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Juvenile justice and physical restraint of young offenders - exploding the historical myths

The historical myths surrounding juvenile justice are exploded in a new History & Policy paper published today, ahead of new powers to physically restrain young offenders coming into force this Friday.

Historian Dr Abigail Wills, of Brasenose College, Oxford, shows how the Government has thrown up a historical smoke-screen to obscure the fact that its approach to juvenile justice is the most extreme for 150 years. The Government has peddled the contradictory myths that:

- There was in the past a law-abiding ‘golden age’ of respect and deference, which was undermined by the liberalism of the 1960s;
- Today’s juvenile justice system is based on enlightened rational evidence and represents a break with the ‘Dickensian’ Borstals of the past.

In ‘[Historical myth-making in juvenile justice policy](#)’, Dr Wills contrasts government reactions to the cruel treatment of young offenders today and in the past. Forty years ago, evidence of violence at a residential reform institution caused an outcry, leading to its immediate closure and a public inquiry. This year, the Government’s response to the death of a teenage boy at a Secure Training Centre following physical restraint was to extend staff powers in new regulations coming into effect this Friday.

Dr Wills said:

“Contrary to the historical myths, Victorian and Edwardian penal reformers would have viewed youth justice in 2007 with shock rather than admiration. The current Government has adopted the most severe stance on juvenile justice for 150 years – in the past the reform and education of young offenders in suitable accommodation was at least an aspiration; today they are written off by government and society. The new restraint rules epitomise this policy shift,

giving staff in secure units even greater physical control over juveniles, despite previous restraint-related deaths.

“History has been twisted to shore-up a political campaign to vilify and demonise young offenders. Despite his denials of golden-ageism, Tony Blair harked back to the imagined deference of the past to portray today’s youth crime as unprecedented and justify reactionary solutions. Without a better appreciation of how juvenile crime was understood and tackled in the past, the new Home Secretary stands little chance of solving the crisis in the current system.”

Key policy changes that illustrate the exceptionally punitive stance of the past 15 years include:

- The abolition in 1998 of the principle of ‘doli incapax’, the presumption that children aged under 14 are incapable of telling right from wrong enshrined in common law in the 17th century;
- The subordination of juvenile courts’ duty to prioritise the welfare of their charges, established in 1933, to the protection of society;
- The erosion of separate custodial provision for children and young people, a cornerstone of the juvenile justice system since the mid-19th century, with the majority of children and young people now housed in Young Offender Institutions run by the prison service; and
- An intensification of the use of custody for young people, which even the Thatcher governments of the 1980s sought to avoid.

Notes to editors:

1. You can read Abigail Wills' History & Policy paper, [Historical myth-making in juvenile justice policy](#), in full on the History & Policy website. Dr Wills is a Research Fellow at [Brasenose College, University of Oxford](#).
2. [History & Policy](#) is an independent initiative working for better public policy through an understanding of history. It was founded by historians at the Universities of Cambridge and London and is based in the [Centre for Contemporary British History](#), at the [Institute of Historical Research](#), University of London. History & Policy is funded through a charitable grant from the Philanthropic Collaborative.
3. For further information or to request an interview with a historian, please contact: Mel Porter, External Relations Officer, History & Policy, tel: 020 7862 8768, email: mel.porter@sas.ac.uk.