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## An Exploration of the Policy and Practice of Custodial Remands for Children Under 16 Years in Ireland

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**Dublin Institute of Technology  
School of Social Sciences**

**An Exploration of the Policy and Practice  
of Custodial Remands for Children Under  
16 years in Ireland**

**Sarah Anderson**

**Submitted October 2004**

Submitted in fulfilment of the requirements for the award of MPhil  
at the Dublin Institute of Technology under the supervision of Gay  
Graham and Brian McCarthy

## **Abstract**

Juvenile Justice in Ireland is at a time of transition. The recently enacted Children Act, 2001 is the first piece of legislative change in almost a century and once fully implemented will provide for much needed change. However, at the time of this study Juvenile Justice in Ireland was still legislated for by the Children Act, 1908 and there was increasing concern that the needs and rights of children in conflict with the law were not being met. There was very little in the way of empirical evidence however, to validate these claims. This study examines the entire population (N=68) of children on remand in Ireland during four time periods, and the results are presented in three sections. Section A provides a background profile of the population and illustrates the high levels of social, familial and educational disadvantage experienced by the young people. It also demonstrates the large extent to which these young people had already been in contact with various welfare and justice agencies prior to their period of remand. Section B specifically examines the period of detention on remand, and illustrates some of the problems faced by the young people including the large number of children detained for welfare reasons rather than their offending behaviour and excessive periods of time in detention due to a lack of appropriate facilities. This section also uses a flowchart of the juvenile justice system to illustrate the position of each individual within it. Section C provides more detailed information relating to each child's 'remand episode', and uses the flowchart to illustrate the cycle of repeat remands and lengthy periods of detention. Finally this study discusses some of the findings in more detail including the relationship between school failure and crime, particular issues associated with female offenders, the number of welfare cases in the remand system and the deprivation of liberty and children's rights.

## Declaration

I certify that this thesis which I now submit for examination for the award of MPhil, is entirely my own work and has not been taken from the work of others save and to the extent that such work has been cited and acknowledged within the text of my work.

This thesis was prepared according to the regulations for postgraduate study by research of the Dublin Institute of Technology and has not been submitted in whole or in part for an award in any other Institute or University.

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Signature S. Anderson Date 28/10/04  
Candidate

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## Introduction

Juvenile justice is an area of increasing national and international concern. In Ireland, media coverage of certain high profile cases involving child offenders such as in January 2003 when a Dublin taxi driver was killed when his car was hit by a stolen car driven by young offenders, has served to increase public concern over the rising crime levels among young people as well as the earlier age of onset into troublesome lifestyles. Governments have been forced to respond to these concerns in the form of new and innovative prevention and intervention strategies to deal with juvenile offenders, in the hope of reducing current crime rates as well as preventing the development of later criminal careers. Theories and explanations for the causes of child antisocial and criminal behaviour are complex and varied and there has been little in the way of agreement among scholars as to which of these explanations is most valid. There is however a growing amount of evidence in relation to the social, economic and individual factors related to children and their environments that are associated with engagement in such behaviour and it is this knowledge that has spawned a variety of innovative and progressive prevention and diversion programmes.

Regardless of these measures, inevitably some children find their way into the formal juvenile justice system. This can be because of their 'troubled' lives or their 'troublesome' behaviour.

Formal juvenile justice policy is developed from a constant struggle to balance the needs of the child, the punishment of the offence and the protection of the public. A

country's response will generally be measured somewhere along the justice-welfare continuum, where the former deals with punishment of the offender and the protection of the community, the latter with the needs of the child.

Ireland has a recent history of placing the welfare of the child at the forefront of its legislative affairs and political rhetoric regarding the Irish juvenile justice system reflects this. The recently enacted Children Act 2001 signifies a new approach to young offenders that openly embraces the welfare ideology, and, by replacing the Children Act 1908, aims to address many of the criticisms of a justice system that has been in place for almost a century.

Growing concerns about the plight of young people within the current juvenile justice system, and increasing calls for radical changes to be made has brought the system to the forefront of public and political debate. However, evidence suggests that political rhetoric is not necessarily reflected in practice, particularly in relation to the incarceration of children and young people (Kelly, 1992).

Ireland already detains a significant number of young people in secure facilities, and projected figures suggest this number is likely to rise quite considerably (Irish Government Press Release, 17/12/01). Given that there are fundamental concerns regarding the deprivation of liberty, the rights and freedoms which this restricts and the potential consequences of incarceration on both the young people themselves and society in general, such moves need to be carefully considered.

It is imperative that any proposed changes in the justice system are based on a solid understanding of the current situation and the difficulties encountered within it. Without this knowledge it is unlikely that policy changes will have the desired

positive effects which they set out to achieve. Furthermore, without a baseline from which to assess the impact of such policy changes, there is no way of knowing if they have had any effect at all. This research aims to address some of these core issues and to illustrate the current system in respect of child custodial remands. For the purposes of this study 'child' refers to young people under sixteen years of age at the time of entry to the remand unit.

The primary objectives of the research are:

- To provide a social profile of the population of children on remand in Ireland
- To provide precise information regarding the period of remand
- To provide a baseline from which to conduct ongoing research into this area
- To highlight the areas within the 'system' that give cause for concern.

The report begins with a review of the literature concerning the phenomenon of juvenile crime and offending behaviour. It examines the factors that are associated with such behaviour, some of the theories that have been put forward to explain the behaviour and the range of prevention and intervention strategies adopted.

Chapter 2 examines the development of formal juvenile justice policy and the difficulties often faced by states when trying to balance the need to punish the offence with the need to protect children in trouble with the law.

Chapter 3 documents juvenile justice policy within the Irish context. It discusses the legislation that governs Irish juvenile justice, specifically the Children Act, 1908 and the Children Act, 2001, and the difficulty of incorporating International legislation into an Irish legal framework.

Chapter 4 looks more closely at the practice of remanding young people into custody,

the effects this can have on them, and the role of United Nations legislation on the rights of young offenders within this context.

Chapter 5 details the methodology used both in the early stages of the study during the pilot project and how this helped to develop the methods used for the primary study. It contains details of how the aims of the project were modified so as to become purely quantitative, and how the flowchart of the justice system was developed to aid understanding of the intricacies of the justice system, particularly the practice of custodial remands.

Chapter 6 presents the results of the research in three sections. Section A provides a full background profile of the 68 young people involved in the study and among other findings, illustrates the high levels of social and educational disadvantage associated with them. Section B deals with 117 individual remand periods experienced by the young people, illustrating the role of individual courts in the remand process, the length of time young people spend on remand, and factors associated with this. Finally Section C highlights the experiences of some of the young people within the system, and their progress through it. This section uses case studies to draw attention to the particular issue of repeat remands, and those children caught up in a cycle within the system that results in excessive periods of time locked in secure custody.

Finally, Chapter 7 draws together the results from each section in chapter 6 with an analysis of some significant variables, and discusses the findings in relation to the

current context of juvenile justice in Ireland, in particular the impact of the Children Act, 2001. It raises points of particular concern regarding the current system and makes some suggestions as to how these can be addressed.



## **Chapter 1 : Juvenile Justice**

### **1.1. Introduction**

Over the last few decades the problem of juvenile offending and our responses to it have become an increasingly topical and widely debated issue across the International arena. The ratification of the United Nations Convention on the Rights of the Child by numerous countries worldwide, which incorporates minimum standards for juvenile justice administration has also served to bring the issue into the public and political arena. Rising levels of juvenile crime, and in particular the problem of serious and persistent offenders has led individual countries to tackle the issue head on. In the United Kingdom, the response to the tragic murder of toddler James Bulger by two ten-year-old boys in Liverpool in 1994 is a distinct example of how a society can be deeply affected by a single event. Eight years on, as the two offenders reached their eighteenth birthday, public response to their potential release back into society illustrated how such events are rarely forgiven or forgotten.

### **1.2. Patterns of Youthful Offending**

Criminal behaviour among children and adolescents is relatively common. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, Article 5(e) states that “youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously in most individuals with the transition to

adulthood” (United Nations, 1985). The results of a recent self report survey support this view, where 43.9% of boys and 37.4% girls in year 11 admitted having stolen items in the past (cited in NACRO 2002).

According to the Annual Report of An Garda Síochana (2001), there were a total of 14,488 referrals made to the National Juvenile Office in 2000, which accounts for 12,931 individual offenders (some individuals were referred on more than one occasion). Of these individuals, 84% were male and 16% were female.

Table 1.1 shows there was a wide variation in the number of referrals made according to each of the 6 regions in the country, with by far the largest proportion of referrals occurring in Dublin and its environs. Other areas with a larger proportion of referrals include the South Western region (which incorporates Cork city) and the Eastern region.

Of the total number of referrals 3,634 resulted in prosecution representing 2,756 individual offenders. By far the majority of prosecutions were in the Dublin Metropolitan Region at a figure of 1,897 referrals (1,438 individual offenders). Approximately 42% of the juvenile offenders referred to the National Juvenile Office during 2000 were over 16 years of age, 22% were 15 years, 15% were 14 years of age and the remaining referrals, roughly 20% were between 10 and 13 years of age.

Table 1.1: Referrals by region, 2000.

<b>Region</b>	<b>Number of referrals</b>	<b>Number of individuals</b>	<b>% of total referrals</b>
<b>Eastern Region</b> Carlow, Kildare, Laois, Offaly, Longford, Westmeath, Louth, Meath	2,198	1,975	15.2
<b>Dublin Metropolitan Region</b>	6,044	5,356	41.7
<b>Northern Region</b> Cavan, Monaghan, Donegal, Sligo, Leitrim	1,079	947	7.4
<b>South Eastern Region</b> Tipperary, Waterford, Kilkenny, Wexford, Wicklow	1,689	1,495	11.7
<b>Southern Region</b> Cork, Kerry, Limerick	2,240	2,025	15.5
<b>Western Region</b> Clare, Galway, Mayo, Roscommon	1,238	1,133	8.5
<b>Total</b>	<b>14,488</b>	<b>12,931</b>	<b>100</b>

In 2000 the principal offences committed by juveniles for which referrals were made to the National Juvenile Office are shown in table 1.2.

Table 1.2: Principle Offences,2000

<b>Offence</b>	<b>% of total referrals</b>
Larceny	21.2
Criminal Damage	12.9
Drink Offences	12.4
Vehicle Offences (unauthorised taking carriage, interference)	8.5
Burglary	6.4
Public Order Offences	6.8

In all six regions larceny is the principle offence, but is particularly prevalent in the Dublin Metropolitan Region, as are vehicle and public order related offences (Annual Report, 2000). Also notable is that although in general, adult and juvenile offenders engage in similar criminal behaviour, there are certain offences, known as status offences, that are illegal only when committed by a juvenile such as under-age drinking or smoking and school non-attendance (Farrington, 1992). Thus although juveniles are responsible for a large number of offences per year the majority of these are relatively minor offences and only a small minority of young offenders are either serious and/or persistent offenders. These figures are in line with findings from other studies (Audit Commission, 1996; Hagell & Newburn, 1994; Flood-Page et al, 2000). Furthermore, despite a perception that juvenile crime is rapidly on the increase, figures show that with the exception of drink related offences, there was a decrease in the number of principal offences (larceny, criminal damage, burglary, public order and vehicle offences) during the years 1996 to 2000 (An Garda Síochana Annual Report, 2000). This pattern is in line with rates of juvenile offending in the United Kingdom (East & Campbell, 1999). This apparent contradiction in public perception of juvenile crime rates and actual statistics can, in part, be attributed to the increased use of diversionary measures aimed at keeping young people out of the formal juvenile justice system (East & Campbell, 1999).

### 1.3. Females in the Juvenile Justice System

A factor for concern is that the vast majority of research that has been conducted on crime and delinquency has focussed on males, primarily because historically most young offenders are male. The figures from the Annual Report of An Garda Síochána (2001) illustrate a similar pattern in Ireland since only 16% of the 12,931 individual offenders referred in 2000 were female.

This has resulted in what Chesney-Lind describes as the 'invisibility' of girls in the discussion surrounding juvenile justice. She argues that this works against girls for several reasons including;

- Explanations for 'causes' of delinquency explicitly or implicitly avoid addressing the problem of female offenders
- Juvenile justice systems reforms have been developed with little or no concern for girls and their problems
- Silence at the academic and policy level result in those working with girls have no guidance in shaping programmes or developing resources that can respond to girls' problems (Chesney-Lind, 1997).

As far as can be ascertained from the literature search there has been no comprehensive research on female juvenile offenders in Ireland. It is interesting to note that research in other countries has found that the reasons for girls committing crime, the age at which they engage in such behaviour *and* the types of offences that they commit are different than those for boys. For instance, female offenders tend to have a higher incidence of sexual abuse and difficulties in emotional adjustment, are more at risk of homelessness, and are more likely to appear before

the courts for status offences or for welfare reasons than their male counterparts (see Chesney-Lind, 1997; Heidensohn, 1996; Samuel & Tisdall, 1996). It is therefore important to conduct research specifically on female juvenile offenders in Ireland.

#### 1.4. Theoretical Explanations

There have been numerous theoretical attempts to explain the phenomenon of adolescent delinquent conduct and such explanations tend to focus on a particular aspect of either social or individual contributory factors rather than presenting a comprehensive overview that incorporates them all.

- **Strain Theories**

For example, one of the earliest large-scale studies of juvenile delinquents was that conducted by Shaw and Mackay from the Chicago School of Criminology. They studied the distribution of delinquency in Chicago over four time periods spanning 1900 to 1940 and included over 34,000 individuals. Shaw and Mackay found that the areas with the heaviest concentration of juvenile delinquents were those nearest to the centre of the business district in Chicago and that delinquency rates became progressively lower in the areas further from this centre (Shaw & Mackay, 1942).

Areas with high delinquency rates, usually working class and with low economic status, also had higher rates of other social problems such as school truancy, young adult offenders, infant mortality and mental disorders. These were also the

areas with higher recidivism rates. In contrast, areas with lower delinquency rates were generally middle class areas with high economic status. Shaw and Mackay suggested that in the areas with low rates, children tended to be insulated from direct contact with adult deviant behaviour, were encouraged to strive for success by legitimate means (education) and to adhere to conventional values and attitudes, shared by the majority of people in their area.

In the areas with high delinquency rates, due to patterns of migration, children were often exposed to conflicting moral values, and a wide diversity of cultural beliefs, norms and accepted standards of behaviour. Similar to the children from the other areas, children in these areas were also exposed to the luxury values and success patterns of their culture, but they often lacked the opportunities and skills required to legitimately achieve them. Young people in these areas were often exposed to adult role models who had achieved material success through participation in criminal activities, and were routinely exposed to delinquent lifestyles that were seen as a normal part of the life of their local community (Beirne & Messerschmidt, 1995).

Shaw and Mackay's theory contains elements of a group of theories known as strain theories, which essentially argues that young people are driven to crime in response to the frustration they feel as a result of their experiences, and in anticipation of failure to achieve socially and culturally prescribed success. Deviant behaviour occurs in a society that stresses the importance of certain goals, without providing enough legitimate, institutionalised means for all members to achieve them. An individual who has internalised these goals but does not have the

adequate means experiences strain. Crime and delinquency is thus viewed as a rational response to this strain, it is seen as a way of using illegitimate means to obtain accepted goals. Shaw and Mackay focus on the community in general whereas most strain theorists suggest that it is within the social realm of the school that this strain is predominantly experienced (Merton, 1968).

More recently Agnew proposed a 'general strain theory' that focuses on negative relationships with others, used specifically to explain why adolescents engage in delinquency and drug use. He states that adolescents' can experience 'noxious' situations at home or in school as a result of negative relationships with others that can generate a variety of negative emotions such as disappointment, depression, fear and anger. Agnew suggests that delinquency and drug use are ways of coping with and managing the 'strain' of these negative emotions (Agnew 1992 cited in Vold et al, 2002).

Strain theories have also substantially influenced theories of delinquent subculture and both theories focus on the motivational aspect of engaging in delinquent conduct.

- Subculture Theories

Subculture theories suggest that young people are drawn or socialised into involvement in crime in response to the perceived expectations of their delinquent peers. Much of the support for subculture theory lies in the fact that the majority of crime committed by young people is done in the company of their peers (Emler & Reicher, 1995).



Albert Cohen first applied the term 'subculture' to the study of delinquency in America. A subculture refers to a set of beliefs, values, codes, tastes and prejudices that differs in some way from the main or dominant culture of a society (Haralambos & Holburn, 1991). According to Cohen, a delinquent subculture is characterised by a number of factors;- they are generally male and working class; they adhere to group standards simply because they are wrong by conventional standards; they engage in many types of delinquent acts; members have no interest in long-term goals; and are intensely loyal to other members (cited in Beirne & Messerschmidt, 1995; 440).

David Matza criticised Cohen's theory of delinquent subcultures, arguing that it was too deterministic – that by suggesting the individual is controlled by external forces, the theory ignores the choices and alternatives that are available to individuals. Secondly, he proposed that those who commit deviant acts are not as distinct from 'normal society' as Cohen suggests – their beliefs and actions are actually close to the norm and are not truly oppositional in nature. Instead, far from being committed to crime, delinquents are only occasional, part-time law-breakers; they are 'casually, intermittently, and transiently immersed in a pattern of illegal activity' (Matza; 1964; 63). Offenders are ambivalent about rather than committed to a delinquent way of life. Similarly Matza suggests that there is no stark contrast between 'straight' members of society and 'delinquents' – all member of society want fun, excitement and pleasure at some point in their lives. Delinquency occurs during adolescence because it is a time where there is a loosening of inhibitions

due to the changing nature of their social bonds, and thus adolescents 'drift' into delinquent activity and a delinquent subculture.

- Control Theories

Finally there is a group of theories known as control theories. Unlike strain and subculture theories, which emphasise the motivation to commit crime, control theories emphasise the factors that prevent a young person from engaging in such behaviour. For example, Hirschi argued that it is not necessary to explain the motivation for delinquency, since 'we are all animals and thus all naturally capable of committing criminal acts' (Hirschi, 1969;31). He suggested that children who had close social bonds to social groups such as the family, the school and peers were less likely to engage in delinquent activity. There are four elements to this social bond – the level of *attachment* to others, the *commitment* to societal norms, the degree of *involvement* in social activities and the *belief* in the conventional moral code.

Thus, according to Hirschi, juveniles are less likely to engage in delinquent behaviour when they are more attached to others, more involved in conventional activities, have more to lose from committing crime, and have stronger beliefs in the moral validity of the law (cited in Vold et al, 2002).

Such theories explain the existence of crime and delinquency, particularly during adolescence, as a direct result of the weakening of such bonds during the transition from childhood to adulthood (Hirschi; 1969). Empirical studies have shown support for social control theory, particularly in relation to the effect of strong

attachment relationships and a commitment to the conventional societal norms regarding behaviour (Vold et al, 2002).

- Social Learning Theory

There is little doubt that all of these theories have contributed in some respect towards our understanding of why young people engage in delinquent and criminal conduct, however none adequately address all of the factors that are now generally accepted to be correlated with engagement in such behaviour. These will be discussed in the following section. Attempts have been made to integrate these theories (see Akers, 1999) with varying degrees of success. However, what most scholars have begun to accept is that the basis for any integrative theory of crime and delinquency would inevitably rely to some degree on social learning theory. This asserts that those who engage in deviant behaviour have learned to do so through a set of specific social and cultural processes (Akers, 1999).

Sutherland's theory of differential association was particularly influential in the development of social learning theory in relation to crime and delinquency. The basic principle of differential association asserts that crime is learnt through social and cultural processes, particularly during direct interaction and communication with others in small groups. During these interactions the person is exposed to *definitions* that are favourable/unfavourable to breaking the law, and also has *contact* with criminal/ anticriminal patterns of behaviour and exposure to such definitions and contacts vary in frequency, duration, priority and intensity.

Sutherland argues that a person becomes criminal when definitions favourable to

law violation exceed those unfavourable to violation and when contacts with criminal patterns outweigh contacts with anticriminal patterns (cited in Beirne & Messerschmidt, 1995).

It is notable that although there are many theories that try to explain the causes of crime and delinquency only a small number of which have been discussed here, there is no generally accepted cause and effect relationship. There is, however, increasing agreement among scholars on the principal factors that are associated with young people's engagement in criminal behaviour. A number of large-scale studies have been conducted over the years that have proven to be particularly effective in identifying these factors (West & Farrington, 1977, Kolvin et al, 1988).

### 1.5. Factors Associated with Delinquency

- Irish Studies

Before examining these in more detail it is important to note some shortfalls in relation to the Irish context. Firstly, the majority of the studies, particularly those that are large-scale and widely cited, have been conducted on young people in the United States, and a few in the United Kingdom. There has been very little in the way of research specifically involving young offenders in Ireland, although during the last few years there have been a number of reports that go some way towards rectifying this situation (see for example O'Mahony et al, 1985; Bates, 1996; Graham et al, 1999).

In 1981 a working party based in University College Dublin, published their book on Young Offenders in Ireland. In the introduction to this book, Helen Burke states that the document emerged as a result of the recognition that 'policy making for children and young people in trouble with the law should grow from a sound knowledge base' (Burke et al, 1981;p.V). Although the book does not draw on any primary research but rather on existing sources of data, it nonetheless made a valuable contribution to the existing knowledge base at the time. However, the authors did note that

“We need to know more about children and young people who do and do not get into trouble with the law, about their families and social circumstances. We need to know more about the results achieved by the various services such as probation, intensive supervision or residential care provided for young people who have committed offences” (Burke et al, 1981; 48). Twenty years later this knowledge base has been increased but still remains relatively patchy.

- Socialisation Systems

There are three primary social systems in which children learn to behave and express themselves, namely the family, the school and the community, all of which have been shown to influence the onset and continuation of delinquent and offending behaviour in children and young people (O'Mahony & Deazley, 2000). Theoretical explanations for crime and delinquency in young people have almost invariably attributed some element of socialisation factors to such behaviour. For example, strain theories place particular emphasis on factors associated with the

school and the community, subculture theories focus on the role of the peer group and therefore the school is particularly important, and control theories place a greater emphasis on family factors and the relationship with parents (Johnson, 1979).

It is important to note that none of the factors that influence delinquent conduct operate in isolation, and as such there are “multiple influences on children and multiple settings that offer opportunities to learn, practice, and refine antisocial behaviour” (Loeber & Farrington, 2001; 187).

Farrington, in his Cambridge Study in Delinquent Development, followed 411 males from age 8 to 32, and conducted eight face-to-face interviews with each male during the 24 year time period. He identified the most important childhood (age 8-10 years) predictors of delinquency as;

- 1) Anti-social behaviour, including troublesome behaviour at school, dishonesty and aggressiveness.
- 2) Hyperactivity-impulsivity-attention deficit, including poor concentration, restlessness, daring and psychomotor impulsivity.
- 3) Low intelligence and poor school attainment.
- 4) Family criminality, including convicted parents and older siblings, and siblings with behaviour problems.
- 5) Family poverty, including low family income, large family size, and poor housing.
- 6) Poor parental child-rearing behaviour, including harsh and authoritarian discipline, parental conflict and separation from parents (Farrington, 1995).

A comparable British study is the Newcastle Thousand-Family Study, in which over 800 children were contacted from birth up to the age of 32 years. The authors found that the forms of family deprivation that were most significantly correlated with later offending behaviour were marital disruption, parental illness, poor physical/domestic care of children and the home, social dependency, overcrowding and poor quality mothering (Kolvin et al, 1988; 83). More recently, Farrington & Loeber compiled table 1.3 to summarise their review of recent research findings in this area. The table divides the factors into five domains – individual, family, school, peer and community, and also highlights those factors that have been demonstrated to predict early offending in children.

As previously stated, there is only limited research available in Ireland on the factors that are shown to be correlated with the onset of delinquent conduct.

However, the research that has been conducted, particularly over recent years has tended to support the findings from other countries.

**Table 1.3: Risk Factors for General and Early Offending, By Domain**

<b>Individual</b>	<b>Family</b>	<b>School</b>	<b>Peer</b>	<b>Community</b>
Male Gender	Poverty/ low economic status *	Low academic performance *	Peer rejection	Neighbourhood disadvantage
Early aggressiveness/ antisocial behaviour/ defiance *	Poor family management/ child maltreatment *	Weak bonds to school/ low educational aspirations/ low school motivation *	Involvement with delinquent (antisocial) peers *	Neighbourhood disorganisation
Hyperactivity/ attention deficit *	Family and marital conflict *	Truancy *	Gang membership *	Residential mobility
Risk taking *	Parent criminality	Poorly defined rules and expectations for behaviour		Neighbourhood laws and norms favourable to crime
Impulsivity *	Favourable parental attitudes toward violence/ antisocial behaviour	Inadequate enforcement of rules against antisocial behaviour		Availability of firearms **
Substance use	Family breakup/ parental separation			Media portrayals of violence
Favourable attitudes towards offending *				
Low IQ *				

\* = shown to predict early offending

\*\* =based on US research

Source: Loeber & Farrington, 2001; 217.



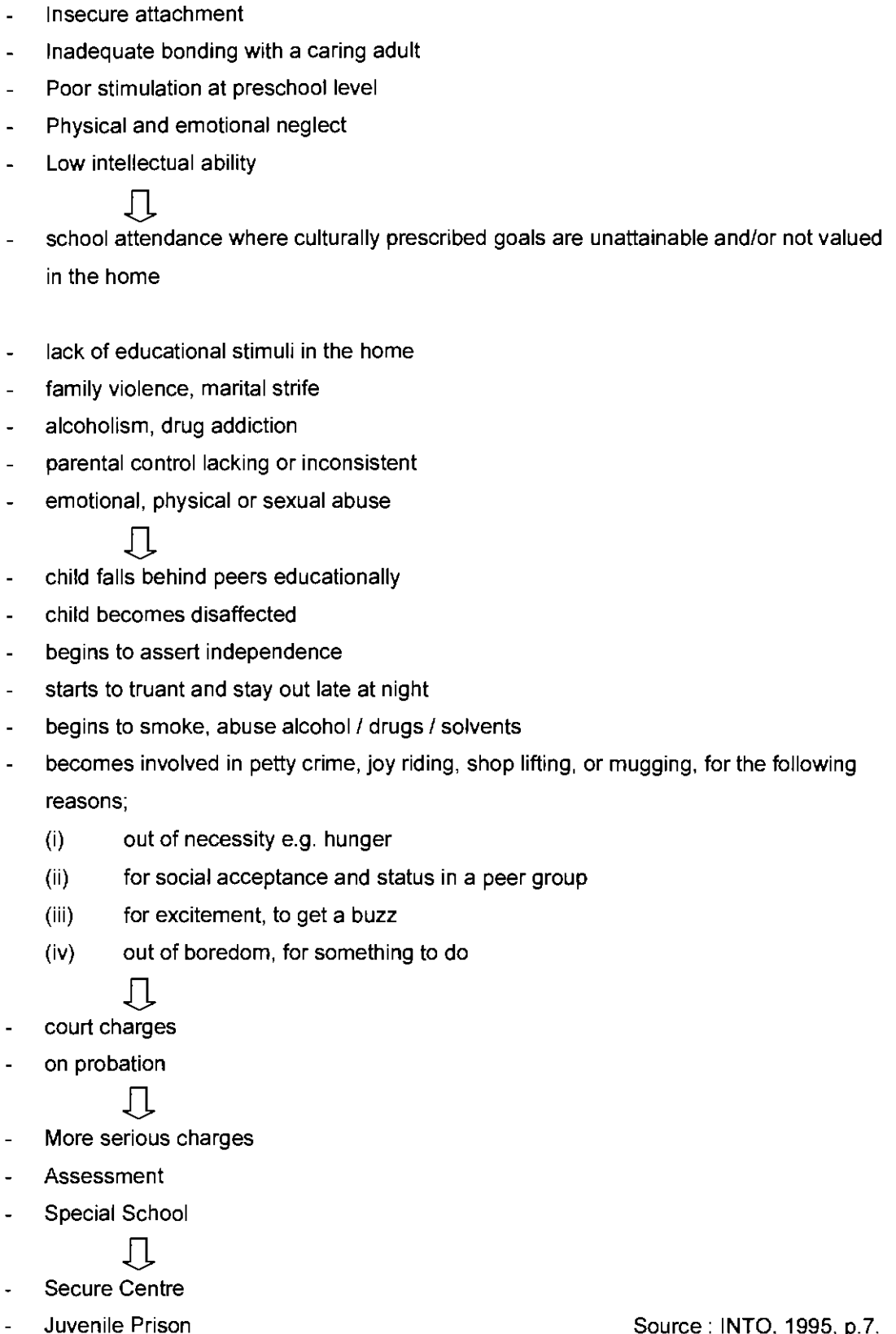
From a review of the research in this area, a number of factors that have been shown to be correlated with adolescent criminality include;

- living in local authority accommodation
- lower socio-economic status
- one-parent families
- large family size
- father is unemployed, drinks alcohol to excess or is aggressive in the home
- mother abuses alcohol, or has poor mental health,
- having close relatives (parents and/or siblings) who engage in criminal conduct
- school failure (including early leaving)
- truancy
- alcohol and/or drug use

(see for example Graham et al, 1999; O'Mahony, 1997; Bates, 1996; Kelly, 2000; O'Mahony et al, 1985; Bacik & O'Connell, 1998)

The Irish National Teacher's Organisation developed a useful framework that illustrates the 'typical cycle of adverse circumstances, school failure and crime' that applies to many young offenders. This is illustrated in figure 1.1 overleaf. The diagram identifies similar risk factors as other studies and illustrates how family difficulties at pre-school level become magnified as the child grows older and attends school. Early problems are compounded as the child becomes increasingly disaffected and begins to become involved in criminal and antisocial behaviours. This in turn brings them to the attention of youth justice agencies and subsequently on the pathway to secure detention (Irish National Teacher's Organisation, 1995).

Figure 1.1: Cycle of adverse circumstances, school failure and crime



Source : INTO, 1995, p.7.

Given the evidence, it is clear that even if we accept that some delinquent conduct is a normal part of adolescent development, and that the vast majority of young people will discontinue such behaviour as they enter into adulthood, there are a small number of young people to whom this does not apply. There is increasing concern, particularly as a result of a small minority of offenders – with the persistent or repeated offender and the serious or violent offender (Hagell & Newburn, 1994; NACRO, 2002). Given that the evidence clearly shows that such children are far more likely to develop criminal careers and become adult offenders (Loeber & Farrington, 2001) the economic and social costs of children and young people who offend, both in the present and in the future, need to be considered and prevention strategies explored.

#### 1.6. Prevention and Early Intervention

It is inevitable that a country needs to respond to criminal behaviour by young people. However, it is increasingly being accepted that the formal juvenile justice system should be the last in a series of interventions and should be preceded by targeted prevention and early intervention programmes, and a range of alternative diversionary measures (O'Mahony & Deazley, 2000; Loeber & Farrington, 2000). The potentially far-reaching effects of such prevention strategies can only have a positive impact on other areas, as noted by Farrington;

“Because of the link between delinquency and numerous other social problems, any measure that succeeds in reducing crime will probably have benefits that go far beyond this. Early prevention that reduces delinquency will probably also reduce drinking, drunk driving, drug use, sexual promiscuity and family violence, and perhaps also school failure, unemployment and marital disharmony. Social problems are undoubtedly influenced by environmental as well as individual factors. However, to the extent that all of

these problems reflect an underlying antisocial tendency, they could all decrease together (Farrington, 1995; 958).

In Ireland, the need for a multi-level response was raised as early as 1985, when the Whitaker Report concluded that, "it is clearly not by any reform of the criminal justice system, but rather by more wide-ranging economic and social policies, that the problem of juvenile crime can be tackled" (cited in O'Mahony, 2000; 2). More recently, Mr Justice Barr of the High Court said the children with whom he comes into contact are "grievously damaged victims of social injustice" and that "the greatest injustice in contemporary Irish life [is] our failure as a caring society to take sufficient steps to rescue from crime those who are born to it and have the misfortune of existence without reasonable support in the economically and socially deprived fringes of our society" (Barr, 1999; 1-2).

The majority of prevention and early-intervention strategies that are available target the family, the school or the community, in acknowledgement of the primary role these institutions have in the onset and continuation of childhood antisocial behaviour and criminality. O'Mahony & Deazley (2000) and Loeber & Farrington (2000) have usefully summarised primary prevention strategies that have been implemented over the years. Although many of these programmes have been conducted overseas it is important to note that, "many of the basic lessons to be learned transcend national borders. What is required is a well-informed, rational and strategic social commitment and investment in our youth, so steering them

away from crime and out of the youth justice system” (O’Mahony & Deazley, 2000; 23).

Some examples of prevention strategies aimed at reducing crime in Ireland include;

- Family support programmes: which generally involve professional involvement from an early age to provide education, training and support for parents. Across Ireland since 1999 there has been the introduction of more than 100 family and community centres, and there are 15 ‘Springboard’ projects providing supports and services for children aged 7-13 years and their families (Quinn, 2002). Such programmes have proven extremely successful and have been shown to have a positive impact on other indicators of disadvantage such as substance abuse, education, employment, health and family stability.
- School Programmes: early identification and intervention of problem behaviour that may be a result of an underlying psychiatric disorder such as conduct disorder or attention-deficit-hyperactivity disorder, both of which are highly correlated with antisocial and delinquent behaviour (Crowley et al, 1998). In Ireland The Education (Welfare) Act, 2000 was contrived in direct response to concerns about the levels of truancy and school absenteeism, as well as the numbers of young people leaving education early with little or no qualifications (Kenny, 2000). Among the main provisions of the Act is the establishment of a National Educational Welfare Board with appointed welfare officers, to work in co-operation with schools, teachers, parents and

community/voluntary bodies. The aim is to encourage regular school attendance, as well as to develop strategies to reduce absenteeism and early school leaving, and the service is to be directly targeted towards children at risk and those who are experiencing difficulties in school. There are also projects such as the '8-15's Early School Leaver Initiative' providing additional supports in school in the form of extra teachers, after-school groups, homework clubs, summer programmes and counselling services (Quinn, 2002)

- Community Programmes: community based recreation programmes that include after-school groups and homework clubs, parenting programmes and organised activity groups that are directed towards helping young people and their families. Many of these programmes are provided by voluntary sector organisations, however there is also more structured support provided by the state such as community child-care workers. In Ireland there a number of services that target older children such as 'Youthreach' which has over 150 centres across the country and runs programmes for personal development, vocational training as a preparation for work and intensive group work (Quinn, 2002).

### 1.7. The Role of An Garda Síochána

"It is in the interests of the child and of society that every effort should be made to avoid bringing a child before a court. The involvement of the gardai in a positive way is therefore essential" (Task Force, 1980; 244).

The Garda Community Relations Section, which also comprises the National Juvenile Office and the Garda Schools Programme, has the responsibility for formulating, implementing and evaluating all crime prevention programmes and measures utilised by An Garda Síochána. There are also an increasing number of Garda Special Projects, which are locally based youth crime prevention projects. The first of these projects were set up in 1991 and there are now 64 of these across the country (Department of Health Press Release, 09/10/03). Through specific intervention and prevention programmes they aim to divert young people away from crime as well as aiming to support and improve garda and community relations (Bowden & Higgins, 2001). A recent study of the young people involved in the Garda Special Projects across the country provides a profile of the young people, highlights risk factors for offending and anti-social behaviour, and young people's experiences of the Projects (Centre for Social & Educational Research, 2001).

On apprehension by a member of An Garda Síochána as a result of committing an offence, a large proportion of young people will be processed through the Garda Juvenile Diversion Scheme. A substantial proportion of the referrals made to the National Juvenile Office in 2000 were dealt with by way of a caution through this scheme which is:-

“a national scheme operated on the basis that young offenders might benefit more through having their criminal behaviour dealt with by way of caution rather than prosecution” (Garda Síochána Annual Report, 1999).

Established in 1963 as an alternative response to juvenile offending, the scheme has grown rapidly and has had a great deal of success in diverting young people who have committed offences away from further involvement in crime. Of the 119,020 young people who have come under the scheme since 1963, 87.5% reached their 18<sup>th</sup> birthday without being prosecuted for a criminal offence.

The programme operates under the supervision of the Director at the National Juvenile Office and is managed country-wide by specially trained Gardaí who are employed full time as Juvenile Liaison Officers (JLOs). The Children Act (2001) places the scheme on a statutory basis and also provides for the introduction of a 'Diversion Conference' based on the principles of restorative justice and is similar to the 'family welfare conference also provided for under this Act.

Under the scheme, the JLO has the option to officially caution the juvenile offender, either at home or at the Garda station, in the presence of a parent or legal guardian. After the caution the JLO may maintain contact, in the form of supervision, with the juvenile and their family. Supervision involves a wide range of activities and may take place at the young person's home, school, youth club, sport's club or around their local area. The JLO also meets and co-operates with parents, teachers, probation officers, social workers and welfare officers, as well as other personnel within child guidance clinics, public health clinics and the courts. In 2000 there were 7,784 individuals cautioned under this scheme, and the highest rate of cautions, at 8.73 per thousand of the population was in the Dublin Metropolitan Region. The remaining rates varied from 4.68 per thousand



population in the Southern Region to 6.70 in the South Eastern Region (Garda Annual Report, 2001).

If the JLO identifies a more serious problem affecting the juvenile and/or their family, the JLO can refer them to other statutory agencies such as the Health Board, who may be better placed to deal with these problems.

Some young people would not meet the requirements for inclusion in the programme, for example due to previous prosecution or the serious nature of the offence, and would therefore be prosecuted in court, within the remit of the formal justice system. The success of the programme was demonstrated in a recent study comparing re-offending rates for young people admitted to the Juvenile Diversion Programme to those deemed inadmissible. The author found that those admitted to the scheme had a significantly lower rate of re-offending (23% compared to 72%) and those who did re-offend were less likely to become persistent in their offending behaviour (O'Dwyer, 1998).

### 1.8. Conclusion

This chapter has introduced the phenomenon of juvenile crime and offending behaviour and the range of factors that are associated with it. It has introduced some of the theoretical explanations that have been put forward to explain such behaviour and the range of prevention and intervention strategies that have been adopted in the past.

Chapter two will examine the development of formal juvenile justice policy and the difficulties often faced when trying to balance the need to punish the offence with the need to protect children in trouble with the law.

## **Chapter 2: Formal Juvenile Justice Policy**

### **2.1. Introduction**

Primary prevention strategies have had some degree of success in reducing the number of young people who engage in criminal activity, and diversionary measures away from the formal justice system have proven remarkably successful in preventing further offending (Garda Annual Report, 2001; Bowden & Higgins, 2000; Kenny, 2000). However, it is evident from this review that such measures in themselves will by no means completely eradicate juvenile offending behaviour and there are a number of reasons for this.

Firstly, it is generally accepted that delinquent behaviour is a normal part of adolescent growth and development and as such the majority of young people will engage in some form of delinquent behaviour, even if these are relatively minor offences such as status offences (Emler & Reicher, 1995). Secondly, there are those children and young people whose engagement in delinquent and criminal behaviour goes beyond what can be viewed as normal and expected – in particular serious, violent, and persistent offenders. Finally, if we accept individual explanations for criminal behaviour it would seem that regardless of what strategies are in place, some young people will inevitably engage in criminal and antisocial behaviour.

An appropriate response to such young people will require countries to have a coherent, effective and fair juvenile justice system. The difficulty that faces many

governments however is that the appropriate response can be very difficult to achieve, since the needs of these children and the reasons for their involvement in criminal behaviour are often extremely complex.

State Governments have responsibility for two groups of children, those whose development is impaired through family and social circumstances, and those who commit offences, often referred to as troubled and troublesome respectively.

Although categorised into two distinct groups, they commonly overlap and children from both categories tend to come from backgrounds characterised by high social disadvantage indicators such as low income, poor housing, few amenities, high unemployment, and higher levels of crime and substance abuse (Asquith & Hill, 1994). As a result, both categories of children are likely to appear to some extent within the formal justice system. There is, however, mounting concern among professionals that a juvenile court that deals with both categories of children is expected to perform an impossible task since the roles associated with its function are incompatible – “one cannot be fully concerned with child welfare *and* maintain a judicial approach” (Morris et al, 1980).

Jenson & Howard suggest that an integrated approach is by far the best solution since “the strength of the juvenile justice system lies in its ability to balance policies of prevention, rehabilitation and punishment. History suggests that reform based on only one of these policy areas is ineffective. The needs of all troubled youths should be considered as policy changes in the juvenile justice system are debated”

(Jenson & Howard, 1998; 332). This is the basis for the 'justice versus welfare' debate in responding to juvenile offending behaviour.

## 2.2. Justice versus Welfare

"Logically, policies and practices devised to deal with crime and offending by the young should be based on clear explanations for the behaviour" (Asquith, 1996; 75). In other words, formal responses to crime and delinquency need to be grounded in clear knowledge about the children and young people who commit crime, the factors associated with their involvement in crime, theoretical explanations for crime and delinquency as well as the effectiveness of various prevention and intervention strategies. The value of good quality research that aims to address these issues is therefore extremely important.

There are a range of strategies adopted internationally for dealing with juvenile offending behaviour, all of which have their own advantages and disadvantages. However, a given society's response to juvenile crime will fall somewhere along the Justice – Welfare continuum. The Justice and Welfare models represent two distinct ideological approaches. Alder and Wundersitz summarise these approaches as follows;

"The welfare model is associated with paternalistic and protectionist policies, with treatment rather than punishment being the key goal. From this perspective, because of their immaturity, children cannot be regarded as rational or self-determining agents, but rather are subject to and are the product of the environment within they live. Any criminal action on their part can therefore be attributed to dysfunctional elements in that environment.

The task of the justice system then, is to identify, treat and cure the underlying social causes of offending, rather than inflicting punishment for the offence itself.”

“The ‘justice model’ assumes that all individuals are reasoning agents who are fully responsible for their actions and so should be held accountable before the law. Within this model, the task of the justice system is to assess the degree of culpability of the individual offender and apportion punishment in accordance with the seriousness of the offending behaviour. In so doing, the individual must be accorded full rights to due process, and state powers must be constrained, predictable and determinate”. (Alder & Wundersitz, 1994; 56-57)

Responses based on such models have generally been dependent on the acceptance or rejection of particular research evidence about the factors that cause crime and delinquency, the theories that explain the phenomenon, as well as the public’s demands for a particular response. Asquith suggests that historical changes in responding to children who offend have been based on whether the accepted explanations for the offending behaviour are either individual or social in nature. He states that there is an increasing polarisation of the two groups – those who attribute crime to individual factors, whether in terms of individual responsibility or individual causal factors, and those who assert the criminogenic influence of more social, economic and structural factors (Asquith, 1996).

In essence, the development of juvenile justice policy and legislation can be characterised as a series of steps that have attempted to meet three, often irreconcilable, concerns, namely

1. The welfare of the child
2. The punishment of the offender
3. The protection of the public

As these factors change, and as new knowledge is gained, the emphasis often shifts from one model to the other over the years (see O'Mahony & Deazley, 2000; Hallett & Hazel, 1998; NACRO, 1997; Asquith, 1996).

### 2.3. History & Development of Justice Policy

Historically the justice model of responding to child offenders prevailed. Prior to the mid nineteenth century children and young people who committed offences were subjected to the same harsh treatments as adults, indeed the flogging and hanging of young children was not unusual (Milham, Bullock & Hosie, 1978). Throughout the latter half of the nineteenth century however, there was growing concern about the welfare of children, and specifically a recognition of the need for children and young people who committed offences to be dealt with separately from adults. In Ireland and Great Britain this culminated in the passing of the Children Act, 1908 which established the first juvenile court system with powers to deal with both children in need of care and protection as well as those in conflict with the law (O'Mahony & Deazley, 2000). Although the Children Act recognised the welfare of children as important, in relation to young offenders this recognition did not allow for a purely welfare-oriented approach but instead provided a revised system of the criminal justice system specifically for young offenders. The Act contained some welfare-oriented provisions, such as the abolition of the death penalty and setting the age of criminal responsibility at seven years, however it did not seek to lessen the child's liability and responsibility for their offending in the eyes of the law (O'Mahony & Deazley, 2000). The Act initially governed legislation in both the

United Kingdom and Ireland, and it is only recently that it has been replaced in Ireland by the Children Act, 2001. Changes to juvenile justice policy in Ireland is discussed in the following chapter.

Even in the United Kingdom it took several decades before truly welfare based approaches to young offending emerged and the first such approach was the Scottish Children's Hearing System.

This was established by the Social Work (Scotland) Act, 1968 as a result of the recommendations of the Kilbrandon Committee which called for a new approach to juvenile offending. Reporting in 1964, the report stated that

“On purely practical grounds it would seem essential to provide for preventative and remedial measures at the earliest possible stage. Such measures cannot operate unless a procedure seeks to establish the individual child's needs. The establishment of those needs is a task calling for essential personal qualities of insight and understanding and for skills quite different from those involved in adjudicating legal issues. It seems to us inappropriate that a single agency should be expected to combine the two functions” (cited in Hartnoll, 1995; 31).

The Children's Hearings are a unique response to juvenile crime for three primary reasons according to Young. Firstly, because it is a tribunal rather than a court of law and thus more concerned with the needs of the child rather than the question of guilt or innocence. Secondly, it is composed of ordinary members of the public rather than juvenile justice officials. Finally, since it cannot sentence offenders to penal sanctions, it emphasises non-penal means of responding to crime, such as placing children under the care of the local authority social work department (Young, 1994; 134).



The person in charge of proceedings is known as the Reporter, and it is their duty to investigate all reports and referrals made to them. Any individual or organisation can refer a child to the Hearing system, though most referrals are made by police, social work or educational personnel. Grounds for referral are varied and complex and include offences, care and protection, and irregular school attendance. The underlying principle is that whether the child has offended or not, the Hearing is responsible for the welfare and interests of the child, and the manner in which juveniles are dealt with should be in a setting of treatment and care rather than one of criminal law (Young, 1994; Hartnoll, 1995).

The Children's Hearing System, was initially regarded as the way forward in responding to juvenile crime and received a great deal of international attention, but in recent years it has met with increased criticism. In particular increased public pressure to make children accountable for their misbehaviour, a growing concentration on the needs of victims and an increasing concern over the inability of the system to provide due process has posed a serious challenge to the underlying philosophy of the system (McGhee et al, 1996). The Children (Scotland) Act 1995 replaced the 1968 Act, and while maintaining the children's hearings system and the welfare-oriented approach, placed a greater importance on the rights of the child as set out in the United Nations Convention on the Rights of the Child (Tisdall, 1996).

In 1989 a new system of youth justice was adopted in New Zealand that, in essence, allowed a move towards a more justice approach while retaining the

welfare principle that aims to achieve positive outcomes for young people who offend. The principle mechanism is the family group conference, a mechanism that appears to be having significant success, and is receiving a great deal of international interest (Morris & Maxwell, 1997). The model has now been implemented worldwide, including an increasing number of initiatives in the United Kingdom (Marsh & Crow, 1997). The recently enacted Children Act 2001 in Ireland, provides for the introduction of a family welfare conference, “a mechanism for early intervention at an interagency level for children at risk”.

A family group conference is essentially a way of working in partnership with parents, and the wider family towards their fuller involvement in decision making for their child’s care and protection. It is an approach that is applicable to a broad range of situations where children come to the attention of statutory agencies – children ‘in need’, children at risk of significant harm, those who are ‘looked after’ by the local authority, homeless young people, and children who are in trouble with the law (Children & Family Services, Scotland, 1998).

In New Zealand, the family group conference is made up of the young person, their advocate, family members, the victim and/or their representative, a support person for the victim, the police, social worker and the youth justice coordinator.

Dispositions, plans and decisions made are binding when they have been agreed to by a family group conference and, for court-referred cases, accepted by the court. At any stage these plans can include a recommendation for prosecution in court (Morris & Maxwell, 1997).

Although at first the family group conferences appear to be based on welfare principles, in that it recognises the social and economic factors that underlie many presenting problems of children and young people, it is also a system that has been criticised for being too punitive in practice. For instance, Jackson notes that there are in fact two distinct approaches to family group conferences, that although they share common features, they differ considerably in their underlying philosophy and objectives. The 'family empowerment model' is founded on a belief that children and families have a right to be involved in decisions affecting them and focuses on the strengths rather than the deficits of the family. The 'victim offender restoration model' focuses on the damage caused by the offending within a restorative, and often 'shaming' context (Jackson, 1999; 129). As she notes, "whilst accepting responsibility for actions is clearly part of the family group conference process, targeting and blaming children for something over which they have only partial control is likely to alienate them further and hence be counterproductive" (Jackson, 1999; 136).

Another criticism of the family conference lies in the fact that often one of the central aims is to make parents take responsibility for their children's behaviour. Although support and encouragement in this area can be a positive step, this process often ends in blame and condemnation, and is thus incompatible with the 'family strengths' ideology. O'Sullivan discusses this issue in relation to the introduction of family welfare conferencing in Ireland under the Children Act, 2001. He criticises what he terms 'differential justice' in that the "state exempts itself from responsibility while at the same time aims to penalise parents for their

shortcomings” (O’Sullivan, 2000; 12). This is a particularly relevant issue given the current situation where the State has increasingly failed to meet its responsibility in the care and protection of some of Ireland’s most troubled children. There are a number of family welfare conference projects already underway and more will be introduced as all the provisions under the Children Act 2001 become fully implemented, which is expected to take until the end of 2006

([www.doh.ie/pressroom/sp20021216](http://www.doh.ie/pressroom/sp20021216)). A recent evaluation of the Garda pilot programme of restorative justice conferences for juvenile offenders and victims found that they were quite successful on a number of measures. These included offender and victim satisfaction with the process, involvement in decision making and understanding of decisions taken, offenders accepting responsibility and showing remorse for their actions, and reduced re-offending rates. However there were concerns regarding the delay between offence and restorative event, the appropriateness of Gardai acting as facilitators, and the small numbers of other professionals such as social workers or child support workers in attendance (O’Dwyer, 2001).

A general criticism of the welfare approach to young people in trouble is that, as Asquith notes, children’s rights are often insufficiently protected within the welfare model of justice which allows for this kind of individualised approach, and that it is only through court hearings, judicial review of decisions and legal representation that these rights can be adequately met. He also suggests that due to the great deal of discretion afforded to decision makers, “children can be subjected to

measures which are indeterminate and which may appear inconsistent with the measures inflicted on children who have committed *prima facie* similar offences” (Asquith, 1983; 8).

Juvenile justice is currently being reviewed not just at National level in Ireland, but across the international arena, and as such there are a number of common issues as noted by Asquith (1996; 80): -

- The extent to which punishment is an acceptable option for young offenders
- The age of criminal responsibility
- The relationship between community based services and custodial provision
- The relevance of the court or tribunal model of decision making
- The relevance to children and young offenders of traditional notions of criminal justice and the search for alternatives such as ‘restorative’ or ‘reparative’ justice
- The integration of young offenders into mainstream social life
- The degree of commitment to the rights of children caught up in formal justice processes
- The nature of preventive philosophies

One of the most divergent aspects of the juvenile justice systems in operation in various countries, and which can act as a crude indicator to their approach to juvenile offenders, is the age at which the *doli incapax* rule applies. In other words, the age at which a child or young person is presumed capable of committing a criminal offence (see Nicol, 1995 for further discussion). In theory, those countries

with a low age of criminal responsibility tend to operate within the justice model, whereas, a high age suggests that the welfare model is in operation.

As Johnston (1995) notes, there are broadly two approaches in Europe to determining the age of criminal responsibility. It may be based on the capacity of the child to have intent or to know what is criminally wrong, or alternatively a country may set an age limit, below which a child, regardless of individual capacity, is exempt from criminal prosecution.

Table 2.1: Age of Criminal Responsibility across Europe

<b>Country</b>	<b>Age</b>
Cyprus, Ireland*, Liechtenstein, Switzerland	7
Scotland, Northern Ireland	8
Malta	9
England, Wales	10
Greece, Netherlands, San Marino, Turkey	12
France	13
Austria, Bulgaria, Germany, Hungary, Italy, Latvia, Lithuania, Romania, Slovenia	14
Czech Republic, Denmark, Estonia, Finland, Iceland, Norway, Slovakia, Sweden	15
Andorra, Poland, Portugal, Spain	16
Belgium, Luxembourg	18

\*The Children Act 2001 raises this age to 12

Source: Council of Europe, 1995

The above table illustrates the wide variation across Europe in the age at which children are held to be criminally responsible for their actions. The age of criminal responsibility has a very significant effect on the subsequent treatment of children

and young people, and, when this age is fixed, it determines the point at which a country finds its children criminally culpable (Johnston, 1995). Indeed, the UN Committee on the Rights of the Child suggests that “an inappropriately low age for criminal responsibility shows that the State does not have a clear idea of what the criminal law can achieve with young children, and does not appreciate the harm that it can cause” (UN Committee on the Rights of the Child, 2001).

A number of organisations and agencies in Ireland (see Irish National Teacher’s Organisation, 1995; Irish Penal Reform Trust, 2000; National Youth Federation, 1996) had criticised Ireland’s low age of criminal responsibility which stood at 7 years. With the full enactment of the Children Act 2001, the age of responsibility will be raised to 12 years, however many claim that even this figure is too low.

Across the international arena there has been a general shift towards more welfare-oriented approaches to children and young people who come into contact with the formal juvenile justice system. A number of factors have been particularly significant in this development – not least of all the increased focus on the rights of the child, as set out in the United Nations Convention on the Rights of the Child. On the other hand, some countries have begun to abandon the welfare approach in favour of a return to justice oriented principles as a response to the increasing numbers of ‘problem’ juvenile offenders. Justice Policy adopted in England and Wales is an example of this trend, where the more liberal approach of the 1980s was abandoned, and, in 1991 the Criminal Justice Act replaced much of the welfare legislation and moved towards a ‘just deserts approach’. These shifts of

ideology had a dramatic impact on the numbers of young people who were incarcerated during this time and will be discussed in more detail in chapter four. More recently there has been a return to a welfare approach. The Crime and Disorder Act 1998 provides a range of diversionary interventions such as child curfew schemes and alternative sanctions for offending such as reparation and parenting orders. Similarly the Youth Justice and Criminal Evidence Act, 1999, introduced the referral order for first time offenders as a means of tackling the underlying causes of the offending behaviour (Mullan & O'Mahony, 2002).

#### 2.4. Definition of a Justice 'System'

It is also important to note that, while it is common to speak of the "juvenile justice system" the reality is that it is in fact an amalgamation of a number of separate systems, which together form a society's approach to juvenile crime and juvenile offenders. All agencies and professionals involved at various stages have their own separate systems – the police, judiciary, courts, social workers, probation officers, lawyers, detention units and so forth (Committee on the Rights of the Child, 2001). In other words it is not accurate to speak of 'policy' as if all those involved with young people work from the same set of criteria. Each agency has its own policy for dealing with juvenile offenders which may or may not be in line with overall Government policy. In addition, the general principles adopted by a country are open to some degree of interpretation by such agencies, depending on their own vested interests within the 'system'.



This description of a juvenile justice system applies equally to the Irish context and is particularly relevant at present as Ireland attempts to reform its existing juvenile justice policy. This is because any “attempts at juvenile justice reform are always more difficult because there are so many diverse systems, each with their own competing perspectives and vested interests” (Committee on the Rights of the Child, 2001).

UNICEF suggests that ‘juvenile justice’ should represent responses to juvenile offending that:

- encourage a process of behavioural change by helping the child or young person to feel accountable for his or her actions and understand their impact on others;
- foster integration rather than alienation;
- hence, avoid the involvement of the formal court system and, above all, to purely punitive responses such as deprivation of liberty wherever possible, and give special importance to constructive, community-based sanctions.

Young people’s experiences of the juvenile justice system are extremely varied, and it is important to recognise that there is a great deal of discretion available to those involved in the dispensing of justice. Thus rather than being a straightforward process, the “juvenile justice system is a complex series of hurdles and processes with a variety of goals and functions including, for example, punishment, reform and the welfare of the offender” (Little, 1990; 142).

## 2.5. Conclusion

It appears there are advantages and disadvantages to all systems of juvenile justice, however regardless of which method is in operation, there are inevitably some children and young people for whom the system will fail. Under a completely justice approach, there are those children whose predominantly welfare needs will be overlooked, and a truly welfare approach may not be appropriate for a number of persistent or serious offenders.

Even with the most comprehensive of juvenile justice policies that addresses all the concerns discussed in this chapter, there still remains the difficulty of putting this policy into practice. A number of authors have noted what has been termed the 'disjuncture between rhetoric and reality' that is not only evident within the juvenile justice system, but also within the wider arena. As Goldson notes, contemporary social and economic policies have resulted in increasing numbers of young people being subjected to poverty and structural disadvantage, and it is inevitably these children who are at greatest risk of becoming involved with the juvenile justice systems (Goldson, 1999). This disassociation between official policy and the reality of a situation in practice was highlighted by Kelly in her study of a locked institution for children, and will be discussed in more detail in relation to the practice of remanding children in custody in chapter four (Kelly, 1992). Firstly, Irish Juvenile Justice Policy will be examined in more detail.

## **Chapter 3: Irish Juvenile Justice Policy**

### **3.1. Introduction**

Having examined the theoretical explanations and factors associated with juvenile offending behaviour, and given a brief overview of juvenile justice policy in general, this chapter takes a closer look at juvenile justice within the Irish context.

“Children have not always been seen as a distinct social problem. Until this century, childhood was a brief and unimportant phase of life; infant mortality rates were high and those children who survived were quickly introduced into the responsibilities of adult life...The history of childhood, and the history of children as a social problem, are primarily a history of changes in the legal and social relations of children with the adult world” (Morris et al, 1980; 1).

The current child-care and juvenile justice systems in Ireland have their roots in the industrial and reformatory school systems established in the mid nineteenth century.

Up until this time children who committed criminal acts were treated no differently to adults and were subject to the same penalties, including the severe penalty of death. There was no public provision for juvenile offenders, although a number of voluntary and religious institutions provided some measure of care but were not financially assisted by the State nor were they subject to inspection or supervision by any State Authority (Kennedy, 1970). Increasing recognition of the specific

needs of children as distinct from adults resulted in The Reformatory Schools Act, 1858, which extended to Ireland the provisions of the English Reformatory Schools (Youthful Offenders) Act, 1854. This Act certified a number of the existing voluntary institutions as suitable for the care of young offenders committed by the court, established a State Authority for their inspection and provided for financial assistance for the maintenance of the children.

Although this was an improvement in the provisions for children who had committed offences it was soon realised that another group of children, namely those who were neglected, orphaned or abandoned also had specific needs and required intervention. As a result, in 1868 the Industrial Schools system was established in Ireland (Kennedy, 1970). At its peak at the turn of the century, the reformatory and industrial schools system in Ireland consisted of seventy-one schools and could detain up to 8,000 children at any one time (Raftery & O'Sullivan, 1999; 20).

There were increasing concerns amongst reformists however, that the needs of children were not being sufficiently met, that the punitive element in the criminal law was inappropriate for children and that instead of punishment, measures should be designed to educate, train, protect, treat or control children who had committed offences (Task Force, 1980; 224). The Children Act, 1908, was seen at the time to be quite progressive in its response to addressing the specific needs of children. In relation to children who had committed offences, the Act established the first Juvenile Courts so that children would not come into contact with adult offenders, and children under 15 years could no longer be detained in adult prisons

and were instead sentenced to a period of detention in a reformatory or industrial school. In addition the Act abolished the death penalty for children and set the age of criminal responsibility at seven years.

However, concerns regarding the child care system in Ireland continued to prevail and there have been major changes in child welfare legislation in Ireland over the last few decades, primarily as a direct result of strong criticisms of the industrial and reformatory schools system. In particular the failure of the state to adequately care for and protect from all forms of emotional, physical and sexual abuse those children within their care brought widespread condemnation of the system (see Raftery & O'Sullivan, 1999 for a detailed discussion.)

In response to such criticisms, recent Irish governments have placed a heavy emphasis on the protection and welfare of children who were seen to be exceptionally vulnerable, and over several decades there has been structural and legal reform in this area. The Kennedy Report (1970) was highly critical of the existing reformatory and industrial school system, stating that, "too little emphasis has been placed on the child's needs to enable him to develop into maturity and to adjust himself satisfactorily to the society in which he lives. If we do not re-orientate our thinking so as to lay primary emphasis on this point any expenditure of time, training or finance on the child care problem will not produce the results we are seeking" (Kennedy, 1970; 12). Many of the recommendations made in this report were subsequently implemented and as such had a dramatic impact on the system of child care in Ireland. Changes included a move towards smaller, more family like group homes rather than large institutions, staff were required to be specially

trained in child care, education of all children in care was essential and became the responsibility of the Department of Education, whilst the administrative responsibility for children in care was transferred to the Department of Health. In relation to juvenile offenders the Kennedy report found the reformatory system “completely inadequate” in respect of educational, recreational and aftercare facilities, with no assessment prior to admission the staff had insufficient background information on the children, and there was insufficient access to health authority services such as psychologists, psychiatrists, social workers and doctors. These issues were particularly concerning in relation to the remand home system where “children may be detained on remand or committed for periods up to a month, with no useful or healthy way of passing the time” (Kennedy, 1970; 43). Concerns were also raised about the lack of segregation in these homes to prevent children who had offended mixing with non-offenders and older children having a negative influence over younger children. As a direct result of the criticisms contained in the Kennedy Report the remand home at Marlborough House and the reformatory school at Daingean were closed and were replaced by a special school and remand and assessment centre at Finglas and a new reformatory in Lusk, Co Dublin (Task Force, 1980; 22). The latter two of these units are included in this study.

Another very influential report on the child care system was published ten years after the Kennedy report. The working group of the Task Force on Child Care Services examined and made recommendations on all aspects of child care in Ireland and it is notable that there was substantial disagreement in relation to the

best practice in relation to juvenile justice. There were a number of concerns particularly related to the role of criminal proceedings against children such as the use of punishment for punishment's sake, the formality of proceedings and subsequent incomprehensibility to the child and their family and the stigma to the child as a result of having a criminal conviction (Task Force, 1980; 227-229).

Although the working group recognised the importance of welfare principles of juvenile justice, and the need to take into account the social, developmental and emotional factors affecting the child's involvement in criminal behaviour, it raised concerns that a system based wholly on welfare principles, such as the Scottish Children's Hearings System, was too ambiguous and justified greater and more pervasive intervention in the name of 'treatment' (Task Force, 1980; 19,235).

The recommendation was for a Children's Court system to be established with separate proceedings depending on the circumstances of the child, namely 'control proceedings' for children who had committed offences and 'care proceedings' for children whose circumstances were such that their well-being or development was being impaired (Task Force, 1980; 20-21). Despite such recommendations, there have been no major legislative changes in juvenile justice in Ireland since the 1908 Act, until recently with the enactment of the Children Act, 2001. This has been explained by 'a long standing lack of political interest in this area', and 'a complete absence of political and public discussion on the prevention of juvenile offending' (Quinn, 2002; 677). As noted by O'Sullivan, "the current system of juvenile justice...is rooted in early 20<sup>th</sup> century conceptualisation of childhood and a philosophy of justice that is in the main viewed as unacceptable in a society, where

a respect for the rights of the child and protection for children is increasingly viewed as desirable....It is a system which currently offers little justice to those who are deemed to have violated the spectrum of activities worthy of punishment” (O’Sullivan, 1998; 309).

In contrast, legislative changes that promoted the welfare of children in need of care or protection continued to be a priority for successive Irish Governments. The passing of the Child Care Act (1991) and more recently the production of documents such as Children First (1999) and The National Children’s Strategy (2000) has further enforced the state’s commitment to such young people. Indeed, this latter document states its vision as, “An Ireland where children are respected as young citizens with a valued contribution to make and a voice of their own; where all children are cherished and supported by family and the wider society, where they enjoy a fulfilling childhood and realise their potential”. This statement, and indeed the document as a whole, is clearly based on the fundamental principles contained in The United Nations Convention on the Rights of the Child, which Ireland ratified in 1992. The three core principles contained in the convention are

- Article 2 – That all the Rights contained in the Convention should be applied to all children, without exception.
- Article 3.1 – That in all actions concerning children, the best interests of the child shall be a primary consideration.



- Article 12.1 – That the views of children be given due weight in accordance with the age and maturity of the child.

As noted by Hammerberg when we examine these general principles as a whole, “together they form nothing less than a *new attitude* towards children. They give an ethical and ideological dimension to the Convention” (Hammerburg, 1994).

Promoting and safeguarding the needs and rights of children who came into conflict with the law was not given the same priority until more recently. In a recent paper, Quinn (2002) notes that “Irish juvenile justice has been characterised by an inherent inconsistency ..... a lack of long-term planning and coherence in policy making and by chronic under-funding and under-resourcing. The absence of any long-term strategy or clarity regarding inter-departmental linkages has led to a complicated series of responses, with frequent overlaps, gaps and contradictions (Quinn, 2002; 678).

A Government Report published in 1992 that was highly critical of the juvenile justice system in Ireland finally initiated change and brought about the recently enacted Children Act, 2001 which aims to dramatically reform juvenile justice policy in Ireland. The principle aims of the Act are; to replace the Children Act, 1908 with a ‘modern comprehensive statute’ for the development of the juvenile justice system, the protection of children against persons who have the custody, charge, or care of them and introduces provisions for dealing with out of control non-offending children. In essence the Act represents a shift towards a more welfare-

oriented approach to children who are in trouble with the law. As summarised by Coghlan, “it prioritises the needs rather than the deeds of the child and as such gives formal recognition to a trend in Irish criminal justice policy which has been maturing over some two decades” (Coghlan, 2000; 11).

However, at the time of conducting this research juvenile justice was still legislated for by the Children Act (1908) and associated amendments so this study examines the policy that was relevant to the circumstances of the young people at the time the research was conducted (see O’Sullivan 1998 for a detailed discussion).

Reference to the Children Act 2001, and the potential effects it will have once fully implemented will also be made.

### 3.2. The Irish Court System

The existing Courts system in Ireland was established under the provisions of the Irish Constitution, 1937, which provides that “justice shall be administered in public in courts established by law by judges appointed by the President on the Advice of the Government” (Irish Judicial System, 1999; 4). There are a number of Courts established by the Constitution, however, the vast majority of juveniles would appear before one of the 248 District Court venues in the country. The major criminal jurisdiction of the District Court is the minor, statutory offences triable in a summary way. Ireland is divided into 23 districts and the district in which a sitting is held is generally dependent on where the offence was committed, where the defendant resides or where they were arrested.

When a District Court hears a case where the defendant is a juvenile, it sits as a Juvenile Court and is held separately from other sittings of the Court.

The Circuit Court has the same criminal jurisdiction as the Central Criminal Court (which is the High Court exercising its criminal jurisdiction). Trials are heard by the Circuit Court Judge who sits with a jury of twelve and generally a unanimous vote of the jury is necessary to determine a verdict. Juveniles would appear before a Circuit Court for trial if the offence was so serious as to be outside the jurisdiction of the District Court.

The High Court has “full original jurisdiction in and power to determine all matters and questions, whether of law or fact, civil or criminal. The jurisdiction of the High Court shall extend to the provisions of the Constitution....and no such question may be raised in any Court other than the High Court or the Supreme Court” (Irish Judicial System, 1999; 12).

Matters coming before the High Court are normally heard and determined by one judge. The High Court has the power to review the decisions of all 'inferior tribunals' in relation to the question of whether jurisdiction has been exceeded. In addition it may give rulings on a question of law submitted by the District Court and may hear appeals in certain other circumstances provided by statute.

Juveniles may appear before the High Court if the offence committed was of such a serious nature (murder, rape, aggravated sexual assault) as to be outside the jurisdiction of the Circuit Court. The High Court also hears cases of juveniles

referred by the District or Circuit Courts due to a breach of the constitutional rights of the child.

### 3.3. Legislation for Offenders

- Children Act, 1908 & The Children Act, 2001

The Children Act, 1908 was, at the time of this study, and pending implementation of the Children Act 2001 remains, the primary legislation for juvenile justice in Ireland, and a number of sections are particularly relevant to this review.

Section 107 of the 1908 Act provides for the various options available to the courts for dealing with children and young people who have been found guilty of an offence. The dispositions available include dismissing the charge, release on bail, release on probation (see below), imposing a fine on the child or their parent, placing the child on remand (see below) or sentencing the child to a period of detention (see below). A number of dispositions in this section are now outdated and are no longer in use, such as ordering the offender to be whipped.

It is now under Section 98 of the Children Act, 2001 that lists the various options available to the court once a child has been found guilty of an offence. These are; a conditional discharge order, imposing a fine on the child or their parent, a compensation order on the child or their parent, a parental supervision order, imposing a community sanction (see below) or sentencing the child to a period of detention with or without supervision (see below).

Section 57 of the 1908 Act (amended by section 9 of the 1941 Act) deals with the committal of young offenders, aged between 12 and 17 years to Reformatory Schools ('a school for the industrial training of youthful offenders'). Currently in Ireland there are three such schools – Oberstown Boys Centre, and Trinity House School for males and Oberstown Girls Centre for females. Boys over the age of 16 can also be sent to St Patrick's Young Offender's Institution if there are no places in a reformatory. Children under the age of 12 years convicted of an offence can be committed to an industrial school under section 58 of the 1908 Act.

Under the Children Act, 2001 all certified reformatory and industrial schools become known as children detention schools. Section 158 of the Act states that the principal objective of children detention schools is to 'provide appropriate educational and training programmes and facilities for children referred to them by a court' and to 'promote their reintegration into society and prepare them to take their places in the community as persons who observe the law and are capable of making a positive and productive contribution to society'. The Act recognises the need to regard the health, safety, welfare and interests of the child including their physical, psychological and emotional wellbeing, to provide proper care, guidance and supervision, to preserve and develop satisfactory relationships between them and their families, and to recognise the personal, cultural and linguistic identity of the child.

Section 63 of the 1908 Act allows for the committal to custody a child awaiting placement in a certified school to any place which they might be committed on

remand, i.e. a certified place of detention. Section 144 of the Children Act 2001 addresses this practice and states that the detention order be deferred, and the Director of the children detention school shall apply to the court to make the order once a place becomes available. Section 143 of the Act states that a detention order should not be made unless it is the only suitable way of dealing with the child, and that a place is available for him or her.

This study investigates children remanded to custody and the four units used for remand were certified places of detention under the Children Act 1908.

Sections 94 to 97 of the 1908 Act (amended by sections 24 & 25 of the 1941 Act) deals with places of detention and procedures for the bail and custody of juvenile offenders. Section 97 (1) of the 1908 Act states, "A court of summary jurisdiction, on remanding or committing for trial, a child or young person who is not released on bail, shall...commit him to custody in a place of detention...to be there detained for the period for which he is remanded or until he is thence delivered in due course of law."

The practice of remanding a child to custody is dealt with under Section 88 of the Children Act, 2001. Where the child is under 16 years of age he or she can be remanded to a junior remand centre, and where the child is over 16 years of age he or she may be remanded to a designated remand centre. A junior remand centre or remand centre may be part of a children detention school. When this is the case, as it is at present, the Act states that 'children remanded in custody to the centre shall, as far as practicable and where it is in the interests of the child, be

kept separate from and not allowed to associate with children in respect of whom a period of detention has been imposed.’

- Probation of Offenders Act, 1907

This allows courts to conditionally discharge an offender to the supervision of the Probation and Welfare Service, providing the offender gives a formal undertaking to be of good behaviour and to adhere to any directions of the court and/or their probation and welfare officer. The court may attach conditions such as night-time curfews, payment of fines/compensation, attendance at a work or training programme, or residence at a named location. If, during the period specified on the probation order, any terms are not adhered to the probation and welfare officer can return the case back to court for further direction by the judge.

Section 99 of the Children Act 2001 provides for the court, when satisfied of the guilt of the child and prior to imposing a community sanction or a period of detention, to adjourn proceedings, remand the child and request a probation and welfare officer to prepare a report. Under this section it states that “the probation officer’s report shall, at the request of the court, indicate whether, and if so how, in his or her opinion any lack of care or control by the parents or guardian of the child concerned contributed to the behaviour which resulted in the child being found guilty of an offence.”

- Criminal Justice (Community Service) Act, 1983

Under the terms specified in this Act, the courts can sentence a young person with up to 24 hours of community service, providing certain conditions are met. These are:

1. The offence must merit an immediate custodial sentence
2. The offender must be aged sixteen years
3. The offender must consent to this type of disposition
4. The court must be satisfied that the offender is a suitable person to undertake community service work and that such work is available.

Similar to the probation order, if a young person fails to adhere to the terms of a community service order, the case is returned to court where the judge can either add a fine to the original sentence or sentence the offender to a period of detention (Irish National Teacher's Organisation, 1982).

### 3.4. Legislation for Non-Offenders

A number of children appear in court for reasons other than as a result of offending behaviour. It is through the use of the following pieces of legislation that an increasing number of young people in need of care and protection find their way into the Irish Juvenile Justice System. Once the child has appeared in court the judge can then order the child to be remanded in custody for the purposes of an independent professional assessment.



- Children Act, 1908

Section 58 of the Act (as amended by section 10 of the 1941 Act) relates to those children liable to be committed to an industrial school ('a school for the industrial training of children'). There are two industrial schools remaining in Ireland, St Lawrence's in Dublin and St Joseph's in Clonmel, Co Tipperary, both of which cater solely for boys. Under section 58 (4), those children who are deemed to be out of control of their parents can be sent to a certified industrial school, whether they have committed an offence or not.

It must be noted that the current practice of remanding non-offending children for assessment purposes is addressed under the Children Act 2001, where Section 88(13) states that 'the court shall not remand a child in custody...if the only reason for doing so is that the child is in need of care or protection.'

- School Attendance Act, 1926

This Act, which has had minor amendments since 1926 created School Attendance Committees and School Attendance Officers whose main function is to ensure all children enjoy their fundamental right to education. In Ireland the minimum school leaving age is 16 years (Education (Welfare) Act, 2000). Schools have to report any children who are not attending school without good reason to their School Attendance Officer who then contacts the family. Cases are often referred to them by other welfare agencies since under the provisions of this Act a School Attendance Officer can bring a case to the District Court against the parent of a child who is not attending school.

### 3.5. Problems with the Children Act, 1908

It could be argued that although the Children Act, 1908 and associated juvenile justice legislation provided the formal legal framework, it is not necessarily reflective of the increasingly welfare oriented approach generally being adopted by the state towards Irish children. Although many issues have been addressed with the enactment of the Children Act, 2001, it is important to highlight the problems that arose under the legislation at the time this study was conducted.

From this brief overview of legislation there is cause for concern regarding the (ab)use of some of the legislation within the juvenile justice system.

For example;

Section 63 of The Children Act (1908) allowed for the committal to custody of a child awaiting placement in a certified school to any place which they might be committed on remand, i.e. a certified place of detention. Given the lack of a sufficient number of secure therapeutic detention places for young offenders, which has been described as “the most glaring deficiency in the juvenile justice system right now” (O’Malley, 1991; 32), it is inevitable that any child held under this section of the Act may be waiting some time before they are finally placed elsewhere.

Under section 58 (4), those children who are deemed to be out of control of their parents can be sent to a certified industrial school, whether they have committed an offence or not. A certain precursor to such a placement is a three-week

assessment within either the National Assessment and Remand Unit (for boys) or Oberstown Girls Centre (for girls). One of the most glaring concerns in relation to this practice is that such children are detained in the same unit as those who have committed offences. Similarly, children who are remanded for assessment under the School Attendance Act (1926) would potentially be exposed to the same negative influences. Even if the assessment period itself can be justified, these children are then likely to encounter the same problem as their offending counterparts, i.e. a lack of suitable placements, and thus may well be detained in such units for far longer than the three week period initially anticipated.

There is already ample evidence to suggest that such difficulties do exist and, in relation to this study, there are a number of juveniles whose cases have been sent to the High Court by a district court judge for Constitutional Judicial Review. In these cases the matter in question is whether the Constitutional rights of the child, under Article 40 of The Irish Constitution, are being denied by the State (Byrne & McCutcheon, 1996). The High Court Judge in these circumstances is being asked to make a ruling in relation to the failure of the State (Ministers for Justice, Education and Health) to provide a suitable residential placement for the child. Furthermore, it has been revealed that in some circumstances judges are forced to detain children in highly unsuitable accommodation such as adult psychiatric hospitals, garda stations, hotels and bed and breakfast accommodation because there is no other place for them. In addition, units intended for the remand and detention of young offenders are forced to turn young people away because beds

are being taken up by other young people in need of care and protection who often have no convictions (Kearns, 2001).

A number of organisations and agencies involved with children and young people are particularly concerned about the current state of the Irish juvenile justice system, and have called for immediate change (see for example Irish National Teacher's Organisation, 1990; Irish Penal Reform Trust, 2000; National Youth Federation, 1996). The general public has also been made aware of the current situation through informative media outlets, including a two-part documentary entitled 'Out of Control' by RTE's current affairs programme, Prime Time (October 2000), and a two-day special report in the Irish Times entitled 'Children in Crisis' (April 2000).

Asquith notes that, "All too often changes in juvenile and criminal justice are piecemeal, incremental and lacking in integrity and coherence. The search for alternatives should benefit from current debates in Europe [and further afield] on the nature of juvenile justice and in particular should be based on a clear statement of aims and objectives." (Asquith, 1996 ; 87)

This is a particularly important point in that it should be extremely clear what the purpose of the justice system is and who it is intended to provide for. The Forum for Youth Homelessness recently noted that

"It was suggested...that a greater availability of remand places, even for a short period, would give social workers a better opportunity to contact young

people's families, provide a better response to the needs of the young people and be of assistance to the courts." (Forum on Youth Homelessness, 2000 ; 46)

Youth homelessness is highly correlated with juvenile crime, and in Ireland there is a considerable number of young people classified as homeless (Hagan & McCarthy, 1997; Carlen, 1996). A recent report showed that 340 young people were homeless during one week in 1999, 200 of which were female and 140 male (Forum on Youth Homelessness, 2000; 19).

Being homeless puts young people at increased risk of drug and alcohol abuse, involvement in prostitution, and abuse. It has also been noted that those children who have no fixed abode who come before the courts are more likely to receive a custodial sentence as a means of providing the child with the treatment and services which they need, within a structured environment.

The use of remand and detention facilities within the juvenile justice system for the purposes of addressing a social problem such as youth homelessness is clearly not the way forward, and represents a form of 'social injustice' as described in a recent article by a High Court Justice (Barr, 1999).

### 3.6. Conclusion

Although it is evident that there are many concerns about the current system of juvenile justice in Ireland, there is very little in the way of hard evidence to substantiate these worries, outside a limited number of high profile cases. It is only by examining closely the policy and practices of those involved with children and young people in the justice system, as well as the experiences the children have of

the services they receive that we can fully understand the difficulties that are being encountered. Not only will this research aim to highlight some of these problem areas in relation to the remand and detention of young people in Ireland, it may also provide a mechanism for assessing the impact of the proposed changes within the Children Act 2001.

The following chapter looks at the practice of remanding children into custody in more detail. It demonstrates the effects on incarceration rates depending on the ideology adopted by a country, and the role of international legislation regarding the remand and detention of young people. The four remand units in Ireland are introduced and finally the effect of remand and detention on the young people is explored.

## **Chapter 4: The Practice of Remanding Children and Young People into**

### **Custody**

#### **4.1. Introduction**

A central aim of this study is to demonstrate the relationship between official juvenile justice policy and the reality of juvenile justice in practice. It has been demonstrated in the previous chapters how policy changes over time and is dependent on a number of factors. In addition, it has been shown that the juvenile justice sector represents a number of different organisations and agencies, each with their own individual policies and practices. With so many independent variables, it is therefore almost impossible to study all aspects of 'policy' and 'practice' in order to assess the relationship between the two. However, one aspect of juvenile justice practice that does tend to reflect the prevailing ideology is the rate of incarceration of children and young people.

#### **4.2. Political Rhetoric versus Actual Practice**

Kelly, in her study of a locked institution for children within a justice system that is ideologically welfare oriented also refers to the ideological conflict between policy and practice. In her conclusion she notes, "the use of incarceration and its rationalisation in treatment terms provided a particularly stark example of what was seen as a central conflict within the juvenile justice system...a gap between rhetorical descriptions of the purpose of juvenile incarceration and what was termed the reality of the system in practice" (Kelly, 1992; 199).

She goes on to say that, "looking at the secure unit itself, the gap between rhetoric and reality became more acute. There was little evidence of 'treatment' practice; staff characterised official rhetoric as unrealistic or unattainable. Much of the management of children, which was described in treatment terms, emerged as measures of control and surveillance. But euphemistic terminology surrounded penal aspects of the environment and an uninitiated observer would have been unprepared for stark cells, solitary confinement and the physical restraint of children imposed by staff within the unit" (Kelly, 1992; 205). This study will explore the use of incarceration on remand in the Irish juvenile justice system and this will be used as a measure to allow official policy to be compared with actual practice.

#### 4.3. Justice Policy and Rates of Incarceration

Evidence from England & Wales illustrates how the policy adopted by a State can have a dramatic effect on incarceration rates. As noted by Rutherford juvenile justice policy in England & Wales has swung to and from the justice and welfare models as a reflection of a balancing process between these competing ideologies (Rutherford, 1996).

The first juvenile courts were established by the 1908 Children Act, but since then a number of changes have been made to the system in England & Wales.

The first Children and Young Persons Act in 1933 introduced the concept of welfare provision into the juvenile justice system, and the trends towards a welfare oriented system culminated with the passing of the Children and Young Persons Act 1969. The Act shifted the emphasis towards the welfare of the child and his/her



immediate needs, the local authority became responsible for young people rather than magistrates, and community homes replaced approved schools and remand homes. Its guiding philosophy was “that those children who had come into conflict with the law were not different from those in other necessitous circumstances: essentially young offenders were to be handled by civil ‘care proceedings’ with the commission of the offence being but one factor for consideration” (O’Mahony & Deazley, 2000; 65). However, the Act was never fully implemented and by the end of the 1970s, which saw a 112% increase in custodial sentences for juveniles, the welfare approach was increasingly being questioned, particularly in relation to the rights of the offender. The main concerns were in relation to indeterminate sentences and lack of proportionality in sentencing (Graham, 1996; Rutherford, 1996). The 1980s, through the implementation of the 1982 and 1988 Criminal Justice Acts saw a decline in the use of custodial measures for juvenile offenders, an increase in the use of formal police cautions and stricter criteria for imposing custodial sentences (Graham, 1996). These changes represented an 81% decline in the use of custodial sentences for boys aged between fourteen and seventeen years of age (Rutherford, 1996; 57).

The last decade has shown an increasing trend towards a justice oriented approach to juvenile crime. The 1991 Criminal Justice Act replaced much of the welfare legislation and moved towards a ‘just deserts’ approach. The Act did however contain proposals to prohibit custodial remands of juveniles except in circumstances where there was a serious risk to the public, and, in the longer term, to end completely this practice (Penal Affairs Consortium, 1996). Since 1992,

increased public concern about violent offenders, efforts by the police to highlight 'bail bandits' (those who commit further offences while on bail) and persistent juvenile offenders served to reinforce the stand point that juvenile crime was a serious problem and needed to be dealt with accordingly (National Association for the Care and Resettlement of Offenders, 1997). In 1994 the Criminal Justice and Public Order Act, reflects this tougher stance on juvenile offending, by introducing a range of new measures which essentially extend the courts' remand and sentencing powers to young offenders.

These included a new custodial sentence for 12-14 year-old persistent offenders, the maximum sentence of 14 years for grave offences extended to 10-13 year-olds, increased the maximum length of detention from one to two years, and allows courts to remand 12-14 year-olds to secure accommodation (Graham, 1996; 77). Statistics show that in conjunction with the tougher attitude to juvenile crime, the annual number of remands to prison service custody in England and Wales rose by 72% between 1992 and 1995 (Penal Affairs Consortium, 1996). The explanations for such policy changes are complex but according to Rutherford, they include "political opportunism which was unusually cynical and devoid of principle; a moral panic and crusade around young people in trouble, in large part encouraged by sections of the media; and a failure of politicians' nerve and others who knew better" (Rutherford, 1996 ; 57). More recent legislation has further increased the use of custodial remands for young people. These include the Crime and Disorder Act, 1998, the Youth Justice Criminal Evidence Act, 1999 and in particular section 130 of the Criminal Justice and Police Act 2001. This latter Act introduces the

power to impose a secure remand on a young person who commits further offences whilst on bail, irrespective of the seriousness of the offence (Mullan & O'Mahony, 2003; Lipscombe, 2003). Figures show that the number of children remanded to secure custody increased by over 25 percent between April 2001 and April 2002 (Youth Justice Board 2002, cited in Lipscombe, 2003; 35).

#### 4.4. Remand in Ireland

Ireland also detains a large number of young people in custody every year, and has one of the highest rates in Europe (O'Mahony, 1993). The National Youth Federation suggested that a number of issues contribute to this high rate of detention including;

- The increased length of sentences being approved by the Courts
- The practice of assessment on remand
- The lack of provision for young people who are mentally disturbed or psychiatrically ill to be placed in psychiatric care
- The absence of alternative open community-based rehabilitative facilities
- The option of placing 'unruly or depraved' children in detention that allows the Health Boards to abdicate their responsibility for the welfare of children by transferring the problem to the Department of Justice.

The National Youth Federation (1996; 21)

Article 5 (1)(d) of the European Convention on Human Rights authorizes the detention of minors for either the purpose of educational provision or for bringing them before a competent legal authority (remand). Such orders can be made by an

administrative authority other than a court of law, and the jurisdiction of juvenile courts extends to non-criminal cases (Jacobs & White, 1996; 107).

By ratifying the United Nations Convention on the Rights of the Child, Ireland has also undertaken to adhere to associated UN legislation pertaining specifically to juvenile justice, these are

- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (1985) (Beijing Rules)
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990)
- United Nations Guidelines for the Prevention of Juvenile Delinquency (1990) (Riyadh Guidelines)

Ireland has been severely criticised by its failure to meet these standards particularly in respect of young people who are incarcerated in the youth justice system (CRC/C15/Add.85). However it is not alone in receiving such criticisms as outlined by the Committee on the Rights of the Child (2001);

“Juvenile justice is the “unwanted child” of States when it comes to living up to their obligations under the Convention on the Rights of the Child. In calling juvenile justice an “unwanted child” we are referring to the difficulty – often the extreme difficulty – that States have in respecting the human dignity, and in promoting the healthy development of children and adolescents who are ‘in conflict with the law’.”

Similarly, UNICEF states that,

“Given the importance placed on juvenile justice by the international community ... it seems somewhat paradoxical that the rights, norms and principles involved are regularly ignored and seriously violated virtually throughout the world on a scale that is probably unmatched in the field of civil rights implementation” ([www.unicef.org](http://www.unicef.org)).

Locking children up in secure establishments represents an extremely sensitive and delicate aspect of any juvenile justice system. Sections 94 to 97 of the Children Act (1908) (as amended by the Children Act 1941) deals with remands into custody of young people in Ireland. There are currently seven units in Ireland that cater for juveniles under 16 years who have offended. Under the Children Act 2001 all these units are now known as children detention schools, or juvenile remand centres however their descriptions in this section will be given according to their status at the time of the study and therefore according to the provisions of the Children Act 1908.

St. Laurence's in Finglas, Dublin and St. Joseph's in Clonmel, Tipperary are both certified Industrial schools. Neither of these units has any provision for remanded children and young people. St. Patrick's Young Offenders Institution, located in Dublin city centre provides remand facilities for boys aged over 16 years. Girls aged 16 years and over would be detained in Mountjoy Women's Prison, also in Dublin.

The remaining four units, which are included in this study cater for the remand and detention of males and females aged under 16 years of age. All the units are managed under the auspices of the Department of Education and Science and are illustrated in Table 4.1.

Table 4.1 : Remand Institutions in Ireland for children under 16 years

	Remand places	Security of unit	Detention	Assessment
National Assessment & Remand Unit	18	low	No	Yes
Oberstown Boys Centre	10	medium	Yes	No
Trinity House School	2	high	Yes	No
Oberstown Girls Centre	5	medium	Yes	Yes

- National Assessment and Remand Unit

The National Assessment and Remand Unit (NARU) was a certified place of detention under the provisions of the Children Act, 1908. It currently has 18 places for boys aged under 16 years and is primarily a short term, semi-secure residential unit. NARU has two main functions, the first of which is to carry out multi-disciplinary assessments, usually over three weeks, to aid the Courts in making appropriate decisions. Boys who are remanded for assessment have appeared in court due to their offending behaviour, or have been referred to the court for either non-school attendance or out of control behaviour (see discussion of the legislation for non-offenders). The unit also acts as a remand centre for the courts, as a

detention centre for those on a one month detention order, and increasingly of late as a detention centre for children whose cases are before the High Court.

NARU is the least secure of the four residential units in this study, and all boys reside in the unit as a single group. However, there are currently plans to convert NARU into a number of smaller units, which would allow the separation of the residents according to criteria such as their age, circumstances, seriousness of offending behaviour and whether they are detained for remand or assessment purposes.

- Oberstown Boys' Centre

Oberstown Boys' Centre caters for a maximum of thirty boys. There are three units, one remand unit (Ardgillan House) and two committal units (Courtlough and Baldongan Houses). Under the provisions of the Children's Act, 1908, Ardgillan House was a certified place of detention (Remand Home) while the two long term units were certified as a reformatory school (residential special school). Those boys in Courtlough or Baldongan House have been convicted of an offence, punishable if they were an adult by a term of imprisonment, and have been sentenced to a period of either one or two years detention. By comparison, those boys in Ardgillan House may be detained from only one day up to one month at a time. For this reason the group dynamics are constantly changing with the coming and going of many individuals during a year.

Ardgillan House has a maximum of ten beds and is a medium secure unit, designed for the short-term detention of individuals.

- Oberstown Girls' Centre

Oberstown Girls' Centre is located on the same campus as Oberstown Boys' Centre and Trinity House School. There are two units within the centre, the first of which is a remand and assessment unit that caters for girls who have been referred by the Courts. (Although a small number enter the unit for assessment on a voluntary basis and have been referred directly from their Health Board.) Similar to the National Assessment and Remand Unit for boys, the usual length of stay for assessment purposes is three weeks. Girls on remand may stay from one day up to one month at a time. The unit also caters for girls who have been sentenced to one months' detention. Again, both remands and assessments reside in the same unit and live as one group.

The second unit is a long term committal unit, similar to Courtlough and Baldongan Houses in the Boys' Centre. This opened in 1991, and caters for girls who have all been sentenced for a minimum stay of one year. There are no voluntary admissions to this unit, all girls have been sentenced by the Courts for an offence that would be punishable if committed by an adult with a term of imprisonment. Similar to Oberstown Boys' Centre, the remand unit was a certified place of detention while the long term unit was a certified reformatory school, under the provisions of the Children Act 1908.



- Trinity House School

Trinity House School, which opened in 1983, was a certified reformatory school under the provisions of the Children's Act, 1908. It caters for a total of 30 boys, who are separated between three, independently run units. At present there are only two official remand places in the school, which are located in House One, which provides an admission and assessment programme. After this period, boys move to either House Two, which caters for younger boys with more emotional or behavioural symptoms, or to House Three, which generally caters for the older, more delinquent group of boys.

Trinity House is the most secure of the units in this study, and it caters for boys aged between twelve and sixteen years of age on admission.

#### 4.5 Juvenile Justice, Remand and Children's Rights

By adopting the principles of the United Nations Convention, States have altered the way they view children and childhood. For example it represents a change in focus from children's 'needs' to children's 'rights', towards viewing children as 'subjects' rather than 'objects' (Hogan, 1997) and recognising that children, as social beings, have much to contribute (Editorial, 1999; Roche, 1999).

Thus it is now recognised that children, as developing human beings, are entitled to special care and protection from both National and International organisations and agencies. As noted by the Task Force on Child Care Services (1980; 34), "when speaking of children's needs and children's rights we can only distinguish them from the needs and rights of other groups and from human rights generally,

because children are special in two respects. Firstly, they are persons 'in the process' of formation; secondly, they are not independent."

Thus children should be afforded the same fundamental human rights and freedoms as adults. Historically, however, the personal rights of the child have been inextricably tied up within the family unit, and specifically have been overshadowed by the rights of the parents, which are protected by the Irish Constitution. Article 41.1.1. provides that, "the State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptable rights, antecedent and superior to all positive law."

Under the 1991 Child Care Act, which made extensive reforms in the area of child welfare, this issue was addressed in part 2, Article 3(b)(i) whereby Health Boards are required to, "having regard to the rights and duties of parents, whether under the Constitution or otherwise...regard the welfare of the child as the first and paramount consideration."

Although this is clearly a very positive move, the same rights have yet to be afforded to those children who come into conflict with the law. The primary difficulty is that although, in theory, Ireland subscribes to the basic principles of The Convention on the Rights of the Child, and it's associated legislation, these cannot be automatically incorporated into domestic law. This is the first indication that

ideological rhetoric regarding children within the Irish Juvenile Justice system is not reflected in the reality of the day to day practice of the system.

Article 29.6 of the Irish Constitution provides that; “No international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas.”

In other words, even if Ireland ratifies an international treaty such as the UN Convention on the Rights of the Child, the provisions within that treaty are not legally binding until they have been incorporated into domestic law by Act of the Irish Parliament.

Furthermore, where the provisions of the treaty are incompatible with the Constitution, a constitutional amendment must take place to enable ratification. This is a very difficult process since any amendment to the Constitution must be cleared by a majority of both Houses of the Oireachtas and the subsequent approval of the proposal by a majority of those voting in a referendum.

The Irish Government is well aware of these potential difficulties. At the Consideration of Ireland’s Report to the Committee on the Rights of the Child, 14 January 1998 in Geneva, the following statement was made;

“In 1997, the Minister who had introduced the Children Bill (1996) said he had been advised by the Attorney-General that potential constitutional difficulties existed in relation to the provision referring explicitly to the rights of the child, which had therefore been reworded. This raised a crucial issue. The innovative idea of the Convention was that of moving from protection

and caring to an assertion of children's rights. That innovative approach had implications not only in abstract or ideological terms but also for the practical implementation of the Convention."

The question arises as to how the principles of the Convention can be put in place at the practical level without any formal legislation, and how best to manage / oversee this implementation at ground level. A number of agencies and organisations have argued for the introduction of a Children's Ombudsman in order to carry out these functions (see for example Kilkelly, 1997; Martin, 1998; Cousins, 1996). This issue was raised by the Children's Rights Alliance in a paper entitled *Small Voices: Vital Rights*, stating that

"there is no mechanism in place which will ensure adherence to the principle of the child's best interests. The establishment of an Office of Ombudsman for Children could substantially rectify this situation" (Kilkelly, 1997;17). The Children Act, 2001 finally provided for the establishment of a Children's Ombudsman in Ireland and more recently this came into being with the Ombudsman for Children Act, 2002. A Children's Ombudsman essentially acts as a neutral investigator of children's legitimate problems or complaints and is seen by some as a 'manifest expression of society's commitment to recognising and prioritising children's rights' (Martin, 1998). In recent years Ireland has made a number of substantial changes in the way it has planned, managed and delivered services for children. In the recently published 'National Children's Strategy', Mary Hanafin, Minister of State with

Special Responsibility for Children summarised Ireland's commitment to change with the following introduction-

“All of us who work with children now realise that children's views should be heard, their contribution to society valued and their role as citizens recognised. We aim to ensure that all our children are given the support and services that they need.”

The Strategy provides for a new framework at both national and local level that includes the setting up of an Ombudsman's Office, a National Children's Advisory Council, and a National Children's Office to advise, coordinate, deliver, monitor and evaluate these new provisions (National Children's Strategy, 2000; 26-28).

Although welcomed as an 'unprecedented initiative by Government which is laden with high aspirations and noble objectives' some authors are doubtful as to how successful the Government will be in actually adhering to its plans. As McGrath suggests, “there are little or no specifics outlining how the high aspirations for the most needy children are to be achieved” (McGrath, 2000; 3).

Remanding a child into custody constitutes a deprivation of liberty, defined by Article 11(b) of the UN Rules for the Protection of Juveniles Deprived of their Liberty as “any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority.”

Some of the major principles relating to the deprivation of liberty that will be examined in conjunction with this study are: (emphasis added)

- Article 2 – that the deprivation of liberty should be a *measure of last resort*, and for the *minimum necessary period* and should be *limited to exceptional cases*.
- Article 17 – that juveniles who are detained under arrest or awaiting trial (“untried”) are *presumed innocent and shall be treated as such*. *Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances*. Therefore, all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest *priority to the most expeditious processing* of such cases to ensure the shortest possible duration of detainees. *Untried detainees should be separated from convicted juveniles*.
- Article 28 – The detention of juveniles should only take place under *conditions that take full account of their particular needs, status and special requirements* according to their age, personality, sex and type of offence, as well as mental and physical health, and *which ensure their protection from harmful influences and risk situations*.

The principal criterion for the separation of different categories of juveniles deprived of their liberty should *be the provision of the type of care best*

*suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.*

#### 4.6. The Effects of Remand

Besides the potential abuse of a child's fundamental rights during the period of a custodial remand there are also more practical concerns regarding the potentially negative effects on the child's social and emotional development. There is very little research in Ireland specifically detailing the effects of secure care within the juvenile justice system therefore evidence presented is drawn from research conducted in the United Kingdom. However, most research has been conducted on those children who are sentenced to a secure facility (eg Kelly, 1992; Milham et al, 1978) or on those who are detained in prison service custody, generally aged 15 and 16 years (Institute for the Study & Treatment of Delinquency, 1998; Penal Affairs Consortium, 1996; Denham, 1984).

A Home Office paper in the UK (1988) emphasised the need to restrict use of custody for young offenders stating that "even a short period of custody is quite likely to confirm them as criminals. Particularly as they acquire new criminal skills from more sophisticated offenders. They see themselves labelled as criminals and behave accordingly" (cited in Newburn, 1995; 141). The stigmatising effects of detaining children with more serious offenders is an issue raised in Ireland by a number of organisations, including the Irish National Teacher's Organisation who criticise the practice of those on assessment and those on remand being detained

in the same units. They state, "boys on a remand only order have usually been assessed already and are returned due to lack of appropriate placement or a breakdown in the suggested intervention. These boys can be serious offenders, firmly immersed in a delinquent subculture and may be awaiting a longer custodial sentence...Some exhibit seriously disturbed and aggressive behaviour and...[their] presence can have a destabilizing effect on their peers" (Irish National Teachers Organisation, 1995; 28). In this report the INTO clearly states that "Remand and Assessment Units should be separate from one another, and should be managed and administered totally independently of the industrial/reform schools" (Irish National Teachers Organisation, 1995; 69).

The need for secure units in order to meet the needs of a small number of young people is generally accepted. Criticisms are more often related to their over-use in circumstances where alternatives to secure provision may be an option, the use of detention as a means of social control, and secure provision that is unsuitable to the needs of children and young people (Penal Affairs Consortium, 1996; Irish Penal Reform Trust, 1995; National Youth Federation, 1996; Ashton & Moore, 1998, Kelly, 1992). A major criticism lies in the fact that the use of secure facilities for children is incompatible with the welfare ideology that most countries claim to adopt. Similar to Kelly's (1992) findings of the gap between rhetoric and practice in a locked institution for children, Denham studied children who were detained in penal establishments after being certified as being of 'unruly character'. She states



that “‘locking up simply to detain’ runs counter to the objectives of the welfare model of treatment for juvenile delinquency” (Denham, 1984; 2)

Other negative consequences of detaining young people on remand and detention in secure institutions include bullying and victimisation (Penal Affairs Consortium, 1996; Power et al, 1997), higher incidences of suicide and self-harm (Lawlor & Kosky, 1992; Holley et al, 1995), and higher rates of recidivism (Milham et al, 1978; Curran et al, 1995).

Considering that the majority of young people who are remanded in custody before trial do not eventually receive a custodial sentence, the value of such practices are increasingly being questioned (Denham, 1984; Penal Affairs Consortium, 1996; Ashton & Moore, 1998).

The negative effects of early penal custody in Ireland are illustrated in O’Mahony’s study of Mountjoy prisoners. In his sample of 108 prisoners, 95% had previous convictions, of whom 31% received their first conviction before 14 years of age, and the remaining 64% received their first conviction before they were 17 years of age. In addition 7% had been in custody before the age of 15 years, 13% had spent time in either a state reformatory or industrial school, and 77% had previously been in St. Patrick’s Young Offenders Institute (O’Mahony, 1997). As noted by Barr, “these figures underline the apparent failure of penal custody as a viable means for achieving reformation of young offenders” (Barr, 1999; 4).

Despite such evidence, a large number of young people continue to be detained on remand in Ireland, and, if we accept the views of policy makers, this number is

likely to increase. For instance, a recent statement suggested that 41 extra secure places for children in need of such care will be opened in 2002, in addition to the 93 that already exist (Department of Health press release 17/12/01). The lack of research on the needs of the young people who are likely to be detained in such units suggests that such measures have not been adequately considered.

#### 4.7. Conclusion

This chapter has examined more closely the practice of remanding young people into custody, how this affects the rights of the young offender, and how political rhetoric is not necessarily reflected in practice.

We need more knowledge about the young people already on remand, why they are there in the first place, the *real* purpose of the detention (i.e. is it punishment or treatment), the effectiveness of the detention in terms of reducing offending, and the effect such detention has on the individual children and their families. This research aims to provide some of the answers to some of these questions.

The following chapter details the methodology used in this study. It begins with a description of the pilot project initially conducted as a means of directing the research, how the research tools were then modified for the primary study, and the subsequent information that was gathered on each of the children. It also introduces the flow chart of the custodial aspect of the juvenile justice system that was developed in order to explain and analyse the intricacies of this system.

## **Chapter 5 : Methodology**

An overview of the literature on Irish juvenile justice revealed that there were very few previous studies that had been conducted on young offenders in Ireland. As a result there was little known about such people as a distinct population, nor was there much in the way of research methods that had proven effective in studying this group.

As a result of this it was felt necessary to carry out some exploratory work in the form of a pilot study before embarking on the primary research. The details of this pilot, and the implications it had for the primary research will be briefly discussed before detailing the precise methodology used in the main project.

### **5.1. Pilot Study**

There were two central reasons for conducting an exploratory pilot study. Firstly, it would provide information on the nature of the population to be studied, specifically relating to custodial remands of young people in an Irish context. Secondly, it would help in the development of the research tools that would be used in the research. In addition to this, it also provided an opportunity to explore this area from a *child's perspective* by allowing the young people themselves to be involved in the direction the research would take.

Thus, two research methods were used in the pilot study with the intention of gaining as much information as possible relating to the practice of remanding children in custody in Ireland. It was anticipated that the most significant and

relevant aspects would then become apparent on analysis and that these would then be explored in greater detail in the primary research.

The first priority was to establish the size of the remand population in Ireland.

There are four units in Ireland that, under the Children Act 1908, are designated to cater for children under 16 years of age who have been remanded in custody.

Each unit had been previously contacted and had agreed to take part in the study.

In order to establish the size of the population, one day was selected and each unit was contacted by telephone and asked for the number of children on remand for that day. All units indicated that in general all or most of the available beds would be used at any given time and indeed, on this day 34 out of 35 of the available beds across the four units were occupied.

### **5.1.1. Focus Groups**

The original intention of this study was to try, as far as possible, to examine aspects associated with the practice of custodial remands from *the child's perspective*, and focus groups were selected as a research method that provided this opportunity.

There is currently a substantial growth in the use of qualitative methods when conducting research with children, and an interest in obtaining information directly from children which explores their *own* perspective on their thoughts, feelings, experiences and opinions.

Hogan (1997) suggests that rather than viewing children as research 'objects', i.e. as something to be studied, as researchers we should learn to view them as research 'partners' where they can then play a more active role in the research process.

Focus groups are essentially a form of collective interview by a person known as a moderator with a group of people who share a common interest. Discussion among the members of the group often provides insights and information that is less likely to surface during a one-to-one interview. As far as this study is concerned, a number of advantages of using focus groups as opposed to other methods such as interviews were that they:

- are particularly useful for exploratory research where little is known about the phenomenon of interest
- can increase participant involvement because subjects react and build on each other's responses
- enable the researcher to get closer to the participants' understanding of their topic of interest
- are useful with children because they allow for the use of stimulus material and role-play to help focus discussion and make the session more enjoyable for the child.
- Can help subjects to be more relaxed as they are in the presence of each other, and as a result the environment could be perceived as less threatening.

(see Stewart and Shamdasani, 1990; Morgan, 1988; Krueger, 1998; Lee, 1993 for further discussion on focus groups.)

Deirdre McTeigue was successful in her use of focus groups in exploring children's experiences of life in care in Ireland. She highlighted the value of this method in eliciting rich data, in anticipating new perspectives from the children themselves, and of using it as an exploratory tool. In her conclusions she uses the words of one of her subjects who felt she had a positive experience of a focus group because "you're not assuming what it would be like for us - but you're finding out for yourselves how we feel and what it's like, and that's good" (McTeigue, 1997).

There are a number of limitations in the use of focus groups, as highlighted by Stewart & Shamdasani (1990). Firstly, since they involve relatively small numbers of participants, by comparison to other research methods such as a large scale survey, there are limitations on the generalisability of the results to the population. Secondly, since the participants are being interviewed as a group, the responses cannot be taken as independent – they are also a result of the interpersonal influences and relationships within the group. However, the real value of the focus groups is in ensuring that a study really is being researched from the participants' perspective rather than from the pre-conceived ideas of a rather less informed researcher (Morgan, 1988).

#### 5.1.1.1. Ethical Considerations

Due to the highly sensitive nature of this research, and the already vulnerable position of the children concerned, a great deal of consideration was given to issues of ethics, confidentiality and disclosure of information. This research was

informed by the British Sociological Association's guidelines for ethical practice (BSA, 2002).

Juvenile justice information is recognised to be one of the most sensitive. Although there is a clear need to document and record details of both the legal and social history of juvenile offenders by a variety of organisations, difficulties are often encountered when it comes to disclosing this information to other parties, no matter how legitimate their interests (Etten & Petrone, 1994).

Sieber and Stanley (1988) define socially sensitive research as “studies in which there are potential consequences or implications, either directly for the participants in the research or for the class of individuals represented by the research.” Clearly this research could have potential implications for the young people participating in the groups, for the researcher in terms of future access to information and, depending on how any findings are dealt with, potential implications for the remaining population of young people within the units.

As Lee points out, “those researching sensitive topics may need to be more acutely aware of their ethical responsibilities to research participants than would be the case with the study of a more innocuous topic” (Lee, 1993; 2). Such responsibilities were continuously considered throughout every stage of the research undertaken for this study.

Children, in the same way as adults, have a right to be fully informed of the research they are asked to take part in and should be given the opportunity to

consent to their involvement or not (Hill, 1997). Consent was initially requested from the unit manager in which each child was resident and, at the beginning of each focus group, the participants were given the opportunity to state if they did not wish to be part of the study. This was after they had been given a brief introduction to the study and the following information had been discussed with them. First and foremost they were assured that the researcher was in no way connected to the units, the courts, gardaí, health boards or any other organisation or individual associated with the juvenile justice system. In addition, they were assured that all information was for the purposes of the research only and would not be disclosed to anyone further, and at no stage would the names of people be associated with the information given. They were also asked to respect the confidentiality of other members of the group, and not to discuss what had been said in the groups to anyone other than the participants. It was emphasised that all opinions and experiences were important and would be equally valued.

Participants were informed that only if the researcher considered that information disclosed suggested that someone was 'at risk' or in any 'danger' would confidentiality be breached, and only then after the individual concerned (with the disclosure) had been consulted. For this reason it was suggested that they give information in the third person, i.e. 'a friend', or 'someone I know' in order to protect themselves further.

They were also instructed not to use people's real names at any stage and that should they have any individual concerns relating to particular incidents or people



then they should discuss these with someone more appropriate, such as their key-worker or the unit manager.

Finally it was made clear that the researcher was in no position to change their individual situations, although they were told that a potentially positive outcome could be that the information they provided could help promote positive changes for children in similar situations in the future.

#### 5.1.1.2. Conducting the Focus Groups

Firstly, a number of topics were identified as possible areas for discussion but in general it was the children themselves who directed the conversations. (A list of these topics was taken into the groups to serve as prompts in the event of conversation stagnating.) However, it was ensured that a number of things were discussed across all the groups, such as their understanding of the term 'remand', their experiences in court and their experiences with professionals with whom they come into contact at various stages. In general, the aim was to have some format but to be less structured than a conventional focus group in order to allow the free-flow of ideas and information.

There were 2-3 individuals per group, and a group was held in each of the four units involved in the study. The selection of individuals was left to the discretion of a person recognised as being familiar with the children. This person was either the unit manager or the principal teacher, and was given some rough criteria to follow to aid selection, in advance of the groups being held. The criteria allowed for some

distribution in factors such as age, the nature and severity of offence, home county, length of time on remand and so forth.

There were several reasons for asking this person to select participants. Firstly, the researcher had not accessed any of the children's personal files prior to holding the groups as a way of increasing the likelihood of remaining impartial and not actively seeking certain information from identified individuals during the groups.

Furthermore, in order for the groups to be of maximum benefit, these children needed to be considered likely and willing to participate, to have some ability to understand and engage in the conversations, and to cooperate with the researcher and with each other. Information on these qualities was considered to be unavailable from personal files and could only be recognised by someone who had personal experience of the children.

Each unit provided a room where the discussions could take place confidentially, but where there were staff nearby and available if required. In general these were rooms with which the children were familiar and might associate with relaxation / free time. For instance one group was held in the 'visitors' room' where the children would meet with family, and another was held in the games room. Refreshments were provided for the participants, and smoking was permitted in accordance with the rules of the unit and/or staff.

#### 5.1.1.3. Recording of Data

Focus groups are usually audio and/or video recorded and then later transcribed for a full analysis. However, it was felt that these methods could have been too intrusive for the children, serving only to increase suspicion and wariness, making them uncomfortable and ultimately resulting in valuable and interesting information being omitted.

It was recognised that the most important contribution of the data lay in the themes and issues raised generally, in other words the exploratory value it had. For this reason data were recorded in the form of detailed short-hand notes during each group, and the participants were given access to these notes if they wished, which many of them did. Immediately after each session had ended, approximately one hour was needed to transfer these contemporaneous notes into a written report. As a result, even without the use of audio or video recording equipment an accurate record of each session was possible.

#### 5.1.1.4. Outcome

A total of four groups were held, one in each of the four units, all held in the same week as that selected for collection of data for the code sheet. Ten children participated in total, and in addition there was one individual discussion. This latter child was being detained under special circumstances and thus the information he gave was not included.

Due to the very small numbers who participated in these discussions, a detailed profile of their individual circumstances or background history cannot be disclosed as this may jeopardize the guarantee of confidentiality by inadvertently disclosing

their identities. However in general there was a broad distribution in accordance with the various criteria of selection as follows:

- Dublin and several other counties, including Cork, Galway, Limerick, Tipperary and Westmeath, were represented.
- The youngest participant was 12.5 years old and the eldest 16.4 years. The mean age for each of the units were as follows; National Assessment and Remand Unit, 13.9 years; Oberstown Boys, 14.3 years; Trinity House School, 15.9 years; and Oberstown Girls, 16.4 years.
- Four participants were on straightforward remand awaiting a Court appearance, two were on remand for assessment purposes, and three were on remand awaiting placement elsewhere.
- Six participants were detained on District Court orders and three were on orders made by the High Court.
- Of those on District Court orders, the average length of time on remand according to the Court warrant was 24.6 days and the total duration of remand for all warrants was 38.8 days. These children had been repeat remanded for a maximum of four times. Those on remand for assessment purposes were all on their first remand period, and for three weeks only.
- For those detained on a High Court order it was very difficult to ascertain from the case files the exact duration of the detention. The minimum duration was for a total of 214 days (approximately 7 months) and the maximum was over 2 years.

It must be noted that although the numbers involved are very small, they did however represent roughly one third of the total population of children on remand for the week examined. Thus it may be possible to suggest that their views and opinions are representative of the sample population and may even be generalisable to children on remand as a whole.

#### 5.1.1.5. Findings

In general the focus groups were much more successful than had originally been anticipated, and it was felt a major contributing factor to this was the relaxed and informal atmosphere in which they were held.

The children were very cooperative and enthusiastic about taking part, and although there was a slight sense of apprehension and suspicion at first this atmosphere quickly relaxed and changed to one of open conversation and free expression.

Many issues were discussed in all the groups, but there were also some differences in the things the children felt were important. These, as might be expected, were related to their own experiences of the juvenile justice system, how long they had been in detention and for what reasons, the age and gender of the respondents, or effects related to the unit in which they were detained.

A common theme was that the young people were interested in the research and what the information would be used for. They seemed to appreciate the value of their individual contributions, one male even stated that this was the first time anyone had asked him what *he* thought about his situation.

There was very little input from the researcher, who acted mainly as a facilitator to the discussions and remained as impartial as possible. Indeed, particular care was taken not to react to what was being said, or to encourage a particular line of conversation as it was recognised that the information revealed may be of a particularly sensitive nature. It is recognised however that the mere presence of the researcher in the room, as an ‘outsider’ with ‘limited knowledge’ would have had some effect on what was being said in the discussions, but this was kept to a minimum. Finally, the accounts given by the children and young people were frank, candid and honest and did not appear as examples of exaggerated story-telling. Since great care was taken to advise the participants that neither taking part or what they said would have an effect on their individual situations, they had no reason to be economical with the truth.

#### 5.1.1.6. Issues discussed during the Focus Groups

A full discussion of the results of the focus groups is not possible given the scope of this paper, however table 5.1 gives a summary of the topics covered.

Table 5.1 : Issues discussed during the Focus Groups

Remand	<p>Understanding of the term</p> <p>What being remanded means to them</p> <p>Harmful effects of being labelled or categorised as an offender</p> <p>The difference between remand and assessment</p> <p>The length of detention on remand</p> <p>The role of the High Court in the remand process</p>
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Courts	<p>Satisfaction with court proceedings</p> <p>Use of holding cells and handcuffs</p> <p>Discretionary powers of the judge, gardai, probation officers etc</p> <p>The 'one way' nature of the system</p>
Units	<p>Staff and the role they play in their care (power &amp; autonomy)</p> <p>Mixing of age groups / types of offenders within units</p> <p>Effects of detention on relationships with friends and family</p> <p>Sense of loneliness / isolation/ boredom</p>
Other Issues	<p>Aftercare</p> <p>Their role in the research and its intended use</p>

- Remand

All the groups were initially asked what they understood by the term 'remand' and what it meant to them as individuals. The vast majority responded that remand was to be 'held in custody' and 'waiting for something'. Responses varied from 'being held for 1-2 days' or 'to be sent back' which was a common response from those who were on straightforward remand awaiting a further court appearance.

Interestingly a number of children did not realise that when a person is on assessment, they are also legally on remand, and this included those children who were actually on a three week assessment at the time. There appeared to be some association made between being remanded and having committed an offence, as distinct from those people who have not committed an offence, for instance those on assessment for non-school attendance.

Some of the more negative comments related to remand came from those children who came under the category 'awaiting placement' or 'no suitable placement

available'. Their responses were of the nature 'waiting for a place somewhere', 'shuffling you from one place to another' or 'doing time for nothing'. This latter comment came from a young person who had been remanded for an extensive period of time, who then went on to say *"we have a right to be in an open place if we haven't been convicted of anything"*.

One of the older children raised the contentious issue of remanding young people in adult prisons, stating that this practice was 'very wrong' and there should at *"least be a halfway house or a hostel or something."* Similarly some of the youngest children claimed that children could be placed in St Patrick's Young Offenders Institution or Mountjoy Prison if there was no other remand place available. One participant stated they had spent 5 days in a cell in a garda station, and others suggested they had also been detained in garda stations because there was no other remand place available.

Another related issue is the 'principle of proportionality', that any punishment should fit the crime. One respondent stated that *"they should not be allowed to remand anyone for more than 3 months, Courts should either sentence them or let them out."* When asked what he meant by this he highlighted the discrepancy between being remanded for long periods of time for having little or no charges, compared with someone receiving a shorter sentence for committing a far more serious offence. He suggested that he would rather commit the more serious offence because at least then he would know the length of time he would be detained for.



This was a common sentiment among the groups in that many respondents suggested that a major difficulty with being on remand, particularly repeated remands over a period of time, contributed to a sense of unease and uncertainty of their future. This lack of knowledge was not only restricted to their release date, many of the young people suggested that at times people were detained without knowing the precise reason for it, i.e. the particular offence they were being detained for, or the placement they were waiting for. This was particularly true of the younger participants. This situation is undesirable due to the potentially damaging effects it could have on the child. To be in such a state of 'limbo', with no sense of security or permanency, and often without specific care plans in order to address their individual needs could be detrimental to them. In addition, when detained, they are often many miles away from home with little contact with family or friends, and away from usual routines, activities and social support mechanisms.

- Courts

There was quite a mixed reaction when participants were discussing their experiences of Court, as well as their attitudes and opinions of those involved with their case during a hearing.

Many respondents appeared quite satisfied with proceedings in the court-room itself, were aware of what was being said and discussed, and knew of their right to consult with their solicitor during the hearing. There was also a mixed response to whether they had a chance to speak for themselves in court. Some children said that if they spoke to the judge in the 'right way', i.e. if they were polite and well-mannered then he/she would be interested in what they had to say. In contrast,

several young people felt they were not given an opportunity to speak out and one person cited an example where his parents had been silenced by the judge.

There was a general feeling that 'some judges were better than others' and that it was often the 'luck of the draw' as to which judge would be presiding on the day.

Although the broad sentiment was that judges were usually fair, and treated everyone the same, there was comment made on the amount of discretion a judge had and that sentencing was not always consistent. The female respondents indicated that they did not feel they were treated any differently in court than the males.

A number of participants mentioned the role of the gardaí in court, stating that often it was left to the discretion of the prosecuting guard as to what information the judge is given. Similarly, two children, one of whom came from the travelling community, felt that decisions were not always based purely on the individual or the information the judge is given at the time. They believed that where they lived, their family background or their family history, (such as other family members in trouble with the law) were also significant factors.

Finally, the length of time they have to wait before their case was heard was also a concern for them. All cases have to be present at the beginning of a court sitting, however it may be several hours before their case is actually called. During this time many young people are kept in holding cells in the court. Many parents who appear in court have work or other family commitments, some may have travelled long distances to be there, and others may have to rely on the schedule of public

transport and several of the participants felt it was unfair for them to have to wait for so long.

A number of the children made comments specifically about their experience in the High Court. They felt that during a judicial review it was not right that their case be heard without them being present, as one male stated, *“you should be there if they’re talking about you and making decisions about you.”* Again, the situations of those individuals who did and did not have charges was raised, stating the former group are treated better by the courts because *“they’re not as quick to lock them up or they’ll let them out of detention sooner.”* In many ways they felt the courts could *“do what they like with someone who doesn’t have charges”* and they get upset when they see others detained for shorter periods despite having more serious charges than they have, *“they lock people up for stupid things and then let serious cases out for too long before sentencing them to Mountjoy”*.

- Holding Cells and Handcuffs

In most Children’s Courts in the country there are holding cells where the children are detained before their case is heard. It is only those children who are in the custody of the gardaí at the time, i.e. those who have come directly from a garda station, or those who have been collected from the secure unit in which they are detained, who are placed in these cells. This applies to both male and female detainees, although they are separated from each other in different cells. If no

holding cell is available, the young person may be detained in a cell at the local garda station.

These same children, when being transported from the garda station or unit are usually handcuffed, regardless of age or gender. These appeared to be two of the most contentious issues raised and a number of the participants held particularly strong feelings in relation to them.

The youngest participants appeared quite distressed when discussing the cells, stating that they 'hated' them, whilst they also felt it was very wrong for them to be handcuffed. They said it made them feel very bad about themselves, especially when the public sees them stating they feel like 'scumbags' and get stared at. They suggested that some people were 'dangerous' and therefore needed to be handcuffed but recommended that an age limit be set below which it is illegal to use them. One child stated he had been handcuffed at the age of 9 years.

All of the older boys (those in Oberstown and Trinity House) were unhappy with the practice of mixing all children, regardless of their age or nature of offence in the holding cells. One male gave the description of a 17 year-old charged with supplying cocaine being mixed in the same holding cell as much younger boys with far less serious charges (for instance stealing a can of juice and a chocolate bar).

They described how it was very frightening to be in a cell and not to know who was coming in next. Worryingly, they suggested there were cases of people being physically assaulted in these cells, *"they simply take you to the back of the cell where the guards can't see them"*. They even suggested that there would sometimes be drugs and intravenous needles being smuggled into these cells.

When asked how the situation in the holding cells might be improved a unanimous feeling was that very young children should not be placed in these cells at all, and that they should be held separately where *“they are safe and not terrified.”* Since many of these children might only have been on a three week assessment for non-attendance at school it seems that this would be a reasonable suggestion.

Furthermore they also suggested that increased supervision by the gardaí would also make a big improvement.

- The System

Several of the children spoke about the ‘system’ in general rather than individuals associated with it. One respondent stated that the system could be improved by ‘giving them a chance’, a sentiment expressed by others. They felt that they had become involved with the system at a very young age, but were never given an opportunity to get out of it again, and have picked up many more charges since. Some were also very sceptical about assessment being only for 3 weeks, instead they saw it only as a way of getting someone into the system. The older males suggested that it should be these children who get the ‘special treatment’ and not the serious offenders, and that they should be kept away from harmful influences. They see the system as being partly responsible for their current situation because as a result of being mixed with other offenders, *“ideas get put in your head and you do things you wouldn’t have dreamed of doing before.”*

- Units

- a) Mixing of ages

This was an issue that the older participants felt was of particular concern. It has already been observed that these males did not agree with the practice of mixing all children and young people in the holding cells whilst waiting for their case to be heard in court, and they seemed very concerned that the youngest children were at a great deal of risk during this time. They also raised the question of whether similar mixing of ages and offenders should be allowed in the particular units concerned. They suggested that the youngest children would often be bullied and get 'an awful time' when in the units. They suggested it was because older boys found them 'annoying' and believed they were 'grassers'. One male suggested that the young ones were an 'easy target' for bullies but tried to explain why this was using the example of 'horseplay'. He said they themselves would not engage in horseplay because it allows others to find their 'weaknesses' which they might use against them again in the future. He suggested that one of the major problems was that the *"young ones like horseplay and they don't understand they shouldn't do it. He doesn't realise the kind of people he's around and who he's messing with and that can be dangerous"*.

However, it was suggested by many of the participants that they looked after each other in the units, and that they would have no time for someone who bullied the younger children. As one male put it, the unit is *"like a family, and you take the younger ones under your wing, because you're gonna be living together for a while"*.

## b) Routines and Regimes

Although in general the children and young people appeared to manage quite well in the unit in which they were detained, a number of points were raised regarding various aspects of the actual routines and procedures of the unit. For instance, a frequently cited problem for the children during their stay in a unit was related to their lack of power to make their own decisions or govern their own behaviour.

Examples of these included having to go to bed and get up in the morning at set times, set times for meals, not being able to wear their own clothes and having to do what the rest of the group is doing such as watching a film.

Many of them disliked that fact there was a permanent sense of the place being 'secure' and that they had no freedom. The females suggested that it was unnecessary for them to be 'locked up' all the time, because they 'wouldn't run away anyway'. They said this was because then they would have another charge for absconding, so they might get a longer sentence, and also because they 'had no money and didn't know the way home anyway'. The females also suggested that not being able to go for a walk, or do some exercise when they wanted was also a concern. One female said she had already put on weight since she was in the unit and she was concerned about getting heavier, "*we get unhealthy food all the time and then we don't have enough exercise*".

## c) Loneliness / Boredom

A common theme among all the participants, was the sense of loneliness they feel in the units, particularly when they are in their room alone at night. During this time,

they said they often thought about their situation, about the effect their behaviour has on their parents or family and see it as a chance to 'get their head together'. One of the female participants stated that she got very bored and lonely in the unit, and that *"it's school that gets you through the day, at least when that is finished the day is half over"*. For this female weekends in particular were particularly difficult because there was too much time to think about her situation.

#### d) Relationships at home

Many of the children spoke about their family and friends, particularly about the effect being detained has on these relationships. Common amongst the discussions was they did not like the fact that phone calls and visits were limited and that they were not allowed to contact friends or girl/boyfriends. One male felt that being detained meant he missed out on things that were happening at home. He spoke of a situation where he was due to go to a family celebration, but this was only permitted if a member of staff accompanied him. He said he could not go because some of his family didn't know he was in the unit and he didn't want to 'shame' his parents.

#### e) Privacy

This was raised in particular by the female participants in the groups, but it appeared that staff in the unit were very conscious of the girls' right to privacy. They stated they had to wear a dressing gown and pyjamas at all times, had plenty of privacy when taking showers and were given their own set of toiletries on entry



to the unit. The girls appeared more concerned that the boys in Oberstown were not being afforded the same amount of privacy, particularly around female staff members.

f) Segregation / Time Out Rooms

Many of the young people spoke about these practices and felt quite strongly that they were wrong, or that they weren't being used properly all the time. The females stated that they get separated from the group for misbehaviour, and during this time are either locked in their own bedroom or are allowed to communicate with staff only.

As one of the males said, when discussing an occasion where he was physically restrained and then placed in a time-out room, *"of course you're gonna get angry if they do this"*.

- Professionals

a) Relationship with unit staff

The relationship with staff in the units was raised by many of the children and although the comments were generally quite positive, some felt that staff were not always consistent or fair in their treatment of individuals. Their individual key-worker was most often cited as the person who they would talk to if they had any problems while they were in the unit, and one or two participants suggested they would approach the manager directly if they were not satisfied. One of the older males stated that he preferred being in the larger units because there are more

staff and managers involved in making decisions so, *“there is always someone else you can go to if you’re not happy with a decision, they don’t have complete power.”*

b) Probation and Welfare Officers / Social Workers

The probation and welfare officer was cited most often by the children as the person who would know what was happening in their case but in general they held a fairly low opinion of them. One person was mistrustful of probation officers because *“they tell you they’re gonna say one thing but then when they get in court they say something completely different”*.

A number of participants felt that their social worker was unavailable when they were needed and it was suggested that they did not make enough effort to visit them or contact them whilst the children were detained on remand.

c) Gardaí

The participants held a very low opinion of the gardaí in general, although they did admit that there were some ‘good’ ones or those guards ‘who’ll do you a good turn’ but in general they saw the guards as being ‘out to get them’, or wanting to make their life more difficult.

d) Solicitors

Generally the older children felt that their solicitors were ‘good’ and were ‘willing to talk to them’. Compared to the younger participants they were very comfortable

about their position, and would not be afraid of making sure their solicitor was representing them properly. As one male put it, *"I'm the one hiring him, and I tell him what to do. I'm his boss, not the other way around"*.

In court, a couple of the participants felt that some solicitors were bad at listening to them, and did not approach them when asked or didn't listen to what they had to say, while others were very good and wanted to do what was best for them.

#### 5.1.1.7. Implications for the Primary Research

In general the groups were very successful as a way of learning which issues the children themselves felt were important about their experiences in relation to being remanded in custody. The children and young people proved to be far more open, honest and willing to participate in the discussions than had initially been anticipated, and gave their responses in an intelligent, articulate and capable manner.

There were many topics raised by the participants that could have been investigated further for the primary research and there were certainly a number of issues raised that would be ideal for further in-depth exploration. One of the biggest influences the focus groups had on the research was that the young people inspired the researcher to *accurately* reflect the current situation in the hope that positive changes may result. In addition, since the young people themselves made little distinction between those on district court and those on high court orders, and that it would appear that they have many shared experiences regardless of this fact, it was decided to include all those on high court orders in the study. (Prior to

this it was only those children who were either on a district court order as well as a high court order that were included.)

As the data collection progressed using the code sheet, and with the added insight that came from formulating the model of the justice system, it became increasingly clear that there were a number of issues relating to the practice of remanding children in custody that gave cause for concern. It became a major intention of this study to illustrate current practice based on empirical data. The individual case files and unit records provided an effective means of gathering a great deal of information that is both valid and reliable, and is also more readily converted into quantifiable variables that allow for in-depth statistical analysis.

It is possible that these focus groups may be replicated on a larger scale in the future and used as the basis for a very unique and informative qualitative study.

### **5.1.2. Code Sheets**

Since the population was so small it was possible to include all those on remand in the pilot, rather than a sample of the young people. One week was selected and once again the unit rolls identified all the young people who were resident on remand during that week. The individual case files for each of these children, as held by each unit, was then examined. This was done with the aid of a code sheet which had been developed with the aid of information gathered from the literature review indicating factors associated with young offenders. The code sheet was divided into sections as follows:

- Personal Details
- Family Background
- Remand Details
- Previous contact with juvenile justice agencies
- Previous contact with social and welfare agencies
- Educational History
- Substance Use

Under each heading there was more specific details, as well as space left for other relevant information that was felt to be of interest, as illustrated below.

Figure 5.1 : Sample from Code Sheet (Pilot Study)

Family Background

	Alive/ deceased	At home	drugs	alcohol	Mental health	Law	care
Mother							
Father							
Sib1							
Sib2							
	Other info:						

Once a code sheet had been completed for each individual, the information was entered into an SPSS database for analysis.

There were a number of difficulties encountered while conducting this phase of the pilot study and in particular this related to the nature of the information that was available. In over half of the cases the type of information that was sought on the child, for example educational history and previous contact with justice or welfare

agencies, was simply not contained in the child's personal file. This was particularly notable when the child was only recently admitted to the unit and where an assessment had not been carried out or requested by the court. Even for those children remanded for assessment purposes this information may not yet have been received from other agencies. By comparison, where the child had been in the unit for a considerable length of time, their personal files were often vast and contained numerous reports and documents from different agencies, sometimes from over several years.

A total of 29 children were identified as being on custodial remand during the one week period of which there were 26 males and 3 females (89.7% and 10.3% respectively). Due to the large amount of 'missing' information, only descriptive statistics were carried out on the data. Some of the results were:

- The mean age for all the children was 14.8years, although a number of children were aged over 16 years.
- There was a high proportion of the children with a home address in Dublin or its suburbs.
- Only 4 children were identified as having both parents still residing in the family home, and 5 children had experienced the death of at least one parent. There was also a high incidence of marital separation and domestic violence.

- Seven children (24.1%) were listed as having a mother with a history of mental illness and/or drugs or alcohol problem, while 4 fathers were recorded as abusing alcohol.
- 20.7% of fathers had been in trouble with the law, many of whom had spent time in prison.
- Nearly one third of the children had at least one sibling who was also in trouble with the law.
- A number of the children had been victims of physical and/or sexual abuse in the past.
- A substantial number of the children were reported to use both tobacco and alcohol (62% each) and 45% had used cannabis.
- Six children were reported to have been homeless in the past, while 5 children were identified as having experienced at least one foster care placement. Almost two thirds (18: 62.1%) of the group had experienced some form of residential placement.
- The majority of the children, 16 males and 3 females, were being detained by a warrant issued by one of the district courts in the country. However 2 males were under circuit court orders and 5 males were under high court orders.
- The duration of the remand varied considerably for the children, both for the length of time on the current warrant, but especially for the total length of time spent on remand.
- Ten males (52.6%) were remanded for between 15 and 21 days and the remaining 4 were remanded for more than 3 weeks on this remand period.

- Eight children (42.1%) of the total were on their 1<sup>st</sup> remand period. A further 5 (26.3%) were on their 2<sup>nd</sup> or 3<sup>rd</sup> repeat remand and another 5 (26.3%) on their 4<sup>th</sup> or 5<sup>th</sup> repeat remand. One male was identified as being on his 12<sup>th</sup> repeated remand period.
- Approximately 20%, one fifth, of the males in this study will have been remanded for over 21 weeks in total at the end of their current remand period.
- Eight of the 24, 6 males and 2 females, were on remand for the purposes of assessment, accounting for one third of the group, and a further 10 were awaiting a further court appearance. The remaining 6 males (25%) were classified as being on remand because they were awaiting a placement elsewhere or a placement was being sought for them.

#### 5.1.2.1. Implications for the Primary Research

The study had originally limited the population to be studied as those children under 16 years of age, on the assumption that there would be no young people over this age detained in any of the four units. However, given that a number of young people in the pilot were 17 years of age, and indeed the mean age of the females on remand was 16.0 years this had to be modified. Thus, all children under 16 years of age *at the time of entry* to the unit are included.

The limited information available on some of the young people meant that many of the variables had to be categorised as 'missing'. This results in severe limitations on the depth of statistical analysis that can be carried out on the data.



To help overcome this problem, or at least to keep it to a minimum, a longer period of time will be left between identifying the individuals for study and gathering information from the case files. For instance, there would be far more information contained in a child's case file after an assessment has been completed than there is when they are in their first week of that assessment. Additionally, since many of the males had been in more than one unit it would help to cross-check the unit registers, thus allowing additional information to be accessed should it be held in a separate unit to where the child is detained.

There were several additions and alterations made to the code sheet as a result of information gained in the pilot study. For example, additional categories were added to a number of variables, and in other cases categories were condensed. Several new variables were also added, for example whether the child was known to abscond or had absconded from their current place of detention, and whether a suitable placement had been sought for the child outside the Republic of Ireland. However, in general the code sheet proved to be a very successful means of gathering most of the information that was sought on the child.

It did not unfortunately allow for enough detail to be gathered in respect of more specific information relating to the period of remand. This was particularly apparent for details regarding both the court warrant issued for the given period of detention, and in relation to any repeat remands which ran prior to this. A separate sheet was developed in order to collect this information.

Finally, it was often unclear or quite confusing as to exactly why the young person was being detained on remand, as this information is not contained on the court warrant. This was particularly noticeable where the young person had been detained for some time, often in more than one unit. This was further complicated by factors such as the use of remand for assessment purposes, children being detained without charges, and the often simultaneous detention of the child in the unit by an order of the high court for reasons related to the child's welfare rather than their offending behaviour. In order to try and make sense of these factors and to gain a clearer understanding of the nature of the remand process a flowchart model of the justice system was created.

Initially this model was developed as a tool to aid understanding and to help in the categorisation of the different types of remand that would then be used in the main project. However, as the model developed it became clear that it was also a valuable and interesting way of clearly illustrating the *process* of remand decision making within the juvenile justice system and that there were some distinct patterns in relation to young people's progress through the remand system. Furthermore, the flow chart clearly illustrated where some of the difficulties and problem areas were, in particular the pattern of repeat remands as a result of insufficient or unsuitable residential accommodation. Thus, the model was developed further and was then used to graphically illustrate some of the final results and forms the basis of Section C of the findings which details the remand episode of some of the young people in the study.

## **5.2. Primary Research**

### **5.2.1. Introduction**

In this section the methodology used specifically in the primary research will now be outlined. As a result of the pilot study, it became increasingly evident that a full-scale study that incorporated both a quantitative and qualitative research method, and that used a sample large enough to warrant generalisation of results was outwith the scope of an MPhil paper. The original intention was to examine policy, practice *and* experiences of children remanded in custody in Ireland. Indeed, one of the central aims was to produce a piece of research that emphasised the child's perspective of custodial remands.

However, the value of a quantitative research study in this field became increasingly evident, particularly as this is a subject group never before studied in such detail in Ireland. With increasing attention being given to the current state of the juvenile justice system in Ireland and in particular in relation to children in custody, the primary intention of this research became the provision of empirical data on the state of the current situation. Indeed, through informal discussions with a number of people directly involved in this field – managers, care staff, solicitors and voluntary organisations – one of the noticeable factors was that although people were acutely aware of the difficulties within the system, there was little in the way of research to illustrate the situation and to defend their criticisms.

As a result, the focus of the research became the creation of a database to illustrate the current situation, and to provide an opportunity for continued research in this field.

### 5.2.2. Method

There are four designated remand units in Ireland for children and young people under 16 years of age, all of which are included in this study. Given that the maximum number of children on remand in these units at any one time is relatively small, it was possible to include the total population on remand within a given time frame in the study. Four, week long time periods were selected, one each in June, July, September and October of 2000. August of this year was excluded as the district courts are on vacation during this month.

The unit register was obtained for each of the selected weeks, and the names of all individuals on remand, and those on high court detention orders were established. Each individual was then given a code number in order to protect confidentiality. Only one list of the names of the young people was retained, should any information need to be retraced and this list was locked in a secure place and is available only to the researcher.

From the combined lists over the four time periods a single subject group was established. This consisted of 68 individual young people.

### 5.2.3. Data Collection

Data collection began in the middle of June 2000 and continued until December 2000 before all the necessary information for each subject had been recorded.

Using a code sheet, which was developed for the pilot study and then subsequently modified for the primary study, information was retrieved directly from the personal file of each child that is held in the unit in which they are detained. A copy of the code sheet can be found in Appendix B. A brief outline of the information collected from the case files is given below.

- The Child

*General background* - date of birth, age, gender, home county.

*Educational History* – attendance (or not), truancy, highest level attained, behaviour problems, remedial teaching, suspensions and expulsions, alternative to mainstream schooling.

*Involvement with welfare agencies* – residential care, foster care, care orders, homelessness & Out of Hours services, physical or sexual abuse, prostitution, suicide & self-harm, and total number already known to welfare agencies.

*Previous involvement with justice agencies* – Garda Juvenile Liaison Scheme, probation, community service, previous remands and/or remand for assessment, committal orders, and total number already known to justice agencies.

*Assessment* – residential assessments, psychological, psychiatric and educational assessments (including IQ testing). Results of tests, any diagnoses made and any medication subsequently prescribed.

*Substance use* – tobacco, alcohol, cannabis, solvents, ecstasy, speed, heroin, cocaine, tablets, hospitalisation for drug or alcohol over-dose.

*Additional Information* – known to abscond, known to assault staff, high support unit sought in the UK.

- The Child's Family

*Parents* – Alive / deceased, living in the family home or not, married/separated/divorced, domestic violence, involvement in new relationships (long-term), abuse of alcohol or drugs, previous contact with the law, mental/physical health, parenting parent.

*Siblings* – How many, gender and age, full or half siblings, living in the family home or not, abuse of alcohol or drugs, previous contact with the law, previous contact with welfare services (e.g. foster or residential care or ever the subject of a care order) previous remand for assessment purposes.

- Period of Remand

*Warrant* – date of warrant, court that ordered the detention, date for reappearance

*Charges* – description of charge(s) for which child appeared in court, including school non-attendance and out of control behaviour

*Unit* – unit of detention, date of entry to unit, purpose of detention (e.g. assessment / remand only), duration of detention

*Repeat remands* – number of repeats, date of first entry into detention, total duration on remand, then the same information regarding the warrant, charge(s) and unit as above.

#### 5.2.4. Reliability and Validity

One person collecting, coding, entering, and analysing the data ensures that the reliability and validity of the results are ensured as much as possible. In addition given that the research included the entire population of children on remand during each of the four time periods, rather than a sample, sampling errors were also avoided.

#### 5.2.5. Analysis

Once all data had been collected for each child, the details were then entered into SPSS databases. The data collected was then organised so that there were three separate sections to the analysis and results, each of which targets a specific aspect related to custodial remands of young people in Ireland. When combined together they provide a good overview of children under 16 years who are in custodial remand in Ireland. The three sections, the methods used and the information they targeted are as follows:

- Section A: Population Profile (N = 68)

This section made most use of the large database compiled on the 68 individual young people involved in the study. The information was collected and coded using the code sheet and code book that can be found in appendices C and D.

This section is intended to provide a profile of the personal, family, and social characteristics of the children and young people who were on remand during the

four time periods. This section is not concerned with aspects directly associated with the actual period during which they were on remand.

Once all the data had been entered into the SPSS database, descriptive statistics were compiled and presented. It must be noted that in the majority (61; 89.7%) of the personal files there was detailed background information on most of the areas being studied (eg. family background, educational history, previous contact with justice and welfare agencies). However, for some children this information was not contained in their case file. The difficulty here is that the unit of detention is reliant on receiving any related information about the child from other professionals and agencies who have had contact with the child in the past. Where the child was being detained for assessment purposes, or where a previous remand for assessment had been carried out, there tended to be more information available to the researcher. By contrast, if the child was on remand for a short period of time without assessment there tended to be less information available. Where percentages are given in this section they are out of the total number of children where at least some information was contained in the file on the selected set of variables. The remaining cases are classified as 'missing' for that set of variables. A second, and related point, is that case files only contained information relating to the known experiences of the child. All percentages given are those children who could be positively identified as having experienced a selected variable. The remaining percentage population can only be classified as 'unknown'. Using past experience of physical abuse as an example this can be demonstrated further.



Out of the total population of 68 young people there was information relating to past experience of health and welfare variables in 64 case files, thus for this section percentages are given from a total of 64. The remaining 4 cases are classified as 'missing' data. In 24 case files there was information stating that the child had experienced physical abuse in the past, representing 35.3%. The remaining 44 cases are classified as 'unknown' as it cannot be assumed that because it was not stated in the case file that the child had not been physically abused in the past.

- Section B: Remand in progress (N = 117)

When all four weeks of the study are examined together, the 68 young people involved in the research make up 117 cases of custodial remand. This is because a number of the children were present during more than one week of the study. Given that there was usually a separate warrant for each week on remand, and that often the circumstances of the child had changed (e.g. the unit of detention, the reason for the detention) each case is treated in isolation. This section thus provides a 'snapshot' of the situations of all 117 cases of custodial remand during the four time periods. The aim is to illustrate the factors related to a period of custodial remand, such as the court in which a child is most likely to appear, the types of charges most associated with remand, and the average duration of custody.

This information was also retrieved directly from the child's case file and was collected specifically for the week of study. Information related to previous or

repeat remand periods was not included except for the number of consecutive repeat remands and the date of first entry into a remand unit noted.

a) Method when there is more than one warrant for the week

Some of the young people were the subject of more than one court order during an individual week of study. There were a number of reasons for this, most notably if they were the subject of hearings in more than one court, then they could be on an order from each court. A second reason is that they may have appeared in court during the week of study, and thus would be subject to two orders from the same court which run consecutively.

In this instance the last warrant in the series has been used. Thus if the young person was on a second and third repeat remand during the week, it is the third repeat that has been included for the purposes of this section.

However, the length of detention in days, as indicated on each separate warrant was noted, and recorded independently. In addition, the length in days from the start date of the first warrant in the series to the end date of the last warrant in the series gives the total number of days in detention, adjusted for any overlaps.

The model illustrated in Appendix A represents the aspect of the juvenile justice system related to remands in custody, and the role of each of the courts within it. In this section, the model is used to illustrate the position of each of the young people in the study based on the warrant issued by the court. It is intended to show where in the 'system' the majority of young people on remand are located. However, this

section gives no indication of their previous experience of the system, other than the number of consecutive repeat remands that they have had.

- Section C: Remand episode (N = 41)

This section relies most heavily on the flowchart model shown in Appendix A to illustrate individual children's progress through the custodial aspect of the remand system. It only includes those young people who have completed an episode, i.e. those who have entered custody for a period of remand and then exited by being released on bail or moved to residential accommodation etc. It is intended that this section will most clearly illustrate problems identified in the system, in particular the occasions where young people are 'trapped' in a cycle of repeat remands.

In addition to the detailed information gathered in relation to the period of detention during each week as used in section B, the same details, where available, were collected for all warrants prior to and subsequent to the week(s), where they constituted part of the same remand episode.

A remand episode, in relation to this study, is defined as a period of continuous detention in secure custody as indicated by a series of consecutive court warrants.

A completed remand episode occurs only where the information in the files indicated an entry and exit point from this continuous period of remand.

## b) Absconsions

Of the 68 young people, 3 absconded prior to their exit from the remand episode and were missing for such an extended period of time that their names were eventually removed from the unit rolls and have been omitted from this section of the analysis. Out of the remaining 65 young people, several also absconded but were returned to the unit (either voluntarily or by gardai) before their next court appearance and have therefore been included in this section.

## **Chapter 6 : Results**

### **6.1. Introduction**

The results from this study have been divided into a three sections. *Section A* illustrates the profile of the 68 individual young people on remand in Ireland at the time of this study. It includes details related to their social and family background, their health and welfare, previous experience of welfare and justice agencies, and their educational history. *Section B* provides the results of information relating specifically to the period of remand, of which there were 117 cases. It begins with a description of the types of remand, illustrated with the use of the flow chart model, followed by the results which relate to the remand including the court that issued the warrant, the reason for the court appearance, the reason for the remand period and the duration of the remand. Finally, this section illustrates the position of all 117 cases on the flow chart model thus providing a general overview of the use of custodial remand and where the children are located within it. *Section C* takes a closer look at the remand process or 'episode' as experienced by some of the young people. By doing this it illustrates in greater detail some of the difficulties faced by young people caught up in the remand system, which often results in extensive periods of time in secure detention.

## **6.2. Results Section A: Population Profile**

A total of 68 individuals were recorded as being remanded in custody over the four time periods of the study. This section will present results of the background information gathered from the case files of each individual. An inherent difficulty in using the files as the only source of background information is that the amount of detail given can vary quite substantially. This was found to be the case, some files contained the court warrant and admission profile only, while others also contained vast quantities of information, such as reports from various agencies from over several years of contact with the child and their family. The methodology for this section is described on page 118-120.

In the majority of case files (61; 89.7%) there was at least some specific information on the selected variables, and for the remaining cases there was either limited or no information relating to some of the variables. The results of this section have been grouped under headings:- General Background, Family Background, Health & Welfare, Previous Contact with Welfare Agencies, Previous Contact with Justice Agencies and Educational History. Percentages have been given out of the total number of children where there was at least some information contained in their case file relating to the selected set of variables under each heading. The remaining cases are classified as 'missing' as illustrated in table 6.1.

Table 6.1: Information available from the case files

	Males Missing	Males N	Females Missing	Females N	Total Missing	Total N
General Background	0	55	0	13	0	68
Residence & Status	2	53	0	13	2	66
Family Background	0	55	0	13	0	68
Health & Welfare	4	51	0	13	4	64
Previous Contact Welfare	10	45	1	12	11	57
Previous Contact Justice	1	54	0	13	1	67
Educational History	6	49	1	12	7	61
Other Issues	8	47	2	11	10	58

Furthermore percentages are only given for those children who were positively identified as having experience of the selected variable, the remaining percentage population are classified as 'unknown', as the assumption cannot be made that they have not had experience of the selected variable. It is likely that had all files contained information relating to each variable then the numbers of children shown to have experienced each variable would be higher. In other words, simply because it does not state anywhere in the file that the young person has previously been in care, it does not mean that they have not. Similarly, if there is no information on the family, we cannot then assume the parents are happily married and both living in the family home. Finally, it was not possible to distinguish the current situation from past situation with regard to a number of variables, therefore where appropriate a positive response means ever and/or in the past (for instance ever used tobacco or alcohol as opposed to currently uses tobacco or alcohol).

This was considered acceptable given the relatively young age of the population i.e. those under 16 years of age.

### 6.2.1. General Background Details

There were no missing cases for this section so all percentages are given from a total of 68 individuals.

- Gender

There were 55 males and 13 females included in the study, representing 80.9% and 19.1% of the population respectively.

- Age

The age of the young people ranged from 11 years to 17 years, and the age distribution across the four weeks of the study is shown in table 6.2. As we can see the age range remained fairly stable across the four weeks, as did the total number of individuals on remand during those weeks.

Table 6.2: Age Distribution

	Minimum	Maximum	Mean	N*
Week 1	11	16	14.35	31
Week 2	11	17	14.26	27
Week 3	12	16	14.44	27
Week 4	12	17	14.41	32

\* N total = 117 as some subjects were present during more than one week

Section B discusses the age distribution of the sample in more detail, however in general the female population was significantly older than the male population as illustrated in table 3 ( $p < 0.01$ ).



Table 6.3: Age distribution by gender

	Age (years)							Total
	11	12	13	14	15	16	17	
Males	2	5	18	33	31	9	-	98
Females	-	-	-	4	4	9	2	19

As table 6.3 shows, there were no females younger than 14 years, and the most frequently occurring age was 16 years. By comparison, 25 males were under 14 years but none were older than 16 years, with the most frequently occurring age being 14 or 15 years.

- Home County

The majority of young people came from County Dublin, with 39 (57.4%) from this area. A further 5 (7.4%) originated in Cork, 4 (5.9%) were from Limerick, 3 each (4.4%) from Longford and Galway and 2 each from Offaly and Waterford. Other counties represented in the sample, with one individual per county were Carlow, Clare, Donegal, Kerry, Kilkenny, Louth, Mayo, Meath, Westmeath and Wexford. Table 6.4 shows the percentage population from each county. Urban centres tend to have higher levels of crime than rural areas therefore it is not surprising that there were a higher number of remands from Dublin than other areas (Flood-Page et al., 2000).

Table 6.4: Home County

	Remand Population (per county)	
	N	%
Dublin	39	57.4
Cork	5	7.4
Limerick	4	5.9
Galway & Longford	3	4.4
Offaly & Waterford	2	2.9
Carlow, Clare, Donegal, Kerry, Kilkenny, Louth, Mayo, Meath, Westmeath & Wexford	1	1.5

Of the 39 young people from County Dublin 73.8% were from the city and 26.2% from the county areas. Over one fifth (8; 21.1%) had addresses in the Dublin 1 area. Other areas that were represented by a number of individuals were Dublin 9 and 11 (4; 10.5% each), Dublin 7 and 8 (3; 7.9% each) and Dublin 12, 22 and 24 (2; 5.3% each). It is notable that these are also areas in Dublin that are characterised by significant social disadvantage.

- Travelling Community

Ten young people (14.7%) were identified as being members of the travelling community to varying degrees. Of this number 5 (7.4% of the population) were members of a family that considered themselves travellers, settled or otherwise. In addition a number of young people had a connection to the travelling community through relatives- 3 through their mother and 2 through other relatives.

### 6.2.2. Residence and Status

This information could not be identified in two cases due to a lack of information file. Table 6.5 illustrates the status of the remaining 66 individuals prior to entering the period of remand. Half of the sample (33; 50.0%) was at home prior to their entry into the remand episode studied, of whom 22 were on probation orders. Sixteen were in residential care, 5 were homeless and for 3 young people it could not be established where they were prior to entering the unit. It is notable that 2 young people were on remand elsewhere, indicating that not all children are remanded to one of the four designated units, an issue that will be discussed later in the chapter.

Table 6.5 : Residence and Status

	Frequency	Percent
Homeless/ Hostels/On Streets	5	7.6
Residential Care	16	24.2
At Home	11	16.7
At Home on Probation	22	33.3
Remand Elsewhere (not any of the units in study)	2	3.0
Probation Hostel	3	4.5
At home on Bail	3	4.5
Foster Care	1	1.5
Unknown	3	4.5
Total	66	100

- Homelessness

There were 25 children in the sample, representing 37.9%, who no longer lived with their parents and whose addresses were recorded as a residential unit or other form of care, or who were classified as having no fixed abode. Indeed one third (22; 33.3%) of the young people were recorded as being homeless or had slept rough on at least one occasion, and 10 (15.2%) were recorded as being users of a homeless service or shelter in the city. These high levels of homelessness are notable considering that the 1991 Child Care Act requires that all children under 18 years are provided with accommodation.

### 6.2.3. Family Background Variables

Table 6.6 illustrates some of the difficulties that the children in the sample may have experienced in the family home prior to entering the remand unit. There were no missing cases for this section so all percentages are from a total of 68 individuals.

- Parental Status

The status of 2 mothers and 3 fathers could not be identified from the case files and 7 mothers (10.3%) and 10 fathers (14.7%) were recorded as deceased. Of the remaining mothers, 6 were recorded as living in the United Kingdom, 5 (7.4%) were alive but not at home and 48 (70.6%) were alive and living in the family home. Of the remaining fathers 26 (38.2%) were alive and at home, 22 (32.4%) were not

living in the family home, 3 live in the United Kingdom and 4 (5.9%) were recorded as being in prison during the child's period of detention.

**Table 6.6 : Family Background**

	Mother		Father		Sibling(s)	
	N	%	N	%	N	%
Deceased	7	10.3	10	14.7	---	---
Living in family home	48	70.6	26	38.2	---	---
Not in family home	11	16.2	29	42.7	---	---
Prison	---	---	4	5.9	---	---
Abuse of alcohol	12	17.6	21	30.9	---	---
Abuse of drugs	5	7.4	7	10.3	8	11.8
In trouble with the law	3	4.4	13	19.1	14	20.6
Mental health problems	13	19.1	3	4.4	---	---
Physical health problems	2	2.9	3	4.4	---	---
Subject of a care order	---	---	---	---	16	23.5
Residential assessment (NARU/OBG)	---	---	---	---	8	11.8
Residential care/ foster care/ residential special school	---	---	---	---	19	27.9

With regard to the relationship between mother and father, 16 children were identified as having either parent deceased (one of whom had lost both mother and father). In 10 cases this information could not be identified. Of the remaining 42 cases, 9 (13.2%) had both parents living together in the family home, while 32 (47.1%) had experienced parental separation. It should be noted that this figure does not include those cases where either parent is deceased, therefore could be higher. Parental separation, particularly where the separation was caused by

conflict rather than death of a parent has been shown to be a significant risk factor for offending in young people (Loeber & Farrington, 1998; NACRO, 1997).

In 3 cases both parents were said to be in new relationships, 14 (20.6%) of mothers were in new relationships and in 2 cases the father was reported to have a new partner. This brings to 19, or 27.9% of the young people who have experienced the introduction of another adult into their life. A recent study of persistent offenders found that those children living in reconstituted families were often reported to have 'turbulent' relationships with their step-parents and 'sporadic' or 'inconsistent' contact with their birth parents (McNeill & Batchelor, 2002).

- Parenting Parent

Where it was possible to identify the parenting parent from the case file, details were recorded. In this case the parenting parent is represented as the significant adult in the young person's life. Results show that the mother and father acted in this role together in only 6 (8.8%) of cases, the mother alone in 17 (25%) of cases and the father alone in 5 (7.4%) cases. An elder sibling acted as the parenting parent in 5 (7.4%) cases, a grandparent or other relative in 3 cases and there were 13 (19.1%) cases where the parenting parent was unknown. For 19 individuals, or 27.9% of the total population and thus the largest category of young people, there appeared to be no significant adult in the child's life and one of the female subjects appeared to be the primary caretaker for her younger siblings. A lack of parental

supervision and poor parental control is highly correlated with juvenile delinquency (NACRO, 1997; Graham & Bowling, 1995; Flood-Page et al, 2000).

- Domestic Violence

In 27 of the 68 cases (39.7%) the young person had experienced some form of domestic violence within the family home. This figure represents any domestic violence and includes violence between a parent and their partner. Of the 27 identified cases, 3 were cases where the mother was the perpetrator, and 1 mother and 1 father had spent time in jail for assaulting their partner.

- Health

Details regarding parental use of alcohol and/or drugs, as well as information on their mental and/or physical health were collected wherever possible. Results show that 12 (17.6%) mothers and 21 (30.9%) fathers used alcohol to excess, while 5 (7.4%) mothers and 7 (10.3%) fathers used drugs. Mothers had a higher incidence of mental health problems than fathers, 13 (19.1%) mothers compared to 3 (4.4%) fathers), however physical health problems had a low incidence for both mothers (2) and fathers (3).

- Contact with the Justice System

As stated above, 4 young people had fathers who were in prison during their period of detention. From the case files a total of 13 (19.1%) fathers were identified as having previously been in trouble with the law, and this figure was somewhat lower

for mothers (3; 4.4%). In a recent study of chronic juvenile offenders parental involvement with the criminal justice system was identified as one of the most important risk factors for offending (Farrington & West, 1993).

- Siblings

Information regarding the number and status of any siblings was collected and coded wherever possible. 62 out of 68 young people had at least one sibling. Of those who were recorded as having none, 1 had no family information on file, 3 had limited information and 2 had specific information on their family. Between these 62 individuals they shared a total of 247 siblings, 125 of whom (50.6%) were male and 122 (49.4%) were female. Five males and 1 female were half siblings, and 2 of the males in the study had twin brothers.

The number of siblings per individual ranged from 1 to 16, with an average of 3.98 siblings per person.

Almost one fifth (45; 18.2%) of the siblings had been the subject of a care order in the past and 37 (15.0%) had been in residential care, foster care or a special school in the past. With regards to previous contact with the justice system, 26 (10.5%) of siblings had been in trouble with the law, and 16 (6.5%) had been in either the National Assessment and Remand Unit or Oberstown Girls' Centre for Assessment. Finally 11 (4.5%) of siblings were recorded as having a drug addiction problem in the past.



When we examine these figures in relation to the individuals studied, 19 (27.9%) of the 68 had at least one sibling who had been in foster care/residential care or a residential special school, and 16 (23.5%) had at least one sibling on a care order. Eight individuals had a sibling assessed in the National Assessment and Remand Unit or Oberstown Girls' Centre, 14 (20.6%) had a sibling who had been in trouble with the law and 8 had a sibling with a recognised drug abuse problem.

#### 6.2.4. Health & Welfare

Table 6.7 illustrates the findings for the sample with regard to specific experience of abuse, self-harm and substance use. This information was classified as missing in 4 cases, thus total percentages are out of 64. The figures show that a large number of the children had experienced many negative factors in their lives. When we examine the percentages for males and females compared to the total sample, it is also notable that the females of the group had significantly higher rates in almost every category compared to the males.

**Table 6.7: Health & Welfare Issues**

	Male N = 51		Female N = 13		Total N = 64	
	N	%	N	%	N	%
Physical abuse	18	35.3	6	46.2	24	37.5
Sexual abuse	11	21.6	4	30.8	15	23.4
Prostitution	2	3.9	2	15.4	4	6.3
Attempted suicide	5	9.8	5	38.5	10	15.6
Self-harm	10	19.6	3	23.1	13	20.3
Hospitalised for drug/alcohol overdose	5	9.8	4	30.8	9	14.1
Tobacco	37	72.5	10	76.9	47	73.4
Alcohol	42	72.4	11	84.6	53	82.8
Cannabis	30	58.8	6	46.2	36	56.3
Solvents	17	33.3	4	30.8	21	32.8
Ecstasy or Speed	9	17.6	5	38.5	14	21.9
Cocaine	1	2.0	2	15.4	3	4.7
Heroin	4	7.8	1	7.7	5	7.8
Tablets	2	3.9	2	15.4	4	6.3

- Abuse

Twenty four (37.5%) young people had experienced physical abuse in the past and 15 (23.4%) had been sexually abused in the past.

Four (6.3%) of the young people had been positively identified as being involved in prostitution at some stage in their lives. The females had significantly more experiences than the males, where 46.2% had experienced physical abuse, 30.8% were sexually abused and 15.4% had engaged in prostitution.

- Suicide and Self Harm

One fifth of the sample, 13 young people (20.3%) were known to self-harm and 10 young people (15.6%) had attempted suicide. Indeed the personal files indicated that two young people had attempted suicide during the current episode of detention. The females of the group were again more likely to have engaged in these harmful behaviours with 5 out of 13, or 30.8% girls having attempted suicide in the past. A recent report in the United Kingdom illustrated the problem of suicide on remand, where 63 young people under 21 years have killed themselves on remand since 1993 (Inquest, 2002). Similarly, a study of 11 to 18 year old children on remand found that 41% had a history of self-harm or attempted suicide (Lipscombe, 2003; 38).

- Substance Use

Although a positive response for any use and/or abuse of substances indicates whether the individual has ever used rather than currently uses a substance, the figures are nonetheless extremely high given the age of the sample. The pattern is also in line with recent findings from other studies of young offenders (Lipscombe, 2003; Ellison, 2001; Hammersley et al, 2003).

Of the 64 young people, 47 (73.4%) had smoked cigarettes and 53 (82.8%) drank alcohol. A further 36 (56.3%) had used cannabis, 21 (32.8%) had used solvents and 14 (21.9%) had used ecstasy or speed on at least one occasion. In addition a smaller number had used heroin (5) or cocaine (3) and 4 were said to have abused tablets such as dopamine or sleeping pills in the past. It is notable that with the

exceptions of cannabis and solvent use the females in the group had higher levels of substance use than the males.

It was also recorded in the files of 5 (9.8%) males and 4 (30.8%) females that they had been admitted to hospital on at least one occasion for a drug or alcohol overdose.

#### 6.2.5. Previous Contact with Welfare Agencies

Table 6.8 illustrates the past experiences of the young people with welfare agencies and the figures show that a large number of the young people had already been identified as being in need of state care and protection. There was no information relating to such experiences in the files of 11 children, 10 males and 1 female, thus the percentages for this section are given from a total of 57 individuals. The table also has figures according to gender and shows that with the exception of residential care the females had more experience of welfare services in the past.

Table 6.8: Previous Contact with Welfare Agencies

	Male N = 45		Female N= 12		Total N = 57	
	N	%	N	%	N	%
Out of Hours Service	6	13.3	4	33.3	10	17.5
Subject of a Care Order	12	26.6	4	33.3	16	28.1
Foster Care	10	22.2	3	25.0	13	22.8
Residential Care	24	53.3	5	41.7	29	50.9
Hospital (Placement)	3	6.7	3	25.0	6	10.5

Many of the young people had experienced a number of different placements and had had substantial contact with welfare agencies prior to their entry into the current period of detention. This pattern is reflected in other recent studies of young offenders illustrating that children in care are often over-represented in custody and the criminal justice system in general (Lipscombe, 2003, Ellison, 2001). Of the 57 young people where this information was available in the case file, 13 (22.8%) had previously been in foster care and half (29; 50.9%) had been in a residential home. Sixteen young people (28.1%) were indicated as having been on some form of care order in the past, some of whom were currently on care orders. Finally 6 (10.5%) had been detained in the psychiatric unit of a hospital on at least one occasion. This figure corresponds to 6.7% of males and 25.0% of females. Overall the figures indicate that the females were more likely than the males to have been in the care of welfare agencies in the past.

#### 6.2.6. Previous Contact with Justice Agencies

There was information relating to contact with justice agencies in the past in all but one case file, thus figures in this section are given from a total of 67 individuals, and are illustrated in table 6.9 below.

With the exception of cautions under the JLO scheme, the females had more experience of the justice system in the past than the males in the group (NB. These figures are based on comparisons of small numbers of females compared to the males and therefore may not be reflective of the general population of young offenders).

Table 6.9: Previous Contact with Justice Agencies

	Male N = 54		Female N = 13		Total N = 67	
	N	%	N	%	N	%
Cautioned JLO Scheme	21	38.9	3	23.1	24	35.8
Probation	30	55.6	8	61.5	38	56.7
Remand	26	48.1	7	53.8	33	49.3
Remand for Assessment	21	38.9	6	46.2	27	40.3
Detention order	11	20.4	3	23.1	14	20.9

For the majority of the young people in this study, this was not their first contact with the justice system, since 55 (82.1%) had had contact in the past. Furthermore females appeared to have more experience of justice agencies in the past than males. However it must be noted that not all of the young people had been in contact due to their offending behaviour, for example some had been assessed in the past due to non-school attendance or out of control behaviour.

From the information in the files, and in particular any reports from various agencies or individuals involved with the child, it was noted that over one third of the sample had been cautioned under the Garda Juvenile Liaison scheme (24; 35.8%) and over half had previously been on probation (38; 56.7%).

With regard to previous detention in custody, in other words discounting any detention during the current episode, almost half (33; 49.3%) had previously been on remand, some of whom (27; 40.3%) had been previously remanded for assessment in the National Assessment and Remand Unit or Oberstown Girls' Centre. In addition, 14 young people (20.9%) had been the subject of a committal

order in the past, although a number of the orders were not executed for reasons that will be discussed later but were generally either due to lack of placement or to the age of the young person.

- **Assessment**

As mentioned already, 27 (40.3%) of the children had previously been remanded for assessment purposes in the National Assessment and Remand Unit or Oberstown Girls' Centre, and 24 young people (35.8%) were remanded for assessment purposes during the episode of study. (There were some overlaps in these figures since a number of young people had been assessed on more than one occasion). By including those assessments carried out on the child by other agencies, such as child and family guidance centres, then the results show that 43 (64.2%) had been assessed by a psychologist and 42 (62.7%) had been assessed by a psychiatrist in the past. Many of the young people had received numerous assessments over the years and from various different agencies.

#### 6.2.7. Educational History

A number of the young people, in particular those who had undergone a three-week assessment had educational reports on file. Many of these reports indicated that the child or young person had experienced difficulties in their schooling from a very early age and the results are shown in table 6.10. A total of 61 individuals had information relating to their educational history thus percentages are given from a total of 61 in this section.

Table 6.10 : Educational History

	Male N = 49		Female N = 12		Total N = 61	
	N	%	N	%	N	%
Received remedial tuition	12	24.5	1	8.3	13	21.3
Behaviour problems	29	59.2	6	50.0	35	57.4
Truant/ non-attender	26	53.1	9	75.0	35	57.4
School attendance officer	12	24.5	4	33.3	16	26.2
Suspended	25	51.0	5	41.7	30	49.2
Expelled	17	34.7	2	16.7	19	31.1
Attended special school	29	59.2	4	33.3	33	54.1
Achieved junior certificate	3	6.1	1	8.3	4	6.6

Over half (35; 57.4%) were said to have exhibited behaviour problems in class, and the same number were known as a truant or non-attender. Over one quarter (16; 26.2%) of the sample had come to the attention of a school attendance officer. In addition, 13 (21.3%) had received some form of remedial teaching, and only 4 (6.6%) were recorded as having passed their junior certificate. With regard to formal sanctions imposed, almost half (30; 49.2%) had been suspended on at least one occasion and 19 (31.1%) had been expelled. It is not surprising then that over half (33; 54.1%) had attended an alternative to mainstream schooling, while others had left formal education to engage in community training or similar (11; 18.0%) or employment (4; 6.6%). The link between difficulties at school and juvenile delinquency is demonstrated in much of the literature on young offending. In particular, permanent exclusion from school and regular truancy are found to be



strong predictors of offending behaviour (Berridge et al., 2001; Audit Commission, 1996).

There were some differences between males and females in their educational experience, however none of these were significant. For example males were more likely to have received remedial tuition (24.5% compared to 8.3%), or to have attended a special school (59.2% compared to 33.3%). Females had a higher rate of truancy than the males (75.0% compared to 53.1%) and were more likely to have come to the attention of a school attendance officer (33.3% compared to 24.5%). Formal sanctions were more likely to be imposed on the males with 51.0% males suspended compared to 41.7% females and 34.7% males were expelled compared to 16.7% females.

- Educational Ability

The majority of young people had the results of at least one set of educational ability tests on file. Fifty-four (88.5%) had undergone a reading age test, 48 (78.7%) had undergone a number age test and 53 (86.9%) had been tested for intellectual ability.

The age of the child at the time of the test, the age of their level of ability and any comments or diagnoses made were recorded.

- a) Reading age

The results show that the average age when tested for reading ability was 13.8years (166.0 months) but that the average age of reading ability when tested was only 8.6 years (103.8 months). The youngest at which the test was

administered was 5.9 years and the eldest was 16.7 years. By comparison the lowest age in ability was 5.0 years and the eldest a male who reached the ceiling level of his test with a score of >15.5 years.

#### b) Number Age

The results show that the average age when tested for number ability was 13.8 years (166.0 months) but that the average age of number ability when tested was only 8.6 years (103.8 months). The youngest at which the test was administered was 9.6 years and the eldest was 16.7 years. By comparison the lowest age in ability was 6.5 years and the eldest a male who reached the ceiling level of his test with a score of >14.5 years.

#### c) Intelligence tests

A number of children and young people had also been administered an intelligence test at some time the youngest of whom was 5.8 years at the time of testing and the eldest 16.7 years.

From the results of these tests, 15 (24.6%) individuals were categorised as exceptionally low ability with a general learning disability, a further 10 (16.4%) were said to have some level of learning disability or mental handicap and another 2 were classed as borderline levels of learning disability. Fourteen individuals (23.0%) were in the average or low average range of ability and only one young person was said to be of above average ability.

#### d) Medication

Five young people had been on medication in the past, some of whom were still taking medication at the time of study. The reasons for the prescription varied

though depression and attention deficit hyperactivity disorder were the most common conditions.

#### 6.2.8. Other Issues

- Assaults on staff

A number of files contained information relating to assaults on staff by the child or young person. The information came from a variety of sources including unit observation/incident reports, previous placement reports as well as charge sheets as a number of the young people had been charged after assaulting a member of staff. Sixteen of the young people had assaulted a member of staff in the past

- Absconsions

Three of the 68 young people exited the episode of remand by absconding from the unit and not returning. There were in addition several young people who had absconded from a unit of detention either in the past or during the current remand episode. Results show that in 29 cases there was information in the case file relating to a period of absconsion.

- High Support Units

A substantial proportion of the young people were being detained while awaiting transfer to a suitable residential placement, in many cases a high support unit.

There were also 5 cases where steps had been taken to find a suitable placement

within the United Kingdom for the child or young person, as they could not be safely accommodated in Ireland due to a lack of suitable facilities.

#### 6.2.9. Summary of Results

This section has provided a background profile of the 68 young people involved in the study and some of the results are particularly notable. A full discussion of the findings from all three sections of the results can be found in the final chapter, as well as some more in-depth analysis of significant variables, however a summary of the results from this section show:\*

- Firstly there are more males than females on remand in Ireland with an approximate ratio of 4 males for every 1 female.
- The male population is younger than the female, however there are children of both genders over 16 years on remand in units designated for children *under* 16 years.
- Dublin is hugely over-represented compared to other counties at 57% of the group, and the children tend to come from inner city areas characterised by other social disadvantage indicators.
- The children had experienced a large number of negative events in their lives, with a high incidence of parental separation (47%), domestic violence (40%), and parental substance use.

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\* Percentages have been rounded to the nearest whole number

- There were far fewer fathers living in the family home compared to mothers (38% to 71%), and 28% of the young people appeared to have no significant adult role model in their life.
- Many of the young people had family members, particularly fathers (19%) and other siblings (21%) who had also been in trouble with the law.
- There was a very high incidence of both physical (38%) and sexual (23%) abuse in the past, as well as a high incidence of both self-harm (20%) and attempted suicide (16%) by the young people.
- Females appeared more likely to have experienced abuse and self-harm than males. They were also more likely to have had previous contact with both welfare and justice agencies in the past.
- The majority of the children had smoked (73%), drank alcohol (83%), used solvents (33%) and taken a variety of recreational drugs such as cannabis (56%) and ecstasy or speed (22%). A smaller number had used heroin and cocaine.
- 23% of the sample had previously been in foster care and 51% had been in residential care.
- There was a high incidence of previous contact with justice agencies, with 36% previously on the JLO scheme, 57% on probation, 49% on remand and 21% previously on detention orders.
- The children appeared to have undergone a large number of assessments in their lives, with 64% having been psychologically assessed and 63% been psychiatrically assessed in the past.

- Many of the young people had experienced educational difficulties with high levels of behaviour problems (57%), and truancy (57%). In addition 49% had been suspended from school and 31% had been expelled.
- Reading and number tests that the children had undergone showed that the group were roughly 5 years behind their chronological age in both reading and number ability. Furthermore, 44% had been characterised as having some form of learning disability.
- Assaults on staff were evident with 24% of the children recorded as having assaulted a member of staff.
- 43% of the group had managed to abscond from the unit in which they were detained or were recorded as having absconded from care in the past.

Section A has provided a clear insight into the backgrounds of the 68 young people involved in this study. This is now followed with a closer examination of aspects specifically related to the period of custodial remand experienced by these young people.

### **6.3. Results Section B: Total Population**

This section of the results specifically examines the period of detention on remand experienced by the young people and aspects related to it. A total of 117 children and young people were recorded as being detained in custodial remand over the four time periods. This represents the 68 individuals, some of whom were present during two or more weeks of study. For the purposes of this section each of the 117 cases will be treated as separate individuals, as their circumstances often varied across the different weeks. For instance the same individual may be on a district court order detained for remand and assessment during week one, but by week three (3 months later) they may be the subject of a high court order awaiting placement in a residential unit. Before giving the findings from this section, a description of the custodial aspect of the Irish Juvenile Justice System would be helpful.

#### **6.3.1. A Flowchart of the Remand System**

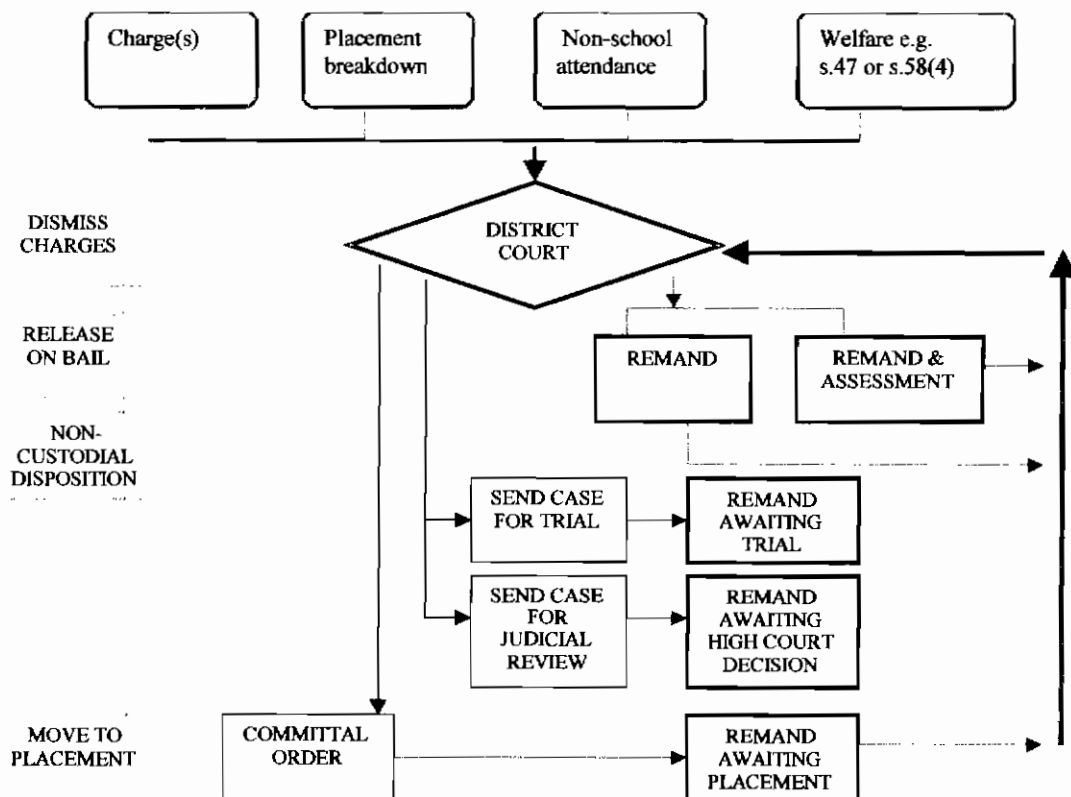
Through the collection of information from the case files regarding remands in custody, and during the initial attempts to code and analyse this information it became increasingly apparent that the children and young people on remand are caught up in a highly complex and complicated system. In order to illustrate the intricacies of this system, a flowchart model was created. As this model developed it was apparent that not only does it provide a clearer and more easily obtainable insight into the system, it can also illustrate the specific difficulties that some of the young people encounter. The flowchart is by no means an exhaustive picture of the

juvenile justice system, instead it focuses specifically on the remand and detention aspects of it. Furthermore, due to the complex nature of individual cases, it may not apply in every circumstance. The entire flow chart can be found in Appendix A however by breaking down the flow chart into smaller sections, the position of each child can be shown.

- District Court Remands

The first introduction to the formal justice system for many young people is with an appearance at one of the district courts in the country. Figure 6.1 illustrates this part of the system.

**Figure 6.1: District Court Remands**





Appearance in court could be a result of the child committing an offence, or could be for specifically welfare reasons such as non-school attendance or out-of-control behaviour. The green boxes on the chart (see figure 1) illustrate entry into the system, and lead to first appearance in the district court. From here the child can either exit from the system, as represented by the orange boxes, or be detained in the system, as represented by the blue boxes.

An exit from the system through the orange channel can occur for example if the judge dismisses the charge(s), releases the child on bail to appear in court at a future date, or sanctions the child with a non-custodial disposition such as a probation order or community service order. Finally, if the judge recommends that the child be committed to the care of the state, for example in a residential children's home, special school or detention unit, and providing there is a place available for the child, this would also be an exit from the system. However, if there are no suitable placements available, and the child cannot be released for whatever reasons, the judge may remand the child for a period of time until such a placement becomes available, thus entering the blue box within the system, 'remand awaiting placement'.

At the first appearance in court the judge also has the option to detain the child in custody for a period of time. For example if the child is not eligible for bail the judge could remand them in custody until the next court appearance, (the blue 'remand' box). Should they require more information on the child's circumstances in order to make a decision they can be remanded in custody awaiting reports (e.g. social or probation). Finally, if a more detailed insight is required the child can be remanded

to one of the remand and assessment units in order that a full assessment report be completed. In either of the latter two cases this represents the blue 'remand & assessment' box on the diagram.

Once the period of detention has been completed the child then returns to the district court for a further hearing of their case, and the red arrows in the diagram represent this. The judge then has the same options available to them as before – to release through dismissal of charges, release on bail, or to impose a non-custodial disposition, or to detain the child for a further period on remand either awaiting placement, or awaiting reports or assessment results and with a date set for a future court appearance. From this point onwards we can see the basic pattern of repeat remands that occur within the Irish juvenile justice system.

Sometimes the offence may be too serious to be dealt with in the district court and thus becomes the jurisdiction of the circuit court. In this case the district court judge may send the case forward to the circuit court and has the option of remanding the child in custody until such time as his/her case is heard in the circuit court, noted by the blue 'remand awaiting trial' box.

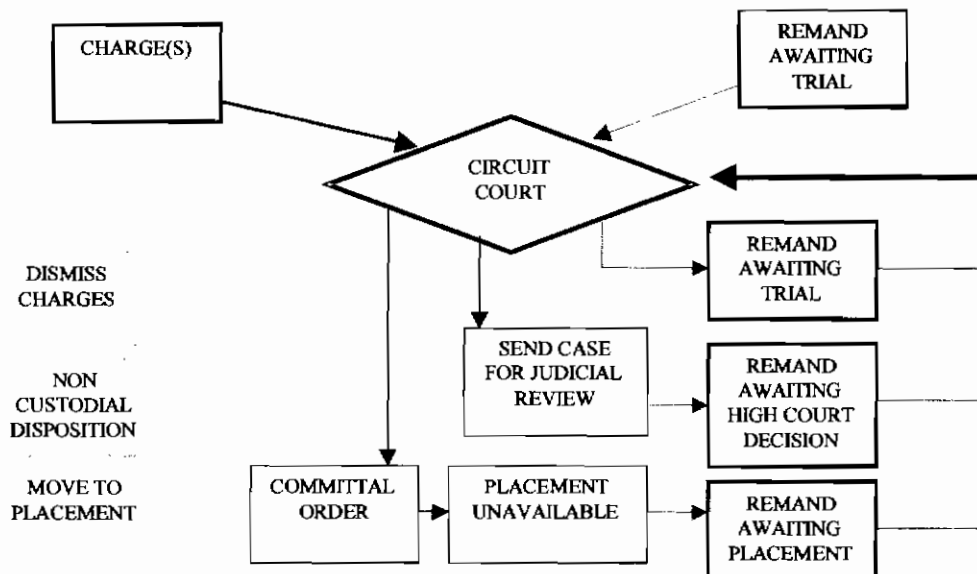
Finally, in relation to this study, there were some children whose cases had been sent to the high court for judicial review. Typically this was after a series of repeat remands 'awaiting placement' and the child's solicitor had brought up the right of the child to have suitable placements available to them that would meet his/her needs. In this case, the district court judge can either uphold the charges and continuously remand the child until a high court decision has been made, or

dismiss the charges if the case is deemed to be a matter of the child's welfare rather than his/her offending behaviour.

- Circuit Court Remands

A small number of children will appear in a circuit court, primarily due to the serious nature of their offence. Figure 6.2 illustrates this section of the justice system, which is similar to the diagram of the district court system. However, in this case, some children may already have spent time on remand on district court orders, as illustrated by the blue 'remand awaiting trial' entry box at the top of the diagram. In all other respects the child's experience of circuit court remand orders is much the same, the judge has the same release and detention options available to them, as well as the option of sending the case for judicial review.

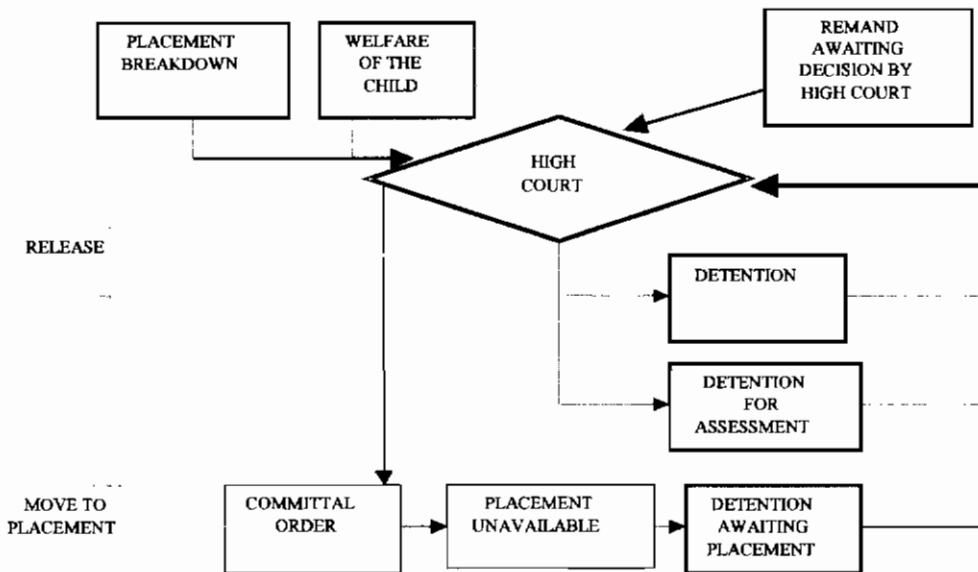
Figure 6.2: Circuit Court Remands



- High Court Detention

As stated, some children appear in front of the high court as a result of extensive periods of time spent on remand awaiting a suitable placement to arise for them. Figure 6.3 illustrates the part of the system that deals with children on high court detention orders, and those that have entered as a result of previous remand are illustrated by the blue 'remand awaiting high court decision' box in the diagram.

**Figure 6.3: High Court Detention**



Children who are already on a high court detention order, and whose placement breaks down for whatever reason may come directly into this part of the system. Similarly children whose cases are being heard in the high court for purely welfare reasons, as indicated by the green 'welfare of the child' box, may also be detained within this section of the model.

It must be noted that a child who is detained on the grounds of an order issued by the high court is not actually 'on remand', however given that their circumstances are very similar they have been included in this study.

From the diagrams illustrated above, it is possible to clearly see the role that the various courts play in the remand and detention of young people in Ireland.

However, it must also be noted that many children, as a result of their circumstances, may be detained by an order of more than one court. For example if a district or circuit court refers the case to the high court for judicial review, and upholds the original charges then a child may be detained by an order of both of these courts at the same time.

Similarly, if a child has a number of charges, and only one of these is referred to the circuit court for trial then they may be remanded on orders from both the district court and the circuit court at the same time.

### 6.3.2. Results

A total of 98 males and 19 females were identified, which represent 83.8% and 16.2% respectively. All 19 females were being detained in Oberstown Girls' Centre. Of the male population, the largest group (46; 46.9%) were held in The National Assessment and Remand Unit, a further 32 (32.7%) were in Oberstown Boys' Centre, and the remaining 20 (20.4%) were detained in Trinity House School.

### 6.3.2.1. Age

The total population ranges in age from 11.4 years to 17.1 years, with a mean age of 14.8 years. The vast majority of the population, a total of 72 (61.5%) are aged between 14 and 16 years of age. Around one fifth (25; 21.4%) are under 14 years of age and the remaining 20 (17.1%) are over 16 years old. This is particularly notable given that all the units in this study are certified for those *under* 16 years of age.

There is a significant difference between males and females in terms of age (Pearsons  $r = 0.472$ ,  $p < 0.001$ , one-tailed). All 19 females are aged 14 or over, 11 of whom (57.9%) are aged 16 or 17 years. By comparison, the male population is somewhat younger than the females since 25 (25.5%) of males are under 14 years of age, a further 64 (65.3%) are between 14 and 16 years, and only 9 (9.2%) are over 16 years old.

When we examine the age of the male population according to the unit of detention, there are also some noticeable differences. By far the eldest group is that detained in Trinity House School, where all 20 young people are over 14 years, and 6 (35%) are over 16 years of age.

Although the National Assessment and Remand Unit held the only two individuals (both males) aged between 11 and 12 years, the overall youngest population, in terms of percentage per unit, were actually those in Oberstown Boys' Centre. In Oberstown, 37.5% were aged under 14 years whereas this figure is 28.2% of the total population of NARU. At the opposite end of the scale, 28.2% of the

Oberstown population were 15 years or over, compared to 43.5% of the NARU population. There was one male over 16 years of age in NARU and two males over 16 years in Oberstown.

### 6.3.2.2. Court that issued warrant

Table 6.11 shows which of the courts had ordered the detention of the young people.

Table 6.11: Court that ordered the detention

	Male		Female		Total	
	N	%	N	%	N	%
District Court	57	58.2	10	52.6	67	57.3
Circuit Court	1	1.0	0	--	1	0.9
High Court	18	18.4	6	31.6	24	20.5
District Court & High Court *	15	15.3	3	15.8	18	15.4
District Court & Circuit Court	1	1.0	0	--	1	0.9
High Court & Circuit Court	2	2.0	0	--	2	1.7
District, Circuit & High Court	4	4.1	0	--	4	3.4
Total	98	100	19	100	117	100

\* includes cases where child is subject of hearings in the high court but may not have a warrant from that court on file.

Over half the population (67; 57.3%) of young people were the subject of district court orders only, a further 24 (20.5) were subjects of high court orders only, and 18 (15.4%) were detained by both district court and high court orders. The

remaining 8 people were subjects of circuit court orders only (1), circuit court and district court orders (1) circuit court and high court orders (2) and four individuals were the subject of orders from all three courts.

Thus, of the 117 young people being detained, 48 (41.0%) were the subject of high court orders, with or without charges being heard in another court.

### 6.3.2.3.Reason for Court Appearance

The court warrant for each child indicates the reason for the child's appearance in court. Table 6.12 illustrates the findings for this.

Table 6.12: Reason for Court Appearance

	Male		Female		Total	
	N	%	N	%	N	%
Charge(s)	59	60.3	10	52.6	69	59.0
Non-school attendance	6	6.1	0	--	6	5.1
Out of Control (s.47 & s.58(4))	2	2.0	0	--	2	1.8
High Court (welfare of the child)	4	4.1	5	26.3	9	7.7
Placement Breakdown	7	7.1	1	5.3	8	6.8
Charge(s) & Placement Breakdown*	20	20.4	3	15.8	23	19.7
Total	98	100	19	100	117	100

\* the majority of these cases are where the charges relate either to assaults on staff or damage to the residential unit where the children were residing.

As the table shows the majority of young people appeared in court as a result of their offending behaviour (69; 59.0%). A further 17 (14.6%) appeared in court as a



result of concerns for their welfare whether in the district court or the high court. It is notable that a total of 31 cases, which represents over a quarter of the sample (26.5%), appeared in court as a result of the breakdown of their current placement, usually within a residential unit.

6.3.2.4. Types of offences

Where the young people had been charged with an offence, the details of the offence were recorded and coded. The number of offences that each individual had been charged with ranged from 1 through to 52 in total and the children committed a total of 431 offences between them. Table 6.13 shows the breakdown in types of offences committed.

Table 6.13: Breakdown of offences

	Total Offences	
	N	%
Motor Vehicle Offences	122	28.4
Larceny Offences	101	23.4
Property Offences	60	13.9
Offences Against the Person	51	11.8
Public Order Offences	16	3.7
Court Offences	65	15.1
Other	16	3.7
<b>Total</b>	<b>431</b>	<b>100</b>

Roughly a quarter of the total offences committed were motor vehicle offences, which includes unlawful taking, carriage, and interference of motor vehicles, and a similar number were larceny offences which includes larceny, handling stolen property and trespass with intent. Court offences, which were roughly 15% of the

total include failure to appear in court and breach of bail conditions. Property offences generally concerned minor damage to property however a number of young people were also charged with arson (fire-setting). Offences against the person accounted for almost 12% of the total and included assault, assault of garda, as well as a small number of sexual offences against the person. Finally, public order offences included breach of the peace and intoxication in a public place. There were no significant overall differences between males and females in the types of offences committed, though the majority of motor vehicle offences were committed by males. Table 6.14 compares the three major types of offences committed by the young people with the total offences committed in Ireland by juveniles. Larceny and criminal damage (damage to property) are roughly the same proportion of the total offences whereas the young people on remand have committed many more motor vehicle offences.

Table 6.14: Offences compared to Garda Statistics (2000)

	% Total Offences Remand Population	% Total Offences (Garda Statistics 2000)
Larceny	23.4	21.2
Motor Vehicle Offences	28.4	8.5
Criminal Damage	13.9	12.9

#### 6.3.2.5. Unit of Detention

Almost two fifths (46; 39.3%) of the total population on remand were detained in the National Assessment and Remand Unit, a further 19 (16.2%) in Oberstown Boys Centre, 20 (17.1%) in Trinity House and all 19 girls (16.2% of the total population ) in Oberstown Girls Centre.

### 6.3.2.6. Purpose of Detention

Table 6.15 illustrates the reason why the various courts ordered the remand and detention of the 117 young people in the study.

Table 6.15: Purpose of detention

	Male		Female		Total	
	N	%	N	%	N	%
Remand	7	7.1	4	21.3	11	9.4
Remand & Assessment*	23	23.5	5	26.1	28	24.0
Remand Awaiting Placement	36	36.7	4	21.3	40	34.2
Remand Awaiting Trial	4	4.1	0	--	4	3.4
Remand Awaiting High Court Decision	2	2.0	0	--	2	1.7
Detention	3	3.1	0	--	3	2.6
Detention & Assessment*	1	1.0	1	5.2	2	1.7
Detention Awaiting Placement	22	22.5	5	26.1	27	23.1
Total	98	100	19	100	117	100

\* includes those cases where the young person is detained awaiting probation/social reports.

A total of 67 young people, which represents 57.3% of the population were being detained awaiting placement elsewhere. (The majority of these were waiting for a residential placement in a high support unit, or placement elsewhere after their previous placement broke down.) A further 30 (25.7%) people were remanded or detained for assessment purposes or for reports, and 4 males (3.4%) were remanded awaiting trial. This leaves 14 individuals, a mere 12.0% of the total who were on straightforward remand or detention.

The figures are comparatively similar when broken down by gender, with the only notable difference being that a higher percentage (21.3%) of females were on straightforward remand.

#### 6.3.2.7. Number of Warrants

Some of the young people were subject to more than one court order during the weeks of study. There are a number of reasons for this, most notably if they were the subject of hearings in more than one court, then they could be on an order from each court. A second reason is that they may have appeared in court during the week of study, and thus would be subject to two orders from the same court which run consecutively.

On 18 occasions the number of warrants was not established, most noticeably when the person had appeared in the high court. The majority of people (73; 62.4%) were subjects of only one order, 19 (16.2%) were subjects of 2 orders, 5 were on 3 separate orders and 2 people were being detained during the week on 4 separate orders.

#### 6.3.2.8. Length in days

The length of detention in days, as indicated on each separate warrant was noted, and recorded independently. In addition, where there was more than one warrant for the week, the length in days from the start date of the first warrant in the series to the end date of the last warrant in the series gives the total number of days in detention, adjusted for any overlaps. The number of days in detention ranged from

two cases of 2 days to one case of 106 consecutive days, and in 18 cases the length was unknown. Out of the remaining 99 cases, the mean number of days was 31.1, however the most frequently occurring length was 21 days (20 cases) which is the usual number of days for assessment, followed by 28 days (13 cases) and 14 days (10 cases).

Table 6.16 illustrates the length of time on remand, where number of days have been re-coded into weeks.

Table 6.16 : Length of time on remand according to the warrants for the week

	N	%
Up to 1 week	8	6.8
1 to 2 weeks	11	9.4
2 to 3 weeks	23	19.8
3 to 4 weeks	26	22.3
4 to 5 weeks	9	7.7
5 to 6 weeks	5	4.3
6 to 8 weeks	3	2.6
8 to 10 weeks	6	5.1
10 to 12 weeks	2	1.7
12 to 14 weeks	4	3.4
14 to 16 weeks	2	1.7
Unknown	18	15.4
Total	117	100

From the table, only 8 young people are detained for less than a week, and a further 11 for 1 to 2 weeks. Over two fifths of the sample (49; 42.1%) were

detained for between 2 and 4 weeks at a time. Of the remaining cases, 17 (14.6%) are in detention for between 4 and 8 weeks, 8 (6.8%) for 8 to 12 weeks, and 6 (5.1%) for over 12 weeks in total.

#### 6.3.2.9. Summary of Results

It is possible to illustrate the position of the young people within the model of the justice system described at the start of this section. Before doing this a brief summary of the main results from this section will now be given\*.

- There were 117 cases of remand during the four time periods, of which 84% were males and 16% were female.
- The children ranged in age from 11.4 years to 17.1 years with a mean age of 14.8 years. The male population was significantly younger than the female population.
- Given that all the units are designated for children under 16 years of age it is notable that 17% of the sample were over 16 years, and this includes 58% of the female population.
- The children appeared in court for a number of reasons, but mainly for offences they had committed (59%), welfare reasons such as non-attendance at school (15%) and a quarter (26%) were on remand because their previous placement appeared to have broken down for them.

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\* Percentages have been rounded

- The most common offences were motor vehicle offences (28%), larceny offences (23%), court offences which relate to failure to appear in court and breach of bail (15%) property offences (14%) and offences against the person (12%).
- Compared to garda statistics for offences committed by young people in Ireland, the remand population had committed many more motor vehicle offences, and the majority of these offenders were male.
- 57% of the sample were on district court orders only but it is notable that 41% were the subject of high court hearings, with or without being detained by an order of the high court.
- Only 12% were on straightforward remand or detention, and this figure represents 10% males and 21% females. The majority were detained either for assessment purposes or for reports (26%) or they were waiting for a suitable residential placement (57%).
- The number of days on remand according to the warrants by which they were detained ranged from 2 to 106 consecutive days, though the most frequent was 21 days, the usual number of days for assessment.
- However, 27% were detained for over 4 weeks at a time, of whom 7% were detained for 8 to 12 weeks and 5% for over 12 weeks at a time.

### 6.3.3. Position on the Flowchart

Figure 6.4 on page 166 is a diagram of each section of the custodial remand system incorporated into one model. The pink dotted lines represent the

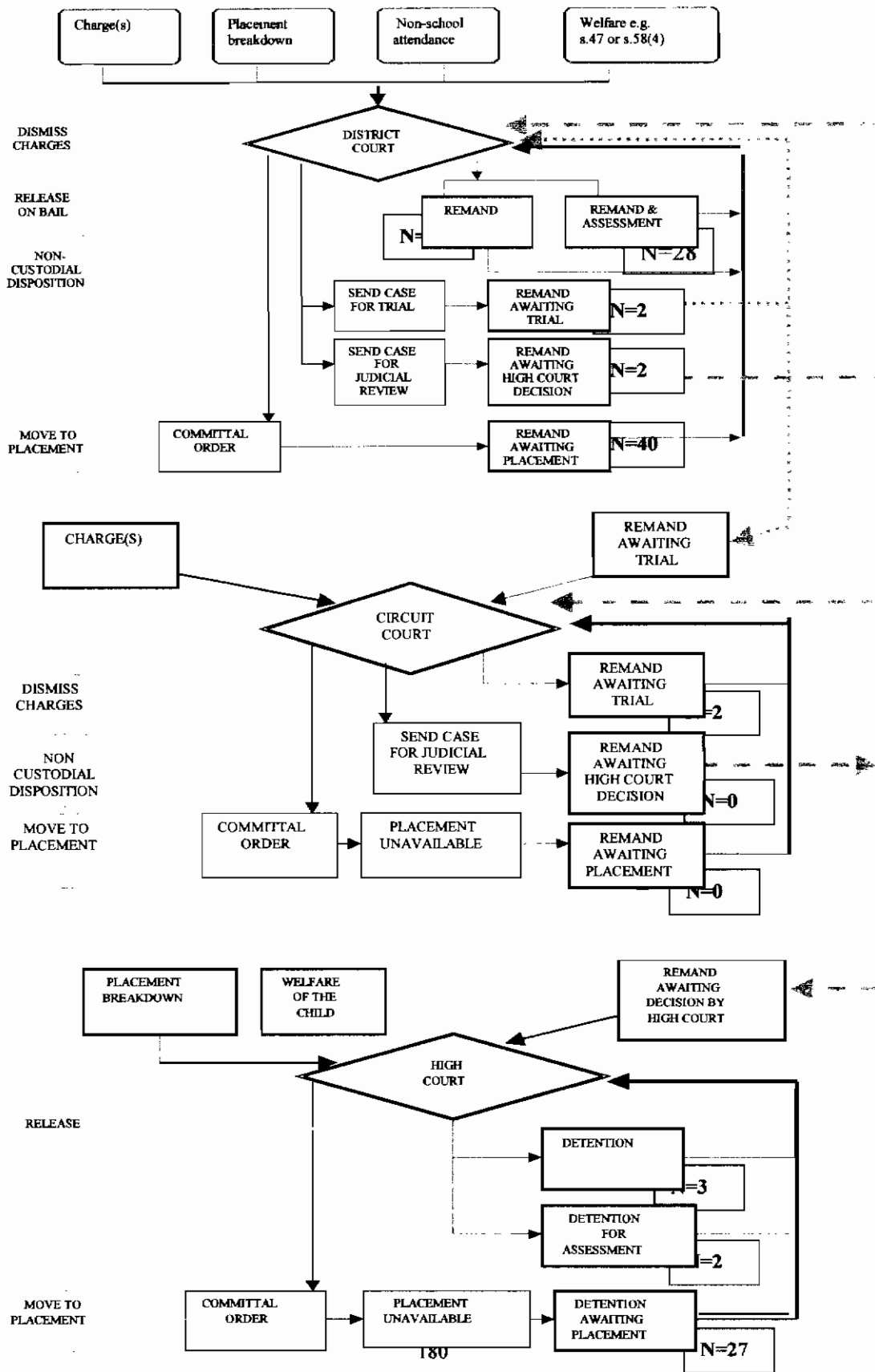
connection between each of the courts. Using the figures obtained in this section, it is now possible to place the young people within this model of the justice system.

The figures in each of the blue remand boxes represent the number of individuals who are detained within that section of the justice system. These figures correspond with the details regarding the 'court that ordered the detention' and the 'purpose of the remand' sections above. Where the child was detained by an order of more than one court, for example the district court and the circuit court, they are placed within the lower section in the chart, thus in this case within the circuit court section. However, where the child was detained by an order of the district court, but who was also the subject of hearings in the high court without actually being detained by an order of the high court, they have been placed within the district court section. This applies to the blue 'remand awaiting placement' box in the district court section of the chart. In this case  $N = 40$ , where 28 individuals were on district court orders only and 12 individuals were subject of high court hearings without being detained by an order from that court.

This model provides a picture of where each young person was within the system during the four time periods of the study, in other words a 'snapshot' picture. However it does not provide information on each child's movement and progression within the system, nor the total amount of time they have spent within it. Section C attempts to illustrate these aspects of the system by examining the entire remand episode of the young people.



Figure 6.4: Flowchart illustrating position of each individual in the system



#### **6.4. Results Section C Remand Episode**

The previous two results sections dealt with the children themselves and the remand periods specific to the week(s) of the study. This section will now examine the progress of some young people through the remand system and will attempt to illustrate some of the more pertinent issues, particularly regarding repeat remands, by using some case examples.

During the data collection phase information relating to periods of remand that ran consecutive to the specific week(s) of the study was collected for each of the 68 individuals, in order to identify a remand episode.

A remand episode represents the period from first remand or detention into one of the units, to the date of leaving the unit for a purpose other than remand (e.g. probation). During this period the person may have been on a number of consecutive court warrants that, with the exception of absconsions meant a continued period of time locked in a secure unit. For all the following results the episode includes the time spent on remand during the week or weeks of study.

Out of the 68 individuals in the study, there were a total of 71 remand episodes as 3 individuals had 2 episodes each, i.e. they had been released from one episode and then returned to court at a later date and entered a new episode. They were also present during at least one week of the study in each episode.

Of the 71, 45 (63.4%%) had completed their remand episode and 22 (31.0%) had not. The remaining 4 (5.6%) individuals had absconded before their episode was complete and did not return to the unit.

Of the 45 who had completed their episode the minimum total length of stay, adjusted for any overlap on the warrants, was 14 days and the maximum duration was 271 days. For the 22 cases where the episode was not yet to completion, the minimum stay was 2 days and the maximum 323 days. For those whose episode had ended in absconion the minimum stay was 21 days and the maximum stay was 351 days.

In 10 out of the 71 cases (14.1%) the actual number of court appearances and therefore number of repeat remands was not clear, primarily due to high court detention orders which were not always kept in or updated in the case file. (However the number of days in custody was obtained from the unit records). For the remaining 61 cases the minimum number of remands was 1 and the maximum number of repeat remands was 12 for completed episodes, 22 for incomplete episodes and 13 for those whose episode ended in absconion.

### Some Case Examples

For each of the 71 episodes, the path of the individual through the custodial aspect of the justice system was followed, and illustrated on the flowchart model. For the purposes of this section some of the more pertinent cases have been identified and will now be discussed in more detail.

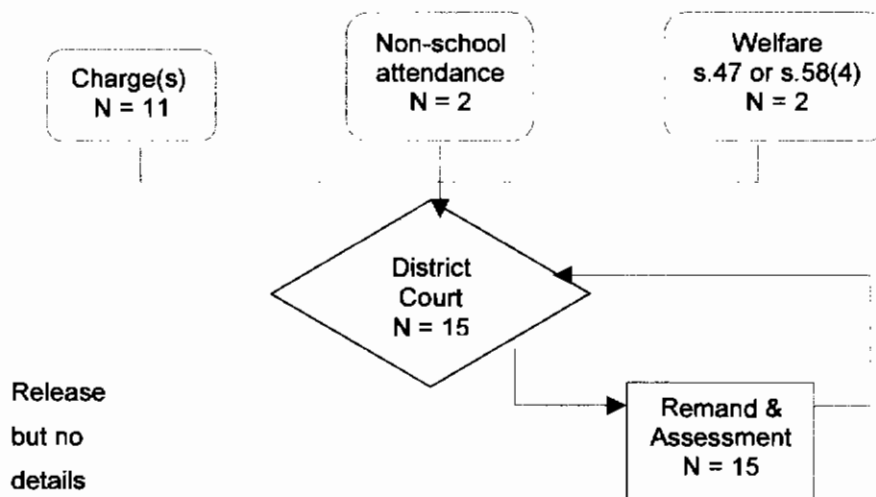
#### 6.4.1. District Court, Remand and Assessment

There were a number of individuals whose total period of detention was relatively short, and the majority of these, totalling 15 individuals, were detained by an order of the district court for the purposes of assessment.

For all 15 individuals the remand episode consisted of an appearance in the district court, followed by 3 weeks (20 – 22 days) remand for assessment purposes and on the next appearance in court they were released from the custodial aspect of the justice system. Of these 15 individuals, 13 were males and 2 were females.

The following diagram illustrates their experiences.

Figure 6.5: District court remand and assessment



As we can see four out of the 15 had not committed any offences and had been presented to the district court either for non-attendance at school, or because of their out of control behaviour.

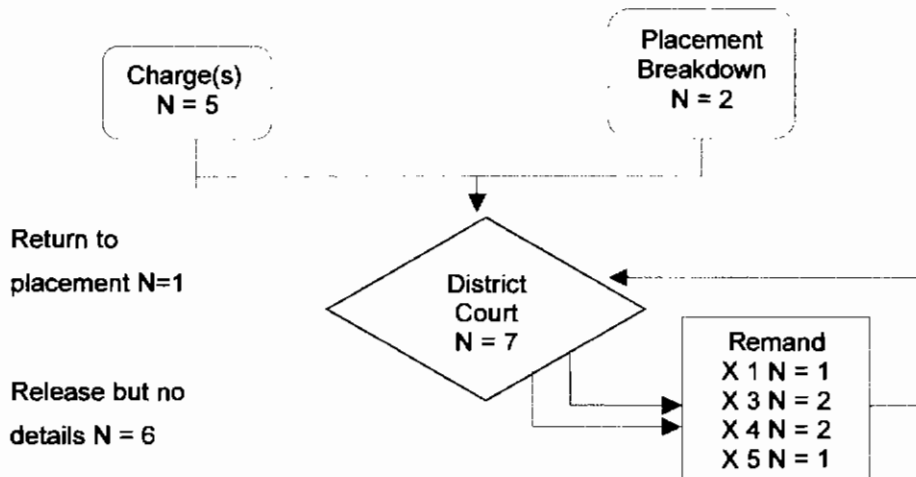
### 6.4.2. District Court: Remand

Seven individuals completed their episode of detention by being remanded in custody by the district court without assessment or any other complications. Of these there were 4 males and 3 females. The number of repeat remands varied as the following table illustrates.

	No. repeats	Total days on remand
Case 1	1	14
Case 2	1	2
Case 3	3	28
Case 4	3	35
Case 5	4	35
Case 6	4	27
Case 7	5	120

As the table shows, one person was repeat remanded 5 times in a row resulting in a period of detention totalling 120 consecutive days. The details of the 7 individuals have been marked on the flowchart as illustrated below.

**Figure 6.6: District court remand**

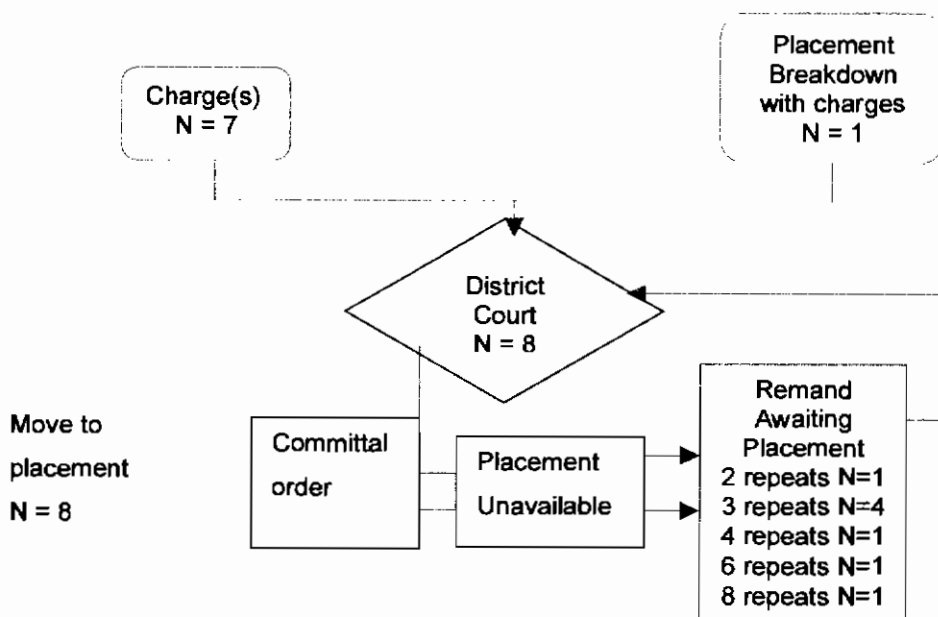


Two children in this sample entered the system as a result of their original placement breaking down, one of whom was returned to this placement after 14 days on remand. For the remaining young people, their episode ended after a couple of repeat remands and they were released from custody, although the personal files do not give any information as to where they went.

### 6.4.3. District Court: Remand Awaiting Placement

In the case studies illustrated above, the young people appeared in the District Court either for remand or remand and assessment and subsequently exited the custodial system, some of whom after a number of repeat remands. The following case examples illustrate the impact of the child awaiting a suitable placement on the number of repeat remands and subsequently their total length of time in detention.

Figure 6.7: District court remand awaiting placement



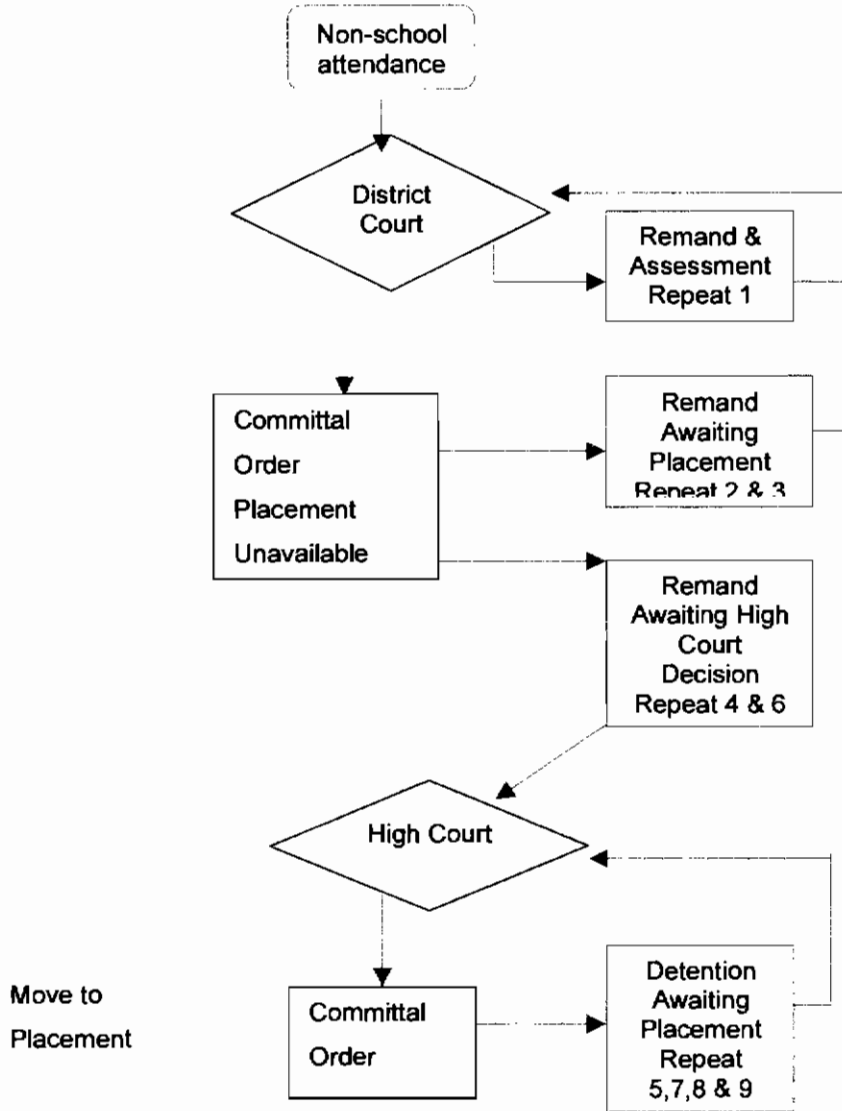
There were 8 individuals whose remand episode began in the district court, 5 of whom underwent a 3 week assessment and/or straightforward remand before being remanded awaiting placement. The figures for repeat remands include these previous remand periods, and are shown in the following table.

	No. repeats	Total days on remand
Case 1	2	49
Case 2	3	48
Case 3	3	56
Case 4	3	44
Case 5	3	35
Case 6	4	131
Case 7	6	117
Case 8	8	98

As we can see the length of time on remand is considerably longer when the child is waiting for a suitable placement to become available to them, with one child being detained for 131 days before moving on. Two individuals in this group were also the subject of high court hearings due to concerns for their welfare but were not detained by orders from the high court.

It is often at this stage in the cycle of repeat remands, where the child has spent considerable periods of time waiting for a suitable placement, that the solicitor for the child may ask the District Court to send the case to the High Court for Judicial Review. This is due to the State's failure to provide a suitable placement for the child. The following diagram illustrates one child's experience of this.

**Figure 6.8: Case study, remand awaiting placement**



This child entered the system through the district court as a result of non-attendance at school and was remanded for three weeks for the purposes of a full assessment to take place. When they returned to the district court it was decided



that the child needed a residential placement but none was available so the child was remanded awaiting a suitable placement (Repeat 2). On the next court appearance there was still no placement so the child was again remanded in custody (Repeat 3). On return to court, and still with no placement the case was referred to the high court for judicial review and the district court judge remanded the child awaiting the high courts decision (Repeats 4 & 6). In the meantime the high court took over the child's case as a matter of welfare and upheld the decision that a residential placement was required. However, with no placement available the child was again detained in custody (Repeats 5,7,8 & 9). Finally, after 9 consecutive periods of detention, totalling 150 days, the child was moved to a suitable residential placement.

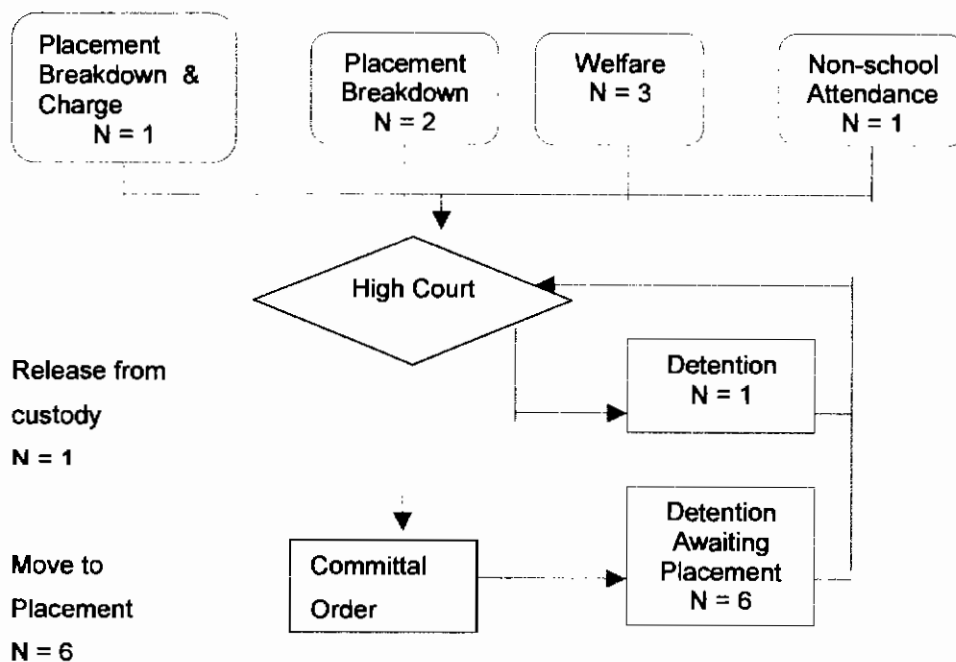
#### 6.4.4. High Court Detention

A number of children are detained in the four units without an appearance in the district court. Some of these may have committed offences but this is not the reason why they become detained. More often it is because they have come to the attention of the high court for welfare reasons, or because their current placement has broken down and in either case they require a suitable residential placement. Of those who had completed their episode of detention there were 7 individuals where this was the case, illustrated in the following table.

	No. repeats	Total days on detention
Case 1	1	14
Case 2	unclear	28
Case 3	unclear	80
Case 4	7	122
Case 5	unclear	174
Case 6	8	233
Case 7	unclear	271

Case 1 was on detention for 14 days before being released from custody, and the remaining cases were all on detention awaiting placement. In only one case did the young person appear to have committed an offence, the majority were being detained for reasons associated with their welfare. The number of times the children and young people had their case heard in the high court is not always clear and therefore in 4 cases the number of repeats could not be determined. However for every case the total length of stay in the unit can be identified from the unit records, and the figures are shown in the table. Thus, it would appear that children detained by the high court often have the same experience of large numbers of repeated periods of detention and subsequently spend considerable periods of time detained in secure units. The progress of the 7 individuals discussed has been illustrated in the following diagram.

Figure 6.9: High court detention



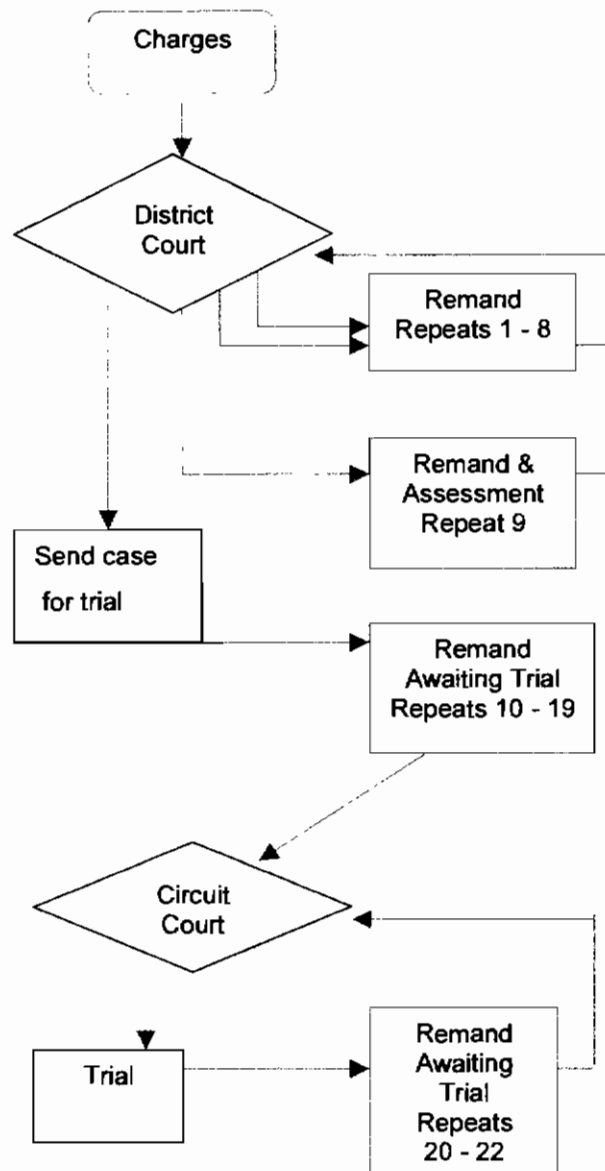
### Incomplete Episodes

There were 22 cases where the episode had not run to completion by the end of the data collection phase of the study, some of whom had just begun an episode and others who had been in custody for considerable lengths of time. The experience of two individuals whose episode had gone on for some time and who remained in custody at the end of this study will now be discussed.

#### 6.4.5. Case 1: Remand awaiting trial

This male appeared in the district court as a result of committing several offences, two of which were particularly serious property offences. The judge remanded the child to one of the units and set a date for another appearance (remand 1). On the next court appearance the judge requested that all information on the child, including any outstanding offences be gathered and presented to him and again remanded the child in custody (remand 2). This was repeated several times (remands 3-8) until the child was remanded for the purposes of a full assessment to be carried out (remand 9). When the child returned to court the judge sent the case to the circuit court for a trial date to be set and again remanded the child into custody (remand 10). This was repeated (remands 11- 19) until the circuit court took over the case and again remanded the child into custody (remands 20 –22). At the end of the data collection phase this child still remained in custody awaiting his trial date to be set. At this point the child had appeared in court on 23 occasions and had been remanded in custody for a total of 272 days at the end of the 22<sup>nd</sup> remand period.

**Figure 6.10: Case study, remand awaiting trial**

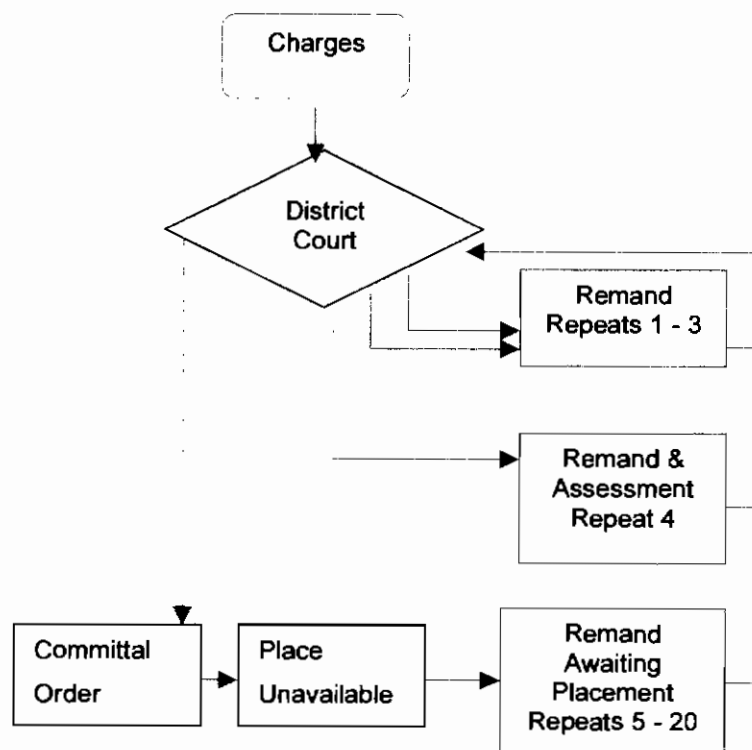


**6.4.6. Case 2: Remand Awaiting Placement**

This child was living at home and had never previously been in trouble with the law, although he had been exhibiting some behavioural problems. After a row at

home, the child was charged with assault, damage to property and unlawful taking of a motor vehicle. On the first appearance in court the child was remanded in custody and a request was made for a full assessment (remand 1). On the next two appearances in court the child was again remanded whilst an assessment place became available (remands 2–3), which it did on the next occasion and the child was then remanded for assessment (remand 4). It was decided that the child could not return home and thus a suitable residential placement needed to be found, and meanwhile the child was returned to custody (repeats 5 –20). When the data collection phase was completed this child was still awaiting placement, after 20 separate remand periods, and a total of 323 days in custody.

**Figure 6.11 : Case study, remand awaiting placement**



#### 6.4.7. Summary of Results

This section has attempted to illustrate the experiences of some of the young people through an entire remand episode. This in turn has highlighted the role that each of the courts plays in the remand and detention of young people in Ireland. By doing this the diagrams have shown how the young people experience a cycle of repeated remands which is mostly due to the lack of suitable placements, and as a result end up being detained for extensive periods of time.

The results from all three sections, the population profile, the total population on remand and the remand episode are linked together in the following section which discusses some of the issues raised in more detail, examines the relationship between significant variables, and assesses the possible impact of the Children Act, 2001 on these issues.

## **Chapter 7 : Analysis and Discussion**

### **7.1. Introduction**

Juvenile justice in Ireland is currently at a time of transition. The Children Act, 2001 has replaced the previous legislation that was in place for almost a century. Over recent decades there had been growing criticism of a system of juvenile justice that was failing in many respects, particularly in relation to the prevention of offending, reducing crime rates and the protection of the rights of children and young people who commit offences.

This study was conducted prior to the implementation of the Children Act, 2001 and as such the results provide us with a valuable base line from which to assess the impact of the new legislation in relation to children and young people who are remanded into custody. This section will now discuss some of the issues raised from this study in more detail including the factors associated with juvenile offending, the relationship between school failure and crime, the role of parents and family, the specific problems relating to female offenders and difficulties related to the number of welfare cases in the remand system.

### **7.2. Factors Associated with Juvenile Offending**

One of the first objectives of this study was to provide a social profile of the population of children on remand in Ireland. From the review of the research it was established that there were only a small number of studies on juvenile offenders in Ireland, and none specifically on those offenders remanded to custody. Given that

the first priority of juvenile justice policy is to prevent young people engaging in offending behaviour, it is essential that as much knowledge as possible is gained on the factors associated with the onset of criminal behaviour in order that prevention and intervention programmes can be targeted in these areas. Loeber and Farrington summarised these factors, as shown on page 19. The results of this study demonstrate that the experiences of the young people on remand in Ireland show a similar pattern of multiple disadvantage and negative life experiences, as shown in table 7.1.

As the table shows, children on remand in Ireland are typically young males who are used to engaging in high-risk behaviours such as drug and alcohol use. They are largely from single parent families, often with a history of marital conflict and domestic violence. Often the parents have little or no control over their child's behaviour, and this may be exacerbated by problems of their own such as alcohol or drug use or poor mental health. At school the young people are notable under-achievers. Poor attendance or regular truancy compounds their difficulties and this may result in the child requiring remedial tuition or special schooling. As a possible result of the frustration they feel the children often exhibit behaviour problems in class and this may lead to disciplinary action such as suspension or expulsion from school.



**Table 7.1 : Risk Factors for Offending, Results from Study**

<b>Domain</b>	<b>Risk Factor</b>	<b>Results from study</b>
<b>INDIVIDUAL</b>	Male Gender	81% males, 19% females
	Substance Use	73% smoked 83% drank alcohol 56% used cannabis 33% used solvents
	Risk Taking / Impulsivity	Not tested Subjects did engage in high risk behaviours such as drug taking and joy riding (28.4% of offences were motor vehicle offences)
<b>FAMILY</b>	Family break-up / parental separation / family conflict	47% parental separation 40% domestic violence in the home 62% fathers not in the family home 29% mothers not in the family home
	Large Family Size	Average 3.98 siblings per child
	Poor Child-rearing Practice	28% no parenting parent
	Child Maltreatment (not always family member)	38% physical abuse 23% sexual abuse
	Parental Alcohol Use / ill health	18% mothers and 31% fathers used alcohol to excess 7% mothers and 10% fathers used drugs 19% mothers had mental health problems
	Family Criminality	19% fathers in trouble with the law 21% sibling(s) in trouble with the law
<b>SCHOOL</b>	Family Poverty	Not tested Other factors such as large family size, one parent families and inner-city areas may indicate that poverty was a factor
	Low Academic Performance	Operating on average at 5.2 years below chronological age 21% remedial tuition 54% attended non-mainstream schooling
	Truancy	57% truants / non-school attenders 26% had school attendance officers
<b>COMMUNITY</b>	Behaviour problems	57% behaviour problems in school 49% suspended from school 31% expelled from school
	Neighbourhood Disadvantage	Not tested Areas represented are characterised by social and economic disadvantage

The young people have often been exposed to criminal activity from a young age, whether as a result of the community in which they live or through close relatives who have been in trouble with the law. At the time the child begins to engage in offending behaviour, they may already have been identified as being at risk and have come to the attention of welfare agencies. From this point onwards, as the frequency of offending increases, they are likely to have increasing contact with juvenile justice agencies.

The relationship between offending behaviour and the resulting contact with justice agencies can be examined further. The four variables relating to juvenile justice; - juvenile liaison scheme, probation, remand and detention were recoded into one variable of 'contact with the justice system'. This can then be analysed against the total number of charges.

Prior to carrying out such a test it is important to test whether the data is parametric or non-parametric. The Kolmogorov-Smirnov test was used to test both variables.

In this test the hypotheses are:

$H_0$ : data is parametric

$H_1$ : data is non-parametric

If the p value of the test is less than .05 then the null hypothesis is rejected and the alternative hypothesis is accepted, the data is non-parametric.

**Table 7.2. Test of Normality**

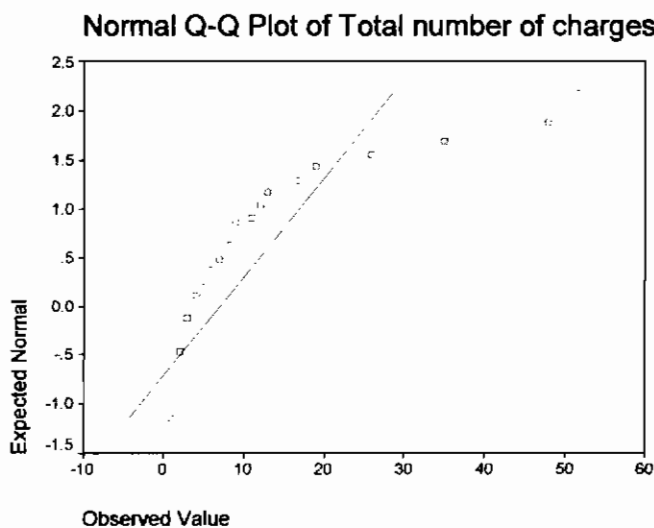
	Kolmogorov-Smirnov <sup>a</sup>			Shapiro-Wilk		
	Statistic	df	Sig.	Statistic	df	Sig.
contact with justice agencies	.193	66	.000	.900	66	.000
Total number of charges	.273	66	.000	.603	66	.000

a. Lilliefors Significance Correction

As table 7.2 shows, result is unambiguous for both variables, they are non-parametric. This means that the correlation calculation must use a non-parametric method such as Spearman's Rank Correlation. The test will be a one tailed test because the null hypothesis is greater than and not an "equal to" test.

This is confirmed by plotting the number of charges against an idealized normal curve as shown below.

**Figure7.1. Normal Q-Q Plot**



If the data followed the normal distribution (parametric) the points should lie on the green line.

The hypothesis to be tested is that there is no correlation between the number of charges and contact with justice agencies. The alternative hypothesis is that there is a statistically significant positive correlation.

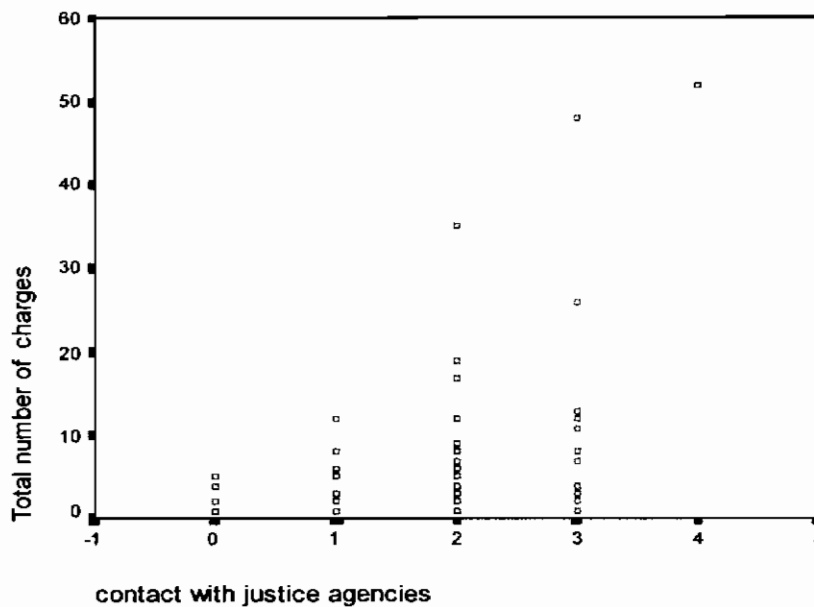
$$H_0: r = 0$$

$$H_1: r > 0$$

The result of the test is that the value of Spearman's rho = 0.522 and the p value ( Sig 1-tailed ) is 0.000. When the p value is less than .05 then it means that the probability of incorrectly rejecting  $H_0$  when it is true (a Type I error) is infinitesimally small. The p value here is 0.000 which means the probability of rejecting  $H_0$  when it is true, there is no correlation between number of charges and contact with justice agencies, is impossible. This provides a very firm basis for rejecting  $H_0$  and accepting  $H_1$ , there is a correlation between number of charges and contact with justice agencies.

Thus, as the child commits more and more offences, the more likely he is to have a juvenile liaison officer, then to be put on probation, to be remanded and finally sentenced to a period of custodial detention. The relationship between the two variables is illustrated further in Figure 7.2 .

Figure 7.2: Total Number of Charges and Amount of Contact with Justice Agencies



Given the pattern illustrated above it would appear that the cycle of adverse circumstances, school failure and crime is a fairly accurate description of the experiences of many young people on remand in Ireland. The Irish National Teacher's Organisation isolated these factors as discussed in chapter one and the results are confirmed in this study. Indeed the relationship between school failure and crime for the young people in this study can be illustrated further.

### 7.3. Relationship between School Failure and Contact with the Justice System

Section A of the results indicated that many of the young people had experienced at least some level of school failure in the past. In order to analyse the influence of school failure on the young people, the seven categories - truancy, behaviour problems in class, remedial tuition, alternative education, school attendance officer,

suspension and expulsion - were recoded into one variable relating to educational failure.

Given that educational failure is a strong indicator of offending behaviour in young people (see the literature review for further discussion) we would expect a strong relationship between this and experience of the justice system in the past. The four variables relating to contact with the justice system; juvenile liaison scheme, probation, remand and detention; were similarly recoded into one variable of contact with the justice system. Finally the relationship between educational failure and contact with the justice system was examined.

Assuming that the data is non-parametric the test statistic is Spearman's Rank Correlation using the same hypotheses as before,

$$H_0: r = 0$$

$$H_1: r > 0$$

Table 7.3: Test result: Educational Failure and Contact with Justice Agencies

			educational failure	contact with justice agencies
Spearman's rho	educational failure	Correlation Coefficient	1.000	.205
		Sig. (1-tailed)	.	.058
		N	61	60
	contact with justice agencies	Correlation Coefficient	.205	1.000
		Sig. (1-tailed)	.058	.
		N	60	66

The results of the test show that the value of Spearman's rho = 0.205. Applying the .05 criterion, the null hypothesis is accepted because the p value of 0.058 exceeds

the critical value of .01. In other words, there is no significant relationship between educational failure and contact with justice agencies. However, it only exceeds it by a very small amount and it may be assumed that had there been more information relating to educational failure (there were seven individuals where this information was classified as missing) or perhaps a larger sample size then this test may have been statistically significant.

Thus, in line with other studies in this area educational failure appears to be related to future involvement with justice agencies and suggests that programmes aimed at the prevention of juvenile offending should continue to identify young people who are having difficulties in school.

In Ireland The Education (Welfare) Act, 2000 was contrived in direct response to concerns about the levels of truancy and school absenteeism, as well as the numbers of young people leaving education early with little or no qualifications (Kenny, 2000). Among the main provisions of the Act is the establishment of a National Educational Welfare Board with appointed welfare officers, to work in co-operation with schools, teachers, parents and community/voluntary bodies. The aim is to encourage regular school attendance, as well as to develop strategies to reduce absenteeism and early school leaving, and the service is directly targeted towards children at risk and those who are experiencing difficulties in school. The continued intervention of children at school should remain a priority for those concerned with the prevention of juvenile offending behaviour.

#### 7.4. The Role of Parents and Family

The children who end up remanded in custody appear to have a history of both 'troubled' lives and 'troublesome' behaviour and therefore present the justice system with a problem as to how best to deal with them, i.e. within a welfare or a justice framework. The Children Act 2001, in general, represents an ideological shift towards a welfare-oriented approach to juvenile offending and juvenile offenders. In particular the establishment of the 'Family Welfare Conference' and the 'Diversion Conference' illustrate an attempt by the State to keep young people, as far as possible, out of the formal juvenile justice system. In both cases it is recognition by the State that a young person's offending behaviour may be a manifestation of other difficulties the child may be experiencing and that these difficulties need to be addressed.

The family is recognised as being a significant factor in young people developing criminal behaviour (Loeber & Farrington, 2001). The results from this study demonstrate that the majority of the young people came from single parent families, and a large number had been exposed to domestic violence. There was evidence many mothers and fathers used alcohol to excess and a smaller number had a drug addiction problem. What was particularly concerning was that 28% of the young people appeared to have no 'parenting parent' or other significant adult role model in their lives.

The Children Act, 2001 places an increased responsibility on the parents of offending children to address their children's behaviour. For example, section 111 of the Act allows the court to make a parental supervision order, where it finds that



a “wilful failure of the child’s parents to take care of or to control the child contributed to the child’s criminal behaviour”. This can order the parents to undergo treatment for alcohol or substance abuse, participate in a course on parenting skills, or make it the responsibility of the parents to ensure the child complies with any community sanction imposed on them. Similarly section 113 of the Act allows the court to instruct the parents of the child to pay any compensation or fines ensued as a result of the child’s offending behaviour. Although some authors suggest that such practices are questionable (see O’Sullivan 2000 for further discussion) it is nonetheless a move towards accepting the evidence that family factors, and in particular a lack of parenting skills contributes in some way towards young people engaging in criminal activity and that promotes parental responsibility for children and their behaviour. Both of these sections came into operation on 1 May 2002 ([www.doh.ie/pressroom/pr20020424](http://www.doh.ie/pressroom/pr20020424)). However, the evidence from this study illustrates that the families themselves are often experiencing major difficulties that may need intensive, ongoing professional help in order to keep their younger members from coming into contact with the juvenile justice system.

### 7.5. Female Offenders

Evidence from research carried out on young offenders in the UK and America suggested that female offenders are different in many respects to their male counterparts (Chesney-Lind, 1997; Heidensohn, 1996; Samuel & Tisdall, 1996). This study confirmed these findings. Firstly, the females were significantly older than the males in the group ( $p < 0.001$ ) all of whom were over 14 years old, and

over half aged 16 or 17 years old. By comparison, roughly one quarter of the males were under 14 years old and less than 10% were over 16 years old.

Section A of the results illustrated that the females on remand had comparatively more negative life experiences than the males, although there was no significant difference on any specific variable.

To examine this relationship further, seven of the variables were combined together, and each individual's experiences were totalled together to give a value out of seven. The seven variables were; physical abuse, sexual abuse, prostitution, homelessness, hospitalisation for overdose, self-harm and attempted suicide.

Table 7.4 shows the distribution for males and females in the total number of these events experienced by the young people.

It must be noted that the 24 children who had no experience of any of these events, also include those where this information was not available in the case file. As table 7.4 shows, the females in the population were more likely to have experienced a higher number of these negative life events than the males, with 23.1% experiencing five or more compared to only 4.4% of the males. However, due to the large numbers of missing information, and the small sample size, particularly females, it is not possible to do a valid test of significance on this data.

**Table 7.4 : Negative Life Experiences by Gender**

	<b>0</b>		<b>1 – 2</b>		<b>3 – 4</b>		<b>5 or more</b>	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>Male</b>	20	36.4	26	47.3	6	10.9	3	4.4
<b>Female</b>	4	30.8	5	38.5	1	7.7	3	23.1
<b>Total Sample</b>	24	35.3	31	45.6	7	10.3	6	8.8

If we take this analysis a step further, we might expect that females would have a higher rate of contact with social welfare agencies than the males. Using a similar technique, the variables relating to foster care, residential care, subject of a care order and detention in a psychiatric unit of a hospital were combined together into the variable contact with social welfare agencies. The distribution by gender is shown in table 7.5, and illustrates no clear differences between males and females in their rate of contact.

**Table 7.5 : Contact with Social Welfare Agencies by Gender**

	<b>0</b>		<b>1</b>		<b>2</b>		<b>3</b>		<b>4</b>	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>Male</b>	27	49.1	13	23.6	11	20	2	3.6	2	3.6
<b>Female</b>	5	38.5	5	38.5	-	-	2	15.4	1	7.7
<b>Total Sample</b>	32	47.1	18	26.5	11	16.2	4	5.9	3	4.4

Thus, although the females had experienced more negative life events than the males they did not appear more likely to have come into contact with social welfare

agencies as a result. Once again, the small sample size and numbers of missing data prevent carrying out a test of significance on this data.

Many authors discuss the specific problems of girls in the juvenile justice system (see Chesney-Lind, 1997; Heidensohn, 1996; Samuel & Tisdall, 1996) and it would appear that female offenders in Ireland are comparatively the same. This study has shown that they are older than their male counterparts, they experienced more negative life events in the past, they appeared in court more frequently than boys for reasons to do with their welfare and were subsequently detained on remand for the purpose of care and protection rather than as a result of offences they had committed. Given this evidence it would seem that Ireland should recognise these differences and at least acknowledge the problems of female offenders when considering changes of policy or legislation. The Children Act 2001 does not specifically address female offenders as being any different from their male counterparts. During the focus group discussions with the girls it was notable that some of the issues they raised were quite different to those of the boys, and in particular related to matters of privacy within the unit, personal hygiene, male staff, and their lack of autonomy. There needs to be more research conducted on the experiences of girls in custody in order to understand the specific needs they have and perhaps put changes in place to meet these needs. Most notably, it would appear that there could be a greater emphasis placed on keeping many girls out of the juvenile justice system, and particularly out of remand units, if the only reason for placing them in custody is to protect the girls' welfare.

## 7.6. Welfare Cases in the Remand System

Ireland has a recent history of prioritising the welfare of the child in any State response to children in trouble, whether because of their difficult life circumstances or because of their offending behaviour (Child Care Act 1991). The findings from this study illustrate that a significant number of the young people appear to be detained for reasons associated with their welfare as opposed to their offending behaviour. For example, out of the 117 cases of remand during the four selected time periods, a total of 48, which represents 41.0%, were cases that were being heard in the high court, either with or without hearings in a district or circuit court. None of these cases were brought before the high court as a result of the child's offending behaviour. In addition to this, when we examined the reason why the child was brought before the court that subsequently detained them in custody, only 59.0% of cases was due to offences that the young people had committed. The remaining cases were brought before the court for welfare reasons (14.6%) or because the child's previous placement had broken down (26.5%).

Taking males and females together, we can examine the role that negative life events play in the eventual remand and detention of young people. Firstly, we expect that more negative experiences result in more contact with welfare agencies. Once again the data requires a non-parametric test of significance, in this case Spearman's Rank Correlation. The results are shown in Table 7.6 below. The result of the test is that the value of Spearman's  $\rho = 0.416$  and the p value (significance one-tailed) = 0.009. This is much less than the 0.05 cut-off therefore

we can reject the null hypothesis, and accept that there is a significant correlation between the number of negative life experiences and contact with social welfare agencies.

Table 7.6: Test Result: Negative Life Experiences & Contact with Social Welfare

**Correlations**

			Negative life Experiences	Contact with Social Welfare
Spearman's rho	Negative life Experiences	Correlation Coefficient	1.000	.416**
		Sig. (1-tailed)	.	.009
		N	48	32
	Contact with Social Welfare	Correlation Coefficient	.416**	1.000
		Sig. (1-tailed)	.009	.
		N	32	39

\*\* . Correlation is significant at the .01 level (1-tailed).

Furthermore we might then expect that there will be a strong relationship between the amount of contact with welfare agencies and the reason for appearing in court. In other words, that the more contact a young person has, the more likely they will be to appear in court for welfare reasons. Once again, the non-parametric test of Spearman's Rank Correlation was used. The results of this test are shown in table 7.7. The value of Spearman's rho = 0.390 and the p value (significance one-tailed) = 0.007. This is much less than the 0.05 cut-off therefore the null hypothesis is rejected and we accept that there is a significant correlation between the amount of contact with social welfare agencies and the appearance in court on welfare grounds.

**Table 7.7: Test Result: Contact with Social Welfare & Reason for Court Appearance**

			Contact with Social Welfare	Reason for court appearance
Spearman's rho	Contact with Social Welfare	Correlation Coefficient	1.000	.390**
		Sig. (1-tailed)	.	.007
		N	39	39
	Reason for court appearance	Correlation Coefficient	.390**	1.000
		Sig. (1-tailed)	.007	.
		N	39	68

\*\* Correlation is significant at the .01 level (1-tailed).

Finally, we might then expect that once these children appear in court they are more likely to be detained for reasons such as awaiting a suitable placement rather than straightforward remand. Spearman's Rank Correlation was used to test this relationship further, and the results are shown in Table 7.8. The value of Spearman's rho = 0.420 and the p value (significance one-tailed) = 0.000. Once again, this is much lower than 0.05 therefore we can accept that there is a significant correlation between the reason for court appearance and the purpose of remand.

**Table 7.8: Test Result: Reason for Court Appearance & Purpose of Remand**

			Reason for court appearance	Purpose of remand/detention
Spearman's rho	Reason for court appearance	Correlation Coefficient	1.000	.420**
		Sig. (1-tailed)	.	.000
		N	68	68
	Purpose of remand/detention	Correlation Coefficient	.420**	1.000
		Sig. (1-tailed)	.000	.
		N	68	68

\*\* Correlation is significant at the .01 level (1-tailed).

From the above analysis it would appear that there is a linear relationship between the number of negative health and welfare issues, the rate of contact with social welfare agencies, the likelihood of appearing in court for welfare reasons, and the subsequent detention of the young person on welfare grounds.

The most glaring question arising from these figures is why are there so many young people whose needs are primarily welfare related within units designed for juvenile offenders? When the purpose of the remand was examined the figures showed that out of the 117 cases of remand, a massive 67 of these, representing 57.3%, were remands while the young person waited for a placement elsewhere. As stated in chapter 3, Section 63 of The Children Act (1908) allows for the committal to custody a child awaiting placement in a certified school to any place which they might be committed on remand, i.e. a certified place of detention. Thus, under this legislation it is permitted to place children who are not necessarily offenders within remand units until such time as they can be transferred to a more suitable residential placement.

However, there are two main concerns regarding this practice. Firstly, it results in children who are not offenders being detained in the same place as children who have committed often serious offences. Secondly, in Ireland there are only a limited number of residential placements available and therefore some children may expect to be detained for considerable periods of time before they are removed from the remand unit.



Taking the first of these concerns, which is that children who are not necessarily offenders end up detained in units that are designated for children who have committed offences. This is an issue that has been raised in the past both in Ireland and abroad and mainly concerns the effect such detention may have on the social and emotional development of the young people.

A Home Office paper in the UK emphasised the need to restrict the use of custody stating that “even a short period of custody is quite likely to confirm them as criminals, particularly as they acquire new criminal skills from more sophisticated offenders. They see themselves labelled as criminals and behave accordingly” (cited in Newburn, 1995; 141). During the focus groups that were conducted as part of the pilot study, the young people themselves made no distinction between those on district court orders for offences and those on high court welfare orders, and saw their peers as being in the same position as themselves.

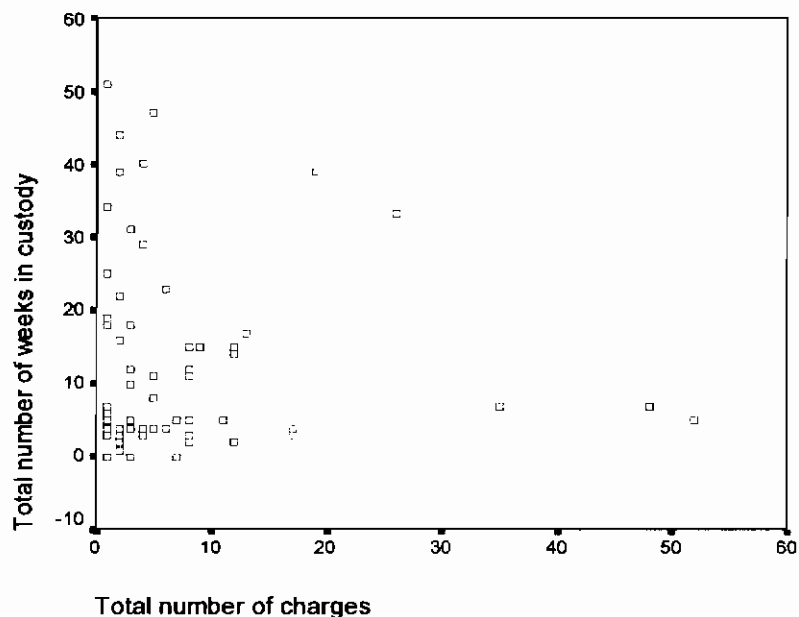
The stigmatising effects of detaining children with more serious offenders is an issue that was raised in Ireland by a number of organisations, including the Irish National Teacher’s Organisation who criticised the practice of those on assessment and those on remand being detained in the same units. They state, “boys on a remand only order have usually been assessed already and are returned due to lack of appropriate placement or a breakdown in the suggested intervention. These boys can be serious offenders, firmly immersed in a delinquent subculture and may be awaiting a longer custodial sentence... Some exhibit seriously disturbed and aggressive behaviour and... [their] presence can have a destabilising effect on their peers” (INTO, 1995; 28).

Thus it would appear that though the primary reason for the child's detention is the protection of their social and emotional welfare, the practice is inadvertently causing damage to the very thing the State is trying to protect.

The second concern is that due to a lack of secure provision which was described over ten years ago as "the most glaring deficiency in the juvenile justice system right now" (O'Malley, 1991; 32) young people on remand awaiting placement are likely to be waiting for considerable periods of time.

It would be reasonable to assume that those children who had committed the most number of offences would be the ones to spend the longest periods of time in custody. However, when examined there is no such relationship between the number of charges a young person has and the length of time they spend in custody. Rather, as figure 7.3 below shows, those with the most number of charges do not spend the longest periods of time in custody and in fact often spend quite short periods on remand. By comparison, it is those with fewer charges that often spend the longest time on remand.

**Figure 7.3 : Total Number of Charges Compared with Duration of Remand**



Furthermore, this study showed that of the 45 young people who had completed their remand episode the maximum duration was 271 days. This figure rose to a maximum of 323 days for those who had not completed their episode and one child who eventually absconded from custody was detained for 351 days. The case study in section C of the child who underwent 20 separate remand periods and 323 days in custody and still had not moved to a suitable placement helped to illustrate this.

The average length of detention for the 8 children who were waiting for a placement and under district court orders only was 72.8 days and for the 7 children under high court orders only waiting placement was 131.7 days. (These are described in Section C). The lack of secure places was also illustrated by the fact that out of the 68 young people on remand, there were 5 cases where information in the case file related to high support units being sought for the child in the United Kingdom as there was nowhere in Ireland that could meet the child's specific needs.

Given that under the UN Convention on the Rights of the Child, detention on remand should only be used as a last resort and for the minimum possible period of time, it would appear that for these young people their fundamental rights are not being met.

It is generally accepted that secure, therapeutic residential placements are required to meet the needs of a small number of children and young people. However, many people have criticised their over-use in circumstances where

alternatives to secure provision may be an option. Others have criticised the use of detention as a means of social control, or the practice of detaining children in secure provision that is unsuitable to their needs (Penal Affairs Consortium, 1996; Irish penal Reform Trust, 1995; National Youth Federation, 1996; Ashton & Moore, 1998, Kelly, 1992). Thus the practice of remanding children with welfare needs for extensive periods of time in detention units designed for the short-term detention of young offenders is wholly unacceptable. Furthermore, this practice is incompatible with the welfare ideology that Ireland currently claims to adopt. As Asquith notes, children's rights are often insufficiently protected within the welfare model of justice because of the individualised approach and often indeterminate and inconsistent responses of decision-makers. The findings from this study would appear to support this view (Asquith, 1983).

The Children Act, 2001 has addressed many of these concerns. Firstly it recognises that there are children in need of special care or protection who require separate residential establishments than children who offend. Part 3 of the Act amends the Children Act 1991, in relation to such children and introduces the special care order and interim special care order. It also provides for the establishment of special care units to cater for children committed to the care of a health board under a special care order. Children found guilty of offences cannot be placed or detained within these special care units. There are currently 134 places for such children in High Support or Special Care Units in the country (Department of Health press release, 17/12/01).

Similarly, sections 157-224 of the Act abolishes the reformatory and industrial schools system and replaces them with Children Detention Schools. All the units in this study have thus become children detention schools. Managed by the Department of Education and Science, the schools are for the detention of young people under 16 years who have been found guilty of an offence, and should not be used for the detention of non-offending children in need of special care or protection, though this is not specifically stated in the Act. Both the children detention schools and special care units will be overseen by the new Special Residential Services Board which came into operation on 15 November 2001, to ensure the efficient, effective and coordinated delivery of services (sections 225-244) ([www.doh.ie/pressroom/pr20011115](http://www.doh.ie/pressroom/pr20011115)).

It is recognised in the Act that “although child offenders...and disturbed non-offending children...will be kept in separate residential accommodation, they regularly present with similar problems, require broadly similar care and treatment and benefit from broadly similar types of services and programmes”.

With regard to the practice of remanding children for assessment purposes, which the results of this study have shown is often a precursor to a lengthy period of detention, section 100 of the Act ensures that any remand for reports should not exceed a period of 28 days. In addition section 88 (13) states that “ The court shall not remand a child in custody ...if the only reason for doing so is that the child is in need of care or protection”, thus the practice of remanding children for non-school attendance or out-of-control behaviour is no longer an option. Finally, sections 88(11) and 88(12) ensure that children who have been remanded to custody,

should be kept separate from and not be allowed to associate with children who have been sentenced to a period of detention.

The provisions within the Children Act, 2001 are very positive moves, particularly in relation to the separation of juvenile offenders and non-offending, out-of-control children. It will be very interesting to see how these legislative changes impact on the population of the remand units in the future, once all provisions in the Act have been fully implemented.

### 7.7. Impact on the Number of Remand Beds Available

Section C of the results raised more precise issues about the experiences of the young people whilst on remand. Young people awaiting placement can expect to be detained for long periods of time before such a placement becomes available, and it would appear that increasing numbers of young people are experiencing this difficulty. Another concern surrounding this practice is that inevitably remand places are becoming increasingly blocked with such welfare cases. Just as there are only a limited number of secure therapeutic residential placements, there are also a limited number of remand places in the country. Indeed the four units in this study are the only designated remand units in the country for children under 16 years of age, with a total of 35 beds between them. Given that 41.0% of cases in this study were primarily welfare cases, and that 57.3% of the children were waiting for another placement, the impact on the number of available remand spaces for actual offenders is quite severe. This is a difficulty that all four of the units in this study are experiencing. These units have to refuse admission to children and

young people who have been remanded in custody or sentenced to a period of detention by the courts because they have no available beds. Even in this study, the personal files of the children contained information relating to this problem. For instance one child was remanded into garda custody for two days prior to his entry into the unit, another had been remanded to one of the special schools for a period, and another two had been remanded into the custody of a psychiatric hospital ward. Other children have been remanded to establishments that cater for older offenders such as St Patrick's Institution. These children are being placed in unacceptable positions and the possible damaging effect on their emotional and physical health cannot be overlooked. There is also a problem where the serious or persistent offender, who requires a custodial remand, is released on bail because the judge has no other alternative available. When the young person commits further offences whilst on bail, the State has failed in two respects. Firstly it has failed to protect the public from the young person and secondly it has failed to protect the young person from themselves.

The Children Act, 2001 does address these issues to a certain extent. For example under section 144, if after finding a child guilty of an offence the court wishes to sentence the child to a period of detention, and no places are available the court can defer the period of detention. During this deferment period, which should exceed no more than one year, the child remains under the supervision of a probation and welfare officer. When a place does become available the Director of the Child Detention School notifies the court, and the child can then be summoned to reappear before the court. Alternatively, under section 145 of the Act, where no

place is available the court can choose to impose a community sanction on the child instead. However, the results from this study suggest that the first priority in addressing this problem should be to remove the welfare cases from the remand system and therefore have remand beds available to the courts when they are needed.

### 7.8. The Deprivation of Liberty and Children's Rights

As this study has demonstrated, there were many difficulties and problems associated with the existing legislation, in particular the use of loopholes within the Children Act, 1908. As a result, the four designated remand units were increasingly being forced to cater for children who were inappropriately placed but who had nowhere else to go.

Depriving children of their fundamental right to freedom is not something that should be done lightly under any circumstances and careful consideration of the current system of remand in Ireland is urgently required. The United Nations Rules for the Protection of Children Deprived of their Liberty as discussed in chapter four, can be examined in relation to current practice in Ireland.

Article 2 states that the deprivation of liberty should be a 'measure of last resort', only for use after all other alternative measures have been exhausted. However, the results from this study showed that for 18% of the young people on remand, this had been their *first* contact with the formal juvenile justice system.

Furthermore, not all of the children had had the experience of community based interventions beforehand, only 36% had been on the garda juvenile liaison



scheme, and only 57% had been on probation. Even taking into consideration the number of children who had committed no offence, it would appear that community based sanctions were not made a priority in every circumstance.

Article 2 also states that the deprivation of liberty should be for the 'minimum necessary period' of time. This study illustrated that in Ireland this is far from the reality of actual practice. Children are being detained in units designed for short-term detention for excessively long periods of time, in some cases almost a year, and this practice is totally unacceptable. Alternative arrangements need to be put in place for those children on remand who require a residential placement. Indeed, the grounds for establishing the need for residential placement may need to be revised and more effort made to return children to the family home wherever possible. This will necessitate the provision of extra resources to provide community and family based supports as an alternative for these children.

Finally, Article 2 states that the deprivation of liberty should be limited to exceptional cases. The practice of remand for assessment purposes, particularly where no offence has been committed, is therefore quite unnecessary in many cases as the child poses little or no further risk to others. The task of assessment should be transferred to other community-based services, where the child attends daily but remains residing in the family home whenever possible. Indeed a number of such facilities are already in operation and are proving to be quite successful. Funding should be made available to develop assessment facilities at a national level. In addition to keeping many children out of the remand system, and thus protecting them from the negative effects of detention, this practice would also

result in an increased availability of remand beds for those children whose actions warrant a custodial remand.

## **Chapter 8: Summary and Conclusions**

Juvenile crime and juvenile justice is in general a highly sensitive topic, and this is particularly true in the current climate in Ireland. Recent high profile cases involving young offenders appear to have initiated a new wave of discussion of the problems of troubled Irish youth, and how best to respond to them. It is often difficult to take a balanced and objective view of this issue, particularly when faced with enormous public and political pressure to take the tough, no excuses approach to juvenile crime. This research in no way attempts to minimise or justify the behaviour of a small minority of young people whose behaviour can have a profoundly negative impact on the rest of the community. However, among those who are informed of the intricacies of the Irish Juvenile Justice system, there is a growing concern that the needs and rights of many young people coming before the courts are not being met, and that there are serious problems in the provision and availability of appropriate services for these children. There was also a need for empirical evidence to support the validity of these concerns.

This study goes at least some way towards rectifying this situation, by demonstrating, empirically, what is currently happening in the Juvenile Justice System in Ireland for children under 16 years who are remanded to custody. The deprivation of liberty is not something to be done lightly, especially if we consider the potential impact it has on the healthy growth and development of young people. This study has illustrated that the children on remand in Ireland have already had an enormous number of negative and traumatic experiences in their lives. High

levels of educational failure, family breakdown, physical and sexual abuse, substance use and homelessness had already identified them to various welfare and justice agencies as children in need. Many had a history of failed foster or residential care placements, as well as contact with agencies whose aim was to divert them away from criminal activity. The evidence from this study shows that in many ways the state failed in its obligation to these children, irrespective of the offences they had committed. Excessive periods of time on remand, in units unsuitable to meet their needs, and where they were exposed to the harmful influence of children who had been convicted of offences is contrary to practice which aims to prioritise 'the best interests of the child'. Such detention, away from their home, school, families and friends can merely serve to exacerbate any underlying difficulties the child may be experiencing, and could have potentially long-lasting effects on his/her emotional well-being. The high levels of self-harm and suicidal tendencies shown by the young people in this study support this view. Ultimately, early intervention and prevention in the family, school and community should remain the priority for addressing children's offending behaviour. Where formal intervention is required as a result of a child committing an offence, all attempts should be made to deal with this through community sanctions, probation and diversion. Detention should always be a measure of last resort and for the shortest possible period of time, and all attempts should be made to return the child to the home and the community as soon as possible. This will require the diversion of resources away from secure accommodation and redirected into community and family support services. Alternatives to custodial remand should

always be considered, such as the use of remand foster carers in the United Kingdom (Lipscombe, 2003).

Assessment, when requested should, as far as possible, be conducted whilst the child remains at home. Assessment of the child in isolation, away from the home and without looking at social and environmental factors seems counter-productive as a way of ultimately meeting the child's needs.

The Children Act, 2001 is a long-awaited piece of legislation that, once fully in effect, should have a dramatic impact on the Irish juvenile justice system and young people's experience of it. However, this study provides a baseline from which to monitor the progress subsequent to the implementation of the Act. The strength of public demand for action against troublesome youth, particularly with the support of the popular media, often has a major effect on decision makers and service providers.

It is vital then that the enactment of new legislation is not seen as the final solution in addressing the problems identified within the juvenile justice system. Changes need to be carefully monitored, particularly to ensure that there are a range of appropriate services available to address the needs of all young people, and that children are not being detained in inappropriate units as a result of a lack of suitable facilities.

The full implementation of the Children Act, 2001 is an enormous task that currently faces the Irish Government. It is also a task that requires substantial resources as well as a commitment from the three departments of Health, Justice

and Education to work cooperatively in the coordination and delivery of services for young people, overseen by the Special Residential Services Board.

“This Act represents a major change in how we think about and how we deal with children coming before the courts. The central principle that governs the Act is that children should be brought up in their own communities and families. Where intervention occurs it should aim to support and maintain children within these relationships and networks because it is clear that that is where children do best. Placement in a secure setting should be exceptional, should be a measure of last resort and should be for as short a time as possible” (Minister of State, Mr Tim O’Malley TD, [www.doh.ie/pressroom/sp20021216](http://www.doh.ie/pressroom/sp20021216)). The findings from this study support these views, and it is hoped that the ethos currently being adopted by members of the Irish Government, and those people within the Irish Juvenile Justice System is translated into positive change for young people in trouble. In addition, as stated by O’Sullivan, “the introduction of new legislation in this area is only a starting point in the manner in which a society aims to deal with young offenders. Considerable efforts are also required to ameliorate the social base of much juvenile crime in Ireland. Increasing youth unemployment, youth homelessness and large scale youth disaffection create an environment in which much youthful crime is fostered” (O’Sullivan, 1998; 341).

It is anticipated that all the provisions contained in the Children Act, 2001 will be fully implemented by the end of 2006. Changes resulting from these provisions should be closely monitored to ensure that the needs and rights of *all* children and

young people who come before the Irish Courts are being met. This is the challenge that is facing the Irish Juvenile Justice System in the 21<sup>st</sup> century.

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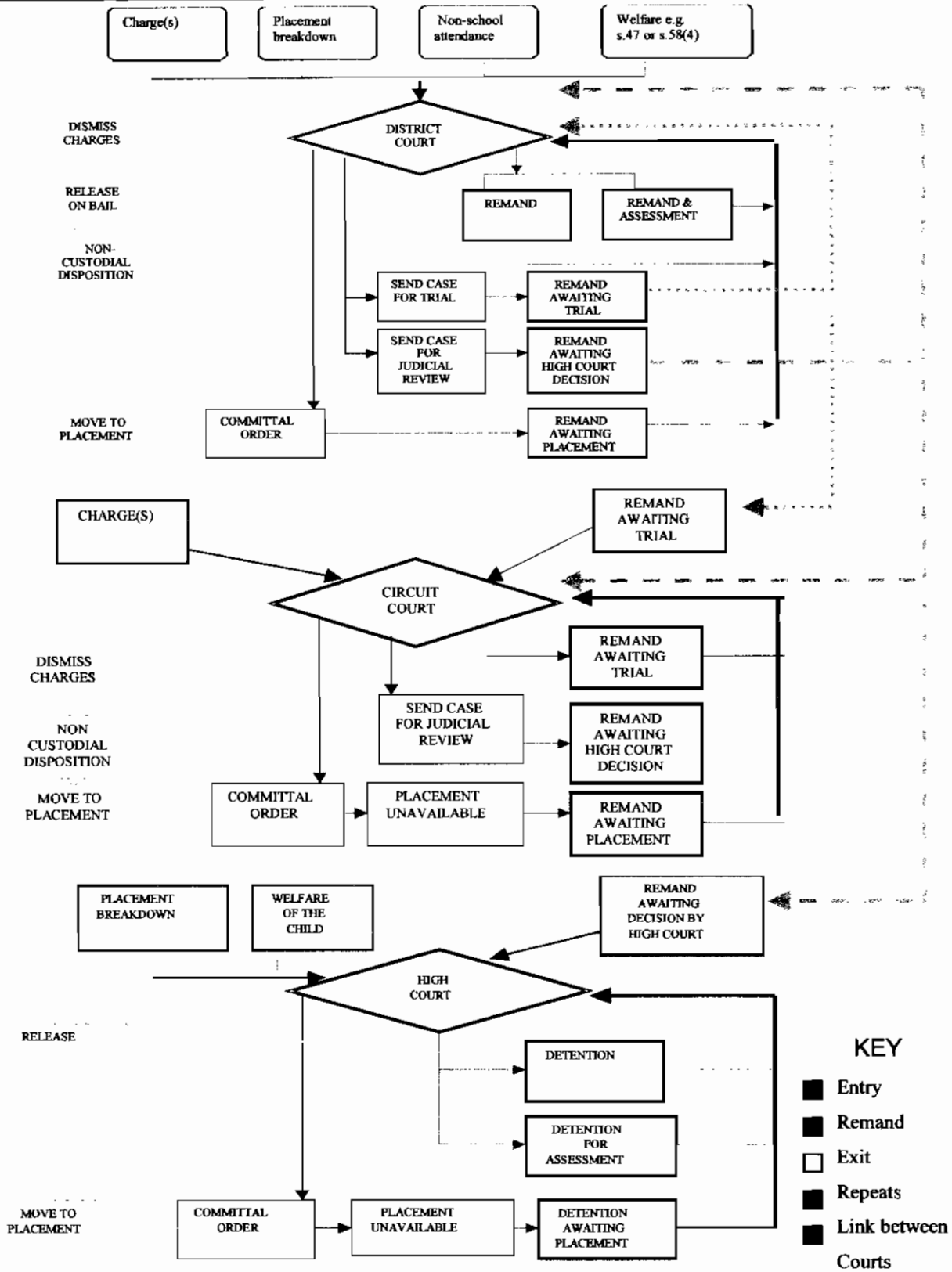
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# Appendix A : Flowchart of Remand System



## Appendix B : Code Sheet

Label																		
ld																		
gender		1	2															
dob																		
childinf		1	2	3														
family		1	2	3														
status	0	1	2	3	4	5	6	7	8	9								
county		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
		18	19	20	21	22	23	24	25	26								
dublin	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
		18	19	20	21	22	23	24	25									
nfa	0	1	2															
Family																		
mother	0	1	2	3	4	5				father	0	1	2	3	4	5		
malc	0	1	2							falc	0	1	2					
mdrug	0	1	2							fdrug	0	1	2					
mlaw	0	1	2							flaw	0	1	2					
mmental	0	1	2							fmental	0	1	2					
mphys	0	1	2							fphys	0	1	2					
sdrug	0	1	2															
slaw	0	1	2															
sorder	0	1	2															
sasses	0	1	2															
scare	0	1	2															
parents	0	1	2	3	4	5												
partner	0	1	2	3														
domviol	0	1	2															
parentin	0	1	2	3	4	5	6	7	8									
travel	0	1	2	3	4					9								
physical	0	1	2															
sexual	0	1	2															
prostit	0	1	2															
selfharm	0	1	2															
suicide	0	1	2															
tobacco	0	1	2															
alcohol	0	1	2															
cannabis	0	1	2															
solvents	0	1	2															
ecstasy	0	1	2															
heroin	0	1	2															
cocaine	0	1	2															
tablets	0	1	2															
od	0	1	2															

NOTES

jjsfirst	0	1	2					homeless	0	1	2												
Jlo	0	1	2					outhours	0	1	2												
prob	0	1	2					foster	0	1	2												
detentio	0	1	2					rescare	0	1	2												
remand	0	1	2					careord	0	1	2												
assess	0	1	2					hospital	0	1	2												
psychol	0	1	2																				
psychiat	0	1	2																				
medicine	0	1	2																				
sao	0	1	2					NOTES															
educat	0	1	2																				
truant	0	1	2																				
behprobs	0	1	2																				
remedial	0	1	2																				
suspend	0	1	2																				
expelled	0	1	2																				
juncert	0	1	2																				
training	0	1	2																				
employ	0	1	2																				
reading	0	1	2																				
age@r	0																						
number	0	1	2																				
age@n	0																						
lq	0																						
age@iq	0																						
ability																							
assault	0	1	2	3	4																		
abscond	0	1	2																				
abscond2	0	1	2																				
hsu	0	1	2																				
Details for each week																							
wk1unit	0	1	2	3	4																		
Wk2unit	0	1	2	3	4																		
Wk3unit	0	1	2	3	4																		
Wk4unit	0	1	2	3	4																		
Remand Episode																							
Courts	0																						
Remands	0																						
warrants	0																						
custody	0																						
episode		1	2																				

## All weeks

Label																				
Id																				
week		1	2	3	4															
gender		1	2																	
dob																				
age																				
unit	0	1	2	3	4															
court	0	1	2	3	4	5	6	7	8											
purpose	0	1	2	3	4	5	6	7	8	9										
length	0																		999	
warrants	0																		999	
warrant1	0																		999	
warrant2	0																		999	
warrant3	0																		999	
warrant4	0																		999	

## Sibling Profile

Label																				
gender						1	2													
idsib																				
careorde					0	1	2													
drugs					0	1	2													
Law					0	1	2													
assess					0	1	2													
rescare					0	1	2													

## Charges

Label																				
Id																				
gender	1	2																		
utmpv	0				threat	0														
interfer	0				imprison	0														
carriage	0				damprop	0														
insuranc	0				dammpv	0														
license	0				arson	0														
dangerou	0				peace	0														
careatte	0				intox	0														
produce	0				court	0														
					bail	0														
larceny	0				comply	0														
larcmpv	0				weapon	0														
handle	0				harm	0														
treslarc	0				school	0														
article	0				s58	0														
tresinte	0				s47	0														
assault	0				railway	0														
assgard	0				violent	0														
rape	0				abscond	0														
riskharm	0				highct	0														

## Appendix C : Code Book

<u>Label</u>	<u>Variable</u>	<u>Value Labels</u>	<u>Missing Values</u>
Id	ID	none	none
Gender	Gender	1 = male 2 = female	none
Dob	Date of Birth	none	none
Childinf	Information on child available	1 = yes 2 = no 3 = limited	none
Family	Information on family available	1 = yes 2 = no 3 = limited	none
Status	Status prior to start of remand episode	0 = unknown 1 = homeless / hostels / on streets 2 = residential care 3 = at home 4 = at home & on probation 5 = remand elsewhere (not the units) 6 = probation hostel 7 = other relatives 8 = fostercare 9 = released on bail	None
County	Home County	1 = Carlow 2 = Cavan 3 = Clare 4 = Cork 5 = Dublin 6 = Donegal 7 = Galway 8 = Kerry 9 = Kildare 10 = Kilkenny 11 = Laois 12 = Leitrim 13 = Limerick 14 = Longford 15 = Louth 16 = Mayo 17 = Meath 18 = Monaghan 19 = Offaly 20 = Roscommon 21 = Sligo 22 = Tipperary 23 = Waterford 24 = Westmeath 25 = Wexford 26 = Wicklow	none
Dublin	What area of Dublin (where relevant)	0 = NA 25 = County	0
Nfa	Address given as No Fixed Abode or care of residential home	0 = unknown 1 = yes 2 = no	0, 2
<b>Family</b>			
Mother	Status of Mother	0 = unknown 1 = deceased 2 = alive and living in the family home 3 = alive, not in the family home 4 = living in UK 5 = in prison	0
malc	Mother ever abused	0 = unknown	0, 2



	alcohol	1 = yes 2 = no	
Mdrug	Mother ever abused drugs	0 = unknown 1 = yes 2 = no	0, 2
Mlaw	Mother ever been in trouble with the law	0 = unknown 1 = yes 2 = no	0, 2
Mmental	Mother ever had mental health problems	0 = unknown 1 = yes 2 = no	0, 2
Mphys	Mother ever had physical health problems	0 = unknown 1 = yes 2 = no	0, 2
Father	Status of Father	0 = unknown 1 = deceased 2 = alive and living in the family home 3 = alive, not in the family home 4 = living in UK 5 = in prison	0
Falc	Father ever abused alcohol	0 = unknown 1 = yes 2 = no	0, 2
Fdrug	Father ever abused drugs	0 = unknown 1 = yes 2 = no	0, 2
Flaw	Father ever been in trouble with the law	0 = unknown 1 = yes 2 = no	0, 2
Fmental	Father ever had mental health problems	0 = unknown 1 = yes 2 = no	0, 2
Fphys	Father ever had physical health problems	0 = unknown 1 = yes 2 = no	0, 2
sdrug	Siblings ever abused drugs	0 = unknown 1 = yes 2 = no	0, 2
slaw	Siblings ever been in trouble with the law	0 = unknown 1 = yes 2 = no	0, 2
sorder	Siblings ever been	0 = unknown	0, 2

	subject of a care order	1 = yes 2 = no	
sasses	Siblings ever had a residential assessment in NARU / OBG	0 = unknown 1 = yes 2 = no	0, 2
scare	Siblings ever been in residential or foster care or a residential special school	0 = unknown 1 = yes 2 = no	0, 2
parents	Status of parental relationship	0 = unknown 1 = together & married 2 = together, not married 3 = separated 4 = divorced 5 = either parent deceased	0
partner	Parent formed new relationship	0 = unknown 1 = mother 2 = father 3 = both parents	0
domviol	Exposed to domestic violence in the family home	0 = unknown 1 = yes 2 = no	0, 2
parentin	Parenting parent	0 = unknown 1 = mother & father 2 = mother 3 = father 4 = grandparent 5 = sibling 6 = other relative 7 = none 8 = foster/adoptive parent(s)	0
travel	Members of the travelling community	0 = unknown 1 = whole family 2 = mother 3 = father 4 = other relative(s) 9 = no	0, 9
physical	Ever experienced physical abuse	0 = unknown 1 = yes 2 = no	0, 2
sexual	Ever experienced sexual abuse	0 = unknown 1 = yes 2 = no	0, 2
prostit	Ever involved in prostitution	0 = unknown 1 = yes 2 = no	0, 2

selfharm	Ever known to self-harm	0 = unknown 1 = yes 2 = no	0, 2
suicide	Ever attempted suicide	0 = unknown 1 = yes 2 = no	0, 2
tobacco	Ever used tobacco	0 = unknown 1 = yes 2 = no	0, 2
alcohol	Ever used alcohol	0 = unknown 1 = yes 2 = no	0, 2
cannabis	Ever used cannabis	0 = unknown 1 = yes 2 = no	0, 2
solvents	Ever used solvents	0 = unknown 1 = yes 2 = no	0, 2
ecstasy	Ever used ecstasy	0 = unknown 1 = yes 2 = no	0, 2
heroin	Ever used heroin	0 = unknown 1 = yes 2 = no	0, 2
cocaine	Ever used cocaine	0 = unknown 1 = yes 2 = no	0, 2
tablets	Ever used tablets	0 = unknown 1 = yes 2 = no	0, 2
od	Ever hospitalised for over-dose on alcohol or drugs	0 = unknown 1 = yes 2 = no	0, 2
homeless	Ever been homeless / slept rough	0 = unknown 1 = yes 2 = no	0, 2
outhours	Ever made use of the Out of Hours service or similar	0 = unknown 1 = yes 2 = no	0, 2
foster	Ever been in foster care	0 = unknown 1 = yes	0, 2

		2 = no	
rescare	Ever been in residential care	0 = unknown 1 = yes 2 = no	0, 2
careord	Ever been the subject of a care order	0 = unknown 1 = yes 2 = no	0, 2
hospital	Ever been detained in hospital (psychiatric unit)	0 = unknown 1 = yes 2 = no	0, 2
jjsfirst	First contact with the juvenile justice system	0 = unknown 1 = yes 2 = no	0
jlo	Ever been cautioned under the JLO Scheme	0 = unknown 1 = yes 2 = no	0, 2
prob	Ever been on probation	0 = unknown 1 = yes 2 = no	0, 2
detentio	Ever been subject of a detention order	0 = unknown 1 = yes 2 = no	0, 2
remand	Ever been on remand	0 = unknown 1 = yes 2 = no	0, 2
assess	Ever been remanded for the purposes of assessment (NARU / OBG)	0 = unknown 1 = yes 2 = no	0, 2
psychol	Ever been psychologically tested	0 = unknown 1 = yes 2 = no	0, 2
psychiat	Ever been psychiatrically tested	0 = unknown 1 = yes 2 = no	0, 2
medicine	Ever been on medication for a psychiatric / psychological condition	0 = unknown 1 = yes 2 = no	0, 2
sao	Ever come to the	0 = unknown	0, 2

	attention of a school attendance officer	1 = yes 2 = no	
educat	Ever attended alternative to mainstream education	0 = unknown 1 = yes 2 = no	0, 2
truant	Ever known as a truant / non-attender at school	0 = unknown 1 = yes 2 = no	0, 2
behprobs	Ever known to exhibit behaviour problems in class	0 = unknown 1 = yes 2 = no	0, 2
remedial	Ever had remedial teaching	0 = unknown 1 = yes 2 = no	0, 2
suspend	Ever been suspended from school	0 = unknown 1 = yes 2 = no	0, 2
expelled	Ever been expelled from school	0 = unknown 1 = yes 2 = no	0, 2
juncert	Achieved junior certificate	0 = unknown 1 = yes 2 = no	0, 2
training	Attended any form of vocational training	0 = unknown 1 = yes 2 = no	0, 2
employ	Ever been in paid employment	0 = unknown 1 = yes 2 = no	0, 2
reading	Reading age (months)	0 = unknown 1 = > 14.5 ceiling 2 = > 15.5 ceiling	0, 1, 2
age@r	Age at time of reading test (months)	0 = NA	0
number	Number age (months)	0 = unknown 1 = > 14.5 ceiling 2 = > 15.5 ceiling	0, 1, 2
age@n	Age at time of number test (months)	0 = NA	0
iq	Intellectual ability (overall score)	0 = unknown	0
age@iq	Age at time of IQ	0 = NA	0

	test (months)		
ability	Range of functioning	none	
assault	Ever assaulted staff	0 = unknown 1 = physical 2 = sexual 3 = physical & sexual 4 = no	0, 4
abscond	Ever absconded from placement	0 = unknown 1 = yes 2 = no	0, 2
abscond2	Absconded from remand episode	0 = unknown 1 = yes 2 = no	0, 2
hsu	High Support Unit sought in the UK	0 = unknown 1 = yes 2 = no	0, 2
Details for each week			
wk1unit	Week 1 : unit of detention	0 = not present 1 = NARU 2 = OBB 3 = OBG 4 = THS	0
Wk2unit	Week 2 : unit of detention	0 = not present 1 = NARU 2 = OBB 3 = OBG 4 = THS	0
Wk3unit	Week 3 : unit of detention	0 = not present 1 = NARU 2 = OBB 3 = OBG 4 = THS	0
Wk4unit	Week 4 : unit of detention	0 = not present 1 = NARU 2 = OBB 3 = OBG 4 = THS	0
Remand Episode			
Courts	Number of court warrants for remand episode	0 = unknown	none
Remands	Number of remands in custody for episode	0 = unknown	
warrants	Total length of stay according to warrants (days)	0 = unknown	
custody	Total length of stay	0 = unknown	

	in custody (days)		
episode	Is the remand episode complete	1 = yes 2 = no	none

Profile all weeks

Label	Variable	Value Labels	Missing Values
id	ID	none	none
week	Week in which they were present	1 = week 1 2 = week 2 3 = week 3 4 = week 4	none
gender	Gender	1 = male 2 = female	none
dob	Date of Birth	none	none
age			
unit	Unit of detention	0 = not present 1 = NARU 2 = OBB 3 = OBG 4 = THS	0
court	Court that ordered the detention	0 = NA 1 = District court only 2 = High court only 3 = District court & high court 4 = district court but also subject of high court hearing 5 = circuit court only 6 = district court & circuit court 7 = high court & circuit court 8 = district court, circuit court & high court	0
purpose	Purpose of remand / detention	0 = unknown 1 = remand 2 = remand & assessment 3 = remand awaiting placement 4 = remand for rep[orts 5 = detention 6 = detention & assessment 7 = detention for reports 8 = detention awaiting placement 9 = remand awaiting trial	0
length	Duration of remand according to the warrants for that week	0 = unknown	0
warrants	Number of detention orders for the week	0 = unknown	0
warrant1	Duration of detention according to warrant 1	0 = NA 999 = unknown	0, 999
warrant2	Duration of	0 = NA	0, 999

	detention according to warrant 2	999 = unknown	
warrant3	Duration of detention according to warrant 3	0 = NA 999 = unknown	0, 999
warrant4	Duration of detention according to warrant 4	0 = NA 999 = unknown	0, 999

#### Sibling Profile

<u>Label</u>	<u>Variable</u>	<u>Value Labels</u>	<u>Missing Values</u>
gender	Gender	1 = male 2 = female	none
idsib	ID of the subject who is their sibling	none	none
careorde	Ever been subject of a care order	0 = unknown 1 = yes 2 = no	0
drugs	Ever had a drug addiction problem	0 = unknown 1 = yes 2 = no	0
law	Ever been in trouble with the law	0 = unknown 1 = yes 2 = no	0
assess	Ever had a residential assessment in either NARU or OBG	0 = unknown 1 = yes 2 = no	0
rescare	Ever been in residential or foster care or a residential special school	0 = unknown 1 = yes 2 = no	0

#### Charges week 1 (same for 2, 3, 4)

<u>Label</u>	<u>Variable</u>	<u>Value Labels</u>	<u>Missing Values</u>
id	ID number	none	none
gender	Gender	1 = male 2 = female	none
utmpv	Unlawful taking of a mechanically propelled vehicle	0 = none	0
interfer	Interfered with a mechanically propelled vehicle	0 = none	0
carriage	Allowed self to be carried in a stolen MPV	0 = none	0
insuranc	Driving without	0 = none	0



	insurance		
license	Driving without a license	0 = none	0
dangerou	Dangerous driving	0 = none	0
careatte	Driving without due care and attention	0 = none	0
produce	Failure to produce license and insurance details after 10 days	0 = none	0
		0 = none	0
larceny	Larceny	0 = none	0
larcmpv	Larceny from a mechanically propelled vehicle	0 = none	0
handle	Handled stolen property	0 = none	0
treslarc	Trespass and larceny	0 = none	0
article	Possession of an article to be used in the course of a larceny	0 = none	0
tresinte	Trespass with intent to commit an offence (larceny)	0 = none	0
assault	Assault	0 = none	0
assgard	Assault on a member of An Garda Siochana	0 = none	0
rape	Intent to rape	0 = none	0
riskharm	Reckless behaviour with the risk of death or harm to others	0 = none	0
threat	Threatening behaviour	0 = none	0
imprison	False imprisonment of a person	0 = none	0
damprop	Damage to property	0 = none	0
dampmv	Damage to a mechanically propelled vehicle	0 = none	0
arson	Damage to property by fire setting	0 = none	0
peace	Breach of the peace	0 = none	0
intox	Intoxicated in a public place	0 = none	0
court	Failure to appear in court in accordance with recognisance	0 = none	0
bail	Breach of bail conditions	0 = none	0
comply	Failure to comply with garda direction	0 = none	0
weapon	Possession of an	0 = none	0

	offensive weapon		
harm	Possession of an offensive weapon with intent to cause harm	0 = none	0
school	Non-attendance at school	0 = none	0
s58	s. 58	0 = none	0
s47	s. 47	0 = none	0
		0 = none	0
railway	Trespass on a railway	0 = none	0
violent	Violent behaviour	0 = none	0
abscond	Absconson from lawful custody	0 = none	0
highct	Subject to high court hearings whether as a matter of welfare of a child or judicial review	0 = none	0