



# DEVELOPING INSIDE

TRANSFORMING PRISON FOR YOUNG ADULTS

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A NEW APPROACH TO THE UNIQUE NEEDS  
OF YOUNG ADULTS (AGED 18-24) IN PRISON

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ADULTS (AGED 18-24) IN PRISON

MAY 2016

Jesuit Centre for Faith and Justice

First Published May 2016  
by The Jesuit Centre for Faith and Justice  
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Images ©The Irish Times, pages: front cover, iv, v, vi,vii, 13, 20, 23, 46 and 65.  
Derek Speirs, page 1.  
Jesuit Centre for Faith and Justice, pages: viii, 12 and 14.  
Prisonimage.org, pages: 4 and 36.

Design by Advantage Point Creative Consultancy

# Acknowledgements

The Jesuit Centre for Faith and Justice is grateful to Cathy Kelleher who was the lead researcher and writer of this policy report. The production of the report was co-ordinated by Eoin Carroll from the Centre. Eoin would like to pay particular thanks to Aoife Kelly, Daniel Fitzpatrick, Karl McGrath and Emma Byrne for their support in compiling the report.

The Centre would also like to thank Michelle Butler, Eddie D’Arcy, Peter McVerry, Kevin Warner and Imelda Wickham who gave feedback on earlier drafts, and Máire Ní Chearbhaill for proof-reading.

A number of others contributed to the report through advice and comments for which the Centre is very grateful.

The Jesuit Centre for Faith and Justice is the author of this report and takes responsibility for its final content.

# About the Jesuit Centre for Faith and Justice

The Jesuit Centre for Faith and Justice is dedicated to creating a better society for all by promoting social justice and policy reform through social analysis, theological reflection, awareness-raising and advocacy. The Centre is an agency of the Irish Jesuit Province and is a registered charity: CHY 6965.

At the heart of its work is the belief that every human being deserves dignity and respect. The social justice issues of concern to the Centre include penal policy, housing and homelessness, environmental justice, and the need for a more just and sustainable model of economic development.

See [www.jcfj.ie](http://www.jcfj.ie)

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## PROFILE OF AN ADULT IN PRISON\*

\*Due to the dearth of information on the sociological profile of adults in Irish prisons much of the data presented here is ten to twenty years old.

## YOUNG ADULTS

(MEN=749, WOMEN=18)<sup>6</sup>



### ACCOMMODATION

54% had experienced homelessness<sup>5</sup>; 49% said they did not know where they would live after being released<sup>5</sup>



### EDUCATION

20.3% had no schooling or primary education only<sup>1</sup>



### HEALTH

94.9% had smoked cannabis<sup>1</sup>; 37.8% have used heroin<sup>1</sup>; 47.8% had overdosed on injection drugs<sup>1</sup>; 90% have a mental health issue<sup>2</sup>; 28.8% had an indicator of learning disability<sup>3</sup>; 18.5% have an alcohol dependency<sup>4</sup>



### CRIME

All have been a victim of crime



### EMPLOYMENT

88% were unemployed prior to their committal<sup>4</sup>



### SOCIO-ECONOMIC BACKGROUND

93% of people in prison come from the two lowest socio-economic groups<sup>4</sup> highlighting that the vast majority of people who enter prison have experienced poverty and deprivation

<sup>1</sup>Drummond et al p. 45; p. 53; <sup>2</sup>Campbell et al (2014), p. 232; <sup>3</sup>Carey et al (2000); <sup>4</sup>O'Mahony (1997), p. 56; p. 135; p. 136; <sup>5</sup>Seymour and Costello (2005), p. 50; p. 58 <sup>6</sup>Irish Prison Service, 2016a

## UNIQUE CHARACTERISTICS OF YOUNG ADULTS AGED 18-24\*

Changes in key areas of life such as education, occupation, finances, living arrangements and romantic relationships

Biological and psychological developments do not continue until mid twenties

Most grow out of crime and will have stopped altogether by the time they are thirty

Not as equipped to plan ahead, reason, think abstractly or anticipate consequences

More malleable and susceptible to peer influence

Their lack of maturity diminishes their ability to understand and participate in justice proceedings

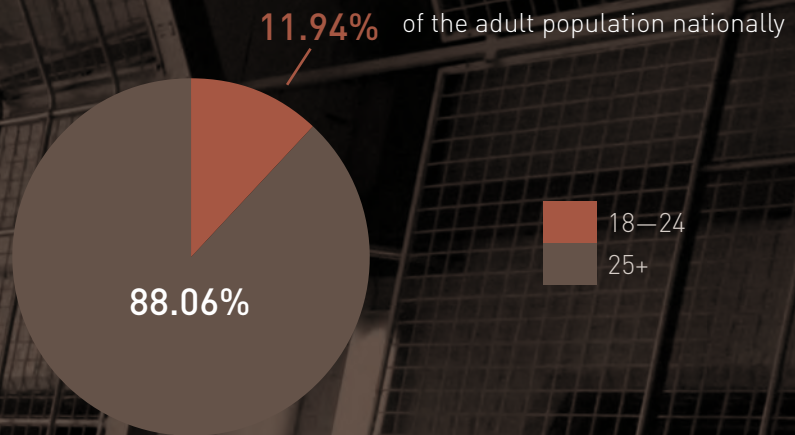
Higher level of risk taking; Impulse control does not fully develop until mid twenties

More likely to behave in a manner that will bring them into contact with the justice system

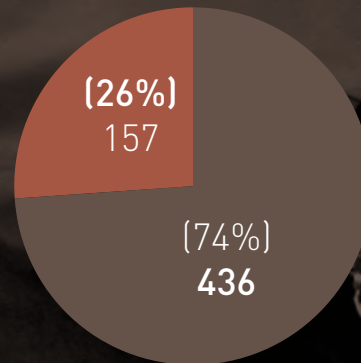
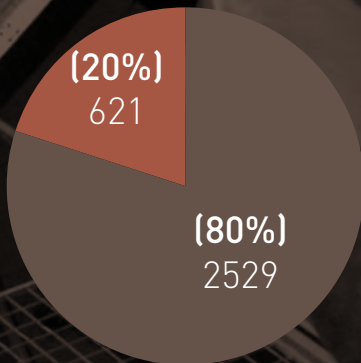
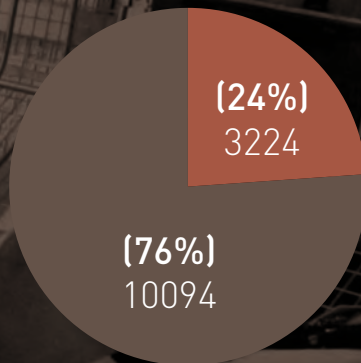
\*The information presented in this infographic is derived from Chapter 2 of this report.

# YOUNG ADULTS ARE OVER REPRESENTED IN PRISON

While young adults represent:



They are over represented within the prison population:

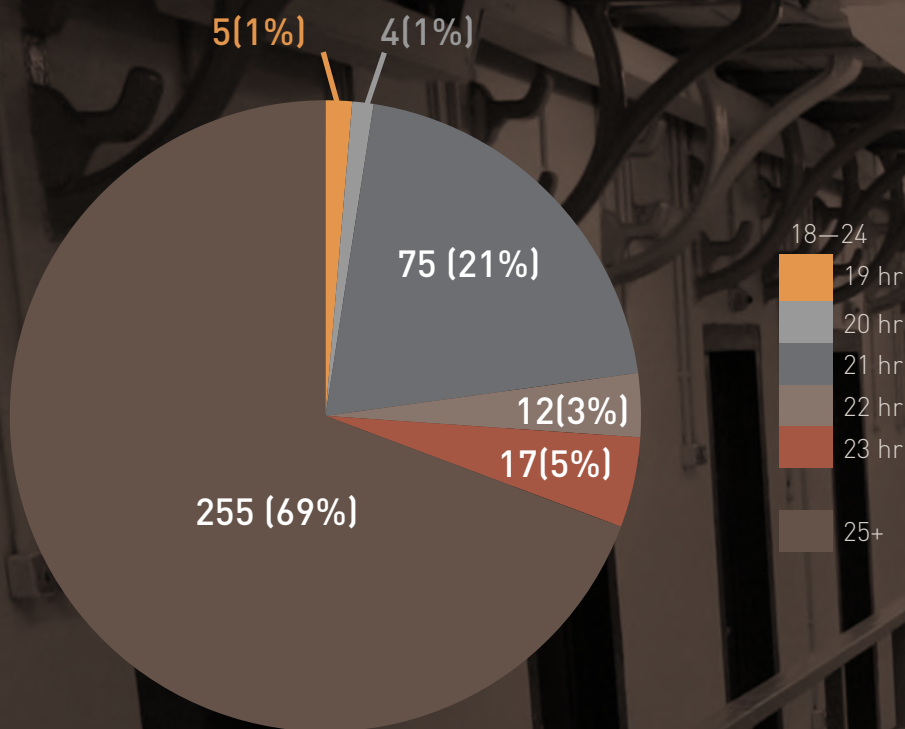


<sup>1</sup> Central Statistics Office (2011) Profile 2, Older and Younger, Dublin: Stationery Office. Available at [www.cso.ie/en/media/csoie/census/documents/census2011profile2/Profile2\\_Older\\_and\\_Younger\\_Entire\\_Document.pdf](http://www.cso.ie/en/media/csoie/census/documents/census2011profile2/Profile2_Older_and_Younger_Entire_Document.pdf).

<sup>2</sup> Irish Prison Service (2016a) Statistical Information received from the Irish Prison Service 4th February 2016



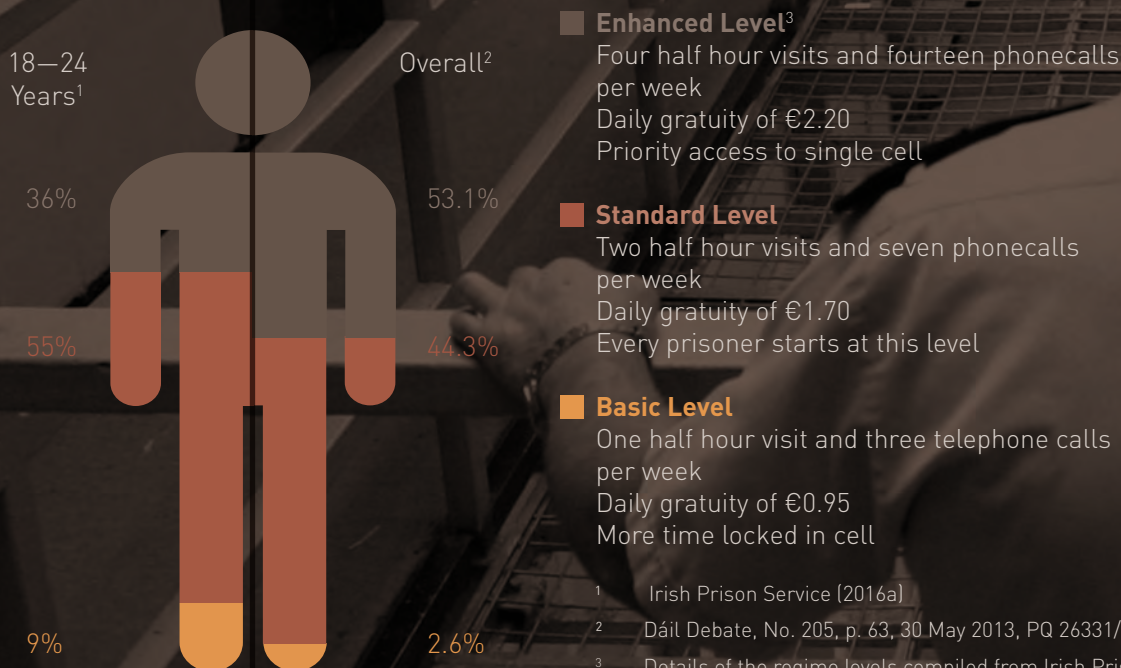
# ADULTS IN PRISON ON EXTENDED LOCK-UP TIMES<sup>1</sup>



<sup>1</sup> Irish Prison Service, 2016a

## REGIME COMPARISON YOUNGER ADULTS VS ALL ADULTS IN PRISON

A much greater number of young adults are on the basic level of accommodation



<sup>1</sup> Irish Prison Service (2016a)

<sup>2</sup> Dáil Debate, No. 205, p. 63, 30 May 2013, PQ 26331/13

<sup>3</sup> Details of the regime levels compiled from Irish Prison Service (2012c; 2016e) reports and information received

# SENTENCE LENGTH SNAPSHOT OF ADULTS IN PRISON SERVING A SENTENCE OF LESS THAN TWO YEARS

**18-24**  
Year Olds<sup>1</sup>



**25+**  
Year Olds<sup>2</sup>



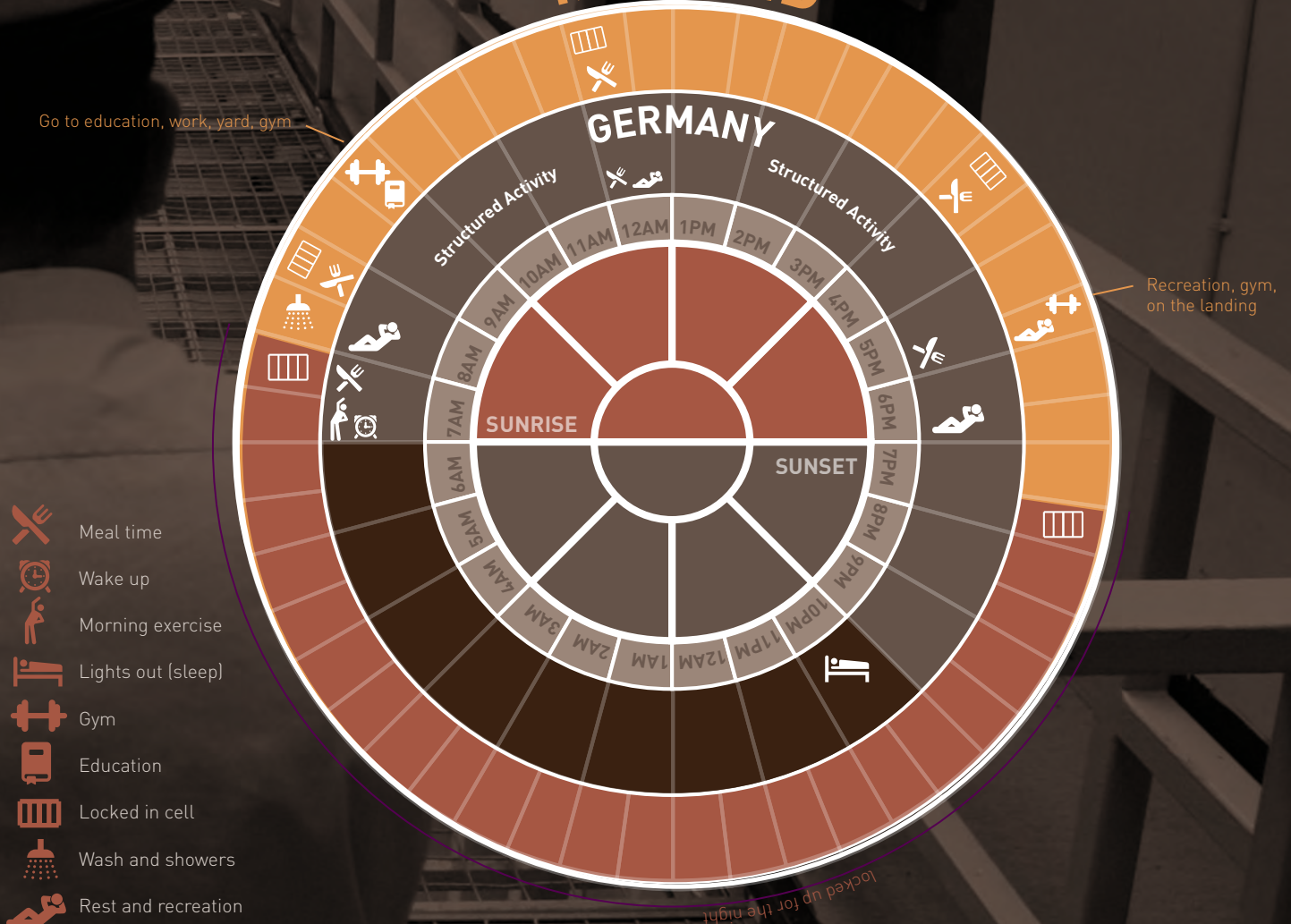
<sup>1</sup> Irish Prison Service (2016a)

<sup>2</sup> Irish Prison Service (2015a)

## DAILY ROUTINE FOR YOUNG ADULTS – IRELAND VS GERMANY

### IRELAND

### GERMANY



# HISTORICAL TIMELINE OF KEY EVENTS AFFECTING YOUNG ADULTS IN PRISON

- 1848** Juvenile Offenders (Ireland) Act 1848. Juveniles are characterised as those under the age of fourteen in criminal law. Anyone above that age is treated as an adult.
- 1858** Juveniles are re-categorised as those, 1) 10 years and under; 2) 11 to 16 years; and 3). 17 to 20 years by the Inspector-General of Irish Prisons.
- 1906** Clonmel Borstal opens as a place of detention for young male offenders aged between 16 and 21.
- 1908** The Children Act and Prevention of Crime Act. The Children Act classifies juveniles as under the age of 16. The Prevention of Crime Act allows for special measures to reform young offenders aged 16 to 21 but only applies to males. No provision for young women aged 16 to 21 who have offended, other than committal to an adult prison.
- 1925** Minister for Justice states that a borstal institution is not required for young women. Young women sent to Limerick Female Prison or to Mountjoy Female Prison (this is still the case).
- 1956** Clonmel Borstal closed and those detained there are transferred to the newly established St. Patrick's Institution in Dublin.
- 1968** Shanganagh Castle opens as the first open prison for young men aged 16-21, reflecting a changing attitude in Irish penal policy.
- 1970** The Prison Act. The first time the objectives of Imprisonment are laid down by the Oireachtas. Notable as it includes a statement that rehabilitation, as opposed to punishment, is the aim of the penal system in Ireland.
- 1985** The Report of the Committee of Inquiry into the Penal System ('The Whitaker Report') is published. The report strongly argues for major reform in penal policy in Ireland. Very critical of many aspects of the Irish Prison System including: the practice of mixing juveniles with older prisoners, conditions for women, high levels of short sentences and 'appalling' washing and toilet facilities. The report also calls for the closure of St Patricks and other 'outdated and unsuitable' institutions.
- 1985** Fort Mitchel on Spike Island opens to run as a closed prison for those under the age of 21 serving short sentences or those coming to the end of a longer sentence.
- 1999** The Dóchas Centre opens in Mountjoy Prison in Dublin. The centre is designed to imitate conditions of normal living in areas such as cooking, cleaning, etc.
- 2001** The Children Act represents the first major change in legislation surrounding the justice system for young people since the Children Act 1908. Those over 18 now automatically fall within the adult criminal justice system.
- 2002** Shanganagh Castle closes.
- 2004** Fort Mitchel on Spike Island closes. St Patrick's Institution becomes the only dedicated facility for detaining young males who have offended.
- 2011** Government pledges to close St Patrick's Institution.
- 2014** The Department of Children and Youth Affairs introduced *Better Outcomes, Brighter Futures*; defines *young person* as under the age of 25.
- 2014** All young adults aged 18-20 are transferred from St Patrick's to Wheatfield Prison. Wheatfield had been originally planned to replace St Patricks but ended up being used to hold adults.



# Introduction

## 1.1 YOUNG ADULTS IN PRISON AND THE CONDITIONS IN WHICH THEY ARE DETAINED

Young adults aged 18 to 24 (inclusive) account for one-in-five people in Irish prisons each day (Irish Prison Service, 2016a), and more than a quarter of all committals to Irish prisons each year (Irish Prison Service, 2014a; Irish Prison Service, 2015a). However, young adults make up just 9 per cent of the general population, and hence are overrepresented in Ireland's prisons, as they are in prisons across Europe and the United States (Office for Economic Co-Operation and Development, 2012; Transition to Adulthood Alliance, 2009; Velázquez, 2013).

This policy report addresses the particular needs and circumstances of young adults in prison in Ireland and the conditions in which they are detained. Elsewhere in Europe and beyond it is now recognised that young adults in prison are a distinct group differing from the adult prison population in particular physical, psychological, emotional, and social ways, and that young adults have unique needs that should be considered in any approach to their management (e.g., Council of Europe, 2003; Transition to Adulthood Alliance, 2009; Council of Europe, 2009; Farrington, Loeber, and Howell, 2012; Lösel, 2012; Pruin and Dünkel, 2015).

In Ireland, young adults within the criminal justice system are treated in the same way as older adults, with no account taken for their special requirements. As such, they are sentenced as adults and sent to adult prisons, where the regimes are harsh and the conditions serve to punish, rather than rehabilitate as intended.<sup>1</sup> Conversely, under 18s who have committed an offence become the responsibility of the Irish Youth Justice Service,<sup>2</sup> which promotes the diversion of young people away from the courts, and emphasises rehabilitation using specifically tailored initiatives, including community-based interventions (Irish Youth Justice Service, 2013). Currently, on their 18th birthdays, young people subject to sanctions will transfer to the adult criminal justice system. For some, this will mean entering an adult prison, upon which they will experience an 'abrupt' shift from rehabilitation to punishment (Farrington et al., 2012, p. 730).

1 The Irish Prison Service states its mission as, 'providing safe and secure custody, dignity of care and rehabilitation to prisoners for safer communities' (see [www.irishprisons.ie](http://www.irishprisons.ie)).

2 The Irish Youth Justice Service is an executive office of the Department of Children and Youth Affairs and Department of Justice and Equality.

International standards and guidelines dictate that when people are sent to prison, it should be *as* punishment, not *for* punishment. When people are sent to prison, they should be treated humanely and with respect for their inherent dignity. Rehabilitation should be the aim of an effective response, and prison should only be used as a last resort. In Ireland, young adults are being failed by a criminal justice system that views them as fully mature. Young adulthood, the period between the ages of 18 and 25 years, is a time when appropriate interventions can have lasting positive effects (Liebling, 2012a; Lösel, 2012). However, failure to recognise the unique characteristics of young adults and their offending behaviour causes them harm and does not reduce the likelihood of their reoffending.

There is a compelling case for alternatives in the treatment of young adults who come in contact with the criminal justice system. In this policy report, the Jesuit Centre for Faith and Justice draws on the work of the Barrow Cadbury Trust and Transition to Adulthood Alliance in the United Kingdom, on research evidence nationally and internationally, and on international standards and guidelines, to set forth the case, and to make its recommendations for radical reform of the current system of treatment of young adults in prison specifically.

## 1.2 WHY ACT NOW?

Ireland has responsibilities and obligations under United Nations treaties and Council of Europe standards and recommendations, which set out the principles and minimum standards by which humane prison systems should operate.<sup>3</sup> The Jesuit Centre for Faith and Justice has previously called for radical reform of the system of imprisonment and conditions in Irish prisons. Recent reports, however, highlight the inadequate conditions that continue to prevail in Irish prisons (Office of the Inspector of Prisons, 2014; Warner, 2014), though some improvements have been observed (Office of the Inspector of Prisons, 2014).

The proposals for reform set forth in this paper are underpinned by international standards and by the vision and values described by the Jesuit Centre for Faith and Justice in its report *The Irish Prison System: Vision, Values, Reality*. These are as follows:

- It is the deprivation of liberty which constitutes the punishment of imprisonment: people are sent to prison *as* punishment, not *for* punishment
- People in prison must be treated with humanity and respect for their inherent dignity
- The prison system must seek to promote the rehabilitation and social integration of those imprisoned
- Given that it is the loss of freedom which constitutes the punishment, and given the goal of rehabilitation, life inside prison should be as normal as possible, with security no greater than is required for safe custody
- The use of prison should be kept to a minimum, with non-custodial sanctions used as an alternative, wherever possible

[Jesuit Centre for Faith and Justice, 2012, p.3].

While there is currently no published strategy for young adults in prison, the Irish Prison Service committed to the development of a specific strategy for young adults by the end of 2015 (Irish Prison Service, 2012a; 2012b; Irish Prison Service and the Probation Service, 2013), and to 'review the overall approach taken to the placement of 18 to 21 year-olds' (Irish Prison Service and Probation Service, 2013, p.44) by the end of 2015. Furthermore, the Irish Prison Service and Probation Service make a commitment in their *Strategic Plan 2015–2017* to 'identify specific interventions with prisoners aged 18 to 21 years with a focus on reintegration that takes into account individual developmental needs' (Irish Prison Service and Probation Service, 2015, p.6). While welcoming these commitments, the Jesuit Centre for Faith and Justice is concerned by the delay in action and by the exclusion of the 21 to 24 age group.

<sup>3</sup> See Chapter 4 below and Jesuit Centre for Faith and Justice (2012).

As well as providing for the humane treatment of young adults, radical reform of the system in place for young adults can have social and economic benefits. In their submission to the Justice Committee (United Kingdom), the Transition to Adulthood Alliance (2012) wrote:

The current criminal justice response to young adults not only leaves needs unmet, but also reinforces their engagement in offending. By reforming approaches across the criminal justice system to reflect the distinct needs of this group, a significant impact would be felt in reducing current levels of reoffending, overall spend and, importantly, reducing the numbers of crime victims (Para. 5).

The situation in Ireland is similar. The average annual cost of a staffed prison space in 2014 was €68,959 (Dáil Debates, Nos. 293–296, p.75, 15 December 2015, PQ 45104/15). Once imprisoned, young adults will not be able to contribute to society, and once released their life chances will be severely restricted, making it difficult for them to lead productive lives and making it more likely they will become dependent on the State in the long term. Additional collateral consequences of imprisonment, such as worsening mental health and substance abuse problems, will also cost the State in the long term. Economic analyses of alternatives are compelling (Barrow Cadbury Trust, 2005; Lösel *et al.*, 2012). According to Lösel (2012) ‘successful correctional interventions can not only reduce the harm done to potential victims, but also save money for that society in the long run’ (p. 103).

## 1.3 STRUCTURE OF THE POLICY REPORT

Chapter 2 presents the rationale for considering young adults as a distinct group within criminal justice processing. Chapter 3 follows with a historical overview of treatment of the group in question, while Chapter 4 provides an outline of the current situation for young adults in Ireland’s prisons. In Chapter 5, international responses to young adults in prison are discussed. Proposals are made in Chapter 6 for the reform of the system in place for young adults in Irish prisons. Finally, key recommendations for change are summarised in Chapter 7.

# 2

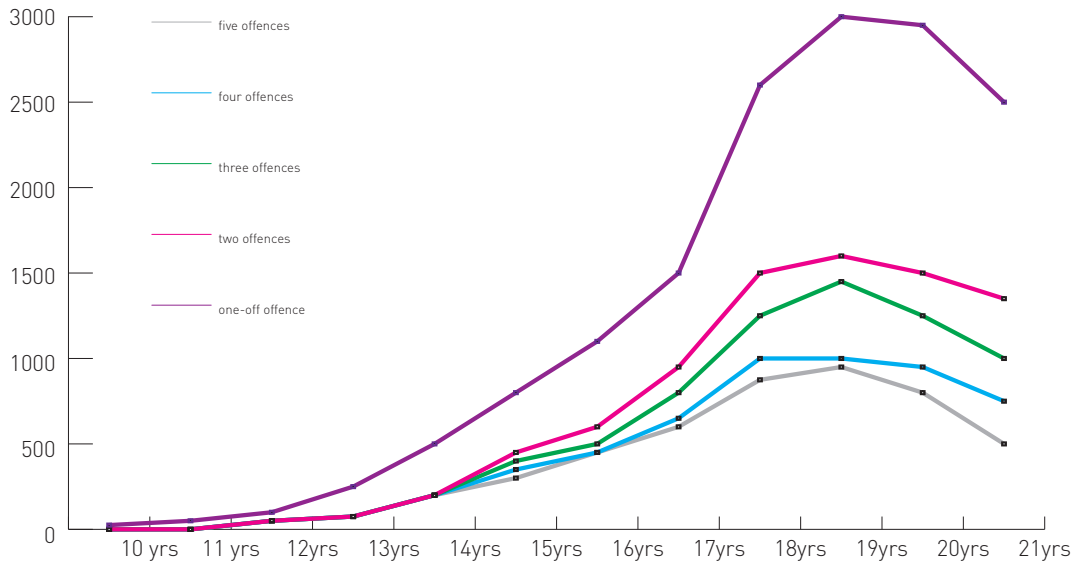
## Young Adults in Prison: Why are they Unique?

### 2.1 INTRODUCTION

In this chapter, the Jesuit Centre for Faith and Justice draws on theory and research from the criminological, sociological and psychological fields to argue that young adults aged 18 to 24 be considered a distinct group within the criminal justice system, and hence be treated differently to older adults in the prison system. It is argued that young adults differ from older adults in important ways and that treating them as adults is causing harm. This chapter begins with a discussion of what is known about the pattern of offending, desistance (the process of ceasing to offend) and recidivism among young adults.

### 2.2 OFFENDING, DESISTANCE AND RECIDIVISM AMONG YOUNG ADULTS

The prevalence of offending peaks rapidly in late adolescence and declines through early adulthood in a consistently observed trend known as the 'age-crime curve' (Farrington, 1986). Figure 2.1 (on the following page) presents the age-crime curve for offences committed by young people aged 10 to 21 years (inclusive) in Ireland in 2011. As is characteristic of age-crime curves, this curve illustrates how offending typically peaks in the 18 to 21 age group and declines sharply thereafter. As can be seen, no dramatic change occurs at age 18 – the legal age of adulthood – indicating that this legal point of entry to adulthood has no specific association with the decline in offending illustrated by the age-crime curve (Farrington *et al.*, 2012).

**Figure 2.1** Age crime curve

The number of people who committed an offence in 2011 by age (10 to 21 years) and by number of offences committed (sourced from An Garda Síochána, as cited in Irish Youth Justice Service, 2013)

The age-crime curve demonstrates that young adulthood is an important stage for desistance; many young people 'grow out' of crime in their early twenties and most will have desisted by age thirty (Farrington, 1986). The *Cambridge Study in Delinquent Development*, a prospective longitudinal study of 411 men over a 20 year period in the United Kingdom, found that the sharp decline in offending behaviour occurs regardless of the age at which offending behaviour commenced (Farrington *et al.*, 2012). It further found that the majority of those who committed an offence had desisted by age 28, with a peak decrease in offending at age 23 (Farrington, 1992). The study also indicated that the majority of young adults naturally desist from crime regardless of whether or not they have come to the attention of the criminal justice system (Farrington, 2007). Further longitudinal research has shown that a minority (around five per cent) of young people who have offended will persist with offending throughout adulthood (Healy, 2010, as cited in Irish Prison Service, 2013).

In recent decades, the peak of the age-crime curve has been rising in some countries (such as Germany, England and Wales), while the overall shape of the curve has remained the same (Dünkel and Pruin, 2012; Lösel *et al.*, 2012; Shapland, Bottoms, and Muir, 2012). Dünkel and Pruin (2012) note that the average age at which young adults desist from crime has also been rising and that this reflects the extended transition to adulthood now observed in Western societies.

While the association between age and crime has been difficult to explain (Gottfredson and Hirschi, 1990), evidence suggests that much of this relationship is attributable to the dramatic developmental and life changes that occur during late adolescence and young adulthood (Sweeten, Piquero, and Steinberg, 2013). During this time, young people experience multiple changes across all developmental domains and within key life spheres such as education, occupation, finances, living arrangements, and romantic relationships (Steinberg and Morris, 2001). Using data from the *Pathways to Desistance* longitudinal study of young people aged 16 and upwards in the United States, Sweeten *et al.* (2013) found that three-quarters of the age-crime curve could be explained by changes occurring across a range of psychological and sociological variables among the 16 to 24 year olds studied. They found lessening exposure to antisocial peers and antisocial peer pressure to be the strongest individual predictor of a decrease in offending. Furthermore, life events that place strain on the individual, such as homelessness, frequently moving home, victimisation, witnessing victimisation, and relationship breakup, were also predictors for offending, as were psychosocial variables such as impulse control and suppression of aggression.



The research indicates that age alone does not explain the prevalence of offending among young adults, and suggests that interventions to reduce offending should address the complex interplay of social and psychological factors that influence a young adult's motivation to offend (Sweeten *et al.*, 2013). It further suggests that, as young adulthood is a significant stage for desistance, measures to reduce offending should focus on supporting this process (McNeill and Weaver, 2007; Sweeten *et al.*, 2013). Nonetheless, the Transition to Adulthood Alliance (2012) cautions that the wrong intervention at this time risks extending the involvement of the young adult with the criminal justice system. From their review of the evidence, McNeill and Weaver (2007) similarly observe that 'intervening too much, too soon and in the wrong ways runs the risk of establishing criminal reputations and identities rather than diminishing them' (p.1).

Imprisonment as a response to young adult offending is unlikely to deter future reoffending. Research indicates that the highest recidivism rates are found among the 18 to 24 year age group and that recidivism rates decrease as age increases (Langan and Levin, 2002; Irish Prison Service, 2013; Durose, Cooper, and Synder, 2014). A study of people released from Irish prisons in 2007 indicated that 62 per cent had reoffended within three years, with 68 and a half per cent of those aged less than 21 reoffending, and 68 per cent of those aged 21 to 25 years reoffending. This compared to a rate of 39 per cent among those aged 51 and above (Irish Prison Service and Central Statistics Office, 2013). Also, from their review of international research on 'criminal careers', Piquero, Hawkins and Kazemian (2012) concluded that about 50 per cent of juveniles who have offended will reoffend into adulthood. Similarly, the *Cambridge Study* found that the majority (two-thirds) of young adults convicted of a crime had also been convicted as juveniles (Farrington, 2012). However, research also indicates that the majority of young adults will desist in early adulthood irrespective of when their offending behaviour began (Farrington *et al.*, 2012) and whether or not they have been imprisoned (Farrington, 2007). As highlighted by Farrington *et al.* (2012), it is also unlikely that imprisonment leads to desistance as *Cambridge Study* participants reported an increase in offending following conviction. Indeed, findings from the *Edinburgh Study of Youth Transitions and Crime*, a longitudinal study examining pathways into and out of crime among 4,300 young people in Scotland, demonstrated that early and intense involvement with the youth justice system actually inhibited desistance, while diversion away from the justice system promoted it (McAra and McVie, 2010). This study also found that 56 per cent of young people referred to the Children's Reporter<sup>4</sup> for an offence received a conviction in the adult system by age 22. Those who transitioned to the adult criminal justice system were experiencing substantial social adversity while transitioning and were far more likely to be placed in custody by age 19 than their counterparts who had no previous hearings (McAra and McVie, 2007).

Rather than promoting desistance, there is evidence to suggest that 'going to prison is itself "criminogenic" that is, it acts to increase criminal behaviour' (Velázquez, 2013, p.2). A study of the effects of release from prison on crime rates in the United States indicated that increases in the numbers of people released from prison were significantly associated with increases in crime (Vieraitis, Kovandzic, and Marvell, 2007). As the authors had controlled for changes in prison population levels, they considered the significant findings as evidence for the criminogenic effects of prison. They concluded that, 'the evidence for prisonization effects on crime is strong and seems to overwhelm any negative impacts of incarceration on crime through deterrence and/or rehabilitation' (p.614).

While the exact mechanisms through which the criminogenic effects of prison occur are not clear, Vieraitis *et al.* (2007) draw on available research to identify the factors implicated. In summary, it seems that the effects of restrictive prison environments can make adjustment to life outside prison difficult. This is compounded by poor access to education and training opportunities in prison and by mental health and substance abuse issues that go unaddressed in prison. Such factors create barriers to re-entry to society. Additionally, stigma, limited housing and employment opportunities on release, and weakened positive social bonds, create barriers to reintegration. Indeed, extensive ethnographic research in the United Kingdom has portrayed the criminal justice system as a 'disruptive force' that interrupts the lives of young people before, during and after a custodial sentence (Wilson, 2010, p.189).

4 In Scotland, children and young people at risk are referred to the Children's Reporter when it is believed that they require compulsory measures of supervision (see [www.scra.gov.uk](http://www.scra.gov.uk)).

A further issue is the potential for prisons to function as 'schools for crime' (Durlauf and Nagin, 2011, p.22).<sup>5</sup> Vieraitis *et al.* (2007) note it is 'plausible that the prison experience can increase crime by providing inmates with an education in crime as criminals learn from each other how to commit new crimes or how to improve their techniques' (p. 591). Young adults, and those entering prison for the first time, may be particularly vulnerable in this regard as, 'they are exposed to more experienced inmates who can influence their lifestyle and help solidify their criminal identities' (p. 593).<sup>6</sup>

Farrington *et al.* (2012) summarise that overall, the criminal justice system does not consider what the age-crime curve reveals about young adults and crime: firstly, there is 'no clear dividing line' at age 18; secondly, the prevalence of crime decreases naturally with age; and thirdly, most young adults desist from crime by their late 20s. Rather than reducing reoffending, sending young adults to prison may disrupt the natural process of desistance and increase the likelihood that they will reoffend once released. On this basis, the Barrow Cadbury Trust (2005) and Transition to Adulthood Alliance (2009) have argued against custodial sanctions and in favour of diversion approaches (wherever possible) for young adults who have committed an offence (Lösel *et al.*, 2012).

## 2.3 YOUNG ADULTS IN TRANSITION TO ADULTHOOD

Central to the case for reforming the way young adults in contact with the criminal justice system are treated is the argument that young adults are not yet fully mature, but are in transition to full adult maturity (Barrow Cadbury Trust, 2005; Transition to Adulthood Alliance, 2012). Accordingly, young people experience important biological and psychosocial developments throughout adolescence and young adulthood and do not fully mature until their mid-twenties. This position is supported by a comprehensive review of the scientific evidence, which includes findings from neurological, criminological, and psychological research (Prior *et al.*, 2011).

Specifically, research suggests that the human brain continues to develop through adolescence and young adulthood and is not fully mature until the early to mid-twenties (Prior *et al.*, 2011). Among brain developments at this time are changes in the areas associated with executive functioning and emotion regulation. Executive functioning – the ability to set and attain future goals (Pennington and Ozonoff, 1996) – involves planning ahead, reasoning, thinking abstractly, anticipating consequences, and controlling impulses (Sowell *et al.*, 2001). Cognitive processes such as these are indicators of psychosocial maturity, and they manifest in responsibility (the ability to act independently, to be self-reliant, and to have a clear sense of personal identity); perspective (the ability to understand and consider others' perspectives before deciding to act); and temperance (the ability to limit impulsiveness, to control aggression and risk taking, and to think before acting) [Cauuffman and Steinberg, 2000, as cited in Prior *et al.*, 2011, pp. 10–11]. Research suggests that temperance does not fully develop until the mid-to-late 20s, while responsibility and perspective mature earlier, at around 18 years of age (Modecki, 2008, as cited in Prior *et al.*, 2011). The evidence indicates that young adults lack maturity in the psychosocial capacities needed to avoid antisocial decision making and risk taking, and to resist peer influence. Instead, such capacities continue to mature during young adulthood. The evidence also suggests that females tend to mature earlier than males (Prior *et al.*, 2011).

Psychosocial immaturity means young adults are more likely to behave in a manner that will bring them into contact with the criminal justice system. Once in the system, their lack of maturity may diminish their adjudicative competence – the ability to understand and participate in justice proceedings (Farrington *et al.*, 2012; Lösel *et al.*, 2012). From their review of the evidence on young adults' capacities, Farrington *et al.* (2012) conclude that, 'young adult offenders aged 18–24 are more similar to juveniles than to adults with respect of features such as their executive functioning, impulse control, malleability, responsibility, susceptibility to peer influence, and adjudicative competence' (p.741). Young adults' offending behaviour also bears more resemblance to adolescent offending than to adult offending behaviour (Dünkel and Pruin, 2012). If young adults are not fully mature then it also follows that young adults may be considered less culpable than older adults and therefore less deserving of punishment

5 Reflecting this concern, the Inspector of Prisons, in his 2006–2007 annual report, referred to St Patrick's Institution as 'a finishing school in criminality' (Office of the Inspector of Prisons, 2007, p.7).

6 Research on young people (aged 12–18) on remand in the Irish context found a concern with the criminogenic effects of antisocial peer association was reflected in Children's Court-applied bail conditions, which included restrictions on association and movement, as well as curfews (Seymour and Butler, 2008).

(Farrington *et al.*, 2012; Lösel *et al.*, 2012). This argument and its implications underpin the case for reform of the treatment of young adults in contact with the criminal justice system (Barrow Cadbury Trust, 2005; Transition to Adulthood Alliance, 2009; Farrington *et al.*, 2012; Lösel *et al.*, 2012).

As discussed, research on maturity and the age-crime curve indicates that the period of young adulthood is distinct from adulthood – young people do not suddenly change when they turn 18, the legal age of majority in Ireland, and hence, age 18 is an arbitrary entry point to adulthood (Prior *et al.*, 2011; Farrington *et al.*, 2012). The period of young adulthood is also unique, because, as the age-crime curve demonstrates, young adulthood is the time when most people desist from crime. However, while aspects of young adults' maturity and offending behaviour more closely resemble adolescents' than adults', young adulthood differs from adolescence in important ways. Arnett (2004) emphasises that the period from 18 to 24 is not just an extended adolescence, but is, 'a period of independent exploration' and 'instability' that is 'freer from parental control' (p.4). His concept of 'emerging adulthood' describes the extended passage to adulthood reflected in an increasing mean age at which young people take on adult roles and responsibilities. This extended passage to adulthood is also reflected in the upward shift in the mean age of desistance (Dünkel and Pruin, 2012).

Alongside the biological and psychosocial developments during young adulthood are changing social relationships and responsibilities. Young people are remaining dependent for longer and experience insecurity in important domains of their lives such as finance and employment. Dünkel and Pruin (2012) observe that the formation of a personal identity is a major developmental goal of the young adult, but that this may be thwarted by the extended period of dependence and insecurity. They propose that as stability is theoretically linked to desistance (Sampson and Laub, 1993), it follows that a goal of intervention with young adults should be to promote identity formation and stability in order to promote desistance. However, this calls for a 'flexible, supportive, and rehabilitative' approach which is characteristic of youth justice systems, rather than the more 'repressive' adult criminal justice systems (Dünkel and Pruin, 2012, p.19).

## 2.4 YOUNG PEOPLE IN PRISON HAVE 'TROUBLED HISTORIES AND COMPLEX UNMET NEEDS'

Young adults in prison are a particularly vulnerable group whose 'troubled histories and complex unmet needs' differentiate them from others in custody (Liebling, 2012a, p. 65). Indeed, 'it is the norm, not the exception, that young adults in contact with the criminal justice system have multiple vulnerabilities arising from a variety of social, psychological and economic factors' (Saunders, 2014, p.3).

International research indicates that young adults who have offended are likely to have grown up in deprived areas and to have experienced poverty, disadvantage, and social exclusion (e.g., Paton, Crouch, and Camic, 2009). Educational failure, unemployment, family breakdown, homelessness, young parenthood, and leaving care, are some examples of the difficulties faced by young people who end up in the prison system (Transition to Adulthood Alliance, 2009). Young adults in prison may have had traumatic upbringings (Paton *et al.*, 2009), may have issues with attachment due to troubled family backgrounds (Liebling, 2012a), and may have spent time in care (McAra and McVie, 2010). Many young adults in prison have mental health issues, intellectual disabilities, and issues with alcohol and drug misuse (e.g., Farrant, 2004; Devitt, Knighton, & Lowe, 2009; Sturrock, 2012). They are also likely to have been victims of crime (Smith, 2004). Findings from the *Edinburgh Study* demonstrated that young people who committed crimes had a history of disadvantage and social adversity, and that those who committed the most serious offences had histories of significant social adversity and victimisation (McAra and McVie, 2010). One of the key findings of this study was that school inclusion in the early to mid-teenage years is a key factor in determining whether or not a young person will begin to offend, or continue to offend if already offending.

Research on the profile of young adults in prison in Ireland is severely lacking. However, research has linked adolescent crime rates in Ireland to conditions of socioeconomic deprivation (Hannon *et al.* 2000, Bacik *et al.* 1998). Also in the Irish context, research with young people (aged 12 to 18) on remand found they tended to be early school leavers, leading unstructured

daily lives, often associating with antisocial peers, and using alcohol and drugs (Seymour and Butler, 2008). Moreover, their situation was compounded by a lack of services addressing their needs outside of prison. Research on adults in Irish prisons found they are likely to have come from disadvantaged backgrounds (O'Mahony, 1997; Kennedy *et al.*, 2005). Additionally, a high prevalence of mental health disorders (Kennedy *et al.*, 2005), substance abuse (Kennedy *et al.*, 2005; Drummond *et al.*, 2014), and intellectual disabilities (Carey, Harrold, Mulrooney, and Murphy, 2000) has been found among the Irish prison population. These findings are consistent with prevalence rates internationally (Fazel and Danesh, 2002). Census 2011 also indicates that many people in prison have multiple disabilities (Inclusion Ireland, 2013); others will have disabilities that are undiagnosed.

Young adults who have offended are placed in institutions that are not equipped to deal with their complex needs and they may struggle to adapt to imprisonment. Liebling (2012b) notes that adapting to imprisonment requires coping skills and resources that many young adults do not have. In one study, Harvey (2007, as cited in Liebling, 2012a) found that young males in prison must adapt emotionally in order to adapt socially and practically to imprisonment and that this adaptation is necessary for survival. From her research, Liebling observed that it is the most vulnerable persons in prison who are likely to end up on a restricted regime (Liebling, Muir, Rose, and Bottoms, 1997) – their behaviour may be mistaken for defiance and disruption, rather than as emotional vulnerability and a lack of necessary coping skills (Liebling, 1992, 1995, 1999, as cited in Liebling 2012b).

On imprisonment, young adults are at higher risk of suicide and self-harm (Liebling, 2012a; Harris, 2015). Other points of particular vulnerability include transfers, recent stressful events in prison, refusal of parole, the start of a sentence, and recent domestic events (Liebling, 1995). Young people are especially vulnerable when being transferred from youth justice institutions to adult prisons and at this point they may be at increased risk of self-harm (National Offender Management Service and Youth Justice Board, as cited in Allen, 2013; Harris, 2015). It follows that young adults need additional support at such points in the prison experience and it is also important that they are kept active while in prison (Liebling, 2012a). In England and Wales, rising rates of suicide among young adults in custody promoted an independent review of 87 self-inflicted deaths between 1 April 2007 and 31 December 2013 (Harris, 2015). The Review highlighted that young adults in prison are extremely vulnerable, that imprisonment exacerbates this vulnerability, and that points of transition present particular challenges. It also recommended that the concept of 'maturity' be given legal recognition and alongside chronological age, be a key consideration in the treatment of young adults in the criminal justice system, including their placement in custodial institutions.

It is recognised that the issues and needs of women in prison differ significantly from those of men in prison (Lawlor and McDonald, 2001; Irish Penal Reform Trust, 2013a; Allen, 2016). Women in prison tend to have multiple vulnerabilities relating to their particular domestic, personal, and socioeconomic circumstances (Her Majesty's Inspectorate of Prisons, 2010). Many have issues with drugs and alcohol, and they tend to experience higher rates of mental health difficulties and self-harm than do males in prison (e.g., Kennedy *et al.*, 2005; Light, Grant, and Hopkins, 2013). Research in the UK context indicates women in prison are often early school leavers, lacking qualifications and experiencing difficulties with unemployment and homelessness prior to entering prison (Her Majesty's Inspectorate of Prisons, 2010). In addition, many are single parents and many will have been victims of abuse, while their crimes tend to be drug and theft related and non-violent. Similarly, in the Irish context, women in prison face difficulties with homelessness, mental health issues, substance dependence, domestic violence and abuse, and many are mothers and have caring responsibilities for other relatives (Irish Penal Reform Trust, 2013a). One study found that homelessness and sleeping rough, substance use, trauma and victimisation, poor mental health, and poor social support networks, had been characteristic of the lives of women who had been in prison (McHugh, 2013). In a further study, Seymour and Costello (2005) found that 33 per cent of women in prison were homeless on committal. Furthermore, the Probation and Welfare Officers they interviewed described two types of homeless women in prison: 'older women with alcohol and drug problems who are repetitive petty offenders sentenced for such crimes as breach of the peace, loitering and shoplifting – and younger, female drug addicts' (p.100).

The particular social profile of women in prison prompted the development and publication in 2013 of *The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the *Bangkok Rules*), which states that prison should be a last resort for women who offend. The Rules are underpinned by the recognition that:

- A considerable proportion of women offenders are in prison as a direct or indirect result of multiple layers of discrimination and deprivation.
- Women mainly commit petty crimes closely linked to poverty, such as theft, fraud and minor drug related offences.
- Only a small minority of women are convicted of violent offences, and a large majority of them have been victims of violence themselves.

(Penal Reform International, 2013, p.3)

While the *Bangkok Rules* distinguishes between women and girls in aspects of its provisions, it does not specifically distinguish between young adults in the 18 to 24 age group and older adult women. However, in 2016, the Transitions to Adulthood Alliance published its policy report, *Meeting the Needs of Young Adult Women in Custody* (Allen, 2016), noting the particular vulnerabilities of young adult women in prison, and the dearth of research specifically addressing this group.

The existence and co-existence of vulnerabilities threaten the transition to adulthood for young adults. In *Lost in Transition*, the Barrow Cadbury Trust observed, 'the circumstances in young adults' lives that diminish their life chances and make them vulnerable to social exclusion also make them more likely than others to commit crimes' (p.9). These circumstances not only increase the likelihood of the young person ending up in prison, but also impact on their ability to cope with prison life, and on their ability to re-enter society on release.

## 2.5 PRISON DAMAGES YOUNG ADULTS

Rather than rehabilitating young adults, sending them to prison causes them physical and emotional harm (Barrow Cadbury Trust, 2005). Relative to the youth justice system, treatment of young adults in adult criminal justice systems ultimately serves to punish, not rehabilitate, and makes young adults more likely to reoffend (Farrington *et al.*, 2012). According to Farrant (2004), sending young adults into prison is sending them into 'an environment which strips them of their responsibilities, stunts opportunities for development, makes them feel unsafe, and restricts their opportunities for integration into adult society' (p.2).

In a humane prison system, the punishment element of imprisonment should be the loss of liberty only and prison life should be as close as possible to 'normal' life outside prison (Jesuit Centre for Faith and Justice, 2012). Young adults are being detained in all prisons across the Irish prison estate (Dáil Debates, Nos. 293–296, p.75, 15 December 2015, PQ 45104/15), while Irish prisons can be criticised for failing to meet international standards on key aspects of prison regime and living conditions (e.g., Jesuit Centre for Faith and Justice, 2012; Warner, 2012; 2014).<sup>7</sup> There is little 'normal' about life in an Irish prison (or indeed in many prisons outside the jurisdiction). Recently, conditions have improved in a number of Irish prisons (Jesuit Centre for Faith and Justice, 2012). However, problems with overcrowding and sanitation continue to be highlighted by various bodies and reports (e.g., United Nations Human Rights Committee, 2014). Access to structured activity is limited (Inspector of Prisons, 2013a; Warner, 2014), contact with family and friends is restricted (Warner, 2014), and prisons are poorly equipped to appropriately respond to mental health issues and alcohol and drug problems (e.g., Kennedy *et al.*, 2005; Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 2011). High levels of bullying exist in prisons (Office of the Inspector of Prisons, 2014). Additionally, punishments are imposed on those who break prison rules (Office of the Inspector of Prisons, 2014). Imprisonment has both immediate and long-term consequences for the health and wellbeing of young adults (World Health Organisation, 2007; 2008). Furthermore, a criminal conviction and time spent in prison affects young adults' future life chances. As a consequence, young adults may become further excluded from society, and may return to crime.

<sup>7</sup> Current conditions in Irish prisons are described in Chapter 3.

Sending young adults to prison not only serves to increase crime rates, but also inflicts harm on young adults, their families, and the communities in which they live. Failure to consider the special needs of the group arising from their developmental stage and their social circumstances is also a failure of wider social policy. Young adults need support through the transition to adulthood if they are to fulfil their potential and contribute to society. In addition to criminal justice policy, the issue of social exclusion must be addressed through social policy in areas of child poverty, housing, employment, substance misuse, and mental health, in order to reduce the likelihood of offending, promote desistance and avoid the long-term negative consequences of imprisonment.

## 2.6 YOUNG ADULTS CAN AND DO CHANGE, BUT MAY NEED SUPPORT TO DO SO

While research on desistance indicates that most young adults will naturally desist from crime, it also indicates that there are factors which can facilitate or thwart this. Such knowledge can inform the direction policy should take. Researchers on the *Pathways to Desistance* study in the United States concluded that, 'for intervention efforts, this is potentially a story of hope. There are many possible mechanisms for flattening the crime peak in adolescence or accelerating the decline in crime in adulthood' (Sweeten *et al.*, 2013, p. 935). Such mechanisms include addressing the underlying social issues that lead to adverse life events, such as homelessness and unemployment, and putting appropriate supports in place in the community to help young adults effectively overcome such events when they do occur. Importantly, the *Edinburgh Study* highlighted 'critical moments' in early to mid-adolescence that are linked to desistance (McAra and McVie, 2010). The study demonstrated that desistance is promoted by school inclusion and diversion measures, while it is inhibited by school exclusion and contact with the justice system. Arising from these findings, McAra and McVie (2010) recommend interventions that operate on a 'principle of maximum diversion', whilst also being 'proportionate to need' (p.200). For young people who enter the youth justice system, they argue for interventions based on a *desistance paradigm* (McNeill, 2006), which

aims to help the child construct a non-offender identity, it involves a close one to one relationship with a key worker who acts as an advocate for the child and crucially it involves continuity in who that key worker is (p.201).

They note, however, that this must be implemented in the context of inclusion in the areas of education and employment. Furthermore, interventions should be targeted to the points of increased vulnerability – notably, leaving care, and transitioning between the youth and adult justice systems.

Alongside findings from the criminological and sociological research, the psychological research highlights that it is necessary to consider the psychosocial immaturity of young adults and to concentrate efforts on helping them to mature, for example, through helping them learn to control impulses and aggression. Research findings also point to the need to support young people to minimise antisocial peer association, to resist peer influence, and to promote interaction with prosocial peers (Monaghan, *et al.*, 2009; Sweeten *et al.*, 2013).

The use of diversion over custody, where possible, makes sense given that prison is excessively punitive, harms young adults, and is unlikely to deter reoffending (Barrow Cadbury Trust, 2005; Transition to Adulthood Alliance, 2009; Farrington *et al.*, 2012). Allen (2012) highlights that diversion should encompass both measures to address the causes of offending and also mechanisms for reparation for victims of crime. For young adults in prison, measures should also aim to rehabilitate, to prepare the young adults for re-entry to society and for leading productive lives. Access to structured activity in the form of education, training and employment, regular access to recreation, library and gym facilities, and regular contact with prosocial friends and family will facilitate this. It also follows that young adults should be kept away from older adults in prison who may intimidate or exert a negative influence on them. Imprisonment should be a last resort for young adults (i.e., for serious violent crimes), and the punishment should consist of the loss of liberty and nothing else.

## 2.7 CONCLUSION

The argument set forth in this chapter is that young adults aged 18 to 24 are a distinct group. Young adults are in transition to adulthood and treating them in the criminal justice system slows down this transition and does more harm than good. The youth justice system's focus on rehabilitation and measures to reduce reoffending contrasts starkly with the more punitive adult criminal justice system. As soon as young people turn 18, however, they are subjected to the adult system where it is assumed they are fully mature and responsible for their actions. As the majority of adolescents who have offended will continue to offend into young adulthood, many will transfer from the youth justice system to the adult criminal justice system. Those sentenced to prison will be held in adult prisons that fall far short of international standards. There they will mix with older adults who have offended and will risk internalising the values of people who have established criminal careers. Because young adults lack maturity, they may have particular difficulty adjusting to prison life, and hence may seem uncooperative and receive additional sanctions as a result (Barrow Cadbury Trust, 2005; Liebling, 2012a). Young adults are more likely to be on a restricted regime in prison than any other age group (Dáil Debates, Nos. 115–119, p.59, 26 February 2015, PQ 8604/15). Furthermore, they will be stigmatised, and will be more likely to reoffend once released.

The evidence indicates that alternatives for the treatment of this distinct group are warranted (Barrow Cadbury Trust, 2005; Transition to Adulthood Alliance, 2009; Prior *et al.*, 2011; Farrington *et al.*, 2012). From their extensive review of the literature on maturity, Prior *et al.* (2011) concluded that evidence,

... points emphatically to the inappropriateness of an arbitrary age limit as the key factor determining the kind of judicial response an offender should receive, and that in the young adult group, the level of maturity exhibited by an offender is a valid factor to be considered within the legal process (p.35).

The Jesuit Centre for Faith and Justice recommends that young adults aged 18 to 24 be considered a distinct group, and as such, should be treated differently to older adults in the prison system. Research indicates that young adults are more like adolescents than adults with respect to maturity and to offending. This implies that responses to young adult offending should be more aligned to the youth justice system approach than to the criminal justice system approach. Levels of maturity should be considered in all justice responses to young adults who come in contact with the criminal justice system. The aim should be to support the healthy development of young adults into fully mature and responsible adults capable of making a contribution to society in the long-term.

# Young Adults in Prison in Ireland: Historical Review

## 3.1 INTRODUCTION

This chapter provides a review of key developments in the treatment of young adults in prison in Ireland from the mid-nineteenth century onwards. In doing so, it does not argue for a re-introduction of punitive penal institutions of the past, but rather, it highlights a longstanding awareness of the need to treat young adults differently from older adults in the criminal justice system.

## 3.2 NINETEENTH-CENTURY INFLUENCES

The 1800s saw increased attention on juvenile crime, arising in part from high rates of recidivism and an increased focus on the goal of reform of young people involved with crime (Lawlor, 2012). The definition of *juvenile* underwent much change during the middle of the century, referring to those under 14 years of age in the Juvenile Offenders (Ireland) Act 1848; 16 years and younger in the Larceny Act 1850; and reverting to 14 years and under in the Summary Jurisdiction (Ireland) Act 1851 (Lawlor, 2012). This was followed in 1853 by the designation of two categories of juvenile by the inspectors-general of Irish prisons: those aged 10 years and younger and those aged 11 to 16 years. Five years later in 1858, the inspectors-general designated three categories of juvenile: those aged 10 years and under, those aged 11 to 16 years, and those aged 17 to 20 years (Lawlor, 2012).

Two pieces of legislation published in 1908 largely determined the treatment of young people who had offended for much of the twentieth century, and both were influenced by the legislative changes occurring from the mid-1850s onwards. The Children Act 1908 designated *juveniles* as those under 16 years of age and set the age of criminal responsibility at seven. In the same year, the Prevention of Crime Act 1908 was published, classifying *young offenders* as those aged 16 to 20 years (inclusive) and setting forth special measures for their 'reformation'.



# HISTORICAL TIMELINE OF KEY EVENTS AFFECTING YOUNG ADULTS IN PRISON

- 1848** Juvenile Offenders (Ireland) Act 1848. Juveniles are characterised as those under the age of fourteen in criminal law. Anyone above that age is treated as an adult.
- 1858** Juveniles are re-categorised as those, 1) 10 years and under; 2) 11 to 16 years; and 3). 17 to 20 years by the Inspector-General of Irish Prisons.
- 1906** Clonmel Borstal opens as a place of detention for young male offenders aged between 16 and 21.
- 1908** The Children Act and Prevention of Crime Act. The Children Act classifies juveniles as under the age of 16. The Prevention of Crime Act allows for special measures to reform young offenders aged 16 to 21 but only applies to males. No provision for young women aged 16 to 21 who have offended, other than committal to an adult prison.
- 1925** Minister for Justice states that a borstal institution is not required for young women. Young women sent to Limerick Female Prison or to Mountjoy Female Prison (this is still the case).
- 1956** Clonmel Borstal closed and those detained there are transferred to the newly established St. Patrick's Institution in Dublin.
- 1968** Shanganagh Castle opens as the first open prison for young men aged 16-21, reflecting a changing attitude in Irish penal policy.
- 1970** The Prison Act. The first time the objectives of Imprisonment are laid down by the Oireachtas. Notable as it includes a statement that rehabilitation, as opposed to punishment, is the aim of the penal system in Ireland.
- 1985** The Report of the Committee of Inquiry into the Penal System ('The Whitaker Report') is published. The report strongly argues for major reform in penal policy in Ireland. Very critical of many aspects of the Irish Prison System including: the practice of mixing juveniles with older prisoners, conditions for women, high levels of short sentences and 'appalling' washing and toilet facilities. The report also calls for the closure of St Patricks and other 'outdated and unsuitable' institutions.
- 1985** Fort Mitchel on Spike Island opens to run as a closed prison for those under the age of 21 serving short sentences or those coming to the end of a longer sentence.
- 1999** The Dóchas Centre opens in Mountjoy Prison in Dublin. The centre is designed to imitate conditions of normal living in areas such as cooking, cleaning, etc.
- 2001** The Children Act represents the first major change in legislation surrounding the justice system for young people since the Children Act 1908. Those over 18 now automatically fall within the adult criminal justice system.
- 2002** Shanganagh Castle closes.
- 2004** Fort Mitchel on Spike Island closes. St Patrick's Institution becomes the only dedicated facility for detaining young males who have offended.
- 2011** Government pledges to close St Patrick's Institution.
- 2014** The Department of Children and Youth Affairs introduced *Better Outcomes, Brighter Futures*; defines *young person* as under the age of 25.
- 2014** All young adults aged 18-20 are transferred from St Patrick's to Wheatfield Prison. Wheatfield had been originally planned to replace St Patricks but ended up being used to hold adults.

### 3.3 'REFORMATION OF YOUNG OFFENDERS' – BORSTAL INSTITUTIONS

Under the Prevention of Crime Act 1908, males aged between 16 and 21 who had been convicted of a serious crime could be sentenced to detention in a borstal institution, the goal of which was the 'reformation of young offenders' and subsequent prevention of crime. Later, under the Criminal Justice (Amendment) Act 1914, those charged with less serious offences could also be sent to borstal. Later still, under the Children Act 1908 as amended by the Children Act 1941, 16-year-old boys could be sent to borstal if there was no place available in a reformatory school.<sup>8</sup>

Borstal aimed to achieve its goal through industrial training and by exposing the young males to 'disciplinary and moral influences', while keeping them away from older adults who might exert a negative influence. According to O'Connor (1963),

it was thought that such persons, still in their formative years, were capable of full rehabilitation, and in detention should not associate with adult criminals. It was appreciated that prison life was harmful to the adolescent and for these reasons special institutions were established for his punishment and reformation (p.89).

There was one borstal in Ireland – opened in Clonmel in 1906. As O'Connor (1963) describes, around 50 young males at a time were detained in Clonmel Borstal, just over half of whom were there under a borstal sentence, with the remainder being transferred under Ministerial Order from prison where they were serving longer sentences. A court sentence to borstal had to be for a duration of between two and four years; this facilitated borstal training which was planned, gradual, and dependent on trust between the young person and borstal staff. Those progressing well were even supported to have jobs in neighbouring towns. Also, however, as Osborough (1975) describes, borstal operated a strict grading system based on promotion and associated with privileges based on visits, letters, smoking, recreation and exercise. Within this system, a young person could be designated as 'ordinary' (all young people on entry); 'special' (marking satisfactory progress after six months); and 'penal' (marking unsatisfactory progress) depending on the level of industry and conduct (p.63). Punishment also featured within the borstal regime, with the use of muffs and irons (until the late 1940s), confinement, restrictions in diet and smoking, and in some cases transfer to prison (Osborough, 1975).

Like Irish prisons, Clonmel Borstal was managed by the State (post-independence); however, the State never fully adopted the borstal system as the preferred mode of detention for young males (Kilcommins, O'Donnell, O'Sullivan, & Vaughan, 2004). Crime rates in Ireland were low in the 1940s and 1950s, alongside which, no major changes were made in policy for the treatment of young people who had offended. During this time the Clonmel Borstal went into a slow decline and was allowed to enter into a state of disrepair following decades of neglect (Reidy, 2015). It appears as though reticence toward upholding a British system of detention (Rogan, 2011) meant that commitments toward maintaining the Borstal system waned, which, along with declining numbers of convicted young males, led to the phasing out of the system (Kilcommins et al, 2004).

Clonmel Borstal was closed at the end of 1956 and those detained there were transferred to the 'new' St Patrick's Institution on the site of the old women's prison built in 1858 beside Mountjoy Prison in Dublin. Subsequently, the Criminal Justice Act 1960 provided for the sentencing of 16 to 20 (inclusive) year-old males to detention at St Patrick's Institution and abolished the use of the term *borstal*. O'Connor (1963) describes the move as a 'retrograde step' contrary to the aims of borstal, the consequence of which was the association of St Patrick's with Mountjoy Prison and the subsequent stigmatisation of the young people detained at St Patrick's (p. 90). With the move also came the transfer by Ministerial Order of large numbers of young males on shorter sentences – a development contrary to the original ethos of borstal, which entailed *gradual* reformation. As O'Connor points out, this was also disruptive for those on long-term sentences, and entailed the mixing of those on a first time offence with more experienced adults and those who had committed serious crimes. Meanwhile, the new St Patrick's continued to administer the kinds of punishments seen in the pre-1956 borstal (Osborough, 1975).

<sup>8</sup> Under the Children Act 1908, children between 14 and 16 years of age could be sent to a place of detention (reformatory school) for one month or imprisoned in an adult prison if considered to be 'unruly' or 'depraved'.

From the time of its opening, St Patrick's Institution was replete with problems and throughout its history was widely condemned for the punitive and inhumane treatment of the children and young adults detained there (e.g., Kennedy, 1970; Committee of Inquiry into the Penal System, 1985; Irish Penal Reform Trust, 2007; CPT, 2011).

Few major developments in penal policy took place during the borstal era. During this time, juveniles were also imprisoned in adult prisons.<sup>9</sup> Osborough (1975) observes that the visiting committee reports of the time did not give them special attention, nor is much known about the plight of remand prisoners at the time. However, the 1940s saw some liberalisation of custodial regimes with improvements to recreational items, clothing, letters and visits, and also the granting of permission to smoke (Osborough, 1985). In 1947, the new *Prison Rules* were also introduced.<sup>10</sup> These are described by Rogan (2012) as Victorian and administrative in nature and are criticised for paying little attention to the rehabilitative treatment of those in prison (p. 12). Indeed, as Rogan notes, it was not until the 1960s that rehabilitation became 'fashionable' and advocated as 'what appears to be a genuine objective for the prison system' (p.20).

### 3.4 REHABILITATION AND NEW STYLE INSTITUTIONS

The emergence of 'new style institutions' in 1968 (Osborough, 1985, p. 186) significantly changed the Irish prison landscape. Open centres and other 'places of detention' operated under less strict regimes and with more of a rehabilitative focus than did closed prisons. Shanganagh Castle, the first open prison for young males, opened in Dublin in 1968, and received statutory recognition through the Prison Act 1970. With the introduction of the Prison Act 1970, rehabilitation had become the legal aim of the prison system, and Shanganagh followed this approach (Rogan, 2012). The facility accommodated up to 60 young men aged between 16 and 21 years. However, formal recognition of Shanganagh also allowed it to act as a relieving institution on the pressures of St Patrick's, which was overcrowded. Hence, over time much of Shanganagh's population came to be made up of young people that had transferred from St Patrick's Institution (Lonergan, 2010). In its review of the prison system in 1985, the Whitaker Committee<sup>11</sup> identified that this relief function was having an effect on staff motivation and noted that the high turnover of young people was limiting the institution's rehabilitative potential (Committee of Inquiry into the Penal System, 1985).<sup>12</sup> Nonetheless, the Committee described Shanganagh Castle as, 'much less oppressive than St Patrick's' (p. 83), and commended its education, recreation and visiting facilities as 'first class' (p.265). The Committee also emphasised that open centres 'offer the best means of minimising the harmful effects of custody and of testing constructive approaches to rehabilitation' (Committee of Inquiry into the Penal System, 1985, p. 62).

From 1973, selected young males from St Patrick's Institution could also be transferred to Loughan House in Cavan, another open prison, but catering for young males aged between 16 and 23 years. While Loughan House and Shanganagh Castle operated under many of the same rules as St Patrick's, they had what Osborough (1975) refers to as 'a separate progressive identity', which was reflected in their regimes (p. 92).<sup>13</sup> He describes 'an environment of relaxed discipline' (p.91) at Shanganagh, as revealed in the report of the visiting committee in 1968. He also notes it was common for visiting committee reports of the time to highlight the disparity between regimes at the open centres and at St Patrick's Institution. In 1977, however, Loughan House was temporarily designated a special school for boys aged 12 to 16 years, and it remained so until 1983 when it reverted back into an open place of detention, but this time for adult males aged 18 and above (Dáil Debates, Vol. 372, No. 12, p.49, 21 May 1987).

9 Osborough (1975) notes that from the beginning of the borstal system, attempts were made to employ a modified form of borstal training in prisons. In Mountjoy Prison, for example, some young people were segregated. However, as sentences were short, there was little time for the training to have an effect (p. 123).

10 The *Prison Rules 1947* remained in place until the Prisons Act 2007 and the publication of the *Prison Rules 2007*.

11 In 1985, T.K. Whitaker chaired the Committee of Inquiry into the Penal System, which undertook a comprehensive review of prison policy in the State. Their report is formally titled the 'Report of the Committee of Inquiry into the Penal System', but more commonly referred to as the 'Whitaker Report'. Both titles are used within this policy report

12 Committal rates had risen to such an extent in the early 1980s, that in May 1983, the government legislated to allow the practice of 'doubling up', thereby ending the 'one man, one cell' policy that had previously been in place (Whitaker, 1985).

13 See Regulation 4 of the Shanganagh Regulations 1970 and the Loughan House Regulations 1973.

Another 'new style institution' catering for young males was opened at Fort Mitchel on Spike Island in Cork in 1985. Spike Island was a medium security closed prison that detained up to 100 males aged 16 and upwards (see Office of the Inspector of Prisons, 2004), but mainly between the ages of 16 and 21 (Irish Prison Service, 2001). Like Shanganagh Castle, Fort Mitchel operated under Section 3 of the Prisons Act 1970 'promoting the rehabilitation of prisoners'. Both institutions were 'widely regarded as having some of the better regimes within the prison system' (Jesuit Centre for Faith and Justice, 2012, p.37). Central to the regime at Fort Mitchel was an education programme that was individually tailored for each person based on their needs, abilities and preferences (Lorenz, 2002). Participation in the programme was voluntary, and yet it had an uptake of 80 per cent of the prison population (Lorenz, 2002).

In 2002, a decision was made to close Shanganagh Castle, which at that point was Ireland's only open prison specifically for young people who had offended. The rationale provided was that the low numbers of young people eligible for an open centre and the high running costs warranted its closure (Dáil Debates, Vol. 558 No. 5, p.140, 4 December 2002). According to Lonergan (2010), however, 'it wasn't that there weren't boys suitable for Shanganagh, it was that they weren't being sent there. They were often kept in St Patrick's just to keep the numbers of detainees – and therefore staffing levels – at a constant there' (p.44). According to Rogan (2011), it was further alleged that Shanganagh was intentionally 'run down'.

Two years following the closure of Shanganagh Castle, Fort Mitchel Prison on Spike Island was closed. Rogan (2011) notes how this decision was made in the context of a dispute between the Minister for Justice and the Prison Officers' Association regarding a reduction in overtime. As a result, St Patrick's Institution became the only dedicated facility for detaining young males who had offended. The move was criticised by many, none more clearly than by the then Inspector of Prisons, Justice Dermot Kinlen, who in his 2006–2007 report described St Patrick's as:

... an appalling institution with all its workshops closed and the inmates locked up for up to 19 hours a day in their very depressing cells and then exercised in dreary yards ... a finishing school in criminality encouraged by inactivity and colossal boredom (p.7).

### 3.5 SCRUTINY OF THE SYSTEM

In 1970, the Reformatory and Industrial Schools System Report criticised the training and educational facilities in St Patrick's Institution, describing them as insufficient and primitive and recommending that improvements be made (Kennedy, 1970). The report also recommended that psychological and counselling services be provided, highlighting a scarcity of such services. In 1980, The Task force on Child Care, while not commenting specifically on individual institutions, suggested changes in the way the justice system deals with young people (Department of Health, 1980).

In 1985, the report of the Committee of Inquiry into the Penal System (Whitaker Report) was published following a comprehensive review of prison policy in the State. In the report, the Committee criticised the effectiveness of imprisonment as 'a major or universal deterrent' to crime (Committee of Inquiry into the Penal System, 1985, p. 41), and concluded that prison should 'be employed only as a last resort' (p.11). The Committee stated that when imprisonment must be employed, it should be 'regarded as the imposed penalty, and nothing should be done to inflict hardship or punishment beyond that which is an inevitable consequence of the imprisonment' (p.60). The Committee was wholly negative about St Patrick's Institution and recommended its closure, describing it as 'so unsuitable as to require priority replacement' (p.18) and commenting that 'rehabilitation is not possible where the physical and environmental conditions are such as to nullify any personal development programme' (p.82).

The Whitaker Report remains highly regarded in its direction for penal reform in Ireland and its principles are reflected in the *European Prison Rules* published by the Council of Europe in 2006. As Rogan (2011) notes, the Whitaker Report 'is of a strongly welfarist nature, emphasising the need for rehabilitation, the social context of offending, seeking a humane and less restrictive penal regime' (p.169). The Report sets out what a humane prison system should look like. It describes the regimes and personal development services that should be available to all those in prison and which should be applied in 'the most liberal way' to juveniles (p.82).

These include:

- The maximum possible out-of-cell time
- A full range of educational, work, skills training and recreation facilities
- The introduction of full assessment and development programmes
- Liberal visiting conditions with minimum supervision
- Minimum censorship of mail
- Facilities to use the telephone
- Temporary releases under supervision

(Committee of Inquiry into the Penal System, 1985, p. 82)

Also among the Committee's recommendations was that juveniles should not be mixed with older adults in prison.<sup>14</sup>

Despite the significance of rehabilitation in the Prison Act 1970, the 1980s saw little by way of a rehabilitation approach within the system itself. Rogan (2012) describes the 1980s as 'an extremely bleak decade in Irish prison policy generally' (p.17), with a system severely under pressure due to increased crime rates, overcrowding and a lack of funding. She notes that although rehabilitation was not mentioned much by policy makers at the time, it did feature in reports on the prison system; while the Whitaker Committee asserted it as an aim of the prison system, the MacBride Commission and the Council for Social Welfare criticised the lack of emphasis on rehabilitation within the system. However, despite the government's inaction in response to such criticism, Rogan notes, there was 'no active opposition to rehabilitation as a concept' (p.17).

### 3.6 INTERNATIONAL INFLUENCES

Throughout the 1990s, change gathered momentum as a result of international developments around the rights of children and young people. The *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)* were adopted in 1985 and proposed a comprehensive set of protections for children in conflict with the law. These were followed by the *United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)* in 1990. Seymour (2006) cites pressure from the international community regarding the Government's approach to young people who have offended as key to influencing any forward change in the justice system. Despite Ireland's ratification of the *United Nations Convention on the Rights of the Child (UNCRC)* in 1992, its treatment of children in detention was criticised for falling short of the Convention principles and other international standards (Children's Rights Alliance, 1998). Such international pressure may have provided the impetus for change in the way children and young people who have offended are treated.

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<sup>14</sup> The *European Prison Rules* (Council of Europe, 2006a) similarly directs that young adults be separated from older adults in prison (Rule 18.8).

## 3.7 THE CHILDREN ACT 2001 AND CRIMINAL JUSTICE ACT 2006

The Children Act 2001 represented the first major change in legislation surrounding the justice system for young people since the Children Act of 1908. As the Act defines a *child* as a person under 18 years of age, it brought all those under 18 who commit a minor offence into the remit of the juvenile justice system (Kilkelly, 2006). Consequently, all those aged 18 and above now fell within the remit of the adult criminal justice system.

Key developments in the Children Act 2001 included the ending of imprisonment of children (in an adult prison),<sup>15</sup> the raising of the age of criminal responsibility to 12, the expansion of community sanctions, and the placing of the Juvenile Diversion Programme on a statutory footing (Kilkelly, 2006; Seymour, 2006). While the Act provided for ending the imprisonment of children in adult prisons, it also provided for the detention of children aged 16 years and over in a Children Detention Centre (i.e., St Patrick's Institution) under the Department of Justice, Equality and Law Reform, and for children under 16 years to be detained in Children Detention Schools, under the Department of Education and Skills.<sup>16</sup>

The Children Act 2001 was considered a positive development overall, however, Kilkelly (2006) notes the Act can be criticised for not providing for young people, nor for children who commit a serious crime (murder, manslaughter, rape, or aggravated sexual assault). Many of the protections provided for juveniles in the Children Act 2001 (such as community sanctions) do not apply to children who commit a serious offence. In addition, the Criminal Justice Act 2006 states a lower age of criminal responsibility for serious offences, meaning 10 and 11 year-olds can be prosecuted (Kilkelly, 2006). However, a logical rationale for this is not clear; in the words of Cauffman (2012), 'such policies confuse the offence with the offender and take the commission of a heinous crime as evidence of maturity, when no such correlation has been proven' (p.755).

The Children Act 2001 placed responsibility on a number of government departments for the coordination of services in the youth justice area, but it did not specify the mechanism for such inter-agency cooperation (Kilkelly, 2006). In 2005, the Department of Justice, Equality and Law Reform conducted a strategic review of the youth justice system with a view to identifying mechanisms to support the implementation of the measures in the Children Act 2001. A key outcome of this review was the establishment of the Youth Justice Service in 2005, its remit 'to improve the delivery of youth justice services and reduce youth offending' (Irish Youth Justice Service, n.d., s.3).

15 At the time of writing in May 2016, 17 year-old boys were still being held under sentence in a special unit at the former Wheatfield Prison (Irish Prison Service, 2016a), which in December 2013, was re-designated as a 'place of detention' to facilitate the transfer of 17 year-old boys from St Patrick's Institution (Dáil Debates, No. 120, p.54, 13 May 2014, PQ 21029/14).

16 Responsibility for Children Detention Schools transferred to the Department of Children and Youth Affairs in 2012.

### 3.8 THE 'CLOSURE' OF ST PATRICK'S INSTITUTION

Thirty years after the Whitaker Committee called for the immediate closure of St Patrick's Institution, and after much national and international condemnation, steps were finally taken to phase out the detention of children and young adults in St Patrick's Institution and to finally close what has become one of the State's most notorious institutions. In the *Programme for Government 2011–2016*, the government pledged to end the practice of detaining children in St Patrick's Institution (Government of Ireland, 2011). In May 2012, 16 year-old boys detained in St Patrick's were transferred to the Children Detention School at Oberstown (Department of Children and Youth Affairs, 2012). By December 2013, all *sentenced* 17 year-olds in St Patrick's Institution had been transferred to a special unit at Wheatfield Place of Detention (Department of Justice and Equality, 2014a). By February 2014, *all young adults aged 18 to 20 years* (inclusive) had been transferred from St Patrick's to another special unit at Wheatfield Place of Detention (Department of Justice and Equality, 2014a). In April 2015, the General Scheme of the Prisons Bill was published, finally enabling the drafting of legislation for the closure of St Patrick's. In accordance with this, responsibility for all 17 year-olds *on remand or under sentence* was to transfer to the Children Detention Schools under the Department of Children and Youth Affairs (Department of Justice and Equality, 2015). The capacity of the new children's detention facility at the Oberstown campus was to be increased to 90 in order to facilitate this.

In 2015, the Children (Amendment) Bill was enacted amending the Children Act 2001 to enable Children Detention Schools to assume responsibility for *all children on remand or under sentence* (Department of Justice and Equality, 2015). While from 30 March 2015 onwards, *all newly remanded* 17 year-old boys were to be committed to the Children Detention Centre at Oberstown (Department of Justice and Equality, 2015), this clearly did not happen. Throughout 2015 and 2016, boys continued to be detained on remand at St Patrick's. Furthermore, 17 year-old boys under sentence continued to be detained at Wheatfield.<sup>17</sup>

17 See the Daily Prison Population Statistics on [www.irishprisons.ie](http://www.irishprisons.ie).

## 3.9 YOUNG WOMEN IN PRISON IN IRELAND – THE HISTORICAL CONTEXT

The Children Act 1908 made no provision for young women aged 16 to 21 who had offended, other than committal to an adult prison. A borstal institution for young women was, therefore, never established in Ireland, although there were some attempts (Kilcommins *et al.*, 2004). Nonetheless, the Minister for Justice in 1925 emphasised that borstal institutions were not required for young women aged 16 to 21 as committals were too few to warrant a separate institution (Dáil Debates, Vol. 11, No.6, p.7, 30 April 1925). He claimed that in prison young women were receiving some modified form of borstal training, by which he meant, 'they are segregated from other prisoners. They are taught light trades and get a certain amount of primary education ...' (p.7).

In 1925, young women could be sent to Limerick Female Prison or to Mountjoy Female Prison, both of which remain in operation today.<sup>18</sup> Throughout the 1900s, young women who had offended continued to be sent to both adult prisons. In 1975, Osborough noted that reports of the visiting committees paid scant attention to the needs of women in prison, while the report of the Commission on the Status of Women in 1972 made no reference at all to women in prison.

At the time of the Whitaker Committee review in 1985, there were still two closed prisons to which women could be sent – Limerick and Mountjoy – and there were no open or semi-closed centres for women. The Committee found both women's prisons to be in bad condition and recommended the priority replacement of the Mountjoy facility. The original women's prison at Mountjoy was built in 1858 and occupied the same space until 1956 when it was condensed into its own basement wing to make space for the new St Patrick's Institution. Due to the inadequate conditions in the basement, it was moved again in 1990, this time to a renovated wing of St Patrick's Institution (Lawlor and McDonald, 2001) accommodating about 40 women (Quinlan, 2008). Since its opening, the women's prison at Mountjoy has been the largest prison for females in the country.

The Whitaker Committee was hugely critical of the system in place for women who had committed an offence. It identified that those in prison at the time were mainly young (21 years and under) and serving short sentences in prison for non-violent offences (Committee of Inquiry into the Penal System, 1985). In addition, they were experiencing an array of personal problems, and 'very little was being done to help them' (p.74). In particular, the Committee criticised the lack of services to address substance abuse and mental health issues, as well as the lack of education, recreation and training facilities. While identifying that many of these young women did not need to be in prison, the Committee acknowledged that there will always be some for whom custody is a last resort: those convicted of very serious offences; those convicted of less serious offences for whom other measures have been unsuccessful; and those committed on remand or contempt of court (p. 75).

It was a conclusion of the Whitaker Committee that in circumstances where young women must be detained in custody, they should be detained in an open centre with access to appropriate education, training, work, recreation, and health care services. For the small number requiring detention in a closed facility, the Committee recommended a small self-contained closed institution with its own regime and enough space to ensure the segregation of juveniles from adults. This, it proposed, could be purposely built on the Wheatfield Prison site.<sup>19</sup> The Committee further recommended that the Separation Unit at Mountjoy Prison be used to detain women currently in Limerick and Mountjoy prisons until the dedicated facility was built. It specified that a range of health and welfare services should be in place for those in both open and closed centres and that purposeful work, training and education should be provided.

<sup>18</sup> In 1999, the Dóchas Centre was opened at Mountjoy Prison replacing the women's facility that was located in the wing of St Patrick's Institution.

<sup>19</sup> At the time there were plans to build a new closed prison accommodating 144 women on the Wheatfield site. The Whitaker Committee concluded that this was well in excess of what was required. Plans to build the women's prison were abandoned and instead the site was used to construct Cloverhill Remand Prison for men with a capacity more than four times that originally planned at the site. Cloverhill Remand Prison opened in 1999.



In 1999, the Dóchas Centre, a newly built modern facility for women, was opened on the Mountjoy campus. The Centre caters for women aged 18 and over, detained under sentence and on remand, and when opened had a capacity double that of the old wing at St Patrick's Institution (Quinlan, 2008). Accommodation at the Centre is in a campus style, with separate houses and a pre-release centre with private rooms and apartments (Quinlan, 2008). The Centre operates a progressive regime (Lawlor and McDonald, 2001); for example, the women held there have keys to their rooms and can move about freely (Quinlan, 2008). It also has a healthcare unit, a gym, and education and training programmes. The situation at the Dóchas Centre contrasts starkly with that at Limerick Prison, which according to Quinlan (2008) has a regime best described as 'a "lock-up" one, with the women spending eighteen out of every twenty-four hours locked in their cells' (p.7).

While the Dóchas Centre more closely approximates the kind of closed centre envisaged by the Whitaker Committee, the number of women detained there is far higher than recommended<sup>20</sup>, and young women continue to be mixed with older women. In 2014, both Limerick Female Prison and the Dóchas Centre were identified as two of the most overcrowded prisons in the State, with this overcrowding also having a knock-on effect on service provision and creating 'barriers to rehabilitation and reintegration' (Department of Justice and Equality, 2014b, p.70). In relation to the open centre recommended by the Whitaker Committee, it was noted that more than twenty years after the Whitaker Report, no such centre existed, but that the Whitaker recommendation 'remains unfulfilled and highly relevant' (Bacik, as cited in Irish Penal Reform Trust, 2007, p.12). Now, thirty years on from the Whitaker Report, large numbers of women are still sent to prison and there is still no open centre to cater for their needs. The Irish Prison Service and Probation Service (2014) committed to exploring this option in their joint strategy for women who have committed a crime, *An Effective Response to Women Who Offend*, which was published in 2014.

While a 'women-centred' approach to the rehabilitation of women who have offended is welcome, the Irish Prison Service and Probation Service joint strategy makes no distinction between young women aged 18 to 24 and older women. Because of their developmental stage and maturity, some needs of younger women will differ in ways from those of older women and this must be recognised and reflected in a tailored response (Allen, 2016). Nonetheless, the commitment within the strategy to developing a range of alternative, community-based options to custody is very much welcomed.

### 3.10 CONCLUSION

History reveals fluidity in the age classification of young people who have offended, with past designations reflecting the recognition that children do not suddenly turn into adults on their eighteenth birthdays. Not since the borstal era has there been any overt attempt to implement a specific regime for young adults in prison in Ireland. This paper does not advocate for the re-introduction of the borstal model, it argues that a new regime for young adults aged 18 to 24 is urgently required.

<sup>20</sup> On 18 March 2016, there were 110 women in custody at the Dóchas Centre, while the bed capacity was 105. A further 41 women were on temporary release (Irish Prison Service, 2016c).

# Young Adults in Prison in Ireland – Current Situation

## 4.1 INTRODUCTION

This chapter presents an overview of what is known about young adults in Irish prisons and the conditions in which they are currently detained. Young adults (aged 18 to 24 inclusive) account for 20 per cent of the Irish prison population, yet just 9 per cent of the general population (see **Table 4.1**). The overrepresentation of young adults in prison is more pronounced among those aged 21 to 24, who make up 14.7 per cent of the prison population, yet just 5 per cent of the general population. It is less pronounced for the 18 to 20 age group, who make up around 5-and-a-half per cent of the prison population, yet 4 per cent of the general population.

**Table 4.1** Number of young adults in custody on 30 November 2015 by percentage of the prison population and percentage of the general population

Age Group	Number	% Prison Population*	% Total Population**	% Total Adult** Population	Per 100k of the Age Cohort Population**
18 to 20	216	5.75	4	5.05	124.24
21 to 24***	551	14.67	5	6.89	232.96
18 to 24***	767	20.42	9	11.94	186.55
<b>Total Prison Population</b>	<b>3,755</b>				

\*Dáil Debates, Nos. 293–296, p. 75, 15 December 2015, PQ 45104-07/15 and Irish Prison Service, 2016a

\*\*Central Statistics Office (2011)

\*\*\* Information received from the Irish Prison Service (2016a)

In 2006, young adults represented 35.7 per cent of persons committed to prison. By 2014 this had dropped to 24.2 per cent. However, as Figure 4.1 below highlights, this was due to the older adult population increasing by 66.6 per cent. The 18 to 24 year-old adult committal rate increased annually up until 2010 when it then steadily dropped and is now slightly lower (3.6%) than 2006 (Irish Prison Service, 2014a). As Figure 4.2 depicts, the number of adult males aged 25 and older sentenced to prison rose sharply from 2007, peaking in 2012 and then declining before stabilising between 2014 and 2015. During the same period, the number of 18 to 24 year-old young males in prison under sentence increased slightly (up to 2010) and then declined. Similarly, as Figure 4.3 depicts, the number of young women (18 to 24) in prison under sentence rose sharply (2010) then declined. Masked in Figure 4.1 is the reality that the number of young women sent to prison each year has increased dramatically. Figure 4.4 shows, more women, including *young* women, were committed to prison year-on-year from 2006 to 2014. This implies that an increasing number of young women are receiving short sentences as the daily population has remained relatively static.

Figure 4.1 Persons committed to prison 2006 to 2014

	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>18 to 20</b>	1331	1306	1360	1489	1581	1393	1217	1038	971
<b>21 to 24</b>	2013	2047	2261	2663	2790	2732	2488	2350	2253
<b>18 to 24</b>	3344	3353	3621	4152	4371	4125	3705	3388	3224
<b>25+</b>	6060	6111	7066	7959	9166	9596	10011	9583	10094

Irish Prison Service (2015b)

Figure 4.2 Snapshot of men in prison under sentence 2006 to 2015

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015*
<b>18 to 20</b>	285	290	286	287	289	264	232	204	167	158
<b>21 to 24</b>	521	550	556	644	699	621	568	529	461	440
<b>18 to 24</b>	806	840	842	931	988	885	800	733	640	598
<b>25+</b>	1793	1759	2000	2336	2572	2667	2769	2612	2444	2438

Irish Prison Service Annual Reports, 2006–2014; Irish Prison Service (2016a)

Figure 4.3 Snapshot of women in prison under sentence 2006 to 2015

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015*
<b>18 to 20</b>	11	7	4	9	5	2	4	8	3	2
<b>21 to 24</b>	9	7	12	19	38	24	21	14	9	8
<b>18 to 24</b>	20	14	16	28	43	26	25	22	12	10
<b>25 +</b>	61	52	48	84	95	96	97	98	108	115

Irish Prison Service Annual Reports, 2006–2014; Irish Prison Service (2016a)

Figure 4.4 Number of women committed to prison from 2006 to 2014

	2006	2007	2008	2009	2010	2011	2012	2013	2014	
<b>18 to 20</b>		117	142	145	156	151	143	118	124	96
<b>21 to 24</b>		185	216	231	292	344	384	395	386	419
<b>18 to 24</b>		302	358	376	448	495	527	513	510	515
<b>25+</b>		658	998	849	1011	1206	1375	1638	2217	2170

Irish Prison Service Annual Reports, 2006–2014; Irish Prison Service (2015b)

## 4.2 PLACE OF IMPRISONMENT

Excluding St Patrick's Institution,<sup>21</sup> there are 13 prisons in the Irish Prison estate – 10 closed prisons, one semi-open centre (the Training Unit) and two open centres (Loughan House and Shelton Abbey).<sup>22</sup> Young adults can be detained in any of these prisons.

Prison population statistics for 30 November 2015 indicate that in some prisons, young adults account for one in four of those detained (Dáil Debates, Nos. 293–296, p. 75, 15 December 2015, PQ 45104-07/15; Irish Prison Service, 2016a). As Table 4.2 depicts, more than a quarter of all people detained in Wheatfield Place of Detention, Cloverhill, Cork Prison, and Limerick Prison (male) were aged 18 to 24 years.

As Table 4.2 also depicts, Midlands Prison held more young adults aged 18 to 24, and more young adults in the 21 to 24 age group, than any other prison, while Wheatfield held more young adults in the 18 to 20 age group. Relative to their total populations, Cork prison had the highest percentage (29.14 per cent) of young adults aged 18 to 24, followed by Limerick Prison (male) [28 per cent], and Wheatfield (27.33 per cent). Relative to its total population, Wheatfield (14.31 per cent) had the highest percentage of young adults aged 18 to 20, while Portlaoise Prison (18.6 per cent) had the highest percentage of young adults aged 21 to 24. As can be seen, Loughan House, which opened in 1973 as a place of detention of young adults aged 16 to 23, had no young adults in the 18 to 20 age group, and 15 young adults in the 21 to 24 age group. Hence, young adults accounted for just 12.39 per cent of the population of Loughan House. Shelton Abbey, also an open prison, was only accommodating eleven 21 to 24 year-olds.

**Table 4.2** Number and percentage of young adults in prison by age and prison on 30 November 2015

Prison	*PP #	18–20 #	18–20 %	21–24 #	21–24 %	18–24 #	18–24 %
Arbour Hill Prison	139	0	0	7	5	7	5.00
Castlerea Prison	310	25	8	45	14.5	70	22.58
Cloverhill Remand Prison	390	37	9.48	65	16.66	102	26.15
Cork Prison	199	17	8.5	41	10.51	58	29.14
Limerick Prison (Female)	33	2	6	4	12.12	6	18.18
Limerick Prison (Male)	228	16	7	48	21	64	28.00
Limerick Prison (Female and Male)	261	18	7	52	19.92	70	26.81
Loughan House Place of Detention	121	0	0	15	12.39	15	12.39
Midlands Prison	822	39	4.5	97	11.8	136	16.5
Mountjoy Prison (Dóchas Centre)	115	2	2	10	8.69	12	10.4
Mountjoy Prison (Male)	542	14	2.5	92	17	106	19.55
Mountjoy (Female and Male)	657	16	2.5	112	17	118	17.96
Portlaoise Prison	215	4	2	40	18.6	44	20.46
Shelton Abbey Place of Detention	86	0	0	11	12.79	11	12.79
St Patrick's Institution	**1	0	0	0	0	0	0
Training Unit Place of Detention	93	0	0	10	10.75	10	10.75
Wheatfield Place of Detention	461	60	13	66	14.31	126	27.33
<b>Total</b>	<b>3,755</b>	<b>216</b>		<b>551</b>		<b>913</b>	

Dáil Debates, Nos. 293–296, p. 75, 15 December 2015, PQ 45104-07/15 and Irish Prison Service (2016a)

\*PP = total prison population

\*\*Aged 16 years

21 The closure of St Patrick's Institution was initiated in 2015; however, a very small number (often just one) of 16 and 17 year-olds were still being held on remand at the time of writing (May 2016).

22 See Jesuit Centre for Faith and Justice (2012) for an overview of Irish prisons.

Of 148 women in custody on 30 November 2015, 23 (15.5 per cent) were aged 18 to 24 years. The majority of these (69.5 per cent) were held at the Dóchas Centre, with the remainder (30.4 per cent) being held at Limerick Prison. Although the Dóchas Centre held the most women aged 18 to 24, Limerick Prison held a higher proportion of 18 to 24 year-olds relative to its total population than did the Dóchas Centre.

No prison in the Irish estate is designated as exclusively for young adults. However, a percentage of 18 to 20 year-olds sentenced to detention at Wheatfield Place of Detention are accommodated in a separate wing to those aged 17, and to those 21 and above. There is no specific provision or regime in place at Wheatfield that is tailored to the young adult age group and they attend the same work/training and education facilities as the rest of the adult population.

## 4.3 YOUNG ADULTS ON REMAND

Young adults on remand constitute a small proportion of the young adult prison population (less than 20 per cent), yet they account for around 25 per cent of all those on remand (Dáil Debates, Nos. 133–135, p. 70, 18 June 2015, PQ 24252/15). Of the 157 young adults on remand on 30 November 2015, two-thirds were aged 21 to 24, while one-third was aged 18 to 20 (Table 4.3).

**Table 4.3** Number of people on remand on 30 November 2015 by prison

Prison	Total	18–20 #	21–24* #	18–24 #
Castlerea	65	7	9	16
Cloverhill Remand	305	33	51	84
Cork	33	2	10	12
Limerick (Female)	10	1	1	2
Limerick (Male)	82	7	21	28
Limerick Female and Male	92	8	22	30
Midlands	54	5	3	8
Mountjoy (Dóchas Centre)	23	1	5	6
Mountjoy (Male)	7	0	0	0
Mountjoy (Female and Male)	30	1	5	6
Portlaoise	13	0	1	1
St. Patricks Institution	1	0	0	0
Wheatfield Place of Detention	1	0	0	0
<b>Total</b>	<b>594</b>	<b>56</b>	<b>101</b>	<b>157</b>

Dáil Debates, Nos. 297–299, p. 76, 15 December 2015, PQ45108-10/15

\*Information Received from the Irish Prison Service (2016a)

Young men on remand are mostly held at Cloverhill Remand Prison (over half) and young women on remand are held at the Dóchas Centre or Limerick Prison. In all three prisons, young adults may be mixed with the older adult population and with those in prison under sentence. Cloverhill Prison, where over 50 per cent of young adults are held on remand, has the second highest level of cell sharing. Young people are particularly vulnerable among the remand population. Research in the Irish context indicates that punitive and restrictive prison regimes can negatively impact a young person's ability to cope with incarceration, with release from remand, and with transfer to sentenced custody (Freeman, 2009). Although many young adults on remand will be on remand for relatively short periods, many will be on remand for extended periods, even years (Jesuit Centre for Faith and Justice, 2012). Access to education and work opportunities are limited for those on remand. Once convicted, many young adults will not receive a custodial sentence,<sup>23</sup> however, while on remand they are unable to avail of temporary release as those detained under sentence can. In their *Report on Penal Reform*, the Oireachtas Joint Committee on Justice, Defence and Equality called for this issue to be addressed (Houses of the Oireachtas, 2013).

23 Data are not readily available on how many people detained on remand go on to receive a custodial sentence. The Irish Penal Reform Trust (2009) has called on the Irish Prison Service, the Courts Service and the Government to undertake such analysis.

More recently, the Irish Penal Reform Trust (2015), in its *Turnaround Youth* report on young adults in the criminal justice system, called for the use of supervised bail programmes and bail supports to enhance bail compliance and reduce the need for remand pre-trial.

## 4.4 OFFENCE TYPE

Many young adults in prison are in prison under sentence for non-serious crimes.<sup>24</sup> On 30 November 2015, the category 'Theft and Related Offences' accounted for the largest proportion (24.78 per cent) of offences among young adults aged 18 to 24 in prison (Irish Prison Service, 2016a). The most serious offence categories combined ('Homicide', 'Sexual Offences', 'Attempts and Threats to Murder', 'Assaults, and Related Offences') accounted for 33 per cent of the offences among this group.

Overall, it appears that around three-in-ten young adults in prison have been convicted of a serious crime, while seven-in-ten are in prison because they have been convicted of a non-serious crime. The Irish Penal Reform Trust (2015) and others (e.g., Barrow Cadbury Trust, 2005; Transition to Adulthood Alliance, 2009) have called for use of non-custodial alternatives for young adults who have committed non-serious crimes.<sup>25</sup>

## 4.5 SENTENCE LENGTH

The available data on sentence length and age (30 November 2015) shows that 39.47 per cent of young adults (aged 18 to 24 years inclusive) were serving sentences of less than 24 months, while 57.56 per cent (over half) were serving sentences of less than three years (Table 4.4). In contrast, the proportion of adults aged 25 and older serving sentences of less than 24 months was 22.14 per cent.

**Table 4.4** Sentence length by young adult age group on 30 November 2015

Age Group	months				years			
	< 3	3 to < 6	< 12	< 24	< 3	< 5	< 10	> 10
18 to 20	0	17	48	90	124	147	159	1
21 to 24*	1	15	71	150	226	348	430	18
18to 24*	1	32	119	240	350	495	589	19
25+*	14	73	260	560	878	1358	1944	579

Dáil Debates, Nos. 317–340, p.76, 15 December 2015, PQs 45270-93/15

\* Information received from the Irish Prison Service (2016a)

<sup>24</sup> Murder, manslaughter, rape, and aggravated sexual assault are considered serious crimes. However, as the Central Statistics Office states in a report on crime statistics (2007), there are many challenges when it comes to how crimes are interpreted. Commonly used terms such as 'serious crime' or 'non-serious crime' can be subjective. Furthermore, how society perceives the seriousness of a crime can change over time. For example, in the period of 2009 to 2014, 1491 people were convicted under the 'serious' category of 'Attempts/Threat to Murder, Assaults, Harassments and Related Offences' in Irish courts. However a deeper examination of this category reveals that 46 per cent of these convictions were for a 'minor assault' (Central Statistics Office, 2015, p. 13)

<sup>25</sup> Prison may also be the last resort for young adults who break the conditions of their non-custodial alternatives, or who have a history of non-adherence to non-custodial alternatives.

## 4.6 CONDITIONS IN WHICH YOUNG ADULTS ARE IMPRISONED

Conditions in Irish prisons have been described as ‘inhumane’, ‘degrading’, ‘gravely inadequate and deteriorating’ (Warner, 2014, p. 3). Drawing on reports by the Irish Prison Chaplains (2010); the Committee for the Prevention of Torture and Inhuman or Degrading Treatment (2011); and the Inspector of Prisons (2010; 2011), Warner (2014) described how Irish prisons have been falling short of the basic standards set forth in the Whitaker Report (Committee of Inquiry into the Penal System, 1985) and the *European Prison Rules* (Council of Europe, 2006a). Indeed, such reports led him to conclude that ‘in many instances, living conditions in Irish prisons are now far worse than those so severely criticised by the Whitaker Committee in 1985’ (p. 3).

In particular, Warner (2014) highlighted how in many ways Irish prisons have been failing to achieve basic standards for the treatment of people in prison across key areas such as the provision of single cell accommodation; ready access to toilet facilities that can be used in private; adequate out-of-cell time; access to structured activity; and uncensored communication with family. Poor standards in any one of these areas will compound difficulties in others, leading to an overall deterioration of conditions (Jesuit Centre for Faith and Justice, 2012; Warner, 2014). In this way, for example, overcrowding, can lead to cell sharing, reduced privacy and increased pressure on services within prisons. In July 2014, the United Nations Human Rights Committee made a clear statement about the need for urgent action to address adverse conditions in a number of Irish prisons. Among the issues identified were overcrowding; ‘slopping out’;<sup>26</sup> the high level of inter-prisoner violence; the lack of segregation between those detained under immigration law, those on remand and those in prison under sentence, and between children and adults in prison (United Nations Human Rights Committee, 2014).

Despite the severe criticism of Irish prison conditions, there is evidence that standards have been improving. In his 2013/2014 annual report, the Inspector of Prisons noted a reduction in overcrowding and developments toward the ending of ‘slopping out’. The newly opened Cork prison means that ‘slopping out’ remains in just Limerick and Portlaoise prison with less than 60 people required to ‘slop out’. However, the retrograde decision to have ‘doubling-up’ as the norm in Cork prison means that people have to use the toilet in the presence of others.

The Inspector also expressed concern with high levels of bullying among those in prison, the use of punishment for those who breach prison rules, an inadequate complaints procedure, and the low level of engagement of those ‘on protection’ in structured activities such as work and education (Office of the Inspector of Prisons, 2014).

While data relating specifically to young adults in prison are not readily available, recent snapshot statistics of the prison population provide an indication of the current state of Irish prisons in relation to the key standards mentioned above.

### The provision of single cell accommodation

The problem of overcrowding in prisons leads to ‘doubling-up’, or sharing of cells, many of which were built for single occupancy. This practice is damaging to the physical condition of prisons and to the health and well-being of those detained in them (Jesuit Centre for Faith and Justice, 2012). For young adults, consequences of ‘doubling-up’ may include sharing with an older adult, increased exposure to drugs, the potential for bullying and intimidation, and having to use a toilet in the presence of another. Such issues are exacerbated by little out of cell time (Warner, 2014).

While 44.65 per cent of the prison population was in shared cell accommodation on 14 October 2015 (Irish Prison Service, 2015c), this represents an improvement on the situation from December 2011 when 60 per cent of the prison population was cell sharing (Minister for Justice and Equality, as cited in Warner, 2014). In 14 October 2015, Cloverhill Remand Prison, where over 50 per cent of young adults are held on remand, had the highest proportion of cell sharing (85.4 per cent), followed by Cork Prison (70.96 per cent). Wheatfield Place of Detention, where a large number of 18 to 24 year-olds were detained, held 35.85 per cent of its population in

<sup>26</sup> *Slopping out* is the practice whereby those in cells with no sanitation are forced to ‘urinate and defecate in buckets or portable units in the cell during lock up’, and must on the following morning ‘queue before emptying their buckets or pots into slop hoppers and, in some instances, into bins’ (Irish Penal Reform Trust, 2011, p. 1).

double cells and 64.15 per cent in single cells. However, Mountjoy Prison, where 11.6 per cent of the 18 to 24 year-olds in prison were held (on 30 November 2015), was accommodating all of its population, bar two prisoners, in single cells. This is a notable improvement in conditions at Mountjoy, as in his 2008 annual report, the Inspector of Prisons expressed grave concern about the level of overcrowding there and the doubling-up of cells using bunk beds and mattresses on floors in cells designed for single occupancy (Office of the Inspector of Prisons, 2009).

### Ready access to toilet facilities that can be used in private

Data for a date in April 2016 (Irish Prison Service, 2016d) indicated that 56 people in the prison system had no in cell sanitation and were required to 'slop out'. However, on the same date, 42 per cent (1,621) of the total prison population were still required to use the toilet in the presence of others; in Cloverhill Prison this figure was 84.6 per cent and in Wheatfield Prison 40 per cent – two prisons which have large numbers of young adults. Overall, 55.6 per cent (2,105) of the total prison population were accommodated in single cells with a flush toilet, or had 24 hour access to toilet facilities in private, all of these would have been required to use a toilet that is within their living space. These conditions do not resemble standard basic living conditions (Warner, 2014).

### Out-of-cell time and extended lock-up

People are being locked up for up to 23 hours a day in Irish prisons, sometimes over extended periods of time (Jesuit Centre for Faith and Justice, 2012; Irish Penal Reform Trust, 2013b). Those whose daily out-of-cell time is restricted to less than five hours are considered to be on a 'restricted regime' (Dáil Debates, Nos. 109–119, p. 59, 26 February 2015, PQ 8604/15). A restricted regime may be applied to vulnerable persons for their own protection, or as a means of punishment, though not all persons 'on protection' will be on a restricted regime.<sup>27</sup> Whether punishment or protection, severe confinement such as this is likely to have negative psychological, emotional and physical effects on the person (Grassian, 2006; Shalev, 2008) and is likely to compound the effects of other adverse circumstances such as cell sharing and inadequate sanitation. It may also restrict opportunities for purposeful activity such as training, education, and work.

On 7 April 2016, 9 per cent (368) of the prison population was on a restricted regime, and most of these were at Mountjoy Prison (33 per cent), Wheatfield Place of Detention (21 per cent), and Limerick Prison (20 per cent) (Irish Prison Service, 2016c). The number of people held on 'restricted regime' increased by 61.4 per cent from 228 in January 2014 (Irish Prison Service, 2014b) to 368 in April 2016 (Irish Prison Service, 2016c). Young adults are overrepresented among those on a restricted regime, as the Irish Prison Service April Census 2016 indicates, 31 per cent (101) of those on a restricted regime were aged 18 to 24, seventeen of which were on 23 hour lock up (Irish Prison Service, 2016c). Wheatfield and Mountjoy both held the largest number of young adults on restricted regime at 30 and 33 respectively (Irish Prison Service, 2016c).

The number held on 22- or 23-hour lock up increased by 65 per cent, from 52 in October 2014 (Irish Prison Service, 2014b) to 85 on 7 April 2016 (Irish Prison Service, 2016c), and also increased from 65 in July 2015 (Irish Prison Service, 2015c). The use of prolonged solitary confinement is contrary to the European Prison Rules (Council of Europe, 2006a) and violates international human rights law (Irish Penal Reform Trust, 2015). In its briefing on Solitary Confinement, Isolation, Protection and Special Regimes, the Irish Penal Reform Trust (2013b), while acknowledging the need for balance between risk and safety, called for 23-hour lock-up to be used only as a temporary measure and only for short periods of time. The Jesuit Centre for Faith and Justice (2012) previously referred to 'restricted regime' as severe confinement and called for its use to be stopped.

<sup>27</sup> Arguably, all those in prison experience a restricted regime, while those assigned to 'a restricted regime' can be described as being detained in 'severe confinement'.



Table 4.5 Typical daily prison routine\*

08h00	Unlock, use of the washing area/showers and return to cell – locked
08h30	Unlock, collect breakfast and return to cell – locked
09h30	Unlock, go to education, work, yard, gym, association on the landing
12h00	Back to cell, collect dinner, return to cell – locked
14h15	Unlock, go to education, work, yard, gym, association on the landing
16h00	Back to cell, collect evening meal/tea – locked
17h30	Unlock, recreation, gym, association on the landing
19h30	Locked for the night

\* Jesuit Centre for Faith and Justice (2012) updated by Carroll (2015, n.p.).

A typical daily prison routine for those not on 'a restricted regime' is presented in Table 4.5. As can be seen, this provides around seven hours of out-of-cell time. However, the Department of Justice proposes the out-of-cell time for those not on restricted regime is approximately 9 hours (Dáil Debates, No. 628, p.79, 8 July 2014, PQ 29165/14). This is far short of the minimum twelve hours recommended by the Whitaker Committee. It is also contrary to the *European Prison Rules* (Council of Europe, 2006a) which states that regimes should 'allow all prisoners to spend as many hours a day outside their cells as are necessary for an adequate level of human and social interaction' (Rule 25.2). Also referring to the social needs of those imprisoned, Ireland's *Prison Rules 2007* states, somewhat vaguely, that 'each prisoner shall be allowed to spend as much time each day out of his or her cell or room as is practicable and, at the discretion of the Governor, to associate with other prisoners in the prison' (p. 25). Clearly, being locked up for 16 hours a day or more limits the extent to which people can have their social needs met. It also makes it difficult for those imprisoned to engage in purposeful structured activity.

### Access to structured activity

The Whitaker Committee emphasised 'flexible access to participation in ordered activity such as education or work' as a basic living condition in prison (p. 14). While, the *European Prison Rules* (Council of Europe, 2006a) similarly states work and education as fundamental to the prison regime, it further emphasises the importance of vocational training for younger people in prison in particular (26.5). According to Ireland's *Prison Rules 2007*, people in prison should have access to structured activity for no less than five hours on five days of the week, the goal of which is 'to ensure that a prisoner, when released from prison, will be less likely to reoffend or better able to re-integrate into the community' (p. 25). Training, education and work not only help to prepare people for re-entering society after imprisonment, but are also crucial for alleviating boredom and maintaining psychological, emotional and physical health while in prison. The timetable above, however, suggests structured activity of four and a quarter hours is typical in Irish prisons.

Data relating to the level of engagement with structured activity for those imprisoned in Ireland are scarce and those that are available do not relate specifically to young adults. Despite the value of training, education and work for those in prison, it appears that the overall level of engagement is low, especially among those who are segregated and those 'on protection' (Inspector of Prisons, 2013a; Warner, 2014). Limited access is compounded by excessive lock-up and the segregation that exists in most of the prisons (Warner, 2014). In his 2012 annual report, the Inspector of Prisons states that those on 23-hour lock-up 'effectively have little or no contact' with various prison services, the library, or the gym (Office of the Inspector of Prisons, 2013b, p. 13).

In November 2014, 46 per cent of the total prisoner population attended education classes (Dáil Debates, Nos. 142–144, p.62–63, 26 February 2015, PQ 8604/15). During this time, 27 per cent of the prisoner population on average at Wheatfield Place of Detention engaged in education services on a daily basis. With regard to work and training, about 28 per cent of the total prison population attended workshop sessions and workshops were open for approximately 82 per cent of the scheduled opening hours. At Wheatfield, 27.5 per cent of the prisoner population attended workshop sessions with an average attendance per session of 133.46 (Dáil Debates, Nos. 142–144, p. 62–63, 26 February 2015, PQ 8604/15). As can be seen, participation in education and training at Wheatfield, where many young adults are held, appears very low, with just over a quarter of the total population engaged during November 2014.

### Communication with family and visiting arrangements

The *European Prison Rules* (Council of Europe, 2006a) states that people in prison 'shall be allowed to communicate as often as possible by letter, telephone or other forms of communication with their families, other persons and representatives of outside organisations and to receive visits from these persons' (Rule 24.1). The Whitaker Committee further stressed uncensored communication through letters and telephone calls and liberal visiting arrangements with minimum supervision (The Committee of Inquiry into the Penal System, 1985, p. 14). Maintaining contact with family and friends is important for coping in prison and for preparing for re-entry, and reintegration after prison. It is especially important for young adults in prison who may not have the coping skills and resources necessary to adapt to imprisonment (Freeman, 2009; Liebling, 2012a).

Communication and visiting arrangements in Irish prisons have been strongly criticised. According to Warner (2014), 'censorship of mail is universal in prisons, and phone contact is quite constrained' (p. 11). The lack of privacy and physical contact during visits has also been highlighted (Committee for the Prevention of Torture and Inhuman or Degrading Treatment, 2011). Information on visiting arrangements on the Irish Prison Service website indicates some variation in allowances across prisons (Irish Prison Service, 2015e). However, anecdotal evidence suggests that typically, people in prison are permitted to nominate just three visitors, who are then allowed one visit per week once satisfactorily vetted. In addition, people in prison are allowed to nominate only three telephone numbers (one of which is their solicitor's). Of particular concern is that visits are used as 'privileges' within a scheme of incentives (see below), meaning they can be earned or taken away – a practice that does not fit within a humane prison system.

### Incentivised regimes

The incentivised regimes policy has been a central feature of Irish prison life since its introduction in 2012 (Irish Prison Service, 2012c). Reminiscent of the grading system introduced with the borstal regime, the policy sets out a programme of incentives based on privileges earned through behavioural compliance and engagement with services. The aim of the incentivised regimes policy is to 'provide tangible incentives to prisoners to participate in structured activities and to reinforce good behaviour, leading to a safer and more secure environment' (Irish Prison Service, 2012c, p. 4).

Engagement with the incentivised regimes system is mandatory for all those in prison. There are three levels of privilege – standard, basic and enhanced – through which people progress or regress based on their compliance or non-compliance as assessed by prison staff. All new committals to prison start on the standard regime. Earning enhanced privileges depends on the level of engagement in structured activity, obstacles to which, however, are the lack of availability of places (Irish Prison Service, 2012c), restricted regimes, and segregation. Among other incentives within this system, are communication and visits with friends and family, access to which can be increased or decreased depending on the level of privilege. An evaluation of the incentivised and earned privileges system in English and Welsh prisons indicated negative impacts on behaviour of those in prison, relationships with staff, and perceptions of fairness (Liebling, 2008).

As Table 4.6 indicates, of 913 young adults in prison on 24 February 2015, 55 per cent were on the standard regime; 36 per cent were on the enhanced regime; and 9 per cent were on the basic regime. The 18 to 20 age group was more likely to be on a basic regime and less likely to be on the enhanced regime than the 21 to 24 age group. Young adults in particular may have difficulty maintaining the behavioural standards necessary for progression owing to their psychosocial immaturity (Prior *et al.*, 2011) and lack of coping skills and resources (Freeman, 2009; Liebling, 2012a). For these same reasons, they may also be disproportionately impacted in a negative way by the loss of privileges such as family contact. In fact, compared to the overall adult population, there is a disproportionate number of young adults on basic and standard regimes. Reasons for this might include maturity levels and 'acting out', serving short sentences and not 'progressing' to a higher regime standard.

**Table 4.6** Regime levels of young adults in prison on 24 February 2015

Age Group	Basic Regime	Standard Regime	Enhanced Regime	Total
18 to 20	27 (11%)	148 (60%)	72 (29%)	<b>247</b>
21 to 24	58 (8.5%)	353 (53%)	255 (38.5%)	<b>666</b>
18 to 24	85 (9%)	501 (55%)	327 (36%)	<b>913</b>
<b>Overall *</b>	<b>112 (2.6%)</b>	<b>1855 (44.3%)</b>	<b>2220 (53.1%)</b>	<b>4187</b>

Dáil Debates, Nos. 136–143, p. 62, 26 February 2015, PQ 8604/15

\*Dáil Debates, No. 205, p. 63, 30 May 2013, PQ 26331/13

BASIC LEVEL	STANDARD LEVEL	ENHANCED LEVEL
One half hour visit and three phone calls per week	Two half hour visits and seven phone calls per week	Four half hour visits and fourteen phone calls per week
Daily gratuity of €0.95	Daily gratuity of €1.70	Daily gratuity of €2.20
More time locked in cell	Every prisoner starts at this level	Priority access to single cell

(Compiled from Irish Prison Service (2012c; 2016e) reports and information received)

### Integrated Sentence Management

The Irish Prison Service began implementing the Integrated Sentence Management (ISM) system in 2008 (Irish Prison Service, 2010). The system is described as a ‘prisoner-centred, multidisciplinary approach’ (Dáil Debates, Nos. 559, p. 327, 24 April 2012, PQ19910/12) to providing individualised sentence plans for the rehabilitation of those in prison through assessment, planning and engagement with prison services such as education, training and work. Newly committed persons are encouraged to participate in ISM using the incentivised regimes policy. Those who engage with ISM receive a Personal Integration Plan (PIP) for their sentence, which is reviewed regularly (Dáil Debates, Nos. 559, p.327, 24 April 2012, PQ 19910/12).

As ISM is only available to those in prison on a sentence of 12 months or more, many young adults serving short sentences cannot avail of it. The ability of the Irish Prison Service to deliver ISM to all those in prison is also hampered by issues such as staffing and overcrowding and the associated pressure on services. Nonetheless, participation in ISM appears high overall; data for December 2015, indicate that 3,045 people were engaged in ISM in Irish prisons of these: 423 at Wheatfield Place of Detention; 512 at Mountjoy Prison; 585 at Midlands Prison; 171 at Castlerea Prison; and 99 at the Dóchas Centre (Dáil Debates, No. 348–349, p.78, 15 December 2015, PQ 45301-2/15).

### Violence

There is longstanding concern about the high levels of violence in Irish prisons (e.g., United Nations Human Rights Committee, 2014). As Table 4.7 depicts, there were 564 assaults by a person detained on another person detained in Irish prisons in 2014, and 144 assaults by a person detained on a member of prison staff (Dáil Debates, No. 240–242, p. 59, 6 May 2015, PQ 17229/15). As can be seen, high levels of violence exist in prisons containing large numbers of young adults. The highest incidence of assaults among persons detained were at Mountjoy (96), Castlerea (95) and Cloverhill (90) prisons, and Wheatfield Place of Detention (74). The highest number of assaults by a person detained on a staff member occurred at Mountjoy (30), followed by Wheatfield (26).

Table 4.7 Number of assaults by prison in 2014

Prison/Place of Detention	Number of assaults by person detained on person detained	Number of assaults by person detained on staff
Arbour Hill	6	1
Castlerea	95	9
Cloverhill	90	20
Cork	51	13
Dóchas Centre	16	8
Limerick (Female)	0	0
Limerick (Male)	37	3
Loughan House	0	0
Midlands	77	13
Mountjoy (Male)	96	30
St. Patrick's Institution	9	13
Portlaoise	11	2
Shelton Abbey	0	0
Training Unit	0	0
Wheatfield Place of Detention	74	26
*PSEC	2	6
<b>Total</b>	<b>564</b>	<b>144</b>

Dáil Debates, No.240–242, p.59, 6 May 2015, PQ 17229/15

\*Prison Escort Service

## Health

Data relating specifically to the health of young adults in prison are scarce. Indeed, data relating to the health of all those in Irish prisons are scarce – a deficit highlighted by the Committee for the Prevention of Torture and Inhuman or Degrading Treatment in its 2011 report. What is known is that many entering prison will have experienced adversity associated with determinants of ill health such as unemployment, poor educational attainment and substandard housing (McNamara and Mannix-McNamara, 2014). Young adults in particular enter prison with an array of complex unmet needs (Liebling, 2012a) associated with issues such as poverty, educational failure, leaving care, and homelessness. Many will be experiencing poor physical and mental health and/or substance abuse issues, and will lack the resources necessary to cope with imprisonment (Liebling, 2012a). Once in prison, a person's health is likely to deteriorate (World Health Organisation, 2007; 2008), with the greatest risks being posed by mental health issues, substance use, and communicable diseases (McNamara and Mannix-McNamara, 2014).

In their study of 1,582 people, Kennedy *et al.* (2005) found a very high prevalence of mental health disorders among both men (27 per cent) and women (60 per cent) under sentence in Irish prisons. Rates of psychosis were highest among those on remand and were higher than those found internationally. A history of self-harm was found in 19.4 per cent of individuals studied. Research has also shown that self-harm is more common among females than males in prison (National Suicide Research Foundation, 2004).

Drug and alcohol problems were identified among 61 per cent to 79 per cent of the sample in the Kennedy *et al.* (2005) study. In addition, most people identified as having a mental disorder also had a drug and/or alcohol problem. In another study, Drummond *et al.* (2014) found a high proportion of young adults (18 to 24) in prison in Ireland had a history of drug use (see Table 4.8). The highest prevalence of use was for cannabis – over lifetime (94.9 per cent), last year (84 per cent), and last month (51.2 per cent). Cocaine powder had been used by 83.7 per cent of young adults in prison, with 38.9 per cent reporting use in the last year and 4.6 per cent reporting use in the last month. Over one third (37.8 per cent) had used heroin at some point in their life, while 18.2 per cent had injected a drug, and 10.4 per cent had injected heroin (Drummond *et al.*, 2014).

**Table 4.8** Percentage of drug use among young adults (18 to 24) in prison in Ireland (adapted from Drummond *et al.*, 2014)

Drug	Used over lifetime	Used last year	Used last month	Used in prison*	In prison when first used**
<b>Cannabis</b>	94.9	84.0	51.2	83.8	4.2
<b>Benzodiazepines</b>	80.2	69.3	31.5	81.6	16.0
<b>Other sedatives/tranquillizers</b>	66.4	55.5	26.6	83.1	25.9
<b>Heroin</b>	37.8	29.7	10.9	78.4	51.1
<b>Methadone</b>	24.1	14.5	5.2	63.9	45.0
<b>Other opiates</b>	22.0	11.8	2.5	58.6	13
<b>Crack cocaine</b>	29.8	10.5	0.8	34.6	9.5
<b>Cocaine powder</b>	83.7	38.9	4.6	33.7	2.4

\* Of those who used drugs during the last year

\*\* Of those who ever used drugs

Drummond *et al.* (2014) found very high levels of drug use in prison among young adults (18 to 24) who had used drugs in the last year (Table 4.8). While around one third had used crack cocaine (34.6 per cent) and cocaine powder (33.7 per cent) while in prison, over 80 per cent had used cannabis (83.8 per cent), benzodiazepines (81.6 per cent) and other sedatives/tranquillizers (83.1 per cent) while in prison. Heroin use in prison was reported by 78.4 per cent of young adults who had used drugs in the last year, while 51.1 per cent of 18 to 24 year-olds who had ever used heroin did so for the first time in prison. The study also found that women in prison were significantly more likely than men in prison to have used heroin, methadone, and crack cocaine, and to have ever injected drugs, while 21 per cent of women who ever injected heroin did so for the first time in prison. Also of note is that the 25 to 35 age group were significantly more likely to have ever used heroin, methadone, other opiates, and crack cocaine, to have used them in the last year, and to have ever injected drugs, than were the 18 to 24 year-olds, or the 35 to 65 years age group. However, young adults (18 to 24) were more likely to have used cannabis in the last month than were the older adult age groups.

While it is known that prison impacts negatively on a person's health, it is also the case that prison provides a unique context for the targeting of health interventions for individuals who are likely to have had little previous exposure to health services (McNamara and Mannix-McNamara, 2014). Nonetheless, the specific health services within Irish prisons have been criticised (Committee for the Prevention of Torture and Inhuman or Degrading Treatment, 2011). In a number of ways they appear to fall short of the equivalence of healthcare committed to by the Irish Prison Service in its *Three Year Strategic Plan 2012–2015* (Irish Prison Service, 2012a) and *Health Care Standards* (Irish Prison Service, 2011), which would see services provided 'in conditions comparable to those enjoyed by patients in the outside community' (Committee for the Prevention of Torture and Inhuman or Degrading Treatment, 2011, p. 58). However, it is positive to see that the Irish Prison Service has begun implementing audits of healthcare standards compliance in prisons as per the Committee for the Prevention of Torture and Inhuman or Degrading Treatment (2011) recommendation, and that initial findings indicate standards are improving (Dáil Debates, No. 419, p. 65, 21 April 2015, PQ 15658/15).

Kennedy *et al.* (2005) highlighted the equivalence of healthcare issue in the area of mental health, noting that psychiatric services do not approximate the care available outside of prison. The Committee for the Prevention of Torture and Inhuman or Degrading Treatment (2011) also called for improvements in the level of care available to those who have a mental health disorder and for measures to address drug-related issues. The Irish Prison Service reported that in May 2015, specialised in-reach mental health and addiction counselling services were available in many, but not all prisons (Dáil Debates, Nos. 240–242, p. 59, 6 May 2015, PQ 17229/15). The Irish Prison Service Psychology Service also operates in prisons. Furthermore, where a person needs inpatient mental health care, they can be sent to the Central Mental Hospital for treatment. The Irish Prison Service also reported that all closed prisons have drug-free units, and that it has established a protocol with the Health Service Executive (HSE) for the seamless transition of those on drug treatment programmes from prison to community treatment services (Dáil Debates, Nos. 240–242, p. 59, 6 May 2015, PQ 17229/15). However, it is not clear how effective these services are. While improvements have been made, it is important that these services and

interventions are tailored to address the specific healthcare needs of young adults who make up a significant proportion of the prison population.

## 4.7 BETTER OUTCOMES FOR WHOM?

In 2014, the Department of Children and Youth Affairs introduced the new national policy framework for all children and young people, *Better Outcomes, Brighter Futures*. The framework defines *young person* as under the age of 25 in line with the Youth Work Act 2001 and with the United Nations, which defines *youth* as those aged 15 to 24 inclusive (United Nations, n.d.). It also acknowledges the need for specific policies to cater for the difficult period of transition that occurs before reaching adulthood. Unfortunately, this strategic focus is yet to be reflected across government policy. The Child Care Act 1991 (which pre-dated *Better Outcomes*) is one exception; under the Act, the HSE may provide supports to the young adult leaving care up to age 21.

In 2013, the Irish Youth Justice Service published its strategy *Tackling Youth Crime: Youth Justice Action Plan 2013–2018* focusing on young people who come to the attention of the justice system. While *Better Outcomes* refers to driving reform in the youth justice area through the *Youth Justice Action Plan*, the *Action Plan* utilises age 18, the traditional legal definition of adulthood, as the cut-off point for young people to be considered within the youth justice system. Its provisions therefore do not extend to young people aged 18 to 24. In addition, as of yet, no comparable strategy exists for young adults who have offended, despite commitments from the Irish Prison Service (Irish Prison Service, 2012a; 2012b; Irish Prison Service and the Probation Service, 2013) and despite the *Better Outcomes* framework. However, young adulthood is a time when the right interventions can and do work. It is time that the Government fulfils its commitments and responds with an appropriate strategy that takes the unique needs and circumstances of young adults into account.

## 4.8 CONCLUSION

As identified within this chapter, there is a disproportionately high number of young adults in prison, both sentenced and on remand, compared to older adults. While committal rates for adults in prison increased dramatically over the past 10 years, the number of young adult men sent to prison peaked in 2010 and returned to pre-2006 population sizes by 2014; however the number of young adult women sent to prison continues to increase. Of note is that the average daily population figure for all young adults has dropped since 2006.

Highlighted in the chapter is that young adults are detained with adults of all ages and there is no special treatment irrespective of age despite evidence showing particular needs and vulnerabilities (Farrington *et al.*, 2012) and their developmental status (Prior *et al.*, 2011). In fact, the opposite is the case, with a disproportionately high number of young adults on the base regime standard. This means that they are less likely to have access to work and training and education as well as single cell occupancy. As they are generally serving shorter sentences they are less likely to have a sentence management plan.

The Government's own policy document, *Better Outcomes, Brighter Futures*, recognises the particular needs of young adults and that they are at a developmental stage where real change can be effected. However, as identified in this chapter, specific intervention for this age cohort is not provided despite the potential in engaging with young adults.

# International Responses

## 5.1 INTRODUCTION

Evidence from psychological, criminological and sociological research presents a strong case for the differential treatment of young adults, both within the prison system, and within the criminal justice system more broadly. As discussed in previous chapters, imprisonment can inflict unnecessary emotional, psychological and physical harm on young adults (Barrow-Cadbury Trust, 2005); it does not reduce the likelihood of young adults reoffending (Farrington *et al.*, 2012a); and it may have unintended criminogenic effects (Durlauf and Nagin, 2011; Farrington *et al.*, 2012a). In addition, imprisonment compounds the impact of existing social problems, such as poor educational attainment, unemployment and homelessness, making it harder for the young adult to live a life free of crime on release (Barrow-Cadbury Trust, 2005). It is clear that a different response is needed for young adults and this response should take account of the research findings on maturity and desistance.

It is now widely acknowledged that approaches more aligned to juvenile justice systems have a greater chance being effective with young adults than measures within the adult system (e.g., Council of Europe, 2009; Farrington *et al.*, 2012; Transition to Adulthood Alliance, 2009; Velázquez, 2013; Irish Penal Reform Trust, 2015). On this basis, the Irish Penal Reform Trust (2015) has called for interventions that will promote desistance among young adults, including diversion programmes, supervised bail support, intensive community orders, and restorative justice practices. Clearly, responses based on diversion are optimal wherever possible, and especially in cases of non-serious crime and where mental health issues and/or substance abuse are a factor. For the small number of young adults for whom imprisonment might be the last resort (i.e., those who are convicted of the most serious offences; those convicted of less serious offences for whom other measures have not worked; and those committed on remand or contempt of court), an approach is needed that will reduce reoffending, while not causing unnecessary harm, nor impacting negatively on the future life chances of the young adult. For those young adults, an effective response is one that will focus on rehabilitation – that will help young adults successfully re-enter society, live crime-free lives, fulfil their potential and contribute to society in the long-term.

Across Europe and beyond there are different approaches to the treatment of young adults who are committed to prison. Ireland, in comparison, does not fare well overall in its treatment of this group. Despite large numbers of young adults being committed to Irish prisons each year, there is no tailored response, or prison regime, specifically addressing their needs. While the closure of St Patrick's Institution is a welcome move, an effective alternative for young adults has not been provided. However, the evidence indicates that young adulthood is a time when interventions can and do work (Lösel, 2012). Without appropriate intervention, many young adults will reoffend and return to prison in the future. Therefore, this chapter will consider what can be learned from international responses that pay attention to the unique needs and circumstances of young adults.

## 5.2 INTERNATIONAL STANDARDS AND GUIDELINES

The need for a tailored approach to young adults is dictated by a range of international human rights standards and recommendations, key elements of which are presented in Table 5.1. Overall, these 'recommend that young adult prisoners should be treated separately from full-grown fully mature adults, and that their needs are in fact better catered for under a separate system which is informed by the provisions for juveniles within jurisdictions' (Transition to Adulthood Alliance, 2010, p. 9). Significantly, the Council of Europe, in Recommendation 20 of the Committee of Ministers to member states concerning *New Ways of Dealing with Juvenile Delinquency and the Role of Juvenile Justice*, recommends that young adults be treated as juveniles (Dünkel and Pruin, 2012). Rule 11 states:

Reflecting the extended transition to adulthood, it should be possible for young adults under the age of 21 to be treated in a way comparable to juveniles and to be subject to the same interventions, when the judge is of the opinion that they are not as mature and responsible for their actions as full adults (Council of Europe, 2003).

Further, Recommendation 11 of the the Council of Europe Committee of Ministers to member states on the *European Rules for Juvenile Offenders Subject to Sanctions or Measures (ERJOSSM)*, states 'young adult offenders may, where appropriate, be regarded as juveniles and dealt with accordingly' (2009). The Council of Europe based this recommendation on the research evidence, which it notes, suggests that measures within the juvenile justice system are more suited to the needs and circumstances of young adults who have offended (Dünkel and Pruin, 2012). It states:

It is an evidence-based policy to encourage legislators to extend the scope of juvenile justice to the age group of young adults. Processes of education and integration into social life of adults have been prolonged and more appropriate constructive reactions with regard to the particular developmental problems of young adults can often be found in juvenile justice legislation (Council of Europe, 2009, p. 42).

The *ERJOSSM* sets out the European rules for the treatment of juveniles who have offended, ensuring the upholding of their rights and the promotion of their physical, mental and social well-being while deprived of their liberty (Council of Europe, 2009). As Dünkel (n.d.) points out, the *ERJOSSM* 'follows the tradition of a rehabilitative and educational regime in juvenile prisons ... [and considers] the many dangers and possible violations of human rights of juveniles while being deprived of their liberty' (pp. 19–20). Reflecting Rule 17(c) of the *Beijing Rules* (1985) and Article 37(b) of the *United Nations Convention on the Rights of the Child* (1989), Rule 10 of the *ERJOSSM* sets out the basic principle that imprisonment may be imposed on juveniles only if there is no other means to prevent reoffending and only then for the shortest period possible.

While the *ERJOSSM* considers a young adult as between ages 18 and 21 years, elsewhere the special circumstances of those aged between 21 and 25 are recognised and given due consideration. Significantly, the final Resolution of the International Association of Penal Law World Congress 2004 recommended that 'the state of adolescence can be prolonged into young adulthood (25 years) and that as a consequence, legislation needs to be adapted for young adults in a similar way as it is done for minors' (p. 156), thereby paving the way for the provisions of the juvenile system to be extended right up to age 25 years. Ultimately, the same arguments, based on maturity and desistance, underpin proposals to extend the juvenile system to 18 to 20 year-olds, as underpin the rationale for extending provisions to 21 to 25 year-olds (Dünkel and Pruin, 2012).



Table 5.1 International Standards and Recommendations

Source	Standards and Recommendations
United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)	3.3 Efforts shall also be made to extend the principles embodied in the Rules to young adult offenders, and extend the protection afforded by the Rules to cover proceedings dealing with young adult offenders.
General Comment No. 10 Children's Rights in Juvenile Justice (United Nations Committee on the Rights of the Child, 2007)	38. Notes that some States parties allow for the application of the rules and regulations of juvenile justice to persons aged 18 and older, usually till the age of 21, either as a general rule or by way of exception.
United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)	5(d). Requires the safeguarding the wellbeing, development, rights and interests of all young people.
United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules)	9. Nothing in the Rules should be interpreted as precluding the application of the relevant United Nations and human rights instruments and standards, recognized by the international community, that are more conducive to ensuring the rights, care and protection of juveniles, children and all young persons.
United Nations Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules)	<p>5(1). The rules do not seek to regulate the management of institutions set aside for young persons, such as Borstal institutions or correctional schools, but in general Part I would be equally applicable in such institutions.</p> <p>5(2). The category of young prisoners should include at least all young persons who come within the jurisdiction of juvenile courts. As a rule, such young persons should not be sentenced to imprisonment.</p> <p>8(d). Young prisoners shall be kept separate from adults.</p> <p>21(2). Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end space, installations and equipment should be provided.</p> <p>71(5). Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.</p> <p>77(1). Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates [sic] and young prisoners shall be compulsory and special attention shall be paid to it by the administration.</p> <p>85(2). Young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions.</p>
International Association of Penal Law (2004)	<p>The final Resolution of the Congress highlighted that 'the state of adolescence can be prolonged into young adulthood (25 years) and that as a consequence, legislation needs to be adapted for young adults in a similar way as it is done for minors'.</p> <p>Part 2 states the age of criminal majority should be 18 and in no circumstances should be lower than 14.</p> <p>Part 6 states 'concerning crimes committed by persons over 18 years of age, the applicability of the special provisions for minors may be extended up to the age of 25'.</p>

Source	Standards and Recommendations
<b>Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures (ERJOSM) [Council of Europe, 2008]</b>	<p>17. Young adult offenders may, where appropriate, be regarded as juveniles and dealt with accordingly.</p> <p>21.2 ... 'young adult offender' means any person between the ages of 18 and 21 who is alleged to have or who has committed an offence.</p> <p>59.3 Juveniles who reach the age of majority and young adults dealt with as if they were juveniles shall normally be held in institutions for juvenile offenders or in specialised institutions for young adults unless their social reintegration can be better effected in an institution for adults.</p>
<b>Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice (Council of Europe, 2003)</b>	<p>Considering that the age of legal majority does not necessarily coincide with the age of maturity, so that young adult offenders may require certain responses comparable to those for juveniles ...</p> <p>11. Reflecting the extended transition to adulthood, it should be possible for young adults under the age of 21 to be treated in a way comparable to juveniles and to be subject to the same interventions, when the judge is of the opinion that they are not as mature and responsible for their actions as full adults.</p> <p>12. To facilitate their entry into the labour market, every effort should be made to ensure that young adult offenders under the age of 21 should not be required to disclose their criminal record to prospective employers, except where the nature of the employment dictates otherwise.</p>
<b>European Prison Rules (Council of Europe, 2006a)</b>	<p>18.8 (c) In deciding to accommodate prisoners in particular prisons or in particular sections of a prison due account shall be taken of the need to detain young adult prisoners separately from older prisoners.</p> <p>26.5 Work that encompasses vocational training shall be provided for prisoners able to benefit from it and especially for young prisoners.</p> <p>28.3 Particular attention shall be paid to the education of young prisoners and those with special needs.</p>
<b>17th World Congress of the International Congress on Criminal Law in 2004</b>	<p>... the state of adolescence can be prolonged into young adulthood (25 years) and that, as a consequence, legislation needs to be adapted for young adults in a similar manner as it is done for minors.</p> <p>The administration of educational measures or alternative sanctions that focus on rehabilitation may be extended, at the demand of the concerned individual, to the age of 25.</p> <p>Concerning crimes committed by persons over 18 years of age, the applicability of the special provisions for minors may be extended up to the age of 25.</p>

Adapted from Transition to Adulthood Alliance (2010).

Although not legally binding, Council recommendations are extremely influential among member states, while United Nations human rights instruments are legally binding in states that have ratified them. Together they delineate minimum standards and key principles that should underpin humane justice and penal responses to young adults who have offended. Ireland is lagging behind many European countries in its treatment of young adults in prison, despite the existence of the standards and recommendations highlighted above. Indeed, Ireland is lagging behind many countries in developing a response to young adults offending overall (see Dünkel and Pruin, 2012; Pruin and Dünkel, 2015). For example, Ireland is one of only two European countries (Ireland and Slovakia) that does not extend the upper age limit for youth detention/custody, or similar forms of deprivation of liberty beyond age 18 (Pruin and Dünkel, 2015). Nonetheless, the recent *Strategic Review of Penal Policy* in Ireland (Department of Justice and Equality, 2014b) paid some attention to young adults, recommending a diversion programme initially targeting those aged between 18 and 21 years. Unfortunately, the Strategic Review Group did not make recommendations for young adults in prison, nor did they see the age 21 to 24 group as having similar needs.

## 5.3 PRACTICE IN OTHER COUNTRIES

'Most countries now provide for some special treatment of young adults in their criminal justice system' (Dünkel and Pruin, 2012, p. 12). While literature exists that describes these practices, it is very difficult to say what works in imprisonment in the absence of rigorous evaluations and systematic comparisons of regimes specifically targeting this age group. There is a dearth of research specifically addressing young adults in prison. Nonetheless, useful insights into how young adults are dealt with in the context of international standards and recommendations can be gained from the literature. As these standards, supported by the evidence on maturity and desistance, indicate the treatment of young adults should be more akin to juveniles, then, and in the absence of specific guidelines for young adults, it is the *ERJOSSM* that can provide the key principles upon which the treatment of young adults should be based. According to Dünkel (n.d.), the *ERJOSSM* represents 'the European consensus on "good practices" which have been developed in many countries and institutions for juveniles deprived of their liberty' (p. 36). However, while emphasising the weight of the evidence suggesting the extension of juvenile justice provisions to young adults, Farrington *et al.*, (2012) and Gibson and Krohn (2012) advise that if the system of treatment of young adults is to be brought in line with juveniles, then research is required to determine if this approach is more effective than the status quo.

Responses to young adults who have offended will be determined, in the first instance, by the upper age limit of criminal responsibility, which is the maximum age to which juvenile criminal law or juvenile sanctions can be applied. The upper age of criminal responsibility varies across Europe, however, in Ireland, like many other European countries (e.g., Belgium, England, Finland, France, Hungary, Latvia, Norway, Switzerland and Wales), the upper age limit of criminal responsibility is 18. Nonetheless, many countries have special rules for the application of the measures of juvenile law to young adults, or special rules in general penal law for the application of certain special sanctions for young adults (Pruin and Dünkel, 2015). Ireland is one of only eight European countries (Belgium, Bulgaria, Estonia, Ireland, Latvia, Spain, Turkey, and the Ukraine) that do not provide any special rules for young adults (Pruin and Dünkel, 2015). Currently, young adults committed to prison in Ireland are treated as fully mature adults within the system, with the exception that *some* 18 to 21 year-olds sentenced to detention are accommodated in a separate wing in Wheatfield Place of Detention.

Other countries already consider young adults apart from the rest of the adult population in a substantive way. For example, in Germany young adults between 18 and 21 can be treated as 'youth' and dealt with in the juvenile system, and most of those sentenced to imprisonment are sent to juvenile prisons where many remain to complete their sentences beyond their twenty-first birthday (Lösel, 2012). Juvenile courts similarly have jurisdiction for young adults in other countries such as Austria and Croatia (Dünkel, 2014; Pruin and Dünkel, 2015). In Norway, measures implemented before age 18 can sometimes be extended to age 20 (Allen, 2013), while in Switzerland, young adults can be treated as juveniles until they are 25 (Farrington *et al.*, 2012). In other countries (e.g., the Netherlands), young adults remain within the adult system, but this system can provide a broader range of responses that are more akin to juvenile measures (Dünkel, 2014). However, elsewhere, juveniles can, in certain circumstances, fall within the jurisdiction of the adult system (e.g., United States, England, Wales, Scotland, the Netherlands) allowing for more punitive sanctions to be applied (Dünkel, 2004).

Examples of good practices in line with the *ERJOSSM* can be identified across Europe. The *ERJOSSM* dictates that young people must be kept separate from adults, ideally in separate institutions<sup>28</sup>, and that young people may complete their sentences in that facility beyond the age of majority. Many countries already have special institutions for young adults (e.g., Austria, Germany, Northern Ireland, Scotland, Switzerland, Sweden, and Turkey) and some, including Austria and Germany, allow young adults to complete their sentences without being transferred to adult facilities. Countries' rationales for this provision reflect a concern with maturity and an emphasis on education and preparation for reintegration. In Austria, for example, young adults aged 21 and under can be placed in juvenile detention centres where they can complete their sentence to age 27 if necessary, thereby ensuring better education and training opportunities and better ratios of staff to young person (Pruin and Dünkel, 2015). In Switzerland, young adults aged 18 to 25 can be sent to special young adult institutions that focus on education, training and social reintegration; however, young adults remain within the jurisdiction of adult criminal law (Pruin and Dünkel, 2015).

28 An exception can be made where separation would mean total isolation for the young person.

## Nordic Countries

Practice in the Nordic countries (Denmark, Finland, Norway, and Sweden) contrasts with practice across Western Europe. In contrast to countries such as Croatia and Germany, neither Finland nor Sweden have specific regulations for young adults, nor do they have separate juvenile justice systems<sup>29</sup> (Pruin and Dünkel, 2015). In both countries, social services and the judicial system have joint responsibility for young people (15 to 20) who have offended, with responsibility for those aged 18 to 20 falling mainly to the judicial system (Sarnecki and Estrada, 2006). Responses in the Nordic countries focus on helping young persons out of the social situation that underpins their offending. The approach to imprisonment can be described as 'minimalist' (Allen, 2013, p. 30) and prison conditions tend to be regarded as humane (Pruin and Dünkel, 2015).<sup>30</sup>

In Finland, 18 to 20 year-olds are rarely sent to prison and make up less than two per cent of the prison population (Leone, 2015). Finland once had separate juvenile prisons, but ceased to categorise its prisons by functions following a reorganisation of the prison service in 2001 (Cavadino and Dignan, 2009). Since then, young adults (18 to 20) must be sent to prisons with juvenile sections (Harrikari, 2007). Prior to 2001, young males 15 to 20 were sent mainly to Kerava Juvenile Prison, which was situated in the countryside 40 kilometres from Helsinki, and had 90 cells, while normally accommodating 60 to 70 young males (Hatunen, 1996). According to Hatunen, Kerava Juvenile Prison emphasised education, training and work preparation and provided programmes 'based on "normality", taking responsibility, social creativity and teaching the boys everyday routines like cooking, cleaning, doing the laundry, sewing, working and learning to plan' (p. 558). Specialised drug treatment programmes and psychological services were also provided.

Kerava Prison, as it is now designated, is a closed prison with a working farm, and it accommodates 50 per cent (approximately 70) of juvenile males sentenced to imprisonment in Finland (Murton, 2009). According to Murton (2009), the young men are provided with an intensive and personalised programme aimed at reducing reoffending and supporting reintegration on release. Many of the young men have drug problems and can access drug treatment and a drug-free wing in the prison. There is support for pre-release, including access to an open rehabilitation centre where the young men can spend the last few months of their sentence, while accessing support and counselling, and engaging in education in the community. Warner (2009) visited Kerava Prison and observed that those detained there can engage in activities such as organic farming, carpentry, metalwork, cleaning and maintenance, as well as intensive educational programmes. A 'motivational course' involving life and work skills, learning skills, health education and artistic opportunities is available. An intensive drug rehabilitation programme is also available and those engaged in it can work in horticulture and with sheep and rabbits – activities believed to foster emotional bonds and taking responsibility. The pre-release programme is focused on 'the holistic rehabilitation of the client' (p. 207) and is offered to young men up to age 26 who are approaching the end of their sentence. The programme provides 'intensive guidance with educational and therapeutic elements' within the prison prior to release and in the community under the Probation Service for a period after release (Warner, 2009, p. 207). Such provision is positive, considering Rules 15 and 51 of the *ERJOSSM*, which emphasise discharge planning and continuity of care. Indeed, much about Kerava seems positive when considered against the standards of the *ERJOSSM*. Nonetheless, at the time of Warner's visit, only 60 to 70 per cent of males held at Kerava were engaged in full-time activity, though this is considerably more than in Irish prisons. Furthermore, Cavadino and Dignan (2009) note that while the reorganisation of the Finnish prison system meant that juveniles could be sent to prisons closer to their homes, it also meant that their treatment is likely to be harsher than it was previously.

29 The UN Committee against Torture has urged Sweden to establish a separate youth justice system (United Nations, 2014).

30 Nonetheless, Sweden was recently criticised by the UN Committee against Torture for its treatment of children in detention (United Nations, 2014).

## Germany

Overall, Germany's approach to young adults who have offended is accepted as 'the most constructive' (Transition to Adulthood Alliance, 2010, p. 3), and increasingly other countries are adopting a similar approach with this age group (Dünkel and Pruin, 2012). According to Dünkel and Pruin (2012), Germany 'fulfils the requirements of the recommendations of the Council and Europe and other international organisations' with regard to the treatment of young adults (p. 26). In Germany, juveniles between age 14 and 18 are dealt with in the youth justice system, while young adults 18 to 20 are dealt with in the youth system, but may receive sanctions from the youth or the adult system. Since 1953, the provisions of the youth system can be applied to young adults aged between 18 and 21 in circumstances where the young adult's level of maturity is considered more similar to a juvenile's than to an adult's, and/or where the type of offence committed is more typical of youth crime (i.e., spontaneous, unplanned, and anger motivated). Where the courts do not apply the maturity provisions, then the young adult is sentenced according to general criminal law.

Large numbers of young adults benefit from the provisions of the juvenile system in Germany. In 2008, approximately 66 per cent of young adults who were convicted were sentenced through the juvenile system (Dünkel, 2011). Typically, it is young adults who have committed serious crimes that are dealt with as juveniles, while more minor offences, such as traffic violations, are dealt with in the adult system (Dünkel, 2006). Indeed, over 90 per cent of young adults committing the most serious crimes are treated as juveniles (Dünkel, 2004). In Germany, 'full integration of young adults into the juvenile justice system has been accepted in practice' (Dünkel and Pruin, 2012, p. 22). Other countries have since followed Germany's lead (e.g., Austria and Lithuania). Germany is considering extending the provisions of the juvenile system to young adults up to age 25 (Chammah, 2015), a move that is strongly supported by German youth justice criminologists and practitioners (Dünkel, 2004; Pruin and Dünkel, 2015).

Imprisonment is the option of last resort for young adults in Germany, and is utilised only when informal and formal community sanctions or probation have failed (Dünkel, 2003). Juveniles sentenced to imprisonment are sent to youth prisons, of which there are 28, providing around 7,000<sup>31</sup> places for young people aged 14 to 24 years (Dünkel, n.d.). Approximately 90 per cent of those detained in youth prisons are aged above 18 years of age (Dünkel, 2004). The maximum sentence is typically five years, but may be up to ten years for certain serious offences (Dünkel, 2011). Youth prisons aim to promote rehabilitation and reduce reoffending and provide a wide range of educational and vocational training opportunities (Dünkel, n.d.; Pruin and Dünkel, 2015).

Some of the key features of youth prisons in Germany are exemplified in Neustrelitz prison in Mecklenburg, Western Pomerania. Neustrelitz is a youth prison designed for up to 297 young males and females aged 14 to 24/25 who are on remand or in youth custody (Allen, 2013, p. 31). Overall, the regime at Neustrelitz is described as 'normalised and relaxed' (Allen, 2013, p. 32). During induction, a personalised plan is developed for each young person. Key features of the youth prison are summarised in Table 5.2.

31 This accounts for 0.06 per cent of the 14 to 24 age cohort in Germany (OECD, 2012).

**Table 5.2** Key features of Neustrelitz youth prison in Germany

<b>Accommodation</b>	<p>There is a separate induction unit, which also houses young people on remand.</p> <p>Cell-sharing is not permitted.</p> <p>Males and females are accommodated in separate units, but can be mixed for education, training and leisure.</p> <p>Under 18s can be accommodated in the same unit as over 18s, but may not share cells.</p> <p>Units with higher staff ratios are provided for those in prison for violent offences and those with the most problematic behaviour. Group and individual therapy sessions are also provided.</p> <p>Vulnerable young people who have difficulty adapting to prison life can be accommodated in a special unit.</p> <p>A well-equipped area for mothers and babies is provided.</p> <p>Young people can spend time in a common area and prepare snacks in a kitchen area within the wing.</p>
<b>Clothing</b>	Blue sweatshirt uniforms are provided for the young adults.
<b>Education, training, and education</b>	<p>Participation in education and vocational training.</p> <p>Education is prioritised over work, in line with German legislation.</p> <p>A range of well-equipped vocational training workshops are available.</p> <p>Young people are paid for participation in work, training and education.</p>
<b>Psychological or other treatment programmes</b>	<p>Voluntary participation in psychological or other treatment programmes.</p> <p>Specialist treatment programmes are available for certain offence types, such as violent, sexual, property, drug and traffic offences.</p> <p>Specialist treatment programmes are provided for those with personality issues, learning difficulties and those who are potential victims.</p> <p>Animals (horses and rabbits) form part of the therapeutic programme.</p> <p>Occupational therapy is provided for vulnerable young people.</p>
<b>Recreation, leisure, and social needs</b>	<p>Opportunities are provided to engage in a range of activities such as football, athletics, drama, music, and arts. Other opportunities, such as firefighting, are also provided.</p> <p>Groups lunch together in a canteen during break from work or education.</p> <p>Males and females can mix during education, training and leisure.</p>
<b>Preparation for release</b>	<p>Structured release planning using the INSTAR* Programme, which is commenced six months prior to release.</p> <p>A 'soft landing' programme for those with nowhere to go on release.</p> <p>The prison has a 20 space open pre-release unit outside the secure area. Young people accommodated there can go out to work in the nearby town.</p>

Adapted from Allen (2013), Chammah (2015), and Dünkel (n.d.).

\*INSTAR (Integral Work with Offenders) is a highly regarded transition management programme, which facilitates the exchange of information between the relevant authorities (prison and probation services), thereby ensuring continuity for the young person (Justizministerium Mecklenburg, 2013).

Although Neustrelitz has a large capacity overall, it is broken into smaller units in line with Rule 53.4 of the *ERJOSSM* which refers to prison size. The Rule states that prisons should be small or contain small units in order to enable the delivery of more effective interventions. It proposes that through small group living, key social skills necessary for reintegration can be fostered (Council of Europe, 2009). The provision of common areas and kitchen facilities on the wings at Neustrelitz further supports group integration in this way. Youth prisons in Eastern Europe and Germany tend to have a large capacity, while institutions in Scandinavian countries tend to have a capacity of between 15 and 30 (Council of Europe, 2009). France provides youth penitentiary institutions for up to 60 juveniles and also closed educational institutions for no more than 10 juveniles – practices that have been praised by the Council of Europe (Council of Europe, 2009).

## 5.4 YOUNG ADULTS IN ENGLAND AND WALES

In England and Wales, young adults can be sent to adult prisons, while those aged 18 to 20 can also be sent to separate dedicated Young Offender Institutions (YOIs) established under the Criminal Justice Act 1988. In recent years, an increasing number of young adults have been integrated with adults in adult prisons. In both types of facility, however, high levels of violence have been observed among young adults (HM Chief Inspector of Prisons, 2014; 2015). The reports of Her Majesty's (HM) Chief Inspector of Prisons for 2013 and 2014 suggest that some young adults feel safer in dedicated facilities, while others feel safer in adult prisons (HM Chief Inspector of Prisons, 2014; 2015). Nonetheless, a survey conducted in 2012/2013 by HM Inspector of Prisons for England and Wales indicated that 'young adults held in establishments dedicated to their age group felt safer and more positive about their treatment than those held alongside adults' (HM Chief Inspector of Prisons, 2015, p. 39). Feelings of safety appear to be related to the specific strategies and regimes in place for young adults, attitudes of staff, and relationships between staff and the young adults detained. The 2015 report notes that prison staff often fail to consider the maturity of young adults and fail to act as positive role models (p. 39). Furthermore, the Prison Service does not provide training for prison officers to work specifically with young adults (HM Chief Inspector of Prisons, 2014; 2015), even though the young adults who end up in custody are 'the most vulnerable, troubled young adults with complex needs' (HM Chief Inspector of Prisons, 2015, p. 38). From inspections of both types of facilities, it was concluded that,

in prisons that had integrated adults and young adults, outcomes for the young adults were generally worse, and many prisons continued to have no strategy to manage this distinct group, whose lack of maturity was sometimes manifest in poor behaviour and thinking skills (HM Chief Inspector of Prisons, 2014, p. 47).

In November 2013, the Prisons Minister launched a consultation on accommodating all young adults in mixed facilities. However, this was suspended due to the increasing number of self-inflicted deaths among the 18 to 24 age group in prisons and Young Offender Institutions in England and Wales. The *Harris Review*, an independent review of 87 self-inflicted deaths among young adults in custody between 1 April 2007 and 31 December 2013, was initiated in April 2014 and published in 2015 (Harris, 2015). The Review emphasises the particular vulnerabilities of young adults in contact with the criminal justice system and stresses that,

any inherent difficulties in progressing through this stage of development are compounded, not only by the life experiences of young adults who come into contact with the CJS [criminal justice system], but with the processes associated with the CJS itself (Harris, 2015, p. 79).

The Chair of the Review, Lord Toby Harris, described the prisons and Young Offender Institutions as 'grim environments: bleak and demoralising to the spirit' and commented that,

whatever their [young adults'] particular reasons for being in custody, their experiences during this time should not have been such that they added to their distress or increased their vulnerability, particularly to the point that they might have wanted to take their own lives' (Harris, 2015, p. 4).

The Harris Review firmly concluded that radical reform is necessary to ensure that vulnerable young adults receive appropriate treatment and protection before, during and after contact with the criminal justice system. Among its 108 recommendations, was that young adults' maturity as well as chronological age be considered at all stages of their engagement with the criminal justice system. The review states that while there is 'no simple answer' with regard to whether young adults should be accommodated in separate dedicated facilities or mixed with older adults, all young adults should be accommodated in small units with specially trained staff and a regime tailored to meet their needs, and that, if on the basis of a young person's maturity, it would be in their best interest to stay in a facility of under 18s, then this should be possible, with due consideration given to safeguarding issues (p. 207).

## 5.5 EFFECTIVE PRACTICE IN TREATMENT PROGRAMMES FOR YOUNG ADULTS

Lösel (2012) notes that the knowledge base on effective custodial treatment and rehabilitation for young adults is minimal. From his review of the available literature, he concludes that the evidence 'does not prove that programmes of pure punishment, deterrence, and supervision reduce reoffending' (p. 87). He further notes, that some measures (e.g., 'shock incarceration')<sup>32</sup> might have unintended consequences such as increasing reoffending. In terms of treatment programmes, he notes that few rigorous evaluations have been undertaken and those that exist do not address the young adult age group specifically. Therefore, in order to make suggestions about what might work, it is necessary to extrapolate from what is known about correctional interventions in general to the circumstances of young adults. Lösel further notes that as the findings for juveniles and adults are similar, they may be generalised across age groups.

Overall, the evidence suggests that interventions grounded in criminological and psychological theory are likely to have best results. In particular, these include the following:

- Cognitive-behavioural programmes (which may, for example, involve self-reflection, anger management, social skills training, interpersonal problem solving)
- Milieu therapy programmes based on psychotherapy, and social therapeutic prisons fostering a therapeutic social climate
- Programmes built on Risk-Need-Responsivity (R-N-R) principles (Andrews, Bonta, and Hoge, 1990), which should consider the young person's risk of reoffending (R); address the young person's specific criminogenic needs (N); and contain tailored methods to meet the young person's learning style (R)

(Lösel, 2012)

Lösel (2012) notes that such evidence-based programmes can be adapted, as appropriate, to the needs of young adult populations.

## 5.6 CONCLUSION

Countries vary in their responses to young adults who have offended, despite the clear standards and guidelines for practice dictated by international bodies. It is time for Ireland to develop a comprehensive response for young adults within the criminal justice and penal systems. The evidence strongly suggests raising the upper age limit for criminal responsibility and extending the scope of juvenile responses to young adults, as other countries have. The *ERJOSSM* provides clear guidance for the kind of regimes that should be provided for young adults for whom imprisonment is a last resort. There is a dearth of research addressing what works with young adults specifically, and so the evaluation of new interventions must be ensured. A new approach should be built on principles of education, rehabilitation and reintegration, and should guarantee continuity of care for the young adults it concerns. Furthermore, staff working with young adults should be specifically trained to the highest standards in dealing with this age group and their particular needs.

<sup>32</sup> Shock incarceration involves sending the young person for a short stay or visit to a prison that has a particularly harsh regime in the hope that he/she might be 'scared straight' (Lösel, 2012).



# Proposals for Reform

## 6.1 INTRODUCTION

If the Irish Government is serious about achieving the best possible outcomes for children and young people, it will need to ensure that the provisions of the *Better Outcomes* framework apply to *all* children and young people, including those in contact with the justice systems. Ireland is lagging behind many of its European counterparts in developing a specific response to young adults who have committed an offence. The treatment of young adults in prison, and the conditions in which they are kept, fall far short of international standards and best practices. Radical reform is required if the State is to ensure the humane treatment of the young adults it imprisons. Hence, the Jesuit Centre for Faith and Justice urges the Department of Justice and Equality, the Irish Prison Service, Irish Youth Justice Service, and Probation Service to recognise and address the unique circumstances of young adults in prison, and makes the following proposals for reform.<sup>33</sup>

## 6.2 RECOGNISE YOUNG ADULTS (18 TO 24 INCLUSIVE) AS A DISTINCT GROUP

Psychological, criminological and sociological research suggests that young adults aged 18 to 24 (inclusive) should be treated as a distinct group among those who have committed an offence, as proposed by the Irish Penal Reform Trust (2015), Transition to Adulthood Alliance (2009; 2016), Allen (2016) and others (e.g., Farrington *et al.*, 2012; Lösel, Bottoms, and Farrington, 2012). Young adults are not fully mature and the majority 'grow out' of crime. Given the right interventions, young adults who have offended can go on to lead productive and crime-free lives. The wrong intervention can be harmful and risks entrenching young adults in a life of crime.

<sup>33</sup> Proposals are based on the literature and best practices as set out in the *ERJOSSM, European Prison Rules* and other international instruments, including the World Health Organisation (2003) *Consensus Statement on Promoting the Health of Young People in Custody*. The Statement sets forth principles, policies and practices for promoting the health of young people (18–21) in custody and is based on knowledge generated through the WHO Prisons Project and on selected expert advice.

International human rights standards and guidelines dictate that young adults be treated separately from fully mature adults in a system informed by juvenile justice responses. The same standards and guidelines have paved the way for the provisions of the juvenile system to be extended up to age 25 years, while the case for extending these provisions up to age 21 is supported by the same evidence that underpins the extension of these provisions up to age 21. Therefore, Ireland must not only ensure that young adults are considered a distinct group among those who have offended, but also that young adults aged 18 to 24 inclusive are the focus of a targeted and humane response. In doing so, Ireland will meet international standards and recommendations, and can become a model of progressive practice among its European counterparts.

A flexible approach to young adults is proposed, akin to that provided for young adults in Germany, and in line with Council of Europe recommendations. Following this approach, the provisions of the youth system can be extended to young adults. Such provisions, which aim to promote desistance, have the most potential in reducing offending among young adults. As is the case in other countries, prosecution and sentencing should consider the knowledge base on maturity and desistance. Wherever possible, informal methods should be applied to young adults, such as in cases of first time offending, or of less serious crimes. Extending the provisions of the youth justice system to young adults 18 to 24, would enable diversion programmes, supervised bail support, intensive community orders, and restorative justice practices to be applied (Lösel *et al.*, 2012; Irish Penal Reform Trust, 2015). This would also create the opportunity for specialised supports for drug, alcohol, and mental health issues to be provided within the community, and for young adults to be connected to services addressing their educational and vocational needs (Lösel *et al.*, 2012). The literature suggests short prison sentences – less than six months – should be also abolished (Lösel *et al.*, 2012). Instead, prison should be used only as a measure of last resort for young adults, reserved for cases of serious violent crimes.

If the above reforms are implemented, then the number of young adults being sent to prison should decrease significantly. There are social and economic benefits to such a new and flexible approach, which when implemented should also reduce the number of victims and the collateral consequences of young adult imprisonment. However, a specific strategy addressing young adults is urgently needed, specifying the range of responses possible and the relevant authorities charged with its implementation. If the provisions of the youth justice system are to be extended to young adults, then it is the Irish Youth Justice Service that assume responsibility for young adults aged 18 to 24 years, with some flexibility from Irish Prison Service as required.

### 6.3 ACCOMMODATE YOUNG ADULTS IN A FACILITY DESIGNATED SPECIFICALLY FOR THEIR AGE GROUP (18 TO 24 YEARS INCLUSIVE)

Overall, the conditions in which young adults in prison are currently kept are not conducive to the goal of rehabilitation, and an alternative is urgently required. In cases where prison is the last resort intervention, it is proposed that young adults be detained at a facility specifically and exclusively designated for their age group (and designed with their unique needs and circumstances in mind). As per international recommendations and best practices, young adults should be accommodated separately from older adults to minimise harm possible from bullying, violence, intimidation, and drug use.<sup>34</sup> This can be best achieved in a dedicated facility.

In line with the *ERJOSSM*, a new facility for young adults should comprise a group of smaller units with no more than 10 places each. These small living units can facilitate the implementation of therapeutic interventions and can promote social and community living skills. This will be facilitated by the establishment of specifically designed ‘communities’ for young adults in the new facility, similar to those in the original environment at the Dóchas Centre.

<sup>34</sup> As per the *ERJOSSM*, an exception is where separation would mean isolation, in which case young adults can be held in mixed units, but in separate cells at a minimum.

Ideally, the facility would be a 'campus model' akin to that provided at Neustrelitz<sup>35</sup> (and in contrast to Wheatfield Place of Detention), but of smaller capacity with no more than 80 to 90 young adults accommodated across the smaller living units. A similar campus is currently provided at the children's detention facility at Oberstown.<sup>36</sup> The new campus should have a separate induction unit and a separate facility for those on remand. Like Kerava and Neustrelitz prisons, there should also be an open unit from which young adults can engage in education, training, or work in the community in preparation for release, while also having access to relevant support services, both within the facility, and within the community. Specialised units should be provided on campus for the most vulnerable young adults and for those with complex behavioural issues, through which appropriate therapeutic interventions can be delivered alongside a higher staff ratio.

As per the *ERJOSSM*, young adults should ideally be sent to a facility close to their homes and close to where they will settle once released. However, it is acknowledged that this will depend on the number of committals, and if the reforms called for here and elsewhere (e.g., Irish Penal Reform Trust, 2015) are implemented, then the number of young adult committals should decrease.<sup>37</sup> For instance, if only those committing serious crimes were sent to prison, then the number of young adults in prison under sentence should reduce by around 60 to 70 per cent,<sup>38</sup> and given that around 20 per cent of young adults in prison are in prison on remand,<sup>39</sup> this would mean that around 275 to 325 places would be required at any time, approximately 55 of which would be remand places. If as proposed, and the use of bail supervision and bail supports is enhanced (Irish Penal Reform Trust, 2015), then the numbers in prison on remand should reduce further also. These figures compare favourably to the 767 prison places being occupied by young adults in November of 2015 (Irish Prison Service, 2016a).

Comparing Ireland's imprisonment rate of young adults with Germany and Finland highlights the unnecessarily high number of young people in prison. Table 6.1 shows that Finland has proportionately 58 per cent less young adults in prison than Ireland while Germany has 40 per cent less. If Ireland were to mirror Finland, its daily young adult prison population would be 325.

**Table 6.1** Imprisonment rates of young adults

Country	Number in Prison	Percentage of Prison Population	Cohort as Percentage of Total Population	Percentage of Age Cohort in Prison
Ireland*	767	20.42	0.016	0.18
Germany**	9571	14.14	0.011	0.14
Finland **	382	12.22	0.007	0.08

\*Snapshot of the daily population at 30 November 2015 (Irish Prison Service, 2016a)

\*\*Snapshot figure from 2013 (Aebi and Delgrande, 2015)

The figures suggest the need for four young adult centres, and these could be located in Dublin, the greater Dublin area, a western county and a southern county. It is important that they are in large population areas to allow for links with family, and local communities and for ease of public transport access. The distribution of prisons in Ireland and where young people in prison come from is outlined in **Figure 6.1**, this provides a starting point for where any new facility should be provided.

35 As recommended by Allen (2013) in the UK context.

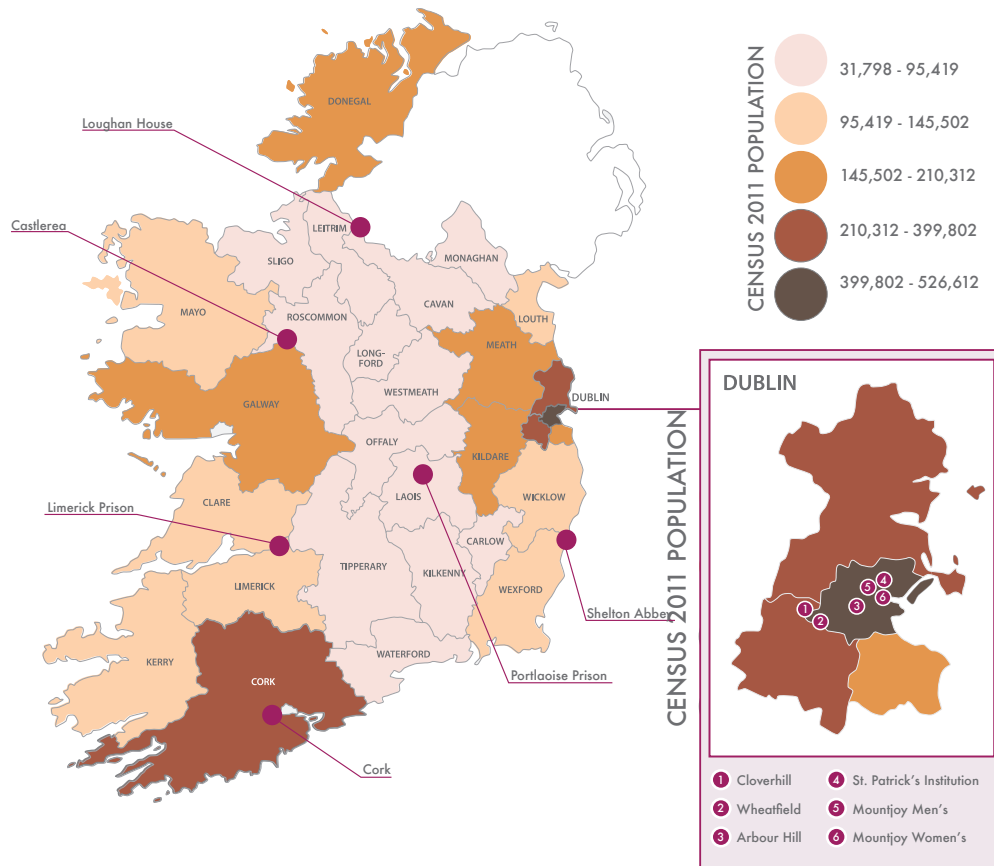
36 Oberstown, when finished, will have capacity of 90 places in 10 units, in line with *ERJOSSM*. However, the need for a facility of this size for children can be questioned.

37 The use of non-custodial alternatives will not reduce the number of young adults in prison if appropriate services are not provided in the community to address the underlying causes of their offending behaviour.

38 Based on data for 30 November 2015 (Dáil Debates, Nos. 297–299, p.76, 15 December 2015, PQ 45108-10/15). This calculation is based on 18–25 year-olds rather than 18–24 year-olds.

39 Based on data for 30 November 2015 (Dáil Debates, Nos. 293–299, pp.75–76, 15 December 2015, PQ 45104-10/15). This calculation is based on 18–25 year-olds rather than 18–24 year olds.

**Figure 6.1** Where young adults in prison come from, the distribution of the national population and the location of each prison



Prison	18 - 21	21 - 24
Arbour Hill	25	45
St Patrick's Institution	0	0
Mountjoy Women's	2	10
Mountjoy Men's	14	92
Wheatfield	60	66
Shelton Abbey	0	11
Cloverhill	37	65
Portlaoise	4	40
Cork	17	41
Limerick	18	52
Castlerea	0	7
Loughan House	0	15
Midlands	35	57

County	18 - 21	21 - 24	County	18 - 21	21 - 24
Carlow	1	3	Limerick	14	46
Cavan	1	6	Longford	0	5
Clare	7	13	Louth	7	5
Cork	20	51	Mayo	2	9
Donegal	2	8	Meath	10	18
Dublin	77	204	Offaly	2	10
Galway	16	19	Roscommon	0	3
Kerry	6	10	Tipperary	8	22
Kildare	6	24	Waterford	4	11
Kilkenny	0	4	Westmeath	7	7
Laois	4	5	Wexford	5	10
Leitrim	0	1	Wicklow	6	23

Within the facility itself, young adults should be accommodated in their own room, with the practice of doubling-up strictly prohibited. They will have ready access to hygienic sanitary facilities. Separate shower cubicles will exist in each unit and will be available for daily use. Young adults in detention have the right to privacy including their immediate living space (bedroom). In addition, special facilities should be provided for mothers with babies born in detention.

Young adults should be able to remain in this young adult facility to finish their sentence beyond age 24 where necessary. The transition between the youth and adult systems is a period of particular vulnerability and this must be recognised in any effective response.

### Accommodating young women in prison

The number of young women in prison has fluctuated since 2007. The prison service snapshot figures at 30 November 2007 show that there were 14 young women in prison at that time (Irish Prison Service, 2008). This peaked at 43 in 2010 (Irish Prison Service, 2011) and dropped to 12 in 2014 (Irish Prison Service, 2015a), with 18 on 30 November 2015 (Irish Prison Service, 2016a). The trend highlights that non-custodial options can cater for the majority if not all women who come in contact with the criminal justice system. Furthermore, should the proposed reforms (e.g., Irish Penal Reform Trust, 2013a; Irish Penal Reform Trust, 2015) be implemented, numbers would decrease to low single figures. Young adult women are typically in prison for non-violent offences, and increased use of non-custodial options will mean prison spaces are not needed for young women. With the following proposals it is important to note that young women in custody should be given equivalent access to the range of services available to their male counterparts. Moreover, proposed changes must take cognisance of the particular needs of women in detention referred to in the *Bangkok Rules* and recommendations by Allen (2016) in the Transition to Adulthood report on women in detention.

For the very small number (less than ten) of young women for whom it is deemed imprisonment is the only option, the following two options should be explored and implemented.

- House arrest or community house arrest
- Secure detention

#### House arrest or community house arrest

The custodial default to closed prisons for young women in Ireland should be house arrest. Following the example of *JusticeHome*<sup>40</sup> in New York, young women would serve their sentences from their home. They would receive intense supervision and community-based support, through various different services, while being able to remain in an environment in which they keep in contact with family and community (International Penal Reform Trust, 2013).

If homeless prior to conviction, or if the home environment is not safe, they would be placed in community-based accommodation. An example of this would be the Ellen House in Ontario Canada where women are housed in the community which also provides case management and support. A similar initiative in New York, Drew House, can accommodate women and families. The recidivism rate of women sentenced to Drew House and similar custodial alternatives has been shown to have been dramatically lower than traditional closed prisons (International Penal Reform Trust, 2013).

#### Secure detention

For the small numbers of women that the courts deem necessary to imprison, secure accommodation should be provided regionally depending on demand. Locally-identified premises could be modified for this purpose. Education, work and training should then be provided in the community or one-to-one tutor. The accommodation should be similar to 'Special Care Units' (HIQA, 2014) which are available for children.

Learning can also be drawn from the INSPIRE Women's Project in Northern Ireland (O'Neill, 2011; Easton & Mathews, 2014)<sup>41</sup> as is proposed in the joint strategy. Appropriate supports must be put in place within the community to deal with the particular issues faced by young women at risk of coming in contact with the criminal justice system, notably homelessness and drug use.

40 *JusticeHome* is a community-based programme for women sentenced for at least six months in prison. One-to-one support is provided by trained staff who also support contact with community and family (Women's Prison Association, 2016).

41 The Inspire Women's Project provides a range of women-specific services to those in the criminal justice system through targeted community-based interventions (O'Neill, 2011).

## 6.4 PROVIDE A NEW REGIME FOR YOUNG ADULTS IN PRISON

Every young person in custody has a basic right to healthy physical, social and psychological development. This will require a progressive regime aimed at addressing the holistic development of each young adult, and specifically trained staff to support its implementation (WHO, 2003).

A new young adult facility should provide a distinct and age-appropriate regime with rehabilitation at its core. The regime should be 'normalised', meaning that conditions on the inside approximate 'normal' living in the community on the outside as far as is possible, while the loss of liberty alone constitutes the punishment.<sup>42</sup> A normalised regime consists of a structured day, involving education, training, work, recreation, and social interaction, similar to the positive aspects of daily life outside of prison. There should be a safe, secure, caring and stimulating environment, free from bullying and intimidation, in which all young adults are supported to fulfil their potential (WHO, 2003). Overall, the environment should promote health, wellbeing and development. A therapeutic community climate should be fostered in each wing following a socio-therapeutic model, as is implemented in Neustrelitz prison in Germany (Allen, 2013). Petrovec and Plesničar (2014) describe how the central tenet of a socio-therapeutic environment is allowing the person in prison the greatest amount of freedom possible.

A sample daily routine is provided in Table 6.2. It proposes 14.5 hours out of cell time during which young adults engage in education, training, work, recreation, or group/individual development/therapeutic sessions until ten o'clock at night. This is reflective of the 1985 Committee of Inquiry Report and very different to the current regime which has not changed in 30 years. Figure 6.2 provides a direct comparison between the Neustrelitz daily routine for young adults and what is available in Ireland.

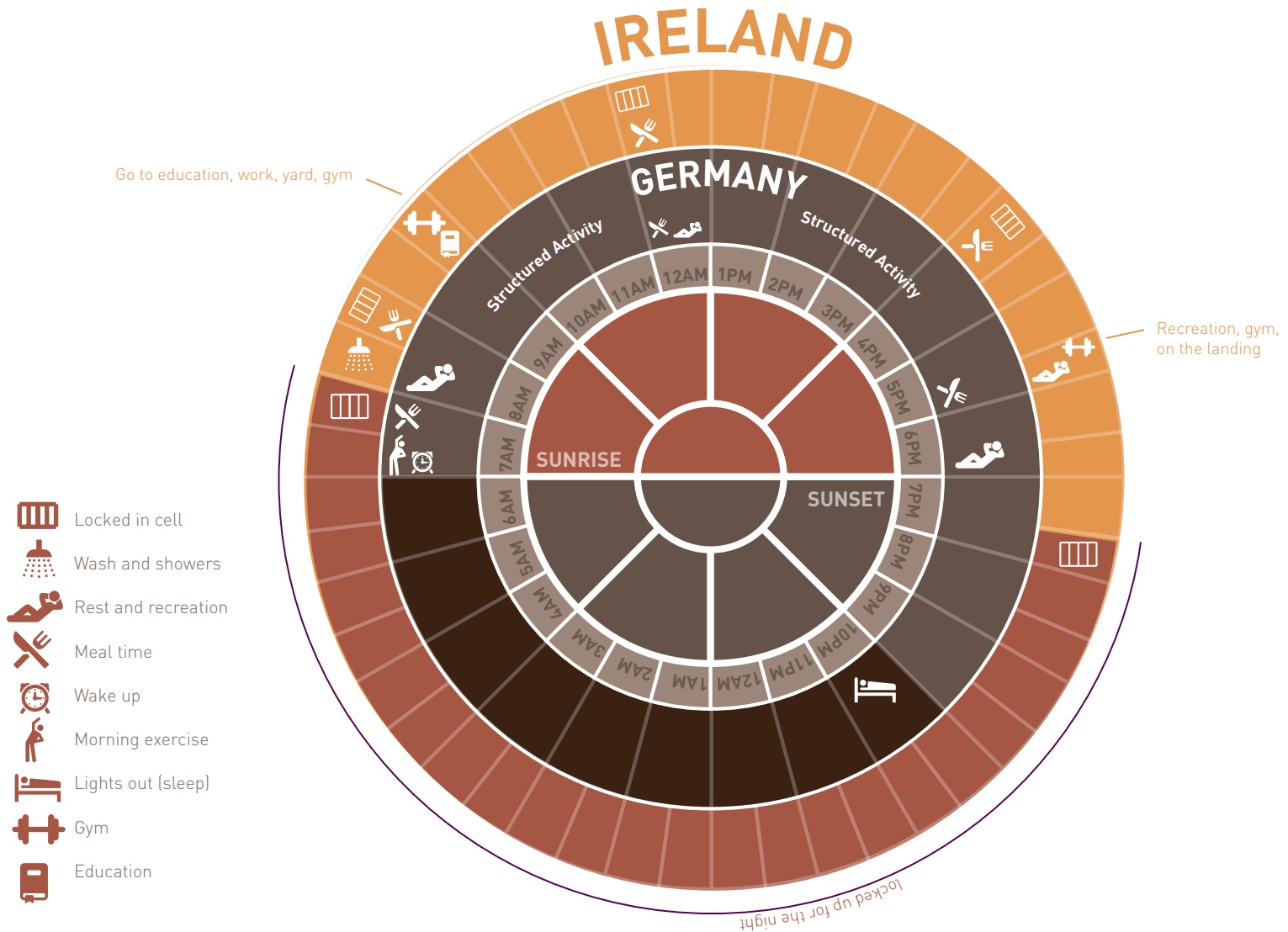
**Table 6.2** Sample daily routine\*

Time	Activity
07h00	Wake up / Morning exercise
07h30	Breakfast
08h00	Rest and recreation
09h00	Structured activity
12h00	Lunchtime meal
12h30	Rest time
13h30	Structured activity
17h30	Evening meal
18h00	Rest and recreation
22h00	Bedtime

\*Based on Neustrelitz Youth Prison

<sup>42</sup> Rule 53.3 of the *ERJOSSM* states that 'life in an institution shall approximate as closely as possible the positive aspects of life in the community'.

Figure 6.2 Daily routine for young adults — Ireland vs Germany



In the proposed new regime, young people in prison should eat in communal dining areas. As per the *ERJOSSM*, they should be provided with nutritious meals, taking account of their age, health, physical condition, religion, culture and activities undertaken and they should have the opportunity to prepare their own food as appropriate. It should also be possible for young adults to exercise for up to two hours a day, with one hour in the outdoors, weather permitting. Young adults should also be permitted to wear their own clothing.

### Induction

The introduction to prison life can be an especially vulnerable time for young adults, and they are likely to experience considerable anxiety and fear (Harvey, 2007, as cited in Liebling 2012a; Harris, 2015). The initial committal process may be the most de-humanising part of the prison experience and should be conducted in a manner that respects the dignity of the young adult and the prison staff. This can be facilitated through the provision of a dedicated committal area within a separate induction unit. Cloverhill is Ireland's largest dedicated remand prison, and, as outlined above, 102 of its 390 population are young adults. Currently there are six three-person cells reserved for new committals. While Mountjoy had developed a reception area for new committals, this is no longer in use. There is clearly a need for humanising how people enter Irish prisons.

A separate induction unit can provide for a sufficient induction period during which the young adult can be assessed and a step-by-step plan made toward integration to a normalised regime (Allen, 2013).<sup>43</sup> During this time, planning for how the young adult will spend her or his sentence can begin. An initial comprehensive needs assessment should address the young adult's health, education, training, work, family, social, and safety needs. This process is akin to the *Safety and Vulnerability, Risk Assessment and Support (SAVRAS)* process recommended for young adults in England and Wales following the *Harris Review* (Harris, 2015). The process can inform the placement of the young adult within the facility<sup>44</sup> and should form the basis for ongoing sentence planning.

### Integrated sentence management – individualised custody planning

It is recommended that an authentic integrated sentence management (ISM) programme be implemented to ensure an individualised, needs-focused plan for each young adult detained. An Individualised Custody Plan (ICP) should be available for every young adult, no matter what their sentence length is, or expected length of custody,<sup>45</sup> and not reserved only for those on sentences of 12 months or longer (as is currently the case with Integrated Sentence Management in Irish prisons).<sup>46</sup>

It is recommended that individualised custody planning for young adults takes a multi-disciplinary approach that considers their maturity and developmental needs. The ICP process should ensure that the young adults' specific needs are met and should support each individual to achieve her or his social, personal and vocational goals through short-term and long-term goal-setting, regular monitoring towards progress, and regular reviewing of goals.

As recommended for young adults in England and Wales, the multidisciplinary holistic needs assessment should be conducted within 48 hours of arrival to the facility and should form the basis for ICP (Harris, 2015).

The ICP process can be facilitated by an ICP Mentor, designated to each young adult to ensure the young adult's health, education, training, work, family, social, and safety needs are met. The WHO (2003) recommends young people in custody should be supported to develop and maintain safe, caring and stable relationships with one or more suitable adult in the community to which they will return. According to the WHO (2003),

the aim while in custody is to ensure that the young person knows that there is at least one person, ideally a personal officer, who is interested in him/her as a person, who cares about his/her health and well-being and who can help the young person to build/maintain relationships back in the community (p.11).

In the UK context, Allen (2013) also recommends a personal officer approach. This involves a formal process whereby prison officers are allocated a small number of young adults with whom they develop a trusting and respectful relationship and for whom they become a focal point, setting an example, and offering guidance and encouragement to participate in the regime and activities (Liebling, Price, and Scheffer, 2010). Similarly, the Harris Review recommends that each young adult in custody be assigned a Custody and Rehabilitation Officer (CARO) whose role is to build a supportive relationship with them, to monitor their safety and well-being as well as overseeing their Custody Plan (Harris, 2015). According to Harris, CARO is a highly specialised and skilled role requiring a thorough understanding of issues relating to young adults' maturity and development stage, and as such it requires at a minimum, the skills and the competencies of a qualified youth worker or social worker (p.76). As was recommended by Allen (2013) for the personal officer role, Harris proposed that CAROs should have a small caseload (no more than 15 to 20) in order to facilitate the development of close and trusting relationships.<sup>47</sup> Hence, it is proposed that a similar mentor scheme be implemented in Ireland as part of ICP to support young adults through their sentence and upon release.

<sup>43</sup> Allen (2013) proposes three weeks might be suitable within the UK context.

<sup>44</sup> Rule 61 of the *ERJOSSM* states that 'within institutions there shall be an appropriate assessment system in order to place juveniles according to their educational, developmental and safety needs'.

<sup>45</sup> Rule 62(6)c of *ERJOSSM* states that 'save in the case of very short periods of deprivation of liberty, an overall plan of educational and training programmes in accordance with the individual characteristics of the juvenile shall be developed and the implementation of such programmes shall begin'.

<sup>46</sup> This would be less of an issue with the reduction or abolishment of short sentences.

<sup>47</sup> This is also consistent with research findings about young people in the Irish context indicating a single trusting and stable relationship could be a positive influence on a young person's life (Dooley & Fitzpatrick, 2012; McElvaney, Tatlow-Golden, Webb, Lawlor, and Merriman, 2013).



A mentor system was central to the Integrated Programme Planning that formed part of the Connect Project (1998–2000) delivered in Mountjoy Prison, the Dóchas Centre and the Training Unit between 1999 and 2000 (see Lawlor and McDonald, 2001). This process was viewed positively by many participants in the Connect Project, and some retained links with the mentors upon release (Lawlor and McDonald, 2001). The literature suggests that where such personal officer schemes work well, there tends to be support from management and staff and effective interagency working with probation services and other relevant agencies (Liebling, Price, and Scheffer, 2010). There also needs to be clear roles, understandings, and expectations among prisoner officers and individuals participating in such schemes (Paterson, 2005).

ICP in a new young adult regime should extend into the community, facilitating a seam-free transition from custody back into the community. Hence, it is imperative that links are fostered with the relevant outside agencies in the areas of social welfare, drug treatment, housing, education, training, employment, and family support. The ICP approach should support people during their sentence, in preparation for release, upon release and during the period immediately afterwards. It should also transfer with the young adult without interruption. It will thus be consistent with Rules 15 and 51 of the *ERJOSSM* emphasising both through care and continuity of care for juveniles. According to Rule 51, 'to guarantee continuity of care, juveniles shall be assisted, from the beginning of and throughout any period of deprivation of liberty, by the agencies that may be responsible for them after release' (p.14). The *ERJOSSM* (Rule 101.2) puts onus on these agencies to assist the young person to re-establish themselves in the community on release through helping them return to their families, build social relationships, find accommodation, engage in education and training, secure employment, access social- and health-care agencies, and financial assistance.

A tailored and integrated ICP model is clearly an essential part of a new regime for young adults. Adequate preparation for release and integrated support upon release will reduce the risk of reoffending. However, any ICP approach and needs assessment framework for young adults must take account of maturity and developmental needs, and its implementation should be evaluated to determine its efficacy.

### Creating a safe and secure environment

As noted earlier, many young adults are on restricted regimes in prison, where they have little access to basic facilities and services. The Jesuit Centre for Faith and Justice has referred to this as severe confinement, resembling solitary confinement. The majority of young adults are on restricted regime for protection purposes, however, this should not be allowed to justify prolonged periods spent in what amounts to social isolation.

The *ERJOSSM* sets out its general approach to prison order in section E13.1. It states that good order 'shall be maintained by creating a safe and secure environment in which the dignity and physical integrity of the juveniles are respected and their primary developmental goals are met' (Rule 88.1), and that 'particular attention shall be paid to protecting vulnerable juveniles and to preventing victimisation' (Rule 88.2). In particular, 'staff shall develop a dynamic approach to safety and security which builds on positive relationships with juveniles in the institutions' (Rule 88.3). A therapeutic community culture, promoting positive respectful relationships, should facilitate safety and security, and may have the potential to reduce conflict and violence (see Parker, 2007).<sup>48</sup> As part of this approach, 'juveniles shall be encouraged to commit themselves individually and collectively to the maintenance of good order in the institution' (Rule 88.4).

Safety is a basic requirement for the effective functioning of any prison system (Penal Reform International, 2001), but accommodating young adults in a dedicated facility will not by itself guarantee the provision of a safe environment. In England and Wales, a major factor is the levels of violence within the prisons. This seems to be especially so in the dedicated Young Offender Institutions (YOIs) for young adults, as the levels of violence tend to be disproportionately higher than in adult prisons (Her Majesty's Inspectorate of Prisons, 2013; Harris, 2015). Yet research has indicated that young adult men still feel safer and more positive about their treatment in dedicated YOIs than young adults in male prisons (Her Majesty's Inspectorate of Prisons, 2013). As Liebling points out, feelings of safety within a prison, as within the community, are 'not directly related to the risk of violence and assault but to a kind of "trust in the environment"' (2012b, p.64).

<sup>48</sup> Also see Grendon Prison in England as a model of a Therapeutic Community Prison (O'Mahony, 2008; Crétenot, 2013).

Nevertheless, the disproportionate levels of violence in YOIs simply demonstrate that traditional forms of imprisonment are insufficient to create a safe environment for young adults, even when they are accommodated in a separate dedicated facility. The typical solution to violence within prison – to punish (often by removing privileges) and segregate – can only have limited success in reducing violence at best, and may actually exacerbate the problem at worst (Edgar, O'Donnell and Martin, 2003). This is because, as Gilligan (2001) explains, far from preventing violence, 'punishment is the most powerful stimulus to violent behaviour that we have discovered yet' (p.18). Moreover, a recent report on England and Wales (Shalev and Edgar, 2015) found that those held in segregation often experience prolonged social isolation and a diminished regime with low levels of purposeful activity – a mixture which is known to be damaging to a person's mental health and welfare. These findings only serve to further emphasise the need for a distinct and age-appropriate regime which can facilitate the creation of an environment where young adults can both feel safe and be safe.

The recommendations made in this report, however, are well-suited to the creation of such an environment. For instance, Liebling (2012b) explains that 'active engagement, the support of specialist staff, providing an active regime, and... "dynamic" and relational approaches to security and order' have the potential to considerably improve the levels of safety within prisons (p.64). Furthermore, according to Gilligan and Lee (2004), to create a safe and secure environment for those imprisoned requires designing the facility to be as humane, civilised and homelike as possible, and for the setting to function as a residential school and therapeutic community<sup>49</sup> capable of providing full access to employment, education and every form of medical and mental healthcare service the residents require (e.g., psychiatric, dental, medical, substance abuse treatment). These broad requirements are consistent with the recommendations on the design and functioning of a dedicated facility which have been outlined already. Namely, that the facility be modelled on a campus design (akin to that at Neustrelitz); that it provides a rehabilitation-focused, normalised and structured regime; and that it follows a socio-therapeutic model so as to foster a therapeutic community climate.

Within the development of a therapeutic community climate, changing the culture traditionally found within prisons (what Gilligan refers to as an 'authoritarian shame culture') towards a more 'egalitarian culture',<sup>50</sup> would be a key component in creating a safer prison environment and facilitating change in young persons who have committed violent offences (Gilligan, 2011). In this context, the recommendations on the 'consultation and participation' of young adults in relation to the operation of the facility (discussed later in this report) might also have the added potential of cultivating cultural change and improving safety. According to Gilligan (2001), three of the underlying principles for facilitating such cultural change include:

- *Treating everyone in the setting with respect* and expecting them to do the same. This involves paying close attention to everyone and to listen to everyone with full attention, and to provide each resident with non-violent tools for attaining some degree of self-respect, such as meaningful work and education (Gilligan, 2001);
- *Always giving people a chance to talk*, for the only alternative to action – including violent action – is words. This is one reason why psychosocial interventions are such important tools for preventing violence. Indeed, the whole point of them is to help people get what they want through words rather than through weapons; and to be able to reflect on, understand and reassess their actions by using words and thoughts (Gilligan, 2001, p.123). Mechanisms of mediation and restoration have a similarly important role to play in this respect;
- *Replacing punishment – the deliberate infliction of pain – with restraint* (i.e., 'limiting a person's freedom when that is the only way to prevent him from harming himself or others, but doing so without inflicting any avoidable physical or psychological pain or injury' (Gilligan, 2001, p.124). The Irish Prison Service has received repeated criticism for its use of the punishment of 'loss of all privileges', which essentially amounts to solitary

<sup>49</sup> There is an increasing evidence base suggesting that therapeutic communities (TCs) are an effective approach for creating a safe and secure prison environment (see Brown *et al.*, 2014). For instance, the Grendon TC prison in England has traditionally accepted men who were found to present a high risk and high need, and had a considerable history of misconduct while in other prisons (Shuker, 2010; Newton, 2010). Despite this, Newton (2010) found that when compared with equivalent institutions, the adjudication rate for violent offences in Grendon was approximately one-seventh of those for equivalent institutions.

<sup>50</sup> By an 'authoritarian shame culture' Gilligan (2011) means a culture in which inequality, status hierarchies, domination and authoritarianism are valued and maximised. Conversely, an 'egalitarian culture' is characterised by a democratic set of social relationships, whereby everyone is treated respectfully regardless of their role or background.

confinement, in some cases for up to 56 days (CPT, 2007; 2011; 2015; Jesuit Centre for Faith and Justice, 2012). This third principle should only apply for the shortest amount of time as is necessary for the person to avoid harming others – and no more than a maximum of 14 days (CPT, 2015) – and such persons continue to be provided with a tailored programme of a variety of purposeful activities (CPT, 2015).

In applying these principles to develop a more egalitarian culture and create a safe environment, the practices of staff and management and the relations they have with those in prison are crucial (Jesuit Centre for Faith and Justice, 2012; Crewe and Liebling, 2015). Though physical and technical security measures may be necessary features for any prison, they are insufficient when used alone to guarantee a safe and secure environment<sup>51</sup> (Council of Europe, 2006b). 'Security also depends on an alert staff who interact with prisoners, who have an awareness of what is going on in the prison and who make sure that prisoners are kept active in a positive way' (Council of Europe, 2006b, p.23).

Such a 'dynamic security' approach has been recommended in a number of Council of Europe reports on Ireland, and is dependent upon staff making consistent contact with persons imprisoned and building positive relationships based on firmness and fairness (CPT, 2007; 2011; 2015). In this way, staff can be better enabled to understand individuals, recognise risky situations and signs of trouble early, and employ conflict resolution by providing opportunities for mediation whereby prisoners can discuss and resolve their differences non-violently (Edgar, 2015). Crétenot further explains that the dynamic security approach is recommended on the basis of research which has shown that treating people in prison in a just, fair and equitable manner is essential to the avoidance of prison disturbances, and that good order and a safe prison are more likely to be attained when there are open lines of communication among all parties (2013, p.27).

Mechanisms of mediation and restoration have therefore an important role to play and should be used, where possible, to resolve disputes (Crétenot, 2013; Butler and Maruna, 2016). Such mechanisms, which in some instances could be facilitated by young adults trained in mediation and/or restorative justice, should be widely available and easy to access for all those in prison to provide non-violent alternative for resolving differences (Edgar, 2015), whether it be between persons in prison, or persons in prison and prison staff (Butler and Maruna, 2016).

To create a safe and secure environment a dedicated facility would ideally function not so much as a prison, but as a residential college and therapeutic community, capable of providing full access to employment, education and healthcare (Gilligan and Lee, 2004).

### Education, training and work

Young people in detention have the right to education, training, healthy lifestyle skills and work skills opportunities (WHO, 2003). The proposed regime aims to equip young adults with the personal, social and vocational skills needed to successfully reintegrate and contribute to society in the long term. Therefore, educational and vocational goals should form a central part of individualised sentence plans, and provision must be responsive to individual needs. Young adults should be actively encouraged to take up the opportunities, while participation must always be on a voluntary basis. A scheme of incentives that is based on reward, not punishment, may be used to encourage those who may initially lack motivation.

Educational needs should be determined as part of the initial assessment, and support should then be directed toward them as required. The *European Prison Rules* dictates that all those in prison should have 'access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations' (Rule 28.1). The new regime for young adults should ensure all have access to appropriate education from basic literacy and numeracy skills, through to third level courses as appropriate. The provision of education should be equivalent to adult education available to those in the community and available to all young adults (Costelloe and Warner, 2014). The *European Prison Rules* states that priority should be given to those 'with literacy and numeracy needs and those who lack basic or vocational education' (Rule 28.2). The model of provision in Fort Mitchel on Spike Island in Cork, when open, had 80 per cent voluntary attendance in its education programme (see Lorenz,

51 Further, security measures can sometimes act inadvertently as *de facto* punishments for those they are designed to protect. For instance, persons on a restricted regime for their own safety will often also experience extended lock-up times and a reduced access to services and activities as a result (Jesuit Centre for Faith and Justice, 2012).

2002). With this programme, literacy was prioritised, with tutoring provided in one-to-one, or one-to-three, group sessions.

The *European Prison Rules* further states that education should 'be integrated with the educational and vocational training system of the country' so that after release young adults may continue their education and vocational training without difficulty (Rule 28.7). Therefore, formal links should be established with further education colleges and training centres to facilitate educational and vocational training provision. Access to a wide range of vocational training opportunities<sup>52</sup> must be provided and places must be available for all who wish to access them. The full range of training opportunities should be open to both females and males and the uptake of non-traditional training options (e.g., mechanics and engineering for females) by both should be encouraged.

Opportunities should be provided for young adults to learn computer and Internet skills. Extended periods of time in prison means young adults may become disconnected from developments in digital and information technologies, adding to their potential exclusion on release. Indeed, many young adults will already have poor skills in this area on entering prison. According to Crétenot (2013),

there is an urgent need to bridge the digital divide for those who are on medium and long term prison sentences. The twenty-first century has witnessed a digital revolution and the speed of change means that prisoners can be cut off from such developments and are at a significant social disadvantage as a result (p.33).

She recommends the establishment of 'a comprehensive programme of secure cyber-access' in prisons in European Union countries, such as has been piloted in adult and juvenile facilities in France as 'Cyber Bases' (p.33). With Cyber Bases, people can use the Internet to look at predetermined websites, such as those relating to finding employment and accommodation, and to social rights. Cyber Bases can be used for training also, enabling people to learn skills in Microsoft Office, curriculum vitae preparation, computer science, and to undertake interactive online exercises in other areas of learning, for example. Crétenot stresses that the technology already exists to ensure that Internet access is secure and the appropriate sites are blocked.

While young adults should have the opportunity to gain certification for education and training activities, this should not be the central goal of provision, nor should it be overly emphasised. Rather, the approach taken should be one of educating the whole person. Article 36 of the United Nations Universal Declaration of Human Rights states clearly that 'everyone has the right to education' and that it 'shall be directed to the full development of the human personality' (United Nations, 1948).

In terms of work opportunities, the *ERJOSSM* states that 'the institution shall provide sufficient work for juveniles which is stimulating and of educational value' (Rule 82.1). The *European Prison Rules* further states that 'prison authorities shall strive to provide sufficient work of a useful nature' (Rule 26.2) and that this work must be exercised in conditions that 'resemble as closely as possible those of similar work in the community, in order to prepare prisoners for the conditions of normal professional life' (Rule 26.7). Within a new young adult regime, therefore, it is proposed that young adults be provided with a range of work opportunities that reflect their needs, abilities and aspirations, and that will benefit them in participating in the labour market on release.

The *ERJOSSM* further states that the young people should be adequately rewarded for participation in work activities (Rule 82.3) and that they are entitled to receive social security similar to that of those not in prison (Rule 82.4). In addition, when they 'participate in regime activities during work time they shall be rewarded in the same way as if they were working' (Rule 82.3). Young adults should, therefore, be paid for participation in education, training and work. In preparation for release, young adults who have progressed sufficiently should be moved to an open centre on campus and facilitated to participate in education, training and/or work in the community.

<sup>52</sup> Gardening and landscaping, animal care, woodworking, cooking and catering, metal workshop, housekeeping and interior design are among the options provided at Neustrelitz Youth Prison in Germany.

## Health

Drawing on the World Health Organisation (2003) *Consensus Statement* on the health and well-being of young people in custody, it is proposed that a new regime for young adults adopt the following three objectives:

1. Promote the physical, mental and social aspects of the health of young people in custody;
2. Help prevent the deterioration of young people's health during or because of custody; and
3. Help young people in custody develop the knowledge, skills and confidence they need to enable them to adopt healthier behaviours that they can take back into the community with them

(WHO, 2003, p.5)

The multidisciplinary needs assessment, conducted during induction, should address the health and wellbeing needs of the young adult, and a plan should be developed immediately to address them, and this should be reviewed regularly. Such needs might range from specific health issues, to the need for basic health education, thereby addressing some of the wider determinants of ill-health (WHO, 2003). Rule 71 of the *ERJOSSM* states that 'juveniles shall be given preventive health care and health education'. In addition, young adults in custody should be regularly consulted and listened to regarding their health and wellbeing, both individually and as a group, and should be enabled to make decisions about their healthcare (WHO, 2003).

Multidisciplinary health promotion and prevention services, targeted to young adults, should be readily available to all young adults who need them. The *ERJOSSM* states that particular attention should be paid to very vulnerable young adults, such as those who are pregnant and those with mental health difficulties, substance abuse issues, histories of abuse, and/or who are socially isolated. In addition, specific policies should be put in place to address points of particular vulnerability for suicide and self-harm, such as on committal and on transfer.

Within the new regime, all young adults in detention must have access to specialised counselling and psychology services as required, while specialised treatment programmes for specific offence types (e.g., violent and sexual offences), and for vulnerable young adults (e.g., those with intellectual disabilities, personality issues, or potential victims) must also be provided (Allen, 2013). The literature suggests that interventions based on cognitive-behavioural programmes, psychotherapeutic milieu therapy programmes, and Risk-Need-Responsivity (R-N-R) are likely to have the best success (Lösel, 2012)<sup>53</sup>.

## Drugs in prison

The objective of a humane response to drug use among young adults in prison should be the promotion of health and the avoidance of preventable and unnecessary harm for the young adults detained. The response should be one that is 'beyond equivalence' of health care – Dillon (2001) notes that prisons are particular environments that differ from the community outside and hence they require tailored responses (p.138). Crucially, prisons are places where interventions can be delivered, delivered to those who might not otherwise access them (McNamara and Mannix-McNamara, 2014), but it is essential that they are tailored to the populations in question and the specific environments in which they are detained.

The response to drug use among young adults in prison should reflect their specific needs, acknowledging their stage of development, and pattern of drug use which differs from that of older adults (Devitt, 2011). Young adults are more likely to use 'softer' drugs such as cannabis, than 'harder' drugs such as heroin, while drug-taking is likely to follow a path from 'softer' to 'harder' drugs. In the Irish context, the Drummond *et al.* (2014) study highlighted that the use of cannabis and cocaine powder are particular issues for young adults who are imprisoned, while cannabis and heroin, among other substances, are particular issues for young adults using drugs while in prison. The study also found smoking to be a very significant problem among young adults in prison, an issue that needs to be addressed in order to avoid adverse health effects in the longer term (Devitt, 2011). Drugs policy for young adults in prison should reflect that the most problematic drug use tends to occur in the years immediately after young

<sup>53</sup> See Chapter 4.

adulthood (Devitt, 2011). It follows that the right interventions in young adulthood could prevent harm to young adults in the short and medium term and prevent more serious drug problems for those young adults when they mature. Furthermore, the right interventions during young adulthood have the potential to break the cycle of drug use and offending (Devitt, 2011).

Drug use and criminal activity are related, and both are associated with conditions of social deprivation, adversity and educational disadvantage. Hence, the response to drug use among young adults in prison must address these underlying factors. It must also address the particular environments that young adults must inhabit while in prison. It is likely that the psychosocial and physical environments of prisons actually promote drug problems – boredom, stress and adverse prison conditions can make drug use more appealing, while there may be peer pressure to use, and status accruing from drug involvement (O'Mahony, 2008). This aspect of prison life may particularly impact young adults, as they are more susceptible to peer influence, impulsivity, and risk-taking than older adults. It follows that the response to drug use among young adults in prison should aim to enhance their motivation and capacity to abstain. Research has shown that recovery from addiction is influenced by social and human capital (Munton, Wedlock, and Gomersall, 2014). Therefore, a central aim of the response to drug use should be to strengthen such 'recovery capital' among young adults in prison. This approach should be central within the new young adult regime, which has the education of young adults at the core.

In addition to providing a tailored programme of education, training and meaningful work opportunities, the young adult facility should function as a rehabilitation-focused residential college, following a socio-therapeutic model. This should be an environment where young adults can feel safe and be safe, it should be civilised and homelike, with an egalitarian culture, and a respectful climate, where people have a say and are listened to. Efforts should be concentrated on helping young adults to mature, to gain control over impulsiveness, and to resist peer influence. The focus should be on promoting prosocial interaction with peers, developing empathy, taking responsibility and gaining control over personal behaviour, including drug use and drug involvement. To this end, the approach should utilise motivational strategies, positive peer relationships, and contingency reinforcement (i.e., the reinforcement of positive behaviour), rather than punishment. A range of specialised education, life skills, individual and group counselling, and peer support options must be readily available and easily accessed by young adults as required. These should be matched to the young adults' needs and desires during the multidisciplinary needs assessment carried out on commencement of a sentence and reviewed regularly as part of the ICP. Furthermore, there is a need to foster both formal and informal supports around each young adult – positive links to family and community should be forged and strengthened and integrated supports from services should be available, particularly at points of transition and after release. The establishment of strong supports around the young adult can help prevent a return to previous patterns of behaviour and lifestyles, and hence may promote desistance from crime and from drug use. Integrated supports must also be made available to address comorbid mental health issues, and medical issues arising from drug and alcohol use, and smoking.

The Jesuit Centre for Faith and Justice (2012) has noted its concerns in relation to drugs services in prisons, and in particular, the need to ensure continuity of care between prison and the community. The Irish Prison Service's drugs policy and strategy *Keeping Drugs Out Of Prison* (2006) outlines a range of measures, services and supports to address the issue of drug use among those in prison. The emphasis on assessment and through care, motivational strategies, and extended treatment options where there is heightened risk, and for specific populations, is positive. Nonetheless, there is a dearth of up-to-date information regarding the availability and uptake of drug treatment services and supports in Irish prisons. While a central aim of the Irish Prison Service's policy is to keep drugs out of prisons, this is unlikely to be realised. An environment conducive to rehabilitation must be created in the new young adult facility. Young adults must be motivated to engage with drug treatment services and supports in prison. Some will be motivated to abstain and must be encouraged and supported to do so. Appropriate services such as drugs-free areas, detoxification, substitution and counselling, must be made available and accessible for those who want to access them. Indeed, Drummond *et al.* (2014) found that people are willing to engage with drugs treatment services in prison where such services are available. However, some young adults will continue using drugs in prison, and so an emphasis must be placed on harm reduction, for which education will play a central role.

Wherever possible, diversion to community-based drugs treatment services should be the first option for drug-using young adults who have committed a non-serious crime. For others, however, a broader range of options is required. Where diversion is not an option and a custodial sentence is deemed necessary, depending on the crime and the needs of the young adult, a custodial drugs treatment facility may be the most appropriate option. While no such facility exists in Ireland, the Misuse of Drugs Act 1977 provides the legislative framework for such a facility. The Jesuit Centre for Faith and Justice (2012), called for a well-resourced custodial drugs treatment centre that could provide an alternative to standard custodial sanctions for suitable persons.

### Connection to family and community

The support of family and community are protective factors and are particularly important for young adults in prison, as they tend to have poorer coping skills and fewer personal resources than older adults (Liebling, 2012a; Harris 2015). Such support will also facilitate reintegration to the community on release and will help reduce reoffending. While family and community contact should be encouraged, the wishes of the young adult must be respected at all times.

A new regime for young adults should have liberal visiting arrangements and uncensored communication, as far as is possible, with family and representatives (as per the Committee of Enquiry into the Penal System recommendation in 1985).<sup>54</sup> According to the *ERJOSSM*,

juveniles shall be allowed to communicate through letters, without restriction as to their number and as often as possible by telephone or other forms of communication with their families, other persons and representatives of outside organisations and to receive regular visits from these persons (Rule 83).

In addition, 'arrangements for visits shall be such as to allow juveniles to maintain and develop family relationships in as normal a manner as possible and have opportunities for social reintegration' (Rule 84), while 'institutional authorities shall assist juveniles in maintaining adequate contact with the outside world and provide them with the appropriate means to do so' (Rule 85.1).

According to Crétenot (2013), prison authorities should also 'be alert to the fact that modern technology offers new ways of communicating electronically' (p.20), for example through video conferencing. 'Video visits' through video conferencing technology have been piloted successfully by the Scottish Prison Service and APEX<sup>55</sup> and are to be made permanent. Crétenot recommends the extension of this system across the European Union. Based on the Scottish model, video visits offer a means of maintaining contact with loved ones that is both secure and low cost. It has particular utility in cases where travel for family and friends is a difficulty due to distance, or other precluding factors such as finance or disability. Crétenot stresses that as communication technologies advance, 'new techniques of controlling them are emerging too and it may be possible to use them in ways that do not threaten safety or security' (p.20). The use of technologies, such as video-conferencing (e.g. Skype), and even text-messaging, should therefore be explored for use within a new young adult regime. Harris (2015) similarly recommended the use of video conferencing to facilitate contact between young adults and their families and further emphasised that families should be supported to access such facilities in close proximity to their homes.

In line with the *ERJOSSM* (Rule 86.1), it is proposed that young adults in prison be allowed periods of leave from the prison (escorted or unescorted) as appropriate. Where this is not possible, then 'provision shall be made for additional or long-term visits by family members or other persons who can make a positive contribution to the development of the juvenile' (Rule 86.2). The 'family living room' model implemented in some French prisons may provide a model for such extended visits (Crétenot, 2013). This is an innovative practice where people in prison can have extended visits (up to 72 hours) with their family in a 'family living room' within the prison (see Crétenot, 2013).

<sup>54</sup> Rule 85.2 of the *ERJOSSM* states that 'communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offences and protection of victims of crime, but such restrictions, including specific restrictions ordered by a judicial authority, shall nevertheless allow an acceptable minimum level of contact'.

<sup>55</sup> APEX is an organisation in Scotland that works with people who have been in prison.

## Culture, religion, and identity

The basic principle 6. (1) described in the *Standard Minimum Rules for the Treatment of Prisoners* is that 'There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status' (United Nations, 1977). This principle must be to the fore in a new regime for young adults. Furthermore, the general principle of the WHO (2003) states that,

young people in custody should have their cultural beliefs and identity respected. Young people should be supported in building their own positive self-perceptions and self-esteem by respecting who they are in terms of culture and identity. All within the custodial setting should be encouraged to value diversity in culture, race and religion (p.12).

The limitations of this policy report does not allow for a full examination of the needs of all minority groups, including non-Irish nationals in prison or a comprehensive examination of members of the Traveller community. An All-Ireland Traveller Health Study Team found that Travellers tend to be disproportionately represented among all those in prisons (2010), while young Travellers may be over represented among all Travellers in prisons (MacGabhann, 2011).

The Irish Prison Service should develop an equality policy, as recommended by the Irish Penal Reform Trust in their report on Travellers in the prison system (Irish Penal Reform Trust, 2014) and commission further research on non-Irish nationals in prison.

Section E12 of the *ERJOSSM* emphasises respect for freedom of thought, conscience and religion. Rule 87.2 emphasises that,

the institutional regimen shall be organised so far as is practicable to allow juveniles to practise their religion and follow their beliefs, to attend services or meetings led by approved representatives of such religion or beliefs, to receive visits in private from such representatives of their religion or beliefs and to have in their possession books or literature relating to their religion or beliefs.

In addition, Rule 106.2 states that 'as far as practicable, the cultural practices of different groups shall be allowed to continue in the institution', while Rule 106.1 dictates that 'special arrangements shall be made to meet the needs of juveniles who belong to ethnic or linguistic minorities in institutions'.

## LGBTI Young adults in prison

All those within the custodial setting should also value and respect diversity in sexuality, gender identity, and gender expression. However, the Irish Prison Service does not have a policy addressing the specific needs of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. In its report *Out on the Inside*, the Irish Penal Reform Trust (2016) highlighted that LGBT persons in prison face unique challenges due to their status as a stigmatised minority group. In prison they are likely to experience homophobia, bullying, harassment and abuse, and these experiences can negatively impact on their health and well-being (Irish Penal Reform Trust, 2016). Furthermore, prisons are not equipped to address the specific needs and experiences of this group (Mullan, 2015; Irish Penal Reform Trust 2016).

Data on the numbers of LGBTI persons in Irish prisons are not available. However, international research suggests that LGBT persons may to be over-represented in prison populations due to experiences arising from stigma-related prejudice, discrimination, and harassment (Irish Penal Reform Trust, 2016). It is also likely that LGBT young people are disproportionately represented within this group, as they often face particular adversities such as homophobic bullying, family rejection and homelessness that can put them at risk of engaging in risky behaviours and criminal activity (Hunt and Moodie-Mills, 2012). Research in the US has shown that LGBT young people are significantly over-represented in the juvenile justice system (Garnette, Irvine, Reyes, and Wilber, 2011). While LGBT persons in prison are a hidden population, Mullan (2015) notes that they are likely to become more visible in the wake of the marriage equality referendum and changing societal attitudes.



The objective of a policy addressing LGBTI persons in prison should be to ensure that their particular needs are met and that they do not experience any additional adversity or punishment as a result of their sexuality, gender identity, or gender expression. International standards and guidelines provide the framework for such a policy. Principle 9 of the *Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity* (International Commission of Jurists, 2007) states that 'everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Sexual orientation and gender identity are integral to each person's dignity' (p.16). In *Out on the Inside*, the Irish Penal Reform Trust (2016) sets out the issues faced by LGBTI persons in prison in Ireland, and draws on the *Yogyakarta Principles* and national equality legislation to make recommendations for their humane treatment. It suggests a 'Mainstreaming Plus' approach, where safety is paramount. Such an approach 'would involve ensuring that the needs of LGBT prisoners are explicitly considered and addressed as part of overall prisoner management, response and welfare' (p.36). This approach would also involve 'ensuring that specific needs of LGBT prisoners are also identified and catered for, e.g. having policies in place to protect LGBT prisoners from harm' (p.36).

The specific recommendations made in *Out on the Inside* (Irish Penal Reform Trust, 2016) are recommendations endorsed as fitting for the treatment of LGBT young adults in prison. An emphasis on safety, the provision of tailored supports, single cell accommodation and the visibility of gay culture, are necessary for a new young adult facility and regime. In addition, an individual assessment should be made in placing transgender young adults, and this should be focused on the needs and expressed wishes of the young adult. However, policy addressing LGBTI persons in prison should also pay particular attention to the specific needs and circumstances of LGBTI young adults arising from their stage of development and particular vulnerabilities. Furthermore, such stigma-related experiences have been linked to mental health issues among LGBT young people in Ireland (Kelleher, 2009) and elsewhere (e.g., D'Augelli, 2002; Heubner, Rebchook, and Kegeles, 2004; Rosario, M., Schrimshaw, Hunter, and Gwadz, 2002). Also, as a result of negative experiences, LGBT young adults may also have poorer coping resources than their heterosexual counterparts, and may lack social support networks that older LGBT persons may have established. These are issues to be considered in the treatment of LGBT young adults in a new regime. Nonetheless, recent social change marking more positive attitudes toward LGBT persons, and their increased visibility, may mean a more accepting environment for young people who 'come out'. Research suggests that social attitudes changing outside prison, gradually become reflected inside prison (Richters *et al.*, 2012, as cited in Irish Penal Reform Trust, 2016). Hence, explicit efforts should be made to facilitate this process through a 'Mainstreaming Plus' approach in a new young adult facility.

### Leaving prison

From induction onwards, preparation should be made toward the return of the young adult to the community and this should be reflected in her/his sentence management plan. Resettlement and reintegration will be facilitated by ISM that reaches into the community and continues into post-release. Effective interagency working between the relevant agencies will thus be essential. The literature suggests an intensive, structured and comprehensive approach to release and reintegration, such as the INSTAR (Integral Work with Offenders)<sup>56</sup> Programme (Allen, 2013). Pre-release and resettlement programmes should recognise that a high proportion of young adults in prison will have been in the care system and the particular issues that result. 'Soft-landing' programmes should be put in places for those who have nowhere to go on release (Allen, 2013).

<sup>56</sup> INSTAR is a transition management programme which facilitates the exchange of information between the relevant authorities (prison and probation services), continuity for the young person (Justizministerium Mecklenburg, 2013).

## Consultation and participation

Within a new regime, young adults should be consulted and listened to in relation to the operation of the facility, and to wider national polity. The *European Prison Rules* states that ‘subject to the needs of good order, safety and security, prisoners shall be allowed to discuss matters relating to the general conditions of imprisonment and shall be encouraged to communicate with the prison authorities about these matters’ (Rule 50). This is reaffirmed in the Councils’ rules for juvenile offenders (2009). Consulting and listening to young adults in prison can ensure they feel as though they still have some influence their lives, despite their loss of liberty (WHO, 2003). It can also serve to strengthen their skills in decision-making and taking responsibility. Participation by young adults in prison can be facilitated through the establishment of councils and/or committees with elected representatives expressing the views of the unit in question. The User Voice Prison Council Model (Schmidt, 2013) employed in England and Wales is one example. Schmidt recorded some of the comments made:

By establishing a council that allowed prisoners to be recognised through constructive dialogue, efforts centered on community betterment allowed a sense of collective responsibility to be developed’. Councils assist prisoners ‘in conceptualising themselves as people (beyond ‘prisoners’ or ‘offenders’), and more importantly, as people that have value and worth. Participating in the council enables ‘them to construct new roles that they saw as productive, helpful, and beneficial to others’. By giving them a voice and responsibilities, prison councils increase their self-confidence, self-esteem, sense of purpose, sense of usefulness and sense of maturity. ‘Taking part in the council and constructing problem-solving proposals’ is a ‘transformative experience for prisoners (Schmidt, 2012, as cited in Crétenot, 2013).

The User Voice Prison Council Model can positively impact on relationships between staff and those being detained and has the potential to facilitate dynamic security and good order in this way. Comments made in Schmidt’s research (2012) include,

From engaging together on the council, staff got to know prisoners “as a person, not just a prisoner”, while prisoners were better able to understand the pressure and constraints staff work under. Dialogue breaks down barriers and stereotypes. ‘As a result, empathy flowed from these new dynamics, which increased mutual respect in the facilities with established councils’ (Schmidt, 2013, as cited in Crétenot, 2013).

Reductions in complaints and cases of segregation have been observed in prisons where User Voice councils were in operation (Schmidt, 2013).

Young adults should also be afforded the right to vote in public elections and referenda, and should be facilitated in informing themselves in advance. The *European Prison Rules* stresses that ‘prison authorities shall ensure that prisoners are able to participate in elections, referenda and in other aspects of public life, in so far as their right to do so is not restricted by national law’ (Rule 24.11). The model of public polling stations in Poland demonstrates how this can be facilitated (see Crétenot 2013).

## Staffing

The WHO (2003) emphasises appropriate staffing to ensure the possibilities for the health and development of young people in custody are realised to the full. A new young adult regime should be staffed by appropriately qualified, trained, and carefully recruited staff, and an emphasis should be placed on continuing professional development. A ‘whole custody approach’ is proposed, whereby all staff in contact with young adults understand their level of maturity and developmental needs and can create ‘a nurturing environment’ to promote their the health and wellbeing (WHO, 2003, p.10). Young adults should also have a role in the selection of staff, for example, in Grendon Prion applicants for vacancies have to meet with, and answer questions by, people who are detained there.

## 6.5 ADDRESS BROADER SOCIAL POLICY

Policy relating to young adult offending must be developed in the context of broader national social policy issues in areas of child poverty, housing, alcohol and drug use, and unemployment. While not the remit of this policy report, drug misuse needs to be responded to with health policy. Addressing the underlying social issues that lead to adverse life events, such as homelessness and unemployment, will reduce the likelihood young adults will become involved in crime and will enhance the likelihood of desistance among those that do. Most young adults who become involved with crime will 'age out' and desist from it, it is crucial that they are supported in this process. As Sweeten *et al.* (2013) note, for those in contact with the justice system, there is a 'story of hope', as young adults can and do change, once the appropriate mechanisms are in place to support them.

## 6.6 FURTHER RESEARCH

While specific guidelines relating to young adults in prison are lacking, the *ERJOSSM* and other international standards and guidelines can provide guidance in developing a new, targeted regime. The absence of a specific evidence base means these instruments provide the best available direction with which to develop a new approach. However, it is essential that all new measures are developed using the best available evidence and that their implementation is carefully piloted and evaluated.

Overall, there is a dearth of precisely documented data with regard to young adults in prison in Ireland. This must be addressed if effective responses are to be designed, delivered and evaluated.

## 6.7 CONCLUSION

When young adults offend, they must be held accountable, but their treatment must be humane. Those who are committed to prison have a right to be treated with dignity and respect. Ireland has a poor record with its treatment of young adults in prison, but now has the opportunity to take a progressive stance. The proposals outlined here are based on the best available guidance from the literature, and international standards and recommendations, and are consistent with the key elements of reform proposed by the Transition to Adulthood Alliance in the UK context (Allen, 2013). It is now up to the authorities to ensure these reforms are made a reality and that the treatment of young adults in prison is radically changed for the better.

# LISTENERS ROOM

## Ten Key Recommendations

Proposals for reform of how young adults are treated in Irish prisons are set out in Chapter six of this report. The following are ten key recommendations derived from the report.

### **1 Recognise young adults in prison and within the criminal justice system as a distinct group by making them the responsibility of the Irish Youth Justice Service**

All young adults have characteristics and needs that are more similar to those of children than older adults. Therefore young adults in prison must be treated differently, and consideration taken of their age and maturity, as they transition to adulthood. Because of their capacity to change, given the opportunity, detention facilities for young adults should be made as constructive as possible and tailored to their specific needs.

Young adults need to be recognised as a distinct group, provided with separate accommodation and greater access to tailored services. The Irish Youth Justice Service should assume responsibility for young adults up to the age of 25. They should then be supported by the Young Persons Probation and have access to additional noncustodial options including the Garda Youth Diversion Programme.

Young adults in prison are largely coming from communities where there are high levels of deprivation, poverty and marginalisation. The Irish Youth Justice Service needs to apply pressure on the relevant Departments and agencies, possibly through an interdepartmental group, to address the factors that contribute to young adults being imprisoned including: school expulsion, unemployment, poverty and insecure accommodation.

The response should follow international best practice. All new measures must be carefully evaluated.

## 2 Significantly reduce the number of young adults imprisoned

Ireland should reduce the young adult prison population and aim to have one of the lowest population sizes in Europe. This would mean halving the numbers in prison by changes in the use of remand, finding custodial alternatives and limiting imprisonment to the most serious offences.

Very few young women are in prison in Ireland (14 were recorded on 30 November 2015). The custodial detention of young women should end except in the most extreme cases. Those who are detained should be held in custodial accommodation in their local community.

## 3 Accommodate young adults in designated facilities and ensure humane conditions

Young adults should be detained separately to older prisoners and closer to their family and community in age-appropriate accommodation. Four national facilities for young men should be provided with a maximum capacity of 90 in each. Young women should be accommodated in their community under a house arrest scheme.

Each facility should be 'campus' style with varying levels of security and should be as 'open' as possible to provide maximum freedom. It must be emphasised that young adults are sent to prison *as* punishment, not *for* punishment.

The daily routine should provide meaningful access to education, work and training beyond equivalence to that available in the community. Third level institutions and further education colleges should be paired with each young adult detention centre. Young adults should spend a minimum of 14 hours unlocked from their rooms. Accommodation should be provided in 'houses' with single room occupancy, communal dining and access to food preparation areas.

## 4 Ensure young adults in detention and prison officers are in an environment where they can both feel safe and be safe

Prisons should be a safe place for everyone. Young adults, in percentage terms, make up the largest proportion of adults on protection. The following measures will help to reduce bullying, intimidation and violence:

- Specialised staff training and relationship building
- Evidenced-based programmes and a focus on empathy building
- Young adult involvement in decision making
- Showing respect for the inherent dignity of the person, promoting restorative practices and developing a constructive and healthy environment
- Improving the physical conditions of the prison so that it functions more like a residential college
- Increasing greater access to education, training and work
- Enhanced access to other services including drug treatment, counselling and psychology
- Limiting the use of control measures such as lowering regime standards and placing someone 'on punishment'
- Better access to meaningful family visits
- Appropriate mechanisms for making complaints and complaint investigation

## 5 Provide greater access to specialised services

Young adults in prison should have immediate access to services which, upon release, extend into the community. Because of their particular needs, services available should be beyond equivalent to those available in the community. The following measures are needed to improve service access:

- Beyond equivalence in health care
- Immediate access to services including psychology, counselling and drug detoxification, and treatments which extend seamlessly from prison to the community
- Partnership with further education institutions and training colleges
- Access to the Internet
- Education and training provided year round
- Work opportunities (relevant to interests and the marketplace) available to everyone
- Facilities for more meaningful family visits and accommodation for families to visit for extended periods of time. Families and communities are a key factor in a young person desisting from crime

## 6 End the use of extended lock-up ('restricted regime'), abolish the 'basic' regime standard, and place all young adults on the 'enhanced' accommodation standard on entry to prison

Proportionally there are more young adults 'on protection', (on extended lock-up for their own safety) and on the lowest (basic) accommodation standard. Locking young adults up for extended periods of time amounts to severe confinement and is contrary to their needs and particularly detrimental to psychosocial development.

It is not clear why a disproportionate number of young adults are on the 'basic' regime level; anecdotally it may be because they are more impulsive and immature and therefore less likely to follow rules. It may also be because they are serving shorter sentences and do not have an opportunity to progress to a higher level.

As a result, young adults in prison are accommodated in poorer living conditions, have less access to family visits and telephone calls and receive a lower gratuity. This impacts negatively on mental health, causes them to 'act out' more, and disregards the importance of maintaining contact with family and community.

## 7 Involve young adults in the operational decision-making of the detention centre and prison

Young adults need be involved in the decision-making process, not only in their sentence management, but also in the operation of the prison. This communicates to them that they are being listened to, and strengthens relationships with prison officers. Strengthening the voice of young people is a key national strategy and needs to extend into prison.

## **8 Reduce the use of remand and have a dedicated remand facility for young adults**

As evidenced within the report, there is an over-use of remand for young adults. Enhanced bail options need to be made available, with prison as a measure of last resort.

Entering prison is a traumatic experience. A large proportion of young adults in Ireland are first remanded to Cloverhill, where there is a high level of cell sharing (over 80 per cent). Those currently being held on remand should undergo a risk assessment and be accommodated in single cells. Long term, the proposed national young adult detention centres should have dedicated remand facilities.

While many prisons in Ireland have handbooks, the prison service, and more broadly the criminal justice system, should provide comprehensive 'survival guides' for each prison, service and institution. Anecdotal evidence suggests that people are not aware of their entitlements, or policies, procedures and services available.

## **9 Motivate and support young adults to abstain from using drugs in prison while also providing harm reduction measures**

There are multiple reasons why drug abuse is so prevalent in prisons, including an earlier dependence, recreational, self-medication and boredom. Prison therefore needs to be more constructive and less damaging so as to motivate and support young adults to stop using drugs. For those unable or unwilling to stop using drugs, harm reduction practices need to be supported, including needle exchange, drug counselling and peer-to-peer drug support. Fast track options also need to be developed to accelerate access to drug treatment and detoxification in the community.

Education and awareness-raising campaigns among young adults and prison officers also need to be provided on the harm of drugs including alcohol and tobacco.

Nationally, a debate needs to take place on reversing the current approach which views drug misuse as a criminal justice issue. Rather, the focus should be on health policy solutions.

## **10 Enhance training for prison staff and institutionalise evidence based decision-making following best international policy and practice**

Prison officers need enhanced training for working with young adults. Specific training is needed in social care, case management, mentoring, young adult development, and working with people who have a drug dependency.

Currently those serving sentences of more than one year are eligible for support by Integrated Sentence Management (ISM) Officers. Young adults typically serve shorter sentences and therefore receive no structured sentence management. The role of prison officer needs to include a mentoring function which allows for a one-to-one supportive relationship with the young adult in prison. It is crucial that they are supported right through their sentence and beyond their release from prison.

The Dóchas Centre and Wheatfield Prison, when built, were following best international standards and may have been setting new standards. Unfortunately, more recent developments in prison provision have returned to more traditional prison design. Future developments in the prison system need to meet and exceed best international standards and practices.

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