

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

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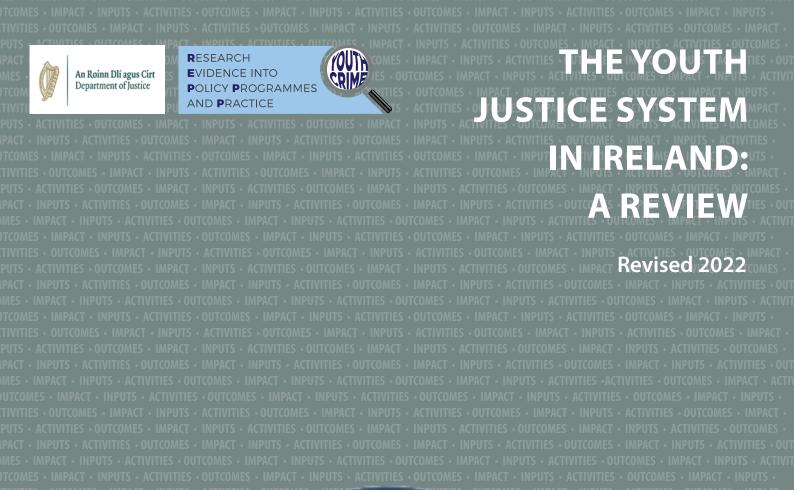
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The Research Evidence into Policy, Programmes and Practice (REPPP) Project

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As a strategic research partnership between the Department of Justice and the School of Law at the University of Limerick, the REPPP extends and improves the evidence-base for policy, programmes, and practice reform in relation to youth crime in Ireland. REPPP implements focused research studies which link to youth justice policy priorities, are informed by multiple evidence sources, and focus on better outcomes for children. While REPPP emphasises the *policy* relevance of research evidence, it is cognisant of the relevant issues of *programmes* and *practice and* recognises that reform in human programmes requires change across all three areas to achieve substantial traction.

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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.



Ireland's path to modernisation since the 1960s has greatly influenced the direction and pace of developments in youth justice. To elaborate on this reasoning, it is necessary first to present a historical overview of crime trends, policies, and the social, economic and cultural backdrop that have shaped and driven reforms in youth justice.

2.1.1 A Brief Overview of Crime in Ireland

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After remaining consistently low in the forty years following independence in 1922, recorded crime rates (for adults) began to increase as Ireland modernised from the 1960s (Campbell, 2010; O'Donnell and O'Sullivan, 2003). Between 1961 and 1991, for example, there was a six-fold increase in offences – from 14,818 to 94,406 indictable crimes (McCullagh, 1996).¹ In addition to periods of dramatic increase, as in 1980 to 1982 when rates surged by almost 10,000 recorded crimes (Vaughan, 2004), recent decades have also been interspersed with periods of decline, as in 1983 to 1987 by 17 percent and 1995 to 2000 by 29 percent (Mulcahy, 2007; McCullagh, 2014).

Brewer et al's. (1997) study of crime in Ireland from 1945 to 1995 note that while crime in this period increased in all areas, it was not evenly distributed. The Dublin metropolitan area, for example, accounts for approximately 50 to 60 percent of crime recorded annually in the State while typically having less than a quarter of its population – 24.6 percent based on the 2016 census (Brewer et al., 1997: 95; Central Statistics Office, 2016). Brewer et al. (1997) drew attention to the links between increased property crime from the early 1980s and the availability of addictive drugs in the city, which they maintain was a key driver of the surge in Ireland's crime rate in this period (Brewer et al., 1997).

Crime rates entered a period of relative stability in the 2000s and have reduced more recently. After reaching 106,659 in 2002, the number of headline offences recorded annually by An Garda Síochána remained a little above the 100,000 threshold. For example, 102,453 offenses were recorded in 2007 (cso.ie; Eurostat.eu). Moreover, *Garda Recorded Crime Statistics 2014-2014* indicates the number of crimes recorded in most crime classifications had steadily reduced (cso.ie). Overall, for most crimes, and considering Ireland's lower starting base, crime rates since the 1960s have and continue to be relatively low by international standards (McCullagh, 2014; Campbell, 2010; O'Donnell and O'Sullivan, 2001).

¹ Indictable offences are crimes that are considered of a serious nature that can and should be tried by a judge and jury (McCullagh, 1996). In 2000, crime statistics were reclassified into headline and non-headline offences due to the introduction of a new computerised police system (Mulcahy, 2007).

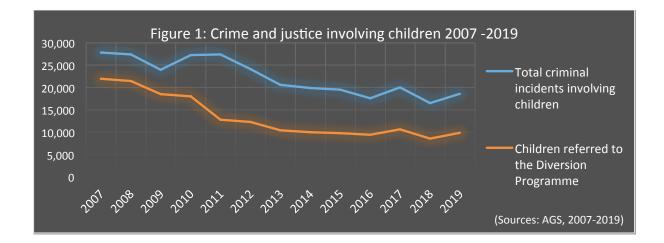
Youth crime reduced significantly in the 2000s, decreasing by one-third from a peak of 27,853 incidents reported in 2007 to 18,567 in 2019 (see Figure 1). The number of children referred to the national Diversion Programme also halved, from a high of 21,941 in 2007 to 9,842 in 2019.²

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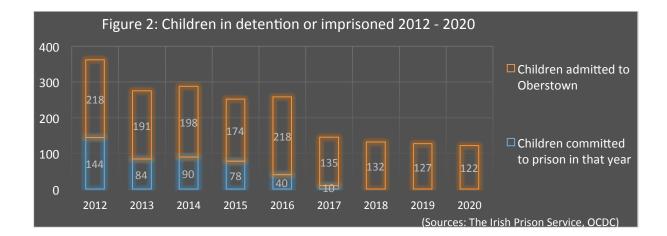
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The number of children detained or imprisoned each year in Ireland has also reduced (see Figure 2). In 2012, for example, 218 individual children were detained at the national Children Detention Campus at Oberstown, Co. Dublin.³ In 2020, the number was 122, a reduction of 44% (OCDC, 2020, 2017). Young people under 18 years (primarily 17-year-olds) committed to prison decreased from 247 in 2007 to 10 in 2017 (IPS, 2006-2020). Since April 2017, detention in the prison system is no longer an option for children, and all under 18-year-olds detained by the Courts are accommodated at Oberstown.



² Youth crime figures are sourced from An Garda Síochána Annual Reports 2007 to 2020 and the Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme from 2007 to 2019.

³ Children detained by the Courts are accommodated at Oberstown Children Detention Campus following committal (sentenced) or when placed on remand awaiting a Court decision.

2.1.2 Origins of the Youth Justice System

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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 "reformative" 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

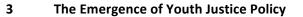
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Changes in the levels and types of crime in Ireland are associated with social, economic and cultural change since the 1960s. The literature describes dramatic transformations in the social fabric of Irish life over this period and notes the considerable 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.



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Early indications of policy change in youth justice came in 1962 with the establishment of an Interdepartmental Committee on the Prevention of Crime and Treatment of Offenders. The Committee's focus was juvenile delinquency, the treatment provided to offenders detained in State institutions, and the probation system (Kilcommins et al., 2004). The Committee recommended the appointment of prison visiting committees (that had been withdrawn in the 1920s) and prison welfare officers, training for probation officers, better medical, psychiatric, and education and training facilities, a fulltime judge in charge of the children court, the development of a scheme in relation to cautioning juvenile offenders, and after-care for released prisoners. The recommendations and, particularly, the establishment of the Garda Juvenile Liaison Scheme in 1963, suggest increasing support for implementing rehabilitative and preventive approaches in treating both adult and youth offenders (Sargent, 2014). The Garda Juvenile Liaison Scheme's function was to help most first-time offenders avoid court and a criminal conviction and divert them away from involvement in further criminality (Smyth, 2011).

The publication of the *Reformatory and Industrial Schools System Report* in 1970 (commonly known as the Kennedy Report) signalled the beginning of the dismantling of the reformatory and industrial school system in Ireland (Kilcommins et al., 2004). The Report was highly critical of the system and recommended that children should remain in their families and only admitted into residential care as a last resort (Sargent, 2014). According to Sargent's (2014: 28) analysis, the report took a welfarist approach to child wellbeing, viewing "the stable family unit as an essential element in the development of a child". Kennedy recommended that the State involve itself in preventing family breakdown and its consequent problems, abolish the institutional residential care system in all its forms, and establish family group homes for children requiring out-of-home care (Sargent, 2014). While the proposals would take many years to be achieved, and residential care homes remained mainly under the management of religious orders, the report was, however, considered a catalyst for a process of change in child welfare and childcare practice in Ireland (Kilcommins et al., 2004).

Several policy contributions in the 1980s are significant and illustrative of an evolving welfare-based approach to childcare and youth justice in Ireland. The Task Force on Child Care Services (1980) final report, for example, supported increased family support and community services for children, foster care, and residential care. The Task Force recommended supervision for young offenders and implementing youth justice interventions (Sargent, 2014). Similarly, the Report of the Commission of Enquiry into the Irish Penal System (1980) called for the modernisation of youth detention facilities and recommended the introduction of small residential type units operated by trained and experienced staff (Sargent, 2014). The Commission suggested that youth detention should be jointly governed by the Departments of Education, Health, and Justice, instead of complex and disjointed arrangements that had characterised governance to-date.⁶ The transferal of responsibility for

⁶ The Education, Health, and Justice departments divided responsibility for children in care. However, the dayto-day administration of residential homes and special schools predominantly was by religious orders and voluntary organisations (Burke et al., 1981 cited in Sargent, 2014).

children in care to the Department of Health in 1984 also was significant. The change saw foster care increasingly become the preferred response to children needing out-of-home care, relegating the practice of placing children in residential care (Sargent, 2014).

3.1.1 Youth Crime, Antisocial Behaviour and Social Disadvantage

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Recent policy and legislative developments in youth justice are frequently traced to the publication of two influential government criminal justice inquiries. The Committee of Inquiry into the Penal System 1985 (the Whitaker Report) and the Interdepartmental Group on Urban Crime and Disorder (Urban Crime and Disorder, 1992) both reported clear and consistent links between youth involvement in crime and antisocial behaviour and growing up and living in disadvantaged socioeconomic contexts (Seymour, 2008; Cotter, 2005). The Whittaker Committee's investigation of Ireland's penal system in the early 1980s, for example, found economic disadvantage, social exclusion and personal adversity were at the root of Ireland's then burgeoning prison population (O'Mahony, 2007). Whilst emphasising that neither social and/or economic factors could ever excuse involvement crime and public disorder, the Committee was in "no doubt", however, that "social inequity contributes to the disaffection and alienation which expresses itself in antisocial behaviour" (Whitaker, 1985: 30).

Whitaker argued that increases in Ireland's recorded crime and victimisation patterns coincide with transformations in levels of consumption, mobility, and openness in society (Mulcahy and O'Mahony, 2005). Whitaker suggested that significant growth in the opportunity for crime trails Ireland's move towards urbanisation, individualisation, and secularisation since the 1960s (Mulcahy and O'Mahony, 2005). For example, official crime statistics had increased six-fold by the mid-1980s, of which the offenders and victims primarily tended to be young men and boys living in social housing estates and urban flat complexes (Mulcahy and O'Mahony, 2005; Fahy, 1998). Similarly, in their study of crime in Ireland, O'Donnell and O'Sullivan (2001) identified young males from poor marginal communities and groups, between their mid-teens and mid-twenties, as consistently at high risk of involvement in criminality and/or crime victimisation.

Whitaker's significance in the development of youth justice in Ireland relates to its, arguably, most important and controversial conclusions that incarceration has "…limited protective, deterrent or corrective value" and so should always remain a last resort (Whitaker, 1985: 11 quoted in O'Mahony, 2007: 23). The Committee questioned the utility of increased custodial sentencing as a crime reduction strategy as any preventive value is "…a temporary one since it lapses on the prisoner's release" (Whitaker, 1985, 41). The Report called for alternatives to imprisonment including the expansion of diversion, supervision and community sanctions, and the introduction of restorative interventions, and programmes focusing on the rehabilitation and personal development of young offenders (Whitaker, 1985).

3.1.2 Towards a Broad-based Youth Justice System

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Whitaker's recommendations and critiques of the penal system were largely ignored by successive governments (Lines, 2007) despite broad commitments at the time to act on its findings (McCullagh, 1996). The Report did, arguably, facilitate and incite a more nuanced debate and sophisticated understandings of crime and youth offending and its causes and the appeal of broader preventive responses. The Interdepartmental Group's (1992) investigation of criminality and social disorder in the Ronanstown area of West Dublin in the early 1990s also linked crime and antisocial behaviour by young people to their socioeconomic context (NCC, 2002). Vandalism directed at community facilities and periodic clashes with Gardaí and other representatives of the State were, in the Group's view, rooted in frustrations felt by many young residents experiencing significant disadvantage (Bowden and Higgins, 2000). The Group reported that Gardaí believed a small group of 'hardened' criminals had exploited these 'frustrations' to create division between residents and the authorities (Bowden and Higgins, 2000: 22).

The Interdepartmental Group's contribution to reforms in youth justice is important on several fronts. First, in restoring social order in Ronanstown, the Group pressed for the adoption of an overarching preventive partnership approach that mobilised state and civil actors (Bowden, 2006). A significant outcome was the further development of the Garda Youth Diversion Projects (GYDPs) (NCC, 2002).⁷ Launched in 1991 in Ronanstown and Killinarden in Tallaght, GYDPs diverted young people considered at risk of becoming involved or further implicated in criminal and/or antisocial activity away from the justice system by providing them suitable programmes to facilitate personal development and promote civic responsibility (Reddy and Redmond, 2019). As well as being early examples of locally managed crime prevention initiatives, GYDPs broadened responsibilities for preventing youth offending and recidivism to agencies without any direct criminal justice remit.⁸

Second, the Interdepartmental Group recommended criminal justice should place equal emphasis on community-based initiatives aiming to improve the life quality and prospects of young residents as on law enforcement (NCC, 2002). In framing responses to Ronanstown, the Group prioritised socioeconomic renewal and environmental improvements to build local support and engagement in managing social disorder and improving community and police relations (Bowden and Higgins, 2000). Third, the Group delivered a key principle of an evolving preventive mentality, recommending the "encouragement of local voluntary effort and the discouragement of the notion that all responsibility for improvement rests with the State or other outside agencies" (Government of Ireland, 1992: 63, quoted in Kilcommins et al., 2004: 221).

The Interdepartmental Group's analysis is particularly useful in sketching the broader context and assumptions informing the development of partnership and community-based responses to youth

⁷ The Garda Youth Diversion Projects were previously known as the Garda Special Projects.

⁸ Garda Youth Diversion Projects are typically overseen by a committee comprising Gardaí, representatives of local youth organisations, community representatives and implemented by community-based organisations.

offending. Crime and antisocial behaviour by young people and periodic breakdowns in public order in Ronanstown were traced to the poor performance of the traditional agents of social control, both informal and formal (Bowden: 2006; Swirak, 2016). The Group drew attention to high levels of intimidation of a "law-abiding majority" by local criminals and the subsequent negative effects on social behaviour and relations between adults and young people (Bowden: 2006: 13). A lack of informal mechanisms of control – surveillance of young people, verbal warnings and reprimands for misbehaviour, instances of neighbourliness and citizenship that may encourage reciprocity, for example – was understood as endemic to Ronanstown's marginalised and peripheral status (Bowden: 2006). A loss of confidence in formal social control – policing, local institutions, and service agencies – was perceived as an outcome of an area's social exclusion, producing low and often antagonistic relations among residents and with the authorities (Bowden and Higgins, 2000; Mulcahy and O'Mahony, 2005).

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3.1.3 Summary

In the 1970s, a rehabilitative penal system common in most Western societies began to emerge in Ireland. Influential government reports (e.g., Report of Interdepartmental Committee on the Prevention of Crime and Treatment of Offenders, 1962; the Kennedy Report, 1970) criticized the reformatory and industrial school system and recommended moves towards the modernisation and professionalization of the criminal justice system. Subsequent policy (e.g., The Task Force on Child Care Services, 1980: The Commission of Enquiry into the Irish Penal System, 1980) signalled a greater State role in managing youth crime and a more integrated approach to the provision of justice and child welfare services.

In the 1980s and 1990s, partnership and community-based responses to youth offending were developed and expanded. Influential policy reports linked growing up in disadvantaged socioeconomic contexts and youth involvement in crime and antisocial behaviour and argued for alternatives to imprisonment including the expansion of community sanctions, diversion, supervision, and restorative programmes. Responsibility for preventing youth crime and antisocial behaviour was extended and now included service agencies without direct criminal justice remits and to communities affected by significant crime.

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4 Transition to an Integrated Youth Justice System

The Government Select Committee (1992) is significant to reforms in how the Irish State responds to youth crime. Its findings (*Crime – Its Causes and Remedies*, 1992) underpinned the changes recommended in the Children's Bill 1999, which was the basis of the reforms legislated for in the Children Act 2001 (Seymour, 2008). The Committee recommended raising the age of criminal responsibility to 12 years, expanding the Diversion Programme, establishing a juvenile liaison section within An Garda Síochána, providing offender-victim mediation and more non-custodial dispositions, and providing secure units and appropriate psychiatric services for young offenders (Sargent, 2014).

The Select Committee noted that there had been a general "unease about crime" among many of the submissions to its work, highlighting links between the fear of crime and victimisation and public safety (Sargent 2014: 37). In their view, individuals and groups in communities experiencing high levels of crime and antisocial behaviour ought to bear more responsibility and be involved in efforts to prevent and reduce local crime (Seymour, 2008). Since the 1970s, criminal justice strategies internationally had broadened to include statutory agencies and voluntary and community organisations (Rosenbaum, 2002). The introduction of Neighbourhood Watch schemes and its rural equivalent, Community Alert, during the mid-1980s, for example, were early signals that partnership with communities was an increasing tactic used to combat crime. Community policing from 1987 and police-public consultations on crime in the 1990s and 2000s (e.g., the National Crime Council;⁹ Joint Policing Committees) reflect an evolving 'whole of society' approach to youth justice and crime prevention, one that recognises the limits of the criminal justice system to address crime alone (An Garda Síochána, 2009; 2017).

4.1.1 Influencing Factors

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Policy contributions in this period consistently call for more community-based and family support responses to youth offending.¹⁰ *Tackling Crime* (Department of Justice, 1997) and *Report of the Expert Group on the Probation and Welfare Service* (1999), for example, recommended the increased use of community sanctions, community-based supervision, and better interagency partnership working in responding to youth offending (Sargent 2014; Cotter, 2005). The National Crime Council (NCC, 2002, 2003) noted that responding to youth crime and antisocial behaviour requires alternatives to detention and increased partnership with agencies outside of the criminal justice system (Department of Justice, Equality and Law Reform, 2009). The NCC argued that crime and fear of victimisation, especially when combined with economic disadvantage and a poor physical environment, have considerable negative impacts on the health and wellbeing of many children and families. In their view, preventive responses and the value of interventions that maintain and, more

⁹ The National Crime Council was established in 1999 to provide a forum for the development and expression of a wide range of views on crime prevention and policy development. Joint Policing Committees support consultation and cooperation on policing and crime issues in local authority areas incorporating An Garda Síochána, local authority officials, elected representatives, and community and voluntary agencies.

¹⁰ For example, the National Crime Council, 2002, 2003; Report of the Youth Justice Review, 2006; National Youth Justice Strategy, 2008; Crime prevention and Community Safety, 2009.

importantly, work to improve local service networks, enhance social cohesion and promote civic engagement inside areas experiencing high crime rates (NCC, 2002, 2003).

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Revelations of child abuse in state institutions also influenced reform of Irish youth justice (Keenan, 2016). The Ryan Report (2009), for example, detailed and catalogued a litany of abuses of children while held in institutions; reformatory and industrial schools that had served as Ireland's youth justice system since independence.¹¹ Ryan found physical, emotional, and sexual abuse and neglect were commonplace features of the institutions studied (Keenan, 2016). Children were subjected to "severe and brutal regimes of discipline" inside reformatory schools managed by religious congregations (Sargent, 2014: 1).

Ryan identified governance systems and regulation as "totally inadequate" and the State's duty to safeguard and protect children in its care had been compromised by the deference and submissive attitudes of state officials to congregations managing institutions (Sargent, 2014: 1, 2). Ryan highlighted the failure of the State to protect children and underlined the importance of keeping children in their own homes and communities in all but the most exceptional circumstances (Convery and Seymour, 2016). The Report recommended, among other things, more robust child protection systems and child-centred policies where the needs of the child are of paramount concern (Sargent, 2014).

Developments in children's rights internationally have also influenced youth justice in Ireland (Seymour, 2008). Over decades, the United Nations and the Council of Europe have developed bestpractice standards in youth justice. For example, the United Nations Convention on the Rights of the Child 1989 (UNCRC) sets out the civil, political, economic, social and cultural rights of children and was ratified by Ireland in 1992 (Convery and Seymour, 2016). The Convention identifies important justice guidelines for member countries including, as Whyte (2004: 5) writes, "the importance of child wellbeing; age of criminal responsibility based on maturity; diversion from criminal proceedings and extrajudicial solutions; socio-educational interventions and deprivation of liberty only as a last resort".

International children's rights standards are evident in Irish child welfare and rights reforms (Kilkelly, 2008). The Children Act 2001, for example, has enshrined in Irish law the central tenets of the UNCRC, most notably that detention of a child in conflict with the law is a measure of last resort and the right of a child to be heard in court proceedings that concern them (Convery and Seymour, 2016). The Act infers that involvement in the criminal justice system can have negative impacts on a young person life and reflects the Ireland's adherence to international justice standards for children.¹² These principles include, for example, the Beijing Rules (1985), Riyadh Guidelines (1990),

¹¹ The establishment in 2000 of a Commission to Inquire into Child Abuse – pursuant to the Commission to Inquire into Child Abuse (Amended), 2005 – issued a report in 2009 under the chair of Mr Justice Sean Ryan.

¹² The Children Act 2002 as amended by the Criminal Justice Act 2006.

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 States 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 paid 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

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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 multilayered 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

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- The United Nations Convention on the Rights of the Child 1989 (UNCRC)
- □ 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.
- □ 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.
- □ The European Convention on the Exercise of Children's Rights (1996, ETS No. 160).
- □ The 2006 United Nations Convention on the Rights of Persons with Disabilities.
- □ The revised European Social Charter (1996, ETS No. 163).
- □ The Council of Europe Convention on Contact concerning Children (2003, ETS No. 192).
- □ The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007, CETS No. 201).
- □ The European Convention on the Adoption of Children (Revised) (2008, CETS No. 202);
- Non-binding international law
- □ The United Nations Standard Minimum Rules for the Administration of Juvenile Justice 1985 (the Beijing Rules).
- □ The United Nations Guidelines for the Prevention of Juvenile Delinquency 1990 (the Riyadh guidelines).
- □ Rules for the Protection of Juveniles Deprived of their Liberty 1990 (RDL).
- 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).

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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).



The Children Act 2001 provides the statutory framework for children in conflict with the law, focusing on crime prevention and justice, education, health, child protection and welfare (Seymour, 2008). The 2001 Act overhauled and modernised how Ireland responds to youth crime with a renewed emphasis on diverting children away from the criminal justice system and rehabilitating young offenders (Seymour, 2008; Kilkelly, 2008). The legislation (and amendments) redefined the age of criminal responsibility as being 12 years, put the Diversion Programme on a statutory basis, introduced restorative justice initiatives and family conferencing, and expanded community sanctions available to the Courts so that detention is only used for children as a measure of last resort (Convery and Seymour, 2016). Table 2 reproduces the principles of the Children Act 2001.

In terms of detention, Section 96 of the Children Act 2001 recognises the importance of minimising disruption to the young person's education, training and/or employment. The Children Court must consider the young person's age and level of maturity in its decisions in addition to the importance of protecting family relationships and their home life (Convery and Seymour, 2016). Courts must facilitate the young person's right to be heard and to participate in court proceedings and ensure that in law they have the equal rights to that of adults (Convery and Seymour, 2016). A range of educational, mentoring, sports, and social initiatives are available to a young person subjected to a community-based sanction. Once assessed by a probation officer they can be referred to a suitable programme (e.g., Young Persons' Probation programme, Le Cheile Mentoring Project) that aims to address antisocial and criminal behaviour and reduce the likelihood of reoffending (Department of Justice, Equality and Law Reform, 2009).

5.1.1 Reforming Irish Youth Justice 2004-2021

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The Youth Justice Task Force in 2004 was mandated to review and make recommendations about how the youth justice system could be restructured in accordance with the Children Act 2001. The *Report of the Youth Justice Review* (2006) proposed overhauling youth justice. It identified that leadership and the coordination of services were significant problems facing the system and proposed a single agency whose purpose was to expand rehabilitative and diversionary responses to youth offending. The Task Force took the view that to modernise and reform youth justice there was a need to bring the delivery of services for all young offenders "under one governance and management structure" (IYJS, 2006: 40).

The Task Force highlighted that three Government departments – justice, health, and education – were responsible for implementing reforms (IYJS, 2006). The Department of Education, for example, was responsible for detention schools. They argued, Education, whose primary function is to administer the education system, therefore was limited in terms of providing residential care to children, concluding that a body "with experience and expertise in childcare, residential care and security issues" could better deliver such care (IYJS, 2006: 40). Likewise, the Task Force felt sentenced offenders aged 16 and 17 years who up to then were detained by the Prison Service,

could receive a more education and developmental-focused response if responsibility for their care was transferred to a distinct child-centred oriented youth justice service.¹⁵

Table 2: The Main Principles of the Children Act 2001

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A child who accepts responsibility for his/her offending behaviour should be diverted from criminal proceedings, where appropriate. Children have equal rights and freedoms before the law equal to those enjoyed by adults and a right to be heard and to participate in any proceedings affecting them. It is desirable to allow the child's education to proceed without interruption. It is desirable to preserve and strengthen the relationship between children and their parents and family members. It is desirable to foster the ability of families to develop their own means of dealing with offending by their children. It is desirable to allow children to live in their own homes. Any penalty imposed on a child should cause as little interference as possible with the child's legitimate activities, should promote the development of the child and take the least restrictive form, as appropriate. Detention should be imposed as a last resort and may only be imposed if it is the only suitable way of dealing with the child. Due regard to the interests of the victim. A child's age and level of maturity may be taken into consideration as mitigating factors in determining a penalty.¹⁶ A child's privacy should be protected in any proceedings against him / her.¹⁷

Working in partnership to reduce youth offending

In 2006, the Irish Youth Justice Service (IYJS) was established (within the Department of Justice) to improve the delivery of youth justice services and reduce youth offending. This was to be accomplished, in the main, by expanding community sanctions, restorative justice conferencing, and diversion. At a national level, the IYJS would coordinate services across statutory departments and community and voluntary agencies. At a local level, it would integrate service delivery, maximise cost-effectiveness in youth justice services, and facilitate effective communication and information sharing among agencies (IYJS, 2006).

¹⁵ In 2017, the Government closed St. Patricks Institution, which since the 1960s had held 16- to 20-year-olds sentenced to imprisonment. Since April 2017, under 18-year-olds sentenced to detention by the Courts are held at the Oberstown Children Detention Campus.

¹⁶ The Children Act 2001 makes provisions for a Children Court dedicated to hearing minor charges against children and ensures responses are appropriate and consider the circumstances of the child (Kilkelly, 2014).

¹⁷ To avoid any sensationalisation or politicisation of a child's involved in crime, the Children Act 2001 restricts the reporting of information that may identify a child in criminal proceedings (Convery and Seymour, 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 (IYJS, 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 (IYJS, 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 (IYJS, 2008).

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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 transitionary and involvement in crime for most young people declines as they mature (IYJS, 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 people engage in persistent offending and are at risk of involvement in crime into adulthood (IYJS, 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 (IYJS, 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 (IYJS, 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

a reoccurrence of that behaviour, and formulate a plan for the young offender (O'Dwyer and Payne, 2016).¹⁸

Care, stabilisation, and reintegration

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Rehabilitation and developmental interventions also are important features in the treatment of young people detained by the Courts (and children in high support and special care units). The State must balance the care and education of young people with the need to protect society (The Children Act 2001, Section 158). On admission to detention, a young person is assessed for risk (of reoffending) and a care plan that focuses on their education and developmental needs is devised.¹⁹ Interventions include standard education, recreational activities, pro-social initiatives, counselling, and outreach where appropriate (Department of Education and Science, 2010). In addition, Children Detention Campus and Probation Service staff are trained to implement a specialised system of 'care and stabilisation' (as opposed to punishment) incorporating education, welfare, psychological and psychiatric services (Reddy and Redmond, 2019).

Ireland's youth justice system is child-centred and rights-focused, diverting young people away from crime and involvement in the criminal justice system and rehabilitating young offenders. Youth crime is considered transitionary and that involvement in crime for most young people declines as they mature. While seeking to ensure young people are accountable for their actions and behaviours, youth justice recognises that exposure to the criminal justice system and/or a criminal conviction can harm a young person's future life prospects.

5.2 The Irish Youth Justice System: Summary

The Children Act 2001 redefined the age of criminal responsibility as being 12 years and expanded community sanctions available to the Courts. Under the Act, children responsible for serious offences and persistent offenders are provided with focused intervention programmes and if sentenced by the Courts, a period of detention. The Act led to the development of a nationwide network of community-based programmes to reduce and prevent crime. In 2021, for example, 105 GYDPs were implemented nationwide focusing on addressing risk factors affecting participating children, including providing education, addressing behaviour problems, and improving self-esteem and pro-social skills. The Youth Justice Strategy 2021-2027 aims to further develop a youth justice system that upholds "the rights of children and young people, while acknowledging the impact of offending on society and victims of crime in particular" (DoJ, 2021: 6). The Strategy adopts a *whole of government* approach aligning youth justice with the State's overall aim of supporting the welfare of children, young adults, and communities (DoJ, 2021). Table 3 provides a chronology of child and youth justice related policy in Ireland.

¹⁸ The Probation Service has integrated within programmes (for juveniles) pro-social behaviour interventions, motivational interviewing, cognitive behavioural therapy, and restorative practices (IYJS, 2015).

¹⁹ The *Standards and Criteria for Children in Detention Schools* (2004) stipulate that care plans should meet the educational, health, emotional and psychological needs of children (Sargent, 2014).



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) Juvenile Crime – Its Causes and Remedies | |
| 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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This review has identified the policy priorities, important objectives, and guiding values of Irish youth justice. The primary crime reducing factors and child welfare rationales underpinning youth crime policy include:

- □ Children growing up in adversity tend to experience multiple risk factors and therefore are at a heightened risk of involvement in crime and antisocial behaviour.
- □ Youth crime is transitionary and involvement in crime for most young people declines as they mature.
- □ Young people are accountable for their actions and behaviours, however, exposure to the criminal justice system and/or a criminal conviction can harm a young person's future life prospects.
- □ A minority of young people engage in persistent offending and are at risk of involvement in crime into adulthood.

Policy assumptions in Irish youth justice:

- □ An effective and responsive youth justice system is child-centred and rights-focused.
- Detention should be used as a last resort in responding to youth crime and only imposed for the most serious crimes and once all community-based sanctions have been exhausted.
- □ A partnership approach across justice and child welfare sectors is necessary to reduce involvement in crime by children and young people.
- □ Decisions about how to 'intervene' should consider the child's/young person's age and level of maturity in addition to the importance of protecting family relationships and their home life.
- □ Practice based on a restorative ethos should be part of youth justice interventions.

Youth justice interventions and programmes in the Irish system should:

- Divert children and young people away from crime and the criminal justice system.
- Facilitate personal and educational development and enhance the life quality and prospects of young people.
- □ Promote civic responsibility and employ pro-social development strategies.
- □ Balance the care and education of young people committed to detention schools with community safety and the need to protect society.
- □ Incorporate prevention, early intervention and family support strategies.
- □ Comply with best practice, evaluation, and service delivery standards.

As outlined in the Introduction, the purpose of this research is to identify ways of measuring effectiveness in youth justice systems. Taking account of the policy priorities, important objectives and guiding values identified in the Irish system, Table 4 and 5 suggest ways in which effectiveness may be measured.



Table 4: Measuring Effectiveness in the Youth Justice System

| Policy outcomes in Irish youth justice | Measurement of effectiveness | Type of outcome |
|---|---|---------------------|
| An effective and responsive youth justice system is a child-centred and rights-focused | Analysis of: Mission statements, aims and objectives of individual youth justice stakeholders. Monitoring and evaluations. Programme service manuals, assessment tools (orientation and type of information recorded). | Process (rules) |
| Compliance with best practice and service delivery standards, and on evaluating outcomes and the effectiveness of programmes and services | Commissioning arrangements / service agreements (e.g., reliant on evidence and on evidence-based practice). Data on staff training processes, agency protocols and management systems. Extent and depth of monitoring and evaluation processes in agencies. Completed evaluations of services/programmes (relating to programme fidelity, service manual use). | Process (rules) |
| A coordinated partnership approach across justice and child welfare sectors in reducing youth crime the delivery of youth justice services (national level) | Evidence of a common mission/joint working. | Process (input) |
| An integrated, multi-layered model of crime prevention for at-risk children and young people emphasising early intervention, family support, welfare and protection (national and local level) | Evidence of links between justice and welfare in delivering youth justice services and programmes. Proportionate level of spending on prevention. | Process (input) |
| The expansion of a restorative practice ethos and victim-offender responses | The extent of restorative services and programmes in the system. Findings from monitoring and evaluation. | Process (input) |
| Detention as a last resort | Extent and use of diversion, community sanctions, and detention. | Output |
| Balancing the care and education of young people committed to detention schools with community safety and the need to protect society | Mission statements, aims and objectives of detention schools. Data on staff training and ways of working with young offenders. Findings from monitoring and evaluation processes. Youth crime statistics and commentary. | Process (output) |

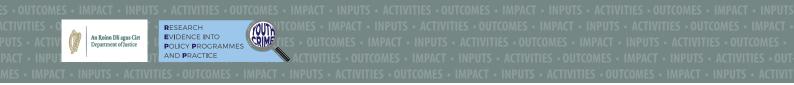


Table 5: Measuring the Effectiveness of Youth Justice Interventions

| Youth justice services and programmes should: | Measurement of effectiveness | Type of outcome |
|---|--|--------------------|
| Aid personal and educational development, enhance life quality and prospects of young people | Analysis of: Description of programmes and services. Findings from monitoring and evaluation of diversion programmes. Recidivism statistics. | Outcome |
| Promote civic responsibility and pro- social development strategies | Mission statements, and the stated aims and objectives of youth justice services and programmes. Findings from monitoring and evaluation. | Outcome |
| Challenge attitudes and behaviours that underlie involvement in crime and/or antisocial behaviour | Findings from monitoring and evaluation processes. Data from the use of risk assessment tools and inventory processes. | Outcome |
| Divert offenders away from crime and the criminal justice system | Mission statements, and the stated aims and objectives of youth justice services and programmes. Findings from monitoring and evaluation; (particularly around interagency working between justice and welfare). Information about the use of risk assessment tools, inventory processes (assess the emphasis and type of information gathered using assessment tools). Youth crime statistical data. | Impact |

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