in particular, the initial focus on improving data to understand the over-criminalisation of this group.

In response to concerns from police forces of a systemic problem that led residential care staff to resort to the police, often over minor incidents that would never come to officers' attention if they happened in family homes, the Howard League has also launched a major programme of work to end the unnecessary criminalisation of children in residential care. Research published by the Howard League (2016b) found that children aged 13 to 15 living in children's homes were found to be almost six times as likely to be criminalised as looked after children of the same age in other placements – and almost 20 times more likely to be criminalised than non-looked after children.

In addition to the welcome focus on improving data, the Howard League would encourage MOPAC to look at the criminalisation of children when they go missing from residential care; the implications of distance from home and criminalisation; particular issues around the criminalisation of BME children in care; and identifying and sharing good practice.

Child custody

As referred to above, the number of children from London in prison has fallen by half in the last five years. There is still much further to go, however, to ensure that only the irreducible few are deprived by their liberty.

As can be seen in the table below (Ministry of Justice/Youth Justice Board, 2017), London still has a higher custody rate than any other region in the country. In addition, there is variation across London boroughs: Islington has the highest custody rate of 2.28 compared to 0.06 in Kingston and Richmond. Islington has the highest custody rate of anywhere in England and Wales, followed by Hammersmith and Fulham (1.69) and Lewisham (1.54).

Use of custody, year ending March 2016⁽¹⁾

Region	Custodial sentences	10-17 population 2015 (ONS data)	Rate per 1,000 of 10-17 population
East Midlands	130	414,742	0.31
Eastern	143	547,498	0.26
London	509	753,662	0.68
North East	95	223,521	0.43
North West	391	642,424	0.61
South East	193	817,393	0.24
South West	89	466,879	0.19
Wales	107	272,163	0.39
West Midlands	276	536,520	0.51
Yorkshire	197	483,074	0.41
England & Wales Total	2,130	5,157,876	0.41

We would encourage MOPAC, in any review of youth justice, to begin with the premise that there are still far too many children locked up and that the number of children could be reduced substantially further by working with partners to:

- Restrict the power of magistrates to remand children to prison. Two-thirds of children who experience remand do not go on to get a custodial sentence (Ministry of Justice/Youth Justice Board, 2017a)
- Raise the custodial threshold for children by abolishing ineffective short term sentences
- Address the disproportionality of children in custody. As stated in the consultation document: “41 per cent of youth prisoners are from minorities backgrounds, compared with 25 per cent 10 years ago”.

The haphazard and incompetent decision making of the Youth Justice Board has had a particularly detrimental impact on children from London in prison.

Small, local, secure children’s homes have been working successfully for decades to provide the best care and rehabilitation. These homes are homes first and provide excellent education, therapeutic interventions and substitute parenting. In order to cut costs, there are now no secure children’s homes in London and the South East. Orchard Lodge, which was based in Southwark, was closed in 2009. The nearest secure children’s home to London is in Bristol.

Instead, the only secure provision for children in London is Feltham prison, which has a track-record of being one of the most violent in the country. The Howard League understands that HM Inspectorate of Prisons undertook an inspection of the prison in January and rated safety and purposeful activity with the lowest possible scores available.

The latest independent monitoring board report for Feltham said that: “The Board remains very concerned about the level of violence at Feltham. Fights and assaults continue to be very common, occurring almost daily. Multi-perpetrator assaults and targeted assaults on staff, which often result in serious injury, are particular causes for concern. There is a genuine concern for the safety of prisoners and staff on a day-to-day basis.”

The Howard League is also alarmed by the widespread use of solitary confinement for children, which breaches the United Nations Convention Against Torture and the United Nations Convention on the Rights of the Child by amounting to ‘inhuman and degrading treatment’. In addition to children being held with adults in the segregation unit at Feltham, there is now a widespread practice of holding children for 22 hours or more a day in their cells, many because they are too frightened to be on the main prison wings. The inspection of Feltham prison in 2015 stated: “Twenty-six per cent of the population were being managed on units under a restricted regime that excluded them from activities and meant that they were unlocked for less than an hour a day – in effect solitary confinement.” Inspectors warned: “We found examples of boys... who were locked up for too long with nothing to do and a few cases of boys who said that isolation brought about by restricted regimes had caused them to self-harm.”

The Howard League legal team has represented children who have been in conditions of solitary confinement, for periods ranging from weeks to up to six months. The possible long-term effects of solitary confinement on children are not well studied. The UN Special Rapporteur on Torture, however, concluded that “15 days is the limit between ‘solitary confinement’ and ‘prolonged solitary confinement’ because at that point, some of the harmful psychological effects of isolation can become irreversible”. This related to adults.

The Howard League is currently seeking judicial review in the High Court concerning a boy who is currently being held in solitary confinement. We will update MOPAC as the case progresses.

MOPAC's clear commitment to children in the consultation is to keep children safe. They are not safe in Feltham prison. The Howard League would encourage MOPAC to do all in its power to close Feltham prison immediately.

In addition, the latest custody figures show that there are 236 children from London in prison and 114 children held in London - although these children are not all necessarily from London (Ministry of Justice/Youth Justice Board 2017b). Children from London are therefore dispersed throughout the country, away from their families and communities. This issue should primarily be addressed by reducing the numbers of children sent to prison in the first place, by taking the steps set out above.

The Howard League notes MOPAC's commitment to work with the Ministry of Justice, the National Offender Manager Service and the Youth Justice Board to evaluate the case for a secure school in London. We would strongly urge MOPAC not to take this unnecessary gamble. Secure schools threaten repeating the mistakes of the past and expanding the number of children in prison.

In the 1990s the Howard League opposed the creation of the secure training centres (STCs) alongside the Detention and Training Order – a new short prison sentence for children followed up by supervision in the community. Although well intended in principle, in practice these measures led to an explosion in the numbers of children behind bars. After twenty years of campaigning, it is now accepted that STCs are failed institutions for a failed sentence. The proposals for secure schools risk repeating this. Although there is no suggestion that they would be run by the likes of Serco and G4S, with around "60 to 80 places" secure schools would not be small, they would be the size of a prison.

If Feltham prison was closed and the numbers of children brought down to the irreducible few, the capital and continuing revenue expenditure could be used for secure children's home provision in London – a model of custody that is proven to work.

What success would look like?

The Howard League welcomes MOPAC's commitment to children in the consultation, in particular the statement: 'For those young people who have made the wrong choices, we want to send a clear message – "We will not give up on you. Your life is not a foregone conclusion":

The Howard League suggests that MOPAC's objectives should be to:

- Reduce child arrests to an irreducible minimum
- End the use of overnight detention for children and work with partners to develop a fostering network to create appropriate, safe, provision for the few children who cannot go home from the police station
- End the unnecessarily criminalisation of looked after children
- Address the disproportionate number of BME children in the youth justice system
- Work with partners to curtail the use of remand and end the use of short term sentences
- Work with partners to close Feltham prison and invest in one small, secure children's home within Greater London
- Reject proposals to create a secure college

Please do get in touch if you require any further information.

Yours sincerely



Frances Crook

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