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A History of Youth Justice in Ireland: Opening up the Space of Government

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Submitted for the degree of Doctor of Philosophy

University of Dublin, Trinity College

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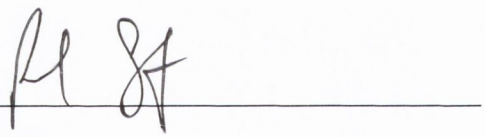
Signed: 

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Summary

This thesis outlines a history of juvenile justice in Ireland. However, it does not amount to a straightforward narrative history, rather, it draws inspiration from the later writings of Michel Foucault, specifically his essay *'Governmentality'* (1991a). Here Foucault highlights the transition that takes place in the eighteenth century from the 'art of government' to 'political science'. This science involves all the institutions, forms of knowledge, techniques and tactics that constitute the 'mentality' to govern. After Foucault, a rich vein of literature utilising the concept of 'governmentality' emerged and this thesis draws from and engages with this literature, especially that developed by Mitchell Dean and Nikolas Rose.

There is no comprehensive history of the juvenile justice system in Ireland. Only fragments of this history have been written, for example, histories of the Borstal system and of the industrial school system. However, these histories are largely descriptive and do not engage in wider theoretical discussions.

At first glance the history of juvenile justice in Ireland would appear to be a relatively brief and uncomplicated history. Adopting a reformist analysis, one could conclude that following almost one hundred years of a repressive and unenlightened regime dominated by the reformatory and industrial school system we begin to see the emergence of a more enlightened approach in the early 1970s, that culminates in the enactment of the Children Act, 2001 and the establishment of the new 'youth justice' system. However, this simplistic or 'progressive' version of history fails to capture the complex developments that have resulted in the formation of the current youth justice system.

Utilizing a 'governmentality' framework this thesis, in the spirit of Foucault's 'history of the present', seeks to unsettle the conditions of possibility that resulted in the emergence of the 'present'. Inspired by Dean (1999) it poses four key questions: how did a juvenile justice system emerge or become visible?; what rationalities are employed to govern?; what technologies are employed?; and what forms of identity are employed?. In adopting such an approach the thesis analyses the problematics of government. Rather than employing a state-centred approach, the thesis aims to unsettle the progressive rhetoric that characterises the current discourse on youth justice and to open up the governmental space that is 'youth justice'. The thesis describes how the system became visible and the rationalities, technologies and forms of identity that are assembled to constitute the governmental space known as the 'youth justice' system.

The 'youth justice' space emerges as an assemblage of governmental rationalities, technologies and forms of identity. Contrary to the rhetoric of the *Report on the Youth*

Justice Review (2006) this space has not been invented as part of a reformist campaign to create a more enlightened juvenile justice system in which the demands of justice and welfare are evenly balanced. Rather, by utilizing the lens of governmentality, what we see is the increasing governmentalisation of the state from the early 1970s. In conjunction with this process of governmentalisation we see the rise in prominence of a number of governmental rationalities including 'psy' expertise, social work and community that employ a shared vocabulary of risk. A visible effect of these developments is the enactment of the Children Act, 2001 and the subsequent adoption of youth justice as a programme of government. This is reflected in a range of risk-based technologies that seek to govern the 'at risk' child.

The thesis describes how the juvenile justice system became visible by looking at the 'conditions of possibility' and the practices of government that existed in the mid-nineteenth century. The emergence of this system of government is linked to the accumulation of statistical and other knowledge on crime and delinquency in the mid-nineteenth century. In this regard, the *Report of the Select Committee on Criminal and Destitute Juveniles* (1853) is an important event. The thesis describes the emergence of juvenile justice within an array of governmental spaces including: reformatory and industrial schools; the juvenile court; Borstal; philanthropic initiatives; detention centres; high support and special care; youth work initiatives; probation projects; diversion and crime prevention initiatives.

The thesis unsettles the range of rationalities of government that exist within the 'present' by looking at their emergence within official reports, articles, and other relevant texts. From the early 1970s we see the dominant socio-spiritual discourse challenged by emerging governmental rationalities including: psychology; social work; probation; and community. These rationalities of government have come to dominate the current youth justice space coalescing in a risk-based rationality of government. Following Rose (1996a) the thesis approaches the 'self' from the perspective of its function as a 'regulatory ideal'. It unsettles the regimes of subjectification to which the concept of identity is linked and highlights the forms of identity that have emerged within the new youth justice space. Having examined the 'present' along four distinct lines of enquiry the thesis describes the 'new' youth justice system in terms of the increasing governmentalisation of the state.

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CHAPTER 1: INTRODUCTION

> *Childhood is the most intensively governed sector of personal existence. In different ways, at different times, and by different routes varying from one section of society to another, the health, welfare, and rearing of children have been linked in thought and practice to the destiny of the nation and the responsibilities of the state.* (Rose, 1990: 121)

The Present

On the 8 July 2001 the Oireachtas enacted the Children Act, 2001 replacing the Children Act, 1908, which had been the primary legislation underpinning the juvenile justice system in Ireland for almost one hundred years. The objective of the 2001 Act was to 'make further provision in relation to the care, protection and control of children' (Children Act, 2001: 15). The then Minister for Justice, John O'Donoghue, described the legislation as the 'distillation of the accumulated wisdom and the best practice worldwide in the area of juvenile justice' (Dáil Debates, 2000: Vol. 517, Col. 33-34.). The Act provides a new statutory framework for the juvenile justice system in Ireland. It comprises 271 sections covering the areas of justice, education, health, child protection and welfare. In October 2004 the government established a project team to examine the 'scope for rationalising and restructuring the state's services in accordance with the new legislative basis' (*Report on the Youth Justice Review*, 2006: 3). The *Report on the Youth Justice Review* (2006), which was the product of the team's deliberations, outlines a number of proposals that would lay the foundations for a 'joined-up' approach to the area of juvenile justice.

One of the most interesting aspects of this Report is the language it employs. The juvenile justice system had been re-branded the 'Youth Justice System' and is described as providing, based on the Children Act, 2001, 'a twin-track, child welfare and justice approach' (*Report on the Youth Justice Review*, 2006: 5). This appeared to delineate a new expanded territory, a 'youth justice' space where the child could be

cared for and controlled as required. The emergence of this 'new' approach to governing children is the starting point for this thesis.

The objective of the thesis is to 'open up' the governmental space known as the 'youth justice system'. Utilising a governmentality framework, the thesis analyses the 'present' along four distinct lines: how it became visible; the rationalities of government that are used; the technologies of government that are employed; and the forms of identity that are constructed (Dean, 1999). In order to do this it is necessary to examine how we came to speak about 'youth justice' and the historical conditions from which this system emerged. In the process of addressing such issues the key rationalities, technologies and forms of identity that are assembled under the heading 'youth justice' are identified and analysed. This thesis draws inspiration from the range of existing governmentality literature but primarily from the work of Nikolas Rose (1990, 1996, 1996a, 1999 and 2000).

The Report suggests that the current system is a blend of justice and welfare approaches or more accurately a balance between the two. This thesis unsettles the progressive rhetoric that characterises current descriptions of the new 'youth justice' system.[1] Rather than viewing the history of youth justice in Ireland as a narrative following a progressive evolutionary curve from a repressive to a more enlightened regime, the thesis seeks to problematise juvenile justice by analysing it within the theoretical framework of governmentality. The history of juvenile justice is thus viewed as a series of events, of problems to be governed. In the spirit of Foucault's 'history of the present' (1991: 31) this is not meant to be a history of the past written in terms of the present but rather a history of the present that traces the lines of government that have converged to result in the assemblages that constitute the present juvenile justice system in Ireland.

In contrast to what went before, the 'youth justice' system as represented in the 2006 Report is a testament to the governmentalisation of the state. The Report lists sixty-four Garda Youth Diversion Projects and forty-one Probation and Welfare Projects

[1] *Report on the Youth Justice Review*, 2006 and *National Youth Justice Strategy* (2008).

targeting young offenders.[2] In addition it highlights significant investment in the area of social inclusion 'aimed at vulnerable or "at risk" children, including programmes specifically designed to tackle educational disadvantage, health and social well-being, poverty, social inclusion and infrastructural deficits' (*Report on the Youth Justice Review*, 2006: 33). In response to the perceived lack of co-ordination of services in the area of juvenile justice the Report recommended the establishment of a Youth Justice Service, under the control of the Department of Justice, Equality and Law Reform, to oversee the implementation of a 'unified model of service delivery'. According to the Report the 'new Youth Justice Service should bring together services for young offenders under one governance and management structure . . .' (*Report on the Youth Justice Review*, 2006: 39). Underpinning the unified governance structure recommended by the Report is a particular conceptualisation of the young person as potentially 'troubled and troublesome'. By constructing such an identity the Report legitimises a range of interventions on the basis of risk assessment. In this regard, the Report envisages the development of a parallel structure in the Health Service Executive[3] that would facilitate 'dual governance structures . . . to ensure that the best possible service is delivered by the State to troubled and troublesome children' (*Report on the Youth Justice Review,* 2006: 43).

The Irish Youth Justice Service (IYJS) was established in 2006 and its mission statement is: 'To create a safer society by working in partnership to reduce youth offending through appropriate interventions and linkages into services' (IYJS, 2008: 2). According to the National Youth Justice Strategy the IYJS is,

> . . . guided by the principles of the Children Act, 2001 and is focused on . . . diverting children from crime and the criminal justice system, promoting restorative justice, enforcing community sanctions, facilitating rehabilitation and, as a last resort, providing for detention. The IYJS works with the criminal justice agencies, the Office of the Minister for Children . . . and other statutory and non-statutory bodies such as the Health Service Executive, and organisations in the community and voluntary sectors. (IYJS, 2008: 2)

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[2] These are primarily community based projects that operate a youth wok model with the aim of changing the behaviour of offenders and those deemed 'at risk'.

[3]The Health Service Executive is the main statutory provider of health services in Ireland.

This thesis is not concerned with the degree to which this Strategy is effective in terms of governance or outcomes. As already mentioned, it aims to 'open up' the governmental space that is 'youth justice' and analyse the 'present' by looking at its history.

The Past

The history of juvenile justice in Ireland is remarkable for the lack of change and innovation in terms of both legislation and policy development when compared with other jurisdictions. The Children Act, 1908 remained the statutory framework upon which the system was based for almost one hundred years. There have been various explanations as to why this has been the case. O'Dwyer (2002) highlighted the particular insularity of the country and the dominant influence of the Catholic Church on policy development. In a similar vein, McCullagh (1992) pointed to the failure of influential lobbying groups such as the trade unions to identify with the issue of juvenile justice reform. Gilligan (1989a) highlighted the part played by the Irish government's subsidiary attitude to policy development in this area. He also noted the Irish state's 'reluctant at best, negligent at worst response to the needs of the "public child"' (2009: 265). O'Sullivan (1997) and O'Donnell and O'Sullivan (2001) highlighted the lack of criminological research in Ireland. This is despite the fact that there have been numerous reports, both official and unofficial, calling for reform in this area. These critiques tend to look at the development of the juvenile justice or child welfare system from a 'state-centred' perspective viewing the actions of the state or its inactions as the primary causal factor in shaping the present. While it is true to say that the history of juvenile justice in Ireland is characterised by the lack of legislative and policy development this only tells part of the story. These critiques adopt a privileged stance outside history, utilising the tools of critique to analyse the 'present' from an objective standpoint. However, this objectivity is based on certain assumptions about the status of the law and social policy. In rejecting these forms of critique and refusing to explain the present by means of a narrative of failure, this thesis aims to unsettle and disturb some of those explanatory categories and in so doing gain a greater critical purchase on the 'present' (Rose, 1987). In doing this it

regards the 'present' as an assemblage of rationalities, technologies and forms of identity that coalesce to govern the subject.

The 'problem' of juvenile crime and the 'failure' of the prisons in tackling juvenile crime have been dominant discourses since the mid-nineteenth century. Garland (2002) notes that criminology as a governmental rationality began to emerge through the activities of the numerous statistical societies that were established around that time. In Ireland this is reflected in the articles appearing in the *Journal of the Statistical and Social Inquiry Society of Ireland* and the *Irish Quarterly Review*.[4] However, unlike Britain and America this concern about crime failed to develop into an established 'governmental project' in Ireland. Garland, speaking of criminology as a 'governmental project' states:

> I use the concept of a 'project' here to characterize an emergent tradition of inquiry that, despite a degree of variation, shares a cluster of aims and objectives. The 'governmental' project refers to those inquiries that direct attention to the problems of governing crime and criminals. Studies which fall within this tradition are not necessarily official, state sponsored studies, although, from the nineteenth century onwards, the state came to dominate work of this kind. (Garland, 2002: 8)

In contrast, there was an absence of a tradition of academic criminological research in Ireland in the twentieth century (Rolston and Tomlinson, 1982, Brewer et al, 1997 and O'Mahony, 1993). In this regard, Kilcommins et al. observe:

> Criminology could be described as Ireland's 'absentee discipline'. Research in the area has appeared intermittently over the years, and while there have been some excellent individual efforts, it could not be said that a tradition of scholarship has emerged. To some extent this is related to the lack of an infrastructure to sustain and promote empirical research. Indeed, the country's

[4] Both journals sought to utilize available statistical and other knowledge to address social problems. The *Irish Quarterly Review* initiated a Quarterly Record of statistics and other information it deemed advantageous to the cause of the reformatory movement. In the first of such records it states that it is 'the first of a series to be devoted to the recording of such facts, to the analyzation of such statistics . . . as may seem to us so important as to be advantageous to the Reformatory School Movement, or to the cause of the friends of improved Prison Discipline' (Anon, 1854: 1189). These 'facts', which were gathered from a wide range of sources, included statistical tables, reports from prisons and other institutions, personal accounts and polemical articles. They formed a backdrop to the general argument for reform of the prison system in favour a reformatory school model.

> sole institute of Criminology was established in the Faculty of Law at University College Dublin as recently as 2000. (Kilcommins et al., 2004: vii)

It is clear that the development of juvenile justice in Ireland does not fit neatly into the standard Foucauldian schema, in that the various forms of criminological knowledge that legitimise judicial intervention did not develop to the same extent as in other jurisdictions. Garland, describing the development of criminology in Britain, notes the:

> . . . gradual institutionalisation of criminology as an officially sponsored form of knowledge. The qualified recognition that we saw accorded to criminology by official discourse in the 1900's opened up a process of institutionalisation that culminated in the establishment of the Cambridge Institute and the Home Office Research Unit in the 1950's. Throughout this period, indeed until the present day, criminological discourse has functioned as an important auxiliary of modern penality. (Garland, 1985: 256)

In Ireland, although data relevant to the regulation and discipline of young people continued to be collected from the mid-nineteenth century onwards, no centralised state apparatus was established for the utilisation of this data in the furtherance of government. Instead, rationalities on crime were mobilised from a number of independent sources, often around an explicitly reformist agenda (Tuairim, 1966; Shanley, 1970; CARE, 1972 and 1978; O'Sullivan, D., 1974, 1977 and 1979a; Burke et al., 1981; O'Mahony et al., 1985; Farrelly, 1989; Ring, 1991; Gilligan, 1989 and 1991; and O'Malley, T., 1994). These tended to look at the existing juvenile justice/child welfare system as in some way failing to meet adequately the needs of the 'child'. The 'child' is here characterised as deprived and juvenile crime is portrayed as emanating from some form of childhood deprivation.

Despite the absence of an established 'governmental project' there have been a limited number of criminological studies undertaken by individual academics that endeavoured to analyse the 'status' of crime in Ireland in recent years. These include: Rottman, 1980; Burke et al., 1981; Breen and Rottman, 1985; O'Mahony, 1993, 1997 and 2002; O'Connell and Whelan, 1994; McCullagh, 1992 and 1996; O'Donnell, 1998 and 2002; O'Sullivan, E., 1996 and 1998; O'Sullivan and O'Donnell, 2001; Young et al., 2001; Kilcommins et al., 2004.

It was only in the 1990s that the state began to engage in criminal justice research at a programmatic level and then 'only at a distance'. Within the context of Irish juvenile justice, two organisations in particular provide examples of this process: the Irish Association for the Study of Delinquency and the National Crime Council. Both were funded by the state and claimed to engage experts in an apparently independent capacity to research crime.

Established in 1996 the Irish Association for the Study of Delinquency Ltd (IASD) aimed to promote 'reform, development and effective operation of the criminal justice system . . . to lead to increased mutual understanding and provide insights into the challenges posed by crime' (Irish Association for the Study of Delinquency, 2004: 4). It hosted an annual conference and seminars and produced numerous publications on crime and juvenile justice promoting research into crime prevention and more effective 'co-ordination between different parts of the criminal justice system' (Irish Association for the Study of Delinquency, 2004: 4). [5]

The National Crime Council (NCC) was established in 1999 as 'a non-statutory body in order to facilitate broadly based, informed discussion on crime issues and to aid policy formulation' (NCC, 2003: 6).[6] It was funded by the Department of Justice, Equality and Law Reform and comprised members of An Garda Síochána, the judiciary, academic and legal professions, civil service and community groups. One of its key aims was the development of crime prevention strategies as a result of examining the underlying causes of crime (NCC, 2001 and 2003). Based on research, it recommended various crime prevention strategies including: initiatives to improve services to address the needs of young people, young children and their families and to provide for education and early intervention (NCC, 2003); crime prevention

[5] Now known as the Association for Criminal Justice Research and Development it has published papers on the following issues: crime prevention (1998); electronic tagging and voice tracking (1999); juvenile justice (2000); drugs, alcohol and youth crime (2001); youth justice and human rights (2002); family conferencing (2003); community sanctions for offenders (2004); the Dublin Children Court (2005); the re-integration of offenders (2006).

[6] The establishment of a National Crime Council resulted from a recommendation of the National Crime Forum, which sat in 1998 to 'canvass comment, assessments, and suggestions on crime and crime related issues from the general public and from national and international experts' (National Crime Forum Report, Summary, 1998: i). The Forum held nine public hearings from 26 February to 27 March 1998. The NCC ceased to exist in October 2008.

through youth work, youth projects, drug and alcohol treatment facilities and family support (NCC, 2002); the prevention of public order problems by greater use of Closed Circuit Television, a national alcohol strategy, greater co-ordination in the management of public order offending, services that provide greater opportunities for young people to meet and engage in appropriate leisure activities, planning and refurbishing of estates and fostering community integration (NCC, 2003a).

The identification of specific causes of juvenile crime and the construction of suitable remedies confers certain legitimacy within the programmatic field. This particular rationality of government is an important component in translating various societal norms into programmes for government. It is by means of such a governmental rationality that various programmes aimed at crime reduction, prevention, treatment, rehabilitation, diversion and punishment are inserted into the juvenile justice canon. What is often ignored in the Irish context is the lack of research available to justify these claims. Indeed, commenting on the influence of criminology on government policy in Ireland, Kilcommins et al. note:

> Low levels of recorded crime, the lack of resources and data, and difficulties of access to existing data ensured that crime causation in Ireland remained, by and large, a peripheral issue until the 1990's. The Department of Justice, for example, only established a research budget in 1998. (Kilcommins et al., 2004: 178)

The study of 'juvenile crime', as a governmental project and as a rationality of government, consisted until recently, in the main, of the annual reports of An Garda Síochána, The Irish Prison Service, the Courts Service and the Departments of Education and Science and of Justice, Equality and Law Reform. What is noticeable is the absence of any centralised state apparatus for the study of juvenile crime. O'Sullivan notes:

> . . . there is no one-single source of data on young offenders in Ireland. The data has to be extracted laboriously from four separate reports, with each report using different age categorisations and varying immensely in the quality and frequency of the data produced. This information deficit poses substantial difficulties in terms of social policy planning and in preventative programmes in order to come to terms with the issue. (1998a: 325)

Commenting on the type of criminological research undertaken in Ireland in this area he observes:

> . . . the bulk of this limited research has focused on the processed product of our juvenile justice system . . . This literature is largely descriptive rather than explanatory and utilises positivistic assumptions, sometimes in a particularly crude manner. The process by which a child or young person is defined as in need of secure accommodation has rarely been explored. (O'Sullivan, 1998: 70)

In the absence of rigorous criminological research, speculation around the underlying causes of crime and appropriate solutions has been an enduring rationality of government. In 1997, the then Minister for Justice, Nora Owen, launched a 'discussion paper' entitled *Tackling Crime.* The main theme running through this document is the search for the causes of crime and the identification of solutions that would address such factors. It notes:

> If it were possible to establish a link between the general run of offending behaviour and particular failings within society, and if it were possible to take action to correct those failings, then there ought to be a prospect of reducing crime. (Department of Justice, 1997: 49)

The dearth of criminological research for most of the twentieth century is in contrast to the situation in the second half of the nineteenth century when there was a rich vein of research in the *Journal of the Statistical and Social Inquiry Society of Ireland* and the *Irish Quarterly Review.* As already noted, this research failed to develop into a full blown criminological project. In the absence of such an established 'governmental project' the main rationalities of government emanated from a diverse range of political commentators, practitioners, academics and religious groups. The lack of state-sponsored research was often supplemented by speculation around the underlying causes of crime and this was usually accompanied by a discourse on societal decline. In this regard, O'Sullivan (1996) has argued that policy in the area of juvenile justice has been developed in a research vacuum.

The Governmentalisation of the State

In the context of the history of social work, Skehill (2004) describes the 1960s and 1970s as decades when the 'needs' of the child were 'discovered' and notes that other studies view 1970 as a key moment in the evolution of childcare in Ireland (Buckley et al., 1997; Gilligan, 1989 and Ferguson, 1996). However, from a governmentality perspective, what we are seeing here is not a process of 'discovery' or 'evolution', rather, we see the emergence of new forms of government that reconstitute the child in accordance with certain rationalities of government, most notably, social work and psychology. The Kennedy Report which was established in 1967 to 'carry out a survey of Reformatory and Industrial Schools' (Kennedy, 1970: vii)[7] is a key event where one can see a space being opened up for a number of important discourses that had begun to emerge during the 1960s. Governmental rationalities such as social work and 'psy' expertise coalesce within the language of the Report, which views the young person from a developmental perspective. It privileges the 'family' and the 'community' as sites for government and challenges the suitability of 'institutions' as a site for governing what it regards as the 'deprived' child. Within the Kennedy Report one can see a coming together of the identities of the 'psychological child', which had begun to emerge in the mid-1960s and the 'at risk child' which had emerged as far back as the mid-1850s. The 'at risk child' was re-defined and given an added dimension through the language of psychology and most importantly was re-defined as a legitimate target for 'psy' expertise. This in turn gave an impetus for the development of existing governmental rationalities such as youth work, probation and social work within the juvenile justice field. The result was the development of a common language of expertise with which to assess, examine, diagnose and treat delinquency. With this construction of the 'at risk' child, the delinquent and the potential delinquent became governable in numerous sites: the school, the family, the clinic, the community, the youth club and the hostel.

In the context of juvenile justice, the increased prominence of the expert languages of psychology, social work and youth work and the increased opportunities for professional training in these areas during the 1970s coincide with a growing

[7] It was chaired by District Justice Eileen Kennedy and reported in 1970.

governmentalisation of the state. This process is co-terminus with the emergence of a more secular discourse criticising the dominant Catholic institutional model as represented by the reformatory and industrial school system. However, it would be a mistake to characterise this process as simply a clash between secular and Catholic religious interests. It has to be acknowledged that attitudes within the Catholic Church were also changing around this time and it is important to recognise the Catholic Church itself as an agent of change (Gilligan, 2009; Ferriter, 2004; Keogh, 1996).

The Probation and Welfare Service was established in 1971[8] and with its expansion and professionalisation the judicial gaze was extended into the community, where probation officers supervised probation orders, community service orders and probation hostels. During the 1970s the influential lobby group CARE (1972)[9] campaigned for improvements in services for the 'at risk' child. The Henchy Committee was established in 1972[10] and in 1974 the Task Force on Child Care Services[11] was established. Like the Kennedy Report both adopted a developmental model of childhood, stressing the psychological factors influencing delinquency. Taken together they confirmed the identity of the 'at risk' child and recommended technologies encapsulating all the major existing rationalities of government including social work, youth work, probation, psychology, community and detention.

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[8] Prior to this a service did exist but only on a limited basis utilizing the services of voluntary groups such as the St Vincent De Paul to carry out its work.

[9] Following the publication of the Kennedy Report, CARE (Campaign for the Care of Deprived Children) was established in order to 'publicise the problems of deprived children in Ireland and the inadequacy of our response, as a society, to them, and to campaign for better, adequate, children's services' (CARE, 1972: 6). The group, whose members were people working in children's services and relevant academic disciplines, was active in organising meetings and conferences and publishing discussion papers in relation to childcare policy.

[10] The Committee, which was established in 1972 by the Minister for Justice, was chaired by Mr Justice Henchy, a Supreme Court Judge, and included some prominent professionals in the fields of psychiatry and psychology. Its terms of reference were:

> To examine and report on the provisions, legislative, administrative and otherwise, which the Committee considers to be necessary or desirable in relation to persons (including drug abusers, psychopaths and emotionally disturbed and maladjusted children and adolescents) who have come, or appear likely to come, in conflict with the law and who may be in need of psychiatric treatment. (First Interim Report, 1974: 3)

[11] The Task Force was established 'to make recommendations on the extension of services for deprived children and children at risk, to prepare a Bill up-dating the law in relation to children and to make whatever reforms it considers necessary in the child care services (Department of Health, 1980: 1).

Although there were no significant legislative developments in the area of juvenile justice at this time one can see with the increased prominence of the rationalities of psychology, social work, youth work, probation and community the beginning of the process of the governmentalisation of the state in relation to juvenile justice in Ireland. During the 1970s the Probation and Welfare Service began to establish probation projects within the community, many of which 'piggybacked' on existing voluntary initiatives often by providing sponsorship or funding for them. The 1970s also saw the state take over responsibility for the management of the reformatory and industrial schools, which had been controlled by a number of Catholic Religious congregations since the mid-1850s. This process continued throughout the 1970s, 1980s and 1990s with the establishment of detention centres at Lusk, Shanganagh, Loughan House and Finglas.

The 1990s also saw the increased governmentalisation of the state in the area of criminological research, with the establishment of the Garda Research Unit in 1994, the Irish Association for the Study of Delinquency in 1996 and the National Crime Council 1999. In 1996 'Copping On', a national crime awareness initiative sponsored by the Departments of Education and Science and of Justice, Equality and Law Reform and FÁS[12], was established. In 1999 'Breaking Through' was established under the remit of the Department of Community, Rural and Gaeltacht Affairs to 'support practitioners to promote effective interventions for young people at risk' (Irish Association for the Study of Delinquency, 2005: 171).

The governmentalisation of the state can also be seen in the area of youth work, which for most of the twentieth century was characterised by its voluntary nature. In Ireland, the development of youth work was dominated by the Catholic Church, in particular Archbishop John Charles McQuaid, who actively promoted the interests of the Catholic Church through a network of church–state alliances.[13] During the 1970s and 1980s the government published a number of reports stressing the importance of youth work in governing young people.[14] However, it was not until the introduction of

[12] Foras Aiseanna Saothair is Ireland's training and employment authority.
[13] Mc Quaid was a hugely influential figure in terms of the development of social policy in Ireland from the mid -1930's to the late 1960's.
[14] *A Policy for Youth and Sport* (1977), O'Sullivan Report (1980), Costello Report (1984).

the Youth Work Act, 2001 that a framework for the co-ordination and delivery of youth work services was introduced.

Despite the absence of a national policy on youth work, the governmental rationality of youth work has been evident in the area of probation and crime prevention. Lalor et al. (2007) note that the government has funded youth work initiatives through Garda Youth Diversion Projects, the Local Drugs Task Forces and the National Lottery since the late 1980s. In October 1988 the Ministers for Education and Labour launched the Youthreach initiative that built on established FÁS and Vocational Education Committee initiatives to provide training and education for young people aged between fifteen and eighteen years who were unemployed and had left school with no qualifications (Stokes, 1995). These developments represent the further governmentalisation of the state through youth-work-based activities. While many of these 'community' initiatives are a feature of the modern 'youth justice' system there is a remarkable continuity between these initiatives and the predominantly Catholic religious initiatives that emerged in the mid-nineteenth century. Both kinds of initiatives are linked to governmental technologies concerning health, welfare, protection and reformation utilising a complex network of alliances within the wider community. From the early 1990s Garda Youth Diversion Projects were established, underpinned by the rationalities of youth work and crime prevention. Like the earlier probation projects, many were established by piggybacking on existing youth projects (Bowden and Higgins, 2000).[15] The 1990s witnessed a rapid expansion in the number of these projects, which has continued to the present.

The Kennedy Report (1970) stressed the importance of social work in combating childhood deprivation and preventing juvenile delinquency. In highlighting the failure of the institutional model of childcare it opened up a space for the emergence of alternative strategies of government. It identified the need for the professionalisation of social work services and recommended the development of professional social

[15] There are currently 100 Garda Youth Diversion Projects operating at present managed by the following agencies and youth services: Foroige (29); Catholic Youth Care (10); CDYSB (1); Waterford Regional Youth Service (7); Midlands Regional Youth Service (4); Limerick Youth Service (3); Cloyne Diocesan Youth Service (2); independent management organisations (25); Ogra Chorcai (3); Youth Work Ireland (3); Kerry Diocesan Youth Service (6); North Connaught Regional Youth Service (3); Kildare Youth Service (2); Clare Youth Service (2) (*Irish Youth Justice Service*, 2009).

work training and that the health boards take responsibility for the protection and welfare of children.

The Task Force on Child Care Services (1980) also recommended that the state play a more active role in the co-ordination of childcare services and liaison with existing voluntary services. However, it was not until the introduction of the Child Care Act, 1991, which gave the health boards responsibility for the protection and welfare of children, that we see the governmentalisation of the state through the rationality of social work. Subsequent to this we see state funding of early intervention programmes such as the Springboard Programme and other initiatives providing family support (Department of Health and Children, 1999 and 2001). In this regard, the Final Report of the Commission on the Family, *Strengthening Families* (1998) recommended a broad strategy of family supports as a means of protecting the future development of the child. Also, the governmental technologies of high support and special care represented further stages in the governmentalisation of the state through the rationality of social work.

This process of governmentalisation is not simply a 'taking over' of existing governmental technologies by the state, 'Rather, the state can be seen as a specific way in which the problem of government is discursively codified' (Rose and Miller, 1992: 176). One does not look at government in terms of, the power of the state, but the degree to which the state is governmentalised. From this perspective, the state as a discursive field 'emerges as an historically variable linguistic device for conceptualising and articulating ways of ruling' (Rose and Miller, 1992: 177).

In the present context, this linguistic device is employed within the *Report on the Youth Justice Review* (2006) to portray the project of governing the juvenile justice system as a single unified system of 'youth justice' that is controlled from one central point. We have seen that certain rationalities of government such as probation, social work and youth work are active within this 'youth justice' field. Another important rationality is that of 'community'. Again the *Report on the Youth Justice Review* (2006) utilises a range of governmental techniques aimed at governing young people. These techniques seek to effect some kind of ethical re-adjustment on the part of the

young person and take place within the privileged space of the 'community'. 'Community' here is invested with a quality of 'naturalness', and designated as a suitable space for this ethical work to take place, giving the impression that within this 'community' there are solutions to be found based on some kind of consensus. It is within this 'community space' that governmental techniques that focus on the ethical transformation of the young person operate. These include projects such as Garda Youth Diversion Projects, probation and welfare projects, home–school liaison schemes, mentoring projects, restorative justice initiatives or projects aimed at offender counselling and reintegration. 'Community' is a privileged space in which these techniques can operate. Cohen, writing from a social control perspective, contends that:

> . . . the ideology of reintegration and the strategies of community and diversion demand a physical relocation of the business of deviancy control: not the wilderness and not the closed fortress, but the immediate physical space in which ordinary people live and go about their business . . . (Cohen, 1995: 81)

While it is not intended here to view the criminal justice system from a social control perspective it is nevertheless true to say that a new governable space is configured. 'Community' is a privileged space where issues of justice can be settled in less formal settings. Within this 'community' space young people are encouraged to become less 'risky' in the sense that they are invited to align themselves closer to certain behavioural norms through a range of 'community' initiatives. In this regard, the concept of active citizenship has been employed to achieve this aim by granting young people certain rights that are conditional on them acting appropriately, on them becoming active citizens. This concept of active citizenship is also evident within the numerous initiatives operating throughout the youth work sector. Young people are thus characterised as free to exercise their democratic citizenship by making free ethical choices that shape their own lives. The state, far from dictating what individuals should do, is engaged in enabling individuals to make these ethical lifestyle choices. Rose refers to this as etho-politics and notes:

> By etho-politics I mean to characterize ways in which these features of human individual and collective existence – sentiments, values, beliefs – have come to provide a 'medium' within which the self-government of the autonomous

> individual can be connected up with the imperatives of good government. (Rose, 1999a: 477)

These developments should be seen within the wider context of a growing willingness on the part of government to engage with the principles of communitarianism. One can see the process of governmentalisation emerge through the rationality of 'community' that has gained significant momentum in recent years. This is evident in various mechanisms of funding and support that seek to empower communities and voluntary groups. A good example is the launch of the Dormant Accounts Fund in November 2003. It aims to 'empower communities by tackling disadvantage' (Department of Community, Rural and Gaeltacht Affairs, 2008) and has funded a number of projects aimed at youth diversion, community development, family support, drug awareness, educational disadvantage and homelessness.

Outline of Thesis

This introductory chapter has provided a brief overview of the present 'youth justice' system in Ireland, highlighting the lack of legal and policy development and the absence of a criminological tradition and noting that the state only began to engage in criminological research in the 1990s.

Chapter 2 provides a straightforward narrative of events, outlining the main developments that have occurred from the beginning of the Irish juvenile justice system in the mid-nineteenth century to the present. It offers a general insight into the main developments in this area and a general historical context for the study.

Chapter 3 considers the various theoretical explanations that have been undertaken with regard to the Irish juvenile justice system. In the main these amount to descriptive historical accounts of different aspects of the system and do not attempt to interpret the system's development from any theoretical perspective. As there is no published history of juvenile justice in Ireland, it is necessary to look to other jurisdictions in order to consider the range of theoretical explanations of justice systems. Noting that the 'Whig' version of history began to be critiqued by more sceptical theories in the 1960s, it considers the range of revisionist accounts of the

development of the penal realm and concludes that revisionist accounts are prone to grand theorisation and lack applicability to the national context. A 'governmentality' framework is selected because it carries with it less theoretical baggage and does not try to reduce events to one theoretical explanation. The chapter provides a theoretical explanation of governmentality and outlines its applicability by various authors, concluding that the theoretical framework upon which this thesis is constructed is not strictly Foucauldian but draws from the 'governmentality' literature that emerged post-Foucault and in particular the work of Mitchell Dean and Nikolas Rose.

Chapter 4 provides an elaboration of the methodology employed positioning it within the context of Foucault's notion of genealogy and 'history of the present'. It contrasts the 'history of the present' with history in the traditional sense and notes that this methodology does not attempt to look at the past and discover there the origins of the present. It rejects such a reductive process. Drawing on the work of Mitchell Dean, Nikolas Rose and Gilles Deleuze this methodology aims to take the focus away from an analysis of the 'state' and concentrate on an analysis of the 'problematics' of government. Some key methodological differences between this approach and the approach of traditional sociological research into government are considered. It is within this context that 'governmentality' as a methodological approach is introduced as engaging in a more localised form of enquiry, steering clear of grand theorisation. Following Dean (1999), four lines for the analysis of the practices of government are delineated. These are the examination of fields of visibility of government; the technical aspects of government (technologies); the approach to government as a rational and thoughtful activity (rationalities); and attention to the formation of identities.

Chapter 5 explains how, from a governmentality perspective, the justice system became visible in Ireland. It highlights the importance of 1851 and Mary Carpenter's 'Reformatory Schools for the Children of the Perishing and Dangerous Classes and for Juvenile Offenders' in the emergence of the 'problem' of the juvenile delinquent. Carpenter, along with other reformists of the time, was instrumental in constructing the identity of the delinquent and potential delinquent using statistical and other information. In Ireland, the year 1853 saw for the first time the category 'juvenile

offender' and 'juvenile crime' emerge in the 'Thirty-first Report of the Inspectors-General on the State of the Prisons of Ireland' (1853). Both the problem of delinquency and its government are framed within various official reports by means of statistics. In addition to this, a new system of governing the delinquent population emerges in the form of the reformatory and later the industrial school. These regulatory sites supplement existing sites such as the workhouse and the prison. From a governmentality, perspective the growth in biopolitical knowledge surrounding the child results in the greater classification of delinquency and also results in a more refined calibration of the system itself. Although legislation providing for the borstal system and probation were enacted, these initiatives never challenged the dominance of the reformatory and industrial school system and it was to be the early 1970s before the model began to be replaced. Around this time we see the emergence of a range of regulatory sites located within the 'community'. However, it has to be acknowledged that prior to this a less visible governmental grid existed in the various initiatives promoted by religious organisations from the late nineteenth century onwards. The present juvenile justice system has become less visible but more pervasive within a myriad of governmental spaces within the community that supplement the more visible institutional sites.

Chapter 6 looks at the diverse range of governmental rationalities that go to make up 'youth justice'. By examining numerous official and unofficial reports as well as other relevant literature available, this chapter unpicks the main governmental rationalities that occupy this space. The most recent rationalities to emerge in this regard are those of 'community' and 'citizenship'. The former seeks to enlist various alliances within the community space in order to govern. The latter encourages the empowerment of young people to become active citizens and enhance their participation in 'civic society'. Rationalities such as social work, probation and psychology began to gain prominence in the 1960s as the dominant religious discourses began to decline. A neglected rationality of government is that of 'youth work' which has been present from the beginning of the twentieth century in Ireland. For most of the twentieth century it formed part of a socio-spiritual discourse and was dominated by religious organisations. From the 1960s it began to become a more secular discourse, however, many of the religious organisations that were prominent in this field remain active.

Likewise although the reformatory and industrial school system has been replaced the rationality of reformation remains active within the juvenile justice field.

Chapter 7 analyses the governmental technologies that are employed within the 'youth justice' system. Following Rose (1996c) these technologies are classified as either disciplinary or pastoral. Disciplinary technologies usually involve a specific regulation of time and space. This manifests itself in some form of panoptic architecture combined with the day-to-day regulation of time. They are embodied in detention centres, reformatory and industrial schools, and special care units where strict regulations govern the organisation and movement of those contained within them. Pastoral technologies, on the other hand, are usually based on rituals of confession and self-disclosure and entail some form of pastoral relationship with another person. They are generally found in community-based programmes that encourage the young person to change their lifestyle, increase their self-esteem, become active citizens etc. They are to be found in restorative justice initiatives, crime prevention initiatives, youth projects and probation projects. Disciplinary and pastoral techniques are not mutually exclusive and many pastoral technologies are employed in disciplinary settings. Until the early 1970s the juvenile justice system was dominated by disciplinary technologies epitomised by the reformatory and industrial schools. With the decline of the institutional model of regulation and the ascendancy of the diversionary model pastoral technologies have come to dominate the justice system with large numbers of young people governed in 'open' sites within the 'community'. These technologies usually employ some quasi-scientific or psychological rationality in the process of governing.

Chapter 8 examines the forms of identity that are employed in order to govern young people within the Irish juvenile justice system. It does not attempt a narrative history of the juvenile but rather seeks to unsettle the various regimes of subjectification to which the concept of identity is linked (Rose, 1996a). According to Rose we should approach the 'self' in terms of its function as a regulatory ideal rather than trying to construct a historical narrative of the subject. It is within this context that the chapter looks at the main forms of identity that are employed to govern within the 'youth justice' space. Forms of identity such as the 'delinquent', the 'subject of reformation',

the 'psychological child', the 'at risk' child and the 'child as a bearer of rights' are considered. These various forms of identity do not operate in isolation but often complement each other in the process of governing.

Conclusion

The Irish juvenile justice system emerges in the early 1850s. The collation of statistics serves to map the extent of juvenile crime and the means of governing it. The statistics contained in the reports of the Inspectors of prisons and reformatory and industrial schools facilitate the construction of the 'delinquent' identity and the system for governing delinquency.

The reformatory and industrial schools emerged as the dominant regulatory sites and the 'pre-delinquent' was the main target for regulation. This was to remain the case for almost one hundred years.

From the mid-1960s one can see the rise to prominence of a number of governmental rationalities that are co-terminus with a discourse on the failure of the reformatory and industrial school system. Rationalities of psychology, social work, youth work and probation began to gain prominence and they found expression in a vocabulary of 'risk'. These rationalities form the basis of a range of disciplinary and pastoral technologies that are aimed at regulating the 'at risk' child.

From the mid-1960s one can see the increased governmentalisation of the state. This is in direct contrast to the situation that existed before where the state was virtually absent from the process of government with Catholic religious organisations dominating the juvenile justice system.

CHAPTER 2: A NARRATIVE OF EVENTS

Developments from 1851 to 1908

In December 1851 a conference was held in Birmingham:

> 'for the purpose of consulting on the means of establishing preventative and reformatory schools for those class of children which have come known, with an appalling sort of propriety to be distinguished as the "perishing and dangerous"' (Hill and Cornwallis, 1853: iii).

It is clear that Carpenter's classification,[16] 'dangerous and perishing', had already been accepted by many of those writing in this field. Hill in his prize-winning essay of 1853 distinguished between 'the means by which accessions to the ranks of the vicious may be prevented, and the already abandoned may be reclaimed' (Hill and Cornwallis, 1853: iii). Indeed, in the same volume Cornwallis entitles his essay 'On the treatment of the Dangerous and Perishing Classes of Society' (Hill and Cornwallis, 1853: 323). These early reformers argued that the character of the juvenile criminal and the potential juvenile criminal could be changed for the better by means of certain reformative interventions in their lives.

In 1853 a Select Committee appointed to inquire into the treatment of 'criminal and destitute children' issued its report. Its brief included recommending possible changes that might be desirable in the existing system 'in order to supply Industrial Training, and to combine Reformation with due correction of Juvenile Crime' (*Report of the Select Committee on Criminal and Destitute Juveniles*, 1853: iii). The Committee had been established against the backdrop of a growing campaign seeking reform in the manner in which children were treated both within the existing criminal justice system and in society in general. The Report was over six hundred pages in length and included the evidence of a large number of witnesses who attended its sessions throughout Britain and Ireland. The witnesses included those who were prominent

[16] Carpenter's *Reformatory Schools for the Children of the Perishing and Dangerous Classes and for Juvenile Offenders* was published in 1851.

within the campaign for reform and those who worked within the criminal justice system including barristers, judges, clergymen and educators.

The Report concluded that appropriate intervention in the lives of destitute, neglected and criminal children would result in their rescue from moral degradation and subsequently prevent a large amount of juvenile crime. It noted,

> That it appears to this Committee to be established by the evidence, that a large proportion of the present aggregate of crime might be prevented, and thousands of miserable human beings, who have before them under our present system nothing but a hopeless career of wickedness and vice, might be converted into virtuous, honest, and industrious citizens, if due care were taken to rescue destitute, neglected and criminal children from the dangers and temptations incident to their position. (1853: iii)

The Committee concluded that the existing regimes in prisons and workhouses failed to supply the reformative influences necessary to effect the desired changes in the character of criminal and destitute children and recommended the establishment of reformatory institutions that would provide suitable education and industrial training. It also recommended such institutions be given the power to detain children as long as is necessary for their reformation but not beyond the age of sixteen years.

Following the 1853 Report the first Reformatory Schools Act was passed in Britain in 1854. This Act did not apply to Ireland but there existed a strong lobby demanding the implementation of similar legislation in Ireland. The *Irish Quarterly Review* provided the main forum for the campaign for reformatory schools in Ireland and offers a unique insight into the discussion of ideas around the problem of governing juveniles at this time. According to Laub and Levin, 'During the ten years of publication, its character did not change with one important exception – the unique and extensive addition of articles, documents and reports on juvenile delinquency, reformatory schools, and prison discipline' (1984: 4).

Statistics and other evidence relating to juvenile crime was gathered from a number of sources and used to advance the cause of the Reformatory School Movement. A typical example is the *Review* of 1858 where a wide range of criminal statistics were taken from reports of the Inspector General of Prisons and the Dublin Metropolitan

Police to illustrate the position in relation to juvenile crime in Ireland. These included statistics on offences committed, committals, recommittals, sentences, parentage, education, religion, home circumstances, age and sex. In the context of these statistics the *Review* states:

> With facts like these before them it is strange that our legislators and those entrusted with the administration of justice, should lag behind the public, and act as a species of drag upon the desire which many entertain of advancing the Reformatory question in Ireland. (Anon, 1858(a): xxx)

One of the journal's contributors was the National Reformatory Union, which was founded in 1856 to promote the cause of reformatory schools and contained among their ranks those employed within the criminal justice system and those with an interest in reforming the juvenile offender. One such advocate was P.J. Murray, a Dublin barrister who penned a series of articles supporting the Reformatory School Movement. He wrote:

> Prison Chaplains, hard working rectors, county magistrates, and other bucolic dreamers, backed by some lawyers, whose experience proved the utter absurdity and irreparable mischief, of committing juvenile criminals to common gaols, were the founders of this movement. (Murray, 1856: 1)

The spectre of juvenile crime and its association with arguments for new methods of governing young people is evident in both official and unofficial discourses of the time.[17] It provided an impetus for those arguing for new ways of governing and also provided a means of gauging the effectiveness of existing strategies. Carroll-Burke (2000) highlights the importance of the emergence of social science in the mid-nineteenth century on the development of the 'Irish convict system'. He notes how

[17] A series of articles appeared in the *Irish Quarterly Review* and the *Journal of the Statistical and Social Inquiry Society of Ireland* utilising statistical material from official reports, censuses etc, highlighting the 'criminal status' of a class of young people and suggesting a more efficient system for managing them. In the *Irish Quarterly Review* they included: 'The Garrett, the Cabin and the Gaol', 1854; 'Our Juvenile Criminals – the Schoolmaster and the Gaoler', 1854; 'Reformatory Schools for Ireland', 1855; 'Juvenile Delinquents and Their Management', 1855; 'Notes on Reformatories for Ireland', 1858; 'Industrial and Reformatory Schools for Ireland', 1859. Articles appearing in the *Journal of the Statistical Society of Ireland* included: 'On the Importance of Reformatory Establishments for Juvenile Delinquents', 1854; 'Education the Surest Preventive of Crime, and the Best Safeguard of Life, Property, and Social Order', 1856; 'The Educational and Other Aspects of the Statistics of Crime in Dublin', 1861; 'On Criminal Statistics with Special Reference to Population, Education and Distress in Ireland' 1864.

theories and experiments in social improvement were discussed in forums such as the Dublin Statistical Society, the *Freeman's Journal*, the *Dublin University Magazine* and the National Association for the Promotion of Social Science (NAPSS). In this regard, he notes that NAPSS, which was established in Birmingham in 1857 and was active in the promotion of juvenile reformatories, held an annual congress in Dublin in August 1861 that lasted a week and to which two hundred papers were submitted (Carroll-Burke, 2000).

Despite initial objections to the introduction of reformatory schools legislation in Ireland from Irish Catholic members of parliament a bill was eventually passed into law in 1858. The Reformatory Schools Act, 1858 ensured that a child could only be sent to an institution exclusively run by persons of their own religious persuasion. It empowered the state to certify certain institutions for the reception of young offenders up to sixteen years of age convicted of an offence punishable by penal servitude.[18] They could be detained for a period of not less than one year and not more than five years. Robins (1980) notes that a large proportion of the first inmates in these institutions came from a workhouse background.

The First Report of the Inspector for Reformatory Schools in Ireland, the aforementioned P.J. Murray, noted an initiative of the manager of Glencree, who 'has especial facilities for removing to other countries those he is now taking such pains to amend and instruct' (*First Report of the Inspector appointed to visit the Reformatory Schools of Ireland*, 1862: 4). The Report viewed this as a laudable arrangement as it removed the said juveniles from the 'reach of their former bad companions' (1862: 4). At this early stage in the development of the system it is clear that managers were given a good degree of latitude in running the reformatory schools under their charge. The reformatory school system itself is described in the Report as working 'very satisfactorily'.

[18] There was subsequently a series of amending legislation in respect of reformatory schools that acted to regulate the operation of these schools subsequent to the initial Act of 1858. These included: the Irish Reformatory Schools Act, 1868; the Reformatory Schools Act, 1893; the Reformatory Schools Act, 1899; The Youthful Offenders Act, 1901; the Children Act, 1908; and the Children Act, 1941.

Following the introduction of the Reformatory Schools Act there were calls for the introduction of legislation to provide for industrial schools in Ireland. The *Irish Quarterly Review* and the *Journal of the Dublin Statistical Society* published numerous articles supporting the cause of the industrial school system. In particular Hancock (1861) contrasted the treatment of children in Irish workhouses with those in the Aberdeen Industrial Schools. The Industrial Schools Act, 1868 enabled the state to certify certain voluntary institutions for the reception of children deemed suitable by the courts. Section 13 of the Act provided that any child under twelve years who was charged with an offence punishable by imprisonment or a less punishment but not convicted of a felony could be sent to an industrial school. Most significantly, section 11 of the Act provided that anyone could bring before two justices or a magistrate a child appearing to be under fourteen years that was: found begging or receiving alms; being in any street or public place for the purpose of so begging or receiving alms; found wandering and not having a place of abode, proper guardian or visible means of subsistence; found destitute, either being an orphan or having a parent who was serving a term of penal servitude or imprisonment; frequenting the company of thieves. Barnes notes:

> . . . these categories reflect the dual function of the Industrial Schools as a measure to prevent crime and as an asylum for destitute and neglected children. All of the above children were exposed to crime because of their circumstances . . . The categories as defined by the act are clearly not mutually exclusive: any single child might fulfil several or all of these conditions. These categories were intended to serve as a clear guide to magistrates as to which children could be committed to the schools. (1989: 42)

By 1870 ten reformatory schools had been established, five for males and five for females. The numbers detained at these institutions increased from 140 in 1859 to 856 in 1870. Industrial schools were established at a far faster rate. On 31 December 1870, 32 industrial schools had 'received certificates under the Act – 3 for boys, 25 for girls and 4 mixed schools for young boys and girls', with 246 boys and 1,283 girls detained (*Ninth Report of the Inspector of Reformatory and Industrial Schools in Ireland*, 1871: 20). One effect of the establishment of the reformatory schools was that there were less juveniles being committed to prison. The same Report states that, 'During

the last seven years only seven males and one female were sentenced to penal servitude in Ireland' (1871: 7).

The character of these institutions was shaped by the organisation responsible for managing them.[19] In the case of the industrial schools, each of the religious brotherhoods or sisterhoods utilised methods of classification that suited themselves. According to Raftery and O'Sullivan, clear distinctions were made by these religious organisations between the poorer classes who were filtered into industrial schools and the middle classes who were directed towards orphanages:

> A microcosm of the precise and minute class distinctions in Ireland for much of the twentieth century can be seen through the Christian Brothers' institutions for children . . . The Christian Brothers thus catered for three distinct social classes of children – upper middle class, middle class and working and lower class – each in their own clearly defined and separate type of institution. This use of child-care by the religious orders to methodically entrench and perpetuate a rigid class system in Ireland remains one of the most hidden aspects of these structures. (1999: 25)

The spectre of rising juvenile crime is a common theme running through the reports of both the Inspector of Prisons and the Inspector of Reformatory and Industrial Schools and a preoccupation from the writings of Carpenter through to the 1884 Commission on Industrial and Reformatory Schools. This created a context for discussion of the ability of the existing system to deal effectively with juvenile offenders. The 1884 Report[20] was established to:

> . . . inquire and report upon the operation, management, control, inspection, financial arrangements and condition generally of certified reformatories, certified industrial schools, and certified day industrial schools . . . and the conditions of admission to those institutions, and further, to consider and report what amendments are expedient in order to render such institutions more efficient . . . (1884: ix)

[19]The congregations included: Sisters of Mercy; Sisters of Charity; Sisters of the Good Shepherd; Christian Brothers; Sisters of St Louis; Presentation Sisters; Oblate Fathers; Sisters of St Clare; Daughters of Charity; Presentation Brothers; Sisters of Our Lady of Charity of Refuge; Order of Charity.

[20]Also known as the Aberdare Commission, after its chairman Lord Aberdare.

The Report attempted to give some indication as to the effectiveness of the system. It noted that the system was responsible for a significant reduction in crime and for 'saving from a life of crime large numbers of children who would otherwise have swelled the criminal statistics' (1884: lvi). O'Sullivan (1999), however, argues that the risk of offending posed by these delinquent classes was not the only impetus for the development of the reformatory and industrial school system, there was also the perceived risk of proselytism on the part of the Catholic Church.

Barnes argues that the 1884 Report paved the way for the expansion of the industrial school system:

> A certain elation and renewed surge of effort by all connected with the industrial schools followed on the findings of the Aberdare Commission. Its report endorsed the system and provided full justification for its future expansion. Together with the easing of treasury restrictions on the grant in 1879, the report's findings paved the way forward and expansion did indeed take place in the 1880's and 1890's. New schools were certified and the limits to certificates in existing schools were increased. (1989: 73)

In Ireland the majority of the population governed within the reformatory and industrial school system was Catholic. Barnes notes that 'the system was dominated by schools under the management of Catholic Orders of brothers, sisters, and priests' (1989: 76). They carried out the day-to-day management of the schools, with the overall system subject to regular inspection by the Inspector of Reformatory and Industrial Schools. The system itself was in this sense colonised by Catholic organisations (O'Sullivan, 1999).[21]

[21] O'Sullivan charts the manner in which Catholic religious congregations colonised the welfare services in Ireland throughout the nineteenth century. He notes that 'by the mid-1850's, the majority of the parish based orphanages, which had utilised the boarding-out or 'outdoor orphanage' method of rescuing orphan and deserted children had been largely phased out. Virtually all orphanages were now operated by religious congregations, primarily female congregations and operated on an institutional model of "child welfare"' (1999: 203). He argues that the foothold of the Catholic religious congregations was further strengthened by the introduction of the reformatory and industrial school legislation in 1858 and 1868. This process of colonisation was encouraged by the intervention of the Catholic bishops, who invited a number of congregations into the country for the sole purpose of operating industrial schools. In this regard, the Sisters of Mercy were by far the most active in establishing industrial schools (O'Sullivan, 1999).

The system continued to expand rapidly,[22] leading the government to express concern over the increasing number of schools and requests for extensions to already existing certificates (O'Sullivan, 1999: 214). The expansion in industrial schools continued to eclipse that of reformatory schools. By 1907 there were 68 industrial schools and five reformatory schools. Of the 68 industrial schools only five were Protestant and there was one Protestant reformatory school. The industrial and reformatory school system remained the dominant means of dealing with offenders and potential offenders up to the age of sixteen years. Those offenders over sixteen continued to be dealt with in the prison system.

A Departmental Committee on Prisons had been established in 1894, under the chairmanship of Herbert Gladstone, to inquire into certain matters relating to prison administration, including: accommodation; juvenile and first offenders; prison labour and occupation; regulations governing prison visits; and communication with prisoners. The Committee's terms of reference was expanded in 1895 to include the treatment of habitual criminals and the classification of prisoners generally. The Gladstone Report (1895) called for greater classification to allow for the special treatment of certain categories of prisoners. Section 25 of the Prisons Act, 1877 allowed the Secretary of State to make special rules, however, the Report argued for more systematic classification in local prisons. In particular, it argued that juveniles should not be subjected to normal prison regulations and discipline but that a system of classification should be devised, taking into consideration the age, character and temperament of the prisoner. The Report argued for the classification of prisoners into three specific categories; juveniles, first offenders and habitual offenders. Under such a system of classification, the juvenile offenders would be separated from habitual criminals who could have a negative influence upon them. The Report envisaged the establishment of a penal reformatory for those individuals who could not be adequately governed within the existing system because of their age or behaviour:

> The penal reformatory should be a half-way house between the prison and the reformatory. It should be situated in the country with ample space for agricultural and land reclamation work. It should have penal and coercive sides

[22] The expansion of the industrial school system reached its height in 1898 when there were seventy-one schools catering for almost 8,000 children.

> which could be applied according to the merits of particular cases. But it should be amply provided with staff capable of giving sound education, training the inmates in various kinds of industrial work, and qualified generally to exercise the best and healthiest kind of moral influence. (1895: 30)

Such institutions were eventually established in Britain and became known as borstal institutions. They were established in Ireland in 1906. The General Prisons Board refers to a:

> . . . new departure in the prison treatment of Juvenile-Adult prisoners, i.e., those between the ages of 16 and 21 years, known as the 'Borstal' system, which has been attended to with much success in England, and was introduced into Ireland at Clonmel Prison in 1906, is producing similar good results in this country. The number of cases at Clonmel was 32 at the end of the year 1907. They have since increased to 35. (*Thirtieth Report of the General Prisons Board, Ireland, 1907–1908*: viii)

The target population to be incarcerated at Clonmel was selected from prisoners who were sentenced to between nine months and two years imprisonment. The minimum period later increased to one year. While in Clonmel they were to be engaged in a programme of reformation that included instruction in various trades, lectures on morality, drill and adherence to a strict daily timetable. This regime was designed to reform the character of the individual detained with the intention of returning him to the community as an industrious citizen. In the words of Ruggles-Brise[23] the borstal system represents 'not only a school of reform, but a sort of moral hospital, giving, through the kindness of its agencies, a chance for the weak and feeble and unfortunate to make a fresh start and take their place in the great industrial army' (*Thirtieth Report of the General Prisons Board, Ireland, 1907–1908*: x). The Prevention of Crime Act, 1908 later amended by the Criminal Justice Administration Act, 1914, empowering the courts to sentence young offenders to detention in a borstal.

The practice of committing children under twelve years of age to prison had almost ceased with only five such committals during 1907 (*Thirtieth Report of the General Prisons Board, Ireland, 1907-1908*). The Report notes, however, that juveniles were

[23] Evelyn Ruggles-Brise, Commissioner of Prisons for England and Wales from 1892, is credited with introducing the Borstal system in Britain.

still being detained in prison and during 1907, 182 juvenile prisoners were detained in prison.

1908 to 1970

The Children Act, 1908 provided that no child under 12 years could be committed to a reformatory school. It also enabled the committal of various classes of children to industrial schools. This Act, along with the Employment of Children Act, 1903, the School Attendance Act, 1926 and the Children Act, 1929, enabled the committal of fourteen separate classes of children to industrial schools for reasons relating to family circumstances, financial status, criminal associations, or certain kinds of behaviour (Cussen, 1936; 14). Reasons for committal included: being found begging; 'wandering' with no visible means of support; parents or guardians imprisoned or of 'criminal' or 'drunken habits'; residing in a house used for prostitution; unable to get adequate support from parents; parents unable to exercise control; being destitute and orphaned; found guilty of illegal street trading; and failure to attend school. Caul (1984) has highlighted two pieces of legislation in particular that affected committals through the courts. The School Attendance Act, 1926 gave the courts power to commit children to industrial schools in certain circumstances. Also, the Children Act, 1929 amended the 1908 Act by extending the grounds of committal to industrial schools to children whose parents were unable to support them and who consented to their committal.

Following on from the Probation of First Offenders Act, 1887 and the Probation of Offenders Act, 1907, the Children Act, 1908 represented an expansion of the sentencing options open to the courts in relation to children.[24] These options included: release under the supervision of a probation officer; discharged and entering a recognisance to be of good behaviour; committal to the care of a relative or 'fit person'; committal to an industrial or reformatory school; whipping; ordering the offender or the offender's parents to pay fines or damages; ordering the parents of the offender to provide security in relation to good behaviour; committal to a place of

[24] Also, the Prevention of Crimes Act, 1908 gave the courts power to commit persons between sixteen and twenty-one years to a borstal institution.

detention or imprisonment; dismissal of the charge; and dealing with the case in any manner that it may be legally dealt with.

The Children Act, 1908 not only expanded the sentencing options of the courts but also brought the family firmly within the scope of the juvenile justice system. It allowed for the adjudication of issues pertaining to the family and the substitution of the family in the guise of the 'fit person', in the event of the perceived failure of the family unit. The 1908 Act also prohibited the imprisonment of persons under fifteen years unless they were of an 'unruly' or 'depraved' character. It gave the courts the power to adjudicate on the character of the individual. This power, along with the Probation of Offender's Act, 1907, extended the reach of the courts beyond considerations of guilt or innocence and allowed them to carry out a social enquiry into the background of the offender and in so doing to consider reports from outside parties such as social workers and probation officers.

The Gladstone Report had recommended the separate treatment of children from adult prisoners within the prison system. Section 111 of the 1908 Act further distinguished children from adults within the justice system by providing for the hearing of cases relating to children at different times to adults or at different locations. It established the principle of a separate 'children's court'. This important reform reflected a changing attitude towards the child. Although the Children Act, 1908, the Courts of Justice Act ,1924 and the Courts of Justice (District Court) Act, 1946 paved the way for a separate children's court the reality in Ireland was different. Walsh notes that,

> a separate children court was only ever established in Dublin. It too, was presided over by a judge of the District Court, although it sat in distinct premises (formerly a room in Dublin Castle, now premises in Smithfield). In other centres the Children Court normally sat in the same room as sittings of the District Court. (Walsh, 2005: 71)

The 1908 Act, as amended, provided for the District Court to sit as a Children Court until it was repealed by Part 7 of the Children Act, 2001, which provided for the establishment of a separate Children Court.

Despite the expansion of sentencing options committal to the reformatory and industrial schools remained the dominant sentencing option. The system lasted well into the twentieth century and provided the primary means of governing offending young people or those classified as 'at risk'. According to Raftery and O'Sullivan,

> A total of over 105,000 children were committed to industrial schools by the courts between 1868 and 1969. At its peak at the turn of the century, this system contained a massive seventy-one schools in Ireland, detaining up to 8,000 children at any one time. (1999: 20)

The reformatory system, which was designed to cater only for children who committed a criminal offence, was utilised to a lesser extent.

With the formation of the Irish Free State the reformatory and industrial schools system remained relatively unchanged. Responsibility for its administration and supervision passed to the Minister for Education in 1924. However, the system was not without its critics, even from within government. O'Sullivan, notes that the transfer of responsibility for the industrial school system to the Minister for Education 'appears to have been an instance of attempts on the part of the newly-formed Free State government to refute the delinquent model of the industrial school child' (1979: 213). However, there was to be no significant change to the system in the years following independence.

The Commission on the Relief of the Sick and Destitute Poor was established in March 1925 under the chairmanship of Charles O'Connor. Its terms of reference included the examination of the law and administration relating to certain destitute classes: widows and their children; children without parents; unmarried mothers and their children; and deserted children. It was also to inquire into existing provision in public institutions for the 'care and treatment of mentally defective persons [including] the care and training of mentally defective children' (*Report of the Commission on the Relief of the Sick and Destitute Poor, Including the Insane Poor*, 1927: iii). The Commission considered the possibility of a centralised state

department that would deal with child welfare as opposed to services being spread over a number of government departments,[25] but opted to retain the status quo:

> We are not convinced that the interests of the children would be better served by a single 'mixed' authority exercising a number of unrelated duties than by the several departments amongst which these duties are at present distributed. (1927: 74)

The Commission examined the relative merits of both the boarding-out system and the system of institutional care in the context of 'unmarried mothers and their children'. It took evidence from the managers of industrial schools and also the Inspector and Assistant Inspector of Industrial Schools. In relation to the two systems it concluded that 'both are necessary and that neither can be justly condemned because of occasional failures' (1927: 74).

In 1934 a Commission of Inquiry into the Reformatory School and Industrial School System was established under the chairmanship of G. P. Cussen, a Justice of the Dublin District Court. The terms of reference of the Commission were to inquire into: existing statutory provisions and other regulations in relation to reformatory schools, industrial schools and places of detention and the committal of children to them; their care education and training; the treatment and disposal of children suffering from 'physical or mental defects'; staffing qualifications and conditions of service; and funding of the institutions. The Cussen Report was published in 1936 and recommended the continuance of the reformatory and industrial school system with some modifications. It recommended that the schools should remain under the management of the existing Religious Orders. It also recommended that the titles 'reformatory' and 'industrial' be replaced and that the term 'committal order' be replaced by 'admission order'.

In England the Children and Young Persons Act, 1933 abolished reformatory and industrial schools and replaced them with 'approved schools' that could only receive convicted offenders. According to Fahy Bates, the 1933 Act resulted in a clear

[25] The question of establishing a centralised state department with responsibility for co-ordinating services for children was to remain a constant subject of debate in the following decades. It was only in 2006 with the establishment of the Irish Youth Justice Service that a serious attempt was made to achieve this aim.

distinction between the offender and the child in need of care, 'a distinction which had become blurred in the reformatory and industrial school system. For the first time public opinion was coming round to the view that delinquency, at least in children, was a social, not a moral, problem' (2003: 125). However, in Ireland things did not change.

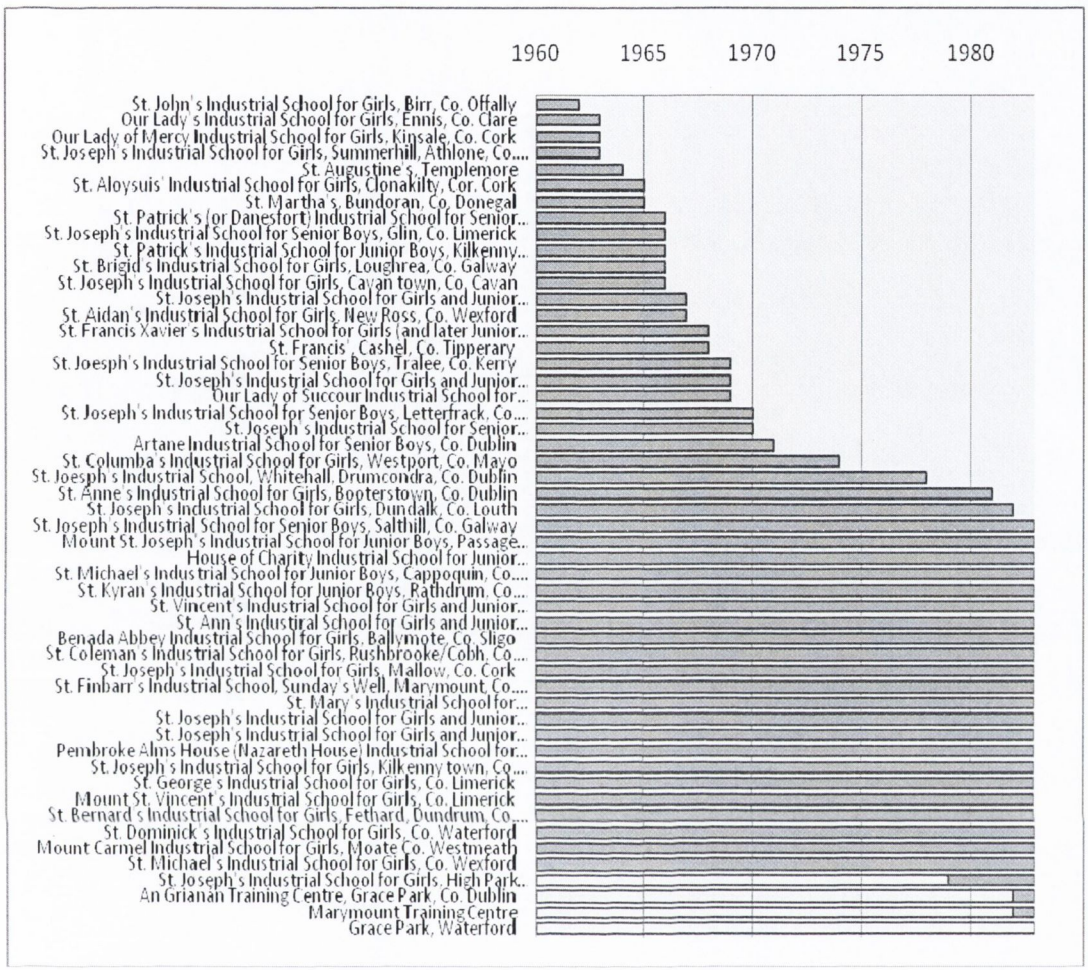
The Cussen Report's main recommendations concerned the manner in which the system was managed. For example it recommended that the period of detention be changed to a minimum of two years and a maximum of five years, and that managers of schools could release inmates on licence after six months rather than eighteen months.

In relation to females, the Report recommended that such offenders be committed to suitably certified institutions and in the event that they prove too difficult to handle transferred to the main prison system. The type of institutions recommended were obviously religious in nature as the Report states that, 'it should be in the power of the Superioress to request the Minister for Justice to relieve her of her responsibility for the young person who should then be transferred to a prison' (Cussen, 1936: 48). St Anne's, Stillorgan was founded in 1944 and certified a reformatory and industrial school. It was run by the Sisters of Charity and catered for females under seventeen years convicted of sexual offences or having tendencies towards sexual immorality. According to Raftery and O'Sullivan, 'Its establishment derived from the desire of the Good Shepherd Sisters to expand their reformatory work in Dublin. They were particularly keen on the detention of girls deemed to be "sexually aware"' (1999: 27).

The system in Ireland continued to be administered in much the same fashion after the Cussen Report. However, the numbers committed to industrial schools by the courts started to decline in the mid-1950s. This was reflected in the closure of a large number of industrial schools.[26] Figure 1 shows the closure and opening of industrial schools and residential homes from 1960 to 1983.

[26] The following industrial schools closed between 1950 and 1970: Baltimore, 1950; Carriglea, Dun Laoghaire, 1953; St Lawerence's, Sligo, 1957; St Joseph's, Cork City, 1959; St Coleman's, Cobh, early 1960s; St John's, Birr, 1962; St Joseph's, Athlone, 1963; Our Lady's, Kinsale, 1963; Our Lady's, Ennis, 1963; St Augustine's, Templemore, 1964; St Aloysuis', Clonakilty, 1965; St Joseph's, Cavan,

Figure 1 Industrial Schools and Residential Homes 1960 - 1983

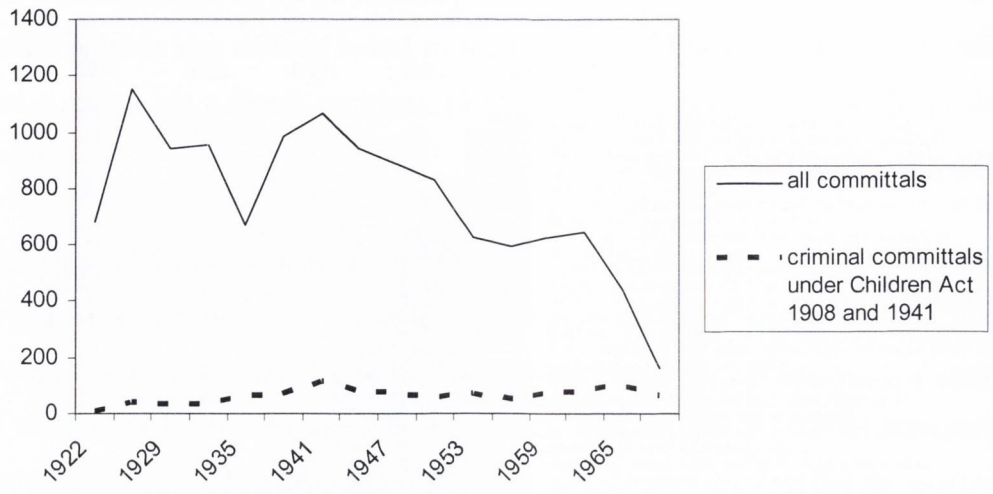


Source: Commission to Inquire into Child Abuse (2009).

In relation to industrial schools what was also noticeable was the low level of committals for criminal offences in proportion to the total number of committals (Figure 2).

1966; St Brigid's, Loughrea, 1966; St Patrick's, Kilkenny, 1966; St Joseph's, Glin, 1966; St Francis, Cashel, 1967; St Joseph's, Ballinasloe, 1968; St Aidan's, New Ross, 1968; Artane, Snr Boys, 1969; St Francis Xavier's, Ballaghaderreen, 1969; St Joseph's, Tralee, 1970; and Our Lady of Succour, Newtownforbes, 1970; also Glencree Reformatory School, 1940. (Raftery and O'Sullivan, 1999: 397–400).

Figure 2 Committals to Industrial Schools 1922 to 1969



Source: *Crime and Punishment in Ireland 1922 to 2003, A Statistical Sourcebook* (2005).

This reflected the unwillingness of industrial school managers to accept a child convicted of a criminal offence. The 1884 *Report of the Commissioners on Reformatory and Industrial Schools* had found that certified industrial schools in Ireland were regarded as institutions for training the poor and deserted children rather than those of a 'semi-criminal' class and it is clear that the policy of excluding those children who might prove difficult to manage lasted well into the twentieth century.

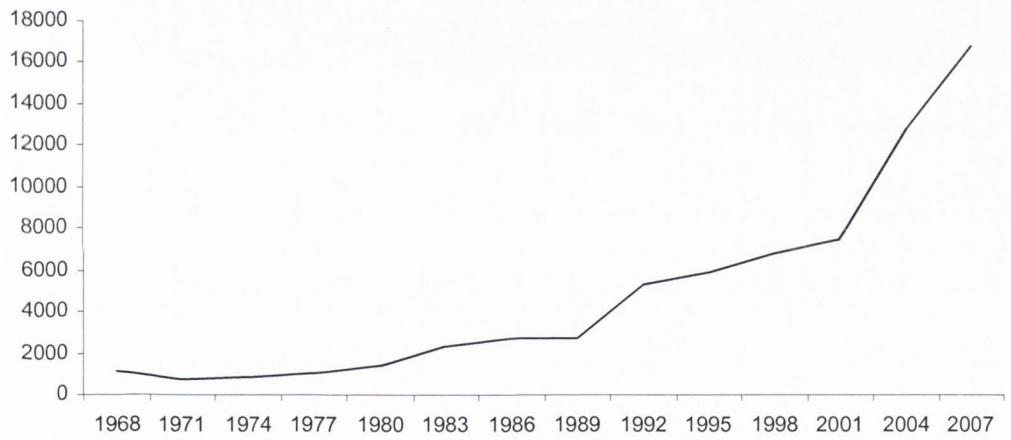
As the numbers committed to the reformatory and industrial schools continued to decline, new innovations began to appear. In 1953 eighty-eight juveniles, nineteen of whom were girls, were cautioned as an alternative to being charged with a criminal offence. This new procedure was introduced:

> . . . with the approval of the Law Officers to caution in the presence of their parents, instead of bringing them before the Court, juveniles under 14 years of age for minor indictable offences, where the injured parties do not object to such a course, and there is hope that the youngster will appreciate the caution, and the parent will ensure supervision. (*Annual Report of the Commissioner of An Garda Síochána*, 1957: 18)

This development provided an alternative to committal to institutions for minor offences. The numbers cautioned increased to 471 in 1954, 508 in 1955 and 665 in 1957 (annual reports of the Commissioner of An Garda Síochána). However, the

Garda Juvenile Diversion Scheme was not formally adopted until 3 September 1963. Interestingly, the annual report of 1967 notes that the Scheme is aimed at two classes of children, those who have committed offences against the criminal law and 'those not known to have committed any offence and whose behaviour if not corrected in time could lead them into crime' (*Annual Report of the Commissioner of An Garda Síochána*, 1967: 5). As can be seen from Figure 3 below the number of juveniles cautioned under this scheme continued to increase from 1,112 children in 1968 to 16,753 in 2007. However, the initiative was only placed on a statutory footing under the 2001 Children Act.

Figure 3 Children Cautioned under the Garda Juvenile Diversion Scheme 1968 to 2007



Source: *Crime and Punishment in Ireland 1922 to 2003, A Statistical Sourcebook* (2005) and *Annual Reports of An Garda Siochana.*

The implementation of the Garda Juvenile Diversion Scheme meant that fewer numbers of juveniles were finding their way into the reformatory and industrial school system. Information from the annual reports of the Garda Commissioner in the 1950s and other sources also suggests that the courts were not committing juveniles into the system in the same numbers as previously. The Department of Education's 1928 annual report noted that the introduction of the probation system had reduced the numbers committed to the schools (1928). Fahy (1942) commented upon the increased use of 'probation orders' by the courts and also hinted at a growing

reluctance on the part of the judiciary to commit young people to reformatory schools (1942: 62). O'Connor later noted the 'liberal use' of the Probation of Offenders Act, 1907 by the courts (1963: 22). As can be seen from Figure 4 below, between 1950 and 1957[27] a high percentage of juveniles coming before the courts were dealt with under the Probation of Offenders Act 1907.

Figure 4 Juveniles Dealt with by the Courts between 1950 and 1957

Juveniles Dealt with by the Courts between 1950 and 1957								
Year	1950	1951	1952	1953	1954	1955	1956	1957
Number of Juveniles Dealt with by the Courts	2453	2702	2341	2474	2057	2138	2467	2356
Juveniles Dealt with under Probation of Offenders Act, 1907	1841	1926	1588	1627	1382	1401	1420	1444
% Dealt with under Probation of Offenders Act, 1907	75%	71%	68%	66%	67%	66%	58%	61%

Source: Annual reports of the Commissioner of An Garda Síochána (1950 to 1957).

C.K. Murphy, Professor of Law at University College, Cork and prominent member of the St Vincent de Paul Society, criticised the law that allowed the committal of children to institutions for minor offences. He submitted that:

> . . . no child of eight or ten years of age is capable of committing a crime the proper punishment for which is eight or six years detention in an institution. It is very difficult to see how committal for truancy until the sixteenth year can possibly be justified at natural law. (1959: 126)

Murphy also noted that an amendment to the statute was under consideration at the time, however, this never materialised.

[27] This data was only published between 1950 and 1957.

The reformatory and industrial school system remained in existence for most of the twentieth century, however, the numbers of committals to industrial schools started to decline from the mid-1950s (O'Sullivan and O'Donnell, 2007). Raftery and O'Sullivan note that this decline was, 'largely because of a growing reluctance by the courts to commit them [children] to industrial schools' (1999: 20).[28] Also, the Commission to Inquire into Child Abuse (2009)[29] highlighted the fact that during the 1950s and 1960s some managers of reformatory and industrial schools wrote to the government expressing their dissatisfaction with the reluctance of some judges to commit children to their schools. Gilligan (1993) points to a number of factors influencing the decreasing numbers including the introduction of legal adoption, growing scepticism about institutional care and the development of community services. Morgan (2009) highlights the effect of the introduction of 'children's allowances' on the numbers committed to industrial schools. He also notes that the closures coincided with the abolition of secondary school fees, announced by then Minister for Education, Donough O'Malley, in 1966. This resulted in an increase in the secondary school population from 148,000 to 239,00 and provided 'a ready use for the former Industrial School premises and staff' (Morgan, 2009: 244).

Since their inception, the majority of reformatory and industrial schools continued to be controlled by Catholic religious congregations. After 1917, when the last Protestant industrial school closed, all but two were managed by these congregations, the remaining two being managed by local parish priests (Raftery and O'Sullivan, 1999: 20). Raftery and O'Sullivan identify three distinct classes of children that were detained in these schools:

> . . . those committed by the courts because the State had decided that their parents were either unsuitable or unable to look after them . . . those children convicted of criminal offences, usually minor acts of delinquency, who were sentenced by the courts to a period in a reformatory school . . . those who were either destitute or had been born to unmarried mothers. (1999: 20)

[28] Fahey Bates argues that one of the main reasons for the decline was the introduction of adoption legislation in 1952. She states that many children were being adopted rather than being institutionalised as adoption was seen as the preferable option (2003: 133).
[29] The Commission was established in 1999 to inquire into child abuse in state-run institutions.

The greater use of the Probation of Offenders Act and the cautioning of young offenders by gardaí reflected a growing awareness of the wider social factors influencing juvenile crime. In 1951 the Commission on Youth Unemployment[30] noted that the evidence pointed to juvenile delinquency resulting from 'a combination of factors, of which the outstanding are lack of occupation, lack of parental control and circumstances adverse to happy family life' (1951: 40). The Commission was appointed by then Minister for Industry and Commerce, Seán Lemass, and was chaired by the Archbishop of Dublin, John Charles McQuaid. Its terms of reference included the examination of the causes of unemployment in those under twenty years and making recommendations on a number of areas touching on employment including 'measures for promoting the religious, intellectual and physical development of young persons' (1951: vii).

In November 1958 a Joint Committee was appointed by the Lord Mayor of Dublin as a result of concern about the 'increase in vandalism and misconduct amongst juveniles in the City' (Report of the Joint Committe on Vandalism and Juvenile Delinquency, 1958: 2). The Committee was chaired by D.A. Hegarty of the Civics Institute of Ireland and included members from the Catholic Social Welfare Bureau, the Legion of Mary, the Society of St Vincent de Paul, An Garda Síochána, the Social Studies Department of University College Dublin, the Irish Society for the Prevention of Cruelty to Children and various other groups with an interest in young people. Its Report was one of the first to consider the psychological issues surrounding juvenile delinquency. Influenced by the work of the English psychologist Cyril Burt it considered various issues impacting on the child's development including: religion, education, family support, recreational facilities, school attendance and social work. It and other subsequent publications represented a growing discourse emphasising the psychological/developmental needs of the juvenile offender.[31] Offending was no longer considered as simply a contravention of the criminal law but was the viewed in

[30] The Commission was appointed by the then Minister for Industry and Commerce, Sean Lemass, 'to examine and report on the extent of unemployment amongst young persons of school-leaving age and under 20 years.....' (Commission on Youth Unemployment, 1951: ix). Its chairman was Archbishop John Charles Mc Quaid.

[31] For example; 'A Paper on Juvenile Delinquency', James O'Connor, 1962; *Some of Our Children*, Tuairim, 1966; 'The Social and Psychological Characteristics of Institutionalised Young Offenders in Ireland', Ian Hart, 1968; *Report of the Commission on Mental Handicap*, 1965.

terms of childhood deprivation. The notion of the institutional incarceration of young people was also beginning to be challenged.

Peadar Cowan, in his monograph 'Dungeons Deep' (1960), highlighted the fact that these institutions operated regimes that employed a degree of regimentation and routine that resembled imprisonment. He noted that 'the Brothers in charge, all holy men, are looked upon as jailers by the children who come to associate in their minds religion with repression' (1960: 34). Cowan, a former TD, was one of the first to highlight the abusive nature of these institutions (Raftery and O'Sullivan, 1999). The Interdepartmental Committee on the Treatment of Crime and the Prevention of Delinquency (1962) recommended the appointment of visiting committees, improvements in after-care and the general improvement of facilities in these institutions. Also, a Department of Education Report compiled with the assistance of the Organisation for Economic Co-operation and Development criticised the operation of the schools (Department of Education, 1966).[32]

Around this time the psychological sciences were beginning to gain more prominence in Ireland. [33] The Commission of Inquiry on Mental Handicap (1965) made a large number of recommendations in relation to the expansion of the psychological services in Ireland, especially in relation to the diagnosis and assessment of 'mental handicap' in children. It called for improvement in the training of professionals and recommended that the universities increase their provision for the training of psychologists. It recommended as 'an immediate step to cater for the mentally handicapped who are also delinquent, a unit with 30 places for boys should be provided, separate from but associated with a residential centre for the mildly mentally handicapped' (1965: xviii). The Report questioned the ability of large institutions to cater for the psychological needs of young people.

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[32] The Report entitled *Investment in Education* was the work of a survey team appointed by the Minister for Education in October 1962. According to Raftery and O'Sullivan it represented the first official criticism of the industrial school system in Ireland. It considered the provision of after-care in reformatory and industrial schools and the possibility of closing some of them.

[33] The Commission of Inquiry into Mental Handicap (1965) noted that psychology was being studied as a separate discipline in University College Dublin, University College Cork and Trinity College Dublin. A separate Department of Psychology was established in Trinity in 1962.

Psychology as a profession in Ireland was still in its early stages of development. The 1965 Commission noted that psychology, 'as an applied profession, has not yet reached the stage where there is universal agreement on methods or content of training' (1965: 133). In the context of the juvenile justice system it would appear that there was limited awareness of the psychological needs of the child at this time. However, the Commission of Inquiry on Mental Illness (1966) did comment on the inadequacy of the provision of psychological services in industrial schools. It described children in industrial schools as constituting:

> . . . a group whose emotional needs are far greater than those of normal children, and for whom psychiatric and psychological services are particularly necessary . . . In many schools children are not properly segregated according to their educational, social and psychological needs. (1966: 73)

In 1964 Tuairim,[34] established study group 'to examine the provisions for residential care for the deprived child in Ireland' (1966: 2). The group's activities 'consisted of academic research into the historical and legal background of child care in Ireland, visits by members of organisations connected with child care in Ireland, talks with ex-pupils of industrial schools, and a survey of Irish boys in English Borstals' (1966: 2). In 1966 it published *Some of Our Children, A Report on the Residential Care of the Deprived Child in Ireland*, which was critical of the Irish childcare system and contrasted it with developments that had occurred in Britain. The Report highlighted the negative effects of institutional care on children and also the lack of training for staff working in these institutions. It was influenced by developments in child psychology and in particular the work of John Bowlby. Juvenile delinquency was regarded as resulting from childhood deprivation and the Report recommended treating its causes rather than its effects.

In 1965 Fine Gael[35] launched a policy document *Towards a Just Society* in which it recommended the improvement of facilities in reformatories and industrial schools,

[34] Tuairim was a London-based study group established in 1960. It published a number of pamphlets on topics relating to Ireland such as economic development, partition, education and European integration. The members of the group came from diverse backgrounds including university graduates, academics and a former resident of an Irish industrial school.

[35] Fine Gael is one of the largest political parties in Ireland.

the provision of adequate psychiatric care, the establishment of group homes and greater after-care provision for those leaving industrial schools.

In a series of articles in *The Irish Times* in 1966 on the subject of 'young offenders',[36] Michael Viney was highly critical of the juvenile justice system in Ireland. He argued that most juvenile crime resulted from adverse social conditions, including poverty; deprivation and inadequate parenting. He also argued that the children's courts had:

> . . . lost faith in an outdated and money starved system of institutional care . . . that probation, as an alternative, is emasculated by lack of training, lack of staff and overwork . . . that in the piecemeal partnership between two Government departments and a variety of religious orders and agencies, proper liaison and aftercare is virtually unknown [and] that vital psychological and psychiatric aspects of the juvenile problem are getting only token attention. (Viney, 1966a)

Viney's articles are unusual in that there had been little interest in the reformatory and industrial schools system in the media. Morgan, points to the lack of discussion of the schools in the newspapers from the 1940s to the 1960s and notes that the series of articles 'was met by an eerie silence from other Irish newspapers, which declined the opportunity to mine the rich Iode, which, it might seem, had been opened up by Mr Viney' (2009: 232).[37]

While numbers committed to the reformatory schools had been declining since the mid-1950s the existence of the borstal system was also under threat. The information in relation to the borstal system in its early years is scant. According to Osborough (1975) there were no fundamental inquiries into the effectiveness or otherwise of the borstal system and with partition, its very existence came into question as committals stopped from Northern Ireland. Unlike the reformatory and industrial schools the borstal at Clonmel was run directly by the state and not the religious orders, although they did have an input into the prison regime (Reidy, 2006). According to Osborough:

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[36] This was a series of articles entitled 'The Young Offenders' that appeared in *The Irish Times* from 27 April to 6 May 1966. The articles criticised the juvenile justice system for its overcrowding, lack of facilities, after-care and psychological services.

[37] Morgan notes that 'until very late in the day, the contribution made by the Oireachtas or the news media towards supervision, or even education of the public, in regard to the Schools, appears to have been negligible. Pressure groups were rare and usually ineffective. The general public was often uninformed and usually uninterested. All these pools of unknowing reinforced each other' (2009: 236).

> Early in the history of the Free State, there was talk of dispensing with the Borstal system, but it was not until the nineteen fifties that abandonment was seriously contemplated when judicial reluctance to impose borstal sentences forced the issue. Annual committals became insufficient to ensure the survival of an institution ostensibly devoted to borstal training and in 1956 the Borstal system as such began to be phased out. (1975: 56)

Figure 5 Number of inmates committed to Borstal 1922 to 1956



Source: *Crime and Punishment in Ireland 1922 to 2003, A Statistical Sourcebook* (2005).

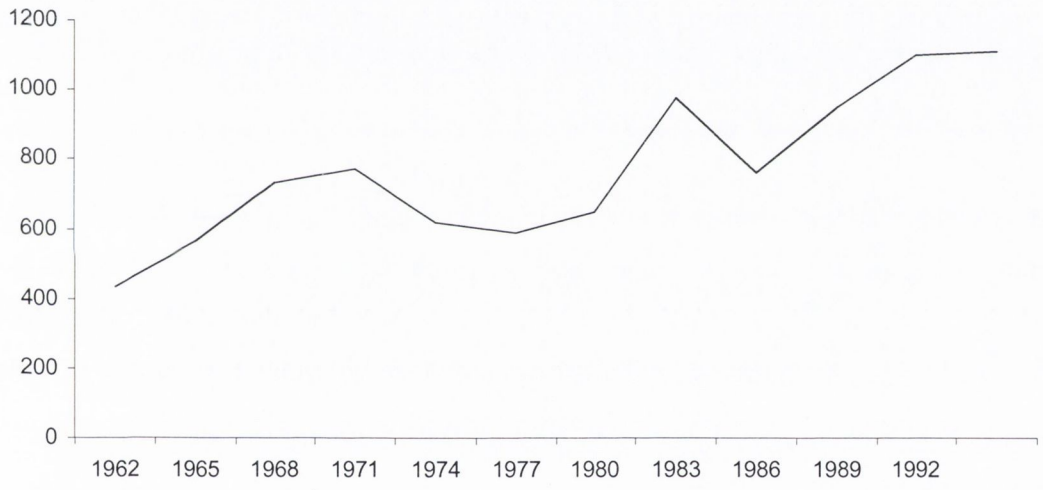
As can be seen from the above chart, the numbers committed to the borstal system remained low until its eventual replacement by St Patrick's Institution. The borstal in Clonmel was closed in 1956 and relocated at the Mountjoy Prison site in Dublin.[38] The term 'borstal' was abolished by the Criminal Justice Act, 1960 resulting in persons between sixteen and twenty-one years being committed directly to the new St Patrick's Institution. Such detention was provided for by the 1960 Act (as amended by the Prisons Act, 1970). St Patrick's was designed to be an institution where detainees were subjected to a regime of training and discipline that would eventually lead to their rehabilitation. As can be seen from Figure 6 below the numbers committed to St

[38] The borstal system was relatively short-lived in Ireland when compared with the reformatory and industrial schools. The *Annual Report on Prisons for 1956* records the fact that the borstal system could no longer be maintained due to the small numbers of boys being committed to borstal detention over the previous five years: 'With such small numbers the inmates had to be employed almost entirely on routine tasks necessary to keep the institution open . . . As the Borstal training system could no longer be maintained at Clonmel it was decided to transfer the institution to Dublin; this was done on the 1st December 1956' (1956: 13).

Patrick's Institution rose from 431 in 1962 to 1,108 in 1994. No similar institution was established for females.

Concerns were expressed throughout the 1960s about the numbers and conditions of young offenders detained in St Patrick's. Under mounting pressure the Department of Justice established an open centre for 16 to 21-year-old offenders at Shanganagh Castle in 1969. It was the first institution specifically adapted for the purpose of rehabilitating prisoners: 'purchased (a) to relieve acute overcrowding in St Patrick's and (b) to provide an experimental regime for rehabilitating juvenile offenders' (Prison Study Group, 1973: 70).

Figure 6 Numbers committed to St Patricks Institution 1962 to 1994



Source: *Crime and Punishment in Ireland 1922 to 2003, A Statistical Sourcebook* (2005).

Females who could be classified as suitable for borstal-type treatment, however, remained in the main prison system or were diverted into some form of 'voluntary detention' outside the legal system.[39] This later became an issue for the Kennedy

[39] The Cussen Commission had considered the idea of establishing a borstal-type institution for females to be unwarranted, however, it also criticised the practice of sending female offenders to religious homes as having no basis in law. The Report considered such a situation as 'undesirable, for obvious reasons, chief among them being the absence of specific power enabling the judges and justices to commit to these Homes. Further, the Courts have to rely on the generosity and cooperation of the religious orders conducting these institutions that accept such cases without payment' (Cussen, 1936; 48). The Report of the Committee on the Criminal Law Amendment Acts (1880–85) and Juvenile Prostitution (1931) had earlier recommended the establishment of a borstal for female offenders between sixteen and twenty-one years of age. It also recommended greater use of the probation system

Committee who considered the use of religious institutions for dealing with certain types of female offenders and non-offenders. The Report highlighted the plight of females convicted of recurring sexual offences and those becoming pregnant and the reluctance of reformatory schools to accept these types of juveniles. It stated that there was no option open to the courts to impose a custodial sanction and they were consequently placed on probation or released. The courts attempted to circumvent this problem by making it a condition of the offender's probation that she reside for some time in a 'suitable' religious establishment, usually a convent. Alternatively she was placed there on remand by the courts without any legal basis. The Report also mentions 'others' who were:

> . . . considered by parents, relatives, social workers, Welfare Officers, Clergy or Gardai to be in moral danger or uncontrollable [who are] accepted in these convents for a period on a voluntary basis. From enquiries made, the Committee is satisfied that there are at least 70 girls between the ages of 13 and 19 years confined in this way who should properly be dealt with under the Reformatory Schools' system. (Kennedy, 1970: 39)

The Kennedy Report criticised this method of 'voluntary' incarceration as being a haphazard system of dubious legal validity where the girls were for the most part unaware of their rights. It also questioned the treatment that those incarcerated received in these institutions. Smith (2004 and 2007) highlights the manner in which these institutions were operated outside of the law by certain Catholic religious congregations.

1970 to the Present

O'Sullivan (2009) has noted that in the years preceding the Kennedy Report a general consensus had emerged as to the difficulties with the existing childcare system. The *Report on Reformatory and Industrial School Systems*, more commonly known as the Kennedy Report, made wide-ranging recommendations in relation to the reformatory and industrial schools and the childcare system in general. It was critical of the reformatory and industrial school system, highlighting its inadequacies, and

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as a form of surveillance in relation to young girls who were deemed 'at risk' of engaging in juvenile prostitution (*Report of the Committee on the Criminal Law Amendment Acts (1880-85) and Juvenile Prostitution,* 1931: 39).

recommending that children should only be admitted to residential care where there is no other alternative. It viewed the stable family unit as an essential element in the development of the child and recommended that the childcare system 'be geared towards the prevention of family break-down and the problems consequent on it' (1970: 6). It recommended, among other things, improvements in education, prevention, psychological services and after-care. The Report stressed the psychological needs of the child in care and, most significantly, recommended the abolition of the existing institutional system of residential care and its replacement by 'group homes which would approximate as closely as possible to the normal family unit' (1970: 6).

According to Fahey Bates, there was a major change in child policy and practice after the Kennedy Report:

> . . . the majority of remaining Industrial Schools were decertified and were reformulated as, or replaced by, group homes where children could be cared for in small family type units. The result, in terms of care practice, was revolutionary, even though the transition took many years to achieve. (2003: 140)

Interestingly, Fahey Bates notes that the management of these homes was to remain primarily with religious bodies.

There had also been some notable developments in relation to the welfare of young offenders. The Probation and Welfare Service was established in 1971. Osborough (1979) noted an increase in probation staff and a dramatic increase in the employment by the courts of probation orders around this time. He also highlighted the establishment in different parts of the country, with the assistance of state funds, of a small number of probation hostels.

In 1972 CARE published *The CARE Memorandum on Deprived Children and Children's Services in Ireland*, which called for radical legislative reform of the childcare system in Ireland in line with international standards and children's rights. It also recommended the development of family support, education and other services aimed at the prevention of delinquency. One of its main arguments was that 'children

who get into trouble with the law, who are variously termed offenders or delinquents, are in the main "deprived"' (1972: 75).

The CARE Memorandum (1972) highlighted the fact that there were three reformatory schools, twenty-nine industrial schools and one remand institution in existence at that time. The Memorandum was critical of the general lack of organisation of children's services in Ireland:

> It is a complex picture with no rationale. Three government departments have responsibility in this area and many other authorities, and a great deal of the initiative rests with voluntary bodies including religious orders. There is no means of formulating a coherent comprehensive policy at the top; there is no means of co-ordinating services at the bottom. (CARE, 1972: 25)

Despite lobbying from CARE and others around the implementation of the Kennedy Report little changed.[40]

The Kennedy Report had recommended the development of specialist psychological services for young offenders and the Interdepartmental Committee on Mentally Ill and Maladjusted Persons, otherwise known as the Henchy Committee, devoted a separate report to this subject (1974). The First Interim Report of the Committee (1974) recommended the establishment of both day and residential assessment facilities for young people coming into contact with the court system. It also recommended that probation and welfare officers work closely in the assessment of these young people. Osborough notes that after the Report was published,

> . . . a predictable call for an expansion of the existing 'service' followed. The assessment centre at the new St Lawrence's School in Finglas had been in operation since 1972, but it was now planned to expand facilities there but also to involve probation officers increasingly in this kind of work. (1979: 500)

St Michael's Unit in Finglas was established in 1973 and provided for the psychological, social and educational assessment of children referred by the courts. Another significant development was the closure of Daingean Reformatory School in November 1973, which was run by the Oblates, and its replacement with Scoil Ard

[40] In 1974 an Interdepartmental Working Party was set up to review the extent of its implementation.

Mhuire in Lusk, which was to be run by a board of management with government representatives.

The Second Interim Report classified juvenile offenders and potential offenders, for psychiatric treatment purposes, into 'broad diagnostic categories which carry valid implications regarding: (a) likelihood of spontaneous improvement; (b) likelihood of response to therapy; (c) irreversibility' (1974: 3). It recognised certain categories of delinquent or potential delinquent as 'patients' who were further classified as: illiterate; cultural delinquents; character disordered delinquents; aggressive sociopaths; neurotic or psychotic incidental offenders. The Report recommended the development of both residential and non-residential treatment facilities for these individuals. Interestingly, it also recommended the establishment of a closed 'School or Unit' for young male offenders up to sixteen years who were 'found to be unmanageable but who are not psychiatrically disturbed' (1974: 10). Aware of the fact that the managers of existing residential schools were unwilling to accept certain boys who were disruptive and unwilling to adapt to the regime in an open school, the Report states that these boys 'need a degree of physical containment and a more structured regime if they are to benefit from the educational and therapeutic programmes intended for them' (1974: 10).

It would appear that the managers of the industrial and reformatory schools were availing of their power under section 62 of the Children Act, 1908 in refusing these 'difficult' children. Osborough notes that 'from the late 1960's onwards managers as a class showed themselves unusually determined in a number of instances to exercise their imagined rights under section 62' (1979: 499). This posed a problem for the state, which was tasked with managing this group of children. The government's solution was the establishment of a closed institution at Loughan House for young offenders between the ages of twelve and sixteen years. Despite substantial opposition to this move from child welfare organisations, the institution opened in 1978. It was described by Osborough as 'an administrative novelty', in that it was to be managed directly by the state, unlike other existing facilities that were managed directly by religious orders (1979: 498). CARE (1978) campaigned against its establishment from

a welfare perspective, arguing that imprisonment of this kind would have a damaging effect on the child's development.[41] It was closed in 1983.

The government Task Force on Child Care Services, which had been appointed in 1974 to advise on reform and draft a new Children's Bill, published its Final Report in 1980 without including a draft Bill as requested.[42] The Report made a large number of recommendations covering areas such as general administration; social services for children; family support; childcare services; day care; support, advice and supervision; community services; alternative care; foster care; adoption; residential care; constitutional reform; and juvenile justice. The recommendations of the Report were influential with regard to policy developments in these areas and provided an impetus for many subsequent reforms.

At the time of the publication of the Task Force Report the Children Act, 1908 was still the legislative basis for the juvenile justice system in Ireland. Following the Kennedy Report there was a change in terminology with regard to industrial schools and reformatory schools. The former became known as 'residential homes' while the latter became known as 'special schools'. Although the administrative titles may have changed, the law that provided for them did not and they remained industrial and reformatory schools. As Fahy Bates (2003) noted, the majority of these institutions also remained under the management of religious organisations although, administratively, they became the responsibility of three separate government departments. The Department of Education was responsible for school attendance and reformatory and industrial schools, the Department of Health for preventative services and the Department of Justice for probation and children under detention.

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[41] CARE proposed alternatives to imprisonment such as hostel accommodation, neighbourhood youth projects, specialised fostering, day attendance centres and educational projects (1978: 32). Other groups who opposed the opening of the facility included: the Irish Association of Social Workers; Children First; the Psychological Society of Ireland; Dublin Simon; the Royal College of Psychiatrists; the National Federation of Youth Clubs; Hope; the Prisoner's Rights Organisation.

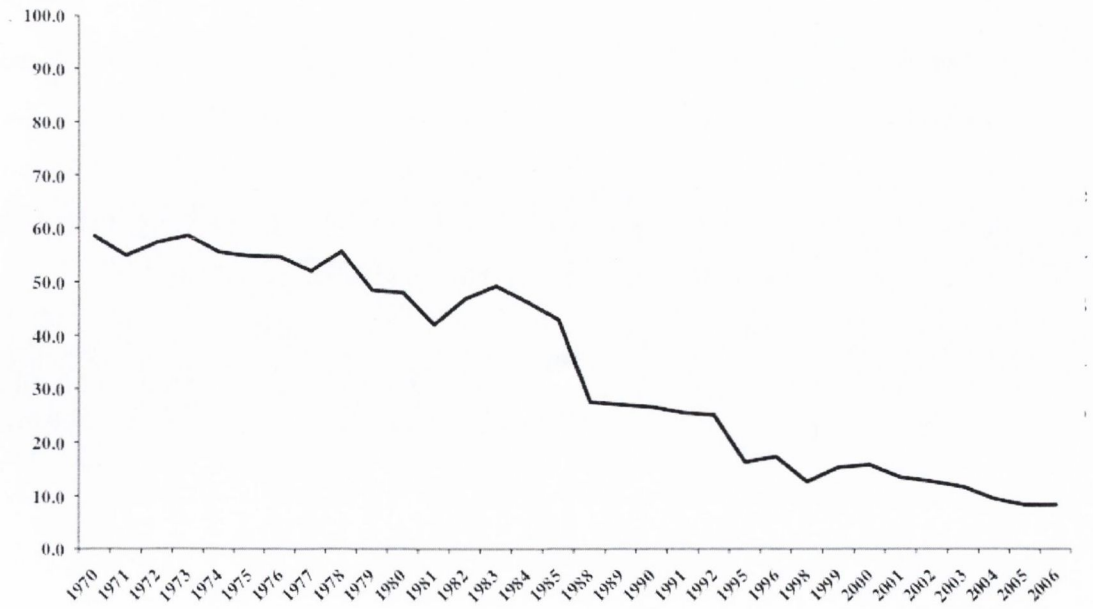
[42] The Task Force on Child Care Services was, 'asked to make recommendations on the extension of services for deprived children and children at risk, to prepare a Bill up-dating the law in relation to children and to make recommendations on whatever administrative reforms it considered necessary in the child care services' (1980: 1).

In terms of residential provision, Burke et al. describe the situation in Ireland at this time as:

> . . . complicated by the complex administrative arrangements that govern the provision of such care. At present the three government departments of Health, Education and Justice as well as religious orders and voluntary organisations are actively involved in this field. Thus in one institution the Department of Education may be the body in whom statutory responsibility is vested, while a religious order may have responsibility for the day-to-day administration of the establishment. (1981: 104)

After the Kennedy Report there was a steady decline in the number of industrial schools and when the Department of Health took over responsibility for the care of children in 1984 fostering became the preferred option for those children deemed to be in need of care (Raftery and O'Sullivan, 1999). O'Sullivan has highlighted the fact that 'while the overall numbers of children in care has increased, the role of residential care has moved from a position of dominance in the provision of alternative childcare in Ireland to now being a residualised and specialised service' (2009: 265). Figure 7 below illustrates decline in children in residential care between 1970 and 2006.

Figure 7 Children in residential care as a percentage of all children in residential and foster care, 1970-2006



Alternatives to residential provision for those children deemed to be 'at risk' had begun to be considered. In 1977, following the recommendation of the Interim Task Force on Child Care Services (1975), a number of Youth Encounter Projects were established in Dublin, Cork and Limerick (Gilligan, 1991). According to Gilligan, their 'brief was to explore whether certain young people at risk could be catered for effectively in day facilities rather than in residential care' (1991: 77). In the same year, the government published *A Policy for Youth and Sport*, which aimed to promote the development of youth work through the promotion of youth clubs and other sporting organisations viewed as contributing to the overall development of young people.

The Task Force on Child Care Services also had included in its Final Report in 1980 measures to cater for young people deemed 'at risk' of offending. It recommended a 'locally-based' childcare system and included in its recommendations the provision of 'Neighbourhood Resource Centres' and 'Neighbourhood Youth Projects' (1980: 270). The Interim Report of the Task Force (1975) had highlighted the need for hostel accommodation for homeless young people. Burke et al. (1981) note that during the 1970s a number of these hostels were established to cater for the homeless and those on probation.

The O'Sullivan Report (1980) viewed the 'young person' as having certain fundamental developmental needs and made a number of recommendations around the development of youth work services in Ireland that were aimed at meeting these needs. It encouraged the increased participation of the voluntary sector in the provision of youth work services and viewed youth work as having a positive role in assisting young people who are 'socially deprived' or 'at risk' to reach their full potential. The Report identified the typical symptoms of those 'at risk' as:

> . . . bad school attendance record; poor scholastic achievement; being in trouble with the law; aggressive anti-social behaviour, such as violence or vandalism; withdrawal from commitments and obligations of daily life – in many cases due to alcohol, drugs or depression. (1980: 56)

The O'Sullivan Report (1980) made recommendations for the development of youth work services, including: greater funding of voluntary youth organisations; greater development of youth work services by the Vocational Education Committees; support for pilot projects in disadvantaged areas; state support for counselling services; greater training for youth workers and gardaí. The early 1980s saw an increase in the provision of services for young people in the community, and the Report on the Probation and Welfare Services (1980) lists a range of initiatives catering for young offenders and potential young offenders such as community projects and workshops, hostels, youth encounter projects and experimental projects. Burke et al (1981)[43] recommended a community-based approach to offending recommending initiatives such as neighbourhood youth projects, youth encounter projects, intermediate treatment, youth work and the development of community services for young people 'at risk'.

The notion of dealing with the young offender or potential young offender in the community was gaining prominence and is reflected in the passing of legislation providing for 'community service'. According to Walsh, 'the first concrete steps towards the introduction of "restorative justice" concepts in sentencing in Ireland were taken with the enactment of the Criminal Justice (Community Service) Act 1983' (2005: 158). The community service order (CSO), the first of which was made by the courts in 1984, was aimed at young people between the ages of sixteen and twenty-one and was intended to provide an alternative to the custodial sentence.

The government opened the first purpose-built secure unit for young offenders outside the prison system, Trinity House School in Lusk, in 1983. The new facility at Lusk became the responsibility of the Department of Education and replaced Loughan House, which had been the responsibility of the Department of Justice. Like Loughan House, it was designed to confine those young people who were deemed to be unmanageable within the 'special schools'. However, unlike Loughan House, it was to be staffed by specially trained personnel rather than prison officers. The school is still in existence today and is classified as a Children Detention School under the

[43] The publication *Youth and Justice: Young Offenders in Ireland* (Burke et al, 1981) was the product of a collaboration by staff and students from the Department of Social Administration in University College Dublin who formed a working party to carry out research into young offender in Ireland.

Children Act, 2001. It provides twenty-four places for young offenders under the age of sixteen who are either sentenced or on remand from the courts. It provides educational facilities, a step-down unit and an outreach programme for those detained.

In September 1983 a National Youth Policy Committee was established by then Taoiseach, Garret FitzGerald, in response to fears 'about the threat to social order from disaffected young people in disadvantaged neighbourhoods' (Lalor et al., 2007: 273). The Committee was chaired by High Court Judge and former Fine Gael TD, Declan Costello, and included within its terms of reference the consideration of recommendations for 'a National Youth Policy which would be aimed at assisting all young people to become self-reliant, responsible and active participants in society' (Costello Report, 1984: 8). The Report viewed youth work as having a crucial part to play in the prevention of juvenile delinquency. Certain classes of young people were seen as at risk of offending as a result of a combination of factors existing in their environment, including poverty, unemployment, substance abuse, early school-leaving and family breakdown. The Final Report, which was published in 1984, called on the government to publish a Youth Policy outlining the future development of youth work services. This did not happen until the enactment of the Youth Work Act, 2001.

In January 1984 administrative responsibility for the majority of industrial schools was transferred from the Department of Education to the Department of Health. The Department of Education retained administrative responsibility for a small number of reformatory and industrial schools. According to O'Sullivan (2009), by the mid-1980s the Department of Education was reviewing its role in the provision of secure care, a role which it did not relinquish until a decade later.

In the same year, a Committee of Inquiry into the Penal System was established under the chairmanship Dr T.K. Whitaker, Chancellor of the National University of Ireland. The Whitaker Report argued that the causes of much of the existing crime was related to moral, demographic, social and economic change occurring at the time, especially 'the transformation of Irish society over recent decades from being mainly rural to being mainly urban and the concentration in the cities of growing numbers of young

unemployed' (1985: 9). It recommended that the 'community' take a more active role in preventing such crime by adopting a 'more caring attitude' and setting up 'voluntary and local initiatives to help the young control their aggressiveness and thirst for excitement and to develop their full potential as members of society (youth clubs, football clubs, outdoor projects, etc)' (1985: 10). It also called on parents to be more responsible with regard to the care and upbringing of their children. The Whittaker Report recommended that juvenile offenders be diverted away from the criminal justice system, with detention or imprisonment being viewed as a last resort. The Report also recommended the expansion of facilities for the supervision of young people by An Garda Síochána and the Probation and Welfare Service.

In December 1985 the government published a National Youth Policy, *In Partnership with Youth*, which agreed with the Whitaker Report in highlighting the increased urbanisation of the youth population and the problem of youth unemployment as negatively influencing young people's behaviour. In response it recommended the development of the national youth policy 'as a means of surmounting problems associated with the proper development of youth' (1985: 13).

The perception that there existed a population of disaffected young people who were 'out of control' and roaming the urban landscape was reflected in the tone of the Thirteenth Report of the Select Committee on Crime, Lawlessness and Vandalism (1986), which noted:

> The problem of crime, lawlessness and vandalism by children and young persons is alarming and is out of control in some areas. The situation has deteriorated for too long and the problem is different from the problems of vandalism and lawlessness which have existed in the past. The present wave of lawlessness arises in a situation where there has been a major change in attitudes to responsibility and authority. We have reached a situation where we are faced with a breakdown in discipline and in respect for authority. (Dail Eireann, 1986: 2)

The Report made a number of recommendations. It stated that parents who 'encourage or wilfully neglect to control their children becoming involved in criminal activities' should become more accountable before the courts (1986: 9). It recommended the expansion of the activities of the Probation and Welfare Service

and the Garda Juvenile Liaison Service, and the development of community youth projects. The Report also recommended that there should be greater resort to the use of 'restitution', either voluntarily or by the courts.

Although industrial and reformatory schools were referred to as 'special schools', they were certified as industrial and reformatory schools under the Children Act, 1908. In 1986 there were four such schools, which were the responsibility of the Department of Education (Thirteenth Report of the Select Committee on Crime, Lawlessness and Vandalism, 1986). The two industrial schools were Finglas Children's Centre run by the De La Salle Brothers (comprising St Laurence's Special School and St Michael's Remand and Assessment Centre) and St Joseph's Special School, Clonmel. The two reformatories were Trinity House School, Lusk catering for boys between twelve and sixteen years and Cuan Mhuire, a residential observation and assessment centre for girls in Dublin. By the early 1990s the situation changed with the opening of Oberstown Boys Detention Centre and Oberstown Girls Detention Centre, both reformatory schools for children between twelve and sixteen years, and the closing of Cuan Mhuire.

O'Sullivan (2009) has highlighted the fact that over the past thirty-five years there has been a substantial decrease in the number of children detained in reformatories and special schools and the fact that special schools, unlike industrial schools detained more boys than girls, a trend that continues to the present.

A significant development was the enactment of the Child Care Act, 1991, which updated the legal provision in relation to the protection of children and placed a statutory duty on the health boards to promote the welfare of children. It strengthened the powers of the health boards and An Garda Síochána in relation to intervention when children are in danger and enabled the courts to place children deemed to be 'at risk' under the supervision of the health board.

During the 1990s the problem of governing certain classes of young people who could not be adequately catered for under existing state provision achieved prominence through a number of High Court cases. Whyte notes that the majority of these cases

involved young people who were either homeless[44] or who came from 'dysfunctional' families and were 'in need of accommodation and/or education' (2002: 177). The courts in a number of these cases decided that the young person required secure residential provision of a kind that was not available in Ireland at the time. Durkan noted that the result of these cases:

> . . . has been to impose on the State an obligation to provide facilities in which certain children with special needs can be contained for the purposes of treatment. The State has now decided that this obligation should be met by the provision of secure units by at least some of the health boards (1997: 8).

In this regard, Whyte has outlined the response of the Irish judiciary to what he terms 'executive inertia' in the area of provision for these children. He argues that while the strategy of litigation provides only a partial response, it must be viewed 'against the backdrop of shameful neglect by the State of the needs of children at risk and children with severe and profound learning disability' (2002: 214).

As a result of this litigation a number of high support and special care units were established in the state. The establishment of these units took place against the backdrop of a debate around the appropriateness of the introduction of 'secure accommodation' for dealing with certain young people deemed to be 'at risk'. O'Sullivan, argued against the introduction of such a measure labelling it a 'regressive step in Irish child care evolution' (1997: 18). On the other hand, Ring welcomed the introduction of 'secure accommodation' contingent on the provision of adequate safeguards (1997b). Concerns were also expressed in relation to the development of such secure options in the absence of an overall integrated childcare strategy (Barnardos, 2000).[45]

In order to plan for the provision of these services the Department of Health and Children commissioned two reports with the aim of examining the requirements and the principles underpinning the development of high support and special care services

[44] In this regard, Whyte notes the extensive range of studies into homelessness that had been undertaken in the 1980s and early 1990s by groups such as the National Campaign for the Homeless, Streetwise National Coalition and Focus Point (2002: 177).

[45] Attempts to address the above concerns have found some expression in the publications of the Special Residential Services Board, now reformed as the Children Acts Advisory Board, in relation to admission criteria, processes, definition and use (2003, 2005 and 2006).

(Eastern Regional Health Authority, 2004). These reports were entitled: *A Report on the Requirements and the Necessity for Special Care and High Support Residential Child Care Provision in Ireland* (1998) and *The Principles and Policies Underpinning the Development of Special Care and High Support Provision in Ireland* (2000). They outlined a number of options and their broad conclusion was that there was a need for some form of specialist residential childcare provision incorporating 'High Support Units designed to offer a measure of security' (Department of Health and Children, 1998: 32).

In the first of these reports it was noted that, 'there is no national formally accepted description of Special Care and High Support Units' (Department of Health and Children, 1998: 8). In an effort to define the concepts of special care and high support, it noted:

> The difference between Special Care and High Support is essentially about the level of security. It is suggested that High Support can meet the needs of most young people given appropriate staffing levels, clear objectives and the ability to offer a consistent level of care in keeping with those objectives. Special Care is the placement of last resort and can only be justified if it can be shown that the level of security required is the paramount consideration. (Department of Health and Children, 1998: 13)

From the late 1990s a number of high support and special care units were established in different health board areas throughout Ireland. While the concept of high support continued to lack definition, the passing of the Children Act, 2001 clarified the position in relation to special care units. Section 23 of the Children Act, 2001 imposed a duty on Health Boards to apply to the District Court for a special care order where the behaviour of the child or young person was such that it posed a real or substantial risk to his or her health, safety, development and welfare and it was necessary in the interests of the child to do so. The Commission to Inquire into Child Abuse (2009) noted that in 2007 there were 34 children placed in special care units in comparison with 55 in 2004. There are currently thirteen high support and three special care' units in Ireland. These units are under the control of the Health Service Executive and incorporate a range of 'open' and 'closed' therapeutic regimes where young people who are deemed 'at risk' are managed.

The spectre of 'out of control' youths roaming the country's main urban centres remained a live issue and in November 1991 an Interdepartmental Group on Urban Crime and Disorder was established to look at the problem of 'urban crime and disorder'. The establishment of the Group was a response to incidents of serious public disorder that had occurred in the Ronanstown area of Dublin. Its 1992 Report notes that although the Group was not provided with specific terms of reference it sought:

> . . . to recommend measures aimed at addressing the difficulties caused in certain urban areas by the conduct of a minority of people who, sometimes alone or in small numbers, sometimes in groups, engage in criminal acts and intimidating behaviour directed not only against the majority of law abiding people in their own communities but also against the Gardai . . . (1992: 15)

The Report was influenced by developments in the UK and Denmark, where crime prevention initiatives had been established. In particular, the 'Safer Cities Programme' in the UK provided inspiration for the localised crime prevention approach recommended by the Group. This involved tackling the problem of juvenile crime by isolating a particular area or geographic location and attempting to solve the crime problem by addressing a range of causal factors believed to be driving such crime. Such factors might include unemployment, educational failure, poverty, drug and alcohol use and poor recreational facilities.

> The basic proposition of the Group, very briefly, is that the causes of crime and disorder are multi-factoral and that it is necessary, therefore, in looking for solutions to the problem to address a range of socio-economic issues as well as what would generally be seen as 'law and order' matters (e.g. Garda strength, criminal law reform and so on). This is a valid approach and one which is recognised as such internationally. (1992: 25)

The most significant recommendation to come from the Report was the development of projects, sponsored by the Department of Justice, based on the existing GRAFT (Give Ronanstown a Future Today) Scheme. It was to be the prototype for the development of Garda Youth Diversion Projects, formerly known as Garda Special Projects. The projects are aimed at preventing juvenile crime and diverting young people from involvement in the criminal justice system. They are managed by a

committee comprising gardaí, community representatives, local youth workers and other statutory and voluntary representatives. The number of these projects has expanded from two in 1992 to over a hundred in 2009.

Also in 1992 the First Report of the Dáil Select Committee on Crime was published. The Committee, established in June 1991 and chaired by Deputy Marian Quill, noted the current 'deep unease about crime' and that a 'clear thread through many submissions was the importance of preventing delinquency' (1992: 4) It's terms of reference included the examination of the administration of justice and the implementation of the criminal law and existing legislation. The Report called on the government to introduce new juvenile justice legislation urgently to replace the Children Act, 1908 which it regarded as outdated. Among the legislative changes it recommended were: raising the age of criminal responsibility to twelve years; the establishment of a Garda Juvenile Liaison Section within An Garda Síochána; recognition and expansion of opportunities for diversion within the juvenile justice system; extension of the range of non-custodial dispositions; victim–offender mediation; secure units for juveniles within the juvenile justice system; and appropriate psychiatric facilities for 'psychiatrically disturbed' young offenders. The Report also highlighted the importance of the early identification of 'children at risk'.

Kilkelly (2006a) describes the Report of the Dáil Select Committee on Crime (1992) as one of the most important reports on juvenile justice. The Report recommended a range of options aimed at making children, parents, volunteers and community groups responsible while at the same time retaining more traditional types of custodial options. Kilkelly, describes these recommendations as:

> . . . a continuum of intervention ranging from light (involving no prosecution) to heavy (detention) by putting in place a wide range of dispositions including cautions, victim-offender mediation, conditional discharge, a range of probation orders involving supervision, a voluntary residential placement, mentoring, challenging sporting and educational activities, community service orders and fines. (2006: 29)

The Report highlighted the role of local authorities, schools, volunteers, industry and the 'community' in the identification, classification and treatment of the 'at risk' population. Kilkelly refers to the Report's recommendations as reflecting the:

> . . . established consensus on how children in conflict with the law should be treated and how a progressive youth justice system should be structured and run: emphasis on positive early intervention, family support, and education for those at risk of offending . . . (2006a: 29)

Seymour (2004) dates the impetus for legislative change in the area of juvenile justice as beginning in the early 1990s with the publication of the above report, international pressure and lobbyists highlighting the neglect of juvenile justice. However, it was not until 1996 that the government published a bill with the aim of replacing the Children Act, 1908. Among other things, the Children's Bill 1996 proposed a range of diversionary and community-based alternatives to custody. These included fines and binding over of parents; day centre orders; probation orders; intensive supervision orders; residential supervision orders; suitable person orders; and restriction on movement orders (Children's Legal Centre, 1997a). The bill also proposed the introduction of special care orders that would allow the detention of children whose behaviour posed a real and substantial risk to their health, safety, development or welfare and require care or protection which they would not get if such an order was not made. It was criticised at the time for confusing those children who were already criminalised with those who were not (Children's Legal Centre, 1997b). According to Ring (1997a), the most important change proposed in the bill was that the use of the word 'child':

> . . . has been defined to mean 'a person under the age of 18 years unless the context otherwise requires'. This is in line with the definition of a child under the Child Care Act, 1991 and reflects an important trend towards unifying legislation affecting children and young persons. (1996: 15)

The 1996 Children's Bill was allowed to lapse and it was 1999 before the government published a new bill, which would be the precursor to the Children Act, 2001. The 1999 bill emphasised non-custodial options for juvenile offenders and sought to place more responsibility on both individuals and communities in providing solutions to juvenile crime. Despite favouring non-custodial options, it proposed three separate

sites for the incarceration of children: children detention schools, places of detention and special care units (O'Sullivan, 2000: 10). According to O'Sullivan, the Children Bill, 1999 represented:

> . . . a combination of traditionalism and new regulatory practices to ensure compliance with this traditionalism. It also signals that responsibility for juvenile crime is located at the level of the individual and that the individual must be empowered to exercise responsibility and become a good citizen child … an infrastructure has been developed to ensure that children, through teaching, coaxing, cajolement, threats and ultimately banishment, conduct themselves responsibly. (2000: 13)

The Children Act, 2001 focuses on the prevention of criminal behaviour in relation to young people and their diversion from the criminal justice system. It also embraces the principles of restorative justice. Significantly, the Act changed the age of criminal responsibility from seven to twelve years.[46] The Act also amended the Child Care Act, 1991, providing for the establishment of special care facilities for young people who require secure accommodation. This has led to the establishment of a number of special care units and high support units in recent years.[47] Before being fully implemented, the 2001 Act was substantially amended by the Criminal Justice Act, 2006, which introduced changes in the areas of diversion, criminal responsibility, detention and anti-social behaviour (Kilkelly, 2007).

Despite the enactment of the 2001 Act, there still remained little co-ordination of services within the juvenile justice system. In 2005 then Minister for Justice, Michael McDowell, signalled the government's intention to develop a co-ordinated approach to youth offending. He stated that 'across the Care and Justice sectors, but among the justice family in particular, it is essential to renew our focus on establishing youth justice as a joint strategic priority' (*The Irish Times*, 28 July 2005). The Irish Youth Justice Service was established in 2006 as an executive office of the Department of Justice. It is responsible for the management of detention facilities and the implementation of the Children Act, 2001.

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[46] It allows for the exception of young people between ten and eleven years who commit serious offences such as rape, unlawful killing and aggravated sexual assault.

[47] The Act, which is comprised of 271 separate sections, contains many innovative changes in the juvenile justice system in the areas of: family welfare conferencing; the treatment of child suspects; the children's court; diversion; sanctions; detention; oversight; protection.

The *Report on the Youth Justice Review* (2006) listed as one of its main aims the co-ordination of services within the juvenile justice system. The Report looked at restructuring and rationalising the 'youth justice' service within the context of the new legislative framework, the Children Act, 2001. The Report recommended a 'single agency approach' with the proposed Youth Justice Service located in 'a care and social services setting' (2006: 9). In April 2006 a senior official with the Department of Justice was appointed National Director of the new Irish Youth Justice Service (IYJS). Kilkelly, commenting on the recommendations of the 2006 Report, views the establishment of the IYJS as:

> . . . having the potential to radically reform the youth justice system including to successfully oversee the implementation and operation of the Children Act 2001. In fact, it is arguable that they have greater potential than the Act itself to reform how youth justice is administered in practice. (2006: 51)

On 1 March 2007 legal and administrative responsibility for children detention schools, with the exception of St Joseph's in Clonmel, passed from the Department of Education and Science to the IYJS, thus ending the involvement of the Department in the administration of childcare, a role it had commenced in June 1924 (O'Sullivan, 2009).

In 2008 the Irish Youth Justice Service published its National Youth Justice Strategy 2008–2010. This Strategy, through a number of high-level goals, aims to promote a co-ordinated approach among the relevant agencies working in the youth justice system. The remit of the IYJS is:

> . . . guided by the principles of the Children Act, 2001 and is focused on children under the age of 18 who are in trouble with the law. The IYJS focuses on diverting children from crime and the criminal justice system, promoting restorative justice, enforcing community sanctions, facilitating rehabilitation and, as a last resort, providing for detention. (IYJS, 2008: 2)

Conclusion

This historical narrative of events began in the year 1851 the year of the publication of Carpenter's *Reformatory Schools for the Children of the Perishing and Dangerous Classes and for Juvenile Offenders (1851).* It was around this time that a separate system for the management of juvenile offenders began to be considered in Ireland. An important event in this regard was the *Report of the Select Committee on Criminal and Destitute Juveniles*, 1853 which received extensive evidence on the status of juvenile crime in Ireland and the management of juvenile offenders. Following the 1853 Report the first Reformatory Schools Act was passed in Britain in 1854. It was to be 1858 before similar legislation was passed in Ireland and ten years later that legislation permitting the certification of Industrial schools was enacted. Following the Industrial Schools Act, 1858 one can see a rapid expansion in the number of industrial schools in Ireland. In terms of numbers incarcerated, the industrial school became the dominant method for regulating the juvenile population in Ireland focussing primarily on the pre-delinquent. The dominance of the industrial school remained a feature of the juvenile justice system in Ireland for almost one hundred years. In terms of numbers processed, initiatives such as reformatory schools, Borstal and probation remained relatively minor players. While numbers began to decline in the 1940s it was only after the Kennedy Report (1970) that one can see a significant move away from such institutions. The Children Act, 1908 remained the primary legislation underpinning the juvenile justice system in Ireland and despite a significant discourse from the mid-1960s on calling for its replacement it was to be 2001 before amending legislation was introduced.

CHAPTER 3: THEORETICAL FRAMEWORK

> *Our studies of government eschew sociological realism and its burdens of explanation and causation. We do not try to characterize how social life really was and why. We do not seek to penetrate the surfaces of what people said to discover what they meant, what their real motives or interests were. Rather, we attend to the ways in which authorities in the past have posed themselves these questions: what is our power; to what ends should it be exercised; what effects has it produced; how can we know what we need to know, and do what we need to do in order to govern?*
>
> (Miller and Rose, 2008: 57)

Introduction

There are a number of theoretical explanations that may be utilised to interpret developments in the area of juvenile justice from the mid-nineteenth century to the present. This chapter looks at some of these explanations and argues that 'governmentality' offers the most theoretically coherent explanation of the present juvenile justice system in Ireland.

There have been no serious attempts to account theoretically for the historical development of juvenile justice in Ireland. Walsh (2005) has looked at the present juvenile justice system from a legalistic perspective. He reviews the historical development of juvenile justice legislation from the mid-nineteenth century to the introduction of the Children Act, 2001 and considers the legal and procedural implications of this legislation. Martin (2000) analyses the nature and scope of children's rights in Ireland, how they have been defended in the Irish courts and how they measure up within the international context. He adopts a broadly reformist agenda arguing for the development of more effective methods for safeguarding children's rights. Kilkelly (2006a) evaluates the current juvenile justice system from a 'children's rights' perspective. Seeking to benchmark the system against international standards, she reviews current juvenile justice legislation and procedures in the light of the United Nations Convention on the Rights of the Child, the European Convention on Human Rights and UN International Rules and Guidelines. In this

regard, her book represents an audit of the law, policy and practice as it applies to juvenile justice in Ireland today.

Robins' (1980) history of charity children in Ireland from 1700 to 1900 provides a historical account of how the destitute child was dealt with in Irish society, starting with the foundling hospitals, charter schools, gaols and orphanages and eventually culminating with the development of the Poor Law system, workhouses and the reformatory and industrial schools. Robins charts the gradual emergence of a progressively more humane system for dealing with the destitute child and in relation to the Irish reformatory schools notes that 'no matter how far short the schools may have fallen in their aim to rehabilitate the young delinquents committed to them, their introduction was a progressive departure from the past and was prompted by genuinely humanitarian considerations' (1980: 301). Turning to more recent times, Osborough's (1975) historical account of the borstal system in Ireland from 1906 to 1974 includes a comparison of developments in the Republic with those in Northern Ireland. It contains some useful information on the scope of the system and details of the regimes within the borstal institutions.

Barnes (1989) provides a historical account of the development and origins of the industrial school system from 1868 to 1908. She describes the emergence of the system, its establishment, consolidation and expansion giving a detailed account of the regimes and environment within the schools. In this sense, she provides the first systematic and detailed description of how the schools operated. Her positive assessment of the schools' contribution, notes the quality of education and training provided and that the schools represented an advance in the care of destitute, orphaned and neglected children.

Burke et al (1981) reviewed the operation of the Irish juvenile justice system in the context of the lack of existing research and in comparison with the juvenile justice systems in England and Scotland. It was critical of the Irish juvenile justice system making a number of recommendations aimed at improving the effectiveness of the system. In particular, it highlighted the inadequacy of the existing residential and reformatory school system and called for its replacement with a system of child-care

geared towards the prevention of family break-down. It also recommended a broadly 'community-based' approach to dealing with the 'troubled and troublesome' child.

Raftery and O'Sullivan (1999) adopt a more sceptical approach to the system, suggesting that the industrial and reformatory schools be viewed as 'part of a larger system for the control of children and, to a lesser degree, women' (1999: 18). They argue that the system was dominated by Catholic religious congregations and incarcerated huge numbers of children for 'transgressing the narrow moral code of the time' (1999: 19). Their account is a mix of sociological analysis and personal testimony that catalogues many of the abuses that were perpetrated against those confined within the schools from the mid-nineteenth century to the late twentieth century.

Carroll-Burke (2000) provides an insightful account of the development of the 'Irish convict system' from the mid- to late nineteenth century. In doing this he draws on the work of Michel Foucault and argues that Foucault's analysis of disciplinary technologies is 'especially applicable to the Irish case' (2000: 12). He notes that, in the 'Irish system' of 'intermediate prisons', convicts:

> . . . were subject to intensive 'individualized treatment', the use of education and training, complex technologies of classification and normalization, and the Irish system of police surveillance which linked the centralized convict system with the centralized police system. (2000: 20)

However, he concludes that the Irish convict system, which was probably the first of its kind in the world, does not fit neatly into the mainstream theoretical explanations, most notably Foucault's and Garland's, and needs to be considered on its own merits.

Kilcommins et al (2004) examine the development of criminal justice policy and practice in Ireland from the perspective of Garland's work *The Culture of Control: Crime and Social Order in Contemporary Society (2001).* They conclude that Garland's revisionist framework does not fit the Irish experience. They note that:

> . . . despite Ireland's vulnerability to policy transfer from the US and UK, the Irish edition of the crime complex has emerged in a dilute and distinctive hybrid

> form . . . Irish penal practice is rarely supported by reference to a set of clear principles that would allow a considered judgement to be made about following a particular course of action. (Kilcommins et al., 2004: 293)

The works of Barnes (1989), Robins (1980) and Osborough (1975) are broadly descriptive if somewhat 'Whiggish' in their approach, taking the view that despite their faults these institutions represented an improvement on what went before.[48]

Raftery and O'Sullivan (1999) view the industrial school system as a mechanism of social control that was colonised primarily by Catholic organisations for their own ends. Their work has an explicitly normative tone cataloguing many of the abuses associated with the schools. On the other hand, both Martin (2000) and Kilkelly (2006a) take a 'rights-based' approach, evaluating contemporary developments in juvenile justice and child welfare in the context of national and international law, and do not attempt to interpret historical developments in the juvenile justice field from a theoretical perspective.

Carroll-Burke's study (2000) is instructive from the present point of view in that it illustrates the limitations of revisionist interpretations while at the same time highlighting the need to adopt a mode of analysis that is sensitive to the Irish context. In a similar vein, Kilcommins et al (2004) contrast the development of criminal justice policy and practice in Ireland with that in the US and UK. In general, however, there has been relatively little theoretical research in the area of juvenile justice in contrast to the large body of research that has emerged in other jurisdictions. For this reason it is necessary to look to these other jurisdictions to see how others have interpreted the emergence of penal institutions and juvenile justice in particular.

[48] The limitations of the 'Whig' approach have been highlighted by Kilcommins (1999 and 2002) in considering the history of community service orders in Britain. Also, O'Sullivan (1999) and Skehill (1999 and 2004) critique the 'Whig' version of history in the context of the development of child welfare services in Ireland.

Revisionist Explanations

During the 1960s the positivist or 'Whig' version of the development of juvenile justice came under attack from more sceptical theorists. Marxist theorists such as Rusche and Kirchheimer (1968), whose ideas were first published in the 1930s, took a sceptical approach to interpreting developments in the justice system. They linked such developments to the relations of production that exist within the capitalist system, arguing that each system of production produces a corresponding system of punishment. For example, the prison serves an important function in maintaining order within capitalist society; it promotes discipline among the working classes and thus preserves those relations of production vital for the efficient functioning of the capitalist economy. In this sense the criminal justice system is crucial to maintaining the capitalist social order and reproducing its specific class structure.[49]

Following Rusche and Kirchheimer, Platt (1969), in examining the 'child-saving' movement in the United States, was sceptical of the apparent benevolence of those social reformers who viewed their work as a matter of 'conscience and morality, serving no particular class or political interests' (1969: 3). For Platt the apparatus that was constructed by the child savers served the particular interests of the middle classes who sought to regulate and control that section of the child population deemed to be deviant:

> Their central interest was in the normative behaviour of youth – their recreation, leisure, education, outlook on life, attitudes to authority, family relationships, and personal morality . . . Although the child savers were responsible for minor reforms in jails and reformatories, they were most active and successful in extending governmental control over a whole range of youthful activities that had previously been ignored or dealt with informally. (1969: 99)

Platt's work drew on Marxist theory in portraying the juvenile justice apparatus as a mechanism for maintaining a level of class domination within society; in particular, the dominance of middle-class social norms. According to Platt, the child savers defined delinquency as a social problem rather than a political one 'calling for

[49] In a similar move, Melossi and Pavarini (1981) viewed the prison as playing an integral part in controlling the proletarian class and thus maintaining order within capitalist society. Punishment is thus regarded as a tool used by the ruling classes to regulate and control society.

"therapeutic" remedies rather than a redistribution of power'(1969: 100). The Juvenile Court was an invention of the child savers, that 'brought attention to and thus "invented" new categories of youthful deviance, particularly behaviour in which the actor was seen as his own "victim"' (1969: 145). The Juvenile Court thus paved the way for a range of interventions in the lives of 'delinquent' children and resulted in their committal to institutions designed for their reformation and eventual reintegration as industrious citizens into the community.

Drawing on Marxist theory of law creation Platt argued that the child-saving movement can be understood:

> As a crusade which served symbolic and ceremonial functions for native, middle-class Americans. The movement was not so much a break with the past as an affirmation of faith in traditional institutions. Parental authority, home education, rural life, and the independence of the family as a social unit were emphasised because they seemed threatened at the time by urbanism and industrialism. (1969: 98).

Platt's study of America's first Juvenile Court in Chicago broke with existing progressive histories of the time. Drawing on labelling theory and theories of social construction, *The Child Savers* focused on the way that delinquency and the institutions that govern it were constructed by those social reformers and lawmakers responsible for the establishment of the first court in 1899. The progressive liberal histories of the time had viewed the establishment of the court and its associated institutions as part of a progressive humanitarian movement towards a more just and caring society.[50] According to Chavez-Garcia:

> Platt's approach involved deconstructing understandings about crime, criminality and deviancy. Influenced by intellectual currents in Marxism, sociology, and history and by contemporary civil rights, women's and liberationist movements across the globe, Platt's work embodied the growing cynicism of the optimism espoused by liberal thought and liberal thinking in the 1940's and 1950's. (2007: 478)

[50] For example, *The Age of Reform* (Hofstader, 1955).

Platt's more sceptical historical appraisal of the child-saving movement saw these social reformers as sharing certain vested interests with capitalist forces in trying to maintain control over sections of the lower classes deemed to be dangerous and unpredictable. As such he described the way that certain policies and practices worked to:

> . . . create special judicial and correctional institutions for the labelling, processing and management of 'troublesome' youth. The origins of delinquency are to be found in the programs and ideas of those social reformers who recognised the existence and carriers of delinquent norms . . . They brought attention to – and, in doing so, – invented new categories of youthful misbehaviour which had hitherto been unappreciated. (1969: 3)

In his later work Platt placed less emphasis the role of the middle classes seeing the development of the juvenile court system:

> as part of a general movement directed towards developing a specialized labour market and industrial discipline under corporate capitalism by creating new programs of adjudication and control for "delinquent," "dependent" and "neglected" youth. (1974: 377)

Chavez-Garcia notes that Platt was not blind to the shortcomings of his work[51] and in a later edition of *The Child Savers*, published in 1977, he 'acknowledged the criticism of his peers and the influence of feminist writings, admitting that he had granted the child savers too much credit for inventing delinquency and had simplified his portrayal of women' (2007: 469).

Lasch (1977) has argued that the Juvenile Court and other institutions that form part of the American juvenile justice system play a major role in the control of the

[51]Platt's analysis is open to the criticism that it is too simplistic, ignoring a more complex reality, it concentrates primarily on the Juvenile Court and overlooks other aspects of the juvenile justice system. For example, Odem (1995) describes how some of the early decisions of the Juvenile Court in cases involving young women's sexuality were the result of various layers of negotiation between court officials, young people and their parents. Also, those within the juvenile justice system portrayed as the controllers, were not one homogenous group but represented a diverse group from different cultural backgrounds (Schlossman, 2005; Myers, 2009).

working classes by certain powerful groups within society. In particular, he views child welfare as an instrument of social control exerted by the dominant classes over the working class. In this regard, he notes that, following the appropriation of the means of production they, 'extended their control over the worker's private life as well, as doctors, psychiatrists, teachers, child guidance experts, officers of the juvenile courts , and other specialists began to supervise child-rearing, formerly the business of the family' (1977: xx). In a similar fashion Donzelot (1997), drawing on the work of Foucault, describes the 'colonisation' of the family by a range of experts in the child welfare field. He describes how 'the neutralization of patriarchal authority would permit a procedure of tutelage to be established, joining sanitary and educative objectives with methods of economic and moral surveillance (Donzelot, 1997: 89).

In the same vein, Humphries (1981) argues that regulatory institutions such as reformatories, industrial schools, borstals and truant schools should be viewed as 'institutions of class control, designed to inculcate discipline and obedience in working class children and youth who either resisted authority or whose family life was disrupted by poverty and destitution' (1981: 211). For Humphries, this is illustrated most clearly in the strict disciplinary regimes within these institutions that required those confined to perform manual or semi-skilled tasks on a daily basis. Harris and Webb (1987) also view developments in justice and child welfare systems as an expansion of state control over the working-class young.

The concept of social control has taken on many forms. Some describe control as coming from outside the state (Donajgrodzki, 1977) and others suggest it occurs through agencies of the state (Cohen and Schull, 1983). Elmsley et al. (2004) note that 'social control' has become somewhat of a 'container concept' with it being hard to figure out who or what exactly is doing the controlling: the state, society, communities, class or institutions. The concept of social control itself is a contested one (Innes, 2003), it being hard to achieve a consensus view on how it operates (Meier, 1982). Black (1976) draws a distinction between formal and informal control with the former referring to instances where such control is backed up by the force of law. Willis (1977) describes another aspect of social control, arguing that schooling is

one of the strongest sources of social control in modern societies. Innes argues that social control,

> . . . as an organised response to deviant acts has become widely established as the dominant conceptualisation in the academic literature . . . the particular strength of this definition is that although it limits the range of acts that can be properly counted as social control, it remains sufficiently adaptable to be applicable to an array of events and settings (2003: 17).

Cohen (1995) reviews what he considers the 'master patterns' or transformations which laid the foundations of all subsequent 'deviancy control systems'. In relation to the various revisionist theories, he notes:

> . . . the prison for Rothman is a model of functional order and equilibrium, for orthodox Marxists like Melossi and Pavarini it is a model of capitalist relations of production; for Ignatieff it is a model of emerging class hierarchy. Only Foucault sees it as a system of power in itself. Each 'project of docility', each 'subtle act of cunning' shows that the relation between penal practice and society cannot be reduced to a question of the state, class interests, benevolent intention or metaphors of property, disorder and contract, although it is continuous with them: 'there is neither analogy nor homology, but a specificity of mediation and modality'. (1995: 30)

Cohen, drawing on the work of Foucault, examines what he describes as the 'destructuring impulse' that began in the 1960s as an apparent attack on the entrenched systems of control that had been in place since the early nineteenth century. This impulse found expression in campaigns to decentralise, decriminalise, divert, de-carcerate and de-institutionalise. They represented a movement away from the state, away from the expert, away from the institution and away from the mind (Cohen, 1995: 31). However, Cohen is sceptical of these reformist transformations arguing that rather than resulting in more liberal or humane regimes they actually produced stronger and more insidious regimes of control. In this regard, he notes:

> . . . it was not merely a question of reform 'going wrong'. The benevolent-sounding destructuring package had turned out to be a monster in disguise, a Trojan horse. The alternatives had left us with 'wider, stronger and different nets'. (1995: 38)

In his seminal work, *Visions of Social Control*, Cohen describes the manner in which this vast system of social control emerges in various forms such as treatment programmes, community crime prevention initiatives, diversionary initiatives and probation schemes. He charts an expansion in the overall reach of the crime control system, despite the 'good intentions' to de-structure.[52] Indeed, one of the unintended consequences of the use of community initiatives is the expansion of the control system to include those who were not targets of the old system; this is particularly true of diversionary and early intervention initiatives:

> The ideology of early intervention and treatment and the use of psychological or social-work selection criteria, allows diversion to be incorporated into wider preventative strategies. Legal definitions and due process give way to low visibility, 'discretionary decision making' by administrative or professional agencies. The drift is to work with parts of the population not previously reached, variously defined as young people 'in trouble', 'at risk', or 'in legal jeopardy', 'pre-delinquents' or 'potential delinquents'. These trends are not primarily a widening of social control into 'empty' spaces, but an intensification and formalisation of previous methods. Populations who once slipped through the net are now retained much longer; many innovative alternatives become adjuncts to established sanctions such as probation and fines. (Cohen, 1995: 53)

Cohen draws on the work of Foucault to paint a dystopian vision of society in which the deviant is defined by a political language that functions as a form of social control. This language or 'controltalk' is utilised to construct both the subject of this control and as an element of the strategies of exclusion and inclusion that operate to control him or her.

Cohen describes 'social control' as a 'Mickey Mouse' concept, 'that has no resonant or clear meaning at all' (1995: 2). His response is to adopt a narrower definition in an attempt to arrive at a greater degree of analytical purchase. His definition includes:

> . . . those organized responses to crime, delinquency and allied forms of deviant behaviour which are actually conceived of as such, whether in the reactive sense (after the putative act has taken place or the actor been identified) or in the proactive sense (to prevent the act). These responses may be sponsored directly by the state or by more autonomous professional agents in, say, social work and

[52] In this regard, Austin and Krisberg (1981) argue that this de-structuring campaign has resulted in 'wider, stronger and different nets'.

> psychiatry. Their goals might be as specific as individual punishment and treatment or as diffuse as 'crime prevention', 'public safety' and 'community mental health. (1995: 3)

Rothman's analysis of the Juvenile Court in *Conscience and Convenience* (2002) views the social reformers of the nineteenth century as motivated not by class interests but by more egalitarian ideals. Taking a more functionalist interpretation of the development of punishment, Rothman (1971) links the development of the penitentiary, reformatory and other such institutions to wider societal changes and in particular to the Jacksonian period:

> The response in the Jacksonian period to the deviant and the dependent was first and foremost a vigorous attempt to promote the stability of the society at a moment when traditional ideas and practices appeared outmoded, constricted, and ineffective. The almshouse and the orphan asylum, the penitentiary, the reformatory, and the insane asylum all represented an effort to ensure the cohesion of the community in new and changing circumstances . . . The asylum, they believed, could restore a necessary social balance to the new republic. (1971: xvii)

Unlike Marxist theorists, Rothman did not view the above innovations as the inevitable product of industrial and urban developments in society. Neither, unlike Platt, did he view these social reformers as motivated by their desire to control the 'dangerous classes'. Rather, his explanation sought to take account of the language and beliefs of the reformers. According to Ignatieff, Rothman illustrates how 'the language developed in a society to explain disorder and deviance also defines the solutions it develops for these problems' (1985: 83).

In a similar vein, Ignatieff (1978) incorporates the beliefs and values of reformers into his explanation of the development of the penitentiary system in England. He suggests that the penitentiary emerged from a change in the overall social order and describes how various class, economic and political interests shaped a new humanitarian vision of punishment and reformation:

> . . . humanitarianism was inextricably linked to the practice of domination. The extension of the state's obligation to it's citizens was invariably justified in

> terms of recasting their characters into that caricature of ascetic rectitude that the rich adopted as their self-image. (1978: 214)

Ignatieff combines class analysis with an examination of the effects of the language and beliefs of reformist groups that, he argues, were transforming the existing social order:

> Given the economic, ideological, and social connections between prison reformers and the new industrial employers, it is not surprising that the reformers assumed that a prison should be run like a 'well-ordered manufactory' . . . It was just this resonance with the well-ordered manufactory, the workhouse, the asylum that made the penitentiary plausible, despite its evident failure to reform or deter. Its order was the order of industry; its 'humanity,' the conscience of philanthropic activism. (1978: 215)

Ignatieff describes this model of reform as one of 'symbolic persuasion', placing more emphasis on the humanitarian intentions of the reformers (1983: 88). He describes the development of the penitentiary in terms of their beliefs and accepted norms. In this way:

> . . . the new carceral system was not the work of an overarching strategic consensus by a ruling class, but instead fell into place as a result of a conjuncture between transformation in the phenomena of social order, new policing needs by the propertied, and a new discourse on the exercise of power. (1983: 95)

May (1973) explores how the concept of 'juvenile delinquency' began to emerge in Britain around the mid-nineteenth century resulting in the 'child' being defined as a separate legal entity. She argues that the reformatory and industrial school legislation of 1854 and 1857 represented a radical change in penal policy with delinquency being recognised as a 'distinct social phenomenon' and the state taking responsibility not only for the offender but also for children who required 'care and attention'. She argues that Matthew Davenport Hill's portrayal of the 'little stunted man' (1855) epitomises the attitude of reformers to the 'treatment' of juvenile delinquency in the mid-nineteenth century:

> Hill's consensus portrait of juvenile depravity drew freely on the mass of earlier local and national studies, and also on the work of prison officials whose case studies and personal observations added further insights into the problem. (1973: 20)[53]

May argues that implicit in this consensus view of the child is the conceptualisation of childhood as a period of dependency. The 'moral statisticians' such as Hill, Clay, Carpenter and those who populated the numerous statistical societies at this time invented a moral topography in which childhood was portrayed as a state of innocence. Their view of childhood as an innocent state that is temporarily lost with delinquency but redeemable through a process of reformation gained prominence during the mid-nineteenth century. The activities of such prominent reformers and other contributors to the *Reformatory Refuge Union Journal* and the *Transactions of the National Association for the Promotion of Social Science* therefore resulted in the formation of a specific model of institutional reformation. The reformatory and industrial school system was designed to cater for both the young offender and the child in need of 'care and protection' and legitimised state intervention into family life:

> . . . the Reformatory and Industrial Schools permitted a substantial encroachment on parental freedom, by attempting to impose middle-class standards of child-rearing on lower class parents . . . Industrial Schools were founded on the belief that in some cases the welfare of the child and public safety necessitated the separation of parent and child. (May, 1973: 28)

The activities of the numerous 'moral statisticians' who identified the problem of juvenile crime and the specific 'delinquent character' served to justify a system for controlling these delinquent classes. In a similar way Foucault regarded such knowledge as legitimizing strategies for the regulation of the delinquent (Garland, 1992).

[53]According to May, these studies, combined with the collection of statistical data on crime, indicated that 'crime was apparently increasing out of all proportion to the rise in population, and this increase was greatest among the young' (1973: 16). Through these studies juvenile delinquency emerged as a 'distinct social problem' and these 'scientific' investigations legitimated the specific interventions designed to control these delinquent characters.

Foucault takes a more radical and complex approach, propounding a 'theory of relentless discipline' (Cohen, 1995). Central to this analysis is the relationship between power and knowledge. For Foucault, modern forms of punishment have moved from the exertion of force in the form of bodily torture by sovereigns to ensure the loyalty of their subjects to a relentless disciplinary technology designed to work on each subject's soul.

> The judges of normality are present everywhere. We are in the society of the teacher-judge, the doctor-judge, the educator-judge, the social worker-judge; it's on them that the universal realm of the normative is based; and each individual, wherever he may find himself, subjects to it his body, his gestures, his behaviour, his aptitudes, his achievements. The carceral network, in its compact or disseminated forms, with its systems of insertion, distribution, surveillance, observation, has been the greatest support, in modern society, of the normalizing power. (Foucault, 1991: 304)

In terms of regulating the child, Foucault, in *Discipline and Punish* (1991), highlights the establishment of the institution at Mettrai on 22 January 1840 as marking the completion of the carceral system. For Foucault, La Colonie Agricole at Mettrai, founded by M. Demetz and the Viscomte Bretigneres de Courteilles, represented the most extreme form of the disciplinary model and a new era in development of disciplinary technologies. Rather than just punishing crime, this model sought to adjust the behaviour of those confined by instilling new habits and self-discipline. Foucault was to expand this notion of disciplinary technology or 'technologies of the self' beyond the institution into the wider community and into everyday life. He describes the evolution of the carceral society where the subject is constantly observed and deviant or delinquent behaviours are constantly screened. According to Cohen:

> Surveillance and not just punishment became the object of the exercise. The all-seeing world of Bentham's panopticon is the architectural vision of the new knowledge/power spiral: the inmate caught in a power which is visible (you can always see the central observation tower) but unverifiable (you must never know when you are being looked upon at any moment). The prison is the purest form of the panopticon principle and the only concrete way to realize it. (1995: 26)

Markus (1993), drawing on the writings of Foucault, argues that the visible effects of power can be seen in the architecture of the institutions constructed to confine and reform those deemed to be 'mad, bad or sad'. It found expression in the building of poorhouses, workhouses, prisons, hospitals, asylums and later reformatory and industrial schools.

Rush (2002) argues that a historical sociology of social control has become the doxa of critical accounts of juvenile delinquency. This, for Rush, is little more than a substitution of the Whig narrative of reform for a more negative version, unearthing behind apparent benevolence more negative motives. However, according to Rush, what is needed is a more modest approach that does not necessarily require the notion of social control to be jettisoned:

> Rather, it becomes necessary, at least in the first instance, to describe different styles of control in terms of their distinctive techniques, rationalities and objectives. The concern . . . then is to describe the particular ways in which the problem of juvenile delinquency is put together in the first half of the nineteenth century. How is juvenile delinquency constructed as a problem? (2002: 140)

Drawing on Foucault's concept of 'archaeology', Rush describes how the discourse on crime and more importantly juvenile crime emerged at this time, a process that he defines as 'a reconstruction of the discursive space within which the subject of juvenile delinquency becomes possible' (2002: 140). He then proceeds to describe the 'rules' of formation of this discourse. Finally, he focuses on the 'distinctive practice' of subjection, the 'moral government' of the juvenile delinquent that found expression in the language of the 'child-saving' movement and in the apparatus of the reformatory school. An important part of this process of 'moral government' is what Rush describes as the 'logic of classification', the classification of the juvenile population into distinct classes – in particular Mary Carpenter's six classes of juvenile delinquent – that are contrasted with the 'honest classes'. Rush regards his approach as more modest than many of the 'bigger' control theories in that it is grounded on an analysis of the language and practices that constitute this particular form of 'moral government'.

As discussed, May (1973) argues that a specific category 'the delinquent' was invented by the moral statisticians of the mid-nineteenth century and this invention in turn legitimised the system designed for their regulation. Indeed, the invention of the category of 'juvenile delinquency' legitimised a whole range of strategies that were employed by the reformist movement (Harris and Timms, 1993). During this period young people were represented both as a threat to the social order (Steadman Jones, 1971) and as requiring protection and regulation (Foley et al., 2003).

The debate as to whether childhood has been invented or discovered is particularly relevant here and it is linked to the manner in which language is used to construct these categories. The 'invention' of these categories suggests a certain process of construction that is dependent on a facilitating body of knowledge. In this context, the distinction has been made between 'discovery' and 'invention' (Jordanova, 1989). The notion of 'childhood' as a social construction was considered by Aries (1962) who carried out the first comprehensive historical study of the different constructions of childhood, from the thirteenth century to the mid-twentieth century. He noted the relationship between these historical constructions and the language employed by moralists and educationalists to describe the manner in which the concept of childhood entered the public domain.

More recently, Hendrick (1997) has noted how definitions of childhood are linked to the society from which they emerge. He looks at the way that 'childhood' has been constructed in Britain from the eighteenth century to the present (1994 and 2002) . Like Rush, Hendrick sees these various constructions as emerging from a range of discourses such as welfare, science, psychology and pedagogy; all intimately linked to the 'project' of regulating the child. His survey of the 'natural' child, the 'romantic' child, the 'evangelical' child, the 'delinquent' child etc. reveals the connection between these constructions and the process of regulation:

> From the perspective of adults, these different understandings have shared the intention to identify the existence of 'childhood'; to define the desirable state of 'childhood'; to incorporate the concept into a larger philosophy concerning the meaning of life; and to control childhood, whatever its nature. (2002: 41)

His conceptualisation of childhood identity as having a somewhat malleable quality has much in common with the 'governmentality' thesis that explains the formation of identity in terms of the process of governing. Identity is viewed not as a trans-historical concept but one that is bound up with the specific rationalities of government from which it emerges. Rose's (1996a) notion of the 'self' as a regulatory ideal is particularly relevant here. Also, Bell argues that writers such as Foucault and Donzelot challenge established assumptions about the 'child as a stable referent existing within an externalised family' (1993: 391).

Mahood and Littlewood (1994) explore how certain conceptualisations of male and female identity were employed by the nineteenth century child-saving movement to regulate children. They argue that Foucault and Donzelot's version of the regulatory process does not address the issue of gender and sexuality in sufficient detail. Their examination of the identities of the 'street corner boy' and the 'vicious girl', in the context of the Scottish child-saving movement between 1850 and 1940, reveals a range of gendered and sexualised conceptualisations of the child that were employed to regulate the 'delinquent' classes. These included a particular familial ideology that was reproduced through the institutional practices of reformatory and industrial schools. Training and education in the schools reflected certain masculine and feminine ideals of domesticity and industriousness. In particular, great emphasis was placed on the 'moral rehabilitation' of the female in terms of her future role as a mother. They explore how the child savers attempted to reform the gender roles of delinquent children in accordance with their specific ideals.

Implicit in their analysis is a view of the 'social' as a terrain of contestation that is 'structured by both class and gender divisions'. In this regard, the reformatory represents the convergence of a number of discourses on sexuality, class and gender that are reflected in the theories and practices employed by the child savers. Attention to gender and sexuality, they argue, gives a more detailed picture of the 'social' than many other revisionist histories:

> Few of these histories employ a gender analysis, which uses both femininity and masculinity as analytical concepts, to examine the production of a gendered delinquent or explore the production and implication of gendered 'normal' and

> 'delinquent' sexualities. Adopting the view that identities always rest on the negation or repression of something defined as other allows us to focus more productively on conflicts over meaning and to view 'the social' as one of the key sites where this conflict is enacted. (1994: 578)

In this regard, the issue of the confinement of females in the reformatory and industrial school system by the child-saving movement as a consequence of their sex and perceived vulnerability or future sexual delinquency, rather than any offences that may have been committed, has been the subject of a number of studies (Cale, 1993; Mahood, 1995; Blackhouse, 1991; Dubinsky, 1993; Sangster, 2001; Williamson, 1982; Wimshurst, 1984; and Ramsland, 1985). Mahood (1994) has argued that one of the main aims of the reformatory and industrial school system was to domesticate those children deemed to be potentially sexually deviant.

While each of the above revisionist accounts differ in emphasis they are all in agreement in their criticism of the idealist version of the historical development of juvenile justice. They look beyond that version history which views developments in the juvenile justice apparatus simply as a humanitarian and benevolent movement and seek to provide alternative explanations in terms of class, control, power, gender, religion and politics. However, these theoretical explanations themselves have been subjected to sustained criticism. Some of these criticisms will now be considered.

Limitations of revisionist explanations

While the social control thesis and the work of Cohen in particular has proved useful in describing the manner in which strategies and technologies governing deviant populations operate, it has been criticised for its reductionism (Van Krieken, 1991) and its failure to account for the complexity of the historical development of criminal justice systems (Van Krieken, 1986). Van Krieken highlights the role played by families in negotiating strategies of control and how parents used the courts and reformatory and industrial schools to control their children.[54] He notes that the

[54] In this regard, Brenzel's history (1983) of the first girls reformatory in the United States illustrates how families colluded with the child-savers in an effort to control their children. Katz (1978) has challenged the 'passive' portrayal of the working classes and has also highlighted the manner in which they colluded with the child-savers.

working classes were not passive recipients of control strategies orchestrated from above. Rather, they were active agents in their own and their children's lives, in particular in relation to their committal to reformatory schools. For Van Krieken, therefore, social control is a limited concept that does not adequately account for the complex nature of reality:

> Social control, as many critics of the concept have pointed out, is a defining feature of all social interaction, and there is little point in merely pointing out its existence. The history is in fact much denser than the social control arguments imply, and resists crude conceptual distinctions. We need a more sophisticated view of the operation of power within class and gender relations, and above all of the active role played by the supposedly powerless in the stability of any particular social order. (1986: 424)

Schneider (1992) looks at the child-saving movement from a different perspective, concentrating less on the intentions of the reformers and more on the outcomes of their activities. He concludes that the Juvenile Court made little real change to the lives of the delinquents or their families. His research into the activities of child welfare reformers in Boston illustrates how their failure to reform significantly the lives of the delinquent poor was due to the ability of those families to resist these efforts. Similarly, Coulter (1982) has pointed out that, despite the efforts of these reformers, children continued to commit crime. Such accounts point to a weakness in the social control thesis, namely that it does not adequately account for the role of agency.

In a similar fashion, Bellingham (1986) looks at the nineteenth century child-saving movement from the perspective of the client. In an empirical study of the experiences of 'child salvation' in the form of various case studies, he aims to show that analysis of this phenomenon is framed 'by the tame opposition of the social control and humanitarian theses that dominate the history of institutions as a whole' (1986: 42). He argues that things are more complex than either of these theses allow:

> . . . the incongruity between these illustrative cases and the prevailing interpretations provided by the deviance perspectives poses the need to look at information on a representative group of clients to compare the actual practice

> of juvenile welfare and transfers of child custody against the rhetorical claims on which the history of deviance accounts rely. (1986: 46)

His 'bottom-up' study sought to go beyond mainstream 'deviance histories', reconstitute the objects of these institutions as 'active subjects' (rather than passive recipients of coercive control) and highlight the agency of the working classes in colluding with the child savers. In particular, within the context of the child-saving movement, he highlights the role of the 'family' in negotiating strategies for the day-to-day survival of its members. Bellingham thus notes:

> To whatever extent 'modern' institutionalisation was dedicated to some control ambition – beneficial or oppressive – this has to be rethought not as a profoundly novel aspect of industrialism, enlightenment, capitalism, or whatnot, but rather as a permutation of the long-standing institutional aspect of a conjugality. Thus, institutionalisation is a (possibly asymmetrical) relationship between active parties that obtains in structural contiguity with more normal transactions, like work and outdoor relief. (1986: 52)

Bellingham's work contended that the history of deviance and social control had become mired in debates over the motivations of the reformers and had thus insulated itself from the main theoretical and methodological developments in social history.

In a direct challenge to the social control thesis, Moore's (2008) examination of the debates surrounding the establishment and enlargement of industrial schools from 1857 to 1894 argues that the industrial schools legislation should not be seen as a form of social control but as an attempt to protect children from neglect, poverty, sexual danger and exploitation. She asserts that 'Victorian Industrial Schools have been mistakenly depicted as institutions motivated by social control rather than benevolence. This has meant that their importance as the first state-run institutions for the protection of children has been ignored' (2008: 359) Through her analysis of the debates around the establishment and enlargement of these institutions she seeks to reveal a commitment to care rather than punishment. She argues that a unique view of the relationship between the state and the child emerged in the late nineteenth century. Drawing on the writings of Carpenter and other philanthropists she highlights a conceptualisation of the 'child' as someone who is in need of love not punishment. Like May (1973), she notes that the 'child' was characterised as being vulnerable or

innocent, however, unlike May, she does not believe that this resulted in a form of social control. Rather industrial schools:

> . . . emerged from a discourse that saw the child as a valuable member of society, a member that the state had a duty to protect from harm . . . In short, investigation into the debates on the amendment acts has shown that industrial schools cannot be understood as anything other than a central and invaluable part of the child protection movement. (2008: 384)

Revisionist accounts are also prone to grand theorisation and often lack applicability to specific national contexts or sensitivity to issues such as gender (Zedner, 1991; Howe, 1994). Thus, while Foucault and Donzelot may be applicable within the French context and Cohen in the American context, they are not necessarily applicable to the Irish situation. Porter (1992) makes the point that when one looks at the historical evidence Foucault's concept of the 'great confinement' as a European movement is not applicable to England, Scotland or Ireland. O'Sullivan (1999) also points out that the more detailed the historical research into the Irish child welfare system becomes the more difficult it is to sustain the explanatory power of the social control thesis.

Clearly, there are numerous revisionist interpretations of the historical development of juvenile justice. However, these accounts themselves suggest a degree of complexity that goes beyond any one theoretical interpretation. Revisionist accounts, as has been demonstrated, have been criticised for their tendency to grand theorisation and reductionism (Van Krieken, 1991 and 1986). In particular, it has been shown that the social control thesis, in comparison to some empirical accounts, fails to fully capture the complex nature of juvenile justice practices (Schneider, 1992 and Coulter, 1982).

Social control analysis has been criticised for not adequately accounting for the concepts of 'agency' and 'resistance'. Its critics highlight the fact that families and children were not simply the passive recipients of control. Rather, they were active participants and colluded with the child-savers in negotiating outcomes for their children (Van Krieken, 1986; Bellingham, 1986; and Katz, 1978). In this regard, the role of subjects in their own government has been highlighted (Odem, 1995 and Brenzel, 1983). Coulter (1982) has noted that despite the efforts of reformers children

continued to commit crime. Also, while the 'social control' thesis can be empirically illuminating it can be difficult to identify who or what is doing the controlling. In this regard, social control itself is a contested concept (Innes, 2003) and one that lacks analytical purchase (Cohen, 1995).

In terms of outcomes Moore (2008) has highlighted the positive aspects of the industrial school legislation. He produces empirical evidence in support of the view that industrial school legislation should not be interpreted simply as an attempt at social control but rather as an attempt to protect children from poverty, neglect and exploitation.

Revisionist accounts have also been criticised for their lack sensitivity to gender (Zedner, 1991; Howe, 1994). Mahood (1994) has highlighted the manner in which male and female sexual identity was employed to regulate children. In this regard, the issue of the confinement of females as a consequence of their sex and perceived vulnerability or future sexual delinquency has been highlighted (Cale, 1993; Mahood, 1995; Blackhouse, 1991; Dubinsky, 1993; Sangster, 2001; Williamson, 1982; Wimshurst, 1984; and Ramsland, 1985).

Another difficulty with revisionist accounts is their lack of applicability across different jurisdictions (Porter, 1992 and O'Sullivan, 1999). Kilcommins et al. (2004) have shown how Garland's thesis does not have the same applicability to Ireland as it does to Britain and the United States Also, Porter (1992) has questioned the applicability outside France of some of Foucault's ideas.

The majority of revisionist accounts considered here concentrate on developments in Britain and America, both of which were experiencing a period of intensive industrialization that coincided with the emergence of their respective juvenile justice systems. In contrast, Ireland remained a predominantly rural agrarian society with relatively little industrial development. Mac Donagh, has highlighted the dominance of farming in Irish society noting that by 1830 'the farming class consisted of some 700,000 families.....But still a more striking and significant contrast with modern Ireland was that in 1830-45 these farmers were quite outnumbered by a vast

army of labourers' (1989: 218). This account of Irish society is in stark contrast to the picture of densely populated urban industrialized landscapes painted by Carpenter and other reformists who campaigned for reformatory and industrial schools. Mac Donagh notes that:

> ....in 1841 even Dublin was well under one-quarter of a million in population, and Belfast only 75,000. Apart from the Lagan valley and a few new towns at the junctions or termini of the road and canal systems, the urban population was growing more slowly than the rural..... (1989: 231).

This picture of a rural agrarian society does not fit neatly with the social control account of the development juvenile justice systems. The development of a large archipelago of industrial and reformatory schools is not what you would expect to see in a country that was not industrialized to any significant degree.

T.J. Butler, the manager of Artane Industrial School writing in 1900 highlighted what he saw as an important difference between industrial schools in England and those in Ireland. He describes how industrial schools in Britain 'are filled with juvenile criminals taken chiefly from the large manufacturing towns....' (Butler, 1900: 6). He goes on to point out that in Ireland there is 'but a very small proportion of this class of children' (1900: 6) and that the majority of children in Irish industrial schools are there as a result of poverty not criminality.

Carroll-Burke convincingly argues that the Irish penal system developed along a different trajectory to Britain and that it needs to be viewed within its unique context. In *Colonial Discipline: The Making of the Irish Convict System* (2000) he highlights the inadequacy of both Garland's and Foucault's theoretical frameworks in explaining the development of the Irish system. As already noted, he argues that in Ireland specific disciplinary practices designed to normalise the individual developed half a century before they did elsewhere, something that Garland[55] fails to recognise. In this regard, he notes that:

[55] In *Punishment and Welfare* (1985) Garland concludes that these practices only developed after 1895, however, Carroll-Burke demonstrates that in the Irish case this occurred half a century earlier (1985).

> . . . The Irish case offers an important corrective to the explanatory frameworks of both Garland and Foucault . . . the state-of-the-art experiment known as the Irish Convict System was perhaps the first fully national, comprehensive, and practised system of individualised corrective incarceration in the world. (2000: 236)

He highlights the influence of Ireland's political status as a colony on the development of penal strategies. This status, he argues, lead to a degree of experimentation and classification with regard to penal policy that did not exist in Britain.

An important feature of the development of the reformatory and industrial schools in Ireland that differed from Britain was the fact that the procedure governing the certification of these institutions facilitated the colonisation of the system by Catholic religious organisations. Carroll-Burke notes in relation to the introduction of the reformatory schools legislation of 1858 that:

> Due to clerical demands for control, a government run institution was not legislated for; instead the new reformatory schools were to belong to differing creeds, with juveniles being sent to an institution under the exclusive management of persons of the same religion as that professed by their parents or guardians. (2000: 114).

Unlike Britain, reformatory and industrial schools in Ireland, although subject to state inspection, were not managed centrally but by the particular organisation that received certification. This meant that regimes differed depending on the particular organisation running the school. In this regard, the Reformatories and Industrial Schools Commission (1884) noted a greater degree of experimentation and classification with schools in Ireland as compared with England. Also, as will be seen, with regard to Ireland, there was resistance on the part of the managers of these institutions to what they regarded as state interference in the management of the schools.

Carroll-Burke (2000) also highlights the influence of disciplinary pedagogy and the politics of education on the development of penal policy between 1850 and 1870. He notes the importance of the Catholic Church and in particular the figure of Archbishop Paul Cullen in promoting its interests in the context of the development of Irish penal policy.

The influence of the Catholic Church in the development and subsequent colonisation of the reformatory and industrial school system has been highlighted by O'Sullivan (1999) who points to the existence of a range of Catholic orphan societies that preceded the introduction of state subsidised reformatory and industrial schools. The existence of these orphan societies, he argues, combined with the increasing prominence of the Catholic Church, provided the 'conditions of possibility' for the rapid expansion of the Irish reformatory and industrial schools system.

All of these factors serve to highlight significant differences in the way that these institutions emerged in Ireland as compared with other jurisdictions.

What is also significant is the failure to develop a 'criminological project' in Ireland. Unlike Britain and America where one can see the emergence of the science of criminology and the growth of state investment in this area, in Ireland such development did not occur. It was not until the late twentieth century that one can see the emergence of such a governmental project and then only in a piecemeal fashion.

Also, in relation to juvenile justice and child welfare the Irish state, unlike in Britain and America, remained virtually absent for most of the twentieth century, leaving the management of reformatory and industrial schools to predominantly Catholic religious organisations. This was also true of services within the community where, as we shall see, a vast web of religious-based organisations provided an array of services, mostly to the poor, and in the process constructed a less visible system of regulation through charitable organisations such as St Vincent De Paul and the Legion of Mary.

At a more general level, Harding and Ireland (1989) and some of those working within the 'governmentality' tradition (Rose and Miller, 1992) have questioned the over-reliance on the notion of the state to the exclusion of other factors in explaining the development of justice systems. In particular, in relation to the Irish context, it will be argued that one of the main factors influencing the development of the juvenile justice system was the part played by the Catholic religious organisations in the absence of the state. The majority of revisionist accounts of the development of juvenile justice systems tend to assume the notion of a centralized 'state apparatus' that does the 'controlling'. However, this is not applicable to Ireland where it is only in the twenty first century that the state appears to take centre stage in the area of juvenile justice. Considering the abovementioned limitations of revisionist explanations one needs to look beyond the available revisionist histories in order to achieve a greater degree of critical purchase in examining this field.

Beyond Revisionism

What is needed is some method of analysis that is sensitive to the numerous perspectives mentioned above and yet does not suffer from the weaknesses that have also been highlighted with regard to revisionist explanations. In this regard, Ignatieff (1985) argues that historical reality is more complex than the revisionists assumed. He states that revisionist arguments, including his own, are prone to three basic misconceptions: that the state has a monopoly over punitive regulation, that its moral authority and practical power are binding and that all social relations can be described in the language of subordination. As a result:

> The real challenge is to find a model of historical explanation which accounts for institutional change without imputing conspiratorial rationality to a ruling class, without reducing institutional development to a formless *ad hoc* adjustment to contingent crisis, and without assuming a hyper-idealist, all-triumphant humanitarian crusade. (Ignatieff, 1985: 77)

Garland and Young (1983) argue for a new approach to the analysis of penality. They criticise the British tradition of penology noting that it 'legitimates itself both by denying its status as ideology and more simply by fudging issues' (1983: 2). They

argue that radical criminology also failed to provide a framework that could effectively examine the penal realm, instead relapsing into an analysis of a general concept of control. They criticise the tendency of Rusche and Kirchheimer towards reductionism, but note that their texts represent one of the best arguments:

> . . . for taking penality as a discrete object of knowledge . . . Rusche and Kirchheimer's basic contention, that 'there is no such thing as punishment, but only concrete systems of punishment', indicates both a general predisposition towards analysis as well as implying the need for concrete, historically specific investigations into particular penal practices. (1983: 7)

Garland and Young, like Ignatieff (1985), attempted to point the way towards a new approach to the analysis of penality that overcomes the tendency towards grand theorisation and reductionism. Garland contends that:

> . . . instead of searching for a single explanatory principle, we need to grasp the facts of multiple causality, multiple effects, and multiple meaning. We need to realise that in the penal realm – as in all social experience – specific events or developments usually have a plurality of causes which interact to shape their final form . . . The aim of the analysis should be always to capture that variety of causes, effects, and meanings and trace their interaction, rather than to reduce them to a single currency. (1997a: 280)

Garland, adopting the concept of 'overdetermination', argues that in attempting to explain historical events one should refer to a variety of causes rather than seeking one explanatory cause. In this regard, he notes that sociologists and historians are often drawn to a single explanation and ignore the complexity of historical events in an effort to:

> . . . develop a more general social theory, to drive home a critical point or simply to domesticate the chaos of experience by reference to some clear explanatory principle. When this occurs, and when singular interpretations emerge, it is important that these be identified as specific contributions to be placed alongside others, rather than as comprehensive accounts that can stand by themselves. (1997a: 281)

Garland employed the concept of overdetermination' to remedy some of the perceived shortcomings of revisionist accounts. Later, Garland (2001), inspired by the work of Foucault, attempted to distance himself from the 'conventions of narrative history' in

employing the Foucauldian concept of the 'history of the present'. Using evidence from the United States and the United Kingdom he analyses what he regards as 'underlying patterns of structural transformation' that are characteristic of these modern societies. While not claiming that these patterns are universal he does claim that:

> . . . the institutional problems and policy responses that have taken shape in these two places are sufficiently alike to allow me to talk, some of the time, about structural tendencies that characterize them both. This also leads me to suppose that many of the underlying problems and insecurities are, or soon will be, familiar to other late modern societies, even if their cultural and political responses and social trajectories turn out to be quite different. (2001: 7)

Garland (2001) goes on to identify twelve distinct indices of change that represent the most significant patterns of change in the area of crime control over the previous thirty years. However, the applicability of Garland's theoretical framework to the Irish context has been challenged (Kilcommins et al.: 2004). It would seem that Garland himself is somewhat guilty of, if not reducing historical explanations to one single cause, reducing them to a specific group of causes. Kilcommins et al. suggest that the problem with Garland's methodology is that it:

> . . . accentuates similarities at the expense of differences; developments that do not fit into the framework set up by Garland might, as a result, be overlooked or ignored . . . The one obvious development that might be overlooked is restorative justice, which often takes the form of arranging mediation between the offender and the victim whilst avoiding the formalism and rigidity of conventional legal responses. (Kilcommins et al., 2004: 33)

As already noted the authors convincingly argue that the Irish situation needs to be taken on its own merits and warn against generalising from research based in the US or the UK.

What is needed is a more radical approach that does not attract the baggage associated with revisionist accounts, one that does not look for or presuppose underlying patterns or causes. In particular, a smaller scale analysis that allows one to be more sensitive to the specific complexity of the Irish situation. In relation to the governmental

technology that dominated juvenile justice in Ireland from the mid-nineteenth century, i.e. the reformatory and industrial schools, Harris and Webb note:

> . . . the industrial discipline demanded by both the factory system and domestic employers of girls in service was precisely what was inculcated in the delinquent or rootless young by the reformatory and industrial schools in the latter half of the nineteenth century. Yet at the same time the schools themselves were rooted in the Christian faith, and sought to offer love and trust. It would be too crude to see the latter simply as a smokescreen for the former: both existed, and it was the mix of the two that proved so powerful. (1987: 13)

The complex nature of youth justice endures to the present. Muncie and Hughes (2002) in their survey of the different modes of governance highlight the connection between the elusiveness of control and the constant re-casting of youth as simultaneously in need of control and protection. They note the fact that youth justice is a 'confusing and messy business' and that:

> The logics of welfare paternalism, justice and rights, responsibilization, remoralization, authoritarianism and managerialism will continue their 'dance' and new spaces for resistance, relational politics and governmental innovation will be opened up. (2002: 16)

Ignatieff (1983), commenting on the various histories of 'total institutions' from Goffman to Foucault and beyond, calls for a re-focusing of the lens through which we look at society and its institutions. This new focus, he argues, should go beyond 'a reflexive and unquestioned assumption about the centrality of the state in the making of social order' (1983: 173) and look at society as a more complex and contested space. Ignatieff's 'new social history' starts from the assumption that 'society is a densely woven fabric of permissions, prohibitions, obligations and rules, sustained and enforced at a thousand points rather than a neatly organized pyramid of power' (1983: 173). Although the 'governmentality' thesis and Ignatieff's have evolved along different lines they share a similar desire to capture the complexity of the 'present' without carrying the theoretical baggage of revisionist histories. It is for this reason that this thesis adopts a governmentality approach, building on the concept of the 'history of the present' as advocated by Foucault it seeks to map the emergence of juvenile justice in Ireland without attempting to fit events into one neat theoretical explanation or describe events from a 'presentist' perspective. By adopting a

governmentality approach one avoids the pitfalls of grand theorisation and reductionism associated with revisionist approaches allowing one to analyse the practices that are assembled to regulate the 'child' without assuming any prior theoretical position.

One of the criticisms of this view of 'history' is that like all other postmodernist theories it presupposes some kind of theory itself. Evans, in a criticism of Foucault, sums this up as follows:

> It is right and proper that postmodernist theorists and critics should force historians to rethink the categories and assumptions with which they work, and to justify the manner in which they practice their discipline. But postmodernism is itself one group of theories among many, and as contestable as all the rest. (Evans, 1997: 252)

However, Foucault's notion of 'governmentality' rejects grand theorisation in favour of a more instrumentalist or nominalist approach to history. A more accurate reading of Foucault's epistemological status is to be had from Rorty (1986), who notes that Foucault is interested in 'historical sense' only in so far as it can evade attempts to claim some metaphysical comfort from approximations to the ideal. In this way, history, or more specifically the history of the present, is a tool for studying contingency. With regard to history, Rorty contrasts Foucault's 'Nietzschean attitude' with the Hegelian and Cartesian attitude in terms of its non-reliance on a theory of knowledge:,

> In this epistemological sense, the present methodology is not grounded on any prior theory of knowledge. It does not want, in any Hegelian way, to substitute history for a theory of knowledge. It does not seek such 'metaphysical comfort. (1986: 47)

O'Malley et al. (1997) note that a governmentality approach has three definite advantages over most conventional sociological work. The first is that because they emphasise historical and empirical type questions they do not become embroiled in 'metatheoretical debates over such binary oppositions as state and civil society, and [have] rejected hermeneutic explanations that search for concealed mainsprings underlying and shaping forms of rule (such as class interests)' (1997: 503). The

second is that, because it does ask these kinds of practical questions concerning 'mundane practices', it steers clear of the highly abstract theorisation that is a feature of structural Marxism. The third advantage noted by them is that because 'it attends to the nexus between everyday practices and techniques, and more abstract technologies and broader political rationalities, the political insulation characteristic of many micro-focused frameworks (for example, ethnomethodology) is readily avoided' (1997: 503).

A further advantage of adopting a governmentality approach over critical theory in relation to the regulation of childhood has been noted by Ashenden (2004). Drawing on the work of Foucault, she argues that liberal and critical theories are too narrow in their analysis of the reach of liberal governance. They 'assume a distinction between public and private life, and naturalise familial relations and childhood dependence' (2004: 117). A governmentality approach, on the other hand, allows such assumptions to be interrogated and makes it possible to elaborate in greater detail the practices that shape the governance of child sexual abuse. This can also be applied to the juvenile justice field to illustrate the practices of governance specific to it without importing taken-for-granted political assumptions. In particular, a governmentality approach will be employed to unsettle the progressive rhetoric associated with the newly configured 'youth justice' space.

Governmentality

In his most explicit statement on 'governmentality' Foucault sees the notion of government as becoming more central in western societies from the sixteenth century onwards (1991a). His genealogy of the modern welfare state distinguishes three distinctive forms of rationality: 'reason of state', 'police' and 'liberalism'. What is distinctive about these forms of rationality is the centrality of knowledge and how that knowledge is to be employed to serve the ends of the state. This knowledge, which was in fact a science of state, took the form of statistics relating to among other things population and economy. The development of this form of knowledge led to the state being 'governed according to rational principles which are intrinsic to it and which cannot be derived solely from natural or divine laws' (Foucault, 1991(a): 97). The

first two of these forms of rationality, 'reason of state' and 'police', constructed the population as a field of enquiry, as a subject to be studied. Where the former concerned the development of new sciences and rationalities of state the latter was concerned with the utilisation of this knowledge to regulate the population in terms of generating peace and productivity and to ensure the health and welfare of the population in general. In this way the population emerged as an entity in itself to be studied and regulated.

However, 'liberalism', the third of these forms of rationality, emerged, as a consequence of the impossibility of the task of the rationality of 'police'. According to Foucault (1991a), it proved impossible to sustain this total control of populations and individuals. The emergence of the liberal art of government recognised the freedom of the individual to choose and also the fact that all the processes within the state are not controllable. It recognised that the economy has certain laws of its own, which need to be respected in order to generate maximum wealth and prosperity. This does not mean that this laissez-faire attitude to governing has replaced the previous forms of sovereignty and disciplinary society. It contains all the elements of 'reason of state', 'police' and liberalism. Foucault sees this in terms of a triangle of sovereignty – discipline – government, which has its primary target, the population, utilising various forms of rationality to govern. However, this view does not presuppose a unified notion of state but rather an ensemble of rationalities aimed at governing a population. He states that, 'what is really important for our modernity – that is, for our present – is not so much the étatisation of society, as the 'governmentalisation' of the state' (1991a: 103).

This concept of governmentality should not be viewed as a rationally implemented programme of government. Rather, it is an ensemble of power tactics and strategies that evolve within the contested space that is 'society'. It encompasses all conceivable movement within society, including government programmes, entrepreneurism, reformism, resistance etc., containing elements that are both intentional and unintentional. In this regard, Dean distinguishes two important aspects of government:

> Political rationality may be defined as a relatively systematic, explicit, discursive, problematisation and codification of the art or practice of government, as a way of rendering the objects of government in a language that makes them governable. By contrast the techniques of government are all the means, mechanisms, and specific instruments, which make possible forms of administration, power, and rule. (1994: 187)

Foucault's use of the concept of governmentality to analyse power breaks with traditional political philosophy and sociology and its notion of 'state'. The concept aims to investigate how various strategies and technologies for the 'conduct of conduct' are formed, rationalised and become programmes and practices. It is in this way that Foucault links the notions of power and the subject with government. Government is not viewed as a matter of domination or oppression. Rather, 'the exercise of power consists in guiding the possibility of conduct and putting in order the possible outcome. Basically, power is less a confrontation between two adversaries or the linking of one to the other than a question of government' (1982: 221). Governing in this sense may take the form of deliberate strategies to manage people's conduct as in government programmes or may take the form of less deliberate practices that evolve. According to Rose:

> . . . governing is a genuinely heterogeneous dimension of thought and action – something captured to some extent in the multitude of words available to describe and enact it: education, control, influence, regulation, administration, management, therapy, reformation, guidance. Nevertheless, it is possible to differentiate the exercise of power in the form of government from simple domination. (1999: 4)

From this point of view the centrality of the notion of 'state' shifts to multiple locations, dispersed into various sites and circuits of power.

Foucault moves away from the notion of power as a relationship between the individual and sovereignty when he calls for the 'King's head to be cut off' (1980: 121). In saying this, he sees the state as a site around which relations of power can locate themselves but notes that these relations of power also extend beyond the limits of the state. In this way, 'the state is superstructural in relation to a whole series of power networks that invest the body, sexuality, the family, kinship, knowledge, technology and so forth' (Foucault, 1980: 122).

It is within these networks of power that the subject is governed, that the individual's personal conduct is aligned to programmes of government and governmental objectives. Important in all this is the role of the expert and the place of expert knowledge. For Foucault, such knowledge provides a vocabulary through which the process of normalisation of the subject occurs. The concept of governmentality links the various programmes of government with the concept of the self-regulated individual. As such, Foucault's 'concern with governmentality is crucially linked to the process of what he calls normalisation, the establishment or institutionalisation of those disciplines, knowledge and technologies that lay the ground for the emergence of the autonomous, self-regulating subject' (Gane and Johnson, 1993: 9).

Governmentality after Foucault

Dean (1999) has noted that if studies of governmentality are to be classed as a discipline, it should not be a theory-based one. Although such studies represent a common concern with the nature of governing, no central paradigm of governmentality can be isolated. The nature of the work means that it is contested and makes it difficult to codify (Dean, 1999: 3). Indeed, as will be seen, there are theoretical differences amongst those who employ a governmentality approach.

Following on from Foucault there has been a large corpus of research in the field of governmentality, most notable of which are Burchell et al., 1991; Barry et al., 1996; Dean and Hindness, 1998; Rose, 1990, 1999; Miller and Rose, 2008; Smandych, 1999; Ong and Collier, 2005; Dean, 1999 and 2009; and numerous articles in *Economy and Society* and other journals. In particular, in relation to Ireland, Crowley and Kitchin (2008) have utilised a governmentality framework to look at the regulatory grid that emerged between 1922 and 1937 in relation to young females. Also, Skehill (1999a, 1999b, 2000 and 2004) has undertaken a 'history of the present' in relation to the development of social work in Ireland.

Rose et al. (2006) outline the key characteristics of 'governmentality' surveying the developments in this field throughout the English-speaking world. They note that by

'the early 1990's, the fertility of this approach seemed to render intelligible ways of thinking, acting and governing in a multitude of different sites, distant from the lofty concerns of political philosophy and analyses of machinations in high places given by political scientists and others' (2006: 94). The following are some areas in which this field developed that are relevant to the present study.

Statistics and Risk

The concept of governmentality has been used in various ways to problematise the notions of 'state', 'individual' and the relations between both concepts. Hacking in his essay 'Making up People' (1986) highlights the way individuals are constructed within society. Processes of categorisation in themselves create norms, which in turn define selfhood. Hacking argues that statistical knowledge is used to create different categories of disease, psychological disorder, etc. In relation to the process of statistical analysis he states that 'social change creates new categories of people, but the counting is no mere report of developments. It elaborately, often philanthropically, creates new ways for people to be.' (1986: 223). According to Hacking, 'the bureaucracy of statistics imposes not just by creating administrative rulings but by determining classifications within which people must think of themselves and of the actions that are open to them' (1991: 194). Statistics also provide a means by which problems relating to population can be conceptualised (Hacking, 1990).

In a similar fashion the statistical calculation of risk has created a new type of knowledge, which also influences the way individuals and populations see themselves and their environment. Ewald (1991) charts the development and influence of insurance on society. He notes that 'insurance is the practice of a type of rationality potentially capable of transforming the life of individuals and that of a population' (1991: 200). In this way, the technology of insurance creates the statistical individual who regulates their world based on the calculation of certain probable events or behaviours. Donzelot (1991) illustrates the way that the notion of social risk was employed to encourage workers to engage in healthcare programmes, thus spreading the burden of risk and responsibilising individuals. The calculation of risk opened up a whole new space for the state and the individual to occupy, and insurance in

particular, it is argued, provided the state with a strategy to insert some of its technologies of government. As Defert notes, 'Under the auspices of insurance, an immense opportunity opened up for the state to introduce itself as an intimate, regular presence in the existence of citizens' (1991: 232).

This notion of the calculation of risk and its influence on the way people are treated is of particular relevance for this particular piece of research. The language of risk is prevalent throughout every stratum of the youth justice system. In this sense, a new space of risk has been created. The term 'at risk' is used to identify the space that large sections of the population are deemed to inhabit. Castel (1991) argues that this form of reasoning has had the effect of replacing the subject with a combination of risk factors. These factors form a framework for the effective governing of certain sections of society. According to Castel, the whole dynamic of intervention is displaced with the specialist now cast in a subordinate role to the administrator. Thus, a policy of risk may develop according to its own logic, independent of the practitioner operating with the system.

The administration of risk may involve the reintegration of certain sections of society without recourse to segregation. This can be carried out by a corrective or therapeutic intervention, which seeks to assign certain pathways for 'at risk' individuals to follow. This could take the form of re-training, increased employability, reintegration. According to Castel, such 'interventionist technologies' allow individuals to be guided along certain circuits without recourse to custodial options, which have a more negative image. In this sense, some of these 'welfare-type' alternatives appear more socially acceptable and are often located within the individual's own community. The net effect, however, is a more effective method of governing 'risky' populations:

> . . . from a combination of characteristics whose collection depends on an epidemiological method suggests a rather different image of the social: that of a homogenized space composed of circuits laid out in advance, which individuals are invited or encouraged to tackle, depending on their abilities. (1991: 295)

Within the context of child protection and welfare social work, Parton (1998 and 1999) has highlighted the fact that new strategies have emerged that primarily focus

on the assessment and management of risk rather than on meeting the needs of children or responding to child abuse. He notes that 'these strategies dissolve the notion of a subject or a concrete individual and put in its place a concern with a combination of risk factors' (1999: 101). He takes this notion further when he argues that the actual knowledge used to govern children and families has changed from a 'narrative' description of children and their familial relationships to an 'informational' description (2008). This leads to the child's identity being constructed or deconstructed into a variety of lists and factors associated with, in particular, 'need' and 'risk' (2008: 263).

Ericson and Haggerty (1997 and 1999) highlight the way that information systems are employed to maintain the surveillance of young people especially with regard to schools. They view the police as having a central role in the exchange and flow of such information, which results in the classification of young people in terms of their status within a hierarchy of risk. These systems for the communication of risk allow the police and other 'partner' organisations 'to patrol the borders of population categories, deciding what the categories mean, who should inhabit them and who should be relegated to the margins or excluded altogether' (1999: 188).

Feely and Simon in their discussion of the 'new penology' (1992) and actuarial justice (1994) highlight the way that risk profiling has become a feature of modern criminal justice systems in the United States. They argue that the use of 'risk' technologies has resulted in the surveillance of target populations and the use of preventative justice for those deemed dangerous. Also, Pratt (1999) notes the way that the concept of dangerousness in relation to offenders has been reshaped and broadened in response to neo-liberal politics resulting in a managerial approach to offending populations.

Such techniques facilitate the management of populations judged to be normal and deviant. As noted, this has led to the introduction of computer technologies aimed at scanning environments for signs of deviance. Lianos and Douglas (2000) highlight the emergence of what they term Automated Socio-Technical Environments (ASTEs), which facilitate the constant monitoring of 'dangerousness' – which need not have any particular relationship to illegality – but can be better described as the constant

surveillance of normality. In a similar way, Rose (2000) characterises the manner in which circuits of inclusion and exclusion are managed. However, as we shall see later, he steers clear of arguing that this amounts to a 'total control' society.

While these technologies of risk management are a feature of modern societies, O'Malley (1992) argues that they are by no means a necessary feature. He accepts that 'social risk' and 'insurance technologies' have made such developments possible, however, he cautions against reading into these developments any evolutionary model of power. Rather he sees such risk-based technologies as being linked to broader political developments.

The 'Social'

The role of the expert and the use of expert knowledge to govern is central to Donzelot's *The Policing of Families* (1997). He problematises the concept of the modern welfare state and identifies a space between the state and the individual where governmental technologies operate. These technologies are operationalised by the numerous experts that occupy this space. They govern individuals by means of these technologies, which are targeted at the family. As such, power is not seen as being situated in the state but in the various sites spread out across the social network, in schools, courts, social work departments, government departments etc. Donzelot (1997) outlines a genealogy of the 'social', which illustrates the manner in which the individual is 'policed' through the family as a result of the alignment of various familial goals with the goals of good government. He does not posit the family as a necessary reality but as 'an uncertain form whose intelligibility can only come from studying the system of relations it maintains with the socio-political level' (1997: xxv). It is within this framework that he analyses the transformations that take place around the 'family' in terms of the development of medical, educational and other norms.

In a similar way, Parton (1991) analyses how families are policed within the context of the development of social work and child protection in Britain. He highlights the significance of the Children Act, 1908 in opening up a space for social workers and

other 'experts' to intervene in the lives of children. Their role was legitimised and their actions sanctioned by the Juvenile Court, which gave licence to explore the character and circumstances of the family and recommend appropriate intervention. The reach of the law was thus extended into the territory of welfare with the social worker occupying an ambiguous position between the family and the state.

The way that political power is exercised in advanced liberal democracies is analysed by Miller and Rose (1990), utilising Foucault's conception of governmentality. For them power is not exercised on individuals in a direct way in order to govern their conduct. Instead it is spread out through a network of alliances between different sites. They draw on the research of Bruno Latour (1987), borrowing the notion of 'action at a distance' to explain the way governmental goals are implemented through a series of interconnected relays. In this sense, the rationality of government is translated to individuals. They use the term 'technologies' to suggest:

> . . . a particular approach to the analysis of the activity of ruling, one which pays great attention to the actual mechanisms through which authorities of various sorts have sought to shape, normalise and instrumentalise the conduct, thought, decisions and aspirations of others in order to achieve the objectives they consider desirable. (Miller and Rose, 1990: 8)

Thus, they suggest that such an analysis should concentrate not on grand political theory but rather on the mechanisms employed to rule. These include methods of calculation, recording, professional languages, training etc., which go to make up the 'microphysics of power'. It is by these means, they argue, that the modern subject is produced 'in a way that is consonant with prevailing ethical systems and political mentalities' (Miller and Rose, 1990: 24).

Rose and Miller (1992) argue that the 'problem of state' as it appears in political debate and social theory is an overvalued concept and that to capture the manner in which political power is exercised in advanced liberal democracies we need to re-define our notion of government. Accordingly, power is not so much a matter of imposing the will of the state on individuals as it is of making citizens capable of bearing a kind of regulated freedom. In this sense, personal autonomy is a key factor in governing and not its antithesis.

Through an analysis of 'political rationalities' and 'governmental technologies', they argue, it is possible to understand the complex networks that connect individuals with organisations in liberal democracies. This argument is particularly apposite to the current study where the regulation of children in Ireland has been and continues to be characterised by a combination of state and voluntary interventions. Within Rose and Miller's problematics of government there emerges a nominalist conception of state where, 'the question is no longer one of accounting for government in terms of "the power of the state", but of ascertaining how, and to what extent, the state is articulated into the activity of government' (Rose and Miller, 1992: 177).

Ballard (1998), drawing on the work of Rose and Miller (1992), uses the governmentality framework to illustrate the way that the Australian Government dealt with the AIDS issue. This involved the notion of 'government at a distance' that allowed the Australian authorities to deal with the problem of governing the AIDS issue while at the same time distancing themselves from the activities of groups that they may not have wished to be aligned with. Similarly, Kinsman (1996) shows how 'responsibility' as a strategy of governance was used in the Canadian province of Ontario to regulate those living with AIDS and in the gay community.

Citizenship

This theme is taken further when Rose (1996) argues that the social is no longer the key target for strategies of government. It has been replaced by 'community' in its various manifestations, for example ethnic community, 'at risk' community, youth community or criminal community. In this way, the vocabulary of community is utilised by government and 'mobilized, deployed in novel programmes and techniques which operated through the instrumentalization of personal allegiances and active responsibilities: Government through Community' (Rose, 1996: 332). This is particularly evident in policies of empowerment where individuals are encouraged to self-regulate themselves and their communities.

According to Rose, individuals are re-coded within the framework of self-regulation. New spaces are opened up where individuals 'enterprise' themselves through re-training and maximising investment in themselves. They are encouraged to pursue active citizenship and act prudentially in order to guarantee prosperity. As such, the 'ethics of lifestyle' regulates individuals, including some and excluding others. Those who are excluded are deemed to have 'risky' lifestyles. In this way, a whole industry of risk management evolves in which certain interventions are justified for those classified as socially problematic, for example juvenile delinquents, drug addicts, single mothers and others deemed as failing to govern themselves. In this sense 'government at a distance' operates 'through instrumentalizing the self-governing properties of the subjects of government themselves in a whole variety of locales and localities' (Rose, 1996: 352).

Parton (1996) notes that in the field of child protection and welfare social work there has been a shift away from the notion of governing through the state and towards governing through individual choice. He characterises the political subject of neo-liberalism as 'an individual whose citizenship is active . . . where the emphasis is upon personal fulfilment and individual responsibility' (1996: 99). Rose (1996) also highlights a move away from governing through the 'social' to governing through the 'calculating choices of individuals'. In this regard, Rose (1996d) has argued that individuals are given the responsibility to manage their own risk.

The concept of the self-regulating individual as democratic citizen was explored by Cruickshank (1993). She considered how the self-esteem movement in California constitutes a form of governance and how this form of democratic governance permeated the family, schools and the workplace. Such forms of governance, she argues, belie a 'will to govern', not just on the part of the state but on the part of each individual citizen. This idea of self-rule as constitutive of the democratic state is explored within the context of self-esteem:

> . . . self-esteem is but one in a long line of technologies which avail the citizen of him or herself. Self-rule remains essential to democratic stability . . . the relationship of self to self is a political relationship, although one that is more dependent upon voluntarily applied technologies of selfhood than upon

> coercion, force, or social control engineered from above. (Cruickshank, 1993: 341)

She places self-esteem alongside 'positive thinking', empowerment and enterprise as similar technologies of governance whereby citizens can govern and be governed within the context of democracy. Elsewhere, she argues that such empowerment strategies linking citizenship and democracy are often marketed as solutions to social problems such as crime and poverty but are 'less a solution to political problems than a strategy of government' (Cruickshank, 1999: 1).

Numerous experts are on hand to advise and encourage individuals how best to explore their citizenship, to join up, become part of, volunteer, reform, reintegrate, empower themselves etc. Of course there is a darker side to all this. If you do not join up or fit in, you may be labelled a 'non-citizen'. Isin (2002) has outlined the role that these experts can play in defining citizenship:

> As the professions restructure themselves, incorporate newer occupations, and establish rights to the city, they constitute their strangers and outsiders by inventing new agonistic and alienating technologies of citizenship. Many groups have been classified, labelled, problematized and constituted as objects of sympathy, empathy, hatred, reformation, elimination, fear, danger, virtue, vice, regulation, incorporation, assimilation, segregation, and emulation by governing authorities with claims to expertise. (2002: 263)

Rose (1999) also illustrates the manner in which our freedom to participate in our citizenship can have similar coercive effects.

Another aspect is what Dean (1999) refers to as 'technologies of agency'. These technologies seek to maximise the potentialities of agency by having individuals enter into contracts to act in certain ways. This may be participation in back-to-work schemes, re-training, re-education etc. According to Dean, 'One of the key features of the logic of contractualization is that once its ethos of negotiated inter-subjectivity is accepted, then all criticism becomes simply a means to retooling and expanding the logic of contract' (1999: 168). He makes a similar point in his analysis of the 'active' government of unemployment in Australia (1999), which illustrates the promotion of the unemployed person as an 'active citizen' who receives a guarantee of provision

from the state in exchange for certain obligations on his part to actively work on himself in order to increase his employability.

Rose (1993 and 1996b) makes a similar point in his analysis of 'advanced liberalism' as a form of government. Contrasting this form of government with the welfare model, he argues that the latter seeks to govern through society whereas the former seeks to govern without society. The advanced liberal form of government governs:

> . . . through the regulated and accountable choices of autonomous agents – citizens, consumers, parents, employees, managers, investors . . . it is dependent upon the proliferation of little regulatory instances across a territory and their multiplication, at a 'molecular level', through the interstices of our experience. (1993: 298)

Rose and Novas (2005) highlight the emergence of a new type of citizenship called 'biological citizenship'. In this regard, a greater understanding of the scientific and technological advances relevant to the biological make-up of the individual has shaped the way that people are conceptualised by different authorities. This can take the form of scientific or quasi-scientific classifications of individuals and results in strategies for the regulation of individuals based on these biological categories. However, individuals also have the ability to 'make-themselves-up' using these biological languages and this in turn shapes the way they regulate themselves utilising certain biological categories to make ethical and political choices. Individuals can become the entrepreneurs of their own lifestyles. The emergence of these regulatory categories is particularly relevant to the strategies that professionals and experts adopt in relation to children, for example the diagnosis and treatment of Attention Deficit/Hyperactivity Disorder. They argue that the assessment and judgement of individuals using these biological measures is key to the government of the 'biological citizen'.

Rose (2000a) argues that a feature of 'advanced liberal' strategies of government is that citizens are conceived as being active in their own government. He highlights the 'games of citizenship' that are played out within advanced liberal forms of government. Community is viewed as intrinsically linked to the identity of the

individual citizen, a place where they establish their values and norms, and as such it provides the 'natural' co-ordinates of their being. He notes:

> Crucially, the citizen as member of a community is to be made responsible for his or her fate as well as for that of family, kin and neighbours. Here we see all the arguments for reviving the community: Etzioni-style communitarianism as political cure-all; Fukuyama-style community as trust relations for economic success; Himmelfarb/Gingrich-style community as neo-conservative politics of the remoralisation of America; multicultural-style demands for communities of identity to be recognised; and the emphasis on 'social capital' in the policies from those of the World Bank to those of the British proponents of the Third Way. (Rose, 2000a: 98)

Accordingly Rose argues that a new space has opened up, a 'micro-moral territory' in which the state is no longer the primary agent of government. Instead government is to be mapped within the co-ordinates of community and citizenship. However, as Rose notes, these developments are not to be viewed as a historical progression, from the 'social' to advanced liberalism to community, they are broad configurations of governmental strategies (1999: 12).

Governing Childhood

Rose (1990) has highlighted the manner in which individual subjectivity is managed and created through a process that has been referred to as the 'shaping of the private self'. Three aspects of this process have been identified. The first refers to the way that individuals' capacities have become the focus of public policies. Such capacities have entered the language of government in terms of employment, public hygiene, delinquency etc. 'The most obvious manifestation has been the complex apparatus targeted upon the child: the child welfare system, the school, the juvenile justice system and the education and surveillance of parents' (Rose, 1990: 2).

The second aspect is the way that organisations have come to populate the space between our private lives and issues of public policy. Inculcating various forms of discipline through techniques of management. Rose notes that 'Organisations have come to fill the space between the 'private' lives of citizens and the public concerns of rulers' (Rose, 1990: 2).

The third aspect is the growth of the expert and expertise, particularly in relation to subjectivity. Subjectivity has become a field contested by various expert groups, each claiming to wield 'social authority' over their area of the individual's psyche, for example social workers, counsellors and psychiatrists. According to Rose, 'the multiplying powers of these "engineers of the human soul" seem to manifest something profoundly novel in relation to authority over the self' (1990: 3). These experts, accordingly, claim a certain expertise in relation to the various aspects of the psyche. This can be manifested in terms of classification, prediction of future states of mind, diagnosis and the prescription of treatment. In this way:

> Not just psychologists – clinical, occupational, educational – but also social workers, personnel managers, probation officers, counsellors and therapists of different schools and allegiances have based their claim to social authority upon their capacity to understand the psychological aspects of the person and to act upon them, or to advise others what to do. (Rose, 1990: 3)

Parton (1991) has highlighted the role that social work plays in governing the child and the family. He views social work as occupying a space between the respectable and dangerous classes. In this regard, the social worker, as expert, takes on a mediating role between those who are actually or potentially excluded from society. Most importantly, however, he highlights the fact that 'the creation of subjects is essential to such mediation' (1991: 15).

In his discussion of early intervention and surveillance in late modern society, Parton notes the 'close interrelationship between the emergence of the modern notions of childhood, family and social work' (2006: 16). In particular, he highlights the way that 'preventative' strategies have been placed at the centre of public policy, resulting in strategies to prevent problems before they occur. This has resulted in greater use of systems of surveillance to manage and store information on children. Children are seen 'to have the potential for greater autonomy and self-creation as well as being the subject of increased regulation' (2006: 7). In this sense, childhood is identified as a key site in the struggle to remedy existing and future social problems. This is particularly relevant in the context of family support and early intervention initiatives.

A central element of Parton's study is the task of 'unpacking' what it means to safeguard and promote the welfare of the child.

Elsewhere, Rose (1985) argues that the development of psychology, psychiatry and the other 'psy' disciplines is linked more to the desire to categorise, manage and regulate the individual than any attempt to gaze into the workings of the mind. In particular, he notes that 'Individual psychology got off the ground when it combined norms derived from particular conceptions of population and its regulation with norms derived from a particular conception of numbers and their variation' (Rose, 1985: 230). Rose (1985 and 1990) and Donzelot (1997) identify the way that the various 'psy' experts participate in the regulation of children and their families. In this regard, the Juvenile Court is viewed as an important site for the governing of children in that it legitimates the participation of these experts involved in the regulation of children and their families.

In relation to childhood, Rose views psychology as having a key role in creating the norms by which children are regulated. It is psychology that has provided the main impetus for the development of what constitute the normal child, parent and family. It plays a major part in the construction of what constitutes normal and abnormal behaviour within the context of childhood and family life and the rationale for intervention. It has also played a major part in inventing technologies for the normalisation of young people. Rose notes that through:

> . . . the connections established between the norms of childhood and the images of family life, parenting, and motherhood, the psyche of the child and the subjectivity of the mother have been opened up for regulation in a new way . . . The soul of the young citizen has become the object of government through expertise. (1999: 131)

Psychological theories form the truths upon which parents and children are judged and constitute norms and new technologies by means of which childhood can be re-adjusted (Rose, 1990). They also provided the means by which, 'Childhood had been rendered thinkable by being made visualizable, inscribable and assessable' (Rose, 1988: 194). Ashenden (1996 and 2004) highlights the role played by such knowledge in governing childhood within the context of child sexual abuse. For her, 'the tasks of

governance are increasingly conducted through the normalising knowledge drawn from the human sciences' (2004: 117).

The role of expertise has also been highlighted in relation to the field of biological criminology (Rose, 2000b). Here attention is drawn to the role of genetic profiling of individuals 'at risk' of offending. Whereas eugenics looked at crime as one of the many signs of a degenerate population, contemporary biological criminology views the 'problem space' not as that of the general population but that of the individual. Rose sees such types of risk profiling as 'but one more element in the more general rise of public health strategies of crime control, focusing on the identification of, and preventative intervention upon, aggressive, risky or monstrous anti-citizens' (2000b: 24).

Conclusion

This chapter looked at the available literature relating to the juvenile justice field in Ireland. It concluded that there is no existing attempt to theoretically explain the development of juvenile justice in Ireland. While there have been a number of studies relating to particular aspects of the juvenile justice system, such as the industrial schools, Borstal and prison, they are broadly descriptive and do not attempt to interpret the development of juvenile justice from a purely theoretical perspective. In the absence of such literature attention is turned to theoretical explanations in other jurisdictions.

It was concluded that in the late 1960s the 'Whig' version of the historical development of juvenile justice began to be seriously challenged by more sceptical revisionist accounts. Following a review of these accounts it was concluded that while these accounts offer some valuable insights in trying to interpret developments in this field they are themselves limited and prone to grand theorisation. It is concluded that what is needed is a theoretical approach that can take account of the multi-layered complexity of the juvenile justice field without being saddled with the theoretical baggage associated with revisionist accounts. It is within this context that a governmentality framework is proposed.

Such a framework, although derived from the writings of Foucault is not strictly Foucauldian. Foucault did not elaborate a detailed theoretical approach for governmentality analysis. However, the subsequent 'governmentality literature', contains enough to form the basis of a coherent approach for the present purpose. This thesis specifically draws from the 'governmentality' literature that emerged post-Foucault and in particular the work of Mitchell Dean and Nikolas Rose. The concept of genealogy, which is operationalised as a 'history of the present', provides the theoretical underpinning of this study. The manner in which this methodology is to be employed is outlined in the next chapter, which provides a more detailed methodological position.

CHAPTER 4: METHODOLOGY

> *As far as I can see, all he [Foucault] has to offer are brilliant redescriptions of the past, supplemented by helpful hints on how to avoid being trapped by old histriographical assumptions. These hints consist largely in saying: do not look for progress or meaning in history; do not see the history of a given activity, of any segment of culture, as the development of rationality or of freedom; do not use any philosophical vocabulary to characterize the essence of such activity or the gaol it serves; do not assume that the way this activity is presently conducted gives any clue to the goals it served in the past. Such purely negative maxims neither spring from a theory nor constitute a method.*
>
> (Rorty, 1986: 47)

Selecting a Suitable Methodology

At first the difficulty of employing a governmentality approach to a subject such as juvenile justice in Ireland appears daunting. Where do we begin to look? A traditional historical approach might take the institution of the state and begin by chronologically detailing developments from a given point in time. However, as has already been highlighted, the development of a progressive historical model is not open to us here. The state as a unified concept may be a site for the accumulation of numerous strategies and rationalities employed to govern young people but it is not the sole instrument. The picture is far more amorphous, spread out over many sites.

There are other challenges in constructing a suitable methodology. The concept of the individual itself is a contested category. This project will also necessarily entail a survey of the various conceptualisations of 'self' that are employed in attempting to govern. What is the working definition of 'child' or 'young person'? It is within this context that Dean (1999) notes that the governmentality approach is 'less visible' than the traditional theoretical alternatives in this area. Dean's reference to Deleuze and Guattari's metaphor of the rhizome is particularly apt here as it illustrates the manner in which governance is dispersed among various nodes, 'starting in local centres, forming networks, and appearing in and connecting different sites' (1999: 3).

While it is not intended to follow Deleuze and Guattari's enterprise to its logical conclusion here, the present study attempts to capture the somewhat rhizomatic nature of governing young people. As already stated, this is not an attempt to trace the historical origins of the current juvenile justice system in Ireland. In this sense, the governmentality approach adopted here cannot depend on the theoretical supports that are available to traditional historical or sociological analyses. The subject matter to be studied takes on a more elusive quality.

The strategies, technologies and rationalities employed to govern young people are not simply imposed from on high in the form of governmental policies, although these do play their part. It is not simply a matter of implementing an ideal. These practices are rhizomatic in their nature, employing various means to communicate their messages both directly and indirectly and reinventing themselves in response to the ever-changing landscape. This approach views the present as an assemblage of various contesting forms rather than one general form, namely juvenile justice. Rose states:

> Rather than conceiving of our present as an epoch or state of affairs, it is more useful, in my view, to view the present as an array of problems and questions, an actuality acted upon and within by genealogical investigation, to be made amenable to action by the action of thought. As an array of questions of this type, the present calls for a style of investigation that is more modest than that adopted by sociological philosophers of history. (1999: 11)

Nevertheless, we need some definable criteria against which to measure our progress. Castel (1991) points out that a 'history of the present' must have a certain historical consistency. In other words, certain historical facts must be correct otherwise the whole enterprise becomes a work of fiction. An empirical enterprise is required but not empiricism in its traditional sense. 'It is an empiricism closer to that of Gilles Deleuze when he compares the work of his philosophy in part to a detective novel' (Rose, 1999: 12). Deleuze is here following in the footsteps of Nietzsche in postulating 'an untimely philosophy' – that which seeks to 'overcome the alternatives temporal/non-temporal, historical/eternal and particular/universal' (Deleuze, 1994: xxi). This hints at a more localised form of investigation, one that is more firmly rooted in the here and now and hence more modest in its aims. This is what Rose

achieves in *Powers of Freedom*, where he utilises a governmentality approach to investigate 'the practice of government and the problematics of freedom' (1999: 12). However, he also points out that the book is 'not intended as an unfolding exposition of a theory of governmentality or a history of government' (1999: 12). Each chapter in his book is regarded as a separate map relating to a set of problems or issues. This study adopts a similar methodological approach.

Defining the parameters

It is one thing to say that the methodology employed here is not concerned with the search for origins or underlying causes but in practical terms what does this mean? What are the implications for the present study? In simple terms it means that the process engaged in here is not historical in the traditional sense. It is not an attempt to look at the past and discover there the origins of the present. This methodology rejects such a reductive process. In this regard, the truth is not 'out there' in any universal sense. It is not some code waiting to be unlocked. However, does this not leave us looking over a precipice with no clear view of solid ground? If the history of the present is not a history or sociology what is it? Dean attempts to answer this question by locating it:

> . . . in the space marked out between and in contradistinction to two competing 'regimes of truth': on the one hand, a social theory and sociology that seeks to sacrifice historical intelligibility in favour of models, types and method; on the other, a conventional historiography that seeks to abandon concepts in the quest for exhaustive reconstruction of the past, for telling it like it was. (1994: 21)

The space that is being studied here is not stable in the sense of a permanently definable 'historical reality' and is essentially tied up within a power/knowledge matrix, as outlined by Foucault. In introducing the concept in this manner Foucault destabilises traditional social ontology. The formerly stable social reality is replaced by a far more contested 'reality'. It is in this sense that the notion of historical truth is replaced by his notion of 'regime of truth' and it is these 'regimes of truth' that form the subject matter to be studied.

In terms of a methodological approach this represents a more sceptical view of reality. As Gordon (1980) notes, power in this sense is located beyond the traditional framework of good and evil. In political terms it is not a question of whether power is wielded as an instrument of social cohesion or repression. Foucault's conceptualisation is more politically neutral than this. He:

> . . . introduces the double methodological principle of neutrality or scepticism of an analysis of power – or rather, an analysis in terms of power, which bases itself neither on moral philosophy or social ontology. It is through this dual precaution of method that Foucault's notion of power/knowledge becomes apparent. (Gordon, 1980: 235)

In this regard, this study takes a nominalist approach. The subject matter to be studied is not a static institutional framework but a series of complex assemblages of power relations. Gordon notes:

> The task is not that of fixing an ontologically primitive, definitively 'real' stratum of historical reality, but in tracing the mobile systems of relationships and syntheses which provide the conditions of possibility for the formation of certain orders and levels of objects and of forms of knowledge of such objects. (1980: 236)

This study intends to examine the mobile systems that assemble to form 'regimes of truth' in their various guises. These complex assemblages take different forms and encompass numerous rationalities, identities and technologies of government. However, they cannot be identified with any one institutional notion of 'state'. Rather, they should be viewed as a series of problems of government or more specifically problems concerning the government of young people both by others and by themselves.

Mapping the 'Subject'

To be methodologically consistent and having positioned the state within a problematics of government it is now necessary to reposition the subject within the problematics of 'subjectivation'. As has already been noted, and as part of the method

employed here, any notion of a universal concept of 'subject' or 'self' has been rejected. What then are we left with as a subject matter to study?

It is intended here to adopt a different approach to the subject. The intention is to employ a notion that is more contingent than necessary in any ontological sense. In order to understand this properly it is useful to employ Deleuze's concept of the 'fold'. Deleuze utilises this concept of fold to explain the method that Foucault employs to study the subject. As such, he portrays Foucault as being engaged in a history not of the 'self' but of how the 'self' is thought of. According to Deleuze, Foucault, 'does not write a history of subjects but of processes of subjectivation, governed by the foldings operating in the ontological as much as the social field' (1988: 116).

While the current study is not strictly Foucauldian or Deleuzian in its approach the concept of the 'fold' or 'folding' as enunciated by Deleuze is helpful to illustrate its methodological approach. As already noted this represents a form of empiricism but not in the traditional sense. It emphasises the contingency rather than the necessity of concepts such as 'state' and 'self'. Its co-ordinates are not linked into any fixed or universal account of reality. It grounds itself in the individual problems rather than attempting to construct universal truths. As such, Deleuzian empiricism:

> . . . is the creation of concepts in response to individual problems but individual problems are a take on the whole and of the virtual. To experiment is to introduce thoughts and acts that change an individual perspective on the whole and thereby, to change it for all individuals, with an eye for the expression of hidden intensities and the destruction of illusions of fixity. (Williams, 2003: 30)

It is in this sense that the present study is an empirical one. It seeks to study the various 'foldings' that emerge within given 'regimes of truth'. These can be represented in different ways: as models of personality, strategies of governance, concepts of self, etc. It does not start with any preconceived notion of self-identity. The question still remains though, how do we undertake such a history of the self within the current framework of genealogy and 'history of the present'?

Rose suggests that such a 'history of the present' requires that we operate with a 'weak' notion of the individual such as the one suggested by Deleuze in the above description of the process of folding (Rose, 1996a: 142). Such a history would not be an account of how the juvenile justice system has evolved into the apparently more enlightened system that we have today. The process would not involve the discovery of the 'true nature' of the young person – within such a genealogical approach there is no true nature 'out there' in reality waiting to be discovered. Rather, there is a set of mobile contingencies that go to make up the various regimes of truth that exist. Within these regimes we seek to govern ourselves and others using a notion of the self that has been constructed within a given set of discourses. Such notions of self are tied up with the various practices that constitute the way we live and hence are contingent on them. According to Rose:

> To write such a genealogy is to seek to unpick the ways in which the 'self' that functions as a regulatory ideal in so many aspects of our contemporary forms of life – not merely in our passional relations with one another, but in our projects of life planning, our ways of managing industrial and other organisations, our systems of consumption . . . put together somewhat contingently and haphazardly at the intersection of a range of distinct histories – of forms of thought, techniques of regulation, problems of organisation and so forth. (1996a: 129)

In attempting to deploy such a genealogical approach any preconceived static concept of 'being' is abandoned. As such, when one considers the history of how young people have been treated within the criminal justice system one does not conduct a narrative of the 'young person' throughout history. This category of 'being' known as a 'young person' is subject to change throughout history. It is in this sense that Rose employs Deleuze's concept of the 'fold in the soul' (Rose, 1996a: 141). As such, to think is to fold and this process of folding in relation to young people is one of the main concerns of this study. This approach presupposes a view of being which does not have any essential interiority but is merely 'an infolding of an exterior' (Rose, 1996a: 142). It recognises the fragility of the concept of personality employed in the present and seeks to tease out its various manifestations within the framework of a genealogy of subjectification. In methodological terms, Rose contrasts this approach, which he labels a 'spatialization of being' with the 'narrativization of being',

undertaken by sociologists and philosophers of modernity and postmodernity (Rose, 1996a: 143). Being is thus rendered visible by localised studies relating to the more mundane practices and routines that individuals engage in. In the present context, this relates to the practices within the criminal justice system that render young people governable, practices of supervision, identification, categorisation, codification etc.

Problematisation and History

Such a history is not a conventional one, it seeks out problems within the status quo. It endeavours to unsettle the 'giveness' of the present rather than produce total explanations. However, where does one start this 'history of the present'? This is one of the issues that Castel raises in relation to such a project. He states that to 'speak of a problematization means that the formation under analysis had a beginning . . . A problematization emerges at a given moment. How can this be dated?' (1994: 239). The answer to this question involves turning history on its head. The primary concern of a 'history of the present' is not to identify origins but to identify the problem. The starting point is the identification of the problem under investigation and this is located in the present not some point in the past. It does not matter whether we definitively identify the origin of the problem at one particular point in history. We can select a particular stage in history to highlight certain practices of government but we do not wish to attribute any causal connection between this date and the present. So, in terms of the juvenile justice system in Ireland, a date can be selected which signifies the first attempt to govern young people within a discernable judicial system. This may provide an insight into present practices of government, however, this is as far as it goes. We are not concerned with attributing any causal effect to this date or reconstructing such regimes as they existed before. As Castel notes in relation to Foucault's consideration of technologies of confession in the seventeenth century, 'it offers an understanding of the technologies of confession as important components of the exercise of power today' (1994: 241). It follows, that in utilising a genealogical approach no attempt is made to interpret such historical developments as an evolutionary progression towards an endpoint. A development such as the Kennedy Report is viewed as a significant event in the development of the particular kind of

juvenile justice practices that exist today rather than a necessary phase in the evolutionary development of juvenile justice.

So the starting point for this study is the identification of the problem in the present. It consists of calling into question how we govern young people within the present juvenile justice system in Ireland. As Dean notes:

> The key starting point of an analytics of government is the identification and examination of specific situations in which the activity of governing comes to be called into question, the moments and the situations in which government becomes a problem. This action of calling into question some aspect of the 'conduct of conduct' is generally referred to as a problematization. (1994: 27)

Castel also alerts us to a number of dangers associated with problematisation. One of these is the danger of projecting present concerns on to the past, what he terms 'presentism' (1994: 239). This danger arises if one is trying to interpret the present in terms of the past. However, it is not the purpose of the 'history of the present' to interpret the present as originating in the past. As already noted, this thesis is not concerned with establishing any causal link with the past. The past can prove instructive if it contains within it similar types of assemblages or 'regimes of truth' that facilitated government but these merely serve to throw the present into some kind of relief, not to provide a definitive interpretation of it. Such an approach, 'Refuses to submit the critical impulse to high and critical modernist narratives and sets itself against what might be called the colonisation of historical knowledge by these synthetic philosophies of history' (Dean, 1994: 4). It utilises the kind of historical 'diagnosis' employed by Rose (1999).

There is a danger here in trying to find some kind of accommodation between a 'history of the present' and a traditional historical approach. Such an accommodation is not feasible. Both projects are mutually exclusive: one is concerned with the identification of a definitive causal process linking the past with the present and the other seeks to destabilise the present without presupposing any such causal framework. As Dean notes, one must observe ' perpetual vigilance and scepticism toward the claims of various philosophies to prescribe the meaning of history' (1994: 4).

Nevertheless, Castel is correct when he cautions against modifying the 'historical data' upon which one bases one's enquiry in any way:

> It is not a right to make historical errors, which here can be understood as statements about history that a historian could refute. So this rereading of history prohibits even the slightest modification of the data generated by historical technique, not because these data are immutable but because altering them belongs exclusively to the procedures of the historian's craft. (1994: 252)

There is an onus on one to maintain an accurate record of events as they happened, i.e. that an event happened when it is stated it happened. Also, to record data accurately as it occurs in documentary or other mediums. In this regard, a basic rigour applies. But this is where it ends. There is no obligation to maintain any pre-determined historical consistency in relation to the interpretation of these events.

Castel (1994) also highlights the issue of selecting one's historical materials. How does one decide what materials to include? Within the present context, it is not necessary to provide a total historical picture but an arbitrary selection must be avoided. As such, it is necessary that the materials sampled are truly representative of those available. This is especially relevant given the wide range of discourses pertinent to the Irish juvenile justice system. These include a broad range of archival materials from state, religious, voluntary and community sources and historical accounts, appraisals etc. Also included in this is a review of the range of theoretical explanations that influence developments within the juvenile justice system.

As has already been outlined, the traditional historical approach and the 'history of the present' take alternative paths. The former attempts to capture an underlying reality that is somehow 'out there' waiting to be interpreted, the 'historical truth'. The latter does not try to capture the essence of this underlying truth. O'Brien has noted about Foucault's approach to history, that it 'stands as an alternative approach in the new history of culture. Travelling by a different route, Foucault questioned the very principle implicit in all social history: that society itself is the reality to be studied' (1989: 27). As such, rather that pursuing the holy grail of historical truth the 'history of the present' investigates 'regimes of truth'. To use Deleuze's terminology, 'to think

is to fold', and what Foucault sought to do was to chart these foldings. The present study, although not strictly Foucauldian in its approach, shares this aim. This requires one to pull back from grand theorisation and locate one's investigations within the context of a more localised methodology.

Questioning the Present

Dean (1999) coins the phrase 'analytics of government' to describe this type of study. It involves an approach to the present that differs from other theoretical approaches in that it seeks to capture the present and the way it comes into being not as part of an historical process that is subject to underlying laws. It does not attempt to place the practices of government within preconceived idealised frameworks but:

> . . . grants to these regimes of practices a reality, a density and a logic of their own and hopes to avoid any premature reduction of them to an order or level of existence that is more fundamental or real, whether that be at the level of institutions, of structures, of ideologies and so on, or even any one of the particular programmes that seeks to invest them with certain purposes and orient them toward specific goals. (Dean, 1999: 22)

The starting point for such a study is the question 'how' do we govern others and ourselves? How are certain programmes, strategies and rationalities employed in such a process of government? These elements are given a concrete reality and the focus is on how they are assembled into definite locales of government. We can look at specific aspects of the juvenile justice system with a view to understanding how that particular assemblage is formed. Dean notes that such questions:

> . . . lead us to problems of the techniques and practices, rationalities and forms of knowledge, and identities and agencies by which governing operates. Another way of putting this is to say that to ask 'how' questions of government is to analyse government in terms of its 'regimes of practices'. (1999: 29)

It is in this sense that a governmentality approach starts by looking to question the present by asking questions of its practices, techniques and the very language employed to govern. From a methodological point of view, the raw data to be studied amounts to documents that capture the various practices, techniques and statements.

Such material consists of policy documents relating to the government of juveniles, and strategy and discussion documents emanating from government, agencies and other interest groups. Documents outlining how such policies are to be implemented, guidelines for the implementation of these policies, and journals and manuals that refer to the identification, management, supervision, examination, categorisation, punishment etc. of the target population. As such, the primary sources for this study amount to secondary sources emanating from government, politicians, agencies, interest groups, experts and individuals.

Examining Assemblages of Government

We have discussed already the problematics of government and the way that government is viewed as a series of problems. However, if the governmentality approach is a more concrete approach in that it does not engage in grand theorisation but concentrates on more localised research, what is the end-product? What is there to show at the end of this process? In essence, what is an assemblage of government? It is useful here to return to Rose's contrast between two ways of looking at the present in terms of either a narrativisation or spatialisation of being (Rose, 1996a). Speaking within the context of the relationship between identity, genealogy and history, Rose notes:

> One of the characteristics of our current regime of the self is a way of reflecting upon and acting upon all these diverse domains, practices, and assemblages in terms of a unified 'personality' to be revealed, discovered or worked on in each: a machination of the self that today forms the horizon of the thinkable. But this machination needs to be recognized as a specific regime of subjectification of recent origin – and the aim of a genealogy of subjectification is to unsettle it sufficiently to reveal the fragility of the lines that have made it up and hold it in place. (Rose, 1996a: 144)

Rose here places the notion of human identity within the web of other assemblages of various forms such as knowledge, expertise, techniques, capacities and practices. In this sense, identity is itself an assemblage of all these elements. He suggests that any investigation of subjectification should take place at the intersection between those practices for the government of others and the government of the self. It is within such a methodological framework that this study places itself. The youth justice system is

viewed as a web of interlocking assemblages. As such the subject matter being studied should not be viewed as bounded or unified in any strict sense. It is made up of a number of lines intersecting each other converging on certain problems. In a similar fashion, Deleuze, commenting on Foucault's philosophy, uses the term 'dispositif' to describe the 'social apparatuses' that he examined. In answering the question 'What is a dispositif?' he says:

> . . . a tangle, a multilinear ensemble. It is composed of lines, each having a different nature . . . Untangling these lines within a social apparatus is, in each case, like drawing up a map, doing cartography, surveying unknown landscapes, and this is what he [Foucault] calls 'working on the ground'. One has to position oneself on these lines themselves, these lines which do not just make up the social apparatus but run through it and pull at it, from North to South, from East to West, or diagonally. (1992: 159)

The task here is one of mapping these various lines as they intersect and converge on different problems of government. This is achieved by attending to the various practices, techniques and forms of identity that operate to govern within the juvenile justice system. Following Deleuze's notion of 'dispositif', Dean delineates four lines for the analysis of such regimes of practices: the examination of fields of visibility of government; a concern for the technical aspect of government; approaching government as a rational and thoughtful activity; and attention to the formation of identities (1999: 31).

For the present study, this means posing the following types of questions:

- How is the juvenile justice system made visible? This refers to the visible ways that the system seeks to govern.

- How do the various forms of knowledge or rationalities that are employed to govern within this regime affect the practices of government? Such rationalities include restorative ideals, rehabilitative ideals, community mediation, community policing, diversion, probation, youth work and detention.

- How and by what techniques does the system seek to govern? This concerns the technical aspects of the system, including counting, identification, targeting, practical form-filling, categorising, management procedures, the technical language employed, the vocabularies utilised to construct the subjects of government, forms of expertise etc.

- How are young people's identities constructed within the 'youth justice' system? The effects that notions such as citizenship, employability, entrepreneurship, vulnerability etc. have in constructing the identity of the 'young person' within the context of the juvenile justice system, resulting in identities such as the 'at risk' child or the delinquent.

The process of asking such questions is aimed at charting the lines of government that exist within the juvenile justice system. These lines of government exist within the practical procedures that people working within the system use to record decisions. The different types of knowledge they employ to make their judgements. The programmes they adopt to achieve their aims. As such, information relating to how we govern is to be found not only in political rationalities but also in the practical nuts and bolts of the system itself. As Rose and Miller note:

> . . . making people write things down, and the nature of the things people are made to write down, is itself a kind of government of them, urging them to think about and note certain aspects of their activities according to their norms . . . Managers rather than consultants become the powerful actors in this network, and power flows from the cabinet office to the operating theatre via a multitude of calculative and managerial locales, rather than in the other direction. (1992: 200)

Therefore, in looking at the youth justice system in Ireland this thesis is seeking to map assemblages by charting the various criss-crossing lines of government. These lines are the practices of governing that manifest themselves. Hunter (1996) illustrates the way that the 'school' was assembled from various practices of church and state. This account opposes the widely held view that the school as an institution progressively evolved as an instrument of the self-realisation of the democratic community:

> The school system emerged through a piecemeal series of exchanges between a State that conceived of the school as a bureaucratic instrument for the social governance of citizens, and a Christian pastorate that saw it as a means for the spiritual disciplining of souls. These exchanges, whose end is still not in sight, occurred in the form of a whole series of improvisations at the level of architecture, pedagogy, administration. (Hunter, 1996: 164)

Similarly, it is argued here that the juvenile justice system in Ireland emerged in a piecemeal fashion, the result of various contingent practices of government, not as the result of an evolutionary democratic process reflecting the ideals and principles of more enlightened programmes of government.

The Present

From a methodological point of view the present is studied utilising a governmentality framework along the four lines outlined by Dean (1999: 23). In practical terms, this methodological tool will be applied in order to: examine the fields of visibility of governing within the juvenile justice system; elaborate the technical aspects of governing; analyse the rationalities that shape the activity of governing, the 'epistemes' of government; and examine the forms of identity employed to govern.

Fields of Visibility

According to Dean, governmentality studies 'emphasize the visual and spatial dimensions of government that seek to draw attention to these *diagrams* of power and authority (Bentham's Panopticon being only the most famous)' (1999: 30). Juvenile justice in Ireland is dispersed among numerous visible fields. The *Report on the Youth Justice Review* (2006) lists a number of sites where it is visible. It notes that the Children Act, 2001 aims to provide a statutory setting for youth justice by adopting 'a twin-track approach – child welfare and youth justice' (2006: 17). A number of governmental spaces become visible under this legislative framework. These include: diversion, restorative initiatives, community sanctions, crime prevention initiatives, parental sanctions, conferencing, cautioning, supervision, custodial detention etc. The Children Court provides a formal setting where the government of children becomes

visible through the interaction of the law with various experts, children and their families. Beyond these statutory mechanisms of government, juvenile justice is visible in numerous other initiatives that seek to manage 'risk'.

Rationalities

Attention is then turned to 'the forms of knowledge that arise from and inform the activity of governing' (Dean, 1999: 31). Elsewhere, Dean refers to them as 'rituals of truth that authorize and are authorized by governmental practices and agents' (1995: 560). In this regard, the *Report on the Youth Justice Review* notes that the Children Act, 2001 is the 'primary statutory framework for the youth justice system' and the philosophy underpinning this framework is portrayed as a 'twin-track, child welfare and justice approach' (2006: 5). The Report authorises certain governmental practices under the heading of this 'twin-track' approach. Some of these are existing practices and some are new innovations legislated for under the Children Act, 2001. The practices themselves claim authority from different forms of knowledge that have their roots in the social sciences; the psychological sciences; public, private and international law; political philosophy etc.

There is a wide array of practices listed in the 2006 Report and each is informed by a kind of knowledge or rationality. These forms of knowledge betray certain governmental ideals and types of governmental rationality such as welfare, liberal and neo-liberal forms of government. They also generate their own forms of knowledge that allow one to talk about such things as: strategies for joined-up government; targeting 'at risk' populations, criteria for risk assessment, high and low risk behaviour and anti-social behaviour; and generate criteria for the evaluation of various initiatives to deal with the 'troubled' and 'troublesome'. This knowledge authorises practitioners to participate in the government of children. It is to be found in the policy documents, reports, training manuals, handbooks, plans and evaluations of the numerous programmes and initiatives for the government of children.

Technical Aspects of Government

Having examined the governmental rationalities, attention turns to the technical aspects of government or the technical means by which government is achieved. The 'techniques and instruments of government, the arts, skills, and means by which rule is accomplished' (Dean, 1995: 360). This study will look at the forms and reporting formats utilised by those 'experts' who administer the juvenile justice system in a range of regulatory sites. This allows one to elaborate the technical aspects of the system and trace the diagrams of power that enable the system to function as it does. According to Rose and Miller:

> Government is a domain of strategies, techniques and procedures through which different forces seek to render programmes operable, and by means of which a multitude of connections are established between aspirations of authorities and the activities of individuals and groups. These heterogeneous mechanisms we term *technologies of government*. (1992: 183)

Forms of Identity

Forms of identity are not fixed but malleable within the space of government. Dean notes that this:

> . . . dimension of regimes of practices is concerned with the forms of individual and collective identity through which governing operates and which specific practices and programmes of government try to form. We might ask in relation to this final axis: what forms of person, self and identity are presupposed by different practices of government and what sort of transformations do these practices seek? (1999: 32)

Within the space known as 'youth justice' young people are viewed as having certain identities and capabilities. For example, the identity of the 'at risk' young person is constituted from the practices of government within the youth justice space. In being ascribed the identity 'at risk' the individual is identified as being 'vulnerable'. Young people are viewed as being at risk of offending and also at personal or moral risk from numerous sources, including alcohol, drugs and health and psychological dangers. This identification of young people as vulnerable gives licence to various agents of government to intervene in their lives. Thus the construction of young people's

identity is intrinsically linked to the practices of government. In this regard, young people are viewed as incomplete citizens who are capable of reformation, education, re-education, mentoring, reintegration etc.

Each strategy of government can be tailored according to the status or identity of the child. Children are viewed as high or low risk depending on the degree to which they are in need of protection or support or the degree to which 'society' is in need of protection. Their identity is constructed in the light of various risk factors. By utilising these risk factors different identities are constructed within the context of family, peer group, educational status, psychological development, social setting etc. Such identities are then matched up with the numerous programmes and initiatives on offer. A child may need mentoring, increased self-esteem, psychological help, training, skills to increase their employability, a 'head-start' etc. Youth justice, as outlined in the *Report on the Youth Justice Review* (2006), emerges as a space for the government of individuals utilising various techniques and forms of identity. The young person is viewed as having certain rights, as being part of a family unit, as vulnerable, as in need of support, as 'at risk', as 'troubled' and 'troublesome'. Identities are constructed within the public and private spaces of government. In this way, the process of government is inextricably linked to the construction of the individual's identity and by studying the various forms of identity one is able to get a clearer understanding of juvenile justice itself. As Rose notes:

> If we are to gain critical purchase upon these contemporary strategies for the conduct of conduct, it will be, in part, through historical investigations which can unsettle and de-valorize the regime of subjectification to which they are inextricably linked. (1996: 147)

Limitations of Governmentality Analysis

Stenson (1998 and 1999) is critical of governmentality for failing to engage fully with critique. He argues that we need to go beyond histories of the present in order to save governmentality from becoming bogged down in the purely intellectual consideration of 'mentalities of rule'. He views governmentality as unnecessarily distancing critique

from liberalism and calls for governmentality to embrace liberalism and as such become more normatively committed. According to Stenson:

> Governmentality theorists have a major role to play in identifying the rich complexity and hybridity of modes of governance and how they may be balanced . . . But this requires us to expand our methodological range beyond the history of the present and focus on the mentalities or rationalities of rule. It is necessary to overcome the boundaries between the study of the intellectual dimensions of these phenomena and the study of the messiness of human practices. (1998: 350)

In response, Stenson (2008) develops what he regards as a 'realist' version of governmentality that 'emphasises the role of politics, local culture and cognitive dispositions – in structuring governance' (2008: http://www.socwork.net). He criticises governmentality analyses for their over-reliance on 'archives and policy texts' and their emphasis on 'government from above' rather than 'government from below'. However, as Larner (2008) correctly argues, Stenson's version of governmentality struggles to detach itself 'both conceptually and empirically from a set of naturalised assumptions about the terrain he is analysing' (2008: http://www.socwork.net). What we end up with is a more traditional sociological account of governance rather than a governmentality analysis that seeks to unsettle or 'denaturalise' mentalities of government.

A similar line is taken by O'Malley et al., who see themselves as engaging in a form of 'critical governmentality theory' that aims to embrace critique within the governmentality framework (1997). Like Stenson, they argue that governmentality avoids the messiness of politics only to 'generate ideal typifications' that fail to account for contestation, agency and social diversity (O'Malley et al., 1997: 504). They recommend that governmentality 'should be (re)connected with critical theorizing. Our argument is aimed neither at preserving nor at rejecting governmentality work, but at deflecting it from a course that may consign it to political irrelevance' (1997: 514). A similar point is made by O'Malley (1998) when he criticises previous governmentality literature for failing to address adequately the question of resistance.

In a similar vein, Garland (1997) is critical of the failure of governmentality analysis to account for agency, values and meanings in their context. He views 'governmentality-type' analyses as concentrating on broader governmental strategies and having 'little to say about the question of how particular personal lifestyles came to be adopted by particular social groups, or the psychological processes involved in embracing an individual self-conception' (1997: 198). In order to overcome these limitations, Garland (1997 and 1997a) proposes a blend of governmentality and sociological analysis. He also attempts to adapt Foucault's genealogical method to his sociological analysis of crime control (2001). However, as Voruz (2005) notes, Foucault's key contribution to this field of analysis lies in his contention that the subject is complicit in his own 'subjection' and in criticising Garland she argues that 'by erecting objectivity as a critical virtue that Garland forecloses the possibility of questioning subjectivity' (2005: 169). Also, Matthews (2001) correctly argues that Garland is 'drawn, as Foucault would have predicted, towards quasi-teleology' (2001: 219). This results in him participating in a somewhat tautological justification of the present.

However, it is not necessary to wed governmentality with critique in order to preserve its political relevance. As Rose illustrates, governmentality is concerned with opening up the space of government not in an idealised form but in a way that is contestable. He notes:

> These links between the political apparatus and the activities of governing are less stable and durable than often suggested: they are tenuous, reversible, heterogeneous, dependent upon a range of 'relatively autonomous' knowledges, knowledgeable persons and technical possibilities. (Rose, 1999: 18)

Rose illustrates the various contestable spaces that exist within the context of governing through freedom. This is achieved without recourse to critique and within a governmentality framework. It is within such a framework that this thesis seeks to operate. This entails a definite break with critique. As Rose (1987, 1999) has shown, it is possible to make such a break without rendering governmental programmes as univocal or uncontested:

> Critique has certain advantages for radicals: for it appears simultaneously to explain, to judge, and to proffer an alternative. Breaking with critique makes visible a complex of practices and powers that do not lend themselves to global analysis and evaluation. Hence they do not suggest the task of constructing a general theory of power or a programmatic politics of social transformation. Rather they suggest a more modest task that, starting from definite problems or concerns would seek to uncover the conditions and assumptions which have made them possible and the relations of advantage and disadvantage they entail. (1987: 75)

Rose's (1996, 1999) discussion of the role of 'community' in generating governmental strategies serves to illustrate the levels of contestation that can be captured by adopting a governmentality approach. Similarly, in conceptualising the city as a space to be governed, Osborne and Rose (1999) note the quality of ungovernability that characterises it:

> The forces of ungovernability are not, then, to be romanticised as being somehow outside the urban diagram altogether. On the contrary, urban governmentality uses the insidious ungovernability of the city as a resource and an inspiration. The city, as a domain of immanence, thus remains an open-ended provocation to government. (1999: 759)

Replying directly to the charge that governmentality fails to account for 'resistance', Rose et al. note:

> It is not, then, that studies of governmentality neglect resistance to programmes of government, or to techniques for the shaping of conduct; what they do refuse is the idea of resistance derived from the analytical framework of agency versus structure that has haunted so much contemporary social theory. After all, if freedom is not to be defined as the absence of constraint, but as a rather diverse array of invented technologies of the self, such a binary is meaningless. (2006: 100)

Another criticism of governmentality analyses is that they fail to account for the various elements of resistance that more sociological or humanist accounts are successful at capturing. However, this argument misses the point somewhat in that it presupposes that there is a unified concept of the 'subject' that resists attempts to govern. In contrast, this thesis is in agreement with Rose's (1996c) view that we should not presuppose a unified concept of the subject that is trans-historical. Rather than pre-supposing such a unified notion of the 'subject' a more nominalist account is

employed that defines what it is to be human in terms of those practices of government that serve to 'make up' people. Rose states:

> One no more needs a theory of agency to account for resistance than one needs an epistemology to account for the production of truth effects. Human beings are not the unified subjects of some coherent regime of government that produces persons in the form in which it dreams. On the contrary, they live their lives in a constant movement across different practices that subjectify them in different ways. (1996c: 35)

In this sense, governmentality contests the very nature of the subject itself refusing to accept any one theoretical explanation of human agency.

Another criticism of this type of analysis is that it has an underlying normative agenda (Frankel, 1997). However, it has already been argued (Rose, 1999; Osborne, 1998) that governmentality analyses do not offer solutions or suggest superior forms of government. Their aim is to destabilise present forms, to unearth disunity rather than unity. They open up the space of government, illustrating the contingency of the present without necessarily constructing an alternative. This may not satisfy the demands of critique but these demands are outside the scope of this project. It does not, however, mean that a governmentality approach is unable to account for elements of contestation, failures or unintended consequences.

Nevertheless, it could be argued that the failure to engage in normative social critique is a shortcoming in this kind of analysis. However, Ashenden illustrates the advantages of such an approach in 'problematising' the governance of child sexual abuse. By drawing on the work of Foucault she is able to:

> . . . destabilise the assumptions held in place and reiterated by other analyses of child sexual abuse, in particular assumptions concerning distinctions between public and private life, and concerning the role of legal and scientific knowledge in constituting and regulating the conditions of contemporary childhood. (Ashenden, 2004: 89)

The three main criticisms of the governmentality approach that have been considered are:

- That it does not adequately account for the role of 'agency' in its analysis (Garland, 1997 and 1997a).

- That it tends to isolate rationalities of government as idealised types and does not fully account for elements such as contestation, opposition, failures and unintended consequences, i.e. the way that these rationalities are supposedly constructed in the 'real' world (Stenson, 1998, 1999 and 2008).

- That underlying governmentality analysis is a definite normative agenda (Frankel, 1997).

In relation to the first criticism, as already noted, far from denying 'agency' this approach refuses to accept humanist assumptions in relation to the 'self' and seeks to problematise the manner in which the individual is objectified within different practices of government.

Turning to the second criticism, there are examples in the governmentality literature that illustrate how the governmental space is a contested one and that far from constructing ideal types governmentality analysis serves to unsettle regimes of truth (Rose and Miller, 1992: Rose, 1996 and 1999; Hunter, 1996: O'Malley, 1999). As Rose notes:

> To individuate a rationality is not to construct an ideal type against which a non-ideal reality can be calibrated, but to diagnose the moral, epistemological and linguistic regularities that make it possible to think and say certain things truthfully – and hence to conceive and do certain things politically. (1999: 275)

In relation to the third criticism, both Rose (1999) and Osborne (1998) illustrate how governmentality analyses are concerned with opening up a space for further enquiry without necessarily engaging with any normative agenda. It has already been noted elsewhere that although these analyses may create the space for alternative views of

government their main aim is to highlight the contingency of the present (Rose, 1999).

Rose et al. (2006) note that many of those who criticise governmentality simply miss the point:

> Those who criticize governmentality for not doing what it never claimed to do can only make their criticism bite to the extent that they imagine governmentality as a systematic theory that can be regarded as having logical incompatibilities with other theories. If, on the other hand, it is regarded as part of an analytical toolbox, good for some purposes but not for others, and capable of being used in conjunction with other tools, then the problem appears more as a limitation of the critique of the limitations of governmental analyses. (2006: 100)

The approach adopted here is more modest in its claims than traditional sociological approaches. It does not claim to present 'reality' as it really was, it does not look to locate the origins of the juvenile justice system and does not adopt a normative stance.

Conclusion

This thesis employs a methodology rooted in what has come to be known as a governmentality approach. Although there may not be any singular governmentality paradigm, such an approach concerns itself with questions about how we govern others and ourselves. The inspiration for such a methodology derives from Foucault's investigation into what he termed the 'conduct of conduct' but more specifically the writings of Nikolas Rose (1999) and Mitchell Dean (1999) who have developed these ideas in a more systematic form.

The starting point in utilising this approach is not a grand theory from which to extrapolate an analysis but the particular conditions that give rise to a problem. For this thesis the starting point is the conditions that exist within the present youth justice system in Ireland. These conditions of government are investigated by asking how the various agents are assembled within this system of government and the practices they engage in, in order to govern. As Dean notes:

> 'How' questions lead us to problems of the techniques and practices, rationalities and forms of knowledge, and identities and agencies by which governing operates. Another way of putting this is to say that to ask 'how' questions of government is to analyse government in terms of its 'regimes of practices. (1999: 28)

What emerges from raising such questions is an opening up of the space known as youth justice and what becomes visible is a map of the various regimes and practices that constitute the juvenile justice system in Ireland.

CHAPTER 5: VISIBILITY

Cartography-the activity of mapping-exemplifies the ways in which spaces are made presentable and representable in the hope that they might become docile and amenable to government. To govern it is necessary to render visible the space over which government is to be exercised. This is not simply a matter of looking; it is a practice by which the space is re-presented in maps, charts, pictures and other inscription devices (Rose, 1999: 36).

Introduction

The Irish juvenile justice system is visible as a range of governable spaces that constitute the 'present'. These are currently framed within the rhetoric of 'youth justice' and this rhetoric suggests a unified programme of government that is inspired by an overarching governmental strategy and regulated through an extensive legal framework. What actually becomes visible is an array of competing discourses, strategies and practices spread across a range of governable sites that have evolved in response to a series of problems. In terms of their visibility, these mechanisms can be classed as disciplinary and regulatory in nature. According to Foucault (2003), these mechanisms focus on the body and the population respectively. Disciplinary mechanisms become visible in institutions such as prisons and reformatory and industrial schools aimed at disciplining the body, while regulatory mechanisms focus on the population as a whole and find expression in mechanisms designed to regulate the species such as statistical tables and reports that calculate rates of offending or recidivism. These disciplinary and regulatory mechanisms become visible in the present in the multiplicity of forms that are catalogued in the *Report on the Youth Justice Review* (2006). They form a vast normalising web that is visible in this range of disciplinary and regulatory sites.

The 'Problem' Becomes Visible

1851 is a significant year within the context of the present study. Although the category of 'juvenile delinquency' had emerged before then (Magarey, 2002), it was

in 1851 that Mary Carpenter, through her book entitled *Reformatory Schools for the Children of the Perishing and Dangerous Classes and for Juvenile Offenders*, created a new space for the government of children. This took the form of a moral topography, outlining the various characteristics of the 'dangerous and perishing classes'. According to May,

> Her wide reading and personal experience of Ragged Schools led her to distinguish between the 'dangerous class' of young offenders, and the 'perishing class' of incipient criminals living a life of vagrancy or theft but not yet subject to the law and excluded from any schooling. (2002: 107)

From a reformist viewpoint, Carpenter's polemic marked a significant step in recognising the 'needs' of the child. May argues that her, 'clarion call of 1851 . . . galvanized public opinion and led to the first positive state action' (2002: 107). However, from a governmentality perspective, Carpenter's book represents a characteristic aspect of liberal rationality, whereby rationality itself acts as a self-reflexive tool for the recalibration of existing regimes. Carpenter champions the introduction of a new technology of government that, she argues, will be more efficient and 'humane' in dealing with the 'problem' of juvenile delinquency.

The 'problem' itself is made visible as a result of Carpenter's method of analysis. She produces both statistical and biographical evidence in the form of case studies of offenders. Speaking of the 'problem' of juvenile delinquency, her 1853 text notes:

> Statistic tables prove to us its appalling progress, in a ratio far exceeding that of the population generally; but even these, clear as they may appear to be, and forcible in their appeals, are less powerful to convince of the dreadful truth, and to demonstrate its results, than the daily experience of our great cities, as it can be attested by our magistrates, our governors and chaplains of gaols, our police, or even the common readers of our newspapers. (Carpenter, 1970: v)

The 'problem' is defined as a statistical entity whose visibility is confirmed within various biographical narratives. A new governmental space is created within the population. A sub-population, whose existence is confirmed as 'fact' by the intervention of 'scientific truth' in the form of statistical analysis. The delinquent and potential delinquent are thus made calculable within this statistical matrix.

The 'perishing classes' are the precursor of the present-day 'at risk' population. They obtain their visible quality by reference to their potentialities. As such, certain characteristics allow their potential for delinquency to be calculated. This class of individual exists but is only visible as a potentiality. Their existence occurs within a frame of reference populated by the actual criminal and through certain defined characteristics that mark their own existence.

> That part of the community which we are to consider, consists of those who have not yet fallen into actual crime, but who are almost certain from their ignorance, destitution and the circumstances in which they are growing up, to do so, if a helping hand is not extended to raise them; these form the *perishing classes* [and those,] whose hand is against every man, for they know not that any man is their brother'; these form the *dangerous classes*. (Carpenter, 1970: 2)

This ability to calculate the co-ordinates of the perishing and dangerous classes represents a visible technology of government.[56] The act of calculation takes on the quality of a 'truth game' that contains within it, its own self-reflexive confirmation and brings a whole class into actuality. In this sense, the 'potential' becomes 'real'. This reality can be detected within defined co-ordinates that are represented in statistical form and constitute a specific regime of truth.

Carpenter's statistical analysis leads her to locate the majority of juvenile delinquency within the larger towns and cities. As such, having noted the general statistical increase in juvenile offending, she marks out the space where these delinquents are most commonly found: 'The metropolis exhibits this early training to vice in an overwhelming extent; next to it are some of our large seaport towns' (1970: 12). She presents tables relating to recommittal rates that show higher average recommittal rates in these locations.

Having presented these findings Carpenter goes further in expanding on some of the prison records detailing individual case histories. Thus, she not only maps the population as a whole, but also attempts to extract from such statistical data a typology of the individual delinquent. In presenting the prison records of John

[56] Jones and Williamson (1979) point to a new 'political knowledge' that emerged in the early to mid-nineteenth century that facilitated the construction of a moral topography of classes and provided the discursive conditions for the emergence of English popular education.

Nicholls aged 7, Dominick Rafferty aged 8 and others, she seeks to construct the 'typical delinquent', outlining in tabulated form their age; crime; when and where tried; remarks by the judge; previous convictions; criminal history; character of parents; remarks by the chaplain; conviction. A host of other testimonies are presented in order to complete this typology, detailing the physical condition of the child, level of education and educational requirements etc. From a Foucauldian perspective this combination of 'species' knowledge and 'individual' knowledge is an example of the visible effect of biopolitical power. Such knowledge is utilised as a method of surveillance of the individual body and the population as a whole. According to Ashenden:

> This double focus of biopolitics is coterminous, at the level of knowledge, with the development of the individual case history documenting the details of an individual's life, and with the development of statistics of population, documenting demographic patterns. Foucault argues that these forms of knowledge are made possible and linked through the emergence of the human sciences . . . (2004: 111)

Statistical data is also presented on such diverse things as the child's ability to write the 'Lord's Prayer' and knowledge of the scriptures (indicating the relative deficiency of any religious or moral training); writing skills; ability to read and recite the 'Lord's Prayer' etc. Carpenter here constructs a moral topography of the juvenile delinquent. Implicit in this process is the construction of a normative concept of the child, utilising statistics. In this way, statistics are viewed as 'real facts' to be used in the discovery of a moral truth. Elsewhere, Carpenter notes the importance of statistics in the discovery of the truth in relation to the problem of juvenile delinquency:

> The position which Reformatory Schools at present hold with regard to the State, renders it of the first importance that as much light as possible be thrown by statistics on the real numbers of the juvenile criminal population of the country, and that official returns should be henceforth so arranged that accurate information may be obtained as to the actual success or failure of the plans adopted. (1857: 1)

Carpenter was not unique but was following in a tradition of 'moral statisticians' who 'developed the methods and tools of statistical inquiry, examining the "moral

topography" of different areas as well as the "moral health" of the whole nation' (May, 2002: 104).

Within this context, a separate 'knowledge' of the causes of delinquency emerges. Rush refers to this as 'an empiricist narrative of locality' that 'unearths a potentially infinite number of causes: the effect is an ever-expanding object of knowledge' (2002: 146). From a governmentality perspective, this represents a growth in the biopolitical knowledge surrounding the child.

With the evolution of this 'scientific' approach to the causes of delinquent behaviour came a search for a solution to the 'problem'. If such forms of knowledge could discover the causes of such behaviour they could also possibly lead to a solution and prevent future problems of this kind. Rush (2002) argues that the problem of juvenile delinquency was constructed in the first half of the nineteenth century. Part of this construction was the emergence of a discourse on the increase in juvenile crime. This discourse emerged from a variety of sources but was exemplified in the statistical movement of the nineteenth century.

> The problem was not simply the existence of juvenile crime but, more importantly, the increase in juvenile crime. Having introduced 'the problem', the second movement is concerned to describe its contours. This entails the reconstruction of that discursive space within which the subject of juvenile delinquency becomes possible. That space is not confined to a specific discipline, although it perhaps has an elective affinity with what would by the end of the nineteenth century become the eclectic science of criminology. It may however be traced in the manuals, pamphlets, articles, journals and books of a panoply of social observers in the first half of the nineteenth century. (Rush, 2002: 140)

This was reflected in the growth of the statistical societies in Britain and Ireland. Cullen, writing on the history of the statistical movement in Britain notes:

> One of the distinguishing characteristics of the statistical movement is the very use of the term 'moral statistics'. It is a term which gradually disappeared during the nineteenth century: its popularity in our period underlines the importance of moral preoccupations in the movement. At its heart lay two or three broad subjects: crime, education, and less frequently studied, religion. (1975: 65)

According to Rose, 'over the course of the nineteenth century, a mutation occurred in this way of apprehending the collective existence of people. Nations were now seen as populations of individuals with particular characteristics, integrated through a certain moral order' (1999: 101).[57] Thus, there emerged a visible, 'moral' domain to be acted upon utilising various forms of intervention. These moral technologies 'did not answer to a single logic or form part of a coherent programme of "state intervention". Rather they were employed around particular issues: epidemics and disease, theft and criminality, dangerous and endangered children . . . '(Rose, 1999: 101). From the perspective of governing, Carpenter maps numerous disciplinary sites that evolved in response to the problem of juvenile delinquency: the ragged schools, Sunday schools, free day schools, industrial feeding schools and other philanthropic interventions into the lives of children. These sites were designed to educate the children of the perishing and dangerous classes, inculcate certain accepted norms and govern the 'problems' associated with these delinquent classes. As Rose notes, 'social danger was recast as a violation of norms of respectable citizenship' (1999: 104). In this regard, certain classes of children, which had become visible as a 'dangerous' and 'potentially dangerous', needed to be controlled.

Visibility of the System in Ireland

In the nineteenth century statistics played an important part in the emergence and visibility of numerous problems for government. In Ireland, the first official census took place in 1813. However, the census of 1841 marked a significant development in that it broadened the scope of the inquiry to include information relating to the family unit, house size, conjugal status, births, deaths, marriages, internal migration, emigration, literacy and agricultural production (Vaughan and Fitzpatrick, 1978). The development and increasing refinement of these and subsequent censuses meant that more sophisticated knowledge was available in relation to population. This allowed

[57] Hacking (1990) notes that, around the mid-nineteenth century mathematical theories relating to probability started to be applied to problems of government. Also, Deflem (1997) illustrates the manner in which criminal statistics began to be utilised as a governmental technology of surveillance in the nineteenth century. In particular he points to the *Meldwesen* system in Germany (1867) and the collection of criminal statistics in the United States from 1850 onwards. According to Deflem, the development of these technologies represents a move from a legally regulated state to a society that is statistically administered.

for the classification of sub-populations and the analysis of problems such as taxation, land valuation, agricultural production, employment, accommodation, crime and fertility.

Much of the groundwork for these censuses was laid down by the mapping of the country by the Ordnance Survey from 1824 onwards. The Ordnance Survey was one of many bodies of expert knowledge established during the nineteenth century in response to problems of political governance such as land valuation, boundaries and the evaluation of taxation and rents. According to Doherty:

> Cartography was increasingly seen as a useful and utilitarian endeavour, and as one conducive to good government as it was to national security or to territorial expansion. Contemporaries believed that the Ordnance Survey would have important scientific, practical, and political results. Maps would benefit owners and occupiers of land by providing detailed information about estates and the valuation would provide relief from excessive taxation. (Doherty, 2004: 14)

The development of the Ordnance Survey and the compilation of population statistics emanating from the censuses meant that the population of Ireland became more visible and more readily amenable to classification. It also meant that the problems concerning population were more governable. These forms of specialised knowledge can be viewed as an ever-increasing development of biopolitical knowledge that finds its impetus in response to the problems of government. Such forms of specialised knowledge became visible in the form of 'official' projects and found their way into the official discourses of government in the form of various reports of government departments in response to problems of political governance. One such problem was the governance of the 'delinquent' juvenile population and the collection of statistics helped define this 'problem' and make it more governable. Rose notes:

> From this statistical project, through the requirements imposed upon firms to keep account books and make tax returns, through censuses and surveys, the investigations of Victorian social reformers, the records kept by newly formed police forces and the school inspectors, through the calculations of such things as gross national product, growth rates of different economies, rates of inflation and the money supply, government inspires and depends upon a huge labour of inscription which renders reality into a calculable form. (1992: 185)

From 1823 onwards the Inspector General of Prisons issued an annual report outlining the manner in which deviant populations were governed in prisons, bridewells, workhouses etc. This facilitated the classification of the prison population in general and although it included the ages of those incarcerated it did not specifically discriminate a separate class of juvenile offender. The reports did include a section on 'employment and schools' but it would appear that these schools were not aimed at children specifically but the general prison population. James Galwey, Inspector of Prisons, in 1851, in describing the situation in Kilkenny Gaol, noted:

> There is a regular schoolmaster employed, and a registry of advancement is kept. I examined some of the classes, and I regret to add that they appeared to have made but little progress, particularly the juveniles, to whom I suggest more attention should be paid in future. (*Thirtieth Report of the Inspectors-General on the State of the Prisons of Ireland*, 1851: 185)

The 1852 Report introduced two separate categories: 'juvenile crime' and the 'juvenile offender' (*Thirty-First Report of the Inspectors-General on the State of the Prisons of Ireland*, 1853: 30–32). The former involves an analysis of juvenile crime for each county in Ireland covering the age of the offender and a typology of offences committed. The latter represents a classification of the 'condition' of the juvenile offenders according to the prison where they were incarcerated in, their age, parentage, education, class of offence and statistics relating to recommitals. The effect of this is to separate out the class of juvenile offender and his or her crime, thus ensuring that the problem of governing juvenile crime becomes more visible and hence more governable.

The following year James Connellan, Inspector General of Prisons in Ireland, gave extensive statistical evidence to the Select Committee on Criminal and Destitute Juveniles (1853) outlining the extent of the prison system: the number of prisons, number and type of cells and total number of beds. Most significantly his statistical evidence made visible the manner in which juveniles were governed within the prison system (see Appendix 1). In particular, he mentions the 'separate system' as it applied then to juvenile prisoners:

> The separate system is carried out in a very small number of gaols in Ireland; in fact it is only carried out fully for both sexes in the gaol of Belfast. Juveniles are there treated under it. We have no exclusive principle in regard to juveniles confined in other prisons not fitted for separation; but in every instance where there is a slight depletion of the gaol . . . we invariably give the benefit of such depletion to them . . . We have no institution peculiarly fitted for the reception of juveniles; in fact they stand on precisely the same ground as adults. (*Report of the Select Committee on Criminal and Destitute Juveniles*, 1853: 358)

Connellan produced an impressive corpus of statistical evidence to the Committee detailing the numbers of children in workhouses, those detained in prisons and bridewells and those recommitted. He also gives an outline of the extent of juvenile crime in Ireland and the manner of conviction. It is clear from this evidence that although a separate system for the government of criminal and destitute juveniles had not evolved in Ireland a system for the classification of these two classes of children had begun to emerge. Offenders were classified according to age, type of crime committed and parentage. Another item of classification that Connellan reports on is the skill level of these classes of children prior to incarceration.

What also emerges from the statistical data presented to the Committee by James Connellan and Walter Berwick[58] is the extent to which the rate of juvenile crime is increasing. Berwick, referring to this increase, states:

> Since what we call the 'Famine years' in Ireland, it has increased to an enormous extent. I have got a return from the city and county of Cork Gaol, of the number of criminals in five years, beginning with 1840 down to 1844, which were the five years before the 'Famine years', and I have taken the last five years in the county of Cork also. (*Report of the Select Committee on Criminal and Destitute Children*, 1853: 338)

From the statistics produced, Berwick concludes that there are two main reasons for the enormous increase in juvenile crime. The first is what he sees as the defects in the law as it relates to vagrancy and the second relates to problems in the management of 'poor-houses'. These conclusions are echoed by Connellan, who states in his evidence to the Committee:

[58] Walter Berwick was the Assistant Barrister for East Riding in the County of Cork.

> I conceive that although mendicancy and vagrancy are both great social evils, yet we have rendered them infinitely worse by making them crimes. I confess that I should rather throw them back on the category of destitution, to which they would appear more properly to belong than place them on the level of much graver offences with which they are now classed. (*Report from the Select Committee on Criminal and Destitute Children*, 1853: 362)

Both Berwick and Connellan refer to the poor system of management in the 'poor-houses' and point to the proportion of the prison population that came from the workhouse system. This leads them to conclude that both the classification of vagrancy offences and the system of governing juveniles in the workhouses are significant factors affecting the enormous increase in the population of juvenile delinquents.

From the statistical knowledge available, both Berwick and Connellan are able to construct a classification of population aimed at achieving a more efficient government of the problem. The first effect of their mode of classification is to make the 'problem' become more visible. The population in general is viewed as divisible into sub-categories and by virtue of this process of sub-division those that are problematic (criminal, destitute etc.) are isolated from the general population. What also becomes visible, are the various sites that have been established for governing these sub-populations. Implicit in both men's models of classification is a rudimentary typology of the normal and deviant population. Connellan outlines a matrix of the class of juvenile delinquent set within defined co-ordinates. These co-ordinates include age, sex, parentage, criminal history, sentence, place of incarceration, type of crime etc. The effect is that the juvenile criminal class is made visible in a tabulated form. Its co-ordinates are plotted utilising the numerous strands that go to constitute its visibility within the 'social' realm. The various sites of government, including prisons, workhouse, courts, family and schools, are assembled to map the outline of this criminal and destitute child population.

The use of statistics in constructing and making visible problems for government is highlighted by Rose (1999), who notes the intrinsic relationship between numbers and democratic government. Numbers shape the way that persons and processes are organised. In the above case, juveniles are classified according to age, location,

parentage etc. This facilitates the isolation of a criminal class from the general population. This criminal class is further sub-divided to produce the sub-class 'juvenile offender'. A further statistical refinement makes visible a 'destitute class' that has been convicted of vagrancy offences. This, in turn, justifies speculation around what constitutes the 'criminal child'. In this regard, Berwick distinguishes, 'those who are now committed for begging or vagrancy from those who are committed for larceny or stealing, or any act of outrage' (*Report from the Select Committee on Criminal and Destitute Children*, 1853: 351). The utilisation of statistical techniques enables the 'criminal child' to become visible and appear within a matrix of criminal and non-criminal types. The appendices to the main report contain these matrices that delineate the space occupied by the juvenile offender in Ireland. They allow the juvenile offender to be thought of and speculated upon. They give the juvenile offender a certain density. In this regard, Rose notes that in the nineteenth century:

> . . . statistics thus becomes one of the key modalities for the production of the knowledge necessary to govern. The statistics of crime, of trade and industrial disputes, of morbidity and mortality, of population size and growth, render the objects of government into thought as domains with their own inherent density and vitality. (1999: 209)

Not only does the offender become visible and assume a certain density but the various sites of these individuals are also made visible. A spatial map is constructed of the various sites for government and the spaces within these sites that the offender occupies. Each set of co-ordinates maps a different aspect of the problem. Just as problems of land valuation or boundaries were made more visible by the work of the Ordnance Survey, the statistics represented in tabulated form in various reports made the problem of governing juvenile offenders visible and gave the 'problem' itself its own density.

The child of the workhouse is represented in tabulated form outlining the geographic spread of these children throughout the four provinces of Ireland. This is further refined to reveal various sub-categories: under 9 years; 9 to 15 years; total between 9 and 21 years (see Appendix 2). Further refinements include details of parentage. Those without both parents, those without mother or father and those deserted. Thus,

a profile of the destitute child in Ireland on the 2 April 1853 is produced (*Report of the Select Committee on Criminal and Destitute Juveniles*, 1853: 501). The destitute child is reconstituted in spatial form and inserted within the map of delinquency. Such children are given a visible form within the context of the workhouse. The workhouse itself is also included as a discrete space within the general field of government of the delinquent and destitute class. It is one of the contours mapped by the moral statistician.

This reconstitution of the destitute child is effected by means of the assembling of various moral and political co-ordinates. The most significant of these is the family. The 'natural' family unit lurks behind these statistical representations as an invisible moral diagram against which these deviant representations are compared. The categories 'without father', 'without mother' and 'deserted' describe a 'natural' state of existence that has been sundered, resulting in a form of existence categorised as the 'workhouse' or 'destitute' child. They appear as separate from both the 'natural' family unit and the general population. In this sense, the act of governing has rendered them separate. They occupy a separate physical space, the 'workhouse', and a separate ontological space through the process of statistical classification.

The statistical tables in the 1853 Report of the Select Committee are maps representing the destitute child in the workhouse in Ireland on 2 April 1853. They take the form of a number of maps superimposed upon each other: a spatial map representing the spatial location of workhouse sites for governing the destitute; a map charting the ages of the destitute children; a map of the children's family circumstances representing the various degrees to which the particular family bonds have become sundered from the norm; a map of the population of destitute children as it exists separate from the general population. This process of mapping is a political and moral act. It entails the making of certain moral and political judgements. These judgements are constitutive of the act of governing. As such, the counting of numbers is both a political and a technological act and confirms statistical knowledge as a technological tool. As Rose notes:

> . . . the collection and aggregation of numbers participate in the fabrication of a 'clearing' within which thought and action can occur. Numbers here help to delineate 'irreal spaces' for the operation of government, and to mark them out by a grid of norms allowing evaluation and judgement. (1999: 212)

The collection of these statistics facilitates speculation around the efficiency of the system of governing the problem of juvenile delinquency. In particular, the inclusion of vagrancy within the criminal code as an offence. In effect, both Berwick and Connellan can argue, using statistical evidence, that an adjustment to the current system for the classification of juvenile offenders, namely the de-criminalisation of vagrancy in relation to juveniles, could result in a more efficient method of governing the problem of juvenile delinquency. The system for governing juvenile delinquents is made visible through the statistical evidence presented by Berwick and Connellan and these statistics are crucial to its formation and the way it is organised. As Rose notes:

> The organization of political life in the form of the modern 'governmental' state has been intrinsically linked to the composition of networks of numbers connecting those exercising political power with the persons, processes and problems that that they seek to govern. Numbers are integral to the problematizations that shape what is to be governed, to the programmes that seek to give effect to government and to the unrelenting evaluation of the performance of government that characterizes modern political culture. (1999: 199)

Not only are these numbers essential to the formation of the system for governing juvenile delinquents and as such assume a technological significance, but they also constitute a moral and political space in which the juvenile delinquent is constructed.

Connellan's classification expands to cover other sites included in the government of the juvenile offender (*Report from the Select Committee on Criminal and Destitute Children,* 1853: 506). He produces tables mapping the prisons and bridewells throughout Ireland and gives the corresponding numbers of juveniles incarcerated in them. These figures, like those referring to the workhouses, describe the familial state of the offenders prior to committal, including information as to whether they were abandoned or absconded from the family unit. Their place of origin is also included. Further density is given to these entries by cataloguing their individual ability to perform certain tasks such as reading or writing, and also the number of times they

have been imprisoned before. This information enables a degree of speculation to take place around the type of individual classified as a juvenile offender and facilitates a typology of the offender.

Certain classes are represented according to the site they occupy within the system. For example, the class of juvenile offenders who are incarcerated in prisons in Ireland on 2 April 1853, consisting of 3,020 persons. The class committed to bridewells, the class transported or the class dealt with by the Dublin Metropolitan Police. The construction of these classes is an act of reification that enables speculation in relation to certain criminogenic patterns. These numbers are to be speculated upon in the context of crime and enable the mapping process of crime itself. In tabulated form they occupy a new space. They take the form of 'patterns' of offending and offenders. They invite speculation as to where, how and why. They open up historical and spatial vistas. These acts of speculation can operate over a given time scale, over a geographical location or both. They also invite moral and political speculation around such issues as the family, education, sex and criminal tendency.

The analysis and refinement of such statistics also allows the movement of these sub-classes of the general population to become visible and to be tracked. Connellan reproduces figures outlining the annual committals of juvenile offenders in respect of the various prisons throughout Ireland (*Report from the Select Committee on criminal and Destitute Children*, 1853: 505). Again, these figures are classified by age and show the historical movement of a distinct 'class' in regard to the main site for governing children, i.e. prisons. The figures he presents show the committal rate for all prisons from 1846 to 1851. This represents the mapping of both the spatial and temporal aspects of the government of the juvenile offender. The offender thus occupies a multi-dimensional field within the spatial and historical continuum of government and as such is constituted as an historical artefact on the one hand and as a constituent of current reality, a 'real fact', on the other. Thus, we see the reification of the subject in statistical form as a scientific, moral, political and governable entity.

Such developments also represent a political movement that aims to govern the population and in so doing govern the body. This is not to characterise it as a

movement in the sense of having an explicit political manifesto, but what Foucault refers to as a 'biopolitical' movement to administer life itself. This development occurs along two poles:

> One of these poles – the first to be formed, it seems – centered on the body as a machine: its disciplining, the optimisation of its capabilities, the extortion of its forces, the parallel increase of its usefulness and its docility, its integration into systems of efficient and economic controls, all this was ensured by the procedures of power that characterized the *disciplines*: an *anatomo-politics of the human body.* The second, formed somewhat later, focused on the species body, the body imbued with the mechanics of life and serving as the basis of the biological processes: propagation, births, and mortality, the level of health, life expectancy and longevity, with all the conditions that can cause these to vary. Their supervision was effected through an entire series of interventions and *regulatory controls: a biopolitics of population.* The disciplines of the body and the regulations of the population constituted the two poles around which the organization of power over life was deployed. (Foucault, 1998: 139)

The statistical edifice constructed for the government of young people in Ireland first emerged in the mid-nineteenth century. Its construction became more sophisticated as the biopolitical knowledge of the juvenile offender evolved. Various maps of the criminal and destitute population and the techniques and strategies for governing them attained a greater visibility. This knowledge is crucial to the process of governing at the level of both the individual and the population. According to Rose:

> . . . these institutions operate according to a regulation of detail. These regulations, and the evaluation of conduct, manners, and so forth entailed by them, establish a grid of codeability of personal attributes. They act as norms, enabling the previously aleatory and unpredictable complexities of human conduct to be conceptually coded and categorized in terms of judgements as to conformity or deviation from such norms. (1988: 187)

A normative system was constructed as a consequence of this mapping process. The system and the individuals governed by it were constituted within this process. The foundations of the juvenile justice system were thus assembled. However, these categories, which still form part of this system, are not stable categories but are constituted as a result of the various relations of power that exist at any given time. The concept of the juvenile offender itself is a malleable concept that has become mythologised throughout history. It has been given the appearance of a stability

through a process of historical narrativisation. However, this process masks an underlying instability of the concept itself.[59]

In terms of the system itself, the *First Annual Report of the Directors of Convict Prisons* (1855) noted that a rudimentary 'separate' system for the management of juveniles 'under seventeen years of age' had been adopted in 'Mountjoy' and 'Philipstown'.[60] The Chairman of the Directors, Sir Walter Crofton, stated: 'we have every reason to be fully satisfied with the results as evinced by the conduct and industry of the prisoners located here' (1855: 5). He also noted that the facilities at Philipstown allowed for the separation of juveniles from adults. The Governor of Philipstown, Richard Grace, reported to Crofton the fact that by the end of 1855, all adult prisoners had been removed to Spike Island from Philipstown 'replacing them by invalids and juveniles, conformably with your intention to convert it into a prison entirely for those classes' (1855: 59). Carroll-Burke (2000) notes that two school headmasters were employed at Mountjoy and Philipstown and by 1857 all teachers employed in the 'Irish convict system' were trained and inspected by the national board of education. The construction of a separate juvenile prison system was evidently underway, however, it was to be somewhat overshadowed by the introduction of reformatory school legislation.

The Reformatory and Industrial School System

With the introduction of the reformatory and industrial schools, the system for governing juvenile delinquents had become separate from the main prison system and occupied a new space constituted for the reformation of the delinquent juvenile. Within this space juveniles were separated by sex and religion and various means were employed to effect their reformation. From a Foucauldian perspective, these institutions, like the workhouses and the prisons, represented a distinct architecture, a

[59] Rose (1996a) makes this point in relation to the notion of a historically unified concept of 'personality' and in so doing contrasts what he terms the *spatialization* of being with the narrativization undertaken by sociologists and philosophers of modernity and postmodernity. He argues that the former approach can render being intelligible in terms of localized routines and practices and thus unsettle the apparent stability of regimes of subjectification.

[60] Von Holtzendorf noted that a 'special division' for the treatment of juveniles had been created in Mountjoy and that 'an establishment for the purpose of employing juvenile offenders at agricultural labour is in the course of formation on the Commons of Lusk' (1860: 150).

visible effect of power, designed 'to turn the subjects of the confining regimes into agents of their own reformation' (Markus, 1993: 95).

Within the reformatory and industrial school system each juvenile also became a calculable subject in that the average cost per head with regard to maintenance of the person, buildings etc. were taken into consideration in the context of the economic management of the system. As such the juvenile delinquent became a separate economic unit within the economy as a whole and the institution was examined in terms of its economic viability. The average cost per head could be calculated and compared for each reformatory and industrial school in Ireland. The activity of reformation and the subject of that reformation had become calculable within the overall political economy.[61]

The appendices of the *Ninth Report of the Inspector of Reformatory and Industrial Schools* (1871) construct the population of juveniles detained in these institutions, giving them a visible existence as statistical entities. These statistical tables operate in a similar fashion to those in the Reports of the Inspector of Prisons. They classify the population in terms of numbers entering and leaving the system and their previous criminal history. The Ninth Report, however, charts the subsequent history of the population after discharge. This includes details of employment, emigration, mortality, physical well-being and subsequent criminal history under the heading 'subsequent character and circumstances'. It includes the surveillance of the physical body of the subject. The following details are included: cause of death; the degree to which each individual was partially or fully clothed by the institution; the degree to which each individual was provided with food by the institution; whether each individual was voluntarily or involuntarily detained. These tables also represent a further development in the classification of the juvenile delinquent population. The system itself becomes visible in the numerous sites throughout the country that are classified as reformatory or industrial. Its subjects are classified as a transient

[61] Calculating the average cost per head remained a pre-occupation for government into the twentieth century. The difficulty of calculating the cost of keeping a child in an industrial school was considered by the Cussen Report (1936). The Commission to Inquire into Child Abuse Report (2009) also highlights the efforts that the Department of Education made to establish the basic cost per head between 1945 and 1964.

population that pass through the system in one form and emerge from it in another, the ultimate aim being the reformation of the individual.

By 1884 there were ten reformatory schools and sixty-one industrial schools in Ireland. The juvenile justice system was visible in four forms: prison, reformatory school, industrial school and probationary school. One such probationary school, located at Kilmore, Dublin, was established by the Christian Brothers to deal with a class of juvenile offender that the managers of industrial schools refused to admit. These were juveniles who had committed a criminal offence. The probationary school represented an intermediate point in the system for filtering into the industrial schools juveniles who had committed some criminal offence and who were deemed suitable for entrance into industrial schools at a later time. This was in line with the managers' view that the industrial schools were institutions for the training of persons without criminal 'taint'. John Lentaigne, Inspector of Reformatory and Industrial Schools[62], notes:

> The Probationary School for Roman Catholic Boys at Kilmore will serve as a species of moral infirmary, in which children of the criminal class will be placed before they are allowed to mix with the ordinary Industrial School children. Under the paternal guidance of the Christian Brothers, chosen as best suited to the work, very few, indeed, of the young children can fail to become subject to the influences that will thus be brought to bear on their thoughts and actions. (1885: xxxv)

The *Report of the Commissioners on Reformatory and Industrial Schools* of 1884 states that certified industrial schools in Ireland are, regarded as 'institutions for poor and deserted children rather than for those of a semi-criminal class' (1884: lx). The Report also makes reference to the greater degree of classification in Ireland as compared with England. It mentions an 'experiment' at Spark's Lane in Monaghan whereby refractory females were taken in from other reformatories around the country and that 'at Kilkenny, Waterford and elsewhere, schools, under the management of religious sisterhoods, have been established for the reception of very young boys up to the age of 10' (1884: lviii). There was a certain degree of experimentation in the

[62] Lentaigne held the office of Inspector General of Prisons and in 1869 was also given responsibility as Inspector of Reformatory and Industrial Schools.

manner in which the juvenile justice system was evolving and this was reflected in the practices that the managers of these institutions employed. Indeed, the evidence suggests that these practices were constitutive of the system itself rather than the other way round.

As already noted, by 1884 the system for governing the 'perishing and dangerous classes' was visible in four forms: prison, reformatory school, probationary school and industrial school. These institutions catered for four distinct classes of juvenile: the criminal type; those who had committed a crime but were capable of reform; those of a lesser criminal type who could eventually be placed within industrial schools; and those who had not got the 'taint' of criminality but who, because of their life circumstances, were 'at risk'. From a governmentality perspective, the 1884 Report provides a unique insight into the practices and discourses that converged to make the reformatory and industrial school system visible. Although the system became visible to some extent in the previous reports of the Inspector of Reformatory and Industrial Schools, the Report of the Commission in 1884, like the Select Committee of 1853, provides first-hand testimony from those operating the system as to the practices that were constitutive of the system for governing juveniles.[63]

The 1884 Report outlines the 'criminal status' of those committed to reformatory and industrial schools. It also gives an account of a rudimentary method for the surveillance of those discharged from both types of institution. It rated them as 'doing well', 'doubtful', 're-convicted' or 'lost sight of'. Another aspect of this surveillance was that of the system of licensing out of children and the Report notes that in the previous year 140 children were licensed (out of 396 who were eligible) from reformatories and 465 (out of 3,965) from industrial schools (1884: lix). It also shows

[63] The Commissioners held sittings in Dublin, Belfast, Kilkenny and Cork and received evidence from various individuals directly involved in the system for governing destitute and criminal juveniles. These included: Sir John Lentaigne, Inspector of Reformatory and Industrial Schools; Brother Thomas Hoope, Manager of Artane Industrial School; Eliza Rothe, Superintendent of Grangegorman; James Raftery, collector of parental contributions in Dublin; Frederick Richard Falkiner, Recorder of Dublin; C.J. O'Donell, JP, police magistrate; Thomas Mayne, Chairman of the Finance Committee of Dublin Corporation; John L. Robinson, architect and civil engineer; Henry Robinson, Vice-President of the Local Government Board in Dublin; Richard Bourke, Chairman of the Local Government Board in Dublin; Sir Patrick J. Keenan, Commissioner of the Board of National Education; Abraham Shakleton, magistrate; Rev. Patrick Francis Moran, Bishop of Ossory; James Hegarty, magistrate; Alexander McCarthy, Town Clerk; Elizabeth Woodroofe, Deaconess of Glanmire School for Protestant Girls; Edwin Hall, Acting Manager of Cork Industrial School for Protestant Boys.

the modes of disposal of those discharged under the headings: to employment or service; to friends; emigrated; went to sea; enlisted; discharged as a consequence of disease; discharged as incorrigible; died; absconded and not recovered.

Figure 8 below illustrates the numbers detained in reformatory and industrial schools in Ireland on 31 December 1907:

Reformatory Schools

Gender	Roman Catholic	Protestant
Boys	435	120
Girls	38	Nil
Total	**473**	**120**

Industrial Schools

	Boys			Girls		
	Catholic	Protestant	Total	Catholic	Protestant	Total
In school	3,177	562	3,739	3,881	365	4,246
On licence	127	29	156	122	16	138
Absconded – sentence unexpired	2	–	2	–	1	1
Remaining in school – sentence expired	4	2	6	5	2	7
Total	**3,310**	**593**	**3,903**	**4,008**	**384**	**4,392**

Source: *Forty-Sixth Report of Inspector of Reformatory and Industrial Schools in Ireland* (1908).

As can be seen from the above tables there were 7,318 children on the rolls in Catholic industrial schools and 977 on the rolls of Protestant industrial schools at the end of 1907. After 1917 and the closing of the last Protestant industrial school the industrial school population was totally governed by Catholic congregations, with the exception of the schools at Killybegs and Baltimore, which were managed by parish priests (Raftery and O'Sullivan, 1999: 20).

These tables map the 'status' of those children confined within the reformatory and industrial school system in Ireland on 31 December 1907. They are a statistical matrix of the sex, religion and status of those contained within the system. From a governmentality perspective, the tables are a visible effect of power. They are the visible illustration of the technologies, discourses and rationalities that regulate and

control this section of the juvenile population. The map and the process of mapping constitute the system itself and give it a reality and density confirming its biopolitical status in visible form.

The numbers incarcerated in reformatory and industrial schools were at their highest at the turn of the century and only started to decline in the mid-1940s. According to Morgan (2009), the total population in reformatory and industrial schools in 1924 was 5,192. This remained steady in the 1920s and 1930s rising to a peak of 5,192 in 1946/47 and declining gradually in the 1950s and more steeply in the 1960s and 1970s. The numbers detained in the reformatory and industrial school system remained high and only started to decline from the early 1950s. The Kennedy Report noted that there were three reformatory schools and thirty-one industrial schools in existence in 1969. They were all under the management of religious congregations. In 1970 the terms industrial and reformatory schools were dropped and replaced by the terms 'group homes' and 'special schools' respectively. Raftery and O'Sullivan note that, 'the Kennedy Report sounded the death knell for the institutional model of child care which had remained remarkably resilient in this country for almost 100 years' (1999: 379).

Invisibility of the System in Ireland

Alongside the network of reformatory and industrial schools that emerged throughout Ireland from the mid-nineteenth century there also appeared a network of regulatory sites that formed an invisible grid across Irish society. These sites were not visible as part of a juvenile justice system per se but nevertheless reached into every strata of life and operated as a regulatory grid spanning areas such as health, welfare, recreation, employment and social work. The vast majority of these sites were in one way or another seeking to promote a Catholic moral ethos and were invariably sponsored by some charitable enterprise and managed by a religious or quasi-religious organisation. Together they formed a vast regulatory grid that had as one of its main aims the socialisation and 'protection' of the young person in accordance with Catholic religious teaching. Many of these organisations remain active today.

The scope of this regulatory grid is evidenced by the range of initiatives established by Catholic organisations and touching all areas of social life. The *Handbook of Catholic Social and Charitable Works in Ireland* (Irish Messenger, 1911) lists the 'charitable works' available in each diocese under the headings: aid in distress; aid in sickness and affliction; aid to reformation; aid to development –religious, social and physical.[64] Among the organisations active in these areas were St Vincent de Paul Society, Irish Sisters of Charity, Little Sisters of the Poor, Sisters of Mercy, Christian Brothers, Sisters of the Holy Faith, Daughters of the Heart of Mary, Poor Clares, International Catholic Association for Protecting Girls, Poor Servants of the Mother of God, Dominican Sisters, Brothers of St John of God, Oblates of Mary Immaculate, Our Lady of Charity of Refuge, Franciscans, Capuchins, Irish Catholic Truth Society. Probably the oldest surviving of these organisations is the Catholic Young Men's Society of Ireland. Founded in 1849 by Dean O'Brien of Limerick, its stated purpose was:

> . . . fostering, by mutual union and co-operation, and by priestly guidance the spiritual, intellectual, social and physical welfare of its members and in obedience to and under the guidance of the Hierarchy, of taking part in Catholic Action, for the Glory of the Church, and the benefit of the Irish people. (*Irish Catholic Directory,* 1958: 134)

It was organised as a federation with a network of branches throughout the country and affiliated to diocesan church councils.

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[64] The Dublin Diocese alone lists the following initiatives: 1. Aid in Distress: Crèche, Homes for the Aged Poor, Homes for Widows, Homes for Servants, Homes for Children Rescued from or in Danger of Loss of Faith, Proselytism etc., Homes for Boys, Orphan Charity, Boys' Orphanages, Girls' Orphanages, Girls' Protection Society, Coal Funds, Lunches for Poor School Children, Penny Dinners, Shelter, Servants' Homes of Mercy, Soup Kitchen, Visiting and Relief of the Poor and Sick. 2. Aid in Sickness and Affliction: Hospitals, Hospice for the Dying, Children's Hospital, Children's Convalescent Home, Convalescent Homes, Blind Asylums, Asylums for Deaf Mutes, Asylum for Mentally Afflicted Gentlemen, Asylum for the Insane, Nursing the Poor in their Homes, Visitation of Hospitals. 3. Aid to Reformation: Boys' Industrial Schools, Girls' Industrial Schools, Boys' Reformatory, Girls' Reformatory, Magdalen Asylums, Home for Discharged Female Prisoners. 4. Aid to Development – Religious, Social and Physical: Boys' Brigade, Clubs, Societies, Employment for Girls, Organisations for the Diffusion of Catholic Literature, Charitable Societies, Cookery Classes, Domestic Economy Classes, Domestic Training College, Domestic Training Schools for Young Servants, Homes of Residence for Ladies, Business Girls etc., Home for Catholic District Nurses, Retreat, Improvement Classes, Boys' Night Schools, Lecture and Entertainment Halls, Primary Schools, Penny Savings Banks, Reading Rooms, Registry Offices, Religious Instruction, Sewing Classes, Seamen's Institute, Training Schools and Colleges, Workrooms, Work for Poor Churches (*Handbook of Catholic Social and Charitable Works in Ireland*, 1911).

One of the most prominent organisations to emerge, the St Vincent de Paul Society, was founded by Frederick Ozanam in 1835 in accordance with Catholic religious principles and came to Ireland in 1856. The Society is organised on the basis of conferences spread out across the country and attached to specific Catholic dioceses. Its original aim was the visitation and relief of the sick and poor. Curtis (2008), commenting on the activities of the Society, notes that in 1910 a 'new social consciousness' was in evidence that saw the Society embarking on a number of new schemes. In 1947 the Society published a *Social Workers' Handbook* for use by Catholic social workers in Dublin. In this the Society is listed as providing a range of services for children and young persons, including male and female orphanages, recreation and holiday homes for boys and girls and boys' clubs catering for boys between fourteen and eighteen years. The Society also operated a 'Central Boys Club and Night Schools Committee' for 'the development of the work for the care of neglected boys' (*Irish Catholic Directory*, 1958: 132). In 1948 the Society established the Guild of St Philip, which provided after-care for Catholic discharged male prisoners 'with particular concern for young and first offenders' (*Catholic Directory*, 1958: 132). These activities continue to the present day with the Society involved in a range of crime prevention and other initiatives involving young people.

St Joseph's Catholic Boys' Brigade, founded in 1894, had more overt Catholic religious aims. It sought:

> To crush vice and evil habits amongst boys; to instruct them thoroughly in the Catholic doctrine; to prepare them for the worthy reception of the sacraments; to give them habits of obedience, discipline and self-respect; reverence and love for ecclesiastical authority and our holy religion; to promote their moral, physical and temporal well-being, and to give them habits of strict sobriety. (*Irish Catholic Directory*, 1958: 132)

Concerns about the preservation of the Catholic faith and suspicion and the fear of proselytism was the motivating force for the establishment of the Catholic Protection and Rescue Society of Ireland. Founded in 1913, the Society was established:

> . . . by a committee of Catholic gentlemen, with the approval and blessing of His Eminence the Cardinal Primate and of most of the Irish bishops. Its sole aim is Catholic Defence – to protect the Faith of Baptised Catholics in Ireland from

> proselytising influences, and to rescue Baptised Catholics who have already fallen under them. (1914: 7)

The Society actively pursued cases of Catholic children whom they believed were being lured by Protestant proselytising organisations away from the Catholic faith. The organisation established a network of branches throughout Ireland. As late as 1952 the Society noted that:

> The proselytisers are still active, and we had to foil their plans on a number of occasions . . . We removed seven children from Protestant Homes and our timely intervention on occasions saved other Catholic children from the Bird's Nest. (1952: 1)

The *Handbook of Catholic Social and Charitable Works in Ireland* (Irish Messenger, 1911) also lists a 'Girls Protection Society' as the Irish branch of the International Catholic Association for Protecting Girls. The object of the Society was 'to counteract the grave moral and religious dangers besetting the paths of Irish girls obliged to leave home in search of employment. It looks after them when travelling, indicates homes, helps them to find work in safe surroundings' (1911: 36). In addition to this the Handbook lists a number of 'Servants Homes of Mercy' that were aimed at girls of 'good character' that would be supported and trained as servants free of charge. These institutions were in contrast to the Magdalen institutions that existed to train young women who were judged to be of 'poorer character'.

Youth work initiatives also acted as sites for the regulation and socialisation of young people. Hurley (1992) notes that developments in Irish youth work closely paralleled those in Britain. She states that Boy Scouts and Girl Guides appeared in Ireland as early as the nineteenth century. However, with independence, the Catholic Boy Scouts of Ireland were established in 1927. Archbishop John Charles McQuaid, who was to become patron of the Catholic Boy Scouts, sought to practice scouting 'according to the Catholic ideal and teaching, and so to promote the physical, mental and spiritual welfare of the boys' (*Irish Catholic Directory*, 1958: 138).

In addition to these groups catering for young boys and girls the *Social Workers' Handbook* (1947) lists a large number of boys' and girls' clubs, the most prominent of

which are those run by the St Vincent de Paul Society and the St John Bosco Society. Also listed are the Belvedere Boys' Club, girls' clubs run by the Legion of Mary and clubs under the Catholic Women's Federation of Secondary School Unions. The activities of these clubs usually amounted to physical activities, instruction in arts and crafts and some form of religious instruction.

The state for the most part had no input into the development of these initiatives and Hurley (1992) notes that this remained the case until the Vocational Education Act, 1930. She highlights the role played by Archbishop McQuaid in convincing the Minister for Education to establish Comhairle le Leas Óige as a sub-committee of the Dublin City Vocational Education Committee in 1942. In this regard, Lalor et al. locate the first significant statutory development as occurring in the early 1940s and note that this was 'partly due to pressure from Archbishop of Dublin, John Charles McQuaid, who was keen to see a response to the problem of youth unemployment' (2007: 271).[65] This resulted in the eventual establishment of Comhairle le Leas Óige, which later became known as the City of Dublin Youth Services Board, under section 21(2) of the Vocational Education Act, 1930.[66]

Within the political domain the young person is dramatised as a problem to be governed and therefore in need of constant surveillance. This in turn serves to justify a range of interventions. As Rose has noted, such interventions do not follow any single logic (1999: 101). This is particularly apposite in the case of the development of these regulatory sites, where the state or any coherent governmental programme was largely absent. Instead, interventions were deployed around a range of problems and arose from the activities of certain powerful groups, predominantly religious ones. The problem of governing 'rural youth' provides a good example of this. Muintir na Tíre, in its handbook of 1943, calls for the establishment of rural youth clubs 'designed to interest the young boys and girls in the rural and agricultural problems around their homes and to lay the foundations for better farming and better

[65] According to Garvin, McQuaid 'was particularly exercised in the early 1940's by vocational and continuation education and its potential for non-Catholic or even anti-Catholic thought' (2005: 174).
[66] Lalor et al. (2007) note that youth work in Ireland has largely been driven by voluntary organisations including the following which were established from the 1940s onwards and are still prominent in the youth justice field today: Catholic Youth Care (1944), Macra na Feirme (1944), Foróige (1952), Youth Work Ireland (1961) and Ógra Chorcaí (1966).

citizenship' (Walsh, 1943: 21). Through farm-based activities the organisation sought to improve the rudimentary farming skills of young people and also to enhance their personal development. The organisation was closely identified with and benefited from the patronage of the Catholic Church. The Rev. J.M. Hayes writing in 1943 describes the unique way that the organisation sought to govern aspects of rural life based on the local parish system:

> . . . the people of each parish get together and, no matter what their callings may be, they unite in one parish guild for the good of the community. They select a council to govern this guild with representatives from all callings in their parish, thus bringing about a healthy civic spirit, a good community mentality and an attempt at putting into practice the Christian principles enunciated by the Papal Encyclicals. (1943: 17)

The Catholic Church has been the single biggest influence on developments aimed at governing young people in Ireland since the mid-nineteenth century. This has resulted in a highly visible network of closed institutions, reformatory and industrial schools, that remained in existence until the late twentieth century. It also influenced the development of a less visible network of regulatory sites within the community that served to socialise the juvenile population in accordance with Catholic religious principles. Although the influence of the Catholic Church has declined in recent years most of these organisations remain active through various activities albeit in a more secularised form.[67] What also should be recognised is the participation of communities in their own government and the government of their children. It would be too simplistic to see this merely as the imposition of government from above. People participated freely in these religious organisations and hence colluded in this process of government.

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[67] In an article in *The Irish Times* on 30 May 2009, Healy noted that of the eighteen religious organisations who managed the reformatory and industrial schools the following remained active through various initiatives: Sisters of Mercy (pre-schools, secondary schools and addiction centres); Christian Brothers (primary and secondary schools); Presentation Brothers (immigrant support); Rosminians (education for the visually impaired); Daughters of Charity (pre-school, high support, nursery); Good Shepherd (youth work); Oblates (work with community groups); Hospitaller Order (care for children with disabilities); Sisters of Charity (convalescent and pastoral care); De La Salle Brothers (primary and secondary schools); Sisters of Our Lady of Charity of Refuge (work with prostitutes); Sisters of St Clare (voluntary counselling and early school leaving); Sisters of St Louis (primary and post-primary); Presentation Sisters (special needs and pre-school); Dominican Fathers (schools); Daughters of Mary (social work); Brothers of Charity (intellectual disability); Sisters of Nazareth (care of the aged).

The juvenile justice system in Ireland was dominated from the mid-nineteenth century to the late twentieth century by the reformatory and industrial schools. They were the most visible sites for the government of children. However, there also existed a wide range of less visible regulatory sites designed to cater for the regulation of different classes of children. These were predominantly sponsored by Catholic religious organisations and centred around a broad range of activities and initiatives focusing on the issues of health, welfare and reformation.

The Children's Court

The Children Act, 1908 marked an important development in the juvenile justice system in Ireland. Section 111 of the 1908 Act allowed for the District Court to sit separately as a 'Children Court'. This development represented the recognition that the child was different in the eyes of the law to the adult. The Act opened up a space for the government of children that sought to go further than just apportioning guilt or innocence but to inquire into the reasons why children offended and attempt to address these factors.

McCarthy (1948) argued that 'special children's courts' were needed so that consideration be given to the social and personal factors that caused the young person to offend. Such consideration could not be given by the ordinary courts but from 'special courts adapted to the particular nature of these cases, and applying special procedure' (1948: 4). These 'special procedures' included seeking the assistance of 'doctors, educationalists, psychiatrists, psychologists, social workers, or persons with practical knowledge of child welfare questions' (1948: 4).

This separate space within the criminal justice system was to stand in contrast to the perceived punitive space of the ordinary courts. It was a space constituted for the examination not only of the crime committed by the young person but also the circumstances leading to the criminal act, a space for the exploration of the particular circumstances and motivations behind the young person's actions. McCarthy describes the Dublin Children Court, which was established in July 1943:

> . . . as a separate entity, in Dublin Castle. Here, in the peaceful seclusion of the Upper Castle Yard, the Court is situated in the north side of the rectangle. It is held in a bright, airy room which has three tall windows, graceful fittings, and accommodation for thirty or forty people. At one end of the room is the Bench, or Desk, at which the Justice sits, having on his right his clerk, and on his left a Lady Probation Officer, both of whom are seated in line with the Justice but at a slightly lower level. In front of this desk is a slightly elevated platform on which the smaller children can stand so as to bring them comfortably on a speaking level with the Justice, and within two feet of his chair. (1948: 5)[68]

The establishment of the Court had the effect of drawing in a range of actors that would impact on the government of children. This expanded role was highlighted by O'Connor:

> The functions of the Children's Court are unusual and unique, and while its paramount duty is to protect society and enforce the law, it is also charged with a more vital responsibility, that of assessing children's moral needs and prescribing treatment which, though punitive, is also remedial and constructive. (1963: 72)

This is particularly interesting in relation to the committal process that was employed in relation to reformatory and industrial schools. An examination of the committal process allows us to see the manner in which the government of children occurred in practical terms. Here, we see the various parties to government become visible: the judiciary, the family, the Irish Society for the Prevention of Cruelty to Children (ISPCC), An Garda Síochána and school attendance officers, all participating in the government of the child.[69] Donzelot offers an evocative image of the juvenile court:

> . . . where the mode of appearance before the court implies the placing of the child and his family in a setting of notables, social technicians, and magistrates: an image of encirclement through the establishment of a direct communication between social imperatives and family behaviour, ratifying a relationship of force prejudicial to the family. (1997: 3)

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[68] O'Sullivan (1977) describes the effects the committal process had on young people who perceived it as a 'criminal procedure' despite it taking place in a different location to the adult courts.

[69] The Commission on Child Abuse notes that 'a significant part of the machinery by which children were sent to schools lay in the agencies by which a child was brought before the court. For this purpose, a miscellany of persons and agencies, often part-time or underpaid and seldom trained had grown up. These included: the Irish Society for the Prevention of Cruelty to Children (ISPCC), Gardai, school attendance officers and also Vincent De Paul Society members, parish priests; or children's officers from the local health authority, possibly with guidance from Department of Health Inspectors' (2009: V.11).

In the committal process we see the lines of power made visible. We also see that this process of government was not a direct coercive act but was often dependent upon the willing participation of the family of the child or other 'concerned' parties.[70] Luddy, in her examination of the early years of the NSPCC, notes that, 'the majority of cases investigated, between 75 percent and 90 percent, were reported by the general public, including parents, to the society' (2009: 74). She also notes that after the establishment of the Irish Free State the NSPCC began to play a greater role in the committal of children to reformatory and industrial schools.

In relation to the Irish system the Court was at the centre of the process of governing children and enabled the dispersal of juvenile offenders and potential offenders to various governable sites within the system. In particular, the legal interpretation of the 'fit person' by the courts enabled the industrial schools (and later the health authorities) to assume greater legal significance in the governance of those children who were deemed 'at risk'. The Court could commit children or young people to a certified reformatory or industrial school or release them on recognisance under the supervision of a probation officer or other suitable authority. It also acted outside its statutory powers in discharging individuals that it deemed as being in moral danger into the custody of religious congregations. Most significantly, it occupied a governmental space within which children and their families could be regulated and disciplined. As Rose notes:

> The Juvenile Courts thus established the linkage between familial scrutiny and moralisation on the one hand and the penal system on the other which remains until today, providing 'voluntary' interventions into the lives of families and children with the coercive back-up necessary for them to operate. (1985: 171)

The Court had assumed a central role in the policing of children and families. It legitimated intervention on the grounds of parental failure, moral danger and potential risk. As has already been noted, the 1908 Children Act extended the grounds upon which a child (up to the age of fourteen years) could be committed to an industrial school by the courts.

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[70] In this regard, the Children Act, 1941 made it possible for children to be committed to an industrial school with the consent of both parents or, in the case of mental incapacity or imprisonment, of one parent.

In addition to this, the Probation of Offenders Act 1907 opened a range of new sites for the government of young people. Under this Act, probation officers took on an important role in relation to the investigation and supervision of young people. McCarthy described the role of the probation officer:

> The Lady Probation Officer performs a most valuable function. Apart from the feeling of confidence which many a harassed mother derives from the presence of a woman in the Court, this officer presents all the Probation Officer's reports to the justice as each case is dealt with. Having been in consultation with her colleagues before the Court opens, she is in a position to supply the Justice with all the information he requires: and being a married woman, with children of her own, her advice and assistance, which is invariably sought, is of tremendous value to the Court, and is always exercised in an endeavour to temper the wind of the Justice's wrath. (1948: 6)

Donzelot views the mechanism of 'social enquiry' within the context of the juvenile court as a means whereby parental authority is wrested from the family and vested in the hands of those deemed suitable by law to intervene. In this regard, the social enquiry report prepared by the probation officer legitimises the adjustment of familial bonds in circumstances where the family unit is deemed to have failed. According to Donzelot:

> . . . the fitting of assistancial practices into the judicial framework called for a search for better ways to counter the unpredictable or self-interested behaviour of parents, resulting in a codification of the conditions under which Public Assistance and philanthropic groups could intervene. (1997: 119)

The resulting social enquiry reports played a large part in determining the ultimate decision of the court. This role of the Probation and Welfare Service was expanded in the 1970s and:

> In addition to serving the courts, the prisons and places of detention and some special schools, it also became involved in several community-based hostels, workshops and projects which have the objective of providing support in the community to persons on probation, to persons who have been released from custody and to persons at risk of offending. (*Report on the Probation and Welfare Service with Statistics for the Year 1980*: 10)

This facilitated the extension of the judicial gaze beyond the courtroom into an array of non-judicial settings and sites located within the community and also within institutional settings.[71] This role was further expanded in 1983 by the Criminal Justice (Community Service) Act, which allowed the courts to order the supervision of offenders aged over sixteen in the community.

The Children Act, 1908 along with the Probation of Offenders Act, 1907 provided a point of entry into the juvenile justice system for different forms of expert knowledge. In particular, they legitimated the intervention of the state into the private space of the family. The Children Court was given the power to examine not only the nature of the crime but the nature and circumstances of the offender or potential offender. Within the context of the development of social work, Parton notes:

> In the late nineteenth and early twentieth centuries, symbolized by the 1908 Children Act, we can note the beginning of the absorption of these philanthropic activities into the state. There was to be a much clearer opportunity for statutory intervention if parents did not co-operate or participate. (1991: 13)

However, within the context of juvenile justice in Ireland this process of absorption did not occur to the same extent as in Britain, where the activities of philanthropic and religious groups became absorbed into the state. The development of the Children Court was limited and both social work and probation remained relatively minor political rationalities until the 1970s.

The 1908 Act legitimated preventative detention for those deemed at risk and in Ireland this usually resulted in committal to industrial schools. It allowed for the committal of certain 'classes' of juvenile to industrial schools based on their character or personal circumstances.[72]

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[71] The Probation Service developed out of the former Probation and After Care Service. It expanded during the 1970s and was renamed the Probation and Welfare Service in 1979. In the same year its management structure was regionalised. It operated a 'social work' model of intervention and described itself as a 'social work agency serving the courts, the prisons and places of detention and some special schools on a country-wide basis' (*Report on the Probation and Welfare Service with Statistics for the Year 1980*: 10).

[72] In this regard, the Report of the Commission to Inquire into Child Abuse (2009) notes the part played by philanthropic organisations such as the NSPCC in actively seeking the committal of young people to industrial schools.

With regard to imprisonment, the principle of segregating juvenile prisoners from adult prisoners was established in Ireland in 1906 with the introduction of the borstal system. The borstal system operated on the basis that certain individuals between sixteen and twenty-one years were to be segregated from the adult prison population under a regime of discipline and instruction in order to effect the reformation of their character. The decision as to what prisoners were suitable to be detained under this regime lay originally with the Irish Prisons Board, which selected suitable prisoners from prisons around the country. This system was eventually changed with the enactment of the Prevention of Crime Act, 1908, which gave power to the courts to decide who was sentenced or transferred to the borstal system (Osborough, 1975).

The segregation of this section of the criminal population on the basis of the risk of them becoming 'habitual criminals' was first proposed by the Gladstone Commission in 1895, which recommended that 'juvenile adults' were to be segregated from the adult population in order to prevent them from becoming influenced by hardened criminals.[73] The borstal system remained in existence from 1906 to 1956, however, the numbers detained in borstal institutions continued to be relatively small in comparison with those detained within the reformatory and industrial school system.

The Justice–Welfare Continuum

From the 1950s, the numbers committed to the reformatory and industrial schools began to decline steeply and alternatives such as probation and cautioning began to emerge. As the biopolitical knowledge of the child increased the range of regulatory sites expanded and became more refined, facilitating the government of children in a range of both closed and open governmental spaces. These spaces included detention centres, children detention schools, high support and special care units and a range of diversionary sites.

[73] The original definition of the 'juvenile adult' by the Gladstone Commission distinguished those between sixteen and twenty-one years from 'adult' offenders. Kilkelly (2006) argues that the current juvenile justice system perpetuates this arbitrary distinction whereby those offenders over sixteen years are incarcerated in children centres while those under sixteen years are sent to children detention schools.

Detention Centres

The Criminal Justice Act, 1960 formally established St Patrick's Institution as a place of detention and an alternative to imprisonment for persons between sixteen and twenty-one years, replacing the borstal system. However, while the 1960 Act retained the principle of segregation of this class of offender it is less clear as to whether it intended to retain a 'borstal-type' regime.[74] O'Connor criticised the government for the lack of clarity in this regard:

> The most lamentable feature of the Act was its total failure to describe St Patrick's or to set out clearly what the purpose of the institution is supposed to be . . . What, may we ask, is the Minister substituting in place of the borstal system? (1963: 91)[75]

Walsh, describes St Patrick's as:

> . . . a secure institution accommodating boys for any offence. It has the look and feel of a prison. Access to the outside is strictly controlled and the boys are locked in their cells at night and for certain periods during the day. The regime is also more like that in a prison as distinct from that in a reformatory school. (2005: 256)

There have been a number of attempts to provide alternative institutions catering for those deemed 'less risky', within more 'open' regimes. In August 1968 an 'open centre' for the detention of young offenders was established in Shanganagh, County Dublin. In that year fifty inmates were transferred from St Patrick's to Shanganagh Castle (*Annual Report on Prisons and Places of Detention*, 1969). The institution operated as an open centre providing dormitory-style accommodation. The 'Castle' was located in a rural setting with the grounds being used by the inmates to grow flowers and vegetables that were consumed in the institution (*Annual Report on Prisons and Places of Detention*, 1994). Programmes similar to those offered in St

[74] The term 'borstal' was abolished by section 12 of the Criminal Justice Act, 1960.

[75] The Minister, Oscar Traynor, had stated in relation to the type of regime proposed for St Patrick's that 'It may be said that it would be undesirable to apply old prison acts and rules made under them to St Patrick's as this may over-emphasise the prison aspect of St Patrick's, but no magic can be worked by deleting unpleasant words like 'prison'. St Patrick's must remain primarily a prison . . .' (Dáil Debates, Vol. 183, Col. 898).

Patrick's at the time were available.[76] Loughan House in County Cavan was another open institution that started to receive young offenders between sixteen and twenty-one years in 1972. It operated in this manner for six years, closing in 1983 and transferring its inmates to the newly opened Trinity House in Lusk.[77]

Osborough (1975) noted that the regime in both Loughan House and Shanganagh 'differed appreciably' from St Patrick's. According to him, new regulations governing these institutions gave them:

> . . . a separate progressive identity' that included: specific training and treatment to encourage and assist them to lead law-abiding and self-supporting lives; the imposition of the minimum restrictions required for well-ordered community life; a regime that seeks to influence them by good example and leadership and to enlist their willing cooperation; training and treatment of offenders that encourages in them self-respect and a sense of personal responsibility. (1975: 92)

Children Detention Schools

The reformatory and industrial schools remained in existence until the passing of the Children Act, 2001 when they were rebranded as 'children detention schools'. These schools accept male and female children between twelve and sixteen years on committal, remand and assessment from the courts. They are Trinity House (formerly a reformatory school), Oberstown Boys' School (formerly a reformatory school), Oberstown Girls' School (formerly a reformatory school), Finglas Child and Adolescent Centre (formerly an industrial school) and St Joseph's Clonmel (formerly an industrial school).[78] These schools provide regimes designed to cater for the different classes of individuals detained.[79]

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[76] Shanganagh Castle closed in 2002.

[77] Between October 1977 and April 1983 it also operated as a secure special school for boys between twelve and sixteen years (*Annual Report on Prisons and Places of Detention*, 1983).

[78] Oberstown Girls' School and Finglas Child and Adolescent Centre also take referrals from the Health Service Executive for assessment while St Joseph's, Clonmel also provides residential care.

[79] In 2007 responsibility for the operation of these schools passed from the Department of Education to the Department of Justice, Equality and Law Reform.

Each school imposes a regime of security in accordance with the level of risk attributed to the individual contained therein. The secure regime at Trinity House is reserved for those offenders deemed to pose the highest risk.[80]

> St Joseph's is an open unit and Trinity House is classified as a secure unit. The other three units have the capacity to restrict the movement of young people within the buildings but the units and the campuses are not totally secure. (Department of Education and Science, 2002)

In relation to Trinity House Walsh notes:

> . . . standard criteria for admission are: being convicted of or charged with a serious offence, such as murder, manslaughter or rape; posing a serious threat to society; or being unsuitable for management or containment in an open residential establishment. (2005: 252)

There is a lower level of security in Oberstown Girls' School and Oberstown Boys' School with the young people being allowed to move around the campus under supervision. However, they are locked into their rooms at night. The regime in Finglas Child and Adolescent Centre is described as:

> . . . an open regime geared to the needs of the individual child. Schooling is provided in the normal manner with a very high pupil teacher ratio. Outside of school hours the unit lays on a wide range of recreational and leisure activities. Family contacts are encouraged with family visits to the unit and there is provision for weekend leave for home visits. (Walsh, 2005: 254)[81]

St Joseph's operates an open regime with a mixture of referrals coming from the courts and the Health Service Executive. Formerly an industrial school run by the Rosminian Order, it comprises a number of residential units as well as a supervision unit, dining block, gymnasium, school and a chapel. The young people have their own bedrooms that they are allowed to personalise them within reason. They are also encouraged to become involved in sporting activities with local teams. The Care Inspection Report of 2004 noted:

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[80] Trinity House is the only secure facility for young offenders in Ireland.

[81] The Centre caters for boys under sixteen years who have been referred for assessment by the courts. The majority of these will have already been convicted by the courts and are awaiting sentence.

> . . . the relationship between the young people and the staff was very positive and natural. All were at ease with each other and the younger boys perceived the staff in a parental role. . . . It was noted that the centre does not have traditional institutional characteristics in the manner of care or in demeanour or appearance of the boys or staff. The young people decide on their own type of clothing and footwear and purchase it under supervision in local shops from a fixed budget. (2004: 9)[82]

High Support/Special Care Units

The concept of high support emerged in the mid-1990s following a series of High Court cases revolving around the issue of the provision of adequate care for young people 'at risk'. In a number of these cases the High Court found that the state had a constitutional obligation to provide suitable arrangements for the containment and treatment of certain vulnerable young people (Durkan, 1997). As a result, a number of high support units (HSUs) were established by different health boards throughout Ireland to address this problem. With no overall national strategy for the provision of high support a range of models were implemented in various health board areas.

In 2003 the Special Residential Services Board commissioned a report in an effort to define the concept of 'high support'. It concluded that despite its relatively brief history high support had 'evolved into a number of different strands and approaches across the country' (2003: 67). The Report called for a clearer distinction to be made between 'high support' and 'special care' in the light of the passing of the Children Act, 2001:

> . . . the Children Act, 2001 has served to clarify that the only secure residential settings that will be permitted in the future will be Special Care Units for children subject to Special Care Orders and Detention Schools for those subject to a Children Detention Order. (2003: 68)

As a consequence, the Report took the view that high support should be delivered within a non-secure 'open' environment. In this regard, it noted that high support had come to be viewed within some health board areas as a 'methodology' of childcare rather that a specific form of residential care. The Report supported this

[82] St Joseph's ceased to be a children detention school in 2008 when it came under the management of the Health Service Executive.

conceptualisation of high support as maximising its potential use in both residential and community-based initiatives. This view was supported in a subsequent report commissioned by the Eastern Regional Health Authority (2004). The Report defines high support as 'an individualised programme of support for children and young people with exceptional needs through the provision of a time-limited, therapeutic intervention in a non-secure environment' (2004: 7).[83]

There are currently three special care units operating in Ireland: Ballydowd in Dublin, Glann Alainn in Cork and Coovagh House in Limerick. Access to these units is gained by means of an application by the Health Service Executive for wardship to the High Court. However, Part 3 of the Children Act, 2001 now allows for the detention of a child in a special care unit on foot of a Special Care Order or Interim Special Care Order. In a similar way to the HSUs, a risk assessment is carried out in respect of each young person. This is followed by the assignment of a key worker and the implementation of a care plan (Buckley, 2001). The units utilise a range of therapeutic, educational, recreational and life-skills programmes that are employed with the aim of eventually moving the young person to a less secure setting.[84]

Special care units are intended to provide short-term interventions designed to 'stabilise an "extreme" situation which has been persistent and severe, following on a risk assessment . . . Improve the welfare and development of young people in a model based on relationships, containment and positive reinforcement' (Special Residential Services Board, 2006: 3). Programmes are designed to 'stabilise' the 'out of control' young person and effect their onward placement within the system.[85]

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[83] The Report outlines a number of models where high support may be deployed using the above definition. These are high support units, special arrangements, specialist foster care, mainstream residential care, flexible high support and community-based high support (2004: 17).

[84] Programmes include: art therapy, play therapy; speech and language therapy, psychiatric support; cognitive behavioural therapy, role modelling; behaviour management, developing self-esteem; life skills and mainstream education (Buckley, 2001).

[85] In this regard, the Special Residential Services Board (2006) recommend that programmes in the units should include: key worker relationship model in a multi-disciplinary setting, a defined model of care consistent with best childcare practice, full educational provision, speech and language therapy, accessible psychological and psychiatric services, medical service, allocation of a social worker and social and family reintegration programme in accordance with the Care Plan.

Diversionary Sites

These are located in the community and facilitate a wide range of strategies designed to prevent the child from becoming involved in crime, to divert those who have already engaged in crime from entering the justice system or to divert those who have already entered the justice system from custody. The Garda Juvenile Diversion Scheme is the main mechanism for diverting children between twelve and eighteen years from crime. Operating since 1953, it was placed on a statutory footing with the enactment of the Children Act, 2001. The Scheme is centrally administered by An Garda Síochána from Garda Headquarters and is managed by dedicated Juvenile Liaison Officers located in each Garda District. These officers administer cautions and supervise juveniles within the community.

In addition to this Scheme there are large number of Garda Youth Diversion Projects operating within the state. Garda Youth Diversion Projects are primarily aimed at diverting certain targeted offenders and non-offenders away from the criminal justice system. Although they are viewed as crime prevention initiatives these projects engage in a wide range of activities, including education, family support, counselling and sporting and recreational activities. Adopting a broadly youth work approach they provide support for young people in a pastoral way by offering a range of strategies designed to prevent juvenile offending. A key factor in the operation of the projects is the co-ordinator who engages with individuals on the projects in a direct way. Initially these projects evolved in an ad hoc manner, piggybacking on existing local initiatives (Bowden and Higgins, 2000).

The initial projects were viewed as mechanisms for building trust and establishing links between statutory agencies and the community (Darcy, 1996; Dunne, 1996). Darcy describes the GRAFT[86] Project as being successful in using the influence of the 'Gardai at senior level to secure co-operation and support for local projects from Government Departments and other statutory agencies' (1996: 14). In this regard, the projects have had success in building partnerships and developing local networks (Bowden and Higgins, 2000).

[86] GRAFT stands for 'Give Ronanstown a future today'.

The projects target not only individuals deemed 'at risk' of offending but also geographical areas and populations that are considered suitable. Criteria for locating a Garda Youth Diversion Project in an area include: crime statistics; number of referrals to the Garda Juvenile Diversion Scheme; youth demographics such as rates of early school-leaving, homelessness, drug/alcohol use; services; social exclusion; perceptions of local agencies on youth crime in the area (DIT, 2003). Once established in an area a project will set about targeting those young people deemed suitable for inclusion in the process of diversion through the project. The Guidelines state:

> Youth-justice-work is different to youth work in general because of the focus of the former on helping young people to deal with the issues surrounding their offending and the need for behavioural change. In this context there is a requirement to ensure that the majority of those targeted are actual offenders and that the best possible way of achieving this is through a referral process involving the Garda Juvenile Liaison Officer (JLO). (DIT, 2003: 4)[87]

In reality, the target population is sufficiently broad to include those who have offended and those 'at risk' of offending.[88] In this regard, the projects employ the category 'at risk' to cover a broad range of young people, including those who have no history of offending.

> The secondary target group are young people who, although they have not been referred directly by the Juvenile Liaison Officer, have come to the attention of the Gardai, the community or local agencies as a result of their behaviour and are considered at risk of entering the justice system at a future date. (DIT, 2003: 41)

The process of diversion becomes identified with various other governmental strategies such as youth work and family support that are aimed at the protection and welfare of the 'at risk' child. This process of identification enables these diversionary projects to become less visible and hence less invasive.

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[87] Project participants include a primary and secondary target group. The primary target group is defined as 'young people who have entered the Garda Juvenile Diversion Programme and are considered at risk of remaining within the justice system' (DIT, 2003: 40).

[88] Referrals can come from a range of sources including youth workers, teachers, family support workers, and members of the community.

In addition to these projects the Probation Service administers a large number of projects aimed at offenders and potential offenders. It has developed an impressive network of surveillance through a wide range of agencies. The Comptroller and Auditor General's Report on the Probation and Welfare Service (2004) lists seventy-six separate schemes to which the Service provide funding. These appear under the headings: hostel accommodation, treatment/counselling, intensive probation and education schemes. These initiatives facilitate the government of young people. They utilise a range of pastoral techniques to address one or more of the risk factors identified as causing the individual to engage in offending behaviour. The projects offer, for example, outdoor activities, drug treatment, youth work activities, initiatives focused on a specific crime such as car theft, training for employment, social skills, educational programmes, early school-leaving programmes, residential treatment, counselling and programmes to challenging offending behaviour. For the most part, these projects represent a partnership between the Probation Service and some local voluntary group or other organisation.[89]

In recent years family support has gained prominence as a technology for preventing crime, alongside its other goals of protection and welfare.[90] The Commission on the Family recommended family support:

> . . . which is empowering of individuals, builds on family strengths, enhances self-esteem and engenders a sense of being able to influence events in one's life, has significant potential as a primary preventative strategy for all families facing

[89] For example: Athy Alternative Project; Auto Crime Project; Ballinasloe Training Workshop; Bond Project; Bridge Project; Candle Community Trust; Ceim ar Ceim; Cork Probation Hostel; Cox's Demesne Youth and Community Project; Cuchulainn; Deonach; Dochas Don Óige; Kerry Adolescent Counselling Centre; Lions Villa Probation Hostel; Muckross Venture Centre; Tower Programme; Southhill Outreach Ltd; St Vincent's Trust; Tallaght Probation Project; The Linkage Programme; The Village Project; Tivoli Training Centre; Treble R Industries; TREO Port Láirge Ltd; Tuam Community Training Workshop; WHAD; Waterford Probation Residence (Irish Association for the Study of Delinquency, 2005).

[90] McKeown, notes that, 'Irish family support services are in an expansionary phase. In 1998, the Government launched Springboard, an initiative of 15 family support projects. In 1999, the Government also committed itself to establishing 100 Family and Community Centres throughout the country in line with the recommendation in the report of the Commission on the Family. In addition, the National Development Plan 2000-2006 contains a substantial allocation of funds to childcare, community and family support, and youth services all of which are supportive, directly or indirectly, of family life' (2000: 3).

> the ordinary challenges of day-to-day living, and has a particular relevance in communities that are coping in a stressful environment. (1998: 16)

Alongside family support other technologies are employed to prevent crime as part of a risk-based approach for dealing with young people. As already noted, many of these initiatives target a specific risk factor in the child's life. McKeown (2000) notes that, in general, child development and education intervention initiatives that promote the development and education of children from deprived backgrounds encompass a wide range of approaches such as crèches, pre-schools, after-schools clubs, home–school liaison and alternative school projects. In this regard:

> The specific focus of these interventions is the child but parents, schools and the community may also be involved. These interventions normally exclude interventions in the formal schooling system although schools are potentially – and sometimes actually – a rich source of support to vulnerable children and their families. As such there is considerable scope for developing partnerships between family support services and schools which add to the effectiveness of both for the benefit of children. (McKeown, 2000: 24)

These kinds of strategies seek to responsibilise individuals, families and groups within the child or young person's environment in order to change behaviour. Rose (2000) notes that such strategies of empowerment reject the patronising aspects of earlier welfare strategies and view individuals as pursuing their own freedom. Behaviour is perceived as being adjusted by the individual as a result of his or her freedom to choose rather than as the result of coercion.

In this regard, there is a wide range of initiatives aimed at combating educational failure (Department of Education and Science, 2003). The Early Start Programme aims to address the problem of educational failure, which is recognised as a risk factor in relation to predicting juvenile crime.[91] Similarly, the Schools Completion Programme targets school children deemed likely to drop out of school by providing activities designed to encourage them to choose to stay in school. Schools completion officers are attached to schools in designated areas of disadvantage.

[91] McKeown notes that the Early Start Pre-School Programme was established in the mid-1990s 'to promote the education and development of pre-school children in disadvantaged areas in order to reduce the risk of subsequent failure in school' (2000: 26).

The Youthreach Programme, established in 1988, targets school leavers between the ages of fifteen and eighteen who have left school without sitting the Leaving Certificate. It encompasses a network of community training workshops and training centres catering for this targeted group of young people.[92] Youthreach aims to increase their employability while at the same time addressing their personal development. According to Quinn:

> There are three strands to the *Youthreach* programme: personal development, skills training, and preparation for work . . . The ethos promotes the concept that improving the young person's self-esteem is integral to all elements of the programme and is therefore as much the responsibility of the woodwork instructor as it is of the guidance counsellors. (2002: 696)

The Programme is targeted at young people primarily on the basis of two risk factors: unemployment and early school-leaving. Early school-leavers were viewed as 'at high risk of unemployment, difficulty with the law and alcohol and drug misuse, as well as experiencing low self-esteem, and major literacy and other learning difficulties' (Youthreach, 2000: 51).[93]

An initiative that is targeted specifically at crime prevention and utilised on a widespread basis by youth services throughout Ireland is the Copping On Programme. Developed as part of Youthreach, Copping On[94] also derives its rationale from the link between early school-leaving and offending behaviour (Bowden, 1998). It aims to develop the cognitive skills of the young person and thereby reduce the likelihood of offending. This is achieved through participating in a number of exercises that seek to encourage young people to discuss and debate issues around offending behaviour.

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[92] By 1999 there were 74 Youthreach Centres, 47 Community Training Workshops and 6 FÁS/Department of Justice, Equality and Law Reform Workshops (Youthreach, 2000).

[93] Programme activities include basic skills training, Copping On Programme, practical work training and general education, personal development, literacy, numeracy, communications, IT, catering, hairdressing, woodwork, photography, video, sports, art and craft, work experience, counselling and advocacy (Youthreach, 2000).

[94] Originally called the Copping On Youthreach Crime Awareness Initiative it was 'developed from ideas generated by Youthreach centre staff at Leixlip during 1995 and 1996. Further development of the Programme took place during 1996 and 1997' (Bowden, 1998: 7).

Conclusion

From their emergence in 1853 as a separate entity to be governed differently to the rest of the 'criminal' population, the juvenile offender and potential offender have become visible in a range of highly visible institutional settings and also less visible ones. The numbers detained in institutional settings have decreased dramatically with the demise of the reformatory and industrial schools. However, even larger numbers are now governed within the less visible sites that are now part of the justice–welfare continuum.

Regulatory sites within the community aimed at adjusting the behaviour of young people in accordance with societal norms are not new. From the mid-nineteenth century there emerged a regulatory grid, which was dominated by Catholic religious organisations and linked to issues such as health, welfare and employment. While the dominance of these Catholic organisations has waned, modern crime prevention initiatives are still linked to the issues of health, welfare and employment.

From the mid-nineteenth century the juvenile justice system became visible in a number of ways: the panoptic architecture of the reformatory and industrial schools; the borstal institution; detention centres; high support and special care units; and a less visible grid of alliances, predominantly run by Catholic organisations that operated under the heading 'social work'. From the 1970s onwards we see the emergence of a range of diversionary and crime prevention initiatives located within the 'community'.

CHAPTER 6: RATIONALITIES

> *Government is a congenitally failing operation: the sublime image of a perfect regulatory machine is internal in the mind of the programmers . . . Whilst we inhabit a world of programmes, that world is not itself programmed. We do not live in a governed world so much as a world traversed by the 'will to govern', fuelled by the constant registration of 'failure', the discrepancy between ambition and outcome, and the constant injunction to do better next time.*
>
> (Rose and Miller, 1992: 190)

Introduction

The discourse on the failure of the prison, the failure of the institutional model and the failure of juvenile justice system in one form or another has provided the impetus for the reform of technologies for governing young people. This registration of failure was a constant theme from the mid-nineteenth century when reformists argued for a reformatory model. In Ireland, by the early 1970s the perceived failure of the Children Act, 1908 to cater adequately for young people's needs became a prominent discourse. A series of reports highlighted the 'needs' of the young person and the importance of prevention in relation to juvenile delinquency.[95] Throughout these reports a significant discourse on the failure of existing systems to cater for the 'needs' of young people was emerging. This discourse opened up a space for new rationalities of government to develop.

Community

From the early 1950s one can see a movement towards dealing with the problem of juvenile delinquency outside the institutional settings. The Commission on Youth Unemployment highlighted the need to 'keep unoccupied boys and girls under educational control and give them a sense of personal and social responsibility' (1951: 12). In order to achieve this it was proposed to establish training workshops under the management of the Vocational Guidance Service. These workshops were intended 'to

[95] These included: Tuairim (1966); Kennedy Report (1970); CARE (1972 and 1978); *First and Second Interim Reports of the Interdepartmental Committee on Mentally Ill and Maladjusted Persons* (1974); *Report of the Task Force on Child Care Services* (1980); O'Sullivan Report (1980); *Report on the Probation and Welfare Service* (1980); Costello Report (1984); Whitaker Report (1985); Report of the Interdepartmental Group (1992); *First Report of the Dáil Select Committee on Crime* (1992).

absorb all youth between 14–16 years of age not attending for full-time education' (1951: 12). The scheme to cater for 'unoccupied youth' was the prototype for the community training workshops that are in existence today and was the first government proposal to tackle the problem of delinquency outside the institutional setting by utilising a community-based strategy. It was based on the premise that the unemployed or 'idle' youth were in danger of becoming 'delinquent youth'.

Two years later, on 24 October 1953, the Commissioner of An Garda Síochána approved a scheme for the cautioning of young offenders under fourteen years who had committed minor offences. This scheme was the prototype for the Garda Juvenile Diversion Scheme, which is the main mechanism for diverting young people in the state and was put on a legal footing with the enactment of the Children Act, 2001. In addition to these developments there was an increase in the use of probation in relation to juvenile offenders. These developments were significant in that they represented a rationale for the government of the delinquent and potential delinquent outside the institutional setting.

The *Report of the Joint Committee on Vandalism and Juvenile Delinquency* (1958) highlighted the social and psychological factors influencing delinquent behaviour. It was critical of the reformatory and industrial school system and recommended the establishment of the 'Dublin City Youth Board', which would comprise representatives of Dublin Corporation, An Garda Síochána, the Department of Justice and voluntary youth organisations. It was proposed that this Board would assist those involved in dealing with the problem of delinquency, train social workers in this field and co-ordinate existing organisations operating in this area.

Although these reports represented a shift in thinking towards solutions within the community, little changed in practice and the reformatory and industrial schools remained the dominant method of governing the delinquent and potential delinquent. Further reports suggested alternative strategies. O'Connor (1962) highlighted some of the social and psychological factors influencing delinquent behaviour and made recommendations in the area of family welfare and improved facilities for young people. The Commission of Inquiry on Mental Handicap (1965) pointed to the

'school' and the 'family' as sites where greater resources could be deployed in an effort to identify childhood problems at an early stage.

It was the Kennedy Report (1970), however, that presented the first comprehensive set of recommendations dealing with the prevention of delinquency in the 'community'. The Report highlighted the 'community' and the 'family' as the main sites for preventative strategies including education, youth work and family support. It claimed that:

> . . . every effort made to improve and provide extra services for our children in 'at risk' areas will yield dividends in happier and more contented families and better adjusted, better educated children and would be an important preventative measure for keeping children out of care. (1970: 49)

It recommended increased support for youth work and the improvement of facilities within communities, noting that 'development in this field has very great potential if it involves a genuine community effort' (1970: 37). These sentiments were echoed by CARE (1972), which also called for greater investment in facilities in poorer communities in order to prevent delinquency. However, once again, there was little progress in practice.

In 1977, following the recommendation of the Interim Task Force on Child Care Services (1975), a number of youth encounter projects were established in Dublin, Cork and Limerick (Burke et al, 1981). Also, the government published *A Policy for Youth and Sport* (1977), which promoted the development of facilities within the community, including youth clubs and other sporting organisations.

A number of reports published during the 1980s recommended programmes aimed at the government of the 'at risk' child population within the community.[96] Many of these recommendations represent what Miller and Rose (1990) have described as 'government at a distance'. This involves the formation of alliances between various agents of government in order to effect shared action across a range of sites. In this

[96] *Report of the Task Force on Child Care Services* (1980); *Report of the Probation and Welfare Service* (1980); O'Sullivan Report (1980); *First Report of the Dáil Select Committee on Crime* (1982); Costello Report (1984); Whitaker Report (1985); *In Partnership with Youth* (1985).

regard, the O'Sullivan Report (1980) promotes the relationship between the voluntary and statutory sector in recommending initiatives for the government of young people 'at risk' through the promotion of volunteerism and youth work. The *Report of the Probation and Welfare Service* (1980) recommends the use of community projects and workshops as a means of educating, training and motivating offenders to become more responsible. It states that 'continued liaison with and encouragement of community groups in widening the range of facilities for offenders in the community and developing community resources is an important objective of the Service' (1980: 53). The *Report of the Task Force on Child Care Services* (1980) recommended the employment of a range of initiatives within the community for the identification, surveillance and management of the 'at risk' child population. These included neighbourhood youth projects, family support projects and other social-work-type initiatives that enlisted the co-operation of voluntary and statutory groups. Rose notes:

> Centres of political deliberation and calculation have to act through the actions of a whole range of other authorities . . . such 'action at a distance' inescapably depends on a whole variety of alliances and lash-ups between diverse and competing bodies of expertise . . . far removed from the 'political apparatus' as traditionally conceived. (2000: 185)

The promotion of the participation of voluntary and community groups in conjunction with existing statutory bodies represented an important rationality of government that was being increasingly recognised through a shared expert language. This language – shared by social workers, gardaí, youth workers, psychologists and other professionals active in the field of juvenile justice, child protection and welfare and other related areas of expertise – recognised the community as a space through which young people could be more effectively governed. The utilisation of this notion of 'community' was implicit in the argument for a more liberal form of government.[97] It recognised certain shared norms and values common to these professionals and volunteers. In this sense, 'community' was recognised as a liberal space that enabled government to take place in circumstances that were regarded as acceptable to these groups.

[97] In this regard, Burke et al (1981) recommended a community-based approach to the young offender.

In September 1982 the Association of Garda Sergeants and Inspectors launched a discussion paper on community policing (A.G.S.I., 1982). It envisaged a central role for the community garda in co-ordinating statutory and voluntary groups in an effort to prevent crime. During the 1980s An Garda Síochána developed a community policing strategy that saw it enlist the support of communities by utilising the rhetoric of community policing. Community gardaí were tasked with establishing links with youth clubs, sporting organisations and other community groups in an effort to reduce crime.

In this regard, the language of expertise is crucial in establishing the networks that occupy these community spaces. Miller and Rose note that such language:

> . . . plays a key role in establishing these loosely aligned networks, and in enabling rule to be brought about in an indirect manner. It is in part through adopting shared vocabularies, theories and explanations, that all loose and flexible associations may be established between agents across time and space – Departments of State, pressure groups, academics, managers, teachers, employees, parents – whilst each remains, to a greater or lesser extent, constitutionally distinct and formally independent, each of these diverse forces can be enrolled in a governmental network to the extent that it can translate the objectives and values of others into its own terms, to the extent that arguments of another become consonant with and provide norms for its own ambitions and actions. (1990: 10)

'Community' had begun to be recognised as a key site for the government of young people. The Whitaker Report (1985), echoing some of the principles enunciated in the earlier reports of the *Task Force on Child Care Services* (1980) and the Costello Report (1984), called for a greater role for 'voluntary and local initiatives to help the young control their aggressiveness and thirst for excitement' (1985: 10). It noted that 'the community, whose responsibility it is to ensure equity and justice, must itself assume a more active role in crime prevention . . . this means both greater watchfulness and a more caring attitude' (1985: 10). The Report also called for the strengthening of resources for the Probation and Welfare Service, greater use of community service orders and 'other restraints on liberty operable within the community e.g. compulsory residence in approved hostels, compulsory training programmes, reporting at intervals to the authorities' (1985: 11).

According to Walsh, 'the first concrete steps towards the introduction of "restorative justice" concepts in sentencing in Ireland were taken with the enactment of the Criminal Justice (Community Service) Act 1983' (2005: 158). The community service order (CSO), the first of which was made by the courts in 1984, was aimed at young people between the age of sixteen and twenty-one and was intended to provide an alternative to the custodial sentence.[98] In the context of the present study, the Whitaker Report contains two implicit rationalities of government: the failure of the prison and the use of community-based initiatives for offenders and potential offenders. The impetus behind this community-based rationality of government comes from the recognition of the failure of the prison. This rationality of failure in turn gives rise to a separate expert language of government. As Rose notes:

> Within a rather short period, what began as a language of resistance and critique was transformed, no doubt for the best of motives, into an expert discourse and a professional vocation – community is now something to be programmed by Community Development Programmes, developed by Community Development Officers, and policed by Community Police, guarded by Community Safety Programmes and rendered knowable by sociologists pursuing 'community studies. (1996: 332)[99]

The notion of government 'through the community' has become an all-pervasive political rationality as a result of the delineation of the territory known as 'community' by certain experts operating in the field of juvenile justice. This process involves the creation of different communities for the purpose of government. Most significantly in the current context, there is the creation of the 'normal' community and the 'at risk' community. The assessment of certain individuals as being 'at risk' and the creation of 'at risk' communities is a deeply political act as are the strategies

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[98] These orders are made after the preparation of a Community Service Report by the Probation and Welfare Service. This takes the form of a written report for the court that addresses the suitability of the offender for community service.

[99] This is not to suggest that what one is witnessing here is a radical shift with one form of government replacing another. Rose is here being more modest in his claims and this goes to the heart of his 'diagnostic' approach. In relation to the emergence of these new discourses of 'community' he states that 'It is not a question of claiming that the older ways have been erased or consigned to history, but of identifying something new taking shape within and alongside the old arrangements, something different threatening or promising to be born. Its birth is slow, complex; it is conceived out of the intersection of heterogeneous social, political, discursive and technological shifts, often in apparently unconnected fields' (1999: 173).

of government designed to regulate them. The development of Garda Youth Diversion Projects in the early 1990s represents a significant movement in this regard.

In order to govern the 'at risk' community certain allegiances must be activated within the 'normal' community. The activation of these allegiances is usually portrayed as some way scientific or politically neutral and the language of risk management facilitates this process. Rose (1996), in arguing for the death of the social, considers the emergence of this new language of 'community' and the part it plays in constructing communities of risk. These languages:

> . . . shape the strategies and programmes that address such problems by seeking to *act upon* the dynamics of communities. They configure the *imagined territory* upon which these strategies should act . . . And they extend to the *specification of the subjects* of government as individuals who are also, actually or potentially, the subjects of allegiance to a particular set of community values, beliefs and commitments. (Rose, 1996: 331)

This notion of 'community' as a rationality of government can also function as a means to incite people to take more responsibility for themselves, to be more 'civically minded' and thus actively engage in the art of self-government. Rose refers to this activity as a form of 'ethico-politics' where individuals seek ways to govern themselves through their own freedom. He notes that if:

> . . . discipline *individualizes and normalizes,* and bio-power collectivises and socializes, ethico-politics concerns itself with the *self-techniques necessary for responsible self-government* and the relations *between one's obligations to oneself and one's obligations to others*. (1999: 188).

The *Report on the Youth Justice Review* (2006) presents a range of governmental techniques aimed at 're-moralizing' young people. These techniques seek to effect some kind of ethical re-adjustment on the part of the young person. They take place within the privileged space of the community. 'Community' here is invested with a quality of 'naturalness' and designated a suitable space for this ethical work to take place, giving the impression that within this community space there are solutions to be found based on a form of consensus. It is within this community space that governmental techniques focused on the ethical transformation of the young person

operate. In this way, the goal of ensuring a more effective regime of self-government is achieved through a myriad of governmental techniques that stretch from the cradle to the grave.[100]

Within this community space young people are encouraged to become less 'risky' in the sense that they are invited to align themselves closer to certain behavioural norms through a range of community-type initiatives. The concept of active citizenship is employed to achieve this aim by granting young people certain rights, which are conditional on them acting appropriately, i.e. becoming active citizens. This process of empowering young people to become active citizens is usually described as 'involving' the young person in decisions affecting their lives or enhancing their participation in 'civic society'. In recent years, various mechanisms have been employed to encourage the young person to be more civically responsible. Dáil na nÓg was established in 2001 with the aim of encouraging this kind of active citizenship (http://www.dailnanog.ie). Various county councils, through their county development boards (CDBs) have established local youth councils that feed into this national youth parliament.

This concept of active citizenship is also evident within the numerous initiatives operating throughout the youth work sector. The National Youth Federation in its *Policy Framework for the Delivery of Youth Services* states that youth work, 'through providing opportunities and support for young people can significantly support the democratisation of young people's lives and supports the development of active citizenship' (2003: 11).

Young people are thus characterised as free to exercise their democratic citizenship by making free ethical choices that shape their own lives. The state is seen as enabling individuals to make these ethical lifestyle choices. Rose refers to this as etho-politics and notes:

[100] The *Report on the Youth Justice Review* (2006) catalogues these 'ethical' projects under the following headings: Initiatives aimed at Young Offenders/Children at risk of offending; Preventative Initiatives aimed at Poverty and Social Exclusion; Initiatives with a Broad Target Group.

> By etho-politics I mean to characterize ways in which these features of human individual and collective existence – sentiments, values, beliefs – have come to provide a 'medium' within which the self-government of the autonomous individual can be connected up with the imperatives of good government. (1999a: 477)

There is a range of community-based projects that are designed to encourage young people to become more responsible and to reinforce their identity as good citizens. For those who do not wish to become responsible citizens, offenders or those categorised as 'at risk', there is a range of other options available within the community designed to encourage them to adjust their behaviour. Bessant argues that 'youth-at-risk projects' are particularly effective:

> . . . because they key into progressive ideals about the virtues of local autonomy and 'community'. This in turn frequently dovetails with conservative agendas which are translated into moral arguments about a 'need' for greater individual responsibility as a means of solving those problems (re: the 'blame the victim' approach). (2001: 40)

Here we find programmes aimed at the re-moralisation of individuals by various means. Restorative Justice Programmes, Garda Youth Diversion Projects and Probation and Welfare Projects utilise various strategies to bring about the ethical reconstruction of the individual and ensure his or her eventual reattachment to 'a virtuous community' (Rose, 1999a). In particular, the twin rationalities of diversion and active citizenship underpin Garda Youth Diversion Projects. These initiatives seek to engage targeted young people in the process of ethical reconstruction through crime prevention activities by encouraging them to:

> . . . examine their own offending and to make positive lifestyle choices that will protect them from involvement in criminal, harmful or socially unacceptable behaviours. To implement this, the work involves linking young people with non-offending peer groups and the forming of stable and trusting relationships with adults in the community. The intended impact of this process is that those who are engaged in this process develop into responsible and valued citizens and the intended outcome is that young people engaged do not offend and do not progress into the criminal justice system. (Garda Youth Diversion Project Guidelines, 2001: 6)

These projects employ a range of initiatives in order to enlist the young person in the process of ethical reconstruction; these include promoting personal development, building self-esteem, challenging behaviour, exploring positive alternatives, addressing alcohol and drug use, promoting further education and a wide range of recreational and educational activities. Through these activities they seek to place more responsibility on the young people to reconstruct themselves ethically.

In addition to Garda Youth Diversion and Probation Projects other initiatives have emerged promoting a range of interventions with young people 'at risk' by encouraging them to take more responsibility in making 'positive' lifestyle choices. The 'Copping On' initiative (2001) provides training through crime prevention and awareness programmes for those working with young people 'at risk'. Similarly, 'Breaking Through', was established in 1999 as an 'all Ireland network to promote effective interventions with young people at risk' and aims to promote partnership and inter-agency co-operation between those working with young people at risk (Breaking Through, 2001: 6). In 2004 Young People at Risk (YPAR) was established in Dublin's north inner city to facilitate the integration of services and promotion of best practice for those working with young people 'at risk' (Irish Association for the Study of Delinquency, 2005: 235). These initiatives represent a new kind of government, where individuals deemed 'at risk' are encouraged to make certain lifestyle choices in return for their acceptance or re-attachment to a 'moral community'. Government is thus achieved:

> . . . through discrete practices of control that seek to monitor and reduce their riskiness and through individualized practices of personal reform. Personal reform', here, is understood in terms of re-attachment – the development of bonds tying the formerly excluded into the workplace, through the labour contract, into the family, through the parenting contract, into the community, through novel policies that amount, in effect to 'community contracts' – schemes for the regeneration of moral community, commitment and connectedness. (Rose, 1999a: 488)

Such discrete practices of control aimed at personal reform are a feature of restorative justice initiatives. Restorative justice initiatives were first piloted by An Garda

Síochána in 1999 and eventually formed part of the Children Act, 2001.[101] They aim to effect personal change in young people by confronting them with the consequences of their actions (Braithwaite, 1989). The process may involve the victim, the family or members of the local community and usually results in the drawing up of a contract affecting the future behaviour of the young person. As Rose notes, 'citizenship becomes conditional upon conduct' (1999a: 488). Restorative justice and other diversionary initiatives are part of a range of liberal governmental rationalities that have emanated from a general dissatisfaction with more traditional criminal justice approaches that are viewed as failing to recognise adequately the rights of the victim and the needs of the community and the young person.

The restorative justice initiatives introduced in the Children Act, 2001 aim to:

> . . . establish two distinct pathways to meet the needs of offending and 'out of control' non-offending children [and] shift the emphasis away from residential/custodial care, to care in the community, for children in the juvenile justice and welfare systems. (Irish Association for the Study of Delinquency, 2003: 19)

The various initiatives under the Act are designed to micro-manage the behaviour of 'risky' individuals by encouraging, shaming, threatening and cajoling them to re-attach to a mythical community.[102]

These developments should be seen within the wider context of a growing willingness on the part of government to engage with the principles of communitarianism. In this regard, Pobal is a limited company established by the government to manage Irish government and EU funds. It promotes a wide range of community programmes dealing with marginalised communities.[103] Also, the Irish Youth Justice Service

[101] A victim/offender mediation service was piloted at Tallaght District Court in 1999. It received funding from the Department of Justice, Equality and Law Reform and took referrals from Tallaght and Naas Courts.

[102] For example there are three types of restorative conferences provided for under the Children Act, 2001: Restorative Justice Conferences (An Garda Síochána); Family Conferences (Probation Service) and Family Welfare Conference (Health Service Executive).

[103] For example: Community Graffiti Reduction Programme; RAPID (Revitalising Communities by Planning, Investment and Development); Dormant Accounts; Grants for Community and Voluntary Organisations; Community Services Programme; Community Based CCTV Scheme and the Local Development Social Inclusion Programme (http://www.pobal.ie).

promotes a range of community-based initiatives to govern 'risky' behaviour through six Local Drugs Task Forces (Irish Youth Justice Service, 2008a). In this regard, then Taoiseach, Bertie Ahern launched the Taskforce on Active Citizenship in April 2006. This initiative aims to 'responsiblise' communities and individuals by enjoining them to actively explore their citizenship. This particular governmental rationality draws on the theories of Coleman (1988), Putnam (2000) and others in seeking to promote the potential of the 'active citizen' for self-government (Task Force on Active Citizenship, 2007).

Social Work

Skehill (2004) has highlighted the limited development of health and social services in Ireland prior to 1970, when most of this work was carried out by voluntary organisations that were supported by the Catholic Church. She argues that it was only during the 1970s that social work became established as a professional secular strategy, replacing the existing voluntary and religious-based practices that had their origins in the nineteenth century (2000). In this regard McNally notes,

> . . . the professionalisation of social work in general in Ireland had been delayed and very limited, despite the aspirations of some such as the non-denominational Civics Institute of Ireland. Among the universities, UCD was the first to establish a social science degree in 1954. TCD introduced its degree in social studies in 1962, and UCC established a social science degree in 1968 . . . It was not until 1975 that a degree in social science was required for recruitment as a welfare officer. (2007: 18)

Within the juvenile justice field the discourse on the 'needs' of the child had become a prominent one by the early 1970s. The Kennedy Report (1970) had promoted a developmental model in relation to child welfare stressing the importance of early intervention in the life of the child. In this regard, social work began to be seen as key governmental rationality. Following on from the Kennedy Report, the Task Force on Child Care Services (1980) was to be a catalyst for many of the legislative changes that would eventually shape the present juvenile justice system. O'Sullivan, writing within the context of the development of the Irish childcare system, states:

> The publication of the Task Force Report set in train a series of legislative developments that were gradually to repeal the Children Act, 1908. Thus, the inertia that existed with regard to child care services from the 1930's to the early 1960's was overturned by the 1970's and the slow process of initiating modern child care policies and legislation began. (1999: 140)

The *Report of the Task Force on Child Care Services* (1980) was significant in that the reforms it recommended resulted in the development of governmental technologies designed to govern the child and the family. Like the Kennedy Report, the family was at the centre of its proposed governmental project. The rationality employed in the Report is grounded on the philosophy of governing the child through the family:

> Since we consider that the primary emphasis of children's services should be on the child within the context of the family, we attach particular importance to the services which can help families to care for their children in their own homes. (1980: 115)

The family became a prominent site through which to govern the child and around it evolved a range of strategies aimed at diagnosing maladjustment, delinquency and failure. Rose (1985) points out that the emergence of the 'psychological family' led to the development of investigative, diagnostic and reformative practices that presupposed a conceptual model of the 'natural' family. This 'natural' family:

> . . . was, in most circumstances, a uniquely appropriate emotional economy for its normal healthy development. But families did go wrong and when they went wrong this engendered problems in the child . . . They went wrong at the level of their emotional economy. And when children showed problems of behaviour – nerves, maladjustment, delinquency – these were symptoms of this disturbance of family relationships. (Rose, 1985: 176)

The *Report of Task Force on Child Care Services* recommends a social work model based on a process of assessing the risk to the child and deciding on the appropriate child- or family-centred response. Within the context of the juvenile justice system, it stipulates when intervention is required and recommends that 'a child should be deemed in law to be in need of care where the circumstances of the child's life are such that his moral, physical, educational, emotional, intellectual, or social well-being

or development is substantially impaired' (1980: 274).[104] This recommendation placed social workers at the centre of the process of governing children. It gave them licence to select those children in need of protection or 'at risk', and the form of intervention deemed most appropriate.

In the context of regulating delinquent juvenile behaviour specifically, the Task Force Report viewed the role of the social worker as pivotal in supporting, advising and supervising the child and 'guiding children away from delinquent activities and associations, and encouraging them to participate in beneficial social activities' (1980: 124). In this regard, probation officers, who were already operating a social work model, were encouraged in their role in assisting, befriending and guiding those who had become involved with the criminal justice system or were in danger of becoming so involved. The rationality behind social work is one of the most prominent rationalities operating in the field of juvenile justice. As already noted, Parton (1991) views it as occupying the space between the respectable and deviant classes and in the process mediating not only between the excluded and the state agencies, but crucially between those state agencies themselves. The Report viewed social work as an essential mediating strategy to be employed as an alternative to the previously dominant religious institutional strategy. In this regard, it was part of an emerging discourse of more liberal forms of governance that began to find expression in the early 1970s.[105]

It is here that the social and psychological sciences are at their most powerful in providing the technical knowledge and expertise to enable the regulation of children and families. The language of science provides a 'neutral' vehicle by means of which various governmental strategies are adapted to the project of regulating children.

[104] However, this view was not unanimous and reservations were expressed that 'the system proposed in the Main Report will lead to greater intervention by the state in the lives of a greater number of children, in direct contravention of the principle of minimum intervention which is intended to inform the rest of the Report . . . More and greater intervention means two things: wasteful expenditure by the state and damage to many children who would be better off left alone' (1980: 341).

[105] Skehill (2003) has highlighted the difficulty in drawing parallels between the development of social work in Ireland and in Britain or France. She notes that within 'the context of non-state intervention and the dominance of the socio-spiritual discourse, a different form of philanthropy existed in which professional social work found little space throughout much of the 20th century. While structures of liberal governance were developing from the 1970's onwards, it was not until concerns for mediation in the social emerged after 1991 that significant space was afforded to professional social work' (2003: 152).

Regardless of how scientifically valid these sciences are, in empirical terms, they represent a powerful means of regulating populations. For Rose, the psychological sciences are a key governmental rationality in the regulation of populations and as such they depend:

> . . . upon a particular conception of normality and pathology, and a particular conception of norms . . . The psychology of the individual grounded itself in the belief that there was a symmetry between three registers of norms – norms of socially desirable conduct, norms of the distribution of psychological characteristics and attributes in the population, and statistical conceptions of the normal distribution of variation in large groups. (1985: 227)

The psychological sciences were central to the Task Force Report's thesis that the child is someone who is 'in the process of formation' (1980: 34). In this regard, the child's identity is tied up with this notion of being in the process of development. It is given the status of being 'vulnerable' or 'at risk' and as having certain basic needs. These needs are primarily located within the context of the family and the Report argues that the deprivation of these needs results in failure to develop normally. The notion of the 'natural' family unit is invoked as a benchmark of normality and as a space in which the child can develop normally. The invocation of these norms allows the Report to define the 'at risk' child and to calculate and speculate upon levels of deprivation and risk in the population. The Report bemoaned the lack of accurate statistical data relating to risk:

> . . . statistics on child care services in Ireland are not very sophisticated or comprehensive and we are therefore uncertain about the number of deprived children and children at risk. However . . . we describe a range of family conditions and behaviour characteristics which may indicate risk deprivation and bearing these in mind, we consider that some of the available statistics can be presented as useful indicators of the approximate extent of some aspects of the problem. (1980: 40)

It goes on to present statistics relating to the age of the population, living conditions, unemployment, number of one-parent families, number of separated parents, truancy and crime. These indicators of risk facilitate the measurement of deprivation and potential deprivation in the child population and allow the Report, on the basis of its enquiries, to 'suggest that quite a significant proportion of the children [surveyed]

could be described as emotionally deprived or at risk for reasons other than physical deprivation' (1980: 42).

The Task Force Report reflected a growing recognition of social deprivation as an indicator of risk within the child population. It also recognised social work as the key rationality in the governance of risk in this regard and the family as a key site through which to achieve the effective governance of children. This was reflected in subsequent government policy in relation to children. Within the present context, two specific areas in which social work was to dominate thinking in relation to the governance of young people were the areas of family support and special care/high support. This resulted in the provision of preventative and interventionist social work services for those children deemed either 'at risk' or 'out of control'.

The introduction of the Child Care Act, 1991 placed responsibility on the health boards for the protection and welfare of children. The 1990s saw an expansion in the areas of family support and high support/special care. Two reports are of particular interest here in the way they seek to affect the governance of the 'at risk' child and the 'out of control' child. The Final Report of the Commission on the Family, *Strengthening Families* (1998) recommended a broad strategy of family support as a means of protecting the future development of the child. In 2003 the Special Residential Services Board sought to arrive at a clearer definition of the concept of high support as it was utilised in Ireland. Ten health board areas were surveyed[106] The Report (Special Residential Services Board, 2003) concluded that while there was no one definition of 'high support' it needed to be distinguished clearly from 'special care'. It also noted that 'high support' need not be associated with a particular unit but could be conceptualised as a 'methodology' to be employed in a range of settings including the home and the community. Despite this, in Ireland, 'high support' continues to be provided mainly in residential settings.

[106] These were: North Eastern Health Board; North Western Health Board; Western Health Board; Mid-Western Health Board; Midland Health Board; Southern Health Board; South Eastern Health Board; and in the Greater Dublin Area: Northern Area Health Board, South Western Area Health Board and East Coast Area Health Board.

'Psy' Expertise

The Report of the Task Force on Child Care Services (1980), through the medium of the social and psychological sciences, recommended a range of risk-based technologies to be utilised for the government of the child population. These were aimed at the identification, assessment, classification, prevention, treatment and management of children. A broad range of initiatives was recommended, including: social services for children; family support services; day care services; initiatives to support, advise and supervise children; childcare services; community services; alternative care; foster-care; adoption; residential care; constitutional and legal reform (1980: 265). The application of a 'scientific' approach to the study of the 'at risk' child opened up a range of open and closed spaces in which children could be governed.[107] It also provided justification for the search for a scientific definition of the 'normal' and 'abnormal' child.[108] Rose (1988) highlights the role of the psychological sciences in making the child calculable and thus more governable. He notes that the collection of large amounts of data on individuals facilitated the construction of a definition of childhood normality. In this way a:

> . . . developmental norm was a standard based on the average abilities or performance of children of a certain age at a particular task or in a particular activity. It thus not only presented a picture of what was *normal* for children of such an age, but enabled the normality of any individual child to be assessed by comparison with this norm. (1988: 192)

At the same time that 'normality' came to be defined, the category of 'risk' was also given a privileged position in these expert vocabularies. Prior to this there had been little research into the psychology of criminal behaviour. A number of independent empirical studies had looked at the specific characteristics of delinquents (Power, 1971; Flynn et al., 1967; Hart, 1968 and 1970; Hart and McQuaid, 1974; O'Connor,

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[107] These include clinics for assessment and treatment of childhood disorders; initiatives for education of parents and children; projects aimed at diversion and supervision; neighbourhood youth projects; residential assessment centres; family support projects; hostels; long- and short-term residential care; centres for severely disturbed children; playgroups; nurseries etc.

[108] In this regard, the Report states: 'We understand that the Medico-Research Board and the Department of Health have had under examination the possibility of setting up a national child development study . . . We consider that such a research project would be most useful, given the present scarcity of information concerning (i) the development of normal children in this country, (ii) children experiencing mental, physical, emotional or social problems and (iii) the efficiency of existing children's services' (1980: 42).

1963). These studies approached the problem of delinquency from a psycho-social perspective, concentrating on the developmental needs of the child. In addition, CARE, a group campaigning for the welfare of children in Ireland, highlighted the effects of childhood deprivation.[109]

The First and Second Interim Reports of the Interdepartmental Committee on Mentally Ill and Maladjusted Persons (1974) considered the juvenile delinquent from a psychological perspective.[110] They made recommendations in relation to the establishment of residential and day assessment facilities for juvenile offenders and for the provision of psychological reports on juvenile offenders. The Second Interim Report considered the provision of treatment for juvenile offenders and potential offenders. However, what is most significant about this Report is the way that it inserts the concept of the individual's 'psyche' and related observational data into the risk assessment process. Such considerations were to be utilised in constructing a typology of delinquent and potentially delinquent types. It notes:

> In the case of juvenile offenders, a particular crime may be committed by an illiterate youngster in a moment of bravado, an aggressive sociopath or a paranoid schizophrenic patient at a time of delusional crisis. Psychiatrists' assessments take account of the individual's psyche and are not based exclusively on the behaviour he has displayed. (Second Interim Report, 1974: 3)

It recognised five different categories of 'patient': 'illiterates; cultural delinquents; character-disordered delinquents; aggressive sociopaths and neurotic incidental offenders' (Second Interim Report, 1974: 3). It recommended that,

> . . . priority should be given to the establishment of a closed school to which boys up to 16 years of age could be sent who are found to be unmanageable but who are not psychiatrically disturbed [and in relation to girls] one special residential school . . . to which girl offenders between 12 and 17 years could be committed by the courts. As these girls are likely to be seriously maladjusted,

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[109] CARE published two influential papers in this regard: *Children Deprived, The CARE Memorandum on Deprived Children and Children's Services in Ireland* (1972) and *Who Wants a Children's Prison in Ireland* (1978).

[110] The Reports listed among the risk factors in relation to juvenile delinquency: familial strains, lack of parental control and guidance, poverty, bad housing, drab and frustrating environment, want of suitable recreational facilities, insufficient early diagnosis and treatment of both organic and personality disorders, inadequate education (particularly in civic responsibility) (1974: 4).

> the school should accommodate no more than 25 and should have a 'closed' regime. (Second Interim Report, 1974: 10–11)

Prior to this, the Kennedy Report (1970) recommended the establishment of a 'child-care' system aimed at the prevention of family breakdown and its resulting problems. It called for the abolition of the existing institutional system and its replacement with a system that came as close 'as possible to the normal family unit' (1970: 6). It also highlighted the role of education as 'one of the most important formative influences on the child with whom we are concerned, whether they are deprived or delinquent' (1970: 6).

The Kennedy Report is viewed as a watershed event within the context of the history of childcare in Ireland, heralding the emergence of a 'developmental' model of childcare. According to O'Sullivan, the Kennedy Report most clearly articulates this shift:

> . . . the discourse of the 'depraved' child which shaped the application of intervention by the State and those to whom it delegated child-care responsibilities was to shift to a discourse that placed a premium on the notion of deprivation. (1999: 137)

Within the context of the juvenile justice system in Ireland the emergence of this discourse provided added scope for the governmental programme. Its emergence, along with a range of allied psychological and other scientific discourses supplemented existing governmental technologies. This meant that calculations of risk in relation to the juvenile population could be made using the vocabulary of deprivation. The science of risk and its utilisation as a rationality of government became more elaborate. One process of governing did not replace another, however, the options available for those engaged in the process of governing were increased.

The Kennedy Report recommended that facilities for the assessment and identification of delinquency be established. In particular, it recommended the establishment of 'remand homes' that would function as assessment and observation centres.

> Reports on the behaviour and character of children while in remand homes should be provided by the Superintendent at the request of the courts and there

> should be full facilities for proper examination by psychiatrists and psychologists and reports by psychiatric social workers. (1970: 43)[111]

It also recommended greater use of psychology and psychiatry for diagnosing and classifying delinquents and delinquent behaviour. It states:

> It is only recently that human scientists have become aware of the processes involved in a child's intellectual development. It has been established that this development follows a certain sequence . . . There is a need to understand the various environments in which young people live and work. These are the home, the school, the adolescent culture itself and the general adult society. (1970: 35)

The Report recommends a model of prevention based on the early identification of that section of the population deemed to be 'at risk'. These 'at risk' children are those whose 'needs' are not being met within the 'normal family' environment. The Report adopts a psychological model of the stable family existing as a cohesive unit, as the optimum environment for ensuring that the child is protected. It views delinquency as resulting from parental or family failure and as a consequence recommends preventative measures aimed at the identification, assessment and treatment of certain children judged delinquent or at risk of becoming delinquent. In recommending such measures it opens up various spaces through which the behaviour and potential behaviour of children and their parents can be governed. The recommended measures include medical services, social services, nurseries, voluntary groups and community groups. In framing the problem of juvenile delinquency in terms of the 'needs of the child' the Report employs the vocabulary of deprivation rather than transgression. The government of the delinquent or potential delinquent was thus considered a 'welfare' issue rather than an exclusively 'judicial' one and a central element of the Report was the establishment of a more effective system for the surveillance of the 'at risk' population by identifying and segregating those deemed 'at risk'.[112]

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[111] A direct result of this was the establishment of St Michael's Assessment Centre in Finglas.

[112] The Report states: 'The whole aim of the Child-Care system should be directed towards prevention of family breakdown and the problems consequent on it . . . .The Child Care Division should have liaison with those likely to encounter at-risk families . . . Where parents are inadequate to cope with their responsibilities a system of identification and support should exist to deal with the problem . . . The work of voluntary organisations and individuals and of State organisations should be co-ordinated and given effect perhaps through the establishment of social Centres and local Committees' (1970: 66).

In 1966 a London based group of Irish academics published a report criticising the provision of childcare in Ireland and called for a radical reform of the existing system (Tuairim, 1966). Entitled *Some of Our Children: A Report on the Residential Care of the Deprived Child in Ireland*, it argued from the perspective of the 'deprived child', believing that the treatment of delinquency should not be based on the offence but on the causes of crime. Tuairim's ideas were influenced by much of the criminological research current at the time and specifically the work of John Bowlby, who highlighted the link between delinquency and maternal deprivation. The Report bemoaned the lack of criminological research in Ireland, stating:

> Social research should be the precursor of social reform, not a substitute for it. Too little social legislation has been passed since Ireland won independence. It is surely strange that we should be content with social legislation passed on to us by a government which we threw off. (Tuairim, 1966: 2)

In the same year, the Commission of Inquiry on Mental Illness (1966) recommended that the terms 'industrial school' and 'reformatory school' be dropped, as they were 'obsolete and objectionable' (1966: 74). It recommended the provision of psychological services for industrial and reformatory schools and throughout the wider community, believing that delinquency in children may be 'a symptom of emotional disturbance or other psychiatric disorder' (1966: 75).[113] In this regard, it also recommended that psychiatric reports be made available to the courts when adjudicating on cases involving children. The Commission recommended the provision of psychiatric services in the community and the establishment of district and regional psychiatric clinics for counselling adolescents. It also recommended the development of youth organisations as a means of governing adolescent behaviour and the suitable training of those in charge of them in order to cater for the needs of young people:

[113] In relation to juvenile delinquency specifically, the Report noted: 'The general problem of juvenile delinquency is outside the terms of reference of the Commission, but, in its consideration of the psychiatric aspects of this problem, it visited some of the reformatories and places of detention. These institutions suffer from the same defects as industrial schools. Psychiatric and psychological services are most inadequate; those in charge do not receive adequate information on the background of juveniles sent to them, and there is no proper system of after-care. The authorities of these institutions are aware of the present deficiencies and are anxious to have them rectified' (1966: 75)

> Youth organisations can exercise a considerable influence for good on young people. Effective youth organisation channels the adolescent exuberant energy into character-forming recreational and social activities in clubs and similar associations. (1966: 75)

The participation of voluntary organisations and others in the community in the identification of 'at risk' children was also considered by the Commission of Inquiry on Mental Handicap (1965). Its Report maintained that 'the problem is so great, however, and creates such a reservoir of inadequate persons and possible delinquents that an attack on the problem by all possible means is necessary' (1965: 123).

The Report advocated the establishment of pre-school centres for the early identification and education of families and children in:

> . . . areas where there is a concentration of families in the low-income group . . . The centre should aim to develop those attitudes and aptitudes which children in more favoured environments usually acquire: they should prepare and fit children to take their place in normal schools and they should help and advise parents as required (1965: 123)

This Report contains the first example in an official report of a specific governmental rationality grounded in the psychological sciences. This was illustrated in its recommendations for a range of early preventative interventions in the lives of young people and their families based on the psychological sciences.

A rationality of government that considered the child as a psychological entity began to emerge from the mid-1960s. This had a major influence on the government of delinquency as delinquent behaviour was viewed as emanating from some psychological disturbance and in order to govern it the emotional stability of the child needed to be supported through various initiatives aimed at addressing relevant risk factors.

Youth Work

Youth work continues to be an effective strategy in the governing of young people in Ireland and provides a mechanism for translating a range of governmental rationalities

into practice. The most prominent of these practices are prevention, education and early intervention strategies, which are based on the identification of risk within the juvenile and child populations. The government has provided direct funding for a wide range of youth work initiatives since the 1980s. A 2003 Oireachtas Joint Committee report on the *Effectiveness of Youth Clubs in the Local Community* concluded that youth clubs provide a range of effective strategies for dealing with a variety of 'social problems' in the child's environment. Prior to this, youth work had emerged as an effective means of 'bedding in' one of the most prominent crime prevention strategies in Ireland today: Garda Youth Diversion Projects, which are based on a broad youth work model. Their establishment, following the Report of the Interdepartmental Group on Urban Crime and Disorder (1992)[114], represented a shift in government policy towards crime-prevention-type initiatives that had become popular abroad.[115]

The O'Sullivan Report (1980) had earlier stressed the role youth work had to play in relation to socially disadvantaged young people. This section of the population was identified as 'at risk' and the Report considered them a 'problem' to be governed. In general, youth work in Ireland has been characterised by its lack of central co-ordination and its reliance on voluntary organisations.[116] Lalor et al. note:

> . . . from the late 1980's until the early 2000's, youth organisations continued to develop their own programmes and services often . . . through agreements and/or contractual relationships with VEC's and other statutory services and making use of a proliferation of funding opportunities. This has meant that a single youth service or project might have staff funded from a variety of different sources: Special Project for Youth funding from the Department of Education; funding from a local Drugs Task Force for a youth drugs worker; a Garda Special Project worker funded by the Department of Justice, and so on. (2007: 274)

The existence of these relationships facilitated the development of a large network of organisations targeting 'at risk' young people in response to a range of 'problems'

[114] The Interdepartmental Group was established in 1991 in response to incidents of criminality and public disorder in the Dublin areas of Tallaght and Ronanstown.
[115] In particular, the Safer Cities Programme in the UK and the Crime Prevention Council in Denmark.
[116] This situation has continued up to the present. The Youth Work Act, 2001, following on from the recommendations of the Costello Report (1984), was intended to provide a framework for the co-ordination of youth work services.

such as drug and alcohol use, early school-leaving, anti-social behaviour, low self-esteem and offending behaviour. This has also resulted in the emergence of a shared vocabulary of 'risk' that is used to describe, identify, classify and segregate those who are the targets of these programmes of government. Within the context of youth work, the Costello Report notes that 'at risk' refers to:

> . . . young people who, through personal difficulties or social disadvantage are particularly vulnerable to problems such as ill health, non-attendance at school, involvement in criminal activity, substance abuse, and general alienation from provisions availed of by other young people. (1984: 272)

The role of voluntary and religious organisations in governing delinquency was significant. The Rev Walter Forde in *Growing up in Ireland* describes the prevalence of the Catholic Church in the development of youth services in Ireland:

> When I was first involved in youth work, almost thirty years ago, every youth club in the country had a clergyman either actively involved or associated in some way with the group . . . At that time in the early 60's, a number of bishops had seen the value of having priests trained in youth work at professional courses abroad. The development of youth services in their areas tended to centre around these men on their return . . . (1995: 40)

The *Report of the Joint Committee on Vandalism and Juvenile Delinquency* (1958) distinguished between the delinquent and potential delinquent and within this context it considered alternative preventative strategies aimed at governing the problem of delinquency. It called for more co-ordination between voluntary and non-voluntary organisations involved either directly or indirectly in youth work. Among its suggestions was the establishment of a permanent organisation:

> . . . to be known as the Dublin City Youth Board. This Board should be a voluntary body constituted of representatives of Dublin Corporation, of the Department of Justice, of the Educational Authorities, the Gardai, and of Voluntary Organisations concerned with youth – the Board to have power to appoint sub-committees on which experts might be asked to serve. (1958: 14)

In suggesting this, it envisaged the formation of alliances between these various organisations in order to devise more effective preventative strategies for governing the youth population of Dublin.

Comhairle le Leas Óige, which was established in 1948, operated under the direction of the City of Dublin Vocational Education Committee and included in its aims the development of programmes to meet the needs of young people. It supported youth clubs by providing grants, training courses, liaison officers and part-time teachers. In total it had 159 affiliated groups dealing with 18,790 young people.[117] The Comhairle's main activities included woodwork, metalwork, arts and crafts, physical training and boxing.[118] The work of the organisation received the official stamp of approval of the Department of Education:

> Good work for the youth of Dublin was done by Comhairle le Leas Óige during the session 1948–49 . . . Religious Instruction in the centres was in the capable hands of the chaplain, who in each case organised a successful Annual Retreat . . . Visitors were much impressed by the wide range of exhibits and the high standard of finish. From the girls' clubs came a well-arranged group of finely coloured artificial flowers and some ingenious rugs and tea cosies. The boys submitted attractive specimens of book-stands, fire irons and wood carving. (1948–49: 40)[119]

The problem of juvenile delinquency was also framed within the context of the potential dangers to the unemployed youth. The Commission on Youth Unemployment (1951) linked delinquency and unemployment. It highlighted a specific danger to the young unemployed person and suggested 'special' measures for the more effective government of this 'problem'. In this regard, it states that 'the underlying aim of these special measures should be to keep unoccupied boys and girls under educational control and give them a sense of personal and social responsibility' (1951: 12). The Commission made a number of recommendations including the raising of the school leaving age to sixteen years. However, one of the most interesting recommendations was to 'establish, by way of experiment, a scheme of occupational, educational and recreational facilities for unoccupied youth, under the control of the proposed Vocational Guidance Service' (1951: 13). This was a

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[117] O'Sullivan Report (1980).

[118] Annual Report of the Department of Education (1948/49): 40.

[119] Fahy, writing about the reformatory school system, highlighted the fact that an 'excellent system of after-care has been developed by the St. Vincent de Paul Society, collaborating with the Society of St. John Bosco . . . Prior to the discharge of a boy the local Conference is notified by the Conference of St. John Bosco, Dublin. Full particulars of the boy are furnished before he returns home, and a member of the Conference visits the home to familiarise himself with the home and surroundings' (1942: 72).

significant development in that it represented an attempt to establish a system designed to supervise and normalise the unemployed youth population through occupational, educational and recreational initiatives. It also envisaged the formation of alliances between groups interested in youth development, employment and delinquency.[120] Significantly, it envisaged a role for religious and other voluntary groups in governing delinquency. Alliances were to be formed with mostly voluntary groups operating within the youth work area.

Lalor et al. locate the first significant statutory development as occurring in the early 1940's and note that this was 'partly due to pressure from Archbishop of Dublin, John Charles McQuaid, who was keen to see a response to the problem of youth unemployment' (Lalor et al., 2007: 271).[121] This resulted in the eventual establishment of Comhairle le Leas Óige, which later became known as the City of Dublin Youth Services Board, under section 21(2) of the Vocational Education Act 1930.[122]

The influence of McQuaid during this period was significant in that he was responsible for the creation of alliances between state and voluntary groups, particularly religious organisations. Cooney (1999) argues that organisations, such as the Legion of Mary, which were active in the area of youth work were used by McQuaid to further the influence of the Catholic Church.[123] This influence was

[120] The Commission was chaired by John Charles McQuaid, Archbishop of Dublin, and his religious influence is evident. The following were essential elements of the proposed scheme: co-operation with 'Ecclesiastical Authorities' and adequate provision of religious instruction; preservation of the family unit; voluntary co-operation of youth; opportunity to learn; attractiveness of activities; co-operation with voluntary organisations. Activities were to include: arts and crafts; domestic economy; horticulture; office routine and activities; talks on a variety of subjects; reading, writing and arithmetic; singing; dancing, physical training, boxing, athletics, swimming; camping; and competitions (1951: 70–71). McQuaid was instrumental in establishing training for youth workers and saw such youth work initiatives as crucial preventative strategies in combating juvenile delinquency (Purcell, 1991).

[121] According to Garvin, McQuaid 'was particularly exercised in the early 1940's by vocational and continuation education and its potential for non-Catholic or even anti-Catholic thought' (2005: 174).

[122] Lalor et al. note that youth work in Ireland has largely been driven by voluntary organisations including the following which were established from the 1940's on and are still prominent in the youth justice field today: Catholic Youth Care (1944); Macra na Feirme (1944); Foróige (1952); Youth Work Ireland (1961); Ógra Chorcaí (1966).

[123] The Catholic Church already had a controlling influence on the educational system. Garvin comments: 'By the time independence came, virtually the entire educational system on the island was controlled by clerics . . . The underground Dáil government of 1919 had no ministry of education; it seems that such a ministry, or to use the Irish term, department, was seen as superfluous or even

considerable in the area of governing young people. According to Cooney, McQuaid 'used his power to direct nuns and laity into State-aided projects' (1999: 140). In particular, the establishment of a home for delinquent girls run by the Sisters of Our Lady of Charity of Refuge in St Anne's in Kilmacud and schools for girls on probation run by the Sisters of Charity. In this regard, Cooney notes:

> The extent of this Church–State collaboration was acknowledged in the Dáil by the Minister for Justice, Gerard Boland, when he said that it was only with McQuaid's assistance that the Government was able to initiate a scheme for juvenile delinquents in which voluntary workers assisted probation officers at two training centres. As many as 46 Legion of Mary members were engaged in probation work. Boland's comments were echoed by Derrig [then Minister for Education], who thought McQuaid's work was 'of immeasurable benefit to the State as well as the Church'. (1999: 140)

Skehill (2003) has outlined the strength of what she terms the 'socio-spiritual' discourse and in particular the role of McQuaid in the context of the development of social work services in Ireland. In addition to this, the Catholic Church had an almost total monopoly on education in Ireland. Titley (1983) has described how the state's educational policy, post-independence, was shaped by the Catholic Church.[124]

These developments must also be seen within the wider context of McQuaid's development of the Catholic Social Service Conference (CSSC). The CSSC resulted from the amalgamation of a large number of Catholic organisations under the stewardship of McQuaid. It was originally established in April 1941 with the aim of meeting the needs of the poor in Dublin and 'mobilising all available resources for the common good' (Cooney, 1999: 136). A year later McQuaid established a youth department of the CSSC 'to run youth training centres for "difficult" boys who were in trouble with the law' (Cooney, 1999: 149). The initiative had the support of the government and a wide range of voluntary organisations and resulted in the opening of a number of centres for young people.

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impertinent. The idea that priests should control education appeared natural, inevitable and desirable' (2005: 167).

[124] In this regard, the then Minister for Education, Thomas Derrig, in a speech in the Dáil in relation to educational policy noted that 'We have the happy position that we have Church and State working hand in hand' (Dáil Debates, 1944: Vol. 94, Col. 394).

The Catholic Youth Council was established in 1944 by McQuaid as a sub-committee of the CSSC.[125] It actively sought engagement with young people through a network of youth clubs. It also administered playgrounds for Dublin City Council and Corporation. It remains active today under the name Catholic Youth Care (CYC), and provides youth services mostly in the greater Dublin area under contract from the vocational educational committees. It also manages a number of Garda Youth Diversion Projects and provides outreach workers who link in with community groups. It is engaged in a range of initiatives aimed at young people 'at risk' under the guise of crime prevention, drugs prevention youth employment and education. Although the profile of those working with CYC has changed significantly its ethos remains the same, as stated in a recent CYC publication:

> For many years students at Holy Cross, Clonliffe and priests in parishes were generous and effective youth ministers. The decline in the number of priests and the reduction in parish staff, places a responsibility on lay people to play an active and leading role in the evangelisation of young people. (Ni Chionnaith, 2004: 22)

Lalor et al. (2007) trace the development of youth clubs in Ireland back to 1911. They note that these clubs had:

> . . . an emphasis on the particular danger posed both to society and themselves by idle young males (there was also, separately, early youth work provision for girls), a concern with inculcating Christian values, and a difference in class background between the young people and the youth leaders or 'helpers' was common to much early youth work. (Lalor et al., 2007: 270)

Youth work as a rationality of government has existed from the beginning of the twentieth century. The delinquent and the delinquent class were viewed as targets for temporal and spiritual interventions. The Rev. Boyd Barrett (1922) called for an, 'awakening of the social sense' within young people towards those less fortunate. Boyd Barrett sought to incite the more 'privileged' school boys to carry out a form of Christian 'social work' for the benefit of their less privileged counterparts in the

[125] According to a recent history of the CYC, the organisation had 'its origins in the co-operation between the then Archbishop [McQuaid] and Minister Seán Lemass, TD' (Ni Chionnaith, 2004: 22).

poorer classes. This amounted to the evangelisation of these classes by those educated within the Christian tradition. He writes:

> . . . when our Irish boys are told that in the slums of Dublin and Belfast there are many men and women with as little education in religion as the Pathans of the North Indian frontier, they are stirred up still more. They yearn to help on Christian Social Work, so that the number of such hapless ones may be immensely diminished. (1922: 24)

The idea of a Catholic lay apostolate to the poor had developed through the work of the St Vincent de Paul Society.[126] Other organisations such as the Legion of Mary and the Christian Brothers became active in the area of youth work in the early twentieth century. The lay apostolate to the poor is evident in the development of the Newsboys' Clubs that targeted young people between twelve and sixteen years who sold newspapers on the streets of Dublin and Cork. These clubs were designed to instil Christian values in these young people through the medium of youth work and spiritual activities. The target of their apostolate was the delinquent and potential delinquent whose characters required 'firm moulding in the fundamental principles of self-control, of the restriction in rights for the good of all, and so forth; ideas which are implicit in the concept of Christianity, and in the narrower notion of citizenship' (Belvedere Newsboys' Club, 1940: 7). The boys were viewed as in need of spiritual and temporal assistance due to their deprived social condition:

> Already these lads are hardy veterans of the struggle for existence which many of them, often undernourished and ill-equipped, have been obliged to wage incessantly from early childhood. Neglected, as many of them must be, by harassed parents; educated as they all have been in overcrowded classrooms under a system of education which has all the faults and few advantages of mass-production . . . (Anon, 1945: 104)

The young person is characterised as a problem to be governed and in need of constant surveillance. This in turn serves to justify a range of interventions. As Rose (1999) has noted these interventions do not follow any single logic. This is particularly apposite in the case of the development of youth work in Ireland, where the state or any coherent governmental programme was largely absent. Instead,

[126] C.K. Murphy (1944) outlines the development and meaning of the Lay Apostolate of Charity with regard to the St Vincent De Paul Society.

interventions were deployed around a range of problems and arose from the activities of certain powerful and predominantly religious groups.

Probation

Like youth work, probation developed in an ad hoc manner. Rather than investing in a centralised probation service or other formal alternatives to institutional care, efforts were concentrated into forming alliances between voluntary and religious organisations. These alliances facilitated the surveillance of the young 'at risk' population. In this regard, McNally has argued that the principle of subsidiarity as interpreted by the Irish hierarchy proved to be a major influence on the development of social policy in Ireland and of the Probation Service in particular (2007: 12).

It was only from the 1960s onwards that there was a trend towards a greater professionalisation of the probation service with 'an increased recruitment of graduates and trained social workers' (McNally, 2007: 18). In this regard, Skehill has noted that it was with the recruitment of the first trained probation officer by the Department of Justice in 1961 that the 'formative space for the expansion of probation social work was established' (1999a: 127).

Though the Probation Service eventually developed a social work model for the supervision of 'at risk' groups, religious influences remained. The 1980 *Report on the Probation and Welfare Service* lists among its hostels three run by the Sisters of Our Lady of Charity in Sean McDermott Street, Kilmacud and High Park. It lists among its 'experimental projects' a Legion of Mary Probation Group providing 'a back-up service to clients of the service in the Dublin Court region' (1980: 62). Also, McNally highlights the prominent role played by the church and other voluntary agencies 'in a personal and visible manner in courts in Ireland into the 1970's, in partnership with the small professional Probation Service' (McNally, 2007: 6).

Following the enactment of the Probation of Offenders Act, 1907 the courts were given the power to order that certain individuals be placed under the supervision of those deemed suitable to carry out the task. However, following the passing of the

Act, apart from the city of Dublin, no formal probation service developed. Indeed there was only one official probation officer and an unpaid volunteer (McNally, 2007: 9). This lack of development remained a feature of the service until the 1970s.[127]

While in Britain there was a successful merger of public and private agencies to constitute a unified Probation Service (Garland, 1985), in Ireland the system of probation represented a much more ad hoc arrangement of alliances between various individuals and organisations.[128] McNally, argues that from the early 1940s there was an 'explicit preference in government for the engagement of denominational organisations in the provision of probation supervision' (2007: 12). The process of enlisting these volunteers was helped, he argues, by the efforts of the Archbishop of Dublin, John Charles McQuaid. Skehill notes that the work of voluntary organisations such as the Legion of Mary was given legal force by the 1907 Act and that as 'late as 1958, probation officers employed under the Dublin Corporation Probation Service comprised primarily of volunteers from charitable organisations such as the Society of St Vincent de Paul and the Legion of Mary' (1999a: 127).

Writing in 1945, Justice H.A. McCarthy noted that there were only six full-time probation officers operating in the city of Dublin. However, these were:

> . . . greatly helped by a body of voluntary workers, who, thanks to the efforts of His Grace, the Archbishop of Dublin, are rendering a signal service. They number 40, men and women, and they are drawn from the Legion of Mary . . . Furthermore, again through the instrumentality of His Grace the Archbishop of Dublin, Evening Classes for Boy Probationers have been formed in each of the three police districts. (1945: 47)

McCarthy also highlighted the fact that the probation system had not been extended throughout the country. However, he recognised that the St Vincent se Paul Society:

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[127] As far back as 1927 Sir Thomas Molony had argued for the development of a centralised probation service along the lines of that in Britain and bemoaned the fact that such a service had failed to be established in Ireland (Molony, 1927).

[128] Garland, commenting on the situation in Britain, argues that the Acts of 1907 and 1914 provided the foundations for a professional probation service, enabling the courts to appoint probation officers, 'although they could be selected from one of the approved voluntary agencies such as the Church of England Temperance Society' (1987: 21).

> . . . with a great tradition of service to the citizens had been declared by the Minister for Justice, a 'recognised' Society for the purpose of supervising Offenders, pursuant to the provisions of the Criminal Justice Administration Act, 1914. Under this Act the Minister has power to 'recognise' any Society which has amongst its objects the care and control of persons under the age of 21 years whilst on Probation. (1945: 49)

The Criminal Justice Administration Act, 1914 codified certain informal alliances between the courts and specific religious groups and enabled these groups to engage in activities designed to monitor juveniles placed on probation and ensure their moral protection.[129] It provided a mechanism whereby these groups could operate in the absence of an emerging and centralised probation service. Speaking of the work of members of the Legion of Mary who 'assisted' probation officers, McCarthy writes that:

> . . . they get in touch with the Probationers in their respective districts, show a friendly and practical interest in their doings, take them for walks in the evenings, and arrange outings and entertainments for them, finishing up with a Retreat, which is always excellently and enthusiastically attended . . . (1945: 48)

He similarly describes the work of the Christian Brothers and the Society of St Vincent de Paul in this regard. Elsewhere, McCarthy describes the obvious religious nature of the support given by those assisting the probation officers. He notes in relation to their activities that 'excursions and outings are arranged, throughout the year, and the Spiritual Director conducts an annual Retreat for both boys and girls, and it is very largely attended' (1948: 10).

Osborough has highlighted the role of voluntary organisations, particularly the Legion of Mary and the Guild of St Philip, in providing after-care for prisoners released from St Patrick's Institution:

> The assistance of the part-time voluntary worker has continued to be encouraged. In 1966 the establishment of a second praesidium of the Legion of Mary made possible more intensive visiting, which was thought especially

[129] The Act also expanded the range of conditions that a court could impose in lieu of a custodial sentence. Failure to adhere to these conditions could result in the offender being returned to court for sentence. It also recognised the role of philanthropic societies in the care of youthful offenders (McNally, 2007: 6).

> desirable when the home environment fell short of the ideal. Support of voluntary effort is reflected above all in the grant from public funds to the Guild of St Philip. (1975: 108)

Reforming the 'Juvenile Adult'

Garland has argued that legislation such as the Probation of Offenders Act, 1907 and the Prevention of Crime Act, 1908 was tacit recognition of the criminological programme in that it allowed for factors such as the 'character' and 'antecedents' of the offender to be taken into account. In relation to the 1908 Act, he notes:

> Part 1 of the Act, headed 'The Reformation of Young Offenders', adopted the juvenile-adult category of 16 to 21 year old . . . And even built in a line of extension for this 'special' category to include offenders up to the age of 23 in certain cases (section 1(1) and (2)). It also defined eligibility for this treatment in terms of 'criminal habits of tendencies' and potential corrigibility (section 1(1)), a knowledge of which was to be derived from investigatory reports on the youth's character . . . health and mental condition' (section 1(1)). The purpose of this sanction is defined as the 'reformation' of the offender, though of course this objective is coupled with 'the repression of crime' (section 1(1)). (1985: 219)

A particular characteristic of many of these regulatory mechanisms is the fact that they so often emerged from the rhetoric of failure. A recurring theme throughout the history of juvenile justice is a discourse of failure. The Gladstone Committee (1895) was established in response to a growing recognition that the 'prison' was failing to govern the criminal population effectively. Its Report noted:

> . . . we could not but be cognisant of the circumstances under which the inquiry was instituted. In magazines and in the newspapers, a sweeping indictment has been laid against the whole of the prison administration. In brief, not only were the principles of prison treatment as described in the Prison Acts criticised, but the prison authority itself, and the constitution of that authority, were held to be responsible for many grave evils which were alleged to exist. (1895: 1)

This growing dissatisfaction with prison as a means of governing the criminal population became a dominant discourse at this time. Garland alludes to the fact that in 'the penological literature of the 1890's and early 1900's almost every text endorsed this critique of imprisonment in some form or other' (1985: 60).

The Gladstone Report sought to take account of individual characteristics within the criminal population and thus recommended a greater classification of individuals according to these characteristics and their previous history. In addition to this, the Report recommended that juveniles and first offenders were to be treated as a class apart. In recommending this, the Report recognised the concept of the formation of the individual's character and the influence of external factors on this process of character formation. In particular it recognised the risk posed to the character of juveniles from association with the 'habitual criminal'. Its recommendations included the establishment of separate penal reformatories under government control The first such penal reformatory was established in 1900 in Borstal, which was to give its name to this particular type of establishment. The 'borstal system' eventually came to Ireland in 1906. Osborough in his history of the borstal system in Ireland argues:

> Borstal can be seen as the practical implementation of the philosophy that lay behind the progressive stage system.[130] In so far as it provided a special regime in a separate penal establishment for offenders of a younger age group, it is important to set it beside other developments which had as their aim the securing of the complete segregation of younger offenders with custodial sentences. (1975: 4)

The borstal system was aimed at those offenders who were deemed capable of being reformed. It thus recognised certain inherent characteristics in individuals that made them 'reformable'. It also set apart the juvenile offender as having a 'character' distinct from the general criminal population. The process of reformation was to be achieved by segregating the young offenders from other offenders and subjecting them to a regime of discipline and instruction.

Cherry distinguishes a particular class of offender as being suitable for treatment under the borstal regime:

[130] This system was pioneered by Walter Crofton and rewarded prisoners through a system of marks for good behaviour and hard work. According to Osborough, 'With the exception of the judicially invented suspended sentence, Crofton's 'progressive stage system' is the single major Irish contribution to penal reform' (Osborough, 1975: 2).

> . . . the class of persons to be dealt with in these institutions is, one of the most difficult to manage of all classes; strong, active young criminals, who must qualify for admission, have actually acquired criminal habits, or have associated habitually with persons of bad character . . . (1911: 441)

The introduction of the borstal system along with the Probation of Offenders Act, 1907 and the Criminal Justice Administration Act, 1914 created a range of alternatives to the widely criticised prison system. However, within the context of the Irish juvenile justice system these alternatives never seriously challenged the dominance of the reformatory and industrial school model.

For Garland, the crisis of penality that came about in the 1890s signalled the ascendancy of a 'criminological programme' in Britain: 'The first and most important internal condition of change was undoubtedly a growing recognition, by the 1890's, of the serious failure of the prison as a disciplinary institution' (Garland, 1985: 59). In the context of Irish juvenile justice, there was a sustained challenge to the prison model from the Reformatory School Movement in the writings of Mary Carpenter and contributors to the *Irish Quarterly Review* and the *Journal of the Statistical and Social Inquiry Society of Ireland*. Also, the *Report of the Select Committee on Criminal and Destitute Juveniles* (1853) not only highlighted inadequacies in the administration of juveniles within the prison system but also recommended its replacement with a reformatory model.

For Garland the, 'failure of the existing strategy to deal with crime was used as a tactical point of entry for the new programme, which offered a radical critique of the current strategy, its institutions and particularly its classical jurisprudence' (1985: 84). This new political rationality that began to take hold within the penal sphere was based on a positive criminology that sought to question the motives and circumstances that surround the actions of the criminal. It sought to define criminals and classify them according to type. It also sought to divert juvenile offenders into alternative sites for government, regarding prison as a last resort. However, the Irish experience was different from that Britain. While the failure of the prison was a significant discourse, it did not lead to any notable governmental project based on criminological concerns. Instead of any positive engagement with criminology the dominant political

rationality remained one based on religious rather than criminological concerns and the most obvious manifestation of this was the large population of young people incarcerated in the industrial schools.

Like the Children Act, 1908, the borstal legislation can be viewed as emerging out of the discourse of the failure of existing legislation to govern the 'at risk' young person adequately. Both pieces of legislation recognised the separate identity of children as distinct from adults. They also extended judicial gaze beyond merely the offence committed. The character and circumstances of the child were also to be examined. Although the Act may be, as Garland (1985) argues, a tacit recognition of the 'criminological project', its subsequent utilisation within the context of the Irish juvenile justice system owes more to political rationalities of a religious rather than a criminological nature. In this regard, the Irish system tended to concentrate more on the pre-delinquent rather than the delinquent and calculations of risk in relation to young people were usually of a moral rather than a criminological kind. The numbers detained in reformatory and borstal institutions were small compared with those detained in industrial schools.

In Ireland the borstal system existed for half a century and, in terms of numbers dealt with, represented a relatively minor rationality of government. However, the category 'juvenile adult' remains to the present. In 1960 St Patrick's Institution replaced the borstal system. While the regime at St Patrick's differs from the borstal regime it still retains a basic philosophy of reformation. The 1960 Regulations state that, 'An inmate shall, in so far as the length of his sentence permits, be given such training and instruction and be subjected to such disciplinary and moral influences as will conduce to his reformation and the prevention of crime' (SI No. 224 of 1960). There was a degree of experimentation with regard to the government of 'juvenile adults' after 1960. The open centres at Shanganagh Castle and Loughan House sought to reform their inmates in less restricted environments. However, with the closure of both institutions, the closed detention centre is the only remaining model of reformation for the 'juvenile adult.

Risk and Reformation

The legislation enabling the establishment of the reformatory and industrial school system emerged as a result of lobbying from those reformists concerned with the plight of the 'perishing and dangerous classes'. However, while there was a strong lobby in favour of the introduction of these schools there was an equally strong Catholic lobby to ensure that they operate on strictly denominational lines. Barnes (1989) notes the influential role played by voluntary agencies prior to the establishment of the industrial school system. These agencies, which were responsible for a range of initiatives aimed at governing destitute, neglected and orphan children were not only inspired by religious charity but also by a suspicion of Protestant proselytism. In particular, she draws attention to the role of Cardinal Paul Cullen and Margaret Aylward who were instrumental in the establishment of a number of Catholic orphanages and ragged schools.

In 1856 Patrick Joseph Murray, the prominent Catholic barrister and later the first Inspector of Reformatory Schools, in a letter to the Right Hon. Edward Horsman, MP, Chief Secretary for Ireland, called for specifically Catholic reformatory schools:

> I beg you, before you lay aside this letter, to remember how potent the agencies of the Catholic religion have been in working out the Reformatory Principle in France and in Belgium. Consider how cheaply and how cheerfully the agency of the Sisters of Charity, and the Christian Brothers, could be brought to bear upon the Catholic juveniles in the course of their reformation. (1856: 29)

Murray clearly saw the principles of Catholic teaching as playing a central role in the work of the reformatory schools. O'Sullivan highlights the role that religious organisations, predominantly Catholic, played in the colonisation of the area of childcare in Ireland, particularly in relation to the development of the industrial school system (1999, 2001).[131]

[131] O'Sullivan charts the manner in which Catholic religious congregations colonised the welfare services in Ireland throughout the nineteenth century. He notes that 'by the mid-1850's, the majority of the parish based orphanages, which had utilised the boarding-out or 'outdoor orphanage' method of rescuing orphan and deserted children had been largely phased out. Virtually all orphanages were now operated by religious congregations, primarily female congregations and operated on an institutional

As already noted, the numbers detained in industrial schools in Ireland vastly outnumbered those detained in reformatories and this reflected a greater concern with the pre-delinquent rather than the delinquent in the Irish system. Indeed as Raftery and O'Sullivan (1999) have pointed out the majority of those detained in industrial schools were committed due to their life circumstances rather than any offence committed. This fact was also highlighted by the Commission to Inquire into Child Abuse (2009) and reflects a pre-occupation of those who controlled the schools with the moral risk posed to certain sections of the juvenile population.

It is clear that in the Irish case calculations of risk were not only made on the basis of the potential for criminal activity. Indeed the threat was not only from but also to the individual, in the form of a potential loss of religious faith. The fact that this potential loss of faith was often identified with a potential disposition for crime was an example of inter-changeability and translatability of such rationalities of government. An example of this rationality can be found in the activities of the Catholic Protection and Rescue Society of Ireland (1914) which sought to protect and rescue baptised Catholics from proselytising influences. The Society, in its reports, would list the numbers of children 'rescued' from Protestant influences and in some cases give detailed case studies. For example:

> Case 35
>
> Boy of 12 years living with an uncle, in surroundings where he was likely to grow up a member of the criminal class; was attending a Protestant school, frequenting public houses, etc. Father dead, mother leading an immoral life; boy sent to a Catholic Home and doing well. (1914: 11)

Here we find religious and preventative imperatives co-existing. Saving the soul and preventing crime are part of the same strategy. Similarly, in the case of the reformatory and industrial schools an implicit religious imperative is embedded

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model of 'child welfare' (1999: 203). He argues that the foothold of the Catholic religious congregations was further strengthened by the introduction of the reformatory and industrial school legislation in 1858 and 1868. This process of colonisation was encouraged by the intervention of the Catholic bishops, who invited a number of congregations into the country for the sole purpose of operating industrial schools. In this regard, the Sisters of Mercy were by far the most active in establishing industrial schools (O'Sullivan, 1999).

within the dominant crime prevention policy of institutional intervention. In order to explain such governmental rationalities we need to understand the ethical conditions that were present to make such programmes possible. In this regard O'Sullivan notes:

> . . . the sectarian battles which had raged throughout the nineteenth century remained alive. The religious orders continued to perceive a serious threat from the various Protestant denominations – the prospect that they would steal away Catholic children and forcibly change their religion remained very real in the minds of these Catholic congregations. (1999: 25)[132]

In relation to Irish industrial schools there is evidence to suggest that the aim of crime prevention was secondary to the Catholic Church's more prominent spiritual concerns, in particular in the large numbers of young girls who were detained 'for their own protection'. O'Sullivan notes that 'the numbers committed to these schools for criminal offences were equally small – less that one per cent of all girls and eleven per cent of boys. All of these were under the age of twelve or else it was their first offence' (1999: 22). It is interesting to note here the inherent risk factors implicit in these calculations of risk. They included non-attendance at school, family breakdown, lack of parental control and poverty. In relation to girls, factors such as family circumstances and lack of parental control could provide reason enough for their preventative detention. O'Sullivan notes that 'just over nineteen per cent of girls admitted to industrial schools between 1870 and 1944 were aged under six compared to just over ten per cent of boys' (1999: 23).

As already noted, the government had concerns about the rapid expansion of the reformatory and industrial school system and its appropriateness. Daly questioned the wisdom of such a huge expansion, arguing that while such schools were needed in some cases,:

> . . . our efforts should not run into a blind craze for establishing new schools. Schools, both reformatory and so-called industrial schools, are of vital importance for many cases; but it must be bad for any community needlessly to disturb the family as our social unit. State schools may be essential to rescue

[132] Luddy (2009) notes that there were a number of 'ragged schools' operating in Dublin during the 1850s and that they were viewed by Catholics as proselytising agencies. Also, Luddy (1995) highlights the degree to which the rescue of children had become a source of much conflict between Catholic and Protestant philanthropists around this time.

> children whose parents are incorrigible or not forthcoming. But it is against common sense to hurry children into schools, as we are doing, without any adequate attempt to first persuade or coerce parents to take better care of them. (1897: 338)

In relation to the industrial schools, the evidence points to two prominent political rationalities existing side by side. The first was a rationality of crime prevention concerned with the reformation of the delinquent and the potential delinquent, based broadly on utilitarian principles. The second and dominant one in the case of Ireland was the religious preoccupation with the risk posed to the children of the poor from the dangers of proselytism and immoral influences. These risks or dangers were usually dramatised as problems to be governed – begging, homelessness, destitution, vandalism, juvenile prostitution, anti-social behaviour, immoral associations etc. – and were provided for in legislation facilitating the committal of this 'at risk' group.

This aspect of the regulation of the juvenile population highlights an interesting feature of the rationality of risk employed by the religious congregations who ran the schools. The process of regulation is not a simple case of coercive power exerted by the state in the form of a national strategy to deal with the problem of crime. Indeed there is evidence to suggest that the Catholic Church resisted any state attempts to interfere in its activities. Industrial school managers were reluctant to accept young people who had committed criminal offences, preferring to cater for the destitute and poor rather than those who had offended. They did not view industrial schools as suitable places for young people who may have had the 'taint' of criminality. T.J. Butler (1900), the manager of Artane Industrial School, in a letter to John Sweetman, Honorary Secretary of the General Council of County Councils, states:

> Here in Ireland, we have, comparatively, very little juvenile crime, but we have much poverty and destitution. Hence we require few Reformatories but many Industrial Schools, for the very poverty of our orphan and guardianless children would soon lead them into evil ways, unless *rescued in time* under the Industrial School's Act, and this is just what our Industrial Schools are accomplishing in Ireland. (1900: 7)

A series of letters to John Sweetman in 1900 expressed opposition to moves to restrict the committal of young people to industrial schools to certain specific classes of young person.[133] Peter Hill, Manager of St Malachy's Presbytery, Belfast writes:

> All this red-tapeism is a source of considerable annoyance to priests and others who bring forward cases for admission to Industrial Schools . . . Very often their wishes as to disposal of the children are over-ridden by the mere whim of the presiding magistrate.[134]

This resistance to state interference in the running of 'church business' was coupled with reluctance on the part of the state to interfere in the activities of the religious congregations. Skehill notes:

> The socio-spiritual was also characterized by an explicit resistance to state intervention into matters of the social on the part of the Church. This was enabled by a state and its agents who, apart from minor discourses of individuals such as inspectors of boarded out children, demonstrated little interest in occupying or competing for governance over this social space – even at a distance. (2003: 148)

Despite the emergence of a range of alternative rationalities of government such as youth work, probation, social work, the institutional model remained the dominant mode of governing young people until the early 1970s, with the titles reformatory and industrial schools only being replaced with the enactment of the Children Act, 2001. The rationality of risk and reformation employed by the religious congregations that ran the schools was reflected in the schools' architecture and regimes: each had its own church and religious instruction and observance were central to the day-to-day activities.

The development of the reformatory and industrial school system in Ireland was the outcome of the activities of a number of powerful religious congregations who were

[133] The Lord Lieutenant's Circular issued to Irish magistrates on 1 October 1898 set out the grounds upon which a young person could be lawfully detained at an industrial school. These included children under fourteen years who were found under certain circumstances such as begging; wandering; homeless; without a guardian or visible means of support; destitute whose parent is in prison; frequenting the company of reputed thieves (Irish County Councils' General Council Publications, 1900).

[134] The Commission to Inquire into Child Abuse (2009) notes that as late as the mid-1960s there were written complaints to government from the managers of the schools in relation to the perceived reluctance on the part of judges to commit children to reformatory and industrial schools.

concerned with the protection of the Catholic faith and who actively resisted state interference in the management of the schools (O'Sullivan, 1999). [135] The employment of this rationality of government was not simply a matter of implementing government policy but a manifestation of the dominant influence of a number of Catholic congregations.

Conclusion

The governmental space that has been re-branded 'youth justice' is an assemblage of old and new governmental technologies grounded in a range of competing rationalities of government. Depending on the perceived risk, young people are detained in institutions, assessment centres or high-support units, counselled by therapists, engaged by youth-workers, supported by social workers, supervised by probation officers and cautioned and diverted by Gardai.

As already noted, a consistent theme running through the history of juvenile justice in Ireland is the registration of failure and the need for reform. This discourse on failure did not result in the development of a coherent 'criminological project' as in other jurisdictions. Similarly, although rationalities such as Probation, Borstal, youth work and social work were present from the beginning of the twentieth century they did not achieve any degree of prominence and the industrial school model remained the dominant rationality for regulating young people until the early 1970's.

Despite the decline of the reformatory and industrial schools as mechanisms of government powerful religious influences remained within a complex web of alliances that occupied the youth work, probation and child welfare sectors. In the absence of a centralised state apparatus these informal alliances acted as mechanisms for the surveillance of the 'at risk' population. Risk here was not confined to risk of offending but included the risk to the spiritual well-being of the young person.

[135] An example of such resistance was the attempt to curb the number of industrial schools receiving certification. Such attempts were resisted by the managers of the schools who viewed them as an unwarranted interference (Irish County Councils' General Council Publications, 1900). There was also, as we have seen, resistance on the part of many managers to accept those children who had the 'taint' of criminality. In this regard, O'Sullivan (1999) has described the various processes of colonisation and resistance that went to make up the industrial school system in Ireland.

Religious organisations active in the area of youth work and probation often combined general youth work activities with some form of spiritual instruction or guidance. Also, their activities were linked to health and welfare initiatives. The Legion of Mary, St Vincent de Paul and the Christian Brothers were prominent in this regard. Initiatives targeting young people often combined a concern about juvenile crime with a concern for the moral or spiritual well-being of the young people targeted. In this regard, the rationality of risk was employed to identify the potential risk to society from juvenile crime and at the same time to identify the threat to the spiritual well-being of the young people themselves. The co-existence of spiritual and secular concerns was characteristic of many of these initiatives. It was only from the early 1970's on that we see the dominance the socio-spiritual discourse challenged by the emerging rationalities of psychology, social work, probation and eventually diversion. The emergence of these rationalities of government has resulted in the construction of a new vocabulary of risk. Through this new expert language the 'at risk' child has replaced the 'pre-delinquent' as the dominant conceptualisation.

CHAPTER 7: TECHNOLOGIES

> *Technologies of government are heterogeneous and hybrid assemblages. They do not, cannot, merely be expressions of moral principles. And they must frequently rely upon techniques for the conduct of conduct that are present at hand, rather than invent them* ab initio . . . *Here, as elsewhere, government is not a matter of the realization of a programme so much as of the complex construction of assemblages that will link up rather general ethical rationalities to very specific, local and technical devices for the government of conduct.*
>
> (Rose, 1999: 190)

Introduction

Within the context of this study technologies are not just the purely technical means of governing such as forms, schedules, buildings, statistics or administrative procedures, rather they are 'hybrid assemblages of knowledges, instruments, persons, systems of judgement, buildings and spaces, underpinned at the programmatic level by certain presuppositions and objectives about human beings' (Rose, 1996c: 26). Following Rose, these technologies will be categorised as disciplinary and pastoral. Disciplinary technologies include detention centres and reformatory and industrial schools, where there exists 'a detailed structuring of space, time and relations among individuals, through procedures of hierarchical observation and normalising judgement' (Rose, 1996c: 26). Pastoral technologies involve some form of pastoral relationship where the subject's conduct is governed by a range of techniques such as 'confession and self-disclosure, exemplarity and discipleship, enfolded into the person through a variety of schema of self-inspection, self-suspicion, self-disclosure, self-decipherment, and self-nurturing' (Rose, 1996c: 26). These two kinds of technologies are not mutually exclusive – there are usually elements of both technologies to be found existing side by side – however, for the purpose of this thesis technologies are grouped according to whether they are explicitly disciplinary or pastoral.

Disciplinary Technologies

Disciplinary technologies are employed in response to certain offending behaviours or as a result of judgements with regard to the potential risk posed to or by the individual

concerned. The result is a series of governmental spaces designed to cater for a population of young people, which operate on a sliding scale between those 'at risk' of offending and those who have offended. Historically, these technologies included prisons, borstal, industrial and reformatory schools, detention centres, detention schools, special care units, high support units and assessment centres.

Reformatory and Industrial Schools

While the reasons for committal to reformatory and industrial schools may have differed the principles underpinning both these institutions were similar.[136] These were based on the containment of children within a closed institution and their subjection to a strict disciplinary regime. Barnes notes, in relation to industrial schools:

> The basis of an effective school regime, it was believed, should lie in the establishment of a strong discipline with conformity to explicit rules and regulations. Order and obedience were to be demanded from the children at all times. Internalization of moral values would only occur as a result of deeply engrained habits of obedience. (1989: 90)

This process of internalisation of moral values was very much part of the governmental technology envisioned by John Lentaigne, the first Inspector of Reformatory and Industrial Schools, when he described the industrial school as a:

> . . . home for the children placed in it, where their training and the formation of their character is accomplished. The teachers, living amongst them, if in earnest, acquire influence over them; their whole life, the very tone of their voice, their every action unconsciously leads the children to think with them, and the character of the child in the main reflects the character of the teacher . . . (*Ninth Report of the Inspector Appointed to Visit the Reformatory and Industrial Schools of Ireland*, 1871: 26)

In relation to reformatory schools, a regime of strict discipline was intended to cultivate 'good habits' through a similar process of internalisation. Louis Foley, a

[136] Section 44 of the 1908 Act does not specify any difference in the regimes between the 'industrial school' and the 'reformatory school'. In the case of the former it refers to 'children' and in the case of the latter 'youthful offenders' who are 'lodged, clothed and fed as well as taught'.

former manager of St Kevin's Reformatory School in Glencree, noted that this 'moral training' had two elements:

> The first lies in impressing the ideals on the minds of the young. These ideals win their appreciation, their esteem, and their affection . . . Advice, encouragement, approval, help greatly in winning the young to the ideals of virtue . . . The second element in moral training is the discipline of the will. The will is disciplined by habits . . . In the beginning, at least in the case of a child, the repetition is carried automatically, but, at some stage in the process, self-control must rise into consciousness. (1923: 35)

One of the main tools employed to facilitate this moral training was the strict regimental regime adopted in these schools. Although the specifics of the regime may have differed from school to school, a common factor was the existence of a timetable that organised the daily activities of those children detained. According to Barnes it is, 'difficult to overestimate the importance of the timetable as a tool for imposing submission on the children. There was no arguing with the timetable which dictated every activity and facilitated constant supervision and prompt obedience' (1989: 94).

Lentaigne's original 'Rules and Regulations' for certified industrial schools stipulated that a timetable 'shall be posted in a conspicuous part of the Institution' (*Ninth Report of the Inspector Appointed to Visit the Reformatory and Industrial Schools of Ireland*, 1871: 82). Later rules and regulations approved in 1933 insisted that:

> A Time Table, showing the Hours of Rising, Work, School Instruction, Meals, Recreation, Retiring, etc., shall be drawn up, shall be approved by the Inspector of Industrial Schools, and fixed in the Schoolroom, and carefully adhered to on all occasions. All important deviations from it shall be recorded in the School Diary. ('Rules and Regulations for the Certified Industrial Schools', 1933)

Every moment of the child's life within the school was the object of close supervision, including their sleeping and waking hours. In this sense, the observance of time itself becomes a disciplinary technique. The very existence of the individual was recalibrated in accordance with the measurement of time. The process of reforming the character of the individual was inextricably linked to the measurement of time.

The centrality of the timetable to this governmental technology is illustrated in a 'Special Supplement of Artane Industrial School' produced in 1894:

> WORK OF THE DAY. Officers rise at 5-15; boys at 5-30. Wash and are ready for school at 6 o'clock sharp. School goes on till 7 o'clock. Seniors then go to their various trades and duties. Juniors continue at school till 7-30. Breakfast is ready at 7-55. The whole house is ready for inspection at 8-45. Shortly after 9 o'clock all distribute themselves to their various trades and occupations for the day, under their respective foremen; a recess at 11-40. Trades resume 12-15. Dinner ready at 1-55. After dinner trades again resume work. Five o'clock, seniors and juniors attend school. Supper and night prayers. All retire to bed before 8 o'clock. Five Brothers and five Officers sleep in the five dormitories with the boys, and two night-watch-men patrol the dormitories till morning, whilst a third man has charge of the entire premises outside during the night. (1894: 63)

Children were housed in large dormitory-style quarters with little or no privacy, eating and washing was a communal activity. Every aspect of the child's life was regulated and observed: sleeping, eating, washing, dressing, schooling, training and religious education. Even the ability to speak was strictly controlled by imposing a rule of silence at certain times. Barnes notes that, 'the main purpose of these rules of silence was to control, in an orderly way, large numbers of children herded together at different activities. Yet even the need for order does not justify the excessive demands made on children's self-control' (1989: 92).[137]

[137] Barnes notes that the rules that were standardised and adopted by the Christian Brothers, who ran most of the industrial schools, indicate that those children detained in their schools spent a large percentage of each day in silence (1989: 92).

Figure 9 Dormitory in Artane Industrial School



Source: Commission to Inquire into Child Abuse, 2009.

Some light is thrown on the rationale behind the use of silence in the 'training' within these institutions in a report of the Inspector of Reformatory and Industrial Schools in relation to Philipstown, then the largest reformatory school in Ireland:

> Silence is enforced in the schoolrooms, dormitories, lavatory and during drill and roll-call; but at meals and at other times no undue restraint is imposed. The result of discipline of this kind is to give the boys a manly and open manner and to teach them to use with moderation the liberty accorded to them. (*Thirty-Second Report of the Inspector Appointed to Visit the Reformatory and Industrial Schools of Ireland*, 1894: 4)

Barnes noted the militaristic character of the regime administered by the Christian Brothers in their institutions and the importance they attached to drilling exercises in moulding the moral character of industrial school children (1989: 93). On an inspection on 13 March 1871, the Inspector of Reformatory and Industrial Schools commented on the 'conduct and discipline' at Artane Industrial School, Dublin, which was managed by the Christian Brothers: 'The Boys, in general, are very well conducted. They are trained to a regular discipline by a military drill sergeant, and are called to their various exercises by sound of trumpet' (*Tenth Report of the Inspector Appointed to Visit the Reformatory and Industrial Schools of Ireland*, 1873: 61). Perhaps the best example of the use of drill in order to inculcate discipline and order

in those subjected to these regimes is to be found in a description of the 'musical drill' employed in Artane:

> . . . in the courtyard, where we find 800 boys formed in military order, and exercising to the music of the band with dumb-bells, going through evolutions in prompt and graceful style at the bidding of Mr Hunt, the drill-master, who seems to have perfect control in his own department . . . At the close of the drill the whole company sing the chorus of the song 'Comrades' and march past in divisions. At the bugle call the trade's boys break off and 'double' to their workshops, whilst the younger boys get an hours recreation. The rule of the establishment, according to the Act, is six hours work and three hours at school. ('Special Supplement of Artane Industrial School', 1894: 62)[138]

Section 54 of the Children Act, 1908 gave the managers of reformatory and industrial schools power to make rules and regulations relating to the management and discipline of their schools. In 1933, rules and regulations approved by the Minister for Education were adopted by all industrial schools in Ireland (Commission to Inquire into Child Abuse Report, 2009). The template for these was adapted from Lentaigne's original rules and regulations of 1870 and retained their form and ethos (see Appendix 3). The rules and regulations governing reformatory and industrial schools detailed the manner in which these institutions should be run. They outlined the type of clothes to be worn, diet to be supplied, method of schooling, religious instruction and industrial education. They also set out the manner in which discipline and punishments were to be administered.[139] The manager of an institution was authorised to administer punishment in the case of misconduct while punishment for serious misconduct was to be entered into a 'punishment book' that was to be kept for inspection. Lentaigne's original rules and regulations state:

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[138] Carpenter describes the manner in which the reformatory school regime should act upon the personality of the child to correct any deviant tendencies and produce a more docile subject: 'a well-arranged system, guided by undeviating order and regularity in the whole School, to which it will be evident that the master is bound as well as the scholars, and which he will take opportunities of showing them are as necessary for their comfort and well-being as for his. When once this is fully established, it is no less striking than encouraging to observe how soon the most refractory and headstrong child will almost insensibly yield, taking pleasure in what was before most irksome' (1970: 78).

[139] Although there were regular inspections, it is clear that the inspection process was not adequate and that there was widespread abuse of the children detained in these institutions (Raftery and O'Sullivan, 1999 and Commission to Inquire into Child Abuse, 2009).

> The manager must, however, remember that the more closely the school is modelled on a principle of judicious family government the more salutary will be its discipline, and the more effective its moral influences on the children. (*Ninth Report of the Inspector Appointed to Visit the Reformatory and Industrial Schools of Ireland*, 1871: 82)

Punishment was to be retained as an important part of this disciplinary technology. A circular issued by the Department of Education in 1946, entitled 'Discipline and Punishment in Certified Schools', recognised punishment as playing 'an important part in the training and discipline of the young' and states that 'its use as a means of correction demands much discretion, especially in the case of children detained in Certified Schools' (1946: 1).[140]

Two other elements common to the regimes of industrial and reformatory schools were religious instruction and industrial education. The day was usually punctuated with prayers or religious instruction and in this regard the majority of the institutions had their own place of worship on site. Barnes, speaking of the industrial schools, notes:

> Formal religious instruction and the inculcation of habits of piety formed the bedrock of the schools' regime. Most schools had their own chapels, which were given pride of place in the school compounds and which were lovingly decorated and maintained . . . Throughout the day prayers were said before each class or activity and habits of devotion were gradually instilled. (1989: 97)[141]

The Rules and Regulations for Certified Industrial Schools state in relation to 'Religious Exercises and Worship' that 'Each day shall be begun and ended with

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[140] In Lentaigne's rules and regulations punishments included: forfeiture of rewards and privileges; reduction in the quantity or quality of food; confinement in a room or lighted cell for no more than three days; moderate personal correction; no other forms of grave correction without the authority of the Inspector' (*Ninth Report of the Inspector Appointed to Visit the Reformatory and Industrial Schools of Ireland*, 1871: 82). Those approved by the Minister for Education after 1933 included: moderate childish punishment with the hand; chastisement with the cane, strap or birch (Commission to Inquire into Child Abuse, 2009).

[141] It should be borne in mind here that the educational system in Ireland was predominantly Catholic and religion was interwoven into mainstream schooling in Ireland. Titley quotes Bishop Kinnane of Waterford addressing the annual convention of the Association of Secondary Teachers of Ireland in March 1937: 'We are fortunate in Ireland that our educational system approaches so nearly to the Christian ideal. We are fortunate in the harmonious relations existing between church and state and in the position accorded to religious and moral education in our curricula . . . This happy state in our educational system is a matter for special congratulation at the present time when there are so many agencies at work to poison and corrupt our youth' (1983: 141).

prayer. On Sundays and holidays the children shall attend public worship, at some convenient church or chapel' (*Ninth Report of the Inspector Appointed to Visit the Reformatory and Industrial Schools of Ireland*, 1871: 81).

Figure 10 Church at Artane Industrial School



Source Commission to Inquire into Child Abuse, 2009.

In relation to industrial education, Lentaigne in his Report of 1871 stated:

> In order to carry out the proper training of the children, these rules, which are in force in all Irish Industrial Schools, direct that the industrial education, as distinguished from scholastic instruction, for boys, shall embrace, whenever practical, farm and garden work, and such handicrafts . . . The employment of the girls, shall consist of needlework, machine work, washing, ironing, cooking and housework . . . it is the duty of the manager to see that the children are constantly employed, that they are taught to consider labour as a duty, to take kindly to it, to persevere in it, and to feel pride in their work. (*Ninth Report of the Inspector Appointed to Visit the Reformatory and Industrial Schools of Ireland*, 1871: 27)[142]

[142] Similar highly regimented regimes were maintained in the Magdalen institutions that were run by many Catholic congregations. As part of these regimes the inmates were forced to work in the institutions' laundries. These institutions operated without any legal basis but with the full knowledge of the courts, which gave tacit recognition to their existence. Many of the religious congregations who operated reformatory and industrial schools also incorporated a Magdalen laundry into the same complex (Raftery and O'Sullivan, 1999). According to Smith, girls were often transferred from a reformatory or industrial school to a Magdalen institution in a form of 'pre-emptive' rather than 'preventative' action (2007: 72).

Industrial training in the schools was dictated by the local school management and as Barnes observes:

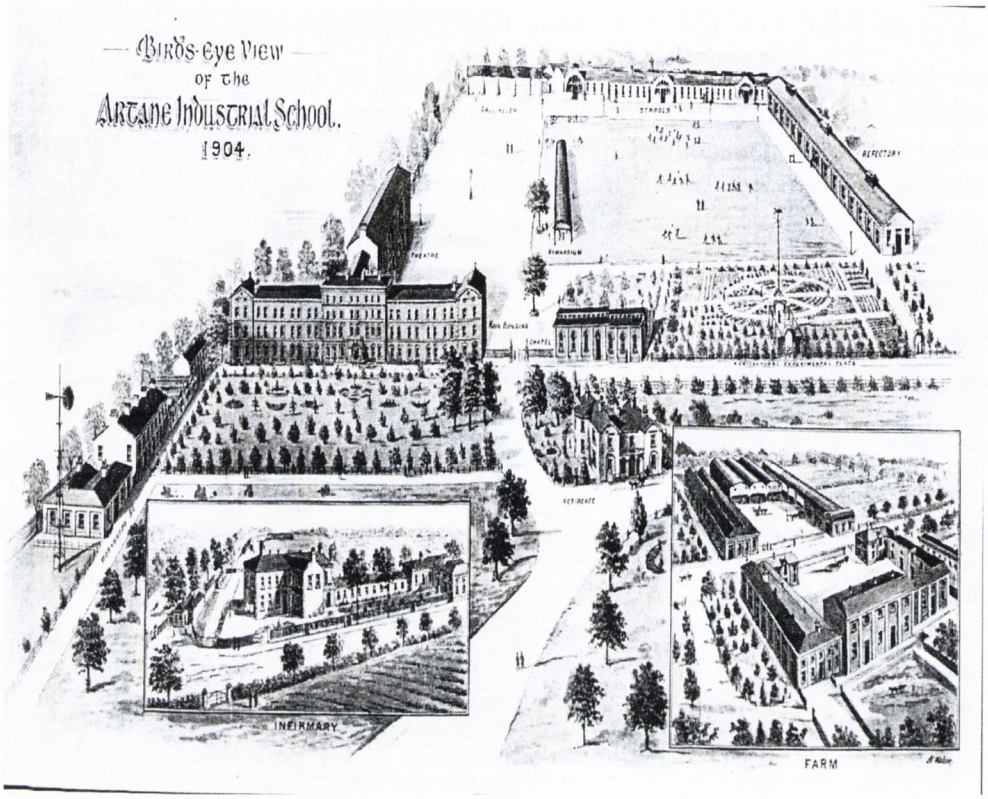
> Such was the importance of management's role in the development of the industrial schools that very great differences arose between the institutions. Diverse styles of management gave rise to different types of schools, and the system as it developed was singularly lacking in uniformity. (1989: 55)

Fahy (1942) notes that training for the girls detained at reformatory schools consisted of cooking, dressmaking, laundry work, needlework and housewifery. While the boys were typically trained in boot-making, tailoring, bread-making, carpentry, farmwork, gardening, laundry work and poultry-keeping.[143]

Reformatory and industrial schools were highly regimented disciplinary sites designed for the regulation of certain categories of juveniles. The majority of these young people had not committed any crime but for one reason or another were deemed a 'problem' to be governed. Within these institutions time and space were strictly regulated in an effort to ensure the submission of the individual's will. These institutions aimed to produce industrious citizens who would be reintegrated into the community having been subjected to a strict disciplinary regime that was underpinned by Catholic religious teaching.

[143] Fahy (1942) also notes the findings of the Cussen Report that the majority of those detained in these schools did not find employment in these trades but rather ended up getting farmwork or working as general labourers.

Figure 11 Bird's Eye View of Artane Industrial School



Source: Commission to Inquire into Child Abuse, 2009.

Probably the best example of this technology is Artane Industrial School, Dublin, which was run by the Christian Brothers. Described as a 'miniature model municipality' it boasted accommodation for almost one thousand boys ('Special Supplement of Artane Industrial School', 1894: 62). This complex contained all the elements essential to the 'reformation' of the child within a single institution. Inmates were classified according to age and trade and their existence was strictly controlled with military precision, their movements within the complex regulated by bugle calls. The complex contained a church, infirmary, cemetery, schoolhouse, refectory, farm, garden, bakery, flour-mill, theatre, music hall, workshops[144], dormitories, bath-house and a residence for the Brothers. As well as industrial and scholastic instruction, drill formed an integral element of the institution's regime.

[144]These included: a smithy; tinsmith's shop; engine fitter's shop; wheelwright's shop; shoe shop; tailoring department; painting and decorating room; and harness shop.

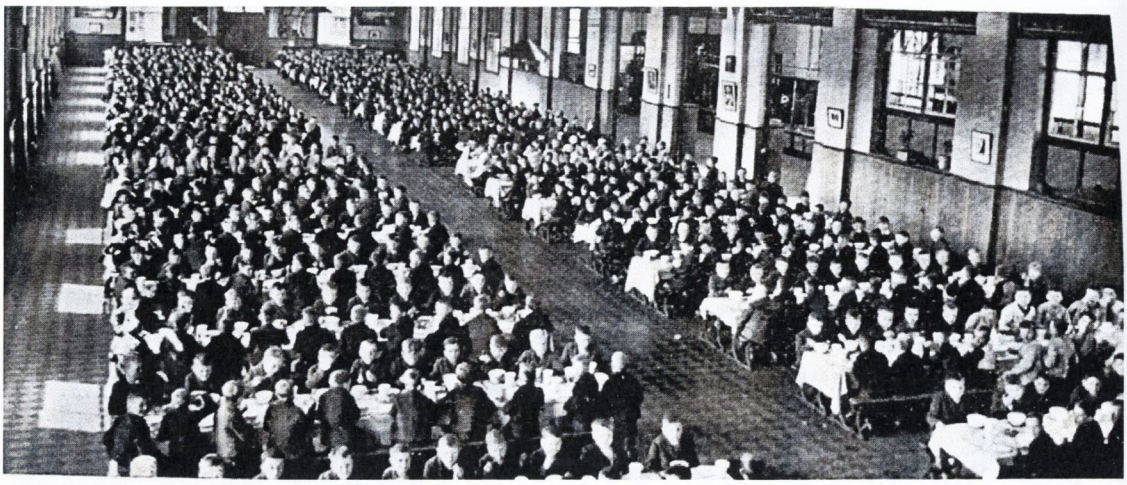
Figure 12 Wheelwright's Shop in Artane Industrial School



Source Commission to Inquire into Child Abuse, 2009.

Each reformatory and industrial school represents a disciplinary enclosure designed to reform those detained within its walls. The space within these enclosures was specifically designed for the training of those confined. Each enclosure was sub-divided into a series of discrete sites for the micro-management of the child. These included the schoolroom, workshop, refectory, dormitory and chapel. The individual was subjected to constant surveillance. By means of these technologies, those young people who were deemed 'at risk' were segregated and subjected to a separate disciplinary regime. They represented an assemblage of panoptic architecture, reformative ideals and Catholic religious discipline.

Figure 13 Refectory at Artane Industrial School



Source Commission to Inquire into Child Abuse, 2009.

Penal Technologies

The borstal regime was aimed specifically at reforming the character of the individual through strict discipline and training. A regime of hard work and physical discipline was designed to create an industrious citizen. From the moment of reception into the borstal the individual's character was assessed with this purpose in mind:

> Before committal of an inmate to the Institution, the Governor is supplied with the boy's history, antecedents, etc. On his reception at the Institution, the inmate is interviewed by the Governor. In the first instance he is given a choice of trade, at which trade he spends a probationary period of one month. The Governor then receives a report from the Instructor in charge. If the boy has shown reasonable promise, he is allowed to continue at this trade, otherwise a change of occupation is effected. Following his interview with the Governor, the boy is subject to a thorough examination by the Medical Officer; he receives a bath and is supplied with his clothing outfit. (Department of Justice, 1948: 4)

The borstal system sought to reform the character of the individual by subjecting him to physical and moral discipline. The inmates' time and physical activity was highly regulated. A daily regime – including hygiene, meals, physical activity, work, instruction, recreation and rest – was designed to instil discipline and reform the character of the subject. The following regime was being operated in the Borstal Institution in Clonmel in 1948:

Daily Timetable:

7 am	Inmates rise, wash, shave etc.
7.20 to 8.20 am	Physical training (Sokol drill).
8.20 am	Breakfast.
8.45 to 9.30 am	Inmates clean and prepare cubicles and dormitories.
9.30 am to 12.30 pm	Work and secular instruction.
12.30 to 2 pm	Dinner and recreation.
2 to 4.30 pm	Work.
4.30 pm	Tea.
5 to 5.15 pm	Inmates go to Chapel for recital of Rosary.
5.15 to 9.45 pm	Recreation, with supper at 8.30 pm.
9.45 pm	Inmates retire to cubicles and prepare for bed.
10 pm	Lights out. (Department of Justice, 1948)

The training was for the most part vocational, including such trades as cabinet-making, shoemaking, gardening and general labouring (Department of Justice, 1948). The aim was produce an employable individual who was less likely to offend. In this sense, the borstal system viewed risk factors such as poor education, peer influence and unemployment as key in addressing offending behaviour and reforming the character of the individual:

> The sympathetic and corrective methods of training employed by the Institution undoubtedly effect a change of character. The discipline and well-regulated life have fitted the boy for the labour market. He is sturdier, more confident and more industrious . . . a more enlightened appreciation of the work of the Borstal Institution by employers throughout the country would undoubtedly be an effective mode of approach to the serious problem of the young delinquent. (Department of Justice, 1948: 19)

The borstal was transferred to the Mountjoy complex in 1956 and in 1960 a Statutory Instrument detailing regulations for a new institution was drafted. Section 10 of the Regulations governing St Patrick's Institution (see Appendix 4) facilitates the adoption of the general rules for the government of prisons in respect of St Patrick's:

'in so far as they are not inconsistent with these Regulations . . . in like manner as they apply and have effect in relation to prisoners and prisons' (St Patrick's Institution Regulations, SI No. 224 of 1960). This essentially means that St Patrick's is for the most part governed by the Rules for the Government of Prisons, SI No. 320 of 1947 (see Appendix 5). These rules outline the manner in which prisoners are to be classified and the management of their physical and spiritual existence within the prison. Prisoners are distributed in accordance with a pre-defined order.

All aspects of their existence is closely regulated. In the case of their diet, the rules state:

> . . . all prisoners shall be supplied with a sufficient quantity of plain and wholesome food in accordance with such dietary tables as may from time to time be approved by the Minister . . . The diet of any individual prisoner, not being a patient in the infirmary, may be increased or altered, or in the case of any prisoner who persistently wastes his food, may be reduced, on the written recommendation of the medical officer. (Rules for the Government of Prisons, 1947: 25–27)

Other rules serve to govern the accommodation, health, and restraint of those prisoners that are confined within the institution. The rules state that the basic unit of confinement, the cell:

> . . . shall not be used for the separate confinement of a prisoner unless it is certified by the Minister to be of such a size, and to be lighted, warmed, ventilated, and fitted up in such a manner as may be requisite for health, and furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison . . . Each prisoner shall occupy a cell by himself by day and by night (except otherwise directed). (Rules for the Government of Prisons, 1947: 3–4)

In addition to rules governing communication, punishment, employment and religious instruction there are special rules for different classes of prisoners. In particular there are rules for the government of certain classes of juvenile prisoners and those between seventeen and twenty-one years (Rules for the Government of Prisons, 1947: Part 111). For the purposes of organising the space, communication, exercise, instruction, employment, recreation and discipline, the rules distinguish three separate classes of juvenile prisoner: juvenile prisoners awaiting trial; juvenile offenders under

conviction; prisoners between the ages of seventeen and twenty-one. These Rules are aimed at regulating the space and by means of this regulation imposing discipline on these classes of prisoner in varying degrees. Rule 214 states that all prisoners who are under seventeen years and are either on remand or awaiting trial shall be referred to as unconvicted juvenile prisoners and:

> . . . shall be formed into two divisions, being formed by the Governor and the chaplain;–
>
> a) Those who have not been in prison before and who are well conducted in prison, who shall be kept separate from
> b) Those who have been in prison before, or who misbehave in prison.
>
> (Rules for the Government of Prisons, 1947: 214)

In addition to this rule of separation, juvenile offenders are to be kept separate from adult prisoners. In this regard, Rule 224 states that the juvenile offender, 'shall take exercise, receive school instruction, and be seated in chapel, apart from and, if possible, out of sight of adult prisoners, with whom he shall not, on any occasion, be permitted to come into contact' (Rules for the Government of Prisons, 1947: 224).

Rule 230 states that prisoners between seventeen and twenty-one years are to be 'collected in a prison or part of a prison set apart for the purpose', and be subjected to 'special rules'. These rules govern their classification according to their character and antecedents, separation, employment and education. Based on certain biographical knowledge the juvenile is classified as separate from the general prison population and segregated into discrete divisions. As a result of this segregation the individual's existence within the penal institution is organised and controlled with the aim of bringing about a change in character. Foucault notes that the aim of this technology is

> . . . to reconstitute all the sordid detail of a life in the form of knowledge, to fill the gaps of that knowledge and to act upon it by a practice of compulsion. It is a biographical knowledge and a technique for correcting individual lives. (1991: 252)

In addition to the strict regulation of space and the segregation of each individual the regime in St Patrick's is highly structured with inmates restricted to set times for meals, recreation, training and sleep.

> Inmates are unlocked at 8.15am when they collect breakfast and then returned to their cells; at 9.15am they are unlocked to attend a place of employment or school; at 12.15pm they collect dinner and then return to their cells; at 2.15pm they are unlocked to attend a place of employment or school; at 4.10 pm they return to their cells, collect their evening meal and then return to their cells; at 5.15pm they are unlocked for evening recreation; at 7.30 pm they return to their cells, collect supper and return again to their cells; at 8.00pm the cells are locked; and at 10.00pm lights are switched off. (European Court of Human Rights, *D.G. v ECHR* [2002] 3974/98: 10)

The division of time and space is an integral part of this disciplinary institution. The individual and his activities are regulated utilising a series of disciplinary techniques. The cell, the workshop, the chapel and other discrete spaces within the institution facilitate the orderly distribution of inmates within this enclosed disciplinary space. In addition, the timetable serves to regulate the movement of these individuals and also facilitates their constant surveillance. In this way St Patrick's operates as a closed disciplinary institution utilising panoptic techniques to regulate those individuals who have been judged unsuitable to be dealt with within the 'community'. The degree of risk associated with them dictates that they should be placed under constant supervision and control. Foucault notes that the major effect of this panoptic technology is 'to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power. So to arrange things that the surveillance is permanent in its effects even if it is discontinuous in its action' (1991: 201).

St Patrick's is essentially a disciplinary technology for governing young people between sixteen and twenty-one years who are sentenced or on remand. While there is a range of pastoral technologies employed in order to achieve some rehabilitative effect on the inmates the regime is essentially a penal one with inmates contained within a panoptic prison architecture.[145] Space and time are tightly regulated and the inmates are subjected to constant surveillance in a regime managed by prison officers.

[145] The institution claims to provide the following programmes: alcohol awareness; drug awareness; drug and offending behaviour; pre-release prevention workshop; personal effectiveness; breakthrough programme; educational courses for Junior Cert, Leaving Cert and FETAC levels; vocational training in catering, crafts etc. (Irish Prison Service, 2006).

The rehabilitative aspect of the regime has been consistently criticised since its establishment. The two alternative centres that were established with more open regimes sought to cater for those offenders deemed as less of a risk to the community. The transfer of prisoners from St Patrick's to both of these centres acted as a safety valve relieving pressure on the main centre of detention. Both open and closed regimes incorporated a range of pastoral technologies designed to re-shape the character of the offender and reintegrate him into the community as a more governable citizen. Current technologies include programmes to increase self-esteem, employability, social skills, drug and alcohol use, education and behaviour management. Under the auspices of the Department of Justice, Equality and Law Reform, the Probation Service and other organisations there is an attempt to link this disciplinary site with some pastoral technologies in the community with the aim of returning the offender to the community as a reformed ethical subject.[146]

The current disciplinary technology operating in St Patrick's Institution has retained few elements of the borstal regime. Inmates are contained within a similar penal architecture. Time and space is regulated in accordance with a daily routine, with prison officers monitoring the movements of inmates, keeping them under constant surveillance. Inmates are confined to cells with lights being turned off at designated times. Set schedules are adhered to with regard to meals, visits, recreation and training. However, the compulsory training of the borstal regime has been replaced by a regime of confinement, supplemented by a range of vocational and other voluntary programmes designed to prevent future offending by addressing certain of risk factors, including educational failure, substance abuse, unemployment and low self-esteem.

[146] The 2005 *Annual Report on Prisons and Places of Detention* lists the following groups under the heading 'Interaction with the local community and voluntary groups' with regard to St Patrick's Institution: Alcoholics Anonymous; Bond Project; Bridge Project; Cabra Aftercare Project; Cabra Resource Centre; Guild of St Philip; Coolmine Therapeutic Community; Crinan Youth Project; Deonach; Legion of Mary; Lionsvilla; Matt Talbot Trust; Merchant's Quay Project; Narcotics Anonymous; PACE Workshop; Pathways; Priorswood House; Samaritans; Tabor House; Tower Project; Ballymun Youth Action Plan; Candle Community Trust; Clondalkin Youth Services; Clondalkin Addiction Support Programme; Community Addiction Response Programme; Community Addiction Service; Focus Ireland; Exchange House; Dublin Aids Alliance; Community Prison Link Workers; TARGET; Talbot Centre; Treo Project; Swan Project; Village Project; Youth Support and Training; Cabra Youth Services (2005: 51).

The technologies encountered in the reformatory and industrial schools, borstal and other penal institutions mentioned above are primarily directed at the body of the subject in an effort to induce some kind of change in their character, resulting in greater self-control. Confinement and the imposition of a strict disciplinary regime are employed in order to effect the internalisation of certain desired behavioural norms.

Children Detention Schools

The principal aim of children detention schools (CDS) is the reintegration of young people between twelve and sixteen years into society. The Children Act, 2001 states that they are to be reintegrated into the community as persons who observe the law and are capable of making a positive and productive contribution to society. Section 158 of the Children Act, 2001 sets out the principal object of the schools as providing appropriate educational and training programmes and facilities for children referred by the courts. The Act also states that this shall be done by: having regard to their health, safety, welfare and interests, including their physical, psychological and emotional well-being; providing proper care, guidance and supervision for them; preserving and developing satisfactory relationships between them and their families; exercising proper moral and disciplinary influences on them and recognising the personal, cultural and linguistic identity of each of them.

Each CDS aims to strike a balance between providing for the care and education of the young people and containing the risk they pose to society. In doing this they engage in a process of risk assessment in relation to each young person detained. In this regard, the Expert Group on Children Detention Schools under the heading 'Residential Placement and Segregation' states:

- Residential placement of an individual child will be determined by the pre and post conviction status and a risk assessment of the individual child.
- Risk assessment is seen as an on-going process beginning with the initial admission of a child. The risk level for a given child may change based on a child's behaviour and the risk factors which are present.
- The factors of age and offence type are significant features in the risk assessment of a child but would not be predetermining factors regarding placement. (2006: 14)

Having assessed the risk that the child poses to society and staff at the school a child is given a suitable placement. The regime into which the child is placed will be determined by the risk assessment. In this regard, the Expert Group on Children Detention Schools includes as one of its 'Principles for the Operation of Children Detention Schools' that 'The delivery of services and interventions shall be based on the risks and needs of the individual child with due regard to the interests of the wider community' (2006: 13). The language of 'risk assessment' is here employed to justify any conflict that might occur between issues of care or control. The assessment of the needs of the child and the risk to the community is presented as a scientific process justifying the 'appropriate' management of the child.

Once admitted to the CDS the child is usually assigned a key worker who plays a role in the ongoing assessment and progress of the child throughout his or her stay in the school. In addition to ensuring a level of security based on the perceived risk, these schools provide a range of pastoral technologies aimed at reintegrating the child into the community. These technologies emphasise the educational and psychological development of the child. The child is viewed as both 'troubled and troublesome' and is to be managed and transformed in accordance with a set of psychological and moral norms. A significant feature of this technology is the use of the 'care plan', which is prepared in respect of each child. This plan sets the psychological and moral goals that are to be achieved in relation to each individual. It views the transformation and reintegration of the child as a work in progress. The Standards and Criteria for Children Detention Schools (2004) stipulates that each school should have:

> . . . a written care plan for each young person entering its care. The plan is developed in consultation with parents/guardians and the young person concerned and is subject to regular review. The plan stresses the need for regular contact with the family and prepares the young person for leaving care. The plan promotes the general welfare of the young person including appropriate provision to meet his/her educational, health, emotional and psychological needs. The experience of young people is enhanced by positive working relationships between professionals. (2004: 13)

These plans have the effect of involving a range of professionals, the family and the individual in a process of governing the young person's present and future behaviour.

The young person's reintegration into the community is viewed as a 'care issue' and he or she is encouraged to participate in this process of reintegration. Both disciplinary and pastoral techniques are employed in order to govern the behaviour of those detained. In her report for the Special Residential Services Board, Buckley gives an outline of some of the techniques, both disciplinary and pastoral, that are employed in the schools. Under the heading 'Rules and Discipline' she notes:

> Ratings systems are used, particularly by the detention centres, to modify behaviour. Disciplinary measures generally include boundary setting, general discipline, dealing with aggressive behaviour including bullying and absconding. Sanctions can include use of restraint (therapeutic crisis intervention) and separation/isolation, with a set of procedures governing each of these measures . . . (2001: 4)

Under the headings 'Specific Therapeutic Programmes' and 'Life Skills', Buckley notes that the following programmes are in place:

> . . . probation programmes, group and individual therapy, psychology services, personal development, relaxation therapy, and anger management. Some centres include tuition in various crafts and skills as part of their therapeutic programmes . . . life skills are offered as part of both therapeutic and educational programmes and include group work and more formal programmes on relationships, and sexuality, drugs awareness . . . (2001: 4)

High Support and Special Care.

A recent development in this area is the employment of concepts of 'high support' and 'special care' to govern those young people deemed 'troubled and troublesome'. As we have seen above young people detained in detention schools are managed within a regime of 'care' rather than punishment. Those staffing the schools are appropriately trained to deliver this regime of care as opposed to the employment of prison officers in an institution like St Patrick's.

The Social Services Inspectorate (2006) describe high support units (HSUs) as 'open units' offering an enhanced service to young people in comparison with mainstream

foster and residential care placements.[147] There are currently nine HSUs in Ireland consisting of two types: larger and smaller units. The Report notes that the smaller HSUs, of which there are eleven, were 'based in a variety of premises, mostly in domestic dwellings . . . adapted to their purpose. Two units were based in hospital grounds and 'though nicely decorated and well maintained, their locations made them unsuitable as residential centres for young people' (2006: 18). The two larger units are purpose-built and enclosed spaces: 'With their high perimeter fences, they had the appearance of places of detention. Indeed one was originally intended as a special care unit' (2006: 18).

In Ireland 'high support' is an evolving concept that is utilised to manage a small population of young people whose behaviour cannot be managed within mainstream services. Access to these units is based on an assessment of risk and this assessment continues throughout the young person's tenure in high support. There is no standardised model of high support with different units adopting different approaches:

> . . . with differences in the precise purpose of the units, the age range, staff, child ratios and duration of stay. Nevertheless, they can all be recognised as High Support by the exceptional needs of the children, high staffing ratios and a therapeutic element to the regime. (Eastern Regional Health Authority, 2004: 15)

There are two essential differences between high support and special care. There is legal provision for special care but not for high support and special care units are closed, with the liberty of the young person restrained.[148] Part 3 of the Children Act, 2001 provides for the making of a Special Care Order by a court committing a young person to a special care unit, where the individual's behaviour is such that it poses a real and substantial risk to his or her health, safety, development or welfare, and the child requires special care or protection which he or she is unlikely to receive unless the court makes such an order.

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[147] According to the Social Services Inspectorate there is 'a high ratio of staff to young people, the young people have access to education or training tailored to their needs, and they usually have ready access to assessment and therapy provided on site by specialist staff (2006: 4).

[148] Laxton notes that 'the difference between Special Care and High Support is essentially about the level of security . . . Special Care is the placement of last resort and can only be justified if it can be shown that the level of security required is the paramount consideration' (Department of Health and Children, 1998: 13).

These special care units are one of the many technologies designed to govern the behaviour of those young people who cannot be governed within mainstream technologies such as schools, diversionary initiatives or other crime prevention initiatives. Within these sites they are subjected to intense supervision and assessment from the moment of admission to discharge. This is justified on the basis of the ever-present risk to the young person and to the community. The disciplinary regime utilised to manage young people within these units is rationalised on the basis of its therapeutic content. In this sense, incarceration is always viewed as a last resort and necessary for the care and protection of the young person.

This special care regime is designed to restore some degree of control to the individual whose behaviour is perceived as being 'out of control'. The required adjustment of the young person's behaviour is plotted within the co-ordinates of the 'care plan' and the 'key worker' who is assigned to each young person measures this progress. Staff working in the units are expected to act as positive role models and actively engage with the young person (Special Residential Services Board, 2006). A road map is drawn up for and in consultation with the young person, based on his or her perceived needs. The psychological journey of the young person is plotted using various tools that aim to measure his or her progress during the period of detention. A team of professionals constantly monitors the risk status of each individual until his or her eventual exit from the unit. Within this framework the young person is governed through the use of a range of professional reports including: psychological reports; educational reports; psychiatric reports; key worker reports; care plans; a social history; a family history; a placement history; speech and language reports; social worker reports; and medical reports.

The Child Care (Special Care) Regulations, 2004 stipulate that a 'case record' and 'care plan' be maintained in respect of each young person detained. These records are important tools in the technology of special care in that they facilitate the construction of the identity of the child who is subject to the special care regime and dictate the manner in which he or she is governed for the duration of the detention. The case record includes the following information and documents relating to the child: name,

address, sex and religion; family details; court orders or other orders existing in respect of the child; medical, psychological and social reports, including background information on the family; educational reports; copy of care plan; and numerous other reports relating to the child outlined in the regulations. The care plan covers the aims and objectives of the placement; access arrangements; support to be provided; service provision, support or treatment for the child or the family; and arrangements for review.

High support and special care represent a combination of disciplinary and pastoral techniques designed to manage the 'out of control' young person. As technologies of government they are presented as forms of 'care' and their regimes are rationalised through the language of psychology and the social sciences. As such, governing is portrayed as helping and incarceration and intervention is justified on the basis of risk assessment. Expert languages are utilised to govern and difficult behaviour is redefined as an infringement of certain psychological norms. Central to this process is the construction of the 'difficult' young person as simultaneously 'troubled and troublesome'. A report from the Centre for Social and Educational Research regards the provision of special care under the Children Act, 2001 as a:

> . . . significant reform in juvenile justice and care legislation for children in difficulty. The Act provides for the establishment of Special Care Units where young people are detained for their own care and protection. This is historically a significant move because formerly detention could only be secured on foot of criminal charges or conviction. The Children Act, 2001 attempts to mark that distinction between those young people who have committed a crime and those who require secure care on welfare grounds. (Special Residential Services Board, 2004: 5)

By means of the language of 'protection' and 'welfare' a separate space has been marked out where the 'difficult' or 'troublesome' child can be governed. Politically, this space is viewed as less controversial because the restriction of the child's liberty is justified on the basis of a 'scientific' knowledge of the person. In this regard, Rose notes:

> The psy disciplines, partly as a consequence of their heterogeneity and lack of a single paradigm, have acquired penetrative capacity in relation to practices

> for the conduct of conduct. They have not only been able to supply a whole variety of models of selfhood but also to provide practicable recipes for action in relation to the government of persons by professionals in different locales. Their potency has been further increased by their ability to supplement these practicable qualities with a legitimacy deriving from their claims to tell the truth about human beings. (1996c: 34)

Pastoral Technologies

Garda Juvenile Diversion Scheme

The Garda Juvenile Diversion Scheme has been in existence since 1953. The programme for cautioning young offenders was put on a formal basis in 1963 and on a statutory basis with the enactment of the Children Act, 2001. The main rationality underpinning the programme is that of diverting the young person away from the court system in the belief that to do so will avoid the labelling of the young person. An inherent part of the programme is the pastoral relationship that the young person engages in with the juvenile liaison officer (JLO) and other significant individuals. These relationships are the foundation upon which this technology of the 'self' is based.

The programme when originally introduced in 1953 was aimed at young people under fourteen years who had committed minor offences. Discretion was given to the local superintendent to issue a warning in the presence of the child's parents if satisfied:

> a) that the offence can be regarded as a childish lapse
> b) that the child is not of a criminal disposition
> c) that his parents can be relied upon to discipline him and to take steps against his offending in the future and
> d) that the injured party does not desire to see the child prosecuted.
>
> (An Garda Síochána, 1953: 1)

The system as it existed then clearly sought to enlist the support of the parents in disciplining the young person. In this sense, the primary relationship that was utilised was that between the parent and child with the garda formally administering the

warning.[149] Clearly there was significant discretion exercised by gardaí in deciding suitability of the offence and the 'criminal disposition' of the offender.

With the eventual formalisation of the programme for cautioning juveniles in 1963 the position of JLO was created. This extended the role of the gardaí in the diversion process beyond merely 'warning' the juvenile offender. JLOs were to engage with the offender and his or her family in an effort to ensure the successful re-adjustment of the offender's behaviour. Although, those offenders deemed suitable for inclusion on the programme were being diverted away from the court system, they were also being inserted into the criminal justice system at a different level. At a symbolic level the shadow of the prison hangs over this diversionary technology as the 'last resort'. As has been seen, one of the main rationalities underpinning diversion is the perceived failure of the prison.

Within the context of the diversionary process the offender is constructed through a process of inscription. This is achieved by entering the juvenile's personal details in the official Garda records. Offenders are classified within different categories: suitable or unsuitable for inclusion on the programme; suitable for formal or informal caution: suitable or unsuitable for 'supervision'. Gardaí are given responsibility for making these judgements based on their experience and set criteria.[150] In addition to forms designed to capture information relevant to each offender, JLOs are required to prepare background reports on each offender. These forms and reports represent the practical dimension of this particular technology of the self. They embody a series of judgements surrounding the offender and the offence. They detail his or her 'criminal status'; previous history; risk of offending in the future; willingness to admit guilt for the offence; views of the victim; views of the detecting garda; and willingness to engage with the process of diversion. An identity is constructed using this process of inscription whereby the offender is contained within a matrix of relationships with An

[149] The parents were entrusted with supervising the young person as opposed to a JLO supervising him.
[150] The criteria for inclusion in the Juvenile Diversion Programme are that the offender:
a) is over the age of criminal responsibility and under eighteen years
b) accepts responsibility for his or her criminal behaviour
c) has not been cautioned previously or having been cautioned, the circumstances are such that it would be deemed appropriate to administer a further caution
d) consents to be cautioned and where appropriate to be supervised by a JLO.

Garda Síochána, the victim, the criminal justice system, and the crime committed. The offender is bound within this matrix of relationships by means of a number of factors: an admission of guilt; the threat of possible sanction for failure to co-operate with the programme; a willingness to participate in his or her future ethical reconstruction. Depending on the nature of the offence the offender may be dealt with by formal or informal caution. The former involves the administering of a formal caution followed by a period (usually twelve months) of supervision by the JLO. [151] The latter involves a caution given by the JLO in the presence of the offender's parents.

In both instances there is an attempt to develop a pastoral relationship between the offender, the garda and the offender's family with the aim of reconstructing the ethical life of the young person. There is also a confessional aspect to the process, whereby the offender is engaged in the formal ritual of admitting guilt in front of gardaí, family members and in some cases the victim.[152] In this sense, like the restorative caution, there exits a dynamic of shaming and reintegration.

Since its inception in 1963 the element of supervision with regard to the young person has been an integral part of the scheme. Gardaí utilise the scheme as a method of surveillance of risk within the local juvenile population:

> The aims of the Scheme are to prevent children and young persons under the age of seventeen years, who are at risk, from becoming involved in deviant and criminal behaviour; and in cases of those who have already offended in a minor way, divert them into legitimate activities, and prevent them from becoming adult criminals.
>
> Under the Scheme, a minor under the age of seventeen years . . . may be dealt with by caution as an alternative to court proceedings, and may be subject to the surveillance and guidance of the Juvenile Liaison Officer until the age of seventeen is reached. Supervision may be withdrawn before reaching this age if it is considered that no risk is involved. (An Garda Síochána, 1978: 28)

This process of surveillance stretches beyond merely interacting with the offender and the offender's family.

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[151] The victim may be present for the administering of the formal caution and the JLO may require the offender to apologise either orally or in writing or make some financial or other recompense (Children Act, 2001, s. 26).

[152] In the case of the formal caution the cautioning officer will normally be a garda of at least inspector rank and the victim may be present.

> JLO personnel meet with and co-operate with parents, teachers, probation officers, social workers, welfare officers and personnel involved in child guidance clinics, public health clinics and the Courts. The maintenance of such contacts ensure that the JLOs are in a better position to assist juvenile offenders and their families and to guide the young offender away from a life of crime. They take an interest in youth and other clubs operating in the community. (An Garda Síochána, 2002: 109)

In this sense, the JLO is viewed as a specialist police officer with an aptitude for operating within a variety of social settings and is trained to negotiate a package of strategies designed to govern the young offender or potential young offender.[153]

The Garda Juvenile Diversion Scheme is primarily a pastoral technology of government in that it encompasses a network of relationships at the centre of which is the JLO. The young person who is the subject of the programme is enlisted in a series of social strategies designed to adjust his or her behaviour in accordance with perceived norms. These strategies depend upon the co-operation of a range of individuals such as teachers, youth workers, counsellors and family members who are also given responsibility for monitoring the offender who remains under the supervision of the JLO. This process of surveillance takes place within a range of sites: the home, youth clubs, schools and the community.

An Garda Síochána is the fulcrum around which this system for the government of risk among this youth population revolves. The JLO creates an identity for the young person by making certain judgements as to his or her risk of future offending. This process of inscription is an important element of this governmental technology in that it creates a new identity for the young person according to the perceived risk and thus facilitates the future management of his or her behaviour. According to Ericson and Haggerty:

> . . . the most mundane aspects of police work – routine surveillance, form filling, and indeed the forms themselves – reveal a great deal about how the

[153] 'Juvenile Liaison Officers are appointed on the basis of their experience, aptitude and commitment for dealing with the youth and because of their involvement with general community affairs. Each appointee undergoes a course of training designed to familiarise him/her with all facets of youth work' (An Garda Síochána Annual Report, 1984: 26).

> culture classifies people in terms of their identities and, through the power of risk classification, keeps them in their places. (1999: 166)

The classification of young people according to their future likelihood of offending ultimately determines whether they are to be subject to a one-off warning or a lengthy process of surveillance. Gardaí are here operating as risk managers (Ericson and Haggerty, 1997). The scheme is an assemblage of the following elements: the belief that entry into the criminal justice system will be detrimental to the future development of the young person; the employment of a risk-based knowledge in relation to future offending; the belief that gardaí are best placed to calculate the level of risk, the degree of surveillance required and manage the process; the employment of a pastoral philosophy that enlists the support of a range of individuals including, gardaí, parents, the victim and other interested parties; a requirement on the part of the offender to engage in a process of confession of guilt for the offence committed; and the belief that such a confessional process will result in a change in behaviour on the part of the young person.

Restorative Justice Initiatives

The confessional aspect whereby the offender admits guilt is an essential element of restorative justice initiatives. In the context of the Garda Juvenile Diversion Scheme, the JLO acts as a mediator between the victim and the offender.[154] The ultimate aim is to achieve some form of resolution for the victim and the offender. With regard to An Garda Síochána there are two types of restorative justice initiatives and both come within the scope of the Garda Juvenile Diversion Scheme. The first, as mentioned above, involves the offender, the victim and the JLO and will result in an expression of guilt on the part of the offender and may result in some kind of reparation. This is referred to as a restorative caution. The second type of restorative event provided for under the Children Act 2001 is the restorative conference.[155]

[154] In this regard, JLOs are given training in basic mediation skills in order to carry out this function (*Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme*, 2003).
[155] Section 29 of the Children Act, 2001 provides for the holding of a conference in respect of a child.

The restorative conference brings together the victim, the offender's family, relatives or other persons deemed appropriate. A restorative event will normally be chaired by the JLO but there is provision in certain circumstances to have another person as chair. The restorative event is essentially an examination of the reasons why the offender committed the offence and allows for an exploration of the factors influencing his or her conduct. These can include psychological, familial or broadly social factors. There is a deliberate attempt to evoke feelings of shame in the offender in the hope that this will bring about a psychological change and result in an adjustment of future behaviour. The presence of the victim is used to confront the offender with the 'reality' of his or her crime.

> In addition to humanising the harm, the behaviour is challenged and an opportunity is afforded to the offender not only to apologise but to take some action to 'undo' the harm. This act of 'restoration' may be by way of replacing goods stolen, compensating for a loss, mending some damage caused or agreeing conditions for future behaviour designed to reassure the victim that the offending will not re-occur. (*Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme*, 2004: 11)

The restorative event normally results in the drawing up of a contract that is signed by the offender in which he or she agrees to undertake some future course of action.[156] The conference may be reconvened at any time in order to discuss any aspect of this action plan. The action plan is in effect a moral contract drawn up by the offender, the victim and others outlining the proposed future conduct of the offender.

The restorative conference is a governmental technology designed to reshape the conduct of the offender in accordance with certain ethical co-ordinates. The event itself is situated within a 'community space'. This space is conferred with a mystique of naturalness within which the ethical project of reattachment can take place. The notion of the 'natural community' is a major element of this ethical project. The offender has offended against the community, and through a process of moral and psychological re-alignment is re-attached to the virtuous community. This

[156] Section 39 of the Children Act, 2001 allows for the formulation of an 'action plan' as a result of the conference. This can include: an apology; financial reparation; participation in certain activities; staying away from certain places; remaining at home at specified times; any other matter that would be in the child's best interests or would make the child more aware of his or her criminal behaviour.

confessional process is a secular equivalent of the Catholic Church's confessional ritual. Rather than attachment to God, the conference attempts a reattachment to the 'moral community'. Watchel, describes the effect of this process as follows,

> The term micro-community has been used to describe the relationship between those who are brought together in a conference. Initially, the common bond which the participants share is the offence. By the end of the process they also share the experience of the conference itself, an emotional event that forges relationships between participants. Long after the conference those relationships will be quietly acknowledged by a wave or a knowing smile whenever participants encounter one another. Police officers have often told how an offender from a conference they facilitated now waves when they see each other on the streets. (1997: 194)[157]

This psychological 'conversion' is effected by the enactment of a carefully choreographed technological process. The ritual of shaming and reintegration is enacted in accordance with a defined script (Garda Research Unit, 2003 and 2004). The seating arrangements and the order in which individuals are required to speak are carefully controlled in order to achieve maximum impact. All in all, this is a carefully defined ritualistic process designed to effect a psychological and moral change in the offender. The identity of the offender is reconstituted by his reintegration into the 'moral community'. This new identity is, however, conditional on his or her abiding by the terms of the agreed action plan. The individual is given temporary membership of the 'moral community' subject to a period of supervision.[158]

There are a number of important elements of this technology: the creation of an ethical space, a 'micro-community' within which the conduct of the offender can be adjudicated upon and governed; the construction of a ritual designed to impact psychologically and ethically on the individual; the pastoral relationship existing between the JLO and the individual; the presence of those other members of the 'community', including the individual's family, who exert a 'moral pressure' on the individual in the hope of effecting a change in his or her future behaviour; and the

[157] Watchel's *Real Justice* is used as a training manual for police forces throughout the world and in particular is used by An Garda Síochána.

[158] Section 42 of the Children Act, 2001 allows gardaí to decide on the level of supervision required with regard to each offender.

symbolic presence of the victim as signifying the harm done and the need for reparation.

While the restorative conference is viewed as an alternative to punishment and takes place in the shadow of the prison it is a technology that is dependent on the application of a measured amount of psychological pain. The restorative event is revealed as a ritualistic exercise in shaming that takes place in a carefully designed 'micro-community'. The careful scripting of the event is designed to calibrate the amount of pain or shame required to effect the desired adjustment of behaviour.

The resulting ethical reconstruction of the offender takes place within a privileged space. 'Community' is here viewed as a 'natural' space in which to deal with the offender's behaviour. Supporters of the restorative model argue that it better represents the rights of the victim and the community. In this regard, an idealistic notion of community is employed in order to facilitate the process of reintegration of the offender. This mythical community is invested with a degree of 'naturalness'. It is viewed as a 'common ground' where the interests of the victim, offender and community can be resolved in a way that cannot be achieved in the court system.

> Restorative approaches are 'inclusive' in that they take account of the interests of victims, offenders, and, sometimes, the wider community in addition to the public interest in deciding how best to deal with a case; they extend the range of those who are entitled to participate in the process of dealing with the offender; and they extend the range of potential outcomes of the process to include restoration for the victim and reintegration of the offender into the community. (Lockhart, 2002: 748)

In this sense, the restorative event can be viewed as a moral technology that purports to uphold the rights of those who participate in it while at the same time dispensing justice to the offender. In attempting to balance all these rights it is somewhat typical of more modern forms of liberal governance.[159]

[159] A similar type of conference is available after the offender has appeared before the court. Section 78 of the Children Act, 2001 provides for a family conference. This type of conference is run by the Probation Service along the same lines as the Garda conference. The Court may direct that a family conference be held if the offender accepts responsibility for the offence, the court sees it as desirable and it sees the family or relatives as being capable of making a positive contribution to the welfare of

These initiatives seek to enlist the support of a range of individuals, including the family of the young person, in order to govern his or her behaviour. They claim to operate within a space outside the formal criminal justice apparatus although they form part of the criminal justice system itself.[160] By claiming to operate within this 'extra-judicial' space they responsibilise a wide range of individuals that can influence the behaviour of the young person. As Rose notes:

> The pervasive image of the perpetrator of crime is not one of the juridical subject of the rule of law, nor that of the social and psychological subject of criminology, but of the individual who has failed to accept his or her responsibilities as a subject of the moral community. Punishment by shaming and reform by ethical reconstruction seek to reconstruct these ethical self-steering mechanisms. (2000: 205)

Garda Youth Diversion Projects

The Guidelines for Garda Youth Diversion Projects (2003) suggest reasons for referring individuals to a project. The criteria includes poor school attendance/early school-leaving; offending behaviour/offending peer group; known to JLO/local gardaí; alcohol/drug use; family involvement in crime; and difficult relationship with parents/authority figures (DIT, 2003: 49). Within this process of referral each project participant is defined by a specific combination of risk factors. The guidelines recommend a maximum of ten factors for identifying a young person as suitable to participate on a project (DIT, 2003: 96). However, although they suggest some risk factors that should be considered there is no definitive list of risk factors to be employed. It would appear that a decision in relation to what risk factors are suitable is to be taken locally. Having decided that an individual is suitable to be referred to

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the offender. Like the restorative conference, an action plan is drawn up with the agreement of all parties. This action plan is returned before the court, which can approve it or suggest it be amended.

[160] The Children Act, 2001 allows for three types of conference. Part 2 of the Act enables the Health Service Executive to convene a Family Welfare Conference. Part 4 enables An Garda Síochána to convene a Youth Diversion Conference. Part 8 enables the Probation Service to convene a Family Conference. The conferences dealt with by An Garda Síochána and the Probation Service are restorative conferences. The Health Service Executive conference is designed to deal with care and protection issues in relation to the young person but may include offending behaviour and result from a referral by gardaí.

the project the referral committee decides on the level of intervention required for each participant. [161]

Methods of inscription employed by project staff create a new identity for the project participant. This identity is constructed by project staff and recorded on specific report forms. The participant is profiled as high, medium or low risk depending on the judgement of the project staff. The category 'at risk' is thus utilised to facilitate the targeting of certain individuals and populations existing on the margins of society. In this regard, Castel notes:

> The profiling flows of population from a combination of characteristics whose collection depends on an epidemiological method suggests a rather different image of the social: that of a homogenized space composed of circuits laid out in advance, which individuals are invited or encouraged to tackle, depending on their abilities. (In this way, marginality itself, instead of remaining an unexplored or rebellious territory, can become an organized zone within the social, towards which those persons will be directed who are incapable of following more competitive pathways). (1991: 295)

The projects are an example of a governmental technology that employs risk-based knowledge in order to govern young people. In the process both communities and individuals are profiled according to their level of risk. Projects are inserted into communities that are judged to have a high risk profile and once established these projects enlist the co-operation of a range of groups and individuals in order to supervise the behaviour of the target population with the aim of preventing crime and encouraging certain kinds of behaviour. In this way, they colonise society's marginalised communities. This process of colonisation is achieved under the guise of the multi-agency community initiative.[162]

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[161] The guidelines rate the level of intervention as follows: Low – group work only; Medium – group and some individual work; High – group work and individual work on a weekly basis or only individual work (DIT, 2003: 96).

[162] DIT (2001) attempts to construct a profile of participants of Garda Youth Diversion Projects by surveying 130 young people. In this study they created a profile of both the participants and the communities that the projects operate in. It notes that: 'Key indicators of risk identified with regard to the communities in which young people live include high youth populations, the general lack of youth facilities and high levels of anti-social behaviour and intimidation . . . In addition, unemployment rates, rates of dependency on social welfare, levels of early school leaving, number of one-parent families and households with more than four children' (2001: 80). In relation to individual participants, the Report profiled participants' risk including the following factors: educational achievement; family structure; patterns of behaviour including offending, alcohol use, involvement with An Garda

The guidelines define Garda Youth Diversion Projects as:

> . . . community based, multi-agency crime prevention initiatives which seek to divert young people from becoming involved (or further involved) in anti-social and/or criminal behaviour by providing suitable activities to facilitate personal development and promote civic responsibility. (2003: 1)

Once the process of risk identification has been completed participants are managed in accordance with their risk rating. The decision as to what activities are appropriate for each participant is made by the co-ordinator in consultation with the project committee. These will generally take the form of youth-work-type activities in a group setting or individual one-to-one work or a combination of both. The projects employ the 'at risk' category to define those participating on them. This definition is sufficiently broad to include both offenders and those who have never offended. A study of one Garda Youth Diversion Project noted that project workers made no distinction between:

> . . . being 'at risk' in terms of harm being caused to young people and 'at risk' in terms of being involved in crime and anti-social behaviour. This results in a shared common ground being 'opened up' where criminal justice and welfare agencies can operate side-by-side. (Sargent, 2005: 73)

These projects represent a technology for governing young people that operates on the cusp of justice and welfare. As a result, many tensions exist around the issues of care and control. This is best illustrated by the figure of the project co-ordinator, who takes on a pastoral role in relation to project participants. By organising activities aimed at changing the behaviour of the young person and negotiating with outside groups and agencies the co-ordinator facilitates the process of re-moralisation of the young person. The co-ordinator operates as a mediator between the young person and other agencies involved in the process of governing the young person's risk. Rose notes:

> . . . Within this new territory of exclusion, a whole array of control agencies – police, social workers, doctors, psychiatrists, mental health professionals – seek

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Síochána; participants' needs, for example, the need for a safe and structured environment, to have fun, to learn, for positive role models; peer influences (2001: 7).

> to link up in circuits of surveillance and communication in a perpetually failing endeavour to minimize the riskiness of the most risky. They form a multiplicity of points for the collection, inscription, accumulation and distribution of information relevant to the management of risk. (2000: 199)

Garda Youth Diversion Projects are a risk-based technology that operationalise a knowledge of risk in order to target certain 'risky' individuals. These individuals are then encouraged to become more responsible through the employment of certain pastoral-type activities designed to effect an ethical change in the individual. As such, the individual is encouraged to make certain ethical lifestyle choices. The young person is portrayed as someone free to choose certain lifestyles. According to Rose:

> This ethical reformulation opens the possibility for a whole range of psychological techniques to be recycled in programmes for governing 'the excluded'. The imperative of activity, and the presupposition of an ethic of choice, is central not only to the rationale of policy but also to the reformatory technology to which it is linked. (2000: 201)

Probation

Like the above-mentioned governmental technologies, probation aims to take account of the specific character of the individual to be governed. The Probation of Offenders Act, 1907 provided the judiciary with an alternative to detention in certain circumstances. Garland (1985) has argued that legislation such as the Probation of Offenders Act, 1907 and the Prevention of Crime Act, 1908 recognised certain criminological factors such as the 'character' and 'antecedents' of the offender. The 1907 Act allowed the court, when deciding on an appropriate sentence, to take into account, 'the character, antecedents, age, health or mental condition of the person concerned, the trivial nature of the offence, or the extenuating circumstances under which the offence was committed' (Walsh, 2005: 174).[163]

Section 96 of the Children Act, 2001 goes a step further in relation to juvenile offenders by outlining a specific set of sentencing principles. Kilkelly argues that this

[163] Walsh also refers to an 'informal practice' that has developed whereby a court adjourns sentencing and places the offender under the supervision of a probation officer. This is often referred to as 'deferred supervision'. The court will take account of the response of the offender to the period of supervision when making its final decision (Walsh, 2005: 175).

is one of the most important contributions of the Children Act, 2001 in that 'it recognises that it is desirable wherever possible to prevent interruption of a child's education, training or employment, to strengthen the relationship between children and their families and to allow children to reside in their own homes' (2006a: 167).[164] Specific recognition is given to the social and psychological factors influencing the development of the child and the imperative of retaining detention as a last resort. It is against this backdrop that the technology of probation is employed. In this regard, probation operates within a peculiar governmental space that is judicially sanctioned.[165]

From its beginnings probation enlisted the support of a wide range of individuals and organisations that had contact with young people. These pastoral techniques were employed by organisations such as the St Vincent de Paul Society and the Legion of Mary. The Legion of Mary Handbook notes, in relation to, 'works for the young', that:

> Competent legionaries, once admitted to the home, will know how to make all the members of that family feel the radiation of their apostolate. A sincere interest in the children will usually make a favourable impression on the parents. This can be skilfully utilised to cultivate in them the seed of the supernatural so that, as the children had been the key to their parents' home, likewise they will prove to be the key to their parents' hearts and eventually to their souls. (1993: 243)

Although the modern probation system has adopted a more 'social-work-type' practice, the process of enlisting the support of families and other significant figures in the life of the offender in order to influence the young person's behaviour is still employed. Roche, notes that the probation officer's first task:

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[164] Section 96 of the Children Act, 2001 sets out certain principles relating to the sentencing of children. These take account of: the child's education, training and employment; the child's relationship with his or her parents and other family members; the family's ability to deal with the child's behaviour; the child's need to reside at home; the child's age and level of maturity; the principle of detention as a last resort; the difference between the child and an adult offender; the interests of the victim.

[165] The Children Act, 2001 has created new governmental spaces in which the technology of probation operates. These include initiatives and sanctions that allow the probation officer to supervise the young person in a variety of settings such as the family, the community and residential accommodation.

> . . . is to win the confidence of the person needing help, and often that of his family, since only with their co-operation can the full picture emerge . . . It is the appreciation of, and concentration upon, the probationer's ability to benefit from developing a personal relationship with the Probation Officer that principally distinguishes probation supervision today from that of a quarter of a century ago. (1970: 182)

Key to the operation of this technology is the pastoral relationship developed between the probation officer and the offender. The officer mediates, negotiates and advocates on behalf of the offender and also assesses his or her behaviour by updating the court on the person's progress or otherwise. This process of adjusting the behaviour of the offender is dependent on the ability of the probation officer to engage the offender in the process of reformation. In this way, probation has its 'foundation in the philosophy of *advising, assisting and befriending* offenders and helping them move towards a more industrious and constructive lifestyle' (IMPACT, 1994: 4).

As already noted, this process of reformation also involves co-opting the support of families, other individuals, groups and organisations. The Le Cheile Mentoring Project is funded by the Probation Service and was established in 2005 to meet the needs of the Mentor (Family Support) Order under the Children Act, 2001. It is aimed at young people between twelve and eighteen years who have come into contact with the Probation Service. It actively recruits and trains teams of volunteers 'to act in the role of supportive adult, role model, advisor and friend' (http://www.lecheile.ie). It seeks to:

> . . . provide a mentoring service which promotes positive change and aims to improve the decision making and overall well-being of our service users . . . complement the role of Young Person's Probation in addressing offending behaviour in line with legislative requirements under the Mentor (Family Support) Order. (http://www.lecheile.ie)

The project targets young people at risk of offending by seeking to engage them in a range of activities, including sport, social activities and educational courses through their team of mentors. It is hoped that through engaging in this mentoring process the young person who is targeted will change his or her behaviour and become less of a risk to society.

> Mentors are assigned a young person for a period of approximately 6 months to 2 years. For the first 6–8 weeks the mentor and mentee focus on getting to know each other through social activities . . . After this point they meet with the co-ordinator and try to set some goals such as helping the young person build their self-esteem, motivating them to engage in education or employment, etc. (http://www.lecheile.ie)[166]

The probation officer cultivates links with other individuals who maintain a pastoral relationship with the offender, including teachers, volunteers and friends. These enable the probation officer to employ a full range of strategies designed for the reformation of the individual. Such strategies usually focus on some problem or other that has been identified by the probation officer and is associated with the individual offender. In this sense, the Probation Order is employed as a mechanism of surveillance of the potential risk posed by the offender:

> These Orders tend to be used with young, 'first time' or relatively minor offenders, with personal problems such as recovery from various types of abuse, alcohol or drug addiction problems, family disharmony, personality disorders, housing or other social problems. As well as directly monitoring and challenging probationers' offending behaviour, Probation Officers undertake individual and family counselling with specialist agencies, such as training centres, hostels, special schools and so on. (IMPACT, 1994: 7)

The projects aim to effect a change in the behaviour of young people by engaging them in a wide range of activities designed to make them more 'responsible'. A feature of many of these technologies that seek to responsibilise young people is the employment of the language of empowerment. This is closely allied to the pastoral nature of the technologies. Young people are encouraged to explore their potential to become more responsible, to become better citizens, to increase their social skills, to become more employable, to be healthier, through a process of self-examination and of exploration of their freedom. Rose highlights the manner in which these technologies of the self utilise the language of empowerment:

> For empowerment – or lack of empowerment – codes the subjective substrate of exclusion as lack of self-esteem, self-worth, and the skills of self-management necessary to steer oneself as an active individual in the empire of choice. The

[166] A similar Project is the 'Big Brothers Big Sisters Programme' run by the Youth Development organisation Foróige (http://www.bbbs.ie).

> relations that humans have with themselves are to be the target of professional reconstruction, often backed with the power of law. The beauty of empowerment is that it appears to reject the logics of patronizing dependency that infused earlier welfare models of expertise. Subjects are to do work on themselves, not in the name of conformity, but to make them free. (2000: 201)

These probationary initiatives can be viewed as technologies of citizenship that attempt to implant in their subjects self-steering mechanisms. The probation officer is the key figure in this process. He assists, advises and befriends the young person on his or her journey to self-fulfilment linking the young person to other key players in the process. The individual becomes engaged in a project to create a new identity. This is usually characterised by overcoming some mitigating factor such as alcohol/drug dependency, educational failure, unemployment or low self-esteem. Cruickshank (1993 and 1999) has illustrated how programmes aimed at empowering the individual can also act as techniques for subjection. Such techniques usually involve individuals being encouraged to participate in their own governance. However, she notes:

> Those who have failed to link their personal fulfilment to social reform are lumped together as 'social problems', are diagnosed as 'lacking self-esteem' and are charged with 'antisocial behaviour'. Society needs protection from those who lack self-esteem, according to advocates. (1993: 330)

Probation as a technology operates in the shadow of the prison in the sense that failure to engage with the Probation Service results in the offender being returned to court. The Probation of Offenders Act, 1907 along with the Children Act, 2001 provide for a wide range of community sanctions and orders designed to govern the young person.[167] A decision as to what type of supervision the young person is subject to is made on the basis of the utilisation of an assessment of the potential risk of re-offending. Accordingly, a sliding scale of risk is employed in order to determine whether each individual will be subject to moderate or intensive supervision and

[167] These include: Probation Supervision Order (Section 2 of the 1907 Act); Probation Training or Activities Programme Order (Section 124 of the Children Act, 2001); Mentor (Family Support) Order (Section 131 of the Children Act, 2001); Suitable Person (Care and Supervision) Order (Section 129 of the Children Act, 2001); Probation (Residential Supervision) Order (Section 126 of the Children Act, 2001); Day Centre Order (Section 118 of the Children Act, 2001); Dual Order (Section 137 of the Children Act, 2001); Probation (Intensive Supervision) Order (Section 125 of the Children Act, 2001); and Community Service Order (Section 3 of the Criminal Justice (Community Service) Act, 1983) (Probation Service, 2008).

whether this supervision will take place in the family, a day centre, youth project, hostel or other suitable location. Those who fail to engage in this process are deemed more 'at risk', excluded and will become subjected to more disciplinary technologies.

Crime Prevention Initiatives

Apart from Garda Youth Diversion Projects and Probation Projects there are a range of initiatives that deal with the issue of crime prevention. These initiatives tend to look at offending behaviour as arising due to certain risk factors present in the young person's life. They seek to address one or more of these factors through various programmes aimed at reducing the overall level of risk. In attempting to target the risk factors that led to the offending behaviour a number of governable spaces are opened up. These include the family, school and community.

A feature of these initiatives is the employment of risk assessment techniques in an effort to prevent future criminal activity. The child or young person is viewed as a potential offender or re-offender and this potentiality is measured by using a set of risk factors. The risk of offending or re-offending is usually incorporated into a broader definition of risk covering issues of protection and welfare. Most crime prevention initiatives operationalise a concept of the 'at risk' child or young person despite the fact that, in some cases, there is no clear definition of what 'at risk' actually means. The term 'at risk' functions as a linguistic device that is utilised in order to facilitate the process of government. In Ireland there are a wide range of initiatives that aim to prevent crime by addressing one or more risk factors.[168]

There are a large number of initiatives aimed at early intervention in the lives of children who may become involved in crime. Although these projects are not directly funded as part of the criminal justice system the work they engage in is recognised as contributing to crime prevention. The National Youth Justice Strategy 2008–2010 states that although it is focused primarily on those who have come into contact with the law:

[168] In 2003 the National Crime Council published a paper proposing a national model for crime prevention. It stressed the need to develop and support initiatives aimed at early intervention as a method of governing the 'at risk' child population (National Crime Council, 2003).

> Early intervention and timely action by all key stakeholders is essential if children are to be diverted from crime at an early stage. By meeting the welfare and educational needs of children adequately, this can help to protect children from involvement in crime and anti-social behaviour . . . It is generally agreed that issues such as poverty, unemployment, early-school leaving, addiction and inadequate parenting all contribute in a major way to crime by young people. (2008: 12)

Initiatives such as family support aim to address multiple risk factors in the child's environment. Thus, the aim of crime prevention is often viewed as part of a wider strategy designed to address these multiple risk factors. An example of this is the Springboard Initiative that employs a strategy of family support in order to target both children and families 'at risk'. These projects aim to work intensively with children, mainly between the ages of seven and twelve, who are 'at risk' of going into care or getting into trouble and with their families (Department of Health and Children, 1999). Springboard utilises the technology of family support to empower families to overcome potentially adverse social conditions. In employing this technology certain communities are given a high risk rating due to identifiable social conditions such as unemployment, poor housing, high percentage of single parents and low-income levels. Once the target population has been selected the process of identifying risky individuals can begin. These individuals are then encouraged and empowered to adjust their behaviour in line with specific norms that are usually defined in terms of protection and welfare. Project activities include:

> (1) individual work such as one-to-one sessions with clients to assess needs and offer advice, counselling and support; (2) group work and activities such as parenting and personal development groups, breakfast clubs, coffee mornings, homework and after-school activities . . . (3) family work such as counselling and therapy, family evenings and outings or accompanying families on visits to hospital, court, school, the Health Board, etc; (4) drop-in facilities for information, advice, recreation, coffee-breaks, etc. In addition to direct service provision, projects also spend time building up inter-agency networks with other services in the community, both statutory (such as schools, health board professionals, Garda Síochána, etc) and voluntary . . . (Department of Health and Children, 2001: 7)

They seek to engage those young people who are identified as being in danger of dropping out of school by enlisting them in extra-curricular activities and linking

them to other support systems. In a similar way the Home–School Liaison Initiative seeks to address risk factors in the family, school and community. Other initiatives that target school-going children by trying to influence their personal development include the Garda Schools Programme, On My Own Two Feet, Stay Safe and Walk Tall programmes. These programmes seek to enlist the support of teachers, families, the community and others in encouraging young people to make more responsible lifestyle choices.[169]

While some initiatives target specific risk factors such as educational failure, 'youth work' initiatives tend to cover a wide range of risk factors. In Ireland, the main organisations promoting youth work initiatives are the National Youth Federation; National Youth Council; Catholic Youth Care; Foróige and the City of Dublin Youth Services Board (Quinn, 2002). Some of these organisations, such as Catholic Youth Care and Foróige, are also involved in the management of Garda Youth Diversion Projects. According to Quinn, these 'youth work' projects:

> . . . employ professional youth workers to carry out a range of activities for young people at risk. These include:
>
> - intensive group work programmes
> - arts and activity based programmes
> - training of local volunteers
> - referral of young people with special needs, such as counselling, drug related issues, bereavement work, and so on.
>
> (2002: 693)

As noted earlier, youth work in Ireland has been characterised by its dependence on volunteers (Lalor et al., 2007) and has been accused of lacking a coherent policy (Cullen, 1999). According to McKeown, youth work:

> . . . refers to a broad range of out-of-school activities for young people in the areas of sport, recreation, leisure, education and personal development. Its broad aim is the personal and social development of young people and the preparation for a successful transition to adult life. (2000: 28)

[169] In particular, the DEIS initiative (Delivering Equality of Opportunity in Schools), among other things, aims to improve the participation of families and communities in school activities (Department of Education and Science, 2005).

Central to this work is the relationship between the youth worker and the young person and the ability of this youth worker to influence the future behaviour of the young person. Although youth work is not specifically targeted at crime prevention its aims are sufficiently broad as to include it under the heading of social and personal development. For this reason the Garda Youth Diversion model of crime prevention has been grafted on to existing youth work services. In this way, issues such as citizenship, reintegration, anti-social behaviour and offending behaviour become subsumed under the goal of personal development. Young people are encouraged to pursue their personal development through their freedom to make certain lifestyle choices.

Central to this process is the relationship between the participant and the project worker. This can be a youth worker, programme facilitator, co-ordinator, teacher, counsellor, outreach worker, advocate or family support worker. Through various activities, young people are enjoined, encouraged, motivated and challenged to make positive lifestyle choices.

Crime prevention initiatives have many aims that are viewed as directly or indirectly contributing to a reduction in offending behaviour. These include programmes aimed at personal development, employability, challenging behaviour, increasing self-esteem, building social skills, drug/alcohol use, counselling, parenting skills, education, offender reintegration, mentoring, mediation and advocacy. Initiatives such as Garda Youth Diversion Projects, Probation Projects, Youth Projects and early intervention initiatives encompass many of these goals in trying to address multiple risk factors in the lives of those deemed 'at risk'. In addition to these initiatives there are numerous others sponsored by the Health Service Executive, which are aimed at tackling multiple risk factors in the child's environment. These employ a range of technologies to govern children and their families in areas such as early childhood development; parental support; community-based family support; work with 'at risk' young people; promoting partnership with families; therapeutic approaches; and residential and after care (Department of Health and Children, 2004).[170]

[170] The Report highlights various models of intervention in community, therapeutic and residential settings as exemplars of good practice. These include: Kilkenny Community Early Years Project; Sligo

Conclusion

Within the 'present' there exists an array of technologies aimed at governing the young person. Each technology is grounded upon a specific governmental rationality: incarceration, diversion, restoration, probation, crime prevention, reformation, high support and special care. Juvenile justice in Ireland has been dominated by disciplinary technologies such as reformatory schools and industrial schools. In recent years, detention schools, high support and special care units have emerged as new disciplinary technologies. These sites are predominantly disciplinary in that they regulate time and space, a technique that facilitates the surveillance of the individual. Newer technologies tend to employ a 'quasi-scientific' language that justifies interventions on the grounds of protection and welfare. They protect society from the 'troublesome' and protect the 'troubled' from themselves. Within these sites the individual's risk is assessed and various tools are utilised to govern them. These include care plans and psychological and other expert reports. These techniques construct the identity of the individual subjected to these regimes. From the moment of their admission they are 'at risk' and their associated risk continues to be calculated as they progress through each site.

The dominant spiritual technology, as represented by the reformatory and industrial schools, has been replaced by a technology of 'care'. Staff trained to cater for the protection and welfare of the young person manage children detention schools. This process of 'caring' is seamlessly woven into the process of reformation and the thread that binds both together is the language of risk. The young person is reconstituted in terms of the degree of risk that is ascribed to them and this risk status is monitored using techniques of observation and inscription. The psychologist, therapist, social worker and key worker are the authors of this new identity and their reports determine

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Family Support Ltd; The Marte Meo Project; Home Start, Tullamore; Post Natal Distress Group; Parenting Initiative; Whitefriar Street Community Education and Development Project; Geraldstown House; Family Resource Centre; Muirhevnamour Springboard Project; The Big Deal Project; Gorey Youth Needs Group; The CRIB Youth Project and Café; Granard Action Project; Back to Basics; Integrated Model of Self-Regulation; Gleann Alainn; The Family Welfare Conference Service; The Family Rights Group; Parental Participation at Child Protection Conferences; Airne Villa Resource and Assessment Unit; Amiens Street Childcare Centre; Aftercare Programme; Children Services Programme, Carlow; Family Support Policy Framework (Department of Health and Children, 2004).

at what level the young person is retained within the system or whether he or she is returned to the community to be governed in more open sites.

The more visible disciplinary technologies have been supplemented by a range of 'expert' regulatory governmental spaces that measure the relative risk of the young person, with the detention centre at one end of the scale and the early intervention initiative at the other. In this way, many of the newer governmental technologies have become less contentious by becoming more 'scientific'. However, each technology employs a specific knowledge of the individual in order to govern him or her. Rose notes,

> government, here, does not indicate a theory, but a certain perspective from which one might make intelligible the diversity of attempts by authorities of different sorts to act upon the actions of others in relation to objectives of national prosperity, harmony, virtue, productivity, social order, discipline, emancipation, self-realization, and so forth. The perspective also directs our attention to the ways in which strategies for the conduct of conduct so frequently operate through trying to shape what Foucault termed 'technologies of the self' – 'self-steering mechanisms', or the ways in which individuals experience, understand, judge, and conduct themselves.(Rose, 1996c: 29)

CHAPTER 8: FORMS OF IDENTITY

> *To the apparent linearity, unidirectionality and irreversibility of time, we can counterpose the multiplicity of places, planes and practices. And in each of these spaces, repertoires of conduct are activated that are not bounded by the enclosure formed by the human skin or carried in a stable form in the interior of an individual: they are rather webs of tension across a space that accord with human beings' capacities and powers to the extent that they catch them up in hybrid assemblages of knowledges, instruments, vocabularies, systems of judgement and technical artefacts.*
>
> (Rose, 1996a: 144)

Introduction

The 'self' is not a stable category that has a trans-historical quality whose evolution can be traced throughout history. Rather, identity changes in accordance with the space it occupies and the vectors of power acting upon it. Its visibility suggests that there is a form of unified identity that is waiting to be revealed. However, this apparent stability belies a more malleable quality. It is in this context that Rose suggests that we unsettle the regimes of subjectification to which the concept of identity is linked. He proposes that we approach the 'self' from the perspective of its function as a 'regulatory ideal', analysing the various practices and technologies that are employed to govern individuals at particular times and places, rather than attempting to produce a historical narrative of the subject. In this way, he favours what he refers to as a 'spatialization' of being over its 'narrativization' (1996a). With this in mind, it is intended to unsettle the forms of identity employed in governing children within the Irish criminal justice system.

The Delinquent

Foucault (1991) notes that what distinguishes the delinquent from the offender is the circumstances of the individual's life rather than any act he or she may have committed (1991). Such biographical information is important not only for the construction of the identity of the delinquent individual but also for the mode of reformative treatment he or she is to undergo. The construction of the delinquent identity is, for Foucault, an important development in the history of penality as it

opens up a 'criminological labyrinth' within which we can speculate about the motivation of offenders. He notes:

> Behind the offender, to whom the investigation of facts may attribute responsibility for an offence, stands the delinquent whose slow formation is shown in a biographical investigation. The introduction of the 'biographical' is important in the history of penality because it establishes the criminal as existing before the crime and even outside it. (1991: 252)

Such biographical information facilitated the construction of the identity of the juvenile delinquent and speculation on the most effective means for their government. The Report of the Select Committee on the Criminal Law (1847) considers the possibility of governing juvenile offenders in a different manner to adult offenders within the court system and also within 'reformatory asylums'. The Committee was 'disposed to recommend the adoption, by way of Trial, of the reformatory Asylums . . . combined with a moderate use of Corporal Punishment' (1847: 6). Throughout the course of the discussion of alternative modes of governing the young offender the identity of the 'delinquent' emerges. The Committee hears biographical evidence of the background and familial circumstances of certain classes of juvenile offender within the context of recidivism and possible causes thereof. In his evidence to the Committee, C. Pearson, argues against the imprisonment of certain classes of delinquent children:

> I know from my own experience, that in nine cases out of ten a delinquent child is the victim of circumstances that it could not control, I am of the opinion, that the summary conviction as a criminal of a child under years of discretion, under such circumstances, is neither just to the child nor useful to society. (1847: 303)

A significant discourse on 'juvenile delinquency' had emerged by the mid-nineteenth century. Magarey notes that by '1851 "juvenile delinquency" was established among journal reading, servant-employing Britons as a major problem in the condition of England' (2002: 115). This was also true for Ireland in the *Journal of the Statistical and Social Inquiry Society of Ireland* and the *Irish Quarterly Review*. The Rev. John Edgar, in a paper delivered to the Belfast Social Inquiry Society, characterises the juvenile delinquent as a danger existing within the body of society. His portrayal of

delinquents suggests that they possess some 'other' quality that distinguishes them from the general population.

> We live in the midst of a juvenile population, destitute of counsel, care, teaching, except what is pernicious – many of them without any honest means of procuring a livelihood. When we think of them, in their holes and corners, and filthy hovels, in their desperate state of self-abandonment, and exposed to a thousand influences for ill, a distressing hopelessness comes over us – an impression that they are beyond the reach of human aid, and that, unless God works for them some miracle of grace, in thick darkness they must continue to live, in thick darkness at length they must die. (Edgar, 1852: 4)

His proposals, based for the most part on principles of Christian education, seek to restore the delinquent to a more virtuous state by addressing certain factors common to the delinquent population.

The construction of the identity of the 'juvenile delinquent' and of a delinquent population was crucial in terms of the development of the reformatory and industrial schools movement. It facilitated a debate on how the delinquent class of young person should be governed. From the mid-nineteenth century a number of articles appeared in the *Journal of the Statistical and Social Inquiry Society of Ireland* advocating new methods of governing this delinquent class (Pim, 1854; Haughton, 1856; Lentaigne, 1885; Daly, 1891 and 1897; Cherry, 1912).

The *Irish Quarterly Review* between 1853 and 1860 also featured a series of articles on the issue of juvenile delinquency (Laub and Levin, 1984). One anonymous article entitled 'The Garret, the Cabin, and the Gaol' (1854) examined the social conditions that contribute to juvenile delinquency, including housing and sanitary conditions, parenting, education and religion. What emerges is a picture of a delinquent class that is both deprived and depraved. These morally depraved individuals, it argues, are the product of a number of factors including poor living conditions, lack of adequate parental supervision, poor education and lack of religious instruction. The author views juvenile delinquency as an evil that can be 'cured in great part by education, but it must be an education based on religion and on truth' (1854: 375). In these articles we see the emergence of the identity of the 'juvenile delinquent' as someone whose delinquency is the product of his or her environment. This identity is constructed by

reference to biographical and other information on individuals and 'classes' of individuals. According to Laub and Levin:

> In each article, the writer emphasized the importance of modifying the environment of the individual offenders who have already violated the law and of improving the environment of those children whose socio-economic backgrounds would inevitably lead them to commit acts of delinquency. (1984: 8)

Carpenter attempts to define the juvenile delinquents as:

> . . . not only perishing from lack of knowledge, from lack of parental care, of all that should surround childhood, but they are positively become dangerous; dangerous to society, which rises in formidable array to defend itself against them . . . Such a condition is one of grievous moral disease; it needs a moral hospital and requires a treatment guided by the highest wisdom of those who have learnt the art of healing from the Physician of souls. (1853: 16)

She distinguishes six classes of juvenile delinquent including: hardened offenders; those trained in dishonest ways; those who have acquired 'bad habits' as a result of parental neglect; those driven to crime as a result of poverty; those forced to work on the streets to support their families; and those 'born to a sort of hereditary calling' (1853: 32).

The identity of the delinquent and the delinquent class facilitated the construction of the 'problem' of delinquency itself. In relation to Ireland, the *Report of the Select Committee on Criminal and Destitute Juveniles* (1853) represented an examination of the extent of the problem of juvenile delinquency through the evidence of a number of expert witnesses. This process of taking evidence from selected witnesses sees the delinquent identity inscribed within the official discourse on juvenile crime. The evidence itself takes the form of official statistics and anecdotal information on the background of these individuals. The juvenile delinquent is viewed as someone existing outside 'normal' society, inhabiting the prison, workhouse, street and ghetto. The juvenile delinquent's identity is defined as 'problematic' and a target for supervision. According to Barnes, the evidence of these witnesses as to the causes of delinquency in Ireland differed in emphasis from their British counterparts by maintaining that it stemmed from poverty rather than any inherent criminal tendencies

(1989: 15). The juvenile delinquent is thus identified as originating from the poorer classes.[171]

The figure of the delinquent has remained part of the discourse on juvenile crime and social reform from the mid-nineteenth century to the present. Carpenter's typography of the delinquent classes emerged as a powerful image within the reformatory and industrial school movement. At various times the delinquent has been portrayed as someone in need of effective government of one kind or another. Early social reformers highlighted the need to identify, segregate and educate the juvenile delinquent class within discrete enclosures. Within these 'moral hospitals' the delinquent identity could be reformed and rendered more governable. The identity of the delinquent and in particular the manner in which this identity was formed provided a target for specific reformist strategies.

Although no significant criminological tradition developed in Ireland during the twentieth century, the figure of the juvenile delinquent emerged from time to time as a target for speculation in various journals and official reports. Three journals in particular facilitated the discussion of juvenile delinquency, namely the *Irish Quarterly Review*, the *Journal of the Statistical and Social Inquiry Society of Ireland* and *Christus Rex*.[172]

A series of articles by E. D. Daly in the *Journal of the Statistical and Social Inquiry Society of Ireland* speculate on the origins of juvenile delinquency and some possible remedies. These articles depict the delinquent as an inhabitant of the poorer class areas of big towns and cities, whose delinquency is mainly caused by poverty and neglect. Daly argues for reform, particularly in the area of alcohol policy, to combat the neglect of children and reduce the likelihood of their becoming delinquent. He writes:

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[171] Barnes (1989) cites the evidence of Connellan, Ball, Berwick and Senior to the Committee as to causes of the problem of delinquency in Ireland.

[172] From the mid-1940s *Christus Rex*, a Catholic journal published in St Patrick's College Maynooth, provided a platform for the discussion of sociological issues, one of which was juvenile delinquency.

> The drink-reared children of the slums, undoubtedly more than any other cause, swell our permanent criminal class; and as long as we suffer the existing impunity for drunkards to continue, the drunken areas of large cities must neutralise, to a large extent, the effect of reformatory institutions. (Daly, 1897: 285)

In this and other articles Daly locates the problems of juvenile delinquency as existing in and emanating from the poorer classes and their living conditions.[173] He calls for greater attention to be paid to the welfare of the children of the poorer classes and argues that their welfare is closely linked to juvenile delinquency:

> By slow degrees the public is beginning to recognise that they are the true source of our permanent criminal class, and the necessity of our day is not to expend immense revenue on improving prisons for adults, but rather a complete remodelling of our attitudes towards the neglected children of our great cities. (Daly, 1897: 338)

Lord Justice Cherry, also writing in the *Journal of the Statistical and Social Inquiry Society of Ireland*, optimistically expressed the belief that we could 'in time, entirely get rid of the criminal class, as a class, in our large cities' (1912: 436). This could be achieved by subjecting this class of juvenile delinquents to reformatory treatment of one form or another and in addition, securing 'honest' employment for them. Cherry, drawing on his experience within the criminal justice system, invokes an image of the typical juvenile delinquent as one who was initially imprisoned for some petty offence, was subjected to the 'degrading' effect of prison discipline and was subsequently unable, due to ignorance, to secure honest employment on release.

The idea of a delinquent class of juveniles existing in the larger population centres, the subject of poverty and parental neglect and in constant moral danger remained a common theme in the articles of the *Journal of the Statistical and Social Inquiry Society of Ireland*. Within this context, O'Connell highlights the problem of juvenile street trading and its deleterious effect on the young person:

> . . . the juvenile street trader is only too often the victim of idle, drunken, and vicious parents, who extort all his earnings until a time arrives when the

[173] These include: 'Our Industrial and Reformatory School Systems in Relation to the Poor', 1891; 'Crime and How Best to Attack It', 1897a; 'Neglected Children and Neglectful Parents', 1898.

> growing boy or girl, demoralised and discontented, breaks with the parents, and throwing over all home ties, takes to a life of unrestrained independence and license. (1912: 505)

The juvenile delinquent was here viewed as someone in need not only of reformation but also of protection from the surrounding social conditions. These social conditions are seen as a source of danger to the welfare of the child and a constitutive element of the neglectful class from which the delinquent emerges. In this regard, the Children Act, 1908 is viewed as a mechanism for protection of the neglected child and the prevention of delinquency. Dawson notes that the, 'discontent engendered by our social anomalies has created a class who, bereft of family ties or affections, send out onto our streets their neglected children for whose rescue and safety the new Act, which codifies others, has been passed' (1912: 388).

Juvenile delinquency was viewed as a consequence of factors such as poor social conditions, parental neglect and educational disadvantage. MacCarthy (1945) examines the problem of child welfare and explores various aspects of it: education and child guidance (McCluskey, 1945); poor housing (Dalton, 1945); social deprivation (Hickey, 1945); recreational amenities (Coote, 1945); and poverty and parental neglect (Anon, 1945). The discussion of the delinquent identity is here linked to issues of child welfare.

Christus Rex was a quarterly sociological journal published by the Christus Rex Society, which was based in St Patrick's College, Maynooth. It provided the main forum for the discussion of juvenile delinquency in Ireland from the mid-1940s to the early 1970s. The journal was founded in order to promote social reform in Irish society based on Catholic principles and as such provided a platform for the discussion of issues relating to juvenile delinquency.[174] Like the other journals, its articles tended to analyse the problem from the perspective of child welfare and deprivation. However, the contributors, mainly Catholic academics, were also inclined to emphasise the spiritual dimensions of the problem of delinquency. As

[174] Daly, writing in 1947 of the Christus Rex Society, stated that one of their first objects for investigation was the 'youth problem'. 'Their findings were discussed and impressions exchanged at meetings held each month. The results of these investigations were incorporated into a brochure on Youth Organisation prepared and circulated to members by the Committee' (1947: 28).

such, the articles represent a separate Catholic discourse dealing with issues relevant to juvenile delinquency such as the Children Court (McCarthy, 1948); the delinquent child (Morrah, 1950); the deprived child (Kenny, 1956; Hegarty, 1959); child welfare (Gallagher, 1961; Ryan, 1967); the juvenile offender (O'Connor, 1963; Power, 1971; Macauley, 1955); youth work (Forde, 1967 and 1970); the psychology of the adolescent (O'Suilleabhain, 1971; O'Doherty, 1971; Heneghan, 1971; McKenna, 1971); and early school-leaving (Ryan, 1967). The existence of this discourse on juvenile delinquency is evidence of the fact that Catholicism did not amount to one homogenous authoritarian discourse. Keogh makes a similar point in relation to the Catholic Church and its role in the censorship of art in the early 1940s:

> . . . to focus on the cultural authoritarianism of the Church is to neglect to point to the role of the Church as an intellectual innovator and agent of cultural change. This is a theme which may only be stated here as being worthy of exploration. The danger in trying to reduce the intellectual conflicts in Irish society to a lay/modernist–clerical/traditionalist cleavage is one that ought to be avoided. (1996: 128)[175]

During the twentieth century the figure of the juvenile delinquent continued to emerge intermittently as the subject of speculation and study in various articles and official reports. Each study offers separate constructions of the delinquent identity. The Commission on Youth Unemployment (1951) identified unemployment as one of the critical factors in its definition of delinquency. For the Joint Committee on Vandalism and Juvenile Delinquency (1958) the juvenile delinquent was characterised by a tendency to be unruly in public. The Commission of Inquiry on Mental Illness (1966) viewed the juvenile delinquent as someone whose actions were primarily the result of some emotional disturbance or psychiatric disorder. This tendency to characterise the juvenile delinquent in psychological terms was also a feature of the First and Second Interim Reports of the Interdepartmental Committee on Mentally Ill and Maladjusted Persons (1974).

Existing in parallel with these psychological characterisations is identification of the juvenile delinquent as deprived. Apart from those mentioned above a number of

[175] As already noted, the prominent Catholic academic and President of the Society of St Vincent de Paul in Cork, Professor C.K. Murphy, was critical of the legal system that allowed for the committal of children to institutions for minor offences (1959).

articles published from the early 1960s onwards highlighted early childhood deprivation as the significant causative factor in the history of the juvenile delinquent. O'Connor (1962 and 1963), Tuairim (1966), CARE (1972 and 1978) and HOPE (1979) identify delinquency within the deprived environment. Other sociological studies attempted to identify specific characteristics in the character of the juvenile delinquent by examining their background (Flynn et al., 1967; Hart, 1968 and 1970; Hart and McQuaid, 1974; O'Sullivan, 1974, 1977, 1979 and 1979a; O'Gorman and Barnes, 1991; O'Mahony, 1997; McPhilips, 2005). In addition to these, a number of official reports confirm the identity of the juvenile delinquent as one who is the product of a deprived environment.[176]

From its origins in the nineteenth century the figure of the juvenile delinquent emerged as a target for governmental strategies. These included separate treatment in prison and the courts; and detention in workhouses, reformatory and industrial schools, ragged schools and borstal institutions. The tendency to interpret delinquency in broad terms 'to include the behaviour of young persons which, though not amounting to criminal misconduct, nevertheless could be considered as undesirable or deviant' (O'Connor, 1962) has persisted to the 'present'. The figure of the juvenile delinquent remains a target for a range of diversionary, preventative, reformative and penal technologies.

The Subject of Reformation

What distinguished the character of juvenile delinquents according to the early reformists such as Mary Carpenter was the degree of their moral depravity. They are viewed as somehow coming short of what is judged to be normal and it is by reference to this norm that their future reformation could be planned. Reformists attributed to childhood a state of innocence and dependency that distinguished it from

[176] These include: *Final Report of the Task Force on Child Care Services* (1980); *The Report of the Committee of Inquiry into the Penal System* [Whitaker Report] (1985); *Juvenile Crime: Its Causes and Remedies* (1992); *Report of the Interdepartmental Group on Urban Crime and Disorder* (1992); *Tackling Crime* (1997); *Study of Participants in Garda Special Projects* (2001).

adulthood (May, 2002).[177] Carpenter's characterisation of the juvenile delinquent is bound up with this loss of innocence resulting from parental neglect:

> We have seen these young delinquents exhibiting, in almost every respect, qualities the very reverse of those which we should desire to see in childhood; we have beheld them independent, self reliant, advanced in the knowledge of evil . . . We have perceived that this, their dangerous condition, was the almost inevitable consequence of the circumstances in which they had grown up from their earliest childhood, and most frequently of the culpable neglect or direct criminality of their parents . . . (1853: 292)

The reformatory regime sought to restore juvenile delinquents to a less dangerous state by providing those positive influences that were missing from their childhood environment. This was to be achieved in a setting separate from the adult, where the danger of possible contamination from negative influences would be avoided. Institutions such as Red Hill in England and Mettray in France were regarded as exemplars in this field. They sought to replicate the 'natural family' environment within an institutional setting. With the passing of legislation enabling the establishment of reformatory and industrial schools the juvenile delinquent became a legitimate target for reformation. The identity of the juvenile delinquent became inscribed within the legal code.

Inmates of reformatory schools, regardless of religion, were viewed as deficient or lacking in self-control as a result of environmental circumstances and parental neglect. The original reformatory system was viewed as means of civilising its inmates by means of a specific disciplinary regime. It operated on the premise that these individuals were lacking in basic education, social skills, industry and religion. The 1863 Report of Patrick Joseph Murray, the first Inspector of Reformatory Schools, reflects how these children were viewed:

> These wild Arabs, as well as savages, often show great quickness of apprehension, and the power of great exertion on emergencies; but they have little capability or liking for patient, steady, mental application, or regular hard labour, carried on in obedience to the direction of another. These must be taught

[177] According to May, 'this evaluation of childhood derived from the contemporary proliferation of child-guidance manuals. Overlaid with New Testament and Romantic sentiments of childish innocence, it was most clearly and sensitively expressed by Mary Carpenter' (2002: 107).

> them. Hence *mental work* must be considered, as well as what is commonly called industrial occupation. (*Second Report of the Inspector Appointed to Visit the Reformatory Schools of Ireland*, 1863: 15)

The reformatory school child required close supervision and subjection to a strict disciplinary regime in order to re-train his or her mind. The ultimate aim of the system was to change the character of the inmate from one who posed a danger to society to one who was industrious and could productively contribute to society. The Inspector's Reports inscribe the identity of the reformatory school child within an official discourse on reformation. As has been noted, their identity was constructed in terms of statistics relating to their religion, parentage, criminal history, level of education and religious knowledge.

The language used by the Inspector in his reports helps to construct the identity of the reformatory school child. They are classified using terms such as 'illegitimate', 'ignorant of religion', 'well instructed', 'entirely ignorant'. Murray takes great pains to explain the tool he uses – his 'examination book' – to measure the progress in terms of time spent in the school, reading, spelling, dictation, ciphering, writing and religious knowledge of each child that is subjected to the reformatory school process:

> By the plan of examination pursued, as to secular instruction, and by carefully comparing the marks in my note-book with the marks made at previous inspections, I am enabled to trace with accuracy the educational progress of the children in each School. (*Second Report of the Inspector Appointed to Visit the Reformatory Schools of Ireland*, 1863: 12)

The various processes of supervision, examination and reporting coalesce to construct the identity of the reformatory school child. This identity is then exhibited in the appendices of the Inspector's Reports where the ultimate judgement on the effectiveness of the reformatory process appeared in tabular form as a return of admissions and discharge for the year ending. Thus the process of governing served to construct the identity of those governed. The reformatory school child is also distinguished from the adult as having a character as yet unformed and still susceptible to corrective influence. The Rev. Louis Foley observes that 'the moral responsibility of the child differs from that of the adult. The child falls into evil ways more from neglect than from malice. The juvenile criminal is a subject more for

reformation than punishment' (1923: 27). O'Hagan, QC, addressing the first meeting in aid of St Kevin's Reformatory for Catholic Boys, notes that, 'the mind of a child being ductile, malleable, manageable, although the child be a criminal, virtue in the child may be superimposed on crime and put in substitution for it' (1859: 13).

If the reformatory school child was viewed on admission as 'dangerous', then industrial school child was viewed by those in authority as 'in danger'. Indeed, Carpenter's dual construction of the 'dangerous and perishing classes' seems to have permeated into the Irish system. This construction was supported by numerous articles and the *Irish Quarterly Review* in particular utilised the statistics published within the Inspector's Reports to promote this specific conceptualisation.

The construction of the identity of the 'reformable subject' is inextricably linked to the collation of biographical information. Details of parentage, criminal history, reason for committal, age, sex, education and health were tabulated within the Inspector's Reports. Their subsequent careers were plotted and recorded in tables outlining their 'mode of discharge'. The reformative process itself was plotted in terms of the outcome for each individual. Recorded outcomes included: to employment, to friends, emigrated, sent to sea, enlisted, died, absconded, on licence and transferred. The character of those detained and subsequently discharged from reformatory and industrial schools was also tabulated under the heading 'Subsequent Character'. Categories included: since dead, doing well, doubtful, convicted of crime, unknown and recommitted. Thus the overall progress of the reformatory and industrial school population could be measured and represented as an exercise in political economy. Each institution calculated the cost of reformation per head and compared this with the subsequent outcomes achieved. In this way the identity of the 'subject of reformation' was manifest as a transient identity that existed between the delinquent and the adult identity and was tied up with the overall reformative project. The success or failure of the project could be measured by reference to the progress of this malleable subject whose changing identity could be followed statistically in the Reports of the Inspectors.

A third form of identity that emerged within the context of the reformative ideal was that of the borstal child. While the reformatory and industrial schools catered for that section of the population of juvenile offenders and potential offenders aged up to sixteen years, the borstal system was aimed at those over sixteen and under twenty-one years. With this system a new category of prisoner known as the 'juvenile adult' was invented. Fahy (1941) notes that that the Gladstone Committee of 1895 targeted a section of the population that was most at risk of becoming 'habitual criminals'. This initiative represented a new development in the government of juvenile offenders and resulted in a new space being opened up within the juvenile justice system:

> For the special location and treatment on reformatory lines of young prisoners, 16–21, selected from the ordinary prisons, where the length of sentence afforded a reasonable time for the application of the System. The title 'Juvenile Adult' was invented to describe the class – too old for commitment to Reformatory Schools and too young to be classed with the ordinary grown-up criminal. (Fahy, 1941; 70)

The Prevention of Crime Act, 1908 legislated for the 'reformation' of this specific class of young offender within borstal institutions. According to the Act, these were between sixteen and twenty one years of age who, by reason of their criminal habits or tendencies, or association with persons of bad character, it was thought expedient that they should be subject to detention for such a term and under such instruction and discipline as appeared most conducive for their reformation and the repression of crime.

Although the subject of the borstal regime was deemed to have a flawed character, he was still capable of reformation and this was to be achieved by working on his body and mind. The regime was aimed at various facets of the inmates' character. Their physical health was targeted by instruction in drill and by the provision of a strict diet of wholesome food. They also received instruction in reading, writing, arithmetic, religion and vocational training.

> On committal to the Institution, most inmates are found to be totally unfit candidates for employment anywhere. They usually have no knowledge whatsoever of any trade or skilled occupation. To offset this handicap, every

> effort is made during their period of detention to prepare them for employment on discharge. (Department of Justice, 1948: 11)

Inmates were to be exposed to a range of experiences in the hope that they would internalise certain core values and learn from these experiences. Through exposure to these 'positive' influences the inmates could internalise 'good habits' to replace their 'criminal habits'. Interaction with staff of the institution was crucial to this reformative process. These 'good habits' were encapsulated in the activities carried on in the borstal institution, including hard work, secular education, sporting activity, regular meals and religious observance. These activities reflect the reformative ideals of the proponents of the borstal system, the ultimate aim of which was to produce a young Christian adult, strong in both mind and body, who would be ready to fulfil the role of an industrious citizen and most importantly would not pose a threat to society.

From the mid-nineteenth century we can see the emergence of the juvenile as a target for reformation. In Ireland this was evident in many of the articles published within journals such as the *Irish Quarterly Review* and the *Journal of the Statistical and Social Inquiry Society of Ireland*. Also, through the contributions of the Irish witnesses to the Select Committee on Criminal and Destitute Juveniles (1853). Connellan, in his evidence to this Committee and in his Reports on Prisons, argued for greater classification of juvenile prisoners and their separate treatment. The Gladstone Committee of 1895 called for greater classification and segregation of young offenders within the prison system. The passing of the reformatory and industrial schools and the borstal legislation contributed to the construction of three distinct identities: the reformatory school child, the industrial school child and the juvenile adult. These identities have remained dominant within the Irish juvenile justice system to the present. Although the words 'reformatory', 'industrial' and 'borstal' have recently been replaced and the regimes have been modernised, the forms of identity employed to govern these young people under the guise of reformation have persisted. The identity of the 'reformable subject' is inextricably linked to the modern business of governing young people regardless of whether this takes place in an open or closed setting.

The Psychological Child

The identity of the 'psychological child' within the context of juvenile justice in Ireland was slow to emerge. Molony (1927) highlighted the recommendation of the *Report on the Departmental Committee on the Treatment of Young Offenders* (1927) that greater facilities should be provided for the examination and observation of the young offender. Molony, who chaired the Committee, sought to promote a debate about the suitability of such facilities in the Irish Free State. Quoting from the Report he alluded to the duty of the court in facilitating the proper treatment of the young offender:

> Once the principle is admitted that the duty of the court is not so much to punish for the offence as to readjust the offender to the community the need for accurate diagnosis of the circumstances and motives which influenced the offence becomes apparent . . . There is always the possibility of mental deficiency, the discovery of which would lead to special treatment. (Molony, 1927: 443)

Molony's article was influenced by developments that were taking place in Britain, where delinquent acts on the part of children were beginning to be viewed as symptoms of underlying psychological disturbance. Rose (1985) identifies the emergence of what became known as the 'maladjusted child' in Britain:

> What made the maladjusted schoolchild and the delinquent juvenile possible objects for a psycho-social strategy was the way in which they were linked. Starting soon after the First World War a regular connection in argument began to be made between children who showed disorders of behaviour at school and children who would later end up before the courts. (1985: 164)

Molony's article did not have the desired effect and in Ireland no subsequent discussion took place around the subject of the treatment of the young offender. In contrast, in Britain during the mid-1920s we see the development of the Child Guidance Movement that aimed to detect psychological abnormalities that occurred in early childhood and treat them before they progressed to delinquency. This was accompanied by a movement away from institutional approaches to delinquency in favour of intervention within the community. According to Rose (1985), there was a recognition that the best way to curb juvenile delinquency lay in supervision within

the home environment rather than separation and isolation within an institution. Writers such as Hall (1917 and 1926) and Burt (1925) had a significant influence on the development of juvenile justice policy in Britain. The Children and Young Persons Act, 1933 regarded the placement of children in institutions as a last resort and favoured supervision within the community. Rose notes that this legislation recognised that the distinction between the neglected child and the delinquent child was an artificial one and that 'it was merely a matter of chance whether a child came before the court as a wanderer or a thief, and hence the distinction in the ways in which they could be dealt with, between Reformatory and Industrial Schools, made no sense . . .' (1985: 171).

In Ireland no such recognition was apparent. The Cussen Report (1936) still favoured the institutionalisation of young people in industrial and reformatory schools. It did, however, recommend separate treatment for those deemed 'mentally defective' while bemoaning the 'absence of any legislation dealing with the general problem of mental defectives as a whole'(1936: 53). It recommended that:

> Where a child on examination has been certified as a low-grade mental defective unlikely to be trained to the stage of becoming self-supporting, the Justice should have the power to order detention in a mental colony or other centre such as St Vincent's Institute (for Mentally Deficient Children), Cabra, and St Augustine's Colony for Mental Defectives . . . (1936: 53)

This report did not result in legislative change and the institutional model of reformation remained dominant and unchallenged. Almost ten years later McCluskey (1945) reported on the development of the Child Guidance Movement in Britain and highlighted the work of British child guidance clinics in the early diagnosis of psychological disorders in children. However, it was not until 1962 that the Mater Child Guidance Clinic, the first of its kind in Ireland, was established.

It would be a further decade before any disquiet with the institutional model was to be registered. Kenny (1956), drawing on the work of the psychologist Bowlby, highlighted the possible effects of maternal and other forms of deprivation on the child. In her article, 'The Deprived Child', she was critical of the use of institutional

care for its tendency to deprive children of the emotional stimulation required to develop their personalities adequately. She recommended the employment of caseworkers in these institutions to help encourage and maintain the relationship between children and their parents. In addition, she called for the recruitment of psychiatrists on to the staff of these institutions whose function would be to diagnose and counsel children. Interestingly, her article represents a curious blend of the spiritual and psychological, she states that in Catholic institutions: 'the psychiatrist and the chaplain should work in unison, since misbehaviour and sin are so closely entwined in the mind of the Catholic child' (Kenny, 1956: 113).

In 1958 the Joint Committee on Vandalism and Juvenile Delinquency reported its findings. The Committee had consulted with experts in the field of psychology and distinguished between vandalism and juvenile delinquency stating that the latter implied 'some malformation of outlook or deficiency of character that might lead to a criminal tendency' (1958: 3). The influence of a number of psychological and social theorists, including Cyril Burt and John Bowlby, is evident in the Report. It considers the formation of the children's 'outlook and character' in the context of family breakdown and children's need for an 'unconscious sense of security' in their early years (1958: 5). Elsewhere, it discusses the fact that certain 'psychological disturbances' can result in delinquency. The 'family' is viewed as the single biggest factor in the development of the child's personality and within this context the issue of 'family support' is considered.

The Report calls for greater intervention from 'family welfare workers' in an effort to mitigate the stresses on children that can lead to delinquency. In this regard, the Committee conducted an experiment with 141 families in the Dublin area and considered the notion of the 'problem family'. Also, a link is made between delinquency and the 'backward child', a view influenced by the work of Cyril Burt (1927 and 1935) who had pioneered the intelligence testing of children and the link between the 'sub-normal' child and subsequent delinquency. The Report notes that 'It is vitally important to shock the national conscience into action in relation to the vast numbers of sub-normal children for whom special educational measures are an urgent need' (1958: 25).

O'Connor (1962 and 1963) considers the psychological aspects of the delinquent and young offender. He also highlights the psychological effects of childhood deprivation and employs the notion of a psychological norm to construct the identity of the juvenile delinquent. In this regard, we see the construction of a delinquent identity based upon psychological notions of the unconscious that were current at the time. Under the heading 'psychological disorders or mental subnormality', O'Connor attempts 'to classify the different forms which this state of maladjustment or abnormality may take' (1962: 8). Delinquency is thus viewed as an abnormal psychological state. O'Connor's view of delinquency draws from both behavioural psychology and psychoanalysis. Under the heading 'physical maturity and mental sub-normality' he notes that psychologists 'have found that behaviour in such cases as these are dependent on a poor control from the higher centres of the brain, causing instability or impulsive or violent actions' (1962: 8). With regard to 'mental or intellectual re-tardation' he notes that this condition, also known as 'backwardness', can be innate or acquired. A further class of psychological disorder mentioned is 'neurosis', which 'is a condition caused by a conflict between an inordinate desire for power coupled with an inability to achieve that power' (1962: 9). O'Connor's articles are unusual for this period as there is little other evidence of research into the psychology of the juvenile offender.

The Commission of Inquiry on Mental Handicap (1965) recommended the expansion of psychological services in Ireland and linked the issue of delinquency with 'mental handicap'. The Commission of Inquiry on Mental Illness (1966) went further, viewing some delinquent behaviour as a symptom of an, 'emotional disturbance or other psychological disorder' (1966: 75). It recommended that the courts utilise the psychiatric services 'in respect of all children charged with offences who, in their opinion, display any signs of being subject to such disability' (1966: 73). The Commission viewed adolescence as a 'time of turbulence' between childhood and adulthood where normal development could be impeded as a result of some negative factor in the child's environment (1966: 74).[178]

[178] The Commission recommended the establishment of regional child psychiatric clinics that would be staffed by a psychologist, psychiatrist, psychiatric social worker and other ancillary staff such as

In the same year the London-based study group Tuairim published an influential paper on the residential care of the deprived child in Ireland (1966). It emphasised the psychological aspects of the deprived and delinquent child and recommended the development of services in the area of prevention and diagnosis. A paper that was read to the group two years earlier was included as an appendix (Hunt, 1964). It drew on the theories of John Bowlby, emphasising the effects of maternal deprivation on the child and located the 'normal' child within an ideal 'natural family'. It regarded the institutional facilities that existed at the time as incapable of catering for the psychological needs of the deprived child.

Despite the emergence of this psychological discourse on the delinquent, there was still little in the way of psychological research on the subject of juvenile delinquency in Ireland. Flynn et al. (1967) constructed a psychological profile of the delinquent by surveying a sample of boys who were detained in St Patrick's Institution. They investigated the relationship between delinquency and a number of factors: general intelligence, educational intelligence, socio-economic factors, delinquency prediction and category of crime, family structure and intra-familial relationships, and some personality factors. Using a series of psychological tests and interviews they constructed one of the first socio-psychological profiles of the teenage 'delinquent' in Ireland:

> He would seem to come from a large family living in the poorer sectors of a town or city. His father's occupation is either an unskilled or semi-skilled job and his mother may work part-time or may not work at all. His intelligence is below average, and hence his educational attainments are poor. He probably finds it difficult to keep up with an ordinary class and so he is a habitual truant from school. He rarely sits for his Primary Certificate and does not go to technical school afterwards. He commits his crime as a member of a group rather than alone. He seems to be a generally handicapped individual all round. (Flynn et al., 1967: 230)

In constructing this profile the authors utilised standardised psychological tests such as the IQ test and classified individuals as: mentally defective, borderline mentally

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paediatricians and speech therapists. It noted that the existing child guidance clinics operating at Rathgar (run by the Hospitaller of St John of God) and the Mater Hospital (run by the Sisters of Mercy) provided most of the facilities that would be required.

defective, dull normal and average. In this way delinquency was linked to psychological abnormality. Hart (1968) also attempted to construct a psychological profile of the delinquent by exploring social histories and IQ levels. He also uses the Wechsler Adult Intelligence Scale and employs psychoanalytic (Freudian) theory to explain delinquent behaviour. In attempting to classify the social and psychological characteristics of institutionalised young offenders he notes that:

> . . . the juvenile offenders of the type sent to institutions cannot in general be conceived of as falling into criminal ways by mere chance or by exercise of pure choice alone. Their delinquencies represent in many cases a habitual anti-social disposition developed from the bitter experiences of a hard childhood and conflict-ridden homes. (1968: 175)

Hart here introduces the notion of an 'anti-social disposition' into the discourse on delinquency and thus constructs a target for a range of psychological interventions including: psychotherapy, child guidance and family support. In a later article he attempts to define the social and psychological characteristics of institutionalised delinquent boys (Hart, 1970).

A socio-psychological discourse on the delinquent child became more visible from the mid-1960s and coalesced around the figure of the 'deprived child' whose delinquent behaviour was viewed as the result of some psychological disturbance. The delinquent child was variously described as being 'maladjusted', 'backward', 'mentally defective', 'mentally handicapped', 'borderline', 'below average' etc. The child's delinquent behaviour resulted from a number of factors, the most significant of which was some form of psychological disturbance resulting from the breakdown of family relationships. Thus, the psychological health of the child was linked to the properly functioning family unit.

The Kennedy Report (1970) highlighted the over-representation of the 'deprived child' in the reformatory and industrial school system. It located the delinquent child within the psychological milieu of the family unit and held that any disturbance caused to the family unit could result in psychological deprivation.

> The conditions which may give rise to inadequate personal relationships are many – socially or culturally inadequate parents, families where there is some emotional stress, various mental or physical illness or where for any reason there is only one remaining parent, families where permanent or periodic financial crisis obtains. (Kennedy Report, 1970: 12)

The notion of the 'natural family unit' is central to the Kennedy Report and its criticism of the reformatory and industrial school system. It argued that the existing institutional system was incapable of providing an adequate environment to care for the psychological needs of the child.[179] The Report recommended that the institutional system be replaced by 'group homes that would approximate as closely as possible to the normal family unit' (1970: 6).[180] Around this time the identities of the 'deprived child' and the 'psychological child' were being closely linked in a number of influential publications that were critical of the existing reformatory and industrial school system.[181] These viewed juvenile delinquency as resulting from a number of adverse social factors in the child's environment, the most significant of which was 'pathological family conditions' (CARE, 1972: 77). This pathological approach to delinquency emerged in Ireland during the mid-1960s and is located in the space opened up by criticism of the institutional system of caring for children. Within this space we see the exploration of the social history of the child and his or her family and the subsequent pathological diagnosis of family failure. Social history and psychological pathology are inextricably linked in an effort to diagnose delinquency and create a typology of the delinquent child.

In looking at the provision of treatment for the juvenile offender and potential juvenile offender the Second Interim Report of the Interdepartmental Committee on Mentally Ill and Maladjusted Persons (1974) highlights the following categories of 'patient': illiterates, cultural delinquents, character-disordered delinquents, aggressive sociopaths, and neurotic or psychotic incidental offenders. It notes:

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[179] The Report drew on psychological research carried out by the Department of Psychology, UCD. In it a socio-psychological profile of the reformatory and industrial school population is constructed. The research utilised techniques for testing intelligence pioneered at the beginning of the twentieth century. The research team surveyed the reformatory and industrial school population utilising the Stanford-Binet and WISC tests that were in use in Ireland at the time. Both these tests and the construction of social histories facilitated the construction of a 'psychologically deprived' population.

[180] In Britain, the Curtis Committee made similar recommendations in relation to residential care (Curtis Report, 1946).

[181] Tuairim (1966), Kennedy Report (1970) and CARE (1972).

> Traditionally, the courts have graded the degree of seriousness of the offence and have developed their own systems of fitting the punishment to the crime. The same crime can, however, be committed by many different types of individual and for different reasons. In the case of juvenile offenders, a particular crime may be committed by an illiterate youngster in a moment of bravado, an aggressive sociopath or a paranoid schizophrenic patient at a time of delusional crisis. Psychiatrists' assessments take account of the individual's psyche and are not based on the behaviour he displayed. (1974: 3)

The Report contains the first 'official' psychological typology of the delinquent child and marks the emergence of the 'psychological child' into the official discourse on juvenile justice in Ireland. It recommends the establishment of residential and non-residential facilities to treat these offenders. Significantly, it highlights the role of the 'welfare services' in the assessment, supervision and treatment of the young offender. The psychological sciences facilitated the construction of the identity of the juvenile offender as a complex social phenomenon to be studied. In adopting strategies to govern their behaviour it was necessary to view juvenile offenders as having a developing social and psychological history that impacted on their behaviour. They possessed a 'psyche' that could be assessed, treated and managed utilising a range of psychological strategies. Around this time a small number of academic articles were published that considered the socio-psychological aspects of young people within the juvenile justice system: O'Sullivan (1974), Hart and McQuaid (1974), O'Sullivan (1977, 1979 and 1979a).

When the Task Force on Child Care Services reported in September 1980 it adopted a specifically psychological definition of the child. It noted that children 'are special in two respects. Firstly, they are persons *in the process of formation*: secondly, they are *not independent*' (1980: 33). Like the Kennedy Report, the Task Force emphasised the importance of the family unit for the psychological development of the child stating that a, 'child needs *love and security* as a vital determinant of his health and development' (1980: 35). This particular developmental definition of the child signalled all children out as targets for a range of preventative governmental strategies that included youth work, family support, social work, pre-school, community and residential care. Within the context of the juvenile justice system the figure of the 'psychological child' was to underpin the thinking of subsequent reports and policy

developments and remains an important aspect of the contemporary definition of the young offender.[182]

The 'At Risk' Child

As noted earlier, the young person has been dramatised as a threat to society and as threatened by society. From Carpenter onwards, the notion of risk became an inherent aspect of the debate around child welfare and juvenile justice. In Ireland this took on a unique turn with the issue of risk being linked to the spiritual well-being of the child. This was reflected in the activities of the Catholic Church and other Catholic organisations that viewed the child as a target for their reformative campaigns based on perceived dangers such as proselytism. Apart from the institutional response organisations such as the Catholic Rescue and Protection Society and those who viewed themselves as part of the Catholic Lay Apostolate adopted their own notions of risk based on Catholic religious principles. In this regard, the pre-delinquent was the precursor of the later 'at risk' child.

One can discern a continuous discourse on the 'at risk' child from the mid-nineteenth century to the present. However, the development of the psychological sciences enabled the notion of risk to gain greater prominence in relation to the government of children. The Commission of Inquiry on Mental Handicap (1965) represented an interesting watershed in relation to the development of a specific identity for the 'at risk' child. The Report noted the lack of a universal definition to describe 'the class (or substantially the class) which is the subject of the Commission's terms of reference' (1965: 16). This is interesting from the point of view of the current thesis in that there is a conscious effort to apply a psychological classification to a class of children where none existed before. The Commission states that it favoured the term 'mental handicap' to describe 'those who by reason of arrested or incomplete development of mind, have a marked lack of intelligence and, either temporarily or permanently, inadequate adaptation to their environment' (1965: 18). The identities of

[182] *A Policy for Youth and Sport* (1977); O'Sullivan Report (1980); Final Report of the National Youth Policy Committee (1984); Whitaker Report (1985); *In Partnership with Youth* (1985); First Report of the Dáil Select Committee on Crime (1992); *Report of the Interdepartmental Group on Urban Crime and Disorder* (1992); *Tackling Crime* (1997); Children Act, 2001.

the 'psychological child' and the 'at risk child' here converge The Report classifies various grades of mental handicap and notes the importance of the standard IQ Test in the diagnosis of mental handicap. In relation to mental handicap it states:

> Mental handicap is not a specific disease entity. It is a condition characterised by varying degrees of impairment in maturation, learning and social adjustment. Not infrequently it is combined with physical defect, or with emotional or psychological disturbance . . . The mentally handicapped do not, therefore fall into clearly definable categories but, for administrative purposes, it is customary to divide them into two, three or four grades. (1965: 19)

The problem of 'mental handicap' as defined by the Report emerges as something requiring more effective governance. It is within the context of preventing this problem that the 'at risk child' is constructed. The identity of the 'at risk child' is constructed using the existing psychological knowledge available to the Commission. The 'at risk' child is thus seen as a psychological entity whose reality is there to be revealed by utilising a specialised scientific knowledge. The issue of prevention is stressed in relation to the care of these children 'at risk'. The Report highlights the importance of early identification through the development of various systems of surveillance. In the context of prevention it points to the existence of particular 'cultural or environmental defects' in the character of certain individuals that 'function intellectually and socially at levels of mild or borderline mental handicap' (1965: 122). It states that a great number of these children 'are products of unfavourable environmental conditions and have lacked in childhood the stimulation and learning opportunities which good homes and families properly provide' (1965: 122). It recommended the development of formal and informal networks to facilitate the early identification of these 'culturally deprived children'.[183]

As already noted, the Commission of Inquiry on Mental Illness (1966) locates the 'normal' healthy child within a stable family environment, stating that 'good family relationships are the basis of sound mental health' (1966: 101). Thus, any malfunction in the family unit may result in abnormal or deviant behaviour. The Commission

[183] In this regard, the Commission recommended routine psychological testing, health education and investment in pre-school facilities.

highlights a particular class of children and adolescents that are 'vulnerable' as a result of their family circumstances:

> Emotional disturbance in children and adolescents can arise in any family but some groups are particularly vulnerable e.g.:
>
> i. Illegitimate children who are deprived of a normal family life.
> ii. Children in homes where the normal family environment is absent . . .
> iii. Children in homes where one or both parents or some other relative is mentally unstable.
> iv. Children in institutions, including hospitals for long-term care.
> v. Children in families where one or both parents are drinking or gambling to excess.
>
> (1966: 102)

The Commission recognised the link between some forms of emotional disturbance or psychiatric disorder and childhood deprivation. The deprived child was thus viewed as more 'vulnerable' than the 'normal' child. This psychological vulnerability could be calculated by making reference to a psychological subject who was defined by the degree of his or her emotional stability. The 'normal' child's existence was characterised by a stable emotional make-up. This emotional stability could, however, become unbalanced by adverse effects within the child's environment and the potential risk of becoming emotionally unstable could be calculated by looking at factors within that environment. Within the context of juvenile justice this psychological knowledge was employed to look beyond the offender to the 'disturbed' or 'maladjusted' child and to find some causative link between the offending child and his or her personal and social history.

Tuairim (1966) invoked the image of the 'deprived child' in its criticism of the Irish childcare system. Its article entitled 'Some of Our Children' links the concept of 'deprivation' with the concept of 'risk' in portraying the young offender as the product of a 'risky' environment. Delinquents are defined in terms of their failure to achieve a certain level of social or psychological maturity and this failure is viewed as being attributable to any of a number of risk factors such family breakdown, educational failure or unemployment. The identity of the 'at risk' child is defined in terms of the number of adverse factors present in the child's environment. It states:

> These are usually children whose families are inadequate for a variety of reasons: death, illness or desertion of one or both parents, overcrowded living conditions or chronic poverty. Particularly 'at risk' are those who are mentally deficient or who have a parent or guardian who is him or herself socially or mentally inadequate or whose parents have so many young children they cannot adequately supervise them all. An unreasonably strict or repressive upbringing can cause a violent reaction in the adolescent and make him anti-social. (Tuairim, 1966: 25)

The Report draws from the study group's research in the form of a number of interviews with 'deprived' young males who were processed through the residential childcare system. What is interesting here is that the identity of the 'deprived child' is constructed in a tabulated format utilising a wide range of personal information from the young person's life. Parentage, age of admission, education, employment, social circumstances, interests and subsequent criminal history combine to illustrate the development of the individual from being 'deprived' to being 'delinquent'. The image portrayed from the interviews is of an individual who is 'deprived and lonely', 'insecure', 'lacking in early social learning or controls', of 'low grade intelligence', or 'limited intelligence and comprehension', and 'given little affection and therefore little to give' (1966: 45).

In a similar fashion, the Kennedy Report (1970) contains the findings of research that it commissioned from the Department of Psychology at UCD and surveyed the population of all industrial and reformatory schools. The Committee draws on the findings to comment on the level of deprivation within this population. In particular it highlights the existence of the 'culturally deprived person' within the schools, who is 'one who is not viable within his culture; he cannot meet and deal adequately with the demands which his culture makes on him' (1970: 110). This person is described as lacking in 'emotional, social and intellectual stability and development' (1970: 110). The Report attributes the causes of such a condition to problems with the functioning of the family unit. This could result from 'socially and culturally inadequate parents, families where there is emotional neglect, serious mental or physical illness or where for any reason there is only one remaining parent, families where permanent or periodic crisis obtains' (1970: 110).

The Report also highlights the fact that the child has certain fundamental developmental needs and that failure to meet these needs in early childhood may result in emotional or social handicap. In this regard, education is seen as a means of counteracting the existence of adverse conditions in the child's environment. In arguing for preventative strategies to combat deprivation, the Report envisages the targeting of certain 'at risk' children and families:

> We feel certain that every effort made to improve and provide extra services for our children in 'at risk' areas will yield dividends in happier and more contented families and better adjusted, better educated children and would be an important preventative measure for keeping children out of care. (1970: 49)

The identity of the child who is 'at risk' as a result of being deprived of certain basic needs began to attain greater prominence after the Kennedy Report and resulted in calls for preventative strategies to tackle childhood deprivation. The notion of 'risk' began to be viewed as having a separate existence, as an attribute of certain individuals who live in deprived circumstances. The *CARE Memorandum on Deprived Children and Children's Services in Ireland* (1972) labelled those children who were deprived of certain basic needs as being 'children at risk' and identified them as potential delinquents.

Again, the CARE Memorandum links childhood deprivation with juvenile delinquency and views the young delinquent as being 'emotionally disturbed', highlighting the causative effects of 'pathological family conditions' (1972: 77). CARE (1978) later mounted a campaign against the opening of a 'children's prison' in Loughan House in County Cavan. Central to its campaign was the figure of the 'at risk' child whose early childhood was marked by the presence of multiple risk factors, including poor family relationships, educational underachievement, poverty and poor social skills. The Report assembles profiles of such boys from information supplied by 'authoritative sources'. The individuals are portrayed as being 'damaged', the damage resulting from the effects of a deprived upbringing. It notes:

> The boys are aged between 14 to 16; the largest group is from the North Central city area in Dublin; they are from multi-problem families, very often families with a long criminal history; they could be identified from an early age as being at high risk of damage of every kind; they drop out of school or are told to stay

> away; all of them have been through the Finglas Assessment Centre; some have been through special schools but have been rejected. (1978: 21)

The identity of the 'at risk' child whose social and psychological development was arrested as a result of the existence of certain risk factors in the child's environment gained more prominence throughout the 1970s. This was reflected in certain policy developments in relation to youth services in Ireland. The image of the 'at risk' young person who could be supported and encouraged to achieve his or her 'potential' was central to the government's *A Policy for Youth and Sport* (1977). In this policy document the socially deprived young person was encouraged to develop personally, and to have a greater appreciation of society through the medium of youth work and sport. The 'at risk' child was thus viewed as a legitimate target for a range of preventative strategies based on sport and youth work. The 'at risk' child was prominent in subsequent government reports on youth work.[184]

As already noted, the Task Force on Child Care Services (1980) adopted a developmental definition of the child, borrowing from both behaviourist and psychoanalytic notions of childhood. Children are viewed as having certain basic needs such as the need for love and security that are key determinants of their health and development. They are also viewed as:

> . . . more impressionable, more vulnerable, more changeable and more liable to being influenced for better or for worse than an adult . . . a child's experience of life and the way he is cared for and dealt with, determines to a large extent the kind of adult he becomes. (1980: 34).

The relationships that exist within the family unit are seen as crucial to the development of the child. The Report recognised the emotional, social and intellectual needs of the child and noted that 'when these needs are not being met, for whatever reason, children can be regarded as being deprived or at risk' (1980: 39). Juvenile justice issues are here regarded as essentially welfare issues and as such the Report recommended that there should be appropriate training for professionals operating within this field in order to gain insight and appreciation of the needs of each child. It

[184] The O'Sullivan Report (1980), Final Report of the National Youth Policy Committee (1984), *In Partnership with Youth* (1985), *Policy Framework for the Delivery of Youth Services* (2003), National Youth Council of Ireland (2004), National Youth Justice Strategy (2008).

operationalised the definition of the 'at risk' child and in the process recommended a range of preventative measures designed to identify, assess, support and supervise those deemed to be 'at risk'.[185] This Report more than any other cemented the identity of the 'at risk' child within the discourse on the young offender.

The 'at risk' child was viewed as not merely a 'justice' problem but more importantly a 'welfare' problem. The Whitaker Report (1985) noted that within the criminal justice system priority must be given to the welfare of the child and detention should be seen as a last resort. The Report took the view that the 'at risk' child could be placed in greater risk by being inappropriately detained and thus called for the greater use of alternatives to custodial sentencing, including supervision within the community and community service. It also viewed young people as being 'particularly vulnerable to the risk of abuse of alcohol and other drugs' (1985: 81).

The Dáil Select Committee on Crime (1992) similarly views the young person as 'at risk' from a number of factors within his or her environment, including drug abuse, homelessness, family problems, truancy, educational failure, unemployment and child abuse. As a result it recommended measures aimed at preventing delinquency by attempting to address these factors. The Interdepartmental Group on Urban Crime and Disorder (1992) also recommends measures aimed at dealing with certain risk factors existing in the child's environment. In highlighting the problems encountered in the Dublin suburb of Ronanstown, it draws attention to the potential that the 'at risk' child has of becoming an 'anti-social' young person. The identity of the 'at risk' child was also recognised within the government discussion paper *Tackling Crime* in 1997. Yet, it was not until the passing of the Children Act, 2001 that this now dominant identity of the child as a person 'at risk' of offending became enshrined in legislation.

The *Report on the Youth Justice Review* notes:

> There is a wide recognition internationally that there are related or common factors which expose young people to risk. These factors can result in them being in need of care or protection, and/or developing patterns of anti-

[185] These included neighbourhood youth projects, family support, assessment facilities, social work services, day care centres and youth diversion projects.

> social/offending behaviour . . . There is recognition too that young people can be distinguished according to their risk of continued offending. Early interventions, it is considered, should be based in part on addressing this specific risk. (IYJS, 2006: 24)

A later Irish Youth Justice Service paper *Designing Effective Local Responses to Youth Crime* introduces a new form of 'baseline analysis', which is designed to 'provide a qualitative profile of youth crime in each locality' (IYJS, 2009: 3). This new innovation aims to profile the individual circumstances of the young person in terms of four types of risks: individual risks, risks associated with family, risks associated with school and risks associated with neighbourhood.

The act of designating a section of young people or indeed the population in general as 'at risk' is essentially a political act that constructs the young person as someone in need of supervision and authorises a range of interventions that are justified on the basis of the protection of society and of the individuals themselves. Bessant perceptively makes the point that the 'at risk' category and indeed the programmes that are associated with it have assumed a 'common sense' status in the minds of many social scientists despite the normative assumptions that underpin them (2001: 31). In this regard, such a risk-based rationality contains a range of normative assumptions, although more modern risk-based discourses claim to emanate from stronger, more empirical foundations. As Bessant notes:

> The discovery of the youth at risk category has largely supplanted older categories such as 'delinquency' and 'maladjustment' that were foundational to the sociology of deviance. Yet the methodologies, epistemological assumptions and politics of governance inherent in the older projects remain the same. (2001: 32)

The Child as a Bearer of Rights

The 1937 Constitution of Ireland does not give any explicit rights to the child. It views the child as a constituent part of the family unit rather than a separate legal entity. Article 41.1 states:

> 1° The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.
> 2° The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.[186]

Article 42.5 states:

> In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.

The 'child', as conceptualised within the Constitution, is an entity whose rights are not explicitly defined, but are bound up with, and secondary to, the rights of the family. The Constitution thus constructs children as existing in a state of dependency, with their identity inextricably linked to their family. In general, the specifically Catholic conceptualisation of the family that was enshrined in the Constitution dominated policy developments in this area for most of the twentieth century (Nic Giolla Phadraig, 1991). This view of children has been challenged in recent times. However, Hayes notes that while 'the language of policy and legislation has changed, the underpinning values, conceptualising children as passive and dependent, have largely remained the same' (2002: ix).

Public debate in Ireland about the rights of the child has been relatively slow to develop. One of the first debates emerged during the 1950s as a result of government proposals for free medical care for children. Whyte (1984) described how the crisis in relation to the 'Mother and Child Scheme' precipitated a collision between two conceptualisations of the 'child'.[187] The Catholic Church's view was that children were the responsibility of their parents and that any attempt to provide free medical care for children by the state represented a deprivation of the rights of parents. The

[186] Kilkelly notes that, 'while setting out the unassailable constitutional position of the family, this provision, through its lack of reference to the rights of children, defines the child's constitutional position also' (2008: 60).
[187] The proposals for the original scheme were framed in 1950 under the direction of the then Minister for Health, Dr Noel Browne, and sought to provide for the free medical care for all children without a means test.

Church exerted considerable pressure on the government in opposing such proposals, however, an amended scheme was eventually passed into law in 1953. In the following years there was little public debate in relation to children's rights and children were viewed as dependent on their parents for their welfare and protection.

The image of the child as a being whose fundamental rights and identity is somehow hidden and in need of discovery is prevalent within recent reformist literature on the subject. Kilkelly (2008) describes the child as someone who is largely 'invisible' in terms of law and policy and argues for the development of a rights-based legal framework that would recognise certain fundamental rights.

Although the Constitution remains the dominant influence in this area developments in international law have influenced how the child has come to be viewed in Ireland. In 1953 the European Convention on Human Rights (ECHR) came into force in Ireland. Kilkelly (1999 and 2008) has made the point that despite the fact that the Convention does not contain any explicit provision for children's rights a range of case law has evolved touching on areas such as adoption, child abduction, alternative care, custody and access, guardianship and issues of identity.

Within the context of childhood deprivation, CARE (1972) argued that the child occupied a 'special position' within society and as such had a right to protection. It drew on the United Nations Declaration of Human Rights and the United Nations Declaration of the Rights of the Child in its campaign for the improvement of services for children in Ireland. CARE's *Children Deprived* (1972) is one of the first examples of the 'child' being represented in Ireland as the bearer of a specific set of rights.

In an appeal to both international and constitutional rights, CARE portrays the deprived child as occupying a special position in society because of his or her vulnerability and by virtue of this special position the deprived child is deemed to be entitled to certain basic rights. These include the right to an adequate standard of living, health and well-being, protection and development. Drawing on a wide range of sources including international human rights law, the Constitution and papal

encyclicals, CARE identified the 'deprived child' as someone who has a right to be protected within a 'caring Christian community' (1972: 10).

In a more radical move the Irish Council for Civil Liberties (ICCL) published a report recommending that the Constitution be amended to include a declaration of children's rights and contended that the:

> . . . existing Constitution as interpreted by the Courts, has not achieved a satisfactory balance between parental rights and children's interests. The scales have been tipped too far in the direction of parental rights, to such an extent that we feel the balance can only be restored by amendment of the Constitution. (1977: 4)

The ICCL's proposal, which was aimed at promoting the protection and welfare of children in their own right, separate from their parent's rights, was unsuccessful and the constitutional rights of the child remained inextricably linked to their parents.

Three years later the Task Force on Child Care Services delivered its Final Report (1980). It defined the child in terms of certain fundamental developmental needs but stopped short of attempting to define a set of fundamental rights. While it did acknowledge the United Nations Declaration of the Rights of the Child, a copy of which appears as an appendix to the Report, it considered the issue of children's rights within the context of the Irish Constitution. Like the CARE Report, it viewed children as occupying a 'special position' in society because of their needs and saw society as having a responsibility to care for them. As such, it constructed the 'child' as dependent upon his or her parents and other members of society and any rights the child has emanate from this protective relationship. It stopped short of prescribing a set of positive rights and noted:

> Children like other members of our society have rights, the protection of which is ultimately the responsibility of our whole society. In our society, certain human rights are specified and guaranteed in the Constitution of the State. The State is obliged by our Constitution to respect the rights of all citizens and this means adverting to the rights of significant minorities, such as children are. (1980: 38)

In the absence of an explicit set of children's rights it was left to the higher courts to interpret those rights implied within the Constitution. Martin notes that since 'the 1980's, the Irish High Court and Supreme Court have had to become interpretively creative in order to 'discover' unenumerated children's rights within the penumbra of text of the Irish Constitution' (2000: 19). This process of discovery, which has been enacted within the higher courts, served to constitute an emerging identity of the child as a bearer of rights. Martin views the judiciary as taking on the role of 'interventionist champion of children's rights' within this process of discovery (2000: 33).

Kilkelly makes the point that Ireland has come late in relation to the development of a legal framework for children and that 'the legal framework in Ireland was relatively scant until the 1990's' (2008: 13). The Child Care Act, 1991 was aimed at providing such a legal framework. It was designed to replace the Children Act, 1908, which had been judged to be outdated and inadequate in terms of providing for the care and protection of children. It was a watershed piece of legislation that moved the state into a more central role in the provision of care and protection for children. According to Hayes, the Act:

> . . . moved policy focus from the more paternalistic, reactive approach to child protection to a more accountable, proactive approach which encouraged the development of preventative, family support services and the regulation of certain children's services which were previously considered outside the remit of the public sector. (2002: 52)

Public opinion had also begun to shift in relation to the state's ability to provide for the care and protection of children. The Kilkenny Incest Investigation Report highlighted the need for the state to be more proactive in the protection and welfare of children. It also recommended that the government consider amending Articles 41 and 42 to include a statement of the constitutional rights of the child (McGuinness, 1993). Its publication was instrumental in hastening the full implementation of the Child Care Act, 1991 (Hayes, 2002). In the same year, the Children's Rights Alliance was established in Ireland. The Alliance was formed as an umbrella body for eleven non-governmental organisations, including youth representative groups, child welfare agencies, unions, professional groups, parent organisations and others interested in children's rights. Its purpose 'was to raise awareness of the UN Convention on the

Rights of the Child and to seek its implementation in Ireland' (Children's Rights Alliance, 1997: vii). The Convention, which was signed in 1990, came into force in Ireland in 1992.[188]

In 1996 the Constitution Review Group recommended a review Articles 41 and 42 of the Constitution in order to achieve a greater balance between the rights of the child and the rights of the family. It noted that the Constitution:

> . . . in giving to the family unit rights which are described as 'inalienable or imprescriptible', even if they are being interpreted as not being absolute rights, potentially places too much emphasis on the rights of the family as a unit as compared with the rights of individuals within the unit. (1996: 323)

Despite the fact that these recommendations were never implemented there have been considerable developments in policy and legislation in relation to children in recent years.[189] A considerable influence on these legal and policy developments has been the recognition of European law in Ireland and the numerous constitutional challenges that have taken place in the higher courts (Kilkelly, 2008; Martin, 2000; Hayes, 2002). Two of the most significant legislative developments – the Child Care Act, 1991 and the Children Act, 2001 –have been in the areas of child protection and youth justice. Kilkelly (2008) notes that the most significant policy development in relation to children has been the adoption of a ten-year National Children's Strategy in 2000. Other significant developments include the establishment of an Ombudsman for Children in 2002, the Office of the Minister for Children in 2005 and the Children's Acts Advisory Board (formerly the Special Residential Services Board) in 2007. These legislative and policy developments have served to constitute the identity of the 'child' as someone who has certain rights and entitlements that have to be upheld both in practice and in law.

The Child Care Act, 1991 sought to address some of the inadequacies of the Children Act, 1908 giving health boards responsibility for protection of the 'at risk' child and

[188] Ireland made its first report on compliance with the Convention in 1996 in accordance with Article 44 of the Convention. The Report covers such areas as discrimination, best interests of the child, level of consultation with children, specific rights guaranteed, family, health and welfare, education and protection (1996).

[189] In November 2006 then Taoiseach, Bertie Ahern, announced the government's intention to hold a constitutional referendum on more explicitly recognising the rights of the child. This has not been held.

for actively promoting the welfare of children who were not receiving adequate care and protection. The Act viewed children as having a statutory right to this protection and in the event of parental failure it legislated for the intervention of public agents into the private space of the family.

The Children Act, 2001 as amended by the Criminal Justice Act, 2006 further extended concerns for the protection of children into the criminal law identifying child offenders as a product of their environment. It recognises the potential detrimental effect of contact with the criminal justice system on the young person and provides a legal framework within which these individuals can be governed while also respecting certain welfare concerns. Young offenders are to be protected from those adverse social conditions that are recognised as a danger to their well-being and also a potential cause of crime. Custody is to be a last resort to be utilised when all other means have failed. The child is to be cautioned, consulted with, mentored, encouraged and counselled in an effort to prevent him or her engaging in crime. In order to achieve this the Act seeks the support of the child's family and other external agents in negotiating alternative pathways to the criminal justice system. The Act views children as having certain statutory rights guaranteeing their identity as separate from adults. Section 55 of the Act requires the Garda Siochana to respect the 'personal rights' of children when carrying out investigations. The age of criminal responsibility was raised to twelve years and those children between twelve and eighteen years are legally entitled to be cautioned under the Garda Juvenile Diversion Scheme. Special provision is also made for their detention in custody. In terms of advocacy, the Children Act, 2001 provides for the establishment of the Special Residential Services Board to advise on the placement of children in custody in certain circumstances. The Act also allows provision of a guardian *ad litem* service to represent children in court.

In terms of policy, the National Children's Strategy aims to give children a greater voice into matters that affect them, to undertake research into their rights and needs and to promote and support their development (Department of Health and Children, 2000). The Strategy, which was influenced by the United Nations Convention on the Rights of the Child, views the child as someone who has a right to be consulted, protected and supported in his or her progression towards adulthood.

The Ombudsman for Children was established in 2002 under the Ombudsman for Children Act, 2002. The Ombudsman was given a statutory remit to protect and promote the rights of children and to act as an advisor to the government in relation to policy and procedures. A further development contributing to the greater visibility of the child in terms of social policy in Ireland was the establishment of the Office of the Minister for Children and Youth Affairs in 2005. It was designed to act as a 'super-ministry' spanning a number of departments dealing with children, including the Departments of Justice. Equality and Law Reform; Health and Children; and Education and Science.

It is clear that in recent years the 'child' has become recognised as someone who is the bearer of certain rights. The process of constructing the child as a bearer of these rights has been brought about by a number of forces acting both independently and in unison. The judiciary, in interpreting the constitutional rights of the child, has been identified as a champion of the rights of the child. Another important influence in this regard has been the state's recognition of European law in relation to children. This was influenced and has been used to great effect by interest groups in seeking to promote a rights agenda for children especially in terms of the reform of domestic policy and legislation. Although constitutional reform in this area has not yet happened, recent policy and legislative developments have resulted in the 'child' being constructed as the bearer of certain rights especially in the areas of protection, justice, education, personal development and advocacy. In this regard, the National Youth Justice Strategy (2008) views the child as someone who has a right to be consulted, whose 'best interests' are paramount and who has certain identified needs and rights. The Irish Youth Justice Service notes that the implementation of this strategy 'is with reference to the rights of the child, addressing their needs and holding them accountable for their actions, while developing their futures in society' (2008: 6).

Within the juvenile justice system a distinct identity has emerged where the 'child' is viewed as a 'bearer of rights'. This identity has been constructed as a result of the action of a range of forces that have sought to govern the child in accordance with a more liberal set of political principles. This does not mean that the child has become

more liberated but merely that an additional form of identity has emerged that facilitates the regulation of children in accordance with a more liberal rationality of government.

Conclusion

In looking at the process of governing young people in Ireland from the mid 1850s to the present a number of forms of identity emerge. One of the first to emerge, around the mid-1850s, was the delinquent. The delinquent identity emerged within the context of a moral topography constructed by Carpenter and other reformist campaigners around this time. The delinquent identity provided a justification for the construction of the reformatory and industrial schools. In the context of the history of the reformatory and industrial schools in Ireland, the identity of the pre-delinquent or 'at risk child' was the dominant form of identity employed to govern. Within the context of these schools, inmates were subjected to a regime of reformation and their identities were linked to the reformatory process. Their identities were shaped by the process of government they were subjected to. The mid-1960s saw the emergence of the 'psychological child' and also a re-conceptualisation of the 'at risk child' in terms of the psychological sciences. This form of identity has come to dominate the youth justice space. It is framed within a shared expert vocabulary and underpinned by a number of governmental rationalities including social work, probation, youth work, community and psy expertise. Another prominent form of identity to emerge within this space is the 'child as a bearer of rights'. This has found expression in recent legislative and policy developments such as the Children Act, 2001, the Office of the Minister for Children and the Ombudsman for children. The emergence of these new forms of identity do not mean that other forms of identity have been replaced. They still remain active but to a lesser degree and in response to prevailing governmental rationalities.

CHAPTER 9: CONCLUSION

> *Programmes and technologies of government, then, are assemblages which may have a rationality, but this is not one of coherence of origin or singular essence. Foucault suggested that the French legal system was like one of the machines constructed at Tinguely – full of parts that come from elsewhere, strange couplings, chance relations, cogs and levers that aren't connected, that don't work, and yet somehow produce judgements, prisoners, sanctions and much more.*
>
> (Rose, 1999: 276)

This thesis adopts a nominalist approach to the concept of 'state' and as such seeks to analyse the 'present' in terms of its various governmental rationalities and technologies. It views the state as having, 'no essential necessity or functionality. Rather, the state can be seen as a specific way in which the problem of government is discursively codified' (Rose and Miller, 1992: 176). In this regard, Rose and Miller do not look at government in terms of the power of the state, but the degree to which the state is governmentalised. From this perspective, the state as a discursive field 'emerges as a historically variable linguistic device for conceptualising and articulating ways of ruling' (Rose and Miller, 1992: 177). In the present context, this linguistic device is employed within the *Report on the Youth Justice Review* (2006) to portray the project of governing the juvenile justice system as a single unified system of 'youth justice' controlled from one central point.

The language of the Report not only functions as a device to explain or elucidate the 'reality' of juvenile justice in Ireland, it also acts as a constitutive element of its existence. The Report recommends a unified model of service delivery that would entail 'the development of a unified governance structure operating in a single body' (2006: 38). The rhetoric of the Report invokes the image of the 'state' as a device that organises, delivers, develops, rationalises, redistributes and co-ordinates services to young people. Its language reflects an array of rationalities that together constitute juvenile justice, including detention, diversion, communitarianism, conferencing, support, education, risk, etc. On the surface, the proposed Youth Justice Service appears to embody a 'joined-up approach', with the 'state' controlling all aspects of

the government of juvenile justice. In this context, the Report talks of locating the Youth Justice Service within the 'appropriate' environment:

> It would appear that such a body would sit most comfortably in a care and social services environment. This would reflect the practice in other international jurisdictions which have placed youth justice in structures which also have responsibility for the delivery of broad child-related services.
>
> However, no existing social service structure seems appropriate for the incorporation of a youth care and justice service at this time. The capacity of care and social services would have to be expanded to cope with the introduction of these additional services and the organisational structures would need revision to an extent not practical in the short term. (2006: 39)

This language reinforces the notion of the state as a powerful, controlling institution capable of exercising total control by taking unilateral decisions, imposing constraints on and allowing freedoms to its citizens. It also portrays a simplistic image of 'government' as being directly controlled by central government. It perpetuates a 'Whiggish' version of the historical development of juvenile justice in Ireland where the previous 'failed' system of juvenile justice is replaced with the new progressive model. This model is apparently grounded on a newly found liberal consensus.

This notion is further reinforced when the Report speaks of placing the Children Act, 2001 at the centre of the juvenile justice system. It states that the, 'consensus view to emerge from the consultation process is that the Children Act 2001 is a sound piece of legislation which, when fully implemented, will provide for a modern and comprehensive youth justice system' (2006: 33). The Act is viewed as providing a defined structure or framework around which the juvenile justice system is built. In this regard, Rose and Miller (1992) note the importance of the enactment of legislation in creating centres of power and in translating, enabling and shaping the actions of certain agents. However, although such legislation encourages networks of power, they also note that these networks are not 'faithful relays, mere creatures of a controller situated in some central hub' (1992: 190).

The 'present' is an assemblage of governmental rationalities and technologies. The Report re-packages or mystifies these rationalities in the form of a Youth Justice Service that will 'bring together services for young offenders under one governance

and management structure' (*Report on the Youth Justice Review*, 2006: 39). The impression given is of a well-oiled machine dispensing justice. Its recommendations include developing a youth justice policy, devising and implementing a national youth justice strategy, co-ordinating service delivery, establishing a national Youth Justice Oversight Group and enhancing service delivery to 'troubled and troublesome' children.

This rhetoric presents a progressive model of juvenile justice, an improvement on what went before. One that seeks to integrate welfare principles and to balance justice and welfare concerns through a twin-track child welfare and justice approach. The Report states that 'The youth justice system needs leadership to ensure effective management in the implementation of a cross-cutting youth justice policy' (2006: 8).

From a governmentality perspective, what emerges from the Report is the recalibration of the mechanisms for governing young people and the creation of a new vocabulary of governance, 'youth justice'. This review of the juvenile justice system emanated from a perceived failure of the existing system. The Report itself locates this failure within a wider international context, pointing to similar developments in Northern Ireland, Britain, New Zealand and North America, and thus states that the main impetus for the strategic review was 'political concern about the effectiveness of methods of dealing with youth offending' (2006: 23). It proposes a solution that attempts to strike a balance between welfare and justice. In doing this it implicitly recognises the distinction between justice and welfare as a 'natural' one and so privileges certain interventions into the lives of children. It states that detention should be a last resort and that 'community based sanctions should be given priority, particularly those targeting persistent young offenders' (2006: 7). What results, is an ambivalent account that attempts to reflect both justice and welfare demands. The language of the Report serves to contain this ambivalence. Ashenden (2004), in her analysis of the Report of the Inquiry into Child Abuse in Cleveland (1987), makes a similar point:

> The Report therefore reflects the ambivalent position of the family within liberal welfare rationalities as simultaneously juridically private and as a potential site

> of normalising intervention. This ambivalence is contained by the Report through an argument for balance and reasonableness . . . (2004: 141)

The language of the *Report on the Youth Justice Review* (2006) similarly contains an ambivalence characteristic of liberal rationality:

> There is no international consensus on how best to respond to the issues around youth offending. Overlaps in administrative systems of child welfare, protection and youth justice have been and continue to be a feature of most jurisdictions. However, all jurisdictions have sought and continue to seek that delicate balance between the 'justice' and 'welfare' approaches in their response. (2006: 24)

The Report reflects the ambivalent position of the child within liberal justice rationalities and exposes fault lines along the justice/welfare divide. The child is at once troubled and troublesome. This highlights the inadequacy of traditional models of political critique in coming to grips with juvenile justice issues. As Rose (1987) notes, traditional forms of critique tend to simplify explanations in relation to policies and reforms. They fail to explain fully the role played by political rationalities in constituting programmes of government. In the present case, they view power as being centralised in the state and operating along a justice/welfare axis. As such, programmes of government are viewed as either justice or welfare oriented or, as in the present case, an attempt to balance the two. However, in order to understand such forms of government we must analyse the rationalities that constitute them. We must look beyond the traditional dichotomies such as justice/welfare and public/private. These are not 'natural' distinctions but are created as a result of the process of governing. They reflect attempts to programme government in response to certain political rationalities. The *Report on the Youth Justice Review* (2006) is one such attempt and reflects a particular form of liberal rationality. Rose and Miller note that programmes of government are constantly linked to difficulties and failures:

> The programmatic is the realm of designs put forward by philosophers, political economists, physiocrats, and philanthropists, government reports, committees of inquiry, White Papers, proposals and counterproposals . . . The relation between political rationalities and such programmes of government is not one of derivation or determination but of *translation* – both a movement from one space to another, and an expression of a particular concern in another modality. (1992: 181).

This analysis is not undertaken from a reformist perspective but in terms of the rationalities and technologies of government seen within their historical context. According to Rose and Miller:

> Problematics of government may be analysed, first of all, in terms of their *political rationalities,* the changing discursive fields within which the exercise of power is conceptualised, the moral justifications for particular ways of exercising power by diverse authorities, notions of the appropriate forms, objects and limits of politics, and conceptions of proper distribution of such tasks among secular, spiritual, military and familial sectors. (1992: 175)

With regard to the Irish juvenile justice system, from the Kennedy Report (1970) onwards one can see the beginning of a process governmentalisation in relation to the state. This is reflected in calls for greater training and professionalisation with regard to those working with children and for the provision of services by the state. Both the Kennedy Report and the Task Force on Child Care Services (1980) recommend that the state take more responsibility for delivering services to children. The Child Care Act, 1991 reflected the growing importance of social work as a rationality of government. Prior to this the state could be characterised as being 'absent' from the process of government with responsibility vested predominantly in Catholic religious organisations. Although there were no significant legislative developments with regard to juvenile justice until 2001, this process of governmentalisation continued to gather momentum. It can be seen through the sponsorship and funding of crime prevention initiatives by government departments, the National Lottery, local drug task forces, city and county development boards and the Dormant Accounts Fund and through the promotion of volunteerism. Underpinning these initiatives are the governmental rationalities of psychology, social work, probation, youth work and communitarianism. A visible effect of this process of governmentalisation is the Children Act, 2001. This process is taken further with the establishment of a Youth Justice Task Force in 2004 to examine the youth justice system and the establishment of the Irish Youth Justice Service in 2006. As already noted, the *Report on the Youth Justice Review* (2006) made certain recommendations in relation to the 'rationalisation' of the juvenile justice system.

Within the context of juvenile justice, the National Youth Justice Strategy (2008) outlines the degree to which the governmentalisation of the state has occurred. In relation to its future development, it notes that:

> . . . it will be essential to establish linkages through various policies such as the National Drugs Strategy and its successor, and also at operational levels through such bodies as the Health Service Executive (HSE), the National Drugs Strategy Team and the Interdepartmental Group on Drugs. Such interaction will help to target, focus and provide continuity when it comes to interventions and outcomes for young people involved in anti-social behaviour and crime, and provide the necessary support to divert them from offending and re-offending. (IYJS, 2008: 7)

The Irish Youth Justice Service (IYJS) notes that the success of this strategy will depend upon its ability to establish 'effective' linkages between the justice and welfare systems. In this regard, it states that:

> . . . to improve the effective delivery of services to young people in trouble with the law, the IYJS will work with the Minister for Children; the Children Acts Advisory Board; An Garda Síochána; the Courts Service; the Probation Service; the Health Service Executive; FÁS; and the Departments of Community, Rural and Gaeltacht Affairs; Education and Science; and Health and Children. (2008: 11)

The most prominent forms of identity to emerge throughout the strategy document are those of the 'at risk child' and 'the child as the bearer of rights'. The child is viewed as someone who, because of his or her vulnerability needs to be governed through a range of 'welfare' agencies that operate side by side with 'justice' agencies. The core 'values' of the Strategy, according to the IYJS, reflect 'the best interests of the child' and 'its implementation is with reference to the rights of the child' (2008: 6). In this regard, the child is someone who is to be consulted with and the IYJS provides a list of those children's groups that it consulted with in drafting the Strategy. The National Youth Justice Strategy , like the Children Act, 2001, is a visible effect of the governmentalisation of the state.

A particular way of thinking about the 'juvenile delinquent' and the 'problem' of juvenile crime emerges through the writings of Mary Carpenter and other nineteenth-century reformists. Her influential work of 1851, *Reformatory Schools for the Children of the Perishing and Dangerous Classes and for Juvenile Offenders*, was emblematic of a particular 'mentality' in relation to the government of children. Chapter 5 of this thesis highlighted how numerous journal articles voiced this 'mentality' of government and made the 'juvenile delinquent', the 'potential delinquent' and the 'problem' of juvenile crime visible within the context of a moral topography constructed in respect of the juvenile population. The language of Carpenter and other moral statisticians constructed various classes of juvenile and enabled the 'problem' to be governed within the context of the general population. In this sense, language takes on a 'performative' quality in constructing the categories required to govern (Rose, 2008).

Around this time in Ireland the juvenile delinquent population began to be classified separately within the context of the general prison population. The categories of 'juvenile crime' and the 'juvenile offender' appear for the first time in the *Thirty-First Report of the Inspectors-General on the State of the Prisons of Ireland* (1853). This development was influenced by the work of the Select Committee on Criminal and Destitute Children (1853). These events signify the opening up of a separate space in which the juvenile is to be governed. The accumulation of specific statistical information on young people represents an increase in 'biopolitical' knowledge surrounding the child and served to construct the problem of delinquency and the means to deal with it. The collation of this body of statistical knowledge formed the foundation of the modern juvenile justice system and the provided the means by which it was to govern.

The system itself initially became visible in the form of reformatory and industrial schools, which formed a large regulatory grid for the confinement of the mainly pre-delinquent population. These highly visible panoptic sites complemented the less visible grid of predominantly Catholic philanthropic organisations that regulated

society through a complex web of alliances in the areas of health, education and welfare. Catholic organisations such as the Legion of Mary and the Society of St Vincent de Paul were here simultaneously active in the areas of justice and welfare.

From the mid-1950s one can see a decline in the numbers committed to the reformatory and industrial schools and from the early 1970s alternatives to the closed institution begin to emerge. The closed institution is not, however, replaced but is instead supplemented by a range of alternative sites that become visible outside the institution and together these form a regulatory grid, a continuum of government, that would later become known as the youth justice system.

Chapter 6 examined the range of governmental rationalities that have shaped the Irish juvenile justice system since the mid-nineteenth century. The dominant rationality of government was based on the Catholic religion and saw the majority of 'at risk children' confined in industrial schools due to their life circumstances rather than any crime committed. The pre-delinquent was the main target for this technology of government based on calculations of 'moral risk' more so than risk of offending. This reflected an existing preoccupation with the fear of proselytism. This rationality was also evident in the activities of numerous Catholic philanthropic organisations dealing with issues of health, welfare and education. In addition to this dominant religious discourse, there emerged a less significant rationality of reformation that targeted the 'juvenile adult'. This was reflected in the establishment of the borstal system in 1906 and continues to find expression in the modern detention facilities. In terms of numbers processed this rationality of government represents a relatively minor one.

During the 1960s a significant discourse commenced on the failure of the institutional model of childcare. This was manifest in a direct challenge to the reformatory and industrial school system (Kennedy Report, 1970). In the context of the Irish juvenile justice system, the governmental rationalities of psychology, community, social work, probation and youth work also began to gain prominence. It is not that these rationalities are suddenly invented but rather that they begin to emerge as a result of the existence of certain conditions of possibility. These rationalities find expression in a variety of initiatives that govern the young person by counselling, diverting,

mediating, supervising, shaming and reintegrating, cautioning and detaining him. From the early 1970s a shared vocabulary of 'risk' begins to be utilised by numerous experts operating within the youth justice space.

Chapter 7 examined the technologies that are employed to govern the young person within the Irish juvenile justice system. From a governmentality perspective they are classified as 'disciplinary' or 'pastoral' technologies. Disciplinary technologies are characterised by their regulation of space and time. In the reformatory and industrial schools one can see a specific panoptic architecture designed to regulate the body and mind of those confined. This is combined with a regime of strict discipline and religious observance. In the more modern forms of disciplinary technology the religious elements have been replaced by quasi-scientific techniques designed to assess risk and re-orient the development of the troubled and the troublesome. These technologies are preoccupied with the management of risk through care plans and reports of various kinds.

Disciplinary technologies that mainly targeted the pre-delinquent were dominant until the early 1970s when pastoral technologies based on a developmental model of the child and operationalised through a vocabulary of risk began to emerge. Pastoral technologies generally operate in open sites within the community and are characterised by the activation of some form of pastoral relationship between the young person and another person. This other person, be it a youth worker, probation officer or juvenile liaison officer, seeks to govern the behaviour of the subject by eliciting his or her support or the support of others in effecting a change in the individual's behaviour. The process usually involves some confessional element whereby the young person agrees to modify his or her behaviour or lifestyle in accordance with an agreed plan followed by a period of supervision.

Chapter 8 examined the forms of identity that have emerged within the Irish juvenile justice system as a result of the rationalities and technologies employed to govern individuals at particular times. The 'self' here is not regarded as having a trans-historical quality, rather, following Rose (1996a), it is viewed as a regulatory ideal. The first form of identity to emerge is the 'delinquent' whose identity is constructed

by reference to certain biographical information. This form of identity is evident in the writings of Mary Carpenter and the nineteenth-century moral statisticians. Subsequent forms of identity include the 'subject of reformation', 'the psychological child', the 'at risk child' and 'the child as a bearer of rights'. One form of identity does not replace another one; rather, they co-exist within the wider governmental space. Thus, within the present youth justice space they are each deployed from time to time in order to govern. Since the early 1970s the identities of the 'the psychological child', the 'at risk child' and 'the child as a bearer of rights' have gained increasing prominence as newer more liberal technologies of government emerge. These liberal technologies usually operate within open 'community' spaces and are viewed as being less obtrusive and controversial.

The Children Act, 2001 reflects the 'governmentalisation' of the state within a wide range of rationalities and techniques of government. The Act is the visible effect of this process of governmentalisation. In this sense, the Act did not create these rationalities and technologies of government but nevertheless plays an important role in the process of governing. As Rose notes:

> The enactment of legislation is a powerful resource in the creation of centres, to the extent that law translates aspects of a governmental programme into mechanisms that establish, constrain, or empower certain agents or entities and set some of the key terms of their deliberations . . . Embodying the principle of 'the best interests of the child' in law may not *determine* the decisions of social workers and the courts, but it sets one of the terms in which those decisions must be calculated and justified. (1992: 190)

The process of governmentalisation gained greater visibility with the establishment of the Youth Justice Task Force in 2004, under the direction of the Department of Justice, Equality and Law Reform, to 'examine the scope for rationalising and restructuring the State's services in the area of youth justice' (Irish Association for the Study of Delinquency, 2005: 181). The *Report on the Youth Justice Review* (2006) was further evidence of this process with the proposed establishment of a Youth Justice Service to further rationalise the newly sanctioned youth justice space. The process of governmentalisation is reflected in the invention of a new governmental space called youth justice, where a wide range of governmental technologies can be articulated within a vocabulary of risk. The dominant form of identity is the 'at risk

child', however, other forms of identity such as the 'delinquent', the 'psychological child', the 'subject of reformation' and the 'child as a bearer of rights' are deployed.

The term 'youth justice' gives the appearance of unity to the juvenile justice field and this is reflected in the rhetoric of the new Irish Youth Justice Service. However, one is reminded of Foucault's observation that:

> . . . the state, no more probably today than at any other time in its history, does not have this unity, this individuality, this rigorous functionality, nor, to speak frankly, this importance; maybe, after all, the state is no more than a composite reality and a mythicized abstraction, whose importance is a lot more limited than most of us think. Maybe what is really important for our modernity – that is, for our present – is not so much the etatisation of society, as the 'governmentalization' of the state. (1991: 103)

From a governmentality perspective the juvenile justice system is visible as a governable space or series of governable spaces that emerge in response to the problem of controlling the conduct of the delinquent juvenile population. In this regard, government should be viewed in terms of the range of rationalities and techniques that compete to both constitute the 'problem' and the system for governing it. The visible effect of these conditions of possibility has been labelled the 'youth justice system'. The rhetoric surrounding the present youth justice system gives the impression of a centrally controlled state apparatus directing a seamless tapestry of programmes and initiatives to govern young people. From a governmentality perspective, what becomes visible is an array of different centres of government that may form networks of power but that are not necessarily traceable back to central government. As Rose states, 'Centres of political deliberation and calculation have to act through the actions of a whole range of other authorities' (2000: 185). This 'action at a distance' is dependent upon a host of alliances and 'lash-ups' between various groups operating within this field.[190] According to Rose:

[190] An example of these 'lash-ups' are the numerous youth projects that have emerged under the guise of diversion. They are aimed at diverting young people from crime and the criminal justice system. In attempting to do so they often seek to address the welfare of the individual concerned. The majority of these projects are run by An Garda Síochána or the Probation Service and enlist the support of people from statutory and voluntary sectors. While their stated aim is diversion they often end up becoming involved in a wide range of activities such as counselling, training, education, outdoor activities and family support. From a governmentality perspective, they may be viewed as centres for re-moralisation.

> This generates an intrinsic heterogeneity, contestability and mobility in practices for the government of conduct. This mobility and contestability is intensified by the fact that 'the state' is neither the only force engaged in the government of conduct nor the hidden hand orchestrating the strategies and techniques of doctors, lawyers, churches, community organizations, pressure groups, campaigning groups, groups of parents, citizens, patients, survivors and all those others seeking to act upon conduct in the light of particular concerns and to shape it to certain ends. (2000: 185)

The 'justice/welfare' approach espoused in the rhetoric of the *Report on the Youth Justice Review* (2006) emerges as a multi-layered system encapsulating a complex array of rationalities straddling the justice/welfare divide. However, it is somewhat misleading to describe it as a divide. It is more accurate to refer to it as the justice–welfare continuum or the risk continuum.[191] For what we find are numerous strategies aimed at managing a population of offenders and potential offenders in accordance with calculations of risk. These calculations are based on defined risk factors. As a result of these calculations certain experts are licensed to intervene in the lives of young people. It is no longer a question of merely classifying individuals deemed to be delinquent. A sophisticated sliding scale of risk has emerged where degrees of risk can be detected in an endless number of sites along the continuum from the cradle to the grave. Technologies are designed to detect, define, classify and eliminate risk where it becomes visible. The 'system' is thus visible in initiatives designed to improve parenting skills, tackle early school-leaving, counsel teenagers abusing alcohol and drugs, manage aggressive behaviour, increase employability, improve self-esteem etc. The closed institution has not been replaced but supplemented by an infinite array of sites for the government of children.

[191]Rose (1987) in arguing against the use of critique and in favour of genealogy seeks to 'disturb and disrupt' the apparently natural distinction between public and private law. In a similar fashion, in this thesis, it is intended to disrupt the apparently natural distinction between justice and welfare. As Rose points out, such distinctions are not natural but constructed as a result of a certain belief system. He notes: 'Further, law does not exist in isolation from other regulatory systems. Over the past hundred and fifty years we have seen the construction of a new form of "government", one in which the family was central . . . Government here should be seen in an extended sense as all those interdictions, urgings, interventions, techniques and evaluations which seek to shape up events towards desired ends. Legal mechanisms need to be relocated within this far wider field of regulatory mechanisms ranging from taxation, through welfare to the design of domestic space' (1987: 67).

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APPENDIX 1

CLASSIFICATION of Juveniles Confined in the several - - - - - -

GAOLS.	Age. 9 to 15 Years.		15 to 21 Years.		Without Parents.		Without Father.		Without Mother.		Illegitimate.		Abandoned by Parents.		Absconded from Parents.		Belonging to County or Borough.		Belonging to Other Localities.		Wholly Illiterate.	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
Antrim - - - -	16	1	61	19	20	6	24	12	12	3	7	–	9	2	14	6	60	20	20	3	4	3
Armagh - - - -	5	–	23	6	13	4	10	1	3	–	1	–	4	–	6	1	17	5	11	1	3	2
Carlow - - - -	3	1	16	8	4	4	9	2	1	–	–	–	1	2	4	1	7	3	12	6	1	1
Cavan - - - -	4	3	35	2	10	2	7	2	7	–	1	–	3	–	2	–	32	5	7	–	2	–
Clare - - - -	6	–	88	17	47	8	29	6	10	1	5	–	12	3	12	1	88	11	6	3	59	10
Cork County - - -	61	13	159	25	114	16	45	9	20	2	19	–	24	2	23	3	211	36	12	2	34	7
Cork City - - -	28	11	42	12	33	5	34	9	16	2	5	–	3	1	4	6	48	19	22	1	24	8
Donegal - - - -	5	–	34	5	7	1	4	4	4	–	–	1	2	–	2	–	31	5	5	–	4	2
Down - - - -	7	–	27	12	4	4	11	2	3	3	2	–	4	3	11	2	24	8	10	4	6	8
Dublin County - -	19	4	46	19	23	9	19	6	7	3	1	–	1	1	12	4	26	9	39	14	11	1
Grange Gorman Penitentiary - -	–	47	–	97	–	51	–	53	–	13	–	5	–	5	–	21	–	14	–	100	–	45
Richmond Bridewell -	102	–	151	–	84	–	56	–	29	–	–	–	26	–	68	–	101	–	152	–	34	–
Fermanagh - - -	2	–	30	10	7	3	12	1	3	–	2	2	3	–	1	–	26	8	6	2	7	5
Galway County - -	12	5	30	11	15	3	9	3	5	3	1	–	3	–	–	6	42	18	–	1	12	11
Galway Town - -	9	2	29	3	15	3	6	2	5	–	–	–	2	–	10	2	18	2	20	3	30	1
Kerry - - - -	19	10	56	10	19	2	25	10	13	–	3	–	13	10	14	3	67	26	8	–	16	16
Kildare: Naas - -	1	2	23	3	11	–	6	2	3	2	–	–	–	–	4	–	9	4	15	1	4	2
Athy - -	1	3	16	3	3	4	6	1	2	1	–	–	1	–	–	–	13	4	4	2	7	6
Kilkenny County - -	2	2	23	12	3	2	5	7	7	–	3	1	2	2	9	2	17	8	8	6	5	6
Kilkenny City - -	1	–	–	–	–	–	–	–	–	–	–	–	1	–	–	–	1	–	–	–	1	–
King's County - -	6	2	31	17	17	10	9	4	8	5	3	–	5	–	6	–	25	12	12	7	11	5
Leitrim - - -	5	–	13	7	5	2	6	3	3	1	1	1	7	2	2	5	13	6	5	1	5	1
Limerick County - -	24	2	81	21	59	10	21	5	10	3	1	4	10	2	15	4	82	17	23	6	39	17
Limerick City - -	61	11	23	18	42	9	24	8	16	13	–	–	–	–	2	2	59	26	25	6	56	21
Londonderry - - -	9	1	22	8	2	2	15	2	7	2	2	1	–	–	1	–	22	9	9	–	14	1
Longford - - -	4	1	27	15	12	5	6	6	3	1	–	1	3	–	12	9	25	10	6	6	4	9
Louth - - - -	6	2	18	12	7	4	6	4	7	1	1	5	1	–	7	–	18	10	6	4	11	2
Drogheda - - -	1	–	5	–	1	–	3	–	–	–	–	–	–	–	–	–	3	–	3	–	2	–
Mayo - - - -	19	5	37	11	18	4	16	7	10	1	–	–	11	2	6	4	48	9	8	7	25	11
Meath - - - -	2	1	21	16	10	8	7	3	2	2	1	–	1	2	8	4	16	7	7	10	2	10
Monaghan - - -	3	–	26	11	9	3	7	2	3	2	1	–	5	6	3	3	20	7	9	4	3	1
Queen's County - -	1	2	27	7	3	–	3	1	2	–	–	–	1	–	–	–	26	8	2	1	5	2
Roscommon - - -	7	3	14	3	6	2	9	1	4	2	–	–	2	2	–	1	19	3	2	3	3	2
Sligo - - - -	4	–	19	9	4	1	8	3	3	5	–	–	4	1	4	3	15	8	8	1	1	–
Tipperary: Nenagh -	16	5	62	20	32	11	18	7	12	1	1	1	–	3	11	–	68	21	10	1	41	13
Clonmel -	60	8	206	40	118	16	70	15	38	10	–	–	6	2	5	1	249	41	17	7	86	–
Tyrone - - - -	1	–	43	10	13	1	9	2	11	2	3	–	2	2	7	1	26	4	18	6	6	8
Waterford County -	15	1	33	10	21	5	13	3	5	1	–	–	–	–	1	–	35	9	13	2	5	1
Waterford City -	2	3	15	18	4	6	4	4	3	6	–	–	1	1	3	1	8	5	9	16	1	8
Westmeath - - -	0	1	36	9	18	2	8	2	9	3	–	–	–	–	–	–	17	8	28	2	17	1
Wexford - - -	12	2	42	14	14	5	17	6	9	2	15	4	11	3	12	2	43	12	11	4	1	4
Wicklow - - -	8	–	17	10	4	1	8	5	5	3	–	–	6	1	5	2	16	8	9	2	9	3
TOTAL - - -	581	166	1,710	563	854	228	600	224	320	102	79	26	199	60	306	103	1,691	181	597	218	617	274
GRAND TOTAL - -	3,020				- - - - - - - - - - - -												3,020				-	-

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Gaols in *Ireland* on the 1st April 1853.

Know Alphabet and Spelling.		Read Imperfectly.		Read and Write.		Felons Convicted.		Misdemeanants Convicted.		Felons Untried.		Misdemeanants Untried.		Vagants.		Workhouse Offenders.		Those who have Committed Offences immediately on leaving Workhouse.		Twice Imprisoned.		Three Times Imprisoned.		Four Times Imprisoned.		Five Times Imprisoned and upwards.	
M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
12	7	11	10	20	3	6	1	70	21	–	–	4	1	–	–	–	–	–	–	13	5	5	4	7	2	18	3
15	4	6	–	5	–	13	4	7	1	8	1	–	–	–	–	1	–	–	–	6	1	3	–	1	–	1	–
11	5	3	3	4	–	13	6	5	3	1	–	–	–	–	–	–	–	–	–	3	2	2	3	1	–	2	–
10	1	11	2	16	2	13	–	24	5	–	–	2	–	–	–	8	–	10	–	11	2	8	–	1	–	1	–
12	1	23	5	20	1	13	1	42	11	3	2	13	1	–	2	23	–	11	–	16	3	13	4	11	–	4	1
102	21	21	6	46	4	62	5	79	20	2	–	15	6	45	4	20	3	31	5	61	10	32	2	21	2	29	3
19	3	7	2	16	10	38	6	21	–	1	–	–	1	10	16	–	–	30	9	11	7	12	1	12	3	13	3
12	1	8	2	15	–	2	–	36	3	–	–	1	2	–	–	–	–	–	–	6	–	–	–	–	–	–	–
2	–	9	3	17	1	21	4	8	6	5	2	–	–	–	–	–	–	4	3	4	2	1	1	3	–	3	–
29	7	7	8	15	4	29	3	10	3	17	7	5	–	13	10	7	11	3	1	9	1	8	1	3	1	7	11
–	31	–	29	–	16	–	21	–	18	–	2	–	10	–	93	–	5	–	–	–	29	–	14	–	15	–	59
63	–	37	–	100	–	132	–	22	–	6	–	2	–	91	–	4	–	35	–	89	–	29	–	18	–	93	–
7	–	4	4	14	1	28	10	4	–	–	–	–	–	–	–	–	1	2	–	6	3	7	1	–	1	1	–
2	2	16	2	12	1	6	1	28	15	–	–	3	–	2	–	3	3	–	–	10	4	5	–	6	–	3	1
2	–	2	1	4	–	9	3	13	2	8	–	1	–	7	–	10	1	5	1	18	2	6	1	6	1	8	1
31	6	11	4	12	–	33	6	12	1	6	–	–	–	21	19	18	2	20	5	17	6	17	4	4	2	7	4
7	3	6	–	7	–	14	1	3	2	4	1	3	1	–	–	–	–	1	–	2	2	1	1	1	–	1	–
1	–	3	–	6	–	3	2	7	4	3	–	–	–	–	–	4	–	–	–	11	1	2	–	1	1	–	–
8	4	5	4	7	–	12	7	11	4	2	3	–	–	–	–	–	–	–	–	2	3	1	1	1	2	2	–
–	–	–	–	–	–	1	–	–	–	–	–	–	–	–	–	–	–	–	–	1	–	–	–	–	–	–	–
5	6	9	3	9	5	19	14	15	3	2	–	1	–	–	2	4	–	2	–	4	4	3	2	2	1	1	–
6	1	2	1	6	1	8	5	6	1	2	–	2	–	–	1	–	–	–	–	5	2	3	1	1	1	1	1
21	–	22	5	23	1	6	4	89	10	–	1	4	6	15	2	24	4	–	8	34	1	13	3	10	1	3	1
22	8	5	–	1	–	14	4	4	2	18	5	24	2	24	19	18	4	6	2	14	5	8	3	5	2	4	2
–	5	10	3	8	–	17	6	12	3	1	–	–	–	1	–	1	–	–	–	5	2	9	1	2	1	–	–
5	4	10	3	12	–	11	4	13	1	7	7	–	–	–	4	3	1	2	–	4	4	6	–	2	1	3	1
4	11	1	1	8	–	10	4	9	2	2	8	–	–	3	–	1	–	2	–	6	6	2	1	2	–	–	–
3	–	1	–	–	–	–	–	3	–	1	–	1	–	1	–	–	–	–	–	1	–	2	–	–	–	3	–
13	–	8	4	9	1	20	3	23	6	2	–	4	0	1	2	5	1	4	4	11	2	8	–	9	1	5	1
7	1	3	5	11	1	18	7	2	8	2	1	1	–	–	1	4	5	1	4	6	5	3	4	1	1	4	–
10	5	7	5	9	–	1	2	27	0	–	–	1	–	–	–	1	–	1	–	11	5	2	1	1	1	–	–
8	3	9	3	6	1	14	7	3	–	7	2	4	–	–	–	1	–	–	–	1	1	–	–	–	–	1	–
11	2	4	1	3	1	12	1	3	2	1	–	1	1	4	–	–	2	–	–	6	–	2	–	1	–	–	–
8	6	6	3	5	–	13	5	8	2	2	2	–	–	–	–	–	–	–	–	4	1	2	1	2	–	3	2
1	2	20	6	16	4	45	18	20	3	7	4	2	–	4	–	2	3	7	4	10	9	11	2	4	1	2	1
108	21	7	–	65	27	172	37	35	–	32	11	9	–	18	–	23	–	–	–	45	10	51	3	46	4	5	–
14	–	12	2	12	–	25	8	15	–	1	1	1	–	2	1	–	–	–	–	5	4	2	–	2	–	4	–
19	7	11	3	13	–	27	8	9	–	3	3	–	–	9	–	4	–	3	–	11	4	7	3	4	1	3	–
8	10	2	2	6	1	13	13	1	3	–	–	–	–	3	4	1	–	5	7	5	5	1	–	–	–	1	12
8	3	12	2	8	1	20	3	7	4	14	–	–	–	2	2	2	–	–	–	9	3	3	–	1	–	1	–
20	5	17	5	13	2	45	12	4	2	4	–	–	–	1	2	7	6	2	–	9	8	9	–	6	–	15	1
7	2	3	2	6	1	7	1	9	5	9	4	–	–	–	–	–	–	1	–	3	3	1	2	–	2	3	–
836	221	401	141	584	90	962	247	710	184	183	67	104	37	280	184	199	53	194	53	455	167	299	65	198	48	216	111
3,020																											

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APPENDIX 2

TABLE III.

RETURN showing, in respect to young Persons in the Workhouses in *Ireland* on 2d April 1853, the Numbers from 9 to 15 and from 15 to 21 Years of Age, who

PROVINCE.	Can neither Read nor Write.						Know the Alphabet and Spelling.						Read imperfectly.						Read and Write.						Total Persons from 9 to 21 Years of Age.		
	From 9 to 15.		From 15 to 21.		Total from 9 to 21 Years.		From 9 to 15.		From 15 to 21.		Total from 15 to 21 Years.		From 9 to 15.		From 15 to 21.		Total from 9 to 21 Years.		From 9 to 15.		From 15 to 21.		Total from 9 to 21 Years.		Males.	Females.	TOTAL.
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.			
Ulster	126	146	116	192	[illegible]	338	327	371	52	69	379	440	619	714	111	186	730	900	1,087	824	190	148	1,267	972	2,608	2,650	5,258
Munster (Exclusive of Scarif. Return not received).	1,041	2,309	2,318	4,651	4,259	6,960	2,980	3,335	1,055	1,738	4,035	5,073	3,402	4,022	1,353	2,097	4,731	6,119	4,580	4,787	1,608	1,642	6,188	6,429	19,417	24,581	43,998
Leinster	598	801	501	983	1,099	1,784	1,095	1,098	303	728	1,398	1,826	1,216	1,499	425	930	1,641	2,429	2,655	2,678	633	876	3,288	3,554	7,426	9,593	17,019
Connaught	276	399	492	1,314	768	1,713	505	904	134	225	749	1,129	802	963	207	320	1,009	1,223	1,404	1,715	219	234	1,623	1,949	4,149	6,014	10,163
TOTAL, 162 Unions	2,941	3,655	3,427	7,140	6,368	10,795	4,997	5,708	1,564	2,760	6,561	8,468	6,039	7,138	2,076	3,533	8,115	10,671	9,706	10,004	2,850	2,900	12,556	12,904	33,600	42,838	76,438

	Number from 9 to 15 Years of Age.	Number from 15 to 21 Years of Age.	Total Persons from 9 to 21 Years of Age.	Per-centage. 9 to 15.	15 to 21.	9 to 21.
Can neither read nor write	6,596	10,567	17,163	13·1	40·3	22·5
Know the alphabet and spelling	10,705	4,324	15,029	21·3	16·4	19·7
Read imperfectly	13,177	5,009	18,786	26·3	21·4	24·5
Read and write	19,710	5,750	25,460	39·3	21·9	33·3
TOTAL	*50,188	*26,250	76,438	100·	100·	100·

* These numbers differ slightly from those shown in Table I., from a discrepancy between those tables in the returns from clerks of Andee and Navan Unions.

Per-centage of Children from 9 to 15 Years of Age.

No. 1.	Who can neither read nor write	13·1
No. 2.	Know the alphabet and spelling	21·3
No. 3.	Read imperfectly	26·3
No. 4.	Read and write	39·3
		100·0

27 April 1853. J. C.

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APPENDIX 3

Rules and Regulations for the Certified Industrial Schools in Saorstát Éirean which were approved by the then Minister for Education in 1933 approved b the Minister for Education, under the 54th Section of the Act, 8 Edw. VII. Ch. 67

1. NAME AND OBJECT OF SCHOOL.
Date of Certificate.
Number for which Certified....Accommodation is provided in this School for only children. This number shall not be exceeded at any one time. No child under the age of six years is chargeable to the State Grant, and of the children of the age of six year and upwards not more than _____ are chargeable to that Grant.

2. CONSTITUTION AND MANAGEMENT.

3. CONDITIONS OF ADMISSION.
Being [Roman Catholic Girls/ Boys] sent under the provisions of the Children Act, 1908, or the School Attendance Act, 1926, or the Children Act, 1929, or otherwise as the Management may determine.

4. LODGING.
The children lodged in the School shall have separate beds. Every decision to board out a Child, under the 53rd Section of the Children Act, 1908, shall have received previous sanction from the Minister for Education, through the Inspector of Industrial Schools.

5. CLOTHING.
The children shall be supplied with neat, comfortable clothing in good repair, suitable to the season of the year, not necessarily uniform either in material or colour.

6. DIETARY.
The Children shall be supplied with plain wholesome food, according to a Scale of Dietary to be drawn up by the Medical Officer of the School and approved by the Inspector. Such food shall be suitable in every respect for growing children actively employed and supplemented in the case of delicate or physically under-developed children with special food as individual needs require. No substantial alterations in th Dietary shall be made without previous notice to the Inspector. A copy of the Dietary shall be given to the Cook and a further copy kept in the Manager's Office.

7. LITERARY INSTRUCTION.
Subject to Rule 8, all children shall be instructed in accordance with the programme prescribed for National Schools, Juniors (that is, children under 14 years of age) shall have for literary instruction and study not less than four and a half hours five days a week and Seniors (that is children of 14 years of age and upwards) shall have for the same purpose not less than three hours, five days a week; at least two-thirds of the periods mentioned to be at suitable hours between breakfast and dinner, when the most beneficial results are likely to be obtained. Religious Instruction may be included in those periods, and, in the case of Seniors, reasonable time may be allotted to approved general reading. Should the case of any individual pupil call for the modification of this Rule it is to be submitted to the Inspector for approval. Senior boys shall receive lessons in Manual Instruction which may be interpreted to mean training in the use of carpenter's tools.

8. SCHOOLS.
The Manager may arrange for children to attend conveniently situated schools, whether Primary, Continuation, Secondary or Technical, but always subject to (a) the

sanction of the Inspector in each case, and (b) the condition that no increased cost is incurred by the State.

9. INDUSTRIAL TRAINING.

Industrial employment shall not exceed three and a half hours daily for Juniors or six hours daily for Seniors. The training shall, in the case of boys, be directed towards the acquisition of skill in and knowledge of farm and garden work or such handicraft as can be taught, due regard being given to fitting the boys for the most advantageous employment procurable. The training for girls shall in all cases be in accordance with the Domestic Economy Syllabus, and shall also include, where practicable, the milking of cows, care of poultry and cottage gardening.

Each school shall submit for approval by the Inspector a list setting forth the occupations which constitute the industrial training of the children and the qualifications of the Instructors employed to direct the work. Should additional subjects be added or any subject be withdrawn or suspended, notification shall be made to the Inspector without delay.

10. INSPECTION.

The progress of the children in the Literary Classes of the Schools and their proficiency in Industrial Training will be tested from time to time by Examination and Inspection.

11. RELIGIOUS EXERCISES AND WORSHIP.

Each day shall be begun and ended with Prayer. On Sundays and Holidays the Children shall attend Public Worship at some convenient Church or Chapel.

12. DISCIPLINE.

The Manager or his Deputy shall be authorised to punish the Children detained in the School in case of misconduct. All serious misconduct, and the Punishments inflicted for it, shall be entered in a book to be kept for that purpose, which, shall be laid before the Inspector when he visits. The Manager must, however, remember that the more closely the School is modelled on a principle of judicious family government the more salutary will be its discipline, and the fewer occasions will arise for resort to punishment.

13. PUNISHMENTS.

Punishments shall consist of:—

a. Forfeiture of rewards and privileges, or degradation from rank, previously attained by good conduct.
b. Moderate childish punishment with the hand.
c. Chastisement with the cane, strap or birch.

Referring to (c) personal chastisement may be inflicted by the Manager, or, in his presence, by an Officer specially authorised by him, and in no case may it be inflicted upon girls over 15 years of age. In the case of girls under 15, it shall not be inflicted except in cases of urgent necessity, each of which must be at once fully reported to the Inspector. Caning on the hand is forbidden.

No punishment not mentioned above shall be inflicted.

14. RECREATION.

Seniors shall be allowed at least two hours daily, and Juniors at least three hours daily, for recreation and shall be taken out occasionally for exercise beyond the boundaries of the school, but shall be forbidden to pass the limits assigned to them without permission.

Games, both indoor and outdoor, shall be encouraged; the required equipment shall b provided; and supervision shall be exercised to secure that all children shall take part in the Games.

Fire Drill shall be held once at the least in every three months, and each alternate Dril shall take place at night after the children have retired to the dormitories. A record of the date and hour of each Drill shall be kept in the School Diary.

15. VISITS (RELATIVES AND FRIENDS).

Parents, other Relations, or intimate Friends, shall be allowed to visit the children at convenient times, to be regulated by the Committee or Manager. Such privilege is liable to be forfeited by misconduct or interference with the discipline of the School by the Parents, Relatives, or Friends. The Manager is authorised to read all Letters which pass to or from the Children in the School, and to withhold any which are objectionable.

Subject to approval of the Inspector, holiday leave to parents or friends may be allowed to every well conducted child who has been under detention for at least one year, provided the home conditions are found on investigation to be satisfactory. Such leave shall be limited to seven days annually.

In a very special or urgent case, such as the serious illness or death of a parent, the Manager may also, at his discretion, if applied to, grant to any child such brief leave of absence as will enable the child to spend not more than one night at home: the circumstances to be reported forthwith to the Inspector's Office.

16. CHILDREN PLACED OUT ON LICENCE OR APPRENTICED.

Should the Manager of a School permit a Child, by Licence under the 67th Section of the Children Act of 1908, to live with a trustworthy and respectable person, or apprentice the Child to any trade or calling under the 70th Section of the Act, notice of such placing out on Licence, or apprenticeship of the Child, accompanied by a clear account of the conditions attaching thereto, shall be sent, without delay, to the Office of the Inspector.

17. STATE GRANT.

Under the present financial arrangement no Child will be paid for out of the Funds voted by the Oireachtas until it has reached the age of Six Years. A Child, however, under the age of Six Years may be sent to the School under an Order of Detention signed by a District Justice; but in such case the State allowance for maintenance will not be made until it shall appear from the Order of Detention that the Child is Six Years old – from that date only will it be regularly paid for.

18. PROVISION ON DISCHARGE.

On the discharge of a Child from the School, at the expiration of the period of Detention, or when Apprenticed, he (or she) shall be provided, at the cost of the Institution, with a sufficient outfit, according to the circumstances of the discharge. Children when discharged shall be placed, as far as practicable, in some employment or service. If returned to relatives or friends, the travelling expenses shall be defrayed by the Manager, unless the relatives or friends are willing to do so. A Licence Form shall be issued in every case and the Manager shall maintain communication with discharged Children for the full period of supervision prescribed in Section 68(2) of the Children Act, 1908. The Manager shall recall from the home or from employment any child whose occupation or circumstances are unsatisfactory, and he shall in due course make more suitable disposal.

19. VISITORS.

The School shall be open to Visitors at convenient times, to be regulated by the Committee (or Manager), and a Visitors' Book shall be kept. The term "visitors" means members of the Public interested in the school.

20. TIME TABLE.

A Time Table, showing the Hours of Rising, Work, School Instruction, Meals, Recreation, Retiring etc., shall be drawn up, shall be approved by the Inspector of Industrial Schools, and shall be fixed in the Schoolroom, and carefully adhered to on all occasions. All important deviations from it shall be recorded in the School Diary.

21. JOURNALS, etc.

The Manager (or Master or Matron) shall keep a Journal or Diary of everything important or exceptional that passes in the School. All admissions, discharges, licences and escapes shall be recorded therein, and all Record Books shall be laid before the Inspector when he visits the School.

22. MEDICAL OFFICER.

I.A Medical Officer shall be appointed who shall visit the school periodically, a record of his visits being kept in a book to be provided for the purpose.

II.Each child shall be medically examined on admission to the School, and the M.O.'s. written report on the physical condition of the Child should be carefully preserved.

III.A record of all admissions to the School Infirmary shall be kept, giving information as to ailment, treatment, and dates of admission and discharge in each case. Infirmary cases of a serious nature and cases of more than three days duration shall be notified to the Inspector's Office.

IV.The M.O. shall make a quarterly examination of each child individually, and give a quarterly report as to the fitness of the children for the training of the school, their general health, and the sanitary state of the school. The quarterly report shall be in such form as may be prescribed from time to time by the Minister for Education. Application shall be made to the Minister for the discharge of any child certified by the M.O. as medically unfit for detention.

V.Dental treatment and periodic visits by a Dentist shall be provided and records of such visits shall be kept.

In the event of the serious illness of any child, notice shall be sent to the nearest relatives or guardian and special visits allowed.

23. INQUESTS.

In the case of violent death, or of sudden death, not arising in the course of an illness while the child is under treatment by the M.O., a report of the circumstances shall be at once made to the local Gardaí for the information of the Coroner, a similar report being at the same time sent to the Inspector.

24. RETURNS, etc.

The Manager (or Secretary) shall keep a Register of admissions and discharges, with particulars of the parentage, previous circumstances, etc., of each Child admitted, and of the disposal of each Child discharged, and such information as may afterwards be obtained regarding him, and shall regularly send to the Office of the Inspector the Returns of Admission and Discharge, the Quarterly Accounts for their maintenance, and any other returns that may be required by the Inspector. All Orders of Detention shall be carefully kept amongst the Records of the School.

25. INSPECTOR.

All Books and Journals of the School shall be open to the Inspector for examination. Any teacher employed in the school who does not hold recognised qualifications may

be examined by the Inspector, if he thinks it necessary, and he shall be informed of the qualifications of new teachers on their appointment. Immediate notice shall be given to him of the appointment, death, resignation, or dismissal of the Manager and Members of the School Staff.

26. GENERAL REGULATIONS.

The Officers and Teachers of the School shall be careful to maintain discipline and order, and to attend to the instruction and training of the Children, in conformity with these Regulations. The Children shall be required to be respectful and obedient to all those entrusted with their management and training, and to comply with the regulations of the School.

27. REMOVAL TO A REFORMATORY.

Whenever a Child is sent to a Reformatory School, under the provisions of the 71st or 72nd Sections of the Children Act of 1908, the Manager shall, without delay, report the case to the Inspector.

28. CHILD NOT PROFESSING RELIGIOUS PERSUASION OF THE MANAGER TO BE REMOVED BY THE SCHOOL.

In order to insure a strict and effectual observance of the provisions of the 66th Section of the Children Act of 1908, in every case in which a Child shall be ordered to be detained in a School managed by Persons of a different Religious Persuasion from that professed by the Parents, or surviving Parent, or (should that be unknown), by the Guardians or Guardian of such Child; (or should that be unknown) different from that in which the Child appears to have been baptized or (that not appearing), different from that professed by the Child the Manager or Teachers of such School shall, upon becoming acquainted with the fact, or having reason to believe that such is the fact, give notice in writing, without delay, to the Inspector, who will thereupon immediately take any necessary steps in the matter.

29. ESCAPES.

Should any Escape from the School occur, the Manager shall, with as little delay as possible, notify the particulars to the nearest Gardaí Station, to the Gardaí Superintendents of the County and adjoining Counties, and to the Inspector's Office.

These Rules have been adopted by the Managers of
Industrial School.

Corresponding Manager
_____19

Approved under the 54th Section of the Children Act of 1908.

Minister for Education
_____19

(Commission to inquire into Child Abuse Report, 2009, Vol. 1: 51)

APPENDIX 4

S.I. No. 224/1960:

SAINT PATRICK'S INSTITUTION REGULATIONS, 1960.

SAINT PATRICK'S INSTITUTION REGULATIONS, 1960.

I, OSCAR TRAYNOR, Minister for Justice, in exercise of the powers conferred on me by section 4 of the Prevention of Crime Act, 1908, and section 13 of the Criminal Justice Act, 1960 (No. 27 of 1960), hereby make the following regulations:

1. These Regulations may be cited as the Saint Patrick's Institution Regulations, 1960.

2. The Interpretation Act, 1937 (No. 38 of 1937), applies to these Regulations.

3. In these Regulations—

"the Committee" means the Saint Patrick's Visiting Committee provided for under Regulation 9 of these Regulations;

"inmate" means a person serving a sentence of detention in the Institution and includes a person transferred to the Institution under section 3 of the Prevention of Crime Act, 1908;

"the Institution" means Saint Patrick's Institution;

"the Minister" means the Minister for Justice.

4. An inmate shall, in so far as the length of his sentence permits, be given such training and instruction and be subjected to such disciplinary and moral influences as will conduce to his reformation and the prevention of crime.

5. An inmate shall, save in such exceptional circumstances as may be specified by the Minister, wear clothing provided pursuant to the directions of the Minister.

6.—(1) Subject to paragraph (2) of this Regulation an inmate shall be—

(*a*) allowed such regular physical recreation and exercise, and

(*b*) given such regular physical training,

as may be necessary to promote his health and physical well-being.

(2) If the medical officer of the Institution considers that an inmate is unfit to be allowed physical recreation or exercise or to be given physical training, he shall not be allowed such recreation or exercise or be given such training.

7. If the Governor of the Institution is of opinion that the receipt of letters and visits and the writing of letters by an inmate in addition to those permitted apart from this Regulation will promote the social rehabilitation of the inmate, he may permit the inmate to receive so many letters and visits in addition to those permitted as aforesaid, and to write so many letters in addition to those permitted as aforesaid, as he thinks proper.

8. An inmate whose period of detention, whether on foot of one sentence or cumulative sentences, exceeds one month shall be eligible to earn by industry and good conduct a remission of a portion of the period of detention not exceeding one-fourth of the period of detention, provided that the remission so granted does not result in the inmate being discharged from the Institution before he has served one month of the sentence or sentences.

9.—(1) There shall be constituted a visiting committee for the Institution to be known as the Saint Patrick's Visiting Committee.

(2) The Committee shall consist of such number of responsible persons, not being less than six, as the Minister shall think proper from time to time.

(3) Each member of the Committee shall be appointed by the Minister and shall hold office for such period not exceeding three years as the Minister shall think proper and shall specify when appointing him.

(4) No person, other than a member of Dáil Éireann or Seanad Éireann, who is in receipt of a salary paid out of the Central Fund or out of monies provided by the Oireachtas shall be appointed a member of the Committee.
(5) The Committee shall, in relation to inmates and the Institution, have and perform the duties and have and exercise the powers and functions imposed or conferred, as the case may be, on visiting committees in relation to prisoners and prisons by or under the Prisons (Visiting Committees) Act, 1925 (No. 11 of 1925).
(6) For the purposes of this Regulation, each person who, immediately before the date of the making of these Regulations, is a member of the visiting committee to Saint Patrick's Institution shall be deemed to have been appointed under this Regulation to be a member of the Saint Patrick's Visiting Committee and shall hold office as such member until the expiration of the period for which he would, but for Regulation 11 of these Regulations, have held office as a member of the committee aforesaid.
10. So much of the Rules for the Government of Prisons, 1947 (S.R. & O., No. 320 of 1947), and the Rules for the Government of Prisons, 1955 (S.I. No. 127 of 1955), as are made under the Prisons Acts, 1826 to 1956, shall, in so far as they are not inconsistent with these Regulations, apply and have effect in relation to inmates and the Institution in like manner as they apply and have effect in relation to prisoners and prisons.
11. The Regulations with respect to Borstal Institutions for males in Ireland made on the 19th day of July, 1909 (S.R. & O., No. 1371 of 1909), are hereby revoked.
GIVEN under my Official Seal, this 7th day of November, 1960.
OSCAR TRAYNOR,
Minister for Justice.

EXPLANATORY NOTE.

These Regulations provide for the rule and management of and the constitution of a visiting committee for Saint Patrick's Institution, North Circular Road, Dublin, and for the treatment of offenders detained therein.

APPENDIX 5

Rules for the Government of Prisons 1947

JUVENILE PRISONERS AWAITING TRIAL.

Classification

214. (1) All prisoners under the age of 17 who are on remand or awaiting trial in these rules referred to as unconvicted juvenile prisoners shall be formed into two divisions, being classed by the Governor and chaplain :—

(*a*) Those who have not been in prison before and who are well-conducted in prison, who shall be kept separate from

(*b*) Those who have been in prison before, or who misbehave in prison.

(2) Any prisoner who declares himself to be more than 17 years of age, but who, in the opinion of the Governor, chaplain, and medical officer of the prison, should not, having regard to his character, constitution, and antecedents, properly be classed with adult prisoners, shall also be classed as an unconvicted juvenile prisoner.

Cell doors to be open in certain cases

215. In order that confinement may be as little as possible oppressive, every unconvicted juvenile prisoner of tender years in division (*a*) shall be allowed to have his cell door open between the hours of 7 a.m. and 7.30 p.m., if the Governor, chaplain, or medical officer is of opinion that this is necessary or desirable, the Governor being responsible that such precautions are observed as will ensure that a juvenile prisoner shall not be able to enter the cell of any other prisoners, and *vice-versa.*

Exercise

216. Every unconvicted juvenile prisoner shall be allowed two periods of exercise daily. This exercise shall consist of ordinary walking, or physical drill, or of garden work.

Instruction

217. Every unconvicted juvenile prisoner shall be daily instructed by the schoolmaster for one hour in association, those in division (*a*) being kept separate from those in division (*b*).

Employment

218. The Governor shall encourage every unconvicted juvenile prisoner to work either at his own trade or at one of the trades pursued in the prison. If employed on the latter, he shall be remunerated as laid down in Rule 206 for prisoners awaiting trial.

Library books

219. The Governor shall select a special set of books to form a library for the use of unconvicted juvenile prisoners, picture books being provided for those who cannot read. The books should be approved by the chaplain.

Application of rules to females

220. These rules shall apply, as far as practicable, to juvenile female prisoners under 17 years of age.

Application of general prison rules

221. Unconvicted juvenile prisoners shall also be subject to the rules for prisoners awaiting trial, and to any general prison rules, except so far as they are inconsistent with the special rules for unconvicted juvenile prisoners.

JUVENILE OFFENDERS UNDER CONVICTION.

Classification

222. (**1**) Every prisoner under the age of 17 shall be classed as a juvenile offender.

(2) Prisoners who have not been in prison before and who are well-conducted in prison shall be kept separate from those who have been in prison before or who misbehave in prison.

(3) Any prisoner who declares himself to be more than 17 years of age, but who, in the opinion of the Governor, chaplain and medical officer of the prison, should not, having regard to his character, constitution, and antecedents, properly be classed with adult prisoners, shall also be classed as a juvenile offender.

Prisons for juvenile offenders

223. If the sentence is for one month or upwards, a juvenile offender shall be located in a prison in which accommodation is set apart for juvenile offenders. If the sentence is for less than one month, he shall be retained in the prison to which he has been committed, but be lodged in a part of the prison where he will be completely separated from the adult prisoners.

Separation from adult prisoners

224. A juvenile offender shall take exercise, receive school instruction, and be seated in chapel, apart from and, if possible, out of sight of adult prisoners, with whom he shall not, on any occasion, be permitted to come into contact.

Mitigation of prison discipline

225. In the case of a juvenile offender the ordinary prison discipline shall be mitigated in the following manner :—

(1) He shall be allowed special library books as well as books of instruction, from the time of his reception and throughout his sentence ;

(2) He may be employed in association with other juvenile offenders in workshops, or in outdoor work, such as gardening, &c.

(3) He shall, as far as possible, be instructed in a trade which may be useful to him on release ; and

(4) He shall, if medically fit, be exercised daily at physical drill in lieu of, or in addition to, walking exercise, with a view to his physical development.

Visits

226. A juvenile offender may be allowed by the visiting committee to receive extra visits if, in their opinion, such visits are desirable and calculated to improve his moral welfare and future career.

Duty of chaplain as to juvenile offenders

227. It shall be the duty of the chaplain to devote individual attention and care to the juvenile offenders, and, in co-operation with the visiting committee and a discharged prisoners' aid society, to make every possible provision for their protection and care on discharge.

Discharge of juvenile offenders

228. Before a juvenile offender is discharged, the Governor shall inform his relatives and friends on what day and at what time he will be discharged, that they may have the opportunity of attending to receive him; but if such relatives or friends are known to be bringing the young prisoner up in evil courses, then the Governor may, with the consent of the visiting committee, abstain from informing his relatives, if some other respectable person, to be approved by the visiting committee, is willing to take care of him, and the prisoner consents.

Application of general prison rules

229. Convicted juvenile offenders shall also be subject to any general prison rules, except so far as they are inconsistent with the special rules for juvenile offenders under conviction.

PRISONERS BETWEEN THE AGES OF 17 AND 21 YEARS.

Location in special prison

230. Prisoners between the ages of 17 and 21 may be collected in a prison or part of a prison set apart for the purpose, and be subjected to the following special rules.

Classification

231. They shall be strictly classified, regard being had to their character and antecedents.

Separation

232. Each class shall be kept apart from the other.

Employment

233. They shall be employed in association in workshops or in outdoor work, such as farming, and they shall be specially instructed in useful trades and industries which may fit them to earn their livelihood on release.

Education

234. Special attention shall be given to their education by instruction in the ordinary subjects of elementary education, by lectures and moral addresses, and by their being provided with library books and useful literature, which they shall be encouraged to read.

Discharge

235. At a reasonable time before the discharge of any prisoner, arrangements shall be made with a discharged prisoners' aid, or other philanthropic societies, or benevolent persons, for the prisoner's future welfare.

Application of general rules

236. They shall also be subject to any general prison rules, except so far as they are inconsistent with these Special Rules.