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**Inside the Youth Justice Board:
ambiguity and influence in New Labour's youth justice**

Anna Souhami

The announcement by the coalition government in October 2010 of its intention to dissolve the Youth Justice Board (YJB) and transfer its functions to the Ministry of Justice has once again plunged the youth justice system into a period of uncertainty. The promise by Minister Crispin Blunt, addressing the YJB convention in November, of “a once in a generation opportunity to think ... about how we reform the youth justice system” (Blunt 2010) will have seemed wearingly familiar to those who have only recently lived through the New Labour government's sweeping programme of reform. At the time of writing the YJB's future hangs in the balance, with the House of Lords recently voting to reject the government's plans to dissolve it. Yet in the debates surrounding its fate there has been a striking lack of clarity about what, if anything, the effect of its closure will be. While many in the Lords debate described an unravelling of a decade of progress, others have been more equivocal. As Rod Morgan, a previous Chair of the YJB, put it: “there may yet be a downside to its abolition... But I am not in mourning and doubt I will be.” (Morgan 2010).

Drawing on an ethnographic study of the operation of the YJB, this article explores why it is so difficult to identify what would be lost by its demise. The research reported here involved an 18 month period of fieldwork from 2006-7¹. For one calendar year, research focused on the internal operation of the YJB, during which I was given access to almost all YJB internal activities and documents, observed meetings and interviewed staff throughout the organisation. A second strand of research explored the regional operation of the YJB and how it was experienced locally: I shadowed regional monitors, observed the YJB's assessment processes and conducted interviews and focus groups with YOT staff. The aims of my research were simply to explore what this central yet little understood organisation did and how it did it. Yet, after extensive fieldwork, I still struggle to answer these questions. Indeed, the most common observation about the YJB by the staff within it that it was so difficult to describe. As a newly appointed Board member put it:

¹ A full account of the research, including a detailed methodology, will be published in a forthcoming book provisionally titled ‘Governing Youth Crime’.

‘This is the most puzzling organisation I have ever joined. I’ve never worked in an organisation where within three quarters of an hour someone couldn’t give me a reasonably coherent picture of what we do and how we work. No one here seems to be able to do it’.

In fact, the confusion about these fundamental aspects of the YJB’s identity and role is unsurprising: the YJB is an inherently ambiguous organisation. This article explores why it is so difficult to articulate what the YJB is and what it does, and how this ambiguity has made it simultaneously highly insecure and extremely productive, enabling it to extend its influence and activities beyond those initially envisaged in New Labour’s reforms. First of all, the following pages explore how the YJB was initially conceived. What was it set up to do?

Transforming youth justice

The YJB was established in 1998 as a central strand of the newly elected Labour government’s radical programme of youth justice reform. Following an extended period of consultation (Labour Party 1996, Home Office 1997a, 1997b, 1997c, 1997d, 1997e, 1997f) and the establishment of a Task Force on Youth Justice (Home Office 1998), the government concluded that the youth justice system they inherited was “in disarray. It simply does not work. It can scarcely be called a system at all” (Labour Party 1996:1). It was inefficient, inactive and excusing. It was inconsistent, with significant variations in provision, quality and outcome of services across different areas of England and Wales. And it was incoherent, with no single government department responsible for youth crime, resulting in conflicts between the Home Office’s “criminal justice” approach towards young offenders and the “welfare” approach of the Department of Health (Labour Party 1996:9). The solution was a ‘radical overhaul’ of the structures, services and culture of the youth justice system, intended to bring about a new era in the way in which youth offending was thought about and managed (Labour Party 1996; Home Office 1997d).

The establishment of the YJB was the cornerstone of this approach. The YJB was a new, executive non-departmental public body (NDPB), accountable initially to the Home Office (now to the Ministry of Justice) and comprised of a Board of 12 members and a staff of advisors headed by a Chief Executive. It was intended to pull

together the supervision of the youth justice system from across government departments, consolidating their different approaches and providing direction and 'leadership' to youth justice services; provide a "national focus for youth justice issues" (Home Office 1997d: 10), giving youth justice a specific policy presence in central government; and allow for the development of consistent standards and a coherent approach to the provision of services across England and Wales (1997a, 1997g). In this way, the creation of the YJB aimed to encourage the emergence of a consistent, distinct system of youth justice in England and Wales (Allen 2005, Pitts 2001).

To accomplish this, the YJB was given a wide range of statutory duties. It is responsible for the monitoring of all aspects of the youth justice system, on the basis of which it advises the Home Secretary on the operation and standards for the system, makes grants to local authorities, sets priorities for services (now delivered through newly created multi-agency Youth Offending Teams (YOTs)), identifies 'effective practice' in service delivery, and issues training and guidance for practitioners. In addition, in 2000 it became responsible for commissioning and purchasing secure places for children under 18.

In order not to deflect from its monitoring and standard-setting role, it was decided the YJB should not manage directly local services (Youth Justice Task Force 1998: para 66)². So, while YOTs were charged with a series of centrally defined duties and targets, they were given considerable control in the way in which these are carried out (Home Office 1997a, 1997g). This type of 'governing at a distance' is typical of a new form of relations emerging in contemporary crime control in which a devolving of autonomy to local agencies coexists with a tightening of regulation and surveillance of what they do (Crawford 1997). To this end the YJB established a vast network of monitoring processes through which it requires YOTs to provide an extensive array of information about the minutiae of practice, funding, management and outcomes.

² The exception to this 'arms length' approach to the oversight of the youth justice system is the YJB's relationship with the juvenile secure estate. The commissioning/purchasing relationship necessarily brings about a more direct intervention in the management and operation of these institutions.

The YJB was therefore given a central role in directing the culture, organisation and activities of youth justice in England and Wales. Its role has been described as “broad and powerful” (Muncie 2000:30), representing as an “unprecedented centralisation of control over the system” (Pitts 2001:168). However, in practice the operation of the YJB was simultaneously more extensive and more insecure than its statutory functions suggested.

Eight years after its establishment, at the time my research began, the ambiguities and insecurities of its identity and role had started to become increasingly apparent. This was brought into focus by a marked shift in political climate.

A changing climate

In 2006 the YJB found themselves at a very different moment in Labour’s youth justice programme. Blair was coming to end of his period of office amid plummeting popularity. YJB staff described a fraught atmosphere in Whitehall: central government were “far less confident”, they were “pressing the panic buttons”. This was reflected in the way government worked: the cabinet office started to take direct control of new policy initiatives through the establishment of the Prime Minister’s Delivery Unit; major government departments were suddenly split and reorganised. The Home Office appeared particularly vulnerable. During the research period, public outcry about the handling of foreign national prisoners led to the forced resignation of Charles Clarke, then Home Secretary, and his replacement by John Reid who resigned less than a year after that. The Home Office was put under review and found unfit for purpose. Towards the end of the year, the prison population reached crisis point, leading to public criticism of government policy by several leading figures in criminal justice including the Chair of the YJB, Rod Morgan, and culminating in his resignation in January 2007.

Within the YJB, staff sensed that they were operating in volatile political climate over which they had little control, and in which there were very sudden transformations of departments, practices and careers. In this context, the YJB’s position felt particularly

insecure. Not only was its ‘sponsor’ department under intense and negative scrutiny³, but as youth justice straddles many different departmental areas it was confronted with the risk of sudden policy changes from all directions. Moreover, it became harder for the YJB to demonstrate its effect. It no longer had the politically exciting role of bringing about dramatic and widespread change, but the more modest task of sustaining it. At the same time, it was evident that youth justice was no longer a priority within government. This in part protected the YJB from the vagaries of the political climate: as the Chair put it, the YJB were “not in John Reid’s [then Home Secretary] in-tray’. Yet the clear understanding was that scrutiny would eventually fall on the YJB, and when it did they would be in difficulty. The YJB’s position thus appeared precarious. This was made explicit by Baroness Scotland, then the Minister of State for Criminal Justice, addressing a meeting of the Board:

“We’re doing all this in a very hostile environment which may change very rapidly. We’ve already lost one Home Secretary who was totally signed up to the agenda. We need to make sure this stuff is so embedded it can’t be done. We will be taken to the cleaners. ... The YJB will be in a very, very painful position”

In this context, it was felt particularly important for the YJB to be able to offer a compelling account of itself: as staff put it, “to tell a strong story”. Yet as the YJB became increasingly distanced from Labour’s original youth justice project, the difficulties in doing so became increasingly apparent. This appeared to be due to an inherent ambiguity in the structures and functions of the YJB that made its role difficult to define and articulate. As I will show, this ambiguity was often experienced by its staff as a source of deep insecurity, yet it appears to be precisely what has made the YJB a highly creative body, allowing it to widen and deepen its sphere of influence and grow into a significantly different organisation from that originally envisaged in Labour’s reforms. The following pages explore this in relation to two issues that became of crucial importance during the research, both of which went to the core of the YJB’s identity. Firstly, is it part of central government, or not? And secondly, what is its relationship with YOTs?

³ In fact, reflecting the instability of government organisation, since 2007 the ‘sponsor’ of the YJB has changed rapidly three times: from the Home Office to the Ministry of Justice, to joint ownership by Ministry of Justice and the Department for Education and Skills in November 2007, before reverting to sole sponsorship by the Ministry of Justice in May 2010.

Inside or outside government?

The ambiguity of the YJB's relationship with central government stemmed from its status as a non-departmental public body (NDPB). It was established as an NDPB partly because it could bypass civil service bureaucracy and bring about change quickly. Transforming the youth justice system was a vast task: as one official explained, if it was left to the Home Office it 'would be like turning round a juggernaut, it would take years'. In addition, positioning the YJB outside central government allowed experts in the field a direct role in advising on youth justice policy, either as board members or as staff seconded from practice.

At the time of its establishment, the independent status of the YJB was largely nominal. Many of those connected to the YJB had close connections to then Home Secretary Jack Straw: the first Chair, Norman Warner, had been Straw's senior policy adviser; the Chief Executive, Mark Perfect, had been the co-author of the Audit Commission's report on which the reforms had largely been based; other Board members had been Labour advisers or involved in the 'Youth Justice Task Force' set up by the government in advance of the Crime and Disorder Act.

By 2006 however, the YJB's relationship with central government had become more tenuous. The YJB had expanded steadily from a staff of six advisers in 1998 to an organisation of 212, the majority of whom had backgrounds not in the civil service but in criminal justice or related fields. The Chair and Board no longer had close links with government but were senior figures in related fields: as one Board member described them, they were simply 'a bunch of passionate and committed individuals'. Further, as the organisation matured and became more deeply embedded, the YJB had inevitably started to develop its own culture and ethos to work with young people. The meaning of independence – and the YJB's identity – was now at issue.

There was a strong view among some in the YJB that their independence was an intrinsic part of their identity and thus of their role. Their distance from government allowed the Board to act as a 'critical friend' and publicly voice concerns about government policy. As one Board member put it, "I didn't join the Board to get on

my knees. I joined it to make a difference” So, throughout his tenure as Chair, Rod Morgan strongly criticised the government for ‘demonizing’ young people through initiatives such as ASBOs, and widely publicised a crisis in the rising prison population. As he saw it, ‘this is the advantage of us not being civil servants and being in my position’. Yet others interpreted their position differently. One Board member said:

Whether we like it or not, we take the King’s shilling. We are not an independent agency. We are funded by government, therefore we are an arm of government. ... We are not a pressure group.

The YJB’s statutory functions gave little clarity to their position. For example, their duty to ‘advise the Home Secretary’ was elastic enough to allow for either interpretation. As the Chair argued, public criticism of government policy could be seen as an intrinsic part of their role: “We have a statutory obligation to advise ministers if policy is not working’.

However the meaning of the YJB’s independent status became a crucially important issue, not just of its identity but of its survival. By drawing attention to its contingent relationship with government the YJB risked being cut adrift, compromising their ability to influence policy and making their own position deeply insecure. As one Board member put it, “my view is that if we want to commit suicide we should carry on criticising government. If we want to be useful as an organisation, we should stop”.

These issues crystallised around the launch of the Respect Action Plan in January 2006. The plan covered issues directly within the sphere of YJB interests, such as parenting, school attendance and involving young people in ‘constructive activities’ (Respect Task Force 2006). However, the YJB were not consulted in its development, only learning of the Action Plan the day before its launch. For many in the YJB, this was “payback” for Rod Morgan’s public criticism of ASBOs: by placing themselves in opposition to central government they had forfeited their influence within it. A visit by Louise Casey, the head of the Respect Task Force, to a Board meeting proved this perception correct. Responding to Board members’ frustration at being excluded from the initiative, she said:

“You need to make up your minds where you sit. There’s an expectation that you want independence, you can say what you want. ... But it’s not unusual for a government producing something as contentious as this to work within government very privately. If you want to come out and criticise things that’s up to you, it’s your prerogative as an NDPB to do so. But you can’t have it both ways. I wasn’t treating you as part of the family”.

However, the position of the YJB was in fact more complex than this. While it was a delicate balance, their ambiguous identity in fact placed them simultaneously inside and outside government: in Louise Casey’s terms, they could, and did, ‘have it both ways’. So, for example, it was the very uncertainty of their status that allowed the YJB - unlike any other body sponsored by the Home Office - to create for themselves the role of ‘critical friend’. This enabled them to adopt simultaneously a position as a public critic of government policy, whilst retaining a privileged role in those policy discussions. The ability of the YJB to slip between positions allowed them influence with different audiences both within and outside the youth justice system. In particular, the ability of the YJB to distance themselves from central government appears to have had a significant effect on their credibility among practitioners in the field. For example, as a result of Rod Morgan’s public criticism of government policies YOT staff felt that the Chair of the YJB “represents all of us sitting round this table”; with him at the helm of the YJB “we sleep better”; his resignation as Chair “fills us with dismay”. In the context of a relationship of control such credibility and trust was undoubtedly useful. In this sense, as well as being a source of insecurity, the ambiguous identity of the YJB was also productive, allowing it to retain influence with central government while maintaining credibility with those on whom it depended for the delivery of services.

Arms length or hands on?

A second area of confusion in the YJB’s role was its relationship with service delivery. As outlined above, in theory the YJB has an ‘arms length’ relationship with YOTs: it ‘oversees’ what they do by demanding regular performance data, but does not directly manage them. If YOTs fail to achieve their targets or provide their returns, the YJB can require the local authority to intervene but has little recourse for intervention itself. The YJB provides funding for YOTs which it could potentially

withdraw. While this forms a relatively small proportion of YOT resources it is clearly a significant amount⁴ and moreover is the only source of dedicated, ring-fenced funding for youth justice services. However, many officials felt financial sanctions would be highly unlikely: if a YOT was struggling, withdrawing funding risked significantly damaging already suffering services. As one official explained, their mechanisms of control over YOTs were thus somewhat intangible: “it [YJB] has had a clearly defined carrot but a rather undefined stick”.

Staff explained that the YJB were therefore in the somewhat confusing position of being accountable for the performance of the youth justice system but not responsible for its services. Unsurprisingly perhaps, this was almost wholly misunderstood by those outside the YJB. As one official said, this was a source of considerable insecurity:

If it goes pear shaped, we get the blame either way. Ministers won't make the subtle distinction. It will wash back to the YJB. There's no one else to blame. But moreover, the intangibility of what it was to 'govern at a distance' represented a serious challenge to the legitimacy and purpose of the YJB. If they did not have a clear and direct impact on local services, what did they actually do? As the then Chief Executive explained:

“The problem for the Youth Justice Board is that the role has been very very difficult to articulate and describe ... and its not understood and it's difficult to explain and people just say 'well are you responsible for [youth justice] or are you not, and if you're not, what are you there for?’”

But to confuse the relationship further, the YJB's dealings with YOTs in fact developed in a very different way. This was enabled by their statutory duty to 'monitor the operation of the youth justice system', which again is open to a myriad of interpretations. A particular understanding evolved in the YJB in which it came to monitor not the performance of the entire system against particular targets, as originally envisaged (Home Office 1997a), but the operation of YOTs. Moreover, this data was not used to advise the Home Secretary on the functioning of the youth justice system (where broader aggregate figures are required) but, as a former Board member put it, “as a precursor to taking action where performance is failing” (Allen

⁴ In 2005-6, it formed an average of 20.5% of all YOT funding (Youth Justice Board 2006)

2005: 30). Thus the YJB required YOTs to provide vast amounts of case level data about the way they work with children, partners and programmes, how they do it and how often. This data was then returned to YOTs to encourage them to improve their practice. To facilitate this process, regional offices were established throughout England and Wales from which monitors visit local YOTs to 'validate' the data produced and track progress against closely prescribed ways of establishing and running particular schemes. Exploiting their ability as an NDPB to appoint non-governmental staff, the YJB specified regional staff should have backgrounds in youth justice practice or related fields so that their input would have value and credibility. Thus, describing his regional monitor, one YOT manager said:

"She understands what delivery's about. She understands what I'm going through. She understands what delivery is. There's no way that a civil servant can come and talk to me about social change or about policy implementation. They just don't understand it'.

Moreover, when YOTs were struggling, YJB staff could directly intervene: a team of performance improvement consultants was created to offer tailor made programmes for areas in which YOTs were failing.

In this way, through the monitoring function, the boundaries between the YJB and YOTs became blurred, allowing for flows of people, information and ideas between practice and central government. At the same time, the distinction between the 'arms length' and 'hands on' relationship with service delivery became increasingly ambiguous. Yet while it made the YJB's role hard to define and was experienced as a source of considerable insecurity, this ambiguity was, again, very useful, allowing the YJB to extend its control and influence in areas in which it ostensibly had very little.

First, the form of monitoring that evolved gave the YJB a channel to provide detailed guidance and input directly to YOTs. As one regional monitor put it, 'it's our only chance to go into the YOT and talk to them about what they do'. YJB staff explained this role was both required and enabled by the new structures: YOTs found themselves swamped by a barrage of new policies and procedures, yet as all youth justice expertise youth justice was now drawn together in the YJB and YOTs there were simply no other outside sources of help. An official explained:

‘If we don’t do it, who else will. There's no one else the YOTs can turn to. The only experience of youth offending is in YOTs, and at the centre. There’s no one else.’

At the same time, this form of input gave the YJB scope for control and intervention beyond that ostensibly allowed by their ‘hands off’ relationship with local services. The form of monitoring practices that evolved provided the YJB with access to a micro level scrutiny of the minutiae of service delivery and even the opportunity to intervene directly into local services. Further, through the self regulation it demanded, YOTs were co-opted into becoming part of their own control (e.g. Rose 2000). In this way, under the guise of support, relationships and advice, monitoring input also allowed for the extension and multiplication of surveillance and control (see also Garland 1985).

But in addition, the development of the regional monitoring role appears to have allowed the YJB to widen and deepen their influence in localities, thereby helping embed youth justice services into the local landscape. Over the course of the decade, the Labour government’s plans for an ‘unprecedented era of devolution’ (Kelly 2006) led to a radical restructuring of local government in which strategy, priorities, funding and management of services increasingly became determined at a local level (Department for Communities and Local Government 2006). As a central body with limited levers of control and no physical presence in local authorities, the YJB’s ability to ensure that a focus on youth justice services was maintained locally was in theory very limited. Yet through the development of regional teams, YJB staff were now located in the centre of local networks and negotiations. One of the architects of the YJB’s regional strategy explained:

“It was the YJB feeling, hang on, we’re the experts but we’re not being listened to so we need to have people out there who will be heard... I think it was a naked grasp for power, influence. We’ve got to be out there”.

Further, the monitoring process itself also appears to have enabled YOTs to become more firmly established among their local partners. The forms of knowledge and data that the YJB demand are those that came to have a particular authority in government more widely. Through the reporting processes demanded by the YJB, YOTs very quickly had to have in place extremely sophisticated ways of generating, analysing

and distributing it. As agencies jostled for position and funding, the armoury of data they acquired put YOTs at a strong advantage locally. A YOT manager explained:

“The performance framework of the Board began to put YOTs firmly at number one in the league in terms of being able to get extra money from their strategic forum because we didn’t have to do anything. ...Performance framework, re-offending rates, school attendance rates. We just had all the management information. So we were extremely well armed going to any forum to argue for funds because we had it in our hands.”

This appeared to have contributed to an increasing sense of status and confidence among YOTs. As one YOT manager put it, “We’ve probably moved to a position where we think we can do anything. OK, we know what we want, how are we going to get it.”

After the YJB?

In this way, the YJB evades easy definition. It is simultaneously inside and outside government; with an arms length yet hands-on relationship with local services. It has blurred the boundaries between practice and policy; between government and delivery. And it has been able to stretch its statutory duties into new areas of activity without clearly overstepping its defined role. It is the ambiguity inherent in its structures that has allowed it to slip between roles and identities easily, enabling it to expand its reach beyond that envisaged in the creation of New Labour’s youth justice programme. Yet at the same time, it is this ambiguity that makes the YJB insecure. In a volatile political climate, its slipperiness may appear both confusing and risky. It is not straightforwardly part of central government, yet is connected closely enough to be a particularly potent source of embarrassment should it choose to become one. It invests considerable effort and resources in monitoring youth justice services, yet cannot directly control or manage them. In this context, the difficulty of giving a clear account of what, exactly it is and what it does makes the YJB highly vulnerable.

Of course, arguably the most important way for the YJB to give an account of itself is to demonstrate its effect. What have all these extended activities and efforts been for? How far has the YJB actually progressed the aim of the youth justice system and reduced youth offending?

Despite the importance of this question to any assessment of the YJB, it is not one that was asked by the coalition government in making the decision to abolish it. Indeed, ‘performance’ was not one of the ‘tests’ taken into account when deciding the fate of any of the 192 arms-lengths bodies dissolved by the government (House of Commons Committee of Public Accounts 2011: 3). Yet it is on the basis of its performance that the YJB may well be reprieved. The House of Commons Committee of Public Accounts (2011: 3) holds the YJB responsible for a fall in the number of young people entering the youth justice system, the number held in custody and the amount of reoffending committed by young people. At the time of writing, the House of Lords have voted to overturn the government’s decision to abolish the YJB due to its effectiveness. Indeed, Lord Woolf argued that ‘it would be sacrilege if.. we took out of the criminal justice system something that works’ (Hansard 28th March 2011: Column 961). For the moment, the official assessment appears to be that, whatever the YJB is, it works.

This assessment will undoubtedly be held up to scrutiny over the coming months. However, while an analysis of the impact of the YJB is outside the scope of the paper, it is important simply to note that its effects cannot easily be captured by statistical changes in reoffending. First, any change in rates of offending – in either direction - cannot be straightforwardly connected to what it does. So, for example, it is widely acknowledged that policy changes in other areas of criminal justice, health or education can have a potent effect on rates of offending, whether through its impact on the lives of vulnerable young people and thus their offending behaviour, or on constructions of offending through counting rules, definition, or process⁵. Further, even if it were possible to demonstrate an unproblematic connection between the services the YJB supports and changes in offending behaviour (for discussion of the difficulties see for example Meyerson 1991, Souhami 2007), given its arms length relationship to service, the YJB has little control over how services are delivered locally and thus little ownership of the results. Changes in offending behaviour are instead produced in the complex flows between the centre and localities.

⁵ This was demonstrated most clearly during the research period when one of the YJB’s primary targets - to reduce the number of first time entrants to the youth justice system by 5% in three years – was derailed by a new police target to bring more offences to justice, effectively incentivising the police to prosecute more young people, who commit relatively minor and easily detectable offences.

But in addition, the most important effects of the YJB may be those least amenable to measurement. The slipperiness of the YJB seems to have allowed it to develop deeply embedded relationships between the centre and localities and a widened influence in local areas, while maintaining a position in the central policy making processes. In the context of an increasing incoherence at the centre and an increasing devolution of local government, this may well be of crucial importance in keeping youth offending on a national and local agendas, helping retain dedicated, ring-fenced funding for YOTs and preserving their presence and status in local authorities. In other words, it is this activity that may now underpin the task of maintaining a coherent, consistent, national youth justice system for which the YJB was established.

However, questions of the YJB's effects appear to be irrelevant to the decisions about its future. So far the coalition government has shown little interest in what the YJB does or the costs or benefits of its closure. Unlike its establishment, its proposed abolition has not come after an extended period of consultation and analysis of the needs of the youth justice system. Not even the Board was consulted about the decision to dissolve it (House of Commons Public Administration Select Committee 2011: para 26). Instead it comes simply as part of a rushed, headline-grabbing programme of cost-cutting wholly unrelated to youth offending. As such there is no plan for what, if anything will replace it. As befits an essentially ambiguous organisation, the effects of the YJB currently appear equally hard to describe and measure. It is likely that the full effect of its activities – and the full effects of its closure - will only become evident once it has gone.

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