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Association for Criminal Justice
Research and Development Ltd

The Children Court A National Study

Association for Criminal Justice Research and Development Ltd

Formerly the Irish Association for the Study of Delinquency Ltd

The Children Court: A National Study

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with

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**Sinéad participated in the compilation of the field research until July 2006,
however, she was not involved in the authorship of this report.*

Foreword

The principal objective of the Association for Criminal Justice Research and Development (formerly the Irish Association for the Study of Delinquency) is to promote a wider public understanding of criminal justice, the causes of offending and the treatment of offenders. A very important part of this mandate is a research programme designed to deliver high quality, original academic research into the implementation of criminal justice law and policy. To date, the research programme has focused on youth justice in Ireland given the well acknowledged dearth of empirical data in this area. In 2004, a pilot study was commissioned to document the circumstances and treatment of 50 young people before the Dublin Children Court, and this was followed by this nationwide study of 400 young people before the Children Court. The support of the Department of Justice, Equality and Law Reform and the Special Residential Services Board in funding both studies is gratefully acknowledged. The researchers, Emer Meehan and Jennifer Carroll, and Sinead McPhillips who was involved in the early stages, are to be congratulated for producing a succinct, analytical and comprehensive study of the experiences of young people before the Children Court in 2004.

Research into youth justice and young offending is vital to ensure that an evidence-based approach is taken to law and policy reform. This comprehensive nationwide study will make an important contribution to our understanding of young people in conflict with the law and their treatment by the system, particularly the Children Court. The research confirms that Irish offenders have much in common with those in other countries – they have poor family backgrounds, educational disadvantage and experience of drugs and alcohol misuse. It sheds light on the nature of their offending – predominantly public order offences, theft and car crime – and the role played by alcohol here. It highlights that existing interventions (or at least those in place in 2004) appear to be relatively ineffective in addressing their needs and their offending behaviour in an efficient and holistic manner and finds that almost 30% of young people sentenced by the Children Court in 2004 were sentenced to detention. The full implementation of the Children Act – particularly the community sanctions and the conferencing initiatives – will offer the Court real alternatives to detention in the future. However, regular monitoring and continuing research in this area is necessary to document and evaluate the success of the reforms that are ongoing. In this regard, the practical difficulties encountered by the researchers, which contributed to its resource-intensive nature, need some attention if important empirical work of this kind is to be encouraged.

It is only fitting that this research be dedicated to the memory of the late Martin Tansey, Chair of the ACJRD since its inception. Martin was not only the friendly face of the Association, but he shared his wide knowledge and experience of criminal justice generously with everyone he met. He will be fondly remembered and very sorely missed both within the Association and beyond.

Ursula Kilkelly

2 April 2007

Acknowledgements

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- Her Honour Judge Miriam Malone supported this research and provided valuable assistance to us. The District Court Judges in the selected Court Offices of Athlone, Clonmel, Cork, Dublin, Dundalk, Galway, Letterkenny, Limerick, and Wexford;
- The Courts Service, particularly the staff in all the Court Offices visited around the country;
- The Special Residential Services Board;
- The Irish Prison Service, particularly St. Patrick's Institution for Young Offenders;
- the Children Detention Schools (Oberstown Boys Centre, Oberstown Girls, Trinity House School, Finglas Child and Adolescent Centre and St. Joseph's School);
- The Probation Service;
- The Office of the Minister for Children;
- The National Crime Council;
- The Department of Justice, Equality and Law Reform.

Funding for the research was provided by the Department of Justice, Equality and Law Reform and the Special Residential Services Board.

This report could not have been produced without the contribution of Ms. Sinéad McPhilips who was instrumental in designing this research project and in the collection of data. Her participation is greatly appreciated.

We were also fortunate to discuss the project with other researchers and professionals in the criminal justice field for which we are very grateful. Professor Ian O'Donnell, Director of the UCD Institute of Criminology gave us especially valuable assistance throughout the project.

Finally, we would like to extend most sincere thanks to the Council of the Association for Criminal Justice Research and Development Ltd. for their support and guidance, particularly the ACJRD Research Committee (Geraldine Comerford, Ursula Kilkelly, Martin Tansey and Maura Butler). The late Mr. Tansey's guidance in respect of this research project is deeply appreciated. His friendship and support throughout the course of the research will always be remembered.

Jennifer Carroll and Emer Meehan
ACJRD Research Assistants

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Executive Summary

The purpose of this research is to present accurate data on the Children Courts in Ireland and young people who face charges before these Courts. The research provides quantitative data on the background and history of young people involved in the youth justice system in Ireland. It is based on a detailed examination of Court files and information from a range of agencies in relation to a sample of 400 young people with cases completed in the Children Court in 2004. The Court areas examined were the Dublin Children Court, the Regional Cities (Cork, Limerick and Galway Children Courts) and selected Urban Courts (Athlone, Clonmel, Dundalk, Letterkenny and Wexford Children Courts). Building on the pilot research "Dublin Children Court: A Pilot Research Project" this study is the first piece of empirical research which provides nationwide statistics on the circumstances of young offenders, their backgrounds, education, offending trends and passage through the Court system.

The Young Person

The research identified that young people before the Children Court:

- Were predominately male (90%)
- Lived in specific and recurring disadvantaged localities in each of the areas examined
- Did not live with both their parents
- Were not in full time mainstream education. In fact, 86% of those for whom education information was available had no engagement with mainstream education.
- Ninety of the young people (22.5%) in this study were from minority groups (for the purposes of this research females, young people in HSE care, young people from the Traveller Community and young people of ethnic origins other than Irish were classified as minorities). Young people may be included in more than one of the above categories.

Offending

The 400 young people in this research had a total of 2,271 charges against them in the 2004 Court record, an average of six charges per person. In particular, the research identified:

- The most common offences were road traffic offences, theft offences and public order offences.
- Public Order offences were generally linked to alcohol consumption.
- Road Traffic offences generated a higher number of charges per incident than any other type of offending conduct.
- Theft Offences were more prevalent in the Urban Courts and Road Traffic offences were more prevalent in the Dublin Children Court.

Young People in Court

The research identified that young people in the Children Court:

- Waited at least six months for their first Court appearance
- Had their case concluded within six months of that first appearance
- Made eight Court appearances in respect of each charge
- 59% of the 400 young people in this study were convicted in the Children Court on at least one charge. An additional 3% were sent forward for trial to the Circuit Court. A higher proportion of young people were convicted in the Regional Cities and the Urban Courts than in the Dublin Children Court.

Sentencing

There were a limited number of sentencing options available to Children Court Judges in 2004. This has been substantially amended by the commencement of Part 9 of the Children Act 2001. This research identified:

- 30% of those convicted received a Probation Bond for one year.
- 29% of convicted young people were sentenced to detention. Young people who had a large number of charges were more likely to be sentenced to detention.
- Young people under 16 years were sentenced to a Children Detention School where the average sentence was two years.
- Young people over 16 were sentenced to St Patrick's Institution for Young Offenders on sentences of less than one year.
- Many of those sentenced to St. Patrick's Institution for Young Offenders had previously been committed to a Children Detention School.

This research has concluded that the young people who become persistent offenders in our society suffer from personal and structural disadvantages including low levels of education, difficult family circumstances and delays in the Court process. The protracted implementation of the Children Act 2001 has also disadvantaged the young people who came before the Children Court in 2004. The research identifies a process of socialisation within the criminal justice system which arises partly through frequent attendances at Court and high rates of detention. This report offers recommendations to address these disadvantages and to better the situation for young people in conflict with the law.

Chapter One Introduction

The Association for Criminal Justice Research and Development exists to promote a wider public understanding of the administration of criminal justice, the causes and prevention of delinquency/crime and the treatment of offenders.

This research was funded by the Department of Justice, Equality and Law Reform and the Special Residential Services Board. It was conducted by Emer Meehan, Jennifer Carroll and Sinéad McPhillips and supervised by the Research Committee of the ACJRD comprised of Martin N. Tansey, Dr. Ursula Kilkelly, Maura Butler and Geraldine Comerford.

1.1 Purpose of Study

The purpose of this research is to present accurate data on the Children Courts in Ireland and the young people who face charges before these Courts. This information may be used to identify areas for reform or policy initiatives, or as the basis for a longitudinal study on either, the Children Court and its processes or on the path of the individuals included in this study.

This research aims to provide quantitative data to help improve understanding of the origin and history of young people involved in the youth justice system in Ireland. It is based on a detailed examination of court files and information from a range of agencies in relation to a sample of 400 young people with cases completed in the Children Court in 2004.

1.2 Background on Irish Youth Justice System

The youth justice system is an important test of the State's relationship with its most vulnerable citizens. It is a relationship in which the principal participants, the young people themselves, have very limited involvement in formulating the structures and rules relating to them. For this reason, it is even more important to provide an equitable system for addressing the competing values and needs of a society offended by the young person's actions, and their responsibility to provide for the development of its young people. Walsh¹ describes the difficulty in applying the law and order requirements and processes of an adult society to young people in varying stages of development.

"It has long been accepted that subjecting young offenders to the full rigours of the criminal law and the criminal justice system is unjust, inappropriate and counter-productive. They do not have the maturity, foresight and experience of life to appreciate fully the harm caused by their offending both to themselves and to the community around them. It would be unjust, therefore, to subject them to criminal standards which do not take account of these weaknesses."

This is also reflected in Ireland's international obligations under the Convention on the Rights of the Child, which makes clear that children in conflict with the law have the right to be treated in a manner consistent with the promotion of the child's dignity and worth, which reinforces the child's respect for the rights of others and which takes into account the child's age and the desirability of promoting the child's reintegration. The Convention also requires that detention be used only as a measure of last resort and that the diversion from the criminal justice system be preferred as long as the child's rights are protected. In addition, the European Convention on Human Rights, given further effect in Irish law under the European Convention on Human Rights Act 2003, requires that measures be taken to ensure that children enjoy the right to understand and participate in the criminal process.²

¹ Walsh, D (2005) *Juvenile Justice*, pp. vii.

² See further Kilkelly, U (2006) *Youth Justice in Ireland*.

The Children Act 2001, as amended by the Criminal Justice Act 2006, is an important, progressive and welcome initiative for the improvement of the provision of justice and welfare to young people. However, for the period from which the data in this research report is drawn, 2004, the Act remained largely unimplemented. The most recent implementation of the 2001 Act was on March 1st 2007³, some six years after being signed into law. This commencement includes the transfer of the Children Detention Schools from the auspices of the Department of Education and Science to the Department of Justice, Equality and Law Reform, the enactment of the provisions on community sanctions and a broadening of the sentences of detention available to name but a few. Anti-Social Behaviour Orders (ASBOs) were also enacted under this commencement to much controversy and are discussed in detail in Chapter 6.1. There remain a small number of provisions which are not yet in force including section 77 which allows the Children Court to refer children to the attention of the HSE where they have unmet need.

In fact, the Irish youth justice system has been operating under a veil of uncertainty for many years. A limited number of reports have been commissioned by the Government to enquire into the difficulties inherent in managing young offenders and their behaviour. These reports highlight the need for better facilities within the detention institutions particularly in regard to education of young people, major reform of the legislation affecting young offenders, improved co-ordination between the relevant agencies and the need for extensive ongoing research in the area of youth justice.⁴

Critical to the development and implementation of effective policies for managing young offenders and vulnerable young people is the availability to policy makers of reliable, contemporary data on the juvenile justice system, its operations and participants. It is clear from national and international research that there are a range of factors which may contribute to young people becoming involved in offending behaviour, including difficult family circumstances, poverty and educational disadvantage⁵ and which are clearly identifiable. However, despite this evidence, and the recommendations of government commissioned reports on juvenile justice to date, very little empirical data has been available on young people appearing before the Children Court in Ireland. One previous study⁶, of young people appearing in the Children Court in 1998, was based on access to the Courts Service files. In addition, the pilot of this research, "Dublin Children Court: A Pilot Research Project" compiled by the Irish Association for the Study of Delinquency, now the ACJRD, began the process of identifying young people in the Children Court system and tracking their personal circumstances and their treatment in the Children Court. The final report relevant in the context of empirical data is "The Children's Court: A Children's Rights Audit".⁷ This report was carried out by observing Court in session in a number of locations throughout the country and considering the extent to which Children Courts in Ireland operate in line with national or international juvenile justice standards.

³ S.I No 64, Children Act 2001 (Commencement) Order 2007.

⁴ The Report on the Youth Justice Review (2006) of the Department of Justice, Equality and Law Reform highlights key themes emerging from the a broad public consultation process on youth justice as being insufficient integration of services and a data/research deficit. The Kennedy Report (1970); Whitaker Report (1985).

⁵ See for example O'Mahony, P. (1998), *A brief overview of juvenile justice in Ireland*.

⁶ McLoughlin, E., Maunsell, C. and O'Connell, M. *Children In The Irish Juvenile Justice System: An analysis of cases involving children who appeared before the courts, and an in-depth profile of a sample of children convicted of criminal offences*, Dept. of Psychology, Trinity College, 1998, Unpublished.

⁷ Kilkelly, U (2005).

1.3 The Children Court: A National Study – Terms of Reference

This research seeks to address the deficit in quantitative data on the Irish youth justice system. It involves a sample of 400 young people who appeared before the Children Court in 2004, on a nationwide basis.

The terms of reference are as follows:

To compile a systematic quantitative review of a sample of children appearing before Children Courts throughout Ireland in 2004, and to extract relevant information on:

- *Their family background and education;*
- *Involvement of statutory agencies;*
- *Number and type of offences;*
- *Outcome of court proceedings;*
- *Length and number of court proceedings;*
- *Sentences and detention;*
- *Paths to court;*
- *Specific examples of children from minority groups and children in Health Service Executive care.*

The sample of 400 individuals should be randomly selected and geographically stratified, and no individual should be identifiable from the details contained in the report.

These terms of reference are similar to those used for the Pilot project on the Dublin Children Court and this research will build on the foundations set by that research.

1.4 Legal Basis for Research

The Children Act 2001, as amended, provides a legal basis for research in relation to children appearing before the courts. Part 13, Section 264, of the Act, which has been commenced, provides that:

“The Minister may conduct or assist other persons in conducting research into any matter connected with children who are considered at risk of committing offences, who have admitted committing offences or who appear before the courts charged with offences.”

1.5 Conclusion

This report was conducted over some 18 months from September 2005 to March 2007. It incorporates the work of three researchers and the assistance of the Courts Service, Children Court Judges and statutory agencies relating to the care and welfare of young people in Ireland. Building on the pilot research “Dublin Children Court: A Pilot Research Project” it is the first piece of empirical research providing nationwide statistics on the circumstances of young offenders, their backgrounds, education, offending trends and passage through our Courts System.

Chapter Two Methodology

This chapter outlines the sources of data used for this report, how the study sample was selected, and how data was recorded and analysed. It also discusses some of the difficulties encountered in the course of this research.

It is necessary first to set out the definition of a 'young person'. The Children Act 1908 and its predecessor, the Summary Jurisdiction over Children (Ireland) Act 1884, distinguish between a child and a young person. Under these Acts a 'child' is a person under the age of 15 years of age and a 'young person' is a person who is 15 years or older but less than 17 years of age. This distinction will be repealed when the Children Act 2001 is fully implemented but remained valid for the research period in 2004. The 2001 Act defines a child as a person under the age of 18 years. Throughout this research the term 'young person' will be used to represent a person under the age of 18 and the phrase will include those individuals who are defined as children under the 1908 Act.

2.1 Sample Number

A total of 1,395 young people, who were under the age of 18 on the date of their offence, had cases concluded on the Courts Service Criminal Case Tracking System (CCTS) (discussed below in 2.3) in 2004⁸. Four hundred young people, the sample number used by the researchers, account for 29% of the total number. This figure is deemed to be representative of the total sample in the Courts in 2004.

The sample number of 400 young people was also supported by the fact that this number is regarded as the appropriate sample size for other criminal justice research and has been used by other researchers for example the Garda Research Unit.

2.2 Sample Selection

The sample of 400 was selected using the Courts Service Criminal Case Tracking System (CCTS) (discussed below in 2.3) from the 1,395 young people who had cases concluded on CCTS in 2004. Table 1 presents the data drawn from the CCTS list, grouped by the Court Office in which the files were stored and estimates what share of a sample of 400 each Court office should have for the sample to be fully geographically representative. A random number generator was used to select the Dublin, Cork and Limerick samples. In the case of the remaining courts all the available files heard by the court in 2004 were used for the study.

Based on 2002 Census data, the 23 District Court areas were classified as being either mainly city (Census defines cities as Dublin, Cork, Limerick, Waterford and Galway only); mainly urban (population clusters of 1,500 or more); or mainly rural.

The data supplied by CCTS is based on the court office locations. In most cases, a Court office will cover only part of a District Court area as the areas are large and the courts sit in a number of different places within the District Court area.

There were 41 Court offices with children cases completed in 2004. The scope of the study did not allow for attendance at all the offices.

Accordingly, it was proposed to look at the court offices across the following categories:

- Dublin;
- Regional Cities;
- Urban Courts.

⁸ An Garda Síochána Annual Report 2004 provides that 17,634 individual young people were referred to the Juvenile Diversion Programme in 2004. The total number of young people on CCTS account for 7% of the number of people referred to the Diversion Programme.

2.2.1 Dublin

The CCTS list records 765 young people with cases completed in the Dublin Children Court in 2004. This represents 55% of the total for the country, and implies that the Dublin court files should account for 220 of the 400 young people in this sample.

Accordingly, 220 young people were selected from the Dublin list using random number selection. Access to the Dublin Children Court in Smithfield took place in early March 2006 and again in June 2006, and the details of 220 young people were recorded.

2.2.2 Regional Cities

The four other cities in Ireland (Cork, Limerick, Waterford and Galway) accounted for 226 young people, or 16% of the total. This implied that 65 of the sample of 400 should come from cities outside Dublin. Accordingly, the sample was drawn representatively from Cork (40 cases), Limerick (20 cases) and Galway (5 cases). These Courts were visited between May and September 2006.

2.2.3 Urban Courts

Other Court Offices outside Dublin accounted for 404 young people, or 29% of the total. This implied that 115 of the sample of 400 should come from such courts. As it was not practical to visit all 36 offices, some of which had very small numbers of files, a decision was made to select a sample of 115 individuals at random from the files of five 'Urban' Court Offices. Regional balance and the number of files available in each court office was considered and accordingly records were obtained from Clonmel (28), Letterkenny (41), Dundalk (15), Wexford (11) and Athlone (20).

2.3 Data Sources

The research project also used three secondary data sources.

2.3.1 Criminal Case Tracking System (CCTS)

The Courts Service provided access to CCTS (Criminal Case Tracking System) data in February 2006 with a list of all cases concluded in 2004 which concerned young people. However, this list was not complete and following further correspondence with the Courts Service, a second list was supplied in March 2006 and a final list in June 2006.

A number of issues arose in trying to compile the exact number of young people who came before the Courts in 2004. CCTS uses an identifier for individuals under 18 (JUV) which was used to run the initial query in February 2006. However, an inspection of files in the initial court offices visited revealed that not all individuals were entered on CCTS as 'juveniles' and therefore they did not appear on the initial list provided. The Courts Service ran another query of all dates of birth from 1986 onwards which included both those entered as juveniles and those who, while under the age of 18, were not identified as such on CCTS. The compilation of the information provided by the two lists revealed that 1,395 individuals nationwide had cases concluded on CCTS in 2004; 765 in Dublin and 630 in the rest of the country.

2.3.2 Children Court paper files

The Courts Service also provided access to the paper files in the selected Court Offices. As CCTS came on-line on a staggered basis in 2004, access to complete records for the sample year through the paper files in the Court Offices was necessary to gather a complete record of each young person's offences.

There is no single system of filing used in the Court Offices. In the Dublin Children Court, files were stored by year, alphabetically by surname. In Cork, District Court files for 2004 were stored by charge sheet number. In Athlone, Dundalk and Galway District Courts the staff had the files prepared in advance for the researchers so it is not possible to comment on how they were stored. The Clonmel District Court files were sorted by charge sheet number with a reference book with the number of each charge sheet and the name of the defendant for easy access. Both Letterkenny and Limerick District Courts had their files stored by penalty date for the relevant court area as files for more than one court area are stored in the main offices. The Wexford District Court Office stored their records by year of case conclusion and then alphabetically by surname.

The papers stored in the Children Court files include:

- **Charge sheets:** a separate charge sheet is drawn up for every offence charged. Data entered electronically by An Garda Síochána on charge sheets includes: young person's name, address, date of birth, Garda PULSE ID of young person, guardian's name and address, name and ID of arresting Garda; charge sheet number; offence code, basis in legislation, date of offence and brief description of the offence charged. The Courts Service manually enters a court case number on the charge sheet. The date and outcome of all court appearances relating to a charge sheet are manually entered on the charge sheet by the presiding judge.
- **Probation reports:** where a judge has requested one or more Probation Reports on a young person, these reports are stored with the charge sheets. Probation Reports generally include a profile of the young person's family background, education, current status and detail of the level of co-operation with the Probation Service.
- Reports from any other agency which submits a report in court in relation to the young person are also stored on court files. Reports from the Health Service Executive (HSE) are usually submitted only where the young person is in care at the time of the court proceedings. Detailed assessments from the National Assessment and Remand Unit (NARU) are provided where a young person is remanded in custody for assessment. The Special Residential Services Board (SRSB) liaise with the courts and advise on appropriate placement for a young person (under 16 years) based on the case circumstances and having regard to the principle that detention is a measure of last resort. Up to the 1st December 2006 the SRSB had both a co-ordinating and advisory role with the courts. This function is now under the management of the Irish Youth Justice Service (assisted by the Probation Service). Children Detention Schools submit reports on young people remanded in custody or committed on other charges at the time of their court proceedings.

2.3.3 Agency Involvement

The following agencies made information available in relation to the 400 young people in this study:

- the Courts Service provided access to paper files in the Children Courts and to the CCTS database;
- the Special Residential Services Board (SRSB), Children Detention Schools and St. Patrick's Institution for Young Offenders provided information in relation to young people committed to detention.

For many young people in the study, reports from other agencies were also included in Court files. The main agencies involved were:

- the Probation Service (previously the Probation and Welfare Service) – Probation Reports were available for a number of the young people in the study.
- National Assessment and Remand Unit (NARU), which is part of the Finglas Child and Adolescent Centre (FCAC): case conference reports were available on court files for young people remanded to NARU for assessment;
- Health Service Executive (HSE) – reports of HSE (formerly the Health Board) case conference reports or reports from social workers were provided to the court in some cases where there was HSE involvement.

2.4 Data Collection

After selecting the sample, the researchers then travelled to each of the courts concerned. A database was prepared in advance and forms were used to collect the key information. A copy of these forms can be found in Annex I. The researchers transcribed the relevant information from the paper files to the forms. Additional information was obtained from the SRSB, where the researchers were granted access to paper files and information was again recorded on the forms available in Annex I. St. Patrick's Institution for Young Offenders and the Children Detention Schools also provided information on the length of sentences and the education programmes available to the young people while in detention.

2.5 Data Compilation

Data extracted from the court files was recorded in a Microsoft Access database.

The 400 young people selected for the study sample were assigned a reference number for the purposes of preserving their anonymity (IASD1201, etc.). This reference number bears no relationship to records held by any of the agencies in relation to these young people. This research does not contain any information which could reveal the name, address or school of any young person in the study. All information obtained about the young people in the study was treated as confidential and used for research purposes only. The study is based on secondary sources, rather than on interviews with the young people or their families.

2.6 Data Analysis

The information was analysed using Microsoft Access queries and Excel spreadsheets. This allowed for number crunching, cross referencing and the charting of trends.

2.7 Research Difficulties

A number of difficulties were identified in the course of this research, which delayed its completion and closed off a number of avenues of analysis that would have contributed to the value of the overall conclusions.

- CCTS records were used to select the study sample of 400 young people. However, CCTS went online nationwide at different times throughout 2004. This meant that the CCTS list was not complete for the sample year. It should be noted that the researchers did have access to court files for the full year of 2004 in the sample Court offices.
- It is the understanding of the researchers that it is not possible for queries to run on CCTS based on individuals. This has serious implications for research and in particular in terms of studies on individual young people. Research at an individual level can provide common characteristics and a profile of those at risk of offending.
- Reports from outside agencies are available on paper files only. It is thus not possible to carry out research of a substantive nature based solely on information from CCTS. This inevitably means that all research must include the additional element of obtaining access to paper files.
- In most Children Courts, files are stored by year of case completion. This does not provide a full history of the young person's total appearances in the Children Court, or all relevant reports from other agencies. It precludes the drawing up of a profile on individual young people, with regard to all interaction with the criminal justice system and other agencies.

- Records were stored in a variety of ways throughout the country. In Cork, files were stored by charge sheet number. Therefore the records for the young people in the sample were extremely difficult to access as charge sheets numbers were not available to the researchers from CCTS data. However, access to summons minute books was provided and this gave the researchers a copy of every summons issued in the sample year of 2004. The crucial problem with storing data in this way is that it renders it impossible to gather information which illustrates an individual's history with that Court. However, the system was changed with the introduction of CCTS and files are no longer stored in this way.
- Agencies do not use a shared unique identifier for each young person in the system and there are often difficulties in verifying the fact that different records, even within the same agency, relate to the same young person. For example:
 - a young person may have been assigned more than one Garda PULSE ID code;
 - a young person's name may be spelled differently in different computer entries;
 - two or more young people may have the same forename and surname;
 - the young person may use different names or different versions of their name at different times;
 - different dates of birth may be used for the same young person;
 - the young person's address is often the most reliable indicator of identity, but in some cases the young person's address may change frequently.

If all of these factors are combined, it can be difficult to establish which records refer to which young person. However, in most cases it is possible to establish a common denominator among the different identity variables to identify the young person with reasonable accuracy; this is unnecessarily time-consuming and resource intensive.

- Data Protection and anonymity in relation to young people in the youth justice system are key priorities for all of the agencies involved. Difficulties in sharing data may have implications not only for research but also for the effective operation of the agencies themselves. There must be a way in which agencies can share information effectively notwithstanding important such considerations of data protection and anonymity.
- This research attempts to profile the typical young offender facing charges before the Courts in 2004. However, in relation to both family background information and education history, it must be noted that this data was not available to the researchers for every young person in the study.
- An Garda Síochána were very helpful to the researcher carrying out the Pilot project⁹. However, information was not shared with regard to the national study. This had two effects on the value and rigour of the study: firstly, it prevented the researchers from charting the young person's history with the court prior to 2004 and the extent of their involvement with the Garda Diversion Programme, and secondly, it prevented the researchers from identifying patterns of recidivism for each young person from 2004 onwards. An informal offer of access to this information came too late for this research which had already been submitted for publication. The ACJRD do however look forward to discussing this offer with An Garda Síochána with a view to a longitudinal study as outlined in Chapter 1.1.

⁹ McPhillips, S. *Dublin Children Court: A Pilot Research Project*.

2.8 Conclusions

There are a number of important conclusions that can be drawn from this chapter and in particular the research difficulties:

- CCTS is not a workable system for research purposes, particularly for research on an individual level.
- The method in which files are stored in the Court offices varies throughout the country. A preferable approach would be for a single file to exist on each individual young person to contain all charge sheets, summonses and agency reports in order to give an overview of the young person and their offences.
- Agency co-operation is recognised as vitally important within the criminal justice system. However, this is hampered by lack of centralisation of data. Using a shared identifier code for each young person across the relevant agencies would facilitate efficient sharing of information to the benefit of all.

Research into youth justice and the experiences of young people in conflict with the law is vitally important to the development of evidence-based approaches and the successful implantation of law and policy. This is acknowledged by the Children Act 2001, section 264 of which provides that the Minister of Justice, Equality and Law Reform may carry out or assist others in carrying out research in this area. The Youth Justice Review as commissioned by the Department of Justice, Equality and Law Reform (DJELR) also recognised the need for research in this sphere¹⁰. However, the experience of this research is that significant barriers currently hinder research in this area. These must be addressed if the impetus behind section 264 is to be fully achieved.

Table 1

Court Admin Office	District Court Area	Number of Individuals	City/Urban/Rural c/u/r	% of Total	No. of 400
<i>Dublin</i>	<i>D11</i>	765	c	55%	220
<i>Outside Dublin</i>		630		45%	180
REGIONAL CITIES					
Cork	D19 (€t20)	128	c/u	9%	37
Galway	D7	17	c/u	1%	5
Limerick	D14	64	c/u	5%	18
Waterford	D22	17	c/u	1%	5
Regional Cities		226	c/u	16%	65
URBAN COURT OFFICES					
Clonmel	D21	34	u	2%	10
Monaghan	D5	30	r	2%	9
Dundalk	D6	25	u	2%	7
Wexford	D23	23	r	2%	7
Letterkenny	D1	22	r	2%	6
Carlow	D15	21	u	2%	6

¹⁰ Report on the Youth Justice Review (Dec 2005) Chapter Three.

Court Admin Office	District Court Area	Number of Individuals	City/Urban/ Rural c/u/r	% of Total	No. of 400
Athlone	D8	20	r	1%	6
Bray	D16	18	u	1%	5
Castlebar	D3	17	r	1%	5
Trim	D10	17	u	1%	5
Clonakilty	D18	16	r	1%	5
Naas	D16	15	u	1%	4
Kilkenny	D22	13	u	1%	4
Sligo	D2	12	r	1%	3
Portlaoise	D15	11	u	1%	3
Thurles	D14	11	u	1%	3
Cavan	D5	10	r	1%	3
Donegal	D1	8	r	1%	2
Ennis	D12	8	r	1%	2
Longford	D9	8	r	1%	2
Nenagh	D8	8	r	1%	2
Tullamore	D9	7	r	1%	2
Drogheda	D6	7	u	1%	2
Listowel	D13	6	r	1%	2
Youghal	D21	6	u	0%	2
Ballinasloe	D8	5	r	0%	1
Fermoy	D20	5	u	0%	1
Tralee	D17	4	r	0%	1
Mullingar	D9	4	r	0%	1
Carrick-on-shannon	D4	3	r	0%	1
Killarney	D17	3	r	0%	1
Mallow	D20	2	u	0%	0
Tuam	D7	2	r	0%	0
Roscommon	D4	2	r	0%	0
Ballina	D3	1	r	0%	0
Derry na Flea	D7	0	r	0%	0
Urban Court Offices		404		29%	115

Table 2

Location	Number of Individuals	% of Total	Share of 400
Dublin	765	55%	220
Regional Cities	226	16%	65
Proposed sample for cities outside Dublin			
Cork			40
Galway			5
Limerick			20
			65
Urban Courts	404	29%	115
Proposed sample for Courts outside Dublin			
Random sample based on CCTS selected from:			
Clonmel			27
Letterkenny			22
Dundalk			25
Wexford			23
Athlone			20
			117
Actual sample			
Clonmel			28
Letterkenny			41
Dundalk			15
Wexford			11
Athlone			20
			115

Chapter Three The Young Person

This chapter looks at the young people in this study, their backgrounds and personal circumstances. The matters examined include age profile, addresses, family living arrangements, family structures, education and histories of abuse or criminality. This chapter also considers in detail the number of young offenders from minority backgrounds, including those young people in the care of the Health Service Executive.

The purpose of this chapter is to develop a profile of the typical young offender in Ireland in 2004 and establish any regional variances that might exist within that profile.

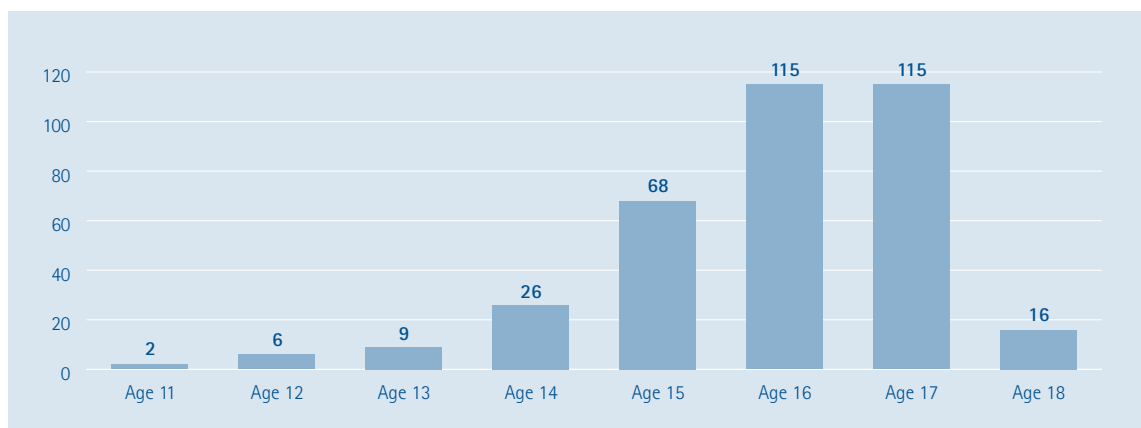
3.1 Gender

Forty-one of the 400 young people (10%) in this study were female¹¹ and the remainder (359 or 90%) were male. This percentage is representative of the total number of young people who had cases concluded on CCTS in 2004. This issue is discussed later in section 3.7. However, it is clear that more young men find themselves before the Children Court than their female counterparts.

3.2 Age at January 1st 2004

The age as at 1st of January is used to give an age profile for the 400 young people in the study. Most of the young people in this study were either 16 or 17 years old at this time. This is consistent with the results of the pilot project in which it was clear that the majority of young offenders in the Children Court were 16 or 17 years old. It is also compatible with the findings of Kilkelly's observational study of the Children Court¹² in which most young people in the cases observed were 16 or 17 years old. A graph depicting the age profiles of the young people in this study is contained in Figure 3.1.

Figure 3.1 Age of 400 young people on 1st January 2004



¹¹ This figure can be compared with the number of young people referred to the Garda Diversion Programme in 2004. 21% of the 17,634 individuals referred were female.

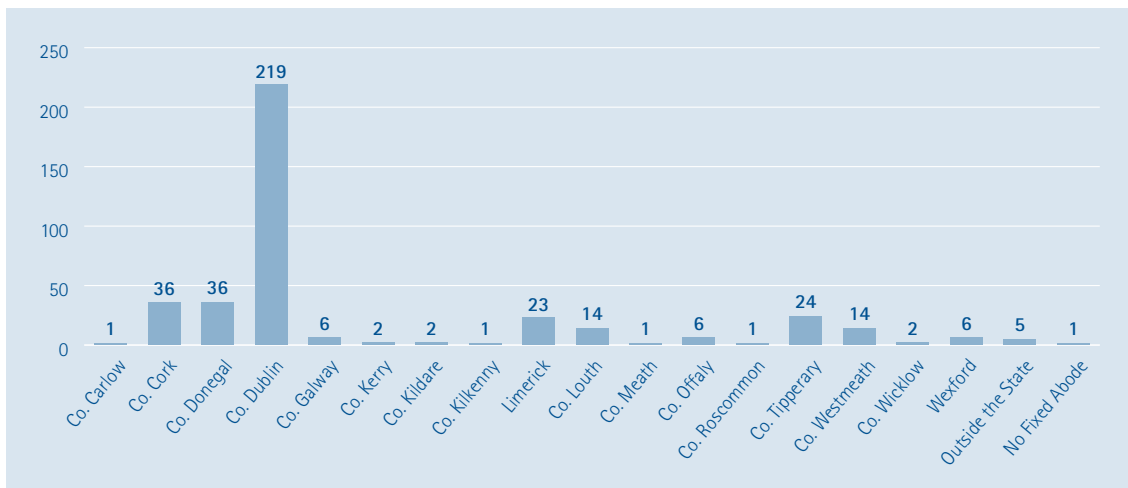
¹² Kilkelly, U (2005) *The Children Court: A Children's Rights Audit*, pp. 18.

At the time of the research, the age of criminal responsibility was seven years. This age was changed by the Children Act 2001¹³, as amended by the Criminal Justice Act 2006, and was implemented on the 16th October 2006 raising the age of responsibility to 12 years. However, an exception is made for children between 10 and 11 where criminal responsibility is at the discretion of the Director of Public Prosecutions, in respect of serious offences such as murder, manslaughter, rape or aggravated sexual assault.

3.3 Domicile

The addresses used for the 400 young people in the study are taken from the charge sheets, summonses or agency reports where available. It is clear from this graph that the young people came from a wider range of countries than the District Courts examined.

Figure 3.2 Breakdown of Addresses for 400 young people¹⁴



A further breakdown of the addresses into postal codes for the Dublin area is informative and shows that the majority of young offenders in Dublin come from Dublin 1, Dublin 11 and Dublin 24. This is shown in Figure 3.3. These findings are consistent with previous research on this topic¹⁵ which found that two thirds of the children appearing before the Children Court in Dublin came from a relatively small area of Dublin, characterised by high levels of disadvantage. Kilkelly, in her observational study of the Children Court, found nothing to contradict this view. The pilot project to this research project found that the most common postcodes among its sample of young people were Dublin 1 and Dublin 24¹⁶. In a major study profiling prisoners in Mountjoy prison in 1997, O'Mahony¹⁷ found that there was disproportionately high percentage of prisoners from Dublin, and that 56% of the total prison population came from Dublin 1, Dublin 8, Dublin 11 and Dublin 22.

¹³ Section 52, Children Act 2001.

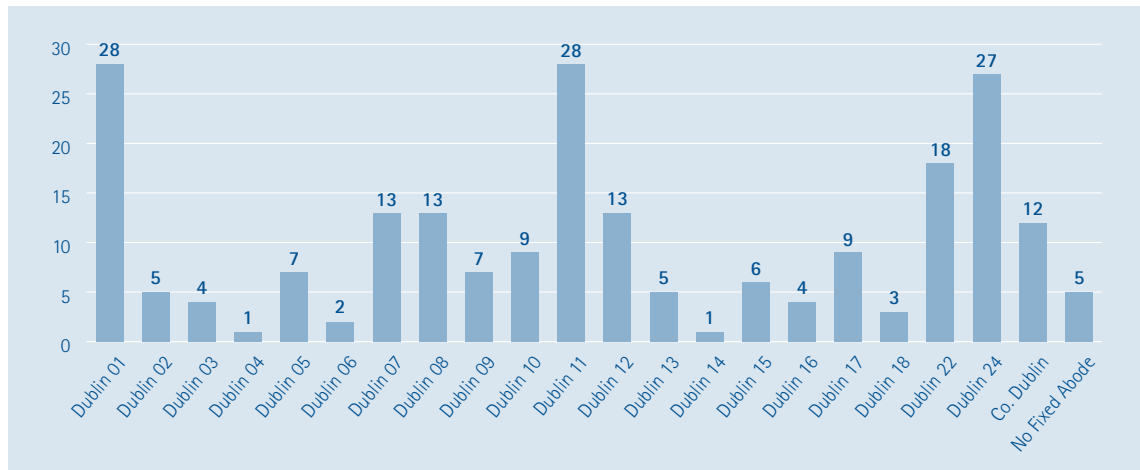
¹⁴ Only one young person was actually identified as homeless on the charge sheets in the Court files. The other four young people later referred to as homeless were identified as such from agency or other reports.

¹⁵ McLoughlin, Maunsell and O'Connell *Children in the Irish Juvenile Justice System*, cited in Bacik, "The Practice of Sentencing in the Irish Courts" in O'Mahony (ed) *Criminal Justice in Ireland*, IPA, 2002, pp. 363-4.

¹⁶ McPhillips, S (2005) *Dublin Children Court: A Pilot Project*.

¹⁷ O'Mahony, P (1997) *Mountjoy Prisoners: A Sociological and Criminological Profile*, Stationery Office pp. 39-41.

Figure 3.3 Breakdown of Addresses for 220 young people in Dublin



This research project confirms the findings in previous research that the majority of offenders come from very specific geographical areas, all typically characterised by high levels of deprivation and disadvantage.

It was further found by this research that this experience is not limited to Dublin. An analysis of the addresses of the young people in the Regional Cities and Urban Courts showed a small number of addresses recurring for the sample number in each area examined. In particular, Mayfield and Mahon in Cork and Moyross, St. Mary's Park and Southhill in Limerick were particularly prevalent. Similar trends are evident in each of the Urban Court areas examined.

Finally, five young people in the sample of 400 (1.25%) were homeless at the time of their offences in the 2004 court files.

3.4 Family Background

Family background information was available for 210 of the 400 young people (53%) in the study. This information was gleaned from agency reports from the Probation Service, the Health Service Executive, National Assessment and Remand Unit assessments, reports from detention schools and any other information available on the court files of the individuals concerned.

Information was available for 137 of the 220 young people (62%) from the Dublin Children Court, 30 of the 65 young people (46%) from the Regional City Courts and 43 of the 115 young people (37%) from the Urban Courts.

There are 11 sets of siblings in the randomly selected sample of 400 young people. Family information will therefore be duplicated in the cases of 22 young people.

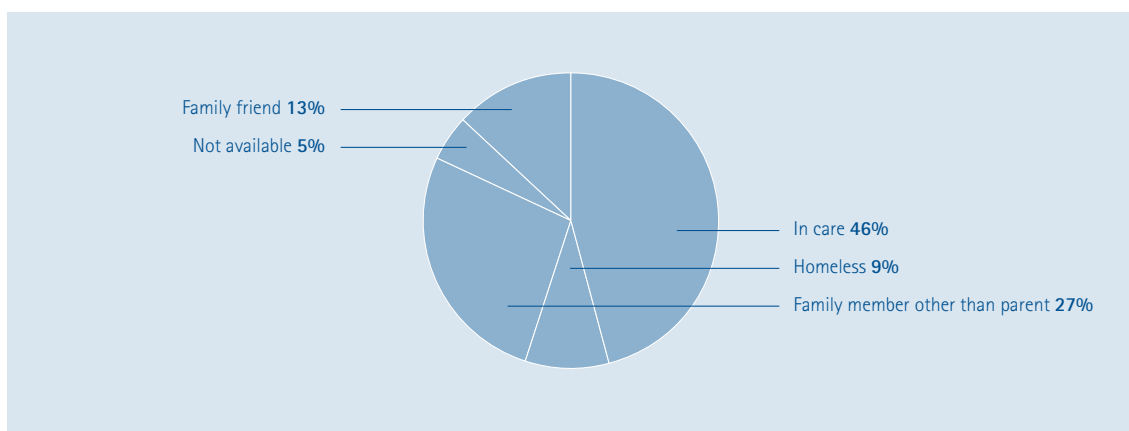
3.4.1 Living Arrangements

One hundred and seventeen of the 210 young people (56%) live with one or both of their parents. This figure is higher in the Regional Cities (67%) and lower in the Urban Court areas at only 44%.

Sixty (29%) of the young people were found to live with both parents, eight (4%) with their father only and 49 (23%) live with their mother only. Living arrangements were not specified in the files of 37 other young people. The remaining 56 young people (27%) do not live with either parent.

Figure 3.4 shows the living arrangements for the remaining 56 young people who do not reside with either parent. Fifteen young people were identified as living with a family member other than a parent, eight resided with a grandparent, four with a sibling, one with an uncle and two with another relative. Twenty-six young people (46%) were in the care of the Health Service Executive. Of the 26 young people in care, 12 were from Dublin (this represents 9% of the 137 young people in Dublin for whom information was available), 5 (17% of the 30) were from the Regional Cities and 9 (21% of 43) were from the Urban Court areas.

Figure 3.4 Living Arrangements for young people who do not live with a parent



3.4.2 Family Composition

Family size information was available for 140 of the 210 young people for whom there is background information. The average number of children per family is 5.07. This is far above the current national average of 1.98 children and the national average in 1987, when many of the children in this sample were born, of 2.31 children¹⁸.

The largest number of young people came from three children families (21%), followed closely by five children families (19%) and four children families (14%). Two of the young people were the only child of the family and two young people came from a family with 15 or more children.

The absence of a parent from the daily life of the young person was noted in the files and reports of 93 of the 210 young people. The reasons for this included death, parental separation, abandonment and necessary care arrangements for young people outside of the family home. As discussed in section 3.7 below 26 young people were in care at the time of their offences and therefore absent from both parents. Eleven other young people suffered the absence of both parents for a variety of reasons ranging from the death of both parents, to inability to care for their children, to mental and physical disability.

Parental marital status was recorded for some of the young people in the study. The parents of 30 of the young people for whom this information was available were married. Twenty-seven parents were separated. In the case of another 30 young people the marital status of their parents was not specifically stated, however it was apparent from other evidence in the agency reports that the relationship had broken down. Seven other couples were not married but in a relationship.

¹⁸ CSO, Vital Statistics, Fourth Quarter and Yearly Summary 2003, pp. 27 and CSO, Report on Vital Statistics 2002, pp. 26.

3.4.3 Family Employment Status

The employment status of parents was also recorded by the researchers where available. It was possible to establish the employment status of 53 families.

- In 12 cases both parents were employed
- In seven cases both parents were unemployed
- In eight cases the father was in employment and there was no information on the mother
- In seven cases the father was in employment and the mother was a homemaker
- In five cases the father was unemployed and the mother was a homemaker
- In 11 cases the mother was employed and there was no information on the father
- In three cases the mother was a homemaker and there was no information on the father

3.4.4 Criminality

A history of criminal behaviour within the families of the young people involved in the study was documented. Of the 210 young people for whom family background data was obtained, 46 (22%) had at least one family member with a criminal record. In Dublin, 18% of the 137 young people for whom information was available had a family member with a criminal history. In the Regional Cities this phenomenon was present in 27% of the 30 young people and in 33% of the 43 young people from the Urban Court areas.

In 25 of the 46 cases the criminal behaviour involved a parent, in 21 the criminal behaviour involved a sibling and in nine cases both parent and siblings were stated as having criminal records.

3.4.5 Abuse

Domestic abuse was noted on the files of 26 (12%) of the 210 young people for whom family background information was available. In Dublin, this history of abuse was noted on the files of 12 young people, four in the Regional Cities and 11 in the Urban Court areas. When these figures are constructed as a fraction of the overall number of young people with background details in each of the areas, it shows that domestic violence was a feature in the lives of more young people in the Urban Courts than any other area (26% Urban Courts, 13% Regional Cities and 9% Dublin Court).

Physical and sexual abuse suffered by the young people in the study was recorded wherever available. This was of significance in creating a profile of the average young offender and the circumstances in which they become involved in crime.

Thirteen (6%) of the 210 young people for whom there was background information had physical and/or sexual abuse indicators. Abuse indicators included explicit reference in court records and, more often, in agency reports; references to unexplained injuries and references to overcoming abuse in the family home, which may or may not necessarily have directly involved the young person.

Fifteen (7%) of the 210 young people were stated as exhibiting self harm indicators which ranged from suicide attempts to self mutilation and depression.

3.5 Drug and Alcohol Issues

Of the 210 young people for whom family background information was available, 40 (19%) had a family member with an alcohol or drug problem. In 40% of these 40 cases the young person's father had addiction issues, 33% concerned the mother's addiction and in 15% both parents had problems with drug or alcohol misuse.

Substance misuse by siblings and other family members such as uncles and aunts was also noted. Eight per cent of the 40 young people had siblings involved with drugs and alcohol abuse while the remaining 4% concerned other family members.

Use of drugs and alcohol was also prevalent in the lives and crimes of the young people themselves.

Nineteen of the 400 young people in the study were reported to have committed drug related crimes. 121 young people (30%) committed alcohol related crimes. The types of crimes committed are discussed in more detail in Chapter 4.4.

3.6 Education

The research sought to obtain information in relation to the education history of each young person in this study. Information was gathered from the court records and, in particular, from any agency records on the court files. For example, probation reports often described the child's status in mainstream education and any problems that had emerged in relation to school performance, attendance and discipline matters.

However, as such agency reports are not required in every case before the Children Court, the volume of information available was limited. Accordingly, information on education history was available for 149 of the 400 young people in this study (37.25%). The researchers sought information under two headings: participation in formal mainstream education and participation in other education or training programmes outside of mainstream schooling. It is clear that many young people will be counted both under some mainstream education and in accessing education outside of the standard schooling system.

3.6.1 Participation in Formal Mainstream Education

The first matter to determine in respect of each young person in the study was whether or not they were still in school at the time of their appearance before the Children Court. Of the 149 young people for whom information was available only 21 (14%) were still in school at the time of their appearance before the Children Court in 2004. The importance of this figure is clear. In the first instance, a young person is obliged to remain in school until they are 16 years of age¹⁹ or have completed three years of post primary education, whichever occurs later. Secondly, parents of a child are obliged under statute to cause the child concerned to attend a recognised school on each school day²⁰.

In fact, only 44 of the 149 (29.5%) young people in this study for whom education information was available fulfilled the statutory requirement to have completed three years of post primary education and be at least 16 years of age (but less than 18 years) before leaving school.

¹⁹ Under section 2 of the Education (Welfare) Act 2000 a "child" means a person resident in the State who has reached the age of 6 years and who – (a) has not reached the age of 16 years, or (b) has not completed 3 years of post-primary education, whichever occurs later, but shall not include a person who has reached the age of 18 years.

²⁰ Education (Welfare) Act 2000, section 17 (1).

However, of arguably greater importance is the fact that 86% of young people before the Children Court for whom education information was available were formally absent from mainstream education. It should be noted that 33 of the 128 young people (26%) who were no longer in school were under the age of 16 on January 1st 2004 – including four who were 13 years old and 8 young people who were 14 years of age.

Primary School

It is then necessary to further deconstruct the extent of the participation of these young people in the formal education system. Of the 149 young people for whom education information is available, 14 (9.5%) did not complete primary school.

Of these 14 young people who did not complete primary school the following reasons were reported:

- Two suffered disruption in their personal lives and family status and living arrangements
- Three failed to complete due to significant learning difficulties
- Four were expelled from primary school due to discipline problems
- Five experienced consistent ongoing truancy and absences from school.

In two cases the young people were actually expelled from primary school because of their truancy and ongoing absences. However, these young people were then brought to St. Joseph's School Clonmel and so did not fall out of the state education structure altogether.

Junior Certificate

Progressing through the school system, 47 of the 149 (31.5%) young people in the sample completed the junior cycle of post-primary school. Of those, 42 sat the Junior Certificate Exam and 31 passed the exam. In fact this pass rate may be higher, as exam success is not always recorded on the young person's court records. In only one case was it clear that a young person had sat the Junior Certificate exam in mainstream education and failed it, so it is probable that the proportion of successful exam candidates may be higher than is recorded here.

Of the remainder of the sample (102 young people) who did not complete the junior cycle of post primary school, 14% of these were not actually old enough²¹ to have done so, and there was no information available for 20.5%. However, it is clear from the records that 65.5% simply did not complete the junior cycle of secondary school.

Of the young people who were old enough to sit the Junior Certificate exam, it was found that 33% did so both in the Regional Court and Urban Court areas. This compares with only 25% of the young people in the Dublin Children Court of the appropriate age completing this exam.

Leaving Certificate

The number of young people who successfully completed the senior cycle of post-primary school is predictably much smaller. We could expect this for two reasons; firstly, the number of possible successful Leaving Certificate examination candidates must logically come from the group of successful Junior Certificate candidates (20% of the study sample). However, at a much more basic level, most of the study sample were not old enough to be of an age where they would sit the Leaving Certificate examination. Where Leaving Certificate information was not included on the court record of the young person, and that young person was 16 years of age or younger, they have been classified as "Not Old Enough" in respect of that Leaving Certificate examination.

²¹ Any young person for whom this information was unavailable, who was under the age of 15 on January 1st 2004, has been classified as being "Not Old Enough" in respect of completing the junior cycle of post-primary school, and completing and passing their Junior Certificate.

3.6.2 Education Outside of Mainstream

The court records of the young people in this study also detailed any education facilities accessed by the young person, outside the mainstream primary and secondary school system. 103 young people in this study (26%) are reported to have accessed some form of education outside the mainstream system. Typically, young people did this in one of two ways – through education programmes in Children Detention Schools or through a community based education service such Youthreach or the Limerick Youth Service.

The principal institutions and services that provided education outside the mainstream in this study were:

- Youthreach (25%)
- FÁS (23%)
- Trinity House School (14.5%)
- St. Patrick's Institution for Young Offenders (4%)
- Oberstown Boys School (5%)
- Apprenticeships (3%)
- St. Joseph's School, Clonmel (2%)
- Limerick Youth Service (2%)
- Youth Advocacy Programme (2%)
- Garda Diversion Project (2%)
- House Project (2%)
- Other Centres (15.5%)

Twenty-eight of the 103 young people (27%) that accessed education outside mainstream completed their Junior Certificate examination. Many of these students did not sit the full complement of ten subjects as in the mainstream education system and, where detailed records were available, were recorded as having passed between two and five subjects each.

Two of the young people accessing education outside the mainstream were studying for their Leaving Certificate examination during the research period in 2004. However, their results are not available from the Court records.

Learning Difficulties

Twenty-six of the 149 young people in this study (17%) for whom education information was available are recorded on the Court files and agency reports as having been tested for their level of literacy. However, it must be recognised that this figure is under-representative of the reality as literacy testing is standard on entrance to a Children Detention School.

In every single case where the young person was tested to establish their literacy level, it was clear that their reading, writing and spelling ages were significantly below their chronological age. A couple of examples are illustrative; one young person was tested for literacy at 14.5 years of age and was found to have a reading age of 7.1, a spelling age 7.5 and a vocabulary age of 8. Another young person was literacy tested at age 16 and identified a reading age of 9 and spelling age of 8. Finally, one young person's reading skills were tested when he was 12 and identified a reading age of 8. Tested again at age 15, his reading age had remained constant at 8.

Nineteen of the 149 young people for whom education information was available (12.75%) were formally identified in psychiatric or institutional assessments as having a learning or behavioural difficulty or functioning at an exceptionally low level of intelligence.

Low educational attainment and intellectual ability has consistently been identified among young offenders. Walsh²² cites the Kennedy Report of 1970 in discussing this trend, stating that a very high proportion of young offenders at that time were generally considered to be 'backward', particularly in the areas of attainments, intellectual ability and in perceptual and spatial abilities.

3.7 Minority Groups

The terms of reference require that in the course of the research young people from minority groups are highlighted.

3.7.1 Females

Females are included under the heading of minority groups as they are a minority within the system. While females constitute 49% of the total population of Ireland under the age of 20²³ they only account for 10% of the sample in this research. This is consistent with the proportional number of females in the criminal justice system. 12% of the total 1,395 young people with cases concluded on CCTS in 2004 were female so the random sample taken in this research was consistent with this overall gender breakdown.

The females in this study had 128 charges between them, an average of three per person. Twenty-six of the females (63%) were not convicted on any charges; five received a fine, seven received a probation bond, two received a suspended sentence and one was sent forward for trial in the Circuit Court.

3.7.2 The Traveller Community

Twenty-six of the young people in the study were identified as being from the travelling community either from their address²⁴, agency reports or court files. The 26 young people had a total of 144 charges against them. This average is in line with the overall statistics. Five of the young people were sentenced to detention, four received a fine, disqualification or endorsement, six young people were placed under Probation Bonds, two were given suspended sentences and nine were not convicted on any charges.

3.7.3 Ethnicity

Three hundred and ninety-one of the young people in the research were Irish. The other nine were of an ethnicity other than Irish. The nine young people had a total of 56 charges against them, an average of six per person. The principal results (as defined in Chapter 5.12) were as follows: four were not convicted on any charges, one young person received a Peace Bond, two young people were given Probation Bonds, one young person received a suspended sentence and the final young person was sent forward for trial.

3.7.4 Children in HSE Care

Twenty-eight of 203 young people for whom background information was available were in HSE care at the date on which they committed their offence(s). As such, they constitute a minority in terms of their living circumstances and/or family status.

The 28 young people account for 7% of the total 400 in the study and accrued 250 charges between them. This is an average of nine charges per person. However, it must be noted that one of the young people in HSE care at the time of their offences, had over 50 charges. Therefore, the average number of charges without including this young person is seven which is above the overall average for the 400 young people in this research.

The issue of offences committed by young people in HSE care is discussed further in Chapter 7.

²² Walsh (2005) *Juvenile Justice* pp. 468.

²³ Central Statistics Office information from the 2002 census provides that of the total population under the age of 20, 49% were female.

²⁴ The address was used where it was stated to be a halting site

3.8 Conclusion

The purpose of this chapter was to develop a profile of the typical young offender in Ireland in 2004. The research has found that the typical young offender in Ireland is a young male, either 16 or 17 years old, who lives in Dublin. It was found that this young male will reside at home, but will not live with both parents, with an average of two siblings and at least one parent in employment. There is a high chance that the young person has a family member with an alcohol or drug problem and that the young person committed an alcohol related offence himself.

The typical young offender in 2004 was not engaged with mainstream education and in fact left school before completing his Junior Certificate exam. He may have availed of a number of education services outside of the mainstream school system but is unlikely to have pursued any qualification through this avenue.

Alarming, 86% of young people facing charges before the Courts in 2004 (for whom education information was available) had no links with formal mainstream education. The correlation between early school leaving and involvement with the criminal justice system cannot be overstated and is one of the key findings of this research.

Furthermore, it is clear that in every case where literacy levels were assessed in this study, the young person had a disturbingly low level of reading and writing skills relative to their chronological age. These results beg the question as to how a person with such low literacy skills can fully participate in an adult world.

With respect to potential regional variances the research has determined that young offenders in Dublin are most likely to live in Dublin 1, Dublin 11 or Dublin 24. It is evident that young people outside of Dublin are more likely to sit their Junior Certificate exam than those in Dublin. It was clear that most young people from the Traveller Community and all of the young people from ethnicities other than Irish resided in Dublin. It is thus clear that this research supports the findings of other studies, national and international, in this respect.

Chapter Four Offending

The purpose of this chapter is to determine the patterns of offending by the young people in this study. The 400 young people had 2,271 charges against them in the cases concluded in 2004. This chapter will explain the types of charges the young people face, the variance in the number of charges against each young person, how and when they tend to accumulate such charges and the age of the young person on their first offence recorded in 2004.

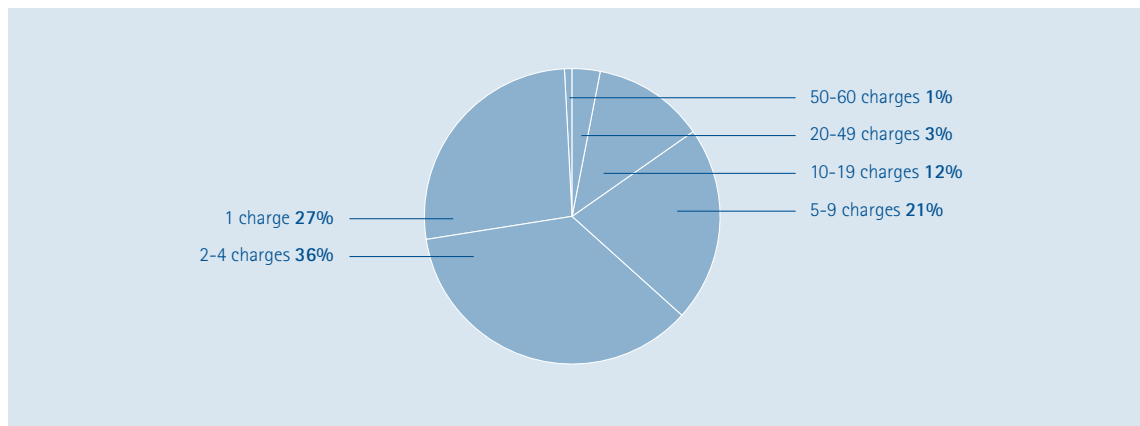
The information in this chapter is compiled from the court records in each of the courts outlined in the methodology in Chapter Two. It was evident from the CCTS records that young people do commit offences in multiple court districts, and in fact three of the randomly selected young people in this research had committed offences in two or more of the relevant court areas.

4.1 Number of Charges, by young person

The 400 young people had a total of 2,271 charges against them in the 2004 Court records, an average of six charges per person. The number of charges ranged from 107 young people with only one charge against them to three young people with more than 50 charges.

- 250 young people (63%) had less than five charges;
- 85 young people (21%) had between five and nine charges; and
- 65 young people (16%) had ten or more charges.

Figure 4.1 Number of charges per person, 400 young people

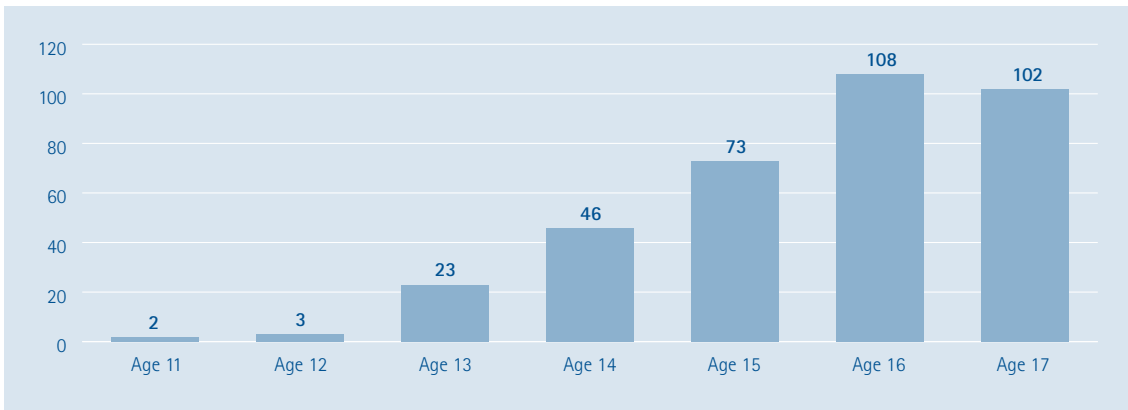


4.2 Age of Young Person at First Offence in 2004 Records

Data from charge sheets can be used to calculate the age of the young person at the date of their first offence for which they were charged in the cases completed in the Children Courts. This is not necessarily the age at which they committed their first offence, nor the first offence for which they were prosecuted. Figure 4.2 shows the age of the young person at the first offence committed in the 2004 records.

The date of birth is available for only 357 of the 400 young people in this study. The reason for the gap in this fundamental identification information is that many records are maintained in the form of summons, which do not normally contain the date of birth of the young person. Therefore, unless this record was supplemented by a Probation Report or other report, the date of birth was not available. Of the 357 young people for whom date of birth records was known, 147 (41%) were aged between 11 and 15 years at the date of the first offence in the 2004 court records, while 210 (59%) were aged 16 or 17. This is illustrated in Figure 4.2 below.

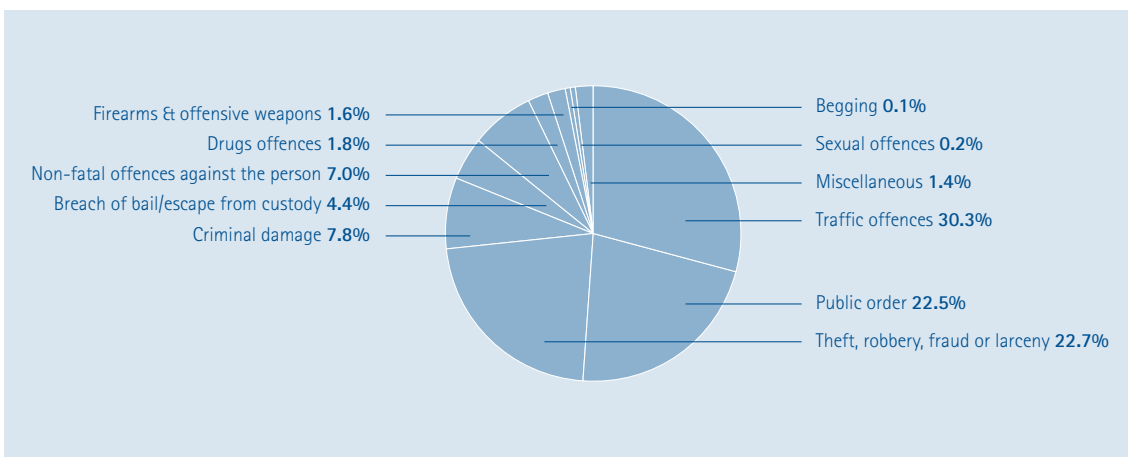
Figure 4.2 Age at First Offence Committed in 2004 Records



4.3 Types of Offences Charged

The final matter to address is the types of offences with which the young people were being charged. The information relating to the types of offences was obtained from charge sheet and summonses which record details of each offence including the offence code (e.g. N1148), source in legislation and a brief description of the circumstances of the specific offence. The research found that young people are more likely to commit minor theft offences, criminal damage offences, public order offences and road traffic offences. This corresponds with the findings of the pilot project. It also reflects Kilkelly's results of her report on the Children Court which found that the most common charges against young people were Road Traffic Offences; Public Order Offences and Theft Offences²⁵.

Figure 4.3 Total charges (2,271) by offence category



²⁵ Kilkelly, U (2005) The Children Court: A Children's Rights Audit, pp. 22.

Offences are grouped into offence categories based on the legislative source of the charges. Traffic offences accounted for 30.3% of the total charges, followed by theft, robbery, fraud and larceny with 22.7% and public order 22.5%.

In respect of theft offences, the records showed that many of these related to property of a relatively low monetary value such as cans of deodorant, sandwiches and alcohol. There was a high incidence of thefts from building sites and residential houses. The latter offence was more prevalent in rural areas. There were a number of thefts from schools and also criminal damage to school property. Finally, the theft of mobile phones from the injured party in public places featured regularly in the description in the charge sheet of the theft offences committed by the young people in this study.

Other public order offences included a high number of offences in respect of either purchasing alcohol under 18 years or the consumption of alcohol under 18 years. There is a very clear link between public order offences and alcohol consumption. Indeed where a young person is charged with public order offences they will usually be charged with the common pairing of A6114 Being drunk in a Public Place and A6144 Breach of the Peace. Kilkelly also notes the link between public order offences and alcohol related crime²⁶.

There were also 83 offences relating to Gardaí, which accounted for 3.6% of the total charges. These charges included failing to comply with Garda direction (47), obstructing a Garda in the course of their duty (22), assault on a Garda (3) and the provision of a false name and address to Gardaí (6). Of these 83 charges, only two were recorded in the Regional Cities (one in Cork, one in Galway and none in Limerick) suggesting that it is not a charge commonly applied by Gardaí in those areas.

There was a high incidence of assault offences committed by the young people in this study with 144 charges of assault. Of this 35 (24%) were charges of assault causing harm. There is a separate offence code for assault on a Garda and it is in fact classified as a public order offence.

The ten most commonly occurring charges were:

Theft of property (N1148)	227 charges
Breach of peace (A6144)	195 charges
Criminal damage to property (M3119)	175 charges
Drunk in a public place (A6114)	158 charges
Assault (A8115)	105 charges
Driving without insurance (R4214)	101 charges
Trespass & burglary (N1179)	98 charges
Driving a car without the consent of the owner (R3608)	97 charges
Driving without a driving licence (R4114)	93 charges
Failure to produce car insurance (R4224)	62 charges

It must be noted that the most common charges differed from area to area. Five of the top ten most common charges in Dublin were traffic offences compared with three in the Regional Cities and Urban Courts. Three of the most common offences in the Regional Cities and Urban Courts were theft offences while only one of the Dublin charges was theft related.

²⁶ Kilkelly (2005) *The Children Court: A Children's Rights Audit*, pp. 23.

The Garda Annual Report for 2004 provides statistics on the offences in respect of which young people were referred to the Garda Diversion Programme. Alcohol related offences accounted for 20.3% of all referrals, theft 17.58%, criminal damage 10.25% and public order offences²⁷ constituted 7.84%. Only one alcohol related offence can be found in the most common charges accumulated in this research. Clearly, more young people committing alcohol offences are successfully diverted and do not end up in the Court system.

4.4 Main Type of Offence per Individual

In the course of the research it became clear that while some young people tended to commit offences within a single category (for example regular, isolated incidences of theft) it was more common for a young person to face offences in a range of categories. As such each individual's "main type offence" was tracked to identify a common thread to the young person's charges. The results of this examination of the data provide a slightly different picture to the breakdown of charges in table 4.3 above.

For example, of the 400 young people in the study, 117 or 29.25% committed primarily public order offences. However, public order offences represent only 22.5% of the total number of charges (2,271) of charges examined in this study. So a disparity is evident. This is further supported by the data which shows that of the 117 young people for whom public order was their main type of offence, 71 or 60.6% recorded less than five offences.

Conversely, while road traffic offences accounted for 30.3% of the total number of charges (2,271) recorded in the study, only 24.25% of the 400 individuals in the study recorded road traffic offences as their main type of charge. This might indicate that the individuals that committed traffic offences tended to accumulate a higher number of offences within that category. This is further supported in the research which shows that of the 97 young people whose main type of offence was a traffic offence, 51 (52.5%) had five or more charges against them.

Kilkelly notes this trend in her report arguing that some offences breed a high number of charges and that as young people tend to be charged with all of the applicable offences in relation to one particular incident, it is easy to see that they will accumulate a long list of previous convictions very quickly. This may not be representative of the young person's conduct over time, but rather relates to a couple of specific incidents to which a high number of charges could have been, and indeed were, applied.

4.5 Conclusions

The purpose of this chapter was to determine the patterns of offences committed by the young people in this study in 2004.

Having examined the court records in respect of these young people the following conclusions can be made.

- Young people tended to commit an average of six charges per person, but this has varied between one charge and over 50 charges for different individuals in the research. The young person was 16 years of age when they committed their first offence in 2004 and the most common charges were for traffic, theft and public order offences. However, fewer traffic offences were recorded in the court areas outside Dublin, with theft and public order being more prevalent in these areas.
- It also became evident that where a young person is charged with traffic offences they will tend to accumulate a high number of such charges. However, where a young person is charged with public order breaches, they will typically accumulate a lower number of offences on their conviction record as fewer offences exist that can be applied in response to the conduct – usually threatening to breach the peace and being drunk in a public place.

²⁷ Alcohol related offences were; Purchase/possession/consumption of alcohol, intoxication in a public place, drunk and disorderly/danger to traffic, drunkenness, found on licensed premises.

Chapter Five Young People in Court

This chapter examines the process of a young person appearing in the Children Court. Its purpose is to examine the procedures of the Court from the inputting of data from charge sheets and summonses, to the determination of the number of court appearances for the young person in these cases and the principal result for each young person of all of their court appearances in 2004.

5.1 Charge Sheets/Summonses

The records held by the Children Court Offices are based on either a Charge Sheet or a Summons. These documents are created by Gardai and a separate charge sheet or summons is drawn up for every offence charged.

The Charge Sheet and Summons both include identifying data for the young person – their name, address, date of birth and PULSE identification number. They also detail the young person's guardian's name and address, the name and ID of the arresting Garda; the charge sheet number; offence code, legal basis, date of offence and a brief description of the offence charged. The Courts Service manually enters a court case number on the charge sheet. The date and outcome of all court appearances relating to a charge sheet are manually entered on the charge sheet by the presiding judge. The collation of data on the detail of each court appearance and information relating to the young person is therefore the preserve of each individual Judge. Their role in the systematic recording of such information, where no other record is held, cannot be underestimated – particularly for the purposes of research of this kind.

5.2 Length of Time Between Offence and First Court Appearance

The length of time between the offence and the first court appearance is important as an indication of how quickly the offence is processed by the Court System.

Some of the young people in the study made their first court appearance shortly after the date of the first offence with which they were charged²⁸. Figure 5.1 shows that 118 of the 400 young people in this study (29.5%) made their first court appearance within a month of the date of the first offence with which they were charged. Another 37 young people (9.25%) appeared in court between one and three months after the date of the offence and 73 (18.25%) young people had their first court appearance between three and six months after the date of their first offence. However, 172 young people (43%) had their first court appearance more than six months after the date of the offence. In 32 of these cases, the first court appearance was more than one year after the offence, and in five cases, more than two years after the offence.

The research found that the length of time between the offence and the first court appearance was significantly longer in the Regional Cities Children Courts and the Urban Courts than in Dublin. This may relate to the fact that these Courts sit less frequently than the Dublin Court. In Dublin, 37% of cases had a first appearance within one month of the offence, whereas this figure was 21.5% and 19% for the Regional Cities and the Urban Courts respectively. Similarly, 35% of cases in Dublin had a first appearance date over six months after the offence whereas the corresponding figure for the Regional Cities and the Urban Courts²⁹ was 55% and 52% respectively. The overall statistics for the length of time between the offence and the first court appearance are contained in figure 5. 1 below.

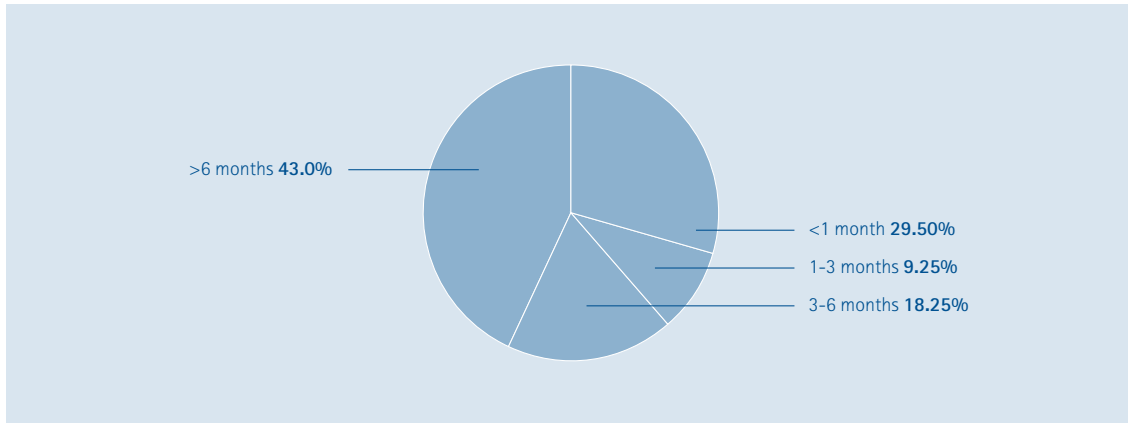
The pilot project, which examined Dublin Children Court³⁰ figures alone, found that 25 of the 50 young people in that research had their first court appearance within one month of the commission of the offence.

²⁸ Remanding of cases generally is outlined in the Criminal Justice (Miscellaneous Provisions) Act 1997.

²⁹ Regional Courts – Cork, Galway, Limerick. Urban Courts – Athlone, Clonmel, Dundalk, Letterkenny, Wexford.

³⁰ McPhillips, S (2005) *Dublin Children Court: A Pilot Project*.

Figure 5.1 Length of time between date of first offence and first court appearance



In the case of the young person which took three years to conclude, this delay related to the young person's detention for two years under another identity.

5.3 Garda Appearances

Of the 3,201 court appearances recorded, the case could not proceed in 65 because of the absence of the prosecuting Garda on the remand date. In 50 of these cases the charge was struck out by the court because of the non-appearance of the Garda and the remaining 15 cases were remanded on continuing bail for a future date.

It was also noted that in 31 cases the charge was struck out by the court at the request of the Garda. One of the main reasons for this was that the injured party lived abroad, was perhaps a tourist, and could not now be located.

5.4 Non-Appearance of Child and/or Parents

Of the 3,201 court appearances 173 resulted in the issue of a Non-Appearance Bench Warrant. Of the 173 Bench Warrants issued, 150 were issued by the Dublin Children Court, 15 in the Regional Cities and only eight in the Urban Courts. On a further four occasions the Court issued a Bench Warrant for the attendance of a parent in Court for the next appearance and in each case directed that the parents of the young person attend with failure to do resulting in the issue of a Bench Warrant.

The Children Court also has authority to issue a warrant for the arrest of the parents under Section 92 of the Children Act 2001, which provides at subsection (2):

2. – Where the parents or guardian fail or neglect, without reasonable excuse, to attend any proceedings to which subsection (1) applies, the Court may adjourn the proceedings and issue a warrant for the arrest of the parents or guardian, and the warrant shall command the person to whom it is addressed to produce the parents or guardian before the Court at the time appointed for resuming the proceedings.

In four cases in this research the Court issued a Bench Warrant for the arrest of a parent who had failed to attend at a hearing of the young persons case. In one case it was recorded on the court record that the Judge would issue such a warrant on the next hearing if the parent failed to attend. In another case the Judge issued a Bench Warrant for both the parents and the child who failed to appear at a court appearance.

5.5 Legal Representation

There is no statutory requirement that young people in the Children Court be provided with legal representation. In accordance with section 2 of the Criminal Justice (Legal Aid) Act 1962, where the young person is of insufficient means the Court will appoint a practitioner who is registered with the Legal Aid Board.

5.6 Children Court Jurisdiction

Section 75 of the Children Court Act 2001 as amended sets out the jurisdiction of the Children Court and its capacity to hear certain types of charges. It is useful to have regard to Section 75 (1) (2) and (3) in full:

75. – (1) Subject to subsection (3), the Court may deal summarily with a child charged with any indictable offence, other than an offence which is required to be tried by the Central Criminal Court or manslaughter, unless the Court is of opinion that the offence does not constitute a minor offence fit to be tried summarily or, where the child wishes to plead guilty, to be dealt with summarily.

(2) In deciding whether to try or deal with a child summarily for an indictable offence, the Court shall also take account of –

(a) the age and level of maturity of the child concerned, and

(b) any other facts that it considers relevant.

(3) The Court shall not deal summarily with an indictable offence where the child, on being informed by the Court of his or her right to be tried by a jury, does not consent to the case being so dealt with.

Essentially the Children Court can hear charges against children under 16 years of age except charges which by reason of their gravity or other special circumstances the judge shall not consider fit to be dealt with by the Court. In such case the Judge may send the case forward for trial in the Circuit Court.

Of the 2,271 offences recorded in this study against the 400 young people, 75 (3%) of those charges were sent forward for trial in the Circuit Court. There were no specific reasons recorded on the court file as to why the young person was sent forward. Neither was there an identifiable type of offence or number of offences discernable as a trend that would lead a judge to decide to send the young person forward. However, two features of the types of offences that were sent forward was that they tended to involve some degree of harm or threat to harm another person and/or involved a weapon. Of the 75 offences that were sent forward for trial in the Circuit Court, 43 (57%) involved some element of violence or threat of violence.

Twenty-nine young people (7.25%) were sent forward for trial in the Circuit Court on some offence.

5.7 Length of Proceedings

In order to determine the duration of proceedings in the Children Court, the study examined the length of time between the young person's first appearance and the date on which their case was concluded, in respect of each case. It was clear from the case records that where additional charges are accumulated by the young person they are included in those charges being considered by the court at each court appearance.

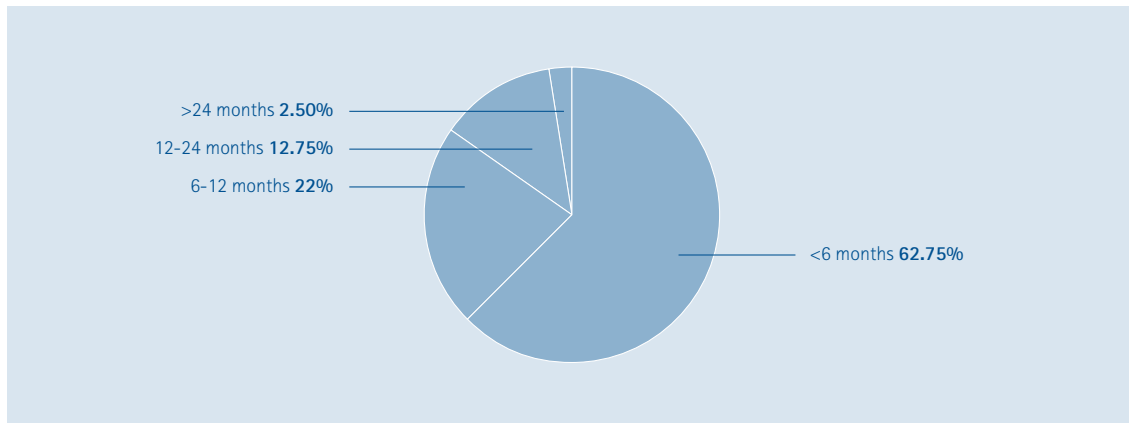
Figure 5.2 sets out the length of time between the young person's first court appearance and the conclusion of their case in 2004. In summary:

- 251 (63%) young people had their cases concluded within six months of their first court appearance;
- 88 (22%) young people had their cases concluded between six months and one year after their first court appearance;
- 51 (13%) young people had their cases concluded between one and two years after their first court appearance;
- 10 (2.5%) young people had their cases concluded more than two years after their first court appearance, one of these being after three years.

Again, it is acknowledged that there are specific circumstances in respect of the individual whose case took three years to reach a conclusion. However there were no such extenuating circumstances evident from the court records in respect of the other young people whose cases took over two years to conclude.

The pilot project on the Dublin Children Court³¹ found that only 11 out of 50 young people had the final outcome of their case more than one year after the first court appearance. It was found in this research that 20 of the 50 young people had their cases concluded in less than six months and the remaining 19 young people had a final result for their case between six to 12 months after their first appearance.

Figure 5.2 Length of time between first court appearance and conclusion of case



The number of charges against a person can be closely related to the speed with which a case is concluded. In some cases, young people were charged with offences committed in 2001 and 2002 whose cases did not conclude until 2004. These young people accumulated many additional charges while on bail for the original offences. This issue is highlighted by Kilkelly as being of particular importance in that where a young person's behaviour goes unchecked for such a period, there is no imperative on them to alter their conduct. She notes that young offenders tend to accrue further charges while on bail and develop a "longer list of charges as he/she is locked into a cycle of offending and court appearances"³².

³¹ McPhillips, S (2005) *Dublin Children Court: A Pilot Project*.

³² Kilkelly, U (2005) *The Children Court: A Children's Rights Audit*, pp. 51.

Delays can potentially have very serious implications, particularly given the salience of the young person's age in respect of sentencing. For example, a young person may commit an offence at 14 years of age and through delay, may turn 16 during the course of Court proceedings. If convicted and sentenced to detention he must then be sentenced to St Patrick's Institution for males between 16 and 21 years, rather than to a Children Detention School for young people under 16 years.

Kilkelly observes the negative effect of this as follows:

*"It is the arbitrary factor of age at the time of conviction that determines whether young people spend time in the relatively positive environment of a Children Detention School, where they have the opportunity to address their welfare needs, their educational difficulties and their offending behaviour, or alternatively, are sent to the punitive environment of St. Patrick's Institution. Apart from the lack of educational and vocation provision, the institutional nature of St. Patrick's is its most disturbing feature. Requiring 16 year olds to eat meals in their cells, shower just twice a week and wear prison allocated clothing must frustrate any rehabilitative effort not to mention their damaging impact on the morale and rights of the young people themselves."*³³

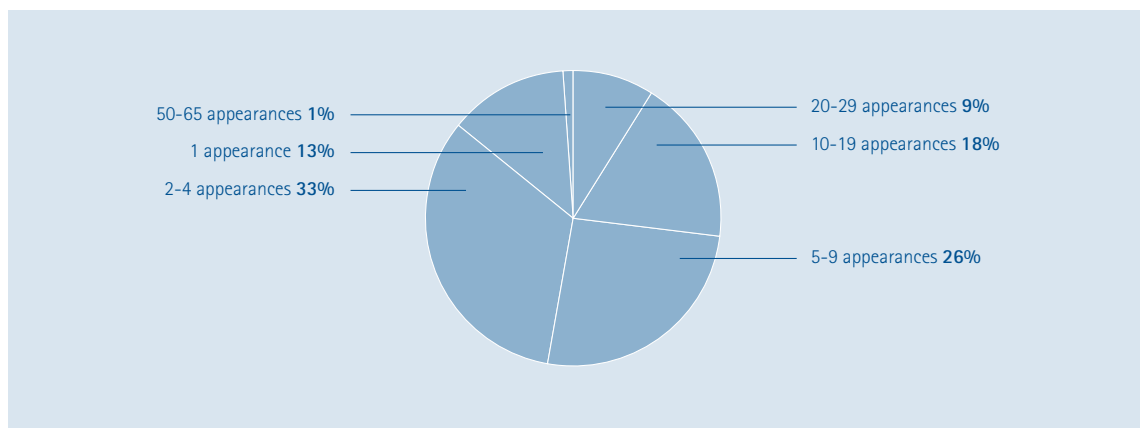
There is also an additional penalty applicable in instances where an accused has committed an offence whilst on bail, as the Judge has jurisdiction to impose a consecutive sentence up to a maximum of two years³⁴.

5.8 Court Appearances

The 400 young people made a total of 3201 court appearances in relation to cases concluded in 2004, an average of 8 court appearances per person.

Figure 5.3 shows the number of court appearances per person for the 400 young people in the study. 53 (13%) young people had only one court appearance in the cases concluded in the 2004 court files, while 4 young people (1%) had over 50 court appearances.

Figure 5.3 Total No of Court Appearances by Young person



³³ Kilkelly, U (2006) *Youth Justice in Ireland: Tough Lives, Rough Justice*, pp. 256.

³⁴ Criminal Justice Act 1984 Section 11.

5.8.1 Remands on Continuing Bail

Of the 3,201 court appearances in this study, 1,725 (54%) resulted in the case being adjourned or the young person being remanded on continuing bail (RCB) for a further court appearance. There were 30 (1%) court appearances which did not specify an outcome on the court records and 282 (9%) court appearances which resulted in the young person being remanded in custody (RIC). The balance of the court appearances (1164 or 36%) resulted in a final determination of some kind.

Among the reasons for remands on continuing bail were:

- Full hearing of case (224);
- Awaiting report (e.g. probation) (261);
- Awaiting DPP's directions (154);
- For plea (70);
- For service of Book of Evidence (36) – in cases where the young person was being sent forward for trial to the Circuit Court;
- For particular judge (14).
- Awaiting statements and/or evidence order (90)
- Peremptory adjournment against the State (42)

Of the balance of court appearances for remands on continuing bail (834) 141 had, or have, conditions attached and the remainder, 693, were simply recorded as 'RCB' or 'RCB for a particular date'.

There were a total of 205 remands on continuing bail with conditions attached. The most common conditions that were attached to bail were:

- Curfew
- Sign on at Garda station periodically
- Reside at a specific address
- Stay away from certain areas (frequently shopping centres)
- Stay away from Court 55 and the vicinity of the Children Court in Smithfield, Dublin

These bail conditions are consistent with those observed by Kikelly in her observation report on the Children Court³⁵. It is clear from the court records that the bail conditions may be varied by the court over time. In particular, the Court will alter the curfew period and the frequency with which the young person is to sign on at a Garda station.

For example in one instance the young person had a curfew applied as a condition to their bail which required them to stay at home from 8pm to 7am. One month after this order was made the court varied the curfew period so that the restriction would be applied two days mid-week from 11pm to 7am. This may have reflected the young person getting a job on those evenings and their curfew needing to facilitate the change in circumstances.

In another case the young person was remanded on continuing bail on condition that they live at home and observe a curfew from 7pm to 8am and sign on at a Garda station daily. Less than one month later the bail conditions were changed to a requirement to reside at another address, observing a new curfew from 7pm to 9am and signing on at a Garda station *twice* daily. Small changes to bail conditions are evident in the court records of 26 young people. They indicate the Court's willingness to reflect the changing circumstances of young people's lives.

³⁵ Kikelly, U (2005) *The Children Court: A Children's Rights Audit*, pp. 25.

5.8.2 Remands in Custody

There were 282 remands in custody (RIC) recorded in the court files for the 400 young people in the study. These refer to court appearance outcomes of the young person being remanded in a detention centre prior to the conclusion of the case. As with the remands for continuing bail there were a number of reasons given;

- For full hearing of case (15)
- For probation report (12)
- For DPP's directions (17)
- For plea (2)
- For service of Book of Evidence – in cases where the young person was being sent forward for trial to the Circuit Court (11)
- For particular judge (4)³⁶
- For assessment (19)
- For breach of bail conditions (8)

The remainder (194) were recorded simply as "RIC" and did not specify a particular reason.

However, it must be recognised that the reasons for "RIC" cannot be distinguished from those given for "RCB". Therefore, with the exception of remands for assessment and remands for breach of bail conditions, the fact of the remand in custody must be related to some other external factor.

The 282 remands in custody refer to 79 individual young people. Of these, 51 (65%) were in the Dublin Children Court. There is some regional variance in the proportion of young people before the court being remanded in custody with a much higher proportion of young people being remanded in custody in the Dublin Children Court than in the Urban Courts.

	Number of Young People in Research	Number of Young People Remanded in Custody	Percentage Remanded in Custody
Dublin	220	51	23%
Regional Cities	65	13	20%
Urban Courts	115	15	13%

There was no relationship evident between the number of charges faced by a young person and being remanded in custody before the conclusion of their case. However, there is a relationship between the type of offence and being remanded in custody. Of the 79 young people remanded in custody prior to the conclusion of their case 15 (19%) were so remanded for breaching their bail conditions. A further 14 (18%) were remanded in custody because they failed to appear in court when scheduled to do so. Finally six individuals were remanded in custody for assessment by detention schools or another relevant agency prior to the conclusion of their case.

There is a clear link between the individuals for whom Non-Appearance Bench Warrants were issued and those young people who were remanded in custody with 37 (47%) of the 79 young people remanded in custody being the subject of a Bench Warrant. However, the issue of the Bench Warrant and the remand in custody did not necessarily happen simultaneously in each instance.

³⁶ Where more than one Judge appeared in the Children Court, it was customary for them to retain seisin of the case. Accordingly, cases might be remanded on continuing bail to ensure that the appropriate Judge maintained control over the proceedings. However, this did not apply consistently in the cases examined in this research project and there were a number of ways in which seisin could have been frustrated resulting in multiple Judges dealing with the charges of a young offender, for example where fresh charges were accrued by the young person in between court appearances.

5.9 Agency Reports

The Children Court can request a report on the young person to assist the Court during the course of the court proceedings. Indeed as is evident from section 5.9.1 of this research project on court appearances, the remand on continuing bail of a young person to await a Probation Report, or report from another agency, is one of the principal reasons for adjournment of cases in the Children Court.

There were 612 Agency Reports on Court Records of the 400 young people in this study. In many cases the young person had more than one report from an agency or reports from more than one agency.

In total 172 young people (43%) had one or more agency report submitted to the Court on their behalf. Of those 172 young people, 102 (59%) were in the Dublin Children Court, 32 (19%) had their principal court location in the Regional Cities and 38 (22%) had their principal court location in the Urban Courts.

The agencies that provide these reports to the Court come from a range of statutory agencies including the Health Boards, now the Health Service Executive (HSE), the Probation Service, the Special Residential Service Board, the National Assessment and Remand Unit, the various detention schools and a range of training, education and social support facilities such as Youthreach and the Youth Advocate Programme. Of the 612 agency reports recorded, the majority (65%) were issued by the Probation Service.

Reports from the HSE or Health Board constituted 8% of the reports as did reports from the detention schools (8%). There were also a large number of reports from the Special Residential Services Board, the National Assessment and Remand Unit and a number of psychiatric reports recorded.

5.10 Convicted or Not Convicted

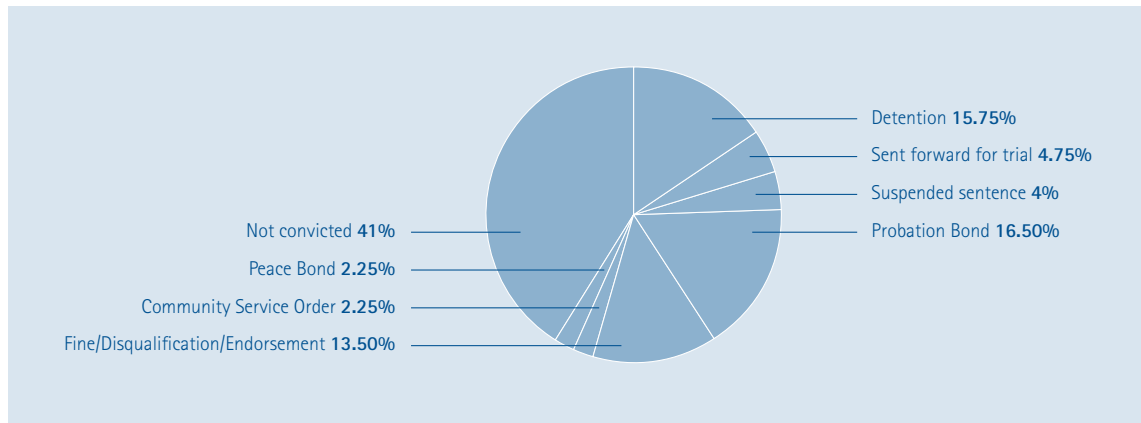
One of the critical points in the operation of the Children Court is the decision of the Court to convict or not convict. The court is hearing the charge in a summary capacity and so the decision of the factual and legal matters rests with the Judge alone. The fact of conviction or otherwise is what will be registered as the outcome of the case and convictions will be recorded on the young persons criminal history, regard to which may be had by another court at a later date. The existence of previous convictions at the sentencing stage of a subsequent case militates against mitigation of their later sentence.

Of the 2271 charges recorded in this study 1340 (59%) resulted in a conviction. There were no results available for 75 (3%) of the charges as they had been sent forward for trial in the Circuit Court and 856 charges (38%) resulted in no conviction. The reasons for a "no conviction" may include the case being struck out for lack of evidence, struck out for failure of the Garda to appear or the case being withdrawn by the state for one reason or another, or indeed the application of Section 1(1) of the Probation of Offenders Act 1907 where the facts are proven but the Judge decides not to proceed to conviction in the usual fashion.

5.11 Principal Result, by young person

A young person with several charges may have several different outcomes when their case is finalised. For example, an individual might have some charges struck out, have a fine imposed in relation to other charges, and be committed to detention in respect of more serious charges. *Principal result* is used here to denote the most significant result for each young person. For example, where a person is committed to detention in relation to ten charges and is given a fine in respect of another five charges, the principal result recorded is detention.

Figure 5.4 Principal Result for 400 young people



164 young people (41% of the total) were not convicted on any charges – all of their charges were dismissed, struck out, dealt with under Section 1(1) of the Probation of Offenders Act 1907 (no criminal record), or no order was recorded. For 18 young people (4.5%), the result of their charges was not available from the Children Court records because they were sent forward for trial to the Circuit Court on all of their charges. The remaining 218 young people (54.5% of total) were convicted on at least some of the charges against them.

Of the 218 young people convicted on some or all of the charges against them:

- 63 were sentenced to detention, accounting for 29% of those convicted;
- 17 received a suspended sentence (8% of those convicted);
- 66 received a Probation Bond (30% of those convicted);
- 54 were subject to a fine and/or disqualification from driving and endorsement of licence (25% of those convicted);
- 9 received Community Service Orders (4% of those convicted); and
- 9 were bound to the peace (4% of those convicted).

5.12 Conclusion

The purpose of this chapter was to describe the operation of the Children Court from its initial documentary inputs, through bringing the young person to court, the course of their proceedings before the Court and the result of the case against them. This examination has been supported by the data collected by the researchers from the court records of the Children Courts throughout the country. A breakdown of the results by area can be found in the Annex.

In the course of this examination and analysis a number of critical issues for discussion were raised.

- The first and most obvious is that of delay in the Children Court system. There are a number of contributing factors to this and it is unreasonable to try to attribute this to any one factor, input or procedure.

Some examples of how delay can occur in the proceedings follow:

- In cases where a Judge imposed a Probation Bond, a series of probation reports was requested prior to the final decision to ensure the young person would be capable of keeping the terms of the Bond. This was also the case where a Community Service Order is considered.
- There are a limited number of sanctions available to Judges dealing with young people in these circumstances. However a range of new non-custodial sanctions, including intensive supervision orders, residential supervision orders and day centre orders are provided for in Part 9 of the Children Act 2001. Some of these sanctions are being piloted by the Probation Service but the relevant sections of the Act have only just commenced. The lack of availability of such alternative sanctions may contribute to delays in the system, as judges are understandably slow to sentence a young person to detention.
- Delays may also be experienced where a judge requests a detailed assessment of the young person, for example in the National Assessment and Remand Unit (NARU), Finglas. Such an assessment requires a remand bed to be available for the young person, and the assessment itself may take some time (usually four weeks) to complete.

However, the effect of this widespread and protracted delay is that the young person is involved both practically and mentally with the criminal justice system for some significant period of time.

On a practical level, delays of this nature can potentially have very serious implications for the young person, particularly given the salience of the young person's age in respect of sentencing. For example, a young person may turn 16 during the course of court proceedings and must therefore be sentenced to St Patrick's Institution rather than to a detention school.

Another issue arising from delay relates to the young person's understanding of proceedings in the Children Court, where a significant length of time may have elapsed since the offence occurred. It may be difficult to relate the actual conduct in the offence directly to the resulting court proceedings where such a time elapses. Another potential impact in protracted cases is that the young person may begin to normalise his involvement with the criminal courts and statutory agencies.

From an institutional perspective, constant delays of this kind in the Children Court are wasteful of court resources and make the youth justice process unnecessarily inefficient.

Chapter 6 Sentencing

This chapter will look at the range of sentencing options available to the Children Court Judges in respect of young offenders, the legislative position, and the sentences imposed on the 400 young people in this research. Its purpose is to consider the sanctions imposed on the young people and ascertain specific instances of detention in this study. In particular, the lengths of detention orders and the institutions where the detention was to be served will be discussed in detail.

6.1 Sentencing Options

Section 107 of the Children Act 1908 states that:

“where a young person charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other act enabling the court to deal with the case, the case should be dealt with, namely, whether-

- (a) by dismissing the charge; or*
- (b) by discharging the offender on his entering into a recognizance; or*
- (c) by so discharging the offender and placing him under the supervision of a probation order; or*
- (d) by committing the offender to the care of a relative or other fit person; or*
- (e) by sending the offender to an industrial school; or*
- (f) by sending the offender to a reformatory school; or*
- (g) by ordering the offender to be whipped; or*
- (h) by ordering the offender to pay a fine, damages, or costs; or*
- (i) by ordering the parent or guardian of the offender to pay a fine, damages or costs; or*
- (j) by ordering the parent or guardian of the offender to give security for his good behaviour; or*
- (k) by committing the offender to custody in place of detention provided under this Part of this Act; or*
- (l) where the offender is a young person, by sentencing him to imprisonment; or*
- (m) by dealing with the case in any other manner in which it may legally be dealt with.*

Provided that nothing in this section shall be construed as authorising the court to deal with any case in any manner in which it could not deal with the case apart from this section.”

Community Service Orders can be applied to young people over the age of 16 since the commencement of the Criminal Justice (Community Service) Act 1983.

It must be noted that while Judges are bound by the same general principles governing the sentencing of young offenders as they are with adults, additional factors to be taken into account are set out in section 96 of the Children Act 2001. In particular, this provision **requires** judges to take into account factors like the rights and freedoms of the young person, the right of the young person to participate in the Court process and the right to be heard. It also allows judges to consider the young person's age, relative maturity and experience. Significantly the Criminal Justice Act 2006 amended section 96 to include the welfare principle. The commencement of s. 96 (3) of the 2001 Act places these considerations on a statutory footing. However, this provision only came into force on the 1st March 2007 and was thus not in force at the time of this research.

A number of sections from the Children Act 2001 were in force in the research period. Provisions on fines were commenced in 2002³⁷. A fine cannot exceed half of the amount which the District Court could impose on an adult³⁸ and it is possible for a Judge to impose a Community Service Order where the young person (aged over 16 years) defaults on a fine.

Restriction of Movement Orders were also commenced under the 2002 Commencement Order. There are two types of restriction orders; a young person can be ordered to be in a specified place at stated times or a young person can be ordered to stay away from certain areas while the order is in force.

However, although the above sections of the 2001 Act on fines and restriction of movement orders were implemented during the research period they were not utilised by the Court as a punitive measure in any of the 400 Court files examined.

The Children Act 2001 envisages a range of new non-custodial sanctions to improve this situation, including intensive supervision orders, residential supervision orders and day centre orders whereby the young person is required to attend a specified day centre to participate in an occupation or activity. However the relevant sections of the Act, Part 9, were again not fully implemented during the research period.

With the exception of a limited number of sections relating to family conferencing and HSE involvement, the remainder of the Children Act 2001 came into force on the 1st March 2007³⁹.

The lack of availability of such alternative sanctions, which are now present in the wake of the most recent commencement of the 2001 Act, may have contributed to delays observed in the system during the research period of this study.

The final issue to be addressed here is the introduction of Anti-Social Behaviour Orders (ASBOs) on the 1st of March 2007. They are civil orders granted by the courts on application by a senior Garda to restrict or prevent a type of named anti-social behaviour. Their introduction has created controversy, as breach of the Order is a criminal offence. The Irish Penal Reform Trust find ASBOs 'fundamentally provide a criminal sanction for behaviour which is not criminal in nature. This is contrary to our obligations under the UN Convention on the Rights of the Child and international best practice.'⁴⁰

6.2 Children Act 2001

As outlined above, provisions for the sentencing of young offenders have been modified under the Children Act 2001 where Part 9 deals with the options available to the Judges of the Children Court. Part 8 of this Act provides for family conferences under the supervision of the Probation Service as a diversion from the court system.

Section 96 deals with factors which should be considered in the sentencing of young people and states that detention should be imposed on a young person only as a measure of last resort. It also places a number of conditions on any sentence of detention which endeavour to maintain the youth's familial ties as well as their education, training or employment. Significantly, section 96 was amended by the Criminal Justice Act 2006 to ensure that the best interests of the child are taken into account during sentencing.⁴¹

Innovatively, community sanctions within the Children Act 2001 introduce a large number of community based options such as community sanctions requiring the young person attend school, probation orders and restriction of movement orders in addition to day centre orders as referred to above.

³⁷ S.I No. 151 of 2002 Children Act 2001 (Commencement) Order 2002.

³⁸ Children Act 2001, section 108.

³⁹ S.I No. 64 of 2007 Children Act 2001 (Commencement) Order 2007.

⁴⁰ Irish Penal Reform Trust, Press Release 28th February 2007.

⁴¹ Section 136 of the Criminal Justice Act 2006 amends section 96 of the 2001 Act.

Sentences of detention under the 2001 Act are amended to be 'not less than 3 months or more than three years'.⁴² Previous sentencing guidelines were confined to sentences of detention of one month, one year (applicable to the Finglas Child and Adolescent Centre and St. Joseph's Clonmel as originally known as Industrial Schools), or committal for a minimum of two and maximum of four years in schools originally known as Reformatory Schools. The Children Act 2001 also introduces a new combined sentence whereby the offender would serve half their sentence in detention and the other half in the community. It will also now be possible for sentences of detention to be deferred.

Section 258 of the Children Act 2001 provides that in certain limited circumstances a young person's criminal record may, in effect, be wiped clean. This provision applies where the offence was committed when the person concerned was under the age of 18, was not tried in the Central Criminal Court and the young person has not been dealt with for an offence for at least three years since the finding of guilt. The precise meaning of the phrase "dealt with" is unclear. It could be interpreted to mean convicted by the courts, or it could apply where the young person has been charged with an offence by the Gardaí.

6.3 International Considerations

Ireland is a party to The European Convention on Human Rights (ECHR) and the UN Convention on the Rights of the Child (CRC). Both of these legislative frameworks place serious responsibilities upon the State in relation to children and their rights.

The ECHR has been held by the European Court of Human Rights to impose duties on states with regard to the treatment of young offenders and in particular on the court process itself. Case law such as *T v. U.K.* and *V v. U.K.*⁴³ place specific obligations on the State in relation to the court proceedings to ensure that the young people understand and participate in the procedure. The ECHR was given effect in Irish law through the ECHR Act 2003.

The Convention on the Rights of the Child (CRC) is not incorporated into domestic legislation however it is binding upon the state. This convention provides for the voice of the child to be considered in all decisions taken concerning the child, non-discrimination and that the child's best interests be a primary consideration in all matters. The Committee on the Rights of the Child monitor the implementation and observance of the CRC. When Ireland's record of implementing the Convention was last considered by the Committee in September 2006, it was heavily criticised in the area of youth justice.

Other international legislative frameworks include guidelines such as the Beijing Rules (the UN Standard Minimum Rules on the Administration of Juvenile Justice), the Riyadh Guidelines (the UN Rules for the Prevention of Juvenile Delinquency) and the UN Rules for the Treatment of Juveniles deprived of their liberty.

Kilkelly⁴⁴ notes the importance of the international standards and emphasises that their existence acts 'as a benchmark against which the treatment of children in conflict with the law can be measured'.⁴⁵ In terms of sentencing and particularly the sanctions available in 2004, she states that 'it is apparent that neither law nor policy complies with international standards'.⁴⁶ However, the changes proposed in the Children Act 2001 will go a long way to altering this situation. Theoretically, they bring Ireland in line with other countries and global principles but, when their implementation has been observed for a sufficient period, further research will show whether alignment with such international principles has occurred.

⁴² Section 149 Children Act 2001.

⁴³ *T v UK and V v UK* (2000) 30 EHRR.

⁴⁴ Kilkelly, U (2006) *Youth Justice in Ireland: Tough Lives, Rough Justice*.

⁴⁵ *ibid.*, page xxii.

⁴⁶ *ibid.*, page 162.

6.4 Sentencing of Young Offenders

To put the statistics presented in this research in context it is necessary to look to previous studies examining the sentencing of young offenders. A 1985 study carried out by O'Donovan⁴⁷ found that 5.8% of young people charged with summary offences were committed to detention while 84% were dealt with by a Probation Order, dismissal under the Probation Act or struck out. The Dublin Children Court⁴⁸ study found that of the 50 young people in the study, 18 (36%) were sentenced to detention while Kilkelly⁴⁹ observed 151 cases which resulted in a final determination and 23% of these cases ended in a custodial sanction and 33% in a Probation Bond. None of the above studies comprised empirical evidence on a national basis.

6.4.1 Sentencing Results from the 2004 Court Records

The 400 young people in the study had a total of 2,271 charges against them, an average of six charges per person. However, as seen in Chapter 4, the average number of charges per individual for both the Urban Courts and the Regional Cities differed slightly at only five charges per person.

Of the total charges in the study, 1,340 (59%) resulted in a conviction, and 856 (38%) did not. The outcome in 3% of the charges was not available in the Children Court files as those cases were disposed of on indictment having been sent forward to the Circuit Court for trial.

It should be noted that the percentage of convictions is considerably higher for both the Urban Courts and the Regional Cities than the Dublin Children Court. 66% of all charges in these courts resulted in a conviction.

The outcomes for the total 2,271 offences charged are as follows:

- withdrawal (77 or 3.4%)
- dismissal (83 or 3.6%)
- no order (86 or 3.8%)
- Application of Section 1(1) of the Probation Act (DPOA1(1)) (136 or 6%)⁵⁰
- Application of Section 1(2) of the Probation Act (3 or 0.1%)⁵¹
- Community Service Order (16 or 0.7%)
- Peace Bond (32 or 1.4%)
- Probation Bond (260 or 11.4%)
- Fine, disqualification or endorsement (170 or 7.5%)
- Suspended sentence (38 or 1.7%)
- Sent forward for trial (75 or 3.3%)
- Sentence of detention (277 or 12.2%)

⁴⁷ O'Donovan Report, (1987) Dublin: Probation and Welfare Service.

⁴⁸ McPhillips, S (2005) *Dublin Children Court: A Pilot Research Project*.

⁴⁹ Kilkelly, U (2005) *The Children's Court: A Children's Rights Audit*.

⁵⁰ Section 1(1) of the Probation of Offenders Act 1907 can be issued only by the District Court. An order of this type is viewed as a dismissal and therefore the young person involved will not have a record. Judges can place conditions on a section 1(1) order.

⁵¹ Section 1(2) of the Probation of Offenders Act 1907 is viewed as a conviction and the offender will be discharged conditionally on entering into recognisance to be of good behaviour and any other condition the Judge feels is suitable in the circumstances.

The remaining cases (45%) were not given a specific sentence and were instead taken into consideration (TIC) with one of the above sentences.

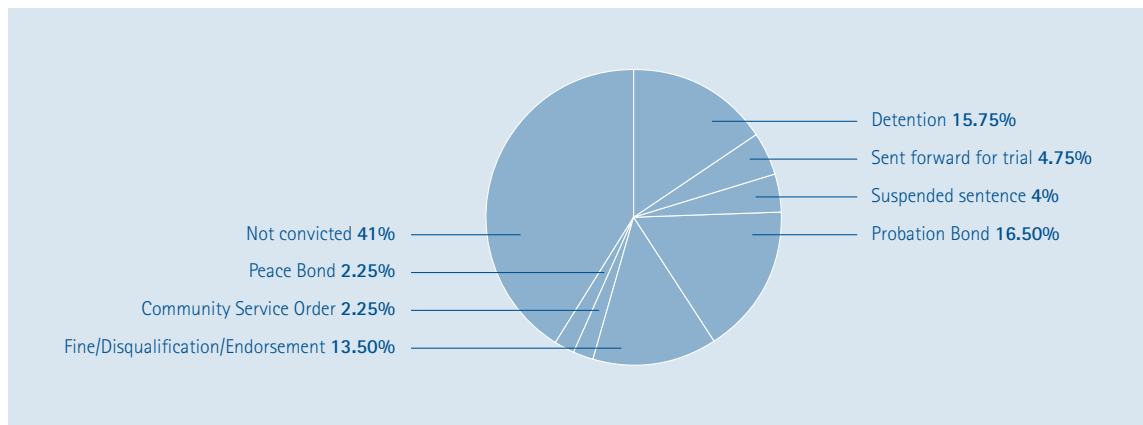
Of the total charges that resulted in a conviction (1,340), 277 or 21% ended in a sentence of detention. An additional 304 charges concluded as being taken into consideration in respect of a sentence of detention.

Only 16 of the 2,271 charges (0.7%) resulted in a Community Service Order (CSO). This may be explained by the fact that the legislative position at the time of the study was that a CSO was only to be imposed in lieu of a sentence of detention. The 2001 Act alters this position and the availability of a community service order is no longer confined to cases where detention would have been suitable.⁵²

6.5 Principal Results

Principal Results are already examined in Chapter 5.12 of this report. However, their consideration in more detail in the context of sentencing is instructive for the purpose of examining the trends prevalent in the imposition of sanctions in the Children Courts as generally outlined in Figure 6.1.

Figure 6.1 Principal Result for 400 young people



A deeper analysis of the statistics indicated above demonstrates that there is a strong correlation between the number of charges against a young person and the outcome of their court proceedings. For example, of the 250 young people with less than five charges (discussed in Chapter 4.2), only nine young people or 4% were sentenced to detention and 59% were not convicted on any charge against them. By contrast, of the 65 young people with 10 or more charges, 97% were convicted and 56% of those convicted were sentenced to detention.

⁵² Section 115 (a) and 116 Children Act 2001.

Figure 6.2 Principal Result by number of charges, 400 young people

	Not convicted	Sent forward for trial	Convicted						Total
			Detention	Suspended sentence	Probation Bond	Fine/ Disqualification/ Endorsement	Community Service Order	Peace Bond	
1 charge	80	3	3	2	9	6	3	1	107
2-4 charges	67	4	6	7	22	28	3	6	143
5-9 charges	15	8	17	4	23	14	3	1	85
10-19 charges	2	3	22	4	11	6	0	1	49
20-49 charges	0	0	12	0	1	0	0	0	13
50-60 charges	0	0	3	0	0	0	0	0	3
Total	164	18	63	17	66	54	9	9	400

6.6 Lengths of Detention

Sixty-three of the 400 young people in the study were sentenced to detention in 2004. Twelve young people were under 16 and therefore sentenced to a Children Detention School. Fifty-one young people were sentenced to St Patrick's Institution for Young Offenders. One young person was sentenced to both a Children Detention School and St Patrick's Institution in the sample year but as the young person's sentence in the Children Detention School was cut short, the individual is included in the above figures under the St Patrick's Institution numbers.

6.6.1 Children Detention Schools

As the Children Act 1908, which remained in force during the period of the cases examined, provided limited sentencing options of only one month, one year or two years, it is not surprising that 81% of the young people committed to a Children Detention School received sentences of two years. Two young people (12.5%) were detained for one year (one young person in Finglas Child and Adolescent Centre and one in St. Joseph's in Clonmel). The remaining young person was sentenced to one month detention. Children Detention Schools are considered below in 6.7.

6.6.2 St Patrick's Institution

Of the 51 young people sentenced to St Patrick's Institution 15 (29.4%) were sentenced to 12 months or more. Ten young people (19.6%) received sentences of three months or less. Another ten young people received sentences of four to six months and ten other young people were committed for between seven and ten months. Six young people (11.8%) received sentences of ten or 11 months.

From the figures above it seems clear that the majority of sentences are for periods of less than one year. The longest sentence received by a young person committed to St Patrick's Institution was 20 months.

The value of sentences of three months or less has been questioned by many commentators. It is believed that three months is too short a period to effectively rehabilitate the young person concerned.

6.6.3 History of Detention

Of the 51 young people committed to St Patrick's Institution in the 2004 court files, 21 (41%) had previously been in a Children Detention School. In effect, this means that 41% of these young people were convicted of offences before they were 16 years old and had subsequently graduated from one form of detention to another.

6.7 Children Detention Schools

Under the Children Act 1908, as amended, detention facilities were categorised as either reformatory schools or industrial schools and they operated under the auspices of the Department of Education and Science. However, the 2001 Act renders the distinction between reformatory and industrial schools immaterial and all detention facilities are now known as Children Detention Schools (CDS). These sections of the Act were implemented on the 1st March 2007.

In 2004 Trinity House School, Oberstown Boys School, Oberstown Girls School, Finglas Child and Adolescent Centre and St. Joseph's School were available for the remand and committal of young persons over 12 and under 16.

Part 10 of the Children Act 2001 was commenced on the 1st March 2007. This enactment removes the Children Detention Schools from the remit of the Department of Education and Science and makes them the sole responsibility of the Department of Justice, Equality and Law Reform through the National Manager of Detention Services and the Irish Youth Justice Service.

6.8 Recidivism

The Courts Service provided access to further CCTS records for 2005 and 2006 in order to note the re-offending of the young people in the study. Recidivism or re-offending is an issue of considerable importance and interest and relates in particular to the effectiveness of the interventions used. Ideally, the issue of recidivism would be best analysed based on Garda records however as already discussed in Chapter 2. This was not possible in the context of this research.

Of the 400 young people in the study 143 (36%) had entries on the CCTS records referred to above for cases concluded in 2005. Of that 36% of the study sample:

- Seventy-nine of them (55%) had committed four or more offences in the 2004 research period.
- One hundred and seven young people were charged with only one offence in the 2004 court files. Only 36 or 34% of these young people had cases concluded before the Courts in 2005.

In analysing the recidivism rates from these CCTS figures it can be deduced as follows:

- Of those who committed between two and four offences in the study period, 44 or (30%) had re-offended and had a case finalised before the Courts in 2005.
- Of the 13 young people who committed between 10 and 19 charges 54% had cases concluded in 2005.
- Of the three young people with more than 50 charges in the study period 67% were sentenced before the Courts in 2005.

The above statistics lead to the conclusion that the more offences the young person was charged with in the 2004 court files, the more likely they were to re-offend. It also appears that just over one-third (34%) of young people who were charged with one offence re-offended.

In this research 63 young people were sentenced to detention in the 2004 court files. Twenty five or 40% of them re-offended in 2005. It should also be noted that where a person under the age of 16 is sentenced to detention the confined length of committal orders mean that they are usually sentenced to two years in a detention facility and therefore any young person serving two years from 2004 would more than likely still be in detention in 2005.

The UCD Institute of Criminology recently carried out an extensive study⁵³ on recidivism in Ireland. Their findings were that 25% of prisoners were back in detention within one year of being released and almost 50% had been returned to prison within four years. The study also found that males under the age of 30 are more likely to re-offend.

Trinity House School, one of the five Children Detention Schools in the State, is the most secure CDS. Placements are ordered by the Courts taking into account the level and extent of criminal charges involved. Trinity House has a tracking system in place which gives staff the opportunity of following the young people's progress post release and 'to identify gaps in services provision and to address these gaps with appropriate planning.'⁵⁴ The system is carried out by means of a questionnaire. Interviews are conducted with the young people three months, six months, one year and two years after they have left Trinity House and staff assist them in filling the questionnaire.

In particular, the tracking system provides vital information on the re-offending of young people who have been in detention. Three months after leaving Trinity House in 2005, 65% of the young people were in St. Patrick's Institution for Young Offenders. Six months after release from Trinity House 75% of the young people were in prison. Nearly 80% of those interviewed one year after leaving Trinity House were in detention. However, Kilkelly believes that to apply 'a simplistic model such as re-offending rates...will fail to do justice'⁵⁵ to the challenging work carried out in Children Detention Schools.

These statistics highlight the serious problem of recidivism among young offenders. The Outcomes Report highlights a major concern in respect of the lack of aftercare supports available to young people upon release from detention.

6.9 Conclusions

Sentencing options for dealing with young offenders have been radically altered by the Children Act 2001. However these provisions were not implemented for the study period of 2004. Further comparative research would be beneficial if carried out once the provisions in the Children Act 2001 are in effect for a reasonable period.

The purpose of this chapter was to determine the rates of detention of the young people in this study, the lengths of those detention orders and the institutions to which the young people were sent for their period of detention.

The results from the 2004 court records show:

- 66% of all charges concluded with a conviction.
- 25.6% of all offences resulted in a sentence of detention or were taken into consideration with a sentence of detention.
- There are two very distinct patterns with regards to sentencing.
 - a) The young people committed to the Children Detention Schools receive longer sentences
 - b) The majority of those sentenced to St Patrick's Institution receive sentences of less than one year.

In the case of the CDS this is most likely attributed to the lack of options available to the Judges but as already stated this situation has now been amended.

⁵³ A Study of Offender Recidivism, UCD Institute of Criminology (2006).

⁵⁴ Outcomes Report 2005, Trinity House School.

⁵⁵ Kilkelly, U (2006) *Youth Justice in Ireland: Tough Lives, Rough Justice*, pg 256.

- The shorter sentences in St Patrick's Institution create a situation whereby young people can be sentenced to a number of periods of detention within the one year. For example, a young person could be sentenced to 3 months in January and another 6 months in November of the same year. This was evidenced numerous times within the 2004 court files.
- On the basis of the data made available by CCTS and Trinity House School, recidivism of young people, particularly those who have already been in detention, is a serious problem.
 - a) Those convicted of the largest number of offences were most likely to re-offend within the short period between 2004 and 2005.
 - b) The statistics from Trinity House Schools' Outcomes Report (2005) indicated that 65% of former THS residents were in St. Patrick's Institution within a three month period and almost 80% of them were detained in St. Patrick's one year after leaving THS. These statistics in particular present a shocking picture of the lack of supports to prevent re-offending provided to young people upon release from detention.
 - c) As the majority of those who were incarcerated in St. Patrick's from sentences imposed in 2004 were deemed to be in custody in 2005 and in the absence of relevant data from An Garda Síochána, which would elucidate on their recidivism, it is not possible to ascertain whether the re-offending rates of those who leave detention in St. Patrick's is comparable to that recorded in the specific transition periods surveyed by THS.

Evidently, an aftercare mechanism must be put in place to assist the young people in reintegrating back into communities after a period of incarceration, which would allow them to build upon the progress they have made in relation to both education and social skills in detention centres such as Trinity House School and the other Children Detention Schools.

Chapter Seven Conclusions

This is the profile of the typical young offender facing charges before the Courts in 2004.

The typical young offender was a young male, aged 16 or 17, not living with both parents, from a broken home with many difficulties. Typically there was some level of substance abuse in his home by a member of his family. He left school before doing his Junior Certificate, has no qualifications and no engagement with mainstream education. His parent's home is in a locality widely regarded as very disadvantaged.

In 2004 the typical young offender came before the Children Court facing six charges, he was 16 when he committed the first of these offences. Approximately one-third of his offences were traffic related, one-fifth were for public order infringements, many involving alcohol or other substances, and one-fifth were theft offences.

The typical Irish young offender appeared before the Children Court for the first time more than six months after committing his offences. Subsequently he appeared before the Children Court again an average of 8 times for each of his six offences before his cases were concluded some six months after his first appearance. In the meantime, the young offender was on bail with conditions imposed by the Judge, which typically included a curfew, restrictions on where he could go and a requirement to sign on at a Garda station every day. It was necessary to keep these conditions because the typical consequence for the breach of a bail condition is that the accused young person is remanded in custody until the case reaches its determination. The typical young offender in 2004 was convicted of his offences and given a Probation Bond for one year by the Judge.

However, while this profile has been developed using the most frequent figures from the statistics compiled in this research project, it does not fully represent the passage of many young offenders in the Children Court system. For example, while the typical position is that cases would be concluded in six months, many young offenders were attending the court on remand from date to date for a up to a year, with others having to wait for two years before their cases were finally determined.

Furthermore, while the most common result for a convicted young person is that of a Probation Bond (30%), it was almost as common that such a person received a sentence of detention (29%). As the majority of the young people in this study were at least 16, this means that these young people, if male, would have been sentenced to St. Patrick's Institution for Young Offenders, which when compared to being subject to a Probation Board is a much more grave outcome, with serious implications for the life and future of that person.

7.1 Conclusions

It is clear from this research that the young people that will become persistent offenders in society will suffer from personal disadvantages, structural disadvantages and a process of socialisation in the criminal justice process.

1. Personal disadvantages include a very low level of educational attainment and difficult family circumstances, including the absence of a parent or a history of abuse or neglect in the family as well as residing in a notably disadvantaged geographic district in each of the areas examined in this research. This research has identified that the young people in the Children Court system will on average, face very significant personal disadvantages of these kinds.
2. Systematic disadvantages include constructions of the criminal justice system which contribute to a high degree of criminalisation of young people. Firstly, the delay in implementing fully the Children Act 2001 can be seen as a significant disadvantage to the young people in this research, particularly with regard to the range of non-custodial sanctions that are now available to Judges of the Children Court which were not available in 2004. The disadvantages also include an

exceptionally low age of criminal responsibility⁵⁶ and the accumulation of multiple charges for a single event, particularly with respect to Road Traffic offences. It could be argued that certain charges for these types of offences are effectively duplicated, for largely the same conduct. For example, the failure to have motor insurance can produce three charges – non-display of insurance disk (R1254), failure to produce insurance (R4224) and driving without insurance (R4214).

The effect of these charges being applied is that young people may very quickly develop a long history of previous convictions. These convictions will be considered at sentencing of any later charge, most likely with a negative impact, in so far as any possible mitigation of sentence is absent.

3. Socialisation within the criminal justice system occurs in a number of ways;
 - through interaction with criminal justice agencies where there is a family history of criminal behaviour to which the young person has been exposed
 - through frequent attendances at the Children Court resulting from delays in concluding their cases
 - through the high rates of detention and consequently living in the company of other young offenders

The chronological and contemporaneous accrual of these factors operate to continually reinforce the isolation of the young person from the rest of society. The more isolated the young person becomes from their immediate local community (through absence by detention) and wider social community (through persistent offending and non-participation in the workforce), the more difficult it will be for them to later fully engage in society.

Many of the young people in this study have continued to offend and are now serving medium to long-term sentences of detention. Evidently, there was a failure to intervene in this disadvantage cycle described in this Chapter. This research has clearly identified in a systematic, quantitative form the types of young people who are most at risk of social isolation and offending. This report recommends in the strongest terms possible the use of this data by policy makers to break a similar disadvantage cycle from developing for our next generation of young people.

7.2 Recommendations

After examination of the Children Court process in Ireland for almost 18 months, the researchers make the following recommendations:

1. Young people at risk of offending are easily identifiable. Chapter Three presents the family background and education history of the young people in this study. Similar characteristics are highlighted throughout. Therefore, it should be possible for the relevant agencies to direct their intervention and support to those with unmet needs, well before such young people become involved in the criminal justice system. The role of the Health Service Executive in this context cannot be overemphasised.
2. Co-operation and co-ordination between the stakeholder agencies in the criminal justice family is key for the improvement of the juvenile justice system in Ireland. The establishment of the Irish Youth Justice Service is a positive step in this direction and the researchers look forward to the improvement the IYJS will bring in protecting the welfare and education needs of the young people in conjunction with meeting the requirements of the criminal justice system.

⁵⁶ During the research period, the age of criminal responsibility was only 7 years of age. This was raised to 12 years on 16th October 2006, with the exception of 10 and 11 year old children charged with the most serious offences.

3. Of the 400 young people in this study, 16% were sentenced to detention. This is the second most frequent outcome for those young people convicted in the 2004 Court files. This research bears out that young people are too readily being detained in Ireland. Detention must only be used as a last resort and perhaps the resourcing of all community sanctions would provide alternate sentencing options to the Children Court Judges.
4. Recidivism is a major concern in relation to young offenders, particularly those who have spent up to two years being rehabilitated in the structured supportive environment of a Children Detention School. The creation of a comprehensive aftercare support system is vitally important to reduce the number of young people who find themselves at risk of re-offending having been thrust back into the communities and peer groups where they became involved with criminality in the first instance.
5. Training for all those involved with young people in the criminal justice system is essential. The Children Act 2001 provides:

*"...a Judge of the District Court shall, before transacting business in the Children Court, participate in any relevant course of training or education which may be required by the President of the District Court."*⁵⁷

This is a very welcome provision which will benefit young people. However, it is recommended that such a provision should just not exist for District Judges but should be a requirement for all those involved with young people who are in conflict with the law.
6. Crucially, there must be on-going research into the effectiveness of the juvenile justice system in Ireland, to ensure that the necessary facilities are in existence and that adequate supports are available for young offenders to prevent offending and re-offending, so that these young citizens's expectations will realistically include:
 - Positive engagement with appropriate educational programmes;
 - Special needs assistance for literacy problems
 - Introspective mechanisms to cope with family breakdown and abuse issues;
 - Constructive self-help programmes to counteract social deprivation;
 - Accessible youth-friendly programmes, outside of the criminal justice system, where supports are available to the family of those struggling with substance abuse;
 - The existence of contemporary data on the causes of recidivism in circumstances where re-offending is most likely to occur;
 - The most appropriate solutions for reintegration back into communities to negate the possibility of re-offending.

It is only by dint of concerted focused deliberation on the findings and recommendations of this research that the most appropriate and responsive structures and policies will be initiated and implemented, with the allocation of appropriate resources to ensure that our society will be proud of the care given to some of the weakest of our citizens – our young people.

⁵⁷ Section 72.

Annex I

A. Identifying Data

IASD Ref No			
Forename		Surname	
Date of Birth		PULSE IDs	
Family Address 1			
Family Address 2			
Family Address 3			
Postcode (standardised)			
Last address, if different			
Postcode last address, if different			
Notes on Identity Issues			

B. Agency Reports

IASD Ref No			
Forename		Surname	
Date of Birth		PULSE IDs	

Agency	Date of report	Report

C. Education

IASD Ref No			
Forename		Surname	
Date of Birth		PULSE IDs	

Completed primary school?	
Completed junior cycle of post-primary?	
Completed Junior Cert?	
Passed Junior Cert?	
Completed senior cycle of post-primary?	
Completed Leaving Cert?	
Passed Leaving Cert?	
Expelled from school?	
Notes on mainstream education	

Accessed education outside mainstream?	
Notes on education outside mainstream	
Passed Junior Cert outside mainstream?	
Passed Leaving Cert outside mainstream?	
Literacy tested?	
Notes on literacy	

D1. Family Background and Issues (1)

IASD Ref No			
Forename		Surname	
Date of Birth		PULSE IDs	
Gender			

Summary of charges

Number of Offences Charged	
Main type of offences	
Principal Result	
Agency Reports available?	

Living arrangements

Living with parent(s)?	
Living arrangements	
Living in house?	
Postcode (if living with parents or other family members)	

Parents

Marital status of parents	
Parents' relationship reported as having broken down?	
Domestic violence reported	
Absence of a parent due to death or imprisonment or other specified reasons	
Criminal record of parents or siblings	
Drug or alcohol abuse by parent(s) reported	
Parental attitude to offending	
Employment status of parents/guardians	
Housing problems identified	
Family are members of minority community	

D2. Family Background and Issues (2)

IASD Ref No			
Forename		Surname	
Date of Birth		PULSE IDs	

Family size

No of children in family, incl yp	
Birth order, if available	
Living with (at least some) siblings	

HSE

Health Board involvement	
Notes on HB involvement	

Other

Young person has a child?	
Self-harm indicators	
Physical or sexual abuse indicators	
Alcohol abuse recorded	
Charged with alcohol offences	
Drug abuse recorded	
Charged with drug offences	
Other issues	
Influenced by anti-social peer group	
In employment/education	

E. Details of Court Appearances

IASD Ref No	
Forename	Surname
Date of Birth	PULSE IDs

Charge Sheet No.	Date of court appearance	Outcome

F. Offences Charged

IASD Ref No			
Forename		Surname	
Date of Birth		PULSE IDs	
Court location			
Court Case Year			
Court Case No			
Charge Sheet No			
Offence Code			
Offence Description			
Details of offence			
Date of Offence			
Date of first court appearance			
Date of final outcome			
Number of court appearances			
Convicted?			
Outcome of case (details)			

Annex II

Sections of Children Act 2001 Commenced to Date

Sections Commenced by March 2007

Part 1 Preliminary

All

Dept of Justice, Equality and Law Reform

- 1 Short title and collective citation.
- 2 Commencement.
- 3 Interpretation (general).
- 4 Laying of regulations before Houses of Oireachtas.
- 5 Repeals.
- 6 Expenses.

Part 2 Family Welfare Conferences

All except 7(1) (a), 10(2) and 13(2)

Dept of Health and Children

- 7 Convening of family welfare conference.
- 8 Functions of conference.
- 9 Persons entitled to attend conference.
- 10 Procedure at conference.
- 11 Administrative services.
- 12 Notification of recommendations of conference.
- 13 Action by health board on recommendations.
- 14 Privilege.
- 15 Regulations.

Part 3 Amendment of Act of 1991

All except 23D

Dept of Health and Children

- 16 Amendment (new Parts IV A and IVB) of Act of 1991.

Part 4 Diversion Programme

All

Dept of Justice, Equality and Law Reform

- 17 Interpretation (Part 4).
- 18 Principle.
- 19 Objective of Programme.
- 20 Diversion Programme.
- 21 Temporary incapacity of Director.
- 22 Report on child to Director.
- 23 Admission to Programme.
- 24 Decision to admit to Programme.

- 25 Cautions.
- 26 Presence of victim at formal caution.
- 27 Supervision.
- 28 Level of supervision.
- 29 "Conference".
- 30 Recommendation that conference be held.
- 31 Decision on holding conference.
- 32 Persons entitled to attend conference.
- 33 Location of conference.
- 34 Time limit for holding conference.
- 35 Notification to participants.
- 36 Views of those unable or unwilling to attend conference.
- 37 Procedure at conference.
- 38 Period or level of supervision.
- 39 Action plan.
- 40 Disagreement on action plan.
- 41 Report to Director.
- 42 Decision by Director on period or level of supervision.
- 43 Administrative services.
- 44 Review of effectiveness of Programme.
- 45 Vacancies in committee.
- 46 Supplemental provisions.
- 47 Regulations (Part 4).
- 48 Inadmissible evidence.
- 49 Bar to proceedings.
- 50 Privilege.
- 51 Protection of identity of children

Part 5 Criminal Responsibility

All

Dept of Justice, Equality and Law Reform

- 52 Age of criminal responsibility.
- 53 Duty of Garda Síochána in relation to certain under-age children.
- 54 Aiding, etc., under-age child to commit offence.

Part 6 Treatment of Child Suspects in Garda Stations

All

Dept of Justice, Equality and Law Reform

- 55 Treatment of child suspects.
- 56 Separation of children from adults in Garda Síochána station.
- 57 Notification to child.
- 58 Notification of arrest of child to parent or guardian.
- 59 Notification to health board.
- 60 Notification to solicitor.

- 61 Interviewing children.
- 62 Notification of proceedings to parent or guardian.
- 63 Notification of proceedings to adult relative or other adult.
- 64 Procedure by summons.
- 65 Notice to adult relative or other adult where proceeding by summons.
- 66 Provisions common to sections 56 to 63 and 65.
- 67 Amendment of section 5 of the Criminal Justice Act 1984.
- 68 Release on bail by member of Garda Síochána.
- 69 Application of certain provisions to married child.
- 70 Regulations (Part 6).

Part 7 Children Court

All

Dept of Justice, Equality and Law Reform

- 71 Children Court.
- 72 Requirement for transacting business in Children Court.
- 73 Arrangements for hearing of proceedings in Children Court.
- 74 Children charged with summary offences jointly with adults.
- 75 Jurisdiction to deal summarily with indictable offences.
- 76 Children charged with indictable offences jointly with adults.

Part 8 Proceedings in Court

All except s.77

Dept of Justice, Equality and Law Reform

- 77 Referral of case to health board.
- 78 Family conference.
- 79 Convening of family conference.
- 80 Action plan.
- 81 Report to Court by probation and welfare officer.
- 82 Action by Court on report of probation and welfare officer.
- 83 Failure to comply with action plan.
- 84 Review of compliance with action plan.
- 85 Application of provisions.
- 86 Procedure at family conference.
- 87 Administrative services to family conference.
- 88 Remand in custody.
- 89 Non-application of section 5 of Bail Act 1997.
- 90 Conditions of bail.
- 91 Attendance at Court of parents or guardian.
- 92 Conveyance to and from Court.
- 93 Restrictions on reports of proceedings in which children are concerned.
- 94 Persons entitled to be present at hearing.

Part 9 Powers of Courts re: Child Offenders

All

Dept of Justice, Equality and Law Reform

- 95 Interpretation (Part 9).
- 96 Principles relating to exercise of criminal jurisdiction over children.
- 97 Construction of certain references.
- 98 Orders on finding of guilt.
- 99 Probation officer's report.
- 100 Remand for preparation of report or other reason.
- 101 Availability of child for preparation of report.
- 102 Immunity from liability for reports.
- 103 Access to reports.
- 104 Right to tender evidence on report.
- 105 Oral reports.
- 106 Power of court on receipt of report.
- 107 Regulations regarding reports.
- 108 Maximum fines.
- 109 Determination of amount of fine and costs.
- 110 Default in payment of fine, costs or compensation.
- 111 Parental supervision order.
- 112 Non-compliance with parental supervision order.
- 113 Compensation by parent or guardian.
- 114 Binding over of parent or guardian.
- 115 Community sanction.
- 116 Imposition of community sanction.
- 117 Conditions to which community sanction may be made subject.
- 118 Day centres.
- 119 Power to vary day centre order.
- 120 Power to revoke day centre order.
- 121 Provisions where more than one day centre order.
- 122 Non-compliance with day centre order.
- 123 Duties of child under day centre order.
- 124 Probation (training or activities programme) order.
- 125 Probation (intensive supervision) order.
- 126 Probation (residential supervision) order.
- 127 Power to vary probation (residential supervision) order.
- 128 Failure to observe conditions of probation.
- 129 Suitable person (care and supervision) order.
- 130 Non-compliance with suitable person (care and supervision) order.
- 131 Mentor (family support) order.
- 132 Non-compliance with mentor (family support) order.
- 133 Restriction on movement order.
- 134 Variation of restriction on movement order.
- 135 Provisions regarding more than one restriction on movement order.
- 136 Non-compliance with restriction on movement order.

- 137 Dual order.
- 138 Expiry of community sanction.
- 139 Commission of offence while community sanction in force.
- 140 Effect of subsequent period of detention.
- 141 Regulations.
- 142 Detention orders.
- 143 Restriction on detention orders.
- 144 Deferment of detention order.
- 145 Alternative to detention where no place available in children detention school.
- 146 Finding of guilt during deferment.
- 147 Detention in accordance with age of child.
- 148 Document to be produced to Director of children detention school.
- 149 Period of detention in children detention school.
- 150 Places of detention.
- 151 Detention and supervision.
- 152 Transfer.
- 153 Rules governing places of detention.
- 154 Amendment of Criminal Justice (Community Service) Act 1983.
- 155 Punishment of certain indictable offences.
- 156 Restriction on punishment of children.

Part 10 Children Detention Schools
Dept of Education and Science

All

- 157 Interpretation (Part 10).
- 158 Princial object of children detention schools.
- 159 Certified schools under Act of 1908.
- 160 Designation of children detention schools.
- 161 Provision of other places for detention of children.
- 162 Funding of such places.
- 163 Closure of schools.
- 164 Boards of management.
- 165 Functions of boards of management.
- 166 Additional functions.
- 167 Membership, etc., of boards of management.
- 168 Removal and resignation of members.
- 169 Casual vacancies.
- 170 Temporary substitutes.
- 171 Remuneration of members.
- 172 Funding of Board.
- 173 Accounts and audits.
- 174 Annual report and information.
- 175 Meetings and procedure.

- 176 Directions by Minister.
- 177 Membership of either House of Oireachtas or of European Parliament.
- 178 Non-disclosure of information.
- 179 Rules by boards of management.
- 180 The Director.
- 181 Staff of children detention schools.
- 182 Transfer of staff.
- 183 Terms and conditions of transferred staff.
- 184 Superannuation of staff.
- 185 Inspector of children detention schools.
- 186 Functions of Inspector.
- 187 Powers of Inspector.
- 188 Reports of inspections and investigations.
- 189 Annual report of Inspector.
- 190 Visiting panel.
- 191 Duties and powers of visiting panels.
- 192 Visits by judges.
- 193 Obligation of Director to accept children.
- 194 Reception of children in schools.
- 195 Maximum number of detained children.
- 196 Sex and age of detained children.
- 197 Treatment of children.
- 198 Transfer between schools and places provided under section 161.
- 199 Provision as to religious observance.
- 200 Provision of medical treatment.
- 201 Discipline.
- 202 Permitted absence.
- 203 Other permitted absences.
- 204 Mobility trips.
- 205 Temporary leave.
- 206 Conditions of grant of temporary leave.
- 207 Supervision in community.
- 208 Voluntary aftercare.
- 209 Unconditional release.
- 210 Early discharge.
- 211 Order for production of child.
- 212 Responsible persons.
- 213 Duty to notify changes of address to school.
- 214 Lawful custody of detained children.
- 215 Escape.
- 216 Helping child to escape.
- 217 Harboursing escaped child.
- 218 Unlawful entry or communication.
- 219 Bringing alcohol, etc., into schools.

- 220 Delegation of certain functions by Minister.
- 221 Regulations.
- 222 Pending proceedings.
- 223 Saving for certain acts.
- 224 Transitional provisions.

Part 11 Special Residential Services Board

All

Dept of Health and Children

- 225 Interpretation (Part 11).
- 226 Special Residential Services Board.
- 227 Functions of Board.
- 228 Assignment of other functions.
- 229 Policy directions.
- 230 Membership, etc., of Board.
- 231 Removal and resignation of members.
- 232 Temporary substitutes.
- 233 Casual vacancies.
- 234 Remuneration of members.
- 235 Application to Board of sections 175, 177 and 178.
- 236 Seal.
- 237 Chief Executive of Board.
- 238 Staff of Board.
- 239 Superannuation of staff.
- 240 Funding of Board.
- 241 Accounts and audits of Board.
- 242 Annual report and information.
- 243 Delegation of functions.
- 244 Regulations.

Part 12 Protection of Children

All

Dept of Justice, Equality and Law Reform

- 245 Interpretation (Part 12).
- 246 Cruelty to children.
- 247 Begging.
- 248 Allowing child to be in brothel.
- 249 Causing or encouraging sexual offence upon child.
- 250 Amendment of Criminal Law (Sexual Offences) Act 1993.
- 251 Power to proceed in absence of child.
- 252 Anonymity of child in court proceedings.
- 253 Mode of charging offences.
- 254 Powers of arrest without warrant, etc.
- 255 Power to take deposition of child.
- 256 Presumption and determination of age of child victim.
- 257 Clearing of court in certain cases.

Part 13 Miscellaneous

All

Dept of Justice, Equality and Law Reform

- 258 Non-disclosure of certain findings of guilt.
- 259 Duties of probation officers.
- 260 Interference with supervisor.
- 261 Powers of Garda Síochána.
- 262 Delegation by principal probation and welfare officer.
- 263 Temporary accommodation of children.
- 264 Research.
- 265 Right of appeal.
- 266 Amendment of section 5 of Criminal Law (Rape) Act 1981.
- 267 Amendment of sections 17(2) and 59 of Act of 1991.
- 268 Children in care of health board.
- 269 Presumption and determination of age.
- 270 Safety of children at entertainments.
- 271 Exclusion of members of Defence Forces.

SCHEDULE 1 OFFENCES AGAINST CHILDREN

SCHEDULE 2 ENACTMENTS REPEALED

Annex III

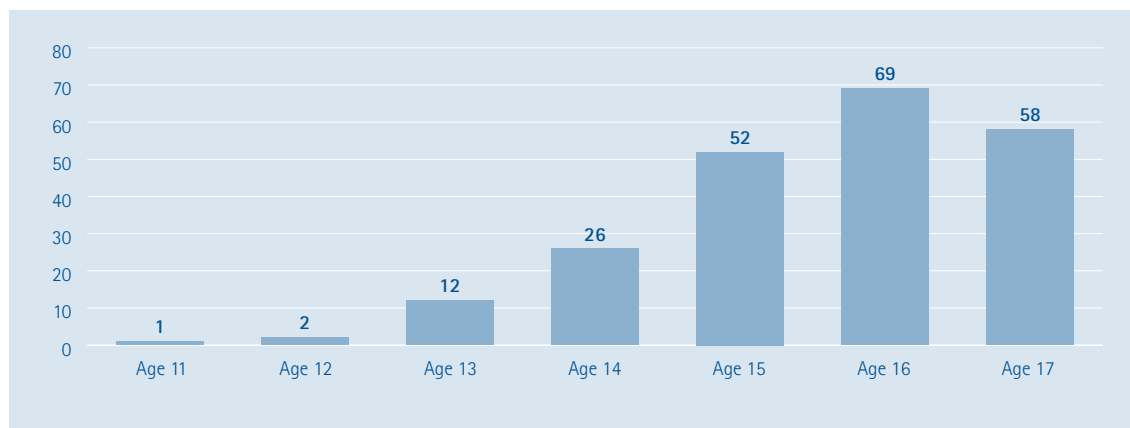
Dublin Children Court Results

This annex examines the court proceedings for 220 young people in the study with cases completed in the Dublin Children Court during 2004. It examines the number of charges per person, the type of offences charged, and the outcome of the charges.

1.1 Age of Young Person at First Offence in 2004 Records

Data from charge sheets can be used to calculate the age of the young person at the date of the first offence for which they were charged in the cases completed before the Children Courts in 2004. This is not necessarily the age at which they completed their first offence, or the first offence for which they were prosecuted. The age at date of first offence in the 2004 records is, however, useful in showing the age of the young people when these particular offences were committed. 93 young people (42%) were aged between 11 and 15 at the date of the first offence in the 2004 court records, while 127 (58%) were aged 16 or 17.

Figure 1.1 Age of Young Person at Date of First Offence in 2004 records



At the date of the conclusion of the case before the Dublin Children Court only 37 young people (32%) were still under the age of 16. 122 young people (55%) were aged between 16 and 17, while the remaining 61 young people were aged 18.

1.2 Type of offences charged

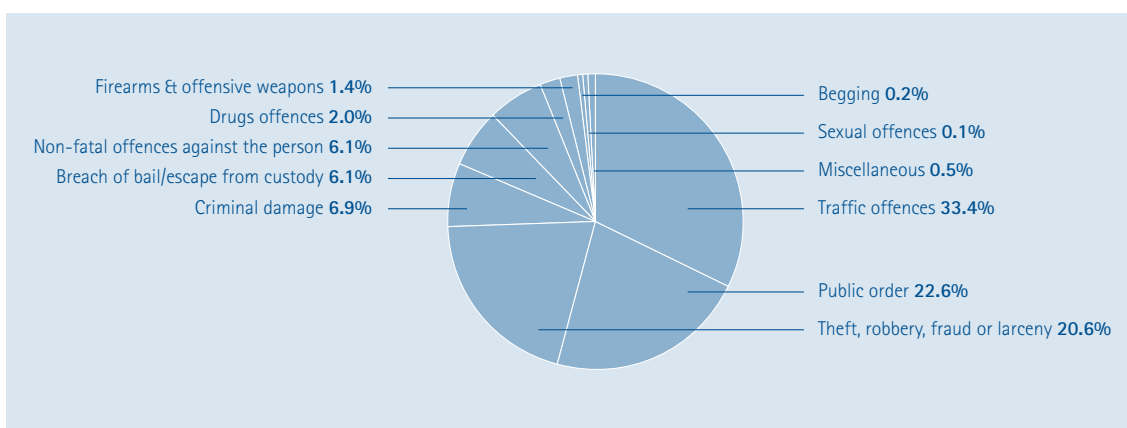
Charge sheets record details of each offence charged by Offence code, legislative basis and a brief description of the offence.

The ten most commonly occurring charges were:

theft of property (Offence code N1148)	137 charges
breach of the peace (A6144)	116 charges
criminal damage to property (M3119)	91 charges
drunk in a public place (A6114)	81 charges
driving without insurance (R4214)	62 charges
driving a car without the consent of the owner (R3608)	60 charges
driving without a driving licence (R4114)	60 charges

passenger in a stolen car (R3618)	50 charges
failure to appear in court in breach of bail conditions (E8116)	44 charges
interfering with a car (R3625)	43 charges

Figure 1.2 Total charges (1,342) by offence category



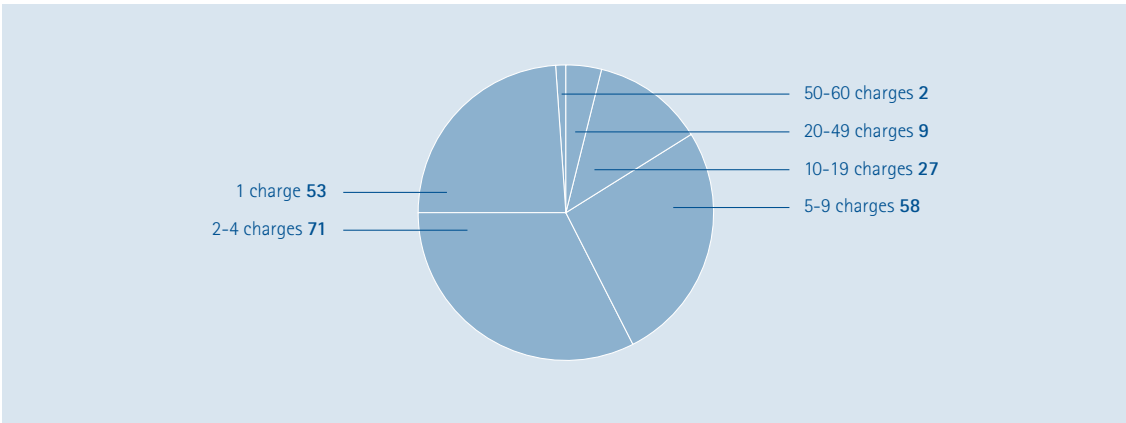
Offences can also be grouped into offence categories, based on the legislative source of the charges. Traffic offences accounted for 33% (448) of the total charges, followed by public order (23%) and theft and robbery offences (21%). Young people with many charges against them typically accumulated charges in a range of categories, e.g. theft and robbery, public order, criminal damage, breach of bail and assault.

1.3 Number of charges, by young person

The 220 young people had a total of 1,349 charges against them in the 2004 Court records, an average of 6 charges per person. The number of charges ranged from 53 young people with only one charge against them to two young people with more than 50 charges each.

- 124 young people (56.4%) had less than five charges;
- 58 young people (26.4%) had between five and nine charges; and
- 38 young people (17.2%) had ten or more charges.

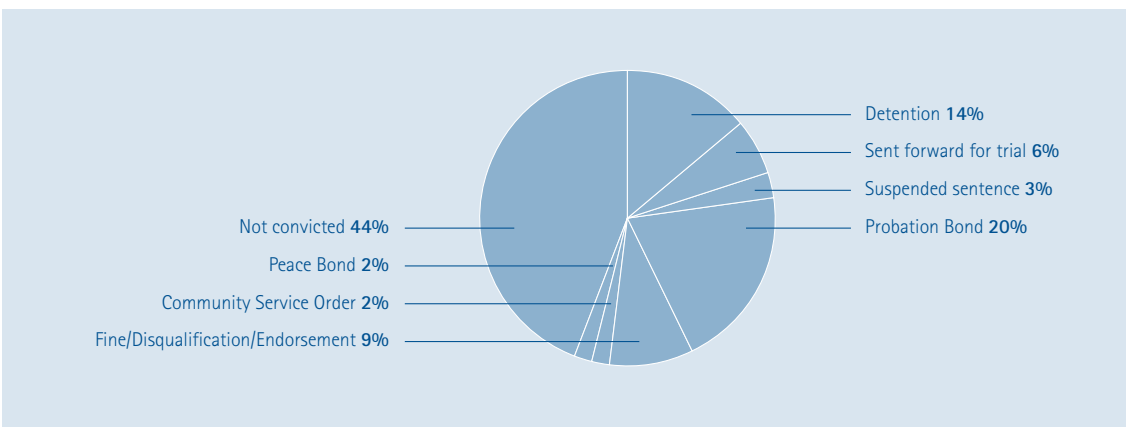
Figure 1.3 Number of charges per person, 220 young people



1.4 Principal result, by young person

A young person with several charges may have several different outcomes when their case is finalised. For example, an individual might have some charges struck out, have a fine imposed in relation to other charges, and be committed to detention in respect of more serious charges. *Principal result* is used here to denote the most significant result for each young person. For example, where a person is committed to detention in relation to ten charges and is given a fine in respect of another five charges, the *principal result* recorded is detention.

Figure 1.4 Principal Result for 220 young people



- 97 young people (44% of the total) were not convicted on any charges – all of their charges were dismissed, struck out, dealt with under Section 1(1) of the Probation Act (no criminal record), or no order was recorded.
- For 14 young people (6%), the result of their charges was not available from the Children Court records. These young people were sent forward for trial to the Circuit Court on all of their charges.
- The remaining 108 young people (49% of total) were convicted on at least some of the charges against them.

Of the 108 young people convicted on some or all of the charges against them:

- 31 were sentenced to detention, accounting for 28% of those convicted;
- 6 received a suspended sentence;
- 44 received a Probation Bond;
- 20 were subject to a fine and/or disqualification from driving and endorsement of licence;
- 3 received Community Service Orders; and
- 5 were bound to the peace.

1.5 Number of charges and principal result

There appears to be a strong relationship between the number of charges faced by a young person and the outcome of their court proceedings. For example, of the 124 young people with less than 5 charges, only two were sentenced to detention and 85 were not convicted on any charge against them. By contrast, of the 38 young people with 10 or more charges, all were convicted and 22 were sentenced to detention.

Figure 1.5 Principal result by number of charges, 220 young people

	Not convicted	Sent forward for trial	Convicted						Total
			Detention	Suspended sentence	Probation Bond	Fine/ Disqualification/ Endorsement	Community Service Order	Peace Bond	
1 charge	45	2	1	0	5	0	0	0	53
2-4 charges	40	1	1	2	13	9	1	4	71
5-9 charges	12	8	7	2	18	9	2	0	58
10-19 charges	0	3	11	2	8	2	0	1	27
20-49 charges	0	0	9	0	0	0	0	0	9
50-60 charges	0	0	2	0	0	0	0	0	2
Total	97	14	31	6	44	20	3	5	220

1.6 Length of court proceedings

Some of the young people in the study made their first court appearance shortly after the date of the first offence with which they were charged. Figure 1.6 shows that 82 young people made their first court appearance within a month of the date of the first offence with which they were charged. Another 59 young people appeared in court between one and six months after the date of the offence. However, 79 young people had their first court appearance more than six months after the date of the offence. In 12 of these cases, the first court appearance was more than one year after the offence, and in two cases, more than two years after the offence.

Figure 1.6 Length of time between date of first offence and first court appearance

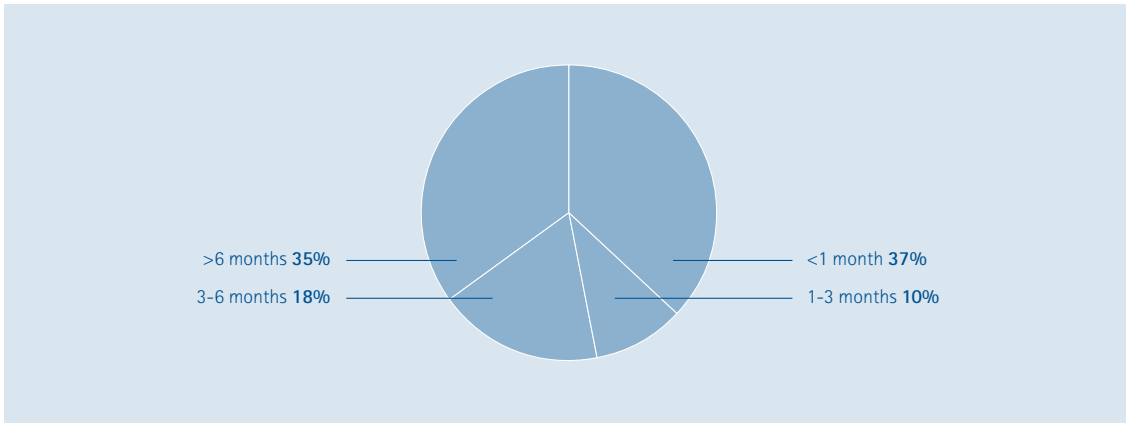
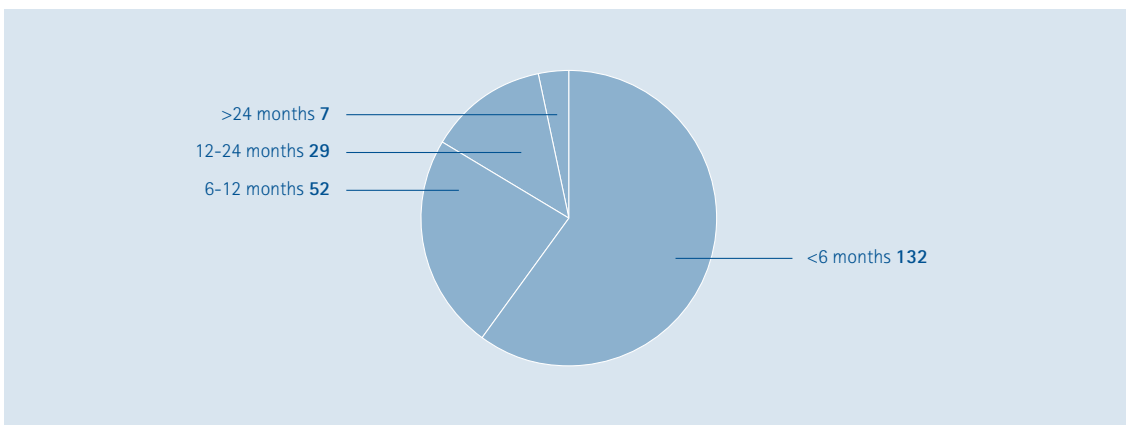


Figure 1.7 sets out the length of time between the young person's first court appearance and the conclusion of their case:

- 132 young people had their cases concluded within six months of their first court appearance;
- 52 young people had their cases concluded between six months and one year after their first court appearance;
- 29 young people had their cases concluded between one and two years after their first court appearance;
- 7 young people had their cases concluded more than two years after their first court appearance, and in one of these cases, more than three years after the first court appearance.

Figure 1.7 Length of time between first court appearance and conclusion of case



1.7 Court appearances

The 220 young people in the study made a total of 2,186 court appearances in relation to cases concluded in 2004, an average of 10 court appearances per person.

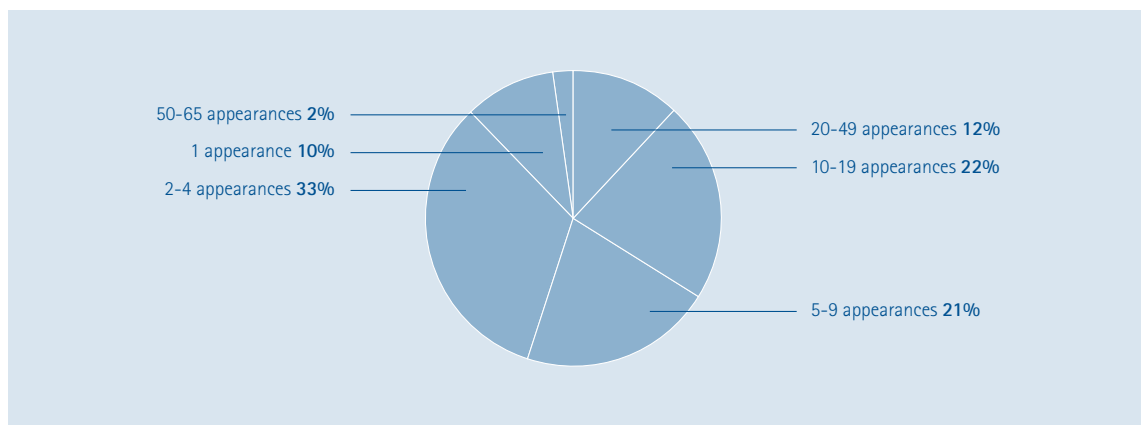
1,392 of the court appearances (64%) resulted in the young person being remanded on continuing bail (RCB) for a further court appearance. Among the reasons for remands on continuing bail were:

- RCB for full hearing of case (191);
- RCB for probation report (222);
- RCB for DPP's directions (147);
- RCB for plea (63);
- RCB for service of Book of Evidence (24) – in cases where the young person was being sent forward for trial to the Circuit Court;
- RCB for particular judge (14).
- RCB for statements and/or evidence order (69);
- RCB for Peremptory against the State (39).

Of the balance of court appearances for remands on continuing bail (623) 101 had conditions attached and the remainder, 522, are simply recorded as 'RCB' or 'RCB' for a particular date. In fact, many of these remands were probably remands for the attention of a particular judge who would be sitting on a particular date, but were not specifically recorded as such.

Figure 1.8 shows the number of court appearances per person for the 220 young people in the Dublin Children Court. 22 young people (10%) had only one court appearance in the 2004 court files, while 31 young people (14%) had over 20 court appearances, 4 of these with more than 50 court appearances.

Figure 1.8 Total No of Court Appearances by young person



There were 146 non appearance bench warrants issued in the 2004 court files examined. This amounts to 7% of the total number of court appearances in the Dublin Children Court. However this translated to 60 individual young people or 27% of the 220 from the Dublin Children Court.

There were 183 remands in custody (RIC) recorded in the Dublin Children Court files. As with the remands on continuing bails these were for a variety of reasons;

- RIC for full hearing of case (10);
- RIC for probation report (9);
- RIC for DPP's directions (11);
- RIC for plea (1);
- RIC for service of Book of Evidence (10) – in cases where the young person was being sent forward for trial to the Circuit Court;
- RIC for particular judge (3).
- RIC for assessment (14);
- RIC for breach of bail conditions (6).

The remainder (119) were recorded as RIC and did not specify the particular reason.

1.8 Conclusions

The key points to highlight from these results from the Dublin Children Court:

- 9% of the sample are female.
- 42% were aged between 11 and 15 at the date of the first offence in the 2004 court records and 58% were aged 16 or 17.
- 32% were still under the age of 16 at the date of the conclusion of their case and 55% were aged between 16 and 17, while the remaining 13% young people were aged 18 or over.
- The average number of charges per young person in Dublin was 6.
- 24% of the young people had only one charge against them; 38 had ten or more charges against them including 2 who had over 50 charges
- 25% of those convicted were sentenced to detention – this included one person with only one charge and one person with between 2 and 4 charges
- 132 young people had their cases concluded within six months of their first court appearance and 7 young people had their cases concluded more than two years after their first court appearances – one of which was more than three years after the first court appearance.
- Of the 2,186 court appearances made by the 220 young people in Dublin, 64% resulted in the young person being remanded on continuing bail. In Dublin there were 14 remands specifically made to await a particular judge who had dealt with the case previously. This issue arises as a result of the system of rotation of Judges in the Dublin Metropolitan District Court but no longer applies to the Dublin Children Court.

Annex IV

Regional Cities Children Court Results

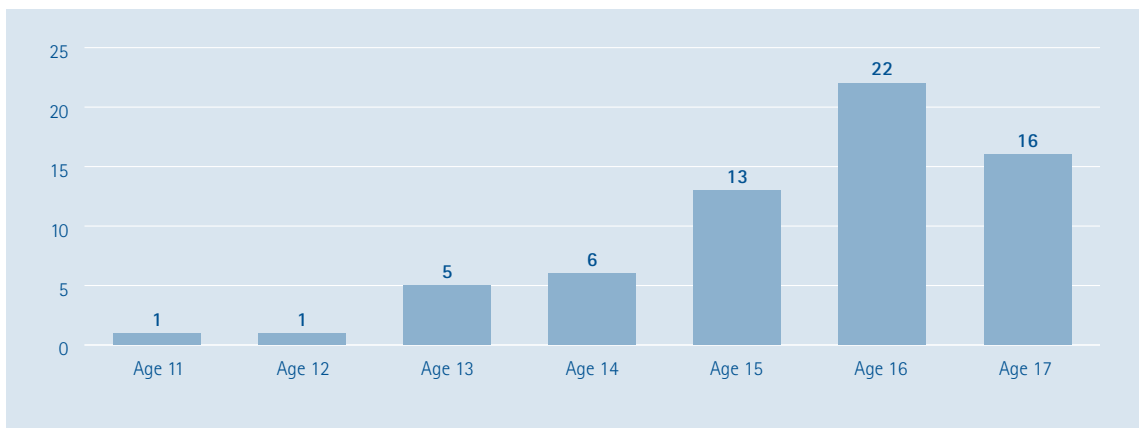
This report is based on Court records for 65 young people with cases completed in the Cork, Limerick and Galway Children Courts during 2004. It examines the number of charges per person, the type of offences charged, and the outcome of the charges.

2.1 Age of Young Person at First Offence in 2004 Records

Data from charge sheets can be used to calculate the age of the young person at the date of their first offence for which they were charged in the cases completed in the Children Courts in 2004. This is not necessarily the age at which they committed their first offence, nor the first offence for which they were prosecuted. This figure shows the age of the young person at the first offence committed in the 2004 records.

We have date of birth records for 64 of the 65 young people from the Regional Cities. Of the 64 young people for whom date of birth records were held, 26 (41%) were aged between 11 and 15 years at the date of the first offence in the 2004 court records, while 38 (59%) were aged 16 or 17.

Figure 2.1 Age of Young Person at First Offence in 2004 Court Records



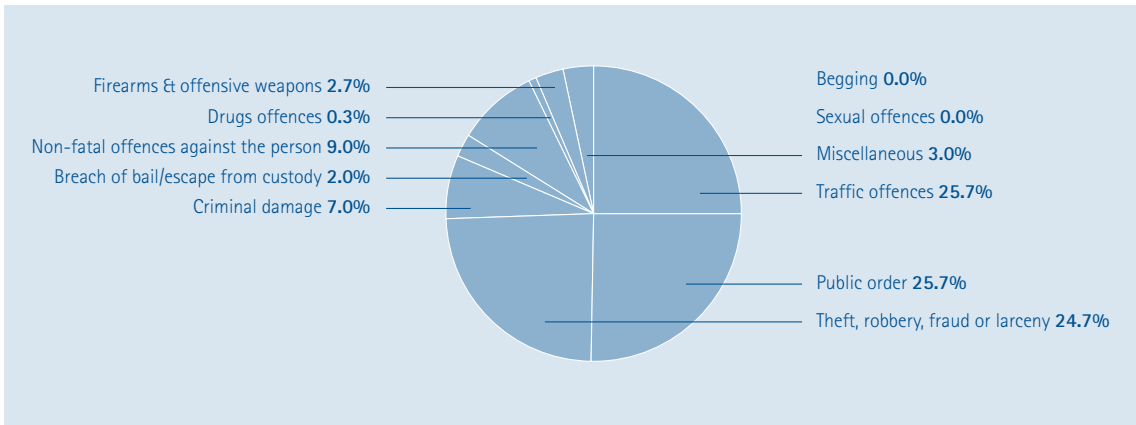
On the date of the final conclusion of the case only 13 (20%) of the 64 young people were aged under 16. This is a decrease of 50% on the figure aged under 16 at the commencement of their proceedings. 41 (64%) of the young people are aged 16 or 17 at the conclusion of the case and 10 (16%) of the young people are aged 18 or 19 at the conclusion of their case.

2.2 Type of offences charged

Charge sheets record details of each offence charged by offence code, legislative basis and a brief description of the offence. The ten most commonly occurring charges were:

Criminal damage to property (M3119)	21 charges
Trespass Et burglary (N1179)	12 charges
Breach of peace (A6144)	27 charges
Theft of property (N1148)	40 charges
Drunk in a public place (A6114)	34 charges
Assault (A8115)	18 charges
Driving without insurance (R4214)	18 charges
Robbery of property (N1158)	12 charges
Driving without a driving licence (R4114)	10 charges
Driving a car without the consent of the owner (R3608)	14 charges

Figure 2.2 Total charges (300) by offence category



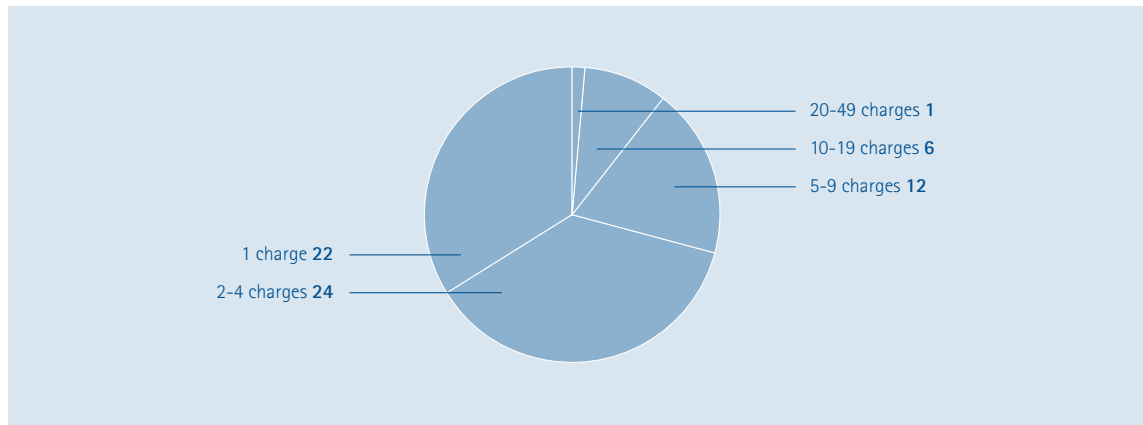
Offences are grouped into offence categories, based on the legislative source of the charges. Traffic offences accounted for 25.7% of the total charges. Public order offences accounted for a further 25.7% of offences. This was followed by theft offences (24.7%) and non-fatal offences against the person (25.7%). Young people with many charges against them typically accumulated charges in a range of categories simultaneously, e.g. theft and robbery, public order and a number of traffic offences.

2.3 Number of charges, by young person

The 65 young people had a total of 300 charges against them in the 2004 Court records, an average of 5 charges per person. The number of charges ranged from 22 young people with only one charge against them to 1 young person with more than 35 charges.

- 46 young people (71%) had less than five charges;
- 12 young people (18%) had between five and nine charges; and
- 7 young people (11%) had ten or more charges.

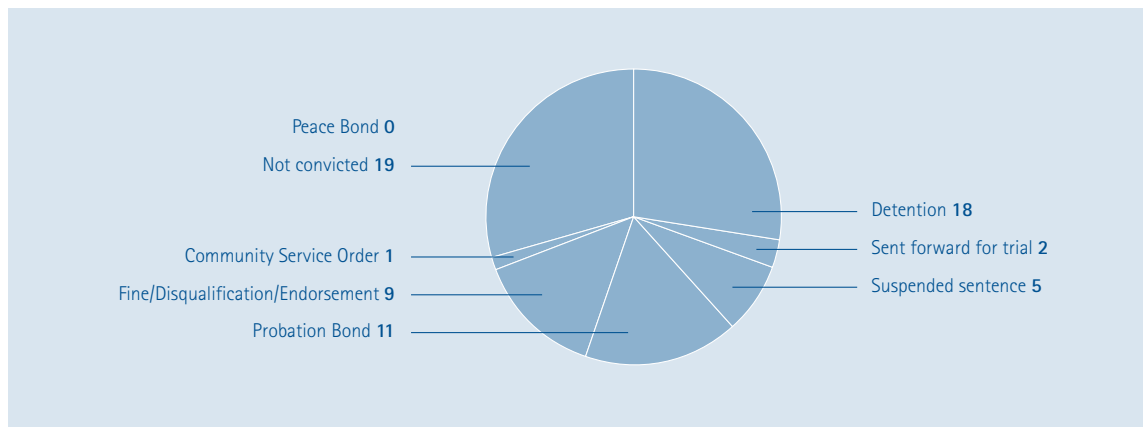
Figure 2.3 Number of charges per person, 65 young people



2.4 Principal result, by young person

Figure 2.4 show the principal result of each of the 65 young people in the Regional Cities. Principal results are explained in Chapter 5.

Figure 2.4 Principal result for 65 young people



- 19 young people (28% of the total) were not convicted on any charges – all of their charges were dismissed, struck out, dealt with under Section 1(1) of the Probation Act (no criminal record), or no order was recorded.
- For 2 young people (6%), the result of their charges was not available from the Children Court records. These young people were sent forward for trial to the Circuit Court on all of their charges.
- The remaining 44 young people (66% of total) were convicted on at least some of the charges against them.

Of the 44 young people convicted on some or all of the charges against them:

- 18 were sentenced to detention, accounting for 43% of those convicted;
- 5 received a suspended sentence;
- 11 received a Probation Bond;
- 9 were subject to a fine and/or disqualification from driving and endorsement of license; and
- 1 received a Community Service Order.

2.5 Number of charges and principal result

Of the 46 young people with less than 5 charges, only 5 were sentenced to detention and 17 were not convicted on any charge against them. By contrast, of the 7 young people with 10 or more charges, all were convicted and 5 were sentenced to detention.

Figure 2.5 Principal result by number of charges, 65 young people

	Not convicted	Sent forward for trial	Convicted						Total
			Detention	Suspended sentence	Probation Bond	Fine/ Disqualification/ Endorsement	Community Service Order	Peace Bond	
1 charge	12	1	2	1	2	3	1	0	22
2-4 charges	6	1	3	3	5	6	0	0	24
5-9 charges	1	0	8	1	2	0	0	0	12
10-19 charges	0	0	4	0	2	0	0	0	6
20-49 charges	0	0	1	0	0	0	0	0	1
50-60 charges	0	0	0	0	0	0	0	0	0
Total	19	2	18	5	11	9	1	0	65

2.6 Length of court proceedings

Some of the young people in the study made their first court appearance shortly after the date of the first offence with which they were charged. Figure 2.6 shows that 14 young people made their first court appearance within a month of the date of the first offence with which they were charged. Another 15 young people appeared in court between one and six months after the date of the offence. However, 36 young people (55%) had their first court appearance more than six months after the date of the offence. In 15 of the cases in the Regional Cities, the first court appearance was more than one year after the offence, and in one case, more than two years after the offence.

Figure 2.6 Length of time between date of first offence and first court appearance

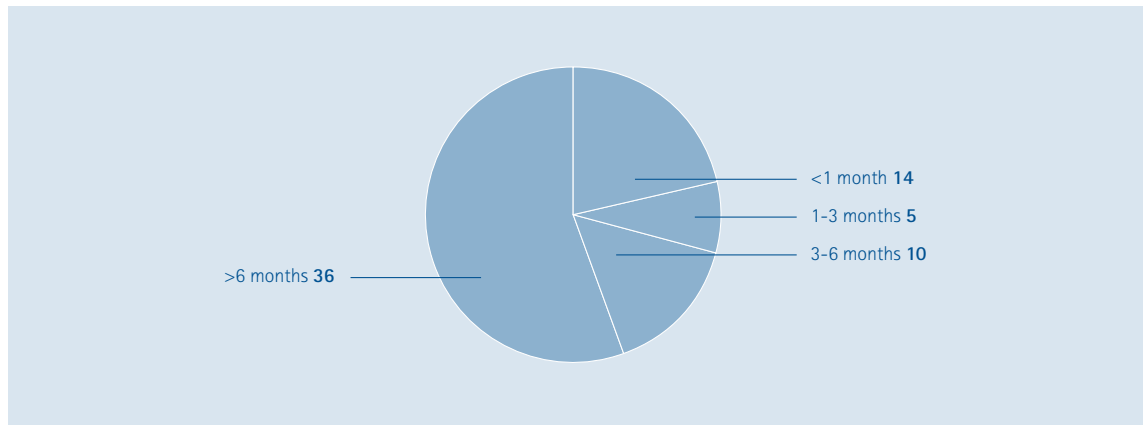
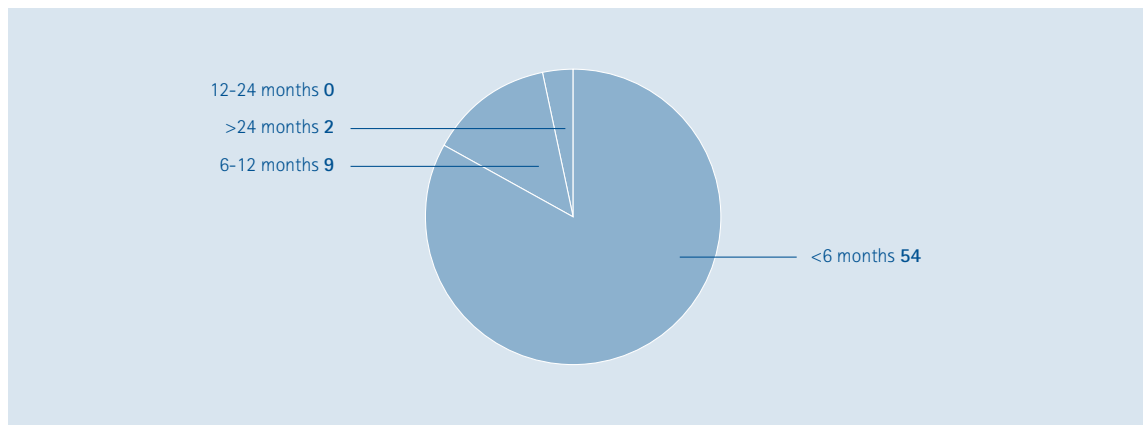


Figure 2.7 sets out the length of time between the young person's first court appearance and the conclusion of their case:

- 54 young people had their cases concluded within six months of their first court appearance;
- 9 young people had their cases concluded between six months and one year after their first court appearance;
- 2 young people had their cases concluded more than two years after their first court appearance.

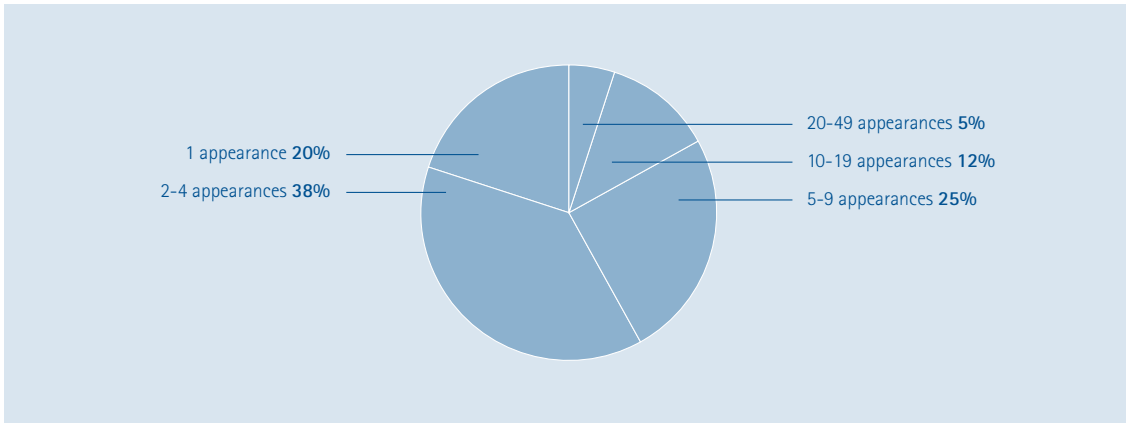
Figure 2.7 Length of time between first court appearance and conclusion of case



2.7 Court appearances

The 65 young people in the study made a total of 358 court appearances in relation to cases concluded in 2004, an average of 5.5 court appearances per person.

Figure 2.8 Total No Court Appearances by Young Person



211 of the court appearances (59%) resulted in the case being adjourned or the young person being remanded on continuing bail (RCB) for a further court appearance. Among the reasons for remands on continuing bail were:

- RCB for full hearing of case (9%);
- RCB for probation report (2.5%);
- RCB for DPP's directions (2.5%);
- RCB for Garda statement (13%);
- RCB for service of Book of Evidence (2%) – in cases where the young person was being sent forward for trial to the Circuit Court;
- RCB with conditions (4%).

The balance of court appearances for remands on continuing bail are simply recorded as 'RCB' or 'RCB' for a particular date.

There were 15 non appearance bench warrants issued in the 2004 court files examined. This amounts to 4% of the total number of court appearances. This figure represents 15 individual young people.

There were 36 remands in custody (RIC) recorded in the court files for the 65 young people in the study. These refer to court appearance outcomes prior to the conclusion of the case. As with the remands for continuing bail there were a number of reasons given;

- RIC for full hearing of case (4)
- RIC for probation report (1)
- RIC for DPP's directions (6)
- RIC for plea (2)
- RIC for service of Book of Evidence – in cases where the young person was being sent forward for trial to the Circuit Court (1)
- RIC for particular judge (1)
- RIC for breach of bail conditions (1)

The remainder (20) were recorded simply as "RIC" and did not specify a particular reason.

2.8 Conclusions

- 65% of the young people in the Regional Cities sample were convicted on at least some of the charges against them.
- 12% of the sample are female.
- 41% were aged between 11 and 15 years at the date of the first offence in the 2004 court records, while 59% were aged 16 or 17.
- 20% were still under the age of 16 at the date of the conclusion of their case and 64% were aged between 16 and 17, while the remaining 16% young people were aged 18 or over.
- The average number of charges per young person in the Regional Cities was 5.
- 25 young people had only one charge against them; five had over ten charges and one young person had over 35 charges against them.
- 43% of those convicted were sentenced to detention.
- 54 young people had their cases concluded within six months of their first court appearance and 2 young people had their cases concluded more than two years after their first court appearances.
- Of the 358 court appearances made by the 65 young people in the Regional Cities, 59% resulted in the young person being remanded on continuing bail and 10% were Remanded in Custody pending the conclusion of the case.

Annex V

Urban Children Court Results

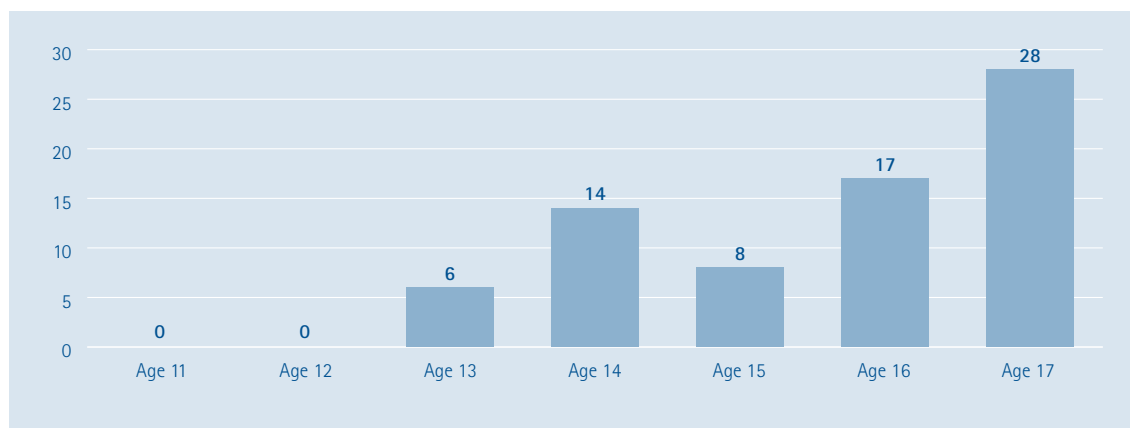
This chapter examines the court proceedings for 115 young people in the study with cases completed in the Athlone, Dundalk, Clonmel, Letterkenny, and Wexford Children Courts during 2004. It examines the number of charges per person, the type of offences charged, and the outcome of the charges.

3.1 Age of Young Person at First Offence in 2004 Records

Data from charge sheets can be used to calculate the age of the young person at the date of the first offence for which they were charged in the cases completed before the Children Courts in 2004. This is not necessarily the age at which they completed their first offence, or the first offence for which they were prosecuted. The age at date of first offence in the 2004 records is, however, useful in showing the age of the young people when these particular offences were committed.

Date of birth records were available for 73 of the 115 young people in the Urban Children Courts. The reason for the deficit is that many records are maintained in the form of summons. Summonses generally do not contain the date of birth of the young person and unless this record was supplemented by a Probation Report or other report, the date of birth was not available from the records. Of the 73 young people for whom date of birth records were available 28 young people (38%) were aged between 11 and 15 at the date of the first offence in the 2004 court records, while 45 (62%) were aged 16 or 17.

Figure 3.1 Age of Young Person at First Offence in 2004 Court Records



At the date of the conclusion of the case before the Urban Children Courts only 20 young people (17%) were still under the age of 16. 32 young people (28%) were aged between 16 and 17, while the remaining 21 young people were aged 18 and 19.

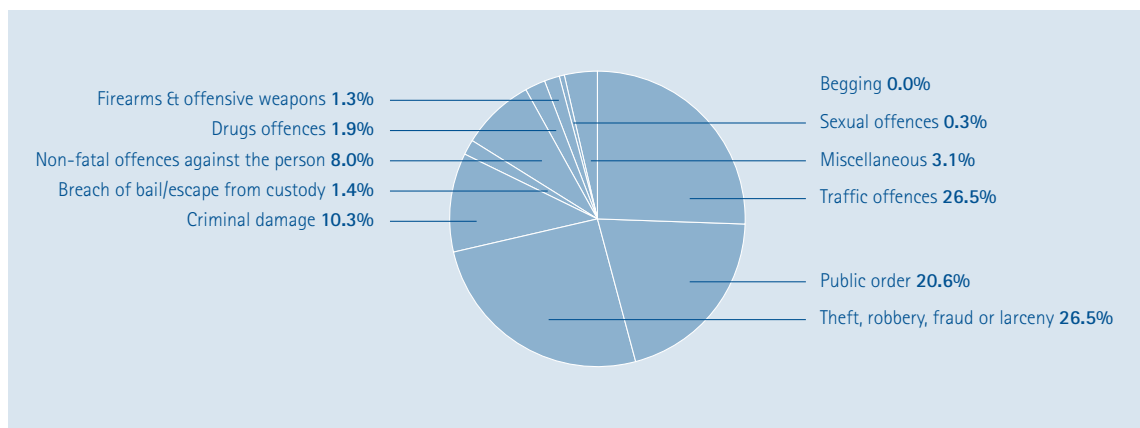
3.2 Type of offences charged

Charge sheets record details of each offence charged by Offence code, legislative basis and a brief description of the offence.

The ten most commonly occurring charges were:

criminal damage to property (M3119)	63 charges
trespass & burglary (N1179)	57 charges
breach of peace (A6144)	52 charges
theft of property (N1148)	49 charges
drunk in a public place (A6114)	42 charges
assault (A8115)	40 charges
driving without insurance (R4214)	27 charges
trespass & theft (B2229)	24 charges
driving without a driving licence (R4114)	23 charges
driving a car without the consent of the owner (R3608)	22 charges

Figure 3.2 Total charges (622) by offence category



Offences can also be grouped into offence categories, based on the legislative source of the charges. Traffic offences accounted for 27% (165) of the total charges, followed by public order (21%) and criminal damage (10%). Young people with many charges against them typically accumulated charges in a range of categories, e.g. theft and robbery, public order, criminal damage, breach of bail and assault.

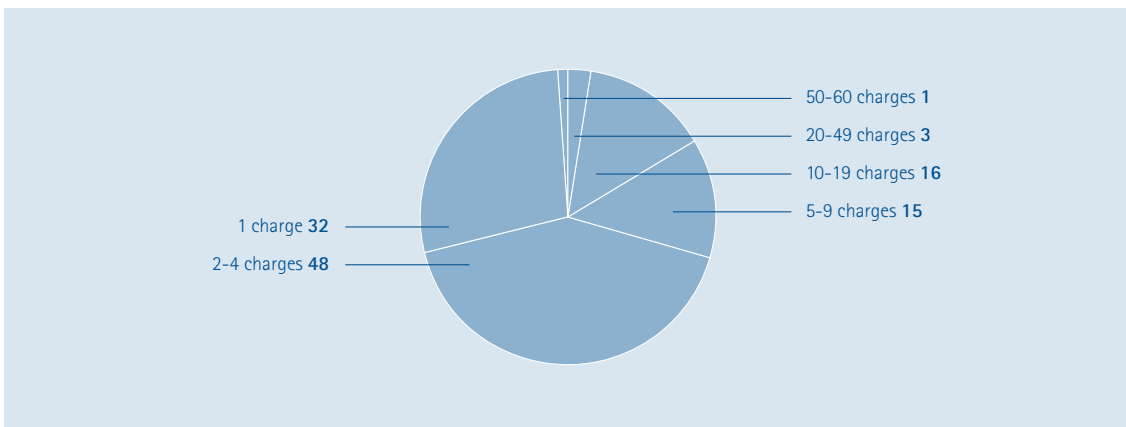
3.3 Number of Charges

The 115 young people had a total of 622 charges against them in the 2004 Court records, an average of 5 charges per person.

The number of charges ranged from 32 young people with only one charge against them to one young person with more than 50 charges.

- 80 young people (70%) had less than five charges;
- 15 young people (13%) had between five and nine charges; and
- 20 young people (17%) had ten or more charges.

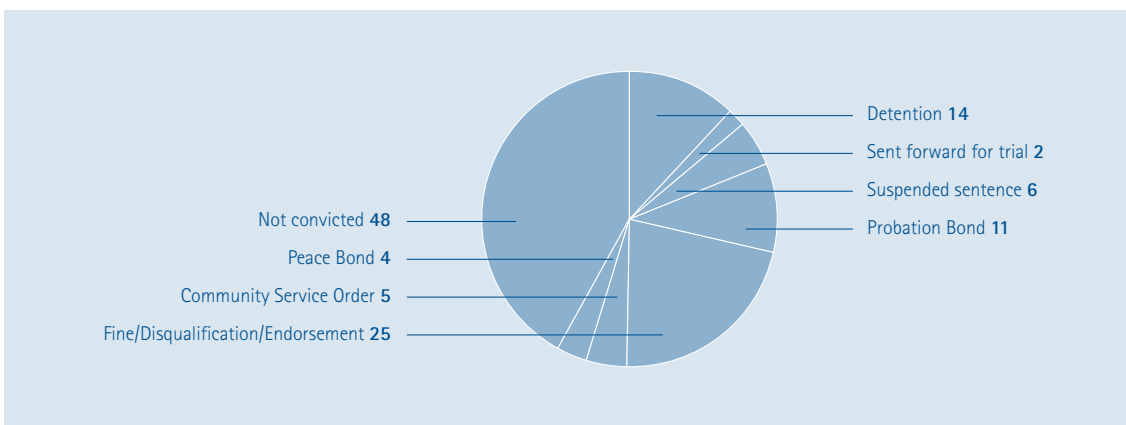
Figure 3.3 Number of charges per person, 115 young people



3.4 Principal result, by young person

Figure 3.4 show the principal result of each of the 115 young people in the Urban Courts. Principal results are explained in Chapter 5.

Figure 3.4 Principal Result for 115 young people



- 48 young people (42% of the total) were not convicted on any charges – all of their charges were dismissed, struck out, dealt with under Section 1(1) of the Probation Act (no criminal record), or no order was recorded.
- For 2 young people (2%), the result of their charges was not available from the Children Court records. These young people were sent forward for trial to the Circuit Court on all of their charges.
- The remaining 65 young people (56% of total) were convicted on at least some of the charges against them.

Of the 65 young people convicted on some or all of the charges against them:

- 14 were sentenced to detention, accounting for 22% of those convicted;
- 6 received a suspended sentence;
- 11 received a Probation Bond;
- 25 were subject to a fine and/or disqualification from driving and endorsement of licence;
- 5 received Community Service Orders; and
- 4 were bound to the peace.

3.5 Number of charges and principal result

There appears to be a strong relationship between the number of charges faced by a young person and the outcome of their court proceedings. For example, of the 80 young people with less than 5 charges, only two were sentenced to detention and 48 were not convicted on any charge against them. By contrast, of the 20 young people with 10 or more charges, 18 were convicted and 10 were sentenced to detention.

Figure 3.5 Principal Result by number of charges, 115 young people

	Not convicted	Sent forward for trial	Convicted						Total
			Detention	Suspended sentence	Probation Bond	Fine/ Disqualification/ Endorsement	Community Service Order	Peace Bond	
1 charge	23	0	0	1	2	3	2	1	32
2-4 charges	21	2	2	2	4	13	2	2	48
5-9 charges	2	0	2	1	3	5	1	1	15
10-19 charges	2	0	7	2	1	4	0	0	16
20-49 charges	0	0	2	0	1	0	0	0	3
50-60 charges	0	0	1	0	0	0	0	0	1
Total	48	2	14	6	11	25	5	4	115

3.6 Length of court proceedings

Some of the young people in the study made their first court appearance shortly after the date of the first offence with which they were charged. Figure 3.6 shows that 22 young people made their first court appearance within a month of the date of the first offence with which they were charged. Another 33 young people appeared in court between one and six months after the date of the offence. However, 60 young people (52%) had their first court appearance more than six months after the date of the offence. In 9 of these cases, the first court appearance was more than one year after the offence, and in two cases, more than two years after the offence.

Figure 3.6 Length of time between date of first offence and first court appearance

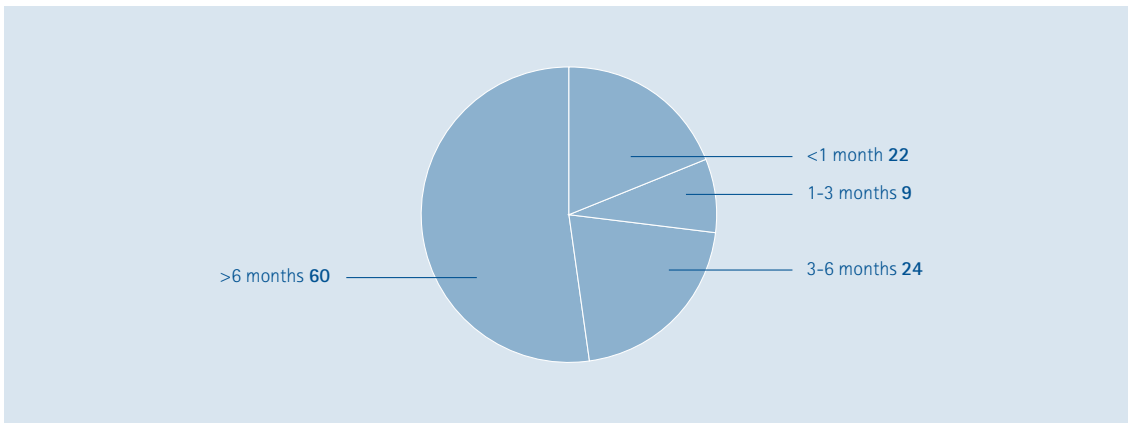
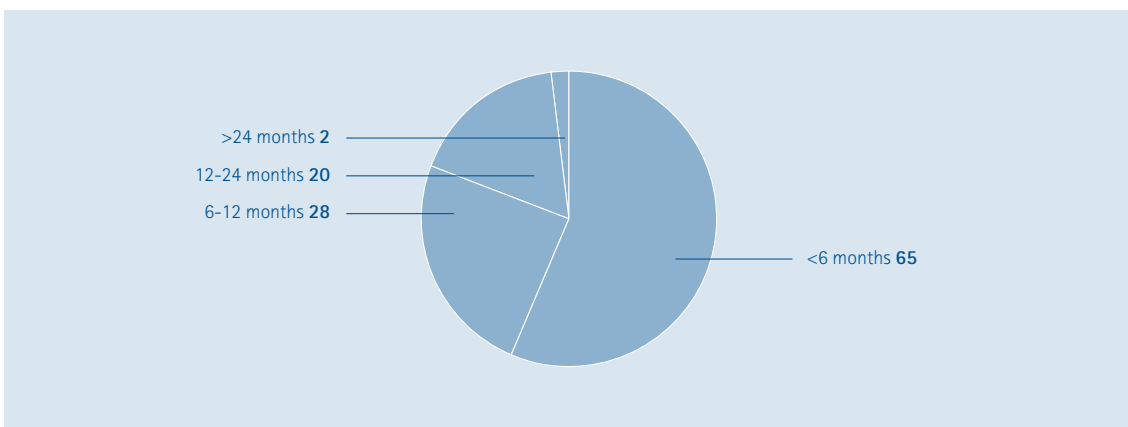


Figure 3.7 sets out the length of time between the young person's first court appearance and the conclusion of their case:

- 65 young people (57%) had their cases concluded within six months of their first court appearance;
- 28 young people (24%) had their cases concluded between six months and one year after their first court appearance;
- 20 young people (17%) had their cases concluded between one and two years after their first court appearance;
- 2 young people (2%) had their cases concluded more than two years after their first court appearance.

Figure 3.7 Length of time between first court appearance and conclusion of case



3.7 Court appearances

The 115 young people in the study made a total of 657 court appearances in relation to cases concluded in 2004, an average of 6 court appearances per person.

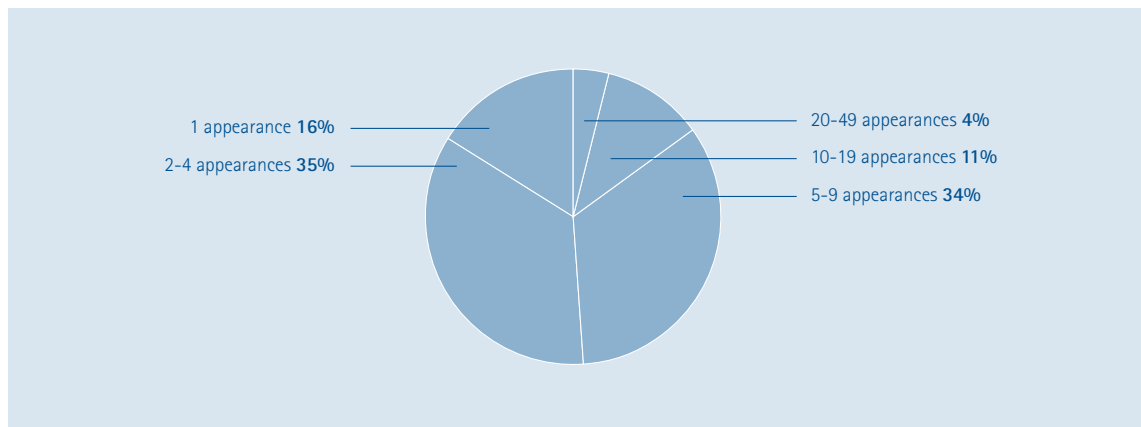
385 of the court appearances (59%) resulted in the young person being remanded or adjourned on continuing bail (RCB & ADJ) for a further court appearance. Among the reasons for remands on continuing bail were:

- RCB for full hearing of case (32);
- RCB for report (e.g. probation reports) (45);
- RCB for DPP's directions (10);
- RCB for plea (1);
- RCB for service of Book of Evidence (6) – in cases where the young person was being sent forward for trial to the Circuit Court;
- RCB for particular judge (0);
- RCB for statements and/or evidence order (17);
- RCB Peremptory against the State (3).

Of the balance of court appearances for remands on continuing bail (135), 18 had conditions attached and the remainder, 117, are simply recorded as 'RCB' or 'RCB' for a particular date.

Figure 3.8 shows the number of court appearances per person for the 400 young people in the study. 18 (16%) young people had only one court appearance in the 2004 court files, while 5 young people (4%) had over 20 court appearances, including one young person with 28 court appearances.

Figure 3.8 Total No of Court Appearances by young person



There were 7 non appearance bench warrants issued in the 2004 court files examined. This amounts to 1% of the total number of court appearances. However, this figure represents 6 individual young people or 5% of the 115 in the Urban Courts sample.

There were 63 remands in custody (RIC) recorded in the Urban Children Court files. As with the remands on continuing bail these were for a variety of reasons;

- RIC for full hearing of case (1);
- RIC for probation report (2);
- RIC for DPP's directions (0);
- RIC for plea (1);
- RIC for service of Book of Evidence (0) – in cases where the young person was being sent forward for trial to the Circuit Court;
- RIC for particular judge (0);
- RIC for assessment (5);
- RIC for breach of bail conditions (1).

The remainder (53) were recorded as RIC and did not specify the particular reason.

It should be noted that the 63 remands recorded referred to 15 individual young people.

3.8 Conclusions

The key points to highlight from the results of the Urban Courts are:

- 11% of the sample are female.
- 38% were aged between 11 and 15 at the date of the first offence in the 2004 court records and 62% were aged 16 or 17.
- 17% were still under the age of 16 at the date of the conclusion of their case, 28% were aged between 16 and 17, while the remaining 18% were aged 18 or 19.
- The average number of charges per person in the Urban Courts was 5.
- 28% of the 115 young people in the sample had only one charge against them. 17% had ten or more charges including one young person who had more than 50 charges.
- 22% of those convicted were sentenced to detention.
- 65 young people had their cases concluded within six months of their first court appearance, while 2 young people had their cases concluded more than two years after their first court appearance.
- Of the 657 court appearances made by the 115 young people from the Urban Courts, 59% resulted in the young person being remanded on continuing bail and 10% were remanded in custody pending the conclusion of the case.

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Glossary of Terms

ACJRD	Association for Criminal Justice Research and Development Ltd.
CCTS	Criminal Court Tracking System (Courts Service database)
CDS	Children Detention School
DJELR	Department of Justice, Equality & Law Reform
DPP	Director of Public Prosecutions
FCAC	Finglas Child and Adolescent Centre
HSE	Health Service Executive (replaced Health Boards from January 2005)
IASD	Irish Association for the Study of Delinquency
NARU	National Assessment and Remand Unit, part of Finglas Child and Adolescent Centre
NJO	National Juvenile Office of An Garda Síochána
PPSN	Personal Public Service Number
PULSE	An Garda Síochána IT system (Police Using Leading Systems Effectively)
THS	Trinity House School



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