

## More insights on the English Borstal: 'shaping' or just 'shaking' the young-offender?

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### Abstract

The borstal project was a system aiming at the arrestment of the youth criminal tendencies. The idea was to expose the youth to values and skills which may have stimulated a responsible and thoughtful way of living. The novelty of the system laid in the rejection of the damaging effects that the prison had on the mind and character of the prisoner. But mainly, the borstal penal policy recognized that the youth would not be detained for ever; thus, great effort was put in cultivating a healthy and positive relationship between the youth and the outside world. How this was done, and to what extent this was successful, are questions that this article has attempted to answer.

### Introduction

The first international penitentiary congress held in London in 1872 was little concerned with young offenders above the age of 16. In effect, offenders above that age were classified as adult and subject to penal measures available for the adult offender population. It was considered that the major problem faced by the penal system was the handling of children, a thing which the English penal system- as expressed in the London congress- had proved to successfully tackle with the introduction of industrial and reformatory schools in 1865.<sup>1</sup> However, towards the end of the century, it was generally recognized that the 'juvenile-adult'- above the age of 16 up to early 20s- represented a disproportionate proportion of the prison population. Indeed, one of the leading questions discussed in the international penitentiary congress in Budapest in 1905 was: 'what is the best method of special treatment [for the juvenile-adult] to apply in all countries?'<sup>2</sup> By that time however, England was already experimenting the borstal system.

In this paper I will examine the development of the borstal system focusing in particular on its ideology and its desire to minimize the aspect of institutionalization. Although it became a statutory sentence in 1908, it had little tested theory and practical ground, a thing which placed the system under severe criticism by the 1922 Prison System Enquiry Committee.<sup>3</sup> Indeed, the borstal credo is best represented by the practice put forward by Alexander Paterson after the 1920s which generally included a greater amount of welfare and the publication of the Borstal Book of Regulation in 1926.

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<sup>1</sup> Ruggles-Brise E., *Prison Reform at Home and Abroad: A Short History of the International Movement since the London Congress 1872* (London: Macmillan, 1925), p.22. For a review on the treatment of children by the criminal justice in England during 1756-1906 see Russell C.E.B and Rigby L.M., *The Making of the Criminal* (London: Macmillan and Co., 1906), Chap XIV.

<sup>2</sup> Ruggles-Brise, 1925, p.122.

<sup>3</sup> Labour Research Department: Prison System Enquiry Committee, *English Prisons To-Day: Being the Report of the Prison System Enquiry Committee*, ed. Brockway F., and Hobhouse S.H., (London: Labour Research Department, 1922)

In this analysis I will make a tribute to the borstal penal theory as it was voiced by Ruggles-Brise<sup>4</sup> and applied by Paterson<sup>5</sup> in his borstal and prison reforms. The management and operation of the various borstals is not considered here; rather, I will look into the political and penal aspirations which brought about the implementation of this vanguard custodial system.

The paper opens with an examination of the evidence put forward by the Gladstone report enquiry about the state of prisons in 1895. Next, the discussion examines the justifications that brought about a re-classification of the prison population and how this was expressed in the sentencing procedures. The paper, then, examines the borstal penal aims. Under this section I consider in some detail the aspects of individualized treatment as theorized by Ruggles-Brise and applied in the borstals (during the 1930s). In particular, the discussion will touch upon classification, case records, and the progressive stage system.

### **The General State of Prisons as Presented by the Gladstone Report in Late 1890s**

The Gladstone inquiry, established by the departmental committee on prison in 1895,<sup>6</sup> was prompted by the uncertainty and lack of clarity in relation to the Prison Commission 'uniformity' principle. The Committee was little critical of the work of the Prison Commissioners in general and considered that the prison system had progressively improved since the first Prison Act in 1868; rather, it was concerned with ascertaining whether better systems or adjustments could be utilized: 'the time has come when the main principles and methods adopted by the Prison Acts should be seriously tested by the light of acquired experience and recent scientific research.'<sup>7</sup>

The Gladstone Committee provided a critical view of all possible features of prison life, but at the heart of the review was the prison routine. In its conclusions the Gladstone report acknowledged that prisoners, as opposed to offenders subject to capital punishment, preserve an umbilical cord with society. In other words, the offender was sent to prison and maintained temporarily away from society, yet with the consummation of their sentence the prisoner was liable to re-join it. This was considered by the Gladstone Committee to be 'a growing strain on our civilisation.'<sup>8</sup> The 'strain' was not so much in relation to the moral acceptance of former prisoners; rather it was the mental state and moral degradation worsened by the prison experience which hindered a former prisoners from a socially-acceptable reintegration into an orderly, law-abiding society. Or, as put by Paterson: 'the state is not justified in putting a man behind a wall and steadily lowering his morale by many years of enforced idleness [...] the State has no right to allow a man to rot.'<sup>9</sup>

### **Recommendation: A New Custodial System for Adolescent Offenders**

The Gladstone report recommendation concerning this discussion regards the setting up of a new kind of custodial facility for juvenile-adults. Until then, the Prison Act 1865 had classified as 'juvenile' a child below the age of 16;<sup>10</sup> above that age, the juvenile was considered an adult and as such subject to a regular prison sentence (aggravated with hard labour or penal servitude). Child-institutions, like

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<sup>4</sup> Later Sir. Evelyn Ruggles-Brise was the 2<sup>nd</sup> Chairman of the Prison Commission from the late 19<sup>th</sup> Century to the beginning of the 1920<sup>th</sup>.

<sup>5</sup> Later Sir. Alexander Paterson was an active Prison Commissioner who took on the borstal project once Ruggles-Brise had retired.

<sup>6</sup> Departmental Committee on Prisons, chaired by Sir Gladstone H. J., *Report (Minutes of Evidence) from the Departmental Committee on Prisons* (London: Parliamentary Papers. House of Commons. Session 1895, Vol. 56, c.7702).

<sup>7</sup> Departmental Committee on Prisons, p.5.

<sup>8</sup> Departmental Committee on Prisons, p.5.

<sup>9</sup> Paterson A., *Paterson on Prisons*, ed. Ruck S.K. (London: Frederick Muller Ltd, 1951), p.107.

<sup>10</sup> "In the prison service a juvenile is a boy under 16 for whom a special treatment is provided by the Prison Act 1865" (Departmental Committee on Reformatory and Industrial Schools, Chaired by Sir Lushington G., *Report to the Secretary of State for the Home department of the Departmental Committee on Reformatory and Industrial Schools* (London: Her Majesty's Stationery Office, 1896, Vol. 1, c.8204), appendix IX, p.249).

industrial and reformatory schools, had been in use already since the second half of the 19<sup>th</sup> century. By 1870 England, Wales and Scotland were recording the presence of 7,000 young people lodging in these institutions. This number had tripled by 1896 and the children could be allocated to various types of schools,<sup>11</sup> all under private and charitable management. Nevertheless, the Gladstone Committee core object of concern had little to do with the children age group. The focus was on those who were, until the late 19<sup>th</sup> and early 20<sup>th</sup> century, classified as adult. This age group, between 16 and 23, 'too old for commitment to reformatory schools, and too young to be classified with the ordinary grown-up criminal' comprised an average of 19,000 committals to custody at the beginning of the 20<sup>th</sup> century.<sup>12</sup>

Interestingly, the adolescent offender issue was not completely new and it appears to have been under constant scrutiny. In fact, the Gladstone report suggestion for the above drew its fundamentals from the experience of the Colony at Stretton, Warwickshire (set up in 1815) and the Farm School at Redhill, Surrey (set up in 1849).<sup>13</sup> Both were concerned with the effects of imprisonment on young people aged 16 to 21. The Stretton Colony had implemented an old Statute which allowed hiring of young people for agricultural work<sup>14</sup> while the Redhill Farm School, had been modelled on the successful French agricultural colony for young offenders in Mettray established in 1839.<sup>15</sup> This issue was further discussed in the International Prison Congress held in Brussels 5 years after the Gladstone inquiry.<sup>16</sup> In particular, the question about the 'adoption' of the American State Reformatory System in Elmira<sup>17</sup> - according to which 16 to 30 aged individuals were classified as juvenile- was extensively addressed by Ruggles-Brise, drawing on his previous visiting experience (in 1897) at this institution: 'I was impressed by all that I saw and learnt [...] The elaborate system of moral, physical, and industrial training of these prisoners, the enthusiasm which dominated the work, the elaborate machinery for supervision of parole, all these things, if stripped of their extravagances, satisfied me that a real, human effort was being made in these States for the rehabilitation of the youthful criminal.'<sup>18</sup> Ruggles-Brise's two main recommendations, which were to become the characterising features of the English version of the American system- adolescents aged 16-21 and longer custodial sentences- emphasised the recognition that first of all, the problem of criminality can be broken down into career-phases; secondly, by targeting the initial stages of this formation with 'long curative detention'<sup>19</sup>, the career will not progress any further: 'The habitual criminals can only be effectually put down in one way, and that is by cutting off the supply.'<sup>20</sup> The idea underlying this belief was that 'up to a certain age every criminal is potentially a good citizen.'<sup>21</sup>

Inevitably, this raises the question whether the 16-21 age group, apart from counting as an initial step in a criminal career, claim unique characteristics which might justify a distinct, specialised treatment. Some data from the 1920s provide valuable information as to the background of the youth offenders entering borstals. The chart below represents data taken from Moseley (sample size: 30)<sup>22</sup> and from Field (sample size: 85).<sup>23</sup> Yet, it can be argued that it hardly provides evidence of a specific line of offender's characteristics (distinguishable from older age groups): while the records present a

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<sup>11</sup> Ibid, p.7.

<sup>12</sup> Ruggles-Brise E., *The English Prison System* (London: Macmillan 1921), p.85.

<sup>13</sup> Fox L.W., *The English Prison and Borstal Systems* (London: Routledge & Kegan, 1952), p.330.

<sup>14</sup> Camp, p.63.

<sup>15</sup> Fox, 1952, p.328.

<sup>16</sup> Ruggles-Brise, 1925, p.95.

<sup>17</sup> This was the time when the world-wide known Elmira Reformatory was first presented to other nations. Yet, the congress attendees were frustrated by the lack of clear evidences as to its reformatory success and how it differed from similar European projects (ibid, p.97).

<sup>18</sup> Ruggles-Brise, 1921, p.91

<sup>19</sup> Question 2 of the Second Section of the Programme of the International Penitentiary Congress to be held in Brussels in 1900, p.14 (The National Archives of the UK (TNA): Public Record Office (PRO) HO 45/10046[A62024]).

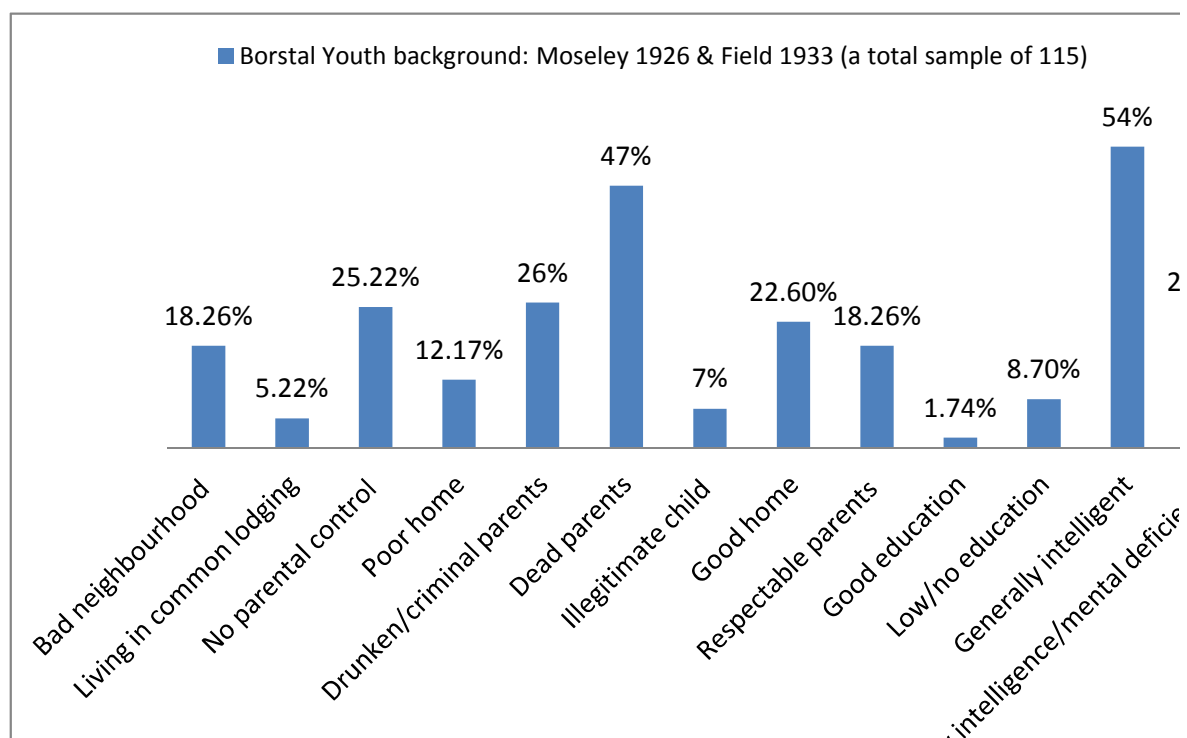
<sup>20</sup> Departmental Committee on Prisons, p.30.

<sup>21</sup> Ibid, p.13.

<sup>22</sup> Moseley S.A, *Truth about Borstal* (London: Cecil Palmer, 1926), pp. 36-39.

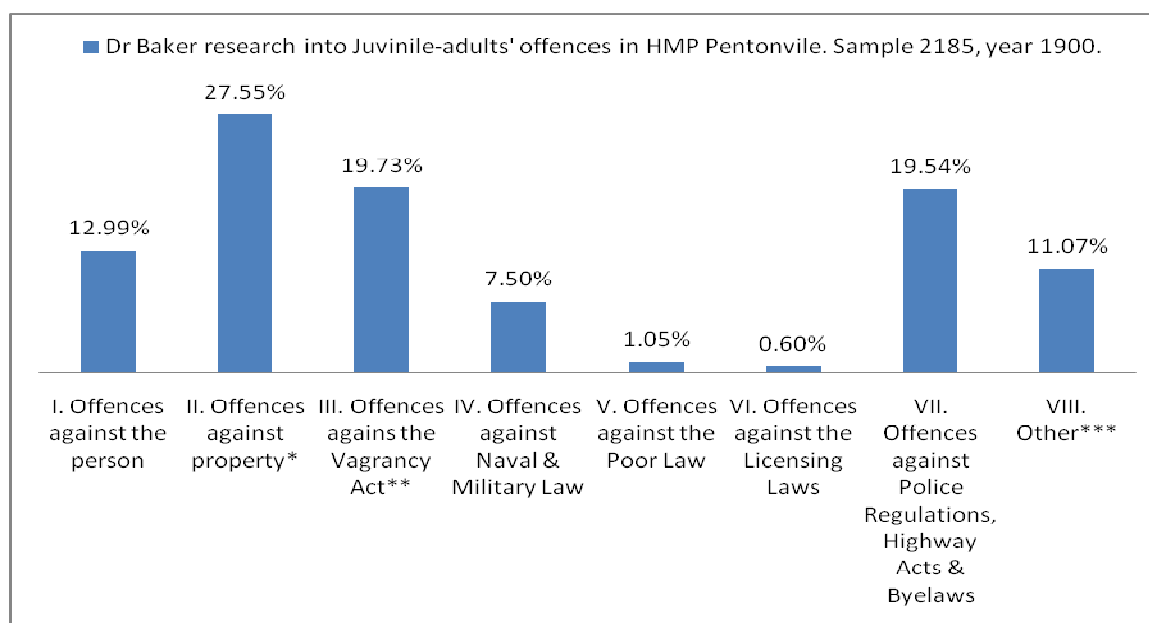
<sup>23</sup> Field H.E, *Re-building Character in Delinquent Youth* (London: Institute of Education, 1933, unpublished PhD), case studies, Appendix II.

moderate percentage of ‘intelligent and mentally fit’ young offenders with reasonable education, good homes and no previous convictions, the data refer also to youth with ‘bad homes’ and with various levels of mental deficiency. As for ‘bad homes’ youths, the records suggest that many of them were not subject to any parental control due to parents being drunk, criminally involved, ill or dead. Indeed, another report (not considered in the chart) provided by Ruggles-Brise of a sample of 1,238 youth, shows an almost 50/50 percent of youth with bad homes and poor education on one hand; and on the other hand, youth with good education and good homes (968 against 887 respectively).<sup>24</sup> Despite that, this mixed data cannot disregard the common recognition that the juvenile-adult offender, like the adult offender, did generally come from a disadvantageous socio-economic background- which could be supported by the overall poor health of the youth as suggested by the medical records in the case studies reported in Field.



As for the nature of the offences committed by the juvenile-adults the records indicate that offences against property like larceny, and offences against the Vagrancy Act, especially gaming and frequenting, were the prevailing offences committed by adolescents.

<sup>24</sup> Ruggles-Brise, 1921, p.86.



\*Property offences committed with violence (burglary and robbery) represent less than 4% of the total offences against property; while larceny represents 80% of this total.

\*\*Under this category, begging represents 16%, sleeping out 2.5%, gaming 33%, found in enclosed premises 11.6%, and frequenting represented 37% of the total vagrancy offences.

\*\*\*The highest percentages within the 'other' category included: drunkenness 62%; malicious damage 19%; and cruelty to animals 8%.

As the chart above shows, Dr Baker's findings<sup>25</sup> indicate that 68% of the youth were being charged for indictable offences (offences categories I to IV). However, almost 70% of the indictable offences were for nonviolent offences like Larceny (offences against property without violence represented 39% of the total number of indictable offences) and offences against the Vagrancy Act (representing 29%). Dr Baker's data is further supported by additional sporadic research. For instance, the untitled research mentioned by Ruggles-Brise<sup>26</sup> of a sample of 1,238 youth shows that 66% were charged with nonviolent property offences; in addition, statistics from the first borstal experiment at HMP Bedford (sample: 10) indicates a majority of property offences, vagabondage, and gambling.<sup>27</sup> Lastly, data provided by Barman<sup>28</sup> on Aylesbury borstal girls shows 90% convictions for stealing, 5% for wandering without any visible means of subsistence, one case of infanticide, 2 cases of attempted suicide and one case of child neglect.

While the above examination little suggests any unique characteristic parenting only to the young offenders, the data may stand as an empirical evident to justify and support the emerging of new understandings on youth criminality. As reported by Gillis,<sup>29</sup> at the end of the 19<sup>th</sup> century a consensus started to gain ground as to what makes the criminal. It was thought that poverty was no longer the major catalyzing trigger for it, but rather it was the effect of the 'social and psychological growth'<sup>30</sup> of an individual. Studies by Lombroso and Freud, for instance, provided evidence that the psychological (and moral) damage affecting the adolescent criminal is still in its initial formation, and

<sup>25</sup> Ruggles-Brise, 1921, p.86. More detailed information on Dr Baker research can be found in Question 2 of the Second Section of the Programme of the International Penitentiary Congress to be held in Brussels in 1900, p.7-10 (TNA: PRO, HO 45/10046[A62024]).

<sup>26</sup> Ruggles-Brise, 1921, p.86.

<sup>27</sup> 29<sup>th</sup> June 1900 (TNA: PRO, HO 45/10046[A62024]).

<sup>28</sup> Barman S., *The English Borstal System* (London: P.S. King and Son LTD, 1934), p.242.

<sup>29</sup> Gillis J.R., *The Evolution of Juvenile Delinquency in England 1890-1914*, Past & Present, no. 67 (May, 1975), pp.96-126.

<sup>30</sup> Ibid, p.97.

thus can be amended in an appropriate environment.<sup>31</sup> The conclusion drawn was that whatever the social and economic circumstances of the adolescent were, it was the lack of an adult figure (see chart 1) able to inspire morals and social solidarity which fostered the adolescent adverse behaviour. Indeed, in 1904 *The Times* reported that it was 'difficult to assign a definite reason for their crimes [...but] evil environment and parental neglect had something to do with their downfall';<sup>32</sup> and as further put by Russell and Rigby: 'we may indeed regard him rather as the victim of a disease due to neglect, for mere idleness is a disease - happily not incurable - resembling a narcotic in its effects on the moral sense'.<sup>33</sup>

For these reasons, it was also considered that the nature of the offences demonstrated lack of completed development from childhood into adulthood: 'it is charitable to conclude that they have not reached an age when ideas as to personal responsibility and duty to society could be regarded as fully developed or mature'.<sup>34</sup> In addition, although nonviolent property offences were also prevalent in the children age group, they could be sentenced to Reformatory schools; while the adolescents were subject to imprisonment with hard labour. The application of such sentence on adolescents became increasingly controversial being commonly agreed that the youth came out of prison as improved criminals: 'Examination of the penal records of the more hardened recidivists [...] would show that a considerable percentage had graduated to a high degree in the school of crime, through a succession of short sentences served in early youth between sixteen and twenty-one'.<sup>35</sup> Therefore, it was believed that it was a social duty to explore better ways for crime prevention.<sup>36</sup>

### The Borstal Sentence

The borstal sentence was only enacted in 1908 by the Prevention of Crime Act but it was preceded by a few experiments at Bedford Prison and in a wing of a convict prison at Borstal (from which the borstal system took its name), in 1900 and 1902 respectively.<sup>37</sup> The Act issue was followed by the opening of a borstal for girls in a wing of the convict prison at Aylesbury in Buckinghamshire.<sup>38</sup> The experiments and, thereafter, the Act, mirroring the social concerns discussed in the previous section, targeted a specific type of offender. The borstal sentence applied only for youth between the ages of 16 to 21 who had been previously convicted, identified with criminal habits or tendencies, and charged with an indictable offence.<sup>39</sup> Hence, the future adolescent reformatory was meant for identified criminals in an initial stage of their career: 'the proposal is to deal systematically with the young ruffian, the hooligan of the London streets, the callous and precocious young criminal on whom the present system of treatment in prison makes no impression, and who graduates through a succession of short local sentences into a fixed career of habitual crime'.<sup>40</sup> In addition to these criteria, although it was at the discretion of the court to sentence to borstal, the judge was required to consider the Prison Commissioners' report as to the 'suitability of the case for treatment in a Borstal Institution, and shall be satisfied that the character, state of health, and mental condition of the offender, and the other circumstances of the case, are such that the offender is likely to profit by such

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<sup>31</sup> Barman, Chapter 2.

<sup>32</sup> *The Times*, December 1<sup>st</sup> 1904, 'The Borstal Scheme' (TNA: PRO, HO 45/10046[A62024]).

<sup>33</sup> Russell C.E.B and Rigby L.M, *The Making of the Criminal* (London: Macmillan and Co., 1906), p. 96.

<sup>34</sup> Dr Baker research quoted in Question 2 of the Second Section of the Programme of the International Penitentiary Congress to be held in Brussels in 1900, p.11 (TNA: PRO, HO 45/10046[A62024]).

<sup>35</sup> Ruggles-Brise, 1925, p.129. From a paper presented by Ruggles-Brise in the Buda-Pesth International Penitentiary Congress 1905.

<sup>36</sup> 'It is the duty of the state at least to try and affect a cure and not to class the offender off-hand and without experiment' (Ruggles-Brise, 1921, p.87).

<sup>37</sup> Fox, 1952, p.332.

<sup>38</sup> Ruggles-Brise, 1921, p.122.

<sup>39</sup> Prevention of Crime Act 1908, c. 59, Part 1, Section 1. In 1914 the powers will be extended also to the Magistrate Court (Criminal Justice Administration Act 1914, c. 58, Part 1, Section 1).

<sup>40</sup> From a communication to the Secretary of State Sir Digby by Ruggles-Brise dated 30 June 1900 (TNA: PRO, HO 45/10046[A62024]).

instruction and discipline as aforesaid'.<sup>41</sup> Finally, in order to enable training and reformation, the borstal sentence was to last for a period of time varying from at least one year to three years at the most.

Before assessing the borstal's penal aim and ideology it is interesting to observe, in the first place, the general attitude and understanding of the borstal sentence by the judiciary. It has to be underlined that the aim of the borstal training strategy as envisaged by Ruggles-Brise and the Prison Commission was not to apply a 'soft' way of punishment. Although the borstal training policy emphasised quality of routine and physical welfare, it still prioritised deterrence<sup>42</sup>: 'In a reformatory, where the purpose is to train up the inmates to new habits of self-reliance and self-control, to good moral behaviour and successful citizenship, a more strict and effective disciplinary regime is necessary'.<sup>43</sup> However, outside the circles of the prison commission it was believed that 'a Borstal institution is not a place of punishment, but a place for reform'.<sup>44</sup> It was wrongly claimed that the borstal was a place of privilege and was assigned as a privileged penalty: 'I cannot understand why a boy who is in a reformatory school because of his past conduct should be sent to a Borstal institution, where he will have a pleasanter time'.<sup>45</sup> In the eyes of the judiciary the borstal sentence had to be applied on 'a deviant youth' who was not necessarily a 'criminal': 'That is the opinion held by all judges and magistrates up to the passing of this recent Act of Parliament, that Borstal was intended for boys who had a clean record up to the present time and have fallen into criminal habits, and who, if not assisted, will certainly become confirmed and desperate criminals'.<sup>46</sup>

Unsurprisingly, disagreements as to the suitability of defendants for Borstal training were not rare. More than once the Prison Commission was challenged by the judiciary: 'recommendations in regard to you [...] say[s] you are not proper subjects to be sent to the Borstal. In my humble judgment that is exactly the place where you ought to go';<sup>47</sup> and in the House of Commons, the question was posed to the Home Secretary Sir Gladstone 'whether his attention has been called to the fact that [...] the chairman at the County of London Sessions expressed the opinion that [3 youth offenders] were prisoners who would greatly benefit by being detained under the Borstal system, but that, owing to the Prison Commissioners having declined to certify them for the same, the chairman, with regret, sentenced each to nine months' imprisonment?'.<sup>48</sup>

Court of Appeal cases demonstrate that many adolescent first offenders were sentenced to borstal training, despite the clear indication that it was a sentence reserved to offenders with a record of more than one conviction. Clearly, the judges saw in the borstal system an opportunity which embraced the old fashioned idea of 'correction'. That is, they believed that the borstal training could 'produce' good citizens out of the stray youth: 'The chief point is that they are taught a trade, and have some chance of becoming better citizens in the future'.<sup>49</sup> The cases of appeal demonstrate that the first offenders were usually of a good character and had a job at the time of committing the offence; nevertheless, the trial judges were tempted by the opportunity of striking the problem of criminality at its core, adopting a more radical view than advised by the Gladstone report and the Prison Commission. For instance, the Borstal sentences imposed on Whiteman (1909),<sup>50</sup> Evemy (1912),<sup>51</sup> Lee (1914)<sup>52</sup> and Eling (1920)<sup>53</sup>, all good-natured first offenders, were considered to be too

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<sup>41</sup> Prevention of Crime Act 1908, c. 59, Part 1, Section 1.

<sup>42</sup> Fox, 1952, p.63.

<sup>43</sup> Ruggles-Brise quoting Mr Brockway, Governor of Elmira State Reformatory, as to the issue of deterrence and discipline in the young offenders institutions in Question 2 of the Second Section of the Programme of the International Penitentiary Congress to be held in Brussels in 1900, p.14 (TNA: PRO, HO 45/10046[A62024]).

<sup>44</sup> Hansard HL vol 198 cc686 (10 Dec 1908) by the Earl of Meath.

<sup>45</sup> Hansard HL vol 198 cc686 (10 Dec 1908) by the Earl of Meath.

<sup>46</sup> The Recorder in the case of Watkins, Smallwood and Jones, quoted by Justice Darling on their appeal (1910, 5 Cr.App.R. 93 at [95]).

<sup>47</sup> Ibid.

<sup>48</sup> Hansard HC vol 7 cc739w (01 July 1909).

<sup>49</sup> Justice Darling in the appeal of Watkins, Smallwood and Jones (1910 5 Cr.App.R. 93 at [95]). This thought was shared also by the Prison Commissioners, but their aim was to target youth classified as 'criminal', hence not first offenders.

<sup>50</sup> Whiteman (1909) 2 Cr. App. R. 10.

<sup>51</sup> Evemy (1912) 7 Cr. App. R. 98.

long and the judge's prospective for a reformatory treatment was not appreciated by the Court of Appeal who revoked and reduced their sentence to either a probation order or a six-month imprisonment. In the cases of Milner and Atkin (1921)<sup>54</sup> and Smee (1928),<sup>55</sup> the Court of Appeal quashed the borstal sentence on the grounds that the prospect for work and the honest and industrious character of the appellants should spare them a long borstal sentence (they were granted a probation order): 'Employment is offered to them as soon as they are set at liberty [...] We are glad to think that this was a temporary lapse.'<sup>56</sup> Also the Borstal sentences imposed on Martin (1924)<sup>57</sup> and Greenwood (1932)<sup>58</sup> were quashed for lack of evidence about any kind of criminal tendencies. It appeared that 'evidence was given that his [Greenwood's] home surroundings were very poor, and this seems to have led the judge to think that borstal detention would be the best thing for him.'<sup>59</sup>

The main problematic raising from the trial judges' zeal to sentence to borstal offenders with no previous conviction or criminal character lay in the aims of the classification system. Ideally, the classification system was set to separate between first time offenders and offenders with previous conviction, thus identified as having a criminal career. In order to avoid contamination, it was envisaged that the first offenders (the Second Division, later known as the Star Class) would be housed in a different part of the prison, away from the habitual criminals (the Third Division, later known as the Ordinary Class); they would be granted greater privileges and their sentence would usually be shorter than the Ordinary class.<sup>60</sup> Indeed, the status offered to the Star Class and the lack of need for reformation, because their mild criminal tendencies, was the justification provided by Ruggles-Brise for sentencing instruction in relation to the borstal system.<sup>61</sup>

It should be stressed that the borstal population was represented by a core of raff criminal youth, and thus, it was undesirable to make first-time offenders to familiarize with these criminal tendencies, unrespectable habits and dishonoured ways of living. This concern was highly visible in the case of Sarah Ellen Hodson, who was convicted for forgery and larceny and was sentenced to three years in borstal at the age of 18. The commotion around the case was triggered by the Prison Commission who disputed the decision on the ground of the evidence proving Sarah's good character: 'Her home reported to be clean and the girl appears to be healthy'.<sup>62</sup> Having no previous convictions and holding a job as a domestic servant, the Commissioners appealed to the Secretary of State requesting the commuting of her sentence; they thought that 'it is most undesirable she should mix with the girls at Aylesbury, where she could only suffer contamination.'<sup>63</sup> Shortly after, the request was granted: Sarah was sentenced instead to 6 months imprisonment.<sup>64</sup> Moseley's impression from the borstals he had visited, in particular Aylesbury, may provide further basis for the above concerns: 'These are stunted girls, derelicts picked out of the gutter and from gilded haunts of vice [...] with expressions that at once denote semi-imbecility and sensuality, homeless, parentless, pitiful dregs of society who have taken the only course open to them- a career of crime.'<sup>65</sup>

<sup>52</sup> Lee (1914) 9 Cr. App. R. 144.

<sup>53</sup> Eling (1920) 14 Cr. App. R. 24.

<sup>54</sup> Milner and Atkin (1921) 15 Cr. App. R. 18.

<sup>55</sup> Smee (1928) 20 Cr. App. R. 192.

<sup>56</sup> The Lord Chief Justice in Milner and Atkin (1921) 15 Cr. App. R. 18

<sup>57</sup> Martin (1924) 17 Cr. App. R. 50.

<sup>58</sup> Greenwood (1932) 23 Cr. App. R. 55.

<sup>59</sup> The Counsel for the appellant in Greenwood (1932) 23 Cr. App. R. 55.

<sup>60</sup> Watson J.A.F., *The Prison System*, in Radzinowicz L. and Turner J.W.C edit. *Penal Reform in England* (London: Macmillan, 1946), p.168.

<sup>61</sup> From a communication by Ruggles-Brise to Sir K.Digby the secretary of state on 30 June 1900 (TNA: PRO, HO 45/10046[A62024]).

<sup>62</sup> Letter by the Prison Commission to the Secretary of State 5 July 1918 (TNA: PRO, HO 144/1497[363968]).

<sup>63</sup> Ibid.

<sup>64</sup> Letter by the Secretary of State to the Honourable Mr Justice Lush, Royal Courts of Justice 24 July 1918 (TNA: PRO, HO 144/1497[363968]).

<sup>65</sup> Moseley, p.95.



### Borstal's Penal Aims

The borstal's theoretical frame is striking in its bold rejection of the emblematic prison control ideology and the inevitable effect that it had on the prisoner's character, typical of institutionalization. Adopting the Gladstone report recommendation that the youth should be 'trained and work in agriculture' and 'tutored by high calibre staff who can exercise the best and healthiest kind of moral influence',<sup>66</sup> Ruggles-Brise set going the first experiments based on the recognition of the positive influence that training may have on the young offenders' character. He foresaw that the new reformatories' task would not be 'to break him [the juvenile] into shape, but to stimulate some power within to regulate conduct aright'.<sup>67</sup> The borstal regime was meant to operate around principles of classification, grades and privileges within a milieu based on positive influence by the staff seen as ideal role models and educators: 'the grades of the staff are the same as those of the prison service [...] Their functions however differ considerably [...] At every point these officers are in close touch with the boys or girls in their charge, slowly getting to know them, studying their individualities, encouraging what is good and controlling what is bad, and always setting an example of firmness, fairness, good humour and upright decency.'<sup>68</sup>

The borstal penal aim is better summarised by Ruggles-Brise's instructions (accompanying the Prevention of Crime Act 1908) to the Governors of the male and female borstals: 'The system aims at an intellectual, physical and moral improvement and development of each inmate'; moreover, 'the key note of the system is, therefore, the *'individualization'* [sic] of the inmate.'<sup>69</sup> In the following sections I will explore the meaning of Ruggles-Brise's 'individualization', and how it was put into practice in the borstal regime; but most importantly, whether it was able to minimize the undesirable effects of institutionalization. The analysis will be drawn upon an unpublished study carried out by Field during the 1930s on the effects of 'Re-building character in delinquent youth'. Field had unrestricted access to at least 5 borstals during the period of 7 months; in addition, he annotated 85 detailed case studies of youth interviewed during this period.<sup>70</sup>

It is worth mentioning that Field conducted his study after the 1922 report which criticized, especially, the borstal system military-like regime.<sup>71</sup> Thus, it can be argued that the 1930s borstals visited by Field made part of the second stage of the borstal development, projecting Alexander Paterson's involvement and a better grounded application of Ruggles-Brise's original aims. Whether Field was particularly sympathetic with the borstal's efforts (a thing which he clearly stated in the introduction), or indeed the borstal's regime had gone through some improvement since the 1920s' criticism- Field concluded on a positive note that 'greatest stress is laid upon bringing the lads up to acceptable standards in regard to work, obedience, trustworthiness [...] and in giving them an opportunity for all round development.'<sup>72</sup> It is essential to make it clear that the idea of individual treatment in custody, during this period, had to do with the resettlement (to use a modern terminology) of the prisoner and not with his punishment. This aspiration is evident in Paterson's penal ideology: 'The simplest way which should satisfy both common sense and idealism is to regard him [criminal] as a fellow citizen who has, for one reason or another, become a liability to the State. The business of those to whose hands the Court has committed him will then be [...] to accept him as raw material spoilt by some wrong process, and refashion him for a world that needs him.'<sup>73</sup>

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<sup>66</sup> Departmental Committee on Prisons, p.30.

<sup>67</sup> From the Borstal book: handbook guidance for Borstal staff, quoted in Fox, L.W., *The Modern English Prison* (London: Routledge & Sons Ltd, 1934), p.182.

<sup>68</sup> Fox, 1952, p.364.

<sup>69</sup> From the memorandum accompanying the Prevention of Crime Act 1908 (Ruggles-Brise, 1921, pp. 244, 256).

<sup>70</sup> Field H.E, *Re-building Character in Delinquent Youth* (London: Institute of Education, 1933, unpublished PhD).

<sup>71</sup> Labour Research Department, pp.410-439.

<sup>72</sup> Field, p.216.

<sup>73</sup> Paterson, p.46.

### Individualization: the Personal Factor

It was clearly stated by Rugglese-Brise that 'The object of the system [borstal] was to arrest or check the evil habit by the *'individualization'* [sic] of the prisoner, mentally, morally, and physically.'<sup>74</sup> This raises the question as to what it was meant by 'individualization'. Field observed that, drawing upon the borstals' experience, individualization of treatment can be achieved by addressing the different and personal needs of a person, while keeping a positive connection with the system.<sup>75</sup> The "system" is what binds the individuals to a 'set of principles, rules, and methods, by which necessary arrangements for maintenance, training, and safeguard, are effected [...] in order to preserve a reasonable consistency, continuity, and balance in administration'.<sup>76</sup> The system is not antagonist to individualization; yet, it might destroy it when it becomes 'mechanically uniform'.<sup>77</sup> Indeed, this was what the borstal was set to avoid.

The borstal 'individualization' was in practice a system within a system. It featured at least three core elements which were supposed to complement each other in order to reach the desired individualized treatment: classification, case records and a progressive stage system.

*Classification:* Here, the variable of age, sex, degree of criminality and penal procedure (convicted or on remand) had little relevance to the issue of classification in relation to the borstal, as all (or at least most) the offenders were typically re-offenders below the age of 21, and found guilty by the court; girls were sent only to Aylesbury borstal. Rather, the aspect of classification was mainly concerned with suitability of training. The 'training' embraced a variety of activities from physical training to a range of educational repertoire; it also included, at a later stage, the designation of an appropriate vocational training. This 'training' was intended to group the youth according to their physical and mental skills in order to maximize the effect of treatment. For instance, Portland borstal was planned for youth who had had an institutional experience (Army, industrial school or prison), thus their training was particularly strict in relation to the maintenance of discipline; Feltham borstal accommodated the less physically and mentally fit youth who were identified as unable to pursue a demanding training programme as in Rochester for example.<sup>78</sup>

*Case records:* Drawing upon Foucault's discussion on training,<sup>79</sup> it appears that the process of closely observing the detainee might have allowed a more individual-oriented correctional process.<sup>80</sup> In other words, the knowledge accumulated from constant recorded individual-observation allowed greater levels of 'control' and 'domination' over the correction of the individual.<sup>81</sup> The detainee was the object of an assessment of her/his individuality; however, it is arguable whether she/he was subject to a likewise individualized treatment. The information gathered was used to create knowledge of practice in relation to an identifiable group (rather than of a single detainee) whose members had similar individual characteristics (character, type of offence, socio-economic status, sex, age, health).<sup>82</sup> The 'examination', as discussed by Foucault, fostered the management of a group erroneously classified as homogeneous. Indeed, this was evident in the policy implemented by the first Prison Commissioners in 1877 who introduced a uniformed treatment-administration across the prison system: 'The effect of the Prison Commissioners was to engender administrative efficiency, but to take no account of prisoners as individuals. Individuality was stifled and brutalising began.'<sup>83</sup>

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<sup>74</sup> Ruggles-Brise, 1921, p.93.

<sup>75</sup> Field, p.55.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid, p.56.

<sup>78</sup> Field, p.108.

<sup>79</sup> Foucault M., *Discipline and punish* (London: Penguin, 1991. First published 1977), The means of correct training, part 3, chapter 2, pp.170-195.

<sup>80</sup> Ibid, p.189.

<sup>81</sup> Ibid, p.191.

<sup>82</sup> Ibid, p.190.

<sup>83</sup> Camp, p.43.

Interestingly, a hallmark of the borstal system was a meticulous documentation of the youth's behaviour, character, progress or regression in their training achievements.<sup>84</sup> However, unlike Foucault's 'examination', the borstal system of documentation facilitated 'the arrangements and methods by which the distinctive personal needs of each subject are ascertained and satisfied, and by which adaptation is effected between the individual and the given system.'<sup>85</sup> Indeed, the knowledge acquired on each individual was used to facilitate her/his own personal training process. The borstal system of documentation was essential in promoting better levels of freedom for the youth, higher degrees of trust with resulting greater benefits. In particular, this was done through regular interviews, 'those doing well encouraged; those doing badly cautioned, and made clearly understand that they will not be allowed the privilege of the higher grades until the institution board is completely satisfied that they are doing their best in every way to profit by the opportunities afforded.'<sup>86</sup> In other words, case records were of paramount importance in the progressive stages; inevitably, a youth had to be periodically assessed in order to allow her/his promotion (or regression) in a system which envisaged less supervision and more prisoner's empowerment.

*The progressive stage system:* This component, constituting an aspect of individualization, has as its final aim promotion of the deserving youth to positions of leadership and unsupervised freedom. This final target, fundamental borstal ideology, consisted in preparing the youth for useful and law abiding life once released, providing opportunities of empowerment, trust and self-growth. Its initial stages may, however, coincide with the undesired process of institutionalization. Drawing upon Goffman's and Foucault's discussions on 'total'<sup>87</sup> or 'complete'<sup>88</sup> institutions, the process of institutionalization materialises the desire to 'correct' the detainee into a 'shape' which conforms to an idea of what is acceptable by the law abiding society (or at least by a representative group of this society). Yet, in order to do so, the total institution has to 'break[s] it down [the detainee] and rearrange[s] it'.<sup>89</sup> In other words, the total institution characteristics and environment will not only bring about an 'un-training'<sup>90</sup> from known social skills but also, it will have an adverse effect on the personality of the detainee or, as put by Goffman, it will bring to the 'mortification of the self'<sup>91</sup>: 'after a long term of imprisonment, passive obedience and dependence upon authority have become habitual, and the prisoner finds himself, when he at last faces the tasks of normal life, without decision, without initiative, and lacking in self-control'.<sup>92</sup> In effect, it can be said that the aim put forward is to create a 'clean sheet' which, through 'normalizing discipline',<sup>93</sup> will be able to absorb and conform to the institution's standards of behaviour, hence completing the process of 'reformation'.

Indeed, it can be argued that the borstal's initial grades, in the process of promotion, featured what Goffman and Foucault described as the 'mortification of the self' and 'normalizing discipline'. In effect, the individualized 'training' discussed earlier was a feature of advanced grades within this process of promotion. Rather, the beginners were subject to a dull regime of activities, mainly cleaning and physical training, in addition to higher degrees of discipline and punishment, restraint and very limited, if at all, freedom of movement. One of Field's case studies may illustrate the initial process of institutionalization as described above

During the first few months the lad appeared to be almost a-moral, and lacking in sense of responsibility regarding the future. In response to one year of training he has slowly become orderly and steady at work. Desire to earn remission and dislike of punishment has served as

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<sup>84</sup> Field, p.154.

<sup>85</sup> Ibid, p.55.

<sup>86</sup> Ruggles-Brise, 1921, p.256.

<sup>87</sup> Goffman E., *Asylums* (Great Britain: Pelican Books, 1976. First published 1961).

<sup>88</sup> Foucault, chapter 231.

<sup>89</sup> Foucault, p.138.

<sup>90</sup> Goffman, p.23.

<sup>91</sup> Goffman, p.24.

<sup>92</sup> Labour Research Department, p. 573.

<sup>93</sup> Foucault, part III.

incentive to control some of his irresponsible ways. Under constant supervision he is a cleaner and more orderly in habits.<sup>94</sup>

Undubiously, the above described picture may puzzle the reader when confronted with well known statements like 'if the institution is to train lads for freedom, it cannot train them in an atmosphere of captivity and repression' by Paterson,<sup>95</sup> or '[...] is to regard him [the lad] as a living organism, having its secret of life and motive-power within' by the official handbook on borstals.<sup>96</sup> This raises the question whether the borstal system itself was promoting a feature- institutionalization- that the borstal penal ideology aimed at avoiding. Indeed, although the borstal advocates rejected the physical control and its impact on a prisoner's personality, they recognized that the borstal training had to be 'compatible with compulsory detention'.<sup>97</sup> It is essential to remember that the borstal was in every way a custodial centre sheltering individuals who had experienced the hardships of a troubled life and showing little or no social and moral concerns. Whether the system promoted institutionalization so as to guarantee a better reception of (individualized) treatment in the future; or whether the system only 'shook' the individual rather than 'shaped' her/him, is something that might need further discussion. However, it can be argued that Goffman's 'mortification of the self' was less dramatically developed in borstal than in prison. Indeed, the borstal featured a greater emphasis on the quality of physical welfare, which operated around the idea of life-couching support: 'It becomes necessary to study the individual lad, to discover his trend and his possibilities, and to inflict him with some idea of life which will germinate and produce a character, controlling desire and shaping conduct to some more glorious and than mere satisfaction or acquisition.'<sup>98</sup>

## Conclusion

The object of this paper was to explore the borstal penal ideology as set by its pioneer, Ruggles-Brise. Of particular interest was the question whether by its vanguard view in relation to treatment, the borstal regime was able to 'produce' less institutionalized individuals (as opposed to prison), able to re-integrate and positively contribute to the law abiding social life. Possibly, up to the appointment of Alexander Paterson as a prison commissioner the few borstal experiments might have shown some flaws in their operation. Yet, this has not been discussed here; rather, the focus of attention is drawn upon the later years of the borstal life (1930s), where the borstal system operation finally did justice to the borstal penal ideology.

At this point, a few concluding questions need to be addressed. First, was the borstal system able to 'release' law abiding, socially and morally responsible youth capable to conduct a crime-free life? This is a controversial question in penal policy. The measurement of success mainly relies upon statistics. Although statistics is a valuable indicator to provide a general understanding, its accuracy may depend on variables that change in time, place and may differ according to political and penal aims. However, out of curiosity, some available statistics indicates that from the total number of male youth discharged in 1938, almost 60% did not reconvict;<sup>99</sup> while for 1941 the rate stood on less than 51%, it raised again to almost 60% in 1945.<sup>100</sup> As for girls, out of the total number discharged from Aylesbury in 1941, 45% did not reconvict; the record raised to 57% in 1943, and to 67% in 1945.<sup>101</sup>

The second question to address is to what extent the borstal was able to minimize the institutionalizing effect typical of an institution? Alexander Paterson suggested that 'we are all in prison. One way or another, the liberty of each of us is curtailed. With many the imprisonment is self-

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<sup>94</sup> Field, Appendix II, case study A11, p.237.

<sup>95</sup> Paterson, p.96.

<sup>96</sup> The Principles of the Borstal System, Prison Commission, Home Office, 1932, quoted Fry Margery, The Borstal System, in *Penal Reform in England*, ed. Radzinowicz and Turner (London: Macmillan and Co., 2<sup>nd</sup> edition, 1946), p.157.

<sup>97</sup> Fox, 1952, pp355-7.

<sup>98</sup> Paterson, p.97.

<sup>99</sup> Fox, 1952, p.399.

<sup>100</sup> *Report on the Commissioners of Prisons and Directors of Convict Prisons for the year 1947*, Home Office (London, 1948), p.59.

<sup>101</sup> *Ibid*, p.61.

imposed and the victim is unconscious of the walls he has built around his life.<sup>102</sup> It can be argued that the criminal youth has been institutionalized into a life of crime; thus it was an inevitable and necessary measurement to 'shake' him/her out of it. There is no doubt that the initial stages of the borstal progressive grade system involved high levels of discipline and punishment which fostered adaptation to a certain standard of social and moral expectation, by which the youth would be 'discultured', as discussed by Goffman,<sup>103</sup> from their basic skills and values (the institutionalizing process). Of course, this aim was not explicitly stated; rather a more pedagogic justification for this disciplinary oriented regime was provided by the accompanying instructions to the Prevention of Crime Act: 'during this period [the first 3 months] he [and she] will be carefully observed by the whole staff as to his character, mentality, and fitness for a special grade' than he will be 'placed in a trade suitable to his individual taste and capacity'.<sup>104</sup>

Indeed, the borstal novelty in youth treatment is to a greater degree apparent on the higher levels of the progressive stage system. One of the major concerns of institutionalization is that upon release the prisoner will have to face the inverse process of acculturation; in other words, he/she 'may find that release means moving from the top of a small world to the bottom of a large one'.<sup>105</sup> This is what the borstal treatment aimed at avoiding. That is, the youth were exposed to the process of acculturation or adaptation to a free law abiding social life, while still in custody. One of Paterson's major concerns was that 'If they are forever forced by weight of numbers to do right, their faculty to choose will atrophy, and on discharge they will wait from prompting from without because there is no voice from within'.<sup>106</sup> His vision that the youth should not be trained in an 'atmosphere of captivity and repression'<sup>107</sup> came into being in an agenda allowing for accommodation arrangements, little supervision at work, greater freedom of movement, field trips and town visits.

The borstal project was 'a simple system of firm and exact discipline tempered by an ascending scale of rewards and privileges which depend upon industry, conduct, and special merit'.<sup>108</sup> Its core aim was to arrest progress of criminal tendencies by exposing the youth to values and skills which may have stimulated a responsible and thoughtful way of living. The borstal penal policy recognized that the youth would not be detained for ever; thus, great effort was put in cultivating a healthy and positive relationship between the youth and the outside world. In other words, the borstal's training had as its core object the social rehabilitation of the youth; by doing so it guaranteed the safety of society not only while in detention but also when it was time to re-join it.

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<sup>102</sup> Paterson, p.21.

<sup>103</sup> Goffman, p.23.

<sup>104</sup> The accompanying instructions to the Prevention of Crime Act 1908 (Ruggles-Brise, 1921, p.249).

<sup>105</sup> Goffman, p.71.

<sup>106</sup> Paterson, p.96.

<sup>107</sup> Paterson, p.96.

<sup>108</sup> Ruggles-Brise, 1921, p.98.

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