



The youth justice system in Ireland: a review (Revised 2022)

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An Roinn Dlí agus Cirt
Department of Justice

RESEARCH
EVIDENCE INTO
POLICY PROGRAMMES
AND PRACTICE



THE YOUTH JUSTICE SYSTEM IN IRELAND: A REVIEW

Revised 2022



An Roinn Dlí agus Cirt
Department of Justice



An Roinn Leanaí, Comhionannais,
Míchumais, Lánpháirtíochta agus Oige
Department of Children, Equality,
Disability, Integration and Youth



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1 The Youth Justice System in Ireland

1.1 Introduction

This report traces the development of Ireland's response to youth crime and presents the primary objectives and guiding values that guide its youth justice system. The report has five sections:

1. Crime in Ireland and origins of youth justice
2. The emergence of youth justice policy
3. Transition to an integrated youth justice system
4. A coordinated policy response
5. Policy objectives and guiding values.

1.2 Background and Rationale

This review is part of a wider study of evidence-informed practice and how best to measure the effectiveness of responses to crime and offending behaviour by children. The first step in this process was to describe the factors and the concepts that have informed the development and now underpin Irish youth justice.

Rationale

Government policy in Ireland has placed increased focus on the effectiveness and responsiveness of services for children and youth, in a context where high standards of accountability and good governance are supported and enforced (DCYA, 2017). The national policy framework for children and youth – *Better Outcomes, Brighter Futures, 2014-2020* – for example, directs that government investment in children's services must be more outcomes-driven and evidence-based (DCYA, 2014: 15). Investment in services, it recommends, should be "informed by national and international evidence on the effectiveness of expenditure on child related services, with the aim of improving child outcomes and reducing inequalities" (DCYA, 2014: 15). The Department of Public Expenditure and the Reform Plan 2014-2016 also emphasises the need for improved outcomes for service users. This necessitates a commitment among Government departments and agencies to ensure services are designed and delivered effectively.

2.1.2 Origins of the Youth Justice System

Since the 1960s, several historical and contextual factors have greatly influenced the development of youth justice policies. One, low crime levels and a small prison population in decades after independence meant a rehabilitative penal system common in most Western societies did not begin to emerge in Ireland until the 1970s (Kilcommins et al., 2004). A key factor accounting for Ireland's low rate of formal imprisonment post-independence was that mental hospitals and specialised institutions were used extensively to 'regulate' those judged deviant or dangerous to existing social, moral and religious codes (Brennan, 2016). In the mid-1950s, for example, one out of every hundred Irish citizens were interned within a closed institution (Kilcommins et al., 2004).⁴

O'Sullivan and O'Donnell (2012) also suggest that Ireland's rural economy, low levels of urbanisation and industrialisation produced "a distinctly localised outlook in terms of social mobility and opportunity" (quoted in Brennan, 2016: 553). They argue that tight social controls are predominant in rurally based societies; in Ireland's example, non-conformity tended to be managed through institutions (Brennan, 2016). The demise of mental hospitals as places of institutional confinement and the expansion of the prison population, in their view, signalled an important shift in social control in Ireland (O'Sullivan and O'Donnell, 2012).⁵ From the 1960s, a decline in using clinical settings as means of incarceration followed greater involvement of criminal justice system and prison system in managing crime and social control.

Two, youth justice was dominated by reformatory and industrial school system from the mid-1900s until the late 20th Century (Sargent, 2014). According to Sargent (2014: 2), reformatory and industrial schools "acted as clearinghouses for most of the troubled or troublesome juveniles in the country" during this period. Also restricting the development of a formal justice system was a belief held by many holding power that voluntary and religious organisations, rather than the State, were most capable of dealing with offenders and errant population groups (Kilcommins et al., 2004). Kilcommins et al. (2004) highlight, for example, that successive Ministers for Justice favoured voluntary organisations and Catholic bodies to provide probation services to the state. In 1922, one Probation and Welfare Officer was employed by the fledgling administration (Kilcommins et al., 2004). By the early 1960s, there were five full-time officers based in Co. Dublin; however, as late as 1968, no full-time Probation and Welfare Officers were employed outside the Capital (Kilcommins et al., 2004).

Three, rather than building upon what was considered an increasingly "reformatory" criminal justice system inherited from the former British administration, the independent State adopted a hardened approach in dealing with youth crime and deviance (Kilcommins et al., 2004: 40). The Children Act

⁴ In 1956, Ireland's mental hospitals held fifty times more inmates than the country's prisons (Kilcommins et al., 2004).

⁵ There was a fivefold decrease in numbers confined in mental hospitals (21,720 in 1956 to 4,522 in 2000) and a seven-fold increase in the adult prison population in the period (401 in 1956 to 4,000 in 2014) (Brennan, 2016).

1908, for example, as Sargent (2014) notes, was underpinned by 19th Century conceptions of justice and remained the statutory framework for youth justice until 2001. The Act has been criticised for its overemphasis on detention and imprisonment of children using institutions, its lack of consideration of community-based responses, and because it set the age of criminal responsibility at seven years (Seymour, 2008). In contrast, legislation passed in England and Scotland in the 1930s amended the 1908 Act heralding a move away from reformatory and industrial school systems and the eventual emergence of diversion and community-based responses to youth crime (Sargent, 2014).

2.1.3 Summary

Changes in the levels and types of crime in Ireland are associated with social, economic and cultural change since the 1960s. The literature describes dramatic transformations in the social fabric of Irish life over this period and notes the considerable impact these changes had on the development of Irish youth justice and crime control generally. In the four decades following independence, low crime rates, a rural economy, weak economic growth, social stability resulted in low motivation to change existing policing and penal arrangements. In the 1960s and 1970s, increased state involvement in managing crime led to the demise of mental hospitals as penal institutions and a steady decline in reformatory and industrial schools.

the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), which advocate for preventive and early intervention, and advise that interventions in a child's life should take account of their protection, development and best interests (Council of Europe, 2011).

European law also has significantly influenced youth justice and children's rights in Ireland (Kilkelly, 2008). The European Convention on Human Rights 1950 (ECHR), for example, places particular requirements on the State concerning the treatment of children and young people in court proceedings and when in detention (Freeman and Seymour, 2010). The Child Care Act 1991 provided the legal framework for the State a more central role in caring and protecting children. Reforms underpinned by a rights perspective include the establishment of an Ombudsman for Children in 2004, an Office of the Minister for Children in 2005, and the Children Act Advisory Board in 2007 (incorporated into the Office for the Minister for Children and Youth Affairs in 2008). Independent lobby groups, academics, and voluntary organisations (e.g., Children's Rights Alliance) also have played an important role in influencing the development and reform of youth justice in Ireland, through highlighting the inadequacies in the system (Seymour, 2008).

More recently, the Child Care (Amendment) Act 2011 (in relation of criminal proceedings and detention) and the Children and Family Relationships Act 2015 reinforced explicitly a commitment to the best interests of the child and the right to be heard principles (Kilkelly, 2015). In addition, policies for children – the *Agenda for Children's Services* (2007), the *National Youth Justice Strategy 2008-2010*, the *National Strategy on Children and Young People's Participation in Decision-making 2015-2020*, and *Better Outcomes, Brighter Futures: the National Policy Framework for Children and Young People 2014-2020*, and the current *Youth Justice Strategy 2021-2027* – all take inspiration from and reaffirm the Irish State's commitment to upholding the rights and best interests of children. Table 1 outlines the international instruments relevant to youth justice in Ireland.

4.1.2 Merging Youth Justice and Child Welfare

Youth justice is underpinned by a rationale that a range of complex and interconnected factors influence crime and offending by children and so require comprehensive and holistic responses (Quinn, 2002). Children who grow up in disadvantaged communities and those who may experience low parental supervision and attachment, truancy and early school leaving, offending siblings and peers, substance misuse, and a lack of prosocial outlets and role models, are at increased risk of becoming involved in crime and offending (Quinn, 2002). Moreover, children growing up in adversity tend to experience multiple risk factors and thus are at a heightened risk of involvement in crime and antisocial behaviour (Redmond, 2016).

Since the 1990s, policy and legislation (as outlined)¹³ has underpinned the transition to a multi-layered model of crime prevention for children and young people emphasising early intervention, family support, welfare and protection. In this preventive context, the State has increased youth justice services and crime prevention initiatives through various government departments and sponsored entities – local drug task forces, the National Lottery, city and county development boards, the Dormant Accounts Fund, and by promoting voluntarism (Sargent, 2014; Quinn 2002).

Table 1: International Instruments Relevant to Youth Justice in Ireland

<input type="checkbox"/> The United Nations Convention on the Rights of the Child 1989 (UNCRC)
<input type="checkbox"/> The European Convention on Human Rights 1950 (ECHR). Children are afforded all the rights and protection afforded to adults. The Human Rights Act 1998 formally incorporates the ECHR into domestic law in countries (who have ratified) by making it unlawful for a public authority to act in a way that is incompatible with a Convention right.
<input type="checkbox"/> The International Covenant on Civil and Political Rights 1966 (ICCPR). The first global document to contain specific provisions relating to the administration of youth justice. Its provisions include the separation of juveniles from adults, speedy adjudication, enhanced privacy rights and a requirement that criminal proceedings take account of the age and maturity of the child.
<input type="checkbox"/> The European Convention on the Exercise of Children’s Rights (1996, ETS No. 160).
<input type="checkbox"/> The 2006 United Nations Convention on the Rights of Persons with Disabilities.
<input type="checkbox"/> The revised European Social Charter (1996, ETS No. 163).
<input type="checkbox"/> The Council of Europe Convention on Contact concerning Children (2003, ETS No. 192).
<input type="checkbox"/> The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007, CETS No. 201).
<input type="checkbox"/> The European Convention on the Adoption of Children (Revised) (2008, CETS No. 202);
Non-binding international law
<input type="checkbox"/> The United Nations Standard Minimum Rules for the Administration of Juvenile Justice 1985 (the Beijing Rules).
<input type="checkbox"/> The United Nations Guidelines for the Prevention of Juvenile Delinquency 1990 (the Riyadh guidelines).
<input type="checkbox"/> Rules for the Protection of Juveniles Deprived of their Liberty 1990 (RDL).
<input type="checkbox"/> UN Guidelines for Action on Children in the Criminal Justice System 1997.

(Sources: Council of Europe, 2011; IYJS, 2006)

Increased investment in programmes responding to social disadvantage and exclusion has required significant changes in relationships between the State and the community and voluntary sector.

¹³ In criminal justice, education, children and youth, local government the Children Act 2001 e.g., An Garda Síochána Act, 2005; the Criminal Justice Act (Amended) 2006; the Housing (Miscellaneous Provisions) Act, 2009.

Instead of the informal and ill-defined nature that previously had characterised relations, more formalised structures and procedures became evident in the provision and coordination of public services (Shaw and Canavan, 2016). In many instances, services previously managed by religious and charitable organisations were mainstreamed and responsibility for their delivery was transferred to statutory agencies (Sargent, 2014).

In youth justice, change is reflected in the expansion of the Diversion Programme, youth probation services, the expansion of high support and special care units, and the national Children Detention Campus. Increased regulation of the sector has focused greater attention on compliance with best practice and service delivery standards, formal tendering processes and the use of service agreements, and on evaluating outcomes and the effectiveness of programmes and services (Shaw and Canavan, 2016).¹⁴ While coordination and resource problems have been highlighted as ongoing problems (Seymour, 2008), the number of programmes responding to youth crime, social exclusion, early school leaving, youth unemployment increased in this period. Notable youth services and family support programmes include:

- The Springboard Programme* – supports children and youth at risk of involvement in crime, early school leaving, and/or entering the care of the state.
- The Early Start Programme* – pre-school intervention for children at risk of social disadvantage.
- The Schools Completion Programme* – targets children at risk of early school leaving.
- The Home School Community Liaison Scheme* – promotes partnership between parents and teachers to improve education outcomes for children.
- The Youthreach Programme* – provides education, training, and work experience to young people outside the education system.

4.1.3 Summary

In the 1990s and 2000s, Ireland reformed responses to youth crime and offending. An evolving ‘whole of society’ approach to crime prevention emerged with the goals of maintaining and enhancing local service networks and promoting social cohesion and civic engagement inside areas experiencing high crime rates. An emphasis on child protection and child-centred policies followed revelations of institutional child abuse and the failure of the State to protect children. In addition, international children’s rights and youth justice standards have influenced Ireland’s youth justice system as it entered a period of rationalisation and restructuring. Compliance with international and European law has promoted and protected children’s rights, which have been incorporated into Irish law and policy. Increased investment in programmes responding to social disadvantage and exclusion has required significant changes in relationships between the Irish State and the community and voluntary sector.

¹⁴ The Charities Act 2009 provided a regulatory framework reinforcing the trend towards formulisation and expanding evidence-informed practice in the community and voluntary sectors (Shaw and Canavan, 2016).

In 2008, the IJYS published *The National Youth Justice Strategy 2008-2010*, defining how the State would respond to youth crime and offending. Under the Strategy, youth justice was child-centred and coordinated in partnership with the health, education, and child welfare systems (IJYS, 2008). It acknowledged the complex and multifaceted nature of youth crime and offending (as outlined earlier) and identified young offenders as “troubled children”, who are likely to grow up in families “experiencing a range of social difficulties” – poverty, unemployment, a high proportion of single parents, poor housing, early-school leaving, addiction, and poor parenting (IJYS, 2008: 12). In the Strategy, antisocial attitudes and behaviour and a lack of pro-social influences were identified as risk factors in disadvantaged children’s lives, which may influence offending (IJYS, 2008).

In this child-centred and rights-focused system, young offenders receive diversionary and community-based interventions with detention only for the most serious offences (Convery and Seymour, 2016). Youth crime is viewed as transitional and involvement in crime for most young people declines as they mature (IJYS, 2011). Young people are accountable for their actions and behaviours, however, but there is a recognition that exposure to the criminal justice system and a criminal conviction can harm a young person’s future life prospects (IJYS, 2011). There is also the recognition that a minority of young people engage in persistent offending and are at risk of involvement in crime into adulthood (IJYS, 2011).

A community-based approach

In two decades, community-based youth justice initiatives have been expanded to help address the risk factors affecting children’s lives and promote positive lifestyle choices. The *Youth Justice Action Plan 2014-2018*, for example, recommended interventions challenge and change the attitudes and behaviours that underlie a young person’s involvement in crime and/or antisocial behaviour (IJYS, 2014). Garda Youth Diversion Projects are implemented nationwide, providing personal development and education activities and programmes to address the risk factors that influence young people’s offending behaviour (Reddy and Redmond, 2022).

Under the Children Act 2001, restorative justice interventions were to provide alternatives to detention and residential care (O’Dwyer and Payne, 2016). Subsequent policy has been keen to embed a restorative ethos in justice interventions and to maximise victim-offender responses available to the Children Court (IJYS, 2014). Community Service Orders, for example, are used to help young offenders avoid a custodial sentence by requiring offenders to make reparation to the community (National Committee on Restorative Justice, 2009). In general, however, restorative justice interventions are used to confront young offenders with the consequences of crime and thereby effect behaviour change and deter future offending (O’Dwyer and Payne, 2016). Family conferences, for instance, bring together the victim, offender, and the offender’s family (and/or other appropriate adults) to explore the reasons for the offending behaviour, discuss how to prevent

Table 3: Chronology of Youth Justice Policy Development

1908	Children Act 1908
1924	Minister of Education becomes responsible for the administration and supervision of reformatory and industrial schools
1936	Report of the Commission of Inquiry into the Reformatory School and Industrial school System
1941	Children Act 1941
1949	Children (Amendment) Act 1941
1953	A cautioning scheme for first time offenders introduced by An Garda Síochána
1960	Criminal Justice Act 1960 establishes St. Patricks Institution as a place of detention
1962	Inter-departmental Committee on the Prevention of Crime and Treatment of Offenders established
1963	Garda Juvenile Liaison Scheme established
1970	Report on Reformatory and Industrial Schools Systems (Kennedy Report)
1971	Probation and Welfare Service formally established
1980	Report of the Task Force on Child Care Services
1983	Criminal Justice (Community Service) Act, 1983 (introduced Community Service Orders)
1985	Report of the Committee of Inquiry into the Penal System (Whitaker Report)
1988	A Children Court opens in Smithfield, Dublin
1991	Child Care Act 1991. Garda National Juvenile Liaison Office established and the first of the Garda 'Special Projects' are established
1992	Report of the Interdepartmental Group on Urban Crime Disorder; Government Select Committee (1992) <i>Juvenile Crime – Its Causes and Remedies</i>
2001	Children Act 2001
2004	Office of the Ombudsman for Children established; Youth Justice Task Force established
2005	Office of the Minister for Children and Youth Affairs established
2006	Criminal Justice Act (Amended) 2006. Report on Youth Justice Review. Irish Youth Justice Service established
2008	National Youth Justice Strategy
2009	Report of the Commission to Inquire into Child Abuse (Ryan Report)
2011	Child Care (Amendment) Act 2011
2012	Oberstown Children's Detention Facility opens in Lusk, Co. Dublin
2017	St. Patrick Youth Detention facility closes
2021	Youth Justice Strategy 2021-2027

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