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## JUVENILE CRIME AND JUSTICE IN SCOTLAND

The impetus for juvenile justice reform in the 19th and early 20th century should be seen in the context of a growing recognition of the special position of children within the criminal justice system. It also occurred against the backdrop of an increasing body of child welfare legislation intended to offer children more protection, whether from exploitation in the workplace or from abuse in the home. In the criminal justice sphere this was reflected in Scotland, as elsewhere in Britain, in the extension of summary procedure which saw children's cases processed more quickly, avoiding the contaminating impact of long periods in prison awaiting trial. Inspired by philanthropic reform movements, new diversionary approaches were created, the day industrial school system in Scotland and the reformatory movement in England. Despite underlying differences in attitude towards young offenders, reformers in both countries campaigned for legislative support for these institutions, resulting in a statutory United Kingdom (UK) framework of residential reformatory and industrial schools catering for thousands of criminal and destitute children. The penal character of these institutions marked a significant departure from the welfarist ideals of the original Scottish day industrial schools (Kelly, 2016). As more progressive approaches, such as probation, were adopted in the early 20th century these institutions fell out of favour.

The turn of the century saw new ideas gaining ground, such as individualised justice, and scientific approaches. Special courts for children were established in other jurisdictions and the American model, with its focus on new medical therapeutic ideas, proved especially influential. Under the Children Act 1908 juvenile courts were introduced in Britain. The Act also effectively abolished child imprisonment. While this was undoubtedly a very significant measure conceptually, in practice it was less of a watershed than might be supposed. In Scotland the early juvenile courts continued to proceed much as before,

with the main difference that children were separated from adults appearing in court. The Morton Report in its review of juvenile justice in Scotland in 1928 was critical of the continuing lack of specialist magistrates and the failure to establish a genuinely specialist court for children's cases. It therefore recommended the setting up of a system of specially constituted justice of the peace juvenile courts composed of people specially qualified to deal with children's cases. This was given legislative effect in the Children and Young Person's (Scotland) Act 1932 which allowed for such courts to be set up under the authority of the Secretary of State. But, only four areas took the opportunity to set up the new type of specialist courts: Aberdeen, Ayrshire, Fife and Renfrewshire. The majority of juvenile cases in Scotland continued to be heard before sheriff courts, burgh courts or regular justice of the peace courts rather than specialist panels. This contrasted with England where specialist juvenile courts were established across the country under the Children and Young Persons Act 1933. From the early 1930s a clear divergence emerged in the development of juvenile courts in Scotland and England, with Scotland adopting the idea of specialist juvenile courts in a limited way compared to England where it was fully implemented.

The idea of formulating a completely fresh approach to reform was not seriously addressed again until the Report of the Kilbrandon Committee in 1964. Following the Report, juvenile justice in Scotland was transformed with the creation of the children's hearings system under the Social Work (Scotland) Act 1968. The system was founded on the Kilbrandon philosophy, a welfare based response to children in trouble aimed at avoiding criminalisation and stigmatisation of children. In recent years this underpinning philosophy has faced challenges stemming partly from issues related to the politicisation of juvenile justice and the impact of a range of competing rationales in contemporary youth justice (McDiarmid, 2011).

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*See also:*

### **Readings**

Barrie, D. and Broomhall, S. (2014) *Police courts in nineteenth century Scotland, volume 2: boundaries, behaviours and bodies*, Farnham: Ashgate.

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McDiarmid, C. (2011) 'Juvenile offending: welfare or toughness', in E. Sutherland, K. Goodall, G. Little and F. Davidson (eds). *Law making and the Scottish parliament: the early years*. Edinburgh: Edinburgh University Press, pp 225-249.

Ralston, A. (1988) 'The development of reformatory and industrial schools in Scotland, 1832-1872', *Scottish Economic and Social History*, 8:40-55.

Report of the Committee on Protection and Training (Morton Report), Edinburgh, HMSO, 1928.

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