

Tuesday, 27 November 2007

## **News release**

### **Court of appeal victory on indeterminate sentences for children**

The Howard League for Penal Reform has today (Tuesday, 27 November) welcomed a court of appeal judgment concerning indeterminate sentences for children.

B is fifteen years old and was sentenced earlier this year for three robberies. He received an indeterminate sentence for public protection (IPP), with a minimum term of 15 months. After 15 months, B could be assessed by the parole board for possible release under a minimum license of 10 years.

B's mother contacted the Howard League for Penal Reform after sentencing, and an appeal was launched on the basis that the IPP should not have been imposed as he did not meet the test for dangerousness.

Dangerousness is assessed on the risk of committing further specified offences and the risk of these offences causing serious harm. Serious harm is defined in the Criminal Justice Act 2003 as meaning "death or serious personal injury, whether physical or psychological".

In cases involving adults, previous convictions of specified offences in the CJA 2003 mean that the court must find that the defendant is dangerous, unless it would be unreasonable to do so. For those under 18, however, there is no presumption of dangerousness because of a previous conviction for a specified offence. The court's discretion is not constrained and those sentencing should bear in mind factors such as a child's development and level of maturity when assessing what their future conduct may be and whether it may give rise to significant risk of serious harm.

The court of appeal has now recognised that the correct test for children was not applied when B was sentenced. Due to previous convictions, B had been automatically assessed as dangerous and not assessed on whether there was a significant risk that he would cause serious harm in the future. His indeterminate sentence was therefore quashed and replaced with a fixed term sentence of three and a half years.

Director of the Howard League for Penal Reform, Frances Crook, said: "In considering this case, the court of appeal commented that sentencers need to bear in mind that the presumption applying to adults on previous convictions does not apply to children.

"Children are learning and developing individuals. The court must consider children with that in mind, rather than make automatic assessments based on what a child may have done when they were younger again.

"Complex sentences such as the IPP must be properly applied, particularly when children are involved. The demands of a minimum 10 year licence on release for both the child, and probation services, are significant and it should not be applied lightly.

"This case emphasises the need for sentencers to be aware of the rights of children, with good quality and rigorous legal representation in place for children in court. Where children are considered dangerous, the law says that the judge should also properly consider whether an extended sentence would be sufficient before imposing an indeterminate sentence for public protection."

### **Further information**

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There were 9,941 prisoners serving indeterminate sentences in prison service establishments in England and Wales on 30 September 2007. 728 of the total population serving indeterminate sentences were under 21s. Of these, 37 were children. An additional three children were serving indeterminate sentences in the privately run secure training centers.