



**4th ANNUAL IRISH CRIMINAL
JUSTICE AGENCIES CONFERENCE**
(Lead Collaborator: Irish Youth Justice Service)

***“Youth Justice Policy in Ireland
-Where to next?”***



DUBLIN CASTLE CONFERENCE CENTRE
Upper Yard, Dublin Castle
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Conference Welcome and setting the scene

Michelle Shannon, Director, Irish Youth Justice Service (IYJS)

Minister, ladies and gentlemen, I would like to welcome everyone here today, particularly people who have travelled long distances to be here. We have an excellent line up of speakers and workshop presentations which I'm looking forward to hearing and I want to thank each of the presenters in advance, for taking time out of their busy lives to be here with us. I would particularly like to thank the ACJRD and Maura Butler for inviting the IYJS to host this event. I'm sure that everyone here will take something from today's conference.

The focus of today's event is Youth Justice Policy in Ireland – Where to next? Many of you here will be aware that the youth justice landscape has changed considerably since the Children Act 2001 was enacted. I think it is fair to say that the system now deals in a more coordinated way with youth justice issues. There are structures in place such as the Youth Justice Action Plan Implementation Group which was set up to oversee the implementation of the Youth Justice Action Plan 2014- 2018 which allows and enables the involvement of all the relevant criminal justice agencies, An Garda Síochána, The Probation Service, Irish Prison Service, Irish Youth Justice Service, Oberstown, and Tusla, the Child and Family Agency, in providing services to young people in trouble with the law. Since 2007 when the provisions of the 2001 Act were fully commenced and following the establishment of the Irish Youth Justice Service, we have made significant progress.

We now know considerably more about youth crime. We have reached some significant milestones such as the ending of detention of children in the adult prison system, the completion of new Children Detention Campus in Oberstown, greater use of evidence based programmes and practices, a greater acceptance of diversion from crime in the first instance, a significant drop in the numbers in detention and the development of a number of focused initiatives such as the Bail Supervision Scheme which was recently launched by Minister Zappone.

On display in the rooms outside you will find information on a number of the excellent initiatives and work underway in the youth justice area, these range from programmes underway in Oberstown, Bail Supervision, Mentoring Programmes, Youth organisations and the work underway by Children and Young Person's Services Committees.

There has also been unprecedented change in the way we work with young people. The overarching policy framework 'Better Outcomes, Brighter Futures' sponsored by the Department of Children and Youth Affairs establishes a shared set of outcomes towards which all Government Departments and Agencies must work. The establishment of Tusla as a new Child and Family Agency since 1st January, 2014, brings a new focus to how we provide services. We are increasingly informed by evidence as to what works and also by hearing the voice of the young people themselves – and indeed this is also something which we will be doing today, facilitated by Foróige.

Despite all this positive work however, there is always a need to take stock and engage with all stakeholders to assist us as we develop future policy in this area. In preparing for today's event through the Irish Criminal Justice Agencies (ICJA) Conference planning committee we

identified a number of areas where we will need to consider policy and make recommendations to the Minister. We will hear from the experts who have direct knowledge of these areas in the presentations today in the plenary sessions. The broad range of themes in the workshops will benefit from your discussion and insights, and the feedback from these workshops this morning and this afternoon will inform future policy as it is developed. Our objective is to ensure that the system operates as effectively as possible and that it (a) reduces youth offending and (b) improves outcomes for young people. Today's discussion will help us identify issues and future challenges which we need to consider and indeed is a first step in consulting with stakeholders. The feedback from this conference will assist us as we develop robust policies, and make recommendations to Minister Stanton and Minister Zappone in relation to the future direction of youth justice policy.

Personally, I am delighted to see the range of organisations and individuals represented here today and I look forward to the conference report from today's event.

Finally, I would like to thank the ACJRD for this opportunity on behalf of the Irish Youth Justice Service.



Pictured (L-R): **Maura Butler**, ACJRD Chairperson, and **Michelle Shannon**, Irish Youth Justice Service

Conference Opening

David Stanton TD, Minister of State for Justice, with special responsibility for Equality, Immigration and Integration

I am very pleased to be here today to open the Annual Irish Criminal Justice Agencies Conference. This is the fourth year of the conference which sees once again Maura Butler and her team in ACJRD working in partnership with the Justice agencies to develop the Conference Programme encompassing, what I think, will be a day of stimulating presentations and discussions. I would like to thank Maura and her team and also Michelle Shannon and her team in the Irish Youth Justice Service, which took on the lead agency role in the planning and organisation of this year's conference.

As with previous years, the ICJA Conference presents us with the opportunity to take a topic or theme and to examine it in a detailed way, having regard to the many different perspectives of a wide range of interested parties including academics, policy makers, state and non-state practitioners, non-governmental organisations and most importantly, given our conference theme, young people themselves. The tradition of informality normally associated with this conference lends itself greatly to the type of open discussions and exchanges of ideas necessary to inform our thinking about how our youth justice system might look in the future.

The context for today's conference, which has as its theme "Youth Justice Policy in Ireland – Where to Next", is the requirement in 'Tackling Youth Crime - Youth Justice Action Plan 2014-2018' to review the Children Act 2001. This Act established the legal framework for dealing with young people who commit offences. The Youth Justice Action Plan

forms part of 'Better Outcomes, Brighter Futures, the National Policy Framework for Children and Young People 2014-2020', developed by the Department of Children and Youth Affairs, with its focus on better outcomes for children and families. The Action Plan aims to progress a wide range of issues, which support the implementation of Government policy on youth crime, including crime prevention, and help to inform future developments in this field of activity.

A review of the Children Act 2001 in the first instance requires us to review the policy and practices underpinning its operation. In order to do this we must have the input of our key partners and stakeholders, including community based organisations working on the ground with young people by delivering Garda Youth Diversion Project and Young Person's Probation Project Services. I understand that a number of these organisations are represented here today. I thank them for the great work they do in preventing further anti-social and criminal behaviour by steering youths into positive activities. I encourage them to share their views and experiences of how the current youth justice system manifests itself on the ground and the issues that presents for them and the services they provide.

So turning to the Act itself, while it has been amended on a couple of occasions since its enactment, the general thrust of the legislation has remained unchanged for some time now. Where a young person under the age of 18 comes into conflict with the law, the principles of the Act apply. The Act requires the various authorities within the youth justice

system to apply incrementally a series of measures, ranging from diversion to community sanctions, with detention as a last resort.

The incremental approach taken under the Children Act to how we deal with young people who offend would seem consistent with international guidelines in this area, including those of the Committee on the Rights of the Child, which promote diversionary practices as an integral part of any youth justice system. However, we still need to reflect upon how well it has all been working in practice. For instance, what has been the experience of practitioners and young people in relation to the operation of the Diversion Programme and the Children Court and the utility of the suite of non-custodial alternatives available to the Court? What new challenges and issues have emerged over the years of the Act's operation and how well is it suited today to address them, having regard to developments in international standards and in other jurisdictions? We want to hear what works well from the legislation and the policies and practices that have underpinned its operation. What has not worked so well and why? Where problems are identified, we want to hear your ideas for addressing them and your solutions for improving and developing the system. My hope very much is for an ideas and solutions based conference so it is a real opportunity for you, the experts in this area, to offer your perspectives, your ideas and your thoughts about our next steps in the further development of our youth justice system.

While all that might sound like a lot of questions that we don't have answers to, we do in fact know quite a lot more about young people who offend than we did when the Children Act 2001 was enacted.

We know that the number of children coming to the attention of the criminal justice system is small in overall terms and that detected youth crime constitutes approximately 9% of all detected offences. We also know that the typical offending they get involved with relates to public order, criminal damage, and alcohol and drug misuse. We also know that the vast majority of young people grow out of crime. Nonetheless, the type of offending involved is a cause of concern and distress for members of the public exposed to it so we cannot ever become complacent in our approach to dealing with it.

Therefore, we continue to position ourselves well for the future by continuing to develop our knowledge and build the evidence base to inform better our decisions in relation to policy and programme planning and design. There has been an increased focus in recent years on the use of the best available evidence to support services for young people and improve their outcomes and in developing targeted interventions to divert young people from the criminal justice system. This is particularly evidenced in the decision to establish the Research Evidence into Policy, Programmes and Practice Project (known as the REPPP project) in the University of Limerick. This project is a three year partnership agreement between the Irish Youth Justice Service (Department of Children and Youth Affairs) and the School of Law, University of Limerick. The Project is essentially concerned with improving the evidence base which will offer the opportunity to make better policy, programme and practice decisions, thereby ensuring smarter investment of monies in public services, while contributing to the achievement of better outcomes for children and young people

as envisaged by Better Outcomes Brighter Futures which I referred to earlier.

As regards the task immediately at hand, a glance at the Conference Programme will show that we will be greatly assisted with our thinking by some really excellent and expert speakers. I am delighted that Judge John O'Connor is here today to provide his perspective in relation to what works and could work better in the youth justice policy area, having regard to his extensive experience in the Children Court. Professor Geoffrey Shannon, Special Rapporteur on Child Protection, will provide us with his own reflections on the current legal framework and his thoughts for future developments in that regard. Dr. Ursula Kilkelly, University College Cork and Chairperson of the Oberstown Detention School Campus, will offer us her perspectives on the question of detention and Julie Ahern from the Children's Rights Alliance will share with us some perspectives from young people. We also have Ms. Roxana Ungureanu who has travelled from Romania to be with us today to talk about the comparative policy ambitions of youth justice systems across Europe and how Ireland fares in those respects.

These presentations will then be complemented by some really interesting and hopefully thought provoking workshop sessions which will seek to have you focus on some of the practical issues associated with the operation of the legislation and how they might give rise to the need for change both in the law but also in practice. The workshop sessions will provide the opportunity for participants to share their views and experiences. We also recognise the value and importance of hearing from young people themselves and we have arranged for their voices to be heard today also.

I should say that today's discussions are but one strand of the work being done to review policy and practice in the youth justice area. The Garda Commissioner established a Review Group to examine the operation of the statutory Diversion Programme provided for under Part 4 of the Children Act 2001. The terms of reference of the Group extended to examining the application and administration of the Diversion Programme; examining relevant legislation; researching international best practice on diversion and making recommendations. I understand that the work of the Review Group is nearing completion and I look forward to hearing about their recommendations, which, in combination with the outcome of the discussions at Workshop Two, will inform possible future developments in practice and the law in the area of diversion.

I might just take the opportunity to say that a lot of good work has been and continues to be done to support the operation of the legislation through service and practice developments at local level. Just over €17 million has been allocated by the Irish Youth Justice Service to support community based crime diversion initiatives in 2017 including, Garda Youth Diversion Projects, Local Drugs Task Force Projects and Young Persons Probation Projects. It is worth noting that since 2015, all of the Garda Projects and some of the Probation Projects are being co-funded under the Programme for Employability, Inclusion and Learning (PEIL) of the European Social Fund Programme 2014-2020. This investment and support from the European Social Fund is a testament to the success of these services in tackling and preventing youth crime and promoting positive outcomes for the young people who come into contact with

them. For example in 2015 and 2016 approximately 40% of young people had achieved a higher level of education upon leaving a Garda Youth Diversion Project than they had when they first entered the project.

Another initiative recently introduced in the youth justice area that I am a big supporter of is the Work to Learn Programme, which I launched in Cobh on 29th May, 2017. This Programme is a Garda Youth Diversion Project (GYDP) based work experience initiative for young people. The programme provides those involved with valuable experience and learning, enabling them to establish a good work ethic, gain useful skills and develop as individuals, with the aim of preventing them from becoming involved in further criminal or anti-social behaviour.

The Government's investment in these community based youth justice initiatives has brought us to a point where we now have a national network of some 105 Garda Youth Diversion Projects

incorporating 5 Local Drugs Task Force Projects and 18 Young Persons Probation Projects.

Today's conference effectively kicks off the process of reviewing the legal framework. It is really encouraging to see such interest in the area and the great attendance here today. Following on from today's presentations and discussions, a conference report will be prepared, which will be an invaluable resource for everybody to reflect on and offer their further thinking about possible changes to policy and the law in this area.

On that note I wish to acknowledge the work and continued efforts of all those working in the youth justice area. I hope that today will give us all a chance to reflect on and appreciate the good work that has been done to date, and to identify positive steps for the future. I am happy to have had the opportunity to attend today, which I am certain will be an insightful and productive day for all concerned. I wish you well in your discussions.



*Pictured: **David Stanton** TD, Minister of State for Justice, with special responsibility for Equality, Immigration and Integration*

What Works and What Could Work Better in Irish Youth Justice Policy

Judge John O'Connor, Children Court

Minister, Colleagues and Delegates, it is a great privilege to be asked by the Irish Criminal Justice Agencies to address this year's conference and I would like to thank Maura Butler, Michelle Shannon and the organising Committee for the kind invitation and to compliment them on the organisation of what promises to be a very interesting Conference.

Introduction

The reasons why children commit a crime are varied and complex and what is the most appropriate juvenile justice response has long been a matter of debate. It is multi-factorial but we do know some children from disadvantaged backgrounds have complex needs and are the most likely to end up in conflict with the law.

We also know that certain personal characteristics of children are strongly associated with antisocial behaviour. As the British Medical Association in its 2014 paper *"Lives Behind Bars: The Health and Human Rights of Children and Young People Detained in the Criminal Justice System"* stated:

"Recent studies in the UK indicate that around 45% of young offenders in the youth justice system have a childhood history of Attention Deficit Hyperactivity Disorder (ADHD)"

And

"Bereavement and separation also feature significantly among children and young people who offend. A 2010 study by the Prison Reform Trust of 300 children and young people in custody and on remand showed that 12% were known to have lost a parent or sibling, approximately 60% of children in custody have 'significant' speech, language and learning difficulties, 25%

to 30% are learning disabled; up to 50% have learning difficulties and over a third have a diagnosed mental health disorder. All of these issues demand a multi-agency response and go much deeper than just the criminal justice system".

Children in Custody

It is no exaggeration to say that children in custody are vulnerable young people, and the State takes over responsibility for them at precisely the point when their needs are most acute. A very high percentage of children in the care of the State appear before the Children Court. Even more worrying is the fact that children in Special Care units appear before the Children Court. Special Care units are facilities where children who are in need of special care or protection and have complex needs are placed in a secure placement with the explicit objective of providing a stabilising period of short term care which will enable a young person to return to less secure care as soon as possible. Custodial detention is the most extreme form of social exclusion that can be imposed by the State and it must mean what it says in section 96 of the Children Act 2001 i.e. that detention is a last resort. Let me also state my own philosophy is that I accept, fear doesn't work, putting children into custody to teach them a lesson belongs to a less enlightened era and I believe *"every child matters"* is a legitimate slogan.

Fear doesn't work

I also don't share the view that if some adults were treated more harshly by the criminal justice system as juveniles they might be a better adult. The sad reality is the criminal justice system is not primarily

designed to deal with prevention: that is something that requires a much wider societal response.

Philosophical debate

The criminal justice system can however deal with the consequences of crime and how we decide that is a major challenge. Fears of youth crime often create public disquiet and there should be consequences for criminal behaviour. Victims deserve not just sympathy but a positive and constructive response to the injuries they have suffered. These public policy issues are legitimate considerations. However we do need to take a step back and consider how we as individuals involved in the juvenile justice system should respond and what are we trying to achieve. We can all identify the problems, but providing solutions is more problematic. We can debate about the aspects of the Rights / Justice v Welfare / Best interests v. Restorative Justice models we agree with but getting a more detailed response is much more complex. Let me emphasise at the outset we all have a responsibility - it is not enough to finger the blame at someone else

Historical

The Children Act, 1908 which was the law on juvenile justice in Ireland until the enactment of the Children Act, 2001 also dealt the protection of children from cruelty, exploitation and parental neglect. Children had interests, but their rights were interpreted as subservient to welfare concerns. Many of the reports in Ireland towards the end of the *twentieth* century (Kennedy, 1970; Whitaker, 1985 Ryan, 1989,) substantially covered the issues of physical, sexual or emotional

abuse reflecting the humiliation and shame of children in care of the State but the issues of juvenile justice were not substantially covered.

The United Nations Convention on the Rights of the Child 1989 (The UNCRC)

As we all know the UNCRC was the first international instrument which specifically dealt with the rights of the child and is internationally the benchmark by which juvenile justice systems are judged. The UNCRC came into force in Ireland in 1992. However it is sometimes glossed over that the UNCRC also gives substantial prominence to best interest issues as well as prominence to the rights of children.

Context

A court is the end point of juvenile justice. In Ireland, there is a well-established statutory scheme of Garda Diversion and I would like to pay a particular tribute to Superintendent Colette Quinn and her team for the work they do. However, there are some children for whom the scheme is ineffective or who have offended frequently or seriously who end up in court.

In Ireland, the Children Court is a division of the District Court and deals with all charges against children aged 12-18 years of age in respect of minor offences and the vast majority of indictable offences where the child consents. It is unique in that under section 75 of the Children Act it is the judge rather than the Director of Public Prosecutions, who, taking account factors such as the age and maturity of the child, decides the jurisdiction on most indictable offences. In Dublin there is a separate full-time Children Court which

sits five days per week. In venues outside Dublin¹ the situation is less intense and court sittings are usually held on different days and times to adult hearings. Children Court proceedings are substantially held in private, though representatives of the press may attend and report on cases. Parents, or a responsible adult, are obliged to attend with the child. There isn't an equivalent of the Children Court in the Circuit Court or the Central Criminal Court. However the proposed development of a new Children Court which will be built in Hammond Lane in Dublin and will have the facilities for jury trials will be a more appropriate venue for the 21st century.

Should Juvenile Justice Proceedings be different?

Traditional defence lawyers see their role in criminal law as “getting their client off” and there is nothing wrong with that. It is the function of the State to establish a crime has been committed beyond a reasonable doubt.

The Irish juvenile jurisprudence solution is best summed up by McGuinness J in *D.P.P. (Murphy) v. P.T* (1993) where she held that the “*real and primary issue*” before the Children Court as in all criminal proceedings, is guilt or innocence rather than welfare. The position was affirmed by Mc Menamin J who held, in *HSE v D.K. (a minor)*, having regard to the judgment of *D.P.P. v. P.T.*, that “*it is impermissible*

that there should be a hybrid form of civil/criminal proceedings in any form”-

The Committee on the Rights of the Child (C.R.C.) General Comment No 10 (2007) at paragraph 10 states:

“Children differ from adults in their physical and psychological development, and their emotional and educational needs. Such differences constitute the basis for the lesser culpability of children in conflict with the law. These and other differences are the reasons for a separate juvenile system and require a different treatment for children. The protection of the best interests of the child means, for instance, that the traditional objectives of criminal justice, such as repression/retribution, must give way to rehabilitation and restorative justice objectives in dealing with child offenders. This can be done in concert with attention to effective public safety.”

Best Interests and welfare are provided for in the Children Act 2001 to some extent. For example the court may if it considers that the child before it is in need of care and protection, adjourn proceedings and direct a Child and Family Welfare Conference. However, the welfare interventions are limited. The concept of “Best Interests” is something that historically doesn't sit easily with criminal lawyers in the Irish legal system. However, the prosecution, Gardaí, legal profession and the judge have, I submit, some role in this regard.

What should we do?

I am not advocating that the criminal courts should be used as a substitute for defects in the welfare system - quite the contrary in fact - it is unacceptable that children would be incarcerated for welfare concerns but equally it is unacceptable that very vulnerable children should be exposed to the full

¹ ¹ The Courts Act, 1924 provided that:

80.—A Justice of the District Court shall sit once a week, if requisite, in a special Court in the Cities of Dublin, Cork, Limerick and Waterford to be called “The Children's Court” and shall there deal in such manner as shall seem just with all charges against children, except charges which by reason of their gravity or other special circumstances he shall not consider fit to be so dealt with. Children herein shall include young persons of either sex under the age of 16 years.

rigours of the adversarial judicial system based on common law. Rigorous and bruising cross examination of children whether as a witness or as a defendant particularly if they have mental health or speech and language issues is unacceptable. Specific learning difficulties involving weaknesses in information processing, communications skills and memory can occur independently of intelligence and are common issues for children in conflict with the juvenile justice system.

I fully accept that ‘Welfarism’ as Professor Muncie states is just as capable of drawing more children into the juvenile justice system as it is of affording them care and protection. This is an important consideration but that doesn’t mean we should ignore the reality that children are on a developmental trajectory. The questions to children, particularly some very vulnerable children should be tailored in a child appropriate way. It is sometimes argued that procedural rules should always be observed but for some children these are incomprehensible. The situation is further complicated by the age range of children from child to near adult coming to court. Specific issues such as developmental nature of the child and behavioural difficulties make the situation more difficult.

Delay in juvenile proceedings whether from prosecution, the defence, or the court can result in the late determination of a case and more severe consequences for the child.

Sentencing

Traditionally, sentencing has been based on the five classic principles of retribution, deterrence, prevention, rehabilitation and respect for the rule of law. Like in adult sentencing the starting point for the

juvenile sentence is the seriousness of the charge. It remains largely discretionary, reflecting a commitment to individualised justice for offenders. However Section 96 of the Children Act sets out specific criteria for juvenile sentencing including, detention being a last resort, and that the sentence should maintain and promote the development of the child with the three criteria of (1) the child’s best interests, (2) the interests of the victim of the offence and (3) the protection of society. There is no legislative guidance as to what is the dominant feature though authors such as Walsh and O’Malley, international best practice and my own experience, including decided cases, reflect that best interests in sentencing is a primary factor but not the only factor in juvenile sentencing.

However, issues of “retribution” and “deterrence” occur in serious cases. This adds a layer of complexity to the statutory provisions. In particular “retribution” with its notion of vengeance should in my view be used with caution in juvenile cases.

However, I accept that the Victims’ Rights Directive (2012/29/EU) establishing minimum standards on the rights, supports and protections of victims of crime, is also an issue that needs to be addressed. In practice in the Children Court, victims are allowed to give a Victim Impact Statement to the Court or communicate their interests in accordance with section 96(5) of the Children Act 2001.

Probation officers have informed me that many children can only undertake a limited amount of community service because of their developmental age or capacity even if a similar sentence for an adult would appear quite light. Some children, because of the complexity of the

charges or their childhood issues are not suitable for restorative justice even if it remains the preferred sentence for the Children Court. Many children don't like undertaking restorative justice but the court when possible does actively encourage it.

In short, the exercise of judicial discretion is essential if there is to be any individualization of sentencing. In this regard it is acceptable that some children may get different sentences for the same type of crime but in these cases the judges should explain the reasons for the differences.

Changes in the District Court

In regards to the District Court, President Rosemary Horgan has expanded on the existing judicial shadowing for all District Court Judges in the Children Court and the judges have followed this up with visits to Oberstown Detention Centre. Judges now also engage in detailed seminars and lectures on a variety of child related issues such as, attachments, voice of the child, mental health and sentencing. We piloted a practice direction for the Children Court in Dublin and launched a Bench Book on juvenile justice which has had some success.

Professional Development

However, we all need to upskill. I would like to commend the Kings Inns for its excellent diploma course in juvenile justice and equally recommend the proposed juvenile justice certificate course that the Law Society intend to commence this autumn. Professor Ursula Kilkelly who has pioneered the academic study of juvenile justice for over twenty years deserves particular recognition but I also note there is a growing body of excellent academic research emerging in the various Irish universities. This

accumulated knowledge coupled with practice wisdom will hopefully lead to better practice development in the Irish Courts. I also note the substantial and welcome changes in Oberstown Detention Centre, the active involvement of the Department of Children and Youth Affairs, the substantial innovations made by Irish Youth Justice Service and the co-operation of the Department of Justice. I also wish to particularly acknowledge the Probation Service who produce comprehensive reports in four weeks and without which the Children Court couldn't exist, the Prison Service, the very friendly and helpful Court Registrar John Callaghan and staff and Gardaí (particularly the Garda case managers and JLO officers). Professor Geoffrey Shannon has made a particularly unique contribution to child law and is very supportive of the changes made. Tusla (The Child and Family Agency) have in my view a much more collaborative approach to cases in recent years than when I started in Court 55 (the Dublin Children Court) and this should be acknowledged.

In general, therefore, there is a greater awareness of a separate juvenile justice system and there is a much enhanced professional approach by the majority of the people involved in the criminal justice area. This applies across the board in regards to professionals working in this area. There is also a very good relationship among the various parties involved, aided also by conferencing, meetings etc.

Children Court Practice

The Children Court Practice Direction [DCO4] for the Dublin Metropolitan District Court is generally working well and is aimed at providing a less intimidating venue for children.

In relation to Bail, there is a much greater awareness by all involved in the justice system that it is a right for a child and that bail support is the way forward. The Bail Support Scheme which has been piloted in the Children Court in Smithfield by Irish Youth Justice Service through Extern has had some significant success. While it hasn't worked for every child, it demonstrated that the vast majority of parents engage, contradicting the erroneous perception that the parents of children in trouble with the law are dysfunctional.

There are no court delays or long waiting lists in the Children Court in Dublin - you can get a trial date in four weeks if required. The issues concerning prosecution delay has improved.

While there are some court users who have limited contact with juvenile justice issues and just see it as an extension of the adult adversarial system, the majority of court users respect the differences and are genuinely interested in the welfare as well as the rights of the children they prosecute or defend

More to do

By way of a sample only

1) The Guidelines on children in contact with the justice system prepared by IAYFJM² pointed out that greater efforts should be made to have both parents present and involved in all aspects of the criminal law process particularly in their attendance in court. They can make key contributions towards the solution of some of the problems for which a child may be brought before a court. The absence of a parent even if separated or

divorced should be viewed as a problem to be addressed and solved, not as a mere situation to be acknowledged. This applies even if a parent has addiction issues. Exceptional situations can arise but it should be specific e.g. where the child has been a victim of his or her parents' behaviour or where parents have a conflict of interest with their child. On the other hand, there should be no punishment of parents for the offences committed by their children and parental supervision orders should be abolished. They are ineffective in practice and it isn't acceptable internationally to criminalise parents of children in conflict with the law. These types of orders are unlikely to contribute to parents becoming active partners in the social reintegration of their child.

While the Children Court does grant Section 91 (Children Act 2001) warrants where appropriate to compel a parent to attend court, they are granted as a last resort.

Encouragement from defence solicitors, Gardaí and the Child and Family Agency is a preferred option and is generally more effective than court intervention. The experience of the pilot Bail Support Scheme shows that the majority of parents of very troubled children will actively engage with supports if encouraged.

2) We need in juvenile justice generally a greater emphasis on specialisation, accreditation and training and legal aid should in my view be prioritised towards accreditation.

3) A greater emphasis on multidisciplinary approaches is needed for vulnerable children particularly children in care of the State, including children in special care

² an International Working Group of the International Association of Youth and Family Judges and Magistrates

units and children with mental health issues. This is to recognise that many of the children involved in the justice system have issues that go beyond legal issues. Legal aid should be provided.

A revision of the supports provided by the various agencies should be carried out. In particular we need to look at the provision of speech and language therapy for children who offend. This matter is an important topic in the United Kingdom and should also be on the agenda here. I do appreciate the matter is addressed in Oberstown but I am focusing here on the Children Court.

4) The professions (preferably jointly) should prepare guidelines for their members acting for children in contact with the juvenile justice system to take into account both rights and welfare concerns.

5) We need to review existing sentencing in the Irish juvenile justice system and focus on the legislative requirements. However, we also need to look at the existing community sanctions in the Children Act. Some are obsolete (e.g. only one of the four types of probation orders is in operation). Others are too rigid e.g. detention and supervision orders. In addition, legislative reform should allow judges more opportunities to impose non-recordable sentences, particularly for non-violent offences. An analysis of restorative justice programmes would be useful - why, for example, does it work for some children and not for other children? I do acknowledge that The Probation Service is very good at including a restorative justice element in a probation package proposal for a probation bond where appropriate.

6) Be wary of suspended sentences for children!

I am not saying “never”, but unfortunately for some children it gives the initial impression that they have “got off” subject to reprimand. However there are potential serious consequences.

Writing in 1982, Professor W.N. Osborough stated:

“Serious practical difficulties arise in connection with the suspension of custodial sentences for youths and juveniles. The relevant legal provisions set minimum and maximum ages for committals and these must risk violation where the possibility is envisaged of the lifting of a suspension after a period of, say, a year or eighteen months. So formidable an obstacle has not managed to deter a few Irish sentencers, but its presence, together with the availability of alternative forms of sentence for the young deemed more acceptable, helps to explain why suspended sentences on members of this large criminal age-group appear to have been relatively rare.”³

7) It is proposed that the Bail Support Scheme will be extended to non-custodial remands and this is very welcome. However, it should also be extended to children in the care of the State who are not currently eligible for this service.

8) A revision of the existing court procedures (particularly charge sheets); the summons system and the multiplicity of these documents would be most welcome. The present system appears to be a hangover from the 19th century. It is costly, time consuming and burdensome

³ Osborough, W.N. (1982) ‘A Damocles’ Sword Guaranteed Irish: The Suspended Sentence in the Republic of Ireland’, *the Irish Jurist* 17(2), p. 234.

for all involved and most particularly for the children who appear before the court.

9) A general review of court facilities for young offenders and victims of crime should be carried out. In this regard the provision of a new Children Court in Hammond Lane, Dublin, is a very good start.

10) Finally we live in a multicultural, multi-ethnic, multi-faith society and the juvenile justice system needs to embrace the new Ireland and value the multiculturalism that has evolved organically in many urban areas.

Thank You



Pictured (L-R): **Professor Geoffrey Shannon and Judge John O'Connor**

Reflections on the Irish Legislation

Professor Geoffrey Shannon, Special Rapporteur on Child Protection

Thanks very much, Maura, for that very generous introduction.

It is an enormous pleasure for me to be here this morning to share with you a number of reflections on the Children Act 2001. Maura is a great colleague of mine, as indeed is Michelle Shannon. I would like to start off by acknowledging the outstanding work undertaken by the Irish Youth Justice Service, led by Michelle Shannon. Sometimes the people behind the scenes don't get the credit for the seismic changes that have occurred in a relatively short period of time. I'd just like to take the opportunity, publicly, to acknowledge Michelle's work. Michelle is one of those people who you work with who is very calm and is always willing to listen. I have enjoyed working with Michelle over a period of a decade. Year on year I review the area of youth justice as part of my rapporteur work. What is interesting is that there is very significant incremental change, ranging from outlawing the placement of children in St. Patrick's Institution to the Bail Supervision Scheme, which I feel particularly proud of because I suggested this in my fourth rapporteur report. Sometimes when you write reports you wonder do they just gather dust but I feel confident that when reports are presented to this unit that they are very positively received. The recommendations may not always be implemented in full but I feel that you get a fair chance at them being considered in a meaningful manner. Michelle, we all owe you a huge debt of gratitude for the work that you lead on behalf of the Irish Youth Justice Service.

I wish to share with you this morning a number of reflections on the roll out of

the Children Act 2001. When the Act was introduced it was a paradigm shift. The Act reflected a large number of reports in this area from the Kennedy Report in 1970, to the Henchy Report (1974), the Whittaker Report (1985), and the report of the Dáil Select Committee on Crime. The 2001 Act was an attempt to modernise our criminal justice system insofar as children who are in conflict with the law are concerned. The fact that it took us nearly a century to do that shows how very vulnerable children were neglected by Irish society. In fact, when the Act was fully rolled out, it was virtually an entire century since the 1908 Act was introduced. It is fair to say that it was a very significant development because it provides us with a modern statutory framework for dealing with Juvenile Justice. I was very interested in hearing Judge John O'Connor talking about conferencing and I share Judge O'Connor's views that the conferencing provisions are under-utilised.

Prevention and Intervention

I passionately share the Minister's sentiments this morning about prevention because we succeed when we prevent children from entering the Criminal Justice System. I have often felt that early intervention is something that we pay lip service to and what we now need to look at is how we actually can pull children back from the brink and, in terms of reforming the Children Act of 2001, I am suggesting that should be done in conjunction with the reform of the Child Care Act because there are sections in the Children Act 2001 which should not be placed in the 2001 Act. I am referring to children with emotional and behavioural problems and children needing special

care. We should not be placing these children in a statute designed to deal with the area of Criminal Justice.

Practice Directions

I would also like to acknowledge the work of the District Court, not only in this area but in the Child Care area. The District Court has a pivotal role in the context of Child Care. It is a court of original jurisdiction and I would like to pay particular credit to the President of the District Court, who is here today, who actually has championed the delivery of written judgments in this area. It is very instructive because what you get is very valuable jurisprudence and very valuable insight. As part of my work as rapporteur, what I've been trying to do is track the District Court decisions because they are very substantive and they provide valuable insight. I'm delighted to see the Secretary General of the Department is here this morning. I think that the Department of Children has been such an enormous resource for children because it has given us a stand-alone department that focusses on children. Judge O'Connor referenced the two practice directions that have been drafted. These practice directions are important because when it comes to a key issue in the area of juvenile justice, and indeed in the area of justice in general, these cases must be dealt with expeditiously. I refer to two interesting decisions, *Donohue v. DPP* and *BF v. DPP*, where the issue of delay surfaced. Justice delayed is often justice denied. Both decisions point to delays within the system and the practice directions succeed in providing us with a road map as to how these cases should be dealt with.

Socio-Economic Context

The 2001 Act is a major step forward. It has a comprehensive strategy on

restorative cautioning and conferencing and the philosophy underpinning the Act is that children in conflict with the law should be treated as children first and detention should be a measure of last resort. This principle is reflected in Section 96 of the Children Act and Section 143 of the Children Act. This approach needs to be delivered on, not just in one case but in every case. I also feel sometimes we fail to examine the socio-economic context that encourages deviant behaviour and that perhaps needs to be reviewed.

I share Judge O'Connor's view on section 111 to section 114 of the 2001 Act which deals with sanctioning failed parenting. This approach does not generate any significant results and is meaningless. We need to encourage parents. There are broader societal issues, such as alcohol and substance abuse. What as a society can we do to prevent parents from abusing substances and alcohol? That is a key challenge for us because the best hope for our children is to have adequate support for their parents. I come from a strong family support background but family support in my opinion should not rank as a poor third to Child Protection and alternative care in the battle for resources and professional times. What we need to do is redouble our efforts on that front.

Children in the Criminal Justice System

If we look at where children fit within the entire criminal justice system, children represent about twelve per cent of the total European population facing criminal justice. Maura had asked me last week to make sure I covered the 2016 Directive which Ireland isn't directly a party to, but it does provide us with interesting principles, and I know my colleague is going to touch on some of those directly after my presentation, but the justice

system needs to account for children's vulnerability and there should be no distinction in fair trial rights between types of offences. What concerns me about the Directive is the political compromises. There seems to be a suggestion in the 2016 Directive that children who commit lower grade offences will not receive the same fair trial rights and will not receive the same information. I have to say I do not subscribe to that view because I think any child accused or suspected of a crime is entitled to have the same legal protections available to him or her.

The other key issue is how we engage in robust preventative strategies. It is important that we prevent children at risk from engaging in various forms of anti-social behaviour. Moreover, it is essential that agencies working in this general area cooperate with each other in a manner that meets the needs of the child, as paramount. I've been critical of some of the solutions sometimes because they have been generic solutions. We need the supports that we put in place to prevent children becoming involved in crime to be flexible. I am a strong advocate of multi-disciplinary practice because it ensures less system-inflicted trauma, better decisions, more appropriate outcomes and more efficient use of resources.

Certainly I would argue that the area of youth justice is a good example of where agencies work effectively together and could be used as a template in other areas. I would like to congratulate the ACJRD because I think the Conference this morning is a bringing together of all of the Agencies to have a discussion on how best to move forward for children in conflict with the law.

Age of Criminal Responsibility

In 2006, under the Children Act 2001, the age of criminal responsibility in Ireland was raised from seven to twelve years, so that no child under the age of twelve can be charged with an offence, except where charged with very serious offences, such as murder or rape, in which case the age is set at ten years. The consent of the Director of Public Prosecutions must be given before a child under the age of fourteen years can be charged.

The approach to the minimum age of criminal responsibility in Ireland, as it is in many countries, is highly illogical. The law deems children incapable of consenting to sexual activity until the age of seventeen years, and prohibits the drinking of alcohol until eighteen years, yet children as young as ten years are essentially held to have the necessary mental development to knowingly and intentionally engage in a criminal act.

We have learned from neurobiology in recent years that our brains do not reach full maturity until our mid-20s.¹ The research emphasises that across the teenage years, there is enormous capacity for change and development in the brain,² pointing to the potential, for example, to assist children who have suffered adversity in early life and consequently engage in offending, and to deflect them from such offending. Commentators have pointed to neurological evidence that children are generally not as capable as adults when it comes to decision-making because developments in the brain are ongoing into adulthood. Children are also

¹ See e.g. Jay Giedd, "Structural Magnetic Resonance Imaging of the Adolescent Brain" 77 *Annals of the New York Academy of Sciences* 1021 (2004).

² See http://www.pbs.org/wgbh/pages/frontline/shows/teen_brain/interviews/giedd.html (last accessed 10 October 2016).

more likely to make poor decisions on the spur of the moment (for example under peer pressure), than they are in an environment when they have time and support to make a good decision. Some have argued then, that the minimum age of responsibility for criminal acts should be set higher, rather than lower, compared to other types of autonomy rights (e.g. instructing a solicitor), as the context in which criminal acts are carried-out often involve spur of the moment decisions.³

We have an obligation to protect vulnerable children, and if a child has engaged in a serious offence such as murder or rape under the age of ten years, it is clearly symptomatic of a serious child protection issue in the child's life. Furthermore, the fact that no child aged ten or eleven has been charged with such an offence under the relevant legislation is indicative of how unusual it would be for it to occur, and consequently the extent to which a child would be in need of assistance if he or she were engaging in this type of behaviour.

Yet the more important point is that there are those under the age of eighteen who are being charged with and convicted of crimes, and they are being treated punitively rather than therapeutically or protectively. To argue that a high minimum age of criminal responsibility is to be set is not to suggest that nothing should be done when a child commits a crime, but instead to recognise the fact that children who commit crimes require assistance, rather than punishment, not least to prevent them from offending again, which is in everyone's interests. There are many good examples

³ See e.g. Emily Buss, "What the Law Should (And Should Not) Learn from Child Development Research" 38 *Hofstra Law Review* 13 (2009).

internationally of systems that adopt the principle of assisting children rather than punishing them. The overriding principle in Sweden is that interventions should be based on the needs of the child rather than the crime.⁴

Ireland has been called upon repeatedly at UN level to amend the minimum age of criminal responsibility.⁵ The Committee on the Rights of the Child has recommended in its recent report that Ireland set the age of criminal responsibility at fourteen years for all offences.⁶ In particular, the Committee on the Rights of the Child asserts that multiple ages of criminal responsibility, which at present exist in Ireland, whereby younger children will be held responsible for more serious crimes, is not permissible.⁷ Ireland should change the age of criminal responsibility to at least the age of fourteen years as advocated by the UN Committee on the Rights of the Child, and put in place adequate support both for children in conflict with the law, and victims of any crimes they may commit.

Scotland Raises the Minimum Age of Criminal Responsibility

The Scottish government has announced that it is raising the age of criminal responsibility to twelve years.⁸ In

⁴ See further Youth Justice Board [England and Wales], *Cross-National Comparison of Youth Justice* (Youth Justice Board, 2008).

⁵ See e.g. Human Rights Council, *Universal Periodic Review Report of the Working Group on the Universal Periodic Review: Ireland A/HRC/19/9* (21 December 2011), at 21.

⁶ Committee on the Rights of the Child, *Concluding Observations on the Combined Third and Fourth Periodic Reports of Ireland*, para. 72.

⁷ Committee on the Rights of the Child, *General Comment No. 10: Children's Rights in Juvenile Justice*.

⁸ BBC News, "Scottish government to raise age of criminal responsibility" *BBC News* (1 December 2016). Available at <http://www.bbc.co.uk/news/uk-scotland->

Scotland at present, children can have a criminal record as young as eight years old, although children of this age are dealt with through the children's hearings system.⁹ Child protection and most youth justice proceedings are conducted in the same venue. It involves a more informal hearing run by highly trained lay people, with the ethos that all children coming to hearings require care and support. The children's hearing system is an example of the manner in which a holistic approach is taken in Scotland in responding to the needs of children including those in conflict with the law.

An Advisory Group was established by the Scottish government in 2015 to consider issues relating to the minimum age of criminal responsibility. The Group made recommendations to raise the minimum age of criminal responsibility from eight to twelve years, and to implement safeguards to reinforce victim and public confidence. The Group has further recommended that where children under the age of twelve engage in harmful behaviour the focus should be on child protection and addressing risk rather than a punitive approach. Police should continue to investigate alleged incidents, but new procedural safeguards based on child protection standards should be employed, rather than those from criminal justice, to support children through such investigation processes. The Scottish Government is at present considering these further recommendations.¹⁰

[scotland-politics-38160549](#) (last accessed 10 December 2016).

⁹ The minimum age of prosecution was set at 12 years in the Criminal Justice and Licensing (Scotland) Act 2010.

¹⁰ Scottish Government, *Consultation on the Minimum Age of Criminal Responsibility* <https://consult.scotland.gov.uk/youth-justice/minimum-age-of-criminal-responsibility/consult> view (last accessed 10 December 2016).

The age of twelve as a minimum age of prosecution was chosen in Scotland for a number of reasons. Offending by children under this age is very rare.¹¹ Furthermore twelve years is the age set as the very lowest acceptable minimum level by the UN Committee on the Rights of the Child; although fourteen to sixteen years is preferred, and states are expected to progressively raise the age of criminal responsibility from age twelve.¹² The Scottish government also argues that it reflects the age in Scotland at which children are presumed to have capacity to instruct a solicitor and to consent to an adoption order. The Advisory Group on the Age of Criminal Responsibility recognised that there are arguments in favour of raising the age of criminal responsibility above twelve years but was asked only to consider that age.¹³

Flexibility in dealing with Indictable Offences

The other issue, and again touched on by Judge O'Connor, is, I would argue, that there should be a greater discretionary power to deal with indictable offences in a summary manner. That would give much greater flexibility to the Children's Court in actually preventing children from becoming involved in the criminal justice system. Ultimately, it is a downward irreversible spiral for children once they embark on a life of crime and what we need to do again is to pull children back from the brink.

Should we provide a lower tariff for young adults?

The other challenging question is "*Should we provide a lower tariff for young*

¹¹ *Ibid.*

¹² Committee on the Rights of the Child, *General Comment No. 10: Children's Rights in Juvenile Justice* CRC/C/GC/10 (25 April 2010).

¹³ Scottish Government, *Consultation on the Minimum Age of Criminal Responsibility*.

adults?”. There is a very interesting decision of the US Supreme Court, *Roper v. Simmons* (2005), which looks at this issue of deviant behaviour, that children are more susceptible to immorality, that young adults are vulnerable and lack control over their environment, and they struggle with their identity but are more likely to reform. All of these issues leave children and young adults more susceptible to crime and I think that’s a real challenge for us because, as a society, what we must try to do is to keep children and young adults out of the criminal justice system for as long as possible.

Family Conferencing

That brings me to family conferencing. I think the real innovations in the 2001 Act were the three conferences established - Family Conference, the Diversion Programme and the Probation Family Conference. Conferencing provides a framework for the child, the family and the appropriate agencies to find solutions. It is to be welcomed in that the emphasis is on consensus and partnership, and it is a participative model. I would argue that we need to go further because it is only convened when crisis intervention is necessary. We need to look at what early intervention really means. Early intervention means investing in communities, investing in community projects, and not when a child commits a crime. That, Minister, is a government response in terms of how we can invest at a local level in communities to prevent children engaging in criminal behaviour in the first place. That involves expenditure. I spoke recently at a Conference in the UK where they were talking about investing €70 million in this type of support. You are investing in the communities to prevent children engaging in antisocial behaviour. I was one of the people opposed to the introduction of Antisocial

Behaviour Orders because they were a very reactionary response to a problem that didn’t really exist. If we look at the number of Antisocial Behaviour Orders that have been granted, you will see that the research was not undertaken to justify introducing a draconian measure to deal with a problem that was more apparent rather than real.

Restoration

Our entire focus has to be on restoration rather than retribution. Judge O’Connor referred to suspended sentences. Earlier this year an Act was introduced to deal with a decision of the High Court in the case of *Moore & Others*. I do not believe this legislation goes far enough, Minister, and I’ll tell you why. What we need is much more substantive change on suspended sentences. The facts in that case were that you had six separate individuals who had committed offences. Each had suspended sentences that were operative at the time they committed the second offence. What we need to ensure is when in fact a sentence is imposed that there is an opportunity to challenge that sentence. In this case, the defendants had no basis to challenge the reactivation of the suspended sentence and the revocation of the suspended sentence took place without the applicants having been afforded an appeal to the triggering conviction. The entire area of suspended sentences was introduced in Section 99 of the 2006 Act and what I’m suggesting is that it has been bedevilled by problems and what we now need to look at is a root and branch review of suspended sentences. Yes, this piece of legislation is very welcome but all I’m suggesting is that it should be a much broader review of the area of suspended sentences.

Community Sanctions

Section 115 of the Children Act 2001 provides for community-based sanctions which greatly increase the non-custodial options available to the court and assist in ensuring that custodial sentencing is treated as a measure of last resort. A community sanction means that the child will receive an order from the court to do some service in his or her community or attend a particular programme, thereby permitting the child to stay both at home and in his or her school.

There are ten community sanctions set out in section 115 of the 2001 Act:

- (a) a community service order for a child of sixteen or seventeen years of age,
- (b) a day care centre order,
- (c) a probation order,
- (d) a probation (training or activities) order,
- (e) a probation (intensive supervision) order,
- (f) a probation (residential supervision) order,
- (g) a suitable person (care and supervision) order,
- (h) a mentor (family support) order,
- (i) a restriction on movement order, and
- (j) a dual order.

Pursuant to section 116 of the 2001 Act, prior to making an order imposing a community sanction, the court must have considered a probation or other report and have heard the evidence of any person whose attendance it may have requested, including any person who prepared such a report. In addition, the court must give the child's parent, guardian or spouse, if present in court, or other adult relative, an opportunity to give evidence. Only then may it impose on the child a community sanction, if it considers this sanction as the most suitable way of dealing with the case.

Given that the nature of a community sanction requires a level of co-operation from the child, the court must explain to the child why the order is being made, what it entails and what is expected from the child. Where the child does not express a willingness to comply with the sanction, the court is given the option of dealing with the case in another way, but as always in relation to children - detention is to be the last resort. Section 117 of the Act enables the court to attach general conditions to a community sanction order, such as requirements relating to school attendance, limiting the child's presence at children premises and prohibiting the consumption of alcohol.

Community Service Orders

Community service orders are one of the community sanctions which the court has jurisdiction to impose on a juvenile offender. As discussed by O'Malley, community service orders have a number of clear advantages. They have the capacity to save offenders from the experience of detention; they allow for some measure of reparation to the community; and they are far more cost-effective than imprisonment.¹⁴ The cost of imposing a community service order is at least 66% cheaper than imprisonment and in some cases this escalates to approximately 89% cheaper.¹⁵ A community service order may be imposed on children aged sixteen and seventeen who have been convicted of an offence, only where the court is of the opinion that the appropriate sentence would otherwise be one of detention in either a children detention centre or a children detention school. A community service report is presented to court outlining the

¹⁴ O'Malley, *Sentencing Law and Practice* (2nd ed., Thomson Round Hall, 2006) at p.478.

¹⁵ Irish Probation Service (2011) Annual Report 2010.

child's suitability for this community sanction and it will also detail any proposed conditions of the community service order. It will outline if the child is fit and able to carry out a community service order and if he or she consents to complete the proposed order. Once made, this order may require the offender to work, unpaid, for a minimum of 40 hours up to a maximum of 240 hours in any twelve month period. It is thought that the imposition of these orders will help juvenile offenders to understand the impact of their actions on others, give back to the communities they have harmed, develop their skills, and raise awareness of their own self-worth.

Unfortunately, the use of community service orders in the sentencing of juvenile offenders in Ireland is relatively limited. According to the 2014 Annual Report of the Probation Service and its statistics in relation to young persons, in 2014 there were 775 new referrals made by the courts to the Probation Service for probation (pre-sanction reports). Only nine of these pre-sanction reports were specifically directed to consider community service as a possible sentencing option and there were only fifteen referrals for community service reports in that year. In light of the lack of emphasis on community service by the courts when ordering reports to guide them in their decision-making, it is unsurprising that only twenty community service orders were made in respect of young offenders in 2014, down from thirty-five in 2012.

Imaginative New Programmes

In general, community service work can include: ground clearance work and general gardening projects; graffiti removal; environmental work; recycling projects; basic building maintenance and

landscaping; improvements to park and community facilities; painting and decorating in community centres; assisting voluntary and community clubs, facilities and bodies; working with individuals or groups in need; and supporting local initiatives. In respect of juveniles, it is recommended that more imaginative community service programmes be introduced specifically designed to develop the skills and interests of each individual young offender, while simultaneously benefiting his or her local community. Community service needs to interest and engage young persons if they are to be found willing to partake in such programmes.

Consideration might be given towards allowing young offenders carry out their community service by directing them to engage in an area of specific interest to them. This may include volunteering with their local GAA or soccer club, assisting with a mixed martial arts (MMA) or boxing organisation in their area or helping in a youth club, dance or drama school or musical society. Each programme should be catered to the individual offender. Whatever their chosen area of interest, the community service programme might include an element of learning - to help the young person improve his or her knowledge and skill with respect to his or her area of interest, an element of work - to ensure the offender appreciates the hard work involved in the organisation of activities, whether by preparing gyms or cleaning changing rooms, and an element of teaching - by allowing the juvenile offender become involved with younger members of the club/organisation, teaching and assisting them in their training and development. Such innovative programmes may increase the court's reliance on community service as an alternative to detention and may

increase the willingness of young offenders to partake in such community service. Involvement with such activities may also improve the employability of juvenile offenders and assist in breaking the cycle of offending, providing them with valuable structure and routine. Innovation in this area is undoubtedly required if community service for young persons is to be readily regarded as a viable alternative to detention.

Probation Report

Section 99 of the Children Act deals with the procuring of a probation report. There was a very interesting decision of *Robert Allen v. Governor of St. Patrick's Institution* and also *Mooney v. Governor of St. Patrick's Institution*. In *Robert Allen v Governor of St Patrick's Institution*, the High Court considered the lawfulness of the detention of a minor.¹⁶ The applicant in this inquiry under Article 40.4.2 of the Constitution was serving a four-month sentence. His detention was challenged on the ground that there was a mandatory requirement on the District Court to request a probation report before imposing a period of detention on an underage individual. It is necessary to first set out the facts of the case.

The applicant was seventeen years of age. He appeared in Limerick Children's Court in November, 2012, where he pleaded guilty to a number of offences relating to burglary and section 112 of the Road Traffic Acts. A plea in mitigation was delivered to the court by the applicant's solicitor and a doctor's letter was handed into court, indicating that the applicant had a diagnosis of Autistic Spectrum Disorder, Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder. At this point, the District Court

Judge stated that he was minded to request a report from the Probation and Welfare Service. The solicitor for the applicant, however, informed the court that the applicant had instructed that he would not cooperate or liaise with the Probation Service and told the court that on the basis of his instructions, there was no value in the court directing the preparation of a report. Proceeding to sentence, therefore, the District Court Judge imposed four months' detention on the applicant.

An application was then brought pursuant to Article 40.4.2 of the Constitution. It was claimed by the applicant that he was in unlawful detention as he had been sentenced without a probation report having been ordered and the District Court Judge, being under a statutory duty to order such a report, was therefore in breach of section 99 of the Children Act 2001. The respondent argued that the detention was lawful despite the obligation on the court under section 99 to order a probation report, in circumstances where the applicant had discouraged the preparation of a report. As the purpose of probation reports is to assist the court in determining the appropriate sentence to be imposed on an offender, the applicant's intention not to engage with the Probation and Welfare Service would have defeated this purpose and therefore it was unnecessary for the District Court Judge to order its preparation. Furthermore, the respondent contended that the applicant had lost his right to object to the court's failure to order a probation report where he failed to request one and actually frustrated the formation of a report. The respondent relied upon the principles enunciated by Henchy J. in *State (Byrne) v Frawley* to emphasise the submission that the applicant had lost his right to make

¹⁶ [2013] 1 I.L.R.M. 181.

this objection now, having failed to do so in the District Court at the time of sentencing.¹⁷

In response, it was argued on behalf of the applicant that the obligation imposed on the court by section 99 of the Act must be construed in the context of its purpose and having regard to other sections of the 2001 Act, in particular sections 96 and 143 which emphasise that detention of a child is to be the last resort. It was contended that the District Court Judge failed to comply with the statutory obligation placed upon him under section 99 and given the statutory scheme of the 2001 Act, and in particular the aforementioned provisions, this was a default of fundamental requirements. The applicant submitted that a court cannot be lawfully dissuaded by a child or his solicitor from requesting a report prior to making a decision on sentence and that section 99, properly interpreted, requires a judge to request a report, irrespective of the child's wishes.

Finlay-Geoghegan J. held that the applicant was not lawfully detained in St Patrick's Institution. The court stated that section 99 of the Children Act 2001 imposes a mandatory obligation on a court to obtain a probation report in respect of a child prior to imposing a sentence which involves, *inter alia*, a period of detention. In the absence of a probation report, a court does not have jurisdiction to impose a sentence which involves a period of imprisonment. The court stated:

'...it does not appear to me, having regard to the statutory scheme, and in particular, the purpose of a report as a tool in formulating an appropriate sentence in accordance with the requirements of s.96,

that "a period of detention should be imposed only as a measure of last resort", and the prohibition in s.143 against making an order imposing a period of detention unless it is "the only suitable way of dealing with the child", that a court may be lawfully dissuaded from requesting a probation report. Section 99, in my judgment, mandates the requesting of a report irrespective of the attitude or wishes of a child or his solicitor.'

The court recognised that where a person freely and knowingly elected not to make a particular objection at trial, he might subsequently be considered to have lost his right to make the objection. Where it is alleged that a free election frustrated the making of an objection of jurisdiction or equivalent, the court is to look at whether the evidence supports that the election was "freely and knowingly" made. As the applicant in this case was a minor and a vulnerable person given his diagnosis, Finlay-Geoghegan J. was not satisfied that the applicant had waived his statutory right under section 99, such that the right could not be raised.

Ultimately, the court determined that the failure of the District Judge to order a probation report prior to imposing a sentence of detention was a default of a fundamental requirement in the statutory scheme enacted by the Oireachtas regarding the sentencing of children as provided in sections 96, 99 and 143 of the 2001 Act. The sentence was not imposed in accordance with law and it did not constitute a *bona fide* exercise of the court's jurisdiction. Pursuant to Article 40.4.2, therefore, the court ordered the applicant's release.

Implications of Robert Allen case

From a child protection perspective, the decision in *Robert Allen* is to be

¹⁷ [1978] I.R. 326.

welcomed. The High Court has clearly recognised that the obligation to order a probation and welfare report under section 99 of the 2001 Act is a mandatory one and young offenders who could face a period of detention must be given the opportunity to engage with the Probation Service. Even in a situation where a child is informing the court that he or she will not cooperate with a probation officer in the preparation of a pre-sanction report, the court is mandated to make an order under section 99. In this way, the interests of young offenders are protected and their misguided refusal to cooperate, whether as a result of their youth, inexperience or vulnerability, will not deprive them of the chance to address their criminal activity with an experienced probation officer.

The High Court judgment in *Robert Allen* is of increased importance in light of the decision in *Mooney v Governor of St Patrick's Institution*. In that case, as discussed above, it was made clear that where a probation report is ordered and a child fails to cooperate with its preparation, whether through non-attendance at appointments or otherwise, there is no obligation on the court to further adjourn the case to give the young offender another opportunity to engage with the Probation Service. A pre-sanction report which simply lists the probation officer's failed attempts at meeting the child was regarded as completed for the purposes of section 99 of the 2001 Act, despite the lack of any substance in the report. This decision emphasises that a court may adjourn a case to enable a child a further opportunity to meet with his or her probation officer but that it has a discretion not to where the offender's explanation for his or her previous lack of cooperation is not accepted by the court.

Regarding such a scant report as that provided to the court in *Mooney* as sufficient to meet the obligation in section 99 is worrying. Clearly the purpose of a probation report ordered under section 99 is to aid a court in determining the appropriate sentence and to assist it in determining an alternative way of dealing with the child to imposing a period of detention. Whether a report which contains almost no content really fulfils this purpose is questionable, however it is evident from this decision that where a child does not take the opportunity to engage with the Probation Service, the court may legitimately refuse to give him or her more time to do so and may solely have regard to the brief report prepared. In light of the *Mooney* decision, Finlay-Geoghegan J's judgment in *Robert Allen* is helpful in that it makes clear that a probation report must be ordered by the court where the circumstances in section 99 apply regardless of the wishes of the child. A court cannot properly be persuaded to refrain from ordering a pre-sanction report and a child's indication that he or she will not cooperate in the preparation of such a report will be disregarded as irrelevant. Notwithstanding the child's aversion to a report, the decision in *Robert Allen* gives the young offender a chance to engage with the Probation Service and potentially address his or her criminal behaviour to his or her benefit, whether he or she desires the report or not. In essence, while *Mooney* has demonstrated the negative consequences that may flow from a young person's lack of cooperation in the preparation of a probation report, *Robert Allen* prevents any harmful effects stemming from an indication by a young offender that he or she will not cooperate with the Probation Service - it cannot affect the decision of the court to order a report under section 99.

One recommendation regarding the decision in *Robert Allen* might be made. The court stated that where the offender “freely and knowingly” elected not to make a particular objection at trial, he or she might subsequently be considered to have lost his or her right to make the objection. This leaves it open to a court to consider the circumstances in which a young offender did not take issue with the trial judge’s failure to order a probation report and assess whether he or she freely and knowingly decided not to object to the court’s decision. It is submitted that no juvenile should be regarded as capable of waiving his or her statutory right under section 99 and whether he or she freely and knowingly refrained from objecting to the court’s course of action should be irrelevant. In this regard, section 99 might be amended to include a provision in which it is emphasised that a minor cannot, under any circumstances, waive his or her right to have a probation report compiled under section 99 of the 2001 Act.

Detention

For child offenders, the imposition of a sentence of detention is a measure of last resort. Despite this guiding principle, however, a number of young persons are detained in this jurisdiction. It is imperative, therefore, that they are properly treated therein. Until recently, a child could be ordered to be detained by the court in either a detention school or in Saint Patrick’s Institution in Dublin. In my Fifth Report, I repeated my concerns about children being detained in Saint Patrick’s Institution - an adult facility alongside adult offenders.¹⁸ Those aged fifteen years and under were sent to the detention schools, where a model of care,

education and rehabilitation was adopted. For sixteen and seventeen-year-olds, however, their detention took place in Saint Patrick’s Institution, with its “penal model” and environment wholly inappropriate to their needs.

Legislation has now been introduced to rectify this unsatisfactory position. The Children (Amendment) Act 2015 was enacted in July 2015. It provides the legal framework to facilitate the amalgamation of the children detention schools to create a single campus. This new children detention facility has been completed at the existing campus in Oberstown (County Dublin). Therefore, the 2015 Act and the completion of this facility have accordingly ended the detention of sixteen and seventeen-year-olds in Saint Patrick’s Institution. All legal options on the statute book which allow for the detention of children in adult facilities have been repealed and these developments are undoubtedly to be welcomed as a very positive step for the protection of children who have been sentenced to detention.

In addition, the Children (Amendment) Act introduces further welcome reform. It provides for a system of remission in the children detention schools. This development follows on from the High Court decision of Hogan J. in *Byrne v Director of Oberstown School*.¹⁹ In that case, as discussed in my Seventh Report,²⁰ the failure to provide such child offenders detained in detention schools with the benefit of remission rules was held to be a breach of Article 40.1 of the Constitution, requiring equality before the law. Enabling children to benefit from

¹⁸ See Geoffrey Shannon, *Fifth Report of the Special Rapporteur on Child Protection* (2011), section 1.6.3.

¹⁹ [2013] I.E.H.C. 562.

²⁰ See Geoffrey Shannon, *Seventh Report of the Special Rapporteur on Child Protection* (2014), section 2.7

remission as provided for in the 2015 Act is a positive move towards encouraging good behaviour in detention facilities.

Conclusion

I will conclude by saying that in terms of the 2016 directive, there are interesting provisions that the circumstances of the child should be taken into account, not only at the time of the sentencing stage but throughout the trial. In addition to that, the issue of the representation of children is very important. I am concerned about developments at an EU level in terms of the issue of proportionality being introduced into the 2016 Directive, suggesting in terms of minor low grade offences, that legal representation might not be provided.

Hearing the voice of the child is very important and I warmly congratulate the ACJRD on having a session today on hearing the voice of the child. It is not just hearing the voice of the child. It should also be about effectively hearing the voice of children with disabilities and children who have difficulties understanding and speaking the language.

Article 16 of the Directive talks about the right to examine and have examined a child and also the questioning of children. Important procedural safeguards are necessary in terms of audio-visual recording. I am concerned about the 2016 Directive. It introduces a proportionality principle so in certain cases this facility may not be at your disposal. That is just not good enough. Every child is entitled to fair procedures and safeguards in relation to police questioning. What we need are child-friendly interview techniques as well as having regard to the age and vulnerability of a child.

A final point I'll make is on the limited "clean slate". I welcomed the provision providing for the limited clean slate in section 258 of the Children Act 2001. Article 14 of the 2016 Directive makes provision for a clean slate after a period of time. We need to go one step further in ensuring that those who commit crimes when they are children can have those crimes expunged so that crimes committed during childhood do not have consequences for those children.

I would argue that the manner in which we deal with the issue of youth justice may have significant reverberations for the future of some children. Many challenges remain that must be resolved before we can say that we live in a society where our children's rights are fully vindicated. It is always a challenging exercise. It demands new perspectives and renewed efforts. A quarter of our population is under eighteen years of age - they are our greatest national resource. Some of those children are vulnerable to committing crimes. What I am saying is that the right service at the right time is something we must give to every child. The manner in which society treats its vulnerable citizens reflects not only its qualities but also its sense of social justice, its commitment to the future and its ambition to enhance the human condition for the next generation.

Thank you very much.

The Juveniles in the Romanian Criminal Justice System

Roxana Ungureanu, West University Timisoara, Romania

1. Criminal justice system in Romania – preliminary consideration

The current models, used for the treatment of victims and offenders are often mechanistic and marked by contradictions, inconsistencies and false perceptions. The reforms of the criminal justice system have been made many times, not because they were proven genuinely effective, but because of the trust in the superiority of Western models that have been taken mechanically, without being adapted to the profile and specific needs of the beneficiaries.

In order to show the basic principles governing the sanctioning of juveniles in the criminal justice system in Romania, we will synthesize a brief presentation of the legal and institutional framework.

2. Legal and regulatory framework for the detention of children

a. Penal responsibility of children in the old and the present regulation

The interdisciplinary approach to juvenile criminality, in view of evaluating and ensuring the best interests of the child in the criminal proceedings in which he is involved, was the main goal of the development of Title V of the general part of the New Criminal Code, entitled *Minority*, the structure of which was greatly enlarged as opposed to the old Criminal Code and constitutes one of the central points of the penal reform¹.

The 22 articles composing Title V of the general part of the New Criminal Code are grouped into four chapters. They

concern: the minor's criminal liability regime, the non-custodial educational measures regime, the custodial educational measures regime and common provisions concerning minors in the general part of the new Criminal Code, relating to the effects of mitigating/aggravating causes (art. 128), to the plurality of offences (art. 129) and the peculiarities of the minors' sanctioning regime (art. 130-134). The changes brought to this chapter are radical; the legal practice to which we must relate is non-existent.

The 15 articles composing Title V of the general part of the old Criminal Code contain provisions regarding both the limits and consequences of the criminal liability of minors, educational measures (art. 99-108) and the penalties that may be imposed on such categories of subjects (art. 109-110 ind. 1)².

A first difference between the two codes can be illustrated in terms of the consequences of criminal liability. Thus, while the old Criminal Code provided that an educational measure or a punishment may be imposed on the criminally liable child, the new Criminal Code only contains provisions relating to educational, custodial and non-custodial measures³.

b. Limits of the criminal responsibility of children

In terms of the age at which a person can be held criminally responsible, no

¹ Pascu, I., Buneci, P. (2011). *Noul Cod penal, Partea generală și Codul penal, Partea generală în vigoare. Prezentare comparativă*. Ediția a II-a, revăzută și adăugită. București: Editura Universul Juridic, p. 158.

² Antoniu, G. (coord.), Boroi, Al., Bulai, B.-N., Bulai, C., Daneș, Șt., Duvac, C., Guiu, M.-K., Mitrache, C., Mitrache, Cr., Molnar, I., Ristea, I., Sima, C., Teodorescu, V., Vasiliu, I., Vlășceanu, A. (2011). *Explicații preliminare ale noului Cod penal, Vol. II (art. 53-187*. București: Editura Universul Juridic, p. 327.

³ Idem, p. 327-328.

differences from the old Criminal Code exist (art. 99); according to art. 113 of the new Criminal Code, children under the age of 14 are not criminally liable.

The child aged between 14 and 16 years is criminally responsible only if it is proved that he committed the act with discernment, and the child who has reached the age of 16 is criminally liable under the law. The new regulation is identical, the discernment of the child aged between 14 and 16 being established, as before, based on a psychiatric expertise.

Regarding the child who has reached the age of 16, he is presumed to have discernment. As this presumption is not absolute, its overthrow can occur in cases provided by law (e.g. when the criminal prosecution body or the court doubts the discernment of the child at the time the offence was committed).

c. Consequences of the criminal responsibility of children (and of adults who, at the time the offence was committed were aged between 14 and 18 years)

The sanctioning regime of children, through the new Criminal Code, is amended in its entirety, being based solely on educational measures (art. 114 of the new Criminal Code), unlike the old Criminal Code, which, for children who are criminally responsible, provided a special sanctioning system consisting of educational measures and punishments, both categories of sanctions having the character of criminal law sanctions⁴. The new regulation sought to change the centre of gravity from custodial sanctions to alternatives to detention. The changes made to the sanctioning regime in this

field are in full accordance with the provisions of international documents on justice for children, with regards to the latter, the new regulations excluding the penalty of imprisonment or fine.

Exceptions to this rule are set out in par. 2 of the article. Thus, against the child who at the time of committing the offence was aged between 14 and 18 years, a custodial educational measure can also be decided, but only in the following cases:

- If he has committed another crime for which an educational measure was applied, a measure which was executed or whose execution began before the committing of the offence for which he is tried;
- When the punishment provided by law for the offence committed is imprisonment for seven or more years, or life imprisonment.

The criteria to be taken into account in determining the educational measure, custodial or non-custodial, are provided by art. 74 of the new Criminal Code, being much more detailed than in the old regulation, but at the same time, common for all categories of offenders, children and adults:

- The circumstances and manner of commission of the offence, as well as the means used;
- The state of danger created for the protected value;
- The nature and seriousness of the produced outcome or of other consequences of the offence;
- The reason and purpose of the offence;
- The nature and prevalence of offences, which constitute the offender's criminal history;
- The conduct after committing the offence and during the criminal trial;

⁴ Boroi, Al. (2000). *Drept penal. Partea generală*. Ediția a II-a. București: Editura All Beck, p. 293.

- The level of education, age, health status, family and social situation.

Concerning the ***custodial educational measures***, inserted in art. 115 par. 1 section 1 of the new Criminal Code, the order of their listing is not random, but it represents a scale of measures increasingly harsher in content, corresponding to the concrete social danger of the offence committed and the level of risk of repetition of the criminal behaviour⁵.

The ***civic training stage*** educational measure (art. 117, new Criminal Code) consists of compelling the child to participate in a programme lasting four months at most, in order to help him understand the legal and social consequences he exposes himself to when committing crimes and to make him accountable for his future behaviour. The organisation, ensuring participation and the supervision of the child during the civic training stage, is done under the supervision of the probation service, without this affecting the child's educational or vocational schedule.

Custodial educational measures are provided in art. 115 par. 1 section 2 of the new Criminal Code: internment in an educational centre, internment in a detention centre. Article 141 of Law no. 254/2013 on the execution of custodial sentences and measures ordered by judicial bodies during criminal proceedings⁶ states that these educational and detention centres are

institutions specialising in the social rehabilitation of interned persons, where they attend educational and vocational training programmes in accordance with their skills, as well as other activities and programmes aimed at their social reintegration.

Concerning custodial educational measures, crucial are the conditions provided by art. 114 par. 2 of the new Criminal Code, both for opting in favour of this group of measures, as well as for opting for one of the two measures provided by law, following that upon the individualisation of the measure chosen, the general criteria of individualisation be used mainly. Custodial educational measures constitute, in fact, an exception to the execution of educational measures without removing the child from the family environment, warranted either by the repetition of the criminal behaviour or by the seriousness of the offence committed.

The educational measure of internment in an educational centre consists of remanding a child to an institution specialising in the rehabilitation of children, where they will attend a scholastic and vocational training programme according to their abilities, as well as social reintegration programmes (art. 124 par. 1). Although custodial, the measure of internment in an educational centre is an educational measure, prevalent in which is the formative and educational programme, aimed at the re-socialization of the child⁷. The duration of this educational measure is determined by the court, based on the general

⁵ Dascăl, T. (2011). *Minoritatea în dreptul penal român*. Bucureşti: Editura C.H. Beck, p. 302-303.

⁶ Publicată în M. Of. nr. 514 din 14 august 2013, cu modificările aduse prin O.U.G. nr. 3/2014 pentru luarea unor măsuri de implementare necesare aplicării Legii nr. 135/2010 privind Codul de procedură penală şi pentru implementarea altor acte normative, publicată în M. Of. nr. 98 din 7 februarie 2014.

⁷ Antoniu, G. (coord.), Boroi, Al., Bulai, B.-N., Bulai, C., Daneş, Şt., Duvac, C., Guiu, M.-K., Mitrache, C., Mitrache, Cr., Molnar, I., Ristea, I., Sima, C., Teodorescu, V., Vasiliu, I., Vlăşceanu, A. (2011). *Explicaţii preliminare ale noului Cod penal, Vol. II (art. 53-187)*. Bucureşti: Editura Universul Juridic, p. 351.

individualisation criteria provided in art. 74 of the new Criminal Code, between one and three years and is not influenced by the child reaching the age of 18.

The lawmaker has considered multiple possibilities concerning the child's behaviour and provided the decisions that can adopted by the court⁸. Thus, if during the internment period, the child commits a new offence or is tried for a concurrent offence committed prior, the court can maintain the measure of internment in a re-education centre, prolonging its duration, without exceeding the maximum provided by law, or it can replace it with the measure of internment in a detention centre (art. 124 par. 3, new Criminal Code).

The educational measure of internment in a detention centre consists of remanding the child to an institution specialised in the rehabilitation of children, with a security and surveillance regime, where he will attend intensive social reintegration programmes, as well as scholastic and vocational training programmes according to his skills (art. 125 par. 1, new Criminal Code).

Internment in a detention centre is disposed over a period between two and five years, unless the punishment provided by law for the respective offence is imprisonment for twenty years or more, or life imprisonment, when internment is taken over a period between five and fifteen years (art. 125 par. 2, new Criminal Code). The distinction between an education and a detention centre consists of the fact that in the detention centre, the child's rehabilitation process takes

place in conditions of security and surveillance. If during internment the child commits a new offence or is tried for a concurring offence committed prior, the court extends the measure of internment, without exceeding the maximum of fifteen years, determined in relation to the harshest punishment provided by law for the offences committed.

d. Other relevant provisions

The new Criminal Code does not contain judicial aggravating circumstances. Also, Title V contains provisions relating to the plurality of offences, the discovery of an offence committed during minority and to prescription, both that of the criminal liability of children and that of the execution of educational measures. Moreover, as in the old regulation, offences committed during minority do not attract interdictions, revoking or incapacitations.

3. The minors in the criminal justice system in Romania in figures

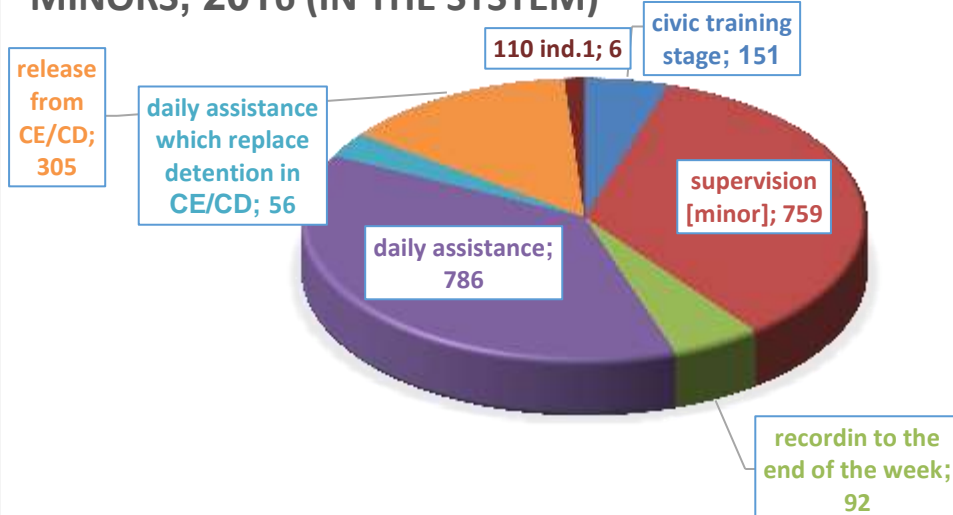
Non-custodial educational measures

Based on the annual evaluation report from Probation National Direction (<http://www.just.ro/directia-nationala-de-probatiune/>) in 2016, 2093 new cases of juveniles with non-custodial measures and releases from education centres / detention centres were recorded in probation services, in the following distribution (see following page).

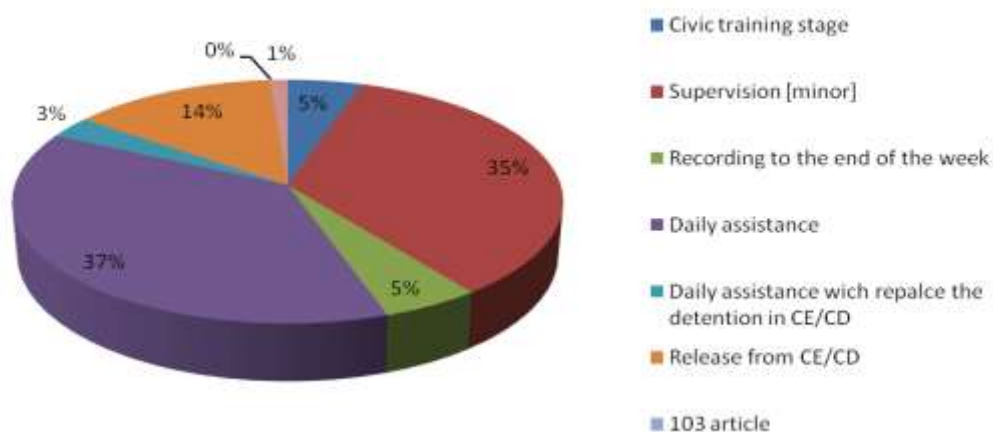
We can observe the strengthening of the direction of court decisions to supervise the child and daily assistance (one possible explanation is that the duration of supervision and that of daily assistance has the highest limit of the four non-custodial educational measures) and the "extinction" of the prescribed sanctions by the old criminal code.

⁸ Pascu, I., Buneci, P. (2011). *Noul Cod penal, Partea generală și Codul penal, Partea generală în vigoare. Prezentare comparativă*. Ediția a II-a, revăzută și adăugită. București: Editura Universul Juridic, p. 677.

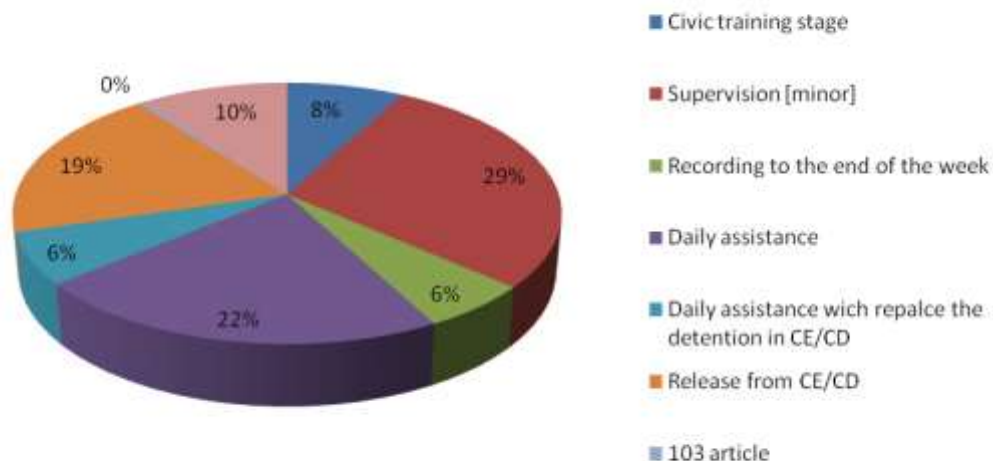
MINORS, 2016 (IN THE SYSTEM)



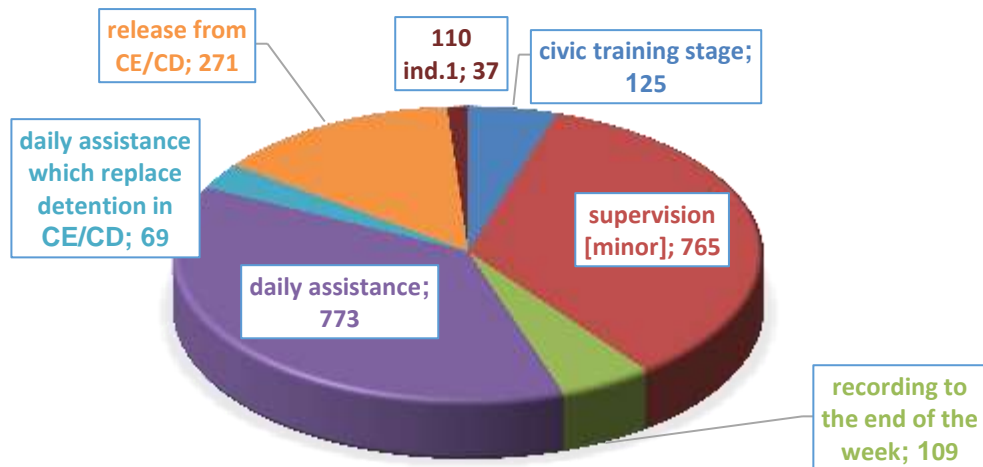
Minors, 2015



Minors, 2014



MINORS, 2016 (RELEASE FROM THE SYSTEM)



In 2016, 2179 minors were released from the probation system. The analysis of practices in probation services allows for an important observation: the increased number of cases, the small number of probation officers and the lack of specialization for minors and youth often lead to purely formal interventions and activities without real educational content.

On the other hand, what works for probation services across Romania is sometimes quite different. Choosing a programme that works in a particular region based on the existing resources, including the community's resources, may not work for another region.

Custodial educational measures

Regarding the custodial educational measures, based on National Penitentiary Administration (NPA)¹ statistics, issued on 31st March, 2017, there were 507 (493 boys and 14 girls) youth and minors deprived of liberty in two Detention Centres (DC) in Romania.

- Craiova Detention Centre
- Tichilesti Detention Centre

At the same date, 389 (370 boys and 19 girls) juveniles were arrested in the units of the NPA, arrested for the following offences: 183 robbery, 114 theft, 42 murders, 38 rapes, and 12 other offences.

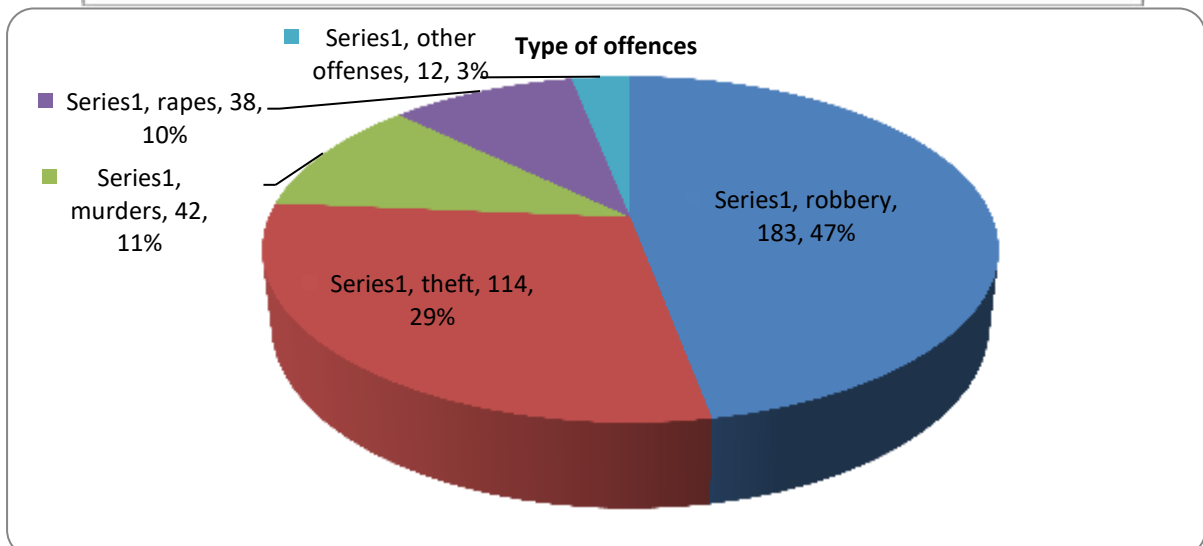
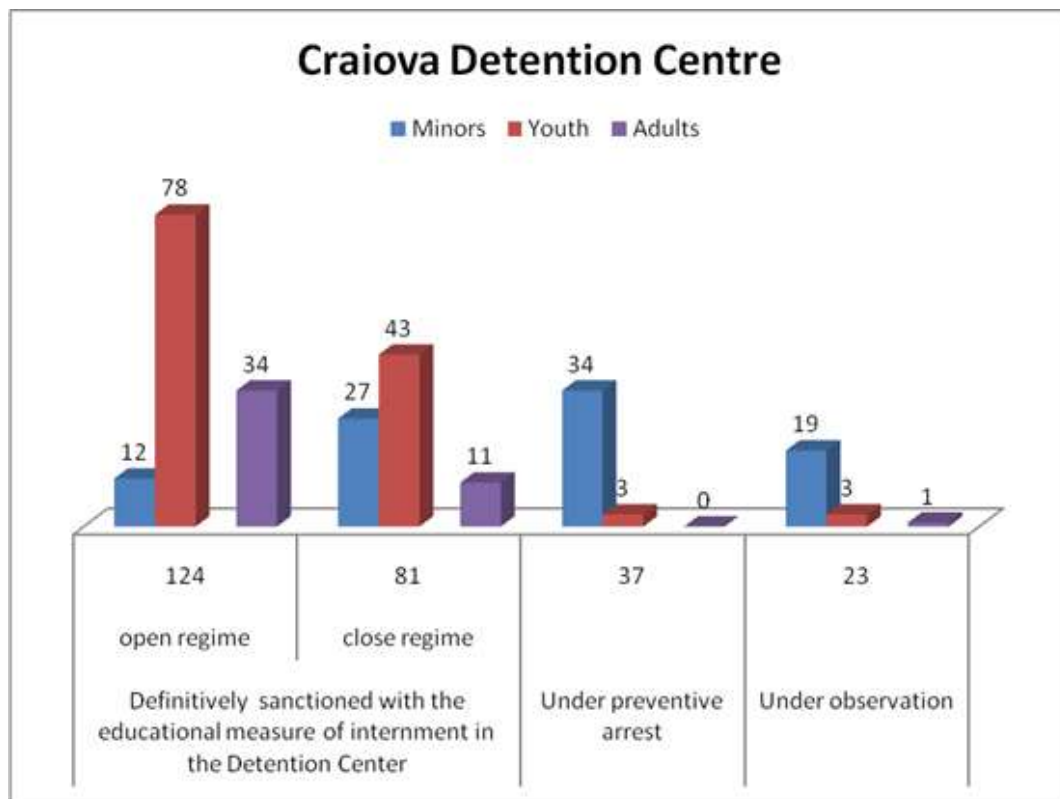
261 of these are definitively sanctioned with educational measures (148 are interned in an educational centre and 113 are interned in a detention centre), 28 are sanctioned in the first instance, and 100 are preventively arrested.

See chart and graphs on the following page.

¹<http://anp.gov.ro/documents/10180/12939320/SITUA%C5%A2IA+LUNAR%C4%82%20--martie++2017+-+cu+CE+si+CD.pdf/6d428374-355b-41a2-b545-22ff44e92f20>

The dynamic of the group deprived of liberty in detention centres is the following:

Juridical situation		DC Craiova = 265				DC Tichilesti = 242				Combined Total
		Minors	Youth	Adults	Total	Minors	Youth	Adults	Total	
		92	127	46	265	94	121	27	242	
Definitively sanctioned with the educational internment in the DC	Open regime	12	78	34	124	20	59	24	103	227
	Closed regime	27	43	11	81	30	54	3	87	168
Under preventive arrest		34	3	0	37	36	6	0	42	79
Under observation		19	3	1	23	8	2	0	10	33



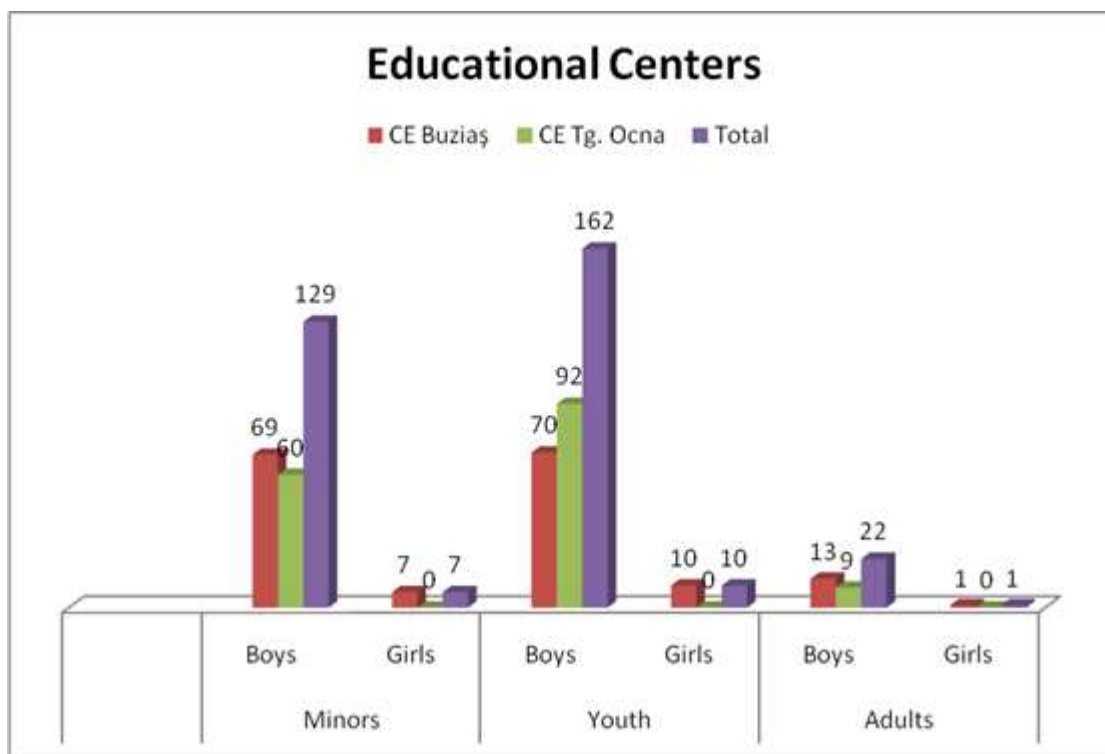
There were 331 (313 boys and 18 girls) detainees in the Educational Centres sanctioned with educational measure of internment in the educational centre.

There is no evidence to clarify if the custodial sanctions for minors or teenagers are any more or less effective than community-based graduated sanctions in bringing about offender compliance with release conditions.

It is still unclear and under study if the imposition of a custodial sanction for minors or teenagers non-compliance as opposed to a community-based sanction affect the number of days until the next violation, the number of subsequent violations, or the overall likelihood of completing supervision.

The number of minors within the two Education Centres/ CE is the following:

Centres	Minors			Youth			Adults			Combined Total
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total	
CE Buzias	69	7	76	70	10	80	13	1	14	170
CE Tg. Ocna	60	0	60	92	0	92	9	0	9	161
Total	129	7	136	162	10	172	22	1	23	331



4. New trends in the criminal justice system

Nowadays, juvenile justice reform has become a largely bipartisan issue as lawmakers work together to develop new

policies to align sound fiscal responsibility, community safety and better outcomes for youth offenders. New legislative reforms reflect an interest in developmentally appropriate approaches

to more evidence-based methods and cost-effective alternatives to incarceration. It is important to take into consideration the research available to lawmakers in the field on adolescent development - which includes the latest neuro, social and behavioural science that distinguishes juveniles from adult offenders. Recent trends in juvenile justice legislation across the country represent a significant new direction to broadly reform justice systems. Specific trends have emerged to:

- Restore jurisdiction to the juvenile court.
- Shift resources from incarceration to community-based alternatives.
- Provide stronger public support for youth in risk.
- Address racial and ethnic disparities in the criminal justice systems.
- Respond more effectively to the mental health needs of young offenders.
- Improve aftercare programmes for young offenders.

5. Conclusions

Reforming criminal policies for minors and young people remains a desideratum. Risk and protection factors that influence the behaviour of juveniles in the criminal justice system, and especially recuperative interventions that can trigger positive changes, need to change the focus, from the negative aspects that influence or have influenced the negative behaviour, to the potentials and protection factors. All these have to create a new perspective on recuperative treatment. In addition, the need for studies and research to demonstrate the actual outcomes of intervention programmes needs to be taken seriously. Only these can provide a realistic and effective recovery treatment.

Children's Voices

Julie Ahern, Membership and Public Affairs Officer, Children's Rights Alliance

Thank you for having me here today, and thank you to the ACJRD for the kind invitation to introduce the avatar presentation that they have created using the 'Picture Your Rights' report.

The **Children's Rights Alliance** unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our **laws, policies** and **services**. We identify problems for children. We develop solutions. We educate and provide information on children's rights. We unite our members and put pressure on government to put children first

I'm here to talk to you today about hearing the voices of children and young people, and in particular a report that we did with UNICEF Ireland called *Picture Your Rights*. *Picture Your Rights* is a report by the Children of Ireland on what it's like to be a child in Ireland today, developed as part of Ireland's reporting under the UN Convention on the Rights of the Child in 2016.

In December 2014, we brought together a group of twelve young people and discussed with them that we needed to prepare a report to tell the UN Committee on the Rights of the Child what it is like to be a child in Ireland today. We then asked them what we should do. How should we do it? What do you want to say?

The aim of the report was to get as full a picture as we could, of all the issues that faced all children and young people, and to give the committee a full picture of what is good, what is bad, what can be

improved, what should be replicated and to give them concrete recommendations.

The young people came up with the idea of picturing your rights and decided that the report should not just be words but should use social media to be inclusive and get a visual of what Ireland is like for children and young people today. They decided that the best way to do this was through an app called 'Instagram' which allows you to share photos and quotes.

The young people decided that this wasn't enough and would only reach a certain cohort of young people. So they come together to make a series of workshop tools that other youth groups could use, and that they could use themselves, going into youth groups to find out what the issues are across the entire spectrum of children's lives. They also recognised that younger kids needed to be involved, they had seen through their own lives that you can actually find out from younger kids what their views are and what they like and what they don't like. The Children's Rights Alliance contacted a range of our members working in the early years sector who were able to go out and consult with children aged 0- 6.

Picture Your Rights was a report that was youth led. The young people designed the concept, they designed the methodology, and they also carried out the report. Over 2,000 young people completed online surveys, the young people received over 250 creative submissions, some of these were pictures, some of them were drawings, people wrote poetry, they did a wide range of different things just to try and highlight what it is like to be a child in Ireland today.

The editing group was broadened at this point to 32 young people from all over Ireland who put together the report. They desegregated the submissions into different sections that represented what they had read, what they had seen, what they had received from other young people. They put it into these four broad categories:

- Being Valued – Taking Part in Our Communities
- Mind and Body – Learning to take care of ourselves
- Living Together – Making sure we're treated as equal
- Our Future – Planning for the world to come

They young people decided that that it wasn't enough to tell the Committee what it's like to be a child. They also wanted to tell them what practical steps can be taken to make children's lives better.

Under 'Being Valued' they considered things like online safety, privacy, education, the lack of recreational spaces, and in particular they focused on spaces for teens. In that came a lot of really interesting data from young people on interacting with the Gardaí in particular.

In the section 'Mind and Body' they focused on issues like bullying, local supports, abuse, physical punishment, health, waiting lists, health services and accessing services. Again, they made a number of really good concrete recommendations into how all these issues could be addressed from a young person's perspective.

The third section that they focused on was 'Living Together and Making Sure that we are All Treated as Equal'. We had people who were living in Direct Provision, we had young people who had a disability,

and young people who would be from a traveller background, or would be from a background where they would have experienced discrimination. In particular, what the young people have highlighted in this section was the conditions in direct provision.

The final section was, 'Our Future' and planning for the world to come. This was an area where young people showed their interest, and had a lot to say on issues such as the environment, Leaving Cert, stress, their rights, and knowing more about their rights. A particular theme highlighted in this section was their right to be heard and to be listened to, and have their views taken on board. The young people decided that this was one of the main overriding threads in the entire report.

I am here to introduce an avatar presentation prepared by the ACJRD. What they have done is pulled out some of the parts of the report that they thought were most pertinent to today.

A video featuring images and quotes from *Picture Your Rights* was played. The full *Picture Your Rights* report is available on the Childrens Rights Alliance website: <https://www.childrensrights.ie/content/picture-your-rights>.

I would like to thank Maura and her colleagues for putting that together, and bringing out the voices of the young people in the report.

I have pulled out some of the key pieces that I think could help inform your discussions and inform your thinking for the rest of the day. I think what is interesting about these different voices and the different views in this report on youth justice was that actually the young

people decided to put it into a section called 'Respecting Teens'. I have on the slides some of the voices of the young people. These include quotes such as:

'but you know the guards think that they can get away with everything, and they overuse their power'

'you can't just throw us in the back of the van'

'Juvenile Liaison Officers say they'll help but they don't. That all affects you when you're older; people look at you and think 'he wasn't a good kid and don't give you a job'.

'Young people feel Gardaí could follow up more on reported incidents rather than overlooking some of them'.

'teenagers don't have places to go or things to do especially at night when we want to be with our friends. If we stop anywhere we are just moved on by the Gardaí.'

The young people interlinked their interactions with the Gardaí with the lack of places to be.

Based on the submissions they received the young people made some very concrete recommendations:

- Treat us in a just, safe, and respectful manner, and ensure that we know our rights.
- Improve relationships between the Gardaí and the communities
- Do more to protect us from harassment and violence on the street.

I think that those recommendations really do speak for themselves.

I will leave you with one final thought - if you actually ask a child or a young person the question 'what do you think?' you will be surprised at what you will get back. You'll get back recommendations that are concrete, that are practical, and that can actually make a change.



Pictured (L-R): **Professor Ursula Kilkelly**, UCC, **Julie Ahern**, Childrens Rights Alliance and **Maura Butler**, ACJRD

Detention or Not?

Professor Ursula Kilkelly, Professor and Dean of Law, University College Cork

It's a great pleasure to be here with everybody, and thank you to the Irish Youth Justice Service and the ACJRD for the invitation to speak to you in the context of reform of the Children Act 2001.

Before I address the title of my presentation, I want to first situate detention in its full context here, and to make some introductory remarks on the significance of the 2001 Act. The 2001 Act was a hugely important piece of legislation in its time, with a number of key features to it: first, it placed the Garda Diversion Programmes on a statutory basis – a measure which has proven to be essential to both its consistency and the status of the Programme generally. Our police diversion programme is really quite unique internationally, and it is a real hallmark of how we can divert young people formally from court using police resources and specialism. As mentioned earlier, I was a member of the Group chaired by Judge Gillian Hussey recently tasked with reviewing the Diversion Programme, and so you will see the contribution to the reform process coming through that particular piece of work in the months ahead.

The Children Act 2001 also established the Children Court, and Judge John O'Connor, who has played an important leadership role in this space, talked very eloquently about the opportunities and the challenges of that this morning. The Act itself is fairly progressive. It set out quite a lot of detail about how the Children Court should operate, not all of which is consistently implemented it has to be said. Certainly there are challenges

nationally in ensuring that the Act's provisions are fully in place.

There are also questions when it comes to Section 96, which outlines the principles of criminal jurisdiction, a very welcome provision, and challenges with respect to how these principles actually inform decision making, not just in the Children's Court but in the Central and Circuit Criminal courts too. The family conference is a real innovation in the Act. We have seen it having important, if limited use, but the review of the Act presents a really valuable opportunity to look again at how we might address and implement more effective means of family conferencing and engagement with families as a pre-sanction in the court.

The range of community sanctions is also hugely important, but challenges with implementation are there too and we need to look carefully at how we might revise these. There are also questions about the visibility of these sanctions, and certainly as a researcher, some of this creates a bit of frustration. I will talk in more detail about establishing the norm of detention of a child setting for those under eighteen years under the Act. Ending the detention of children in adult prisons is hugely significant as is the importance of the statutory expression of what we call our CEHOP (Care, Education, Health, work on Offending behaviour and Preparation for release) framework in Oberstown Children Detention Campus.

Before I go onto detention, I want to reflect on why it is important to look at the legislation, notwithstanding that it is not very many years since its full commencement. There are a number of

considerations for us to ponder here – as researchers, as practitioners. First, we need to constantly consider new knowledge, looking at the developments around child development, in particular, the enormous body of research now enforcing what we know that ‘children are different to adults’ and warrant specialist and individualised treatment in all aspects of the youth justice system. We need also to learn from research on both immaturity and vulnerability of young people and the consequences of this, both for their behaviour and also for their culpability, as they go through what can be a very punitive and harsh criminal justice system. We have to look at ways in which we can take all of this knowledge and expertise into account when we look at revising our law and our policy in line with international children’s rights obligations.

Obviously, we are looking to learn from what we know about the Act’s implementation, taking account of international developments. Charlie Taylor’s interim report in the review of youth justice in England and Wales contains some interesting proposals around new governance for youth justice in that jurisdiction, in particular new structures and panels for decision-making. We need to keep abreast of what’s happening internationally and also reflect on the extent to which the Irish system actually has retained a largely progressive orientation to it, despite very punitive challenges politically.

We have a real opportunity here to push on into this progressive space and I firmly believe that we should grab that with both hands so that Ireland can really become an international leader in the area of youth justice and detention.

A couple of areas to flag for reform - I have been critical in the past of the failure of the legislation to really set out its core objectives, to set out and recognise the aims of a youth justice system in our legislation, and obviously, issues which have been touched on already around specialisation and incorporating children’s rights protections much more firmly and squarely as comprehensive values into the justice system. They have worked very effectively where they are in the Act, but need to be there, at a system level, bringing all the parts of the Act together under core values and principles of children’s rights. There is evidence from other countries that setting out in legislation the principles that must guide all parts of the youth justice system, all decision-makers, really does make a difference to how the system operates in practice.

So to the question of the title which was set - “Detention or Not?” - I have a couple of choices. I could be really brief and say, “of course the answer is Not” so I am going to spend the remaining time this afternoon looking at some of the challenges around the detention of children, how and when we use detention and the circumstances that children face while they are deprived of their liberty. This must encompass the notion of using detention sparingly, ‘as a last resort’, to minimise and mitigate the harms of detention; similarly, we have to use it, where it is unavoidable, to build on strength and opportunity, and the possibility of providing support to young people with complex needs. In this regard, we have to acknowledge that the complexity and range of adversity that young people who come into detention have experienced cannot usually be undone while they are in detention, no matter how long they are there. But we

always need to strive to effect some improvements in the life chances of young people who we encounter in the detention setting.

One of the really crucial things about the issue of detention under the legislation is that our Act sets out as a mandatory requirement that detention is a last resort. That has proven to be, not just fully in line with Article 37 of the CRC, and an important response and a challenge to our overuse of detention in the past in this country, but a very valuable principle in practice for driving down the use of detention right across Ireland's youth justice system. That, of course, was accompanied not just by other statutory provisions in terms of Section 143 really asking that question of judges when they were prepared to sentence a child to detention but also resourcing alternatives, in particular, the community based sanctions set out in the Act as well as other interventions like the pilot bail supervision scheme.

The other lesson is that this commitment to detention as a last resort has been followed through with very precise policy imperatives and they have, together with the legislation and with political intent, driven this goal very effectively through the system, to the point that we now have a single national facility for the detention of all under eighteens as and from the end of March 2017 - this is a very significant milestone internationally, not just in Ireland.

We have also seen the numbers of young people in detention falling, both with respect to those who are sentenced and committed to detention but those also on remand, and again these have been stubborn problems that have beleaguered both internationally and in Ireland in the

past decades. So we now have quite an incredible forty young people in detention, including, as of 1st July 2017, nine on remand. This is an example of what can be done with clear legislative objectives, supported by policy, resourcing and political will to deliver on those goals.

In terms of where to next, we need to look at ways to lower the numbers in detention further, and also to consider other reforms. I mentioned that the principle of detention as a last resort is in the 2001 Act but there is no guidance in the Act as to length. Article 27 CRC requires that detention must be 'a measure of last resort' and 'for the shortest appropriate period of time'. We didn't incorporate that latter clause into our Act and I think that is something about which to consider very carefully.

What we see in Oberstown, from right across the country, are sentences which range from the very short to the very long. We are seeing extremely long sentences in relation to very serious crime and especially those which are being made outside of the Children's Court, and that raises a question about the extent to which Section 96, those sentencing principles, is really being engaged with as part of the decision making process for those Circuit and Central Criminal Courts. We need to be looking at the extent to which we can incorporate best practice around youth sentencing in those courts too.

In my view we also need to consider extending the application of the principle of detention as a last resort to young adults, young vulnerable adults in particular. The point here is that, as we see the effect of diversion, we see those being sentenced and remanded to

detention at an older age. In truth, then, those who end up in detention are more often 16 and 17 years olds closer in age to 18 year olds. The result is to make the difference between the young people in detention and older adults - 18 and 19 year olds - a much finer margin. Consideration needs to be given then to the possibility of including young adults – up to 21 or even 23 years – in an adapted form of youth justice. This is becoming more commonplace and again we need to think about how we can incorporate this approach into legislation so that we are keeping up with the need to maximise the protections of youth justice to those most in need.

By extension we need also to consider how to maximise the protections of the Children Act to those young people tried outside the Children Court, i.e. in the Circuit and Central Criminal Courts. As you may know, it is envisaged that the new courts complex in Dublin 7 will have provision for jury trials making it possible to conduct trials in the higher courts in a child-friendly setting. This will help to improve the quality of justice received by young people charged with serious crimes and that will help to improve consistency and decision making right across our courts.

In terms of both bail and remand, two sides of the one coin, obviously the piloting of the Bail Supervision Scheme is a very welcome development, although it is problematic in the context of detention as a last resort, that assessment and suitability are determined in a detention setting. The opportunity should be grasped to open up the Scheme nationally so that the opportunity is available to all young people deemed suitable, regardless of where they live. It should also be placed on a statutory basis. In terms of

remand, the principle of detention as a last resort also applies to these decisions by the courts, although in practice it is not clear to what extent judges are weighing up that reality. The purpose of remand should be set out in the Act in my view – it should not be for assessment, not for short term measures that are not linked to the young person's offending behaviour or prospect of reoffending, and it should always be fully in line with constitutional and other legal provisions. Other jurisdictions have time limits placed on the use of detention on remand and this is something I believe we need carefully to consider.

In terms of the progress we have made in regard to detention itself, the importance of the legislation itself cannot be underestimated. It is very, very significant that our Act commits us to a child model of detention, one which is really focused on care, on education, on health, on well-being of young people, on the prospects of them returning successfully to their communities. That has very significantly helped to protect the ethos of detention in Ireland in recent times. It also demands resources and investment which have been hugely influential in enabling the delivery of that objective in recent years.

In Section 158 of the 2001 Act, the child-centred purpose of detention is clearly set out and that has been operationalised in policy in Oberstown with our ('CEHOP') framework, taking that into the practice of caring and providing education and health for young people in the detention setting. It also, not to underestimate this, creates a very important baseline position, restating very clearly what the purpose of detention is and underlining the ethos that must inform practice in detention. In the face of challenge, if more punitive trends emerge, it is important that we

have that default, base-line position in our law that demands that an ethos of care and protection prevails in our detention regime.

In terms of governance, we also have a relatively unique model. We have an independent board appointed by the Minister for Children and Youth Affairs, a Chair and twelve members (a very sizeable body) with staff, government departments, neighbour representatives and five people appointed through the public appointment process. This is a very unique model of accountability that requires and demands a level of stakeholder engagement that has an important effect on how Oberstown is governed with a range of different perspectives engaged in our governance and essential stakeholder buy-in. It is also critical, again under the legislation that Oberstown falls under the Department of Children and Youth Affairs. This reinforces that emphasis of what we do which is the focus on children and this emphasis has really helped to develop the child-centred focus of our practice in Oberstown.

As to where we need to go next around detention, some final considerations: Clearly the priority has to be both to maintain and to progress our practice further in line with the Convention on the Rights of the Child. It is very important in line with that, that the care ethos set out in the legislation not only be preserved but actually be strengthened, in particular with reference to the new Article 42(a) in the Irish Constitution reflecting core priorities and rights and best interests of the child and the right to be heard. We are developing a participation strategy for Oberstown which will fall under the National Strategy for the Participation of Children and Young People in Decision Making. This will be an important

example of how we can deliver children's rights principles through our practice.

It is also important that we recognise that child detention is unique in the service that it provides. It is a highly specialist service in the youth justice context, not just in Ireland but internationally. We need to reflect on what that special service demands and consider what else is needed to really ensure that it fulfils its potential to promote the rights of children and young people in detention. Two thoughts – first, there is the concept of the integrated care and education model. We know we have an excellent school in Oberstown. It is currently an entirely separate entity and the curriculum and the operation of the school do not generally fall under Oberstown management. We might want to consider how to advance integration of the school with the Campus so that we do not miss an opportunity to ensure an integrated, unified service which provides both care and education to young people in a way that really meets their needs.

Related also are the specialist support services we have been able to “buy in”, not without difficulty or challenge, especially psychiatry but also psychology and other support services. We need to ensure in any reform of the legislation, that we adopt an integrated approach to the care and protection of young people. Extending the entitlement of aftercare to children leaving detention must also be a priority.

We should also address the issues of accountability and oversight when we consider reform of the Children Act 2001, not just in the context of detention but throughout the youth justice system as a whole. International standards are clear that we must ensure that detention that

we must ensure that detention services are routinely inspected and monitored. Oberstown is rightly subject to regulation by a whole range of services which have that responsibility, including both HIQA and the Ombudsman for Children, and we are also subject to international inspection by the European Committee for the Prevention of Torture. When Ireland ratifies the Optional Protocol against Torture, we look forward to engaging with the appointed National Preventive Mechanism. In this regard, it may be important to consider how best to streamline the diverse forms of inspection and monitoring to ensure that there is a single robust, rights-based framework against which to measure the care provided to young people in Oberstown.

In Oberstown too, we need to reflect on how best to ensure that those who deliver care to young people have not just the responsibility but also the devolved authority to make the delivery of the service effective. For instance, it may be worthwhile to consider whether it would be appropriate to establish Oberstown Children Detention Campus on a fully independent, statutory basis.

To conclude, my key message is that we must use the opportunity for review of the Children Act 2001 to build on the positive momentum in youth justice in Ireland, as well as in youth detention. The key driver of that in clear national terms must be greater compliance, in our laws, policies and practice, with the UN Convention on the Rights of the Child.



Pictured (L-R): **Maura Butler, ACJRD, Professor Ursula Kilkelly, UCC, Michelle Shannon, IYJS**

Conference Closing

Dr. Fergal Lynch, Secretary General, Department of Children and Youth Affairs

Good afternoon everybody.

It's great to be here and thank you very much for the invitation. It's lovely to see so many people from a wide representation of groups and organisations. I hope you've had an interesting day. I was here for a good part of the morning session and I found it very interesting indeed. It was highly topical and highly relevant. If I may pick out two particular presentations, from Judge John O'Connor and Professor Geoffrey Shannon, I thought both of them were highly relevant, very interesting and really thought provoking presentations on very important areas of youth justice and ones that are fantastic to hear in a succinct compressed way such as we heard this morning. I'm sorry that I didn't get to hear everybody and I know that the workshops also worked very well indeed so congratulations to everybody involved.

As Maura has said I'm here on behalf of Minister Katherine Zappone, who is answering oral parliamentary questions. The date for that was moved some time ago from last week to this, which is why she can't be here this afternoon. She had originally accepted the invitation to close the conference and would otherwise have been here so I'm sure you'll understand and accept her apologies on that basis.

I would like to thank everyone who was involved in putting together the conference, particularly though as always, to Maura Butler who chaired the event so ably. I'm hugely impressed by the timekeeping that she has encouraged everyone to stick to, which is a good idea on these occasions. I always think otherwise we end up punishing the

people who are on time by making them wait for those who are late, so well done Maura. Well done also to Minister David Stanton and everyone else who was instrumental in putting together today and to organising it, particularly the partner agencies - Department of Justice and Equality, The Probation Service, the Irish Prison Service, and An Garda Síochána - involved in the planning of it and those who participated in the conference. I'd like to thank in particular the Irish Youth Justice Service which is attached to the Department of Children and Youth Affairs (DCYA), led by Michelle Shannon.

The Irish Youth Justice Service is co-located in the Department of Children and Youth Affairs, comprising officials from DCYA and the Department of Justice and Equality. I think that's a really important model which we've had since the Department of Children and Youth Affairs was set up in 2011 and it's an important part of the way we do business. Typically in the Irish Civil Service we tend to have divided and designated departments and we do our best to coordinate and work as closely as we possibly can. However, the co-location arrangement that we have with the officials from the Department of Justice and Equality is very important and it works really well for something as important and as cross-departmental as what we have here in relation to youth justice. We have a similar arrangement in relation to the Department of Education and Skills when it comes to that side of the Department as well, which works equally well.

I wanted to pay a special welcome to some of our Northern Ireland colleagues,

and to thank them for coming. I know there are people here from the Youth Justice Agency of Northern Ireland and the Woodlands Juvenile Justice Centre in Bangor, so thanks to all of them for attending the conference. It is good to see that they were here at an important event such as this.

You will have heard a lot about Youth Justice Policy in Ireland today so I won't spend too long talking about it, other than just to note the importance of the Youth Justice Policy, the Youth Justice Action Plan 2014 – 2018 with which you'll be familiar. It focuses on and commits to achieving better outcomes for children and young people who require targeted strategic attention because of their behaviour, particularly where their behaviour has the potential to lead to their involvement in the youth justice system. The focus of the plan has been to create a safer society by working in partnership to reduce youth offending through appropriate interventions and linkage to services. It aims to try and continue the downward trend that we talked about this morning, the good news that we have in terms of specific downward trends in crime, and in turn to reduce the necessity for detention of children and young people.

There are very many of the aspects of the plan which the Department of Children and Youth Affairs can advance, particularly where it has cooperation and collaborates with other agencies including, of course, Tusla, the Child and Family Agency, which plays such an important role in all of this. I think we've an important role to play in the positive developments that have occurred particularly in relation to Oberstown, the Children Detention Centre. You don't need me to tell you the importance of the

Centre and also how much progress has been made over the last while in relation to that. It's been one of the state's biggest capital investments over the last while, costing €56 million to provide a modern facility for young people. This involved the amalgamation of three Children Detention Schools based in Lusk to establish what we now have in the Oberstown Children Detention Campus. I think it's something we can feel proud of, an extremely important and valuable approach to improving the way we deal with young people in Ireland.

Just to reflect on a couple of the milestones of that journey - it was mentioned this morning by a number of the speakers, the extent to which the number of children and young people being detained has declined so much and this is a very good thing. 208 young people were detained in the prison system in 2004, plus about 177 children who were remanded or sentenced, in what was then, hard to believe in 2004, still the reformatory industrial schools, so we've come a long way since then.

I think in line with the objective of reducing detention and the objective that children should only be detained when absolutely necessary, the number of children detained at the moment, is on average, less than 40 at any given time, which I think is a very significant step forward from what we had before. You will have heard this morning favourable comment on the fact that after a lot of trying and admittedly, a lot of delay, which was unfortunate, that since 31st March this year, we've finally achieved that no child has been or will be referred by the courts to an adult prison facility anymore. This is a major milestone although it did take time to achieve. We set ourselves a number of target dates

which unfortunately weren't met, but ultimately it was. Now the last piece of the jigsaw I suppose was to end the detention of 17 year olds on committal in adult facilities and this has now been done. That's a huge step forward and congratulations to all involved because it wasn't a straightforward step and it took a lot of work by a lot of people over a period of time.

It's true that Oberstown has faced a number of challenges over the last year and certainly there's more work to be done, but I think the Department has been a significant supporter and other people in this room have been significant supporters of Oberstown, in implementing the different steps that it needed to take. The reviews on operations, security, health and safety, and behaviour management which Oberstown management rightly commissioned, are all being drawn together now into an implementation group that Professor Ursula Kilkelly, who spoke earlier this afternoon, is chairing. The importance of analysing those recommendations, implementing them as appropriate and making Oberstown a really good appropriate, modern place in which to detain children when we need to and to help them move on with their lives.

I think the work undertaken in Oberstown is just one aspect of the youth justice system but it's an extremely important one and the fact that thankfully we have the numbers down to an average of 40 and less is a very positive step. Let's keep in that direction. But there's much else out in Oberstown as well - I've visited on a number of occasions and I've been particularly impressed by the vibrancy and the enthusiasm of the school that is located in Oberstown. It is a really impressive facility.

There are also other very important elements of the work that matter in terms of reducing the need for detention, particularly the Garda Diversion Programme which has the principle of detention as an absolute last resort and it makes it a reality in the lives of our children who are in conflict with the law. I think the fact that we now, under the Irish Youth Justice Service, operate over a hundred Garda Youth Diversion Projects, in conjunction with An Garda Síochána and The Probation Service and the local community based organisations, is really important. This year we will have spent about €70 million on those projects - on the Diversion Projects, on the Young Person's Probation Projects and on a number of other youth diversion community based projects - and I believe it is money well spent. These projects also benefit from money from the European Social Fund. It is really important that we do it and we continue our focus on reducing, to the greatest possible extent, the amount of detention involved.

I'm covering areas that were covered this morning so I'm not going to go over them again, other than to note the value and importance of the Bail Supervision Scheme, which has got a great deal of good press this morning and, hopefully, this afternoon. This is a really important step forward, one which hasn't captured the public imagination to the extent that perhaps it might, but when you look at it, for example, you might have ten people and their families benefitting from bail supervision. That, by definition, is ten young people who don't have to be detained in Oberstown, and that is good for Oberstown, it's good for the people themselves and it's good for the system as a whole. I think that a number of questions raised this morning about extending the scheme bring up important

issues for the future and it's certainly something we would like to do, subject, obviously, to it being the right thing to do, subject as always to the courts making the decision that this is the appropriate thing to do and we are certainly interested in moving it in that direction if at all possible.

So, it's very much at the pilot stage at the moment and we will evaluate it but it seems to me, so far, that it is going in the right direction and we will continue pushing that way.

One other thing to mention before I finish are the CYPSCs - the Children and Young People's Services Committees - which I think are a key structure to plan and co-ordinate services for young people and children right throughout Ireland. It is worth emphasising their potential contribution and their actual contribution. Maybe it took a little while longer than we would have liked to get them off the ground but they are now very much functioning and it's good to see that a number of them have chosen to progress projects specifically in the youth justice sector and I think it's well worthwhile them doing that. It includes, for example, projects for the Gardaí and the children and young people to work together to improve the relationship and to support the development of restorative practices and, for example, the Garda Youth Awards as well. So I think it is an area worth pushing ahead with and I wish the CYPCCs well as they move in this direction.

One last thing to mention before I close is the importance which we have placed in the Department on participation of children and young people in decision making affecting their lives. I think it is a really important initiative for which we have been pushing for some time. Ireland was the first in Europe, if not in the world,

to have a specific national strategy on participation of young people in the decision making which affects their lives and we have tried to ensure that the voices of the seldom heard young people are actively sought. So, for example, a few years ago the Department of Children and Youth Affairs led consultations with young people under the Youth Strategy Development process and young people in Oberstown were consulted onsite and their views were presented in the published report. The process of implementing the participation strategy continues. We are, at the moment, establishing a Participation Hub, which will further support and develop the capacity of many parts of our system to build on the way in which we actually actively listen to children and young people and build on their views, and build their views into the heart of the systems that we develop. The Hub will be available to provide support and training to the many professional groups in developing their skills and capacity and their systems and to ensure that the voices of young people are genuinely heard and that the decision making is influenced by what they have to say. I think that is the only way forward and one that we have to place a great deal of emphasis on. I know that the Irish Youth Justice System will engage with the Participation Hub to reflect on current practice and to improve practices where that is possible.

I am conscious that you have had a very intensive day and that you want to move on from here so just in closing please let me thank all of the speakers - I really enjoyed the session that I was at this morning - those who presented at the workshops, the rapporteurs, and everyone else who was involved in putting the conference together. I am happy to

emphasise the commitment that the Irish Youth Justice Service has to the further development of the Youth Justice System in Ireland. I'm very aware of the dedication of the practitioners in the field, everybody in this room, and of the real challenges you face on a day to day basis. I think the key to overcoming these challenges, clearly, is cooperation among us all, and let me wish you every success and assure you of the Department's support in this endeavour.

I know that today's event wouldn't have happened without Maura's drive and commitment and the organisational skills of Danelle and Katherine at the ACJRD. Thank you.

On behalf of the Minister and on my own behalf, thank you all sincerely for your work. I really believe that the outcome of today's event will be important in assisting us on developing and moving forward on future policy.

Thank you very much indeed.



Pictured: Dr Fergal Lynch, DCYA and Maura Butler, ACJRD

WORKSHOP SUMMARIES

1. Prevention - How can it act effectively as a Gatekeeper to the Criminal Justice System?

Presenter: Patrick Gates, Coordinator, Young People at Risk (YPAR), Dublin North Inner City and Frank Mulville, Meitheal Services and Support Coordinator, YPAR

Chairperson: Freida Delaney

Rapporteur: Bronagh Fagan

Introduction

Poverty is an economic, political and social concern rather than a Criminal Justice issue. However, its associated negative outcomes place significant demands on the Criminal Justice System.

In order to explore whether prevention can act effectively as a gatekeeper to the Criminal Justice System, the link between prevention and the wider socio-economic environment must be considered. Furthermore, the perspectives and experiences of those who deliver and avail of services, such as the YPAR network, are of great significance.

The intergenerational cycle of inequality and social exclusion is deep and embedded in Dublin North Inner City (DNIC). YPAR is a network of agencies which takes a prevention/early intervention approach to assist vulnerable children and families in the area. It represents 80 different statutory voluntary and community children's service organisations operating in DNIC.

Young People at Risk (YPAR)

YPAR Network emerged in 2003 as a result of a Task Group convened by Inner City Organisations Network (ICON) to investigate greater integration of supports and services for children and families. It exists as a network of services which take a proactive approach to working with children and young people aged 0-24 years.

The aim of YPAR is to facilitate multi-agency collaboration and cooperation in DNIC to enable projects and agencies to maximise the effectiveness of supports and services available to those at risk living locally. YPAR's mission is *"To promote and develop a principled and integrated approach to working with young people that serves their needs and realises their dreams"*.

An interagency Community of Practice approach is adopted whereby peers with coinciding professional intentions agree to work together to share data, acquire knowledge, advance expertise and solve problems.

YPAR Infrastructure (Working Groups)

- Antenatal to 5 years
- Primary school 6-12 years
- Difficult to reach 13-24 years
- International YPAR
- Youth mental wellbeing
- Homelessness
- Protocol/Meitheal

YPAR Membership

- Crèches and preschools
- Public health nurses, family support services, family resource centres
- Education welfare officers, home school liaison officers, school completion projects
- Youth projects, City of Dublin Youth Service boards
- Minority and new community led projects
- HSE drug projects, community addiction services
- Child protection, primary care and mental health social workers
- Community Garda, JLOs and Garda Youth Diversion projects
- Dublin City Council services
- Services working with people in emergency accommodation

Recognition of Young People's Needs and Wants

- Listen to the voice of the child and the voices of parents
- Annual conferences for young people
- Residential meetings
- Youth peer to peer groups and youth projects
- After-school programmes
- Participation in working groups

Protocol/Meitheal Practice Model

YPAR Protocol was developed in 2008 by YPAR as a wraparound support model for working with young people and their parents/guardians. A professional with a working relationship with the youth or his/her family identified areas of agreed concern. This information was shared at YPAR Protocol meetings, which focussed specifically on established concerns. The data presented was distinctly relevant to the actions required to resolve the issue in question. 300 children were supported by the involvement of over 50 agencies.

YPAR Protocol provided a framework for the Meitheal Practice Model, which is now implemented at national level.

YPAR Interagency Outcomes

Through YPAR, vulnerable young people gain access to early education, maintain school attendance and receive additional educational supports and services. Relevant assistance is provided to parents/guardians. Emerging needs of new communities and children living in emergency accommodation are responded to. YPAR campaigns for psychological service supports and access to mental health and wellbeing assistance. The development of appropriate responses to young people who become involved in crime or who are at risk of criminal involvement means less young people are exhibiting harmful behaviours or engaging in anti-social activities. YPAR continue to work with young people to increase their hopes and expectations so that they can realise their dreams. However, it is difficult to determine the success rates of the interagency approach as the root causes, such as, social exclusion and inequality, maintain a production line of disadvantaged families, children and young people.

Prevention

Investment and resources are required to create change and break the cycle of poverty and social exclusion. Education and skills inequalities must be addressed to create opportunities for people to access a decent income and higher standard of living. Better and more widely available access to universal support and welfare services are needed. Among other supports, this might include, the development of income support based active labour market training, employment programmes for 18-24 year

olds and the provision of decent housing and living environments for families.

Outcomes

- Fewer families in distress and at risk of marginalisation
- Lower numbers of children in State Care
- A decrease in families dependent on welfare
- Fewer young people in the Criminal Justice System
- A reduction in demands on the Health Service
- Improved family welfare and wellbeing
- Advancements in education and skills levels
- Better employment and income
- Increase in the wealth of individuals, families and communities
- Substantial decrease in the cost to the State

Discussion

Participants were curious about the presenters' opinions towards the effectiveness of a community policing model in DNIC, whereby community guards take ownership of distinct geographical areas and liaise with relevant services. It was acknowledged that the approach is welcomed and would appear to be working well in terms of building trusting relationships and creating networks. However, issues remain surrounding a lack of resources.

The issue of homelessness arose in terms of the negative impact that it can have on prevention/early intervention methods. The homeless crisis was also discussed regarding the manner in which it can act as a barrier for reintegration for those who have been involved in the criminal justice system.

Delegates discussed the North Inner City Community Coalition which recently produced a substantial document of relevant recommendations. The key piece concerns the setup of an inter-departmental body which looks at the integration of statutory services and funding to ensure a plan and strategic overarching piece.

The importance of education was explored. It was highlighted that some primary schools spend a disproportionate amount of time compensating for the lack of structure and care at home. It was acknowledged that whilst education levels are improving in DNIC, early school leaving remains a major issue. An emphasis on the development of skills useful in the labour market is required so that people can progress to decent jobs. More legitimate and rewarding forms of income must be available. It was also suggested by participants that children should be educated to vote to change structural opportunities.

2. New Challenges in Diversion and the Way Forward

Presenters: Superintendent Colette Quinn, Director, The Diversion Programme, and Joan Cherry, Director, The Northside Inter-Agency Project (NIAP)

Chairperson: Gerry McNally

Rapporteur: Catherine Friend

Juvenile Diversion Programme

Superintendent Colette Quinn opened the workshop with a brief overview of practical improvements from proposed legislative amendments to the Children Act 2001. Further legislative

improvements are awaited in the incoming EU Directive on Victims' Rights which will place obligations on agencies to address the needs of victims including child victims.

New challenges facing The Diversion Programme include issues around mental health and well-being, suicide awareness, anger management, and the management of sexual offending.

The Children Act 2001 through the Diversion Programme provides for mediation and Restorative Practice initiatives. The "voice of the victim" is represented by the victim him/herself being present at a restorative meeting or if that is not an option via a letter from the victim or a personal representative.

Practical support to children admitted to the Programme is also provided through intervention initiatives, such as:

- Garda projects with Youth Diversion
- Therapeutic interventions (for those with learning disabilities or mental health issues)
- Clinical assessment
- Restorative practices and Justice

The Diversion Programme which receives referrals from in excess of 20,000 incidents each year is managed by a team of 12 staff at the National Office in Dublin and supported by 123 Juvenile Liaison Officers (JLOs) throughout the country.

Later this year, the JLO Training Conference will address emerging issues such as mental health and well-being among children, anger management among children and sexual offending among children. The three areas of concern identified require interagency cooperation along with tailored and timely responses, to ensure children

receive the right intervention at the right time by the right agency.

Northside Inter-Agency Project (NIAP)

Joan Cherry outlined the work of the Northside Interagency Project (NIAP), which works with young people aged 13 to 18 years who engage in sexually harmful behaviours. Between one quarter and one third of these young people are responsible for sexual abuse. The project provides a 'holistic' multi-disciplinary treatment to include family and carers, as well as group work for the young people. It encourages voluntary participation over mandated participation. This is considered a standard approach in the UK and the US. At the time of the conference, NIAP currently works with approximately 30 young people and runs two boys' therapeutic groups and a parent group, NIAP's work is focused on child protection.

Are young people who engage in sexually harmful /abusive behaviour suitable for Restorative Justice? The answer may depend on victim and offender.

Restorative Justice works when a victim is 'ready', and when it is victim-lead and in the interests of victim. NIAP encourages integral inter-agency cooperation in criminal justice and welfare. This requires preparation, a structured clear agenda and facilitators. It must be led by non-judgemental and objective Gardaí and NIAP, who supports the offender.

The meaning of "justice" for sexual assault survivors varies depending on the victim. Some victims see better education about sexual assault to be a form of justice while others may find improvements in the societal challenge against endangering vulnerable population groups (e.g. women and children) to be important.

Consequences for the offender, including prosecution and naming, may also be important to a victim. Overall, victims want a ‘voice’ - they want to be heard and believed.

All victims must be treated with dignity, respect and empathy. It may also be important to acknowledge that siblings or close links of victims and offenders may require support too.

While naming and prosecution may be important issues for some victims, the majority of 13-18 year-old young people who attend NIAP don’t go through the Irish justice system due to an interfamilial abuse context, or a hesitancy towards criminalisation of a close family member.

A real-life case study was presented. A fifteen-year old boy abused a seven-year old neighbour and was referred on to NIAP by the Gardaí who proposed a restorative justice meeting between the mother of the victim and the young person. Generally, the programme requires a two-year attendance of modules focusing on victim empathy and understanding behaviour in general. During the meeting, the mother did not want a conversation with the young person, only for him to hear her feelings towards the young man and the impact of his actions. This impact included the loss of relationships between the parents of the victim and the parents of the young person. The mother wanted an apology, to hear how his work was going and what he planned to continue to work on in the programme. The young person’s parents got an opportunity to express their feelings and the impact on their lives which also included a loss of relationship with the neighbour’s family. This event, while understandably emotional for all

involved, gave positive feedback from the victim’s mother and young person.

Discussion

Where the parents of those involved can also be included in the decision-making process and help recognise the suitability of the programme for participants, timing is integral in restorative justice meetings. For example, in cases of conduct disorders, intellectual disabilities or for those on the Autism Spectrum, lack of empathic or remorseful traits may not be appropriate for the programme. This could mean inconsistent results or could even cause further trauma if not appropriately applied.

Research Difficulties

While research in international recidivism seems to indicate that young people don’t generally continue with behaviours, it is difficult to research actual behaviours as a lot of abuse is not disclosed, reported, prosecuted or convicted. Research can be largely based on self-report which may be influenced by social bias while “pure” research with a control group could present an ethical problem. Ethical issues could include withholding services from people who may benefit from them. A “healthy, non-abusive” lifestyle does seem to contribute to improved behaviours and reduce recidivism.

An alternative method which could be used to research restorative justice is to compare recidivism rates of those who have participated in similar programmes over the years. The speaker mentioned awaiting an article due to be published investigating older men who did not go through the programme when they offended. Another suggestion included research which could measure pre/post treatment effects of the programme. Data may need to span across twenty-five

years for accurate analyses and require re-consent when individuals turn 18-years old. With under-reporting of offences and poor understanding of the differences between sexual harmful behaviour to abusive behaviour carried out, more conversation is required around the distinctions and implications in future research.

3: Family Conferencing - The experience under the Children Act 2001

Presenter: Dr. Etáin Quigley, Postdoctoral Research Fellow, Applied Research for Connected Health, UCD

Chairperson: Deirdre Manninger

Rapporteur: Jane Holian

Children Act 2001

Family conferencing is facilitated under the Children Act 2001. The Act provides for family conferences in three parts - Sections 29-43 relate to how conferences operate within the Garda Diversion Programme, while Sections 78-87 and Sections 77 (7-15) detail how conferences are performed by the Young Persons Probation Service and Tusla - Child and Family Agency, respectively.

Family conferencing is often confused with restorative justice. While family conferencing can have a restorative ethos, some factors of it are often overlooked. Family conferencing is a form of welfare intervention. Its action plan has restorative elements in which multiple stakeholders can get involved. The young person may be required to engage in activities such as education, training and community work. The objective of family conferencing is to repair any damage

done, to redeem the young person, and to divert them from the criminal justice system.

This approach fits with the ethos of the 2001 Act, which recognises the vulnerability of young people within the criminal justice system. Instead, alternative remedies are encouraged. Divergence from the criminal justice system for the young person is viewed as the best possible outcome. The underlying restorative justice values in conferencing are less punitive than a pure justice approach.

Responsibilisation

“Responsibilisation” is the question of who is responsible for putting interventions/initiatives in place for young offenders and who is responsible for the engagement process. Conflict resolution often puts responsibility on the offender, in this case, the young person, for their actions. Family conferencing under Sections 29 and 78 recognises that while the young person may take some responsibility, the state also has responsibilities to the young person in which it may have failed, with contemporary literature highlighting increased state retraction of its obligations in this area. Society and the government have a responsibility to young people. Responsibilisation can be problematic if it is largely attributable to the young offender. Safeguards should be in place to prevent young people from being fully responsible for having committed the offence and thereafter responsible for their own rehabilitation/desistance trajectory. While the young person should take some level of responsibility, there is also an onus on the state to ensure that appropriate family oriented interventions are widely

available for young people at the optimum time of system involvement. Approaches to this have changed over time; the 1980's saw rehabilitative approaches being utilised, while in the 1990's the concept of risk and preventing re-offending was a priority. However, a theoretical shift in this jurisdiction has resulted in the different approaches being combined.

Section 29

Family conferencing under Section 29 of the 2001 Act is run by the Gardaí. In 2016, twenty family conferences were managed by the Garda Diversion Programme. There is a large gap between the number of young people within the system and the amount of conferences held under this section. Lack of resources, being outlined as the primary cause for the low figure, means that this provision is used sparingly and only for the most chaotic of cases. For example, in 2015, there were just under 9,807 young people referred to the Diversion Programme. Similarly, in 2014 there were 9,991 referrals - assuming that the numbers remained stable for 2016 (data currently unavailable) the figure of 20 s29 family welfare conferences being conducted highlights the significant lack of uptake for this family style approach to dealing with young offenders.

Section 77

Section 77 refers to family welfare conferences ordered by the court in relation to the welfare of a young person appearing before them. Since 2012, nineteen referrals for family welfare conferencing under Section 77 of the 2001 Act were made. Only ten of these referrals resulted in a family welfare conference. The statistics show that this resource may be underutilised by the court – however, this conference is

primarily for welfare issues and they may be being dealt with through alternative routes and many of the young people appearing before the court already have involvement with Tusla. National statistics are not available; figures are collected locally. According to Tusla, nineteen referrals under Section 77 for family conferencing have been issued since 2012.

Section 78

Section 78 refers to the Young Person Probation (YPP) Family Conference. Similar to the conferences discussed above, these have been used sparingly. For example, in 2013 there were 3,445 referrals to the YPP, of which only 50 were recommended for a family conference. Surprisingly, this was the highest figure since their establishment in 2005. The lowest number of referrals for s78 family conferencing was 19 in 2011 when a total of 3,731 referrals to YPP were made.

The remainder of this presentation relates to s29 and s78 conferencing as they specifically relate to offending behaviour.

Sections 29 and 78

Section 29 and Section 78 of the 2001 Act are used at different stages of the resolution process but are similar in their functions. Section 29 is used at the pre-court stage as a preventive measure, while Section 78 can be utilised after the young person has entered the court system. Both processes reflect the family centred ethos of the 2001 Act. However, the opportunities for conferencing that these sections provide are not being utilised.

What is family group conferencing?

Family conferencing is linked to restorative justice. However, the 2001 Act does more than restorative justice alone,

as it combines restorative justice and family conferencing. The process was developed in New Zealand based on the Maori tribal traditions of conflict resolution. The process has also been based on traditional Canadian methods. Family group conferencing enables family members and other stakeholders to come together and hold a conference, allowing the young person to deal with the issues raised. This welfare approach takes some of the weight of responsibility away from the young person, whereby family conferencing is designed to establish the young person's needs, and aims to identify and supply the services required for them, without solely focusing upon blame and thus operating a strong reintegrative approach. This "re-integrative shaming" process goes beyond the traditional scope of restorative justice. The process aims to bring about change, build relationships and repair the family.

New Zealand

In New Zealand, family conferencing is facilitated under the Children, Young Persons and Their Family Act 1989. The process is managed by a social worker, who can decide whether to recommend the young person's prosecution, or not. If the young person cooperates with the action plan, further measures are usually not taken and involvement with the criminal justice system can be avoided.

Family Conferencing Evidence

There is not a lot of evidence based research available on family conferencing in Ireland. Most research is based on re-offending statistics, but this is not enough. Some evidence shows reduced re-offending after conferencing, but more questions should be asked. More evidence is needed to show if the family conferencing process works for young people. Family engagement is critical for

the process to work effectively. Essential components of successful family conferencing include family and social support, and respect and dignity throughout. The young person involved needs there to be a level playing field in order to engage with the process and protect the process' legitimacy. Therefore, family conferencing has been linked to positive outcomes, but this should be based on more than reduced re-offending statistics.

Literature suggests that bringing young people into the criminal justice system is criminogenic in itself. The system in Ireland often brings young people into the criminal justice system in order to divert them from it in future; this may be problematic. It is worth asking whether the Gardaí running family conferences is the correct approach. Involvement with the Gardaí could be criminogenic in itself for young people. Therefore, alternative management of family group conferences could be explored.

Discussion

The group recognised that the fragmented approach of institutions for young people is problematic. Lack of interconnectedness between institutions, such as schools and mental health facilities, means that young people can often fall through the gaps. Speakers agreed that mental health issues can be a major factor for young people and that having access to appropriate mental health services could be an effective preventive method from getting into trouble. Family conferencing was discussed as a possible means to address the fractured nature of the current approach by bringing key stakeholders, beyond solely the criminal justice system and Tusla, together to formulate multidisciplinary plans for

young people who become involved with the system.

While delegates were generally in favour of family group conferencing as an alternative intervention, some remarked that conferencing may not always be suitable in every case, especially where family relations are fraught and complex, whereas, others felt that the family conference approach may be key to repairing fraught and complex relations - highlighting the need for empirical research to be conducted in this area. Delegates agreed that family conferencing should not be forced, as this could put undue strain on already difficult family relations. Delegates also agreed that in ideal circumstances, the victim in question should be involved in the conferencing, but again, this should never be forced.

The current Act (2001) was also discussed in terms of the correct positioning of the conferencing approach. Some delegates questioned whether the conference was conducted at the most appropriate time of system involvement and suggested that this be explored further.

4: Victims of Young Offenders

Presenters: Dr. Johnny Connolly, Irish Research Council Scholar in the Centre for Crime, Justice and Victim Studies, School of Law, University of Limerick, and Inspector Lorraine Stack, An Garda Síochána Victim Liaison Office

Chairperson: Dr. Susan Leahy

Rapporteur: Beth Duane

Dr. Johnny Connolly - Victims of Youth crime and the Illicit drug trade

The murder in 1996 of Veronica Guerin, a high profile journalist who had written about a number of key players involved in the illicit drug trade was a catalyst for a range of draconian legislative measures, informed by a moral panic in relation to crime and the illicit drug trade. These laws provided the Gardaí with significant powers of arrest and detention to tackle the perceived crime problem, and have had significant implications for defendants' rights. This legislation includes the following:

- Criminal Justice (Drug Trafficking) Act, 1996
- Criminal Assets Bureau Act 1996
- Proceeds of Crime Act 1996
- Bail Act 1997
- Non-Fatal Offences Against the Person Act, 1997
- Criminal Justice Act 1999 (Mandatory 10 year sentences)

National Drug Strategy

Recommendations from the Rabbitte Report (1996) formed the basis of the National Drug Strategy (NDS). The NDS was a pragmatic approach to drug policies to address the root causes of drug use and social exclusion (Connolly and Percy, 2016, p 424). The aim of the NDS was to significantly reduce the harm caused to individuals and society by the misuse of drugs through a concerted focus on supply reduction, prevention, treatment and research. A new drug strategy is to be published in 2017.

Situating the Harms through Community Research

The CityWide Drugs Crisis Campaign has focused on the hidden experience of drug-related intimidation nationwide by highlighting the situation to policy makers and the wider public. Research by

CityWide and the Health Research Board has given an insight into the context of youth offending within the broader community. The aim of the research is to assist communities in developing locally based, effective, and sustainable responses. Furthermore, it was to gather information indirectly from a hard to reach population, namely people in communities who have experienced drug-related intimidation, including drug users and their family members.

Drug Intimidation

The aim of the research was to collect information regarding drug intimidation which was reported to drug and other community services. The research was based on second-hand information provided by reports from project workers. A number of recurring themes surfaced as being significant to the research audit.

No particular schedule was found, as the use of social media and mobile devices allows for increased opportunities to intimidate a victim. The main target of drug intimidation was the user (75.2%), followed by the user's mother (33.1%). The family of the user was a primary target for intimidation as a way to 'flush out' the user or to ensure the debt was paid off. The nature of the incidents included verbal threats (75.9%), physical violence (46.2%) and damage to property (32.4%). The research concluded that the nature of the incidents escalate, as they go from verbal threats to physical abuse.

Young People - Victims or Offenders?

It is clear that there is a rising problem evolving around young people who are getting into debt over the purchase of weed, and subsequently are coerced into 'working the debt off' by engaging in criminal activities. Young people are also trying to 'make their way up the ladder' of

the drug trade (Connolly and Buckley, 2016, p. 15). Additionally, intimidation of young people occurs in schools, and as a result, fear of attack over drug debts is a cause of a young person leaving school early.

Inspector Lorraine Stack - Victims of Juvenile Crime

EU Directive 12/29/EU establishes the minimum standards for the rights, support and protection for a victim of a crime. Historically, victims had the power to both classify and adjudicate on any punishment they decided was appropriate, taking an eye for an eye, a tooth for a tooth approach. Authorities were not responsible for drawing up rules or punishing offenders. Disputes were settled between the two parties themselves. Victims could react in different ways either by resorting to violence 'blood feud', or peacefully settling disputes by 'seeking compensation' depending on the damages caused. However, in more recent years the victim's involvement in the criminal process has diminished dramatically, as the adversarial criminal justice system now prosecutes offenders on behalf of victims. The Victims' Directive will now challenge the current criminal justice process(es) to be more inclusive of victims, and their rights.

Victims' Directive

The Victims' Directive establishes the minimum standards for the rights, support and protection for all victims of crime. Criminal justice agencies are now obliged to provide information, support, and protection. The Directive provides the definition of a victim under Article 2(1)(a). It states that a victim is -

"i. a natural person who has suffered harm, including physical, mental or

emotional harm or economic loss which was directly caused by a criminal offence;
ii. *family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death.*"

Juvenile Offenders

Juvenile offenders include:

- Young people who have been victimised in early childhood
- Those who commit crime which harms victims, whether they intend this or not
- There is a need for risk-focused intervention, and to identify precursors to offending in order to intervene.

Legislation and Policy

The following legislation and policies include provisions for victims:

Children Act, 2001; Part IV and Part VIII

- Section 26 - Formal Caution
- Section 32 - Persons entitled to attend a conference
- Section 85 - Family Conference.

An Garda Síochána

- Diversion Programme - Cautions, Formal & Informal;
- Diversion Projects - needs, risk factors, prevention;
- Participate in Offender Reparation Programmes.

Criminal Justice (Victims of Crime) Bill, 2016

The Criminal Justice (Victims of Crimes) Bill 2016 puts victims' rights on a statutory footing in Irish law for the first time. The Bill outlines how and when information, support and protection will be provided to victims of crime. It will enable a victim to be accompanied by a person of their choice when making a statement to the Gardaí. The Bill will also extend the

principle of the victim impact statement (VIS) such that victims of crime, not covered by law relating to VIS, will be able to provide a written victim's personal statement to the courts at sentencing.

Other provisions in the Bill include:

- Procedure for making a formal complaint
- Individual victim assessment
- Support Services
- Linguistic Assistance
- Protection measures
- Special Measures
- Entitlement to expenses

Discussion

The delegates examined a number of aspects which were raised during the workshop including the problems relating to reporting an incident. It was agreed that there were numerous problems revolving around the level of reports to the Gardaí. People who choose to talk to the Gardaí often do not want the offender to be prosecuted. This is due to a number of reasons. After a victim reports an incident such as drug-related intimidation, the violence will often escalate. As a result, victims may have reservations about reporting due to the fear of reprisals. The delegates agreed that there is a need to establish a system for informal reports to shield the victim from further violence as a result of reporting to the Gardaí.

A point which was discussed at length during the discussion related to familial influences on the young person. The delegates discussed the links between the criminal path parents pursue, and their children's reaction to it. A child's parents and/or grandparent's involvement in crimes such as drug-related crime creates victims. It is discernible that not all of these children have resilience to crime

due to their familial ties. It was debated that there is a need to create further opportunities to break this cycle. Parents are extremely influential, and need to be a part of the solution, not the problem. The delegates discussed the importance of dealing with the young offender, as early as possible when they are in the system. It is important to acknowledge that all children are different, and that there is a need to find ways to help children according to their individual needs.

5. The Non-Adversarial Challenges for a Juvenile Justice Lawyer

Presenters: Aoife McNickle BL

Chairperson: Catherine Pierse

Rapporteur: Jade Lydon

Adversarial versus Welfare Approach

The Children Court is essentially a District Court, the same as any other, but with more statutory provisions available to it. The Irish criminal justice system is a purely adversarial system, and that is not at all what a child needs. There is a balance which needs to be made and this can happen if all the parties involved - defence lawyers, barristers, solicitors, judges and Gardaí - are open to balancing the best interests of the child with the course of justice. This approach may be difficult but is possible. One of the main challenges juvenile justice lawyers face is that there is no training or facility available to specialise in juvenile justice and so it is on experience alone that one learns how to think and operate in a different way which is more beneficial for the child. However, one person alone in the Children Court having this view is of little benefit and to have a real impact this

approach must be taken by all parties involved.

When working with children there is as much work needed outside the court room as there is inside.

The non-adversarial approach is mostly used outside the courtroom and can impact the child, and the relationship they have with their lawyer, immensely. Acting on behalf of a child differs hugely to acting for an adult. Communication can be a challenge as children can be very forthright and blunt in some cases, whereas in other cases children can be very guarded and cautious, and trust must be built between the child and lawyer.

Another challenge which juvenile justice lawyers face is having to not only deal with their client, the child, but also the child's parents. Representatives of the child will often be the messenger between a child and their parents, and will also keep the parents informed and up to date on proceedings, if necessary. Many parents and their child will often have the same negative view of the Gardaí and criminal justice system, which means that representation must build trust with the parents as well. Other times parents may have a different motive or agenda other than the child's best interest and it is essential to remember that the child is the client and therefore, it is their wishes that matter the most.

Early Intervention

The Children Act 2001 changed Irish society's way of thinking toward children. In terms of the juvenile justice system it gave a huge range of sentencing options and frameworks for the implementation of those sentencing options, which up until then were not available to District Court Judges dealing with children. The

Act started a more non-adversarial approach to juvenile justice using the Garda Diversion Programme and Bail Supervision Scheme.

The Children Court is the last port of call. Up until that point there is early intervention in terms of community resources and community funding. Services are made available which deal with the practical problems of speech and language difficulties and mental health difficulties that may impact on the development of the child. For preschool children, any break in development in terms of the child's basic needs, has a huge impact on the child ten years later when you can start to see behavioural problems.

Education and Sport

Children who stay in education for longer tend not to come in to contact with the criminal justice system. If children leave education at an early stage, without a scheduled routine and structured daily activities, they have more time and less to do. This leads to them being influenced by more negative peers than those they would come across in the education system. Again children who are involved in sports are either less likely to come in to contact with the criminal justice system, or if they do, they require less help to get out of the criminal justice system as they usually just need to refocus back on the positives in their chosen sport. Quite a large number of children who came in to contact with the criminal justice system had previously been involved in sport but had received an injury where they could no longer take part. Once they were no longer involved in sport their friendships changed dramatically and again were then influenced by more negative peers.

Options Available

At least 80% of children who come to the attention of the Gardaí are diverted away from the criminal justice system due to the Garda Diversion Programme, which is the next port of call. Speaking in generalisations, the Children Court deals with the 20% who may not have had early intervention, may have left education early and were not involved in sport, and with those for whom the Garda Diversion Programme may not have worked.

The Bail Supervision Scheme filled a gap. There were services available up to when a prosecution begins and services for when sentencing started but there was a gap in the middle which the scheme filled. Although the Children Court is a rights based court and not a welfare court, the approach taken incorporates welfare issues. Most of the issues faced by juvenile justice lawyers are bail-related such as breach of bail and coming to an agreement on bail conditions. There was nothing in place to assist a child in keeping their bail conditions which is a major issue as many children up to that point had either never followed any rules or had never been given any.

Some of the sentencing options available to the Children Court include day centre orders, probation orders and family conferencing. Family conferencing brings in the element of restorative justice which had never been used in the criminal justice system before the 2001 Act. Since then, restorative justice has been extended to the adult District Courts. The child must plead guilty, accept responsibility and want to make amends before family conferencing can occur. It is both beneficial for the child and the victim and gives the child some power to make their own plan on how they can make amends.

Discussion

One of the points raised in the discussion was that a child can be out on bail and then go and commit another offence and then ends up back where they started. However, like adults children enjoy a presumption of innocence. Moreover, cases can also be dragged out and to have an innocent child detained possibly for months away from their family is not in the best interests of the child. Although the Bail Supervision Scheme is available not everyone will adhere to it and that is a risk that must be taken with every child who comes through the Children Court.

A question was asked as to whether the judges, lawyers and Gardaí who are involved in children's cases are open to the welfare approach. Obviously every person will differ on how they feel about the non-adversarial approach and often those professionals in the Children Court are not designated to just the Children Court and therefore don't know that there are other considerations to be made compared with adult cases. Also, as stated earlier, a lot of the welfare approach is needed outside the courtroom. The point was also made that lawyers can often be under pressure from their bosses to make money by dealing with a large number of clients and unfortunately this may lead to less of a welfare approach. It was suggested that consideration should be given to providing some financial incentive to lawyers to specialise in juvenile justice and to adopt a welfare approach to cases in the children's court.

Finally there was a question asked on why there is an increase in serious crimes coming through the Children Court. It was suggested that this may be partly due to programmes such as the Garda Diversion, as most children with minor offences are

being diverted away from the criminal justice system. This has meant that serious offences represent the majority of cases which come through the Children Court.

6. Mainstreaming Youth Crime Prevention in Youth and Other Services

Presenters: Miriam Ryan, Area Manager, Blanchardstown Youth Service, Foróige

Chairperson: Asst. Commissioner Eugene Corcoran

Rapporteur: Annita Harty

The purpose and philosophy of Foróige is to *“enable young people to involve themselves consciously and actively in their own development and in the development of society”*. Foróige is underpinned by many values which help harness a young person's uniqueness, creativity and their sense of responsibility.

There have been over 50,000 young people involved with Foróige all over Ireland since it was established in 1952. The first club was developed in Co. Kilkenny where it targeted young girls and boys in the community. It provided home economics for girls, which included sewing and practical agricultural studies for boys. Since then Foróige has grown tenfold.

Foróige works with young people at risk such as early school leavers, young people at risk of drug and alcohol use, young Travellers, young mothers, young people from all ethnic backgrounds as well as young people at risk of criminal behaviour. It gives them a choice in what

they want to do, whilst instilling responsibility in their lives. Young people are encouraged to work and engage with group work. The programmes available have been tailored for each individual's needs. Young people are given the opportunity to work more closely with the community.

Some programmes included under Foróige's remit are - early school leavers, citizenship, empathy, health and wellbeing, crime prevention, relationships and sexuality, and mentoring.

The Early School Leaver's Programme is run for twelve to fifteen year olds who have left school early for a variety of reasons. This may be due to schools finding the young person's behaviour troubling and disruptive, to bullying, or to learning and behavioural issues. Foróige works with individuals between 10am and 3pm each day to focus on individual's abilities and encourages them to complete their Junior Certificate examinations. If individuals come to Foróige's attention at the right time, it can make all the difference for deterring a young person from criminal and antisocial behaviours.

Identifying & targeting young people:

To help reduce the risk to vulnerable young people, Foróige uses the following process to engage them:

- Identification and recruitment of the young person
- Relationship building through activities
- Identifying the young person's needs
- Referral to the appropriate project
- Engagement of the young person in a programme
- Assessment of progress

Certain criteria must be met in order for a person to be included in a Garda Youth

Diversion Project. The young person could have one or more of the following:

- History of criminal behaviour
- Attitudes, values and beliefs supportive of crime
- Dysfunctional parenting
- Antisocial peers
- Dysfunctional personality/behaviour traits
- Poor education/vocational skills
- Substance abuse and/or
- Poor use of leisure time

(Hoge & Andrews, 2011)

The purpose of crime prevention work in mainstream youth work is to engage young people who are at risk of offending in a process of learning and development that will enable them to examine their own potential offending and to make positive lifestyle choices in order to protect themselves from involvement in criminal, harmful or an anti-social behaviour. To implement this, the work involves linking young people with non-offending peer groups and enabling the development of stable and trusting relationships with adults in the community. The intended impact of this process is that those engaged develop into responsible and valued citizens. The intended outcome is that young people engaged in the process do not offend and do not progress into the criminal justice system.

Tyrrelstown

Tyrrelstown, a relatively new community with mostly private residential housing, has seen a 60% growth in its population in the last five years. Approximately 40% of the population was born outside of Ireland, predominately Black Irish. There are four primary schools and one secondary school located in Tyrrelstown. Another secondary school, which is badly needed in order to accommodate the

growing community, is due to open in the near future. A late night youth café was established for young people in the community to respond to some of the anti-social behaviour that was taking place on a Friday night. Young people were targeted for involvement and participation was voluntary.

During the café time, youth workers were able to identify and target young people for specific programmes, namely Sport & Thought, Life of Choices and the Foróige Empathy Programme.

Two teenagers, both of whom are from the Tyrrelstown community, were present at this workshop. They briefly discussed what it has been like for them to be involved with Foróige.

Boy One felt that young people in his area are constantly being labelled negatively and stereotyped. He commented that Gardaí are constantly patrolling his area and randomly stop and search people. He also mentioned that there is still a lack of support for some people, which could lead them into criminal behaviour. Foróige has helped to change his attitude and has made him into the young man he is today through the different programmes they have on offer.

Boy One also felt that the Foróige sports programme could help people such as himself to learn skills such as decision-making. He learned that through passing a ball you could internally change the way you react to situations on the street. For example, in the past you may have hit someone because there was no other way out. The sports programme teaches you that if you can't pass a ball one way, then more than likely there will be another way. The sports programme for Boy One has given him a new approach to looking

at difficult situations in life. Foróige has helped young individuals learn new skills which you would not learn on the streets

Boy Two acknowledged the benefit of the leadership programme and noted how it helps young people make the right decisions and choices for their lives. The leadership course encourages teamwork through a good and safe environment. Boy Two has been with Foróige for a number of years and he believes that he is blessed to have Foróige's support in his life.

Discussion

Huge thanks were given to the presenter, Miriam Ryan, and to the two boys who spoke to the group.

Restorative justice has been a part of Foróige's work, has it been beneficial?

Some Foróige staff have restorative training that involves mediation to challenge behaviour. When using the tools of mediation, it was found that talking to young people in a more positive than negative way, was seen to have a greater impact on them. It was felt that adapting the restorative justice approach to suit individual's needs would have a better outcome for all involved.

Has there been much success with the youth leadership programme?

There are three modules to the leadership programme, which a high proportion of people complete. Some people have completed the programme and upon reaching eighteen years old have been able to volunteer with Foróige with the use of these skills.

Members of the Garda Síochána who were present for the discussion found it beneficial to hear the voices of the two young boys at the workshop, particularly

with regard to their feedback on stereotyping and labelling. The members present were eager to make their organisation more aware of how a young people perceive the attitudes from those on patrol in their communities. It was felt that communication and more involvement from Community Gardaí would impact on relationships and thus lead to lower crime rates. Overall, there has been an improvement in relationships between young people and the Gardaí.

It was suggested that perhaps the criminal justice system should have different rules for young people, especially those in their late teens.

7. Offenders aged 18 - 24 years - The Justifications and Challenges for extending Juvenile Justice approaches to them

Presenters: Brian Santry, The Probation Service and Eoin Carroll, Jesuit Centre for Faith and Justice (JCFJ)

Chairperson: Eileen Leahy

Rapporteur: Jane Mulcahy

Young Persons Probation (YPP)

Young Persons Probation (YPP), established in 2004 following the enactment of the Children Act 2001, is a division of The Probation Service. Specialised staff work specifically with young people aged between twelve and eighteen years who appear before the courts or who are detained in the Oberstown Campus. There are dedicated teams in Dublin, Cork and Limerick and also dedicated YPP posts on Probation Service teams nationwide. YPP aims to reduce re-offending and contribute to a

safer Ireland through the supervision and reintegration of offenders, creating better lives for children and reducing victimisation through crime reduction.

Insofar as possible, the Children Act 2001 is restorative not retributive, bringing together the victim and offender, if the victim is willing. The Act seeks:

- To allow the education, training or employment of children to proceed without interruption
- To preserve and strengthen the relationship between children and their parents and family
- To foster the ability of families to develop their own means of dealing with offending by their children
- To allow children reside in their own homes

YPP adopts a flexible, creative and inclusive approach to offending behaviour based around the detention as a last resort principle. It focuses on prevention, diversion and intervention. Probation Officers involved with the YPP process, use a professional risk/needs assessment tool known as the Youth Level of Service Case Management Inventory (YLS-CMI) which also focuses on strengths and protective factors to inform their pre-sanction reports and supervision contracts. The education and training needs of the young person are prioritised. The level of intervention is matched to the level of risk of re-offending, whereby high risk young people will have more frequent contact with their Probation Officer and more intensive interventions. The rights of children are prioritised and the role and responsibilities of parents are central to the process. The process is also attentive to the rights and interests of victims.

Case management of Court Orders involves family work and inter-agency

cooperation with the HSE, Drug and Alcohol Services, Juvenile Liaison Officers, Garda Case Managers, the prosecuting Garda, Tusla, Community Based Organisations and the Education and Training Boards. A case management plan is developed collaboratively with the young person and their parents and addresses core expectations. Conditions are put in place to address the risk factors, e.g. attend school, mentor, parenting programme, etc. The consequences of non-compliance are explained. This plan is reviewed monthly by a manager and a risk review is held every six months.

Where the young person fails to comply with the conditions of the order, the case will be returned to court for breach of proceedings. The Judge hears the evidence and makes a decision accordingly. Whenever a young person is sentenced to time in detention, a special pre-release plan will be put in place in consultation with the community based Probation Officer responsible for the Supervision Order.

In 2014 there were 861 court referrals, 888 in 2015 and 725 in 2016. The bulk of court orders made were for Orders for Supervision During Deferment of Penalty: 370 in 2014, 306 in 2015 and 264 in 2016. There were 49 detention orders made in 2015 and 27 in 2016. By comparison the number of 18-21 year olds who were subject to supervision orders in 2014, 2015 and 2016 was 1,390, 1,141 and 1,147 respectively. While only 20 - 30 young people were given Community Service Orders (CSO) over the three years, CSOs for 18-21 year olds in 2014, 2015 and 2016 were 418, 320 and 274 respectively.

Extension of the YPP approach to young adults would have significant resource and

structural implications. If Young Persons Probation were to be extended to include all those up to age 21 years, it would be **trebling** its numbers right away.

Extending Juvenile Justice Approaches to Young Adults (in Detention)

In the Government's *"Better Outcomes, Brighter Futures 2014-2020"*, the national policy framework for children and young people, a young person is someone under 25 years. In 2016, the Jesuit Centre for Faith and Justice (JCFJ) published a report called *"Developing Inside"*, which called for a new approach to addressing the needs of 18-24 year olds in Irish prisons. There are strong developmental reasons for extending a youth justice approach to 18-24 year olds, since this group of prisoners - like adolescents - tend to be impulsive, reckless, poor at contemplating consequences and unable to delay gratification. They enjoy testing boundaries and taking risks. Arnott's concept of emerging adulthood argues that the transition to adulthood is not complete when a person turns 18. There is, rather, *"an extended passage to adulthood"*, with an increasing mean age where people take on adult roles and responsibilities.

Young adults are more malleable to peer influence than older adults and have greater capacity for change. This necessitates the development of a separate, distinct model for young adults in detention.

Young adults in prisons have already been failed by the education system, by housing services and the health system. The prison system then treats them as if they were fully mature adults, when we should be treating them as a distinct group, and more like children.

Incentivised Regimes’ impact on young adults

The Incentivised Regimes Policy introduced three levels of accommodation within each prison - basic, standard and enhanced. Everyone enters prison at the ‘standard’ level, and depending upon their behaviour they will move up or down a level or stay static. Behaviourally, all young adults push boundaries and challenge authority. Within the prison system this has resulted in a disproportionate number of 18-24 year olds being placed on the ‘basic’ accommodation level. Young adults are mostly serving shorter sentences, so if they do fall down to the basic level, they might not reach the enhanced level by the time they finish their sentence.

The JCFJ research revealed that young adults are being disadvantaged in the system, more than likely because of their behaviour. In terms of Incentivised Regimes, fewer 18-24 year olds will be on the enhanced level and a much greater percentage of them (9%) are on the basic level compared with other adults in the system (2.6%), which means they spend more time locked in their cell, less access to family visits, fewer phone calls and a far lower gratuity payment.

Sentence Management and young adults

Integrated Sentence Management only applies to those serving sentences in excess of one year. Young adults in prison typically serve short sentences. Those on sentences of less than one year would benefit from a formal sentence management plan in preparation for their release.

The closure of St Patrick’s Institution, while welcome, marked the end of any differential treatment of young adults in Irish prisons. Ireland is one of only eight

countries which do not provide special rules for young adults. The reality in Ireland is that young adults are held across the prison estate and not in dedicated facilities. They are mixed with older adults, with no special treatment, or respect for their age or vulnerability. They are held in conditions where cell sharing is the norm for many, as well as using the toilet in the presence of others.

The Minister for Justice committed to the development of a world-class prison service – What would it look like if we were to strive for this? We would, surely, follow international best practice, following the European Prison Rules for Juvenile Offenders and would also recognise the special status of those between 21 and 25 in line with the Final Resolution for Penal Law World Congress in 2004. Ultimately, approaches more aligned to juvenile justice have a greater chance of being more effective with young adults than measures within the adult system. The recent successful change process in Hydebank Wood College highlights that a change in approach and ethos to the treatment of young adults is very much possible.

Discussion

It was stated that The Probation Service has a particular philosophy of change and that staff have been trained in that regard. It is not just YPP who have been trained in that philosophy, but those working with 18-21 year olds also share this ethos. Similarly, the funded projects in the community do not have a cut-off point and have an important flexibility. The argument favouring extension of the YPP approach to young adults has been won. It is just a case of seeing how this is achievable within The Probation Service structures.

The Irish Prison Service system is very much “resource driven” and, at present, the IPS is struggling with lack of resources which it requires to support change. Eoin Carroll responded by saying it was necessary to have aims and a vision, and if we succeeded in driving down the young adult prison population by a third or a half, then resources could be used elsewhere.

8. Dealing with Prolific Offending - Research and Future Practice

Presenters: Eoin O’Meara Daly and Dr. Catherine Naughton, University of Limerick (Greentown Project), and Rose Sweeney, Assistant Principal Officer, An Garda Síochána (Youth Joint Agency Response to Crime - YJARC)

Chairperson: Ben Ryan

Rapporteur: Greg Andersen

Eoin O’Meara Daly and Dr. Catherine Naughton

Greentown Study Introduction

The Greentown replication study is being conducted in an effort to understand how criminal networks operate and influence youth offending in Ireland. The current study builds on initial research carried out between 2010-2014 in a locality anonymised as *Greentown*. The research team, led by Dr Sean Redmond, is currently engaging in a replication study in two other locations to investigate whether the initial findings are experienced elsewhere across the country. Ethical concerns around the project have been dealt with by anonymising Garda PULSE data and a pioneering interview method, created by the project, called *Twinsight*. The project tapped into local Garda knowledge and

interviews were conducted to facilitate this.

The initial and further locations for the study were decided through analysis of Garda PULSE data with the help of senior analysts. Specifically, this involved children who committed one or more Burglary or Drugs for sale or supply offences, as these are seen as atypical offences usually involving adults in terms of access or fencing of stolen goods.

Findings of initial Greentown Study

- There was a criminal network operating in Greentown with transactions and relationships between adults and children;
- The network was hierarchical in nature which allowed for a powerful current of compliance among those who succumbed to the network;
- The network compelled ‘certain’ (vulnerable) children into abnormal patterns of criminal behaviour.

Along with other nuanced findings, children of the dominant crime family were seen as the natural successors to the family crime business or criminal network. Associate children or those who were recruited into the network through other means and were not related to the dominant crime family, tended to have a chaotic background. These children were targeted and often given the rewards not supplied to them in their home settings. For these children, power, a feeling of belonging and, for some, access to drugs and alcohol were the pull factors that attracted them to the criminal network. Disengagement from the network was difficult and most children caught in the network’s ‘vortex’ were unable to leave. Powerful push factors like intimidation and fear and often drug debt and the

related obligation were used to ensure this.

Greentown Programme Design Workshops

The simultaneous objective aims of the workshops are to reduce the influence of the criminal network on child offending and to improve the pro-social outcomes for children who have engaged in these networks. The process follows a deliberate programme-building sequence designed to respond to complex policy issues; problem definition, solution identification and detailed programme design. It involves a range of national and international experts with extensive experience in the areas of youth offending, social network analysis, law enforcement, child welfare, governance, research and evaluation, policy and programme design. The panel has been identified as optimal and complimentary for the complex challenges involved.

The first workshop, held on 15th June, 2017, was used to define the problem of children involved in criminal networks, as a complete understanding of the problem is needed before looking at solutions to this complex problem. Key to the first workshop was pre-recorded international expert interviews, and individual national expert input. The second workshop will look to identify the elements of the current situation that can be changed and focus on solutions. The third workshop will focus on **practical programme design**. The objective will be to further develop ideas for interventions based on Workshops 1 and 2 and importantly to stress test these ideas before any implementation in the field.

Discussion

- Note that not only typically chaotic children are being targeted

- Children will need to feel like they are safe in the hands of the police force in order to confess actions
- Need for a 'legitimate other means' for these young people
- Children who disengage should be put into a programme which facilitates their needs to reintegrate into society

Rose Sweeney - Joint Agency Response to Crime (J-ARC)

Introduction

J-ARC was founded in 2015 and aims to target the 25% of recidivist offenders in Ireland who commit 75% of the crime. The group focuses on reducing crime and enhancing public safety. J-ARC focuses on a more co-ordinated approach to policy, implementation of such, and research in areas of crime, and sets a main prerogative of respecting the rights and needs of victims to ensure safer communities. J-ARC aims to strengthen a multi-agency approach, prioritise offenders and develop initiatives to address their behaviour and, long-term, to reduce crime and increase public safety.

J-ARC Governance

The J-ARC is governed by a High Level Group which consists of representatives from the following agencies and Departments: An Garda Síochána, The Probation Service, the Irish Prison Service, Tusla, Departments of Health, Justice and Equality, Education and Skills, and Children and Youth Affairs. All work together to develop strategies to tackle persistent crime. The High Level Group is supported by a joint agency National Co-ordination team which meets weekly or fortnightly to co-ordinate the strategy and aims of J-ARC and deliver these plans through research, operational responses and alignment of the agencies. J-ARC currently pilots a number of operational initiatives - ACER 3 which operates in two

Dublin areas, 'Strive' which operates in Ballymun, and 'Bridge: Change Works' which manages fifty prolific offenders within the Dublin Region. In addition the ACER 3 pilot has been extended to districts in Waterford, Dundalk, and Limerick.

Youth J-ARC

At the request of Minister Stanton, Youth J-ARC was developed in 2017. Youth J-ARC operational initiatives are currently being piloted in two areas within Dublin and Cork. The Youth J-ARC specifically focuses on 16-21 year old offenders. Youths eligible for J-ARC intervention must match the age category and be resident in one of the above areas. Youths involved in Youth J-ARC fall under a number of categories: Category One Youth are currently in prison or detention or are within the community and are a priority; Category Two are youth who are serving a sentence, have left the jurisdiction, their whereabouts is unknown or are fully compliant; Category Three youth who are those who are compliant.

Discussion

- Typical interventions are case by case. Firstly the need is identified, a joint agency management plan is developed and then a process is put in place to address the need and through intervention it is hoped the need would be met.
- This is not a programme to which the offender goes - it is a meeting of various personnel who compile an intervention, together engage with the individual, and support and monitor their engagement while amending the individual plan as necessary.
- Offenders do not have to agree to be a part of this programme - they are selected for it - but it has benefits to

be part of the programme, especially in court sentencing.

9. Youth Mental Health and Wellbeing in Detention and into the Community - The Oberstown Experience

Presenters: Eimear Ryan and Sanna Cramnell, Assessment Consultation and Therapy Service (ACTS)

Chairperson: Róisín Webb

Rapporteur: Beth Duane

Introduction

The Assessment Consultation Therapy Service (ACTS) was established in 2012 following recommendations of the Ryan Report (2009) and the report of a working group on their implementation. ACTS was established to provide on-site therapeutic services to children in, and children at risk of placement in, detention, national high support and special care. ACTS is a small national specialised clinical service which provides multidisciplinary consultation, assessment and focused interventions to children who have high risk behaviours associated with complex clinical needs. ACTS also supports other professionals in their ongoing work with young people and their families, and liaises with services to facilitate the continuation of therapeutic work once the child's placement ends. The collaborative nature of their work is essential to treating young people at risk. To achieve this, ACTS works with residential staff, families/carers, local area social workers, staff in other community services, and the young people themselves.

ACTS is made up of a national multidisciplinary team which includes

counsellors, psychologists, social workers, social care workers and speech and language therapists. The advantage of having a multi-disciplinary team working together to provide services to young people is that it provides an extensive view and understanding of the young person's circumstances and what has led them to require this level of clinical service. Furthermore, it also allows for ACTS to provide a holistic and tailored service for the young person's individual circumstances and problems. In Oberstown, ACTS also works in partnership with the National Forensic Mental Health Service.

Oberstown

For many of the young people in Oberstown, it is their first time away from home. Upon their admission, there are a number of factors which need to be taken into account in terms of planning clinical assessment and intervention. These are outlined below:

- Basic biological factors – appetite, sleep, medical needs, clothing
- Recent substance misuse – the young person may be in withdrawal
- Length of time in Garda Custody
- Contact with families/significant others
- History of developmental disabilities – learning difficulties, language and communication difficulties
- Involvement with other services such as CAMHS (Child and Adolescent Mental Health Services), NEPS, Local Community Services, social work/child protection.

ACTS has a good success rate with engagement with young people in Oberstown due to the fact that they engage with young people in the units themselves. While you cannot force a young person to engage with a service, it

is important to support them to engage as best you can. A key component in ACTS is how to engage with the young people which is best understood as “turning up, hanging-in and hanging-out”. However, there are particular difficulties in engaging with young people on remand. It is difficult to plan interventions when staff do not know how long they will be working with the young person or if the young person is only going to be in Oberstown for a short period e.g. one week. This uncertainty, as well as extended periods on remand, can have a negative impact on the young person's mental health and well-being.

Presentations of Young People

Young people entering Oberstown may present with:

- Substance misuse
- Externalising behaviour and aggression
- Poor emotional regulation
- Maladaptive cultural beliefs and expectations
- Inconsistent care history, including neglect and abuse
- Developmental difficulties

Many of the young people in Oberstown have a diagnosis of ADHD but have not managed to attend CAMHS consistently. Others are clearly presenting in emotional distress but may not meet the criteria for a psychiatric diagnosis. In terms of their learning, some young people have been assessed (perhaps through an educational psychologist in NEPS or community psychology services) but often neither they nor their parents understand the reports/diagnosis. There is a great variation in how young people have accessed community services. Some young people have had multiple assessments over the years while others have had none. An example was given of a child who presented with a moderate

learning disability who had never been assessed prior to their admission to Oberstown. Speech and language difficulties are a very significant feature for young people. They often do not understand what is being said to them and also struggle to get their main points across.

Developmental Trauma Disorder (DTD)

Traumatic childhood experiences have a profound impact on many different areas of functioning. The presentation of the young people in Oberstown can be best understood in the context of developmental trauma. This includes:

- Multiple exposure to developmentally adverse interpersonal trauma and subjective experience (e.g. rage, shame)
- A triggered pattern of repeated dysregulation in response to trauma cues
- Persistently altered attributions and expectations
- Functional impairment: educational, familial, peer, legal and vocational

DTD sets the stage for unfocused responses to subsequent stress leading to dramatic increases in the use of medical, correctional, social, and mental health services (Van der Kolk, 2005). It is similar to post-traumatic stress syndrome in adults and can have long-term physical health implications. .

MAYSI-2 Screening

MAYSI-2 is used as a mental health screening tool upon a young person's admission to Oberstown. It is used to identify the young people who are at the highest risk and are in need of an immediate clinical response. It is made up of 52 'yes' or 'no' questions to identify the young person's needs. The areas covered in the screening tool are:

- Alcohol/Drug Use
- Angry-Irritable
- Depressed-Anxious
- Somatic Complaints
- Suicide Ideation
- Thought Disturbance
- Traumatic Experiences

Almost all of the young people in Oberstown complete the MAYSI screening without any hesitation within forty-eight hours of their admission.

Our Milieu - Young People (Gaffney 2016)

What we see...

- Trauma from living in neglectful homes
- Re-traumatised in the care system
- Placements breaking down
- Relationships with adults breaking down
- They expect negative outcomes
- They feel invalidated
- Always on high alert-fear that something will happen

This behaviour leads to a breakdown in close relationships, and the inability to develop new relationships.

What is possible...?

- Break these patterns
- Anti-trauma and to learn self-control
- Validation of their feelings and experiences
- Listening to them
- Encouraging them

As well as clinical intervention, social care interventions in Oberstown have a significant effect on the young people's well-being. Through participation in activities such as cooking, wood burning and textiles, young people respond to positive interactions and can learn how to self-soothe themselves. This acts as a form of anti-trauma and settles them.

Broader System (Gaffney 2016)

What we see ...

- Anxiety/panic and vulnerability
- Hopelessness about facilitating change

What is possible ...?

- Committed action and close inter-working
- Managing behaviours to keep disruption to a minimum

ACTS works with young people to come up with small solutions to help them overcome their difficulties. Along with social care staff in Oberstown, they aim to ensure that a programme specific to each young person's needs and an overall therapeutic environment is created.

ACTS Ethos

- Relationships are key
- Be useful to the young person
- Look at the whole picture e.g. strengths and weaknesses
- Build hope and resilience
- Advocate for the young people
- Understand individual differences
- Non-traditional service delivery
- Don't force young people to engage but be flexible and persist

Discussion

The relationship between addiction and mental health was explored. It was acknowledged that Oberstown operates relatively free from medication and that detox medication is rarely prescribed. Young people use illicit drugs as a form of self-comfort and regulation. The young people in Oberstown can learn to do this with healthier activities such as cooking, painting and wood burning. There is a problem in dealing with weed as an illegal substance due to the fact that it is a socially acceptable drug in modern society. Many delegates expressed the

view that there needs to be more opportunities and emphasis on obtaining access to treatment in institutions.

The presence of gaps in service provision, follow up services, and transitions was discussed. It is clear that there are gaps in service provision with young people on remand. The lack of resources and time constraints make it extremely difficult to collect information to help the young person. Furthermore, the delegates recognized that when the children leave Oberstown they are back in an environment which can be unsafe. More importantly, community resources for dealing with young people who have been released are lacking. The young person may lose their place in a programme if they do not attend a few of the sessions with the organisation. In terms of supporting the mental health needs of young people transitioning back into the community after time spent in detention, there was a discussion about how community services could learn from the experience and expertise of the ACTS team. It was suggested that the best alternative to the current situation would be if community organisations would meet the children while they were in Oberstown, and to continue working with them upon their release.

The presenters noted that most of the young people presenting at Oberstown, despite their complex needs, have not been attending CAMHS in the community and do not necessarily have a diagnosable mental health problem. There is therefore no obvious pathway for these children in the community, despite the obvious need for supports from skilled mental health professionals. The presenters also noted that over half of the young people in Oberstown have been in

the care system or are known to local social work departments.

Another point which was discussed during the workshop was the problem associated with 18-24 year olds. It was widely accepted that although this age group are not seen as children, they remain vulnerable as their brains are still developing and they are still maturing. The transition from Oberstown to prison can be detrimental to their mental health and well-being, although recent liaison between Oberstown and IPS is encouraging. Efforts to improve communication between ACTS and clinical services in prisons are ongoing.

10. Children at Risk and in Trouble with the Law: The Role of Children and Young People's Services Committees (CYPSCs)

Presenters: John Cole, Department of Children and Youth Affairs and Margaret Mastriani, Limerick CYPSC

Chairperson: Daniel Watters

Rapporteur: Veronica Downey

John Cole - Department of Children and Youth Affairs

What are CYPSCs?

Children and Young People's Services Committees (CYPSCs) are the key interagency vehicle for provision of services to young people from 0-24 years of age. They are county-level committees which bring together the main providers of services to children and young people. The main aims of the committees are to enhance multi-agency cooperation and to promote the five national outcomes

identified in Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People, 2014-2020. The outcomes are aimed at ensuring that children and young people:

- Are active and healthy with positive physical and mental well-being
- Are achieving their full potential in all areas of learning and development
- Are safe and protected from harm
- Have economic security and opportunity
- Are connected, respected and contributing to their world

Purpose of CYPSCs

The main purpose of CYPSCs is to provide the effective coordination of services and interagency collaboration to ensure the needs of children and young people are identified and addressed. To promote a standardised approach there is a focus on aligning local and national policies as much as possible.

Work of CYPSCs

CYPSCs coordinate, collaborate on and are involved in the delivery of a wide range of supports and initiatives aimed at children, young people and parents. These include:

- Programmes aimed at encouraging youth participation
- Early intervention programmes such as the Area Based Childhood (ABC) Programme, the goal of which is to improve outcomes for young people from disadvantaged areas
- Awareness campaigns and support events dealing with issues such as drug abuse, suicide prevention and mental health

CYPSC are also currently involved in a forthcoming Healthy Ireland initiative, highlighting the organisation's approach to promoting all areas of youth wellbeing.

CYPSCs - The role of the Department of Children and Youth Affairs (DCYA)

CYPSCs are part funded by the DCYA. At present €930,000 of the organisation's €1.7 million budget is provided by the department, the balance of which is provided by Tusla. In addition to funding, the DCYA provides strategic and policy oversight and operational guidance. The DCYA also plays a pivotal role in enhancing the profile of CYPSCs and encourages other organisations, such as justice agencies, to become involved with the committees.

The Current State of CYPSCs

In 2016, CYPSCs had achieved full national coverage. There are now 27 committees nationally, supported by 26 local coordinators and a national coordinator. The budget provided by DCYA and Tusla covers the salaries of coordinators, administrative and office costs and the balance is used as seed funding for CYPSCs.

More detail on the principles, policies, structure and governance of CYPSC is contained in the *Blueprint for the Development of Children and Young People's Services Committees*, available at www.cypsc.ie

Margaret Mastriani - Limerick CYPSC CYPSC - Engagement with criminal justice agencies at local level

Both CYPSCs and justice agencies have an interest in ensuring better outcomes for young people, and the potential to reduce their involvement in crime. Some of the objectives of the respective organisations are closely aligned even if those objectives are achieved by different means. Where difficulties are identified in the planning cycles of CYPSCs, justice agencies are encouraged to become involved in drawing up a joint plan in response.

How is evidence of need assessed?

- Through socio-demographic data
- In consultation with stakeholders including young people
- Through local research
- Through CYPSC sub-groups
- By building on the momentum of initiatives which have proven effective

CYPSC responses in partnership with justice agencies

Case study 1 - Wicklow

Prevention Partnership and Family Support, a subgroup of Wicklow CYPSC and one of the main support structures within Tusla, has collaborated with twenty agencies which fund and/or deliver services to children and young people across Wicklow.

To date, this has resulted in:

- The delivery of online safety training in schools
- Wicklow Garda Youth Awards
- Domestic violence training for Gardaí and social welfare workers in Wicklow.

The role of CYPSC is to evaluate the effectiveness of the project.

Case study 2 - Galway

During the last planning phase of Galway CYPSC, a 2015 consultation with youths in Clifden identified a poor relationship between young people and local Gardaí. Young people and Gardaí jointly designed a programme of events aimed at improving relationships. A total of six events were held involving 150 children/young people and 30 Gardaí. The initiative demonstrated the effectiveness of the relationship building programme and resulted in the increase of empathy on both sides, with young people gaining a greater sense of the humanity of the Gardaí.

Case Study 3 - Limerick, Waterford and Wexford: Restorative Practice

Following consultations with stakeholders and CYPSC sub-groups and by building on existing initiatives by partner agencies, CYPSCs in Limerick, Waterford and Wexford identified a shared need across youth justice agencies and stakeholders to find alternatives to punitive measures while creating cultures of respect and responsibility, encouraging positive behaviour and managing conflict. To date each of the CYPSCs in question has:

- Established a sub-group/structure to support the development of restorative practice
- Established active, multi-agency networks that have organised conferences and workshops
- Rolled out extensive IIRP accredited training
- Provided for ongoing training/mentoring support

Ongoing challenges for CYPSCs include:

- Determining the long term sustainability of initiatives
- There is a need for evidence of impact - how do we know it is working?
- There is a need to release staff for training and to find the cost of accredited training
- The success of CYPSCs depends on full buy-in for initiative/cultural change from all levels of organisations
- Maintaining the appropriate balance between the need for preventative initiatives and responding to crises for many front-line services
- Aligning local CYPSC priority areas with individual agency priorities

Discussion

CYPSCs are designed to ensure that the needs of young people up to age 24 are addressed, in contrast with other

organisations where 18 years is the general cut-off point. Participants were curious about the level of interaction with people between the ages of 18-24 years. In response, it was stated that CYPSCs were originally established to cater for that 'traditional' category but following consultation with interested stakeholders, there was recognition of the arbitrariness of the cut-off point and of the value of expanding the service. To date, the level of interaction with that older subset has been disappointing but it is a relatively recent development, and therefore too early to assess its impact.

Ireland has become more culturally diverse in recent times. One participant queried whether that has impacted on CYPSCs: does it present difficulties? It was acknowledged that CYPSCs are already experiencing evidence of this. For example, the ABC programme and a whole host of projects/groups operating out of Limerick city centre are encountering individuals from a multitude of different ethnic backgrounds. Groups have availed of resources such as the language interpreters but it is an issue worthy of monitoring.

Contributors to discussion also noted that some of the work undertaken by CYPSCs is similar to that undertaken by other groups and justice agencies, for instance, the Garda Youth Diversion Projects. Does this amount to duplication of services? It was also suggested that there is a need to put young people at the centre of government policy. What do CYPSCs do differently to other agencies and how can they influence change? In response, the audience was reminded that CYPSCs are not solely focussed on crime prevention, taking instead a holistic approach to the wellbeing of children/young people. Additionally, CYPSC's Chairperson holds a

position on the National Steering Group and is well placed to present the views of the committees.

CONFERENCE ATTENDEES

Julie Ahern	Children's Rights Alliance
Greg Andersen	ACJRD Volunteer
Siobhán Anglim	Assessment Consultation and Therapy service (ACTS)
Mary Aughey	Youth Justice Agency Northern Ireland
Emma Barry	Tivoli Training Centre
David Beatty	Irish Youth Justice Service
Pat Bergin	Oberstown Children Detention Campus
Seán Bidiza	Foróige
Fergal Black	Irish Prison Service
Paul Bolger	Youth Work Ireland
Andrew Brennan	Irish Prison Service
Keith Brennan	The Probation Service
Darren Broomfield	The Probation Service
Caitríona Brosnan	The Probation Service
Noel Browne	Woodale Youth Justice Project
Brigetta Burke	The Probation Service
Ita Burke	The Probation Service
Maura Butler	ACJRD Chairperson
Bill Byrne	Oberstown Children Detention Campus
Louise Cadwell	Crosscare
Amy Carey	Solas Project
Eoin Carroll	Jesuit Centre for Faith and Justice
Eithne Casey BL	
Siobhán Casey	WHAD Project
Joan Cherry	NIAP (Northside Inter Agency Project)
Paula Coen	An Garda Síochána
Dylan Colclough	Youth Work Ireland
John Cole	Department of Children and Youth Affairs
Dr. Johnny Connolly	University of Limerick
Anne Conroy	Le Chéile Mentoring & Youth Justice Support Services
Asst. Commissioner Eugene Corcoran, An Garda Síochána	
Niall Counihan	Cabra Community Policing Forum and Facing Forward
Sanna Cramnell	Assessment Consultation and Therapy service
Rosemary Cronin	The Probation Service
Janine Cross	Irish Prison Service
Orla Crowe	Irish Rule of Law International
Margaret Ann Cusack	University of Limerick
Brian Dack	The Probation Service
Fiona Daly	The Probation Service
Gov. Frances Daly	Irish Prison Service
Mary Davis	Le Chéile Mentoring & Youth Justice Support Services
Freida Delaney	Department of Children and Youth Affairs
Leanne Digney	Irish Penal Reform Trust
Veronica Downey	ACJRD Volunteer

Leonora Doyle	Solicitor
Orna Doyle	Assessment Consultation and Therapy service
Wendy Doyle	Irish Youth Justice Service
Beth Duane	ACJRD Volunteer
Caroline Duane	KDYS Youth Justice project
Paddy Duffy	Irish Youth Justice Service
Paul Dunphy	Irish Youth Justice Service
Bronagh Fagan	ACJRD Volunteer
Eileen Farrell	Institute of Technology Carlow
Dr. Michael Feehan	Extern Ireland
Sarah Finnegan	The Probation Service
Dr. Margaret Fitzgerald-O'Reilly,	University of Limerick
Catherine Friend	ACJRD Volunteer
Patrick Gates	Young People at Risk (YPAR) North Inner City
Mary Goode	The Probation Service
Helen Hall	Policing Authority
Mary Kate Halpin	Office of the DPP
Annita Harty	ACJRD Volunteer
Dermot Hearne	Irish Prison Service
Bernadette Hickey	The Probation Service
Adrienne Higgins	Irish Association for the Social Integration of Offenders (IASIO)
Hazel Hill	The Community Foundation for Ireland
Jane Holian	ACJRD Volunteer
Judge Rosemary Horgan	District Court President
Jennifer Hough	Oberstown Children Detention Campus
Brian Ingram	Woodlands Juvenile Justice Centre
Linda Kearin	KDYS Youth Justice project
Aaron Kelly	Youth Work Ireland
Edel Kelly	Youth Work Ireland
June Kelly	Irish Prison Service
Norma Kennedy	Dublin Institute of Technology
Dave Kenny	The Probation Service
Prof. Ursula Kilkelly	University College Cork
Dr Charles Larkin	Trinity College Dublin
Eileen Leahy	Irish Youth Justice Service
Dr Susan Leahy	University of Limerick
Kiera Lloyd	Department of Justice Northern Ireland
John Lohan	Department of Children and Youth Affairs
Jade Lydon	ACJRD Volunteer
Mark Lydon	Irish Prison Service
Emer Lynam	The Courts Service
Dr. Fergal Lynch	Department of Children and Youth Affairs
Edmund Lynch	Irish LGBT History Project
Saoirse Lynch	Foróige
Anne Marie Lyster	Oberstown Children Detention Campus
Charlie Mack	Extern Group
Anne Mandal	Facing Forward

Deirdre Manninger	Office of the DPP
Michelle Martyn	Irish Penal Reform Trust
Elaine Masterson	Irish Youth Justice Service
Margaret Mastriani	Limerick CYPSC
Amanda McCoy	Cherry Orchard Integrated Youth Service
Niamh McDermott	Office of the DPP
Declan McGeown	Youth Justice Agency for NI
Niall McGlynn	Department of Justice and Equality
Michael McGrath	An Garda Síochána
Asst. Gov. Anne Marie McGuinness,	Irish Prison Service
Anna McInerney	Assessment Consultation and Therapy service
Yvonne McKenna	Gaisce
Shane McManus	The Probation Service
Gerry McNally	The Probation Service and Confederation of European Probation
Aoife McNickle BL	
Bernie Meally	Foróige
Mary Mescal	Youth Work Ireland
Conor Minogue	Chief State Solicitors Office
Jim Mitchell	Irish Prison Service
Dolores Moran	Irish Youth Justice Service
Jane Mulcahy	ACJRD Volunteer
Frank Mulville	Young People at Risk (YPAR)
Aisling Murphy	Irish Prison Service
Amanda Murphy	Extern
Fiona Murphy	Extern
Sinéad Murphy	Irish Youth Justice Service
Una Murphy	Department of Justice and Equality
Bridget Myles	The Probation Service
Dr Catherine Naughton	University of Limerick
Fíona Ní Chinnéide	Irish Penal Reform Trust
Úna Ní Dhubhghaill	Department of Justice and Equality
Daisy-Nelly Nji	Children's Rights Alliance
Judge John O'Connor	The Children Court
Superintendent Tony O'Donnell,	An Garda Síochána
Tony O'Donovan	Irish Youth Justice Service
Dr. Kieran O'Dwyer	KC Consulting
Geraldine O'Dwyer	The Probation Service
Siobhán O'Dwyer	Youth Advocate Programmes Ireland
Roderic O'Gorman	County Councillor
Eoin O'Meara-Daly	University of Limerick
Gov. Martin O'Neill	Irish Prison Service
Fiona O'Shea	Crosscare
Richard Phillips	Tivoli Training Centre
Catherine Pierse	Policing Authority
Stephen Power	Foróige
Dr. Etáin Quigley	National University of Ireland Maynooth

Superintendent Colette Quinn	Garda Office for Children and Youth Affairs
Karen Quinn	Tusla
Rebecca Raftery	Law Society of Ireland
Gordon Reid	Criminon
Rev. Alan Ruffli	Church of Ireland
Dr. Aisling Ryan	Forensic Child and Adolescent Mental Health Service
Ben Ryan	Department of Justice and Equality
Eimear Ryan	Assessment Consultation Therapy Service (ACTS)
Miriam Ryan	Foróige
Brian Santry	Young Persons Probation
Prof. Geoffrey Shannon	Special Rapporteur on Child Protection
Michelle Shannon	Department of Children and Youth Affairs
Brendan Sheehy	Department of Justice and Equality
Akeem Shopeju (Jun)	Foróige
Elyssa Silver	Irish Youth Justice Service
Margaret Slattery	Clare Youth Service
Inspector Lorraine Stack	Garda National Protective Services Bureau
Karen Stanley	Assessment Consultation Therapy Service (ACTS)
David Stanton TD	Minister of State for Justice, with special responsibility for Equality, Immigration, and Integration
Rose Sweeney	An Garda Síochána
Dr. Katharina Swirak	University College Cork
Prof. Mihaela Tomita	West University Timisoara
Mary Trainor	The Probation Service
Aidan P. Trant	The Probation Service
Sergeant Séamus Treacy	An Garda Síochána
Karina Tropman	Foróige
Rhonda Turner	Tusla and Sexually Harmful Behaviour Service
Roxana Ungureanu	West University Timisoara
Tanya Walker	Woodale Youth Justice Project (Sphere 17)
Pyers Walsh	Irish Association for the Social Integration of Offenders (IASIO)
Kate Walshe	The Probation Service
Dr. Kevin Warner	University College Cork
Daniel Watters	Irish Youth Justice Service
Róisín Webb	Irish Youth Justice Service