“Nipping Crime in the Bud”:

Local Magistracy and the Criminalisation of Juveniles in Staffordshire and Shropshire c.1810-c1860.

By

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Abstract

This thesis examines the criminalisation of juveniles in two neighbouring English counties – Staffordshire and Shropshire – between circa 1810 and 1860. It builds on the investigations of Peter King and Heather Shore to offer a new understanding of how juvenile behaviour and childhood were redefined in the nineteenth century and how toleration of once minor acts of misbehaviour diminished when fears surrounding idle youths intensified as society was transformed by urbanisation and industrialisation. It reappraises explanations behind the seemingly growing numbers of committals found in each county and the role of magistrates in creating this result, their self-awareness of their role and their efforts to find alternative penal regimes more suitable for a subsection of vulnerable criminals. Underutilised newspaper records of impassioned Quarter Session debates are used to illuminate the often-dry reporting of official committee records and to reveal the motivations and different opinions held by men who are often erroneously portrayed in previous histories as a homogenous entity shaped by desires of control and paternalism. Combining cross-referenced official court documents, census records, and colonial transportation logs allows a closer picture of the juveniles themselves to be uncovered – including their experiences in Tasmania – and fleshes out the criminal biographies of individuals that are otherwise obscured in official court documentation or anonymously represented in statistics in classical historical approaches. This thesis offers quantitative research alongside new perspectives with which to measure the rhetoric of the magistrates in charge of juvenile justice. Utilising micro-historical methods of record linkage provides a deep picture of individual juvenile criminals and allows their criminal associations to be reconstructed. It critiques the accuracy of the ruling magistrates' assumptions about juvenile criminals and assesses the reasons behind decisions to alter the course of juvenile punishment in mid-Victorian England. The actions of the most impassioned magistrates exacerbated the numbers of juveniles committed to gaols and, as local justice was largely overseen by these men, it is only through local investigation that the move towards reform and reclamation in the mid-century can be fully understood. This thesis analyses the mechanisms behind juvenile criminalisation during the nineteenth century and the role of the local magistracy through a multi-perspective analysis that combines both traditional and novel methods of historical study.

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Table of contents

Abstract……i

Acknowledgments……ii

Table of contents……iii

List of images, tables, and graphs……iv

List of abbreviations……viii

Maps of principal towns in Shropshire and Staffordshire in the nineteenth century……ix

Location of Staffordshire and Shropshire within England……x

Timeline of key events and appointments of select magistrates and MPs……xi

Chapter 1 – Introduction……1

Chapter 2 – Staffordshire and Shropshire (c.1810-c.1860)……44

Chapter 3 – Staffordshire and Shropshire juveniles before the County Sessions 1814-1835……72

Chapter 4 – Summary justice and juvenile crime ……112

Chapter 5 – The incarceration of juveniles c.1810-c.1855……140

Chapter 6 – Transportation and individual experiences c.1814-1853……174

Chapter 7 – Reformation and prevention c.1840-c.1860……205

Chapter 8 – Conclusion……235

Bibliography……248

Appendix 1 – Key legislation……266

List of images.

Fig. i. Principal towns Shropshire in the 19th Century……ix

Fig.ii. Principal towns Staffordshire in the 19th Century……ix

Fig.iii. Location of Staffordshire and Shropshire within England……x

Fig. 5.1. Early nineteenth-century block plans of Shropshire Gaol (left) and Staffordshire Gaol (right) c.1826……150

Fig. 5.2.1. Shrewsbury Gaol c. 1796……150

Fig. 5.2.2. Stafford Gaol c.1869……150

List of tables and graphs.

Fig. 2.1. Growth in population for selected counties for 1801 and 1851……46

Fig. 2.2. Percentage of population of selected counties in the countryside vs towns and in agriculture vs trade/manufacturing 1844……46

Fig. 2.3. Population number by age groups Staffordshire and Shropshire 1851……48

Fig. 3.1. Staffordshire age groups as a percentage of overall indictments for theft at the Quarter Sessions 1814-1835……79

Fig. 3.2. Shropshire age groups as a percentage of overall indictments for theft at the Quarter Sessions 1814-1835……79

Fig. 3.3. Staffordshire age groups as a percentage of overall indictments for theft at the Assizes 1814-1835……81

Fig. 3.4. Shropshire age groups as a percentage of overall indictments for theft at the Assizes 1814-1835……81

Fig. 3.5. Staffordshire sentencing by percentage for male theft indictments at the Quarter Sessions 1814-1835……84

Fig. 3.6. Staffordshire sentencing by percentage for female theft indictments at the Quarter Sessions 1814-1835……84

Fig. 3.7. Shropshire sentencing by percentage for male theft indictments at the Quarter Sessions 1814-1835……85

Fig. 3.8. Shropshire sentencing by percentage for female theft indictments at the Quarter Sessions 1814-1835……85

Fig. 3.9. Length of prison sentence for males by age at Staffordshire Quarter Sessions 1814-1835….86

Fig. 3.10. Length of prison sentence for females by age at Staffordshire Quarter Sessions 1814-1835……87

Fig. 3.11. Length of prison sentence for males by age at Shropshire Quarter Sessions 1814-1835……87

Fig. 3.12. Length of prison sentence for females by age at Shropshire Quarter Sessions 1814-1835 ……88

Fig. 3.13. Staffordshire sentencing by percentage for male theft indictments at the Assizes 1814-1835……90

Fig. 3.14. Staffordshire sentencing by percentage for female theft indictments at the Assizes 1814-1835……91

Fig. 3.15. Shropshire sentencing by percentage for male theft indictments at the Assizes 1814-1835……91

Fig. 3.16. Shropshire sentencing by percentage for female theft indictments at the Assizes 1814-1835……92

Fig. 3.17. Length of prison sentence for males by age at the Staffordshire Assizes 1814-1835……..95

Fig. 3.18. Length of prison sentence for females by age at the Staffordshire Assizes 1814-1835 ……95

Fig. 3.19. Length of prison sentence for males by age at the Shropshire Assizes 1814-1835……96

Fig. 3.20. Length of prison sentence for females by age at the Shropshire Assizes 1814-1835……96

Fig. 3.21. Items stolen by type listed in the Staffordshire Quarter Sessions 1814-1835……..98

Fig. 3.22. Items stolen by type listed in the Staffordshire Assizes 1814-1835……98

Fig. 3.23. Items stolen by type listed in the Shropshire Quarter Sessions 1814-1835……..99

Fig. 3.24. Items stolen by type listed in the Shropshire Assizes 1814-1835……99

Fig. 3.25. Rural Staffordshire vs Stoke and Wolverhampton juvenile (≤19 years old) committals at the County Quarter Sessions 1814-35……..102

Fig. 3.26. Rural Shropshire vs Shrewsbury juvenile (≤19 years old) committals at the County Quarter Sessions 1814-35……102

Fig. 3.27. Percentage of items stolen by type listed in the Shropshire Quarter Sessions comparing rural parishes with Shrewsbury 1814-1835……105

Fig. 3.28. Percentage of items stolen by type listed in the Staffordshire Quarter Sessions comparing rural parishes with Wolverhampton and Stoke 1814-1835……105

Fig. 4.1. Total indictments plotted against summary committals for juveniles aged under 17 years and those committed under the JOA in Staffordshire 1838-1854……124

Fig. 4.2. Total indictments plotted against summary committals for juveniles aged under 17 years and those committed under the JOA in Shropshire 1838-1854……125

Fig. 4.3. Total indictments plotted against summary committals for juveniles aged under 17 years and those committed under the JOA in England and Wales 1838-1854……126

Fig. 4.4. Selected summary committals for juveniles in Staffordshire 1838-54……128

Fig. 4.5. Selected summary committals for juveniles in Shropshire 1838-54……129

Fig. 4.6. Proportional contribution by age groupings for summary committals of juveniles in Shropshire and Staffordshire 1838-1854……131

Fig. 4.7. JOA 1847, Staffordshire, biennial sample 1848-1858 showing distribution of types of items stolen ……133

Fig. 4.8. JOA 1847, Staffordshire, biennial sample 1848-1858, percentage of sentence lengths handed down by gender ……138

Fig. 5.3. Three-year moving average of the percentage of prison population under the age of 17 (1826-1839) and under 16 (1840-1847) in Staffordshire and Shropshire during the yearly Michaelmas prison census ……162

Fig. 5.4. New male committals, grouped by age, to Shrewsbury Gaol as recorded quarterly by the Gaol Chaplain. Sept 1841 - June 1843……164

Fig. 5.5. New female committals, grouped by age, to Shrewsbury Gaol as recorded quarterly by the Gaol Chaplain. Sept 1841 - June 1843……164

Fig. 5.6. Percentage of juvenile (16 and under) committals receiving solitary confinement punishment in Staffordshire 1838-1854……168

Fig. 5.7. Percentage of juvenile (16 and under) committals receiving solitary confinement punishment in Shropshire 1838-1854……168

Fig. 6.1. Shropshire 1814-1835 - Triennial sample of Quarter Sessions and Assizes showing age and gender of those receiving transportation sentences for larceny……179

Fig. 6.2. Staffordshire 1814-1835 - Triennial sample of Quarter Sessions and Assizes showing age and gender of those receiving transportation sentences for larceny……180

Fig. 6.3. Triennial Sample of Quarter Sessions and Assizes in Staffordshire and Shropshire 1814-1835 showing numbers of juveniles (sixteen years of age and under) sentenced to be transported……181

Fig. 6.4 From: PP Inspectors of Prisons of Great Britain I. Home District. Staffordshire and Shropshire 1839-1854 showing numbers of juveniles (sixteen years of age and under) sentenced to be transported……182

Fig. 6.5. Proportion of punishments received for biennial sample of transportees aged ≤16 from Staffordshire and Shropshire 1840-1850……202

Fig. 7.1. Fate of Shropshire juvenile boys sent to reformatories 1840-1856……211

Fig. 7.2. Progress of the Staffordshire intake to Saltley Reformatory 1858……219

List of abbreviations

JOA: Juvenile Offenders Act.

MTA: Malicious Trespass Act.

PP: Parliamentary Papers.

SHRO: Shropshire Record Office.

SSTA: Staffordshire and Stoke on Trent Archives.

TNA: The National Archives.

TRO: Tasmanian Record Office.

Maps of principal towns in Shropshire and Staffordshire in the nineteenth century[1]

Figure i. Principal towns Shropshire in the 19th Century.

Figure ii. Principal towns Staffordshire in the 19th Century.

[1] Various boundary changes have occurred from the nineteenth century to Staffordshire; including Harborne transferring to Warwickshire County in 1891; Handsworth ceded to Warwickshire 1911; The largest change being due to The Local Government Act 1972, in which Dudley, Wolverhampton, Walsall and West Bromwich became part of the West Midlands County. Halesowen, though detached from the rest of Shropshire County remained part of its administration until 1844. Map of Shropshire created from image taken from https://en.wikipedia.org/wiki/Shropshire#/media/File:ShropshireCountyMap2009.jpg, accessed 3/7/23; Staffordshire map created from image taken from https://www.british-history.ac.uk/sites/default/files/publications/pubid-102/images/fig45.gif, accessed 3/7/23.

Location of Staffordshire and Shropshire within England[2]

Figure iii. Location of Staffordshire and Shropshire within England.

[2] Map of English counties created from https://en.wikipedia.org/wiki/Historic_counties_of_England#/media/File:Gray1824.englandwales.jpg, accessed 3/7/23.

Timeline of key events and appointments of select magistrates and MPs

1787 Transportation to Australia begins.

1793 Stafford Gaol built.

1793 Shropshire Gaol built.

1820 William Wolryche Whitmore becomes MP for Bridgnorth.

1826 Robert Aglionby Slaney becomes MP for Shrewsbury.

1832 William Wolryche Whitmore becomes MP for Wolverhampton.

1832 Major William Fawkener Chetwynd becomes MP for Stafford.

1833 Sir Baldwin Leighton appointed as magistrate for Shropshire.

1834 Port Puer juvenile prison, Tasmania, established.

1836 Bridgnorth Union Workhouse School founded.

1838 Parkhurst prison for young male offenders opened.

1839 French exemplar of reformatory school in Mettray opens.

1839 Thomas Bailey Rose appointed Stipendiary Magistrate for The Potteries.

1841 Charles Adderley becomes MP for North Staffordshire

1846 Justice John Leigh appointed Stipendiary Magistrate for Wolverhampton.

1847 Passing of Juvenile Offenders Act.[3]

1848 Wolverhampton Ragged School opens.

1849 South East Shropshire District School formed.

1849 Port Puer juvenile Prison, Tasmania, closes.

1852 John Bather qualifies for office of Shropshire magistrate.

1853 Saltley Reformatory in Warwickshire opens.

1853 Transportation to Tasmania ends.

1854 Passing of Reformatory Schools Act.

1855 Sir Baldwin Leighton becomes Chairman of the Shropshire Quarter Sessions.

1859 Sir Baldwin Leighton becomes MP for South Shropshire.

1859 Lord Lichfield becomes Chairman of the Staffordshire Quarter Sessions

1859 Staffordshire Wing at Saltley Reformatory completed.

[3] Full details on legislation in Appendix 1.

1860 Justice John Leigh leaves position as Stipendiary Magistrate for Wolverhampton.

1864 Thomas Bailey Rose retires as Stipendiary Magistrate for The Potteries.

1868 Staffordshire County Industrial School built.

1868 Last convict ship arrives in Western Australia marking the end of transportation to Australia.

1869 Walsall and West Bromwich District School established.

Chapter 1 – Introduction

This thesis examines the criminalisation of juveniles in the early nineteenth century through the actions of those in charge of administrative justice at the county level, and the transformation from a punitive to a reformative penal ideology in two counties, Staffordshire and Shropshire, between circa 1810 and 1860. It explores the rhetoric of reform espoused by progressive county magistrates through a reconstruction of the criminal lives of juveniles caught within this change and reveals that efforts to regulate and alleviate the problems of 'juvenile delinquency' had potential to further criminalise those whom reform was intended to help. Local ruling elites struggled to understand a perceived escalation in juvenile committals whilst they sought alternatives to traditional juvenile justice. Staffordshire and Shropshire were neighbouring counties but they faced different economic and social pressures. Shropshire was more rural whilst Staffordshire witnessed rapid population growth and urbanisation, circumstances which influenced the differences in committals seen between the two counties. Both counties also played their part in colouring the national debate about juvenile crime by experimenting and participating in novel solutions to the perceived crisis. By contrasting the discrepancies in levels of juvenile crime and differences in the responses in both counties the thesis shows that local conditions and local personalities played an important part in driving the direction taken by juvenile justice in these settings during the nationwide process of change that encouraged rehabilitation over punishment by mid-century.

Previous studies of the 'juvenile criminal' have substantially focused on the metropolis, as in Heather Shore's thesis: *The Social History of Juvenile Crime in Middlesex, 1790-1850*. By concentrating on Staffordshire and Shropshire, where rural crime was a major factor as well as urban lawbreaking, a more balanced picture emerges. The experience through the judicial system of the juveniles themselves and the county-level response to the problem is explored, critiqued, and contrasted. The aim of this chapter is to identify the key historiographical works and to demonstrate how they have shaped the argument and analysis in this thesis. The juvenile criminal is set within a re-conceptualisation of childhood during the nineteenth century and juvenile criminality is placed within its historical context to examine the reality of a perceived rise in juvenile delinquency. The methods and sources employed in this study are analysed and an overview of the thesis chapters and themes is set at the conclusion of this section.

1.1 Childhood in the nineteenth century

The landed and political elite influenced the type of behaviour most suitable for the young.[1] Changes in attitudes at this level filtered down to create a cultural construct for the conduct of the lower orders and often led to the criminalisation of previously accepted modes of living. By the 1850s many opinion makers in Victorian society argued that something had to be done to 'stem the tide of juvenile depravity'.[2] In Staffordshire, juvenile delinquency was a 'painful subject of inquiry' whose prevention could offer 'considerable savings' to county expenditure.[3] The Shropshire magistracy wondered about the 'absence of salutary discipline and restraint' amongst children responsible for the 'large amounts of juvenile crime' reported in the county.[4] The role played by authorities in defining deviant acts was crucial. Classification of abhorrent behaviour was open to continual renegotiation based on the societal fears of those who defined it and was a significant influence on recorded levels of criminality.[5] As Kai Erikson notes, deviance is not intrinsic to certain forms of behaviour but is attached to them by a controlling audience that identifies them as such.[6] An example of this cultural change was expressed in the 1836 report to Parliament by the Home District Prison Inspectors William Crawford and Whitworth Russell: 'The youth who would a few years back on detection have been summarily chastised, is sent to gaol and arraigned before a criminal tribunal.'[7] Rising levels of recorded crime are more indicative of the levels of toleration for acts of wrongdoing amongst those who made and enforced laws, rather than a necessary increase in general lawlessness amongst society.[8] Psychoanalyst Anna Freud notes that in modern contexts children feel the need to separate themselves emotionally from their parents and seek belonging amongst their friends during the process of transition from child to adult.[9] What is then interpreted as misbehaviour is actually a breakaway by youths from the values of their elders or a challenge to

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[1] Alongside the middling classes that were gaining increasing power and influence in this century.

[2] *Report of the Proceedings of a Conference on the Subject of Preventive and Reformatory Schools, held at Birmingham, on the 9th and 10th December 1851,* Birmingham 1851, p. iii.

[3] From the Minutes of the County Rate Reduction Committee for Staffordshire, *Wolverhampton Chronicle and Staffordshire Advertiser,* Wednesday 05 April 1837.

[4] *Shrewsbury Chronicle,* Friday 31 March 1854.

[5] Douglas Hay has argued that it was the 'landowners, entrepreneurs, magistrates, and judges who were in fact deviant' in their values compared to the majority of the population they ruled over. The legal definitions of crime as prescribed by these ruling classes did not necessarily represent the expected norms of behaviour held by the average populace of the country and was often an imposition upon, and dismantling of, traditional and popular custom. D. Hay. 'Crime and Justice in Eighteenth- and Nineteenth-Century England', *Crime and Justice, Vol.2,* 1980 p.47.

[6] K.T. Erikson, 'Notes on the Sociology of Deviance', *Social Problems, Vol.9, No.4,* 1962, p.308.

[7] *Parliamentary Papers, First Report of the Inspectors of Prisons of Great Britain I. Home District.*, London 1836, p.82. (Hereafter, *Parliamentary Papers* is abbreviated to PP).

[8] M. May, *A Child's Punishment for a Child's Crime: The Reformatory and Industrial School Movement in Britain c. 1780-1880*, PhD thesis, University of London, 1981, p.8.

[9] A. Freud, 'Adolescence', *The Psychoanalytic Study of the Child, Vol.13, No.1,* 1958. Emergent fears of juvenile gang culture in the early nineteenth century are followed up in Chapter 6 of this thesis.

the obligations or boundaries of their community.[10] In the changing social conditions of the early nineteenth century these negotiated norms of behaviour were strained and any deviance from them was perceived as a threat by those who benefited from and maintained traditional elite social values. To those who felt threatened by the changing social relations caused by industrialisation and urbanisation, a growth in committals by almost a third between 1834 and 1841 for those aged under seventeen must have indicated a threat to the status quo.[11] Without a sophisticated comprehension of the nature of criminality or a critical framework to evaluate the evidence and its implications, the middling and higher classes absorbed increasing statistical evidence for juvenile crime and sought answers.

Understanding the fears of nineteenth-century commentators requires insight into how they perceived childhood. Such a framework helps to clarify why the ruling classes attached so much importance to this phase of life and how their concerns changed by mid-century. The reinterpretation and definition of what composes this earliest period of human existence has not been fixed from one period to another: as Harry Hendrick argues, childhood is a social construction.[12] Social understandings of age-appropriate behaviour and identity for any period of life – childhood through to old age – are produced through a web of cultural expectations.[13] In the case of childhood, these ideals are rarely influenced by the children themselves – instead they are shaped by adults.[14] In any given period, views of childhood have been motivated by social, economic, religious and political influences that can produce contradictory coexisting perceptions.[15] Sheila Brown has shown that in the nineteenth century, conflicting understandings for this period of life development were generated by both hope and fear.[16] On the one hand the management of childhood had the potential to maintain social order and return both innocence and simplicity to

[10] As psychotherapist Peter Wilson highlights, the Latin root of delinquent is defined as to 'forsake or abandon' and he points to actions perceived as delinquent as the leaving behind of demarcated obligations to the community and society by youths challenging the boundaries of these concepts. P. Wilson, *Youthful Misbehaviour: To Condemn or to Understand?,* lecture given to mark the life and work of Jane Blom-Cooper. https://www.johnwhitwell.co.uk/child-care-general-archive/youthful-misbehaviour-to-condemn-or-to-understand, accessed 1/11/22.
[11] May, *A Child's Punishment for a Child's Crime,* p.21.
[12] C. Jenks, *Childhood*, London 1996, p.61. and H. Hendrick, *Constructions and reconstructions of British childhood: an interpretive survey, 1800 to the present,* in A. James & A. Prout, (eds), *Constructing and Reconstructing Childhood: Contemporary Issues in the Sociological Study of Childhood*, London 2001, p.30.
[13] S. Brown, *Understanding Youth and Crime: Listening to Youth?*, Buckingham 1998, p.5.
[14] Hendrick, *Constructions and reconstructions of British childhood*, p.30.
[15] As has already been stated, during the nineteenth century the views of the property-owning, and professional middle classes were often the most prominent; Hendrick, *Constructions and reconstructions of British childhood*, p.30.
[16] Brown, *Understanding Youth and Crime,* p.14.

increasingly complicated social relations, but this sat in direct opposition to a view of a corrupting childhood as a potential threat to moral health that could lead to the degradation of society.[17]

Philippe Ariès has been at the forefront of interpreting an understanding of childhood which is socially constructed.[18] His arguments have often been misleadingly paraphrased to claim that childhood simply did not exist before the seventeenth century.[19] A more nuanced interpretation of this argument claims that a *modern* understanding of childhood – as a distinct and separate phase of life to be both protected and nurtured – was not a necessary understanding of childhood in the past. Our contemporary appreciation of childhood is a product of changes in the perception of this life period throughout prior centuries. Before the seventeenth century, early life was defined by a brief age of dependency during infancy followed by a prolonged stage of proto-adulthood where children would be indistinguishable from adults in the way they dressed and behaved.[20] Age at entry to work for a child could be as low as seven years and this led to a society where children worked alongside adults and participated in the same social activities.[21] John Davis argues that childhood during the early modern period was therefore relatively undifferentiated from later adult life and did not undergo a period of institutional separation marking it as a distinct age category.[22] However, John Burnett raises an important economic distinction regarding the length of childhood and juvenile contribution to the family economy. Wealthier families could afford to allow their children to remain reliant on familial care for longer, in contrast to the working-class child who was expected to enter the adult world of work at a younger age.[23] As the economic function of middle-class children became less important their role became more distinct and they embodied a new role as an 'index of paternal social status' through the quality of their manners and education.[24] However, Hugh Cunningham cautions against seeing children in employment as the norm in the century before the Industrial Revolution. He suggests an alternative method of subsistence for pauper families actively withholding their children from work and relying instead on institutional relief via charities and Poor

[17] ibid.
[18] P. Ariès, *Centuries of Childhood*, translation by R. Baldick, London 1962.
[19] H. Cunningham, 'Histories of Childhood', *American Historical Review, Vol.103, No.4*, 1998, p.1197.
[20] J. Davis, *Youth and the Condition of Britain: Images of Adolescent Conflict*, London 1990, p.29 & B. Goldson, *Childhood: an introduction to historical and theoretical analysis,* in P. Scraton (ed.), *'Childhood' in 'Crisis'?',* London 1997, p.2.
[21] Davis, *Youth and the Condition of Britain* p.30; Goldson, *Childhood: an introduction*, p.3 and Ariès, *Centuries of Childhood,* p.125.
[22] Davis, *Youth and the Condition of Britain*, pp.26, 30.
[23] This impacted nineteenth-century views of working-class childhoods that appeared vastly different from the expected childhoods of emerging middle and higher classes. J. Burnett, *Destiny Obscure: Autobiographies of Childhood, Education, and Family from the 1820s to the 1920s*, London 1982, p.60.
[24] May, *A Child's Punishment for a Child's Crime,* p.44.

Law relief.[25] How widespread this method of maintaining the young was is debatable, but it did play some part in bolstering a notion amongst the wealthier classes that an idle child would 'shorten his days by intemperance' or 'be driven to steal and end his life at the gallows'.[26] Cunningham contends that the employment of children in the eighteenth century for the very young, before they could enter service or apprenticeships at ages thirteen to fourteen, was actually low as domestic industry was supplanted by changing forms of employment.[27] Underemployment, and concerns about idle youths, was one of the catalysts for later nineteenth-century fears regarding unruly youths in a rapidly increasing population and is explored later in this thesis.[28] By the first quarter of the nineteenth century the proportion of the population under the age of fifteen had reached almost two-fifths.[29] Pamela Horn argues that an increasingly youthful population placed greater burdens on poorer families who felt the pressure to further reduce periods of dependency.[30] Disruption to social and economic life from the early modern period onwards was a powerful mechanism in shaping the perception of nineteenth-century childhood and the resulting cause for concern.

Chris Jenks has proposed two means by which the re-conceptualising of the child came to the fore in the nineteenth century, namely, the Apollonian child and the Dionysian child. The Apollonian child represented virtue and innocence whilst the Dionysian child was both wilful and potentially evil.[31] These idealised images, according to Jenks, were held primarily by educated middle-class adults of the period. A more compelling and multidimensional model is suggested by Hendrick: this identifies several overlapping views of the nineteenth-century child and is indicative of the constantly evolving and confused notions of childhood at that time.[32] This negotiation of attitudes towards juveniles is at the core of understanding the interplay between the need both to protect a perceived vulnerable section of society and to highlight concerns because of the disorder they generated. This offers further clues to the dichotomous approach to juvenile crime adopted by magistrates in both Staffordshire and Shropshire in this half century.[33]

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[25] H. Cunningham, 'The Employment and Unemployment of Children in England c.1680-1851', *Past and Present, No.126*, 1990, p.120.
[26] P. Blanchard, *The Youth's Treasure, Or, A Treatise on Morality, Virtue, and Politeness: Enlivened with Anecdotes and Examples*, London 1804, p.18.
[27] Cunningham, 'The Employment and Unemployment of Children in England', p.146.
[28] The idle child would be a key focus of juvenile criminality for contemporary commentators and shaped both the perception of and attempted solution to the dilemma.
[29] P. Horn, *Children's Work and Welfare, 1780-1880s*, Basingstoke 1994, p.5.
[30] Horn, *Children's Work and Welfare*, p.5.
[31] Jenks, *Childhood,* p.71.
[32] Brown, *Understanding Youth and Crime,* p.9.
[33] These themes within these local contexts will be explored in later chapters.

Jean-Jacques Rousseau was key to highlighting the special nature of the age before adulthood.[34] He encouraged adults to take an interest in the process of growing up, rather than simply in the production of an adult member of society.[35] This formalisation of childhood as a natural and virtuous period of life has been described by Colin Heywood as the 'cult of original innocence' where, without the prejudices of contemporary society imposed upon it, childhood could be nothing but virtuous.[36] Thus the 'natural child' of Rousseau would remain good if protected from sin.[37] In Hendrick's model of childhood, the 'natural child' evolved and was shaped by emerging notions of Romanticism at the turn of the nineteenth century. This stood in opposition to two of the strongest images of childhood for this period: the 'factory child', based on the reality of economic conditions of the age, and the 'evangelical child' spurred by a renewed commitment towards Christian ideals. A complex debate between these opposing views of childhood eventually led to the formalisation and institutionalisation of the 'schooled child'.[38] Juvenile reformation via education was part of this process of new thinking and was how local officials in Staffordshire and Shropshire hoped to reshape future generations to both prevent disorderly behaviour and reform the lower orders.[39]

The 'Romantic Child' was depicted in both the art and literature of the period. William Wordsworth had a substantial influence on the conceptualisation of this image, seeing youth as the period where virtue existed, characterising it as a special time which would be lost on entry into adulthood.[40] The 'Romantic Child' represented a form of nostalgia and longing amongst adults, especially males, not only for that period of their life, but also as a lament for a lost world.[41] The child was in touch with nature and the virtue of earlier, less complex times. Growing urbanisation in the nineteenth century shifted the focus away from the countryside as the primary life setting in many counties as industrialisation overtook traditional ways of life.[42] The taint of the rural ideal by the economic changes of the nineteenth century mirrored the corruption of the 'innocent' child by urbanisation and industrialisation. This symbol of the child as a repository of all that was good was in effect a

[34] J. J. Rousseau, *Émile: Or, Treatise on Education*, (translated), London 1763.
[35] Robertson quoted in Jenks, *Childhood,* p.65.
[36] Jenks, *Childhood* p.73 & C. Heywood, *A History of Childhood: Children and Childhood in the West from Medieval to Modern Times*, Cambridge 2001, p.32.
[37] Heywood, A *History of Childhood*, p.32.
[38] Hendrick, *Constructions and reconstructions of British childhood*, p.31.
[39] See Chapter 7.
[40] Hendrick, *Constructions and reconstructions of British childhood*, p.32.
[41] Brown, *Understanding Youth and Crime*, p.10.
[42] ibid.

response to the rapid social changes of the period and an antidote to urbanised society.[43] This powerful image influenced societal responses to divergent forms of behaviour that were at odds with it. This phenomenon was particularly powerful in Staffordshire, where the impact of industrialisation and urbanisation was strong.

Hendrick contrasted the image of the 'factory child' with the 'middle-class' fantasy of the Romantic innocent child.[44] As Griffiths notes, service had been the dominant form of regulation for the young – a process of 'social control' that had been one of the main means of education and reducing the potential for delinquency.[45] Its steady decline in the nineteenth century was a threat to the established order. Without the personal relationship of master and child, the independent young wage earner conflicted with the respectability and control that traditional apprenticeships had represented.[46] For many working-class families, at this early stage in the Industrial Revolution, wage-earning children were essential.[47] However, cheap child labour undermined the developing evangelical domestic ideal which linked a disciplined and ordered family life with the wellbeing of society.[48] Patriarchal domesticity was part of a natural Christian order in which the economic realities of young wage earners caused growing tensions.[49] Hendrick's 'evangelical child' rejected optimistic notions of childhood in favour of a traditional Christian view of original sin – going so far as to label children as 'sinful polluted creatures'.[50] For example, the evangelical writer, Hannah More, described children as 'beings who bring into the world a corrupt nature and evil dispositions'.[51] Hendrick contends that evangelical concerns were the ultimate driving force behind the nineteenth-century debate on the nature of childhood.[52] This was reflected particularly in its advocacy of controlling and moulding the *potential* juvenile delinquent.

Divergent Romantic philosophy and evangelical beliefs coincided in the rejection of the 'factory child.' That childhood should be distinct from adulthood was the nexus around which both Romantic

[43] ibid.
[44] In the cotton mill industry alone over eighty percent of the workers were children. ibid.
[45] P. Griffiths, *Juvenile delinquency in time,* in P. Cox & H. Shore (eds), *Becoming Delinquent: British and European Youth, 1650-1950*, Aldershot 2002, p.29.
[46] J. Lane, *Apprenticeship in England, 1600-1914*, London 1996, p.246.
[47] Brown, *Understanding Youth and Crime*, p.10.
[48] ibid., p.11.
[49] Hendrick, *Constructions and reconstructions of British childhood*, p.35.
[50] ibid., p.32.
[51] H. More, *Strictures on the Modern System of Female Education, Vol.1*, London 1799, p.64.
[52] Hendrick, *Constructions and reconstructions of British childhood*, p.32.

and evangelical viewpoints could coalesce.[53] For Christian reformers, restoring the wage-earning child to a proper position within the family coincided with parallel efforts to make the delinquent child conform to a properly constituted childhood.[54] The 'schooled child', who followed later in the century was a replacement for service and labour, to enable the eventual reformation of childhood delinquency and criminality.[55] This new approach derived in part from a Unitarian belief that clashed with evangelical viewpoints by rejecting the notion of original sin in favour of the 'naked capacities' of infants. Children were predisposed to being neither naturally good nor evil but capable of both, depending on the circumstances in which they were raised.[56] This doctrine was based on the earlier Lockean certainty of the pliable nature of childhood and the belief that environment was key to shaping behaviour. Historian Anne Boylan describes the Unitarians as holding to a 'Romantic view' of children as *tabula rasa* in 'mind and soul' at odds with strict evangelical beliefs that only divine salvation could restore a child to a proper place in society.[57] Methodist teachings also acknowledged that children remained innocent until they could conceive of the difference between right and wrong and that only moral training in early childhood would allow them to choose the right path.[58] The reclamation of the wayward child became a temporal affair that could be achieved by correct educational methods.[59] Indeed, Unitarian doctrine was one of the driving forces behind the philosophy of Mary Carpenter, the great supporter of the Reformation School initiative.[60] Graham Bowpitt argues that philanthropy in the later part of the century evolved away from pursuing general social amelioration towards lasting and personal social change. This was less dependent on spiritual regeneration and focused instead upon the 'rational application of methods' that were the result of practical experience and emerging social sciences – where the development of statistics played a pivotal role.[61] Bowpitt contends that traditional evangelicalism was transformed by this new approach that relied less on spiritual empathy and more on technical understanding, an approach which underpinned the practice of reformatory education. Staffordshire and Shropshire magistrates adopted rational methods when they gathered data and investigated the juveniles under their penal jurisdiction.

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[53] ibid. & J. Walvin, *A Child's World: A Social History of English Childhood, 1800-1914*, Harmondsworth 1982, p.46.
[54] Hendrick, *Constructions and reconstructions of British childhood*, p.36.
[55] ibid.
[56] C. Chauncy, *Five Dissertations on the Scripture Account of the Fall and Its Consequences*, London, 1785, p.175 & May, *A Child's Punishment for a Child's Crime,* pp.293-94.
[57] From the Latin: 'clean slate'. A. Boylan, 'Sunday Schools and Changing Evangelical Views of Children in the 1820s', *Church History, Vol.48, No.3,* 1979, p.325.
[58] ibid.
[59] May, *A Child's Punishment for a Child's Crime*, p.51.
[60] M. Carpenter, *Reformatory Schools: For the Children of the Perishing and Dangerous Classes and for Juvenile Offenders*, London, 1851.
[61] G. Bowpitt, 'Evangelical Christianity, Secular Humanism, and the Genesis of British Social Work', *The British Journal of Social Work, Vol.28, No.5*, 1998, pp.679-681.

The 'schooled child' is Hendrick's late nineteenth-century model of childhood. Whilst the Factory Act (1833) answered some of the concerns of evangelicals, it left the problem of how the idle youths of the labouring poor, particularly in urban settings, would be regulated and taught their proper role in society.[62] Prison was neither a practical nor a moral solution to deal with the perceived rise in delinquency of the period.[63] Changes in the law intended to alleviate juvenile cross-contamination by hardened criminals only served to bring more of them into a prison system that was ill-equipped to segregate and treat them differently. For magistrates involved in the application of reformist ideals, the rise of social sciences intersects with what Bowpitt describes as a 'secular transformation in the methods by which personal regeneration could be achieved' – education became the remedy for the juvenile delinquent.[64] The philanthropy pursued by these reformers relied heavily on notions of Christian charity but was achieved through the application of rational methods.[65] The intersection of philanthropy with secular concerns of control is not coincidental in its appeal to the emerging middle classes nor to the established landed gentry who promoted modernity. These men interacted through discourse, correspondence, authorship, and attendance at meetings that disseminated a shared ideal of change through philanthropy. This is apparent in both Staffordshire and Shropshire where prominent magistrates and Members of Parliament appeared regularly at conferences, authored articles on new methods of tackling juvenile delinquency, and served as committee members for newly established institutions targeted at the wayward young. This intercourse relied heavily on statistics and quantification. In this fashion the 'schooled child' was also the 'rational child' who could be measured and regulated. Hendrick notes that the history of delinquency and the history of education share similar ideological roots in that both were concerned with the practical and symbolic threat posed by the unregulated child.[66] If the wage-earning child could be returned to an appropriate position within the properly delineated domestic ideal, then the juvenile delinquent could in a similar fashion be recreated and immunised from corrupting adult behaviour.[67] Regulation, correction, subordination and protection could be enforced through institutions.[68] All

[62] This prohibited factory work for the very young and limited it for the rest of pre-adult labour. Brown, *Understanding Youth and Crime,* p.12.
[63] ibid., p.13.
[64] Bowpitt, 'Evangelical Christianity, Secular Humanism, and the Genesis of British Social Work', p.684; Hendrick, *Constructions and reconstructions of British childhood*, p.33 and *Report of the Committee of the Society for the Improvement of Prison Discipline, and for the Reformation of Juvenile Offenders*, Vol.4, London, 1822, p.82, which listed ignorance of both literacy skills and knowledge of spiritual concerns as the primary cause of juvenile offending.
[65] Bowpitt, 'Evangelical Christianity, Secular Humanism, and the Genesis of British Social Work', p.684.
[66] Hendrick, *Constructions and reconstructions of British childhood*, p.13.
[67] Ibid., p.39.
[68] Such as industrial schools and reformatories. Goldson, *Childhood: an introduction*, p.6.

children would then conform to a properly constituted ideal of childhood held by the literate classes and the 'respectable' working class.[69]

These notions of a nineteenth-century child held by middle-class commentators were often conflicting and extreme, but they formed part of a complex and evolving attitude to children in this period.[70] Indeed, as Margaret May notes, by the mid-nineteenth century the differences between these viewpoints were often blurred.[71] The works of Jenks and Hendrick are vital for understanding the changing re-conceptualisation of accepted and expected juvenile behaviour and help to explain the regional responses to juvenile criminality considered in this thesis. This era was a watershed in the treatment of juvenile delinquents, which impacted not just upon ideas of behaviour but also applied limits on physical definitions of childhood and set boundaries for conduct for this period of the lifecycle.[72] It helped to standardise a distinct identity for childhood and furthered this age group's perceived separation from the rest of society. It was through these tensions that this period of life developed towards the end of the century into an almost universally accepted model for youthful conduct and the treatment of juvenile delinquency. Conduct outside of these idealised expectations needed policing and regulation through the course of the law.[73]

The 'juvenile criminal' was a fluid and ill-defined term for most of the period.[74] It was not until the mid-century and the passing of the Juvenile Offenders Act 1847, which allowed for different judicial processing based on age, that childhood was legally defined in relation to criminal acts.[75] By 1850 the age of 16 was set as the dividing point between relative clemency and the full weight of adult punishment. By contrast, the period before 1850 was one of constant debate regarding the age at which criminal responsibility could be acknowledged and punished accordingly. There was no formal agreement on the upper limits of the juvenile portion of life. Indeed, the legal writer John Frederick

[69] Hendrick, *Constructions and reconstructions of British childhood*, p.35.
[70] Jenks, *Childhood*, p.74.
[71] May, *A Child's Punishment for a Child's Crime*, p.54.
[72] Griffiths, *Juvenile delinquency in time*, p.31.
[73] This process is explored in later chapters of this thesis, particularly Chapter 7 which examines the attempts to establish educational facilities to tackle 'criminal' behaviour in both Shropshire and Staffordshire
[74] The definition of 'juvenile' in and of itself was also problematic - as explored later in this chapter.
[75] Notwithstanding the principle of *doli incapax* that provided full immunity for felonious acts below the age of seven and partial protection up to the age of fourteen. J. F. Archbold, *The Jurisdiction and Practice of the Court of Quarter Sessions*, London 1836, p.77. This, however, relied on the interpretation of intent by the magistrate and had diminished in use during the mid-century period. In comparison, the Scottish definition of non-adult offenders was more clearly defined and applied three distinct categories for juveniles based on age that increased in severity of punishment, with exemption from death penalties being the unifying factor across all juvenile justice. D. G., Barrie & S. Broomhall, *Police Courts in Nineteenth-Century Scotland, Vol.2*, Farnham 2014, p.85. Hereafter, Juvenile Offenders Act is abbreviated to JOA.

Archbold in 1836 defined those who were excusable from having committed a crime as persons who 'do not wilfully commit the offence, either from not having any will, or not being allowed to exert it' and placed an upper boundary at the age of twenty-one years.[76] Historian Carolyn Steedman notes childhood as a 'category of dependence' based on 'powerlessness and submission' long before it was chronologically fixed within an age boundary.[77] King argued that many of those brought before parliamentary committees to testify often defined 'juvenile' as no older than seventeen years of age.[78] Thomas Plint in his work on *Crime in England* (1851) defined his lowest age set as including nineteen-year-olds and King takes both of these groupings – seventeen-and-under and nineteen-and under – as the basis for his analysis of regional gaol calendars.[79] The thesis follows King in placing the age of nineteen and under as the ceiling imposed on studying juvenile criminal acts. Partly, this is to facilitate easy comparison with King's wider study, but also because a restriction to earlier age groups ignores the ability to compare the spectrum of responses across the wider age grouping. By the mid-century 'childhood' and 'adolescent' justice had been on a path of divergence and the variance between the punishments of younger and older juveniles may reveal something of the developing debate that led to juvenile criminality being highlighted as a separate concern.

1.2 The 'rise of juvenile delinquency' in the nineteenth century

Sir Leon Radzinowicz and Roger Hood described the juvenile criminal as a 'Victorian invention', but this does not imply that young people were not involved in criminal activity in past centuries.[80] Instead, they suggest that changes that occurred in the law and its administration in the nineteenth century helped separate and highlight the juvenile delinquent as a problem that needed to be solved by new measures. Investigating earlier attitudes to juvenile misbehaviour helps to understand the conceptual changes surrounding childhood in the nineteenth century. The notion that the juvenile criminal was unique to the nineteenth century can be dispelled and our attention can be refocused on the changing attitudes of the administrative elite towards delinquency as the cause of the increase in recorded juvenile crime. It is a contention of this thesis that juveniles did not become more 'criminal' during the nineteenth century. Instead, the increased visibility of the juvenile

[76] Archbold, *The Jurisdiction and Practice of the Court of Quarter Sessions*, p.77.
[77] C. Steedman, *Strange Dislocations: Childhood and the Idea of Human Interiority 1780-1930*, Cambridge MA 1995, p.7
[78] P. King, 'The Rise of Juvenile Delinquency in England 1780-1840: Changing Patterns of Perception and Prosecution', *Past & Present*, *No.160*, 1998, p.121.
[79] King, 'The Rise of Juvenile Delinquency in England', p.122. Shore, by contrast, takes her lead from the 1850 JOA and focuses her study on those aged sixteen and below. H. Shore, 'The Social History of Juvenile Crime in Middlesex, 1790-1850', PhD thesis, Royal Holloway, University of London, 1996, p.50.
[80] L. Radzinowicz, & R. Hood, A *History of English Criminal Law and its Administration from 1750. Vol.5, The Emergence of Penal Policy*, London 1986, p.133.

delinquent was a consequence of a growth in the observation and recording of their indiscretions, largely driven by those members of polite society charged with the administration of local justice.

Victorian observers, faced with a society changing more rapidly than in previous generations, mourned the passing of an imagined era of pre-industrial calm.[81] In the sixteenth century there had been attempts to regulate youthful behaviour of the poor. The population of England doubled between 1520 and 1680 and inflation and a lack of employment led to growing vagrancy.[82] Children were seen to be a major constituent of this social problem. Ivy Pinchbeck and Margaret Hewitt describe an anonymous tract of 1546 that warned of the suffering of children brought up in a lifestyle of idleness, who would be destined to fill both the prisons and the gallows.[83] Hugh Cunningham highlights the early connection in this period between poverty, class and criminality.[84] Vagrant behaviour and delinquent activity were little differentiated by contemporaries when considering the young.[85] The children of the poor were a potential danger to society if allowed to carry on in their indolent habits but this fear existed alongside a concern for their welfare.[86] In the eighteenth century, Daniel Defoe was anxious that apprentices were prey to cruel punishments handed out by their masters whilst being at the same time troubled that many of these children would not submit to the ideal of 'family government' that had supposedly existed half a century earlier.[87] These concerns echo nineteenth-century attitudes towards juveniles which emphasised care and regulation to modify their behaviour. The pressures of a growing industrial urbanised society brought these earlier fears and hopes into stark relief in the nineteenth century, particularly in Staffordshire where these developments were most acute.

Pinchbeck and Hewitt stress the importance of the Poor Laws from the sixteenth century as a means of imposing control on this period of life.[88] Children in work became a 'social ideal' in the early modern period not just through the Poor Laws but also as enforced by The Statute of Artificers which

[81] G. Pearson, *Hooligan: A History of Respectable Fears*, London 1983, p.189.
[82] H. Cunningham, *The Invention of Childhood*, London 2006, p.95.
[83] I. Pinchbeck, & M. Hewitt, *Children in English Society. Vol.1: From Tudor to the Eighteenth Century*, London 1969 p.93.
[84] Cunningham, *Invention of Childhood*, p.95
[85] R. Linde, The *Globalization of Childhood: The International Diffusion of Norms and Law against the Child Death Penalty*, Oxford 2006, p.79.
[86] Cunningham, *Invention of Childhood*, p.96.
[87] D. Defoe, *Complete English Tradesman*, London 1738 quoted in Pearson, *Hooligan*, p.191.
[88] These acts contained legislation which focused on the problem of the idle young to prevent them from becoming established beggars and, by extension, future criminals. Parishes were empowered to apprentice out begging children between the ages of five and fourteen and further acts included provisions for the children of parents who were unable to provide for their own offspring. Pinchbeck, & Hewitt, *Children in English Society*, pp.95-99.

required at least seven years of apprenticeship for those who wished to pursue a craft.[89] However, as the authors note, delinquency was by no means completely eradicated and it remained a growing problem into the eighteenth century.[90] The masterless young were a marginal grouping that represented deviance, immorality and a lack of participation within society.[91] The apparent freedom exercised by this section of the young caused considerable concern to those in authority.[92] Paul Griffiths writes of the use of the Bridewell in Norwich as an active deterrent against subverting these expectations, the alternative being the risk of dismissal from service.[93] These masterless youths were often offered a choice between finding a position or a term in confinement. However, even the most established apprentice could fall into seemingly criminal behaviour or delinquent conduct.[94] Repeated poor behaviour could be indicative of a failure by a master to correct their charges properly: in other words, formal sanction before a court would only take place once informal means of punishment broke down.[95] The law reflected the increasing need to curb activities of disobedience by apprentices, and Acts in 1757 and 1766 forbade games such as dice and cards to be played and allowed masters to impose longer terms of service on boys who had run away from their position.[96] Juveniles appear no less delinquent during this period of history than in subsequent eras. However, the strong filters of discretion that kept them from the full force of law appeared to fail by the nineteenth century and contributed to the evolution of the idea of the juvenile criminal.[97] The belief that children brought up in idle habits were the root cause of childhood disorder was echoed in debates in Staffordshire and Shropshire during the nineteenth century.[98]

Nineteenth-century juvenile behaviour was not *qualitatively* different from the actions of the idle young which had produced fears in previous centuries.[99] However, the uneasiness felt by nineteenth-century polite society towards juvenile criminality was not entirely unfounded – and the evolution of the juvenile criminal in this period has become a recent focus for historians of criminality. The study of this problem has been described by Shore as a 'narrow field' almost thirty years ago with few books questioning the underlying reasons for the apparent rise in juvenile crime

[89] Pinchbeck, & Hewitt, *Children in English Society*, p.98 & Griffiths, *Juvenile delinquency in time*, p.27.
[90] Pinchbeck, & Hewitt, *Children in English Society,* p.105.
[91] P. Griffiths, *Masterless Young People in Norwich*, 1560–1645, in P. Griffiths, A. Fox & S. Hindle (eds), *The Experience of Authority in Early Modern England*, Basingstoke 1996 pp.152, 147 & P. King, *Crime, Justice, Discretion in England 1740–1820*, Oxford 2000, p.182.
[92] Griffiths, *Masterless young people*, p.176.
[93] ibid., p.160. and Lane, *Apprenticeship in England,* p.187.
[94] Lane, *Apprenticeship in England,* p.187.
[95] ibid. & King, *Crime, Justice, and Discretion,* p.179.
[96] Pearson, *Hooligan,* p.193.
[97] King, *Crime, Justice, and Discretion,* p.175.
[98] See Chapter 7 for further details.
[99] Griffiths, *Juvenile delinquency in time*, p.29.

in this period.[100] Early works took a traditional view of evolving policing and penal institutions as the major factor behind any perceived rises in juvenile crime, something that Shore regards as 'Whiggish histories'.[101] For instance, whilst Radzinowicz and Hood's exploration of the changing judicial perspective faced by juvenile offenders is both thorough and exemplary, it suffers from a lack of exploration of causal factors to explain the perpetrators of crime. A different approach has emerged as part of the 'history from below' movement of the 1970s. This placed the juvenile delinquent in a framework of social and economic change whilst acknowledging the importance of the various legal and political developments that were taking place.[102] This re-focus has been less concerned with the magnitude of youth crime but instead emphasises the process of criminalisation itself, and the means by which some children were branded as offenders and delinquents.[103] Shore argues for an empirical approach to the subject in conjunction with a study of the contemporary debates, committees and social investigations.[104] This empirical method is embraced in this current work, but it builds on Shore's study by considering two distinct counties which contain stronger rural elements than Shore's study of the metropolis. Middlesex, and heavily urbanised London, presents a unique and unrepresentative picture of juvenile crime within the country. To better understand the rise of juvenile crime in this period, additional areas, such as Shropshire and Staffordshire, with their mixed social and economic structures should be considered to give a fuller view of the influences that caused the criminalisation of juveniles to be a cause of concern.

The stereotype of the typical juvenile offender was a product of the interaction between the institutions of the justice system and the children who appeared before them: to ignore the judicial process and its agents is to overlook a major catalyst in the changing relation to delinquent behaviour at this time.[105] This thesis takes the above approach, focusing on those responsible for administering the law who pursued novel and experimental approaches to avoid treating juveniles in the same fashion as adult offenders. A study of the patterns and changes in recorded crime might not be significantly revelatory about the juvenile offenders themselves – for that, a deeper reading of contemporary material will need to be undertaken. Nor can the levels of criminality in this age group

[100] Shore, 'The Social History of Juvenile Crime in Middlesex', p.26.
[101] ibid. These are described by Herbert Butterfield as histories that view a scheme of general history as a demonstration of the principles of progress from the past to the present day. Events are judged as to whether they hindered or helped this path and create a false line of causation and grand narratives of social advancement. H. Butterfield, *The Whig Interpretation of History*, London 1965, pp.11-12.
[102] H. Shore, 'Inventing and re-inventing the Juvenile Delinquent in British history', *Memoria Y Civilizacion, No.14,* 2011, p.4.
[103] Shore, 'Inventing and re-inventing the Juvenile Delinquent', p.4
[104] Shore, *The Social History of Juvenile Crime in Middlesex,* p.26.
[105] ibid., p.48.

be truly appreciated, but they can make sense of the response to juvenile criminality and the nature of the judicial process itself – a key theme in the present study.[106]

Susan Magarey and Margaret May are amongst the pioneering historians attempting to pinpoint the change in official approaches to juvenile delinquency and the emergence of the juvenile offender, as a separate category from the adult offender.[107] During the early nineteenth century the law made little distinction between adult and juvenile offenders: its focus was on the offence rather than the offender, so a child guilty of theft was as culpable as an adult (there were distinctions for the very young, but as is seen, these faded out of use as the century progressed).[108] May placed the emergence of the stereotypical nineteenth-century juvenile criminal at mid-century, when the philanthropic efforts of an increasingly socially aware middle class intersected with the emergence of classification and categorisation within the process of justice. The Gaols Act (1823) was an initial step by government to look at the internal composition of prison populations. But the real change occurred with the regulation of prison returns in the 1830s and 1840s that provided an overwhelming amount of data on ages of offenders and categories of offence.[109] The role of prison governor and chaplain replaced the inefficient gaoler of previous centuries and both prison officials and magistrates became progressively concerned with the effectiveness of prisons as a deterrent against offending.[110] Members of the ruling classes increasingly believed that it was possible to regulate criminality based on a set of laws derived from the accumulation of information and recorded statistics.[111] Michel Foucault defines this as a need to make the repression of illegal activity a 'regular function' that encompasses the whole of society and would allow punishment to be refined rather than made less severe.[112] The restructuring of prison administration and the sudden introduction of new information for the demographics of the prison population were central to the mid-century moral panic that would redefine the juvenile delinquent. This new age of classification emerged during a period lacking previous precise measurements of the problem. This coincided with the redefinition and renegotiation of childhood, which led to a confusion of youthful misbehaviour

[106] ibid.
[107] S. Magarey, 'The Invention of Juvenile Delinquency in Early Nineteenth-Century England', *Labour History*, *No. 34*, 1978; M. May, *A Child's Punishment for a Child's Crime: The Reformatory and Industrial School Movement in Britain c. 1780-1880*, PhD thesis, University of London, 1981.
[108] May, *A Child's Punishment for a Child's Crime,* p.6.
[109] M. May, 'Innocence and Experience: The Evolution of the Concept of Juvenile Delinquency in the Mid-Nineteenth Century', *Victorian Studies, Vol.17, No.1*, 1973, pp.10, 15.
[110] May, 'Innocence and Experience, p.11 and J. M. Mathew, J. L. Jellicoe & T. W. Saunders (eds), *Justice of the Peace and Local Government Review*, *in which the editors question both the expense and cross-contamination of imposing prison sentences on juvenile petty offenders, Vol.6.,* London 1842, p.216.
[111] May, 'Innocence and Experience', p.17.
[112] M. Foucault, *Discipline and Punishment: The Birth of the Prison*, London 1991, p.82.

and disobedience with a more severe interpretation of depravity and corruption.[113] Once tolerated, childhood indiscretions became evidence for an apparent juvenile underbelly of lawlessness.

The swelling numbers of juvenile delinquents before the courts may well have been a self-fulfilling prophecy and an outcome of public anxieties towards change and disorder which were 'displaced' onto the youngest members of society, thereby creating the conditions to pursue greater controls through the law over their behaviour.[114] When labelled as outside of societal standards this section of society came to characterise what it means to be 'criminal' where 'criminality was sought only in those identified as criminal'.[115] The issue of class and social rank in the pursuit of justice are central to understanding the rising levels of concern for all forms of crime, not just juvenile, during the nineteenth century. Vic Gatrell notes that the history of crime is a reflection of public fears regarding change and disorder, suggesting how these fears were displaced on to criminals, even when criminals were 'inappropriate objects of those fears'.[116] In this way the lawbreaker was pursued not just for the offence he had perpetrated against his victim, but also the offence he had caused to society at large.[117] The dominant voice in historical records is that of the propertied or land-owning classes. Those responsible for constructing social policy were gripped by themes of control and order. Criminal law became part of the 'cultural high ground', as Martin Wiener terms it.[118]

In providing evidence for this trend, both David Phillips and Helen Johnston have undertaken studies of the magistracy of the Black Country and Shropshire respectively. More than 75% of the Shropshire magistracy came from the gentry class up to the 1840s and the landed elite dominated within the Black Country before 1836.[119] They administered local criminal jurisdiction and oversaw local gaols. The magistrates, rather than central government, represented authority for those who encountered nineteenth-century justice.[120] They shaped notions of respectable behaviour and drove the definition of what constituted criminal activities and the manner of punishment. However, this

[113] May, 'Innocence and Experience', p.21.
[114] V. A. C. Gatrell, *Crime, authority and the policeman-state*, in F.M.L. Thompson (ed.), *The Cambridge Social History of Britain, 1750–1950,* Cambridge 1990, p.246.
[115] J. Muncie, 'The theory and politics of criminalisation', *Criminal Justice Matters, Vol.74, No.1,* 2008 p.14.
[116] Social change and social stability were the primary anxieties surrounding crime – separate from any concerns regarding the protection of property. Gatrell, *Crime, authority and the policeman-state*, p.246.
[117] Gatrell, *Crime, authority and the policeman-state*, pp.250-54.
[118] M. J. Wiener, *Reconstructing the Criminal: Culture, Law, and Policy in England, 1830–1914,* Cambridge 1990, p.48.
[119] H. Johnston, 'The Shropshire Magistracy and Local Imprisonment: Networks of Power in the Nineteenth Century', *Midland History, Vol.30, No.1*, 2005, p.69 and D. Phillips, 'The Black Country Magistracy', 1835-60, *Midland History, Vol.3, No.2*, 1975, p.161.
[120] Phillips, 'The Black Country Magistracy', p.161.

interpretation of the law as an instrument of elites runs the danger of being simplistic.[121] Douglas Hay in *Albion's Fatal Tree* paints a picture of criminal justice as the instrument of the ruling classes, enabling them to maintain order through social control.[122] Through the discretionary use of the death penalty these elites could reinforce respect and bonds of obligation – imposing deference through the selective use of the law.[123] In this way the opinion of policy makers became the primary driving force behind the changing nature of the law and their perceptions of criminality. However, Peter King and John Langbein have undermined Hay's theory of the law as an instrument solely of elite control. Langbein has drawn on Old Bailey evidence to show that there was rarely a gulf in class between criminal and victim: victims were more propertied than the alleged perpetrator of a crime but not on the level of aristocrat to peasant.[124] King's work confirms this pattern for Essex with the middling men of society dominating court action: around a third of prosecutions were brought by farmers and yeomen and another third by tradesmen and artisans.[125] Labourers in contrast did not need to fear the loss of commercial goods in the same fashion nor did they possess many domestic possessions.[126] Yet their involvement in the quarter session as prosecutors in Essex is worth noting, with as many as a fifth of prosecutors being of this class.[127] Hay's argument for the law as a tool only of the elites cannot stand in the face of the fact that the law was not only available to every level of society in the eighteenth century but was actively used at every level.[128] The lower orders can no longer be seen as either unwilling or unwitting participants within the criminal justice system. They had a certain amount of freedom to decide the way the law, as a form of social control, was imposed upon them, either in accepting, rejecting, or adapting principles passed down to them. In fact, there is much evidence that working-class families embraced the idea of respectability because it expressed their values.[129] F. M. L. Thompson describes this as a 'coincidence of purpose' between the middling and the lower classes, rather than as an enforcement of values from high to low.[130] Though it is possible to show that the courts were not the privileged playground of the rich, it is still difficult to assess the relationship between the law and the very poor - and importantly of juveniles

[121] Chapter 2 offers a reappraisal of this position with industrialists of the middling classes becoming more influential as the century progressed.
[122] D. Hay, *Property, Authority and the Criminal Law*, in D. Hay, (et al), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, London 1975, pp.60-61.
[123] Hay, *Property, Authority and the Criminal Law*, p.48 & J. H. Langbein, 'Albion's Fatal Flaws', *Past & Present, No.98*, 1983, p.97.
[124] Langbein, 'Albion's Fatal Flaws', p.101.
[125] P. King, 'Decision-Makers and Decision-Making in the English Criminal Law, 1750–1800', *The Historical Journal, Vol.27, No.1*, 1984, p.28
[126] King, 'Decision-Makers and Decision-Making in the English Criminal Law', p.32.
[127] ibid.
[128] ibid., p.53. As will be seen in Chapters 2 and 4, there was also a replacement of the traditional landed gentry during the first half of the nineteenth century by middle-class industrialists in Staffordshire which had its own impact on the changing nature of juvenile justice.
[129] F. M. L. Thompson, 'Social Control in Victorian Britain', *The Economic History Review, Vol.34, No.2*, 1981, p.196.
[130] Thompson, 'Social Control in Victorian Britain', p.196

themselves - who were precluded from pursuing justice but were often the recipients of the law's focus. What this does prove is that the rise in cases against juvenile offenders was not solely driven by the ruling classes themselves: other fundamental changes occurred across society for juvenile indictments to have been pursued so actively.

Susan Magarey's focus concerned changes in legislation for petty crime and misdemeanours that helped place previously tolerated behaviour within the scope of the judicial system.[131] The consequence was to criminalise youthful waywardness and bring increasing numbers of young offenders into the custody of local gaols.[132] The introduction of new summary powers for justices under new laws, for example the Vagrancy Act (1824) and Malicious Trespass Act (1827), criminalised betting or playing games in the street as well as increasing the penalties for the stealing of fruit from a garden or orchard.[133] Alongside these came the gradual erosion of the institution of *doli incapax* that had informally held age as a limiting factor for criminal responsibility.[134] Matthew Davenport Hill, the Recorder of Birmingham testifying before a parliamentary select committee investigating juvenile criminality, remarked that the principle was no longer widely adopted by the 1850s.[135] The cumulative effect of these changes was that 'delinquencies of the most trifling description…. formerly thought very lightly of, are now treated as grave offences'.[136] This is borne out by Magarey's evidence which shows that almost half of those juveniles convicted between 1838 and 1856 in England and Wales were imprisoned under these new laws.[137] This evidence led Magarey to assert that the juvenile delinquent had been 'legislated into existence' as misbehaviour that had been dealt with informally – both within the home and under service – became regulated by the state.[138]

Peter King offers a reappraisal of this position and puts forward an earlier timeframe in *The Rise of Juvenile Delinquency in England 1780-1840*, a wide-ranging study of various county gaol calendars that record the indictments before the Quarter Sessions and Assizes. King shows that the perceived rise in juvenile criminality had a *real* basis in the decades before those identified by Magarey and

[131] Magarey, 'The Invention of Juvenile Delinquency', p.18.
[132] ibid., p.20.
[133] ibid.
[134] Magistrates prosecuting those between the ages of seven and fourteen had exercised a certain amount of discretion when assessing the culpability of offenders. B. Godfrey, & P. Lawrence, *Crime and Justice since 1750*, Oxford 2015, p.135.
[135] *Parliamentary Papers (515) Vol. VII,* 1852*,* p.63.
[136] William Crawford and Whitworth Russell, inspectors of prisons for the home district in 1836, quoted in Magarey, 'The Invention of Juvenile Delinquency', p.18.
[137] Magarey, 'The Invention of Juvenile Delinquency', p.24.
[138] ibid., p.25.

May.[139] By comparing two peacetime periods of 1782-93 and 1815 onwards, King demonstrated that the end of the Napoleonic War was a major spur for rising levels of juvenile indictments for larceny that affected differing regions across the country at different rates.[140] The proportions of indicted offenders under the age of twenty rose by around three quarters in some urbanised areas between the two peacetime periods of 1782-93 and the early 1820s.[141] Shore's research confirms these findings for Middlesex where the percentage of juvenile indictments doubled between 1807 and 1817.[142] King was able to conclude that the period before 1820 marked a change in attitudes to juvenile delinquents and that there was an urban/rural polarisation between these rising levels of indictments.[143] King also highlights that the increasing use of summary powers as noted by Magarey signalled a decisive change in judicial relations with the young, particularly in larger towns.[144] As rural areas continued to demonstrate long-term growth in juvenile indictments, the major urban areas displayed a decrease or levelling off, as indictment before a court was replaced by summary jurisdiction.[145] King limited his study of the gaol calendars to felony prosecutions, arguing that this was the major concern amongst contemporary propertied classes.[146] Unfortunately this provides only a limited picture of juvenile offending, particularly with the increasing use of summary powers as an alternative to trial by jury. Particularly, the use of legislation targeting vagrancy became a growing factor in official attempts to limit juvenile disorder.[147] This thesis develops King's research by focusing on two local county contexts. This analysis allows a different insight into the regional influences at play in criminalising the juvenile delinquent, often obscured by larger-scale national studies. Furthermore, this study encompasses both indictments before Session of the County Courts alongside a study of the use of summary legislation which gives a balanced picture of the changing nature of juvenile interaction with the law.

Changes in administration and conceptualisation fed into each other – influencing and reinforcing the responses towards juvenile crime. In addition, recorded crime levels could not convey the so-called 'dark figure' of crime. Only a small percentage of potential lawbreakers were ever caught or actively prosecuted and an increase in the willingness of victims to pursue a judicial resolution to a crime

[139] P. King, 'The Rise of Juvenile Delinquency in England 1780-1840: Changing Patterns of Perception and Prosecution', *Past & Present*, *No.160*, 1998.
[140] King, 'The Rise of Juvenile Delinquency in England', p.126.
[141] ibid., p.124 (compares the proportion of 0-19 years olds for Shropshire and Middlesex (including London) committed for larceny).
[142] Shore, *The Social History of Juvenile Crime in Middlesex*, p.58.
[143] King, 'The Rise of Juvenile Delinquency in England', pp.130-32.
[144] ibid., p.135.
[145] ibid., p.136.
[146] ibid., p.122.
[147] Shore, *The Social History of Juvenile Crime in Middlesex*, p.48.

could have a significant effect on levels of recorded crime.[148] Various acts made it easier and more compelling for victims to seek a prosecution – the Disorderly Houses Act (1818), for instance, provided an allowance for loss of time and trouble taken in court for witnesses in felony cases and was expanded further by the Peel Criminal Justice Act (1826) which extended costs to include preliminary magistrates' examinations and some misdemeanours.[149] The JOA (1847) also had an effect on the number of juveniles committed to prison. It allowed for the summary processing of offences for under-fourteens in certain larceny cases and also established juveniles as a discrete category of offender.[150] The gravity of the offence committed was not reduced by this transfer but the need to hold juveniles within the prison system whilst waiting for the Quarter Session or Assize court to sit, was removed.[151] Furthermore, Petty Sessions could be held near to the location of the offence perpetrated, removing the need to travel to the county town for trial.[152] Phillips argues that the increase in juvenile committals after this Act reveals a vast untapped potential for prosecutions that had been previously hindered by the expense and trouble of achieving a verdict.[153]

From the 1830s the local parish constables, who had previously been entrusted with catching offenders, were slowly replaced by professional county-wide police forces. The County Police Act 1839 left the decision to implement such a force across an entire county entirely at the discretion of that area's Quarter Sessions and its attending magistrates[154] Though boroughs were encouraged to setup their own police forces through the Municipal Corporations Act 1835, some towns had already taken it upon themselves to act.[155] In Staffordshire, a number of towns had established forces: Stafford 1836; Newcastle-under-Lyme 1834; Walsall 1832; Tamworth 1841 and Wolverhampton 1837 with a county force following in 1842.[156] Roger Swift argues that the Wolverhampton force that existed until 1842 did achieve some measure of success in supressing crime and garnered support

[148] ibid., p.151.
[149] D. Phillips, *Crime and Authority in Victorian England: The Black Country, 1835-1860*, London 1977, pp.112-113. Although King mentions the growing use of conditional pardons replacing hangings as a factor, evidence from the Old Bailey suggests as early as the beginning of the century that the threat of hanging had been nullified for children as no actual executions were carried out after this period. King, 'The Rise of Juvenile Delinquency in England', p.151 and B. Knell, 'Capital Punishment: Its Administration in Relation to Juvenile Offenders in the Nineteenth Century and Its Possible Administration in the Eighteenth', *The British Journal of Criminology, Vol.5, No.2,* 1965, p.199.
[150] Magarey, The Invention of Juvenile Delinquency', p.14. In the Black Country, David Phillips' work has revealed that the Act not only transferred larceny cases to the Petty Sessions but also increased the total number of larcenies tried. Phillips, *Crime and Authority in Victorian England,* p.133.
[151] ibid.
[152] ibid.
[153] ibid., p.135.
[154] P. David, & R. D. Storch, *Policing Provincial England, 1829-1856: The Politics of Reform*, London 1999, p.143.
[155] J. Bryon, *Authority and Crime, 1835-1860: A Comparison between Exmouth and Torquay Bryon*, PhD thesis, University of Plymouth 2013, p.84.
[156] Wolverhampton would not become incorporated until 1848 and its own force was replaced by the county force on its adoption in 1842, R. Swift, *Crime and Society in Wolverhampton, 1815-1860*, Wolverhampton 1987, p.3.

from the middling classes of the town.[157] Borough police forces for Shrewsbury; Much Wenlock; Oswestry; Bridgnorth and Ludlow were established within a year of the Municipal Boroughs Act 1835, with a county force adopted immediately after the County Police Act 1839.[158] Shropshire and Cheshire were two of the earliest counties to begin the discussion over the benefits of a reformed police force to replace the old system of watchmen and parish constables.[159] In Shropshire, these dated back to Quarter Session discussions held in the early 1830s.[160] The Shropshire magistrates worried about the problems that a striking or unemployed industrial workforce could pose to public order without the establishment of a proper regulated police force.[161] They also feared that unrest in nearby Denbighshire and Flintshire in 1831, and Staffordshire in 1832, risked spilling into Shropshire and would cause its own industrial population to riot.[162] The legality of using county rates to fund such a force was the key issue around which Shropshire petitioned Parliament on several occasions in the 1830s.[163] The Shropshire Quarter Session's 'Salop Resolution' (1838) was directed at the other chairman of the country's Quarter Sessions and was circulated by the Home Secretary, Lord John Russell, in order to generate an official response of endorsement for its proposals. Shropshire's petition became the framework on which the 1839 Act to introduce provincial policing countywide was based.[164] In Shropshire, a report to the June 1840 Sessions stated that apprehensions by the new rural force had almost doubled within the space of a year.[165] Chairman, Thomas Kenyon, attributed much of the reduction in crime after the first twelve months of its formation to the new county police.[166] However, Baldwin Leighton's report to a Parliamentary Select Committee on Police in 1853 showed the difficulty in assessing the impact of the new police force. He described an initial decrease in felonies after 1840 in Shropshire due to the introduction of the force, but he attributed a subsequent rise to the introduction of railway labourers after 1847.[167] David Phillips argues for caution when examining the impact of the new police on recorded crime. Phillips believes that up to 1848 the new police had very little real effect, nor did they provide a marked contrast to the existing parish constables they succeeded.[168] In Walsall, for example, the old town watch merely became the

[157] R. Swift, 'Urban Policing in Early Victorian England, 1835-86: a reappraisal', *History, Vol.73, No.238*, 1988, p.213.
[158] D. J. Elliot, *Policing Shropshire 1836-1967*, Studley 1984, p.13.
[159] H. Johnston, *Policing, Punishment and Social Institutions in the Nineteenth Century: the role of the Shropshire Magistracy*, in D. Cox, & B. Godfrey (eds), *Cinderellas and Packhorses: A History of the Shropshire Magistracy*, Woonton 2005, p.50.
[160] Elliot, *Policing Shropshire 1836-1967*, p.13.
[161] David & Storch, *Policing provincial England, 1829-1856*, p.106.
[162] ibid., pp.106-107.
[163] ibid., p.107.
[164] ibid.
[165] Elliot, *Policing Shropshire 1836-1967*, p.22.
[166] ibid., p.25.
[167] *PP*, *Select Committee on Police, 1853*, p.53.
[168] Phillips, *Crime and Authority in Victorian England,* p.60.

new police force, with only a strength of three to four officers for its first six years.[169] Turnover was high amongst the local forces and an emphasis on keeping down the police rates meant the strength of forces were kept to a minimum. Furthermore, the county force was largely concerned with public disorder, with the repression of crime rarely articulated as a major goal at the Sessions. It would not be until the County and Borough Police Act 1856 that funding from the Treasury became available and the impact that the police could have on 'normal' crime could be extended.[170] Only a long-term study of the second half of the nineteenth century can investigate the level of impact that the new police had and untangle it from other factors, such as the increasing use of summary powers available to magistrates.[171] Phillips stresses continuity in the transition from parish constable to the new police on everyday petty crime with each town in the Black Country already possessing a number of constables who carried out police functions before the introduction of the new forces.[172] The greatest effect was felt with crime related to public disorder or serious violence (neither of which would have drastically impacted juveniles). Despite this, it is likely that the introduction of better organised and funded law enforcement in rural districts led to some increased interaction between juveniles and the law – though it is not possible to pinpoint any specific initiatives towards them nor divorce the increased presence of juveniles at the Sessions from other judicial pressures generated by the proliferation of summary justice legislation.

Changes in the administration of justice were part of the re-conceptualisation of childhood explored at the beginning of this chapter. By the early part of the nineteenth century the political, economic, social and cultural climate had been transformed compared to previous periods. King eloquently sums up how perceptions of crime became 'a repository for broader fears about social change and about the stability of the social hierarchy'. The confluence of rising concerns about industrialisation, urbanisation and a sense of growing disorder fostered the conditions for a change in the relationship of the law to the juvenile population.[173] The young acted as a mirror for the state of society and represented the future.[174] Much of this fear was class-based: the urban poor challenged middle-class assumptions of childhood in their exhibition of freedoms that stood in opposition to the social

[169] ibid., p.64.
[170] ibid., pp.78-83.
[171] Simon Briercliffe has found evidence of later police initiatives in the 1870s in Wolverhampton (after the period under study in this thesis) that directly targeted youth behaviour such as snowball fighting that may have increased juvenile interactions with the law. S. Briercliffe, "*The Blackest Shadows are Cast by the Irish Quarter": The Making of Stafford Street, Wolverhampton, 1832-1882*, PhD thesis, University of Birmingham, 2022, p.192.
[172] Phillips, *Crime and Authority in Victorian England*, p.87.
[173] King, 'The Rise of Juvenile Delinquency in England', p.157.
[174] Griffiths, *Juvenile delinquency in time*, p.30; King, 'The Rise of Juvenile Delinquency in England', p.157.

order that the propertied classes desired.[175] A growing sense of self-awareness within this group turned a process of official diversion – where the activities of the lower orders were overlooked and only mildly regulated – towards one of discipline where the governing powers sought to insert a greater level of control over the lives of the poor.[176] This thesis adds to that picture by demonstrating that not all efforts were either castigatory or driven by a dominant desire to impose control over the lower orders: a more complex picture is revealed through the study of local Session debates recorded in local newspapers, in official committee reports and individual works produced by local magistrates who argued for a more tempered response whenever juveniles were caught within the ever-expanding judicial machinery of the nineteenth century.

1.3 Methodology

This thesis embraces a variety of historical methods. A trend which has been current in historical research is to shift the focus away from the power structures and policies of the nation state to refocus attention on smaller-scale units of investigation, an approach that is broadly grouped under the banner of 'microhistory'. However, this thesis is not an attempt at a micro-historical study in the strictest definition of the term. Microhistory in its narrowest interpretation maintains a strict focus on a small group of people (or individuals) within a specific place or locality over a short time frame.[177] It also maintains that long-term influences and impersonal structures such as the state, class, or the market disappear at this level and that these larger-scale 'macrostructural' forces have no causal influence in historical change.[178] This instead can only be found within the human agency of individuals, at any social level, and within the strict confines of social interactions.[179] It rejects wide-scale paradigms and the notion of universal processes of change – so-called 'grand narratives.[180] Under this definition this thesis would be rejected for being too general in its countywide focus and its concern with the role that national trends played on regional interests.

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[175] King, 'The Rise of Juvenile Delinquency in England' p.158 & H. Cunningham, *Children and Childhood in Western Society since 1500*, Harlow 2006, p.148.
[176] King, 'The Rise of Juvenile Delinquency in England', p.160.
[177] J. De Vries, 'Playing with Scales: The Global and the Micro, the Macro and the Nano', *Past & Present, Vol.242, No.14*, 2019, p.23.
[178] B. S. Gregory, 'Is Small Beautiful? Microhistory and the History of Everyday Life'*, History and Theory, Vol.38, No.1,* 1999, pp.104-5.
[179] Gregory, 'Is Small Beautiful', p.103.
[180] De Vries, 'Playing with Scales', p.24 and S. G. Magnússon, & I. M. Szijárt, *What Is Microhistory?: Theory and Practice*, London 2013, p.121.

Modern interpretations of microhistory, however, encompass a much broader theoretical framework. A less severe form, and probably the most popular amongst current proponents of the methodology, attempts to utilise the practices of microhistory to challenge and revise these large-scale historical paradigms, or as historian Charles Joyner remarks: 'asking large questions in small places'. [181] This approach reveals previously unobserved factors at play, to 'observe large historical processes' that would be invisible under the standardised models proposed by macro-history.[182] A further branch of this approach brings the focus on the historical characters within these locations and embraces the notion of historical narrative at the small scale as a worthy pursuit.[183] Often this has been in the service of uncovering the stories of 'subaltern groups' previously overlooked in more traditional histories.[184] There is also a focus on the idea of recovering human agency that is obscured from view by traditional histories concerned with structural forces – that even the lowest peasant was a conscious, active individual and their experience of the past was as valid as any other and that actual people, not just abstract forces, can shape history.[185] Even within this less constricted definition it would be unwise to label this study as micro-historical in approach.

More precisely, this research uses the traditional methods of historical case study. One of the defining differences between a true microhistory, and a spatially constrained case study in the conventional sense, is whether research is source-led or defined by an initial theory that seeks sources to confirm or challenge its hypothesis. Microhistories are guided by the sources themselves to ask questions of a limited spatial or temporal locality in the hope that this will lead to new interpretations of perceived grand theories. In contrast, research reliant on local studies seeks examples in the sources to challenge or redefine existing paradigms. The distinction is subtle but real.[186] A spatially restricted case study does not deny the impact that wider structural forces have in shaping the histories of localities. However, it attempts to provide a better understanding of the ways in which these factors were shaped, and in themselves were moulded by local interests and local concerns. In addition, this thesis is too broad geographically and temporally to comply with many of the constraints of microhistory. The county is the natural unit of investigation for this type of study and smaller regional examinations would ignore the diffusion of ideas shared by magistrates contained within a judicial framework defined by the boundaries of county administration. In terms

[181] C. Joyner, *Shared Traditions: Southern History and Folk Culture*, Illinois 1999, p.1.
[182] G. Levi, *On Microhistory*, in P. Burke, (ed.), *New Perspectives on Historical Writing*, Cambridge 1991, pp.93–113.
[183] De Vries, 'Playing with Scales', pp.25-26.
[184] ibid.
[185] ibid., p.28 and T. Robisheaux, (ed.), *Microhistory Today: A Roundtable Discussion*, in *Journal of Medieval and Early Modern Studies, Vol.47, No.1*, 2017, p.11.
[186] Magnússon, & Szijárt, *What Is Microhistory?*, p.29.

of timescale, the fifty or sixty years of the first half of the nineteenth century were a period of change in the administration of juvenile crime through the increased interest in the subject amongst literate society and an accretion of experiments to alleviate the perceived problem. This study does not see this as a history of 'progress' but a history of 'change' where the way juveniles were treated by the middle of the century bore striking differences from how they had been treated half a century before. While this thesis does not set out to judge whether this was a positive benefit for the juvenile, it legitimately addresses the idea that change had indeed occurred and pursues the reasons for that change. Likewise, this thesis does not deny the role the state had in framing the boundaries and autonomy allowed by the local justices. Jan de Vries has criticised the primacy given to individual agency by strict microhistories that ignore the presence of constraints and structures imposed by wider social, economic and political forces that are hardly visible in such a limited scale of study or the fact that 'most people, most of the time use their agency to reproduce structures'.[187] However, it is important not to lose sight of the role that magistrates played in interpreting, interacting with and imposing the restraints placed on them by these external factors. They were not merely passive enforcers of greater strategies handed down by Parliament and they often contended with local economic and social factors head-on in order to find solutions to what many believed was a fundamental societal malady. A study based at the county level is important because national studies of juvenile crime hide the nuances that are revealed locally.

This thesis utilises many historical methods to pursue its goal. It embraces many of the lessons taught by microhistories – that a change in focus to a specific location and temporal event might challenge perceived and reciprocated beliefs held by contemporary figures of power. In later chapters microstudies of criminal activity are pursued to contest the stereotypical view of juvenile offenders held by those charged with enforcing the letter of the law. This involves linking the criminal activity of a select number of juveniles within a defined location to explore the nature of their offending. There is very much a need to treat the elite viewpoint both critically and sceptically. A 'history from below', that looks at the lives of the less privileged allows us to challenge and push against the received perception of juvenile criminals held by the middle and higher sections of society. These specific studies are complemented by a statistical inquiry that frames the problem faced by the magistrates of both counties, whilst exploring the preponderance of contemporary attempts to quantify the perceived crisis. The thesis is divided thematically by changes in

[187] De Vries, 'Playing with Scales', p.31.

prosecution, punishment, and reformation with a view towards revealing the mechanism for this change through regional study to add to our understanding of juvenile delinquency.

1.4 Definitions of crime

Criminal legislation in the nineteenth century was never static and constant revisions in the legal code complicate any study that covers a significant length of time, inevitably rendering comparisons over that period extremely difficult. Larceny, for instance, was divided into grand and petty forms until 1827 based on the value of the goods stolen. These distinctions were removed, and the offences combined under the new offence of simple larceny after that point. Shore focuses attention away from subtle changing legal definitions and more towards the types of trial outcomes – particularly the clearer distinction between capital and non-capital offences.[188] Simple larceny covered all forms of larceny *without violence* and was therefore distinct from robbery and housebreaking (and certain forms of livestock theft) that were considered as containing aggravating circumstances and were therefore punishable by more severe sentences.[189] Judge Coltman, in his opening proclamation to the Staffordshire Summer Assizes of 1841 summarised that criminals facing 'cases in which the family are injured or even alarmed', would not see the same severity of punishment 'when they are only guilty of a mere abstraction of property'.[190] In 1834 the Keeper of the Criminal Register, Samuel Redgrave, reorganised the published statistics under six main headings with a clear distinction between violent and non-violent forms of property theft, with the less severe form being the most prevalent type of crime committed throughout the period. [191] This thesis examines theft under the distinction between the two county courts, which would have seen more violent larcenies prosecuted at the Assizes and less aggravated larcenies heard at the Quarter Sessions. Even under this simplified division there is a blurring at the margins of each category, but overall, this avoids the problem of classification growth imposed by the legislative changes. This study assigns categories based on Theft, Indirect Property Crimes and Offences against the person.[192] This allows the historical research to be conducted over a broad time span, across the mid-nineteenth century.

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[188] Shore, *The Social History of Juvenile Crime in Middlesex,* p.54.
[189] Philips, *Crime and Authority in Victorian England,* p.177.
[190] *Staffordshire Advertiser* - 24 July 1841.
[191] Offences against the person (homicide and assault); Offences against property involving violence (robbery, burglary); Offences against property not involving violence (larceny); Malicious offences against property; Offences against the currency and Miscellaneous offences. C. Emsley, *Crime and Society in England*, Harlow 2010, p.22.
[192] Both miscellaneous offences and misdemeanours were poorly recorded and constituted a minimal impact upon juvenile criminal records. Consequently, they are not examined here.

1.5 Statistical sources

This study begins by pursuing a quantitative framework for juvenile offending in Staffordshire and Shropshire.[193] Its goal is not to reveal the extent of juvenile criminality within the counties – it is unlikely that this can ever be revealed. It was as unknowable to contemporaries concerned with youthful lawbreakers at the time as it is to the historian. What can be pursued is the alterations in the frequency of juveniles appearing before the higher criminal courts and the subsequent changes in numbers of young offenders found within the county gaol in the first half of the nineteenth century. An increase in the numbers of juveniles at these trials and imprisoned or transported was a concern for those charged with enacting judicial procedure. It is in this context that juvenile criminality is explored.

The statistical picture is based on the locally recorded indictments in the Shropshire and Staffordshire gaol calendars for the Quarter Sessions and Assizes and it also makes use of the official reports and statistics presented within the Parliamentary Papers to appreciate the official recorded picture of crime. These records are necessary to investigate changes in juvenile prison populations in each county and the rising numbers of cases brought before the summary courts. These are nationally collated copies of locally collected evidence and rely on the quality of the local officials for their accuracy. Although the forms they were required to complete were standardised, the level of data entry and the quality of record keeping could vary from region to region.[194] The accused also had some agency in regard to the accuracy of the information they gave and often only they knew if the information they gave was accurate; consequently, this information is treated with caution.[195] In addition to these national sources, Staffordshire has a long run of summary indictment records following the introduction of the JOA 1847.[196] This study explores the changing nature of juvenile prosecution in the first half of the nineteenth century through a sampled study of these records and offers a new analysis for the history of juvenile crime.

[193] A contextual history of each county exploring changes in social, demographic and political factors that may have impacted levels of juvenile offending is explored in Chapter 2.
[194] R. Shoemaker, & R. Ward, 'Understanding the Criminal: Record-Keeping, Statistics and the Early History of Criminology in England', *The British Journal of Criminology*, *Vol.57, No.6,* 2017, p.1446.
[195] Digital Panopticon*, The Growth of Record Keeping about Convicts, https://www.digitalpanopticon.org/The_Growth_of_Record_Keeping_about_Convicts*, accessed 19/1/22.
[196] From its introduction in 1847 up to 1861.

The gaol calendars list those prisoners held in the county gaol awaiting trial at either the quarter sessions or assizes. Their major interest is in the level of detail that they provide and the continuity of survival for both counties. Furthermore, the records were produced to a formula which remained largely unchanged over time, allowing a broad chronological study to be undertaken. There is little evidence to question that they broadly reflected the court's business with no indication that they were manipulated or poorly recorded. Francis Tremlow, Chairman of the Staffordshire Quarter Sessions in 1842, went so far as to defend them as an accurate account of events at the Sessions. Whilst he believed the returns to Parliament might contain deficiencies and errors in collation, he believed that the calendars were accurate abstracts of documents produced by the courts.[197] Despite these assurances, the court proceedings could contain inaccuracies – for example, witnesses and defendants lying or being vague about ages and occupations. However, without evidence to the contrary, it is assumed they are an accurate representation of court events. A further consideration is that the court proceedings do not reflect all instances of juvenile crime. Those occasions where crime was undetected, or dealt with informally, or where cases were resolved before criminal proceedings were undertaken are not represented here. These instances are largely unquantifiable and, whilst it is important to acknowledge that there existed an amount of unrecorded crime, the focus of this thesis is based on the response of the ruling and judicial classes to the officially recorded levels of crime. This thesis argues that it is this intersection between local officials and formally quantified crime that was the motivating factor in the changing perceptions and methods of dealing with juvenile delinquents during the period in question. Information for name, age, type and evidence for the crime committed were printed within the listing and, most importantly, trial verdicts were often annotated and sometimes printed post-trial. This allows a long-term study to be undertaken of trial verdicts and criminal acts that appeared before these courts. A three-year sampling strategy has been applied as any attempt to record a 20-year period of indictments would result in the inputting of more than tens of thousands of records. They are not without their limitations: only indictable crimes appeared before a jury and though some misdemeanours were heard at the sessions, they were not recorded in the same level of detail. The major courts also became less important in trying juvenile criminality throughout the second quarter of the nineteenth century as prosecutions moved towards summary courts.[198] However, as King has noted, indictable felonies caused the greatest public concern and almost all theft was a felonious act.[199] So, whilst a

[197] *Staffordshire Advertiser* - Saturday 09 April 1842.
[198] Summary justice is examined further in Chapter 4 where its impact on juvenile criminality is explored.
[199] King, 'The Rise of Juvenile Delinquency in England', p.77.

complete picture of juvenile crime can never be achieved, a picture of juveniles before the major courts can be obtained.

The gaol calendars were entered by the author into a Microsoft Access Database, to search and group large sets of information. This requires some form of coding and interpretation of standardised sets of data for ease of comparison. Gender, for instance, was not a recorded category, although Christian names are assumed to be largely unambiguous in their gender associations and gender was therefore inferred from them. Types of offence were not explicitly highlighted in the calendars, but the detailed description given with each indictment could be placed within chosen broad categories. Codification and data entry can add problems of misinterpretation and error at a level removed from the original source material. It is also possible to distort the original material by placing it behind a layer of filtering and translation. Errors in data entry can be controlled by a rigorous sample checking process. Filtering is a necessary process and one that occurs in any historical document as the researcher makes active choices in the interpretation of the source material. The opportunity to explore a relatively standardised set of documents over a large timeline opens many opportunities for analysis alongside many potential pitfalls. An awareness of the types of questions that these documents can and cannot answer is necessary, in tandem with an understanding of the original purpose of the document under study. In this way data extracted from them should never be taken at face value and their limitations can be explored and acknowledged.

This thesis relies heavily on utilising the mass of data collected by both local and national initiatives during the nineteenth century for criminal prosecutions and penal populations. Much of this information was collected at the local level in the form of gaol calendars, criminal registers and reports by both magistrate committees and officials of the prison system. These were then collated and presented to Parliament as official Home Office reports. The statistical approach to historical criminality has been defined by two opposing perspectives revolving around the usefulness and reliability of the locally recorded and nationally collated information and the means by which it represents a *true* reflection of the extent of criminal activity at this time. Chris Williams defines these approaches to criminal history as positivist versus pessimist positions that respectively either value or reject conjectures based on their study. He also identifies a middle ground 'interactionist' viewpoint that attempts to utilise criminal statistics in a broader sense to understand the criminal

justice system rather than tackle the more contentious problem of quantifying criminality.[200] Using the interactionist model allows the crimes pursued through the criminal courts, and the recorded statistics of those proceedings, to be understood as the outcome of the decisions and actions taken by agents of the justice system. Specifically, for this thesis, the official statistics can reveal the fears and motivations of the local officials charged with maintaining law and order and the hidden catalysts behind the actions taken to curb juvenile offending.[201] For example, increases in coal theft amongst juveniles do not necessarily reflect a growing criminal initiative. It may be better understood as the result of subtle structural changes within the replacement of traditional land-owning justices with more industrially focused urban magistrates and the desire of those officials to directly protect their own interests.[202] The statistics therefore become a reflection of the concerns of these local agents and demonstrate the interaction of local anxieties within the wider national debate, rather than serving as an accurate indication of the scale of juvenile offending during this period.[203]

The strongest proponents of a statistical approach to criminal history have been Vic Gatrell and Tom Hadden in their influential study of reported crimes and annual governmental returns in the nineteenth century.[204] Their positivist approach acknowledges the shortcomings of the data as historical artefacts. However, it is grounded in the firm belief that changes in long-term trends of rising or falling incidences of crime may reflect real changes in the social and economic conditions within historical populations.[205] The overall picture – at least in the first half of the nineteenth century – is that fluctuations in the trade cycle directly impacted upon the types and numbers of offences committed as people appeared to steal more in times of depression.[206] The positivist viewpoint assumes that indictments were not merely capricious acts based on the whims of magistrates but mirror social and economic forces that can be tracked over time. Thus, changes in

[200] C. Williams, 'Counting crimes or counting people: some implications of mid-nineteenth-century British police returns', *Crime, History & Societies*, *Vol.4, No.2*, 2000, p.78.
[201] J. Walliss, 'Lies, Damned Lies and Statistics? Nineteenth Century Crime Statistics for England and Wales as a Historical Source', *History Compass, Vol.10, No.8*, 2012, p.575.
[202] This thesis explores this consequence in Chapter 4 to demonstrate the malleability of the penal code to tackle direct local concerns that magistrates deemed worthy of pursuing.
[203] Walliss, 'Lies, Damned Lies and Statistic?', p.575.
[204] V. A. C. Gatrell, & T. B. Hadden, *Criminal statistics and their interpretation*, in E. A. Wrigley (ed.), *Nineteenth-century Society: Essays in the Use of Quantitative Methods for the Study of Social Data*, London 1972.
[205] Gatrell & Hadden, *Criminal statistics and their interpretation*, p.336. Gatrell placed 'limiting conditions' on these interpretations – that short-term trends should be weighed against changes in the administration of law and that longer-term patterns should also factor in the impact of policing. Walliss, 'Lies, Damned Lies and Statistics?', pp.578-579.
[206] Gatrell & Hadden, *Criminal statistics and their interpretation,* p.368.

the number of offences recorded reflect real changes in criminal behaviour – even if this is only a partial indicator of the real numbers of crimes being committed.[207]

The most notable rejection of criminal histories based on statistical analysis was made by J. J. Tobias in *Crime and Industrial Society in the Nineteenth Century.* Tobias almost completely dismisses the usefulness of statistics as being too remote from the act of lawbreaking itself to represent a true picture of crime for any period.[208] Both court indictments and prison numbers were the final consequence of several stages of judicial procedure, producing a discrepancy between detected acts of crime and successful prosecutions that resulted in custodial sentences. Factors such as judicial discretion at various stages of the trial process or procedural failures resulting in a dismissal could mean that the 'officially' recorded end process of the law greatly under-represented the actual level of crime within any given locality. The 'dark figure of crime' is a genuine concern for any historian hoping to reconstruct a picture of all aspects of criminal activity in the past. Many crimes went unpunished even after the introduction of professional police forces as the problems associated with detection of crime, and the unwillingness of victims to prosecute, left returns as only a partial representation of the total.

Rob Sindall has noted that the degree in which the spirit of the law has been administered was often related to the level of concern held by the public or the most influential members of society.[209] A rise in Game Law convictions in the 1840s can be tied to the need for magistrates to report directly to the Home Secretary to demonstrate that this offence was being dealt with at the local level.[210] Additionally, if a committal is taken as a single unit of criminal activity then it can become obscured in the cumulative total. This can overlook the interrelated nature of criminal acts and treat them as seemingly isolated events when, in truth, they were connected through cooperation amongst felons or as the repeat offences of a recidivist. Several committals during a trial could be the result of one individual crime. Repeat offenders could also skew perceptions of lawlessness. An 1847 parliamentary enquiry was informed that 'the criminal population is much smaller than generally imagined' as the criminal statistics often documented committals rather than the criminals

[207] Emsley, *Crime and Society in England,* p.31.
[208] J. J. Tobias, *Crime and Industrial Society in the Nineteenth Century*, Harmondsworth 1972, p.296.
[209] R. Sindall, *Street Violence in the Second Half of the Nineteenth Century*, PhD thesis, University of Leicester, 1984, p.80.
[210] R. Sindall, *Street Violence in the Second Half of the Nineteenth Century*, p.80.

themselves.[211] Sindall believes that ten-fold recommittals amongst juveniles were not unheard of.[212] If reoffending was a major factor, then criminal levels would not reflect the number of criminals at large within a society. Some contemporaries were concerned that a perceived rise in the level of criminal activity was inflated by the actions of a minority of hardened criminals.[213]

Long-term fluctuations could be the result of factors outside of a rising or falling total number of lawbreakers. King highlights how increasing expense payments for prosecutors could encourage a growth in indictments or conversely how a growing distrust of capital punishment could supress them.[214] In King's study, the increasing numbers of juveniles in prison after 1848 must be viewed as a side-effect of judicial changes rather than evidence of an increasingly lawless youth culture. The introduction of the JOA in 1847 allowed the prosecution of juveniles to be hastened at a reduced cost and had the unintended result of introducing more young offenders into the penal system.[215] Tobias also raises the question of the impact of varying local law enforcement efficiency and the inconsistent application of the law in these police forces.[216] Furthermore, as Howard Taylor has concluded, police later in the century may have been pressured to keep prosecution costs at a fixed annual average, constraining the number of prosecutions they pursued within limited resources.[217] Taylor believes that stagnation in the murder rate after mid-century, despite the ongoing growth in population, is indicative of the police screening and determining which cases to pursue in order to maintain prosecutions within the margins of the set average.[218] Barry Godfrey reinforces this point by emphasising the decline of the victim as the active force in pursuing prosecutions and their replacement by the police as a significant reason behind the fall in violent crime in the same period. Godfrey felt that the police were less inclined to treat such cases with the same level of concern as the victim, preferring to deal with cases without the need to arrest or prosecute unless provoked by the alleged perpetrator.[219]

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[211] Quoted in R. Sindall, 'The criminal statistics of nineteenth-century cities: a new approach', *Urban History Yearbook, Vol.13*, 1986, p.28.
[212] R. Sindall, 'The criminal statistics of nineteenth-century cities', p.28.
[213] ibid., p.60.
[214] King, *Crime, Justice and Discretion*, p.134.
[215] Walliss, 'Lies, Damned Lies and Statistics?', p.577.
[216] Tobias, *Crime and Industrial Society in the Nineteenth Century*, p.297.
[217] H. Taylor, 'Rationing crime: the political economy of criminal statistics since the 1850s', *Economic History Review*, *Vol.51, No.3*, 1998, p.580.
[218] Taylor, 'Rationing crime: the political economy of criminal statistics', p.569.
[219] B. Godfrey, 'Changing Prosecution Practices and their Impact on Crime Figures, 1857–1940', *The British Journal of Criminology*, *Vol.4, No.2*, 2008, p.185.

Some of these concerns about criminal statistics have been effectively dismissed. Tobias argued that contemporary commentaries were a far more reliable indicator of the nature of criminal activity during the nineteenth century whilst overlooking the fact that many of these opinions were based on an assimilation of the available statistics.[220] Furthermore, caution must always be exercised when drawing conclusions from official enquiries and public debate about the nature and scale of criminality during this period. Investigators largely operated within the same social class and such reports were open to a middle- and upper-class bias that saw crime as a social condition of the lower orders.[221] Taking these accounts at face value can amplify and echo contemporary anxieties rather than reveal an unambiguous reality of criminality. This thesis contends that it was these anxieties, rather than an exponential growth in criminality amongst juveniles, that were behind a changing relationship between the delinquent and the penal system in the nineteenth century. Taylor's criticisms of openly manipulated police figures has also been questioned by Robert Morris, who argues that such a mass-scale deception would have been impossible to have been planned effectively, certainly not as part of an organised effort by central government to supress criminal figures.[222] Taylor's interpretation of the figures ignores the divided nature of the justice system, and the fact that it was administered at a local level, which would have required the cooperation and conspiracy of over 100 police forces to maintain murder rates at an agreed level.[223] Morris also argues that the 20% variation around an implied fixed average, which was seen by Taylor as indicative of controlled levels of reporting, actually represents a large degree of volatility.[224] Despite these rebuttals, concern remains about the usefulness of criminal statistics in illuminating criminal history in the nineteenth century.

The middle path between these two viewpoints acknowledges that such statistical analysis can never truly be used as a measure of criminal activity.[225] Despite this, Philips believes that a quantitative framework can be used to explore criminal behaviour.[226] Philips argues that the state was never truly concerned with the idea of quantifying total crime but was in fact motivated to track and pursue action against those offenders and offences that it considered to represent the greatest threat to society.[227] The acts and actors who stood opposed to the perceived social order would evolve

[220] Philips, *Crime and Authority in Victorian England,* p.17.
[221] ibid., p.17
[222] R. Morris, 'Lies, damned lies and criminal statistics - Reinterpreting the criminal statistics in England and Wales', *Crime, History & Societies*, *Vol.5, No.1*, 2001, p.118.
[223] Morris, 'Lies, damned lies and criminal statistics, p.118.
[224] ibid.
[225] Emsley, *Crime and Society in England*, p.30.
[226] Philips, *Crime and Authority in Victorian England,* p.21.
[227] ibid., p.23.

throughout the century and the interest in quantifying these concerns would equally change in parallel with them. Prosecution was therefore not a means to punish all offenders but was a tool to demonstrate to those tempted to commit the same offence the consequences that might occur.[228] Crime in this context is a social construction defined by the acts thought to be most threatening by contemporaries, rather than a totality of all offences judged to be illegal by the law. Rises in types of offences cannot be studied without the context and understanding of the reciprocal nature of the criminal statistics of the period. As King noted, a new discourse emerged, as changing legislation and social relations led to greater committals which fed into a growing concern regarding juvenile delinquency.[229] In some ways, concerns about rising juvenile criminality brought about the feared behaviour that officialdom sought to extinguish, as the actions of those officials concerned with the misbehaviour of the youngest sections of society brought growing numbers of juveniles before the courts which culminated in increasing incarcerations. Official reports, investigations, and statistics influenced the way contemporaries perceived levels of criminality within society. This in turn led to calls for new responses, which in themselves, generated new tensions and changes in judicial and penal administration that further nourished the original anxieties.[230]

Studying criminality from this perspective may reveal more about the offences and the offenders and the role of the courts and law enforcement agencies in defining criminality. Criminal prosecution involved a series of decisions and labelling processes regarding the type of crimes to prosecute, the types of offenders to pursue and the nature of the punishment. It was the final product of a process of interaction between authorities, the lawbreakers, and the society in which they lived that defined a particular way of behaving as deviant.[231] This raises interesting questions based on the moral distinction between types of crimes. Did contemporary society view a difference between acquisitive acts of theft and crimes committed for survival? Were such divisions of perception influenced by class? Could crime for profit not be a strategy for survival in itself? As Sindall emphasised, the statistics were facts in themselves even if they were not a true reflection of the reality of the period. They were used as a basis for shaping public opinion and legalisation.[232]

[228] Taylor, 'Rationing crime: the political economy of criminal statistics', p.572.
[229] Walliss, 'Lies, Damned Lies and Statistics?', p.580.
[230] ibid.
[231] Philips, *Crime and Authority in Victorian England,* p.45.
[232] Sindall, *Street Violence in the Second Half of the Nineteenth Century,* p.830.

Another aspect is the origin and provenance of these statistics – why were they collated and by whom? Was the gathering of national statistics the by-product of an emerging centralised state? Were they an exercise in disciplinary power and the stigmatisation of the poorer classes with an objective to increase control over seemingly lawless lower orders as proposed by the followers of Michel Foucault?[233] Robert Shoemaker and Richard Ward have argued that in fact the earliest developments in collating information on offenders were often undertaken by local officials acting on their own cognisance with little input from higher authorities.[234] They formed part of an emerging 'positivist' tradition of information gathering that was morally and empirically driven by a desire not just to control the criminal but to understand the causes of crime. In many respects, central government was slow to participate in the gathering of criminal statistics: many of the most diverse sets of records were kept by prison chaplains with little external encouragement.[235] The notion that criminal statistics were a centrally promoted tool of repression must be reassessed against the knowledge that judicial power was much more diffuse with a strong local element in the early to mid-nineteenth century. There were other motivations to consider, including the moral and religious concerns of local officials in classifying and recording the criminal.[236] It is this perspective that offers a potential for understanding the underlying agency behind the treatment of juvenile offenders in this period, a central component of this thesis.

1.6 Non-statistical sources

The calendars were not the only documents produced by the Quarter Sessions; reports and committee minutes were also generated. The reports of special committees which considered reformatory institutions in Shropshire and Staffordshire are valuable. Alongside these are the gaol committee reports which outlined the numbers and conditions of the juvenile prison population for each county. These reports were often the culmination and distillation of work and debate undertaken by magistrates charged with forming these committees. Furthermore, they cannot be taken as a reflection of all interests and opinions of all the magistrates of the sessions. The newspaper coverage of session meetings and their conclusions, where committee minutes and reports were often presented for the perusal of all attending justices, reveals fierce debate. As Laura

[233] Shoemaker & Ward, 'Understanding the Criminal, p.1442.
[234] ibid., p.1443.
[235] ibid., p.1452. A notable example comes from one of the individuals in a county under consideration, the Chaplain of Shropshire Gaol, Rev. David Winstone, who for a period in the 1840s kept extensive statistics regarding the education and religious knowledge of his charges. Shropshire Record Office *Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*
[236] Shoemaker & Ward, 'Understanding the Criminal', p.1457.

Carr found, in her study of the justice system in Hull in the mid-nineteenth century, the justices of the gaol committee could be at loggerheads with the other justices of the sessions. The gaol committee saw their role in the administration of justice within the county prison as incompatible with the concerns of session magistrates – the gaol committee were focused on the importance of reformation versus a position motivated by financial prudence.[237] Similarly, the debate between the 'official' record of the sessions and the arguments presented by the court reporter would be lost if the session reports were studied in isolation. In fact, the tensions revealed by the disputing of official findings reveal a picture of conflicts and differing motivations behind the enactment of local governmental policy towards juveniles.

Newspapers contain their own pitfalls and traps. Whilst they give an indispensable insight into the reaction of the court to trial verdicts and to discussions and objections towards committee-generated reports, they must be used with caution as they are biased sources written with a specific audience in mind. In this fashion they share the ideals and objectives of the educated ruling and middling classes who read them. The voices of the poor are rarely recorded. If they are, it is through the prism of an educated voice several classes removed from the source. This can be insightful in its own regard, particularly in revealing the attitudes and opinions of specific sections of society. In this fashion they serve as a means of 'exploring the representations and narratives' that passed through *literate* society.[238] Newspapers helped 'set the agenda for public and private discussion'.[239] They provided 'interpretative frameworks' through which their readers tried to comprehend the society in which they lived.[240] Political affiliations are also worthy of consideration. Many provincial towns had their own newspaper and often both sides of the main political divide – liberal as opposed to conservative – found a voice in separate papers.[241] In Shrewsbury, for instance, *Eddowes's Shrewsbury Journal* advocated conservative views whilst the *Shrewsbury Chronicle* had a liberal bias.[242] The Journal was known to be predisposed to the interests of both the landed classes and the established church.[243] Though the outlook of many regional papers was politically diverse it was frequently characterised by ideas of political liberty and the desire to reform national institutions

237 L. Carr, *Delivering Justice in Hull: 1835-1879*, MA Dissertation, The Open University, 2019, p.15.
238 A. Bingham, 'Reading Newspapers: Cultural Histories of the Popular Press in Modern Britain', *History Compass, Vol.10, No.2,* 2012, pp.142-143.
239 Bingham, 'Reading Newspapers', pp.142-143
240 ibid.
241 F. D. Roberts, 'Still More Early Victorian Newspaper Editors', *Victorian Periodicals Newsletter, Vol.5, No.4*, 1972, p.12.
242 T. Phillips, (ed.), *The History and Antiquities of Shrewsbury: From Its First Foundation to the Present Time, Comprising a Recital of Occurrences and Remarkable Events, for Above Twelve Hundred Years, Vol.2,* London 1837, p.317.
243 https://britishnewspaperarchive.co.uk/titles/salopian-journal, accessed 27/5/24.

often driven by emerging urban liberal industrialist and manufacturers.[244] Political bias often reflected the editorship or ownership of the paper, which could change affiliation as editors changed: the publications in Shropshire had been founded with the opposite political standpoint in the previous century.[245] In Staffordshire, *The Staffordshire Advertiser* attempted to side-step partisan politics in an effort to avoid the emergence of a rival publication with an alternative viewpoint.[246] The Editor, Chester Mort, stated that it was his intention to 'make the paper a mirror of public opinion rather than a vehicle for the views of a particular class or party'.[247] Being overtly political was not necessarily beneficial to a papers success – without popular support a newspaper could not hope to achieve widespread circulation.[248] Nor is it easy to untangle the agendas of criminal reporting from one publication to the next, as they often shared similar anonymous sources from freelance court reporters and accounts often appeared verbatim across several newspapers.[249] The difficulty in pinpointing political bias in newspaper reporting towards juvenile crime may be a reflection of a political reality amongst the various proponents of change in juvenile criminal justice. Liberal as well as conservative commentators coalesced around the belief in moral restraint targeted towards working class juvenile subordination. Whilst the boundaries may have been drawn differently across the political divide the fear was widespread.[250] This is best exemplified by the reformers Wolrych Whitmore and Baldwin Leighton in Shropshire that, despite their political differences, shared a similar vision for pauper education in their county and the impact it could have on juvenile crime.[251] By the mid-century, as David Roberts notes, regional newspapers became less diverse in their political outlooks regarding social issues such as bad housing, disease and juvenile crime.[252] Juvenile criminality as an issue received much cross-party support throughout this period aided by the fragmentation of party politics and the fact that the issue was driven by the innovations of outsiders (such as social reformer Mary Carpenter).[253] Both Tory humanitarians and radical liberals could allow their backing of proposals such as the reformatory movement to be seen as placing moral virtue above any notion of political crusades.[254] As will be seen later in this thesis,

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[244] Roberts, 'Still More Early Victorian Newspaper Editors', pp.21-22
[245] Phillips, (ed.), *The History and Antiquities of Shrewsbury*, p.317.
[246] Roberts, 'Still More Early Victorian Newspaper Editors', p.15.
[247] ibid.
[248] H. Barker, *Newspapers and English Society 1695-1855*, London 2000, pp.88-94.
[249] P. King, 'Newspaper reporting and attitudes to crime and justice in late-eighteenth- and early-nineteenth-century London', *Continuity and Change, Vol.22, No.1*, 2007, p.91.
[250] Wiener, Reconstructing the Criminal, pp.14-16 & D. E. Lord, 'Changes in Attitude Towards the Treatment of Juvenile Offenders in Great Britain, 1823–1908', *Australian & New Zealand Journal of Criminology, Vol.1, No.4*, 1968, p.201.
[251] Whitmore was liberal leaning, whilst Leighton was politically conservative at heart. See Chapter 7.
[252] Roberts, 'Still More Early Victorian Newspaper Editors', p.23. By the 1870s the Shrewsbury Chronicle itself became steadily anti-radical and more conservative, G. C. Baugh, (ed.), *A History of Shropshire*, in *The Victoria History of the Counties of England, Vol.3*, Oxford 1979, p.312.
[253] May, A Child's Punishment for a Child's Crime, p.474
[254] ibid. & J. F. Saunders, *Institutionalised offenders : a study of the Victorian institution and its inmates, with special reference to late nineteenth century* Warwickshire, PhD thesis, University of Warwick, 1986, pp.194-95.

though direct state involvement in many factors of juvenile criminality would become more organised by the end of the century, many of the innovations in dealing with young offenders came as the result of individual interventions, quite often on a local level, that transcended traditional notions of political affiliation.[255] This is reflected in the coverage of juvenile justice that, whilst divided over the severity of solutions, largely backed the prevailing ideas regarding the implementation of summary justice for juveniles or the establishment of educational facilities for young felons.

Class, rather than politics, may have been a more decisive factor in driving opinion in these publications. Regardless of an intent to avoid bias, these editors were part of the local social elite. In fact, owning such a publication could be a gateway into the higher reaches of society for a middling family. John Watton, proprietor of the *Shrewsbury Chronicle*, also acted as mayor of the town in the 1830s and Chester Mort of *The Staffordshire Advertiser* was both an Alderman and magistrate for the borough of Stafford. A lack of critical reporting of judicial, or magisterial rulings, is indicative of the deferential position adopted by owners that wished to maintain good relations with their social superiors and to aid in their own social advancement.[256] Whilst political viewpoints might differ from one publication to the next, their societal position and privilege could colour any reporting of juvenile offending towards a positive perspective. In terms of overall accuracy, it was not unheard of for magistrates to raise objections about being misrepresented by newspaper coverage.[257] Reporters were aware of being accused of being inaccurate and printed corrective statements when necessary. As an insight into the prevailing beliefs held by this section of society, especially those enthusiastic in their support of a change in methods for dealing with juvenile offenders, they are an important underutilised source.

The final major sources were those produced by the transportation of criminals to the Australian Colonies, specifically those transported to Van Diemen's Land (Tasmania), where a boys' prison was set up in the 1830s. The most useful were the conduct records, which recorded names, ages, locality of offence, previous offences, and physical descriptions of those who were to disembark to begin

[255] J. Brett, *Plotting the trajectory of youth justice in the 19th and 20th centuries by the making of legislation: a process in five acts*, PhD thesis, Loughborough University, 2021, p.31.
[256] King, 'Newspaper reporting and attitudes to crime', pp.98-99 & Roberts, 'Still More Early Victorian Newspaper Editors', p.21.
[257] For example, in an edition of the *Staffordshire Advertiser* from 1837, the Chairman of the Sessions asked for a correction to be printed regarding a technicality over the reporting of the renumeration of the examiners of weights and measures, which was printed by the editor with an apology if they had 'misapprehended his observations'. *Staffordshire Advertiser* - Saturday 15 April 1837.

their period of confinement. Furthermore, they were a continual record of indiscretions and minor offences committed by the offender during their time as a convict – often describing additional punishments that were meted out. They offer a detailed overview of a convict's life over time, particularly if that defendant had a fractious relationship with the authorities responsible for detaining them. Hamish Maxwell-Stewart, Matthew Cracknell and Kris Inwood describe the records of the colonies as an 'elaborate bureaucracy of surveillance' that continued to be updated long after the transport vessels themselves had ceased to arrive in the 1850s.[258] They make it possible to record interactions that a named juvenile had with the law over a significant period.

When linked with other sources, such as newspaper reports and census records, it is possible to build up a biography for those individuals, to gain a better insight into the nature of their offending and reoffending. It is also possible to cross-link individual acts of offending to larger groups of juveniles to gain a greater understanding into how their crimes were part of a general pattern of juvenile delinquency within a given locality. However, there is always the chance that missing information and mistakes in linkages could create false narratives.[259] Moreover, caution needs to be applied in not creating causal links between events – it is necessary to make correlations between recorded events, otherwise record linkage would become a fruitless task, but speculation about the reasons or motives behind criminal acts or repeat offending should be circumspect.[260] As to the accuracy of the records, Stephen Nicholas, in his study of the employment information recorded in the convict indents, believed that they showed a specificity and variety in recording such information that exceeded the level of detail found in contemporary census records. He argues that such detail points to a precision in collection that is reflected in the details recorded by the officials charged with completing them and should therefore be held as reliable individual records.[261] When cross-referenced with contemporary newspaper reports, and the records produced by the sessions, it is possible to verify the veracity of the transport records.

The deficit of an approach that relies purely on a statistical analysis of the available sources is the absence of a direct juvenile perspective. The reality of the types of economic and social

[258] H. Maxwell-Stewart, M. Cracknell & K. Inwood, 'Height, Crime and Colonial History', *Law, Crime and History, No.5*, 2015, p.30.
[259] H. Johnston, B. Godfrey, D. Cox. & J. Turner, 'Reconstructing Prison Lives: Criminal Lives in the Digital Age', *Prison Service Journal, No.210*, 2013, p.9.
[260] H. Johnston, B. Godfrey, & J. Turner, *"I am afraid she is perfectly responsible for her actions and is simply wicked": Reconstructing the Criminal Career of Julia Hyland*, in D. S. Nash, & A. M. Kilday (eds*), Law, Crime and Deviance since 1700: Micro Studies in the History of Crime*, London 2017, p.221.
[261] S. Nicholas, *Convict Workers: Reinterpreting Australia's Past*, Cambridge 1988, p.64.

circumstances in which they lived can only be viewed at a level removed from the actual experiences of the young themselves. The possible motivations of these people on the fringes of acceptable behaviour and the impact of a sentence passed upon them cannot be explored by statistics alone. The second half of this study attempts to rebalance this perspective by pursuing several life histories of juveniles caught up within the process. It provides a much-needed counterpoint to a study that necessarily relies on the voices and actions of those in authority to define the interactions of the law with juvenile lawbreakers. This requires a level of record linkage where problems of name standardisation and fragmentary record-keeping, or survival, can cause correlation problems. Only those records where a correlation can be substantiated with multiple factors - linkages across similar age ranges and localities, for instance – can be accepted as likely belonging to a single individual. This leads to a deficiency in that repeat offenders are over-represented, but this can result in interesting avenues of investigation as the recidivist was the juvenile who caused magistrates the greatest concern. Juveniles who produced the most interactions with the law were probably exceptional when compared with the more mundane everyday petty occurrences that led to many juveniles appearing before the courts. However, the diverse sets of records for these individuals allow broader questions to be pursued. In this way, the personal histories of some of the criminal offenders can be considered alongside an analysis of criminal statistics.

These records allow dry statistical data to become humanised. Although these biographies are compiled using 'official' records, by employing a variety of sources we can look beyond the limited scope of each piece of evidence to illuminate the social pressures at play.[262] In his arguments for the application of such 'micro-histories', István Szijártó describes how the level of the individual can be linked to the level of the general – when the contexts of these specific actors are studied 'the fabric of society may also be re-constructed'.[263] What we gain from this granular approach to personal history 'is not only the more intimate knowledge of an individual, but that of a past society as well'.[264] Furthermore, the commentaries and beliefs espoused by those in authority regarding the nature of juvenile crime can be challenged through a closer examination of those actual individuals committing the crimes that caused anxiety. The stereotype of the street urchin can be deconstructed, and a different view of the reality of childhood misbehaviour and strategies of survival is revealed. Whilst this thesis is substantially focused on those in authority, to better

[262] E. Watkins, *Life Courses of Young Convicts Transported to Van Diemen's Land*, London 2020, p.6.
[263] I. Szijártó, 'Four Arguments for Microhistory', *The Journal of Theory and Practice, Vol.6*, *No.2*, 2002, p.211.
[264] Szijártó, 'Four Arguments for Microhistory', p.211.

understand the changing nature of both national and local policy towards juvenile offenders, the juveniles themselves are *seen* through this method of study.

1.7 Conclusion

The toleration of youthful misbehaviour and the response of authority is directly proportional to the amount of threat this early period of life posed to established modes of conduct and can be witnessed in the centuries before the 'crisis' of the nineteenth century. Against a changing economic, political, and religious backdrop the role of children in society was open to constant renegotiation. Understanding of childhood itself was neither static nor unmalleable, as rising numbers of juveniles within the population and changes in levels of discretion challenged existing notions of how control could be imposed on this most important age group. This pre-adult state was infused with powerful ideas of potential – for both good and evil – and as a reflection of the society from which it sprang. During the nineteenth century these fears, and hopes, coincided with a rapidly evolving judicial structure that both streamlined the process of justice and revealed the nature of the evolving problem through the systematic classification of offenders. The result was an increasing number of juveniles who fell within the purview of the legal system.

Shore and King have uncovered the nature of this experience, particularly in their examinations of the surviving judicial records rather than relying on contemporary commentary alone. However, both authors focus on the role of urbanisation as a major factor in the criminalisation and rapid rise of juveniles within the criminal records. Though King does make room for an analysis of different economic regions, there is scope for a detailed study of areas where urbanisation was not a major factor. Although much of the legislation was spurred by the extreme conditions in the larger metropolitan areas, its impact was felt throughout the country by both juveniles and the rural elites who were part of the growing debate. This thesis examines two different geographical areas, Shropshire and Staffordshire, that have received little attention previously. This study also seeks to examine the process of juvenile criminalisation through the beliefs and actions of those charged with administering justice at the local level in order to understand the evolving nature of juvenile justice in the first half of the nineteenth century.

This thesis engages with the criminal records that proliferated during this period and quantifies the character of juvenile justice through a statistical analysis of the criminal records produced by the

courts. This study also connects the local records to the nationally collated records of prison numbers and summary justice figures. These records are used with caution as they cannot simply be used as a signifier of increasing or decreasing criminality amongst the juvenile population. They are a by-product of choices and decisions to pursue justice at various points along the legal system and are reflective of ever-evolving anxieties regarding definitions of lawlessness. Nor do they offer any insight into the level of unrecorded crime. Instead, they are a manifestation of contemporary concerns towards juvenile delinquency rather than a true reflection of the number of crimes that juveniles may have committed. This realisation, in itself, offers a powerful insight into the motivations and pressures of those charged with both dispensing justice and entrusted with the welfare of juveniles if incarcerated or transported. As justice was largely administered at the local level, local studies, such as this thesis, can best illuminate the changing nature of juvenile crime during this period. The proliferation of statistics at this time is reflective of a desire amongst those in authority to better understand the conditions and extent of juvenile crime and, in their own way, the 'facts' they revealed further influenced attitudes and changes of policy towards juvenile offenders.

In isolation, the statistical material offers a one-dimensional representation of the reality of juvenile crime, but in conjunction with newspaper reports, the minutes of local magistrates' sessions and national reports generated by governmental committees, a broader picture of young offending is created. This is complemented by methods borrowed from micro-historical studies that allow the individual experience of those juveniles caught within the criminal justice system to be partially reconstructed, bringing depth to the official records that would otherwise be lost. This personal perspective illuminates the general picture of juvenile offending. Additionally, although this study is local to two neighbouring counties, it enhances understanding of the national debate in the period. The decisions and actions taken by the local authorities were influenced by local considerations and local socio-political concerns, but they were embedded in a national picture that forced regional interests to be taken up as part of a national legislative agenda.

Chapter 2 explores the economic, social and political histories of Staffordshire and Shropshire to frame our understanding of the forces that impacted upon judicial concerns and penal changes in these locations. It also looks at some of the key officials involved with the administration of justice. Chapter 3 investigates the Quarter Session and Assize Court calendars to analyse the types of crimes and sentencing patterns that were passed against juveniles of these counties. Chapter 4 delves into the Summary Courts and considers the impact that such 'swift' justice had on the overall numbers of

juveniles appearing before the courts and receiving custodial sentences. Chapter 5 concerns the changing nature of penal punishment and the way the county institutions designed for the incarceration of criminals adapted to the growing number of imprisoned juveniles. Chapter 6 looks at transportation as an alternative punishment and places it within the changing understanding of juvenile criminality that was emerging during the second quarter of the nineteenth century. It also utilises the depth of the transportation records to create criminal biographies for a selection of juveniles to better understand the nature of juvenile offending in relation to the official viewpoint held by those in charge of administering justice. The final chapter investigates the growing need amongst local officials to find an alternative means of punishing juveniles outside of existing penal administration. The overall aim of this thesis is to understand to what extent magistrates and local officials perceived, addressed, and influenced the changing nature of juvenile delinquency in these counties.

Chapter 2 – Staffordshire and Shropshire (c.1810-c.1860)

The socio-economic changes in Staffordshire and Shropshire during the first fifty years of the nineteenth century are key to understanding local responses towards juvenile criminality. Providing a context for the pressures that lay behind changing attitudes to juvenile delinquency makes it possible to understand shifting views towards the best means of confronting the perceived crisis of juvenile crime. This chapter focuses on three themes: population and urban growth; the economic differences in each county, particularly due to the impact of industrialisation; and, finally, the local politics and administration of the law. Local magistrates are particularly important – being directly accountable for administering county justice and monitoring the growing juvenile prison population. Did the different trajectories experienced in the first half of the nineteenth century, in terms of economic growth and population change, determine an increasing criminalisation of juveniles or were structural changes in magisterial authority the decisive factor? Moreover, did the differing socio-economic realities of each county shape the changing nature of local authority? Answers to these questions will allow us to explore in later sections whether local juveniles themselves were becoming more lawless in this period or whether deeper structural changes occurring in these counties were the true driving force behind a perceived crisis in juvenile behaviour.

2.1 Population growth

Staffordshire and Shropshire experienced different population pressures in the first half of the nineteenth century. At the turn of the century, Staffordshire had roughly 75,000 more people than its neighbouring county.[1] By 1851 it had 283,000 more people and had over twice the population of Shropshire (Figure. 2.1). Staffordshire had grown by 109% between 1801-1851 compared with Shropshire's modest growth of 33%.[2] To place this within the national context, England and Wales's total populations had increased by 73% in the same fifty years.[3] This did not simply equate to a greater population in Staffordshire, but population density was also higher – almost three times as many people per square mile.[4] Figure 2.2 demonstrates that trade, manufacturing and urbanisation were key markers for Staffordshire's socio-economic profile by mid-century, far greater than in

[1] *Staffordshire County Council Education Department*, 'Staffordshire population since 1660', Stafford 1975, pp.38-39 and *Parliamentary Papers, 'Census of England and Wales, 1871, Population tables. Area, houses, and inhabitants', Vol. I. Counties*, 1871, p.351. (Hereafter *PP*)
[2] 'Staffordshire population since 1660', pp. 38-39 and *PP, Census of England and Wales,* 1871 p.351.
[3] 'Staffordshire population since 1660', p.14.
[4] *PP*, *Population Tables, 1851, Part I. Number of Inhabitants in 1801, 1811, 1821, 1831, 1841 and 1851. Volume I. Report, England and Wales, I-VII; Area and Population,* 1851, p.cx.

Shropshire.[5] The 1851 census is used to define townships: while it is acknowledged that such divisions are arbitrary, they are useful for making comparisons.[6] Though both counties were listed in the 1851 census as having an almost equal number of towns, the density of population in Staffordshire's towns was higher, with over 6 people per square acre on average compared to Shropshire's 2 people[7] If the towns from each county where the highest number of indictments at the Quarter Sessions are examined, the disparity in population density becomes more apparent. The borough of Shrewsbury contained a mere 1.3 people per acre in 1851 compared with Wolverhampton that had over 16 people per acre.[8] Large dense populations made ideal conditions for crime as they allowed for greater opportunity (in terms of material goods); also high rates of migration and harsh living conditions existed side by side.[9] Higher wages and the prospect of diverse job opportunities helped attract a youthful population – further fuelling the notion that crimes committed by the young were a feature of urban living.[10] Across both counties, urban areas present as the driving force of increasing committals at the county sessions.

[5] Magistrate Doctor William Harwood noted in 1849 that Staffordshire served as a highway linking the manufacturing districts of Lancashire, Cheshire and Warwickshire and, combined with its own population density and manufacturing regions, that few counties were as vulnerable to the effect of 'poverty, wretchedness and consequent crime'. *Staffordshire Advertiser* - Saturday 20 January 1849.

[6] The definition of what constituted a town in the nineteenth century is a contentious one; the censuses of 1851 and 1861 categorised Municipal and Parliamentary boroughs and all unincorporated towns with a population greater than 2,000 as urban. Later censuses in the century defined urban areas not on population size but on their type of local government: C. M. Law, 'The Growth of Urban Population in England and Wales, 1801-1911', *Transactions of the Institute of British Geographers, No.41*, 1967, pp.125-127. Some of the Clerks of the Peace when consulted on the nature of their settlements with inhabitants greater than 2,000, declared that they could not be strictly classified as towns and were therefore omitted from township classification in the 1851 Census: *PP*, *Population Tables, 1851, Part I,* p.xxii. R. Price-Williams attempted to recodify the earlier census data in 1880 to define small towns as those with a population of 2,000 to 20,000 and larger towns being of an order of magnitude above this: R. Price Williams, 'On the Increase of Population in England and Wales', *Journal of the Statistical Society of London, Vol. 43, No. 3*, 1880, p.465.

[7] *PP*, *Population Tables, 1851, Part I*, p.cv.

[8] *PP*, *Population Tables, 1851*, *Part I,* pp.clxxxix, cxc.

[9] That is not to imply that a mobile criminal class took advantage of the opportunities presented by moving from one locality to another; for instance, most crime in the Black Country was not committed by 'professional' thieves but existed as casual theft with little planning often by those already in some form of employment. N. Stephen & P. R. Shergold, 'Internal migration in England, 1818–1839', *Journal of Historical Geography Vol.13, No.2,* 1987, p.159.

[10] R. Lawton, 'Population Changes in England and Wales in the Later Nineteenth Century: An Analysis of Trends by Registration Districts', *Transactions of the Institute of British Geographers, No.44*, 1968, p.62.

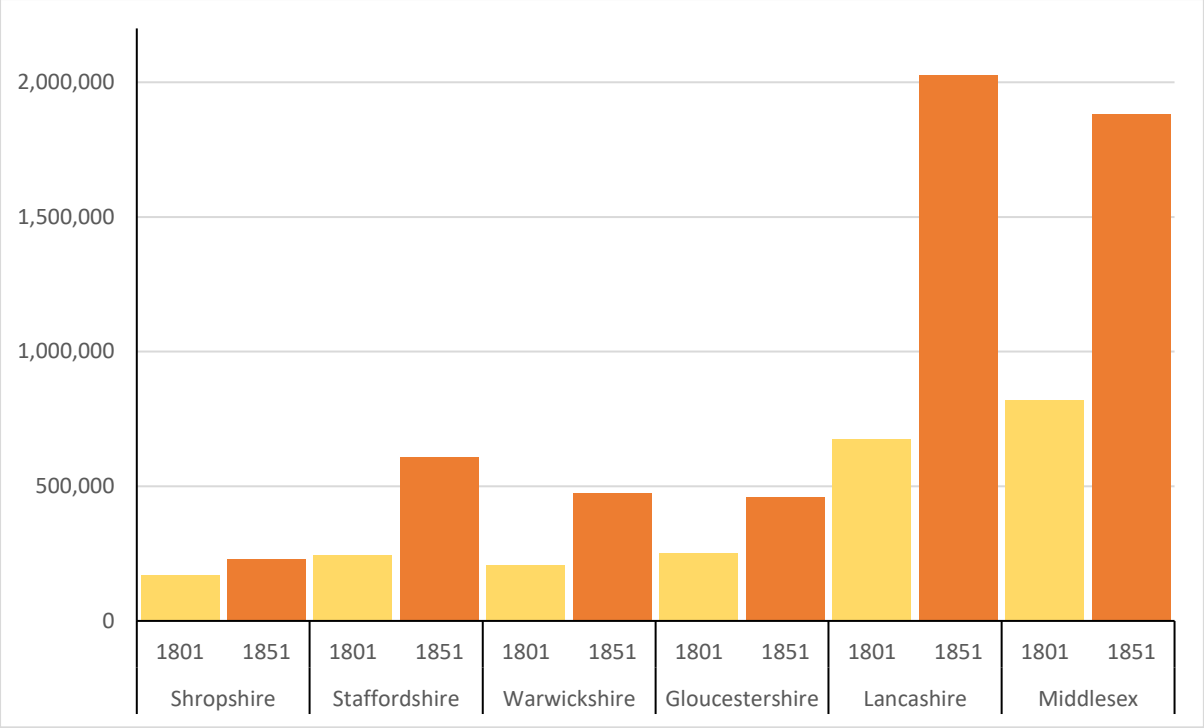

Figure 2.1. Growth in population for selected counties for 1801 and 1851.[11]

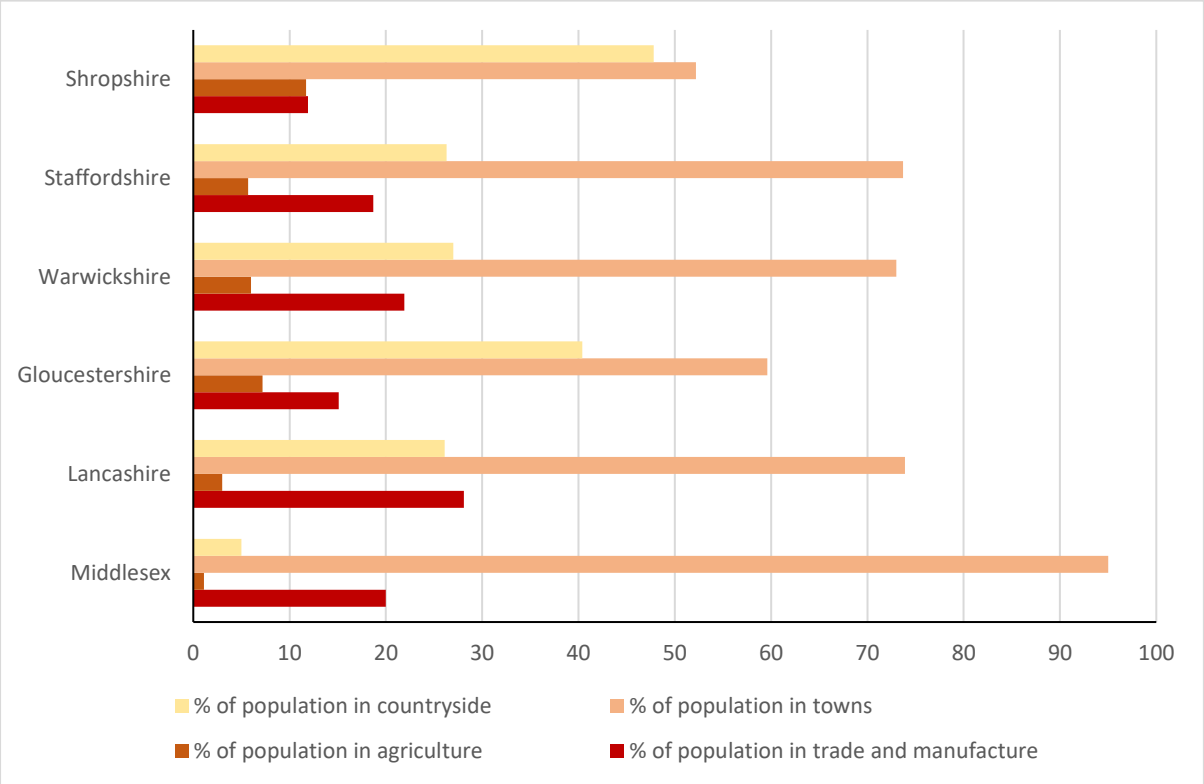

Figure 2.2. Percentage of population of selected counties in the countryside vs towns and in agriculture vs trade/manufacturing 1844.[12]

[11] *PP, Population Tables, 1851, Part I*, p.cx.
[12] *PP, Reports and Schedules pursuant to Gaol Acts 1844.*

Alongside population growth, England experienced demographic change that led to an increasingly youthful populace. Life expectancy in the hundred years before 1851 rose slowly from 36.6 years to 39.5 years.[13] However, this coincided with steadily rising birth rates that peaked in the 1820s.[14] In the seventeenth century there were 657 children aged under 14 for every 1,000 adults aged between 25 and 60. By 1826 this ratio had swung in favour of children at 1,120 for every 1,000 adults.[15] The average number of children per family rose from fewer than two in the late-seventeenth century to over three by the 1840s.[16] Population growth was largely driven by the increased birth rate. The 1851 census shows that 45% of the general population were under 19, making the presence of children and adolescents a prominent element.[17] That almost half of the country was aged below twenty offers some explanation why this demographic feature became a focus of concern when crime rates were perceived to be rising.

Although Staffordshire and Shropshire experienced different growth rates, the percentage of the population under the age of twenty was roughly 45% for both counties by 1851, greater than in London at around 40%.[18] With respect to absolute numbers, Staffordshire juveniles under twenty years of age exceeded their Shropshire counterparts by almost threefold.[19] Figure 2.3. shows how much larger the youthful population of Staffordshire was compared to Shropshire. Shrewsbury and Wolverhampton show a slight disparity in the age composition of the towns, with around 45% of Wolverhampton's population being under the age of twenty, compared with around 40% for Shrewsbury.[20] Again, in numbers, Wolverhampton's juveniles surpassed Shrewsbury's juvenile population by threefold. If juvenile crime was principally an urban phenomenon, as suggested by Henry Mayhew, who believed that counties with large manufacturing towns demonstrated above-

[13] J. P. Sumbler, *Child Poverty in Victorian Shropshire: Children and the Shropshire Poor Law Unions 1834-1870*, PhD thesis, Keele University, 2016, p.13.
[14] M. Anderson, *Population change in north-western Europe, 1750-1850*, in M. Anderson (ed.), *British Population History: From the Black Death to the Present Day*, Cambridge 1996, p.218.
[15] H. Cunningham, 'The Employment and Unemployment of Children in England c.1680-1851', *Past and Present, No.126,* 1990, p.147.
[16] Sumbler, *Child Poverty in Victorian Shropshire*, p.13.
[17] In comparison, the 2011 census recorded 19% of the population of England and Wales under the age 19. Office for National Statistics, *2011 Census*, https://www.nomisweb.co.uk/census/2011/KS102EW/view/2092957703?cols=measures, accessed 7/1/19.
[18] *PP, Population Tables, 1851, Part II. Ages and Occupations. Volume I. Report, England and Wales, I.-VI., Appendix*, pp.cxcii, cxciv.
[19] *PP, Population Tables, 1851*, *Part II*, pp.cxcii, cxciv.
[20] ibid., p.425.

average numbers of young criminals, with large concentrations of population, then it is unsurprising that Staffordshire experienced a far greater number of juvenile offenders before the courts. [21]

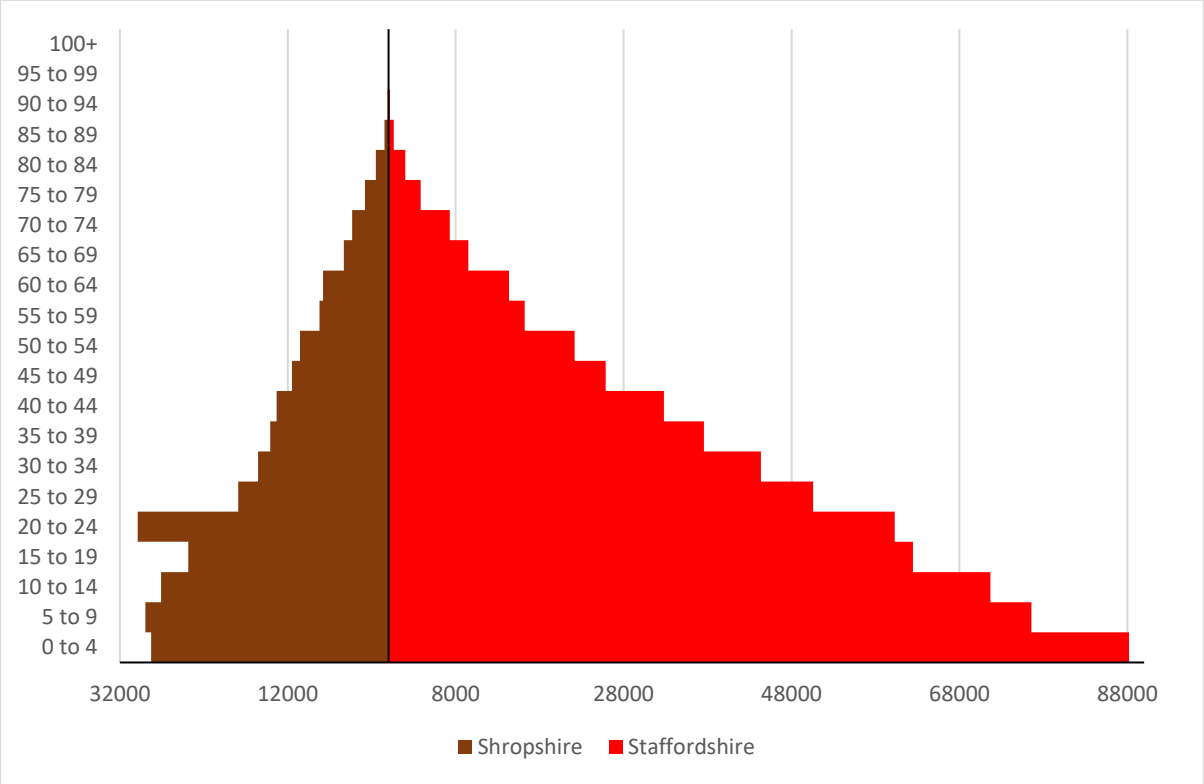

Figure 2.3. Population number by age groups Staffordshire and Shropshire 1851.[22]

2.2 Industrial change

Shropshire was not entirely a rural backwater: it had once been home to some of the greatest innovations of the industrial age, and it too had its manufacturing centres which drew people into a concentrated area.[23] Migration and concentrations of population have long been attributed to increased levels of crime.[24] In urban and industrial areas this led to pressure on administration and policing methods that were pre-industrial in origin.[25] In Shropshire, the Coalbrookdale coalfields and iron industry; the coalfields of Oswestry; the Stiperstones lead-mining region; and textile mills in the

[21] Henry Mayhew was an English journalist (1812-87) and believed the disparity between urban and rural juvenile criminals was fuelled by the ease of disposing of ill-gotten goods and the insalubrious nature of street associations. H. Mayhew, *The Great World of London, Vol. IX*, London 1857, p.454.
[22] *PP, Population Tables, 1851, Part II*, p.cxciv.
[23] Settlement certificates from 1698-1730 and 1734-69 show movement of population into the industrial parish of Madeley from adjacent parishes alongside nearby towns and villages and from areas outside of Shropshire such as the Black Country, Herefordshire, and Denbighshire: B. Trinder, *The Industrial Revolution in Shropshire*, (3rd. ed.), Chichester 2000, p.156.
[24] P. King, 'The Rise of Juvenile Delinquency in England 1780-1840: Changing Patterns of Perception and Prosecution', *Past & Present*, *No.160*, 1998, p.118.
[25] S. McConville, *A History of English Prison Administration*, London 1981, p.218.

county town were prominent examples of industrial activity.[26] At the beginning of the nineteenth century the coal and iron regions of Madeley and Wellington were second only to those of Staffordshire in terms of national productivity and were the most populous alongside the county town.[27] However, as the century progressed, Shropshire industries could not rival other industrial areas.[28] Despite the industrial activities in the East Shropshire Coalfield, they were broadly distributed and did not experience the density of population in other industrial areas.[29] Between 1711 and the turn of the nineteenth century the population of the East Shropshire Coalfield grew by almost 200% to 34,000 people, but steadily declined after the end of the Napoleonic Wars in 1815 as other areas, such as Birmingham, drew workers away.[30] By contrast, in the North Staffordshire Coalfields, the number of births increased progressively from the mid-eighteenth century up to the mid-nineteenth century by around 100%.[31] Although growth came later to Staffordshire it continued longer into the nineteenth century.

The industrial prominence of Shropshire was short-lived. Though industrial output grew in Coalbrookdale, its share in national iron production decreased from 27% to 4% in the fifty years up to 1860.[32] The county had once been the leader in technical innovation but fell behind competition from the Black Country.[33] Poor transport links and the remoteness of the iron-producing regions added to its decline.[34] South Staffordshire, by contrast, had direct canal links with other industrial centres as well as metal craftsmen locally and in Birmingham.[35] Shropshire increasingly became a supplier of both raw materials and unfinished ore to the growing Black Country iron trade.[36] This waning of the Shropshire iron industry was reflected in a decline in real wages where, by 1845, they were 20% lower than those found in South Staffordshire.[37] This naturally spurred a movement of people out of Shropshire: in the 1851 census, the county displayed a high migration of people from

[26] King, 'The Rise of Juvenile Delinquency in England, p.126.
[27] J. E. Livingstone, *Pauper Education in Victorian England: Organisation and Administration within the New Poor Law, 1834-1880*, PhD thesis, London Guildhall University, 1993, p.158.
[28] Trinder, *The Industrial Revolution in Shropshire* p.227.
[29] R. Bruton, *The Shropshire Enlightenment: A Regional Study of Intellectual Activity in the Late Eighteenth and Early Nineteenth Centuries*, PhD thesis, The University of Birmingham, 2015, p.118.
[30] K. Iles, 'The East Shropshire Coalfields: A Magnet for Migrants', *West Midlands History*, https://historywm.com/articles/the-east-shropshire-coalfield, accessed 1/6/21.
[31] When looking at the baptism records for those parishes within the North Staffordshire Coalfields. H. A. Moisley, The Industrial and Urban Development of the North Staffordshire Conurbation, *Transactions and Papers (Institute of British Geographers), No.17*, 1951, p.154.
[32] E. Roberts, *Margins of the Industrial Revolution*, in P. O'Brien (ed.), *The Industrial Revolution and British Society*, Cambridge 1993, p.207.
[33] Trinder, *The Industrial Revolution in Shropshire* p.233.
[34] ibid., p.261.
[35] ibid.
[36] Roberts, *Margins of the Industrial Revolution*, p.207.
[37] ibid., p.208.

their place of birth. The level of immigration to Staffordshire on the other hand matched the level of emigration in Shropshire, as its manufacturing and industrial areas proved to be a powerful draw for incomers looking for work.[38] Demographic pressures were greater in Staffordshire – a result of its greater work opportunities generated by changes in industry in a short period of time.

Staffordshire was home to silk and cotton industries in the north and east, and to gun barrels and piping in Walsall and Wednesbury.[39] The dominant industries were pottery in the north, around Stoke, and the iron industry in the south. Both led to an increase in local coal mining to meet the demands of production.[40] The impact on population was dramatic. Between 1801 and 1851 South Staffordshire saw a 236% increase in population, whilst there was a 216% increase in the Potteries.[41] In Coalbrookdale the corresponding increase was 51% for the same period.[42] Demand for juvenile labour was higher in manufacturing and industrial areas than in rural districts.[43] Those aged below twenty made up a substantial proportion of both counties' populace. Peter King has shown that there was a significant increase in juvenile committals during the first 30 years of the nineteenth century in industrial regions compared with rural localities.[44] This was particularly noticeable in Shropshire where industry developed outside large urban centres but still displayed an increase in committals amongst the young during the period. This was not of the same level as in large metropolitan centres such as Manchester or London, but still suggests that the process of industrialisation led to conditions that increased levels of recorded juvenile crime.

The employment of children in these industrial areas varied widely. In South Staffordshire and Coalbrookdale, children as young as six or seven years old worked down coal mines, according to the 1842 Royal Commission on child employment.[45] In the Potteries alternative employment meant that children were unlikely to be found in mining until the age of thirteen but boys began to work in the pottery industry around nine and girls around eleven years of age.[46] In 1861 just under 40% of the

[38] *PP, Population Tables, 1851, Part I,* p.civ.
[39] M. W. Greenslade & D. G. Stuart, *History of Staffordshire*, Second Edition, Chichester 1993, p.45.
[40] Greenslade & Stuart, *History of Staffordshire*, p.45.
[41] T. A. Welton, *Statistical Papers based on the Census of England and Wales, 1851, and relating to the Occupations of the People and the Increase of Population, 1841-51*, London 1860, p.73.
[42] Welton, *Statistical Papers based on the Census of England and Wales*, p.73.
[43] King, 'The Rise of Juvenile Delinquency in England', p.140.
[44] ibid., p.126.
[45] *The Royal Commission of Inquiry into Children's Employment,* London 1842, p.9.
[46] *The Royal Commission of Inquiry into Children's Employment*, p.9 and M. W. Dupree, *Family Structure in the Staffordshire Potteries 1840-1880*, Oxford 1995, p.157.

Potteries' work force was aged below twenty years.[47] There was little evidence that girls were employed below ground but banks-women – who loaded coals from pit heads and shafts onto canal boats – were prominent in South Staffordshire.[48] A similar occupation preparing iron ore on banks existed in Shropshire. Juvenile crime in these activities was a significant problem in Staffordshire. In 1856 the Visiting Magistrates of Staffordshire Gaol drew up a return of the number of prisoners convicted under the Juvenile Offenders Act 1847 divided by selected groupings of items stolen from 1 October 1855 to 26 March 1856.[49] Coal was one of just nine categories highlighted amongst the crimes recorded and was dominated by female juveniles compared with their similarly aged male counterparts. Opportunity and circumstance must have been one of the principal factors behind such large-scale involvement in coal thefts in this region. Industry not only drove population change but was a factor in providing accessibility to goods that would have otherwise been too expensive to procure by legal means.

Despite the changes wrought by industrial growth within both counties, agriculture remained a dominant feature of both land utilisation and the local economy. In 1831, 41% of the population in Shropshire were engaged in agricultural activities compared with 23.9% in Staffordshire. In 1851 all forms of mining made up 7.3% of all occupations in Shropshire and 14% in Staffordshire.[50] A closer regional analysis reveals the dominance of mining in the industrial centres of the counties. Thus, 18% of the population of South Staffordshire was involved in mining compared with just 6.4% engaged in agriculture in 1851.[51] In the Potteries the figure was 15% compared with 10.1%. Agriculture was a more prominent feature of employment in Coalbrookdale at 20.3% but mining at 22% had slightly more employees.[52] Regardless of these concentrations of industry both counties were still largely agricultural in profile. Even in Staffordshire, 'urban' areas amounted to just 13.6% of the whole county by 1851.[53] As late as 1901, 82.5% of the county consisted of rural parishes.[54] However, house density in rural parishes that were close to urban areas was greater than those isolated from denser population areas.[55]

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[47] Dupree, *Family Structure in the Staffordshire Potteries*, p.148.
[48] *The Royal Commission of Inquiry into Children's Employment*, p.35.
[49] Hereafter referred to as JOA. Staffordshire and Stoke-on-Trent Archive Service, *Q/SB 1856 E/28 Return of number of 'juvenile offenders' committed from 1 October to 26 March 1856*.
[50] Welton, *Statistical Papers based on the Census of England and Wales*, p.71.
[51] ibid., pp.72-73
[52] ibid.
[53] A. D. M. Phillips, 'Settlement patterns in Staffordshire in the late eighteenth and nineteenth centuries', *Manchester Geographer, New Series, No.6*, 1985, p.51.
[54] Phillips, 'Settlement patterns in Staffordshire', p.52.
[55] ibid.

It is difficult to measure exactly the impact that industrialisation had on local juvenile crime.[56] King dismisses the influence of the decline of traditional employment for juveniles in husbandry through living in-service, noting that counties such as Bedfordshire, Berkshire, Essex, Sussex and Hertfordshire all suffered from reduced numbers in this kind of service but did not display an increased level of juvenile prosecutions.[57] Levels of employment are equally problematic to link to crime rates. In 1851 less than half of boys aged 10 to 14 were considered employed in Staffordshire and less than a quarter of girls. In Shropshire this was a third and just over a tenth, respectively.[58] Unemployment and underemployment was normal for children in this period; only in industrialised and manufacturing areas was there high demand for child labour.[59] The presence of 'idle' children was therefore common across rural England, yet crime levels in these areas were exceptionally low compared with manufacturing areas.[60] Not all high juvenile crime areas were heavily geared towards manufacturing: for instance, neither London nor Bristol had large factory economies.[61] Again, it is likely that the difference between juvenile recorded crime rates in rural and industrial settings was driven by opportunity, concentration of numbers and a greater willingness by urban property owners to prosecute.

2.3 Magisterial authority

Carl Zangerl described the position of magistrate as a tool used by the landed classes to exert enormous control over county administration.[62] Without a specific decree from Parliament on the implementation of statutes, magistrates were free to interpret and enact the law as they saw fit, giving them wide discretionary authority.[63] Not only did they administer the petty courts, but they heard the majority of indictable offences as well. Only a small percentage of all indictable offences went to the Assizes; the greater number were bought before the local magistrates at the Quarter Sessions.[64] Most importantly, they decided whether a case was worth pursuing at preliminary

[56] Chapter 3 deals with a more in-depth analysis of both the impact of industrialisation and the decline of service.
[57] King, 'The Rise of Juvenile Delinquency in England', p.144.
[58] Cunningham, 'The Employment and Unemployment of Children in England', pp.144-145.
[59] King, 'The Rise of Juvenile Delinquency in England', p.140.
[60] ibid.
[61] ibid., p.145.
[62] C. H. E. Zangerl, 'The Social Composition of the County Magistracy in England and Wales, 1831-1887', *Journal of British Studies, Vol.11, No.1*, 1971, p.113 and R Swift, 'The English urban magistracy and the administration of justice during the early nineteenth century: Wolverhampton 1815-1860', *Midland History, Vol.17, No.1*, 1992, p.75.
[63] Zangerl, 'The Social Composition of the County Magistracy in England and Wales', p.114.
[64] D. Phillips, 'The Black Country Magistracy, 1835-60', *Midland History, Vol. 3, No. 2*, 1975, p.162.

hearings and had influence on the level of court where an offence would be heard.[65] This judicial power was further extended by administrative oversight over a county's prison and asylum facilities. Furthermore, they were responsible for bridges, roads, public buildings and the maintenance of law and order in times of civil unrest.[66] The magistracy represented the leading men of the county who ruled the countryside with minimal interference from central government and shaped local approaches towards juvenile offenders.[67]

The magistracy in England did not remain socially static during the nineteenth century. Urbanisation and industrialisation had a permanent impact on the governing classes of the country as more power passed to those with commercial or industrial interests. Shropshire and Staffordshire had very different trajectories as reflected in the social composition of the local judiciary. This in turn had an impact on the administration of justice in both counties. Despite being appointed as impartial adjudicators of justice, their economic and class prejudices influenced the cases brought to court.[68] Traditionally, the squirearchy dominated the borough and county benches.[69] However, in urban areas particularly, the middle classes became the dominant force as the century progressed. Zangerl has noted that nationally, between the 1840s and the 1880s, the squirearchy's hold over borough magisterial positions fell from 45% to as low as 11%.[70] In the countryside their position was also diminished, but only by 9% in the same period to a low of 68.1%.[71] This shift in social composition ultimately influenced how juvenile crime was perceived and punished, particularly in areas where paternalistic aristocratic concerns for social order were merged with capitalist interests based on concerns for property.

The rise of industrial and manufacturing magistrates is observable in Staffordshire, particularly in the Black Country. Before 1836 this had been dominated by the landed classes in Staffordshire, where, in the county as a whole, they comprised 60% of magistrates and the bulk of the rest was made up of

[65] They could choose to discharge, pursue a summary trial, or send offenders to the quarter sessions or assizes. Phillips, 'The Black Country Magistracy', p.163.
[66] Zangerl, 'The Social Composition of the County Magistracy in England and Wales', p.114.
[67] They were also often involved with the management of Poor Law unions and institutions such as the county asylums – making them integral to local governance. H. Johnston, 'The Shropshire Magistracy and Local Imprisonment: Networks of Power in the Nineteenth Century', *Midland History, Vol.30, No.1*, 2005, p.68.
[68] Swift, 'The English urban magistracy and the administration of justice during the early nineteenth century', p.76.
[69] These were the landed classes of knights, baronets, military officers, and squires who were socially distinct from the middling classes of bankers, merchants, manufacturers and professionals. Zangerl, 'The Social Composition of the County Magistracy in England and Wales', p.115.
[70] ibid.
[71] ibid.

17% bankers and 13% clergy.[72] By 1854 over half of these had been replaced by local coal and iron masters.[73] The Lord Lieutenant of Staffordshire, Charles Chetwynd-Talbot, who served until 1849, was opposed to men in trade being appointed to the county bench.[74] Talbot was a traditional Tory who wished to maintain the dominance of the landed classes in local politics and saw men of trade as socially unfit to join the gentry and peers in county administration.[75] A more practical objection aired was one of impartiality – these men would be expected to adjudicate on cases where their own material and business interest might be personally affected.[76] However, the lack of resident gentry within the growing industrial areas posed a threat to civil order as the magistrates were responsible for maintaining law within their district. The appointment of Anglican clergy had been common practice in these growing urban conurbations, but this had become impossible under a Whig government by the mid-1830s.[77] The replacement of a Tory Anglican magistracy with a growing Liberal elite, who gained wealth through industry, was a key feature of the changing nature of the application of law in Staffordshire.

Wolverhampton offers an insight into the way this change occurred within South Staffordshire.[78] By 1841 Wolverhampton was ranked within the top ten most populous towns of Britain, having been just 111th in the 1660s.[79] In the early part of the century, the administration of its law and order was in the hands of six county magistrates who were local to the town: four of these six were Anglican clergy.[80] Local aristocracy and wealthy gentry were absent, so town culture was driven by urban elites.[81] For most of the first half of the nineteenth century, members of the traditional elite, such as Lord Talbot, held that self-made men were unfit to hold the role of magistrate. Indeed, he had directly opposed the appointment of a local Wolverhampton banker to the bench in 1835 for being involved in the business of local collieries.[82] Active magistracy in the town was therefore represented by the Rev. Alexander Hadden (until 1829) and Rev. John Clare (until 1839) who were particularly

[72] Swift, 'The English urban magistracy and the administration of justice during the early nineteenth century', p.83.
[73] ibid.
[74] The Lord Lieutenant was the most influential figure where appointments of this type were concerned and although the Lord Chancellor was the highest authority in this sphere, appointments were rarely challenged.
[75] Phillips, 'The Black Country Magistracy', p.168.
[76] ibid. and Swift, 'The English urban magistracy and the administration of justice during the early nineteenth century', p.77.
[77] Phillips, 'The Black Country Magistracy', p.172.
[78] Only Birmingham in the West Midlands had a larger commercial and manufacturing presence. Swift, 'The English urban magistracy and the administration of justice during the early nineteenth century', p.77.
[79] J. Smith, *Industrialisation and social change: Wolverhampton transformed, 1700-1840*, in N. Raven & J. Stobart (eds), *Towns, Regions and Industries: Urban and Industrial Change in the Midlands, c. 1700-1840*, Manchester, 2005, p.134.
[80] Swift, 'The English urban magistracy and the administration of justice during the early nineteenth century', p.77.
[81] Smith, *Industrialisation and social change: Wolverhampton transformed*, p.135.
[82] Swift, 'The English urban magistracy and the administration of justice during the early nineteenth century', p.77.

strict with property offenders, vagrants and the unemployed and were against striking workmen.[83] This is not to suggest that they were firmly focused on the administration of justice against the working classes – they were said to be sympathetic to the poor when employers exploited them and property and public order were not under threat.[84] Roger Swift believes that many of the leading industrialists of the region felt that their interests were not sufficiently protected by the Anglican magistracy, particularly with growing Liberal opposition to clerics holding roles in county business outside of their parochial duties.[85] In 1827, 66% of Wolverhampton's magistrates were clergy, but by 1854, 40% were local manufacturers whilst another 20% were merchants – only 12% were from the gentry class.[86] The industrialists' economic control of the county was complemented by their new-found leadership in the administration of its justice. However, this was not a wholesale demolishing of class boundaries. Instead, Zangerl describes it as a lowering of class restrictions by those elites already in power.[87] In this manner, the mercantile and industrial leaders were assimilated into landed society as they adopted the social habits of the elite families.

The impact on justice of this change in the social composition of the county bench was tempered by the fact that indictable offences would be heard at the Quarter Sessions in front of a selection of magistrates from across the county; these included iron and coal masters but not to the exclusion of all others. Verdicts were not solely influenced by the magistrates and the jury held a large sway on the nature of the sentence passed.[88] Nevertheless, the frequency of thefts related to industry brought before the sessions could be influenced at the earliest stages of prosecution. During preliminary hearings magistrates with an industrial interest actively pursued and put forward more of these cases for trial.[89] They could also seek more summary convictions at their own petty sessional hearings. The impact in the Black Country is noticeable for 1835 to 1850. David Phillips has shown that indictable offences with an element of industrial theft rose from 14.9% of all larcenies to 27%.[90] This is echoed in Wolverhampton, where Swift found that 9% of larcenies could be classed as industrial in 1835, rising to 16% by 1860.[91] The borough of Hanley, Staffordshire, was formed after 1857 and there too the magistrates were drawn from the leading manufacturers of the town, and

[83] ibid., p.78.
[84] ibid., p.81.
[85] ibid.
[86] ibid., p.84.
[87] Zangerl, 'The Social Composition of the County Magistracy in England and Wales', p.125.
[88] Phillips, 'The Black Country Magistracy', p.175.
[89] ibid.
[90] ibid., p.176.
[91] The once dominant Tory Anglican clergy would have identified most strongly with the 'landed aristocracy'. Swift, 'The English urban magistracy and the administration of justice during the early nineteenth century', pp.84, 86.

according to M.W. Steinberg, this gave them considerable power through these offices when the local bench became a mechanism for disciplining industrial relations.[92] The industrial magistrate in Staffordshire increasingly pursued cases that directly involved their commercial interests. This impact can be seen for the youngest of criminals in the use of new powers given by the JOA to prosecute those juveniles involved in coal thefts.[93]

Shropshire by contrast was more socially select for the same period and into the late nineteenth century.[94] In total, 44% of Shropshire was owned by the landed gentry, a figure which was much greater in extent than the average for the whole of England, where 29.5% of the country was under gentry ownership.[95] In the relatively conservative rural market centres of Shropshire, continuity was the overriding feature of the magistrates' bench.[96] Clergymen constituted as many as a quarter of appearing magistrates in the 1830s, with between 7 or 8 attendees, at the Quarter Sessions. This fell to between 2 or 3 attendees after 1842.[97] By the 1860s their numbers had risen again, although not to the levels of the 1830s, and they themselves were either landowners or their relatives.[98] Only in the 1860s did some level of diversification occur in the Shropshire magistracy but this was minor in comparison with neighbouring Staffordshire.[99] Without the pressures of population, and the opportunities presented by the growth in industry, the need for an increased presence of industrialists in the administration of justice did not occur in that county. This in turn also partially explains the differences in rates of committals between the two counties.

A central theme of this thesis is the role of the magistrates in defining the problem of juvenile crime and responding to its perceived increase. They were involved in several layers of local administration that intersected with the way juvenile criminals were dealt with by local government. They formed the judiciary that interpreted and handed down government edicts and direction regarding criminal law; they had oversight of the penal institutions that administered subsequent punishments, and, in

[92] M. W. Steinberg, 'Capitalist Development, the Labor Process, and the Law', *American Journal of Sociology Vol.109, No.2*, 2003, p.471.
[93] See chapter 4.
[94] Johnston, 'The Shropshire Magistracy and Local Imprisonment', p.68.
[95] ibid., p.69.
[96] ibid., p.72.
[97] G. C. Baugh, (ed.), *A History of Shropshire*, in *The Victoria History of the Counties of England, Vol.3*, Oxford 1979, p.138.
[98] H. Johnston, *Policing, Punishment and Social Institutions in the Nineteenth Century: the role of the Shropshire Magistracy*, in D. Cox, & B. Godfrey (eds), *Cinderellas and Packhorses: A History of the Shropshire Magistracy*, Woonton 2005, p.45.
[99] Johnston, 'The Shropshire Magistracy and Local Imprisonment', p.73.

many instances, had direct influence on the implementation of the local Poor Law.[100] Although countrywide legislation was enacted to implement new modes of justice for juveniles, local law enforcers had a significant level of autonomy that flavoured local responses, particularly given their role in so many cross-converging aspects of juvenile criminals' lives.

There is a danger in perceiving the magistracy of England as a monolithic entity bent on the subjugation of the lower orders. As Douglas Hay stated: magistrates used the law as a tool to endorse 'the status quo' and preserve 'bonds of obedience and deference'.[101] A less severe interpretation might see magisterial interest in ameliorating the conditions of the poorest classes in accord with the objective of achieving increased control, both physically and morally, over those beneath them in local society – as suggested by Francis Thompson who saw the concern of the gentry for the poor as an essential element of the 'deference society'; paternalism was an accompaniment of wealth.[102] The reality is more complex, however, driven by a regional distinctiveness and the personalities of local magistrates who responded to juvenile crime – making the response to juvenile delinquency, witnessed in Staffordshire and Shropshire, unique to their respective counties. These men displayed a complex mix of motivations led by notions of greed, supremacy and frugality tempered by genuine concerns to improve the lives of those they considered less fortunate by circumstance. As Margaret May correctly recognises, the new provisions for delinquents that mark this period of history were a 'radical assertion of children's rights' whilst, at the same time, relying on coercive methods that deprived children of their traditional liberties and inserted the state into familial relationships – particularly intrusive to the lives of the labouring classes.[103] Models that generalise elite domination and treat the magistracy as a unified body overlook the more complex nature of local officials who had diverse reasons for their concern for the youngest of the criminal classes.[104] It is only through a more nuanced view of the

[100] Pauper children became the focus of a new front in the continuing efforts to grapple with the perceived growth in juvenile lawlessness – see Chapter 7.
[101] D. Hay, *Property, Authority and the Criminal Law*, in D. Hay, (et al), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, London 1975, p.21. K.B. Smellie described the Justices of the Peace as the 'rear guard of an agrarian oligarchy' forming the basis of local government between 1832-1888. K. B. Smellie, *A History of Local Government*, *Fourth Edition,* London 1968 p.25. Contemporary nineteenth century concerns echo these sentiments in that the aristocracy were 'antagonist… to the interest of the class in whose case they are made judges'. *The News - London* - Sunday 13 March 1836.
[102] F. L. Thompson, *English Landed Society in the Nineteenth Century*, London 1963 pp.16-17. Hay would later write that it was possible for the unpaid lay magistrate to both be paternalistic in their attitudes to the poor whilst they also 'colluded' with their fellow landowners to remake English society by overturning the traditional rights and customs of the lower orders. D. Hay, 'Crime and Justice in Eighteenth- and Nineteenth-Century England', *Crime and Justice, Vol.2,* 1980, pp.47-53.
[103] M. May, *A Child's Punishment for a Child's Crime: the Reformatory and Industrial School Movement in Britain c. 1780-1880*, PhD thesis, University of London 1981 p.9.
[104] Hay, *Property, Authority and the Criminal Law*, p.25. See also J. Stuart Mill, *Essays on England, Ireland, and Empire: Volume VI, collected works*, Toronto 1983. Writing in the nineteenth century, philosopher John Stuart Mill noted that a

local magistrates that a framework for social change can be understood and situated within the national context.

Placing the magistracy of any locality within a 'philosophy of authority and the exercise of class power' ignores the diverse motivations and complex characters that influenced policy at the local level.[105] Strategies to deal with juveniles, be it during trial, whilst under carceral supervision or in the search for reformatory solutions, were debated by men of varied dispositions. Whilst they were drawn from the leading men of the county their positions and attitudes to the poor, the juvenile delinquent and the criminal were not homogenous. Even in his scathing attack on the 'close-knit oligarchy of manufacturers' that ruled Hanley as borough magistrates during the 1860s and onwards, Marc Steinberg acknowledges that paternalistic acts were 'personally exercised' and were rarely part of a coherent 'hegemonic culture' imposed upon the borough.[106] Equally, it would do a disservice to our understanding of this period if we were to believe that enthusiasm for the methods of alleviating the numbers of juvenile criminals before the courts and in the gaols were purely altruistic in nature. In her discussion of reformatory and industrial schools, Michelle Cale notes the contradictions at the heart of such establishments: they had been envisioned to be 'a vehicle for social justice', preventing poor children from falling into a repeated cycle of recidivism and offering them an alternative means of subsistence that would allow them to live independent but, crucially, conformist lives. In this way these institutions reveal both sides of the desire to enrich pauper lives whilst also moulding their 'charges into models of an industrious, humble working-class'. These much-improved lifestyles would be based on approved modes sanctioned by the ruling classes.[107]

Furthermore, economy was an equally powerful motivating force for those charged with maintaining the county rate. Even amongst those who felt that the juvenile pauper was a victim of circumstance in need of a helping hand, reformatory institutions offered the potential to be more cost-effective and cheaper than existing penal measures.[108] However, it is worth noting that there were dissenting voices amongst the magistrates that felt such parsimony was counterproductive and harmful to the

potential 'vindictive or tyrannical' magistrate could make the peoples of England the 'slaves of a more degrading despotism' than found in any other country through summary powers but acknowledged that not every justice chose to act in this way.

[105] M. Ignatieff, *State, Civil Society and Total Institutions: A Critique of Recent Social Histories of Punishment*, in S. Cohen & A. Scull (eds), *Social Control and the State*, Oxford 1983, p.77.

[106] M. W. Steinberg, 'Capitalist Development, the Labor Process, and the Law', *American Journal of Sociology Vol.109, No.2*, 2003, p.470.

[107] M. Cale, *'Saved from a Life of Vice and Crime': Reformatory and Industrial Schools for Girls c.1854-1901*, D.Phil. thesis, Oxford University, 1993**,** p.323.

[108] J. Hurt, 'Reformatory and Industrial Schools Before 1933', *History of Education, Vol.13, No.1*, 1984, p.48.

goal of providing a better future for these young delinquents.[109] As Michael Ignatieff summarises: a model of historical explanation is needed that neither assumes 'conspiratorial rationality' amongst the ruling classes nor a 'hyper-idealist…humanitarian crusade' as being responsible for the changes that occurred towards juvenile offenders during the nineteenth century.[110] In order to understand the changes in social policy that were occurring at this time it is necessary to investigate both rejected and successful policies, the process of adopting an agreed approach and the manner in which *perceptions* of the problem and its remedy evolved.[111] County-led micro-histories investigate specific circumstances and the driving force of personalities that were responsible for either resisting or embracing change at county and local level and are the only true scale at which these larger transformations can be understood.

Early histories of crime, such as Leon Radzinowicz's on *A History of English Criminal Law and Its Administration*, have been accused of placing too much emphasis on the notion of progress, where the magistrate engaged in criminal justice reform during the nineteenth century through innovative methods of prosecution and punishment.[112] This was countered in the 1970s by a group of historians, led by E.P. Thompson, that sought to shift the focus of the history of crime away from the decision-makers to the 'dispossessed and inarticulate'.[113] Criminal history was no longer a story of success and enlightened legislation, and the narrative shifted to focus on law as social control. The concern shown by those in authority for increasing committals in the nineteenth century was seen as a means of ensuring that power stayed with those who already possessed it, whilst denying it to the ever-increasing lower orders. At a time of rapid social change, crime took on a new emphasis that affected the stability of existing social hierarchies.[114] It came to embody wider anxieties regarding 'change' and 'order'.[115] This has informed histories of the revisionist school following Thompson who have seen the magisterial use of the law as a one-dimensional exercise in control. According to Gattrell, a rapidly expanding and increasingly urban population, divorced from traditional rural controls and historical hierarchical relationships posed both a conscious and unconscious threat to

[109] As is seen in Chapter 7**,** attempts to find new measures to deal with the juvenile criminal and the 'perishing classes' would be weighed against considerations of economy and be a main reason for the lack of a dedicated reformatory school for either county.
[110] Ignatieff, *State, Civil Society and Total Institutions,* p.77.
[111] May, *A Child's Punishment for a Child's Crime*, p.11.
[112] B. P. Smith, 'English Criminal Justice Administration, 1650-1850: A Historiographic Essay', *Law and History Review, Vol.25, No.3*, 2007, p.606.
[113] Smith, 'English Criminal Justice Administration, p.608.
[114] V. A. C. Gatrell, *Crime, authority and the policeman-state*, in F.M.L. Thompson (ed.), *The Cambridge Social History of Britain, 1750–1950*, Cambridge 1990, p.246.
[115] Gatrell, *Crime, authority and the policeman-state*, p.249.

those who traditionally held power.[116] Undoubtedly, these fears existed, and many contemporary works express concern about the growth of crime, as juveniles became a repository for many of these anxieties. In 1840, William Beaver Neale, in his study of juvenile delinquency in Manchester, claimed that the juvenile delinquent was the one of 'the principal sources from which adult crime is generated' and that as their numbers increased, they threatened to 'inoculate the whole mass of the community...with the impetus of evil passions'.[117] However, these fears mask a far more complicated tension between the need to administer the law and the increasing awareness of the distress in which the poorest classes found themselves. This tension is readily apparent when focusing on those who were tasked with administering the law at the local level.

To understand the changing nature of penal policy towards juveniles in the nineteenth century it is important to examine the nature of governance and its role in social relationships at the local level. In this manner a 'history from above' can complement the insights given by studies focusing on those that legislation was intended to control.[118] The courtroom of the Quarter Sessions was the venue for interactions between the gentry of the bench, the middling classes who sat in grand and petty juries and the labouring poor.[119] The justices held a pivotal role in the relation between central government and the people, and the judiciary's interpretation of governmental acts and criminal statutes helped flavour the nature of justice received by local communities.[120] Although the autonomy that the magistrates held over judicial affairs and county governance was eroded throughout the nineteenth century by various acts, such as the Gaols Act 1823 and the Poor Law Amendment Act 1834, their ability to remain independent and in opposition to government policy or legislative intent still remained.[121] The Quarter Sessions held a key role in allowing the magistracy to discuss and debate policies handed down from central government and in many cases to oppose or modify them for local consumption.[122] The magistrates could be selective in the implementation of these directives and the nature of statues often allowed for significant scope in interpretation.[123] Alongside the significant powers of discretion handed to them through the ability to pass justice summarily, they had authority to shape the implementation of law to suit local rather than national

[116] ibid., p.246.
[117] W. B. Beale, *Juvenile Delinquency in Manchester: Its Causes and History, Its Consequences, and Some Suggestions Concerning Its Cure*, Manchester 1840, p.18.
[118] R. Wallis, *The Relationship between Magistrates and their Communities in the Age of Crisis: Social Protest c. 1790-1834*, PhD thesis, The University of West England, 2016, p.7.
[119] Although the middle classes increasingly found themselves as justices during the middle of the century. Wallis, *The Relationship between Magistrates and their Communities*, p.13.
[120] ibid., p.36.
[121] ibid., pp.13-14 & pp.33-36.
[122] ibid., p.13.
[123] ibid., pp.37-38.

concerns.[124] Seeing the magistracy as an undifferentiated group ignores the diversity in approaches to social control which relied on local personal interactions with those upon whom it imposed order.[125] The pursuit of paternalistic ideals should not be 'dismissed as empty expressions of privilege' as there are many examples at the local level of the effort and time taken by individual magistrates to engage in genuine change that they deemed better for the youngest of offenders.[126] Even the most seemingly neutral of magistrates, the urban stipendiary justice, risked a fractious relationship with the labouring classes if local concerns were not given due weight. A stipendiary magistrate, paid to act as a professional and impartial enforcer of law, could become a key figure in the pursuit of better conditions for those youths dubbed as criminals by national policy. The magistrates of Shropshire and Staffordshire varied in their belief in the role of law, order and juvenile delinquency and as individuals displayed contrary and complex motivations that cannot be distilled into a simple dichotomy between a desire to control the labouring classes and a need to act philanthropically to better their conditions. Examining a selection of magistrates most prominent in juvenile delinquency debates, the application of juvenile justice or the administration of local institutions for the young, shows the variety of thought and motivation at play in each county.

In Shropshire, John Bather exemplifies the cautious approach adopted by some of the judiciary towards efforts to bring about a change in the way the county dealt with its youngest criminals.[127] At a meeting held in the Shire Hall at Shrewsbury in 1855, Bather argued that he could not sanction taxing the industry, nor the poverty, of the county for the benefit of the criminal classes.[128] He bemoaned the philanthropic efforts of the other attendees as being mere temporary expedients: seemingly pleasant remedies should not overcome more wholesome discipline.[129] Bather wished to steer his fellow attendees away from sentimentality and sensibility.[130] He was not a heartless man,

[124] ibid.
[125] P. Dunkley, 'Paternalism, the Magistracy and Poor Relief in England, 1795–1834', *International Review of Social History, Vol.24, No.3*, 2008, p.373.
[126] Dunkley, 'Paternalism, the Magistracy and Poor Relief in England', p.394.
[127] Bather was a graduate of Shrewsbury School and St. John's College Cambridge and had been called to the bar before being struck down with a form of rheumatic fever, forcing him to return to his home county. On the death of his brother in 1851, who had been the vicar of Meole Brace in Shrewsbury, he inherited a small amount of property, giving him the standing required to become part of the magistracy of the county, where his former legal training gave him a distinctive outlook on the role of the magistrate in county business and the nature of penal oversight. *Eddowes's Journal, and General Advertiser for Shropshire, and the Principality of Wales* - Wednesday 02 June 1886. He was keenly involved in county initiatives outside of his role as magistrate as both Chair of the Board of Visitors to the County Asylum and *ex officio* member of the Atcham Board of Guardians. *Eddowes's Journal* - Wednesday 09 June 1886 & *Wellington Journal* - Saturday 03 July 1886.
[128] The meeting was primarily concerned with the formation of a reformatory in Shropshire for the schooling of juvenile criminals to keep them away from the corrupting influence of prolonged and repeated stays in the county gaol. *Eddowes's Journal* - Wednesday 12 December 1855.
[129] ibid.
[130] ibid.

but with his background in formal legal training, he strongly believed that magistrates were arbiters of the law, and they should not confuse this with acts of benevolence. In 1854 Bather had told the Sessions that it was not the duty of the magistrate to educate the ignorant, rather to punish the criminal.[131] For Bather education should 'not be in any consequent of crime'.[132] Despite this assertion, Bather did not feel that educating the poor was unnecessary or would disturb the social hierarchy, and argued that general education would provide great benefit, but should be kept as 'far as possible from crime' and that reformatories 'began at the wrong end' of helping the poorer classes break away from ignorance.[133] He viewed ill-considered acts of philanthropy as selfishly motivated deeds to benefit the donor rather than the recipient and at the March Sessions of 1858, he argued that parts of the Reformatory Act were tyrannical and did not consider the impact that it had on the families of those it affected. Enforcing a parent to pay for the upkeep of their delinquent child in such an institution denied the rest of their offspring and it was not within the magistrate's remit to interfere with domestic arrangements and the care of their wayward children.[134] Bather complained that the Act created further offences that a child could fall foul of in imposing a three-month custodial sentence in gaol for reformatory runaways. He saw this as contrary to the expressed objective of the Act to keep the young out of the county gaols. Bather's objections to reformatory efforts for criminal children were based on principles founded in his belief that the role of the judiciary was to enforce the criminal statutes, not on a desire to maintain the poor in a state of ignorance. Efforts to educate the poor were considered worthy by him, but the duty of the magistrate was first and foremost to the law and the two should not be confused.

Financial concerns dominated the responses to juvenile crime of some magistrates. In Staffordshire, Major William Fawkener Chetwynd sat as an MP for Staffordshire on two occasions and held positions on the Gaol Committee.[135] Chetwynd objected to the use of separation and isolation to reduce contamination between degrees of criminality amongst prisoners as being ineffective and a failure in reforming a single prisoner. Moreover, the expense it incurred was not equivalent to the advantages it provided.[136] When boys held under the separate system attempted suicide in 1847, Chetwynd expressed concern and demanded further inquiries be made into its use, though once

[131] *Eddowes's Journal* - Wednesday 18 October 1854.
[132] ibid.
[133] ibid.
[134] *Shrewsbury Chronicle* - Friday 19 March 1858.
[135] He was described in *The Parliamentary Touchstone*, a contemporary political guide to the House of Commons, as an 'advocate for civil and religious liberty, and desirous of seeing all abuses…corrected by sound, adequate and salutary reform'. J. Thomas, *The Parliamentary Touchstone; Or Political Guide to the House of Commons. First Parliament of Queen Victoria. By the Editor of The Guide Newspaper*, London 1838, p.25.
[136] *Staffordshire Advertiser* - Saturday 23 October 1847.

again his objections were founded on a belief that the system did not produce sufficient results compared with its additional expense.[137] Not all of Chetwynd's objections to the separate system were economically motivated, as he was concerned for the health of those who experienced its use. On one occasion at the Sessions in 1847, he cited a report of the Gaol Surgeon that the atmosphere and lengths of confinement within the cells caused both weight loss and debilitation.[138] Chetwynd continued his concerns over separation when those prisoners who were awaiting trial were placed in such cells. If the cells were intended as a punishment, then he believed that placing potentially innocent people within them for up to three months between sessions before their cases could be heard was unacceptable.[139] However, Chetwynd's fiscal motivations were displayed when a reformatory school was proposed for Staffordshire. He feared that parish finances would be stretched to breaking if they had to continually contest disputes regarding the removal of children to such schools.[140] Some of these worries should have been allayed with the powers vested in the Reformatory Act of 1854. However, Chetwynd believed that enforced parental contributions were unlikely to be followed through and that any effect that such an institution could have on a delinquent child would only be temporary.[141] He believed in the tried and tested use of short custodial sentences to shock and punish boys onto the right path rather than expensive and prolonged experimental notions of reformation.[142]

Major Chetwynd was not alone in Staffordshire in questioning the financial burden of reformatory initiatives. The Reverend Arthur Chetwynd-Talbot reported to the April Sessions of 1862 that only 13-25% of boys were successfully reformed nationwide and that such effectiveness must be weighed against the cost incurred.[143] Chetwynd-Talbot was particularly scathing of Saltley Reformatory, with which Staffordshire had a long-standing arrangement to send its juvenile criminals, believing that a considerable profit was made out of the rate payers of the county – with £500 of contributions made to the institution carried over from the previous year. Chetwynd-Talbot argued that no other county or borough paid for such accommodation and that Staffordshire would not be remiss if it reduced its contributions from 3s per child to 1s.11d.[144] Once again, not all of Chetwynd-Talbot's objections related to the economic burden of such initiatives, and at the July Sessions of 1862 he expressed

[137] *Staffordshire Advertiser* - Saturday 09 January 1847.
[138] *Staffordshire Advertiser* - Saturday 23 October 1847.
[139] ibid.
[140] *Staffordshire Advertiser* - Saturday 23 October 1852.
[141] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 20 October 1858.
[142] *Staffordshire Advertiser* - Saturday 19 October 1861.
[143] Third son of Charles Chetwynd, the second Earl Talbot, he was admitted into priest's orders in 1829 and to the county bench in 1839. *Lichfield Mercury* - Friday 25 January 1884 & *Staffordshire Advertiser* - Saturday 12 April 1862.
[144] ibid.

concern about incarcerating children for long periods within these institutions, citing the case of a ten-year-old boy being handed a one-month gaol sentence for stealing a single coin whilst having an additional reformatory sentence imposed of three more months. Of 39 boys sent to the reformatories in the previous three years, 27 had been for a first offence and he felt that it was a gross injustice to impose such lengthy periods of confinement for first-time offenders.[145] Despite these concerns for the welfare of juvenile criminals the magistrate's duty to the rate payer in keeping costs down was of primary concern for many on the bench. They could not divorce their role as administrators of the county finances from their concern about what they believed was an ineffectual system for dealing with young lawbreakers. These concerns acted as a counterpoint to those driven by new reform ideals that emerged during the mid-century.

Magistrates were not a unified body of men following a coherent strategy. Two Staffordshire stipendiary magistrates provide examples. The stipendiary magistrate was a professional and paid justice, first employed in the metropolis in the eighteenth century but increasingly in other urban centres as their populations grew and in circumstances where the workload outstripped the requirements placed upon the lay magistracy.[146] The stipendiary magistrates for the North Potteries District, Thomas Bailey Rose and for Wolverhampton, John Leigh, were vastly contrasting figures. Christopher Frank discusses the relation between trade and Bailey Rose in the Potteries District, and describes him as being in collusion with local employers to pursue cases against employees: he also made statements from the bench that brought his impartiality into doubt.[147] The petition to retain the services of Bailey Rose in 1838 was led by the master potters and coal owners of the region, which gave the impression that there was a commonality of interest between Bailey Rose and the local elites that had sought his appointment.[148] During civil unrest in the area during a depression in 1842, Bailey Rose sought to supress meetings of disaffected colliers: he described gatherings at venues where 'the most dangerous doctrines are instilled into the minds of the lower orders and all their proceedings aim at the subversion of every kind of authority and order'.[149] Rose's home was burned down amid the disturbances and during prosecutions of employees breaking contracts due to union pressure, he declared in court that there was a 'set of idle vagabonds about' trying to induce colliers and potters to be absent from work; he also stated that should one of the union men

[145] *Staffordshire Advertiser* - Saturday 05 July 1862.
[146] Sir T. Skryme, *The Changing Image of the Magistracy*, London 1979, p.184.
[147] C. Frank, '"Let But One of Them Come before Me, and I'll Commit Him": Trade Unions, Magistrates, and the Law in Mid-Nineteenth-Century Staffordshire', *Journal of British Studies, Vol.44, No.1*, 2012, p.67.
[148] Frank, '"Let But One of Them Come before Me, and I'll Commit Him", p.71.
[149] ibid., p.72.

'come before me…I'll commit him'.[150] This led the *Northern Star*, a Chartist newspaper, to condemn the corrupt partnership between magistrate and employer.[151] Rose was described in the memoirs of potter Charles Shaw, as 'the Jove of the Potteries District' and whilst he was a 'terror to evil-doers', he was not beloved within the community.[152]

In contrast, Justice John Leigh's concern for juveniles, not just from poor backgrounds but also those who fell afoul of the law, was reported widely throughout his period as stipendiary for Wolverhampton.[153] At the July Sessions, 1850, Leigh put forward the proposals of a committee formed to deal with the problem of juvenile delinquency in Staffordshire. Firstly, the committee called for the need for legislative interference, as private means were not sufficient to tackle so broad a problem. Secondly, they called for supplementary industrial schools for juvenile offenders which would augment gaol sentences as the only means of punishment for juveniles. Thirdly, they stipulated that judges should have the power to send juveniles to these establishments during trials and finally, that the schools should be funded by county rates and from contributions from parents. Leigh believed the Quarter Sessions had a right to petition the Home Secretary to pursue legislation in this regard.[154] Leigh argued for those under 21 years of age to be treated as 'infants' in civil right: they were still young, and it was wrong to class them as irredeemable and hardened criminals. Imprisoning children risked contamination and on completing their sentence no means of gaining honest maintenance was open to them. Leigh believed it was disgraceful that he and fellow magistrates felt the need to impose a committal to trial for a trivial offence in order to protect juveniles from recidivism and corruption. The logic, Leigh explained, was to transport them and secure them from recommittals and associations with fellow juvenile criminals. He estimated that it cost £30 per head to maintain a prisoner on average in England and Wales per annum, which was money thrown away, that could be saved if they were properly reformed.[155] Leigh contributed a piece to Lord Ingestre's *Meliora, Or, Better Times to Come, Being the Contributions of Many Men Touching the Present State and Prospects of Society* in 1853.[156] There he stated his belief that whatever the faults that their natural guardians possessed, the children themselves were morally

[150] ibid., p.74.
[151] ibid., p.76.
[152] Quoted in C. Frank, *Master and Servant Law: Chartists, Trade Unions, Radical Lawyers and the Magistracy in England, 1840–1865*, Farnham 2010, p.206
[153] Leigh had presided over the Courts of Common Plea in Jamaica from 1840 until 1846, returning to England in that year to become stipendiary magistrate for Wolverhampton up to 1860. *The Weekly Reporter, Vol. 13,* London 1865, p.502.
[154] *Staffordshire Advertiser* - Saturday 06 July 1850.
[155] *Staffordshire Advertiser* - Saturday 05 January 1850.
[156] J. Leigh, *Juvenile Offenders and Destitute Pauper Children*, in *Meliora, Or, Better Times to Come, Being the Contributions of Many Men Touching the Present State and Prospects of Society*, *Second Series*, London 1852, pp.81-89.

innocent and therefore deserving of sympathy.[157] Either as homeless children – forced into petty thefts to stave off starvation – or through the neglect of parents to show them the correct way to go, Leigh believed children became familiar with crime because of a failure by society to act pre-emptively.[158] He articulated that the rise of summary jurisdiction had reduced costs but at the expense of prosecuting more children who would have formerly been discharged, thereby quietly removing the problem of juveniles before the courts whilst failing to address the problem of juveniles in gaol.[159] Leigh's belief in the Reformatory movement was based on the conviction that juveniles needed a longer period of discipline and probation, disconnected from evil associations over a lengthy period to achieve personal change.[160] If a child of the most populous districts was dishonest, it was because of the circumstances in which they were brought up. If it was possible to change those circumstances then it was possible to change the child.[161] He was a vocal proponent of the Wolverhampton Ragged School and sought an agreement with the Governor of Stafford Gaol, Major Fulford, that boys on discharge from the gaol from Wolverhampton would be offered a place at the school until a workplace could be found for them.[162] Leigh also, unusually for the period, supported reforming criminal girls as well as boys. He could not understand why gentlemen of the county thought it better to send female juveniles to be educated in gaol rather than seek places at reformatory schools.[163] One of his many criticisms of the Reformatory at Saltley – seeing such voluntary efforts as a distraction from parliamentary action – was its failure to make provisions for girls.[164] Leigh argued throughout his tenure for a school for Staffordshire: only a school backed and financed by governmental legislation and county funds could be successful, against the consensus of the Sessions that the arrangements at Saltley were sufficient. As a professional lawyer and not a member of the landed elite, it would be difficult to argue for motivations of paternalistic supremacy. In fact, Leigh often found himself at loggerheads with the more traditional county gentlemen regarding reformatory solutions. Although not entirely a maverick amongst the sessions, Leigh found support from the Earl of Harrowby who agreed that a local solution for Staffordshire was required. Harrowby was a long-time vocal proponent of a need for change in dealing with Staffordshire juveniles who in his view were victims of circumstance rather than inveterate and hereditary criminals.[165] In summarising his time as stipendiary magistrate for South Staffordshire, *The*

[157] Leigh, *Juvenile Offenders and Destitute Pauper Children*, p.88.
[158] ibid., pp.81-82.
[159] ibid., p.83.
[160] ibid., p.84.
[161] ibid., p.87.
[162] *Staffordshire Advertiser* - Saturday 11 October 1856.
[163] *Staffordshire Advertiser* - Saturday 28 April 1860.
[164] Leigh, *Juvenile Offenders and Destitute Pauper Children*, p.86 & *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 30 August 1854.
[165] *Staffordshire Advertiser* - Saturday 20 October 1860.

Wolverhampton Chronicle and Staffordshire Advertiser noted the several occasions when Leigh brought forward the Reformatory Movement to the Court of Quarter Session at Stafford, noting that he always believed the prevention of crime was more important than its punishment.[166]

No magistrate embodies the ambiguous nature of concern for juvenile offenders tied with a position of being part of the elite more than Sir Baldwin Leighton.[167] In the preface to a collection of his letters and speeches, his daughter described him as 'earnest in his desire to benefit his fellow man' whilst always holding 'fast to the course which he deemed to be right' and 'outspoken in his dislike to that which was not strictly upright, truthful, and just'.[168] Janet Livingstone in her thesis on pauper education in Victorian England, describes Leighton's tenure as Chairman of the Board of Guardians for the Atcham Union (1836-71) as both 'independent' and 'autocratic'.[169] Assistant Poor Law Commissioner, William Day, is said to have been uneasy with Leighton's 'uncompromising adherence to principles'.[170] Leighton steered a course away from the Poor Law School Inspectorate concerning the Union's workhouse school, choosing its own texts, refusing to adapt its style of industrial training and resisting the imposition of female teachers.[171] Atcham Union is said to have gone far beyond the directives of the New Poor Law under Leighton, quickly cutting off relief to non-resident paupers living outside the Union and pruning the use of outdoor relief until its Union workhouse was thoroughly utilised.[172] Vincent Walsh, however, dismisses notions of this being a simple paternalistic effort to punish the poor – as able-bodied men denied relief were often actively found employment, and in the workhouse school, Leighton endeavoured to deliver education far superior in quality to other Poor Law Unions.[173]

Despite these progressive efforts to supply superior education, Leighton was the embodiment of the traditional patrician magistrate keen to maintain the status quo and keep power within a tight-knit

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[166] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 10 October 1860. Leigh, after losing money in a failed shares scheme with a Wolverhampton Bank, and in an attempt to cover his debts with stock market investments, accrued £25,000 worth of debt and asked to transfer to London Worship Street in 1860 to take advantage of higher wages. Despite the increase he was forced to file for bankruptcy in 1865. *The Weekly Reporter, Vol. 13,* London 1865, p.502.
[167] Born in 1805, he became the 7th Baronet in 1819 and was active serving as Sheriff of Shropshire in 1835; Deputy-Lieutenant in 1846; Chairman of the Quarter Sessions in 1855; and as MP for South Shropshire in 1859. R. P. Dod, *The Parliamentary Companion,* London 1862, p.236 & B. Botfield, *Stemmata Botevilliana: Memorials of the Families of De Boteville, Thynne, and Botfield, in the Counties of Salop and Wilts. With an Appendix of Illustrative Documents*, London 1858.
[168] F. C. Childe, (ed.), *Extracts from Letters and Speeches of Sir Baldwin Leighton*, *bt*., Shrewsbury 1875, p.3.
[169] Livingstone, *Pauper Education in Victorian England,* p.166.
[170] William Day cited in Livingstone, *Pauper Education in Victorian England,* p.167.
[171] Livingstone, *Pauper Education in Victorian England,* p.172.
[172] J. V. Walsh, 'Old and New Poor Laws in Shropshire, 1820–1870', *Midland History Vol.2, No.4,* 1974, p.238.
[173] Walsh, 'Old and New Poor Laws in Shropshire', p.239.

group of like-minded and propertied gentlemen. He displayed all the hallmarks of a strict disciplinarian in the manner he dealt with poachers and his own staff and in his belief in corporal punishment for juveniles. Leighton was a nineteenth-century authoritarian, but he firmly believed that the child should be demarcated from other miscreants and was deserving of novel and ambitious approaches to break the cycle of criminality. In this manner Leighton demonstrates the growing concern for this stage of life and its importance for addressing wider social concerns regarding social cohesion and stability (as discussed in Chapter 1). Examples of Leighton's position as a stern and oppressive dogmatic individual abound. During the trial of Edward John Eyre, the former Governor of Jamaica who was prosecuted for the illegal execution of George William Gordon, a former slave and Jamaican politician, held at Market Drayton in 1867, Leighton faced a barrage of criticism from certain quarters of the press for failing to proceed with the case.[174] He was described as the embodiment of 'Old Corruption' and a 'self-sufficient, incompetent and arrogant functionary'.[175] As a supporter of the Poaching Prevention Act 1862 he was dubbed 'Rabbitskins' Leighton by radical newspaper, *Reynolds's Weekly*, a champion of working-class ideals.[176] Leighton had been satirised in an 1855 edition of *Punch* magazine for his heavy-handed approach to dealing with his gamekeeper over his taking of perquisites. The gamekeeper, James Wells, annually sent a hare to a local grocer. However, on one occasion he chose instead to send two rabbits and this led him to answer charges of theft before the Lent Assizes. Despite numerous character references, amongst them an agent of the Duke of Cleveland, Leighton sought to punish his gamekeeper through trial rather than resort to a personal reprimand.[177] It is important to acknowledge that Leighton was not a one-dimensional figure driven by altruistic impulses, his own daughter describing him as possessing 'stern moral courage'.[178]

These contradictions help in understanding the complexity of Leighton's nature. During a parliamentary debate on the flogging of juvenile defendants in 1861, Arthur Kinnaird MP called the lashing of juveniles aged between 8 and 11 an 'abuse of law' that 'ought to be no longer tolerated'.[179] Leighton countered that the punishment was not as harsh as portrayed, as it was conducted using a birch-rod rather than a cat-o'-nine tails and that children of 'the nobility and higher classes' were

[174] Leighton discharged the case before him believing that no jury could reach a guilty verdict, *The Law Times, Vol. 42*, London 1867, p.449. This led to criticism of bias in favour of those of a similar class in these judicial proceedings and even preferential treatment for a 'friend' of the county justices, *Glasgow Morning Journal* – 1 April 1867
[175] R. W. Kostal, *A Jurisprudence of Power: Victorian Empire and the Rule of Law*, Oxford 2005, p.301.
[176] Kostal, *A Jurisprudence of Power*, p.301.
[177] *Punch Magazine, Vol. 28*, London 1855, p.233.
[178] Childe, *Extracts from Letters and Speeches*, p.3.
[179] ibid., p.63.

subject to more severe beatings in public schools.[180] He also publicly opposed giving alms to the youngest of beggars, unless a service of labour had been performed, as giving to children would 'raise a new generation of vagrants'.[181] And yet despite this seemingly harsh stance on pauperism and juvenile offenders, Leighton led the search for reformatory efforts in Shropshire. His care and concern for the youngest members of local society underscored the concern felt by those in authority for this section of society. It demonstrated the emerging philosophical framework that saw the potential of children to save or bring down the social order. His recommendations for the separation of juveniles from more hardened criminals; his acknowledgment of the deleterious effect that isolation had on the very young; his recognition of the necessity that custodial sentences for them should be kept short; his belief that to send a child on a first offence to a reformatory for a prolonged period was improper; and his desire to form a reformatory institution for Shropshire itself collectively speak to an enlightened philosophy that juveniles were a special case amongst the criminal classes who were worthy of redemption.[182] Furthermore, he did not limit the benefits of education to those juveniles deemed delinquent, as seen not only in his role in furthering pauper education within his own Union, but also in his support of the District School Movement that placed large concentrations of pauper children under one establishment for more efficient teaching and industrial education.[183] Leighton, therefore, was a complex contradictory figure, embodying the authoritarian traditions of the past but also embracing new ideals of reform and recognising the necessity to help the poor to rise above their circumstances.

Studies such as this aid our understanding of the national context of change. Social policy was both championed and resisted by the men of authority in these localities. The magistrate, more than any other figures of authority, had a role in almost every facet of policy regarding juvenile delinquency. Any model that hopes to understand the motivations of these men of power can only succeed if they are acknowledged as a diverse group of concerned individuals rather than a collection of like-minded oppressors. In this way, we can place their concerns within a broader framework of changing perceptions of juvenile criminality and more clearly understand how the move away from punishment towards prevention evolved at different rates in different localities.

[180] ibid.
[181] ibid., p.61.
[182] *Shropshire Record Office Q/A/2/1/3 Gaol visiting justices report book 1845-1857* (hereafter SHRO) & Childe, *Extracts from Letters and Speeches*, p.63.
[183] *SHRO Q/A/2/1/3.*

2.4 Conclusion

The demographic, economic and political differences between 1810 and 1860 influenced the ways in which juvenile delinquency and misbehaviour were disciplined and controlled. Greater population pressures, increased density of habitation, greater access to resources brought about by industrialisation, and changing attitudes amongst influential members of society responsible for the application of the law help to explain differences in juveniles' involvement within the judicial system and their subsequent punishment. Shropshire and Staffordshire exhibited very different demographic, economic and political profiles in the first half of the nineteenth century. Staffordshire was the more densely inhabited county at the beginning, but its population explosion during the next fifty years was staggering in comparison with its western neighbour. This was driven by the growth of industrial centres that helped forge urban areas larger than those in Shropshire. Staffordshire had two industrial focal points in the North and South and the iron-producing regions of the Black Country were most notably affected by the social, economic and political impact of industrialisation. Although Shropshire remained largely agricultural throughout the century, it was not entirely divorced from the changes that were occurring within the rest of the country and had once driven industrial innovation in Coalbrookdale. Limited access to transport links and the rise of the neighbouring Staffordshire industries prevented this burgeoning industry from growing on the scale seen in Staffordshire. Both urban and industrial growth have been linked to increased incidences of recorded juvenile crime. Density of population in urban settings produced conditions favourable to increased crime rates in terms of difficulties in policing, greater migration, and access to a wider variety of goods, for example. Industrialisation also caused its own increase in juvenile crime rates and can be linked to manufacturers showing a greater willingness to prosecute to protect their growing concerns.

Local government was largely in the hands of the landed elites at the beginning of the nineteenth century. Being a magistrate was a social and political asset for the landed gentry, who led legal affairs and the courts. Whilst Shropshire maintained close ties between gentry and magisterial authority, Staffordshire witnessed the rise of the industrialist within local power circles. This had a marked effect on the administration of justice, particularly in the Black Country, where the gentry were largely absent from town affairs. These industrialists were motivated to protect their own interests, and this had an influence on the prosecution of crime in their areas. Juveniles may have found that discretion regarding misbehaviour was replaced by active pursuit within the courts.

These county magistrates were not a homogenous entity bent on a common goal of subjugation. They held varied attitudes and responded to different influences. Many local initiatives to end juvenile crime were motivated by individual responses to specific county circumstances: their concerns for the juvenile were not mere paternalistic acts of authority. Through the actions and inaction of the local magistrate – where many of the duties of punishing and reforming juvenile delinquents intersected – the fears and responses to juvenile crime emerge. They were the leading authorities in the county with the power to encourage or resist change and their perception of a problem with juvenile behaviour dictated county responses. The core of this thesis is to understand the magisterial response and the mechanisms and potential motivations that lay behind it. The degree to which juvenile crime was a problem for either county is explored in later chapters alongside the solutions and rationales that emerged during the mid-century. Only through local studies such as those undertaken in this thesis can we comprehend the courses chosen by governing bodies towards juvenile criminality.

Chapter 3 – Staffordshire and Shropshire juveniles before the County Sessions 1814-1835

This chapter focuses on juveniles before the major courts of the Quarter Sessions and Assize in Staffordshire and Shropshire between 1814 and 1835. It is not the aim of this section, however, to simply quantify the increasing criminal activity of the youngest section of society.[1] Any attempts to define levels of criminality amongst juveniles based on indictments alone must be dealt with cautiously as much petty crime never reached this stage of the judicial process. Nor can the scale of unreported crimes be known.[2] We cannot measure how much crime went undetected, or how often informal measures were chosen over litigation. J.J. Tobias has questioned the accuracy of official statistics as a measure of criminality.[3] In contrast, John Beattie, whilst acknowledging that all committed crime was unknowable, believes it should be possible to measure recorded crime as an indicator of changing levels of criminal activity.[4] However, any rise detected may mask structural changes in the way the law was administered, or changes in perceptions of behaviour and the tolerance of acts that could be branded 'criminal'. Eric Monkkonen has contended that criminals can only truly be understood through an analysis of the criminal justice system: they were products of this system and the machinery through which they were created needs to be understood.[5] Examining this process of criminalisation, and the way perpetrators of different ages and gender were treated, is preferable to merely quantifying changes in indictment levels and reveals far more about the way juveniles became a focus of concern for the magistrates. This is achieved through an examination of trial outcomes for indictees at the major county courts over a period of twenty years to reveal how differences in the severity of crime were punished and whether juveniles were treated differently from the rest of the population as the century progressed.[6] It furthermore considers the impact of gender on sentencing. The chapter also analyses the thefts perpetrated by juveniles by examining the items for which they were indicted for stealing and places these crimes within each county to reveal differences between rural and urban juvenile criminality.

[1] Although the Assize Sessions were presided over by higher court judges, they still impacted the numbers of convicted juveniles found in the county gaol and impacted the picture of crime within a locality.
[2] The 'dark figure' of crime includes all unrecorded crime or cases that never made it to trial. D. Jones, *Crime, Protest, Community, and Police in Nineteenth-Century Britain*, London 1982, p.2
[3] *See* C. Emsley, *Crime and Society in England, 1750–1900*, Harlow 2010, p.30 for an overview of these arguments, also specifically J. J. Tobias, *Crime and Industrial Society in the Nineteenth Century*, Harmondsworth 1972, p.296.
[4] J. M. Beattie, *Judicial records and the measurement of crime in eighteenth-century England*, in L. A. Knafla, (ed.), *Crime and Criminal Justice in Europe and Canada*, Ontario 1981, p.138.
[5] E. Monkkonen, quoted in R. Sindall, 'The criminal statistics of nineteenth-century cities: a new approach', *Urban History, Vol.13*, 1986, p.28.
[6] This refers to the major county courts of quarter sessions and assizes as in contrast to the petty sessional courts.

3.1 Increasing juvenile depravity, structural change or transformations in perception?

Statistics and official record-keeping shaped the belief that officials tasked with administering law and order were witnessing a 'torrent' of 'spreading evil' amongst the youngest offenders.[7] However, there were other possible explanations behind the supposed upsurge in juvenile participation within the justice system. The rise in figures cannot be simply explained by an increase in delinquency amongst the youngest members of society. Peter King and Joan Noel have suggested that the dark figure of unprosecuted offences may represent a well of untapped potential indictments that, given the right social pressures or legal initiatives, led to a perceived increase in levels of crime.[8] Changes in attitudes to specific types of crime, and to certain sections of society believed to be most threatening, spurred variations in the level of indictments brought before the courts.[9] Youthful acts that were once tolerated but now seemingly out of control became the focus of new legislation or changes in the administration of existing laws. The process of criminalising behaviour was socially constructed within and outside the courts and the decision whether to pursue justice formally was motivated by pressures that historians can uncover. It cannot be denied that a juvenile presence within the legal system was increasing at this time at a rate that was noticeable. This happened within the urban and industrialised county of Staffordshire and the more rural county of Shropshire.[10] The differences in the growth in juvenile committals before the major courts are related to local social and economic factors at play.

This chapter argues that rising juvenile indictments reflected changes within the legal framework and perceptions of childhood. The major courts were a theatre of public opinion and an increasing presence of juveniles at this time reveals changing attitudes within elite society towards a perceived mounting threat from the lower orders.[11] As the philanthropist George Holford, a governor of the Millbank Penitentiary believed, it was necessary to stop the spread of the 'infection of guilt' through the 'rising generation'.[12] These courts offered a visible aspect of the criminal justice system and

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[7] J. E. Eardley-Wilmot, *A Letter to the Magistrates of England on the Increase of Crime: and an Efficient Remedy Suggested for their Consideration*, London 1827.

[8] P. King & J. Noel, 'Origins of the Problem of Juvenile Delinquency: The Growth of Juvenile Prosecutions in London in the Late Eighteenth and Early Nineteenth Centuries', *Criminal Justice History: An International Annual, Vol.14*, 1993, p.30.

[9] A. M. Kilday, '"Criminally Poor?": Investigating the Link Between Crime and Poverty in Eighteenth Century England', *Cultural and Social History, Vol.11, No.4*, 2014, p.509.

[10] In 1849 *The Law Magazine: or Quarterly Review of Jurisprudence* ranked Staffordshire the 12th and Shropshire the 34th most criminal county out of 40 counties in the country. *The Law Magazine: or Quarterly Review of Jurisprudence,* London 1849, p.233.

[11] R. Jones, 'Gender, Criminal Opportunity and Landscape in Nineteenth-Century Wales', *Rural History, Vol.27, No.2*, 2016, p.169 and M. Winn, *The Structure and Functions of the English Magistrates' Court: A Study in Historical Sociology*, PhD thesis, University of Warwick, 1986, p.25.

[12] G. Holford, *A Short Vindication of the General Penitentiary at Millbank*, London 1822, p.34 and Jones, 'Gender, Criminal Opportunity and Landscape in Nineteenth-Century Wales', p.169.

therefore shaped perceptions of crime for the wider public.[13] Newspapers contained regular court coverage, including sentencing, opening statements of the current state of crime in the county delivered by the presiding magistrate, and detailed summaries of selected cases.[14] They included remarks on the number of juvenile offenders before a session, if particularly high. For instance, Sir Oswald Mosley, Chair of the Staffordshire Sessions, highlighted that over a third of indictees before the Michaelmas Quarter Sessions of 1829 were 'juveniles' under the age of twenty-one years: he apportioned this to a failure by parents and masters.[15] The following analysis examines the growing number of juveniles indicted before these courts in Staffordshire and Shropshire. This analysis illustrates changes in the ways juveniles were criminalised by local magistrates. Increasing juvenile indictments signify the growing desire amongst these magistrates to impose greater control on this element in the population.

3.2 Analysing the Sessions

Although the definitions for felony and misdemeanour became blurred by the nineteenth century this section focuses on felonies alone. Partly this is due to the incomplete recording of misdemeanours within the gaol calendars, alongside missing ages, and locations of where the crimes were committed. Most minor crimes were pursued at the petty sessions which were held by magistrates near to the location of the committed crime (see Chapter 4). The Quarter Sessions and Assizes dealt principally with felony cases and were mostly held within the county town. Theft of property was the largest category of crimes in juvenile appearances before these courts. Theft indictments for juveniles, aged up to and including 19, accounted for almost all juvenile felony indictments at the Quarter Sessions and Assizes in both counties, but other felonies are examined towards the end of this chapter.

Studies of crime are faced with the problems generated by rapidly evolving criminal justice. After 1827, definitions of larceny based on amounts stolen were consolidated under a single offence of simple larceny.[16] Serious offences, such as shoplifting, lost their capital status as punishment moved

[13] H. Shore, *The Social History of Juvenile Crime in Middlesex, 1790-1850*, PhD thesis, Royal Holloway, University of London, 1996, p.48.
[14] These included: *Staffordshire Advertiser; Wolverhampton Chronicle; Walsall Free Press and General Advertiser*; *Staffordshire Sentinel and Commercial & General Advertiser* (in Staffordshire) and *Shrewsbury Chronicle; Eddowes's Journal, and General Advertiser for Shropshire, and the Principality of Wales* (in Shropshire).
[15] *Staffordshire Advertiser* - Saturday 24 October 1829.
[16] Serious larcenies involving aggravating conditions were still treated separately but the distinction of thefts below 1s of value became defunct.

away from death sentences as the ultimate penalty. The prosecution of an offence was also open to negotiation as part of the trial procedure, as the prosecution could decide the degree at which the offence was measured. For instance, a charge of pickpocketing was fraught with complications: the victim had to prove that the offence occurred without their knowledge during the act and had to weigh the consequences of bringing a capital charge against the perpetrator.[17] Juries themselves often played a part in this downgrading process, deliberately finding offenders guilty of a lesser charge to reduce the potential for a far more serious punishment.[18] When giving their verdict for a charge of stealing from the person, the jury might find the defendant guilty of stealing, but not from the person.[19] Both were considered felony charges but, by disregarding the physical portion of the charge, they would be 'subjecting the offender to punishment differing in severity'.[20] Many charges of shoplifting were prosecuted as a lesser larceny offence, being both easier to pursue and imposing less severe penalties on the accused. The advantages of focusing on theft over other criminal acts were that they continued largely as a felony throughout this period and therefore its prosecution principally remained the purview of the higher courts. Furthermore, the main distinction between thefts prosecuted at the Quarter Sessions and Assizes was based on the gravity of the offence. This was reflected in the court where the charge was heard; the most serious cases usually involved violence, or the potential for violence, or the theft of higher-valued items. These cases came before the Assizes where a capital verdict could be imposed. The chapter explores whether juveniles were dealt with differently from other perpetrators and whether there existed variations in treatment between these counties. The subsequent investigation is based on this distinction between courts.[21]

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[17] Pickpocketing itself ceased to be a capital crime after 1808 and the requirement to prove that the theft occurred without the knowledge of the victim was softened.

[18] For example: ten-year-old Thomas Weston had 'felonious wounding' charges downgraded by the jury to misdemeanour assault charges and received a 'lesser' prison sentence of six months at the Shropshire Summer Assizes in 1845. *Eddowes's Journal* - 30 July 1845.

[19] W. Dickinson, *A Practical Guide to the Quarter Sessions, and Other Sessions of the Peace, Adapted to the Use of Young Magistrates, and Professional Gentleman at the Commencement of Their Practice,* London 1838, p.535.

[20] Dickinson, *A Practical Guide to the Quarter Sessions*, p.535.

[21] The following analysis does not contain the borough sessions for Walsall, Lichfield, and Newcastle-under-Lyme for Staffordshire nor Ludlow for Shropshire. These boroughs had the right to hold their own sessions and the trial verdicts were printed separately from the county session records. These records either proved difficult to access, were unevenly conserved, or recorded offences sporadically throughout this period. The Shrewsbury borough records were recorded within the county calendars, so these proved easier to examine and it was possible to reconstruct other borough records (Much Wenlock, Oswestry, and Bishop's Castle) recorded in the Shropshire calendars using the criminal registers as a cross-reference. Using the criminal registers, it is possible to ascertain how much impact this missing information had upon the current research. Unfortunately, the registers do not contain age information for committals until 1834 and even then, the information regarding offences is limited to trial outcomes only, making them unsuitable for this kind of analysis. Fortunately, the borough sessions are recorded separately from county sessions in the registers which allows the possible impact on the current work to be assessed. In Staffordshire the borough committals on average for the 20-year triannual analysis amounted to just 8 per cent of all committals in Staffordshire. For 1835, where age information is available, the borough committals would have added an extra 12 juvenile (aged 19 and under) committals – out of 185 - to the analysis in Staffordshire. The absence of these records is minimal and enables this research to reveal the general picture for juvenile committals in both regions. Furthermore, the county magistrates would have been most informed by the picture of justice revealed by the county sessions over the more limited borough sessions.

3.2.1 The number of juveniles before the Quarter Sessions for property theft

In *The Rise of Juvenile Delinquency in England 1780-1840: Changing Patterns of Perception and Prosecution,* King demonstrated that a clear rise in juvenile indictments for property theft in Shropshire occurred between the 1790s and the 1820s.[22] This current thesis covers both a wider sample of years, with more detail on the offenders and offences under indictment in Shropshire, to understand the changing nature of juvenile crime in this county. It also offers comparison with neighbouring Staffordshire which was a far more populous county with more urban areas. This analysis focuses initially on the Quarter Sessions where most cases of simple theft and larceny without violence were heard. This was where juveniles were likely to find themselves if their transgressions merited special attention that the summary petty courts could not administer, or if informal punishments were not deemed appropriate by their victims.

Figures 3.1 and 3.2 demonstrate that indictments for property theft for those up to nineteen years of age rose swiftly after 1820 in Staffordshire and a few years later in Shropshire, well above their levels in the previous decade.[23] Nineteen as an upper age limit was used in this study to allow comparisons with King's earlier work to be more easily made.[24] Figures 3.1 and 3.2 represent proportions of indictees standing on charges before the court relative to other age groups. Juveniles (aged 19 and below) peaked at 40% of all indictments, amongst all ages, for theft in Staffordshire in 1826 from lows of 18% in 1817. Shropshire's peak was 33% in 1827, up from 17% in 1823.[25] These were not just a rise in relative proportions. As the number of cases heard by the Quarter Sessions rose dramatically throughout the period, the numbers of juveniles as a growing proportion of these increases also rose rapidly.

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[22] P. King, 'The Rise of Juvenile Delinquency in England 1780-1840: Changing Patterns of Perception and Prosecution', *Past & Present, No. 160*, Aug 1998, p.124.

[23] The definition of childhood was under continual renegotiation throughout this century, with the age of twenty-one generally considered the uppermost limit during this period. This was officially redefined by mid-century legislation which put a lower boundary for juvenile age range. The *Juvenile Offenders Act 1847* placed significant official endorsement on the idea of 'juvenile' being an intended earlier age grouping by setting summary jurisdiction for thefts at fourteen years of age, although this itself was raised to 16 by 1850.

[24] Also see Chapter 1 for a further discussion regarding the choice of ages regarding this study of juvenile crime.

[25] These are higher than the proportions published by King for Shropshire in *The Rise of Juvenile Delinquency in England 1780-1840: Changing Patterns of Perception and Prosecution*. However, that study combined both Quarter Session and Assize analysis in one study, also combining several sample years to give a general impression for periods rather than the more detailed three-year sample conducted for this thesis.

Furthermore, those aged 19 and below – alongside 20–29-year-olds – were the only age groupings that show any growth during the period as a proportion of indictments for theft for both counties. These age groupings straddle what David Phillips calls 'the criminal decade' (ages 16 to 25) for increased interaction with the justice system, a period when the poorest members of society were most vulnerable to pressures caused by costs of living and the lack of regular employment. In Phillips' study of the Black Country, those aged 16 to 25 provided around 50% of all committals during the 1830s.[26] In Staffordshire and Shropshire, those aged 19 and below were the second largest age group for indictments after 20–29-year-olds. More importantly, all other age groupings remained static or declined as a proportion of property theft cases from 1814 to 1835. Increases of this nature would have been visible to presiding magistrates: in their eyes, increased property theft in the first half of the nineteenth century was being driven by young adults and juveniles.

In Staffordshire, for 1823 and 1826, juveniles exceeded all other age groups in providing the largest proportion of indictments for theft. If rises in population are accounted for, the increases in juvenile indictments are significant. Using population estimates for 1811, 1821 and 1831 – contained within the 1851 census – and comparing them with the nearest sample years in the study, it is possible to give a rough incidence of indictments amongst the rising general county population. By calculating the number of indictments per 100,000 of the population it is possible to demonstrate the ratio of growth or decline of property theft against population growth. Those aged 19 and below saw the greatest growth in property theft indictments in both counties between 1811 and 1831. In Staffordshire, for those aged 19 and under, the number of indictments for property theft rose by more than seven-fold from 3.25 to 25.40 per 100,000 population. For comparison, although 20–29-year-olds were a greater representation of indictments they only grew by over five times in the same period when population growth is accounted for. In Shropshire, for those aged 19 and under, there was almost five-fold rise in indictments from 2.51 to 11.26 per 100,000 population. Indictments per 100,000 in Shropshire for all ages fell between 1821 and 1831, yet for those aged 19 and below they rose. The evidence points towards those aged under twenty as being a significant focus of the courts over the twenty-year period of the study, with a higher representation of indictments before the court compared with other age groups. Traditional analyses have attributed this rise to increased lawbreaking during this period, but a more nuanced examination of possible causes is undertaken towards the end of this chapter.

[26] D. Phillips, *Crime and Authority in Victorian England: The Black Country, 1835-1860*, London 1977, p.163.

Males aged 19 and below represented 21% of theft indictments at the Quarter Sessions in Staffordshire in 1814, rising as high as 33% within the twenty-year study period. This compares with Shropshire at 12% in 1814 and 32% at their peak. Females aged 19 and below only comprised 7-8% in either county at most in any year. Male juveniles were the focus of the court, but female juveniles were not necessarily less 'criminal' because of this. Deirdre Palk and Garthine Walker have dispelled the idea that female criminals were less threatening or criminally inclined than their male counterparts.[27] Opportunity and circumstance were connected to the cultural spheres that men and women inhabited separately from each other.[28] The types of crime committed by the sexes were defined by the social lives they led. For instance, female shoplifters were often more prevalent than their male counterparts.[29] Female juveniles may have been exposed to social controls greater than male juveniles: they were either denied opportunities for mischief or were dealt with more leniently at an earlier stage in the justice process, hence their under-representation in the higher courts. An 1849 law magazine noted that 'the criminal mind is quite as strong in women as in men' and that when their 'opportunities in committing offences' increase, 'the proportion of female to male offenders increases'.[30]

[27] D. Palk, *Gender, Crime and Judicial Discretion, 1780-1830*, London 2006, p.65, and G. Walker, *Crime, Gender and Social Order in Early Modern England*, Cambridge 2003, p.159.
[28] Walker, *Crime, Gender and Social Order in Early Modern England*, p.170.
[29] Palk, *Gender, Crime and Judicial Discretion*, p.53.
[30] *Law Magazine: or Quarterly Review of Jurisprudence, Vol.41*, London 1849, p.229.

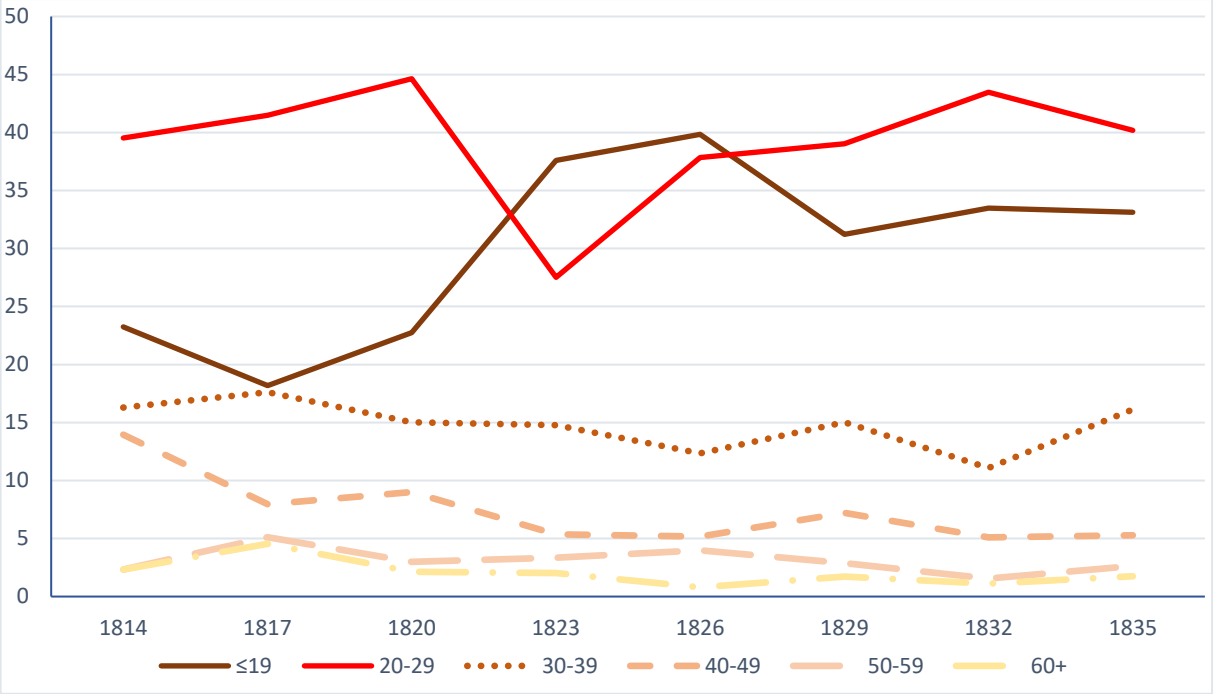

Figure 3.1. Staffordshire age groups as a percentage of overall indictments for theft at the Quarter Sessions 1814-1835.[31]

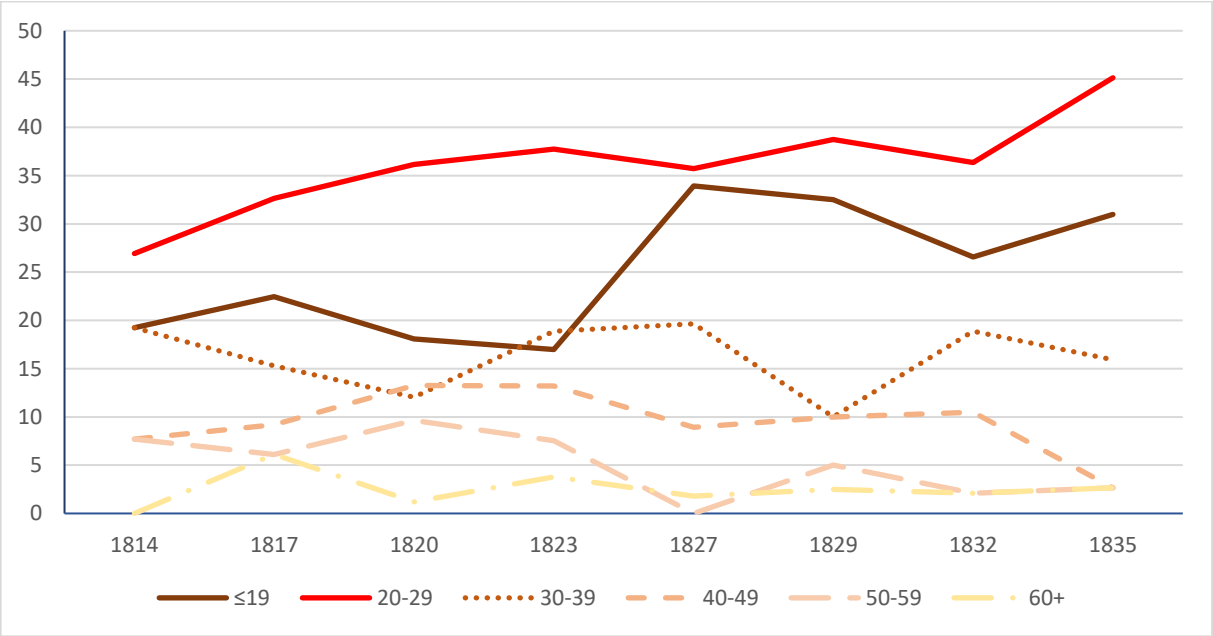

Figure 3.2. Shropshire age groups as a percentage of overall indictments for theft at the Quarter Sessions 1814-1835.[32]

[31] Data for Figures 3.1-3.28 collected from *Shropshire Record Office: QS/10/2 - QS/10/5: Assize and County Quarter Sessions Calendars of Prisoners (1800-1839); Staffordshire and Stoke on Trent Archives: Q/SB 1814-35 Quarter Sessions Bundles, later series (1768-1899); S600/1/2 Staffordshire Assizes Calendars of Prisoners For Trial Part 2: 1801-1827 & S600/1/3 Staffordshire Assizes Calendars of Prisoners for Trial Bundle 3 Part 1: 1828-1842.* (Hereafter SHRO and SSTA respectively).

[32] Shropshire Quarter Session and Assize records were more complete for 1827 so that year was substituted for 1826. The Assize calendars for 1816 in Shropshire were also substituted for 1817.

3.2.2 Juveniles before the Assizes for property theft

The changes in Assize court appearances for theft by juveniles were modest compared with those seen at the Quarter Sessions (Figures 3.3 & 3.4). A conviction in this high court could mean the application of a more serious punishment or capital sentence. Taking length of prison sentence as an indicator of severity, the Staffordshire evidence shows how much harsher the Assize courts were. In Staffordshire, 39% of males aged 17 years and below sentenced to imprisonment at the Assizes earned a sentence of twelve months or more compared with just 4% at the Staffordshire Quarter Sessions (Figures 3.9 & 3.17). This picture was echoed in Shropshire (Figures 3.11 & 3.19). In Staffordshire, those aged 19 and below reached a high point of 39% of all Assize indictments for theft in 1829. The juvenile presence at this court had been driven by the older tier of juveniles over 18. Those males aged 17 and under had averaged just 12% of committals at the Assizes in the twenty-year period, compared with 15% for those aged 18-19. Given the severity of penalty faced by those at trial in the Assize courts it should not be surprising that younger juveniles were less likely than older juveniles to stand trial. Equally, there were physical and practical reasons why their involvement in more violent property thefts was less numerous. Robbery, for instance, required a direct confrontation between victim and perpetrator which may have excluded younger juveniles from participating. Shropshire experienced peaks and troughs throughout the period but, overall, there was very little growth in representation by juveniles in this highest of courts. Neither tier of male juvenile age grouping (17 and under and 18-19) featured prominently in the Assize court in that county, averaging around 8-9% of all committals. Female representation at the Assizes was very low, and was even lower for female juveniles. Female participation in violent crimes such as robbery was also low nationally, as it was for serious offences such as pickpocketing or shoplifting where they may have been indicted. These crimes were difficult to prove in court and often downgraded to lesser larceny charges heard at the Quarter Sessions.[33]

[33] Palk, *Gender, Crime and Judicial Discretion*, pp.41-42.

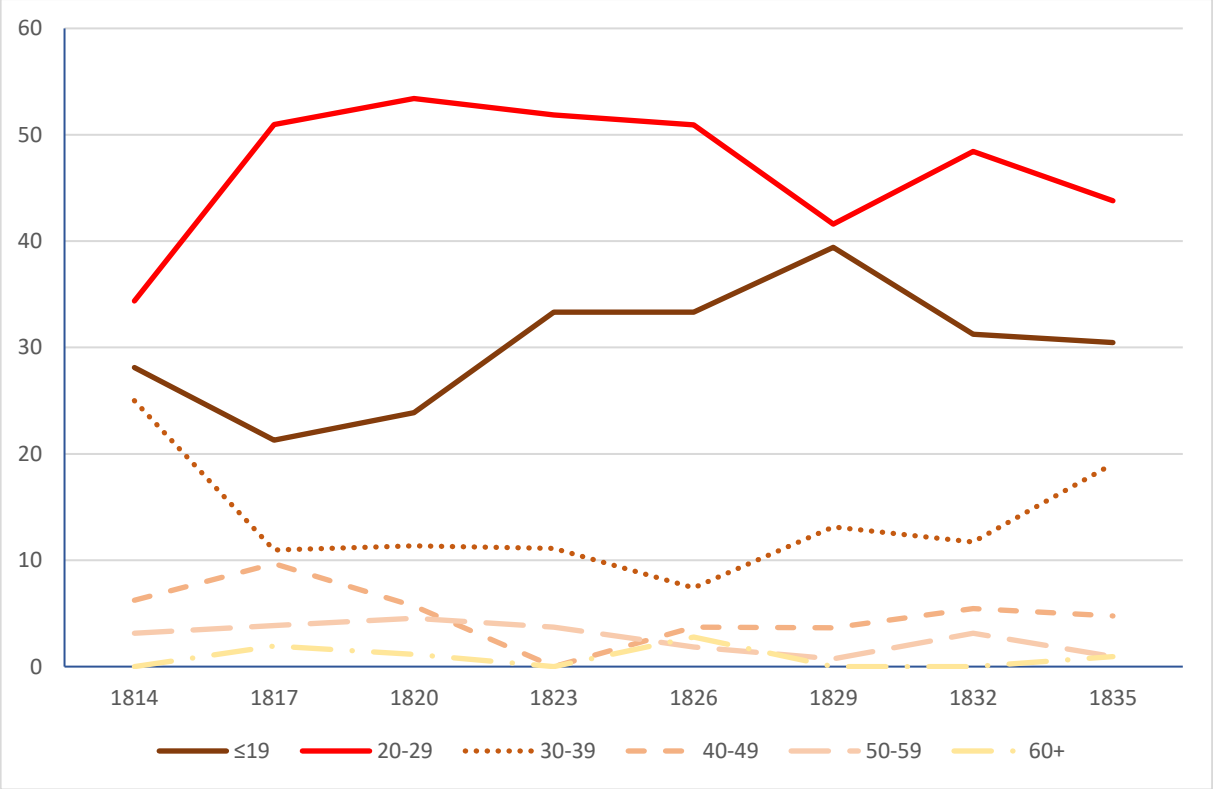

Figure 3.3. Staffordshire age groups as a percentage of overall indictments for theft at the Assizes 1814-1835

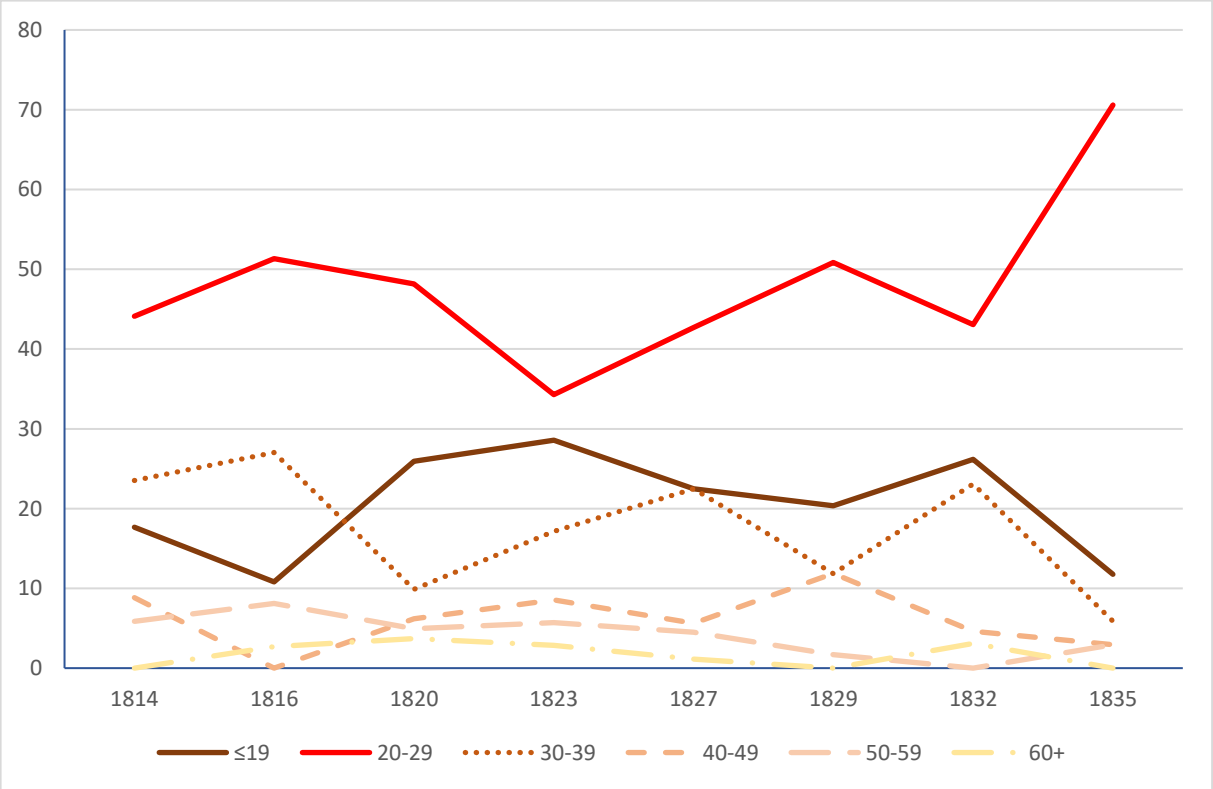

Figure 3.4. Shropshire age groups as a percentage of overall indictments for theft at the Assizes 1814-1835

3.3.1 Sentencing at the Quarter Sessions for property theft

Heather Shore has proposed that sentencing policy towards juveniles reveals contemporary opinion about childhood criminals.[34] On a session-by-session basis it is difficult to identify bias in sentencing decisions which may have either induced the court to apply harsher sentences or, conversely, to pass lenient judgements on the youngest offenders. However, an aggregate assessment of many Quarter Sessions over a substantial period allows changes in policy towards age groups or genders to be revealed. For instance, in Shore's study of the Middlesex registers the proportion of accused penalised with a sentence that included a period of imprisonment rose for juveniles over a thirty-year period.[35] Between 1817 and 1847 juvenile indictees aged up to and including 16, as a proportion of all ages receiving a period of incarceration, rose from 6% to 18% in Middlesex.[36] In Staffordshire, juveniles aged 17 and under rose from 6% in 1817 to over 21% of those receiving gaol sentences at the Quarter Sessions by 1835. For Shropshire the corresponding figures were 8% rising to 23% in the same twenty-year period. This is of course a reflection of an increased juvenile presence in proceedings over the period but also indicates increased severity when dealing with juvenile offenders. This is further emphasised by juveniles (aged 17 and under) found not guilty (or having their case dismissed as not a true bill) falling from 47% to 32% from 1817 to 1835 in Staffordshire as a proportion of sentences received for this age grouping. In Shropshire, where the number of juvenile indictees never reached the Staffordshire figures, proportions fell from 44% to just 27% in the same period.[37]

Sentences of whipping are even more revealing of a change in judicial policy for a punishment almost exclusively reserved for boys. An Act of 1820 proposed by Sir George Chetwynd, MP for Stafford 1820-26, meant the total end of floggings for women.[38] In Staffordshire those aged 17 and under made up 22% of the sentences for corporal punishment for all ages in 1817. By 1835 92% of male whipping sentences were focused on this age group with the remaining 8% reserved for those between 18 and 19. No adults were whipped during that year's session. By contrast, Shropshire rarely used corporal punishment for its juvenile offenders who were found guilty at the Quarter

[34] Shore, *The Social History of Juvenile Crime in Middlesex*, p.161.
[35] ibid., p.171.
[36] ibid.
[37] On average for the first half of the years in the sample this stood at 41% compared with 29% in the latter half of the years sampled in Staffordshire. In Shropshire there was a fall from 33% to 21%.
[38] The Whipping of Female Offenders Abolition Act 1820. *HANSARD 1803–2005 HC Deb 29 June 1820, Vol.2* cc.105-6.

Sessions. Juveniles aged 17 and under made up just 14% of those receiving this sentence in 1817 and only one offender of any age was whipped by 1835.[39] Shropshire moved away from corporal punishment as a means of punishing offenders, regardless of age. In Staffordshire the belief that juveniles were receptive to physical chastisement persisted, based on the idea that this age group was the most malleable of all offenders and easiest to correct. In an anonymous letter to the editor of the *Staffordshire Advertiser* printed in 1847, signed only as 'one who profits from the current system', whipping was advocated as a more effective method of chastisement than the whole procedure of trial and imprisonment, on the basis that it 'cured any propensity to pilfering' whilst keeping costs down and the time of incarceration to the minimum.[40] This sentiment was echoed at the highest levels: for example, Home Secretary Robert Peel declared that whipping was essential for the reformation of juvenile offenders.[41]

Males in Staffordshire aged 17 and under were more likely to receive a transportation sentence than other age groupings, but transportation was used rarely against juveniles in Shropshire and not at all for female juveniles in the sample years. In Staffordshire in 1817 no juvenile aged 17 and under was transported, but by 1826, of those appearing at the Quarter Sessions, 10% received a transportation sentence. By 1835 this had risen to 15% of juveniles aged under 17 and under committed to transportation. As Phillips notes, it was common for repeated larceny conviction to result in transportation.[42] As prosecution became easier, a second conviction may have been more likely for juveniles later in the period. This was true for William Reeves, aged 16, found guilty of stealing wearing apparel in October 1846, having been warned at a previous hearing of the consequences if he was caught again.[43] 17-year-old Richard Bailey was convicted in 1844 and transported to Van Diemen's Land. He had three previous larceny convictions with sentences escalating from 14 days to 2 months, for stealing a cloak from a pawnbroker alongside separate thefts of a waistcoat and money.[44] The Shropshire evidence confirms this: sixteen-year-old Charles Pickering was found guilty, as described by the judge, of a 'minor offence' of duck stealing. This was compounded by a previous conviction and, as a 'regular thief', he was sentenced to a twelve-year sentence of transportation in 1845.[45]

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[39] William Evans at 14 was found guilty of stealing two silver spoons at the March Shrewsbury Sessions that year and sentenced to a month's imprisonment with whipping. *SSTA Q/SB 1814-1835 Quarter Sessions Bundles, later series (1768-1899).*

[40] *Staffordshire Advertiser* - Saturday 13 February 1847.

[41] Peel himself served as an MP for Tamworth, Staffordshire between 1830 until his death in 1850. R. Carlile, *The Republican, Vol.7*, London 1823, p.583.

[42] Phillips, *Crime and Authority in Victorian England*, pp.197-198.

[43] *Staffordshire Advertiser* - Saturday 24 October 1846.

[44] *Tasmanian Record Office: Conduct Record, CON33-1-57,* 1844.

[45] *Eddowes's Journal* - 30 July 1845.

Staffordshire

Males	≤17 years old %	18-19 years old %	20+ years old %
Transported	16	12	15
Total sentences with gaol time	48	54	50
Not Guilty	15	19	22
Whip	27	10	3
Fine	1	3	2
No True Bill	16	13	14

Figure 3.5. Staffordshire sentencing by percentage for male theft indictments at the Quarter Sessions 1814-1835

Females	≤17 years old %	18-19 years old %	20+ years old %
Transported	14	13	12
Total sentences with gaol time	55	60	55
Not Guilty	20	10	14
Whip	0	0	0
Fine	2	2	4
No True Bill	12	17	18

Figure 3.6. Staffordshire sentencing by percentage for female theft indictments at the Quarter Sessions 1814-1835

Shropshire

Males	≤17 years old %	18-19 years old %	20+ years old %
Transported	12	12	15
Total sentences with gaol time	59	48	51
Not Guilty	11	15	15
Whip	9	8	4
Fine	0	0	0
No True Bill	17	22	17

Figure 3.7. Shropshire sentencing by percentage for male theft indictments at the Quarter Sessions 1814-1835

Females	≤17 years old %	18-19 years old %	20+ years old %
Transported	0	0	7
Total sentences with gaol time	70	67	45
Not Guilty	10	17	13
Whip	0	0	0
Fine	0	0	1
No True Bill	10	25	28

Figure 3.8. Shropshire sentencing by percentage for female theft indictments at the Quarter Sessions 1814-1835

Figures 3.9-3.12 illustrate the length of prison sentences handed down at the Quarter Sessions. In Staffordshire, males aged 17 and under were more likely to receive shorter sentences compared with other age groups: 83% of those aged 17 and under received a sentence of less than six months

compared with 67% for 18-19 and 74% for those aged 20 and older. Female juveniles under 17, compared with those aged 20 and over in Staffordshire, were most likely to receive the longest sentence possible of over a year, showing that whilst fewer female juveniles made an appearance at the Staffordshire Quarter Sessions, they faced harsher treatment when found guilty. In Shropshire the situation was reversed as female juveniles received shorter sentences compared with adults. Staffordshire juvenile females appear to have been a focus of concern at the Quarter Sessions, where juries were keen to see a guilty verdict punished as strictly as possible.

Staffordshire

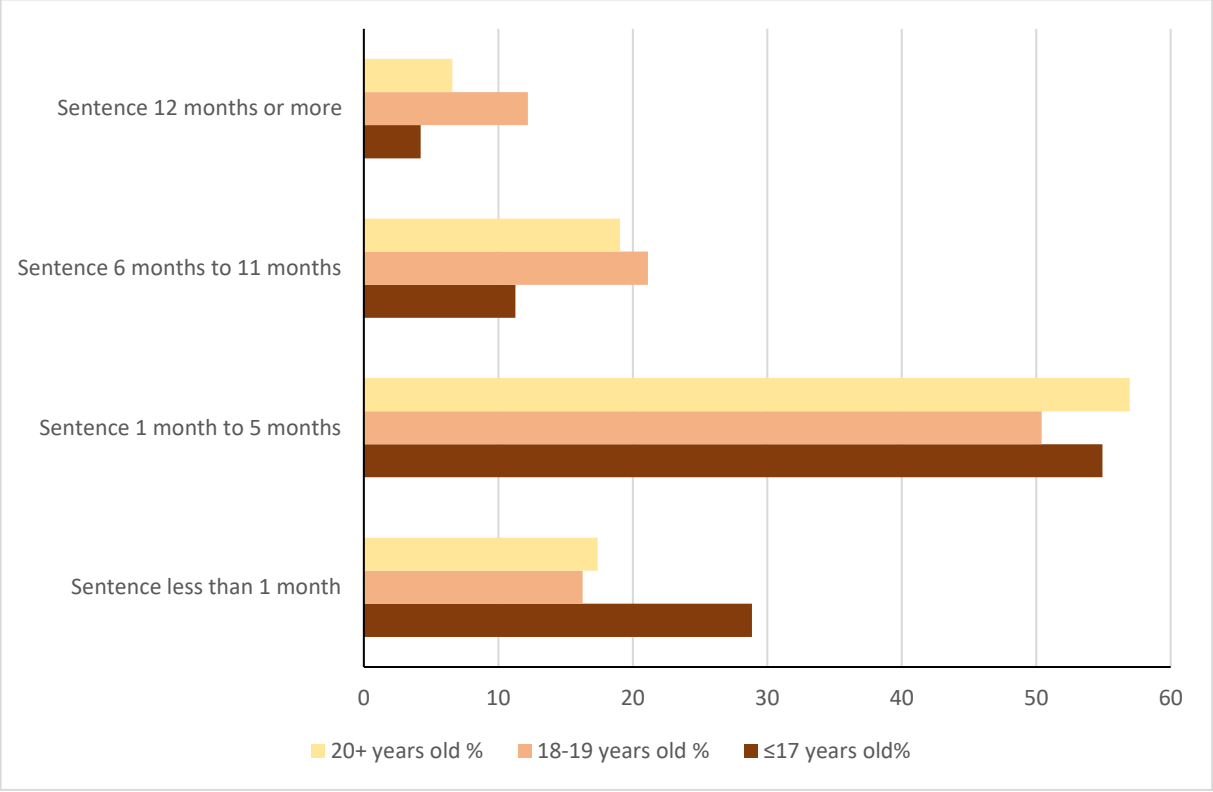

Figure 3.9. Length of prison sentence for males by age at Staffordshire Quarter Sessions 1814-1835

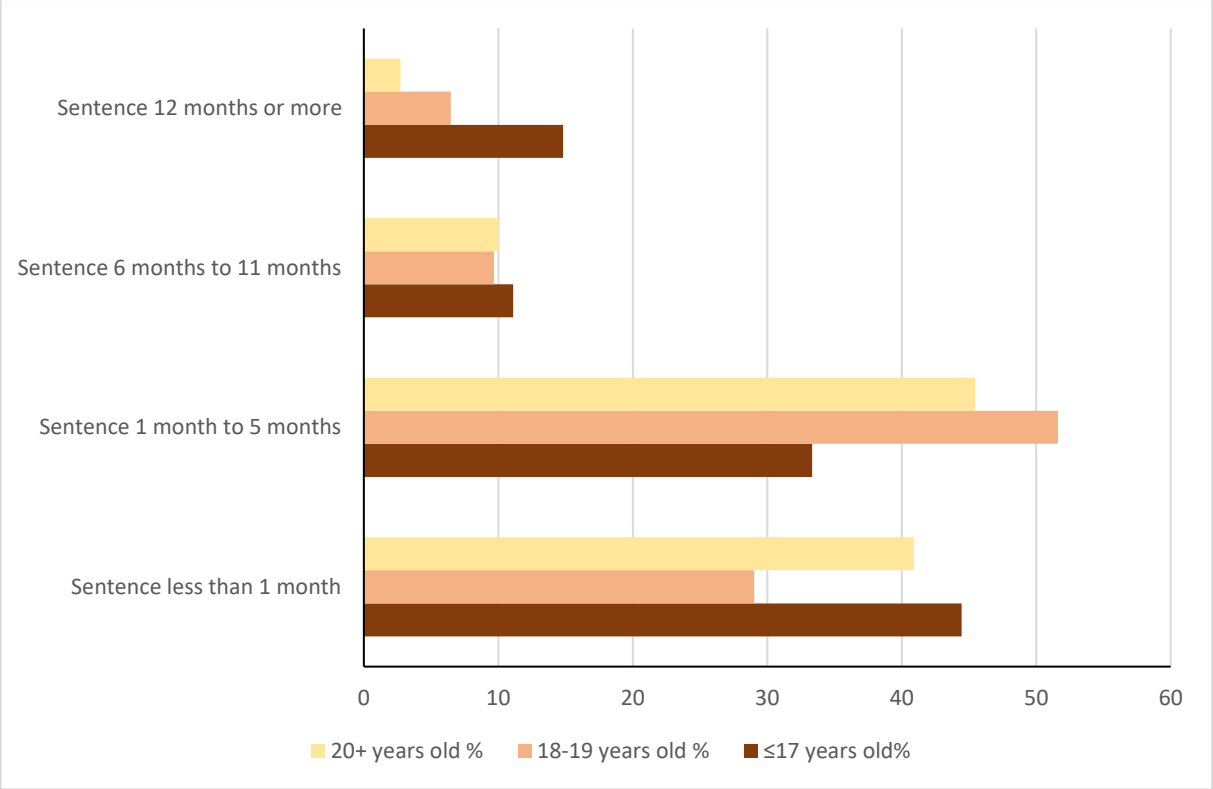

Figure 3.10. Length of prison sentence for females by age at Staffordshire Quarter Sessions 1814-1835

Shropshire

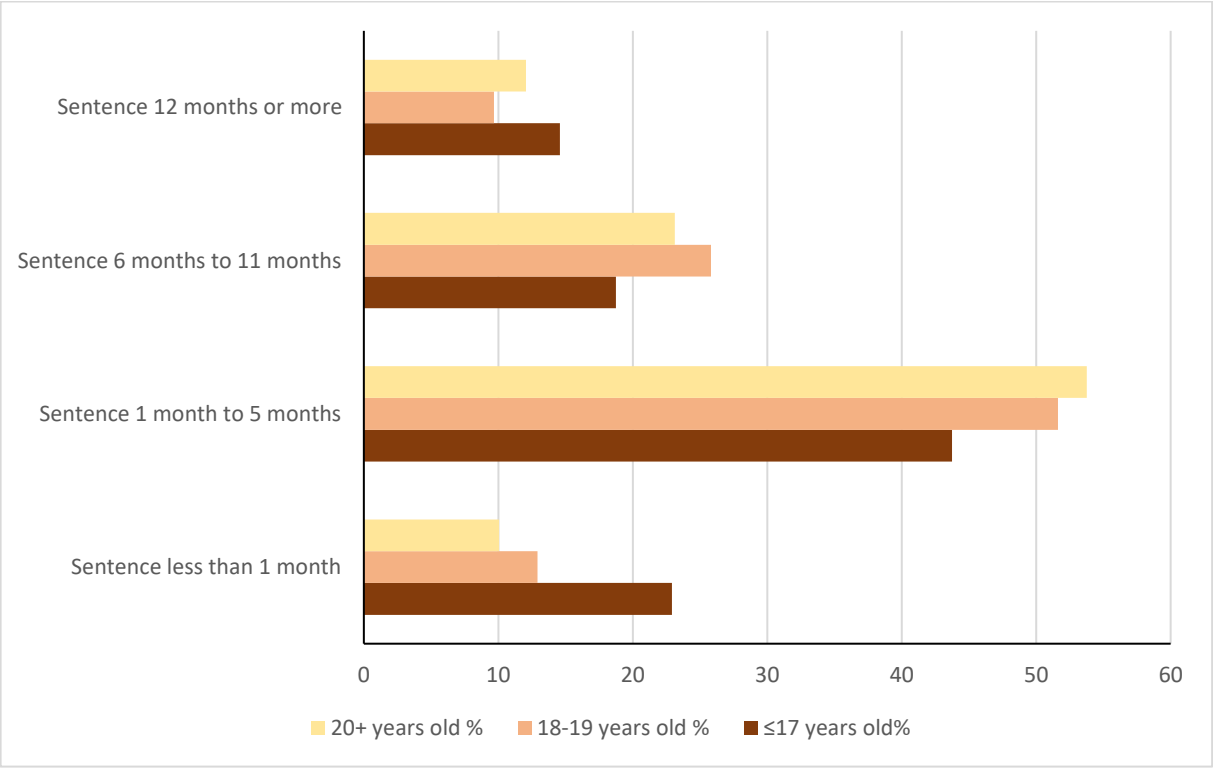

Figure 3.11. Length of prison sentence for males by age at Shropshire Quarter Sessions 1814-1835

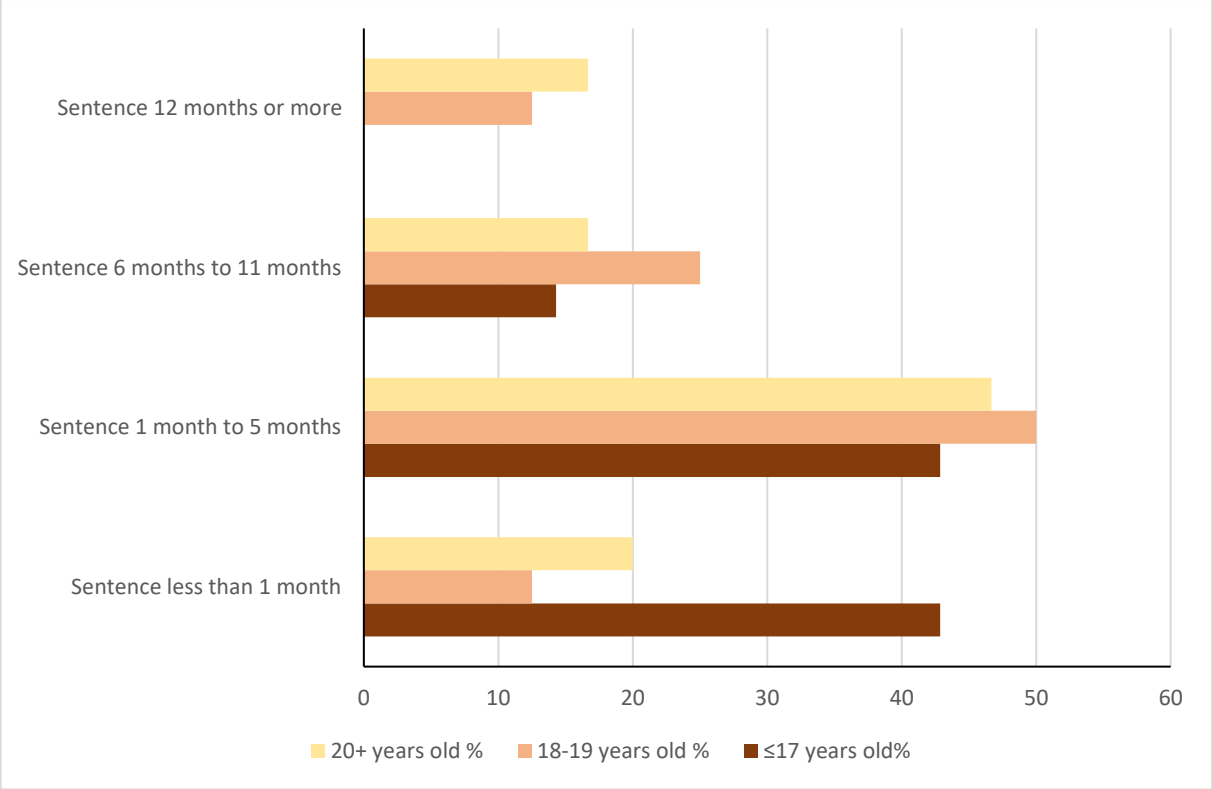

Figure 3.12. Length of prison sentence for females by age at Shropshire Quarter Sessions 1814-1835

3.3.2 Sentencing at the Assizes for property theft

The Assize courts presided over the more serious larceny cases and those which were considered difficult to prevent, such as pickpocketing and shoplifting. The courts also witnessed property theft cases that involved violence (such as robbery) or put their victims in fear (such as burglary and housebreaking). The maximum penalty was death although this was respited in favour of a custodial sentence in the case of juveniles.[46] Staffordshire recorded a high proportion of death sentences for males aged 17 and under within the sample years. Partial verdicts or appeals for leniency could be withheld by juries (therefore confirming a death sentence on the passing of a guilty verdict) in the hope that the severity of the crime committed would be communicated to the accused alongside the knowledge that this would also secure a transportation sentence.[47] This may have been used by juries and judges as a method of communicating to the defendant the seriousness of the charge against them in the full knowledge of further leniency after trial. The full ceremony of the court

[46] This would be listed in calendars as 'death recorded' if the sentence of death had been documented in the official records but it was not the intention of the judge that it be passed.
[47] Palk, *Gender, Crime and Judicial Discretion*, p.50.

sentence was intended to intimidate this youngest age grouping to deter them from further crime.[48] This tactic is revealed by isolating one specific category of theft – robbery. In 1835 a high number of robbery cases were heard at the Staffordshire Assizes involving both adults and young offenders. 54% of juveniles aged 19 and under received a death sentence (although none were followed through) compared with 44% of the adults standing trial. However, as early as 1816, the *Committee for Investigating the Causes of the Alarming Increase of Juvenile Delinquency* believed that juveniles were aware of this practice before committing criminal acts which negated its cautionary effect.[49] Likewise this custom was mocked in 1833 by Thomas Wrightson, noting the 'absurdity' of the criminal being told that 'you are not to be hanged, but sentence of death will be recorded against you, so consider yourself hanged'.[50]

Transportation seems to be a specifically targeted punishment for 18–19-year-olds males in Shropshire (Figures 3.13-3.16). The court believed that this age group was most likely to benefit from this type of correction: it not only removed their influence from the county but also showed that they were deemed susceptible to and able to endure this reform.[51] Females aged 17 and under were largely spared transportation in both Shropshire and Staffordshire. This could be a product of their under-representation since few cases for this age group were recorded in the sample years. This is not reflective of female juveniles being less 'criminal'; rather they were less involved with the violent crimes that made up this court's workload.

Juveniles aged nineteen and under in Staffordshire and Shropshire were least likely to receive a verdict of either not guilty or having their trial dismissed on the grounds of the indictment not being a true bill compared to adults.[52] The tendency to find juveniles guilty of crimes at the Assizes increased in both counties. In Staffordshire in 1817, 33% of those aged 17 and under were found not guilty, or processed as not a true bill, compared with only 17% in 1835.[53] The number of juveniles in Shropshire appearing at this court are too low to yield significant patterns. This echoes Shore's findings for the Old Bailey where acquittals decreased significantly for juveniles in the first

[48] Shore, *The Social History of Juvenile Crime in Middlesex*, p.186.
[49] *Report of the Committee for Investigating the Causes of the Alarming Increase of Juvenile Delinquency in the Metropolis,* London 1816, p.22.
[50] T. Wrightson, *On the Punishment of Death*, Second Edition, London 1833, p.28.
[51] Palk, *Gender, Crime and Judicial Discretion*, p.77.
[52] 28% of nineteens and under were found not guilty (or no true bill) compared with 36% of those over twenty years of age in the sample years.
[53] The average for the first half of the period stood at 20% not guilty or no true bill compared with an average of 19% later in the study years.

half of the nineteenth century.[54] This state of affairs probably resulted from a combination of increasing means of incarceration, reassurance that a death penalty was unlikely to be imposed, alongside an increased willingness to pursue justice in the courts.[55]

Staffordshire

Males	≤17 years old %	18-19 years old %	20+ years old %
Transported	9	10	13
Death	0	1	1
Death Recorded	42	35	33
Total sentences with gaol time	26	20	17
Not Guilty	18	19	24
Whip	6	4	1
Fine	2	0	2
No True Bill	6	11	11

Figure 3.13. Staffordshire sentencing by percentage for male theft indictments at the Assizes 1814-1835

[54] Shore, *The Social History of Juvenile Crime in Middlesex*, p.164.
[55] ibid., p.172

Females	≤17 years old %	18-19 years old %	20+ years old %
Transported	0	14	10
Death	0	0	0
Death Recorded	0	21	10
Total sentences with gaol time	57	14	33
Not Guilty	14	29	38
Whip	14	0	0
Fine	0	0	8
No True Bill	0	21	13

Figure 3.14. Staffordshire sentencing by percentage for female theft indictments at the Assizes 1814-1835

Shropshire

Males	≤17 years old %	18-19 years old %	20+ years old %
Transported	11	16	15
Death	0	0	2
Death Recorded	22	37	36
Total sentences with gaol time	36	30	22
Not Guilty	19	12	14
Whip	11	5	0
Fine	8	0	5
No True Bill	8	2	9

Figure 3.15. Shropshire sentencing by percentage for male theft indictments at the Assizes 1814-1835

Females	≤17 years old %	18-19 years old %	20+ years old %
Transported	0	14	10
Death	0	0	0
Death Recorded	25	14	12
Total sentences with gaol time	38	29	41
Not Guilty	0	14	20
Whip	0	0	0
Fine	13	0	5
No True Bill	25	29	17

Figure 3.16. Shropshire sentencing by percentage for female theft indictments at the Assizes 1814-1835

Figures 3.17-3.20 illustrate the length of sentences for imprisonment at the Assizes. Whilst the crimes that juveniles appeared for at this court were considered more serious, and therefore more likely to garner a harsher punishment, the study reveals that the older tier of juveniles was the focus of much tougher penal measures. 68% of 18-19-year-old males in Staffordshire received sentences longer than six months compared with 43% of those aged 17 and under, and 48% of those aged 20 and over. The figure was similarly high at 62% for Shropshire juvenile males aged 18-19.

Few females appeared at the Staffordshire and Shropshire Assizes, and fewer were given prison sentences, making any analysis liable to large swings owing to the small data set. Just fifteen females aged 19 and below are recorded in the twenty-year sample in Shropshire.[56] Serious crimes were fewer in Shropshire, and this led to fewer juvenile females represented at this level. This may also reflect a greater unwillingness to prosecute girls at this age, when the penalty for a guilty verdict was so severe. The county justice system left room for discretion by presiding justices. Harvey Osborne indicates that the ability to demonstrate manners in harmony with fashionable views of chivalry

[56] For theft committals.

played an important part in maintaining gentlemanly conduct.[57] Conversely, women could be labelled as the worst form of offender as their descent into the criminal class was deemed to be more severe than for a man: according to one source, 'she must have fallen much lower, have unlearned much more, have become much more lost and depraved than a man'.[58] Views on female criminality influenced sentencing. In 1849, Reverend Henry Worsley noted that females were not led into crime as early as their male counterparts, as parental restraint was a major factor in the difference between juvenile committals between the sexes; however, he linked the increase in committals for females in later life to prostitution which he saw as an entry to other forms of crime.[59] The journalist Henry Mayhew reiterated this whilst noting that female criminals largely committed larcenies of lesser severity than their male counterparts.[60] In Staffordshire, 75% of females aged 17 and under received a sentence of less than 6 months at the Assizes. This was twice as many when compared with adult offenders. King has undertaken extensive research on gendered trial outcomes for the late eighteenth and early nineteenth centuries.[61] His analysis concentrated on female property offenders and found that those awaiting trial had much better prospects than their male counterparts – with the majority not convicted either because their cases failed to make it to trial or because of a higher percentage of not guilty verdicts. This disparity continued into trial verdicts where males were more likely to receive a harsher punishment of transportation than females who were usually imprisoned.[62] King hypothesised that women may have been subject to lenient punishments because they were less likely to be involved in serious crimes (house-breaking, robbery, horse stealing), and this was true of female juveniles for Staffordshire and Shropshire.[63] He also suggested that this sentencing disparity was greater in the Assize courts than the Quarter Sessions because of the difference of severity in punishment that each court could dispense.[64] There was no measure in law that favoured women above men but the evidence from trial proceedings seems to indicate gendered influences which shaped trial outcomes. King considers whether women were assessed less severely because of their gender, by judge and jury, or because the facts of their lives

[57] H. Osborne, '"Unwomanly practices": Poaching Crime, Gender and the Female Offender in Nineteenth-Century Britain', *Rural History, Vol.27, No.2*, 2016, p.157.
[58] M. Hill, & C. F. Cornwallis, *Two Prize Essays on Juvenile Delinquency*, London 1853, p.181. This also recalls the religious beliefs tied to the fall of Eve who preceded Adam in yielding to temptation. D. Jones, *A Scriptural Treatise upon the Fall of Man, and also upon the Second Coming of Christ*, London 1835, p.8.
[59] H. Worsley, *Juvenile Depravity*, London 1849, p.116.
[60] H. Mayhew, *The Great World of London, Vol. 9*, London 1854, p.464.
[61] This included data from the London and Middlesex Assizes and the Home Circuit (Essex, Surrey, Kent and Hertfordshire) with additional data from Lancashire and the Northern Assize Circuit for selected years from 1780 to 1820. P. King, *Gender, crime and justice in late eighteenth- and early nineteenth-century England*, in M. L. Arnot & C. Usborne, (eds), *Gender and Crime in Modern Europe*, London 1999, pp.44-74.
[62] King, *Gender, crime and justice in late eighteenth- and early nineteenth-century England*, p.49.
[63] ibid.
[64] ibid., p.56.

lessened their involvement in serious crimes and repeat offences.[65] Drawing on twentieth-century examples, King suggests that female offenders were seen as *troubled* and in need of protection as opposed to male offenders who were identified as *troublesome* and requiring punishment.[66] Little is known of the reasons that may have prompted justices to opt for lenient treatment of women as little evidence is left of their opinions. However, later commentators reveal some perceptions of female offenders. Sir Thomas Fowell Buxton, a social reformer and MP, whilst inquiring into the corrupting influence of the London prison system, declared that the law was 'justly jealous of female reputation' and that penal punishment exposed a young girl's 'virtue to temptation'.[67] Mayhew espoused the belief that girls younger than 17 were kept at home more than boys and had less opportunity to become corrupted by external influences, but beyond that age if they were engaged as servants their morals became neglected.[68] Female vice and theft were often considered hand-in-hand, influenced by the image of the 'abandoned girls' in the capital.[69] In a study of female crime in the Netherlands in the nineteenth century, Heijden and Koningsberger concluded that urban women, especially the young, led more independent lives than those of their rural counterparts but often with a concurrent lack of social and economic support from traditional community structures.[70] This left them exposed to greater economic and social pressures and also portrayed them in opposition to the idealised female of the hearth and home.[71] Girls were often seen as 'far worse than boys' amongst the criminal classes and more difficult to manage by reform school advocate Mary Carpenter.[72] Carpenter described female juvenile criminals as 'more degraded, dangerous to society and difficult to control' due to girls being of 'greater natural delicacy' and more vulnerable than boys to impressions of both good and evil behaviour. This was echoed by author Anna Brownell Jameson, who believed that 'delinquent girls' were more depraved than boys, indulging in a 'sense of perpetual wrong'.[73] The natural state for female juveniles was 'order and propriety' contained within the home.[74] Both led to fewer female juvenile offenders being in a position to be prosecuted,

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[65] Although their lifestyles were of course determined by male expectations of female behaviour.

[66] King acknowledges that protectionism can have varied results when women, especially young girls, strayed too far from the feminine ideal later in the century, King, *Gender, crime and justice in late eighteenth- and early nineteenth-century England*, p.63.

[67] T. F. Buxton, *An Inquiry, whether Crime and Misery are Produced or Prevented, by our Present System of Prison Discipline*, London 1818, p.25.

[68] H. Mayhew, *The Great World of London, Vol. IX*, London 1857, p.479.

[69] S. P. Day, *Juvenile Crime: Its Causes, Character and Cure*, London 1858, p.316.

[70] M. V. D. Heijden & V. Koningsberger, 'Continuity or Change? Female Crime in the 19th-Century Netherlands', *Crime, Histoire & Sociétés, Vol.13, No.1*, 2013, pp.100-122.

[71] D. Gorham, *The Victorian Girl and the Feminine Ideal*, Abingdon 2013, p.37.

[72] M. Carpenter, 'On the Position of Reformatory Schools in Reference to the State, and the General Principles of their Management, as especially regards Female Reformatories', in *Report of the Meeting of the British Association for the Advancement of Science, Vol.26*, London 1857, p.134.

[73] A. B. Jameson, *The Communion of Labour: A Second Lecture on the Social Employments of Women*, London 1856, pp.70-71.

[74] M. Carpenter, 'On the Importance of Statistics to the Reformatory Movement, with Returns from Female Reformatories, and Remarks on Them', *Journal of the Royal Statistical Society, Vol.20*, 1857, p.38.

or thought of as hardened offenders, and protectionist attitudes towards this 'vulnerable' gender merged during this period to reduce the numbers of female juveniles within the major courts. Juvenile females were less likely to appear in this high court for serious charges and were offered a certain level of protection when they were convicted of a serious crime.

Staffordshire

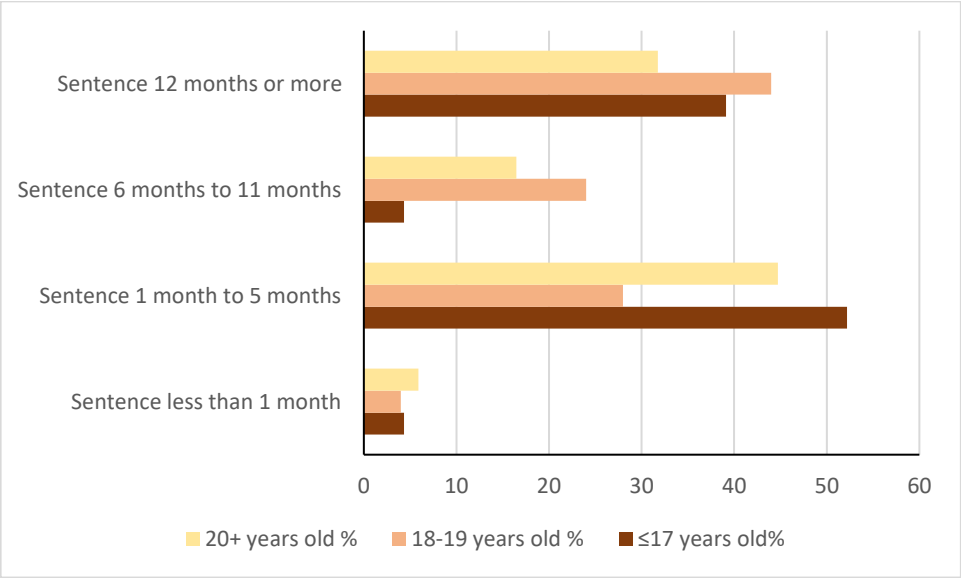

Figure 3.17. Length of prison sentence for males by age at the Staffordshire Assizes 1814-1835

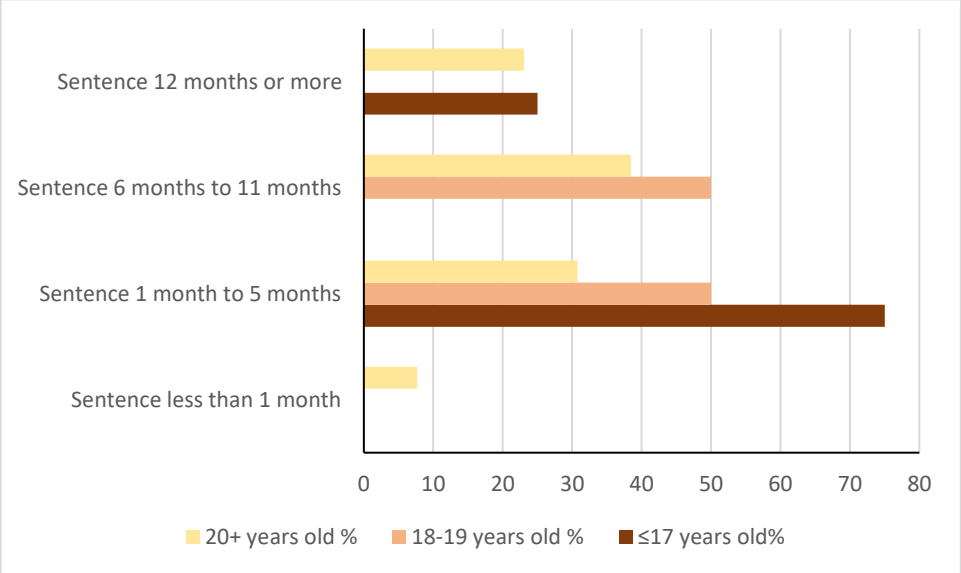

Figure 3.18. Length of prison sentence for females by age at the Staffordshire Assizes 1814-1835

Shropshire

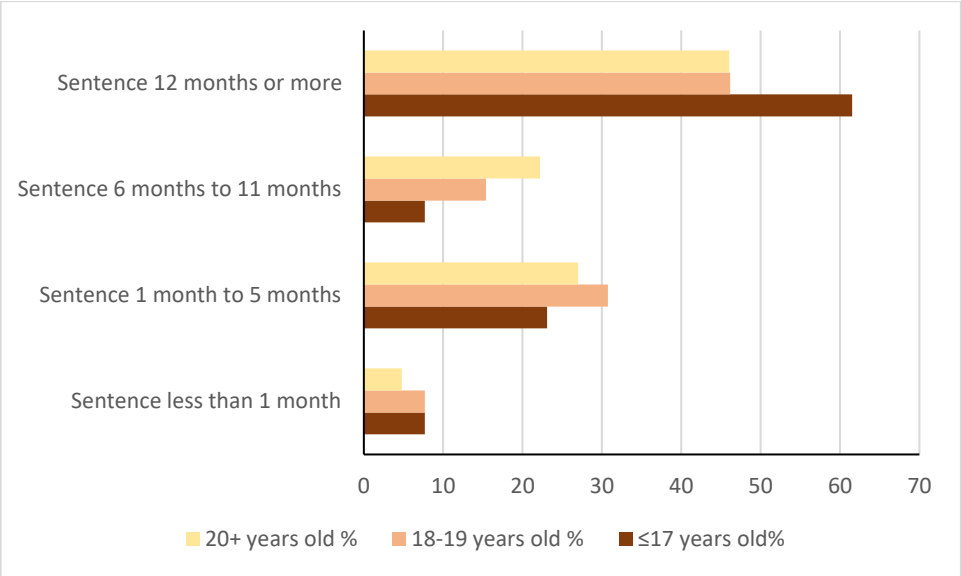

Figure 3.19. Length of prison sentence for males by age at the Shropshire Assizes 1814-1835

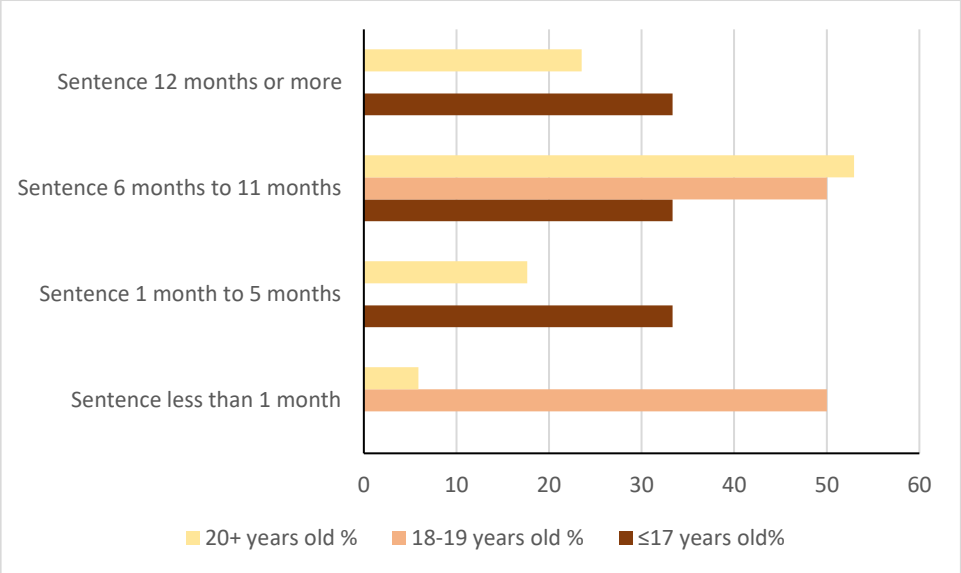

Figure 3.20. Length of prison sentence for females by age at the Shropshire Assizes 1814-1835

3.4.1 Items stolen by type in Staffordshire and Shropshire 1814-1835

Figures 3.21-3.24 show the categories of items listed in the indictments as stolen in the calendar records for both counties. To aid analysis these have been grouped by typology. The type of item stolen varied widely, from something as inconsequential as a single potato to as large as a copper furnace, but they can be grouped into distinct categories.[75] Approximately a quarter of all property indictments against juveniles included items of clothing in Staffordshire at both the Quarter Sessions and Assizes, and this matches similar patterns in Shropshire. Comparable figures were reported by David Jones in his study of nineteenth-century crime in Wales for all ages.[76] Such items were easy to take and pass on or appropriate for personal use.[77] The trading of clothes for either coin or favour made up a valuable part of the informal networks of trade that sustained poor communities, although they were not particularly profitable items to purloin.[78] This formed a part of the 'economy of makeshifts' – the piecemeal or extra-legal strategies adopted by the poor to supplement meagre employment opportunities – that could help support families in times of dearth.[79] Female juveniles (19 and under) were particularly involved in this type of theft in both counties and at both courts. Garthine Walker argues that theft should be considered in terms of gendered activities and opportunities.[80] The networks of exchange that comprised female economic activity also served as an outlet for the distribution of stolen items, and women largely supervised the exchange of clothing.[81] Females were familiar with these items, knew their material worth and could operate outside of male networks of exchange. Rachael Jones argues that opportunism was the key factor in most thefts, and that the chance for a particular item to be taken was 'culturally disposed', revolving around the opportunities available to each sex.[82] As employment in developing industries often excluded women from participating, larcenies were constrained by everyday female

[75] 'Textiles' included the raw material for the production of clothes and unmade cloth; 'bed and houseware' covered domestic items from kitchen utensils to furniture; 'clothes' included all finished items of attire and handkerchiefs; the 'food' category comprised both food for human consumption and fodder such as hay or resources for food production such as wheat; 'metal' and 'wood' encompassed unfinished raw material or large quantities (such as lead roofing) rather than items made from metal or wood which could vary wildly in value and function: these have been included in the 'other' category if their function as either a domestic device or as a work tool was not clear in the indictment. The 'animal' category included both fowl and larger creatures such as pigs and horses. Finally, the 'personal' class of item encompassed watches, jewellery, seals and keys, which were likely to be carried on a person or were of considerable worth within the home.
[76] 25% of the type of goods stolen in Merthyr and Cardiff were clothing. D. J. V. Jones, *Crime in Nineteenth-Century Wales*, Cardiff 1992, p.112.
[77] Phillips, *Crime and Authority in Victorian England,* p.196.
[78] R. Jones, 'Gender, Criminal Opportunity and Landscape in Nineteenth-Century Wales', *Rural History, Vol.27, No.2,* 2016, p.177.
[79] A. Toplis, 'The illicit trade in clothing, Worcestershire and Herefordshire, 1800-1850', *Journal of Historical Research in Marketing, Vol.2, No.3*, 2010, p.315; P. Lane, 'Work on the Margins: Poor Women and the Informal Economy of Eighteenth and Early Nineteenth-Century Leicestershire', *Midland History, Vol.22, No.1,* 1997, p.92; and A. W. Ager, 'Crime and the economy of makeshifts: Kent and Oxfordshire 1830-1885', PhD thesis, Oxford Brookes University, 2011, p.171.
[80] Walker, *Crime, Gender and Social Order in Early Modern England,* pp.163-167.
[81] ibid., pp.163-165.
[82] Jones, 'Gender, Criminal Opportunity and Landscape', p.177.

activities such as the family shopper or as servants in households.[83] Likewise, male juveniles aged 19 and under were more likely than their similarly aged female counterparts to be prosecuted for thefts involving animals. This again suggests greater access to animal removal and disposal. For instance, horse trading was male-dominated and all juveniles prosecuted at the Assizes in Staffordshire for horse theft were male. Although female crime was numerically less significant it is no less important in understanding the reasons for juvenile presence at the major courts, forming as it did a different pattern from male juvenile crime.[84]

Staffordshire

%	Textile	Bed/ houseware	Clothes	Food	Coal	Metal	Wood	Animal	Monies	Tools	Personal	Other
≤19 Males	2	5	24	10	1	5	0	12	11	3	6	19
≤19 Females	4	5	39	3	3	2	0	1	18	3	4	18
20+ Males	3	3	19	15	2	6	1	13	9	5	5	19
20+ Females	7	7	28	11	10	0	1	1	15	0	7	13

Figure 3.21. Items stolen by type listed in the Staffordshire Quarter Sessions 1814-1835

%	Textile	Bed/ houseware	Clothes	Food	Coal	Metal	Wood	Animal	Monies	Tools	Personal	Other
≤19 Males	3	6	21	10	0	1	0	7	20	1	7	23
≤19 Females	0	4	30	0	0	0	0	7	41	0	11	7
20+ Males	3	6	18	10	1	1	0	15	16	2	6	22
20+ Females	8	14	20	12	5	0	0	8	11	0	3	21

Figure 3.22. Items stolen by type listed in the Staffordshire Assizes 1814-1835

[83] ibid.

[84] P. King, 'Female offenders, work and life-cycle change in late-eighteenth-century London', *Continuity and Change, Vol.11, No.1,* 1996, p.63.

Shropshire

%	Textile	Bed/ houseware	Clothes	Food	Coal	Metal	Wood	Animal	Monies	Tools	Personal	Other
≤19 Males	2	8	22	12	1	3	1	11	10	5	7	17
≤19 Females	12	4	35	12	0	4	0	0	15	0	8	12
20+ Males	2	2	16	19	2	3	4	15	8	9	2	19
20+ Females	4	6	22	12	4	0	0	12	14	1	9	16

Figure 3.23. Items stolen by type listed in the Shropshire Quarter Sessions 1814-1835

%	Textile	Bed/ houseware	Clothes	Food	Coal	Metal	Wood	Animal	Monies	Tools	Personal	Other
≤19 Males	2	6	16	15	0	3	0	11	16	1	11	19
≤19 Females	5	5	38	14	0	5	0	5	14	0	0	14
20+ Males	3	5	18	14	0	1	1	20	13	2	6	16
20+ Females	18	5	25	11	0	0	0	4	18	0	5	13

Figure 3.24. Items stolen by type listed in the Shropshire Assizes 1814-1835

The supplementing of incomes may not have been the only reasons for clothing theft. The borrowing of clothes was a regular activity in households where servants or guests viewed lending as a benefit of employment or hospitality.[85] This was the case for Mary Hill, 19, a lodger in a house in Wolverhampton who had been promised the use of wearing apparel but had been accused of their theft. She was found guilty at the Staffordshire Quarter Sessions in 1829 despite having good character references, including one from a constable of the parish.[86] Thefts based on this kind of breakdown in informal relations, or on one-time acts of opportunism to alleviate distress, may have constituted the majority of crimes appearing before the higher courts, but an important third category involved crimes perpetrated by indictees who stole on a repeated basis. Transgressions

[85] Toplis, 'The illicit trade in clothing', p.321.
[86] *Staffordshire Advertiser* - Saturday 02 May 1829.

involving clothing at the Quarter Sessions were minor crimes at best and yet over a tenth of juvenile indictees found guilty were punished by transportation. This suggests that they were standing trial for a secondary offence and therefore, in the eyes of the courts, were both a repeat offender and the most threatening kind of criminal. Eighteen-year-old Eliza Plant was found guilty on two counts of shoe theft in 1834: the court remarked on the sorry nature of a young girl following one offence with another so quickly.[87] These were not necessarily 'professional' thieves but juveniles who stole in response to a need to enhance inadequate living standards.[88]

Staffordshire juveniles were more involved in the theft of monies than their Shropshire counterparts, reflecting urban theft from shops and wealthier homeowners, and a greater opportunity in denser population concentrations.[89] Female juveniles at the Staffordshire Assizes were most likely to be prosecuted for this crime over all others – a reflection of its seriousness. Half of these offences occurred in urban settings in thefts from houses, possibly reflecting the relative wealth of these areas compared to rural parishes.

3.4.2 Items stolen by type: rural vs 'urban' crime

A popular opinion voiced by contemporary nineteenth-century commentators was the idea of 'rural simplicity …accompanied by rural innocence' as the principal reason for lower crime rates in predominantly agricultural areas , while 'crime is chiefly the growth of the towns' *[sic]*.[90] Reports of the proliferation of urban crime were rife, claiming that juvenile crime was 18 times more prevalent (between 1834 and 1836) in areas that contained a manufacturing element compared to purely agricultural districts.[91] The juvenile crime rate increased in those localities in Shropshire and Staffordshire that were most populous and most urban in nature. Figures 3.25 and 3.26 compare the committals at the County Quarter Sessions for these counties, along the lines of the triannual sampling for 1814-35 as above, but they separate those committals for thefts from purely agricultural parishes as compared with three large population centres: Stoke, and its surrounding parishes, and

[87] *Staffordshire Advertiser* - Saturday 05 July 1834; Toplis, 'The illicit trade in clothing', p.318; and Phillips, *Crime and Authority in Victorian England*, pp.197-98.
[88] Phillips, *Crime and Authority in Victorian England*, p.198.
[89] Palk, *Gender, Crime and Judicial Discretion*, p.65; Walker, *Crime, Gender and Social Order in Early Modern England*, p.73; and J. M. Beattie, *Crime and the Courts in England, 1660-1800*, Oxford 1986, pp.185-88.
[90] L. O. Pike, *A History of Crime in England: From the Accession of Henry VII to the Present Time*, Vol.2, London 1876, pp.524-5.
[91] *The Penny Magazine of the Society for the Diffusion of Useful Knowledge, Vol.6,* London 1837, p.352.

Wolverhampton for Staffordshire; and Shrewsbury for Shropshire. Although this provides only an approximate index of the growth of juvenile indictments in these areas, it enables certain conclusions to be drawn about differences in rural and urban juvenile crime. Both urban crime and rural crime continued to rise throughout this period of study. This does not equate to a preponderance of rural crime, but rather points to other causal factors that underlie the use of the major courts in these counties and reveal the difficulty of relying on committals alone to judge whether local juvenile crime was increasing. Rural crime was dispersed over many locations, so that whilst cumulatively there could be many recorded cases brought against juveniles, this made its impact less noticeable than the concentrated cases in large towns.[92] King found that the rise of summary justice often led to a diminishing of committals in urban areas by the 1830s as cases were dealt with quickly in the lower courts to handle the increase in juvenile offenders.[93] Summary legislation was only found to be a factor in agricultural areas after the introduction of specific summary legislation for juvenile offenders in the late 1840s. This would explain the lack of growth in committals in Shrewsbury as magistrates utilised new legislation – such as the 1824 Vagrancy Act – that did not require formal trial by jury at the sessions. However, as seen in chapter 4, this was not the case in Staffordshire where summary legislation was slow to overtake committals at the Quarter Sessions. This development occurred much later in Staffordshire – not until well into the 1840s – and may explain the similar trajectory of juvenile committals in both urban and rural areas.

[92] Luke Owen Pike noted in 1876 that the most 'heinous crimes of violence' were often committed in rural locales but the preponderance of assaults and larcenies in populous towns overshadowed this fact. Pike, *A History of Crime in England,* p.674.
[93] King, 'The Rise of Juvenile Delinquency in England', p.136.

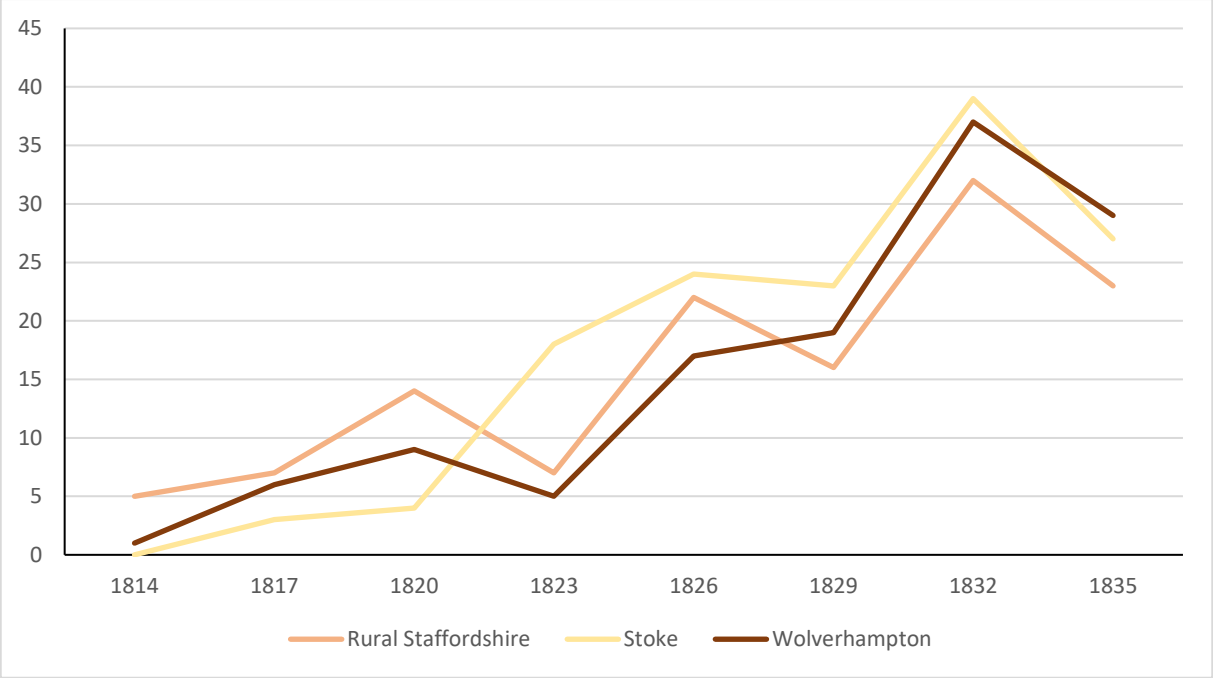

Figure 3.25. Rural Staffordshire vs Stoke and Wolverhampton juvenile (≤19 years old) committals at the County Quarter Sessions 1814-35.[94]

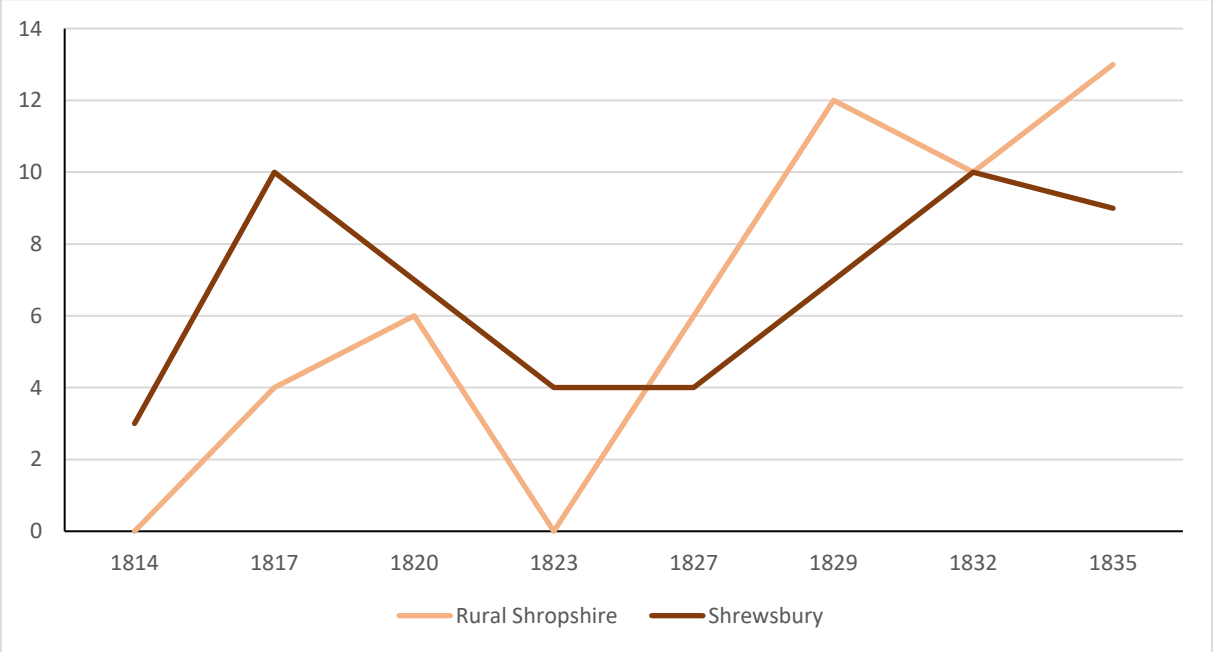

Figure 3.26. Rural Shropshire vs Shrewsbury juvenile (≤19 years old) committals at the County Quarter Sessions 1814-35

[94] Definitions of rural areas obtained from W. White, *History, Gazetteer and Directory of Staffordshire*, Sheffield, 1851, for Staffordshire parishes, and N. E. S. A. Hamilton, *The National Gazetteer of Great Britain and Ireland,* London 1868, for Shropshire parishes. Those parishes described as being primarily agricultural in nature were included as rural. Those parishes that were described as market towns or as either adjacent to large urban or industrial centres (or whose chief employment was industrial in nature) were excluded from the rural category.

Rural and urban theft can also be investigated in terms of the items most likely to be stolen, as reported in the respective County Quarter Sessions. Some crimes that were expected to be found in rural contexts had moved to the lower courts, in part due to the Malicious Trespass Acts of 1820 and 1827. This meant that juveniles caught stealing in orchards and woods could be summarily prosecuted rather than face trial by jury at the Sessions.[95] Despite the implication of these legislative changes, some clear trends existed between theft in populous towns compared with rural contexts. Animal theft in the countryside was more common than in populous towns, given the nature of access that rural juveniles had to animals. Food theft was significantly higher in rural Shropshire than in the county town although this difference is not reflected in rural Staffordshire. The theft of money and personal items was also high in towns, given the greater concentrations of this type of property. In her comparison of urban and rural Montgomeryshire later in the century, Rachael Jones found a similar pattern for thefts, with higher incidences of livestock theft in the countryside and of money/valuables theft in more densely populated areas.[96] Adrian Ager notes that the risks from stealing livestock and animals were potentially high whilst the returns were relatively low, agreeing with Timothy Shakesheff that such theft was most likely for personal consumption rather than profit.[97] This echoes beliefs such as those held by Reverend Charles Brereton, in his *Refutation of the First Report of the Constabulary Force Commissioners 1840*, who argued that the country criminal only occasionally stole 'a sheep, pig, corn, hay, wood, turnips, poultry' compared with the 'constant series of depredations' committed by gangs of thieves in the cities.[98] Reverend Henry Worsley claimed that the causes of rural crime could be distilled into four main categories of moral deficiency associated with beer-shops; the game laws; the tramp system; and lodging houses. He was especially critical of the corrupting influence of lodging houses on juveniles.[99] Periodicals noted that poaching, not seen as a sin amongst rural folk, acted as an inducement to commit other petty larcenies, especially amongst the young who were used by hardened criminals to 'screen' themselves from punishment by playing on the hope that a juvenile induced to poach would be dealt with leniently in their stead.[100] Other observers noted correctly that the urban/rural divide in terms of quantity of crime brought before the major courts could not be explained by 'trite platitudes on

[95] King, 'The Rise of Juvenile Delinquency in England', p.135.
[96] Jones, 'Gender, Criminal Opportunity and Landscape in Nineteenth-Century Wales', p.173.
[97] A. W. Ager, *Crime and Poverty in 19th-Century England: The Economy of Makeshifts*, London 2014, p.62.
[98] C. D. Brereton, *A Refutation of the First Report of the Constabulary Force Commissioners, Part 1*, London 1840, p.73.
[99] Worsley believed that itinerant apprentices migrated from place to place in search of labour whilst sheltering in lodging houses that would induce lives of crime and vice through corruption by older lodgers. H. Worsley, *Juvenile Depravity*, London 1849, pp.67-68
[100] *The Quarterly Educational Magazine, and Record of the Home and Colonial School Society, Vol.2*, London 1849, p.307.

rustic purity and city corruption'.[101] English barrister Luke Owen Pike believed that the economic draw of towns pulled in the rural populace, both good and bad, increasing the concentration of potential criminals alongside new temptations to commit crime.[102] Reverend Micah Hill, in a prize-winning essay on juvenile delinquency, also noted that rural locales had less effective machinery for detecting crime and that the lack of anonymity in village life deterred prosecutors from turning on individuals who were known to them.[103] It must be remembered that urban environments did not necessarily diminish these strong social links between families and communities – 'high-density' neighbourly surveillance was a strong feature of urban life and misbehaviour within networks may have been regulated internally by these communities as strongly as in rural society.[104] Hill also recognised that rural juveniles lacked the temptations found in urban areas: there were only a few periods during the year when an opportunity to steal fruit would present itself. In the town a juvenile faced a 'tenfold' number of temptations daily.[105] To these astute observers economic and social factors, rather than the moral failings of city life, caused the populous areas of counties to display large disparities in terms of committals at the higher courts compared with agrarian regions.

[101] Pike, *A History of Crime in England*, p.525.
[102] ibid.
[103] Hill & Cornwallis, *Two Prize Essays on Juvenile Delinquency*, p.19.
[104] J. C. Wood, *Violence and Crime in Nineteenth-century England: The Shadow of our Refinement*, London 2004, p.106.
[105] Wood, *Violence and Crime in Nineteenth-century England*, p.106.

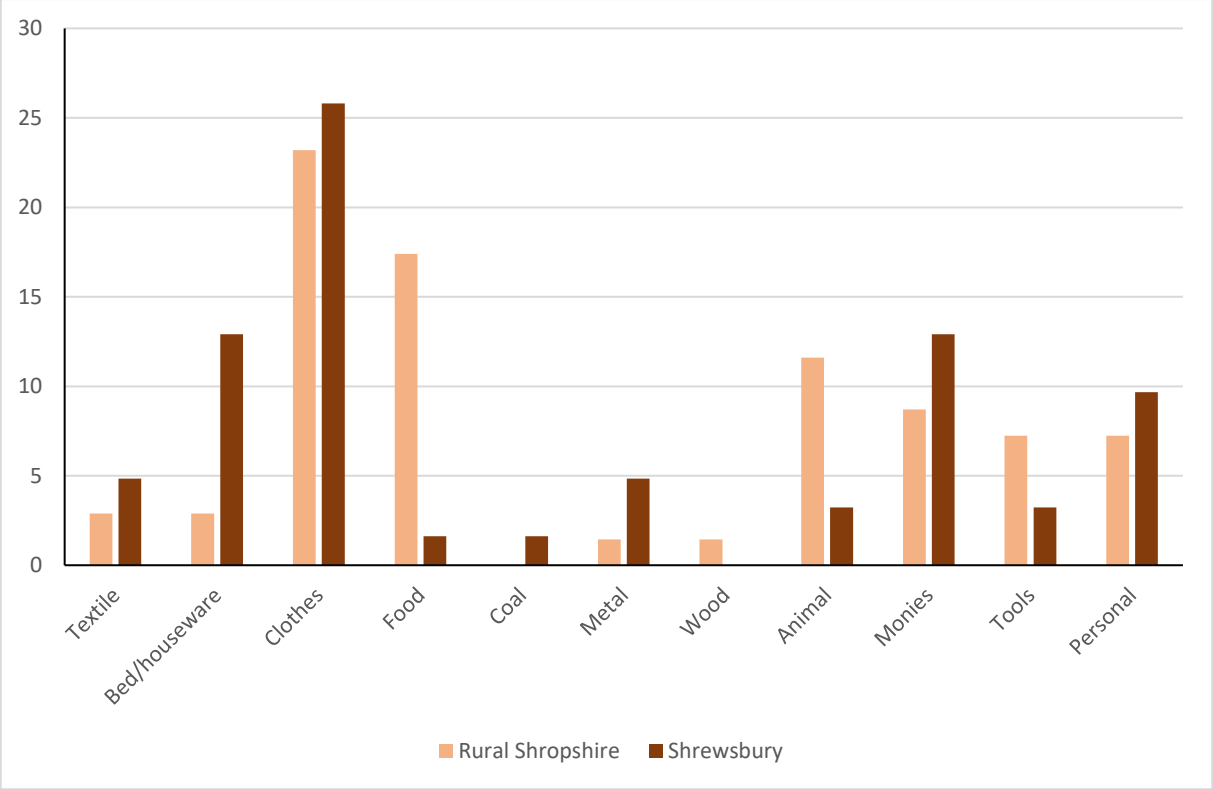

Figure 3.27. Percentage of items stolen by type listed in the Shropshire Quarter Sessions comparing rural parishes with Shrewsbury 1814-1835

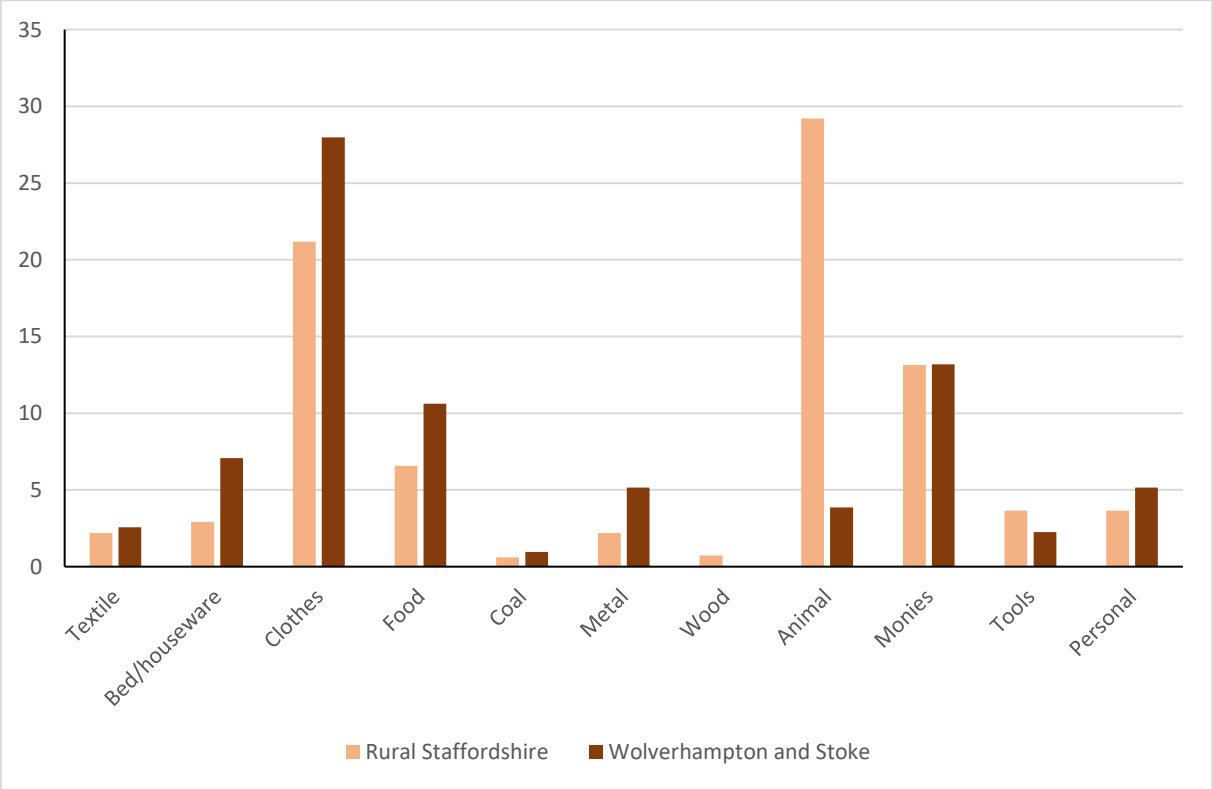

Figure 3.28. Percentage of items stolen by type listed in the Staffordshire Quarter Sessions comparing rural parishes with Wolverhampton and Stoke 1814-1835

3.5 Other crimes

The other felony indictments faced by juveniles at the Assizes fall into two categories: offences against the person and indirect property crime.[106] Only the charge of violent, non-property related crimes, produces any significant numbers. Verdicts of not guilty or no true bill were far higher for indictments of crimes against the person judged at the level of a felony compared with property offences for juveniles. This was likely to garner a sentence of death if the defendant was found guilty, so it is unsurprising that only those cases found to be irrefutable received this verdict. In Staffordshire the dismissal rate was 67% of cases compared with 62% in Shropshire. Dismissals were much lower for juvenile larceny cases – between 20-30% in both counties at the Assizes. Juvenile property theft was of a much greater concern in these counties during this period, hence the harsher treatment and much greater focus than crimes against the person. In Shore's study of Middlesex crimes against the person were also a minor category of juvenile offending. Less than 1% of Shore's sample of indictments for crimes against the person were for people below 20 years of age. Even in the capital, juvenile crime overwhelmingly took the form of property theft.[107]

3.6 The rise of juvenile indictments in Staffordshire and Shropshire

This chapter demonstrates a genuine rise in juvenile indictments in Staffordshire and Shropshire throughout the first half of the nineteenth century.[108] Rather than an increase in criminality within the juvenile population, this rise is more indicative of a shift within the ideology of handling the youngest of offenders during this period.[109] Shore contends that the punishment of the crime was the defining feature of juvenile delinquency rather than the criminal act itself.[110] The increasing juvenile presence within the judicial system created a picture of a growing problem amongst this age group. Margaret May argues that a growing sense of panic towards this age group arose because

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[106] Almost all felony cases at the Quarter Sessions involving juveniles were related to theft, but the Assizes offers the opportunity to examine other felony charges. Offences against the person were cases of actual bodily harm in the most serious cases of assault, alongside charges of rape, manslaughter, and murder. Indirect property crime included coining offences, fraud and indictments for receiving stolen property.

[107] Shore, *The Social History of Juvenile Crime in Middlese*, p.129.

[108] Often, contemporary official investigations ignored the agency of the juveniles themselves, summarising the general beliefs of the times about the causes of juvenile crime. The conduct of parents; a lack of education; juvenile unemployment; disorderly conduct and mischievous behaviour in the form of street gambling; and a lack of discipline within the prison system were among the most prominent reasons cited, and these were echoed in many other official and unofficial accounts. *The Report of the Committee for Investigating the Causes of the Alarming Increase of Juvenile Delinquency in the Metropolis*, London 1816.

[109] *The Report of the Committee for Investigating the Causes of the Alarming Increase of Juvenile Delinquency*, p.164.

[110] ibid., p162.

their strong presence in the official and non-official studies and statistics revealed a hitherto unknown epidemic of crime committed by the youngest sections of society.[111] This may have been true, but it places effect before cause and does not answer the question as to why, even in counties far removed from the conditions witnessed in the capital, there was an increase in juveniles within the justice system.

Rising population, urbanisation, industrialisation and the decline of traditional forms of control created a sense in the elite that the behaviour of the poor and their offspring presented a threat to society.[112] King and Noel have examined some of these factors, demonstrating that these perceptions were precursors to a change in attitude towards younger offenders before the dramatic increase in juvenile indictments.[113] King highlights the importance of the end of the Napoleonic Wars in increasing committals for all ages, although the evidence for Staffordshire and Shropshire suggests that the real rise in juvenile indictees came later in the early to mid-1820s.[114] Perhaps, it was the willingness of prosecutors to seek more formal sanction that was the real driving force behind the rise. The decline in capital punishment and greater recompense for prosecutors were powerful factors in the rise of judicial action. King attempts to draw a broad picture of juvenile crime, linking the actual recorded increase in juvenile lawbreaking with an investigation of the changing social and economic factors of the period. These can be summarised as changes in demographics, economics, industrialisation, urbanisation, administration and conceptualisation. The 10% growth in the proportions of under-fifteen-year-olds in the population in the one hundred years following 1670 did not necessarily have an effect on the rising levels of juvenile criminality, certainly not on a direct cause-and-effect basis.[115] As King shows, the age range between 10 and 19 was key for indictments, and yet in London the actual proportion accounted for by this age group, in terms of total population, fell between 1789 and 1829.[116] This is despite London being the prime mover in terms of juvenile crime. Whilst a move in age profile to younger years may have increased the visibility of youth during this period, it may not have been the catalyst for the sudden growth in juvenile convictions. There are several problems in assigning a correlation in terms of economics and youth employment. Agricultural areas had both low youth employment opportunities and low rates of indictment whilst Manchester had relatively high youth employment combined with high juvenile

[111] M. May, 'Innocence and Experience: The Evolution of the Concept of Juvenile Delinquency in the Mid-Nineteenth Century', *Victorian Studies, Vol.17, No.1,* 1973, pp.10, 15.
[112] King, 'The Rise of Juvenile Delinquency in England', pp.155-162.
[113] King, & Noel, 'Origins of the Problem of Juvenile Delinquency', p.26.
[114] King, 'The Rise of Juvenile Delinquency in England', p.161.
[115] ibid., p.139.
[116] ibid.

indictments, and London had similarly high levels of indictments but low youth employment.[117] Phillips' work on the Black Country indicates that the loss of demand for juvenile labour must not be relied upon too heavily as a cause of the rise in juvenile committal rates.[118] In the depression years of 1841-3 there was no real growth in the proportion of indictments in the Black Country amongst juvenile criminals despite increasing indictments.[119] The nature of work, and more specifically the control imposed by employers, may have been a more decisive factor. Service in both agriculture and industry had become less a social contract and more of an economic relationship undermining the influence that masters could exercise in regulating the behaviour of their charges.[120] However, the areas affected most strongly by this change in the south of the country showed no major rise in indictments. Similar levels of juvenile indictments to these southern counties are observed in Shropshire where traditional service and apprenticeship were longer-lasting.[121]

Urbanisation itself may have been a major factor where surveillance was high but traditional informal sanctions were not as strong, coupled with the greater opportunity and collected wealth afforded by large towns.[122] This could explain why Staffordshire, with its larger and more numerous urban centres, witnessed a greater rise in juvenile indictees. Industrialisation also was a contributing stimulus. King's evidence from Shropshire demonstrates that those areas with greater industry had greater indictment rates when compared with agricultural areas from the county.[123] In the Black Country, parishes without large urban concentrations held a greater percentage of the overall population for the area than Wolverhampton and Dudley, two of the largest towns of the region. Despite this, these towns produced a far greater proportion of committals amongst all age groups than rural parishes.[124] Urban areas may not have held greater proportions of juveniles compared with neighbouring agricultural areas but concentrated numbers of this age group, combined with a greater opportunity for misadventure and a stronger presence of policing, may have been significant factors.[125] May notes the pressures caused by urbanisation on housing, sanitation, leisure facilities

[117] ibid., pp.140-142.
[118] Phillips, *Crime and Authority in Victorian England*, p.163.
[119] ibid.
[120] King, 'The Rise of Juvenile Delinquency in England', p.143.
[121] ibid.
[122] Palk, *Gender, Crime and Judicial Discretion*, p.41; Ager, 'Crime and the economy of makeshifts', p.234; and Kilday, '"Criminally Poor?": Investigating the Link Between Crime and Poverty in Eighteenth Century England', p.511.
[123] The distinction was greater for under 19s in the years before the later 1820s, levelling off after that. King, 'The Rise of Juvenile Delinquency in England', p.124.
[124] Phillips, *Crime and Authority in Victorian England*, p.169. Wolverhampton and Dudley represented 23% of the population of the Black Country between 1835 and 1855 but produced 35-40% of committals. By comparison, rural parishes without large towns represented 25% of the population and supplied just 13-17% of committals for the same period.
[125] King, 'The Rise of Juvenile Delinquency in England', p.149.

and local government, all of which may have interrupted customary methods of juvenile social control.[126] The role of parental or neighbourly care may have been disrupted by urban life, and although familial ties remained strong, a study of mid-Victorian northern towns showed that as many as 10% of 15- to 19- year-olds lived independently, often in common lodging houses.[127] In contrast to urban settings, rural juveniles were disciplined through informal sanctions or exclusion and by pressures to preserve their families' name and work. In rural localities, personal knowledge of the child and the need to preserve neighbourly relationships often tempered any desire to pursue formal legal sanctions.[128] However, as John Wood argues, communal ties between familial networks within urban settings may have been equally as strong and produced their own pressures for misbehaviour to be dealt with informally – at least at a lower level of social strata.[129] The increasing middling classes in the town, with growing capitalist and mercantile interests, may have been a deciding factor, highlighting a growing need to impose order on these lower classes and heightening awareness that the young were a key concern for the creation of a more structured society.[130]

Little attention has been paid to the nature of rural crime and its juvenile component in historical research. Shakesheff sees this deficiency as stemming from the fact that many studies of rural criminality focus more on 'proto-politically attractive' crimes such as arson, poaching and riot.[131] Wood and crop theft were often punished either as trespass or under provisions provided by local petty courts' jurisdictions and therefore rarely made their presence known at the level of the county sessions.[132] This may have been a major component of rural crime. Juveniles in the countryside were labelled as 'criminals' as the use of summary powers grew throughout the 1820s and beyond.[133] For juveniles, crime is best seen in terms of subsistence, with theft becoming part of the economy of survival, or as Adrian Ager terms it, 'the economy of makeshifts', in order to supplement either income or food during times of stress.[134] The stealing of livestock and the taking of food are particularly associated with rural crime and also similarly linked to rural poverty.[135] Poaching is a

[126] May, *A Child's Punishment for a Child's Crime*, pp.39-40.
[127] ibid.
[128] ibid.
[129] Wood, *Violence and Crime in Nineteenth-century England*, p.106.
[130] Social identity was under constant negotiation at this time as the status of the traditional landed elites was eroded by increasing social mobility linked to rapid economic growth. R. S. Neale, 'Class and Class-Consciousness in Early Nineteenth-Century England: Three Classes or Five?', *Victorian Studies, Vol.12, No.1,* 1968, p.11. The replacement of the gentry within urban settings by the middling classes, particularly amongst the magistracy, is explored further in Chapter 4 as a possible explanation for the growth of summary jurisdiction.
[131] T. Shakesheff, *Rural Conflict, Crime, and Protest: Herefordshire*, *1800-60*, Woodbridge 2003, p.31.
[132] Shore, *The Social History of Juvenile Crime in Middlesex*, p.47; and T. Shakesheff, 'Wood and Crop Theft in Rural Herefordshire, 1800–60', *Rural History, Vol.13, No.1*, April 2002, p.2.
[133] Shakesheff, *Rural Conflict, Crime, and Protest*, p.117.
[134] Ager, *Crime and the Economy of Makeshifts*, p.177; and Ager, *Crime and Poverty in 19th-Century England,* p.55.
[135] Ager, *Crime and the Economy of Makeshifts,* p.178.

difficult crime to attribute solely to an impoverished stratum of society. Greed, opportunism and protest are reasons for poaching and caution is needed to identify incidences of poverty as a primary cause.[136] Ager points to rising levels of the theft of foodstuffs, fuel and livestock as better indicators of hardship within rural communities and provides examples in 1830s Oxfordshire where these crimes formed half the cases brought before the Assizes.[137] Shakesheff argues that these thefts were for immediate consumption rather than for profit or material gain.[138]

We may never know what motivation lay behind prosecutions brought by John Peacock of Leek against two boys aged under fourteen for the theft of three pence worth of apples. The cost of prosecution was estimated to be around £8 against a trivial offence and yet the case was taken to the Epiphany Sessions in Stafford in 1834. Whether this was a desire to emphasise property rights; to make an example for the wider community; or simple retribution against repeated acts of minor theft was not clear in the court report. However, the witnesses to the crime themselves admitted to scrumping in their youth, as did the defence counsel. Peacock was admonished for not dealing with the offence on the spot with a thrashing, and the defendants were found not guilty.[139] This was an isolated incident but highlights that whatever led to the rise of juvenile indictments in Staffordshire and Shropshire, a change had occurred in English justice and its utilisation by prosecutors, and juvenile offenders were caught at its centre.

3.7 Conclusion

Much recent historical work on crime in the early nineteenth century has focused on the huge increases in juvenile acts of delinquency in London, but this rise was not confined to the metropolis and existed in Staffordshire and Shropshire. This chapter analyses the Quarter Sessions and Assizes to show that there was a growing juvenile presence amongst those indicted for theft in these two counties, but it is doubtful whether this represents real growth in criminal acts by this age group. Social pressures and concerns were motives behind increasing indictments in these higher courts against those aged nineteen and below, who were singled out for increasingly punitive measures throughout mid-century. All this may reflect a varied tapestry of causes: changing social conditions in which more juveniles were found in urban settings with the attendant temptations for

[136] ibid., p.197.
[137] ibid., p.200.
[138] ibid., p.50. John Rule points out that linking poverty with rural crime may mask more complex underlying causal factors such as: administrative change; ineffective modes of punishment; and changes in temptations, attitudes and opportunities: see J. G. Rule, *The manifold causes of rural crime: sheep-stealing in England c.1740-1840*, in J. G. Rule, (ed.), *Outside the Law: Studies in Crime and Order 1650-1850*, Exeter 1982, p.104.
[139] *Staffordshire Advertiser* - 20 January 1834.

misbehaviour; relaxation of informal measures to control delinquency; the diminishing of severe forms of punishment; the rise of incarceration as a means of reprimand, making the idea of seeking retribution against the young more palatable; and the easing of obstacles to prosecution.

Juveniles also had an increasingly symbolic role in the perceived nature and order of society, becoming a vehicle for the fears of polite society *vis-à-vis* the nation. They were simultaneously a threat to the future of civilised society and yet prosecution might save them from becoming a mass of lawless sinners. Gender perspectives also played a role, and these reduced the numbers of female indictees but also influenced harsher judgments if they were found guilty. Female juvenile offending was less extensive than that of their male counterparts, being driven by gender-related opportunities. These cultural boundaries made it less likely that females would be given the opportunity for theft but did not make them any less 'criminal' than male juveniles. Nor did this make female juveniles any less threatening: in many ways they were viewed as equally dangerous once they had been tempted from the path of virtue.

The presence of agrarian or urban areas in these counties influenced the nature and extent of recorded juvenile crime. Towns offered more temptations whilst agricultural parishes were less inclined to pursue formal justice in the higher courts. The growing interest in protecting property amongst the literate classes, especially as their influence amongst the urban magistracy grew, may have been particularly influential. The nature of juvenile crime was also affected by the extent of goods or materials available as temptation: the theft of animals played an influential role in the type of crimes juveniles were punished for in the countryside, whereas money was a target for urban juveniles. Staffordshire's far greater concentrations of population, not just its greater number of inhabitants, contributed to seeing juvenile indictments rise above those in neighbouring Shropshire.

Juvenile crime had a distinctive character different from adult crime and was driven by economic and social conditions in each county. Whilst indicted juvenile criminals may have been the most visible manifestation of an increased concern with and focus on youthful misbehaviour, it is likely that it represents only a fraction of juvenile interaction with the law. The role played by summary courts in criminalising the juvenile offender is examined in the next chapter.

Chapter 4 – Summary justice and juvenile crime

As indictments before the higher courts rose during the first quarter of the nineteenth century, the foundations for an even greater influx of juveniles into the criminal justice system were being constructed. Magistrates could not be certain that those they presented to the county courts would receive a guilty verdict, after their decision to pursue prosecution had been made; their role only became significant again when a verdict had been passed and a sentence was imposed. Summary justice allowed a much swifter and certain means to gain a verdict against a suspect without the delays of trial by jury. This pattern developed on an unprecedented scale in the nineteenth century due to laws that originally sought to curtail various minor offences deemed too numerous and petty to be dealt with through the County Sessions. In theory, this allowed for the speedy punishment of offenders for minor offences where magistrates, sitting in local Sessions, could dispense justice without the need for the delays imposed by the higher courts. In reality, magistrates often went beyond the jurisdiction of these acts to keep numbers of felonious crimes away from the Quarter Sessions and Assizes.[1] The impact of summary justice within Staffordshire and Shropshire by mid-century is best understood by exploring its origins, misuse and validation as a tool to punish felons, followed by exploring its growing use in the counties under investigation. In Staffordshire in particular, due to a valuable collection of summary returns for the Juvenile Offenders Act 1847, potential exists to examine the application of this new legislation.[2] This chapter also examines the social and economic nature of Staffordshire in particular and the manner in which alterations in the distribution of power within the county led to judicial changes that affected the administration of the law.

4.1 The argument for summary justice

Theft was by far the largest cause of juvenile incarcerations and included indictable and non-indictable offences that were heard as a charge before a court or dealt with directly by a magistrate. Almost all theft was a felony and therefore ranked as a serious crime to be heard before either the Quarter Sessions or Assizes. Value was of no distinction; it only became relevant when determining sentence. The Staffordshire Quarter Session chairman in 1848 stressed, in his address to the Grand

[1] Although historical definitions of felony as a capital offence may be erroneous, it had by the nineteenth century become the term for serious crimes to be heard at either the Sessions or Assizes and to delineate them from lesser misdemeanours. T. Walter Williams, *A Compendious and Comprehensive Law Dictionary: Elucidating the Terms and General Principles of Law and Equity*, London 1816 and E. P. Kamali, *Felony and the Guilty Mind in Medieval England*, Cambridge 2019, p.47,
[2] Hereafter abbreviated to JOA.

Jury, that even if the item stolen was worth less than the smallest coin in circulation, the act was still felonious and serious enough to be heard in the major courts.[3] However, there was a minor category of theft that allowed some crimes to be tried as misdemeanours. Thefts that fell outside the private realm of ownership into the public domain could be charged as a lesser crime. Wild animals, plants, fruits, and vegetables that were growing and neither caught nor harvested were not fully the property of a specific owner and could be tried by magistrates alone at petty sessions. Once these items were gathered by a farmer or landowner, they were considered property and once again their theft became an indictable crime.[4] This naturally encompassed many instances of rural stealing but did not cover the majority of urban property theft which was heard at the Quarter Sessions or Assizes.

Magistrates faced the problem of ensuring that a crime they felt was worth indicting, and could only be heard on indictment, would pass through the criminal justice system, and receive a positive verdict through an unpredictable jury process. Once caught, a suspect was taken before a magistrate for a preliminary hearing. If the magistrate felt that the case had merit, the suspect was held in gaol until the next trial session. This could leave a period of three months before the case was heard before a jury. Even before the trial could progress, a grand jury would act as a jury of presentment to determine whether there was sufficient evidence to proceed and that the indictment was drawn correctly.[5] Finally, a petty jury would decide on the verdict of the case – to convict or discharge.[6] Magistrates could influence the outcome through sentencing but only at the end of this process.[7] Not only was this a lengthy procedure but, before the extensions of a basic form of legal aid for prosecutors in the 1810s and 1820s, it could be costly for prosecutors to pursue a case of theft through the courts.[8] At the end of the eighteenth century, the London magistrate Patrick Colquhoun questioned the efficacy of jury trial for minor crimes and thefts. He believed that prosecutors were dissuaded by the expenses occurred through the higher courts and persuaded to understate the nature of the crimes committed so as not to incur a harsher sentence for the culprit. He also feared witness intimidation, and the application of technicalities to protect criminals from receiving

[3] Chairman of the Quarter Sessions 8 January 1848 quoted in D. Phillips, *Crime and Authority in Victorian England: The Black Country, 1835-1860*, London 1977, p.136. However, by this time the JOA had already made inroads into felony theft for juveniles being heard in the summary courts as had other summary acts.
[4] T. Sweeney, *Extension and Practice of Summary Jurisdiction in England c.1790-1860*, PhD thesis, Cambridge University, 1985, pp.82-3.
[5] Phillips, *Crime and Authority in Victorian England*, p.102.
[6] The type of professions listed as jury members in the Quarter Session records for the October Sessions of 1824 included: Carriers; Farmers; Yeoman; Locksmiths; Cordwainers; Gun Lock Filers; Glaziers; Carpenters and Miners. *Staffordshire and Stoke on Trent Archives, Q/SB 1824 M/13/1-4 Sheriff's writs to summon juries 1824.* (Hereafter SSTA).
[7] Phillips, *Crime and Authority in Victorian England*, pp.102-106.
[8] ibid., p.113.

punishment.[9] It was argued that if magistrates could circumnavigate the difficulties imposed by jury trial and try minor offences of theft summarily, this would 'tend to the diminution of crime'.[10] Jeremy Bentham, the jurist and philosopher, became another critic of jury trial because its technical complexity and procedural stages could allow the guilty to escape punishment. He believed that if a magistrate was able to try crimes immediately when first presented, then 'only two person (*sic*) are necessary, so to speak in the drama – the judge and offender'.[11]

Summary justice was believed to be the antidote to the inefficient system of justice that had existed under the 'bloody code' of the late eighteenth and early nineteenth centuries that deterred many prosecutions. Sir Samuel Romilly, in a speech to the House of Commons in 1810, summed up the idea that if punishment of an offender could be made a certainty, then a 'very slight penalty would be sufficient to prevent almost every species of crime'.[12] Romilly spoke out against the cruel and excessive nature of the penal code of the time and argued for a less harsh but more consistent scheme of punishment. However, Martin Winn argues that the move towards summary justice was driven less by humanitarian concerns than by a burgeoning bourgeoisie eager to protect its growing property rights in a fashion that was more predictable and less chaotic than that which had existed in the late eighteenth century.[13] Many critics of the severity of the law believed that it acted as a barrier against a more ordered, controlled society. Both the labouring and middle classes had agency in this growing debate as they utilised new legislation to protect their own property. Both John Langbein and Peter King have shown that prosecution was not the exclusive preserve of the propertied or landed classes. Labourers and tradesmen pursued criminal action through the higher courts when their own interests were threatened.[14] Nevertheless, the debate surrounding and drive towards summary justice was desired at the highest levels of society. Winn agrees that a humane concern for those caught within the judicial system existed at this level, but this concern coexisted with a belief that the labouring poor needed to be closely controlled.[15] This required a more effective penal system, but those who argued in favour of new legislation highlighted the benefits that would be reaped by the defendant, especially juveniles. A Royal Commission on Criminal Law

[9] P. Colquhoun, *A Treatise on the Police of the Metropolis*, London 1796, pp.20-21.
[10] Colquhoun to Eddy, T., 1802 cited in Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.95.
[11] J. Bentham, *The Works of Jeremy Bentham, Volume 1, Issue 2*, Edinburgh 1838, p.559.
[12] Romilly's speech is printed in full in B. Montagu, *The Debates Upon the Bills for Abolishing the Punishment of Death*, London 1811.
[13] M. Winn, *The Structure and Functions of the English Magistrates' Court: A Study in Historical Sociology*, PhD thesis, Warwick University, 1986, p.349.
[14] J. H. Langbein, 'Albion's Fatal Flaws', *Past & Present, No.98*, 1983, p.97; and P. King, 'Decision-Makers and Decision-Making in the English Criminal Law, 1750–1800', *The Historical Journal, Vol.27, No.1,* 1984, p.26.
[15] Winn, *The Structure and Functions of the English Magistrates' Court*, pp.349-353.

(1837), focusing on juvenile crime, concluded that a departure from constitutional jury trial was justifiable given the reduction of custody periods before a potential trial and recommended the benefit for the very young.[16] The prevention of crime and the reformation of the criminal were the fundamental goals of penal law, and neither were served by taking trivial felonies to the higher courts.[17] There were dissenting voices. In 1766, the jurist and judge, William Blackstone, commented that the powers of summary jurisdiction had of 'late been so far extended' that it threatened 'the disuse of our admirable and truly English trial by jury' if checks were not in put in place to halt its expansion.[18] Reverend Charles David Brereton, writing in Norwich 1827, warned that such jurisdiction was 'without course of law…without oath or witnesses or the intervention of a jury, without a record or even a reporter', further condemning the petty court as having 'no precise boundaries and limitations on its power'.[19] The chaplain of Shrewsbury Gaol believed that the conduct of the poor previously 'being passed over unpunished' as the 'law did not take cognisance of them' was now regarded as a 'crime of a most crimson hue' as late as 1856.[20] The question surrounding the positive benefits of summary justice and the consequences of diminishing jury trial continued throughout the first half of the nineteenth century and its impact was felt by juveniles in Staffordshire and Shropshire.

King indicates that the redrawing of felonious charges, or the refusal to pursue charges at the higher courts by using discretionary judgements at pre-trial hearings, was a long-lived tool of the magistrate.[21] He points to the practice in the early nineteenth century – before the period Susan Magarey ascribes to juvenile delinquency being 'legislated into existence' through the summary acts in the 1820s – of magistrates at the Cold Bath Fields House of Correction (1817) choosing to label juveniles as reputed thieves rather than pursuing indictments against them. [22] Of the male prisoners incarcerated there, only 24% were aged 9-19, whilst 73% of those locked up for being reputed thieves were in this age group.[23] Kiran Mehta suggests that it might have been expected that the

[16] Parliamentary Papers, *Royal Commission on Criminal Law, Third Report (Juvenile Offenders)* 1837, p.7. (Hereafter *PP*)
[17] *PP*, *Royal Commission on Criminal Law*, p.8.
[18] W. Blackstone, *Commentaries on the Laws of England: in Four Books with an Analysis of the Work*, London 1766 (reprinted London 1836), p.280.
[19] C. D. Brereton, *The Subordinate Magistracy and the Parish System Considered*, Norwich 1827, pp.5-6.
[20] Chaplain Shrewsbury Gaol, *Shrewsbury Chronicle* - Friday 17 October 1856.
[21] P. King, *The Origins of Informal Juvenile Court Practices and of the Juvenile Reformatory in England, 1815–1855*, in J. Trépanier & X. Rousseaux (eds), *Youth and Justice in Western States, 1815-1950*, Basingstoke 2017, p.76.
[22] S. Magarey, 'The Invention of Juvenile Delinquency in Early Nineteenth-Century England', *Labour History, No.34*, 1978, p.25.
[23] King, 'The Origins of Informal Juvenile Court Practices', p.79. King provides a direct example of this in the form of 14-year-old William Burgwyn, in Shropshire in 1820. William was a repeat offender, whose parents had died many years before, being brought before the court on charges of felony who was spared from the gaol and placed in the House of Correction rather than on trial. ibid., p.80.

proliferation of official summary legislation after 1824 would have curtailed the degree of flexibility of magistrates in applying summary judgements, as statutes were formalised and procedures for the application of justice outside of the Sessions were standardised.[24] Instead, he found that at the Southwark summary courts by the 1830s almost 63% of those charged were for vagrancy offences, loosely defined as disorderly persons, but with few details provided.[25] Despite the chance that the King's Bench might have exercised greater scrutiny in this formalised period of summary justice, Mehta believes that most charges were frequently redrawn as vagrancy-related. He further contends that magisterial discretion remained broad (as did that of the prosecutor), despite greater interest from the press and the formalisation of summary proceedings, to decide the manner in which an offender was pursued through the justice system.[26] This is important when considering the nature of the response to juvenile delinquency in Staffordshire and Shropshire. Even after the judicial clarification of summary powers throughout the 1820s, magistrates still held the power to influence the spirit of justice that could be applied to juvenile offenders. Juvenile justice was therefore unique to each locality as magisterial influence affected the course of its implementation.

4.2 Key legislation

Some of the legislation surrounding summary justice originated in local acts, particularly in the capital where crime was greater than in the rest of the country. However, many of the innovations and 'corruptions' in their implementation were passed into nationwide legislation at a later date.[27] A notable advance towards granting summary powers of arrest for theft occurred under the 1792 Middlesex Justices Bill, which allowed magistrates powers to convict persons suspected of being, or reputed to be, thieves.[28] The bill did not pass without objection as prominent Whig politicians such as Charles James Fox noted: the bill not only supplanted trial by jury but operated against those, who through the traditional legal system, could not be proven guilty.[29] This act was distinguished from previous legislation where, even if a suspect had been held for a short time, no actual conviction had been recorded. Additional local acts further eroded jury trial. The 1800 Thames Police Act allowed for convictions to be passed against individuals caught in the possession of goods not provable as

[24] K. Mehta, 'Summary Justice in Eighteenth and Nineteenth Century Southwark (London)', *Crime, History & Societies, Vol.24, No 1*, 2020, pp.75-6.
[25] Mehta, 'Summary Justice in Eighteenth and Nineteenth Century Southwark', p.78.
[26] ibid., p.81.
[27] In the 1750s legislation was passed that allowed people to be held with a minimum respect for legal rights, such as the Disorderly Houses Act 1751-2 and the London Streets Act 1771, but these were largely based on detention rather than arrest. P. Lawrence, 'The Vagrancy Act (1824) and the Persistence of Pre-emptive Policing in England since 1750', *British Journal of Criminology, Vol.57, No.3*, 2017, p.515.
[28] Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.87.
[29] ibid., p.91.

owned by the suspect.[30] Although many of these acts were designed for large urban centres, their provisions were later implemented in legislation that affected the counties in question.

Summary jurisdiction associated with vagrancy played a pivotal role in the move away from traditional higher court-focused justice in both Staffordshire and Shropshire.[31] The concept of a criminal offence for being a 'reputed thief' or 'suspected person' was incorporated into the Vagrancy Acts of 1822-24, which applied across the country.[32] Begging had for many centuries been a natural strategy for impoverished children, with little alternative when occupational opportunities were few, but it became a focus for changing levels of toleration of youthful behaviour.[33] Additionally, the act extended the charge of 'vagabond' to include those playing or betting in the streets or other public places. Susan Magarey described this as a 'wholesale onslaught' on leisure activities that were favoured by the labouring classes.[34] These additions to the legislation became part of a wide-scale attempt to regulate the behaviour of the poor. A much later Home Office report from 1910 on the impact of the 1824 Vagrancy Act described it as an attack on 'a disorderly way of living' where the mode of life became the target of the law rather than any particular illegal act.[35] Nationally, those committed to prison for being alleged vagrants rose by 34% between 1826 and 1829 and by 65% between 1829 and 1832.[36] David Jones describes the Act as 'one of the most flexible, useful and criminal-making statutes' of the nineteenth century.[37] The law had become preventive in nature, moving towards policing 'delinquent' behaviour rather than what was considered a firm offence in law.[38] Nicholas Rogers quotes Foucault to highlight this fundamental change in the approach to offenders that saw 'the "criminal" as existing before the crime and even outside it'.[39] The suspected intent to commit an illegal act became punishable before a crime was committed. In this way, with

[30] This neatly avoided the circumstantial nature of the evidence that would not have likely stood in a higher-court trial. The Act also further extended the definition of reputed thief to include those who were suspected with the intention of committing a theft. Sweeney, *Extension and Practice of Summary Jurisdiction in England*, pp.103-106.
[31] See Section 4.4.
[32] Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.108.
[33] M. May, *A Child's Punishment for a Child's Crime: The Reformatory and Industrial School Movement in Britain c. 1780-1880*, PhD thesis, University of London, 1981, p.39.
[34] Magarey, 'The Invention of Juvenile Delinquency in Early Nineteenth-Century England', pp.20-1.
[35] Home Office Report 1910 quoted in L. Radzinowicz & R. Hood, A *History of English Criminal Law and its Administration from 1750. Vol.5, The Emergence of Penal Policy*, London 1986, p.343. Thomas Sweeney notes that the suspected theft provisions contained within the 1822 Vagrancy Act were based on the London 1822 Police Act, itself an extension of the existing legislation from 1792. Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.110.
[36] N. Rogers, 'Policing the Poor in Eighteenth-Century London: The Vagrancy Laws and Their Administration', *Histoire sociale, Vol.24, No.47*, 1991, p.146.
[37] D. Jones, *Crime, Protest, Community, and Police in Nineteenth-Century Britain*, Abingdon 1982, p.207. See also J. Stuart Mill, *Essays on England, Ireland, and Empire: Volume VI, collected works*, Toronto 1983, p.119: Writing in 1826, John Stuart Mill contended that to commit a person for being vagrant was the equivalent of finding them guilty for the 'crime of being poor'.
[38] Rogers, 'Policing the Poor in Eighteenth-Century London', p.145.
[39] Foucault quoted in Rogers, 'Policing the Poor in Eighteenth-Century London', p.145.

the testimony of one witness, an offender convicted under these provisions could face a sentence of up to three months on a first conviction.[40] King notes that in *The Report of the Commissioners on the Criminal Law* presented to Parliament in 1837, Chief Magistrate of Bow Street, Sir Frederick Roe, was candid about the widespread use of applying summary justice in a different manner for juveniles over other defendants.[41] The Vagrancy Act was particularly used if the juvenile was brought forward under felony charges, leading the committee to believe that such extensive use of summary powers should be sanctioned by law rather than being left to the whim of individual magistrates.[42] The 1838 *Report of the Select Committee on Metropolis Police Offices* also commented that London magistrates informally dealt with over half of those cases brought before them by 'restricting the evidence so as to make it establish a misdemeanour, whereas in fact there is sufficient evidence to prove a felony'.[43] The importance of the Vagrancy Act as a tool of discretionary power for magistrates cannot be overstated and its use in both Staffordshire and Shropshire is examined later in the chapter.

Sweeney points to the diminishing of previously tolerated behaviour, or where accusations were settled privately, as intimately linked with a change in the notion of private property and its boundaries.[44] The justice book of Thomas Netherton Parker, a Montgomeryshire magistrate, contains several instances before the 1820s of disputes settled before criminal proceedings were pursued. In 1806 a complaint against the stealing of mole traps was not taken up by Parker as he felt that he would be obliged to undertake a criminal prosecution and urged the parties involved to reconcile.[45] Not only was tolerance in the early nineteenth century declining, but definitions of property were also changing. Over the course of the century, workers' traditional customary rights to supplements to their regular wage, usually in the form of waste or cast-off material – agricultural, industrial and mercantile – increasingly became a dispute between labourer and employer. With more material goods, and a rising middle class, the need to protect property grew. In the countryside enclosure and the cultivation of waste land had a parallel impact as traditional grazing rights and access to wood became equally contentious.[46] In agricultural communities, the economy

[40] P. Lawrence, 'The Vagrancy Act (1824) and the Persistence of Pre-emptive Policing in England since 1750', p.517.
[41] *PP, Third Report from the Commissioners on the Criminal Law; Juvenile Offenders, XXXI*, London 1837, pp.12-13 cited in King, 'The Origins of Informal Juvenile Court Practices', p.77.
[42] ibid., pp.77-78.
[43] *PP, Report of the Select Committee on Metropolis Police Offices*, London 1838, cited in King, 'The Origins of Informal Juvenile Court Practices', p.78.
[44] Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.20.
[45] Shropshire Record Office *1060/168-170 Justice Book of Thomas N Netherton Parker containing memoranda of cases heard before him and recognizances taken before him.*
[46] Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.35.

of the labouring poor had been largely based on these customary rights.[47] Sweeney argues that the value of property was both monetary and ideologically re-evaluated around the turn of the nineteenth century.[48] This in turn led to a re-evaluation of the minor offender as discretion became replaced by preventive action.[49] The cost of pursuing large thefts could be justified but the expense of pursuing minor pilfering posed the greatest burden to profit. The swift punishment that this legislation allowed circumnavigated the usual expense of trial and helped further erode informal sanctions.

These summary powers caused unforeseen consequences for juveniles. Magarey highlights that the method of trial – summary versus jury trial – reflected and delineated misdemeanours from felonies.[50] The principle of *doli incapax* theoretically offered some protection for juveniles based on their age and presumption of intent. In felony cases this protected the youngest juveniles from being unduly punished for a crime they were incapable of being aware they had committed. As felonious crimes were deliberately misclassified as misdemeanours such protection was all but eroded under these summary powers.[51] This is demonstrated by the number of eight-year-olds (87) being classed as reputed thieves in 1847 by the Central Criminal Court despite the fact that in the same period only three children of the same age had been indicted and experienced jury-trial for larceny. These children were ranked as thieves despite the lack of evidence for thieving in this age group from the higher courts.[52] Outside the scrutinising process of the Sessions and Assizes, the youngest juveniles were denied their usual defence from sanction that their age warranted.

The Vagrancy Act was not the only nationally enacted summary power that affected Staffordshire and Shropshire. The Malicious Trespass Act 1820 offered further protection for property, particularly within a rural context.[53] Legislation had long existed for the summary punishment of some types of non-indictable thefts, but this required proof of possession of stolen goods in order for a suspect to be penalised by a magistrate. Trespass was not itself a criminal offence until this act was passed to

[47] R. Bushaway, *From custom to crime: wood gathering in eighteenth – and early nineteenth-century England: a focus for conflict in Hampshire, Wiltshire and the south*, in J. Rule (ed.), *Outside the Law. Studies in Crime and Order 1650-1850*, Exeter 1982, p.75.
[48] Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.38.
[49] ibid.
[50] Magarey, 'The Invention of Juvenile Delinquency in Early Nineteenth-Century England', p.22.
[51] ibid.
[52] ibid.
[53] Hereafter MTA.

classify intrusion onto private land in search of produce as illegal.[54] This meant that a person found on private property could be summarily convicted without the need to prove that a theft had taken place.[55] Likewise, the 1827 Larceny Act consolidated many existing summary offences, such as stealing or damaging fruits and vegetables in gardens and orchards.[56] By 1827 magistrates had many alternative means open to them to punish misbehaviour without the need to resort to taking a case as far as the Sessions or Assizes. As Sweeney notes, the *New Edinburgh Review,* in its criticism of the MTA, summed up the feelings of many opponents of the extension of summary powers to magistrates: 'a harsh law, which operates within distinct bounds is in truth less oppressive than a milder one, loosely framed and imperfectly limited in its application'.[57] The 1832 *Committee of the Society for the Improvement of Prison Discipline*, *and for the Reformation of Juvenile Offenders*, noted that the MTA had the effect of filling the country's prisons without presenting a noticeable 'positive increase of crime', by punishing those who faced less formal means of reprimand in times past and without increasing the number of indictments presented in court.[58] This echoes the Governor of Bury St. Edmunds Gaol, John Orridge, when examined in front of a Select Committee on Criminal Convictions, who felt that the Act encouraged magistrates to commit where previously they would not.[59] Equally, The Larceny Act was a focus of such criticism – the Chair of the Middlesex Session in 1850 claimed that it had increased juvenile crime by 30% despite the underlying intention of the legislation being to supress it.[60] Furthermore, he highlighted the case of a boy named Joghill who had been convicted eight times in two years, four of which were under the Larceny Act. Although he had never been convicted by a jury he had been whipped in gaol no fewer than seven times – all before reaching the age of ten.[61] Inevitably, it was claimed that being sent to prison for a 'trifling offence' deprived the prisoner of the moral restraint of being marked out as a criminal.[62] As Sergeant John Adams reported, 'a child acquires the same familiarity with a prison by the residence

[54] Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.114.
[55] ibid., p.115.
[56] Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.119; D. Philips, *Good Men to Associate and Bad Men to Conspire: Associations for the Prosecution of Felons in England, 1760–1860*, in D. Hay & F. Snyder (eds), *Policing and Prosecution in Britain 1750-1850,* Oxford 1989; and J. F. Archbold (ed.), *An Alphabetical Arrangement of Mr. Peel's Acts*, London 1827, p.142.
[57] *New Edinburgh Review* cited in Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.116.
[58] *Report of the Committee of the Society for the Improvement of Prison Discipline, and for the Reformation of Juvenile Offenders, Vol.8*, London 1832, pp.48-9.
[59] *PP, Report from HC Select Committee on Criminal Commitments and Convictions, and Evidence*, London 1828, p.40.
[60] *The Law Times and Journal of Property, Vol.14*, London 1850, pp.90-1. Various sources also list the boy's name as Toghill.
[61] ibid.
[62] E. Burke (ed.), *The Annual Register, Or, a View of the History, Politics, and Literature for the Year 1827,* London 1828, p.373.

within its walls, the same brand upon his name when he departs it' regardless of being processed in a Petty or higher County Court.[63]

Attempts to formalise the use of summary powers against property offenders and to allow indictable offences to be heard at Petty Sessions met with strong resistance throughout the 1830s and 1840s, despite the fact that they would have legitimised and placed limits on the 'loosely framed' powers that magistrates had already been manipulating to achieve a form of preventive summary justice. During the decades-long dispute surrounding a formalised set of summary laws for the very young, a Royal Commission in 1837 noted that the powers granted by the Vagrancy and Trespass Acts were 'more extensive and far less defined' than those proposed to tackle juvenile offenders.[64] The JOA in 1847 was the culmination of many years of bitter debate and attempts to introduce a legal framework for officially dealing with juveniles committing petty property crime within summary jurisdiction.

4.3 Juvenile Offenders Act 1847

In 1828, Warwickshire magistrates were amongst the first of the regional benches to petition Parliament for summary powers to deal with rising indictments in the first quarter of the nineteenth century. Staffordshire magistrates also appealed to the Select Committee on Criminal Commitments and Convictions at the same time.[65] The Warwickshire magistrates highlighted the case of children within the higher courts and the damage they believed this caused to them.[66] That same year, E. D. Davenport, the MP for Shaftesbury, introduced the first bill to establish a recognised summary court to deal with petty offenders. He argued that the delay experienced by juveniles in gaol awaiting jury trial meant cross-contamination from hardened offenders and furthered an unwelcome education in criminal knowledge.[67] In 1838 the *Shropshire Chronicle* noted that the average time spent in gaol awaiting trial for offenders under twelve years of age was twenty-six days. The editor was saddened to hear that over a quarter of those held for so long had served a greater period in preliminary holding before trial than they had under conviction.[68] John Eardley Wilmot, MP for North

[63] J. Sergeant Adams, *Summary Jurisdiction: A Charge to the Grand Jury of the Quarter Sessions of the County of Middlesex*, London 1849, pp.12-13.
[64] *PP*, *Royal Commission on Criminal Law, Third Report (Juvenile Offenders)*, 1837, p.8.
[65] May, *A Child's Punishment for a Child's Crime,* p.341.
[66] Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.126.
[67] Davenport's proposal to allow the petty offences of boys to be tried summarily was twice rejected in the 1820s. ibid., p.127.
[68] *Shrewsbury Chronicle* - Friday 30 March 1838.

Warwickshire, made another attempt in 1833 to reintroduce a bill on similar lines to Davenport's but met objections based on the inviolability of trial by jury. Opposition to the abolition of formal trial procedure was supported by the Home Secretary, John Russell, who felt that the higher courts offered 'the most valuable protection' to a defendant from any form of injustice that might occur if summary powers were extended.[69] The struggle to introduce formal juvenile summary legislation lasted for almost twenty years.

The debate continued throughout the next decade as the rising cost of full-scale jury trials placed pressure upon county finances. For example, criminal justice costs in Devon increased almost twenty-fold in the forty years from 1792.[70] A theft of six pence could accrue costs of ten pounds for its prosecution and as much as twenty pounds for holding the accused within gaol before trial.[71] Many local benches criticised the increase in trivial cases brought before the Quarter Sessions: Staffordshire magistrates in 1836 called for the introduction of summary powers to deal with this, complaining that almost half of the cases heard at the sessions could be dispensed with in a summary court.[72] Staffordshire Chairman, Sir Francis Tremlow, welcomed provisional moves within the House of Commons in this regard in 1833, stating that it would 'materially reduce the county expenditure'.[73] Jury trial had increased over the intervening thirty years, brought about by changes in legislation and provision of costs for prosecutors, but the expense and time required was still a bar to the number of potential cases that could be brought. Coupled with the uncertainty fostered by jury trial, and the difficulty in securing a prosecution, many local benches felt that the current provisions were financially crippling and inefficient in bringing many criminals to justice.

Wilmot was defeated again in 1837 on his bill but this was closely followed by a Report of the Select Committee on Metropolis Police Offices that proposed summary jurisdiction in all cases of larceny for all age groups.[74] The magistrates did not conceal their existing powers of summary jurisdiction and their use against otherwise indictable offences. One stipendiary magistrate, R.E. Broughton, bluntly described trial by jury as the 'most inconvenient mode' by which a case could be tried.[75] Broughton

[69] Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.132.
[70] ibid., p.133.
[71] Phillips, *Crime and Authority in Victorian England*, p.131. In Staffordshire the expense of conveying to the gaol and house of correction was estimated at about £1,000 for a quarter period. *SSTA Q/SB 1824 M/10/1 Estimate of sum required for the Public Expenses for the quarter year ending Jan 1825, Oct 1824.*
[72] *Staffordshire Advertiser* – Saturday 12 March 1836.
[73] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 17 April 1833.
[74] *PP*, *Select Committee on Metropolis Police Offices, 1838.*
[75] *PP*, *Select Committee on Metropolis Police Offices, 1838*, p.76.

further claimed that juvenile offenders gained the most benefit from this proposed swift justice as it guaranteed a more lenient ruling than they would receive in the higher courts and, furthermore, it removed the potential of a sentence of transportation.[76] The recommendations of the committee were rejected once more. However, even Lord Russell, who had once been a strong advocate of traditional jury trial, had by 1839 looked towards resurrecting Wilmot's Juvenile Offenders Bill.[77] The bill finally materialised in 1847, put forward by Sir John Pakington, MP for Droitwich, but with a narrower scope covering only those children up to the age of fourteen years and guilty of simple larceny without aggravating circumstances.[78] Pakington, as chairman of Worcester Quarter Sessions, had seen juvenile petty offenders being corrupted through lengthy confinement in gaols and was an advocate of reformation over punishment for the young.[79] Under Pakington's Bill, the accused could object to the case being heard summarily in which case the magistrates would have to consider the case for indictment and jury trial.[80] Three years later the age limit was raised to sixteen. The Act was welcomed by the chair of the Shropshire Sessions as both 'humane' and 'merciful', with the chair recalling having to try a child under seven years of age under the old law who had to be held above the dock by the turnkey in order to be seen at the proceedings.[81] The notion of separate legislation to deal with the juvenile criminal problem was contentious and dragged on in Parliament for almost two decades. Objections straddled both extremes of the debate: of being too lenient or denying juveniles their due process. To many, the notion of holding children for long periods of time awaiting trial and then subjecting them to the full force of the law was too much of an injustice to endure. Yet the JOA merely legitimised an already existing process of dealing with juveniles summarily. Its impact on the levels of juvenile incarceration in Staffordshire and Shropshire is explored in the following sections.

4.4 Summary justice in Staffordshire and Shropshire

Records in each county are incomplete for all juvenile summary convictions between 1800 and the late 1850s. There is, however, an almost complete collection of JOA records for Staffordshire,

[76] ibid., p.77.
[77] The bill also met with objections, this time concerning the belief that juveniles would be encouraged to commit more serious crimes in the knowledge that their sentence would be light under the new powers and Wilmot's bill failed to pass once more. Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.153.
[78] Radzinowicz & Hood, *A History of English Criminal Law and its Administration from 1750*, p.621.
[79] *HANSARD 1803–2005 HC Deb 28 April 1847 Juvenile Offenders Bill.*
[80] F. H. Lascelles, *The Laws Affecting Juvenile Offenders; Comprising the Juvenile Offender's Act, 1847, the Reformatory Schools Act, 1866, the Industrial Schools Act, 1866*, London 1870, p.16.
[81] *Eddowes's Journal, and General Advertiser for Shropshire, and the Principality of Wales* - Wednesday 20 October 1847.

between 1847 and 1861, and these are considered below. It is therefore necessary to rely on national figures given in the Prison Inspector Reports from 1838 to 1854. Figures given county by county provide separate statistics for juveniles – although for the purposes of the report they are classified to only include juveniles of sixteen years and under. Figures 4.1. and 4.2. show the growth of summary convictions over indictments through jury trial in Staffordshire and Shropshire.

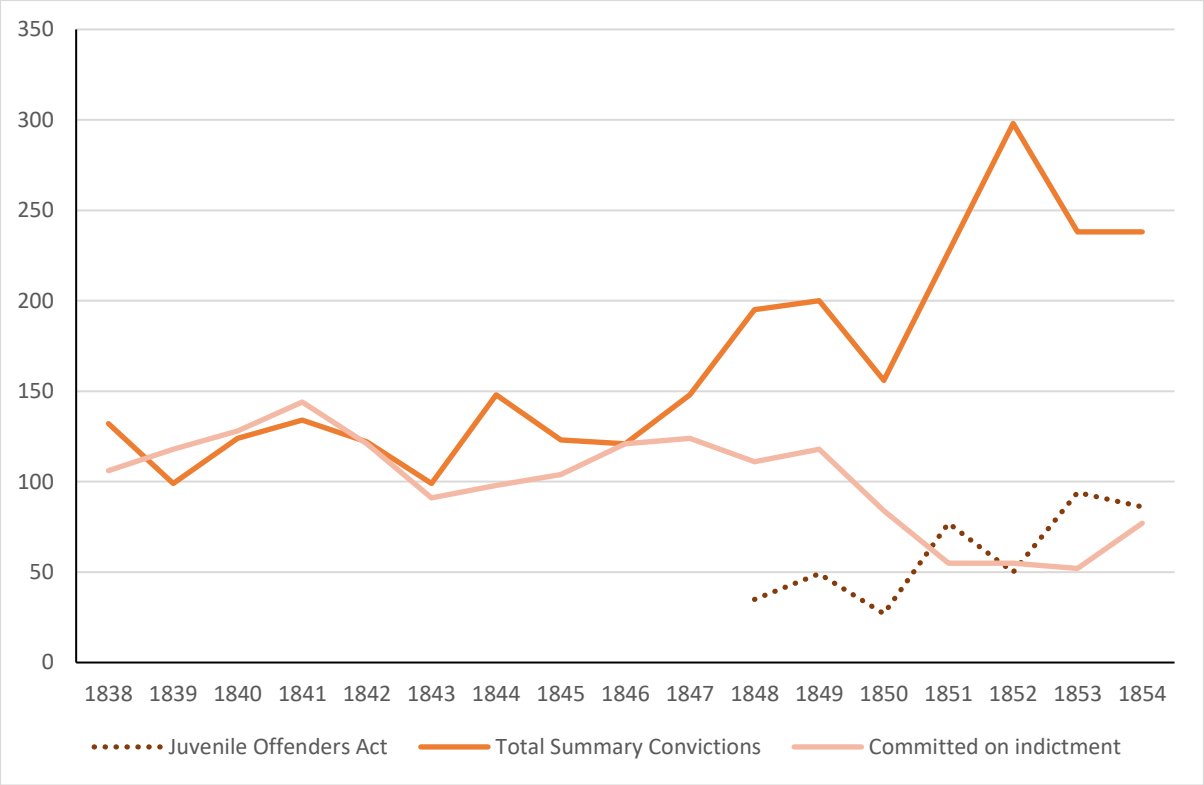

Figure 4.1. Total indictments plotted against summary committals for juveniles aged under 17 years and those committed under the JOA in Staffordshire 1838-1854.[82]

[82] *PP, Inspectors of Prisons of Great Britain I. Home District, First to Twentieth Report*, 1836-1857.

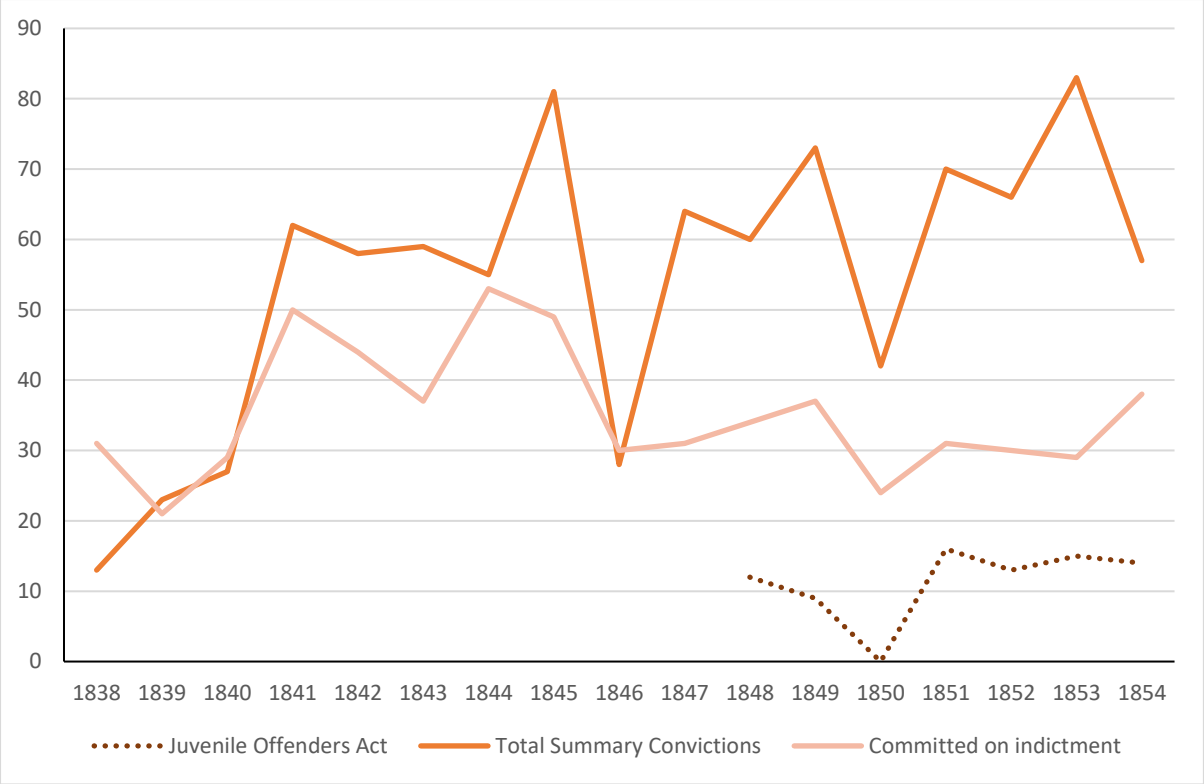

Figure 4.2. Total indictments plotted against summary committals for juveniles aged under 17 years and those committed under the JOA in Shropshire 1838-1854.[83]

In the absence of complete records, it is difficult to say for Staffordshire and Shropshire whether summary convictions were ever greater for juveniles over indictments before 1838. From the existing evidence, indictments and summary convictions run roughly at parity with each other in both counties for the late 1830s. In contrast, for adults in both counties, summary convictions overtook or already exceeded indictments before 1840. Adult summary convictions in Staffordshire never fell below adult indictments for the seventeen-year period in question, and in Shropshire summary indictments for adults never fell below summary convictions after 1839. The data for juveniles show that once it overtook traditional jury trial indictments, summary justice generally remained more widely used. By 1854 there is a pattern in both counties of exponentially rising summary committals over falling levels of juvenile indictment. When these charts are compared with the rest of England and Wales (Figure 4.3) juvenile summary committals outnumbered jury trial indictments by more than two-fold even by the time records began. They remained steady at twice the number of indictments until 1848 when the impact of the JOA was felt. After that date, summary committals exceeded indictments by almost four-fold across the country.

[83] *PP, Inspectors of Prisons of Great Britain I. Home District, First to Twentieth Report*, 1836-1857.

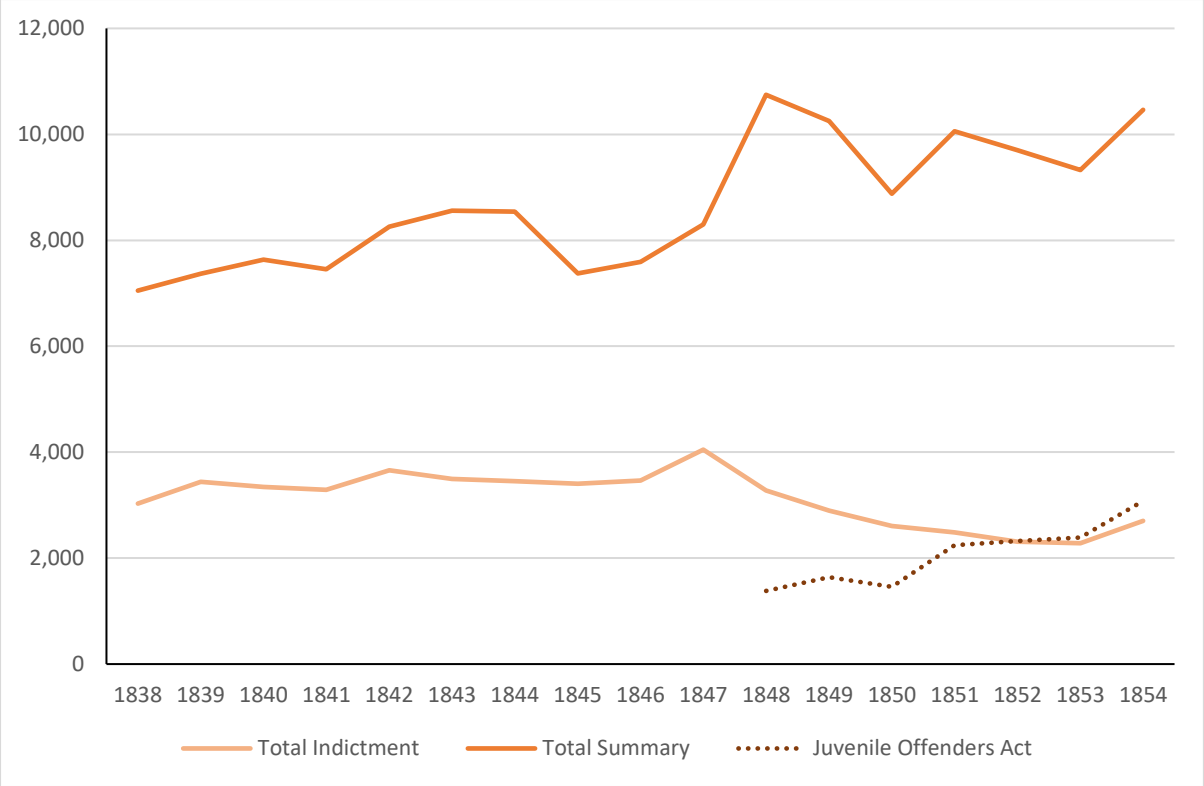

Figure 4.3. Total indictments plotted against summary committals for juveniles aged under 17 years and those committed under the JOA in England and Wales 1838-1854.[84]

The timings for summary committals becoming the normal mode of juvenile trial in both counties reveal interesting differences. As seen above, both adults in Shropshire and Staffordshire, and juveniles at a nationwide level experienced this change either early in the recorded years or before records began. In Shropshire, despite a few dips in summary convictions in 1844 and 1846 that brought indictments and summary committals to approximately the same level, the county largely witnessed the change towards summary jurisdiction by 1841. This was followed by a constant rise in summary convictions after the introduction of the JOA in 1847. The change came later to Staffordshire despite growing use of these summary powers by magistrates. In fact, summary convictions only overtook indictments significantly in Staffordshire after the JOA had established itself fully. The key difference was in the persistence of traditional jury trials within the two counties. In Shropshire indictments to the Quarter Sessions or Assizes were on the wane after 1844. In contrast, Staffordshire indictments remained relatively stable until the formal summary sanctions introduced in 1847, after which their numbers also declined.

[84] *PP, Inspectors of Prisons of Great Britain I. Home District, First to Twentieth Report*, 1836-1857.

King argues that in London, Manchester, Liverpool, and to some extent Birmingham, summary jurisdiction became the prominent form of justice imposed on juveniles shortly after the Vagrancy Act of 1822 and that by the 1830s indictments in these centres had either levelled off or stagnated, because the Vagrancy Act was a driving force in this change towards summary jurisdiction.[85] Summary offences more closely related to rural localities, such as the MTA, showed only moderate growth in use against juveniles. Outside of the larger urban centres, the transfer of indictments towards summary jurisdiction occurred much later in the 1840s.[86] What is apparent from the data is that indictments of juveniles were never at the same levels in Shropshire as they were in Staffordshire and more serious crimes that warranted jury trial were rarely brought in Shropshire. This allowed summary committals to overtake indictments in that county by the beginning of the 1840s. Conversely, Staffordshire magistrates wanted to make use of the more severe higher courts process as well as making increasing use of summary powers. Both counties only truly saw the end of indictments as the major mode of prosecution once legislation specifically dealing with juveniles was put in place.

A closer look at the categories of law that fell under summary jurisdiction also reveals some notable differences between the two counties. Figures 4.4. and 4.5. show the key legislative acts and their contribution to total summary convictions each year for juveniles.[87] As King notes, in the large cities the provisions of the Vagrancy Act were most used against juveniles in terms of the summary legislation available to magistrates. However, King believes that in rural areas, based on a reading of the available Gloucestershire evidence, the Vagrancy Act was rarely used against juvenile property offenders.[88] The Shropshire evidence appears to show that it was one of the most used summary powers during the seventeen-year period for which we have available records. Likewise, in Staffordshire, offences under the Vagrancy Act were foremost for presenting juveniles at the magistrates' petty hearings. On average, in the period, 12% of people convicted under the Vagrancy Act were juveniles in Staffordshire compared with 8% in Shropshire. The Act directly attacked those social activities most likely to be found in more urbanised areas, such as gambling in the streets, and may explain its greater use in more heavily populated Staffordshire. The only category to surpass the

[85] P. King, 'The Rise of Juvenile Delinquency in England 1780-1840: Changing Patterns of Perception and Prosecution', *Past & Present, No.160*, 1998, pp.134-5.
[86] King, 'The Rise of Juvenile Delinquency in England', p.135.
[87] It would be impractical to place all the categories a juvenile could face under summary jurisdiction into one chart; in fact, only a few categories provided more than a handful of cases each year.
[88] King, 'The Rise of Juvenile Delinquency in England', p.135

Vagrancy Act was the JOA in one anomalous year in 1852, in Staffordshire, when the Larceny Act was applied over and above any other year it was recorded in use.

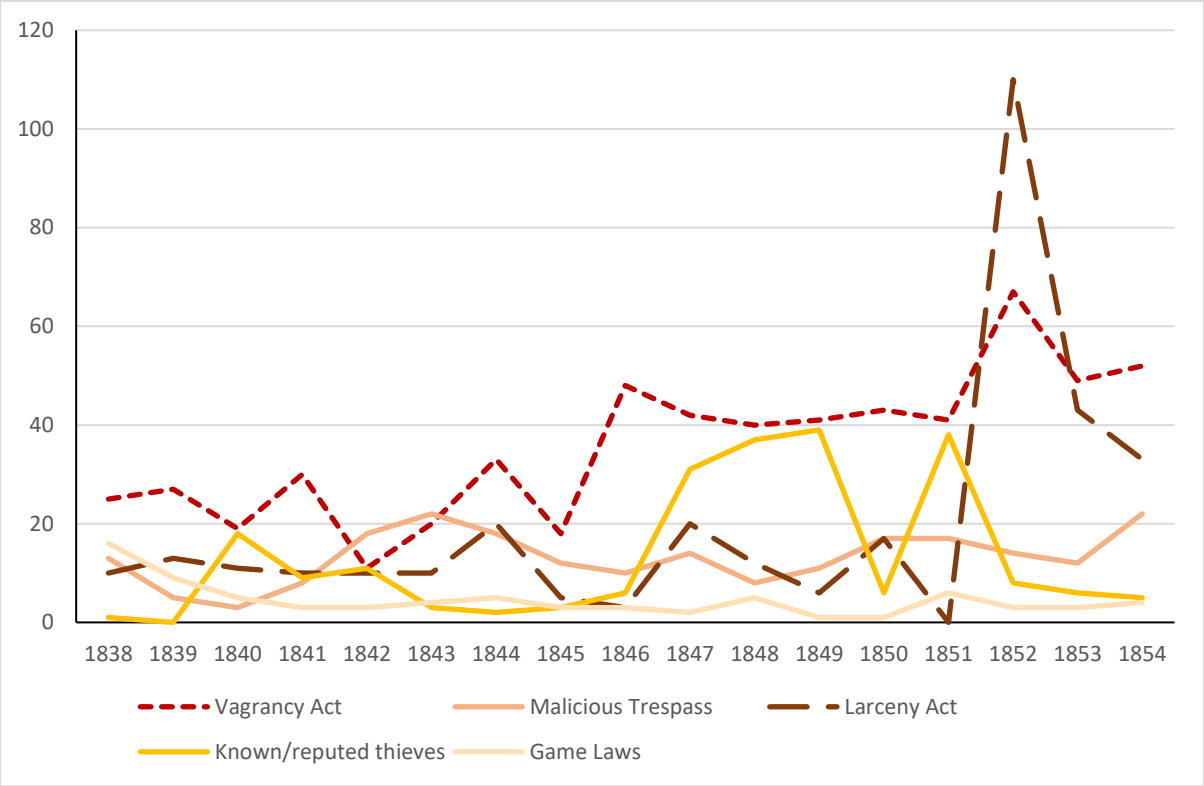

Figure 4.4. Selected summary committals for juveniles in Staffordshire 1838-54.[89]

[89] Aged 16 and under. *PP*, *Inspectors of Prisons of Great Britain I. Home District, First to Twentieth Report*, 1836-1857.

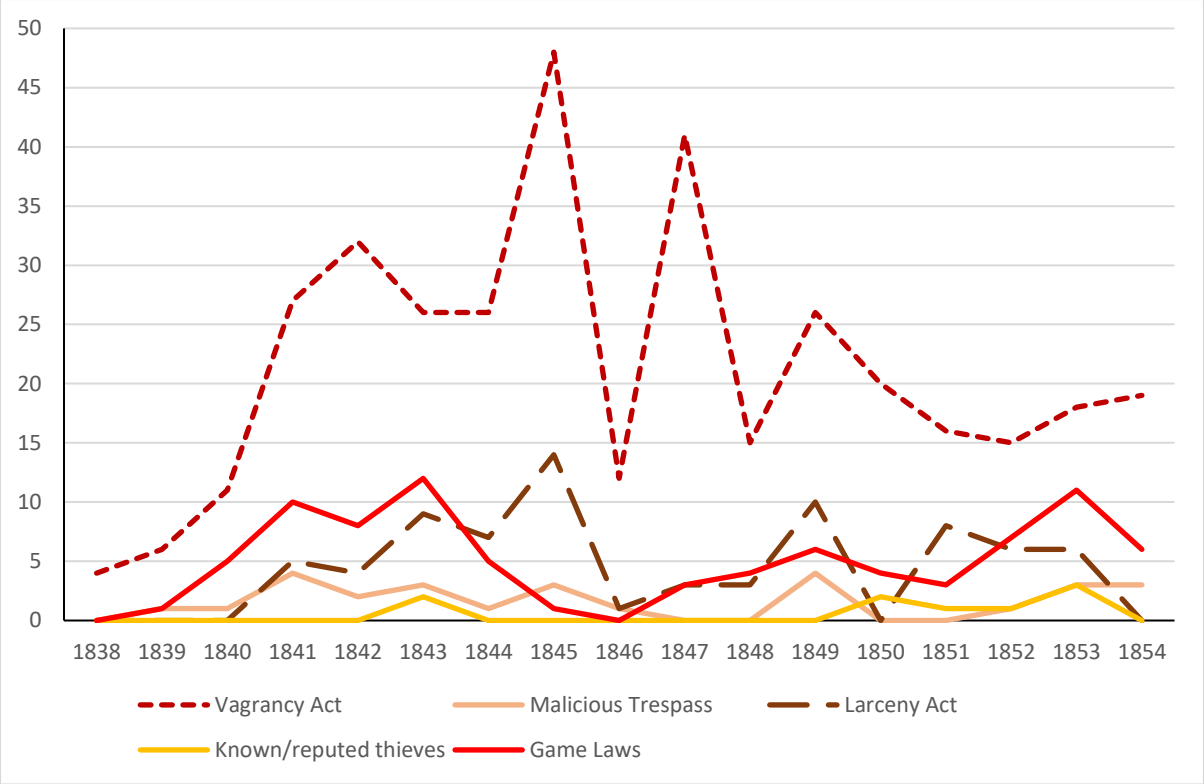

Figure 4.5. Selected summary committals for juveniles in Shropshire 1838-54.[90]

The other major difference between Staffordshire and Shropshire was in the application of the 'known or reputed thieves' legislation, and the use of the Game Laws.[91] Few Shropshire juveniles were incarcerated for being reputed thieves, yet these laws were applied more frequently in Staffordshire. The legislation was linked with the protection of urban property. In concentrated populations in large towns, where theft could be less personal and there were greater concentrations of wealth, the ability to incarcerate potential troublemakers was key to maintaining law and order. It was also directly targeted at juveniles in Staffordshire as, on average for the period, juveniles accounted for just over a quarter of convictions for all ages as a known/reputed thief. Less than a tenth of reputed thief convictions in Shropshire were for juveniles. Similarly, the Game Laws were aimed at rural poaching offences and their application could account for up to 9%, on average, of all summary convictions for juveniles in Shropshire compared with just 3% in Staffordshire over a 12-month period. The Larceny Act 1827 also brought a large proportion of juveniles into the summary courts, possibly under its provisions for theft from a garden or orchard, and almost a quarter of all

[90] Aged 16 and under. *PP, Inspectors of Prisons of Great Britain I. Home District, First to Twentieth Report*, 1836-1857.
[91] Although the collective laws on poaching were relaxed after 1831, with the link between land ownership and the right to hunt game severed, offences such as night-poaching could still lead to a transportation sentence for a third proven offence. M. Cragoe & B. McDonagh, 'Parliamentary enclosure, vermin and the cultural life of English parishes, 1750-1850', *Continuity and Change, Vol.28, No.1*, 2013, p.37.

convictions under this act were against juveniles in Staffordshire, while its impact was less severe in Shropshire.[92]

Finally, the MTA accounted for 3% and 9% of all juvenile summary convictions in Shropshire and Staffordshire respectively between 1838 and 1854. In Staffordshire, in 1856, Justice John Leigh bemoaned at the Sessions that children would turn down places at the Wolverhampton Ragged School during the summer because they could obtain a living culling fruit around the town.[93] However, King believes that the MTA was rarely targeted at juveniles.[94] In 1841, only 17% of all MTA convictions were against juveniles nationally compared with 32% in the known/reputed thief category.[95] In summary, juveniles in both counties were most likely to be prosecuted under the vagrancy laws, until the passing of juvenile summary legislation in 1847. In Staffordshire, unlike Shropshire, the known and reputed thief provisions were used to control the juvenile population, most likely in urban areas, since juveniles made up a significant portion of cases brought under this legislation during that period.

Summary justice accounted for over 60% of all trials for juveniles in both counties between 1838 and 1854, but this was not constant over the seventeen years. For both Staffordshire and Shropshire, summary committals made up as few as half of trials at the beginning and almost three quarters by the end. A further subdivision by age existed in the prison inspector reports for summary convictions. The youngest age grouping consisted of those aged 11 and under, followed by those aged 12 to 13 and finally 14 to 16. Figure 4.6 shows the proportion of each year's summary committals. On average and for the whole period, the older subsection of juveniles comprises around three quarters of committals in both counties, with the youngest age group contributing around a tenth. It is not surprising that older juveniles were targets for summary justice, although the percentages of children under the age of 12 demonstrates just how far *doli incapax* had been impacted. The proportions of age groupings remained relatively steady throughout the period. However, after the introduction of the JOA, the youngest age grouping underwent a 3% to 6% growth in the proportion of committals in both counties. In these seventeen years we see the gradual erosion of jury trial as the primary mode of juvenile justice to be replaced initially by an

[92] Sergeant John Adams described the summary provisions of the Larceny Act as a 'dead letter' in agricultural districts in 1849. Sergeant Adams, *Summary Jurisdiction,* p.14.
[93] *Staffordshire Advertiser* - Saturday 11 October 1856.
[94] King, 'The Rise of Juvenile Delinquency in England', p.135.
[95] ibid.

indiscriminate composite of various summary justice acts, followed by the introduction of laws to regulate minor delinquencies.

Shropshire	% ages 11 and under	% ages 12 to 13	% ages 14 to 16	Staffordshire	% ages 11 and under	% ages 12 to 13	% ages 14 to 16
1838	8	23	69	1838	6	11	83
1839	12	44	44	1839	1	13	86
1840	0	37	63	1840	6	12	82
1841	3	16	81	1841	7	22	72
1844	5	18	76	1844	8	9	82
1845	7	22	70	1845	4	13	83
1846	11	11	79	1846	10	18	72
1847	5	13	83	1847	17	26	57
1848	8	25	67	1848	12	21	67
1849	22	25	53	1849	9	24	67
1850	7	21	71	1850	8	19	73
1851	19	19	63	1851	10	22	69
1852	15	19	66	1852	10	23	67
1853	12	17	71	1853	12	23	65
1854	2	15	83	1854	11	20	69

Figure 4.6. Proportional contribution by age groupings for summary committals of juveniles in Shropshire and Staffordshire 1838-1854.[96]

Around 90% of cases resulting in a summary juvenile committal in both counties were for males. Female juveniles were only rarely charged with other summary offences outside of the Vagrancy and Larceny Act and, after 1847, the JOA. They made up roughly 10-13% of Vagrancy Act committals in both counties between 1838 and 1854 and between 12-15% under the Larceny Act for all juveniles. In Shropshire, the introduction of the JOA made little impact on female juveniles whose numbers across all summary committals were very low for the whole period. In Staffordshire, the effect of the JOA on female juveniles is clearer. On average, female juveniles contributed around 8% of all the juvenile summary committals between 1838 and 1847. After the JOA had passed, and its effect could be measured after 1848, the percentage of juvenile summary committals for females doubled to just under 15% on average for the period 1848-54. In large part this may be attributed to the newly achieved ease of prosecution of coal thefts and the predominance of females in this crime (see below). The Larceny Act was not much in use in Shropshire against juveniles of either gender. It was

[96] *PP*, *Inspectors of Prisons of Great Britain I. Home District, First to Twentieth Report*, 1836-1857. Neither 1842-43 contained legible entries and were therefore omitted.

more of a factor in Staffordshire, where female juveniles contributed 10% of overall juvenile commitments in that category for the period.

Magarey describes juvenile delinquency as being 'legislated into existence' by these acts from the 1820s onwards.[97] She believes that they targeted juvenile misbehaviour, which was once dealt with informally, causing a rapid rise in juvenile convictions and the birth of the spectre of the juvenile offender. As King has demonstrated, and as in previous chapters of this thesis, juvenile crimes were punished more frequently in the higher courts long before much of this legislation was in place.[98] King importantly highlights the period following the end of the Napoleonic Wars, after 1815, as a turning point in the way the law addressed juvenile behaviour as indictments rose *before* summary legislation curtailed the need to bring juveniles before the higher courts. Summary justice was not the beginning of attempts to deal with youthful delinquency; rather it was a new strategy born of concerns to punish minor transgressions thoroughly and to impose a greater level of control on this age group. Likewise, polite society saw it as a means to protect the youngest members of the labouring classes from undue contamination and distress caused by incarceration. This was achieved both by reducing the amount of time spent in gaol before trial and imposing limits on any potential sentence passed. Margaret May was also partly correct in that an increased awareness of the problems of juvenile misbehaviour in the 1830s and 40s helped to create the concept of the juvenile delinquent.[99] However, this was a feature of a much wider debate that was raging at the highest levels of government as to how best to impose order on a disordered society, where the youngest and most impressionable became the focus of deliberation. As Francis Thompson notes, the process of urbanisation and industrialisation put enormous stress on the fabric of society.[100] The elite discussed how best to mould the labouring classes into a society fit for a rapidly evolving modern age. However, the labouring poor were not merely passive recipients of changes enforced by the highest tiers of society; they also sought order and control for themselves by the pursuit of serious and petty offences against juveniles through the judicial process. Making the mode of control over juvenile offenders more effective and swifter had the unfortunate side-effect of helping to multiply the number of juveniles brought under the scrutiny of the law.

[97] Magarey, 'The Invention of Juvenile Delinquency in Early Nineteenth-Century England', p.25.
[98] King, 'The Rise of Juvenile Delinquency in England', p.135.
[99] M. May, 'Innocence and Experience: The Evolution of the Concept of Juvenile Delinquency in the Mid-Nineteenth Century', *Victorian Studies, Vol.17, No.1*, 1973, p.19.
[100] F. M. L. Thompson, 'Social Control in Victorian Britain', *The Economic History Review, New Series, Vol.34, No 2*, 1981, p.189.

4.5 The Juvenile Offenders Act in Staffordshire

Staffordshire has a surviving collection of juvenile offender convictions from the introduction of the JOA in 1847 through to 1861. The convictions were recorded on largely standardised forms and included names; locations of offences; details of items stolen; the name of the presiding justice(s); the date of both the trial and original offence; and the sentences imposed. Ages were rarely recorded.[101] The records allow for the same kind of quantitative analysis that was completed for the County Quarter Sessions in the previous chapter. In 1856 the Visiting Magistrates of Staffordshire Gaol drew up a return of the number of prisoners convicted under the JOA 1847, subdivided into selected groupings of items stolen for 1 October 1855 to 26 March 1856.[102] These chosen groupings must have reflected the concerns of these magistrates and the types of thefts they believed to be most prominent amongst this cohort. A biennial analysis running from 1848 to 1858 has been completed of the surviving returns for Staffordshire. The stand-out figures in this analysis relate to the predominance of food theft in male juvenile summary convictions – accounting for 12% of all convictions for male juveniles - compared with female juvenile convictions of food that barely feature at all in the returns. Petty food theft was likely to have been consumed immediately or taken for reasons of 'basic want or necessity'.[103] The theft of clothes displays a similar dominance to that found in the higher court analysis. Their easy disposal made clothes a prime target for the opportunistic thief of either gender.[104]

	Coal	Iron	Bread	Lead	Clothes	Watches	Cash	Food	Other
% of Male Juvenile Theft	6	11	4	1	23	3	11	12	29
% of Female Juvenile Theft	48	11	1	0	21	1	7	1	10

Figure 4.7. JOA 1847, Staffordshire, biennial sample 1848-1858 showing distribution of types of items stolen.[105]

4.5.1 Female theft of coal in Staffordshire (Juvenile Offenders Act 1847)

Coal theft by female juveniles accounted for almost half of the female summary returns. David Jones records a similar pattern in mid-nineteenth-century Merthyr Tydfil, where women and children

[101] As all offenders were by necessity under 14, and later 16, this was not an immediate priority for the recording magistrate.
[102] SSTA *Q/SB 1856 E/28, Return of Number of 'Juvenile Offenders' Committed from 1 October to 26 March 1856*.
[103] A. M. Kilday, 'Investigating the Link Between Crime and Poverty in Eighteenth Century England', *The Journal of the Social History Society, Vol. 11, No. 4,* 2014, p.515.
[104] Beverly Lemire contends that second-hand clothing had a guaranteed value and was assured of a sale. B. Lemire, 'The Theft of Clothes and Popular Consumerism in Early Modern England', *Journal of Social History, Vol.24*, *No.2,* 1990, p.265.
[105] *SSTA Q/RCj/1-15 Convictions under Juvenile Offenders Act 1847-61.*

participated in the theft of coal.[106] This is direct evidence of magistrates using their new-found powers to target social deviance. In Staffordshire, being a banks-woman was a legitimate occupation for females who loaded coals onto canal boats for transportation.[107] This was echoed in Shropshire where several hundred women were employed by the county's mines in the 1850s, with some being as young as ten. In Shropshire girls were employed as pit bank girls, picking ironstone from the clay brought up from the mines.[108] Whether the theft recorded in the Staffordshire records was related to this proximity of female workers to a large quantity of coal, or simply piecemeal and unrelated one-off thefts, is difficult to ascertain, but prosecutions in relation to other thefts by female juveniles indicate that this may be the case.

Coal theft was the offence that plagued manufacturers and industrialists. It was both petty in essence, but cumulatively costly in scale. The Park Field Colliery, Gloucestershire, claimed that such small-scale pilfering was so rampant that in a single week it had lost twenty tons of coal.[109] In Staffordshire, the Earl of Harrowby called coal theft one of the greatest inroads to crime in South Staffordshire and highlighted the practice of sending children to pilfer coal.[110] The Chair of the Sessions, The Earl of Lichfield, believed that most crime in South Staffordshire was related to coal theft, with children being brought up to consider that property lying around unattended was fair game – he also blamed the collieries for not taking sufficient precautions to have their property watched.[111] Thomas Bailey Rose, stipendiary magistrate for Stafford, had in earlier years warned the collieries that their loose coal should be kept out of sight of the public in order to diminish juvenile temptation.[112] A case of coal theft described in the *Staffordshire Advertiser,* in July 1856, is perhaps typical of the type of crime being committed. Sarah Jones (described as a young girl) was observed undertaking multiple thefts of pilfering coal into her basket from the wagons on the pit head at Willenhall under the direction of an older woman, Harriet Graham. Because the practice had become a 'regular trade' for them, previously lenient punishments were waived in favour of one month's hard labour for both.[113] In a debate in Parliament on extending summary jurisdiction in 1850, Sir John Pakington highlighted the nature of coal theft as most suitable to being brought under summary legislation for all offenders. He mentioned some of the offences of coal theft in Dudley that were often passed over because the cost and distance of attending a session twenty-six miles

[106] D. Jones, *Crime, Protest, Community, and Police in Nineteenth-Century Britain*, London 1982, pp.94-99.
[107] See Chapter 2.
[108] I. Brown, 'Women Workers at Shropshire Mines', *British Mining, No.39,* 1989, pp.89-90.
[109] *Staffordshire Advertiser* - Saturday 22 July 1848.
[110] *Staffordshire Advertiser* - Saturday 21 October 1865.
[111] ibid.
[112] *Staffordshire Advertiser* - Saturday 13 December 1851.
[113] *Staffordshire Advertiser* - Saturday 05 July 1856.

away was too much for many prosecutors to bear. The Attorney General agreed, opining that many coal masters had to tolerate numerous cases of petty coal theft until compelled to act in order to make an example of offenders.[114] Evidence before the Royal Commission on Criminal Law in 1845 from Narberth in Wales described how the cost of prosecution for petty coal thefts ranged from fifteen to eighteen pounds for goods that seldom exceeded two pence in value.[115] Another witness to the Commission noted that coal theft was actually on the increase as the cost of pursuing it through the higher courts was preventing proper legal deterrence.[116] The ability to pass swift punishment on this prevalent type of industrial theft, in a county with a strong industrial economy, was reflected in a significant presence under summary prosecutions.

Philips' study of the Black Country revealed that women of all ages committing indictable crimes made up the largest proportion associated with coal thefts, at almost two-thirds.[117] Not only were a significant minority of women employed by collieries, but also male employees were allowed a coal allowance that their female relatives were, in theory, entitled to take on their behalf.[118] A common theory amongst pit owners was that parents were often the instigators of coal theft perpetrated by juvenile. Lord Granville frequently interceded on behalf of young girls found to be pilfering from his mine at Longton, because parents should be brought before the court to answer the charges.[119] Although no direct records exist for the Shropshire JOA, it is possible to infer from an examination of reports of the petty sessions in regional newspapers that such thefts amongst female juveniles were also a common occurrence in the industrial regions of the county. The *Wellington Journal* records several such instances, with the case of Caroline Bowden, described as a little girl, bought forward for prosecution to counteract the general problem of coal-picking in 1863.[120] In Dawley, in 1862, four children were prosecuted in front of the magistrate's court for stealing 25 pounds weight of coal. The parents were blamed again despite receiving a coal allowance as employees of the pit works.[121] The introduction of the faster and easier summary process no doubt helped the coal masters to stamp out such crimes.

[114] *HANSARD 1803–2005 HC Deb 20 February 1850 Larceny Summary Jurisdiction Bill.*
[115] *PP*, *Royal Commission on Criminal Law, Eighth Report* 1845, p.278.
[116] *PP*, *Royal Commission on Criminal Law, Eighth Report*, p.310.
[117] Phillips, *Crime and Authority in Victorian England*, p.182.
[118] ibid.
[119] *Staffordshire Advertiser* - Saturday 11 July 1857 and Saturday 28 November 1857.
[120] *Wellington Journal* - Saturday 28 February 1863.
[121] *Wellington Journal* - Saturday 26 April 1862.

In addition, a substantial amount of waste coal that was not of a grade worth selling was discarded at pit heads. As the *Morning Chronicle* noted in its survey of the labouring poor in 1850: desperate women (and presumably children) would pick from the spoil to stave off freezing conditions.[122] It recounted the tale of two women committed to Stafford gaol for picking up what the pit company 'threw away for rubbish'.[123] For many poor people this access to discarded by-products of labour was a traditional privilege. Sweeney argues that much of the expansion in summary legislation was the result of a redefinition of property rights during the eighteenth and early nineteenth centuries.[124] This can be likened to agricultural gleaning where traditionally the poor had rights of access to the inferior crops after harvest – Phillips describes waste coal collection as 'black gleaning'.[125] These traditional rights were 'translated into illegalities' over many decades.[126] Mr Justice Creswell, during a case in 1842, believed that the theft of coal was so common that it appeared as if a large section of the population were not aware that it was even a crime.[127] The prominence of coal thefts for female juveniles after the passing of the JOA reveals the growing influence of the coal and iron masters in Staffordshire. By mid-century they had successfully replaced the dominant landed gentry as the largest category of magistrates in the county.[128] Iron masters William Fryer and John Barker had been actively resisted as candidates by the Lord Lieutenant for Staffordshire, Charles Chetwynd-Talbot, who believed that such men could not act impartially when their own financial interests collided with their responsibilities in dispensing the law. By 1854, over half of the Staffordshire bench were industrialists, whilst the aristocracy and gentry had shrunk from a once dominant position to just 11% of the serving magistrates.[129] As they gradually dominated the Staffordshire bench, the industrialists were able to impose their new legislative powers to protect their commercial interests.[130] They could now punish minor offences without the need to do so under indictment. Whereas previously, making an example was both costly and did not guarantee success, the industrialists could now be sure of a sympathetic hearing. The continuation of the belief in

[122] The *Morning Chronicle* Survey of Labour and the Poor, 3 January 1850 quoted in Phillips, *Crime and Authority in Victorian England*, p.183.
[123] ibid.
[124] Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.26.
[125] Phillips, *Crime and Authority in Victorian England*, p.184. See also: E. P. Thompson, 'Eighteenth-century English society: Class struggle without class?', *Social History, Vol.3, No.2,* 1978, pp.150-151, for a discussion of labourers' attempts to defend customary perquisites being labelled as theft.
[126] Sweeney, *Extension and Practice of Summary Jurisdiction in England*, p.36.
[127] Quoted in Phillips, *Crime and Authority in Victorian England*, p.184.
[128] R. Swift, 'The English urban magistracy and the administration of justice during the early nineteenth century: Wolverhampton 1815-1860', *Midland History, Vol.17, No.1*, 1992, p.83.
[129] Swift, 'The English urban magistracy and the administration of justice during the early nineteenth century', p.83.
[130] Wolverhampton stands out as being markedly active in applying the Master & Servants Act, higher than any other borough in Britain: Staffordshire itself witnessed over 10,000 prosecutions in the almost ten-year period following 1858, more than double any other county. Theft related to industry was clearly being targeted by the magistrates of this county around the mid-century period. S. Briercliffe, "*The Blackest Shadows are Cast by the Irish Quarter": The Making of Stafford Street, Wolverhampton, 1832-1882*, PhD thesis, University of Birmingham, 2022, p.161.

traditional customs and rights to waste material was stamped out. The largest number of prosecutions for industrial larceny in the Black Country between 1835 and 1860 was brought by the Chillington Iron Company of Wolverhampton, owned by one of the borough magistrates, John Barker.[131] In Staffordshire the new Juvenile Offenders legislation was directly used to tackle offences that would have been prohibitively costly and awkward to prosecute through the major courts. This almost certainly led to more incarceration of juveniles: where once they may have escaped formal prosecution, they could be easily processed at the summary court. The introduction of specific legislation curbed some of the discretionary authority exercised by the local magistrates, but in the case of coal theft, particularly by juvenile girls, these laws were tailored towards tackling an apparent threat to the local financial and social order.

4.5.2 Sentence length in Staffordshire (Juvenile Offenders Act 1847)

Sentence length and its correlation with types of items procured allows further patterns to emerge. Sentences of less than 1 month were dominated by thefts of bread (60%) and coal (53%), compared with potentially more valuable thefts of cash (21%) and clothes (22%). For the harshest sentence of three months the pattern was reversed: bread (13%) and coal (3%) represent far fewer sentences than cash theft (46%) and clothes (41%). It is possible that bread and coal were viewed as staples, or necessities, and hence warranted less severe punishment compared with 'for profit' thefts of clothes and cash. Harsher sentences for coal theft may have been so low because of the predominance of female juveniles' involvement: almost three-quarters of summary convictions under the JOA in Staffordshire for coal theft were incurred by females. Equally, however, the low monetary value of this 'trifling' petty theft may also have had an impact on sentencing, regardless of gender. When correlating gender and sentence length (Figure 4.8.), it is unsurprising that female juveniles were treated less harshly. This echoes patterns in the indictment records for both counties. Female juveniles were more likely to receive a milder sentence under 1 month than male juveniles who were more likely to be handed the most severe punishment possible. Once again, however, this may be influenced by the prevalence of coal thefts in female summary convictions under the JOA. Although these sentences were often far shorter than those that would be received under indictment, and without the potential for a long holding period in gaol waiting for the next higher court session, they were applied more liberally than indictment sentences. This is especially true after the passing of the JOA, as more juveniles became the focus of judicial sanction.

[131] R. Swift, *Crime and Society in Wolverhampton, 1815-1860,* Wolverhampton 1987, p.8.

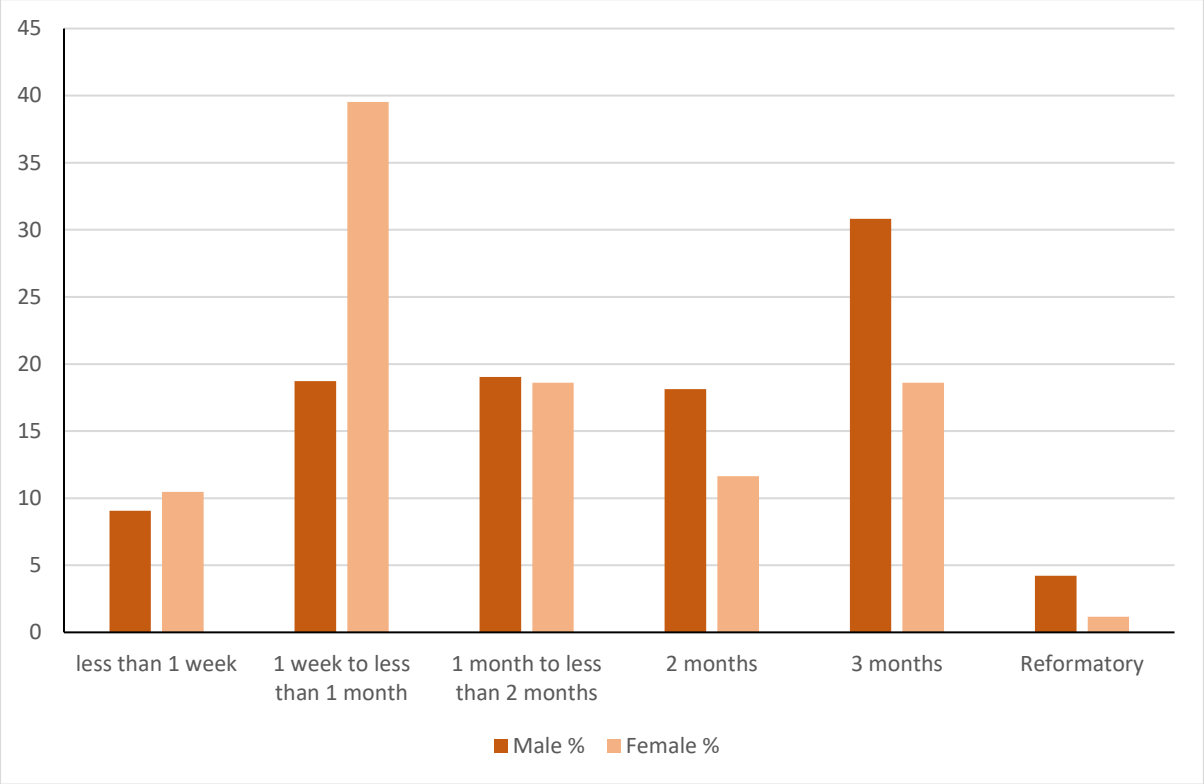

Figure 4.8. JOA 1847, Staffordshire, biennial sample 1848-1858, percentage of sentence lengths handed down by gender.

4.6 Conclusion

At the end of the eighteenth century, magistrates and legislators became concerned that the law was not effectively punishing offenders. A host of petty crimes and thefts went unpunished and informal punishment for juveniles was the norm. Most theft, no matter how trivial, was considered a felony, only punishable on indictment through the higher courts under a jury trial. The complexity, expense, difficulty, time and harshness of potential punishments acted as a barrier to potential prosecutions. Magistrates felt that urban property was not served well by jury trial. The anonymity and difficulty of proving an offence in a populous centre meant that much theft went unpunished. At the same time a collection of traditional rights and privileges held by the labouring poor – to the waste and by-products of their labour – had a cumulative impact on the financial fortunes of emerging industrialists and merchants.

From the late eighteenth century, magistrates slowly accumulated powers of summary jurisdiction. These powers and their definitions were often so broad that many crimes that could not be proven under traditional processes of law could be reclassified as minor crimes. In this way magistrates could adjudicate on sentence and punishment without the need for jury trial. Furthermore, these powers gained a preventive element to limit unwanted behaviour and impose control upon the labouring classes. The mere intent to commit an offence became punishable without the need to prove that a criminal act had in fact taken place.

In Staffordshire and Shropshire, the impact of the changes in summary jurisdiction affected the numbers of juveniles standing for jury trials at the higher courts and overall committals to prison. Before the end of the 1830s, summary jurisdiction became the normal mode of trial for most juveniles in England and Wales. The replacement of indictable offences by summary justice occurred later in the 1840s for both counties in this study, largely as a result of the introduction of official legislation in the 1847 JOA. Prior to this, Staffordshire and Shropshire made use of powers under a range of legislation, embodied most notably in the Vagrancy Act 1824. The Game Laws were utilised in the more rural county of Shropshire and the known thief provisions were applied against urban crime in the more populous Staffordshire. After its introduction the JOA significantly increased the number of summary committals, notably amongst female juveniles in Staffordshire, where coal theft became one of the most punished offences for this age group and gender. This was largely due to the influence of the industrialists of the county who had secured power and control of the magistrates' bench. Through summary process they had the means to protect their industrial concerns, something that had been costly and difficult to achieve under indictment. This thesis reveals the extension of local summary justice. Other studies have merely hinted at the nature of female coal theft, but this study directly demonstrates the mode through which objectionable juvenile female behaviour, with direct impact on local industrialist concerns, could create conditions for an increased interaction between juveniles and the law.

Chapter 5 – The incarceration of juveniles c.1810-c.1855

Between c.1810 and 1855, litigation in the major and summary courts of Staffordshire and Shropshire increased the presence of juveniles within the county prisons. Almost half of those 19 years of age and under found guilty of larceny in the triennial sample of 1814-1835 in either county at the Quarter Sessions faced a sentence of incarceration. Additionally, summary legislation was increasingly used during the first quarter of the nineteenth century to punish minor infractions, serving to further swell the numbers of juveniles in gaol.[1] Once inside a gaol these youths experienced a system of punishment and reform that was changing and under frequent re-evaluation. Penal theory developed in parallel with alterations in the perception of youth crime, the increased use of the law to punish both major and minor indiscretions, and the societal pressures brought about by a rapidly growing, industrialising, and urbanised society. Trials and observations in the classification, separation and application of hard labour occurred in these institutions throughout the nineteenth century as the nature of punishment and reform was negotiated and redefined. These experiments exposed the disparity of applying a blanket system of punishment that included vulnerable juveniles. This was especially true in Staffordshire and Shropshire, where magistrates actively engaged with national debates about the latest penal philosophies and were adopters of new penal reforms and willing to tailor recommendations to suit their respective counties.

This chapter investigates these experiments in classifying prisoners, the changing ways they were disciplined, and the application of new punitive measures that were enacted upon juvenile offenders in each county. As guardians of the local penal system, charged with oversight, the county magistracy played a pivotal role in the reassessment of juvenile penal regimes. This chapter initially examines the historiography of penal reform and the sources used to uncover the picture in Staffordshire and Shropshire. It continues by investigating how conditions in each penal establishment emphasised the conditions of juveniles under incarceration. It further asks how this shaped the punishments inflicted on juveniles by examining the variations in treatment between them and the rest of the general prison population in each county and the discrepancies between these local institutions. The number of juveniles incarcerated is also examined to demonstrate the apparent growing problem faced by local officials. Local studies reveal the interrelated nature of

[1] Those processed under the later Juvenile Offenders Act (JOA) 1847 were almost certainly guaranteed a term of imprisonment. Three-quarters of those found guilty in the Staffordshire Juvenile Offenders Act (1847) records were handed a period in gaol ranging from one day to the maximum penalty of three months. See Chapter 4.

magisterial concerns for mounting numbers of juveniles in local establishments and a growing national concern for the rehabilitation, rather than incarceration, of those in this period of life.[2]

5.1 Historiography of penal ideology

Understanding of the history of penal reform has undergone shifts in the last half century. Early histories of the transformation of the English prison system in the nineteenth century emphasised the positive impact of the changes compared with eighteenth-century institutions and celebrated the formalisation of penal regimes based on new principles of reform. Sidney and Beatrice Webb typified this view that the 'highly developed' prison systems, that replaced the 'apathy', 'filth and contamination' of earlier centuries, reflected a story of moral advancement and success.[3] As Sean McConville suggests, for many historians prior to the 1970s, it was difficult not to see the Victorian era as anything but a defining period of improvement in morality and material conditions.[4] They claimed that reforms were achieved through the benevolence and humanitarianism of key individuals.[5] Unfortunately, this 'traditional' history produces a 'line of causation', or inevitable direction in which events occurred, that side-steps a critical analysis of the motives and reasons for change.[6] This view of penal history can distort the level of variety and discourse that occurred at the regional level in the hands of the county magistracy or obfuscate the manner in which gaol personnel influenced local regimes.

Revisionist interpretations of nineteenth-century prison regimes question this notion of progress driven by humanitarian action. In these histories, changes in penal institutions are no longer considered as being born out of a disgust with what had come before or an aspiration to improve the conditions of those incarcerated. David Rothman sees the changes as a desire by nineteenth-century thinkers to turn discipline into a mechanical and repeatable process. In this manner, penal reform became part of the wider search to understand the changing nature of criminalisation in this century, which had particular importance for juveniles who were the subject of debate about the conditions

[2] Broadly those under twenty years of age but for a lengthier discussion of the definition of juvenile, see Chapter 1.
[3] B. Webb & S. Webb, *English Prisons Under Local Government*, London 1922, p.19.
[4] S. McConville, *English Local Prisons 1860-1900, Next Only to Death*, Oxford 1995, p.7. This was supported by Sir Leon Radzinowicz, who explicitly talked of a 'history of progress', when summarising the changes that had occurred in criminal law and its application during this period. L. Radzinowicz, *A History of English Criminal Law and Its Administration from 1750. Vol 1, The Movement for Reform 1750-1833*, London 1948, p.ix. This emphasis on an idealist view of history has been christened the 'Whig tradition', which Stanley Cohen defines as perceiving history as a series of reforms motivated by advances in knowledge. S. Cohen, *Visions of Social Control: Crime, Punishment and Classification*, Cambridge 1985, p.18.
[5] Cohen, *Visions of Social Control: Crime, Punishment and Classification*, p.18.
[6] H. Butterfield, *The Whig Interpretation of History*, New York 1965, p.12.

of incarceration. Rothman contends that the search for reproducible and reliable forms of punishment may have hindered alternative solutions for society's problems that were less susceptible to abuse or mismanagement.[7] John Muncie gives the example of how a desire to protect 'vulnerable' female prisoners often conflicted with the reality of women accounting for a mere fifth of all incarcerations. This often resulted in their being fitted into a system geared to male prisoners.[8] A desire to return female prisoners to a feminine ideal often led to more oppressive regimes in gaols than those experienced by men as greater surveillance and regulation were imposed.[9] Therefore reform, philanthropy and progress cannot be taken for granted as a reflection of reality: they were partly the product of nineteenth-century rhetoric that saw progress in the regulation and mechanisation of punishing offenders without questioning whether these changes benefited them compared with harsh existing methods.[10] Reformist nineteenth-century ideals were often diluted or mishandled through their implementation, and assumptions of advancement and benevolence should be avoided.

Alternative revisionist positions regard the changes in penal ideology in the period not as a failure, but as a success in the fulfilment of an unstated purpose to impose control over society by the higher orders.[11] In these new histories, prison reform was an explicit strategy in the growing desire of the ruling classes to exercise their authority and power. Michel Foucault defined it as 'a rearrangement of the power to punish' rather than an outright move to abolish the excessive extremes of past prison regimes.[12] Informed by Marxist philosophies during the 1970s and 1980s, the prison became viewed as an instrument for creating a uniform morality and discipline to maximise labour. By making conditions in gaol harsher and more punitive than those experienced by the poorest free labourer, imprisonment could offer an effective deterrence to offending.[13] Control, not concern, was therefore the driving principle as 'mild but repeated' punishments brought within the privacy of the prison replaced the spectacle of hangings and physical chastisements.[14] This position has been criticised for being one-dimensional and creating the perception that penal reform was consciously devised as a tool for repression. As Martin Wiener notes, replacing ideas of humanitarian concern

[7] D. J. Rothman, *Discovery of the Asylum: Social Order and Disorder in the New Republic*, Boston 1971, p.295.
[8] J. Muncie, *Prison Histories: Reform, Repression and Rehabilitation*, in E. McLaughlin, & J. Muncie (eds), *Controlling Crime*, London 1996, p.173.
[9] L. Zedner, *Wayward Sisters, The Prison for Women*, in N. Morris & D. J. Rothman (eds) *The Oxford History of the Prison: The Practice of Punishment in Western Society*, Oxford 1998, p.323.
[10] Muncie, *Prison Histories: Reform, Repression and Rehabilitation*, p.172.
[11] ibid., p.173.
[12] M. Foucault, *Discipline and Punish: The Birth of the Prison*, London 1977, p.80.
[13] Muncie, *Prison Histories: Reform, Repression and Rehabilitation,* p.175.
[14] R. Sullivan, 'The birth of the prison: Discipline or punish?', *Journal of Criminal Justice, Vol. 24, No.5*, 1996, p.450.

with ones of social control trades one 'simplism' for another.[15] These grand models deal with historical change at the macroscopic level, with little room for the 'struggles, negotiations, actions and decisions' of those involved in interpreting the contemporary political thought surrounding incarceration or in implementing the directives handed down by government.[16] History becomes another search for a 'settled hierarchy of purpose', or 'causal priorities', rather than a more subtle attempt to understand the complex interactions at play between government, local interest and the social economic features in a region.[17] This study focuses on these county-level interactions that are obscured in nationally focused inquiries into the treatment of juvenile prisoners.

A more nuanced revisionist position sees the emergence of penal reform as a product of the contradictions and discontinuities of political thought of the period. Michael Ignatieff rejected Marxist determinism in favour of a position that focused on the political self-interest and religious beliefs of the reformers. Crime was intimately linked with the erosion of the state, household, and the diminishing of paternal social relationships.[18] Philanthropy was restored in this model but contained within a wider practice concerned with class relations and control.[19] Humanitarianism became inseparably related to domination. Punishment was directed towards the mind as much as the body in new forms of chastisement such as separation, solitude and labour that had no productive element.[20] Whereas before, the body had been the receiver of punishment, it was now the soul of the prisoner upon which the institutions of power turned. However, Ignatieff acknowledges that too broad a picture of penal change could reduce our understanding of institutional development as 'formless'.[21] As David Garland clarifies, each penal institution had its own *specific* agency and history that is lost when we try to understand change through an all-encompassing theoretical paradigm.[22] This is why studies of local gaols and their disciplinary customs are an important part of understanding the changing position of the juvenile within the penal framework of the nineteenth century. The magistracy was involved in almost all stages of the juvenile's progression through the judicial system, from trial to punishment, and could not be unaware of the impact that this system had upon the youngest of offenders. No attempt can be made to understand the changing way juveniles were criminalised in this period without

[15] M. Wiener, *Reconstructing the Criminal: Culture, Law, and Policy in England, 1830-1914*, Cambridge 1994, p.8.
[16] D. Garland, *Punishment and Modern Society: A Study in Social Theory*, Oxford 1990, pp.285-286.
[17] Garland, *Punishment and Modern Society*, pp.285-286.
[18] M. Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750-1850*, London 1978, p.210.
[19] Muncie, *Prison Histories: Reform, Repression and Rehabilitation*, p.177.
[20] ibid.
[21] M. Ignatieff, 'State, Civil Society, and Total Institutions: A Critique of Recent Social Histories of Punishment', in *Crime and Justice, Vol.3*, 1981, p.157.
[22] Garland, *Punishment and Modern Society*, pp.285-286.

investigating the way local magistrates, in this case in Shropshire and Staffordshire, dealt with their delinquents in county establishments designed to punish offenders.

These opposing models of historical change often reduce a complex interaction between the beliefs and intentions of those responsible for the prison system at the local level to a narrow dichotomy between paternalistic and retributive motives. William Forsythe has argued that by concentrating on ideas of social control the genuine aspirations of local reformers are denied.[23] The fact that a national penal strategy did not emerge until the later decades of the nineteenth century is testimony to the strengths of local regimes and regional policy.[24] The desire to better the conditions of certain subsets of prisoners was often tied to contradicting ideologies that sought to make prisons as strong a deterrent as possible. For example, in Staffordshire, Prison Governor Captain Fulford was a hard taskmaster who held 'order and regularity' to be the key principles of his prison regime.[25] He went as far as keeping cells lit for inmates during the night to prove the effectiveness of treadwheel punishments.[26] Ultimately, Fulford believed prison could civilise an inmate, even if reformation was beyond them.[27] However, Fulford acknowledged the 'monstrous' shortcomings of sending boys as young as eight years old to gaol for petty offences that could be dealt with by simple 'salutary punishments' such as being denied their supper or physically chastised by their mother.[28] Fulford recognised how difficult it was to implement prison rules and orders on children 'so small and babyish'.[29] In Shropshire, Sir Baldwin Leighton, Chairman of the Sessions and active member of the Gaol Committee, encapsulated the divergent philosophies that a single individual could hold on criminality and prison reform. Leighton had been an original backer of the provision of separate cells for Shropshire Gaol and defended this idea against objections at the local Quarter Sessions that they were injurious to the prisoners' health.[30] He argued that separation of prisoners helped to keep sentences short and allowed the most vulnerable to be separated from contamination.[31] Leighton was in favour of 'a deterrent system of punishment rather than the adoption of reformatory measures' and believed that prison should inflict as 'short and sharp a punishment as possible'.[32] He

[23] W. J. Forsythe, *Penal Discipline, Reformatory Projects and the English Prison Commission*, Liverpool 1991, p.241.
[24] R. Crone, L. Hoskins R. & Preston, *Guide to the Criminal Prisons of Nineteenth-Century England, Vol.1*, London 2018, p.24.
[25] W. Fulford, *On Prison Discipline*, in C. J. Chetwynd Talbot (ed.), *Meliora: or, Better Times to Come*, London 1852, p.148.
[26] He believed he could show how quickly prisoners became pacified and unable to stay awake despite the unfavourable conditions in which they were placed. R. Wynter, *"Diseased Vessels and Punished Bodies": A Study of Material Culture and Control in Staffordshire County Gaol and Lunatic Asylum c.1793–1866*, PhD thesis, University of Birmingham, 2007, p.174.
[27] Fulford, *On Prison Discipline*, p.148.
[28] ibid., p.143.
[29] He went as far as sending the youngest to the women's nursery so that they could be housed with those who had infants. ibid.
[30] *Eddowes's Journal, and General Advertiser for Shropshire, and the Principality of Wales* - Wednesday 18 October 1843.
[31] ibid.
[32] F. C. Childe, (ed.), *Extracts from Letters & Speeches, &c., Of Sir Baldwin Leighton*, Shrewsbury 1875, p.65.

was criticised in an 1845 edition of *The Lancet* for having placed all female prisoners under separation. The article claimed that the 'most depraved to the youngest in crime', were involved in an 'experiment' conducted by the wealthy aristocracy in their 'leisure time' despite women not having the physical endurance to cope with such punishment when compared with men.[33] Notwithstanding this position, Leighton was in favour of reformatory efforts for juveniles. He was part of the sub-committee of the visiting justices appointed to investigate opening a reformatory school for Shropshire and was also a signatory to a declaration at a conference in Birmingham in 1861 for the provision of education for neglected and destitute children.[34] The motivations of those in power cannot be simply defined as either purely punitive or reformative. For Leighton and Fulford, prison was meant to be both a deterrent and an effective punishment, yet both saw the plight of the very young caught within the judicial system as a central issue that needed special measures to be enacted. Whilst penal policy at the local level was informed by national guidance, it was in fact driven by local figures with distinct motivations often tempered by debate at Quarter Sessions where opposing ideologies were aired and competed for dominance. As guardians of the county prisons, the magistrates were uniquely placed to see the consequences of national penal legislation and had some freedom to experiment in its implementation.

5.2 Historical sources

This section largely relies upon locally generated reports from the Governor, Chaplain and Clerk of the Peace who acted as the local administrators responsible for the day-to-day running of the institutions of each county. These were presented to the Quarter Sessions for review and contain information on the logistical changes that were occurring each year in response to increasing numbers of incarcerated criminals. In addition, under the Gaols Act 1823, regular reports were presented to Parliament largely echoing those conclusions and reports provided to the Quarter Sessions.[35] Much of the statistical work in this section is derived from the annual census of the prison population contained within these returns. Examination of the original documents created and held in the local county records clearly reveals that effort and time were taken in their compilation. Furthermore, it would go against the desire of gaol officials, and the overseeing

[33] Although magistrate J. A. LLoyd was keen to emphasis to the sessions in 1843 that no female under the age of 16 was placed in separate confinement, female juveniles in the broadest sense (up to the age of 19) were still subject to this regime; *Eddowes's Journal* - Wednesday 05 April 1843 and *The Lancet*, London 1845, p.465.
[34] Shropshire Archives: *Q/A/2/1/3 Gaol visiting justices report book 1845-1857,* p.184 and 'Conference on Ragged Schools', *Ragged School* Union Magazine, Vol.13, London 1861, p.43. Leighton also appealed to local farmers in Shropshire in 1846 to offer gainful employment for jailed boys in order to keep them out of harm's way. *Shrewsbury Chronicle* - Friday 23 October 1846.
[35] *Parliamentary Papers, Reports and Schedules pursuant to Gaol Acts*. (Hereafter *PP*).

magistrates, of both institutions to under-report these figures because they were pushing for further expansion of their facilities. Any exaggeration of these numbers would also have given the impression, to those who understood them, that crime was unrestrained within a region. Although the reasons given during local debates for their rise may be questioned, these figures largely reflect the reality of the prison populations during the years under investigation.[36] Further statistical work is taken from the reports required under *The Prisons Act 1835*, which coincided with the introduction of nationally appointed prison inspectors. These reports were far more comprehensive than earlier ones, requiring more refined details on prison numbers and revealing specifics of the punishment regime.

Both gaols had conscientious chaplains who made extensive observations in both local and national reports. In the case of Shropshire, the notes recorded by Rev. David Winstone allow a detailed examination of that county's prison population between 1841 and 1843. In addition to these local reports by gaol personnel, there are accounts compiled by the visiting justices, who were a select committee of magistrates responsible for the local oversight of each establishment. These provide insight into the prevailing theories and penal ideology within each county as well as into the attitudes of those who ran these facilities. The analysis is further aided by monthly reporting of the Gaol Committee findings in local newspapers that contain commentaries and descriptions of the often-heated debates generated by the presentation of these records at local Sessions. These newspaper articles further corroborate the accuracy of the locally generated reports, or at least the good faith of those compiling them, and were often questioned in Session to clarify contentious points.

5.3 Historical context

The administration and nature of penal servitude altered immensely between the late eighteenth and mid-nineteenth centuries, and was reflected in the practice of imprisonment in Staffordshire and Shropshire in the 1830s and 1840s. Before the nineteenth century the prison population consisted largely of debtors, vagrants and those awaiting trial: imprisonment was rarely used as a form of punishment itself. This changed as populations soared and the desire to seek formal justice increased. Both counties' magistrates were enveloped within the period's reformatory zeal and

[36] As an annual census conducted on a single day each year, it is not entirely reflective of the prison population within any given year, but over an extended period it can reveal growth in the numbers of juveniles being incarcerated in the given time frame.

participated in the changes recommended nationally. However, the underlying differences in the population and economics of the counties impacted upon the nature of their implementation. As Randall McGowen has advised, it is unwise to focus too closely on the changing macro-level economic, political and social changes that were occurring at the time.[37] Before central regulation in the late nineteenth century, the local county administration often had ultimate influence on the prison environment. Despite central monitoring and advice on penal affairs, English government at this time remained provincial and the ability to adjudicate on matters of punishment and the application of law remained a guarded local principle.[38] Change did not occur smoothly or quickly. It came in successive periods of competing ideologies, often as a compromise between extreme positions.[39] Both counties were early adopters of John Howard's reforms in the late eighteenth century: they were swift to impose classification of prisoners before the Gaol Act 1823 and were early proponents of separation amongst convicts in the following period.[40] In 1841 Shrewsbury was mentioned in the Prison Inspectors' Reports as being one of the first to adopt the American Penitentiary Separate System.[41] As late as 1847, the English penal reformer Joseph Adshead noted that of the 350 gaols he knew of in England, Wales and Ireland, only 28 had undergone some alterations towards implementing the separate system.[42] That two of these were the gaols of the counties under investigation in this study is testament to the proactive management of the magistrates charged with their administration. Such a system may have had detrimental effects, but it was at the cutting edge of penal philosophy and both counties forged ahead with its adoption.[43] The local justices and the appointed governor could influence the extent to which the reforming movement penetrated the organisation of county gaols and impacted on the ordering and division of convicts into separate classes, the character of secondary punishments, and the type of hard labour imposed.

The prison became a repository of general fears regarding the nature of social order in the eighteenth century. Before the reforms of the last decades of that century, gaols were generally seen

[37] R. McGowen, *The Well-Ordered Prison: England, 1780-1865*, in N. Morris & D. J. Rothman (eds), *The Oxford History of the Prison: The Practice of Punishment in Western Society*, Oxford 1998, p.80.
[38] McConville, *English Local Prisons 1860-1900, Next Only to Death*, p.6.
[39] McGowen, *The Well-Ordered Prison: England, 1780-1865,* p.80.
[40] *PP, Fourteenth Report of the Inspectors to Visit the Different Prisons of Great Britain, 1849,* p.iii.
[41] Early and influential experiments in separation had been conducted in Philadelphia in the early 1830s. *PP, Sixth Report of the Inspectors to Visit the Different Prisons of Great Britain III. Southern and Western District, 1841,* p.232.
[42] J. Adshead, *Our Gaol System Deeply Depraving to the Prisoner and a Positive Evil to the Community: Some Remedies Proposed*, London 1847, p.90.
[43] Separation was argued against by more than one magistrate in each county – see below.

as disorganised, filthy, cramped and unhygienic.[44] In reality, few convictions resulted in prison sentences, particularly before the eighteenth century when there were few alternatives between branding or the gallows for those found guilty of a crime.[45] The introduction of bridewells – where enforced work would be used as a corrective measure – and the use of transportation to the Americas in the first three-quarters of the eighteenth century offered a substitute for the punishing regime of the past. As McGowen highlights, this was a shift from punishment of the body as a spectacle towards sentences defined by hard labour or the length of time served in the colonies.[46] Both Staffordshire and Shropshire were keen to adopt the new ideology of the late eighteenth century that would see 'rituals of public displays' of discipline move towards new 'private' means of managing offenders through institutional mechanisms.[47] This proactive embracing of the latest punitive thinking was a key feature of both counties and continued into the nineteenth century.

The magistrate John Howard is often credited as the driving force behind prison reform in *The State of the Prisons in England and Wales*, printed in 1777. Although not its instigator, Howard was responsible for bringing together many strands of the debate and highlighting the prison as the central venue for approaching the difficult questions of reforming the lower orders, focused upon both their bodies and their souls. Punishment could no longer be a public drama, but a spiritual and physical ordeal experienced by the individuals who were separated from society.[48] Howard believed that local officials should have an active role in the administration and regulation of prisons and following the failure of national legislation, such as the Penitentiary Act 1779, to restructure penal systems, it was left to county magistrates to drive through changes recommended by the reform movement. Approximately forty-five prisons were built or rebuilt before the 1790s in a largely uncoordinated effort led by county authorities. However, the thoroughness of the implantation of Howard's recommendations varied from one locality to another.[49] Staffordshire and Shropshire embraced the new prison philosophy with freshly erected structures in 1793. Spatial organisation was key to the ideas of reform proposed by Howard and his endorsement of the architect William Blackburn speaks to the manner in which the buildings themselves could shape and form human

[44] See J. Howard, *State of the Prisons in England and Wales*, London 1777, regarding the 'great error in management' to be found in the gaols of the country; p.7
[45] McGowen, *The Well-Ordered Prison: England, 1780-1865*, p.84.
[46] ibid., p.76. However, transportation to the Americas was not the ultimate solution, and the American War of Independence effectively curtailed its use for over a decade after 1776. The long-term holding of prisoners in the hulk ships moored on the Thames required stricter penal management than that found in local gaols, but their conditions were widely condemned, and they could not hold the growing number of convicted felons.
[47] McGowen, *The Well-Ordered Prison: England, 1780-1865*, p.84.
[48] ibid., p.86.
[49] ibid., p.88.

behaviour.[50] Blackburn believed that he could use space and structure to regulate sociability.[51] The prevention of contamination was a central concept in this new architecture where segregation of the convicted, from the general public and between themselves, meant that hardened criminals were not in close proximity to petty or first-time offenders.[52] In 1792 in Gloucester, Blackburn provided the template for all reformed gaols. He reunited with the builder of Gloucester Gaol, Thomas Cook, to erect the Gaol at Stafford, and this is indicative of the motivation to reform felt by the county magistrates who were responsible for its funding.[53] James Nield, prison reformer and the High Sheriff of Buckinghamshire, held Stafford to be a model example of a reformed prison.[54] Shrewsbury Gaol was also influenced by Blackburn and he chose the site for the new building.[55] It was described as embodying the leading principle of the prison campaigners: its structural purpose was 'to reform (rather) than punish, to prevent future more than to revenge past outrages on society'.[56] This zeal was central to the continuing history of both gaols and it is no coincidence that the calls for reforms in the treatment of juveniles in these establishments came most loudly from those magistrates who supervised their management.

[50] ibid., p.91.
[51] ibid., p.82.
[52] Blackburn influenced more than a dozen facilities in England and was chosen to plan the proposed – but never realised – 1779 national penitentiary. M. P. Roth, *Prisons and Prison Systems: A Global Encyclopaedia*, London 2006, p.36.
[53] Wynter, *"Diseased Vessels and Punished Bodies"*, p.48.
[54] ibid., p.2.
[55] H. Owen, *Some Account of the Ancient and Present State of Shrewsbury*, Shrewsbury 1808, p.430. Although John Hiram Hancock's plans were the ones that were implemented, some features, such as the octagonal chapel, owe their form to previous Blackburn structures. A. Brodie, J. Croom, J. O. Davies, *English Prisons: An Architectural History*, Swindon 2002, p.47.
[56] Owen, *Some Account of the Ancient and Present State of Shrewsbury*, p.434.

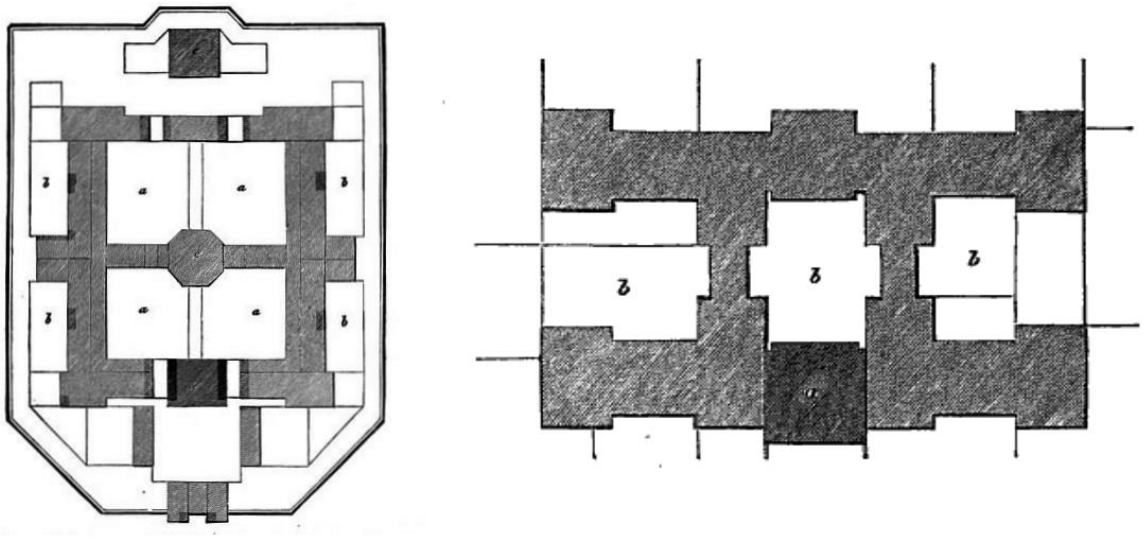

Figure 5.1.Early nineteenth-century block plans of Shropshire Gaol (left) and Staffordshire Gaol (right) c.1826.[57]

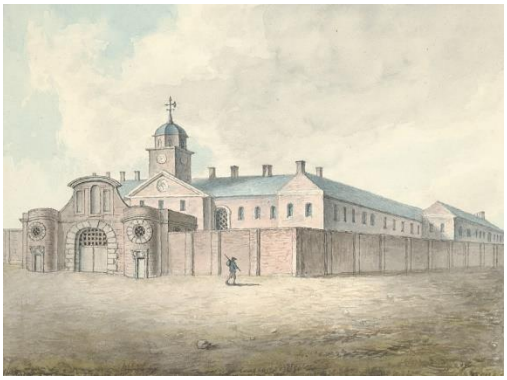

Figure 5.2.1. Shrewsbury Gaol c. 1796 [58]

Figure 5.2.2. Stafford Gaol c.1869. [59]

5.4 Classification and separation of juveniles

Helen Johnston and Rebecca Wynter have written theses on the prison regimes of Shropshire and Staffordshire respectively.[60] Both followed the evolution of penal strategy in their counties up to the midpoint of the nineteenth century. However, neither focused on juveniles exclusively. Nor did they

[57] Anon., The Committee of the Society for the Improvement of Prison Discipline, *Remarks on the form and construction of prisons: with appropriate designs*, London 1826, p.14 & p.11.
[58] Image accessed from Wikimedia Commons, https://commons.wikimedia.org/wiki/File:New_goal_at_Shrewsbury,_1796.jpg, by John Ingleby. National Library of Wales, PD9246, accessed 8/2/23.
[59] Image accessed from Staffordshire Names Index, https://www.staffsnameindexes.org.uk/default.aspx?Index=H. Staffordshire Museum Service, AMS Acc. No., P82.54.32, img: 120 (8/682), accessed 8/2/23.
[60] H. Johnston, *The Transformations of Imprisonment in a Local Context: A Case Study of Shrewsbury in the Nineteenth Century*, PhD thesis, University of Keele, 2003; & R. Wynter, *"Diseased Vessels and Punished Bodies": A Study of Material Culture and Control in Staffordshire County Gaol and Lunatic Asylum c.1793–1866*, PhD thesis, University of Birmingham, 2007.

examine all the available empirical evidence for juveniles for either institution. This is partly due to the lack of direct evidence in local sources, although some conclusions can be garnered by bringing together local gaol officers' reports and the recorded debates presented by Gaol Committees at the Quarter Sessions. In combination with prison inspector reports, this section teases out distinctions in the treatment of juveniles in both counties. This study stands apart from these earlier works as it contrasts two very different regimes that were influenced by the social, political and economic conditions unique to each county and concentrates its focus on juveniles who were perceived to be a group vulnerable to the conditions found in the county institutions and, in Staffordshire's case particularly, as a potential cause of disturbance and disorder.

Howard's late eighteenth-century reforms, and the new prisons, put classification at the heart of their programme, but juveniles were not the total focus of that intent. Howard decried the indiscriminate mixing of prisoners of varying degrees of offence within local gaols as being as dangerous to the inmates' moral health, as unhygienic conditions were to their physical wellbeing.[61] The 1823 Gaols Act formalised Howard's proposals and further created a need for gaols to keep better records and monitor their populations. An awareness of a problem created by a growing number of juveniles in prison was an unexpected result of its enactment. As Margaret May explains, the desire to reduce association and cross-contamination amongst all prisoners helped to reveal the 'special problem' of the young offender.[62] At a local level, magisterial concerns, among those justices responsible for monitoring the gaols, were a more powerful force behind the need for change than nationally organised legislation.[63] Magistrates in Staffordshire had fought for decades to control and separate its growing prison numbers. The visiting justices and chaplaincy were aware of the need to separate the youngest offenders from the more hardened prison population. Internal pressures, such as spatial limitations, growing prison populations and limited funding, often meant that these intentions failed.

Whilst magistrates had limited power in setting the national legislative agenda, they could minimise the impact that gaol had on juvenile offenders by not allowing them to associate with hardened

[61] J. Howard, *The State of the Prisons in England and Wales*, London 1777, p.15.
[62] M. May, 'Innocence and Experience: The Evolution of the Concept of Juvenile Delinquency in the Mid-Nineteenth Century', *Victorian Studies, Vol. 17, No. 1*, 1973, p.11.
[63] Stafford Gaol had been an early adopter of Howard's recommendations for the organising of prisoners into distinct sub-divisions as long ago as 1793, well before the Act of Parliament codified its necessity. *Rules, Orders and Regulations. For the Government of the Gaol, for the County of Stafford. Made and confirmed at the General Quarter Sessions of the Peace, holden at Stafford, in and for the said County, on Thursday, the 17th Day of January, 1793.*

criminals or repeat offenders. In Staffordshire this struggle lasted for over twenty years from the 1820s, before other methods, such as reformatory school places, became available for isolating juveniles from the wider prison population. The 1823 Gaols Act, although lacking support from government in the form of national inspections, impacted upon the organisation of Stafford Gaol. It called for regular inspections of facilities by local magistrates and the classification of prisoners by severity of offence (but not age). By 1824 Stafford Gaol had six separate classes, categorising debtors from those convicted and further separating those awaiting trial, as well as a discrete class for boy offenders.[64] Both those convicted and those pending trial were further subdivided based on the severity of offence.[65] Juvenile boys were treated differently from the other classes. They received religious instruction from the chaplain on a daily basis whilst other prisoners were taught only when they were not required to be in attendance in one of the manufactories in the House of Correction.[66] Overcrowding was a constant pressure that thwarted attempts to keep juveniles from 'contamination' from the other classes, as indicated by reports in 1825 of disturbances in the prison caused by females, debtors and boy offenders.[67] A separate ward for male juveniles was planned in 1825 and a new building with solitary cells for juveniles under 15 was recommended in a report in 1828.[68] By 1831 any hopes of segregation were dashed by the general level of overcrowding. The gaol complex was home to over 400 inmates despite being built to accommodate 160 prisoners in total. Magistrates lamented the lack of establishments for juvenile offenders. Cells originally intended for juveniles were taken over by different classes of prisoners, leading to juveniles sharing a passage for accommodation with other offenders awaiting trial.[69] This prompted plans for an overhaul of the prison facilities which included turning the manufactory into a hospital with facilities

[64] *Staffordshire and Stoke-on-Trent Archive Service QS/B/M/15/2 Draft order setting out the classification of prisoners, Oct 1824. (Hereafter SSTA)*

[65] Wynter, *"Diseased Vessels and Punished Bodies"*, p.59.

[66] *SSTA QS/B M/15/10 Report of the Chaplain to the County Gaol, noting his duties, 20 Oct 1824.*

[67] Wynter, *"Diseased Vessels and Punished Bodies"*, p.74.

[68] *SSTA QS/B/M/16 Report of the Keeper of the Sheriff's Gaol [Stafford County Gaol] and Governor of the House of Correction, giving number of prisoners in custody for different classes of crime, as required by Act 4 George IV cap 64 s 14, 15 Oct 1828* & *SSTA QS/B/M/17 Certificate of the Keeper of the Sheriff's Gaol [Stafford County Gaol] and Governor of the House of Correction of compliance with rules and regulations, as required by Act 4 George IV cap 64 s 21, 15 Oct 1828; SSTA QS/B/M/18 Annual return of the Stafford County Prison, as required by Act 4 George IV cap 64 s 22: state of prison, number of prisoners and officers, employment, etc, Oct 1828; SSTA QS/B/M/19 Copy report of the Clerk of the Peace on the County Prison, as returned to the Secretary of State under Act 4 George IV cap 64, written by Oswald Mosley, chairman of Quarter Sessions, 15 Oct 1828; SSTA QS/B/M/20 Report of the Chaplain to the Gaol Visiting Committee, including note of literacy of prisoners, Oct 1828; SSTA QS/B/M/36 Report of the Gaol Committee, Oct 1828.*

[69] *SSTA Q/SB/E/13 Report of the Gaol Committee, referring to the classes of prisoner in the Gaol: debtors; prisoners charged with felony or misdemeanour; convicts sentenced to the Common Gaol; those committed for want of sureties; prisoners to be examined as witnesses on the part of the Crown; deserters; boys before trial; and the various classes of prisoner in the House of Correction, Apr 1831.*

for male juvenile prisoners.[70] Further attempts were made to isolate boys in 1835 and in 1843 when juvenile males were subdivided into three classes.[71]

Shrewsbury Gaol never saw the overcrowding that plagued Stafford, but there were incidents when the numbers of prisoners far exceeded the capacity of the gaol, although they were far less frequent than in Staffordshire. When overcrowding occurred, ideals for classification could be hindered just as they were in the neighbouring county. For instance, in 1833 the prison swelled to 269 prisoners in a single period. Whilst 70 rooms could accommodate prisoners separately, 29 cells were subdivided to house three prisoners each. Even these measures did not provide adequate accommodation, and 40 prisoners were placed in the infirmary. Furthermore, these conditions prevented hard labour being applied universally, as the grinding mill could no longer accommodate large numbers for hard-labour punishments.[72]

Classification came to be seen as an imperfect solution to contamination amongst offenders, and new stricter principles emerged in the 1830s as part of a national campaign to reassess its use. Classification relied on the nature of the offence committed to divide prisoners, leaving no room for the character of the prisoner to be considered.[73] As one commentator stated in the *Edinburgh Review*, 1849, neither the sentence, nor the crime committed, could reveal the moral character of an inmate. Free association amongst felonious convicts within one classified courtyard saw first-time offenders readily mixing in the company of repeat wrongdoers.[74] This unrestricted mingling of prisoners in the courtyards and day rooms was considered to be the 'very concentration of all that is vitiating and corrupting'.[75] An 1835 *Parliamentary Select Committee* recommended that complete separation in individual cells, except during hours of work or worship, could be the only viable means to prevent contamination.[76] William Whitworth Russell, a member of the 1835 committee, described the day rooms of Stafford Gaol as schools in 'the art and science of crime'.[77] He expressed

[70] *SSTA QS/B/M/25 Report on the state of the Gaol, of the Clerk of the Peace pursuant to the Act 4 George IV cap 64, signed by Oswald Mosley, chairman of the General Quarter Sessions, Oct 1831.*
[71] *SSTA Q/SB M/16 Draft report of the Clerk of the Peace on the state of the County Gaol, under the Act 4 George IV cap 64, 1835 & SSTA Q/SB/M/20 Report of the chaplain to the County Gaol, Oct 1843.*
[72] *PP, Reports and Schedules pursuant to Gaol Act*, 1833, p.198.
[73] S. McConville, *A History of English Prison Administration*, London 1981, p.249.
[74] *Edinburgh Review*, July 1849, p.4.
[75] Adshead, *Our Gaol System Deeply Depraving to the Prisoner and a Positive Evil to the Community*, p.10.
[76] *PP, Report from the Select Committee of the House of Lords appointed to inquire into the present state of several gaols and houses of Correction in England and Wales 1835. P.146*
[77] Russell had been appointed as Chaplain to the national penitentiary at Millbank in 1830. *PP, Select Committee of House of Lords on Gaols and Houses of Correction in England and Wales. First Report; Second Report; Third Report; Fourth and Fifth Reports 1835, p.32.*

strong views on association and its corrupting influence in 1831, in a report to Parliament concerning secondary punishments in prisons, emphasising the danger of the 'most hardened and most inexperienced' being allowed to freely intermingle. The 1835 Committee advocated that silence should be enforced at all times. In addition, it also recommended the appointment of prison inspectors who, while limited in power, had a significant influence on the adoption of more stringent means of preventing corruption amongst prisoners. Silence and separation became competing strategies in Stafford and Shrewsbury: whereas silence became the norm in Stafford, Shrewsbury became an early adopter of the separate regime. Whitworth Russell, alongside another committee member, William Crawford, was a strong proponent of the separate system.[78] In 1833 Crawford had studied the arrangements enacted in American penitentiaries.[79] Both Whitworth Russell and Crawford argued that systems of separation and systems of silence were mutually exclusive modes of control. The two systems had often been implemented separately in American prisons. Neither believed that any system that placed silence above separation would be an effective means of discipline, being difficult to implement rigidly in associated courtyards. In addition, enforced silence within a prison properly set up for separate cells would lead to a drastic increase in secondary punishments in order to implement it effectively. They therefore recommended, and bullishly promoted, separation over systems based on silence, as the true means for imposing discipline and order within gaols.[80] Their influence was secured after their appointments as prison inspectors in London and the Home Counties in 1835.[81]

The separate system was not regularised until the 1839 Prison Act, but experiments in both counties were underway before this time. In Stafford, despite the misgivings of Crawford and Russell, enforced silence had been adopted for many months by 1835.[82] Furthermore, a report in 1837 stated that it had led both to orderly prisoners and to an improvement in education of male juvenile prisoners.[83] Despite the desire of the Gaol Committee to enforce silence at all times, the rules and regulations presented to Chief Justice Tindal and Baron Gurney were considered 'too severe' to ratify in full. Instead, prisoners were allowed to converse under supervision for an hour and a half a day.

[78] Crawford had been a founding member and secretary of the Society for the Improvement of Prison Discipline and Reformation of Juvenile Offenders in 1815. The Society became a leading critic of the informal prison systems of the early nineteenth century, arguing for a rational and uniform system of deterrence to be enacted. B. Forsythe, Oxford Dictionary of National Biography, https://doi.org/10.1093/ref:odnb/6646, accessed 7/7/20.
[79] C. Emsley, *Crime and Society in England*, Harlow 2010, p.285.
[80] *Extracts from the Second Report of [William Crawford and Whitworth Russel] the Inspectors of Prisons for the Home District, 1838,* p.7.
[81] Forsythe, Oxford Dictionary of National Biography, https://doi.org/10.1093/ref:odnb/73632, accessed 7/7/20.
[82] *PP, Reports and Schedules Pursuant to Gaols Acts*, 1836, p.135
[83] *PP, Reports and Schedules Pursuant to Gaols Acts*, 1837, p.135.

They were to be divided collectively into two groupings, with each half allowed alternate days of communication.[84] General William Dyott, a 'Tory of the old school', was appointed to the Stafford Gaol Committee in 1819.[85] He wanted to halt the spread of moral contamination and was an earnest believer in the need to curtail open communication between prisoners.[86] In 1828 Dyott had written in his diary his desire to make prison life as 'irksome and lonely to the individual as possible'.[87] He believed in 'solitary confinement, corporal punishment and the strictest discipline' more than in attempts at classification as a means of reforming prisoners.[88] Dyott revealed that Thomas Brutton was his preferred candidate for governor of the gaol, a strict disciplinarian who was known to enforce solitary punishment from his time as governor of Devizes House of Correction.[89] Brutton implemented enforced silence throughout Stafford Gaol during the 1830s.[90] Overcrowding ultimately made controlled association between convicts during the day difficult throughout the early 1840s and attempts to keep prisoners separate at night were hampered by the volume of prisoners, with three beds allocated to a single cell if intake was high.[91] An ever-expanding prison population was a constant hindrance in the application of new experiments in prison discipline for the Staffordshire magistrates.

By the 1840s magistrates in Staffordshire began to investigate a more complete use of separation as a means of enacting prison discipline. In 1841 the Gaol was deemed too small to enact true separation: its maximum capacity was for 320 prisoners but the general average occupancy was around 500.[92] Royal Engineer, Captain Joshua Jebb, was consulted on the proposal for an additional oblong block to accommodate an extra 292 cells.[93] These cells were completed in 1847, although the magistrates' proposals that they be used as separate cells, and their eventual implementation towards this system of prison discipline, was not universally accepted at the Staffordshire Quarter Sessions. Its application was strongly debated during Sessions in 1846 by both proponents and critics: Captain Powys of the Gaol Committee reported on his visit to Shropshire Gaol where its

[84] *Staffordshire Advertiser* - Saturday 04 January 1834.
[85] As described by the editor of his diaries in W. R. Jeffrey (ed.), *Dyott's Diary, 1781-1845 (Volume 1); A Selection from the Journal of William Dyott*, London 1907, p.xxi.
[86] Wynter, "*Diseased Vessels and Punished Bodies"*, p.73.
[87] Jeffrey, *Dyott's Diary, 1781-1845*, p.27.
[88] Solitary confinement was a more severe form of isolation than proposed compared to the separation championed by later reformers. William Dyott cited in Wynter, *"Diseased Vessels and Punished Bodies"*, p.176.
[89] Wynter, *"Diseased Vessels and Punished Bodies"*, p.176.
[90] ibid.
[91] *PP, Reports and Schedules Pursuant to Gaols Acts*, 1844, p.183.
[92] *Staffordshire Advertiser* - Saturday 10 April 1841.
[93] Jebb was behind the plans for the model separate system prison of Pentonville, built in 1842. *Staffordshire Advertiser* - Saturday 08 January 1842.

implementation had left him with the impression of its 'beneficial effects'.[94] Magistrate Dr. William Harwood felt that it was wrong that untried prisoners should be forced into separation but was countered by Lord Sandon who observed that at Preston and Reading it was far more beneficial for untried prisoners to be held in this manner than face the evils of free association with repeat offenders, especially where juveniles mixed with hardened criminals.[95]

Further debate was exemplified by the views of Major William Fawkener Chetwynd.[96] Chetwynd expressed his concerns before the new block was even completed. He objected to the new building being laid out along lines that echoed the construction of Pentonville, particularly if this meant holding prisoners awaiting trial in seclusion for up to four months. This meant that detainees who were potentially innocent would be held in harsh conditions with no hope of being taught any useful trade in so short a time.[97] Even after completion of the building, Chetwynd declared that no supporter of separation could point to a 'single case in which reformation had resulted from it'.[98] Justice Reverend Talbot took the opposing view in a series of exchanges in 1847.[99] He reported that recidivism was down with only 8 reoffenders out of 700 who had been put under the separate system in the new cell building. [100] In 1852 Chetwynd believed himself to be vindicated in his opinion, as crime had not measurably fallen, and he contended that even the strongest supporters of the system in the gaol could not argue that it had met their expectations.[101] Margaret DeLacy observed similar local debate and interaction between opposing perspectives in Lancashire. There the Chaplain, Reverend Jon Clay, was a strong supporter of the separate system, recommending it to the Lancashire bench as early as 1834, although due to resistance from the local justices he was not able to implement his plans until 1841 and then only on a limited scale.[102] The debate in Staffordshire on the efficacy of separation, and its ability to offer reform, demonstrates that there

[94] *Staffordshire Advertiser* - Saturday 10 January 1846 – Staffordshire Magistrates were not the only justices to visit Shrewsbury Gaol and see the new system in action; the Middlesex Magistrates conducted their own investigation in 1842 into the efficacy of the system as conducted at Shrewsbury, looking favourably on the benefits, *The Evening Chronicle* - Friday - 14 October 1842.
[95] *Staffordshire Advertiser* - Saturday 10 January 1846.
[96] Twice a Liberal MP for Staffordshire in the 1830s, who held the Chair of the Gaol Committee in that decade. E. Walford, *The County Families of the United Kingdom: Or, Royal Manual of the Titled and Untitled Aristocracy of Great Britain and Ireland*, London 1871, p.203.
[97] *Staffordshire Advertiser* - Saturday 12 April 1845.
[98] *Staffordshire Advertiser* - Saturday 03 July 1847.
[99] Reverend Talbot was a son of the 2nd Earl Talbot.
[100] Chetwynd countered that in other prisons, such as Reading, recidivism had in fact increased and again argued that it did not provide the means to reform even one offender. Talbot responded that Reading made a poor example as it had done away with its treadwheel and that its overall discipline was so poor that prisoners welcomed a return to it. *Staffordshire Advertiser* - Saturday 23 October 1847.
[101] *Staffordshire Advertiser* - Saturday 03 July 1852.
[102] M. DeLacy, *Prison Reform in Lancashire, 1700–1850: A Study in Local Administration*, Stanford 1986, p.241.

was no one unified position amongst magistrates regarding prison discipline. They were often keen to adopt governmental recommendations where they meshed with their own desires to impose order and control, but this was not universally accepted by all those in local government as necessarily being the best strategy available. Dissenting voices questioned how humane or useful these strategies really were in reforming convicts.

Any view that saw separation as injurious to juveniles was dismissed by some magistrates. Shortly after the new building was certified in 1847, two boys were reported to have 'pretended' suicide rather than face a period in confinement alone. In official reports this was presented as juveniles attempting to gain 'benefit' of some kind from their actions, in full knowledge that they had no intention of carrying out their deed.[103] One of the boys had previously endeavoured to hang himself at Millbank and encouraged the other boy to attempt suicide the day after his own failed effort at Stafford. This incident was even used to promote separation further by Gaol Committee member Reverend Talbot, who believed that if the boys had been kept separate from each other in class then the one could not have influenced the other.[104] However, Major Chetwynd was vocal in his concern about the effect of separation on attempted suicides.[105] Evidence from Pentonville Penitentiary, provided by Chaplain Joseph Kingsmill, emerged regarding mental disturbances in inmates potentially induced by long periods of seclusion.[106] However, the misgivings of troubled juveniles towards separation were easily dismissed as another facet of their general delinquency. Recidivism was a key component around the enaction of separation for juveniles in Staffordshire, with Talbot arguing later in 1850 that in the previous 4 years since the new wing opened – only 63 of 378 boys committed to it had reoffended, and those who had were previously held in the gaol under the old system.[107] Despite this, the ability of separation to discipline juveniles was once more questioned by the visiting justices in 1854. Recommittals for juveniles were considered high at 33% but separation could not be 'kept in its integrity' in Stafford due to the hours juveniles spent in school, and although they were not allowed to communicate, they were in sight of each other during tuition.[108] The debate about separation continued beyond the scope of this study, but it indicates the awareness by magistrates that juveniles required a different form of punishment than the rest of the prison population. This informed later attempts to change the way this age grouping would be penalised.

[103] *PP, Reports and Schedules Pursuant to Gaols Acts*, 1847, p.200.
[104] *Staffordshire Advertiser* - Saturday 09 January 1847.
[105] ibid.
[106] U. R. Q. Henriques, 'The Rise and Decline of the Separate System of Prison Discipline', *Past and Present*, No.5, 1972, p.86.
[107] *Staffordshire Advertiser* - Saturday 05 January 1850.
[108] *Staffordshire Advertiser* - Saturday 07 January 1854.

While the efficacy of these attempts is not the subject of this thesis, they do challenge any notion that the magistrates were unaware or unthinking towards their youngest charges. The debates on this issue were passionate and free-flowing, occurring over many years and encompassing many forms of evidence both personally observed and absorbed from external reports. The magistrates of Staffordshire were active participants in the criminalisation and punishment of the youngest offenders, and they were central in later efforts to challenge the system of juvenile punishment and imprisonment in the 1830s and 1840s.

Shrewsbury Gaol was laid out with the philosophy of classification as a founding principle.[109] Nevertheless, Shropshire Magistrates were also quick to adopt strategies of separation in their efforts to amend prisoners' behaviour. They experimented with silence for some years before it was observed by the first Prison Inspectors' Report of 1836, although it noted that the level of staffing meant that it was unlikely to be always enforced.[110] Talks on the benefits of a limited experiment favouring separation began in 1835 but it was eventually implemented on the recommendation of the Home Secretary, Lord John Russell, in 1837. Shrewsbury became the first gaol in the country to have its cells certified for separation under the Prison Act 1839 and it was considered to be a testing ground for the new system.[111] The chaplain reported in 1839 that separate cells helped to soften the hearts of those incarcerated and made them receptive to religious guidance.[112] The power of local magistrates to pursue their own agendas and beliefs in penal reform is evident in the Shropshire magistrates' approach to separation. As Shropshire Gaol had little facility to implement separation, one specific class was selected to benefit from its application rather than indiscriminately taking offenders from various classes. Governmental inspectors recommended that untried prisoners held for the Sessions should be kept apart from the wider prison population, whereas the local magistrates believed that those under summary conviction would find greater benefit in separation. The visiting magistrates believed that summary offences were almost always mild in nature, whilst those awaiting trial could be potentially guilty not only of repeat offences but also of more serious crimes and, as a result, would already be contaminated beyond redemption.[113]

[109] G. C. Baugh, (ed.), *A History of Shropshire*, in *The Victoria History of the Counties of England, Vol.3*, Oxford 1979, p.126.
[110] *PP, First Report of the Inspectors Appointed to Visit the Different Prisons of Great Britain, III. Southern and Western District*, 1836, p.58.
[111] *PP, Tenth Report of the Inspectors Appointed to Visit the Different Prisons of Great Britain, III. Southern and Western District*, 1845, p.iv.
[112] *PP, Reports and Schedules Pursuant to Gaols Acts*, 1840, p.137.
[113] *PP, Reports and Schedules Pursuant to Gaols Acts*, 1838, p.134.

Shropshire witnessed a similar discussion about the efficacy of separation to that in Staffordshire. The chaplain, David Winstone, reported to the Sessions on the benefits of separate cells in Shrewsbury Gaol. In 1843, after 35 of the cells had been used for three and a half years, the Chaplain reported on the 'moral improvement' that had occurred and that they had not 'injuriously affected' the minds of those held in them.[114] Again, in 1846, he passed on his 'commendation of the separate system' in his monthly statement.[115] By 1852, in his final report before retiring, he softened his position saying that if those incarcerated in such a means were not able to be fully reformed they were at least protected from becoming 'more vicious and criminal'.[116] Opposition at the Shropshire Quarter Sessions was led by Robert Aglionby Slaney MP. Slaney represented Shrewsbury on various occasions between 1826 and 1862.[117] He was initially concerned with the separation of female prisoners and believed in 1843 that such a means of discipline would be a 'fearful punishment to them', particularly if they were of a tender age.[118] Baldwin Leighton countered that females were more likely to reoffend than males and so were most ripe to the benefits of separate confinement, and that the longest term of separation he had witnessed was for a female murderess who had passed two years in this condition, with no injury to her health.[119] Slaney was equally concerned that if prisoners were not allowed exercise, then separation would be no different from solitary confinement: he claimed that Shropshire was the only county that did not accommodate outdoor exercise for its separate prisoners.[120] The gaol had been condemned for this in the Government Inspectors' reports of 1845, which emphasised that this practice was dangerous to the prisoners' health.[121] Although a prison courtyard was later subdivided for this purpose, Slaney was stronger in his condemnation by 1846, believing that 'persons could not be regenerated by these means'.[122] Winstone confirmed the impression that separation was a harsh form of discipline by acknowledging that one month in separation was as severe as two months spent in the associated courts.[123] The

[114] *Eddowes's Journal* - Wednesday 05 April 1843.
[115] *Eddowes's Journal* - Wednesday 21 October 1846.
[116] *Shrewsbury Chronicle* - Friday 22 October 1852.
[117] He was a strong supporter of improving the conditions of the labouring classes and was celebrated by the Duke of Richmond for his 'benevolent exertions to ameliorate the condition of the poor'. E. Clarke, revised H. C. G. Matthew, Oxford Dictionary of National Biography, https://doi.org/10.1093/ref:odnb/25713, accessed 28/8/15.
[118] *Eddowes's Journal* - Wednesday 05 April 1843.
[119] ibid.
[120] *Eddowes's Journal* - Wednesday 18 October 1843.
[121] *PP, Tenth Report of the Inspectors Appointed to Visit the Different Prisons of Great Britain, III. Southern and Western District*, 1845, p.iv.
[122] *Eddowes's Journal* - Wednesday 21 October 1846.
[123] ibid.

contradictions involved in this debate were exemplified by Baldwin Leighton who saw no danger in separating women but believed that boys in separation would not stand up to such confinement.[124]

Separation in Shropshire Gaol was only ever piecemeal, given the limited number of cells, but the chaplain was recorded in 1839 as believing that delinquents benefited from a short stay in them before freely associating with the wider prison population.[125] At least two boys were recorded in a report of 1843 by the Clerk of Peace, on the effect of separate cells on weight loss. Both were shown to have gained weight, further enforcing the idea that such punishment was not detrimental to young offenders.[126] However, the Prison Inspectors' Report of 1845 claimed that boys of a certain age were felt to be unsuitable for separate confinement by the gaol management: the inspector found that an 11-, 12- and 13-year-old who had been convicted were kept with adult convicts, despite the obvious chance of contamination, which was felt to be less severe than the harm that separation might inflict.[127] According to the visiting justices' records, by the 1850s the total separation of juveniles from the wider prison population was not desired by the presiding magistrates of Shrewsbury Gaol.[128] A circular from the Philanthropic Society in 1851 recommended the complete segregation of juveniles from other classes of prisoners. However, the magistrates felt that this would lead to a mixing of hardened and first-time young offenders, and that the small number of vulnerable youths could be more effectively divided amongst appropriate adult offenders who, it was believed, would have a far less dangerous impact than repeat wrongdoers of the same age.[129] The Prison Inspectors' 1856 report also stated that the separate confinement of juveniles of a 'tender age' was unsuitable in the gaol and lamented the lack of a county reformatory establishment that could take them.[130]

The struggle to impose order was often tempered by a concern for vulnerable sections of society in both Staffordshire and Shropshire. The question regarding which groups were considered vulnerable

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[124] *Shrewsbury Chronicle* - Friday 03 January 1851. Separation further highlighted the special nature of juvenile prisoners and was a spur for Leighton's search for a reformatory method of dealing with delinquent youths which coincided with the experiments in disciplinary correction. This topic is explored in Chapter 7.
[125] *PP, Reports and Schedules Pursuant to Gaols Acts*, 1840, p.137.
[126] *PP, Reports and Schedules Pursuant to Gaols Acts*, 1843, p.149.
[127] The same report noted an 18-year-old being removed from the separate cells after a series of fits, implying that only the very young were given dispensation from separate confinement, unless physical illness made them unsuitable. *PP, Tenth Report of the Inspectors Appointed to Visit the Different Prisons of Great Britain, III. Southern and Western District*, 1845, p.7.
[128] *Shropshire Record Office Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*
[129] SHRO *Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*
[130] *PP, Twenty First Report of the Inspectors Appointed to Visit the Different Prisons of Great Britain, III. Southern and Western District*, 1856, p.59.

was open to debate. For example, women represented a greater moral danger than any other subset of inmates. As Wynter points out for Staffordshire, women were often judged the 'most reprehensible' of criminals.[131] The influential reformer Mary Carpenter, despite her pity for female prisoners, condemned them by claiming that they had enlisted 'on the side of evil' and were far more 'dangerous to society than the other sex'.[132] In Shropshire, as has been noted, Slaney argued for women to be exempt from separate confinement. He claimed that men were of 'robust constitution' and had 'lethargic habits' compared with women, who were 'superstitious' by nature and unsuitable for night-time confinement alone.[133] Clearly magistrates wanted to reduce contamination amongst prisoners. Separation offered them a solution, but its reformative qualities were often questioned as was its suitability for all convicts. Although the punishment of women was a contentious issue, juveniles became an almost universal focus of anxiety vis-à-vis the impact of separation. This was no more evident than in Staffordshire and Shropshire where the discourse regarding the appropriate prison regime for juveniles was debated for many years.

5.5 Demographics of Staffordshire and Shropshire Gaol

The numbers of juveniles in gaol were indicative to magistrates of the growing problem surrounding their criminality and any increase was taken as a sign that the crisis was worsening. Figure 5.3 shows the percentage of the prison populations of both counties under the age of 17 from 1826 to 1839 and under the age of 16 from 1840-1847.[134] Whilst these averages do not give an overview of the total numbers passing through prison, they nevertheless provide a flavour of the relative growth that occurred amongst juvenile committals.[135] Although the total numbers were relatively small compared with those of London, Staffordshire had a rising problem on its hands. The increases in prison occupancy in Shropshire were more modest in comparison and later in date, occurring in the 1830s rather than 1820s. This may be tied to Peter King's assertion that indictable crimes committed by juveniles began to rise in rural contexts later than in counties with larger urban areas.[136] Given

[131] Wynter, *"Diseased Vessels and Punished Bodies"*, p.110.
[132] Mary Carpenter quoted in L. Zedner, 'Women, Crime, and Penal Responses: A Historical Account', in *Crime and Justice, Vol. 14*, 1991, p.321.
[133] *Eddowes's Journal* - Wednesday 05 April 1843.
[134] These figures were obtained from the central parliamentary papers under the schedules required for each county to provide an annual census of the prison population. *PP, Reports and Schedules Pursuant to Gaols Acts*, 1826-47. The definition of juvenile was fluid and subjective throughout this period in both informal literature and in governmental reports. See *Eddowes's Journal* - Wednesday 18 October 1854 – where magistrate Wylde Brown was questioned regarding a report into juvenile delinquency presented at Shropshire Quarter Sessions that gave 17 and under as the cut-off for juveniles in contrast to the official government position of 16 and under.
[135] A three-year moving average has been applied to smooth out fluctuations to show the general trend over the period.
[136] P. King, 'The Rise of Juvenile Delinquency in England 1780-1840: Changing Patterns of Perception and Prosecution', *Past & Present, No.160,* 1998, p.128.

the difference in urban concentrations between the two counties this may be a factor determining Shropshire's later rise in prison populations for the young. Neither sets of data continue after the introduction of the Juvenile Offenders Act in 1847, but the increases over the period were probably caused by an increased use of summary justice, particularly in the case of Staffordshire. The problem was significant enough for a separate resolution at the 1828 Quarter Sessions in that county to highlight the 'alarming increase' in criminality, especially amongst those of 'tender years'. Total committals for juveniles aged under 15 more than doubled between 1825 and 1827 to 87 and almost doubled to 164 for the same period for those aged between 15 and 20 years.[137] The magistrates believed that legislation would have to be passed by central government if this situation was to be resolved. This did not come until the late 1840s and its impact on committals may have been the reverse of that expected by its proponents.

Figure 5.3. Three-year moving average of the percentage of prison population under the age of 17 (1826-1839) and under 16 (1840-1847) in Staffordshire and Shropshire during the yearly Michaelmas prison census.[138]

A quarterly survey conducted by the Shrewsbury prison chaplain from 1841-1843 builds a granular picture of the age groupings in the Gaol. The chaplain, Rev. David Winstone, documented new

[137] *SSTA Q/SB/A/6/3 Resolution of magistrates relating to the alarming increase in crime and the petition to both Houses of Parliament, Jan 1828.*

[138] *PP, Reports and Schedules Pursuant to Gaols Acts*, 1826-47.

committals for each three-month period, taking note of those aged 14 and below and from 15 to 20 years of age, alongside the older intake.[139] Between 2% and 5% of new intakes were aged below 15 in the two-year period, while those aged between 15 and 19 constituted 17% to 23%. Female prisoners under 15 years of age committed during this period amounted to no more than 1 or 2 persons per quarter, whereas the greatest intake of females aged between 15 and 19 was 17 persons at the end of 1842. The greatest number of males under 15 committed in a single period was 11 persons and the highest number of prisoners aged between 15 and 19 was 54. These numbers correlate with the yearly census provided to national government. The visiting justices noted in 1850 that in the previous five years the average yearly number of offenders under 16 years of age was around 75.[140] Juveniles were most likely to be committed for short sentences and so the turnover through the prison was likely to be very high, with no more than between 10 and 20 of the youngest being present in the Gaol at any one time. Figures 5.4 and 5.5 show that committals for those under 15 years of age were relatively consistent throughout the year: most juvenile committals were for theft, and it was expected that the number would rise towards the cold months of the year if lack of employment was a cause of offending. Juvenile opportunities for employment were always low except in those parts of the county with high manufacturing or industrial occupations, but neither activity was dominant in Shropshire. Coalbrookdale once boasted a coal and iron industry that contracted in the 1810s and had largely dwindled into insignificance by the 1870s.[141] Consequently, there were few seasonal influences to promote a rise or fall in committals across the recorded time frame.[142] Without the pressures of population and committals that plagued Stafford, the Shropshire magistrates were able to practise a targeted means of keeping their youngest charges from being contaminated by seasoned offenders.

[139] SHRO *Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*
[140] ibid.
[141] A. Birch, *Economic History of the British Iron and Steel Industry*, London 1967, p.148.
[142] Interestingly, there was a peak in committals for adults (aged 20-40) through the summer of 1842, which is noted by the chaplain in his report to the visiting justices. He believed that disturbances in the mining and colliery districts had led many able-bodied working men to wander the county as vagrants. SHRO *Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*

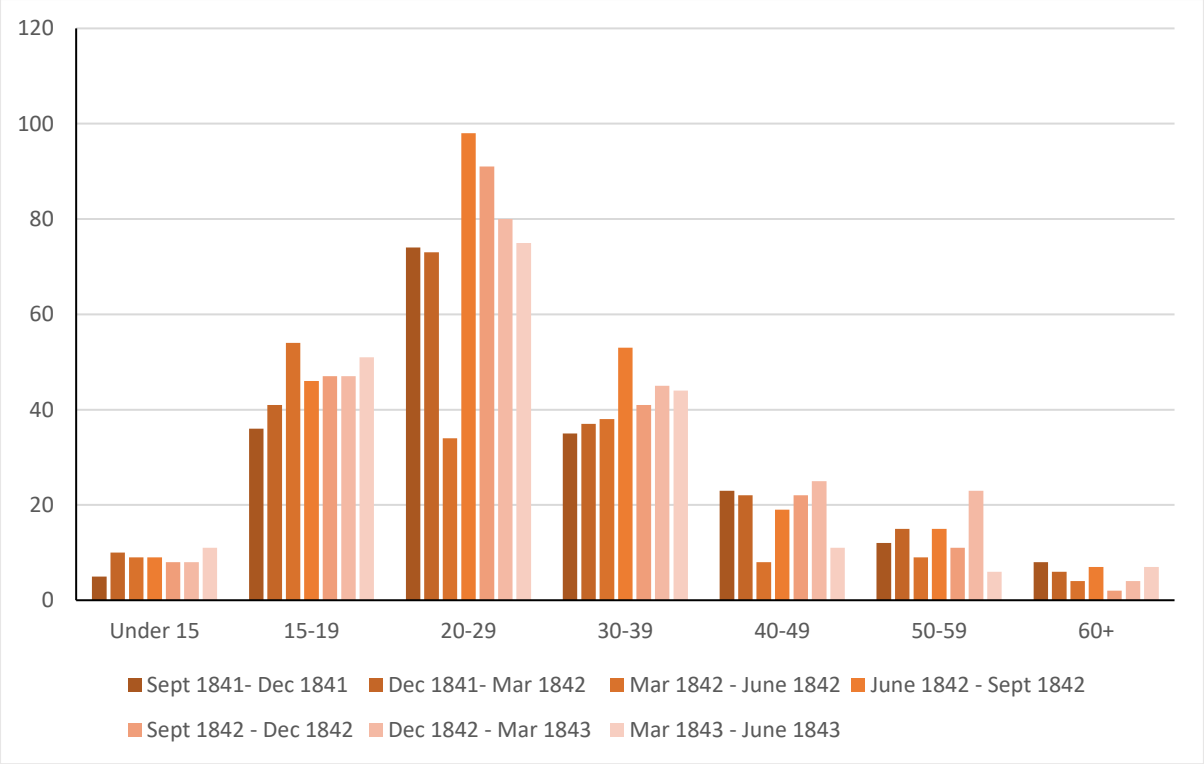

Figure 5.4. New male committals, grouped by age, to Shrewsbury Gaol as recorded quarterly by the Gaol Chaplain. Sept 1841 - June 1843.[143]

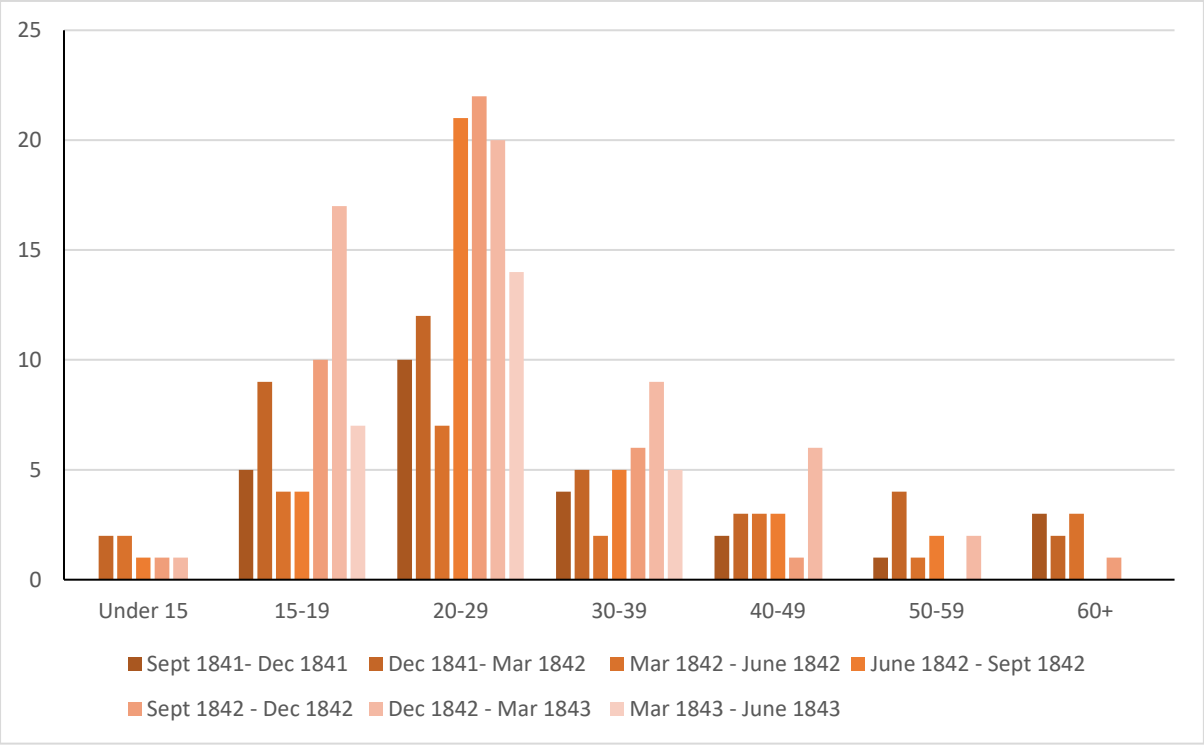

Figure 5.5. New female committals, grouped by age, to Shrewsbury Gaol as recorded **quarterly** *by the Gaol Chaplain. Sept 1841 - June 1843.*[144]

[143] SHRO *Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*
[144] SHRO *Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*

5.6 Secondary punishment

Classification, and later separation, played a part in controlling and ordering the lives of those incarcerated. They functioned alongside other strategies such as the strict regulation of diet, the structuring of time and the movement of prisoners through the space of the prison. If a prisoner infringed the strict codes surrounding these controls, or was generally unruly, they then faced having a secondary punishment imposed. This could take the form of being placed in irons; whippings; stoppages of diet; periods of hard labour; or being placed in solitary cells, both lit and unlit.[145] Some MPs, in a debate in 1839, were keen to stress the distinction between separation and solitary confinement. Sir John Pakington believed that there was little difference between the two.[146] Lord Russell made it clear to the House that those held in separation were not meant to be kept in solitude for twenty-four hours of the day. During the day they worked alongside their fellow prisoners, although they were not free to associate. They were also visited by the schoolmaster, officers of the prison and the chaplain during their hours of separate confinement.[147] Separation was to be a tool of reform whereas solitude was a tool of punishment. Solitary confinement became important for controlling the prison populations of both Staffordshire and Shropshire, and juveniles were subject to its application, although it was utilised to differing degrees by the two counties.

In Stafford, solitary cells were eagerly embraced to control recalcitrant prisoners: both Gaol Committee member, General Dyott, and the Gaol Governor, Thomas Brutton, were strong supporters of this punishment. As governor of Devizes House of Correction, Brutton had confined prisoners for up to a year at a time and Dyott proposed the construction of eight new solitary cells for Stafford Gaol in 1828.[148] Due to the severity of solitary punishment, sentences could be reduced to help alleviate overcrowding.[149] For this study, the collated governmental inspectors' reports reveal the extent of this form of punishment for each county. Figure 5.6 shows that in Staffordshire a maximum of no more than 20% of male juvenile committals within a single year received a secondary punishment involving a period of isolation. Conversely, female juveniles were far more likely to receive this form of punishment. Female juvenile numbers were always low in Stafford Prison (approximately 45 persons on average per year for the whole period, which was around a fifth of the

[145] Wynter, *"Diseased Vessels and Punished Bodies"*, p.144.
[146] He was responsible for introducing the bill for the extension of summary justice to juveniles under the *Juvenile Offenders Act 1847* and was both an MP for Droitwich and a serving magistrate at the Worcester Sessions.
[147] J. H. Barrow, *Mirror of Parliament, Volume 3*, London 1839, pp.2149-2153.
[148] Wynter, *"Diseased Vessels and Punished Bodies"*, p.177.
[149] ibid., p.178.

numbers of male juveniles committed). It appears as if a large proportion of female juveniles between 1841 and 1845 were actively punished with solitary confinement, possibly as a strategy of reform as much as punishment, although no mention of these high proportions – nor of any need to target them – is made in the gaol reports. This may well have been one of the few effective forms of punishment, because whipping was never used on female prisoners. Lucia Zedner notes that both prison officials and governmental inspectors bemoaned the limited range of punishments permissible against female prisoners because their femininity excluded them from severe physical sanctions.[150] Staffordshire juvenile females also saw increased usage of 'dark cells' over their male counterparts. Dark cells were entirely unlit and were a harsher form of solitary confinement.[151] The dramatic decrease in solitary punishment after 1850 for both sexes is attributable to a change in governorship during a period when juvenile solitary punishments were only decreasing slowly in the rest of England. Nationally, 10% of male juveniles were still being reprimanded in this way in 1854. This again demonstrates that despite the increasing desire by central government to regulate and standardise countrywide penal regimes, local officials had the greatest impact on the way local gaols were run. Captain William Fulford became the Stafford prison governor in 1849. His position on the silent system was far less strict than Brutton's, who used solitary confinement as a means of enforcing any slight infraction.[152] Home Secretary, Lord Russell, believed that to impose total silence for separated inmates was practically impossible without resorting to further secondary punishments to maintain order.[153] In 1834 Brutton told a Select Committee on Gaols that silence was strictly enforced at night and not broken because of the surety of the punishment being imposed.[154] Fulford admitted that the separate system had been 'modified' under his stewardship and precautions had not been taken to make it impossible for one or two words to be passed between prisoners.[155] This decrease in solitary confinement was replicated amongst male adult prisoners in Stafford where the practice fell to equally low levels after Fulford's appointment. Fulford was no less strict than Brutton when it came to overall discipline; in fact, he was known as a forceful proponent of hard labour and gave evidence before the Carnarvon Committee in 1863 which was strongly in favour of treadwheel punishment.[156] Stoppage of diet became Fulford's choice for punishing juveniles in the five years after his governorship began.

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[150] L. Zedner, *Women, Crime and Custody in Victorian England*, Oxford 1991, p.169.
[151] A. Griffiths, *Memorials of Millbank, and Chapters in Prison History, Vol.1*, London 1875, p.135.
[152] Wynter, *"Diseased Vessels and Punished Bodies"*, p.181.
[153] Barrow, *Mirror of Parliament*, pp.2149-2153.
[154] *Select Committee of House of Lords on Gaols and Houses of Correction in England and Wales. First Report; Second Report; Third Report; Fourth and Fifth Reports 1834,* p.245.
[155] Fulford, *On Prison Discipline*, p.146.
[156] McConville, *English Local Prisons, 1860-1900: Next Only to Death*, p.114.

In Shropshire, a similar pattern of diminishing solitary punishments occurred after 1850 (Figure 5.7). Solitary confinement was more likely to be used against male juvenile prisoners in this county. The numbers of female prisoners during the period were small in Shropshire in comparison with Staffordshire and subsequently there were many years where no solitary punishments for female juveniles were recorded. Dark cells were sporadically used for male juveniles, largely during the 1840s, probably coinciding with the sudden increase in juvenile male prisoners during this period. Although solitary confinement for adult prisoners decreased at the same rate, it was employed in significant numbers in the county in 1853. In contrast to Staffordshire, the decline in solitary punishments in Shropshire did not coincide with an increase in a stoppage of diet, which also fell throughout the 17-year period for which records are available. The overall decrease in secondary punishments used against juveniles in this county may be attributable to the growing sensitivity shown by the Visiting Magistrates at this time towards treating this vulnerable age grouping. In 1851 they considered a period of separation for juveniles, concluding that isolation would not be beneficial for the 'intellect' of the offender.[157] An informed belief that solitary confinement was injurious to prisoners' general wellbeing and health emerged at this time when reports in *The Lancet* medical journal claimed that it increased mortality rates amongst convicts.[158] Evidence from the juvenile penitentiary at Parkhurst further revealed the unsuitability of extended periods of solitary confinement for the very young, as lameness and stiffness of joints were reported when they were confined in this manner for more than three months.[159] Sergeant Adams, chair of the Middlesex Quarter Sessions, told a select committee that his experience on a visit to Parkhurst in 1847 led him to believe that long periods of solitary confinement for boys were counterproductive by making them more sullen and in some cases it caused 'great mental irritation'.[160] It is likely that the Visiting Magistrates, who were seemingly fully conversant with the problems engendered by this sort of punishment and fully engaged in finding a solution to juvenile incarceration, began to lessen its role in secondary punishments in Shropshire at the same time as it was being reduced for differing reasons in Staffordshire.

[157] SHRO *Q/A/2/1/3 Gaol visiting justices report book 1845-1857*, p.110.
[158] *The London Lancet: A Journal of British and Foreign Medical and Chemical Science, Criticism, Literature and News, Volume 10*, London 1849, p.325.
[159] H. Phibbs Fry, *A System of Penal Discipline: With a Report on the Treatment of Prisoners in Great Britain and Van Dieman's Land*, London 1850, p.22.
[160] *Select Committee of House of Lords on execution of Criminal Law (Juvenile Offenders and Transportation), Second Report, 1847*, p.15.

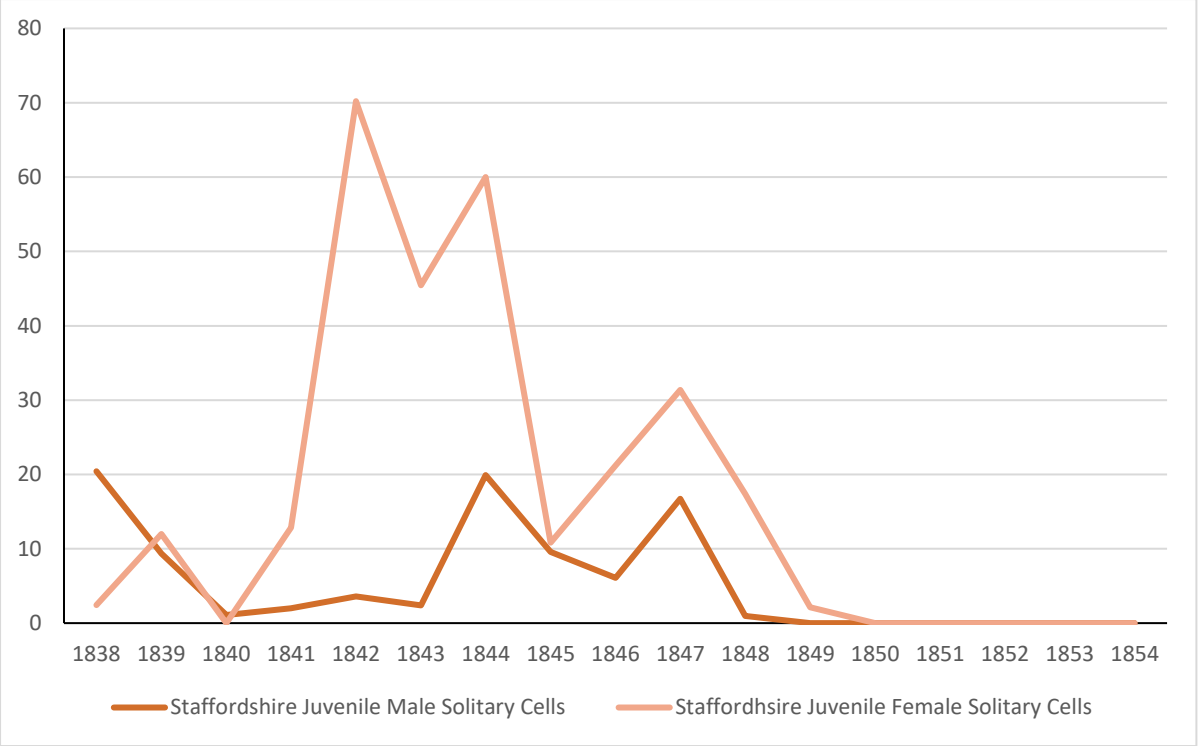

Figure 5.6. Percentage of juvenile (16 and under) committals receiving solitary confinement punishment in Staffordshire 1838-1854.[161]

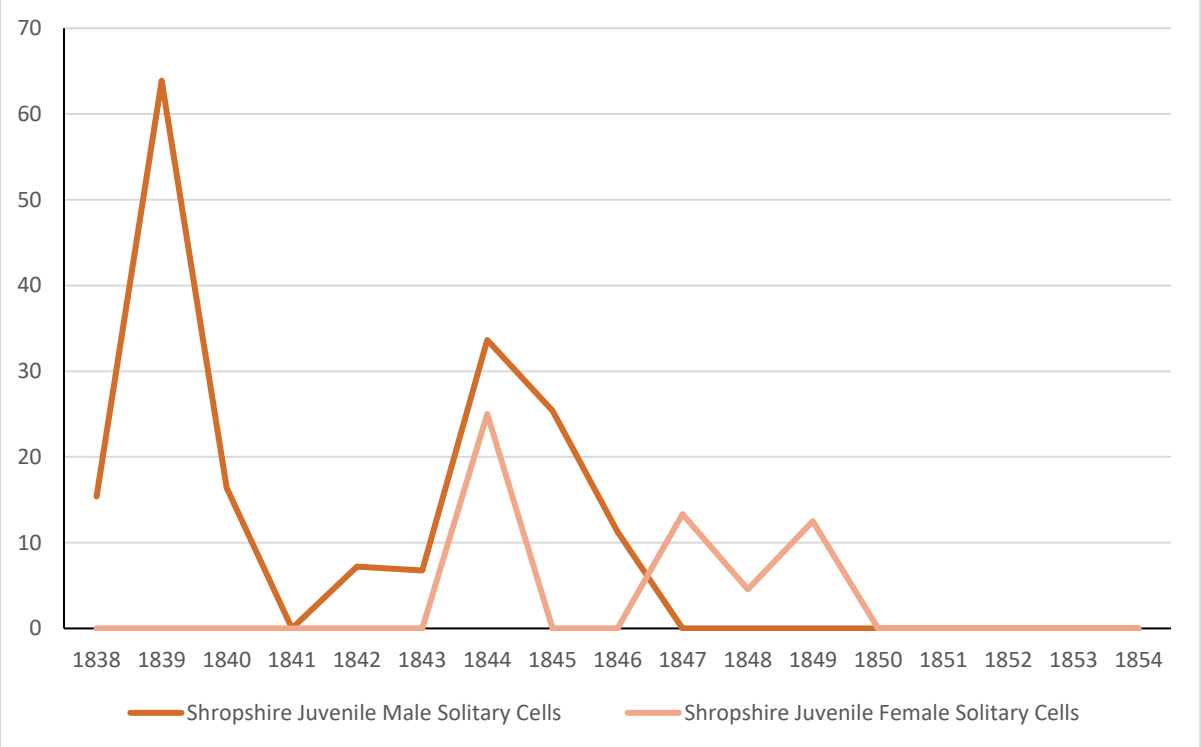

Figure 5.7. Percentage of juvenile (16 and under) committals receiving solitary confinement punishment in Shropshire 1838-1854.[162]

[161] PP, *Inspectors of Prisons of Great Britain I. Home District, Fourth to Twentieth Report*, 1836-1857.
[162] PP, *Inspectors of Prisons of Great Britain I. Home District, Fourth to Twentieth Report*, 1836-1857.

Both counties had their supporters amongst the controlling authorities of the prison for using the whip as a corrective measure. Captain Fulford argued that whipping was the only way to combat recidivism and this position was echoed by the visiting magistrates of Shropshire. They felt that juveniles under 14 years of age in particular would benefit from shorter sentencing and whipping if they appeared unrepentant after they had served their time.[163] Regardless of these beliefs, whipping was used rarely against juveniles as a secondary punishment imposed by the prison governor of either county, with solitary confinement (before 1850) and stoppage of diet being preferred methods of chastisement. Margaret DeLacy shows that whippings were reserved for the most serious offences in her study of prisons in Lancashire during the eighteenth to mid-nineteenth centuries.[164] Wynter notes that in Staffordshire, Governor Brutton recorded punishment by severity of offence in an early return to Parliament from 1825, with the most serious crime of theft from the chaplain being given corporal punishment. Repeated bad behaviour was met with solitude and behaviour considered disorderly was given a lesser punishment.[165] Although physical punishment with a whip was believed by both authorities to be a solution to juvenile delinquency, it was largely reserved as the harshest of penalties for the most serious infringements of prison regulations.

Hard labour was the most-used form of penalty for both counties in the seventeen-year period, consistently averaging well above half of all punishments for both juvenile sexes. In Stafford, labour became less productive and more penal as the decades progressed. Dyott claimed that 'labour is one great principle of prison discipline…affect(ing) punishment and reformation'.[166] However, even Dyott had to admit in 1821 that the manufactory had not produced many objects for sale. [167] The treadwheel was often regarded as the beginning of more punitive forms of hard labour: it was seen as an 'instrument of torture' that, whilst it had a real purpose in either grinding corn or pulling water, required no skill and could be continuous toil for a prisoner for at least six hours at a time.[168] Stafford's treadwheel was practically contemporaneous with the introduction of the gaol's manufactory. The manufactory reflected a more benign form of hard labour, both advantageous to the prison, in hoped-for profits, and beneficial to prisoners by allowing them to learn and practise

[163] Fulford, On Prison Discipline, p. 110.
[164] DeLacy, *Prison Reform in Lancashire, 1700-1850*, p.202.
[165] Wynter, *"Diseased Vessels and Punished Bodies"*, p.180.
[166] *Staffordshire Advertiser* - Saturday 28 July 1821.
[167] ibid.
[168] W. Wise, *History of the Peace: Being a History of England from 1816 to 1854. With an Introduction 1800 to 1815, Vol.2,* Boston 1865, p.477; and Wynter, *"Diseased Vessels and Punished Bodies"*, p.173.

skills that could aid them on their release.[169] Female prisoners, including female juveniles, were not expected to work the treadwheel: their labour was often put to use in the prison laundry.[170] Men were expected to be on the treadwheel for up to almost seven hours a day, whereas boys would be expected to attend school for two hours.[171] By 1833 the idea that penal work could be something other than a form of punishment was swiftly abandoned as it was felt by the magistrates that prisoners were discharged or transported before they were able to benefit from skills taught.[172] Furthermore, the manufactory proved to be unprofitable in securing a market to sell the goods it produced.[173] Thereafter, five more treadwheels were established and, under Fulford, the crank briefly became the choice means of punishment. This consisted of a handle with a dial that allowed close monitoring of a prisoner's efforts with 'no possibility of shirking'.[174] Young boys were not spared from the tortures of the wheel nationally and in Stafford the only concession to its use amongst juveniles was to provide them with their own separate wheel.[175] In early reports (1838) the prison inspectors recorded that boys were largely engaged in pin-heading, but by 1856 they noted that there was a lack of appropriate employment for the gaoled boys, who were always of a large number, forcing them to spend large amounts of time at school to keep them out of mischief.[176] The report cites Stafford Gaol Chaplain, Reverend John Goodacre, saying that it was clear that 'imprisonment is not the best means of dealing with youthful crime'.[177] At Shropshire, no treadwheel existed, and work remained relatively unchanged throughout the 1820s and 1830s. Grinding corn, making list shoes and pin-heading remained staples of hard labour throughout the period.[178] The use of cranks expanded and was doubled in 1843.[179] As late as 1868 Shrewsbury Gaol did not have a treadwheel although the magistrates accepted tenders for its erection two years earlier.[180] The silent system required additional measures of deterrence beyond a standard system of separation, and it is not surprising that Stafford's hard labour became more regimented and penal in nature during the

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[169] Stafford's manufactory was introduced in 1818 followed by its first treadwheel in 1822; Wynter, *"Diseased Vessels and Punished Bodies",* p.172. Many of the committals in this period were employed in the rag trade and clothing maintenance conducted in the manufactory, where a coat made from gaol cloth could cost as much as £1. 2s.; ibid., p.117.
[170] ibid., pp. 172-173.
[171] *Staffordshire Advertiser* - Saturday 06 July 1833.
[172] *PP, Reports and Schedules Pursuant to Gaols Acts* 1834, p.211.
[173] Wynter, *"Diseased Vessels and Punished Bodies"*, p.118; and *Staffordshire Advertiser* - Saturday 19 October 1833.
[174] Fulford, *On Prison Discipline*, p.147.
[175] J. I. Briscoe, *A Letter on the Nature and Effects of the Treadwheel*, London 1824, p.124; and M. May, *'A Child's Punishment for a Child's Crime': The Reformatory and Industrial School Movement in Britain C.1780-1880*, PhD thesis, University of London 1981, p.140.
[176] *PP, First Report of the Inspectors Appointed to Visit the Different Prisons of Great Britain, III. Southern and Western District*, 1838, p.116; and *PP, Twenty First Report of the Inspectors Appointed to Visit the Different Prisons of Great Britain, III. Southern and Western District*, 1856, p.70.
[177] *PP, Twenty First Report of the Inspectors Appointed to Visit the Different Prisons of Great Britain*, p.73.
[178] List shoes were a cheap and easily produced form of footwear made of strips of woven fabric.
[179] Twelve cranks for pulling water were proposed to be added to the gaol in 1843 which brought the number of cranks reported to twenty-four in the following year. *PP, Reports and Schedules Pursuant to Gaols Acts* 1844, p.146; and *PP, Reports and Schedules Pursuant to Gaols Acts* 1845, p.177
[180] Johnston, *The Transformations of Imprisonment in a Local Context*, p.83.

1830s. Combined with the failure of productive labour, and the pressures on discipline that a larger prison population engendered, hard labour in Stafford seemed more onerous to its inmates than in Shrewsbury. Whilst productive reform designed to pass on skills to convicts and make use of their labour became unfashionable in the 1830s, juveniles stood out to those in charge in both counties as needing alternative regimes to those imposed upon the wider prison population. Juveniles were considered as potentially recoverable and certainly in need of separation from becoming worse offenders. The prison therefore became the key venue for highlighting a need for change and the magistrates directly involved in prison oversight were some of the leading voices in the desire for a more reformative model of juvenile justice.

5.7 Conclusion

Previous studies have considered the conditions, penal regimes and changing administration in both counties, but this chapter has refocused on juveniles, a subject that has only been lightly touched upon previously. The prison became the focus of both national and local governments concerned with understanding why crime had risen within the lower orders. Prison allowed the isolation of those considered to have displayed behaviour dangerous to wider society, and permitted investigations in classification, separation and the implementation of order and punishment to be carried out. The aim of these experiments was to understand the nature of criminal intentions and ultimately find a 'cure' by reforming or preventing a further spread of aberrant behaviour. Before the late 1850s, this drive to create institutions, capable of offering the necessary level of deterrence, punishment and possible redemption, was propelled by local authorities which oversaw their management, maintenance, and rebuilding. As prison numbers grew, contemporaries concluded that criminal behaviour was increasing amongst the lower orders. To control this perceived growth in misbehaviour, increasingly strict punishment and control developed within the prison system, and these attempts to classify and regulate the prison population helped to illuminate the special needs of juvenile convicts in the county gaols.

Both Staffordshire and Shropshire authorities were active in embracing penal reforms, often ahead of national guidance and legislation. The counties differed from each other, however, in the strains placed upon them by socio-economic conditions. Staffordshire was more populous and had more centres of industry and larger urban areas that often resulted in higher rates of crime. This meant that Staffordshire was constantly under pressure to maintain proper separation amongst its

offenders. The penal regime was also stricter in Staffordshire where to maintain order, experiments in enforced silence alongside separation caused levels of secondary punishments to be far greater than those in Shropshire. Life for juveniles in Stafford Gaol was far more challenging as they often faced sharing living space with other classes of offenders and were subject to more stringent systems of hard labour than at Shrewsbury. As juvenile numbers in gaol continued to rise into the 1840s, the unsuitability of prison regimes for juveniles became apparent to local magistrates and prison officials. In Staffordshire, despite the greater nuisance that juveniles posed to an ordered society, concern for their overall wellbeing was displayed by even the most notorious of taskmasters, namely William Fulford, the Prison Governor. The county Quarter Sessions debated the imposition of certain punishments and their effects on juveniles during this period of change in penal ideology when concerns were raised regarding the impact of separation on the young.

Imposing a monolithic model of change upon penal reform during this period is inappropriate. Did prisons serve to reform the prisoner or to curtail crime? Were either aims achievable? Contemporaries measured success in terms of reduced recidivism. Regardless of their efficacy as viewed in modern terms, the magistrates of the period believed that they were making genuine efforts to turn prisons into effective forms of punishment. The presiding local magistrates had the greatest influence on how policy was enacted through their oversight of these institutions, but they did not necessarily adhere to uniform beliefs. Agreed policy was often produced out of negotiation between those holding opposing philosophies. This is demonstrated in both counties, whose leading justices struggled with the implementation of a national directive to introduce separation into the local establishments. It is also vital that the role of changing personnel within the institutions is considered. At Stafford, the personal ideology of the Prison Governor greatly impacted upon the application of secondary punishment. Likewise, in Shropshire, the Chaplain's defence of separation helped to assuage many of the concerns of magistrates at the Quarter Sessions.

The desire to detach and shelter juveniles from the worst of the prison experience became a genuine concern amongst the local magistrates as penal regimes became increasingly punitive. Even those who were direct and forceful in their rejection of the reformative potential of penal servitude displayed a desire to aid this vulnerable group. This was manifested in a belief that by bettering the situation of the youngest, an improved way of life might be provided for them. It could be argued that this furthered an unspoken desire for a more ordered, and controllable, society. However, the belief in segregating and minimising the harsher reality of gaol for the young, coupled with the desire

to provide better circumstances for the very youngest, appears sincere given the volume of debate that occurred during the decades at the Quarter Sessions. Despite, or perhaps because of, the increasingly punitive nature of gaol policy, juveniles stood out as a group that needed special treatment. The punishment they received once the courts had found them guilty helped to expose their unique qualities to the presiding magistrates and prison authorities, distinguishing them from other convicts. This created the conditions for a re-evaluation of juvenile treatment and for a systematic exploration of alternative means of punishment.

Chapter 6 – Transportation and individual experiences c.1814-1853

Transportation to penal colonies in Australia increased dramatically after 1810, becoming the favoured punishment for those found guilty of repeated unlawful acts and one of the most severe forms of punishment a juvenile could face if found guilty in a court of law.[1] The desire to eradicate dangerous elements from England co-existed with the belief that removal to the colonies with a lengthy period of observation and confinement offered the hope of redemption and exclusion from corrupting factors in the juveniles' environment.[2] From the late 1830s a sentence of transportation offered the magistrate the chance to secure a place before removal in a penitentiary, at Parkhurst, where juveniles could be offered vocational training, outside of the traditional prison system. Magistrates used transportation as a tool in the hope of gaining a place in such an institution, although they could not guarantee the eventual fate of those they incarcerated there. This chapter considers the impact of removal to the colonies on the juveniles themselves to determine whether the reality of transportation matched the ideals of renewal and decontamination held by magistrates in both Staffordshire and Shropshire. The colonial transport records provide an unparalleled opportunity to study some of the juvenile offenders themselves. This analysis reveals how both individual and collective juvenile behaviour was judged as inappropriate by local magistrates, and explanations are offered for juveniles' long-term entry into the criminal justice system. The biographies of past crimes, misdemeanours and criminal associations that brought them to court highlight the individual experience of falling on the wrong side of the law in the nineteenth century and bring to life the judicial statistics of offending. They also demonstrate how petty crimes often escalated into repeat periods of imprisonment, leading to offending juveniles being shipped to a penal colony, and expose the reality of official hopes that transportation would elevate the juvenile convict.

[1] Although the threat of a death sentence weighed heavily during trials, the reality was that juveniles would be almost certainly reprieved and see their sentence reduced. Up to the age of fourteen the principle of *doli incapax* remained strong regarding capital punishment. See B. K. F. Knell, 'Capital punishment: Its administration in relation to juvenile offenders in the nineteenth century and its possible administration in the eighteenth', *The British Journal of Criminology, Vol.5, No.2,* 1965, p.199. Knell examined 106 cases from the Old Bailey from 1806 to 1836 and found no evidence that a single child under the age of fourteen was executed. C. Anderson, 'Transnational Histories of Penal Transportation: Punishment, Labour and Governance in the British Imperial World, 1788–1939', *Australian Historical Studies, Vol.47, No.3*, 2016, p.386.

[2] These factors being: the temptations of urban life; poor examples set by parents; and the impact of negative peer pressure.

6.1 Historiography

Traditionally, juveniles have been a side note in histories of penal transportation, and even then only as part of a chronology, particularly the establishment of Point Puer in Tasmania, as a specialised juvenile penal establishment.[3] Other studies reveal the psychological and physical impact of transportation on juveniles: for example, Thomas Jordan considered the effects of long ocean crossings on the youngest of convicts, and Bryan Gandevia studied how transportation affected the experiences and heights of first-generation Australians compared with the heights of their convict forebears. Jordan highlights the severity and suffering experienced by juvenile convicts on vessels such as the *Maitland* in 1846 where many young transportees were incapacitated by sea sickness for the initial part of their voyage.[4] Gandevia reveals that first-generation Australians descended from convict transportees were taller than their predecessors, arguing that removal from the overcrowded and underemployed life in England had a beneficial effect on subsequent generations of Australians.[5] Cameron Nunn has re-evaluated juvenile transportation economically through its ability to extract labour from an imported work force. Convict records depicted juveniles and adults in terms of labour potential and Nunn's work refocuses the debate away from transportees as felons awaiting reformation towards their value as human capital in an emerging nation state.[6] However, as Nunn himself acknowledges, the immediate economic value of juvenile employment, particularly when untrained, may have negatively influenced those looking to acquire labour in the colonies.[7] On the arrival of the transport ships *Isabela* and *John II* in 1833, Police Magistrate, Matthew Forster, described the influx of juveniles as 'a dead weight upon the government' and that 'evil had much increased by their arrival'.[8] This may have escalated colonial resistance to the expansion of juvenile transportation.

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[3] F. C. Hooper, *Prison Boys of Port Arthur: A Study of the Point Puer Boys' Establishment, Van Diemen's Land, 1834 to 1850*, Melbourne 1967; and K. Humphreys, 'Objects of compassion: Young male convicts in Van Diemen's Land, 1834–1850', *Australian Historical Studies, Vol.25, No.98*, 1992.

[4] T. Jordan, 'Transported to Van Diemen's Land: The Boys of the "Frances Charlotte" (1832) and "Lord Goderich" (1841)', *Child Development, Vol.56, No 4,* 1985, p.1094

[5] The heights of boys transported were often far below the average for the time, although the next generation exhibited growth patterns indicative of a vast beneficial change in the environment. B. Gandevia, 'A Comparison of the Heights of Boys Transported to Australia from England, Scotland and Ireland, c. 1840, with Later British and Australian Developments', *Journal of Paediatrics and Child Health, No.13,* 1977, pp.95-96.

[6] C. Nunn, 'Juveniles as human capital: Re-evaluating the economic value of juvenile male convict labour', *Labour History, No.108*, 2015, p.55.

[7] Nunn, 'Juveniles as human capital', p.69.

[8] P. MacFie, & N. Hargreaves, *The Empire's First 'Lost Generation': The 1834 'Class' at Point Puer Juvenile Prison*, paper given at the Exiles of Empire Conference, Centre for Historical Studies, School of History and Classics, University of Tasmania, July 1998, p.4. Forster was appointed as chief police magistrate of Van Diemen's Land in 1832. S. Petrow, 'Policing in a Penal Colony: Governor Arthur's Police System in Van Diemen's Land, 1826-1836', *Law and History Review, Vol.18, No.2*, 2000, p.373.

Heather Shore and Emma Watkins have shifted the approach to juvenile transportees in ways that relate to the aims of this chapter by focusing on the experience of the juveniles themselves.[9] Shore defines the juvenile reality at Point Puer as one of 'conflict and struggle' that needs to be understood in terms of behaviour shaped by an authoritarian regime.[10] Locating the specific experience of a group of boys within the broader endeavour to rehabilitate inside a disciplined environment, she argues that without the oversight of concerned philanthropists at home in England the 'language of reformation' in the colonies remained an 'ideal rather than a reality'.[11] Watkins has attempted a life-course investigation of juvenile transportees using local criminal records, newspapers and colonial penal documents. Her focus has been on recidivism and its relation to the convict juvenile experience.[12] She based her measure of whether penal transportation was successful for individuals on whether their lives were 'settled' beyond the period of colonial oversight.[13] This was partly built on their ability to form successful familial ties and avoid further interactions with the judicial system. However, marriage and an absence from further criminal records cannot be truly indicative of a positive integration into colonial society. A long-lived marriage could hide many years of abuse or unhappiness and, given that crime was under-reported and under-recorded, these factors do not necessarily mean that transportation was beneficial for those under study, even for those with seemingly settled lives. However, this section avoids some of these broader concerns and remains focused on the period when the transportee remained under colonial supervision to determine whether conditions were better or worse than juveniles may have faced under penal servitude at home. However, some consideration is given to the subsequent lives of transportees after their sentence was completed.

6.2 National and local contexts (Staffordshire and Shropshire)

Transportation to New South Wales began in 1787, after the War of Independence prevented the removal of convicts to the American Colonies.[14] The practice continued until 1863, although it declined significantly after the late 1840s, by which time 163,000 men and women had been transported. After 1834, juvenile transportation to New South Wales dwindled so that by 1839-40

[9] H. Shore, 'Transportation, Penal Ideology and the Experience of Juvenile Offenders in England and Australia in the Early Nineteenth Century', *Crime, Histoire & Sociétés, Vol.6, No.2*, 2002; and E. Watkins, *Life Courses of Young Convicts Transported to Van Diemen's Land*, London 2020.
[10] Shore, 'Transportation, Penal Ideology and the Experience of Juvenile Offenders', pp.83, 99.
[11] ibid., pp.89, 99.
[12] Watkins, *Life Courses of Young Convicts*, p.7.
[13] ibid., p.8.
[14] K. Foxhall, *Health, Medicine, and the Sea*, Manchester 2012, p.13.

1 percent of transportees were aged under 18.[15] In 1853 transportation for all convicts aged below fourteen years ceased.[16] Point Puer, in Van Diemen's Land, was established as a prison for boys by 1834 and became the primary destination of the youngest convicts. By the 1830s, 20 percent of those transported there were under the age of 18.[17] Figures 6.1 and 6.2 show the relative numbers of transportation verdicts divided by age and gender, taken from triennial sampling of Staffordshire and Shropshire Quarter Session Records and Assizes from 1814 to 1835.[18] What these cannot show is the ultimate fate of those sentenced to transportation – not all of those convicted were transported immediately and often transportation was dispensed with altogether if alternative sentencing was passed in holding locations such as the early hulks (ships moored on the Thames to contain juveniles awaiting removal to the colonies) or the later Parkhurst Penitentiary (opened in 1838). Consequently, actual numbers removed to the colonies were lower than those sentenced. However, a sentencing magistrate would not be able to predict the fate of those punished, although the expectation was that those convicted would be sent abroad. Therefore, these figures can still be used to judge the use of transportation sentences and their relation to changing penal attitudes.

Transported juveniles were almost exclusively male. The numbers of transported females aged between 18 and 19 were extremely low in comparison and removal to another country was practically non-existent for females aged below 18. Of the 13,000 juveniles transported to Van Diemen's Land during its use as a penal colony, 10 percent were female; these were treated as adult female convicts and are consequently difficult to track as juveniles.[19] Juvenile female offenders may have been spared transportation as magistrates felt that the voyage was not suitable for their constitutions. However, the low numbers may also reflect the fact that transportation was largely reserved for recidivists and repeat female juvenile offences were few. This does not mean that females were less criminally inclined than their male counterparts. More likely, this reflects the existence of informal checks against offending (closer monitoring of behaviour at home) or of discretionary punishments which negated the need for their misbehaviour to be handled within the

[15] Nunn, 'Juveniles as Human Capital', p.57.
[16] W. J. Forsythe, *The Reform of Prisoners 1830–1900*, London 1987, p.127.
[17] Foxhall, *Health, Medicine, and the Sea*, p.83. At its peak in 1840, Point Puer held over 700 boys and more than 3,500 passed through the institution before it closed in 1849. Nunn, 'Juveniles as Human Capital', p.59. In total, from 1803-1853, between 10,000 and 13,000 juveniles were transported to Van Diemen's Land. This amounted to between 13% and 17% of all sentences carried out for all ages. Watkins, *Life Courses of Young Convicts*, p.2.
[18] These calendar records were often completed after verdicts and sentencing to record the personal details of those standing trial and allow an insight into proceedings. The calendar had a blank section against each case for either handwritten or printed outcomes to be filled in – not all the completed calendars have survived. See Chapter 3 for a broader assessment.
[19] K. Humphrey, 'Objects of compassion: Young male convicts in Van Diemen's land, 1834–1850', *Australian Historical Studies, Vol.25, No.98*, 1992, pp.17-18.

judicial system. Despite the patina of reformation layered over the arguments in favour of transportation, those most likely in terms of physical capability and development to be sentenced to removal were able-bodied men in their 20s, who were often considered to be beyond redemption and set on their criminal paths. Substantial numbers of males in both counties aged between 20 and 30 were transported, signifying the reality of transportees as a potential source of labour for the colonies. Evidence for Staffordshire and Shropshire shows that individuals within this cohort were by far the largest numbers receiving this sentence. However, the presence of many juveniles in the records underscores the importance played by the rhetoric of renewal and reclamation in bolstering arguments in favour of transportation. Juveniles under 20 years of age represented almost a third of the total Staffordshire sample and one fifth of the Shropshire numbers. Interestingly in Staffordshire, the youngest juveniles under 18 years of age outnumbered those aged 18 to 19 in the sample. The Shropshire figures show a similar pattern to those found in Staffordshire, with almost identical numbers of those under 18 years of age sentenced compared with older juveniles between 18 and 19. This is perhaps the result of active targeting by magistrates who believed in the reformation of these most impressionable of offenders.[20] Juveniles between 14 and 19, whilst not as economically valuable as older transportees, fulfilled the aim of the reformatory ideal offered by removal to another country.

Not all those sentenced to transportation were immediately sent overseas. Parkhurst was opened as a holding establishment for juveniles sentenced to this punishment, in the hope that time spent in the penitentiary would be beneficial to those penalised. This tactic was elaborated by Sergeant John Adams, assistant judge to the Middlesex Sessions, who reported to the House of Lords Select Committee in 1847 that 'I did used to sentence a great number to transportation, for the purpose of getting them to Parkhurst'.[21] This may explain the precipitous rise in such sentences in Staffordshire after 1838 (Figure 6.4) as magistrates embraced the reformatory principles of giving wayward juveniles the chance to be formally educated in a profession in the institution alongside a hope for a new start following their eventual removal to the colonies. This was the case for 15-year-old George Machin, charged with stealing coin at Kidderminster Green and sentenced to ten years transportation; however, as chairman Francis Tremlow hoped, he would be held in a prison for juvenile convicts so that 'he would be taught better than he had been'.[22] Not all justices were overly concerned with the reformatory efforts at Parkhurst, believing that the removal of juveniles was the

[20] Before the opening of Parkhurst, those aged below fourteen were unlikely to be sentenced to transportation as courts were not keen to see them sent to hulks for holding.
[21] *Reports from Select Committees of the House of Lords and Evidence*, Vol. 24, London 1847, p.16.
[22] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 13 January 1841.

central aim of such a sentence; for example, Justice Williams at the 1840 Staffordshire Summer Assizes felt that 'in another country' there might be the chance to 'reform the vicious and destructive habits' that charged juveniles had displayed in their own.[23] Nonetheless, the intended purpose of penal colonies, such as Van Diemen's Land, was to turn juvenile offenders into productive colonial workers, over and above any reformation concerns.[24] Years of strict supervision and control awaited those unlucky enough to see their sentences carried out.

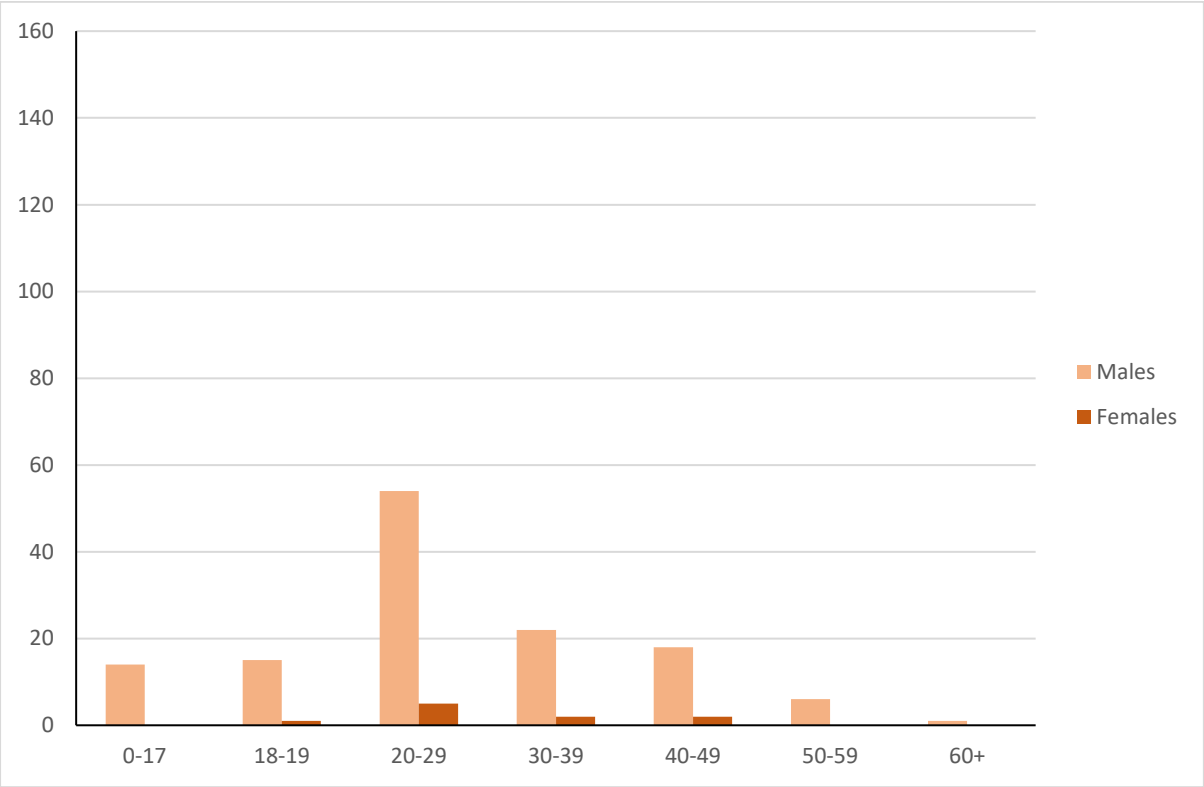

Figure 6.1. Shropshire 1814-1835 - Triennial sample of Quarter Sessions and Assizes showing age and gender of those receiving transportation sentences for larceny.[25]

[23] *Staffordshire Gazette and County Standard* - Saturday 01 August 1840.
[24] *Shropshire Record Office Assize and County Quarter Sessions calendars of prisoners Q/S/10/3-4 1814-1835.* (Hereafter SHRO)*; Staffordshire and Stoke on Trent Archive Service Calendar of prisoners Q/SB 1814-1835.* (Hereafter SSTA); & Shore, 'Transportation, Penal Ideology and the Experience of Juvenile Offenders', p.9.
[25] *SHRO Assize and County Quarter Sessions calendars of prisoners Q/S/10/3-4 1814-1835.*

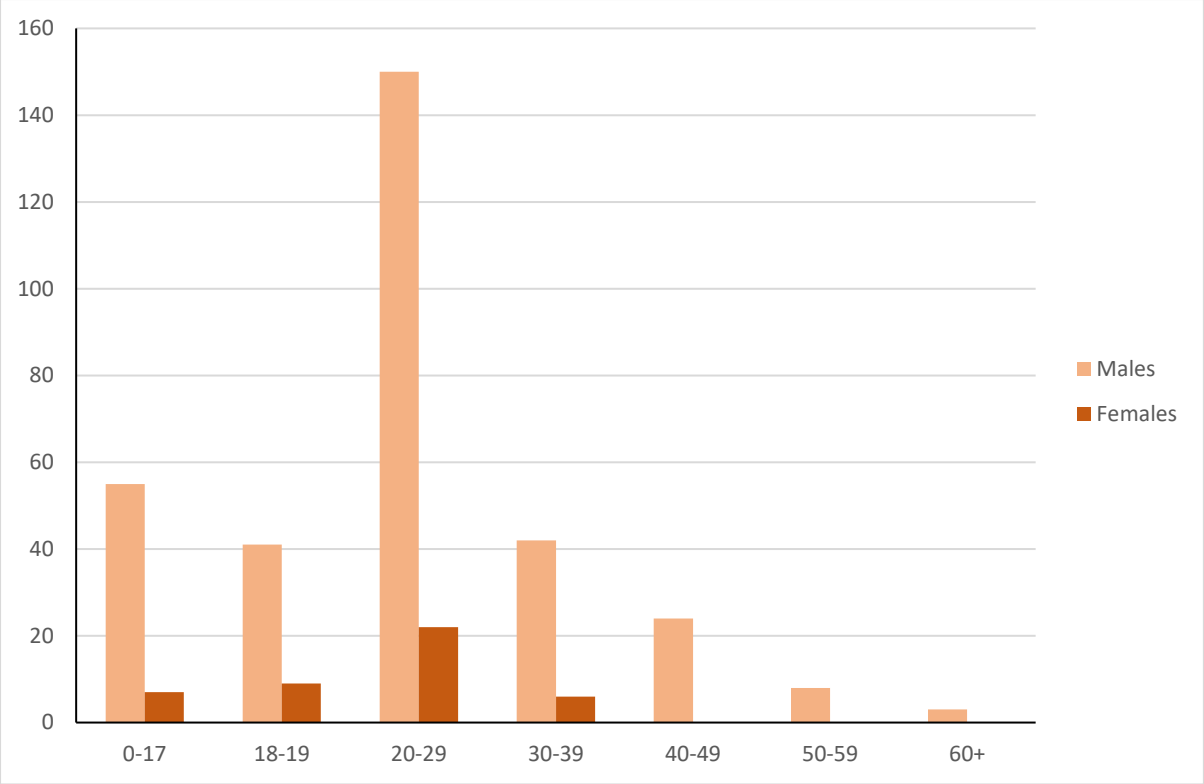

Figure 6.2. Staffordshire 1814-1835 - Triennial sample of Quarter Sessions and Assizes showing age and gender of those receiving transportation sentences for larceny.[26]

Figures 6.3 and 6.4 demonstrate the rise and decline of transportation in both counties from 1814 to 1854.[27]

[26] *SSTA Calendar of prisoners Q/SB 1814-1835; SSTA S600/1/2 Staffordshire Assizes Calendars of Prisoners for Trial Part 2: 1801-1827; SSTA S600/1/3 Staffordshire Assizes Calendars of Prisoners for Trial Bundle 3 Part 1: 1828-1842.*

[27] They are based on the triennial sampling mentioned above for the years 1814 to 1835. The annual returns to Parliament are drawn upon for 1839 to 1854. The returns were part of the national inspections of prisons ordered under The Prisons Act 1835 and submitted by each local gaol authority; again these represent sentencing rather than the actual numbers who were eventually transported as convicts. Ages in this sampling of Quarter Sessions and Assizes were restricted to those aged 16 and below, to match the classification of juvenile as defined by the later returns to Parliament for the 1839-54 sample. Although definitions of youth were fluid throughout the early nineteenth century, by mid-century this distinction was increasingly used in governmental reports.

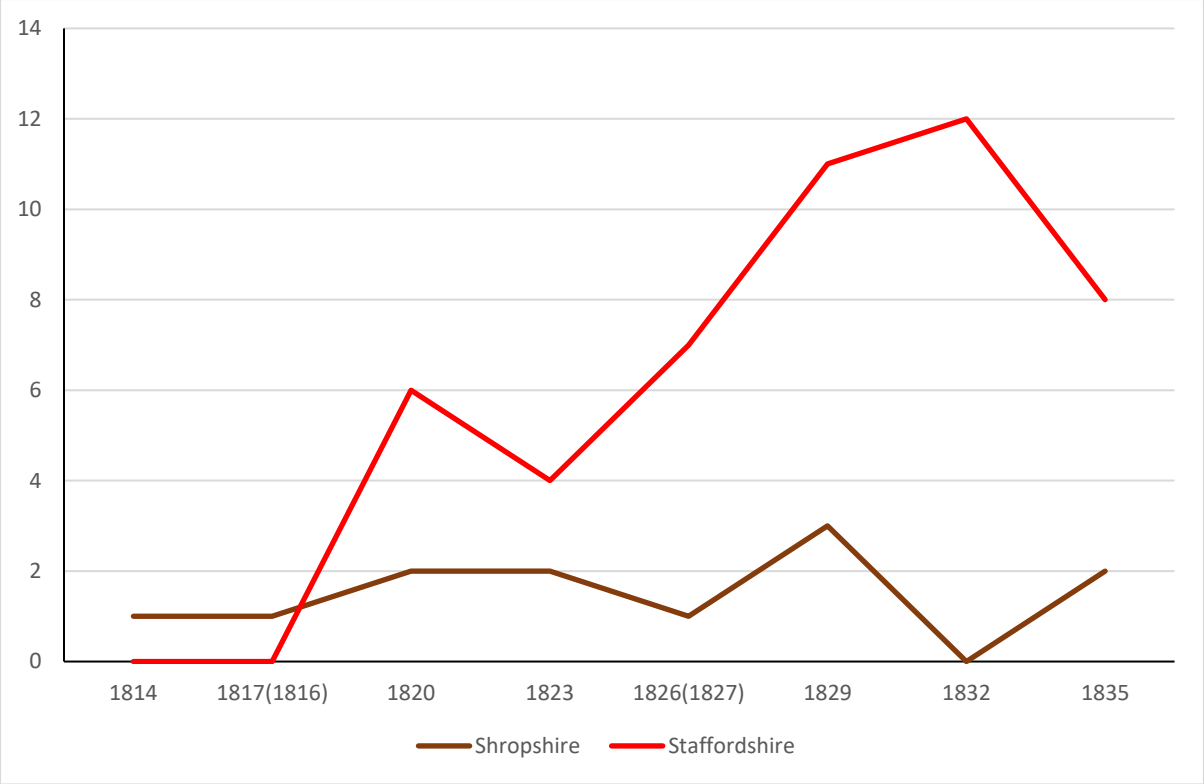

Figure 6.3. Triennial Sample of Quarter Sessions and Assizes in Staffordshire and Shropshire 1814-1835 showing numbers of juveniles (sixteen years of age and under) sentenced to be transported.[28]

[28] SHRO *Assize and County Quarter Sessions calendars of prisoners Q/S/10/2-5 1814-1835; SSTA Calendar of prisoners Q/SB 1814-1835; SSTA S600/1/2 Staffordshire Assizes Calendars of Prisoners for Trial Part 2: 1801-1827; SSTA S600/1/3 Staffordshire Assizes Calendars of Prisoners for Trial Bundle 3 Part 1: 1828-1842.* Shropshire Quarter Session and Assize records were taken for 1827 and not 1826 as this was a more complete year of records and 1816 was substituted for 1817 in the Shropshire Assize analysis for the same reason.

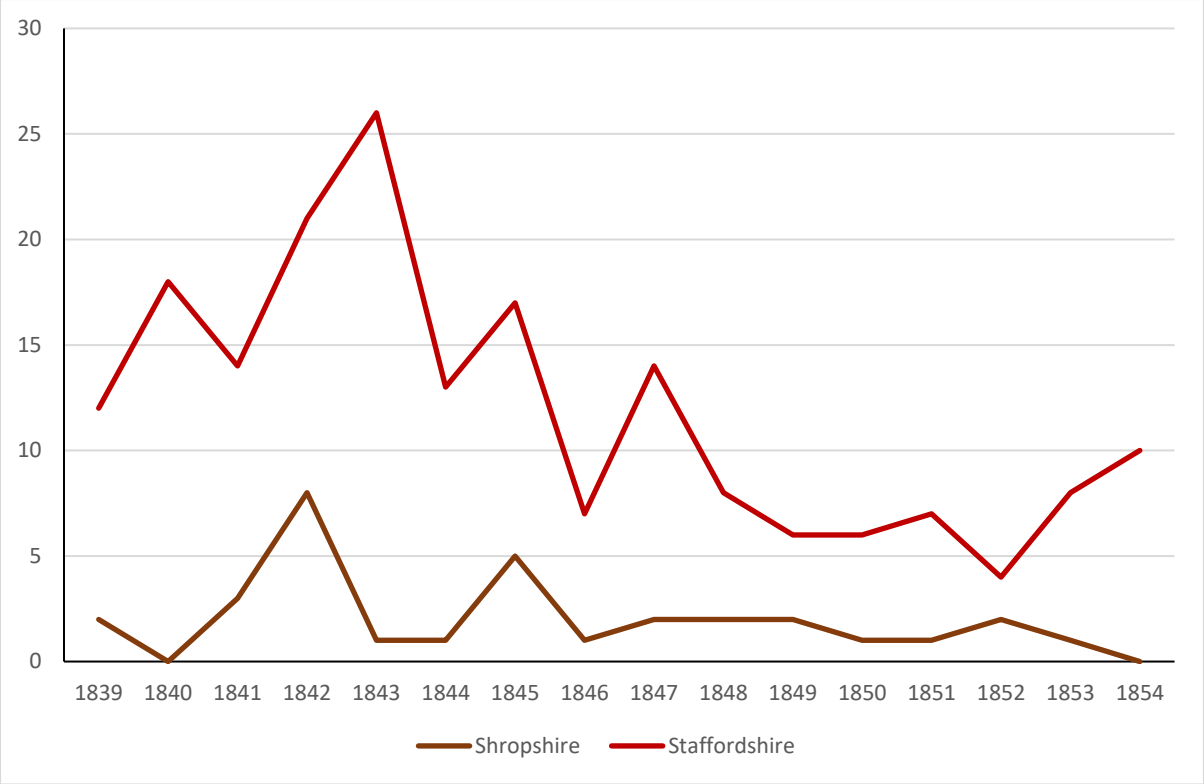

Figure 6.4. From: PP Inspectors of Prisons of Great Britain I. Home District. Staffordshire and Shropshire 1839-1854 showing numbers of juveniles (sixteen years of age and under) sentenced to be transported.[29]

The numbers of juveniles in Shropshire sentenced to transportation never matched those in Staffordshire. Between 1839 and 1854 just 32 juveniles aged 16 and below in Shropshire were sentenced to transportation compared with 191 in Staffordshire. The numbers of those aged 16 and below fluctuated but barely exceeded a handful of cases annually in Shropshire. Conversely, Staffordshire witnessed a swift rise through to the early 1840s. The decline after this period is partly because of resistance from colonial authorities, such as in Western Australia in 1851 where the Guardian of Government Juvenile Immigrants felt that older convicts were easier to manage, and in Melbourne in 1848 where the Deputy Assistant Commissary-General believed the immigrant juveniles had become 'worse and worse'.[30] The use of transportation in the late 1830s and early 1840s is indicative of a shift in penal philosophy during this period and coincides with the opening of the Parkhurst Penitentiary for juveniles. Reformation became a key concern for legal administrators, and Parkhurst, with the hope that a sentence of transportation might secure a place within the establishment, was a move towards a belief in the restorative powers of structured learning and

[29] *Parliamentary Paper, Inspectors of Prisons of Great Britain I. Home District, 1839-1854.* (Hereafter *PP*).
[30] Quoted in J. A. Stack, 'Deterrence and Reformation in Early Victorian Social Policy: The Case of Parkhurst Prison, 1838-1864', *Historical Reflections, Vol.6, No.2*, 1979, p.401.

discipline targeted at juveniles.[31] The authorities believed that Parkhurst offered superior behavioural regulation, compared with facilities existing in Australia. Those who complied with the Parkhurst regime left for Australia as potential apprentices rather than felons.[32] Shore notes that Parkhurst was believed to be the perfect demonstration of 'the conjunction of the ethos of transportation and of colonial emigration and retraining'.[33] William Crawford and Whitworth Russell, the original and influential Home District Prison Inspectors, believed that emigration formed part of a three-part path towards a definitive solution for juvenile crime: summary tribunals, reform institutions and emigration marked the resolution of a twenty-year long debate about 'juvenile depredators'.[34] The discipline imposed at Parkhurst was key to enable the gainful employment of those transported, although it has been argued by John Stack that the record of the Parkhurst emigrants was mixed, with masters in Australia and New Zealand complaining about the quality of the juveniles.[35] The resistance of the colonies to accept any more 'impure' or 'degraded' Parkhurst juveniles coincided with a new phase in the treatment of juvenile criminals in mid-century England that turned towards reformation at home rather than abroad.[36]

6.3 Punishment versus reformation

This move towards the retraining and reformation of convicts formed part of a larger transformation in penal ideology at this time, as evidenced by the Juvenile Offenders Act of 1847, which sought to remove juveniles from lengthy contaminating stays in prison, through to the Reformatory School Act of 1854, which aimed to provide an alternative to penal incarceration based on training and schooling.[37] As Shore notes, the pivotal feature of juvenile criminological thought in the first half of the nineteenth century was the absorption of voluntary sector philanthropists of the 1820s into the growing body of penal professionals and their influence by the 1840s on government policy.[38] This thesis contends that the adoption of philanthropical principles by local governance was just as crucial. In the 1830s the clash between punitive and reform ideals led to the rise of institutions such

[31] Youths sentenced solely to imprisonment were only admitted to Parkhurst between 1838 and 1843 and after 1856; the intervening period was limited to boys sentenced to transportation. After 1853 no more boys were transported, as penal servitude replaced this as a sentence. Stack, 'Deterrence and Reformation in Early Victorian Social Policy', p.397.
[32] C. Nunn, 'Making them good and useful': the ideology of juvenile penal reformation at Carters' Barracks and Point Puer', *History Australia, Vol.14, No.3*, 2017, p.341.
[33] Shore, 'Transportation, Penal Ideology and the Experience of Juvenile Offenders', p.6.
[34] *PP, The Third Report of the Inspectors of Prisons for the Home District,* London 1838, pp.112-113.
[35] Stack, 'Deterrence and Reformation in Early Victorian Social Policy', p.399.
[36] Clerk of the Legislative Council of Van Diemen's Land, quoted in Stack, 'Deterrence and Reformation in Early Victorian Social Policy', p.401. The link between education and reformatory ideology in Staffordshire and Shropshire is explored further in Chapter 7.
[37] Hereafter abbreviated to JOA.
[38] Shore, 'Transportation, Penal Ideology and the Experience of Juvenile Offenders', p.5.

as Parkhurst and the belief that transportation was not effective in achieving renewal and redemption. Discipline and training were at the heart of Parkhurst's method of punishment, but by the 1840s it was attacked by philanthropists, such as Mary Carpenter, who believed that reformation in such an establishment could not be achieved 'by the action of fear and the employment of physical force'.[39] Stack has questioned whether Parkhurst reformed any incarcerated juveniles or was a deterrence. He believes that whilst Parkhurst was an improvement over the hulks, it remained founded on 'the principles of less eligibility' that required those incarcerated to be kept in conditions worse than those experienced by an honest labourer, and those sent there were subjected to a regime of 'psychological manipulation'.[40] When Parkhurst was proposed, Home District Prison Inspectors Crawford and Russell maintained that the new prison should be of a 'penal character' and should disdain 'milder principles' lest it encourage parents to take advantage of the penitentiary as a means of advancing their otherwise deprived children.[41] Mary Carpenter's alternative proposition of reformatory schools served as a form of 'virtual transportation' with the child placed away from both their home conditions and the crimes they had committed, but without the severity of observation and harsh correction that accompanied colonial life and the regime at Parkhurst.[42] At a meeting in Bridgnorth, Shropshire in 1851, Mr W. Morgan, Honorary Secretary of the Warwickshire and Birmingham Reformatory Movement, talked of a 'moral revolution' where the 'criminal may be kept amongst us, no longer hurtful members of society'.[43] The link between the end of transportation and the introduction of reformatories was epitomised by North Staffordshire MP, Charles Adderley, a proponent of ending transportation and a supporter of the reform school Movement. Adderley was the author of a pamphlet entitled *Transportation Not Necessary* in 1851, describing juvenile convicts as 'pseudo-criminals'.[44] Adderley argued that the offences 'of children are very trifling at first' and that they should be forgiven when they came before the magistrate from a situation of 'ignorance and destitution'.[45] He felt that it would be better to place them in school and force the parents to contribute.[46] He shortly became a vocal advocate of The Reformatory School Bill in Parliament and an attendee of the 1853 Conference on the Treatment of Juvenile Offenders in Birmingham that emphasised the need for legislation to push forward reform schools when transportation was ceasing.[47] The tension between desires to reform and reprimand was an integral element of

[39] M. Carpenter, *Juvenile Delinquents, Their Condition and Treatment*, London 1856, p.201.
[40] Stack, 'Deterrence and Reformation in Early Victorian Social Policy', p.403.
[41] *PP, The Second Report of the Inspectors of Prisons for the Home District*, London 1837, p.67.
[42] *The Edinburgh Review, or Critical Journal, Vol. 94: For July 1851 – October 1851*, Edinburgh 1851, p.420.
[43] *Shrewsbury Chronicle* - Friday 30 November 1855.
[44] *Staffordshire Advertiser* - Saturday 25 January 1851.
[45] C. Adderley, *Transportation Not Necessary,* London 1851, pp.34-39.
[46] Adderley, *Transportation Not Necessary*, p.34.
[47] *Staffordshire Advertiser* - Saturday 19 November 1853 – this conference was attended by the notable reformer John Pakington, responsible for the introduction of the Juvenile Offenders Bill 1847. Adderley was also responsible for providing

transportation for juveniles before the shift towards provincial reclamation efforts in the 1850s. Many thousands of young people received this punishment based on the assumption that transportation would ultimately be beneficial to their rehabilitation. Inspectors Crawford and Russell believed that juvenile emigration would subject juveniles to as few temptations as possible and allow them to earn their 'subsistence through honest industry', a situation that would be in vain if they remained in England.[48] As Shore notes, transportation benefited both sides of the juvenile offender debate.[49] It allowed those who acknowledged the castigatory element of the punishment to feel that immoral youths would no longer pose a threat to local law and order. Likewise, it appealed to those who believed in its reformative effects by removing the most vulnerable from their corrupting environments, an objective that was deemed particularly important for the youngest convicts.[50] Juvenile justice gravitated towards philanthropic models of rehabilitation, rather than reform being the result of punitive approaches. This became integral to the introduction of reformatories in the 1850s but its impact from the mid-1830s onwards was to see a reduction in forced transportation throughout the 1840s until its ultimate end in the 1850s. During the mid-nineteenth century, transportation was transformed from 'benevolent punishment' into 'benevolent emigration'.[51]

The case for the rehabilitative effect of transportation was articulated in both Staffordshire and Shropshire. *Eddowes's Journal* ran an opinion piece on a meeting regarding the end of transportation and its effects on the juvenile criminal population in Shropshire in 1855. This meeting was attended by some of the most vocal proponents of the reformation of juvenile offenders, such as Sir Baldwin Leighton and Robert Aglionby Slaney, and neatly summarised the dichotomy between 'the punishment of the offender…and his retrieval'. For the author of the article, transportation offered the possibility of 'profitable employment and the chance of reformation'.[52] Similarly, in Staffordshire, Magistrate John Leigh, in an 1850 debate concerning the appointment of a committee for the reformation of juvenile offenders for that county, admitted sending juveniles to court for trivial matters in the expectation of a sentence of transportation. He hoped that this would safeguard them from further recommittals and banish them from their juvenile associations.[53] In 1839, Stipendiary Magistrate, Thomas Bailey Rose, in convicting three juveniles, two of whom were

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the land on which the Saltley Reformatory for juvenile offenders was built in 1852. *Staffordshire Advertiser* - Saturday 06 August 1853 and *https://nortonfoundation.org/history/,* accessed 9-10-20.

[48] W. Crawford, & W. Russell, *PP, The Third Report of the Inspectors of Prisons for the Home District,* London 1838, p.111.

[49] Shore, 'Transportation, Penal Ideology and the Experience of Juvenile', p.5.

[50] ibid., pp.5, 81.

[51] Nunn, 'Making them good and useful', p.342.

[52] *Eddowes's Journal, and General Advertiser for Shropshire, and the Principality of Wales* - Wednesday 12 December 1855.

[53] *Staffordshire Advertiser* - Saturday 05 January 1850.

described as 'mere children', wished he had greater powers to send such boys abroad so that they could not 'persevere in their thieving habits'.[54] In a separate case heard by the Staffordshire Magistrate, Rev. John Clare, a mother and daughter convicted for the same offence received wildly differing sentences. The mother was sent to serve six months imprisonment whilst the daughter received a seven-year transportation ruling in the hope that a penitentiary place could be found for her. In his defence of the sentencing, the Chair of the Easter Sessions of 1838, Francis Tremlow, believed that if they had been treated equally, both mother and daughter would have returned to their former ways. It was far better that the daughter received 'instruction rather than punishment' and the opportunity to be separated from the mother.[55] In the case of William Rowley, 14, found guilty of stealing an ass at the Staffordshire Easter Sessions of 1830, transportation as a means to restore a child to 'virtuous habits' was advocated.[56] Nathan Benton, a 10-year-old boy, had been in custody for various felonies a staggering twenty-three times before being sentenced to seven years transportation at the Stafford Epiphany Sessions of 1829. Again, the language used by the court implied the 'mercy' of such a verdict and the need to remove him from 'the haunts of vice from which he had been brought'.[57]

A prolonged period of punishment awaited these juveniles in Australia, far in excess of what they might have been subjected to at home. As Watkins has discovered, minor and moderate offences were more likely to be reported for juveniles than adults in the colonies. This was because juvenile skill levels were low in comparison to those of adult workers, and therefore their absence during a period of punishment had less of an impact.[58] At Point Puer, punishment varied in scale from confinement to the muster ground to confinement in a separate cell, followed by imprisonment in the 'Old Gaol', then detention in the criminal gaol, eventually leading to the most severe punishments of solitary confinement and, finally, lashes.[59] Hard labour was a common punishment for both sexes although female juveniles were spared the lash.[60] Robert Hughes describes the 'hermetic regularity of its discipline' that existed at Port Arthur, whilst Shore notes that the penal

[54] *Staffordshire Gazette and County Standard* - Saturday 28 December 1839.
[55] *Staffordshire Advertiser* - Saturday 07 April 1838. This case caused an amount of criticism in London because the child was one of the youngest to be sent to a penitentiary there; however, this was again endorsed by one of the presiding judges of the Staffordshire Lent Assizes, Sir Edward Alderson, since the girl had been sent there from 'the kindest motives, and from the best intentions'. *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 14 March 1838.
[56] *Staffordshire Advertiser* - Saturday 24 April 1830.
[57] *Staffordshire Advertiser* - Saturday 17 January 1829.
[58] This was true under a work assignment or in an institutional setting. Watkins, *Life Courses of Young Convicts*, p.79.
[59] ibid., p.50.
[60] ibid., p.73.

colony became a 'relentless and grinding apparatus of reform'.[61] The *Standing Instructions for the Regulation of the Penal Settlement* at Port Arthur emphasised that the 'most harassing vigilance over them is to be observed'.[62] Shore reports a number of juveniles whose convict record noted multiple indiscretions and offences.[63] In a climate of strict discipline and observation, bound within an institutional setting that punished natural adolescent unruliness, it is not surprising that many juveniles faced a number of punishments under colonial supervision. The institutions of Van Diemen's Land were more concerned with containment than reformation: control and discipline shaped the lives of those juveniles after transportation.[64]

The magistrates of Staffordshire and Shropshire considered transportation to be an act of benevolence which outweighed the retributive nature of the punishment. Criminal biographies cannot measure how successful this belief was, nor how beneficial life in the colonies proved to be for those transported. What constituted successful forced emigration is subjective and without the testimonies of the transportees themselves it is not possible to judge whether their lives were better thousands of miles away from their friends and families. However, what can be studied is any friction endured by juveniles in their resistance to colonial lives through the number and severity of punishments they received whilst being under this period of scrutiny. In this respect it is possible to evaluate the assumptions of the magistrates that they were providing an effective and positive answer to juvenile reoffending.

6.4 Criminal biographies

The records created through the implementation of the criminal justice system were never meant to be revelatory about the criminals themselves but were part of a bureaucratic system of recording prosecution and punishment.[65] In the material available to contemporaries concerned with the changing nature of crime, the individual was often absent; however, transportation records offer an opportunity to pierce this bureaucratic veil to reveal something of the criminals themselves. The

[61] R. Hughes, *The Fatal Shore*, London 1986, p.400; and Shore, 'Transportation, Penal Ideology and the Experience of Juvenile Offenders', p.11.
[62] *PP, Report from the Select Committee on Transportation 1837*, p.51.
[63] Shore, 'Transportation, Penal Ideology and the Experience of Juvenile Offenders', p.10.
[64] ibid., p.14.
[65] T. Hitchcock & R. B. Shoemaker, *London Lives: Poverty, Crime and the Making of a Modern City, 1690-1800*, Cambridge 2015, p.23.

conduct record for each transportee contains the names, age, and physical characteristics of the offender alongside their previous offences and the behaviour of the convict whilst under sentence. Although some records are missing and incomplete, their interconnectedness with other penal records at various stages of the transportation process indicates a high level of accuracy. It may have been the case that adolescents either exaggerated or understated their ages both in court and during transportation in the hope of gaining advantage. However, by using multiple sources covering several years, this study has found that age variations for individuals beyond a few years were rare. Using the conduct record in combination with the transport registers, started as the convict boarded the ship and completed on arrival, it is possible to identify the date when, and location where, the convict was sentenced. Much of this information is corroborated by the Convict Indents that effectively acted as the transportee's passport, as well as listing familial relationships from their place of origin. More precise identification of individuals using census and newspaper archives then becomes possible.[66] Combined with the increasingly detailed briefings of court proceedings in local newspapers it is possible to create biographies for several convicts to reveal details of their lives which are otherwise hidden in official statistics and reports. This in turn allows re-evaluation of the kinds of behaviour that were deemed 'criminal' by the ruling classes and provides a more rounded picture of the juveniles themselves. By questioning the nature of juvenile delinquency presented in official reports both nationally and locally, these biographies reveal facets of the process of criminalisation that compounded the 'juvenile crime' crisis of the first half of the nineteenth century.

This method of 'critical and systematic nominal record linkage' has been utilised by Adrian Ager and Catherine Lee in their study of prostitution in Kent, and by Richard Ward and Lucy Williams in their exploration of the digitised material in the Old Bailey records.[67] Ward and Williams note that this method permits the recovery of 'experiences and stories that would otherwise be lost'.[68] By carefully cross-referencing disparate records, doubts can be eliminated regarding possible duplication of similarly named offenders in the criminal records. This exercise confirms that the official records were, if not fully accurate, largely consistent in their recording of the details of crimes and criminals. We must also be careful when making these connections so as not to confuse correlation with causation. As Helen Johnston, Barry Godfrey and Jo Turner perceptively point out, we have no

[66] Digital Panopticon, *https://www.digitalpanopticon.org/Records*, accessed 19/1/22.
[67] A. Ager, & C. Lee, 'Prostitution in the Medway towns, 1860-1885', *Local Population Studies,* No.83, 2009, p.41; and R. Ward & L. Williams, 'Initial views from the Digital Panopticon: Reconstructing Penal Outcomes in the 1790s', *Law and History Review, Vol.4, No.34,* 2016, p.896.
[68] Ward & Williams, 'Initial views from the Digital Panopticon', p.897.

insight into the personal motivations of the juveniles being studied: we can merely suggest reasons for their actions and offer insights into the circumstances in which they found themselves.[69]

Amelia Smith, a housemaid from Birmingham, was aged 16 when convicted at the Staffordshire Sessions in October 1848 for stealing flannel from a shop; she was punished more harshly than her accomplice because of a series of previous convictions.[70] Amelia had hitherto served sentences of two months and four months for the stealing of flannel and boots respectively and was sentenced to 7 years transportation to Van Diemen's Land; her co-defendant, being a first-time offender, was sentenced to six months in the County Gaol.[71] In Shropshire, Charles Pickering also aged 16, was described as a 'regular thief' by the presiding trial magistrate in 1845.[72] His theft of a hat was described as a 'light offence' but his earlier record encouraged the magistrate to transport him for 7 years.[73] His previous convictions included trespass and the theft of a duck, offences that had gained him a three-month stay in Shrewsbury Gaol and a double sentence of whipping.[74] To some extent the removal of so many regular repeat offenders helped to conceal the numbers of juveniles convicted for petty thefts and almost certainly reduced the pressure of their presence in penal institutions. These cases also hint at the cumulative impact of minor summary offences. A minor charge of vagrancy or trespassing could brand a youth as criminal and therefore a persistent troublemaker, thus sealing their fate by denying them opportunities for employment, introducing them to established criminal connections or compounding further summary offences.

These examples of repeat young petty offenders who received a sentence of transportation are numerous. The quality of the transportation records allows research to go beyond these isolated cases to examine the associations between young offenders on a larger scale. Nationally, and locally, the increase in juvenile offending was attributed to bands of young ill-disciplined urban youths who co-operated in their mischief-making and lawlessness. B. J. Davey's study of policing in Horncastle, Lincolnshire, in the 1840s emphasises the nuisance that bands of idle juveniles caused, even in a

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[69] H. Johnston, B. Godfrey, & J. Turner, *"I am afraid she is perfectly responsible for her actions and is simply wicked": Reconstructing the Criminal Career of Julia Hyland*, in D. S. Nash, & A. M. Kilday (eds*), Law, Crime and Deviance since 1700: Micro Studies in the History of Crime*, London 2017, p.221; and H. Johnston, B. Godfrey, D. Cox & J. Turner, 'Reconstructing Prison Lives: Criminal Lives in the Digital Age', *Prison Service Journal,* No.210, 2013, p.9.

[70] *Staffordshire Advertiser* - Saturday 21 October 1848.

[71] *Staffordshire Advertiser* - Saturday 21 October 1848 *& Tasmanian Record Office: Conduct Record, CON41-1-23* Image 134. (Hereafter TRO).

[72] *Eddowes's Journal* - Wednesday 30 July 1845.

[73] ibid.

[74] *Shrewsbury Chronicle* - Friday 11 March 1842.

relatively small market town.[75] Handbills were produced to dissuade youths from congregating in the streets and small gangs of troublemakers were brought before the police for minor offences and infractions.[76] In 1825, Stafford Gaol Governor Thomas Brutton bemoaned the gangs of juvenile offenders 'that infest the Potteries'.[77] The Clerk of the Peace reiterated the problem generated by the manufacturing districts of Staffordshire in 1828 when he blamed indiscipline in the County Gaol on young apprentices convicted for 'idleness and other misconduct'.[78] This was echoed by the Gaol Chaplain in the same year, who believed that the growth in the gaol population was a result of the contamination of the youngest committals which was impossible to prevent.[79] The Chaplain claimed that punishment intended to act as preventive became an enticement to reoffend because the treatment the young apprentices received in gaol was more humane and their comfort greater than with their masters. Many of the boys under his care confessed that they would rather remain in gaol than return home, and he reported that he had often seen boys pass through the gaol five or six times, inevitably ending in a felony conviction and transportation.[80]

By viewing the detailed transportation records in tandem with cases reported in local newspapers it is possible to reconstruct one of these 'gangs' of juvenile offenders from the Potteries, through various interconnected offences from 1846 to 1848. At least ten juveniles were involved in six separate offences in the three-year period, leading to sentences of imprisonment and transportation. Six of the ten – William Massey, James Holdcroft, Thomas Emery, Joseph Wilkinson, Thomas Adams and Samuel Cockram, all aged 16 or under – were found guilty of stealing bread from the shop of Joseph Brown in Tunstall and apprehended in a cabin at Jackfield Colliery in 1847.[81] From the witnesses statements given at trial the bread amounted to three loaves valued at 18 pence and was consumed by the thieves at the cabin.[82] Cockram escaped a prison sentence by turning evidence against his fellow offenders, whilst Massey, a 16-year-old potter, had previous convictions for theft.[83]

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[75] B. J. Davey, *Lawless and Immoral: Policing a Country Town, 1838-1857*, Leicester 1983.
[76] Davey, *Lawless and Immoral: Policing a Country Town*, pp.28, 118.
[77] *Staffordshire and Stoke on Trent Archive Service Q/SB M/16/2 Report of the Gaoler and Governor of the County Gaol and House of Correction, giving total number of prisoners in custody, Oct 1825.* (Hereafter SSTA).
[78] *SSTA QS/B/M/19 Copy report of the Clerk of the Peace on the County Prison, as returned to the Secretary of State under Act 4 George IV cap 64, written by Oswald Mosley, chairman of Quarter Sessions, 15 Oct 1828.*
[79] He claimed that 19 out of 20 cases of young lawbreakers entering the prison left with a worse character than when they entered. *SSTA QS/B/M/20 Report of the Chaplain to the Gaol Visiting Committee, including note of literacy of prisoners, Oct 1828.*
[80] ibid.
[81] *Staffordshire Advertiser* - Saturday 06 February 1847.
[82] *SSTA Q/SB AA/3 Depositions 1847.*
[83] *TRO CON33/1/95 Conduct Registers of Male Convicts arriving in the Period of the Probation System, 1840-53*, Image 173, 1850 *& The National Archives HO11. Convicts transported, Australian Convict Transportation Registers – Other Fleets & Ships, 1791-1868,* 23 March 1850. (Hereafter TNA.)

An 1863 Parliamentary report estimated that almost 22% of the Potteries' employees were 'young persons' whilst 15% were 'children'.[84] Although the wages of potters were relatively high, poverty was significant in the town.[85] Juveniles were more likely to be laid off than skilled workers during downturns in trade, and the Children's Employment Commissioner noted in 1862 that the employment of children locally was prone to fluctuation.[86] Massey had been in gaol several times with James Holdcroft, who was described by the *Staffordshire Advertiser* as 'the most expert young thief in Burslem' despite being just ten years of age.[87] Massey's repeated flouting of the law led to his sentence of transportation for 7 years despite his most recent offence being minor, motivated by hunger rather than profit.

One year earlier, Massey and Holdcroft had been caught stealing a watch from the parish of Wolstanton – alongside John Maguire and Daniel Roberts, both under the age of 15.[88] They had made several attempts to pawn the watch, eventually receiving ten shillings, but were captured in Congleton and later prosecuted, despite Roberts' attempts to hide the evidence by consuming the pawn ticket.[89] Shore argues that some children may have stolen in response to an external demand for goods where fences offered a 'nexus' for criminal activity.[90] Whilst pawnbrokers may have been utilised within common survival strategies for the poor, they were also locations where networks of criminal coincided.[91] During the trial of a child of 'very tender years', at Stafford (July 1842), a trader named William Hassall was brought before the court and admonished for purchasing the iron bores stolen by the young thief and told that persons like himself were the 'greatest encouragers of thieves in the county'.[92] The judge believed that the trader clearly knew the origin of the goods and was as much at fault for offering a means for the disposal of stolen goods.[93] Shore contends that it is likely that juveniles only ever found themselves on the periphery of these criminal subcultures rather than as full-blown participants in criminal networks of exchange.[94] On this occasion, John Maguire

[84] Children defined in the report as being under 13, whilst young persons were 13 to 18 years of age. *PP, Royal Com. on Employment of Children in Trades and Manufactures not regulated by Law. First Report, Appendix,* London 1863, p.1. See also M. W. Dupree, *Family Structure in the Staffordshire Potteries 1840–1880*, Oxford 2011, p.57.
[85] Dupree, *Family Structure in the Staffordshire Potteries*, p.74.
[86] ibid., p.60.
[87] *Staffordshire Advertiser* - Saturday 04 July 1846 *& Staffordshire Advertiser* - Saturday 02 May 1846.
[88] *Staffordshire Advertiser* - Saturday 04 July 1846.
[89] ibid.
[90] H. Shore, 'Cross Coves, Buzzers and General Sorts of Prigs. Juvenile Crime and the Criminal "Underworld" in the Early Nineteenth Century', *The British Journal of Criminology*, *No.35*, 1999, p.11.
[91] Shore, 'Cross Coves, Buzzers and General Sorts of Prigs', p.11.
[92] *Staffordshire Advertiser* - Saturday 02 July 1842.
[93] A case brought in 1857 surprised magistrate John Leigh who learned that the pawnbrokers in Bilston claimed that up to 20 boys per day would bring watches for exchange, swearing them to be property of their parents. *Staffordshire Advertiser* - Saturday 03 October 1857.
[94] Shore, 'Cross Coves, Buzzers and General Sorts of Prigs', p.12.

received the harshest sentence: transportation for ten years.[95] He was described as a 'notorious character' with several offences behind him, the most recent being for breaking windowpanes at the Alcock Manufactory two months before the watch theft. In this instance, Maguire stood before Thomas Bailey Rose, the Stipendiary Magistrate for Stoke.[96] Rose merely admonished him for his vandalism but the timing of the offence in relation to the introduction of the JOA, passed one year later, is worth noting. Among those sampled over the ten-year period in the Staffordshire records, 20% of the JOA orders handed down were issued by Rose, who actively pursued the Act against youths in his jurisdiction. It would not be too speculative to argue that had Maguire found himself before Rose just one year later, he may well have faced a gaol term and whipping rather than the mild reprimand that he received in 1846; however, whether this would have resulted in a different outcome for the boy must remain conjectural.

Thomas Adams, an accomplice in the bread theft in 1847, was again apprehended in 1848, this time for the theft of a waistcoat, the property of Mary Wilson.[97] He was described as just 'a little boy' in his trial that saw him transported for 7 years. From his transportation records he is aged as being 14 at the time of his final offence and just 4 foot 11 inches tall on his arrival in Van Diemen's Land.[98] The transportation log also records him being trained as a tailor, a native of Stafford and having had previous convictions, not just for bread-taking but also theft from a till.[99] His first offence had occurred just one year earlier when he had been committed for vagrancy at Jackfield Colliery. He was convicted alongside Thomas Emery, a 'noted thief', who had been convicted of stealing eggs from a box on Queen's Street, Burslem, in 1846 and who would be involved in stealing the loaves, for which they were both convicted to imprisonment for two months, after their vagrancy offence.[100]

The language used by officials and newspapers was provocative and intended to convey a moral panic, particularly in the Potteries, regarding the juvenile thieves that roamed the district.[101] Governor Brutton was not the first to link a plague of bands of juvenile thieves in the area to

[95] *Staffordshire Advertiser* - Saturday 04 July 1846.
[96] *Staffordshire Advertiser* - Saturday 30 May 1846.
[97] *Staffordshire Advertiser* - Saturday 18 March 1848 & *Staffordshire Advertiser* - Saturday 23 October 1847.
[98] *TRO CON33/1/106 Conduct Registers of Male Convicts arriving in the Period of the Probation System, 1840-53*, Image 5, 1851 & *TNA HO11 Convicts transported, Australian Convict Transportation Registers – Other Fleets & Ships, 1791-1868,* 24 Dec 1851.
[99] *TRO CON33/1/106 Conduct Registers of Male Convicts arriving in the Period of the Probation System, 1840-53*, Image 5, 1851.
[100] *Staffordshire Advertiser* - Saturday 06 February 1847 *& Staffordshire Advertiser* - Saturday 02 May 1846.
[101] *Staffordshire Gazette and County Standard* - Saturday 08 February 1840; *Staffordshire Advertiser* – Saturday 12 June 1847; and *Staffordshire Gazette and County Standard* - Thursday 09 December 1841.

increased levels of law breaking: as early as 1824 the *Staffordshire Advertiser* described the crimes of William Pass and John Holdcroft and other youths as an infestation.[102] They had taken beef from a stall at Burslem and been sentenced to three months' hard labour and a month in solitary confinement each. This was clearly a longstanding issue as in 1847, fourteen-year old Robert Cooper was said to be a part of a 'gang' when his theft of nuts through a broken window from a druggists in Burslem was reported.[103] In 1840 eleven-year-old Joseph Boon was charged with stealing a pair of trousers from the shop of John Oates Wood in Hanley Market after being caught pawning them and faced a second charge of breaking a window and attempting to steal a book. Two others of the same age, John Owen and James Booth, were charged at the same Sessions with breaking the window of James Many of Miles Bank. Alongside them stood William Hartshorne, Thomas Colclough and Ralph Greaves, described in the report as youths who had stolen both trousers and a jacket from the same prosecutor, James Many, and were identified as belonging to the same 'gang of juvenile thieves' as Boon, Owen and Booth.[104] In 1841 Eli Cooper was recognised as belonging to a group of juvenile 'depredators' when he was sentenced to three months' hard labour alongside John Reeves and David Reeves for attempting to commit a felony at Longton Market in November that year. Another youth, John Walley, was charged at the same hearing with stealing a powder flask and other articles from the shop of a Mr. Burrows later in the month and the rest of the 'gang', including Eli Cooper, faced standing for the same crime, but the case could not be proved, and they were merely charged with being 'vagabonds'.[105] Further larcenies followed Cooper as he pleaded guilty to stealing a pair of stockings from Longton in April the following year and a silk handkerchief at Stoke in October; this saw him sentenced to ten years' transportation which would be fulfilled aboard the *Anson* in 1843.[106] The level of organisation implied by the reports for these acts of pilfering is difficult to justify but many of the juveniles convicted for mischief and petty thefts were acquainted with each other, either as relatives, work colleagues or friends.

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[102] *Staffordshire Advertiser* – Saturday 17 January 1824.

[103] Later defenders of reformatory efforts argued that the institutions helped to break up these types of gangs – Mr. Kynnersley, a Stipendiary Magistrate for Birmingham who spoke at the July 1862 Stafford Session, believed that ringleaders of groups of juvenile criminals were being sent to reformatories, which helped 'cut off the tutors of these little urchins'. *Staffordshire Advertiser* - Saturday 05 July 1862.

[104] *Staffordshire Gazette and County Standard* - Saturday 08 February 1840.

[105] *Staffordshire Gazette and County Standard* - Thursday 09 December 1841. The 1841 Census reported Cooper to be 14 years of age (which corresponds to the newspaper article of the original case) and his convict indent noted him as both a labourer and potter. *TNA HO107 Census Returns 1841*; Piece: *991*; Book: *4*; Civil Parish: *Stoke Upon Trent*; County: *Staffordshire*; Enumeration District: *7*; Folio: *20*; Page: *32*; Line: *25*; GSU roll: *474621 & TRO CON14-1-25 Indents of Male Convicts, Image 43.*

[106] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 13 April 1842; *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 26 October 1842.

Without the details contained in these local reports the connections between these crimes may have been lost. The emphasis in the press on cooperation and teamwork by these delinquents is tenuous, and should be examined with caution. They were associates and possibly even friends, but the level of deliberately arranged acts of premeditated larceny is difficult to judge from these isolated incidents. However, even from these brief criminal biographies, it is possible to draw conclusions regarding the type of criminality in which juvenile delinquents in a large urban and industrial area such as Stoke were involved. The picture is not one of organised gangs or bands of roaming youths found in the colourful descriptions of crime in the capital, as exemplified by Charles Dickens' gang of organised pickpockets in *Oliver Twist* (1837-39) or in the later penny dreadful, *The Wild Boys of London: or, the Children of Night* (1867) which detailed stories of mutinous youths. Instead, it is one of misbehaviour and delinquent activity, driven by desperation and boredom as much as by profit. In her study of the convict ship *Euryalus*, which held a population of young offenders awaiting transportation, Shore found that whilst gangs were often mentioned in the literature and reports of the period, they rarely displayed the degree of organisation found towards the end of the century.[107] This may have been the result of increased urban police action in the late nineteenth century towards the lifestyles of the poor.[108] The boys told of misdemeanours and general delinquency rather than involvement with larger criminal networks.[109] They thought that their own misbehaviour was linked to poverty, unemployment and the temptations of leisure and entertainment, with peer pressure playing a decisive role.[110] Although many were employed, the immediate benefits of thieving often outweighed the profits of honest work.[111] These contemporary accounts match the evidence from the Potteries remarkably well, and allow insight into the circumstances of the youths of that region. The behaviour displayed by juveniles in the Potteries was a concern for social commentators of the mid-nineteenth century, whose world view and own conduct was informed by

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[107] H. Shore, *The Social History of Juvenile Crime in Middlesex, 1790-1850*, PhD thesis, Royal Holloway, University of London, London 1996, p.114.

[108] Barbara Weinberger hints at a possible reason for a change in youth gang behaviour later in the century as a possible response to increased police activity after the 1870s. Gangs of youths were specifically targeted after the late 1860s as police, who had in previous decades been chided for being too passive in dealing with working-class lifestyles deemed unacceptable by the middling classes that dominated town life, caused an increase in hostility from the lower orders who may have become more organised in their resistance. B. Weinberger, *The Police and the Public in Mid-Nineteenth Century Warwickshire*, in V. Bailey (ed.), *Policing and Punishment in Nineteenth Century Britain*, London 1981 pp.70,75, 88-89. This is demonstrated in Simon Briercliffe's study of Wolverhampton where a 'new phenomenon' appeared in the 1870s in the form of a named youth gang that became notorious for its behaviour which Briercliffe describes as a 'new kind of media-inspired crime panic' centred around 'problem spaces and youth crime'. S. Briercliffe, "*The blackest shadows are cast by the Irish quarter": The making of Stafford Street, Wolverhampton, 1832-1882*, PhD thesis, University of Birmingham, 2022, p.191.

[109] Shore, 'Transportation, Penal Ideology and the Experience of Juvenile Offenders', p.87.

[110] Shore, *The Social History of Juvenile Crime in Middlesex*, p.111.

[111] ibid. A. L. Beier focused on the life history of one London criminal of the nineteenth century, named David Evans, and echoed the findings of Shore. The young Evans found theft more profitable than work and spent time with gangs involved with gambling and wenching. This adolescent misbehaviour ultimately led to a life of crime through persistent interactions with the judicial and penal system. A. L. Beier, 'Identity, Language, and Resistance in the Making of the Victorian "Criminal Class": Mayhew's Convict Revisited', *Journal of British Studies, Vol.44, No.3*, 2005, p.507.

Christian morality. The juveniles of the Potteries, and other urban conglomerations of poor youths, had 'other allegiances, relationships and ideologies' that stood at odds with the emphasis on virtuousness and godliness embodied by those in power, both nationally and locally.[112] The boys had their own concepts of 'masculine identity, autonomy, success, power, fun, desire and their hopes for the future', and both the state and local governance hoped to reshape those desires towards ones that accorded with their own principles.[113] This interplay between how youths viewed themselves, and how authority perceived them, is pivotal to understanding why delinquent conduct and youthful gathering in concentrated numbers was of such concern.[114] John Springhall, in his study of twentieth-century delinquency, notes that a 'street-corner subculture', or informal open-air community, has existed in urban Britain for many centuries, particularly following the Industrial Revolution and the growth of towns and cities; whenever youths have congregated together away from adult supervision they have produced their own 'distinctive patterns of behaviour'.[115] These idle youths clashed with Christian principle: the description 'because he was idle he was ignorant; and because he was ignorant and depraved, he was wicked and cruel' was affirmed by the attitude that proclaimed 'how happy are those young persons who lose no days to idleness' who would become the 'delight of mankind'.[116] This subculture directly challenged a religious ideal of youthful behaviour and efforts to suppress such behaviour, through legal restrictions, further emphasised the narrative of unruly urban youths. This gang problem was identified within urban settings and reveals a contrast between the two counties: it is rarely mentioned in the Shropshire newspapers, given this county's larger agricultural and more dispersed populace. It is likely that the unease generated by these groupings further compounded the number of youths committed in Staffordshire as their offensive behaviour was more visible in the county's larger industrial towns. This may be one of the key differences in the number of juveniles being prosecuted in each county (beyond the obvious differences in absolute numbers of young people). Juvenile behaviour in the more urban county stood in opposition to expected norms and became a target for prosecution.

One fear was that boy thieves, however irksome and trivial their offences seemed, might graduate to the 'swell mob', older pickpockets who allegedly operated by dressing respectably and worked unhindered in bustling urban gatherings.[117] These fears originated in the metropolis but were readily

[112] H. Shore, *Artful Dodgers: Youth and Crime in Early Nineteenth-Century London*, London 1999, p.43.
[113] C. Nunn, *Children in Chains: Juvenile Male Convictism and the Formation of Subjectivity, Carters' Barracks and Point Puer*, PhD thesis, Macquarie University, 2017, p.7.
[114] Nunn, *Children in Chains*, p.7.
[115] J. Springhall, *Coming of Age: Adolescence in Britain, 1860-1960*, Dublin 1986, p.139.
[116] J. Mason, *Youth's Instructor and Guardian, Vol.17*, London 1833, p.163.
[117] H. Shore, *The trouble with boys: gender and the "invention" of the juvenile offender in early nineteenth-century Britain,* M. L. Arnot & C. Usborne (eds), *Gender and Crime in Modern Europe*, London 1999, p.82.

imprinted upon the minds of those upper and middling classes who applied the law, communicated across county borders and consumed the reporting of crime. The criminalisation of petty acts of mischief and misbehaviour compounded the numbers of juveniles facing transportation. The above examples reveal how minor transgressions such as vandalism and vagrancy could lead to a transportation sentence since this aberrant behaviour went largely unchecked by time in the county gaol. Transportation offered both punitive and restorative solutions to this growing problem. However, as John Stack notes, humanitarian reform often leads to as much distress as happiness, especially when such progress benefits some classes more than others.[118] In this case the ruling and middling classes, by circumscribing certain forms of behaviour that stood at odds to their beliefs in an ordered society, in fact helped to create more criminals – an unwanted effect that exemplifies the tensions inherent in working towards reformatory goals that are nevertheless tempered by punishment. What solutions could the magistrates pursue against offending juveniles that would achieve redemption but not at the cost of destabilising society by giving delinquents access to betterment greater than that enjoyed by the honest poor? This is key to understanding the criminalisation of juveniles in Staffordshire and Shropshire and the efforts of the judiciary to find a reformative solution to a perceived crisis in which transportation played its part.

6.5 Individual biographies

This section examines the consequences of transportation for three of these young offenders. The quality and quantity of material plays a role in the selection of these individuals and reveals the treatment and conditions those transported would face. Furthermore, at the end of this section, the typicality of their circumstances is measured against a wider sample. The case studies show that transportation often involved stricter punishment, scrutiny, and duration than these individuals would face at home and the experience did not have the desired effect of dissuading them away from a life of criminal activity or misbehaviour.

Amelia Smith was 16 years of age when she landed in Van Diemen's Land in September 1849. She had been imprisoned for various larcenies before being sentenced to seven years transportation. Her convict conduct record shows that she had been accused of being 'on the town' for at least two

[118] Stack, 'Deterrence and Reformation in Early Victorian Social Policy, p.387.

years prior to her removal, a euphemism for someone who lived by prostitution.[119] Amelia's conduct record includes numerous infractions, such as being caught out after hours in September 1850, which led to a sentence of 14 days hard labour. A month of hard labour followed in January 1853, when she was reprimanded for being absent from her authorised place of residence.[120] Her introduction to a life of vice that had begun in Staffordshire continued after her removal to the colonies. Amelia was found and arrested in a 'disorderly house' in April 1852 and again found 'in bed with a man' in October 1853, infractions which were punished by 2 months and 6 months hard labour respectively.[121] After these events Amelia's record recommended that she was not to enter service north of the Green Ponds District of Van Diemen's Land whilst completing her sentence, presumably to keep her away from temptation to further misbehave. Furthermore, her residence in the Cascades Female Factory is mentioned in the remarks section for 1853.[122] The Cascades was described by Godfrey Charles Mundy, a British Army Officer and Assistant Under-Secretary at the Colonial Office, in 1851 as: 'enclosed within a high wall, with barred gates and vigilant turnkeys; it is, in short, a gaol in every respect'.[123] Strict discipline and silence were maintained in a ward for 'more troublesome and notorious characters' who were not allowed to enter service.[124] The last mention of Amelia in official records was a recommendation for a conditional pardon in January 1855.[125] No further records can be found.

The next youth to be investigated is William Massey, part of the Potteries' gang of delinquents, who arrived on the *Blenheim II* to Van Diemen's Land in October 1850.[126] By corroborating the names of William's closest relatives listed in his Convict Indent against the 1841 Census, Massey is identified as living in the Upper Marsh region of Wolstanton at the time of the Census, with his mother Mary and father Ralph.[127] Massey was one of six children within the household, with himself, his father, his

[119] F. Grose, *Grose's Classical Dictionary of the Vulgar Tongue: Revised and Corrected with the Addition of Numerous Slang Phrases Collected from Tried Authorities*, London 1823 & *TRO CON41/1/23 Conduct Registers of Female Convicts arriving in the Period of the Probation System*, *1818-77*.
[120] *TRO CON41/1/23 Conduct Registers of Female Convicts arriving in the Period of the Probation System* & *The Tasmanian Colonist* - Monday 25 July 1853.
[121] *TRO CON41/1/23 Conduct Registers of Female Convicts arriving in the Period of the Probation System.*
[122] Amelia would have been expected to undertake wool-combing, spinning and hemp-picking. *Colonial Times* - Friday 30 January 1829.
[123] G. C. Mundy, *Our Antipodes: or Residence and Rambles in the Australasian Colonies, with a glimpse of the Gold Fields, Third edition*, London 1855, p.499.
[124] Mundy, *Our Antipodes*, p.499.
[125] *TRO CON41/1/23 Conduct Registers of Female Convicts arriving in the Period of the Probation System.*
[126] *TNA HO11 Convicts transported, Australian Convict Transportation Registers – Other Fleets & Ships, 1791-1868.*
[127] *TRO CON14-1-33 Indents of Male Convicts, 1818-77 & TNA HO107 Census Returns 1841; Piece: 993; Book: 23; Civil Parish: Wolstanton; County: Staffordshire; Enumeration District: 1; Folio: 9; Page: 9; Line: 7; GSU roll: 474622.*

older sister Maria and younger brother Thomas listed as potters.[128] After his numerous encounters with the judicial system, William was transported for 7 years. William soon fell under the harsh scrutiny of colonial convict life that punished minor indiscretions. In September 1852 he was sentenced to a month of hard labour for taking a dog from his master's premises. In December of the same year four more months of hard labour were imposed, for being out after hours. In the following year William misrepresented himself as a free-man and earned himself three months of hard labour. In November 1853 his sentence of transportation was extended by another 18 months for absconding.[129] In Emma Watkins' study of 100 juvenile transportees, only 20% of those sampled received an extension to their original sentence, which indicated that Massey's punishment was harsh and emphasised the seriousness of his repeated misbehaviours.[130] Massey eventually earned his ticket of freedom in September 1855 and his conduct record contains no further instances of transgression.[131]

The final case study is of Thomas Adams, another Potteries youth, who had been sentenced to seven years and arrived on the *Aboukir* in December 1851.[132] He had lived with Jane and Mary Adams, both potters, in the Hole House region of Burslem, as recorded in the 1841 census.[133] According to Thomas's Convict Ident, Jane was his mother and Mary was Jane's sister in the 1851 census.[134] No male relatives were listed for either census. Thomas shows a familiar pattern of minor indiscretion and punishment in his conduct record. These included 6 days of solitary for being drunk in August 1852; a reprimand for being absent without leave in September; and a total of 24 days solitary confinement for absconding on two separate occasions in February and June 1853.[135] In April 1855 Thomas earned his Certificate of Freedom that entitled him to the same rights and privileges as a free subject and marked the end of his period of sentence.[136] However, by September of that year, Thomas had again been found guilty of an act of larceny. This time he was convicted alongside Augustus McGregor for stealing two cows that were the property of Joseph Best of Hamilton. His profession was listed in newspaper reports as a butcher. The cows had been valued at £30 at trial,

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[128] *TNA HO107 Census Returns 1841.* Wolstanton was just outside the main Potteries area and was home to an increasing number of potters by the early nineteenth century. M. Edwards, *Wolstanton & May Bank Through Time*, Stroud, 2014.
[129] *TRO CON33/1/95 Conduct Registers of Male Convicts arriving in the Period of the Probation System, 1840-53.*
[130] Watkins, *Life Courses of Young Convicts* p.58.
[131] *The Cornwall Chronicle* - 22 September 1855.
[132] *TNA HO11 Convicts transported, Australian Convict Transportation Registers – Other Fleets & Ships, 1791-1868.*
[133] *TNA HO107 Census Returns 1841; Piece: 987; Book: 12; Civil Parish: Burslem; County: Staffordshire; Enumeration District: 16; Folio: 13; Page: 20; Line: 14; GSU roll: 474619.*
[134] *TRO CON14-1-31 Indents of Male Convicts, 1818-77 & TNA HO107 Census Returns 1841; Piece: 2003; Folio: 402; Page: 8; GSU roll: 87405.*
[135] *TRO CON33/1/106 Conduct Registers of Male Convicts arriving in the Period of the Probation System, 1840-53.*
[136] *The Cornwall Chronicle* – 14 April 1855.

and Adams argued that he had legally purchased them from a John Smith for £18 and had a receipt to show for it. Adams' story was not accepted and two witnesses who he believed would validate his story failed to appear. McGregor was acquitted and assumed to be acting in good faith when employed by Adams to help him drive the cattle, whilst Adams was handed down a further four years of penal servitude.[137] Adam's sentence was served at Port Arthur where he faced further periods of hard labour and solitary confinement for idleness and misconduct; he was eventually freed in May 1859. Adams had effectively spent more than ten years after his removal from Staffordshire being repeatedly punished and monitored. A magistrate confronted with the history of Adam's life after removal may well have blamed all of Adam's subsequent failings on a lack of personal restraint. However, the conditions in Van Diemen's Land were deliberately harsh, and certainly more prolonged than any sentence that would have faced Adams back home.[138]

It is speculative whether Adams or the other individuals listed would have continued reoffending had they been left to carry on their lives in England. They would probably have faced less chance of being caught back home for petty crimes as the level of surveillance in the colonies was very high.[139] And as hard labour was a common punishment, often in chains on the roads, the physical nature of the colonial punishment practice was a continual source of criticism.[140] Nineteenth-century authors Thomas and Francis Bullock argued that transportation 'reduces the delinquent to a state of slavery' and that it could not hope to 'implant virtuous principle'.[141] Reformer Mary Carpenter reported on the case of an 18-year-old who had been transported for 7 years, for a single petty offence, but spent 31 years in the colonies, largely under punishment, before he could eventually return home.[142] In the opinion of the Select Committee of the House of Lords in 1847, transportation had 'a greater degree of terror' over any imprisonment at home where the convict would re-join their families after a short term in gaol.[143] Whilst it is difficult to claim that these individuals had better prospects in

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[137] *The Hobarton Mercury* – 3 October 1855 & *The Tasmanian Daily News* - 2 October 1855.
[138] In Chapter 3 it is shown that well over three-quarters of juveniles aged up to 17 in Staffordshire between 1814 and 1835 earned a gaol period of less than six months when receiving a sentence at the Quarter Sessions.
[139] H. Maxwell-Stewart, *Transportation from Britain and Ireland, 1615–1875*, in C. Anderson (ed.), *A Global History of Convicts and Penal Colonies*, London 2018, p.200; and Shore, 'Transportation, Penal Ideology and the Experience of Juvenile Offenders', p.13.
[140] Maxwell-Stewart, *Transportation from Britain and Ireland*, p.201.
[141] T. Bullock & F. Bullock, *Popular Education: An Antidote to Juvenile Delinquency, and a Great Security of National Virtue*, London 1849, p.165. The authors were also responsible for publications such as: *The Illustrated History of England,* Manchester 1861*; The Progressive English Reading Book, for Use in Schools,* Manchester 1862; and *The History of Modern Europe, for Schools and Private Students,* Manchester 1863.
[142] M. Carpenter, *Reformatory Schools: For the Children of the Perishing and Dangerous Classes and for Juvenile Offenders*, London 1851, p.291; and *PP Second Report from the Select Committee of the House of Lords Appointed to Inquire Into the Execution of the Criminal Law, Especially Respecting Juvenile Offenders and Transportation*, London 1847, p.455.
[143] *PP, Second Report from the Select Committee of the House of Lords Appointed to Inquire Into the Execution of the Criminal Law, Especially Respecting Juvenile Offenders and Transportation*, London 1847, p.4.

Staffordshire, it does call into question the belief of magistrates that transportation was an effective tool of reform which offered a better chance for redemption than being left in their native environments.

A wider examination of convict conduct records is required to determine how typical the experiences of the chosen case studies were in relation to other transportees. A biennial sample of a ten-year period between 1840 and 1850 of both Staffordshire and Shropshire juveniles aged below 17 years and sentenced to transportation at either the Quarter Sessions or Assizes was analysed. Sentences were determined from the Criminal Registers submitted to Parliament for each county, containing details of age, name, type of crime committed and sentence passed. This exercise covers the peak period of transportation for both counties and is contemporary with the selected case studies. It yielded 100 individuals sentenced to transportation by the courts, of whom only 9 were females. However, only 36 of these cases could be traced to an accompanying conduct record that would imply that the sentence was fulfilled. It is possible that the remainder either completed their sentence at Parkhurst Prison, were discharged, removed to another prison or were given pardons on completion of their sentence at Parkhurst on condition that they served apprenticeships in the colonies, often under permanent exile.[144] Richard Carr, 14 (1840) at the time of his sentencing or Thomas Ibbs, 12, spent three years at Parkhurst after being found guilty at the Staffordshire Sessions before being transported and apprenticed in Van Diemen's Land in 1843.[145] For Rachel Lunn, aged just 12 and convicted of shoplifting (1840), or 16-year-old Eliza Goodwin (1842), guilty of theft from her master but considered reformed after a severe illness, an appeal was made for leniency and they were permitted to serve their sentence at Millbank Penitentiary.[146] For the magistrates, the expected destiny of those they sentenced would be removal to the colonies. There was no way of guaranteeing that a sentence would not be fully served in a penal institution in Australia. As this section considers the consequences of transportation as convicts, and the available evidence limits us to these types of juveniles, it continues to focus upon them. Without the detailed record-keeping of the convict transport logs, it is difficult to trace these juveniles' lives after they had served their sentence.

[144] *The Edinburgh Review or Critical Journal*- July 1849*, Vol. 89-90*, New York 1849, p.17; and A. Laugesen, *Convict Words: Language in Early Colonial Australia*, Oxford 2002, p.xvii.
[145] *TNA HO24 Home Office: Prison Registers and Statistical Returns 1838-1875 and HO13 Home Office: Criminal Entry Books 1782-1871.*
[146] *TNA HO18 Criminal Petitions, Series II 1839-1853.*

Punishment in Van Diemen's Land was graded: hard labour and solitary confinement were the tools of control most often used. Corporal punishment up to a maximum of thirty-six lashes was reserved for the most serious offenders.[147] Hard labour was the most common form of penalty and in Watkins' sample of juveniles transported based on the *Old Bailey Proceedings,* the majority (82%) received this form of punishment.[148] Figure 6.5 reveals that in the Staffordshire and Shropshire sample just under 70% received a sentence of hard labour, over 50% had a period of solitary confinement, whilst over 10% received lashes. Only a quarter escaped receiving any punishment or anything greater than a reprimand. Sentences of hard labour were often passed multiple times upon the convicts, with 40% of those who were punished in this way receiving more than three separate periods of punishment. Smith, Massey and Adams were not unusual in their conduct record when compared with their fellow transportees from the same counties and indicate the typical experience that faced those sent abroad. However, they did not experience the harshest recorded punishments. Although female juvenile numbers were low in the sample, at least two of them, Eliza Gratton and Frances Nicholls, experienced spells in solitary confinement. Some male juveniles experienced repeated stays in the solitary cells and some convicts such as 16-year-old Benjamin Hollis spent more than 60 days in this manner, or 16-year-old Isaac Merrick who experienced more than 70 days in total. Others were even more unfortunate, such as 16-year-old Thomas Stone, a native of Salisbury but convicted in Bilston of stealing brasses in 1842: he received separate sentences of 36 and 24 lashes for absconding and using inappropriate language. Those unlucky enough to see their sentence of transportation fulfilled, experienced strict supervision with potential punishment for extended periods.

[147] Watkins, *Life Courses of Young Convicts*, p.50.
[148] ibid.

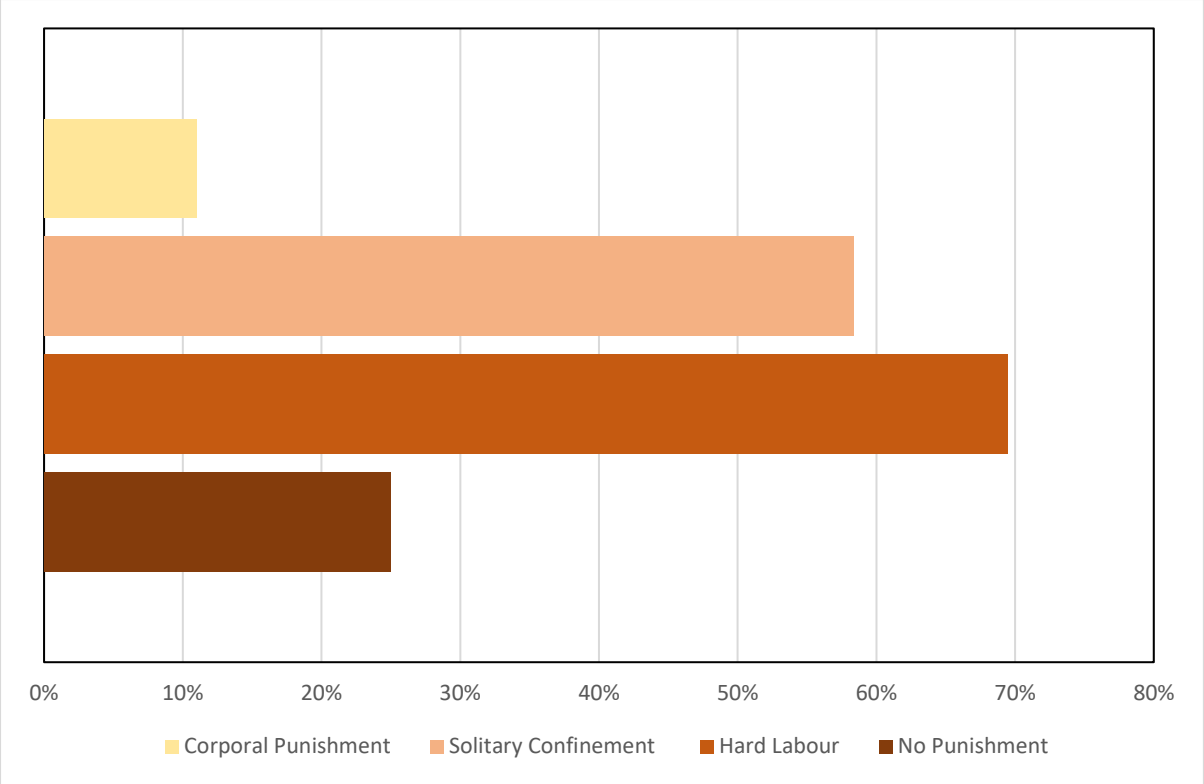

Figure 6.5. Proportion of punishments received for biennial sample of transportees aged ≤16 from Staffordshire and Shropshire 1840-1850.[149]

This evidence challenges the belief of Staffordshire and Shropshire magistrates that transportation offered redemption for repeat offenders. In the short term, life for the convicts was tougher than they would have experienced in their own counties and punishment was of longer duration. In addition, as Shore explains, adolescent tendencies to misbehave could only have been intensified whilst they were bound for a prolonged period under institutional observation.[150] The ideal of reformation was always tempered by the reality of maintaining control and discipline over repeat offenders, removed from their home environments without the normal levels of parental supervision.[151] There was no guarantee that they would emerge from confinement with better prospects, or in the case of Adams, that they would not simply reoffend at the end of their sentence. Transportation tied into the wider debate on shaping the treatment of juvenile offenders. Their increased incidence within the criminal justice system caused great unease throughout the early part of the nineteenth century. As their growing presence within penal institutions became transparent,

[149] *HO24 Home Office: Prison Registers and Statistical Returns 1838-1875,* cross referenced with *TRO CON33, Conduct Registers of Male Convicts arriving in the Period of the Probation System 1840-1853; TRO CON40 Conduct Registers of Female Convicts arriving in the Period of the Assignment System 1803-1843; TRO CON41 Conduct Registers of Female Convicts arriving in the Period of the Probation System 1844-1853.*
[150] Shore, 'Transportation, Penal Ideology and the Experience of Juvenile Offenders', p.11.
[151] ibid., p.14.

and legislation was passed to combat their interactions with the criminal courts, transportation for juveniles faced increasing scrutiny. In a climate of philanthropic concern, it no longer stood as a compassionate means of dealing with youthful criminality. Increasingly, Staffordshire and Shropshire magistrates and MPs proposed local solutions within the national debate. These are explored in the following chapter on the district and reform school Movements.

6.6 Conclusion

This chapter builds upon the work of Heather Shore and Emma Watkins to shed light on the criminal biographies of several offenders in Staffordshire and Shropshire who were sentenced to transportation. Using a range of records, insight can be gleaned into the lives of those sentenced, a facet missing from statistically driven studies.

Transportation was reserved for the most serious of juvenile offences and repeat offenders. Sentences of death were, in the main, commuted to transportation, making removal to the colonies the most severe punishment a juvenile would face. Transportation records are extant for many convicts and allow cross-referencing with local court records and newspapers to expand upon the criminal activities that led to juveniles being transported. On rare occasions it is possible to create criminal biographies to chart the escalation of interactions with the law, since transportation was usually the result of multiple encounters with the judicial system. It is possible to cross-link offenders and develop a picture of the 'gangs' and associations amongst a group of delinquents within a specific time frame and location. This chapter challenges both prescribed notions of juvenile behaviour at this time and historical understandings of youth gang culture influenced by later nineteenth-century studies. A picture of petty delinquency emerges, rather than an organised criminal subculture, with many youths being led into trouble through associations based on acts of minor misbehaviour that escalated through repeated interactions with the judicial system. Idle and underemployed youths in urban settings became a focus of concern for magistrates who identified them as a risk to property and a threat to the moral order. This chapter indicates that organised juvenile criminal activity was at best mischievous, and at worst petty in nature. Repeated offences seem to be either acts of rebellion or misbehaviour rather than the crimes of hardened offenders. Those unfortunate enough to be caught were labelled as criminals and their lives were disrupted for minor wrongdoings that, had they been first-time offences, would have been punished with weeks of local imprisonment of rather than years abroad. This reveals a more complex picture of minor

offences and delinquency than that presented in the literature of the period. Its trivial nature, defined by acts of disorder and disobedience, helps to dispel the discourse surrounding gangs of depraved and lawless youths prevalent in contemporary reports.

The criminal biographies also allow us to challenge the rhetoric that was used to justify the positive impact that magistrates believed would derive from transportation. These case studies expand upon the consequence of the criminalisation of these youths and offer a window into the way perceived crises in the social order could lead to harsh interpretations of behaviour that was deemed to be threatening and inappropriate to the local authorities. They highlight the reality of colonial supervision as juveniles faced periods of extended punishment in excess of what they would have received if incarcerated in their home counties. Rather than being offered a fresh start away from the temptations and pressures of a rapidly urbanising and increasingly industrial society, juveniles faced repeated punishments for minor infractions against a severe code of conduct with no guarantee that they would not fall foul of the law during, or at the end of, their time under supervision. As the issue of juvenile delinquency gained momentum, transportation became part of a philosophical battleground in the debate surrounding the punishment or reform of the youngest offenders, especially when its efficacy for redemption was questioned. Although transportation was managed by the state, local officials in both counties were involved in the national debate. As the removal of criminal elements through transportation came to an end, magistrates and MPs in Staffordshire and Shropshire sought other solutions to bring about the salvation of the youngest lawbreakers. After mid-century this debate became rooted in efforts to find alternative means of reformation and rehabilitation.

Chapter 7 – Reformation and prevention c.1840-c.1860

The reform school movement hoped to remove impressionable youths from the corrupting influences of hardened criminals in county gaols and to offer an educational, rather than merely punitive, solution to the perceived growth in juvenile crime of the nineteenth century. It was founded on the expectation that the cycle of repeat offending and incarceration could be broken through moral and occupational instruction and led to calls for pre-emptive action to educate the poorest classes – articulated most strongly in the argument for Pauper District Schools. A prevalent opinion amongst the educated classes was that a life lived in destitution was easily tainted with habits of criminal behaviour.[1] Thus, the separation of juveniles from the influence of their parents, coupled with an education in the habits of industry, aimed to raise the moral standards of a generation. Despite the failure by the Poor Law Inspectorate to establish district schools nationwide, both Staffordshire and Shropshire embraced these institutions.[2] They contained two of only four district schools outside the metropolis and became tools for the redemption of delinquent youths. Only through a study of the local debate can we understand why government in these localities saw them as a solution to juvenile criminality and answer the question as to why the district school movement succeeded where reformatory efforts failed in these counties. Was this failure due to a preference for preventing the lower orders from becoming criminal over the rehabilitation of those juveniles who had already become offenders or did other external influences, such as economic or political issues, ultimately prevail? This chapter examines the historiography surrounding reformatory efforts in the nineteenth century and examines the drive for initiatives in Staffordshire and Shropshire.

7.1 Historiography

Until recently, historians of the reform school movement fell between two interpretations of the motivations for a new direction in juvenile law enforcement. Traditional interpretations of the reformation movement tended to gloss over the complex reasons for the Reformatory Schools Act (1854) and Industrial Schools Act (1857) and did not look critically at the social ideology that was debated during the process of pressurising Parliament for action. They tended to focus on a

[1] An opinion held strongly by the most influential of magistrates in Staffordshire and Shropshire.
[2] Shropshire was home to the South-East Shropshire District School at Quatt, founded as the Bridgenorth Union Workhouse School in 1836, and converted to a District School in 1851. Staffordshire's District School was much later, opening at Wigmore in 1870 as a joint venture between the Walsall and West Bromwich Unions.

humanitarian progressive approach in dealing with juvenile offenders. Accordingly, enlightened reformers criticised the poor treatment of juveniles by the judicial system and offered an alternative to previous punitive regimes. J. J. Tobias wrote of the 'earnest' efforts of policemen, magistrates and penal reformers and did not question the reformers' belief that the movement was responsible for the drop in juvenile crime in the latter half of the nineteenth century: he described the reformers efforts as a 'success story'.[3] James Walvin likewise praised the efforts to 'engineer social reform' where juveniles on the wrong side of the law were 'helped rather than punished' and treated as children rather than offenders.[4] While Ivy Pinchbeck and Margaret Hewitt have also praised the founders of the reform movement as pioneers of social change, they are also part of a more critical approach to the reality that these institutions embodied.[5] They argue that progressive ideals became reactionary as ideas of punishment crept into reformatory efforts. These schools became a new form of punitive correction rather than the benign schools of 'enlightened Christian benevolence' that the pioneers had intended.[6]

From the 1970s onwards, revisionist historians have drawn on the ideas of Michel Foucault and notions of social control to explain the emergence of these new penal ideologies, seeing the schools as part of a wider effort by the middle classes to supress the 'residuum' and prevent juvenile delinquents from becoming 'expensive, fully developed offenders'.[7] Vic Gatrell describes the state's efforts to build a 'consensual society' through a mounting disciplinary assault on the lower orders.[8] Foucault's description of the officials at the private reformatory of Mettray in France, often cited by proponents of the new reform methods, as 'technicians of behaviour; engineers of conduct' perfectly defines the revisionist belief that whatever may have been the progressive idealism that motivated reformers, the reality was social control.[9] Mid-century legal changes were the means of control: order was the primary objective, irrespective of the philanthropists' desire to alleviate suffering.[10] Michelle Cale feels that this desire to impose control was an unacknowledged

[3] J. J. Tobias, *Nineteenth-Century Crime: Prevention and Punishment: Prevention and Punishment*, Plymouth 1972, pp.10, 172-74.
[4] J. Walvin, *A Child's World: A Social History of English Childhood 1800-1914*, Harmondsworth 1982, p.168.
[5] I. Pinchbeck & M. Hewitt, *Children in English Society,* Vol.2, London 1973, p.489.
[6] M. Carpenter, *Reformatory Schools: For the Children of the Perishing and Dangerous Classes and for Juvenile Offenders*, London, 1851, p.349; and J. Muncie, G. Hughes & E. McLaughlin, *Youth Justice: Critical Readings*, London 2002, p.111.
[7] M. S. Cale, *Saved from a Life of Vice and Crime: Reformatory and Industrial Schools for Girls, c.1854-c.1901*, D.Phil. thesis, University of Oxford ,1993, p.8.
[8] V. A. C., Gatrell, *Crime, authority and the policeman-state*, in Thompson, F. M. L. (ed.), *The Cambridge Social History of Britain, 1750–1950,* Vol. 3, Cambridge 1990, p.244.
[9] M. Foucault, *Discipline and Punishment: The Birth of the Prison*, London 1991, p.294. Mettray was founded in 1839 as was considered as a model reformatory designed to 'remodel behaviour' through techniques as 'psychologically terrible' as traditional incarceration had been 'physically brutal.' L. Goldman, *Science, Reform, and Politics in Victorian Britain: The Social Science Association 1857–1886*, Cambridge 2002, p.41.
[10] Gatrell, *Crime, authority and the policeman-state*, p.24.

consequence of the middle and landed classes' attempt to restore juveniles, derived from their own bias and prejudice that the proper characteristics of childhood were innocence and dependency.[11] The dilemma of the reform movement was never resolved as to whether efforts were intended to 'shield the vulnerable individual from moral danger' or to defend wider society from those 'contaminated with sin and dangerous depravity'.[12]

This scenario led Margaret May to question the motivations of law officials such as the magistracy. She argued that there was a contradiction between those who put child welfare first and the magistracy who believed in a 'disciplinarian law-enforcement approach' to protect society.[13] For May, the 1854 Act was a compromise between welfarist and law enforcement methods that ultimately favoured the latter approach.[14] Furthermore, most of the schools were initiatives of the landed gentry and magistrates, who saw the suppression of crime rather than individual reformation as the goal of these institutions.[15] The criminal law administrators, and not the voluntary philanthropic sector, forced through legislation which coloured statutory action. Indeed, Staffordshire MP Charles Adderley had proposed the inclusion of a short prison sentence prior to reformatory care.[16] Another facet of this desire for control was the insertion of the state into parental authority; the 1851 Birmingham conference that proved vital in energising the reformatory school movement emphasised the need for parental obligation to ensure that juveniles were properly controlled. If parents failed in their duties, the state had the right to intervene to protect both the child and the state's interests and impose maintenance contributions upon the parent.[17] This model of a transformative penal ideology, however, based on coercive and punitive motivations, does a disservice to many local officials engaged in the debate about reformation in Staffordshire and Shropshire and ignores the genuine concern of both local magistrates and MPs.

As E. Hartley astutely notes, revisionist histories can be reductionist in nature, simplifying complex interactions between diverse ranges of opinion to a toneless dichotomy between those who sought

[11] Cale, *Saved from a Life of Vice and Crime*, p.322.
[12] ibid.
[13] M. May, *A Child's Punishment for a Child's Crime: The Reformatory and Industrial School Movement in Britain C.1780-1880*, PhD thesis, University of London 1981, p.13.
[14] May, *A Child's Punishment for a Child's Crime*, p.14.
[15] ibid.
[16] ibid., pp.339, 382.
[17] ibid., p.373.

to punish and those who sought to save juvenile offenders.[18] Nonconforming elements who advocated differences in degrees of social control or were more humane than others become lost in a picture that focuses solely on repression. The shallowness of this perspective can be overcome by focusing on spatial histories, which allow a varied story of regional circumstances, such as funding constraints or the impact of individual personalities.[19] That approach is adopted in this thesis as it attempts to understand how uniform the reformatory ideals were amongst the elite; how local circumstances impacted upon the adoption of institutional solutions; and what influence personalities had on the institutions in Shropshire and Staffordshire.

7.2 Reformatory solutions in Staffordshire and Shropshire c.1840-c.1860

The philanthropic evangelical movement and the liberal politics of the early nineteenth century which sought to control communal disharmony looked to social investigation as a means of understanding societal woes. Seeking a 'virtuous, sober and frugal life' for the lower orders appealed to both a political notion of a well-ordered stratified society and an evangelical notion of an obedient and faithful congregation.[20] The young were thought to be easier to reform than hardened adults. During the second quarter of the nineteenth century evangelical notions of imposed suffering as the means to regenerate the prisoner prevailed.[21] However, by the mid-century, local law-enforcement officials often struggled with the tension between their duty to uphold their office and the reality of witnessing children brought low by both circumstance and a judicial system not geared for their special needs.[22] Justice John Leigh, Stipendiary Magistrate for Wolverhampton, laid out the argument in 1850 for the failure of gaoling children to provide correction or improvement. The gaol was a 'contaminating influence' that did not provide the means for them to gain 'honest maintenance' if the 'children were not legislated for as children'.[23] Magistrates attempted to find a less oppressive solution to the problem of juvenile criminality and re-examined the effectiveness of juvenile imprisonment. Often, as members of the land-owning class, they could apply direct and indirect pressure through personal acquaintances or by formal petitioning of Parliament.[24] Furthermore, they had the means and ability to experiment with novel approaches without having to engage with parliamentary enquiry, as seen in the actions of Wolrych Whitmore in Shropshire, and

[18] E. Hartley, *The Institutional Treatment of Juvenile Delinquency: Aspects of the English Reformatory and Industrial School Movement in the Nineteenth Century*, PhD thesis, University of Leicester, 1986, p.10.
[19] Hartley, *The Institutional Treatment of Juvenile Delinquency*, p.10.
[20] W. J. Forsythe, *The Reform of Prisoners* 1830-1900, London 1987, p.10.
[21] Forsythe, *The Reform of Prisoners*, pp.10-13.
[22] This issue is investigated throughout Chapters 3, 4, 5 and 6 of this thesis.
[23] *Staffordshire Advertiser* - Saturday 05 January 1850.
[24] Hartley, *The Institutional Treatment of Juvenile Delinquency*, pp.17-27.

Charles Adderley in Staffordshire.[25] The search for a new approach to dealing with juvenile offenders was not motivated by a conflict between philanthropy and a desire for increased societal control, but was a decades-long struggle that explored differing methods of reform influenced by circumstances unique to both localities.

A feature of reformation legislation was the autonomy it gave to local officials in deciding whether to send juveniles to an establishment. The need for a reformatory was also left at the discretion of regional bureaucrats; although voluntary establishments could be founded, they required the support of local officialdom to succeed.[26] Local magistrates therefore guided the approach that reform took within a locality, and both Staffordshire and Shropshire exemplify the tension between humanitarian and punitive concerns. Some were driven by a desire to impose control over the lower orders or earn the prestige engendered by being associated with a great public work. Others had a desire to better the lives of those members of society for which they were responsible. Often these were not mutually exclusive goals, nor was it impossible for one man to demonstrate all aspects of both perspectives. The eventual solutions and difficulties encountered were specific to each county's unique social, political, and economic environments.

Between 1854 and 1875, sixty-one reformatories were approved in England and Wales.[27] However, none were established in Shropshire and Staffordshire. An attempt was made to set up a Reformatory School for Shropshire in 1854. A committee was formed at the October Sessions but did not achieve its aim, as arrangements existed for individuals to be sent to private institutions.[28] However, without the necessary legislation of the 1854 Reformatory Schools Act, juveniles could only

[25] The originator of the Bridgnorth Union Workhouse School and founder of the Saltley Reformatory in Warwickshire respectively; ibid., p.57.

[26] Rev. Nihill at the March Quarter Session of 1856 emphasised this point in making it clear that the question of Reformatories was very much the business of the court in both aiding them through the pursuit of voluntary contributions and in sending juveniles in the first place to various establishments - *Shrewsbury Chronicle* - Friday 14 March 1856.

[27] Twenty-four out of forty English counties had such an establishment, whilst counties such as Lancashire and Yorkshire had nine and seven respectively. J. A. Stack, 'The Provision of Reformatory Schools, the Landed Class, and the Myth of the Superiority of Rural Life in Mid-Victorian England', *History of Education, Vol.8, No.1*, 1979, p.34.

[28] This included: Baldwin Leighton, Chair of the Atcham Poor Law Union, Woolryche Whitmore, founder of the Bridgnorth Union Workhouse School, Mr. Pritchard, Thomas Whitemore Wylde-Brown, a Bridgnorth Magistrate, Rev. Henry Burton and Rev. Nihill. Nihill had formerly been chaplain (and later Governor) of Millbank Penitentiary until 1843. H. Johnston, *The Transformations of Imprisonment in a Local Context: A Case Study of Shrewsbury in the Nineteenth Century*, PhD thesis, University of Keele, 2003, p.110. Three such juveniles, one girl and two boys, were sent in 1854 to Bristol, Redhill and Saltley respectively, as reported by the Chaplain to the Sessions. The child sent to Redhill, aged 13, had been in gaol in Shrewsbury four times, once in Stafford, and having been both whipped and put in a dark cell it was thought that he was incorrigible but 'a little kindness...conquered his stubborn nature'. *Shrewsbury Chronicle* - Friday 30 June 1854.

be sent to a reform school on completion of a potentially lengthy sentence.[29] Over 40% of juveniles aged 17 years and under in Shropshire sentenced for property theft at the Quarter Sessions received a sentence ranging from one month to five months.[30] The danger of exposure to hardened criminals, particularly for first-time offenders, was a constant worry for Shropshire officials.[31] The need for alternative arrangements to prison was debated repeatedly throughout the 1850s.

Reverend Nihill at the March Quarter Session of 1856 stated the problem bluntly: that the only effective solution to juvenile criminals was to hang them all, although he doubted that they would receive divine sanction or escape the injurious consequences to themselves as magistrates.[32] His attempts to shock his fellow magistrates into action indicate the frustration of establishing either an institution for Shropshire, or a more permanent cooperative agreement with an already established school. The Gaol Chaplain reported in 1854 that a lack of places was one of the greatest obstacles to situating boys, highlighting the need for a more enduring solution.[33] For 16 years, between 1840 and 1856, some 21 boys were admitted to various institutions, and the resultant statistics were presented to the Sessions during discussions about the viability of establishing a local institution (Figure 7.1). [34]

[29] The Reformatory Schools Act also required a period of incarceration before a juvenile could be sent to an institution but was designed so that after a minimum of two weeks, magistrates could have found a place within a Reformatory.
[30] See Chapter 3.
[31] As noted in Chapter 5, the Visiting Justices to Shropshire Gaol agreed with the Philanthropic Society in 1850 that juveniles should be kept away from other offenders where possible, although they worried that isolation was not good for the mental wellbeing of young offenders. *Shropshire Record Office Q/A/2/1/3 Gaol visiting justices report book 1845-1857* p.108. (Hereafter SHRO).
[32] *Shrewsbury Chronicle* - Friday 14 March 1856.
[33] *Eddowes's Journal, and General Advertiser for Shropshire, and the Principality of Wales* - Wednesday 18 October 1854.
[34] *Eddowes's Journal* - Wednesday 02 July 1856.

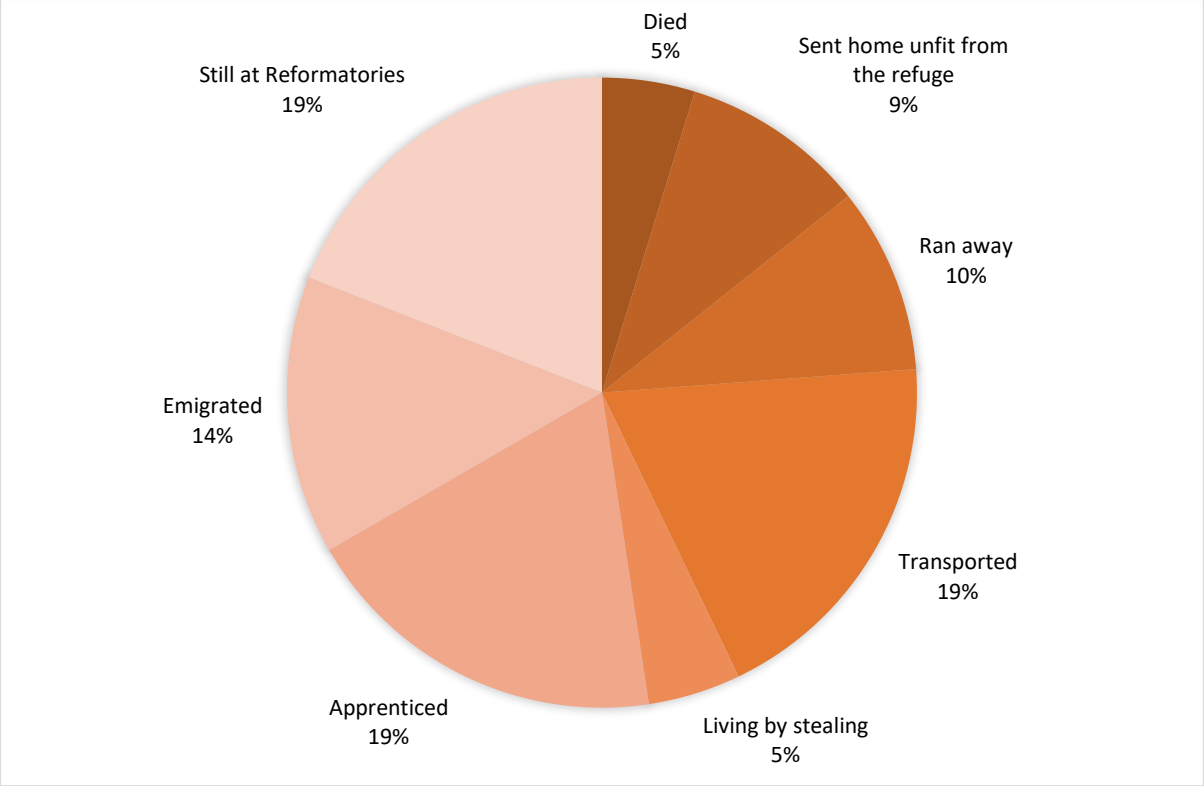

Figure 7.1. Fate of Shropshire juvenile boys sent to reformatories 1840-1856.[35]

Only just over half of these juveniles could be considered to have been successfully reformed (or in the process of reformation). Whilst some were still being schooled at their institutions, many had either been successfully apprenticed or emigrated, although a significant proportion were still thieving or had either run away or been sent home or transported. These figures contradict with those provided by the Chaplain to the Prison Discipline Committee in 1851 which included more boys than those reported five years later.[36] The pattern was the same, however, with just over half recorded as 'having turned out well' or still under instruction.[37] The definition of being successfully reformed was subjective, although the figures given by the Chaplain in 1856 were described by Shrewsbury magistrate John Bather as 'not of the character to warrant the court expending any more money' on reformatory efforts.[38] The Shropshire magistrates were not of one mind regarding the reform of juveniles and Bather was one of the most vocal in his dissent during the debates of that year. Bather believed that substituting education for punishment was bad law and – what was worse

[35] ibid.
[36] Thirty boys are reported to have been sent in the period 1840-1851 with '15 Having turned out well, 2 Dead, 2 Doubtful, 8 Bad and 3 at present in institution'. *SHRO Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*
[37] ibid.
[38] *Eddowes's Journal* - Wednesday 02 July 1856.

– 'bad divinity'.[39] It was irreligious and had demoralising tendencies. For Bather, reformation through education was the greatest encouragement 'to vice and the greatest discouragement held out to virtue'.[40] He believed that philanthropic solutions to juvenile crime were based on a fallacy that punishment was the wrong course for young offenders. If there was a fault in penal application to deter juvenile offending, it came from a different source.[41] Replacing corporal punishment with the unnatural regime of separation in the gaols was a mistake: this ate at the heart of the offender, corrupting them when left alone with their evil thoughts.[42] Furthermore, Bather felt that there needed to be a stronger delineation between children prone to misbehaviour or in need of instruction over those guilty of criminal acts. He did not like the use of the term 'juvenile delinquents' to describe young offenders as he felt a delinquent was 'a boy who has left something undone that he should have done, whereas a young thief has done more than he ought to have done'.[43] When debating a reformatory institution for Shropshire, Bather emphasised the need to maintain the distinction between poverty and crime, and whilst he could support a district training school for the poor, he could not agree to the use of county funds for criminal children.[44] He exemplified the extremes of the hard-line anti-reformers, although his position was based on one of technical correctness by asserting that it was not for the magistrate to tackle the problem of juvenile reformation. As officials of the court, they were there to pass punishment, but no more. Bather felt that there could be preventive action for pauper children to eliminate further causes of juvenile criminality, but it was beyond the magistrate's position to offer help once the law had been broken. He was, however, no officious monster and showed genuine concern for the sanctity of familial rights, stating that the power given to magistrates to strip a child from their mother for up to five years by placing them in a reformatory institution was both 'monstrous' and 'unconstitutional'.[45] His support of efforts to raise the standards of education amongst the poorest law-abiding children was not motivated by hostility to the betterment of the lower orders but by the belief that crime should be seen to be disciplined. Wolrych Whitmore, a great supporter of the reformatory movement, echoed Bather's beliefs that the root of criminality could only be addressed through initiatives such as district industrial schools which raised the general poor of a region away from ways of ignorance and engagement in crime.[46]

[39] *Shrewsbury Chronicle* - Friday 14 March 1856.
[40] ibid.
[41] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 18 October 1854.
[42] *Shrewsbury Chronicle* - Friday 14 March 1856.
[43] *Eddowes's Journal* - Wednesday 17 October 1855.
[44] ibid. & *Eddowes's Journal* - Wednesday 14 March 1855.
[45] *Eddowes's Journal* - Wednesday 14 March 1855.
[46] *Shrewsbury Chronicle* - Friday 20 October 1854.

However, the various committees of the Shropshire Sessions continued to investigate the idea of a reform school; the continuous thread throughout these discussions was the presence of Baldwin Leighton, who took part in every investigation. Ultimately, insufficient funds were secured for a county establishment: subscriptions amounting to £827.11.0 were raised but were returned as being too low for their intended purpose.[47] At the same time in 1855, magistrate committees investigated the possibility of joining with adjacent counties or other private institutions. Leighton felt that there were not sufficient numbers of local juvenile criminals for Shropshire to warrant a reformatory solely for its own county intake, and hoped that there never would be, but still held to the belief that there could be some type of reformatory solution.[48] Saltley Reformatory was visited, and petitioned for an amalgamation of efforts, but no firm agreement was reached.[49] Further attempts to join with another county were made in 1858 when the Herefordshire Lord Lieutenant reported to the local Sessions for a joint initiative, but this was politely rejected by the Herefordshire court.[50] Leighton testified to the Shropshire Sessions that the question of reformatories should not be abandoned but that the current cost allotted for the purpose was insufficient to erect a county establishment without raising further private funds.[51] Economic reality and the fact that Shropshire was never swamped with a burdensome juvenile crime problem may have been deciding factors in the eventual failure of the county to establish its own institution.

The funding of such establishments was debated nationally and at the county level and both the initial outlay and running costs were questioned. The role of government in providing funding for reformatories was supported by Woolryche Whitmore in Shropshire who felt that the ending of transportation greatly increased the need for institutional solutions to rising gaol populations.[52] In Staffordshire, a similar argument was proposed by Magistrate John Leigh although he argued strongly for the use of county rates for funding. MP for North Staffordshire and founder of the Saltley Reformatory, Charles Adderley, countered that only voluntary contributions could be used for founding the schools, the reason being one of principle. Any such school founded through either governmental or county funds would risk becoming an institution much like a prison: private funding

[47] *SHRO Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*
[48] *Shrewsbury Chronicle* - Friday 20 October 1854.
[49] *SHRO Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*
[50] *Staffordshire Advertiser* - Saturday 29 March 1856.
[51] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 07 July 1858.
[52] *Shrewsbury Chronicle* - Friday 20 October 1854.

was what was needed.[53] At a meeting at Shire Hall, Shrewsbury, the Earl of Powys argued that private funding should prevail because of the experimental nature of the establishments, and government could not afford to fund such large-scale ventures without the certainty of success.[54] A further funding issue was the contribution that parents would make to supporting their criminal children. In 1850 when the Philanthropic Society had raised the prospect of making the families of juvenile criminals pay for their reformatory places, the magistrates of Shropshire felt that it was unlikely that such a scheme could operate in a county with many poor families.[55] However, when provisions were codified into the 1854 Reformatory Act, magistrate Wylde-Brown welcomed the introduction of costs that could be garnered from parents who, he felt, were often more criminal than the children themselves.[56] Baldwin Leighton also believed that boys should not be sent to reformatories when they had parents to support them unless legislation compelled those parents to contribute.[57] In opposition, Bather's sympathies lay with the parents of the criminal child. He felt that, if enforced, the cost to that parent of 5s from 12s earnings would be a great hardship that would most likely send the family to the workhouse.[58] Despite these pleas, the presiding magistrates ruled that parents should have a sense of duty to their children to see them properly brought up.[59] If they failed to do so, the penalty should fall on them.[60] Thomas George Anson, Lord Lichfield, who was appointed Chair of the Staffordshire Sessions in 1859, became a leading figure in Staffordshire's search for a reformatory resolution.[61] Lichfield adopted a different perspective on the enforcement of fees. He argued against it at the Sessions in 1862, believing that sending a child to reformatories would deny the parents a potential 4s to 5s a week income from labour. Enforcing payments would merely cause families to leave the neighbourhood, which would be counterproductive. Therefore, deferring the costs was not an act of compassion, but a punishment that attacked the parental pocket.[62] Adderley also believed strongly in parental contributions and would not admit a child to

[53] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 20 October 1858.
[54] *Eddowes's Journal* - Wednesday 12 December 1855.
[55] *SHRO Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*
[56] *Shrewsbury Chronicle* - Friday 20 October 1854.
[57] *Shrewsbury Chronicle* - Friday 30 June 1854.
[58] *Eddowes's Journal* - Wednesday 14 March 1855.
[59] In Staffordshire, a case came before the Wolverhampton Magistrates, brought by the Secretary of State, for the payment of maintenance for a child, Joseph Perry aged 11, held in Leicestershire Reformatory. Perry had been convicted of stealing boots on 5 December 1855. His father was John Perry, a journeyman shoemaker deemed able to pay for the child. His defence council felt that making parents give up control of their children whilst paying for their maintenance was 'totally subversive to the constitution', echoing the concerns expressed in Shropshire. Perry had eight children, besides the young boy, and the defence argued that the eight would become worse behaved than the boy if the family was impoverished and forced to turn to crime to exist: 'the remedy worse than the disease'. *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 11 June 1856.
[60] ibid.
[61] He was the first chairman for the Society for the Reformation of Juvenile Offenders. *Journal of the Society of Arts*, Vol.40, 1892, p.178.
[62] *Staffordshire Advertiser* - Saturday 05 July 1862.

Saltley without such, unless under exceptional circumstances.[63] Potteries Primitive Methodist preacher, Thomas Mulock, argued that many parents preferred that the prison offered both accommodation and schooling at the public's expense rather than that Saltley should 'exact a portion of their meagre earnings'.[64] This was countered directly by the superintendent of Saltley, Hugh Humphreys, who believed that it was the role of reformatories to 'afford to those who are unfortunate' the 'moral habits which go to form the accountable man'.[65] A separate report by supporters of the reformatory concluded, however, that 'the best thing a working man in poor circumstances can do with his children is to send them into the streets as pickpockets. By no other means can he ensure them so good and so cheap an education'.[66] The necessity to make parents pay was formally agreed after the opening of a new wing in 1860, and no child would be admitted without a parent's ability to support the child being investigated.[67] Once again, the desire that reformatory solutions should be seen as a punishment caused divisions amongst the magistrates, with some feeling that to punish whole families was both detrimental and morally distasteful. Furthermore, funding became a contentious issue that dogged all debates in both counties: aside from the hurdle of an initial outlay, the maintenance of the establishments' charges was also a matter for concern.

For the Shropshire magistrates, some movement on reformatory provisions came in 1858 after an agreement was reached with the Philanthropic Society for boys from Shropshire to be accommodated at the Redhill Farm School in Surrey. This was limited to just 11 places per year.[68] Also, some juveniles were sent to Liverpool and Manchester schools in the 1860s according to letters sent to the Secretary of State as part of the process of recovering costs of removal allotted by the Treasury.[69] Ultimately, the initial cost of building a reformatory was too much to overcome in Shropshire and efforts to join with other counties were also unsuccessful. A piecemeal approach of finding spare places in reformatories elsewhere was adopted. The agreement with the Redhill Farm School allowed a regular, but small, number of boys to be offered a place. As no solution was

[63] *Staffordshire Advertiser* - Saturday 23 October 1858.
[64] T. A. Mulock, *A letter to the Earl of Lichfield, Chairman of the Staffordshire Quarter Sessions, on the principle and details of management of Saltley Reformatory, Near Birmingham: Together with an enquiry whether the state support lavished on reformatories is compatible with penal justice and social equity,* Stafford 1861.
[65] *Staffordshire Advertiser* - Saturday 09 November 1861.
[66] The Annual Meeting of the subscribers and friends of Saltley Reformatory reported that in 1860, just £37 had been paid by parents for the 46 inmates and that parental contributions were pitifully low. *Birmingham Journal* - Saturday 21 January 1860.
[67] *Aris's Birmingham Gazette* - Monday 23 January 1860.
[68] At a weekly cost of 2s 6d maintenance and 1s rent payment per child, although in communication with the court, the Redhill School indicated that only 2s 6d was collected, with the further 1s waived in the case of Shropshire. *SHRO Q/A/2/11/2 Correspondence with the Philanthropic Society's Farm School, Red Hill Surrey re: juvenile offenders 1864.*
[69] *SHRO Q/A/2/11/4 Correspondence with the Secretary of State re: removal of juvenile offenders to reformatories 1868.*

completely satisfactory, the magistrates looked to alternative processes of reform. District schools offered the chance to reach the poorest of children before they had been schooled in the ways of crime with repeated spells in local gaols. The Shropshire magistrates appointed to investigate reformatory options recommended their adoption in 1855, as a preventive means of breaking the link between poverty and delinquency, so that a 'great check may be given to crime'.[70] They hoped that they would encourage a moral revolution in the children of the poor and allow them to support themselves as adults.

In Staffordshire similar cost barriers hampered reformatory efforts but other factors such as competing ideologies and vested interests influenced alternative solutions. *The Staffordshire Advertiser*, in an editorial of 1847, advocated 'nipping crime in the bud' and more reformatory efforts for those juveniles punished for a first offence. It claimed that putting a child in gaol was akin to giving them an 'apprenticeship in crime'.[71] Justice John Leigh petitioned Parliament in 1854 for legislation to establish reformatories, as private means could not hope to contain juvenile crime. He further stated at the Sessions that the initial expense of a reformatory would be great, but that overall costs would be diminished through reductions in gaol and transportation expenses.[72] A year earlier he had attended the Birmingham conference alongside Charles Adderley, the Earl of Harrowby and John Pakington.[73] The conference resolved that the 'country requires legislation for the encouragement of Reformatory Schools for children convicted of crime or habitual vagrancy'. Adderley further spoke out, asserting that 'the state which took upon itself the responsibility of punishing the child, ought to take upon itself the responsibility of educating the child'.[74] Adderley was crucial in the creation of Warwickshire's Saltley Reformatory, providing land for its erection in 1853, and it came to garner 'a large share of his affection and concern'.[75] He was one of the 'most active reformatory advocates in Parliament' and both these conferences and his call for a select committee concerning the treatment of criminal and destitute children in 1852 led directly to Lord

[70] *SHRO Q/A/2/1/3 Gaol visiting justices report book 1845-1857.*
[71] *Staffordshire Advertiser* - Saturday 06 February 1847. 1847 witnessed early efforts towards a dedicated Staffordshire reformatory. Warwickshire magistrate, Mr Bracebridge, contacted the Chair of the Staffordshire Sessions regarding forming a reformatory for the benefit of both counties. However, nothing came of this endeavour. *Staffordshire Advertiser* - Saturday 03 July 1847.
[72] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 30 August 1854.
[73] The instigator of the Juvenile Offenders Act of 1847 who also attended the Conference on the Treatment of Juvenile Offenders in Birmingham in 1853. *Staffordshire Advertiser* - Saturday 19 November 1853.
[74] *Staffordshire Advertiser* - Saturday 24 December 1853.
[75] W. S. Childe-Pemberton, *Life of Lord Norton (Right Hon. Sir Charles Adderley) 1814-1905, Statesman & Philanthropist*, London 1909, p.127.

Aberdeen's government's legislation.[76] Adderley's school itself was certified shortly after the passing of the Reformatory Schools Act in 1854.

Despite the success of Adderley and Leigh in forcing Parliament's hand, provisions for Staffordshire were still lacking. After the passing of the 1854 Act, Leigh bemoaned that Saltley was full and could not take any more Wolverhampton boys and furthermore had no arrangements for girls.[77] At the Staffordshire Summer Assizes 1856, Justice Clay thought it embarrassing that Staffordshire had no reformatory where he might send a 15-year-old chimney sweep indicted for arson because punishment for adults was not adapted for juveniles.[78] Major Fulford, Governor of the Stafford Gaol, interjected and claimed that a satisfactory school existed at the gaol and was sufficiently separated from other prison institutions.[79] At a separate Quarter Session in 1856 Leigh had been forced to send a young orphan girl to the gaol after failing to secure her a reformatory place, although he felt that the school there was very good in lieu of sending her to a dedicated institution.[80] There was no total agreement amongst officials that the gaol did an adequate job in providing a reformatory element to its punishment. In 1854 the Visiting Justices at the gaol noted that circumstances at the Saltley Reformatory greatly benefited ideals of moral training inherent in the new reformatory ideology. New intakes received a beneficial and positive influence from the older boys of the Reformatory, a situation often reversed in gaol where it was desirous to keep the youngest of offenders away from the more seasoned juveniles. The justices also noted that the system of silence that was enforced throughout the gaol acted against any ideas of reclamation and that due to the nature of the environment it was impossible to relax discipline to accommodate reformatory efforts.[81] *The Staffordshire Advertiser* felt that Staffordshire's position as being very nearly the last county to have such an institution was a humiliation for a region that had produced Adderley, the 'most able leader of the Reformatory movement'.[82] He had offered land for the purposes of building a county reformatory in 1854 provided that the magistrates formed a committee of trustees, although he felt

[76] J. A. Stack, 'The Juvenile Delinquent and England's "Revolution in Government," 1825-1875', *The Historian, Vol.42, No.1*, 1979; p.51; and G. C. Geer, *Industrial Schools in England 1857-1933: 'Moral Hospitals' or 'Oppressive Institutions'*, PhD thesis, University of London Institute of Education, 1999, p.37.
[77] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 30 August 1854.
[78] Justice Clay, adjudicating for the chimney sweep, handed down an 18-month sentence at the Assizes as he felt that no benefit could be gained from schooling in the gaol if the period of sentence was too short. *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 23 July 1856.
[79] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 23 July 1856.
[80] *Staffordshire Advertiser* - Saturday 30 August 1856.
[81] *Staffordshire Advertiser* - Saturday 07 January 1854.
[82] *Staffordshire Advertiser* - Saturday 12 April 1856.

that the plot he was offering in Norton was ultimately too great a distance from Stafford itself.[83] The *Staffordshire Advertiser* chaired a preliminary hearing in 1856 for such a school at Haughton, four miles from Stafford. The school was to receive 30 boys on 11 acres of land at a cost of renting calculated at £44 per year[84]. The *Wolverhampton Chronicle* reported that the proposal was carried unanimously with plans to take the site for at least three years. Adderley inspected the site, but it was eventually declared unsatisfactory despite the raising of subscriptions.[85] Later in that year the Earl of Harrowby declared his desire to see a reformatory established within one mile of Stafford. The proximity of a reformatory to Stafford, presumably so that oversight could be maintained effectively, and the suitability of the land were key concerns for the magistrates. Despite these efforts no such school was founded in the county.

In 1857, Saltley Reformatory agreed to accept 20 boys at a time and the Leicestershire Reformatory was also engaged.[86] Lord Harrowby reported to the October Sessions that some gentlemen came together to form a fund for the purposes of sending juveniles to Saltley, with the government providing the majority of the costs.[87] Figure 7.2 shows the declared state of those 20 juveniles admitted from Staffordshire to the Saltley Reformatory in 1858.

[83] *Staffordshire Sentinel and Commercial & General Advertiser* - Saturday 21 October 1854 & *Staffordshire Advertiser* - Saturday 21 October 1854.
[84] *Staffordshire Advertiser* - Saturday 12 April 1856.
[85] *Staffordshire Advertiser* - Saturday 23 October 1858.
[86] *Walsall Free Press and General Advertiser* - Saturday 08 November 1856 & *Staffordshire Advertiser* - Saturday 23 October 1858.
[87] This amounted to 7s of the 8s to 9s that it cost to maintain a boy there. *Staffordshire Sentinel and Commercial & General Advertiser* - Saturday 18 October 1856.

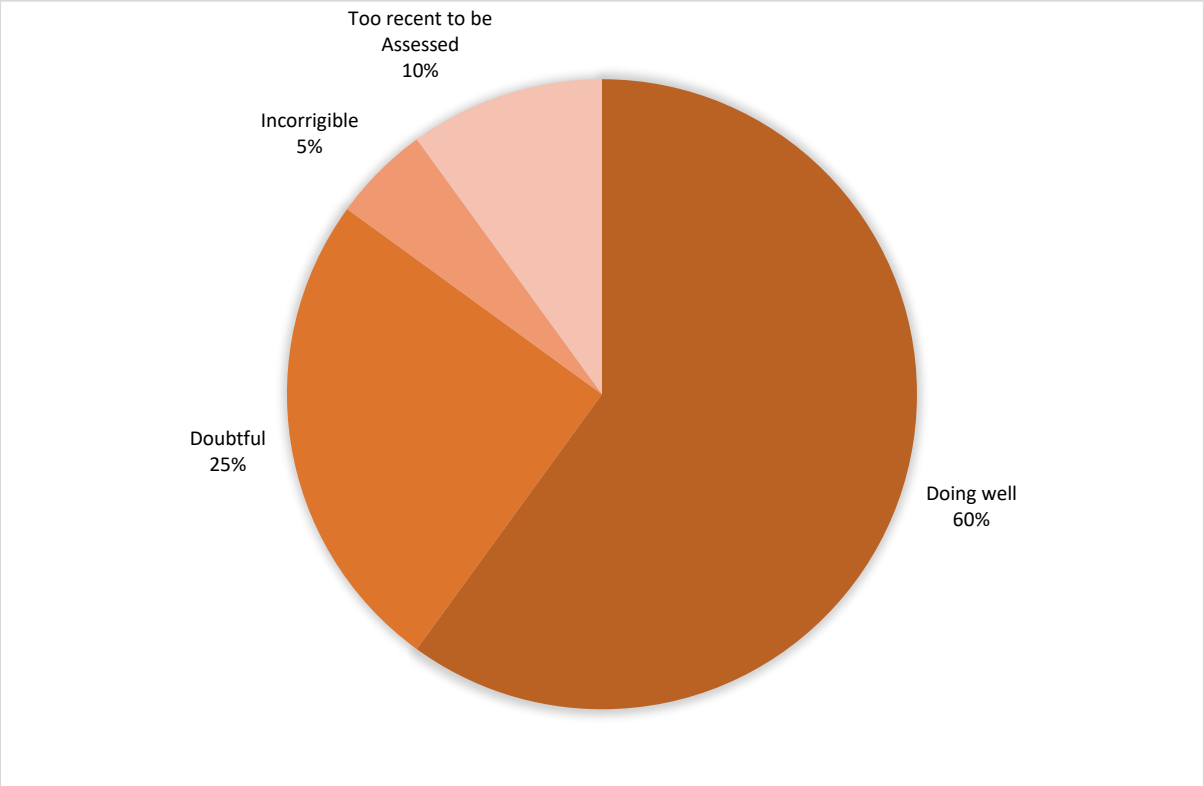

Figure 7.2. Progress of the Staffordshire intake to Saltley Reformatory 1858.[88]

In that year Viscount Ingestre lectured on the reformatory movement at Hanley where he stated that 'the torrent of juvenile crime was threatening to sap the very foundations of the country…society must be ameliorated, and reformatory and industrial institutions were one of the means to that end'.[89] Again, in 1859 at a concert for the Stoke-on-Trent Athenaeum, he suggested that rates could be halved if juveniles from the Potteries and mining districts were sent to reformatories instead of Stafford Gaol.[90] In 1858 Justice Leigh once more raised the need for a county establishment: he had agreed provision for three boys from Wolverhampton at Saltley but could happily send 30 if permitted. Leigh was an advocate of better reformatory provisions for Staffordshire, particularly for officially administered and regulated county-funded schools, noting the difficulty he had faced finding places for female juveniles. Leigh regretted that 'private' institutions appeared to act on an arbitrary set of rules.[91] Despite the Reformatory Schools Act being applicable to all juveniles under

[88] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 20 October 1858.
[89] MP for South Staffordshire 1837-49. *Staffordshire Advertiser* - Saturday 09 January 1858.
[90] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 05 January 1859.
[91] *Staffordshire Advertiser* - Saturday 23 October 1858.

the age of sixteen, Leigh found that there was a 'magical' cut-off point when female juveniles happened to pass the age of fourteen, even if it were by a few weeks, when it was impossible to easily place them.[92] Leigh blamed this on institutions conducted on voluntary principles where the management had the right to make regulations as they pleased. As long as magistrates had to rely on voluntarily-run schools, 'juvenile reclamation' could not hope to be carried out.[93] There was tension in Staffordshire where the desire for a regulated county establishment met resistance from those who believed in voluntary personal projects.

Separate reformatory provisions for Staffordshire were examined again in 1858. Adderley communicated to the Sessions that a committee had been formed to further investigate the provision of a reformatory institution and concluded that it would be more beneficial to obtain additional accommodation at Saltley Reformatory. To this end £800 which had already been raised would be used to fund the addition of a new wing specifically for Staffordshire juveniles.[94] During Saltley's six years in operation, 158 boys passed through its walls, with over two-thirds either going on to other schools, emigrating, being apprenticed or returned to their families.[95] At the time of Staffordshire Wing's founding in 1859, the school contained 46 children.[96] It had a significant proportion of Staffordshire boys in attendance, probably due to the agreement of 1857 to accommodate a maximum of twenty boys. Adderley believed that the new wing would be the most cost-effective solution for Staffordshire, whilst at the same time helping him raise his reformatory's finances. The 7s per head Treasury allowance was barely sufficient for 50 children at Saltley but with the addition of a Staffordshire Wing the total was 110 and little extra would be required from private contributions.[97] Despite being the leading figure in the decision to pursue the ultimately unsuccessful reformatory at Haughton, Adderley had an interest in seeing his own personal project at Saltley succeed. Although he was fully supported by the Chair of the Sessions, Lord Lichfield, Adderley's voice carried weight and he could well have been the major factor in Staffordshire not establishing its own school. Interestingly, Lichfield is often quoted as making a significant effort in generating the initial contributions for the wing and, according to his obituary, helping to establish

[92] *Staffordshire Advertiser* - Saturday 28 April 1860 & Wolverhampton *Chronicle and Staffordshire Advertiser* - Wednesday 13 August 1856. Stipendiary Magistrate for Birmingham, Thomas Kynnersley, also noted that to get a girl taken by a reformatory he would need to pay for them, even when there were places available, sometimes as much as a £5 upfront payment. *Birmingham Daily Post* - Wednesday 31 July 1861.
[93] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 13 August 1856.
[94] The ground floor would be chiefly used for shoemaking and tailoring while the upper storey would contain two large dormitories. *Birmingham Journal* - Saturday 10 September 1859.
[95] ibid.
[96] Twelve were from Staffordshire; 11 from Birmingham; 9 from London, 8 from Lancashire; 2 from Warwickshire; 2 from Gloucestershire; 1 from Shropshire and 1 from Bedfordshire. *Staffordshire Advertiser* - Saturday 21 January 1860.
[97] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 20 October 1858.

Saltley reformatory (although this might be for his endeavours towards creating the aforementioned wing).[98] Magistrates such as Leigh and the Earl of Harrowby were keen to see Staffordshire gain its own solution, but the influence of figures such as Adderley and Lichfield in moving the debate towards a cooperative school with Warwickshire cannot be ignored. In the case of Staffordshire, personal interest as much as financial strain influenced reformatory solutions.

There were, however, voices opposed to the use of Saltley. Major Chetwynd, the most vocal dissenter against solitary confinement extensions in Stafford Gaol, especially for juveniles, objected to the use of county rates to pay for Saltley and doubted the effectiveness of such establishments for Staffordshire.[99] At the July Sessions of 1862, Reverend Talbot likewise complained of the costs to Staffordshire of Saltley at 2s 6d a week. He had been led to believe that any charge made to Staffordshire was to cover expenses, not to make a profit. Talbot felt that once the labour of the boys was considered against the cost of maintaining them, the charge to the county should be as little as 1s 1d per week. He was also critical of the reduction in crime assigned with the introduction of reformatories over the preceding five years. Talk of reductions in crime nationally amounting to 44% fewer juveniles committed to gaol between 1856 and 1861 ignored the numbers committed to reformatories. If these 3,712 reformatory committals were added to the overall figures, the reduction in juvenile committals stood at around 16%. Adult crime had decreased by 7% over the same period and that could not be credited to similar reformatory efforts. Talbot did not fear rejection by Saltley for Staffordshire juveniles if it failed to agree lower costs, which he felt were too high. If Staffordshire had to send its juveniles to other institutions, governmental subsidy would cover the cost.[100] The costs involved in establishing and maintaining the Staffordshire Wing could not be considered trifling. Lichfield in 1862 informed the *Staffordshire Advertiser* about the various sources of income to Saltley since 1857: £800 had been raised by private subscription for the Staffordshire Wing alone; £588 had been paid out of the county rate for the maintenance of the boys in the institution, and £149 had come from the Prisoners' Reformation Fund.[101] Despite this, and in answer to Talbot's criticisms, Lichfield felt that the terms of the Saltley agreement were fair. The expense of a separate institution for Staffordshire would be far greater than the current

[98] *The Irish Quarterly Review* suggested that Lichfield had personally been responsible for the collection of £600 for this purpose; *The Irish Quarterly Review*, Dublin January 1860, p.124. Also see: *The Philanthropist, and Prison and Reformatory Gazette*, August 1859, p.458; J. A. Langford, *Modern Birmingham and Its Institutions: A Chronicle of Local Events, from 1841 to 1871, Vol. 2,* Birmingham 1877, p.208 & *Journal of the Society of Arts*, Vol.40, 1892, p.178.
[99] *Staffordshire Advertiser* - Saturday 23 October 1858.
[100] *Staffordshire Advertiser* - Saturday 05 July 1862.
[101] *Staffordshire Advertiser* - Saturday 12 July 1862.

arrangement.[102] Cost was a barrier that was difficult to overcome when facing resistance to educating the criminal classes. Expenditure towards expanding education for the 'honest' poor would be less contentious, although still fraught with difficulties.[103]

In Staffordshire, the age of boys and their suitability for reformatory schooling was also debated. In 1860 Lichfield felt that very young boys did not benefit from reformatory instruction, arguing that a short spell in prison might rectify their ways. More could be achieved by reserving reformatory places for older repeat juvenile offenders. Harrowby agreed, contending that for small boys to be branded as a criminal for life for a single offence was a scandal when children of a higher class were admonished or whipped. [104] Harrowby later argued that only repeat offenders should be sent, and that reformatories should not be used for trifling offences for which a whipping would be the best remedy. Lichfield countered that a whipping would do no good and that it should be applied to the parents instead: only industrial training could break the cycle of crime. He believed that boys under 11 or 12 should not be sent to reformatories. Too often children sent to gaol were too young to be left alone without attendance from officials. He further hoped that other institutions such as industrial schools might be adopted for younger children. Lord Hatherton commented that he often declined to adjudicate for children of such tender years.[105] Talbot also criticised dealing with first-time offenders in this way and cited the example of a boy who had been sent to the reformatory for 3 months for theft of a single shilling despite this being his only recorded crime. Talbot noted that for the last three years, 27 out of 39 boys sent to the reformatory from Staffordshire were first-time offenders and that long sentences for such juveniles were a gross injustice. Thomas Kynnersley, Stipendiary Magistrate for Birmingham, who had been invited to offer his expertise at the 1862 July Session regarding the use of Saltley Reformatory, countered that a reduction in the number of committals was real for Birmingham. Kynnersley also questioned Talbot's concern over the length of time these juveniles were expected to serve, noting that the average reformatory stay was only 18 months.[106] Debate about the best means of reforming juvenile offenders continued for more than twenty years. The concern for juveniles was sincere in Staffordshire, although an underlying motif of attempting to 'eradicate' both their 'impatience of control' and 'dislike to regularity' cannot be completely overlooked.[107] A desire to seek the best possible conditions for juvenile delinquents and

[102] *Staffordshire Advertiser* - Saturday 05 July 1862.
[103] See section 7.3.
[104] *Staffordshire Advertiser* - Saturday 20 October 1860.
[105] *Staffordshire Advertiser* - Saturday 21 October 1865.
[106] *Staffordshire Advertiser* - Saturday 05 July 1862.
[107] Hugh Humphries, superintendent of Saltley Reformatory, in a letter to the *Staffordshire Advertiser* - Saturday 09 November 1861.

the need to impose order on a disorderly subsection of society existed side by side during Sessions debates. Staffordshire and Shropshire's attempts to secure a reformatory solution to juvenile crime were hampered by finances, the politics of interested parties, and the fact that they experienced less crime than more urban and industrial counties such as Middlesex and Lancashire. Shropshire's efforts were fragmentary at best, and Staffordshire's solution relied on the use of another county's establishment. Both counties turned to alternative means of reformation that focused not just on the criminal young but the young of the poorest class.

7.3 The search for preventative education

The distinction between the destitute and the criminal was one that the reformers wished to emphasise. As Mary Carpenter observed, there was a delineation to be made: perishing juveniles were amongst the poorest members of society and either through the bad habits of parents, or through circumstance, found themselves in poverty and at risk of moral corruption. In contrast, criminal juveniles had given in to idleness and temptation and required the special attention that a reformatory could give.[108] As reformatory efforts stalled or were open to compromise in both counties, the perishing classes came into favour. Aglionby Slaney MP represented Shrewsbury periodically from 1826 to 1862. He believed, like many in Shropshire, that 'a good education will go to the root and foundation of the mischief' and that 'grievous evils, errors, and crimes…arise from ignorance'.[109] An alternative argument was demonstrated in a personal address to Thomas Kenyon, chairman of the Shropshire Quarter Sessions in 1842, by Arthur Hill-Trevor, MP for Durham. He set out his disapproval of the education of the 'lower orders' and asserted that the type of education proposed by the reformers would be 'the cause of manifold evil, nay, even the parent of crime' and that by instructing 'many in a manner far beyond their station' the reformers would be 'inflicting injury on the community at large'. The working man would be 'rendered dissatisfied with their position' and the convicted 'seduced from the paths of rectitude'.[110] Justice Coleridge at the Shropshire Assizes 1841 questioned this widely-held belief that 'crime and education progressed together' and that numbers who were committed who could both read and write did not reflect a gaol filled with 'educated criminals'.[111] The Shropshire magistrates, and their contemporaries in

[108] M. Carpenter, *Reformatory Schools: For the Children of the Perishing and Dangerous Classes and for Juvenile Offenders*, London, 1851, p.68-71.
[109] R. A. Slaney, *A Plea, to Power and Parliament, for the Working Classes*, London 1847, p.102.
[110] A. H. Trevor, third Viscount Dungannon, *Remarks on the present state of crime: with a brief enquiry into its probable causes: addressed to the Hon. Thomas Kenyon, chairman of the Quarter Sessions for the County of Salop*, Shrewsbury 1842, p.9.
[111] *Shrewsbury Chronicle* - Friday 30 July 1841.

Staffordshire, adopted preventative education in earnest. There were many small private institutions that existed to educate the poor in both counties; however, some schools were specifically mentioned during debates by magistrates at the Sessions as part of a preventative strategy to deal with juvenile crime.

If the poorest juvenile could be taught to be productive and moral, this would surely lead to less crime overall. As Lichfield stated at the Staffordshire Sessions, many young children brought before him for vagrancy offences could be prevented from turning into future thieves and kept out of mischief, if there existed more schools which gave industrial training. He highlighted the work of the Wolverhampton Ragged School which took children off the streets and kept them at school during the day, but magistrates could do little to enforce this as no crime had been committed and no Act of Parliament could compel parents to send children or support them whilst there. Lichfield nonetheless urged his fellow magistrates to support such initiatives.[112] Leigh, as the town's Stipendiary Magistrate, was connected with Wolverhampton Ragged School. He encouraged the October Sessions of 1860 to see such schools as 'the middle passage between the Reformatory institution…and the gaol'.[113] An 1854 report estimated that the costs of redemption in the school amounted to £10 per person against a fee of £50 for committals.[114] At Wolverhampton vagrant children were taken in, but so too was any boy turned out of gaol without a home. They were found lodging and board until they could support themselves. Both the Chief Constable of Wolverhampton and Major Fulford, governor of the county gaol, agreed that commitments to the gaol had decreased since the establishment of the school.[115] Urban initiatives, such as the Ragged School, may have had a greater chance of success over a farm school placed in the countryside. In an 1856 editorial in the *Wolverhampton Chronicle* the notion of sending juveniles from manufacturing districts to farm schools for agricultural training was questioned when the economic tide was turning towards urban manufacturing.[116]

Staffordshire achieved its goal of building an industrial school in 1868.[117] Seven acres of land in Werrington near Hanley were purchased at a cost of £800 for Staffordshire's new school. Magistrate

[112] *Staffordshire Advertiser* - Saturday 21 October 1865.
[113] *Staffordshire Advertiser* - Saturday 20 October 1860.
[114] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 30 August 1854.
[115] ibid.
[116] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 29 October 1856.
[117] Under the Industrial School Acts of 1857 and 1861 children convicted of vagrancy could be placed in such an establishment until the age of 16. Later legislation extended powers over those considered to be potentially delinquent.

I. Spooner, as one of the members of the founding committee, told the October Sessions in 1869 that those who administered justice could not ignore the amount of crime generated through the neglect of young children, and that they should pursue a course that allowed them to remove a child from those who led them to wrongdoing.[118] Lichfield, as Chair of the April Session of 1867, reminded his fellow magistrates that the school would provide for those in danger of becoming criminal and not those already sent to a gaol or a reformatory. He felt that those over 12 years of age who had been convicted of an offence belonged to the criminal class, but those under that age might be excused because of the influence of their parents or the nature of the environment they were brought up in.[119] An assessment of the success of industrial schools is beyond the scope of this section; however, historians have debated whether the child could make any real distinction between a gaol, reformatory or industrial school. They were treated as a 'degenerate and deprived class' in need of 'intensive disciplinary treatment'.[120] May painted them in less harsh tones as 'moral hospitals' for 'the victims of neglect'.[121] For some, the industrial schools were both punitive to parents, enforcing fees and denying access to their children, and insidious in their desire to re-create 'more acceptable patterns of behaviour'.[122] However, those who instigated their formation felt both a moral responsibility and a desire to see a better life for impoverished juveniles. As Spooner commented, the industrial school would allow boys to go into the world without the 'stamp or brand of crime' that reformatories imposed.[123]

One of the preventative solutions considered by both Staffordshire and Shropshire was the pauper district school, an establishment that brought together poor children from workhouses and concentrated them in a single establishment which had the size and scope to achieve moral education and training removed from parental interference and influence. H. G. Bowyer, Inspector for the East Midlands District, considered small workhouse schools to be a waste of public money arguing that the numbers in attendance were detrimental to the efficiency of the industrial training on offer.[124] District schools were a personal passion for Kay-Shuttleworth, secretary to the Committee of the Privy Council on Education, and were taken up enthusiastically by some members

[118] *Staffordshire Advertiser* - Saturday 23 October 1869.
[119] *Staffordshire Advertiser* - Saturday 13 April 1867.
[120] S. Humphries, *Hooligans or Rebels: An Oral History of Working-Class Childhood and Youth 1889-1939*, Oxford 1981, p.211.
[121] M. May, 'Innocence and Experience: The Evolution of the Concept of Juvenile Delinquency in the Mid-Nineteenth Century', *Victorian Studies, Vol.17, No.1*, 1973, p.28.
[122] ibid., p.29.
[123] *Staffordshire Advertiser* - Saturday 05 January 1867.
[124] Anon, 'The Education of Children Under the Poor Law', *Charity Organisation Review, Vol. 12, No. 138*, 1896, p.315.

of the Poor Law School Inspectorate.[125] Bowyer believed that ragged schools, reformatories, and district schools were 'connected together by one common object': that the prevention of crime can only be obtained through the means of education.[126] In Leighton's summary of the reasons for not pursuing a reformatory in Shropshire, he compelled the Sessions to take note of the benefits a pauper district school could offer as an alternative means of salvation for delinquents. Leighton felt that by 'having a large number of children brought together a great and useful education can be given in a much more efficient manner and at a less cost per head than at present'. [127] The pauper district school movement failed to spread far outside of the metropolis and did not have much of a presence within the rest of England, for reasons that are discussed below. However, what is unusual is that of the four district schools founded away from the metropolis, two of them were in Staffordshire and Shropshire. The desire to seek alternative methods of reform, whilst struggling with the impediments surrounding reformatory schools, was shared by both counties. However, the factors that influenced their adoption were different.

The South-East Shropshire District School situated at Quatt, near Bridgnorth, was significant not only as one of the few establishments to be founded away from London but also, as a rural district school, it was one of only three.[128] The Poor Law Amendment Act cut across traditional parish boundaries to form larger unions which, it was hoped, would be more economical and efficient to manage than parishes. As few poor law unions could provide enough children to fill a large school, the idea of the district school emerged as an attempt to consolidate the local administration of pauper education into larger cost-effective sites.[129] District schools allowed the separation of children from adults and workhouse routines and were supported by Kay-Shuttleworth who fought for their establishment as early as 1838.[130] He believed that through industrial and moral education, hereditary pauperism and its links with associated evils could be broken. At their heart, however, district schools were a nationally-led movement with countrywide concerns. This clashed with a locally administered pauper education system which required the acquiescence of local guardians in order to succeed. This was particularly true of rural areas, as indicated in the failure of Warwickshire to establish a

[125] Such as Jellinger Symons, Inspector of Poor Law schools for the West of England and Wales, who promoted the South-East Shropshire District School as an exemplar for those who wished to establish a successful District School. *Parliamentary Papers, Minutes of the Committee of Council on Education; schools of parochial unions, and reformatory schools, in England and Wales. With reports by Her Majesty's inspectors of schools. 1856-7*, p. 196. (Hereafter *PP*).
[126] *PP, Minutes of the Committee of Council on Education 1853,* p.50.
[127] *SHRO Q/A/2/1/3 Gaol visiting justices report book 1845-1857*.
[128] Alongside Farnham and Hartley Wintney in Hampshire and Reading and Woking in Berkshire. A. M. Ross, *The Care and Education of Pauper Children in England and Wales, 1834 to 1896*, PhD thesis, University of London, 1955, p.6.
[129] ibid., p.49.
[130] ibid., p.52.

school, where objections were raised by the rural unions joining with urban parishes.[131] At Swansea, the unwillingness of elected officials to pass additional costs onto ratepayers was reason enough for a school not to be founded there.[132] Regional conditions needed to be specific with strong support from local officials if district schools were to be established.

Given the objections of guardians to the initial costs and the perceived reduction in local authority that would ensue, the South-East Shropshire District School can be seen as indicating the influence of a local individual (in this case a member of the landed elite) to dictate and administer national directives. Chair of the Bridgnorth Union, William Wolrych Whitmore, a former MP for the region (1820-1832) and a landowner, with a belief in the depauperising effect of education and the need to separate the young from external corrupting influences, was key to the successful creation of a district school in Shropshire.[133] An old parish workhouse, in Quatt, was chosen for the Bridgnorth Union's pauper school in 1836, founded on the principle of industrial training, long before it would be absorbed into the newly formed South-East Shropshire school district in 1849. Its proximity to Whitmore, who owned land in Quatt, and had a background in education and relief of the poor, ensured that the school became a focus of personal interest.[134] For Whitmore, the industrial training received at the Bridgnorth Union School would 'break the thread of pauperism, and enable this hitherto degraded and unhappy class to establish themselves'.[135] He petitioned the rate payers of Cleobury Mortimer, Madeley and Seisdon (in Gloucestershire) to form a district school, and when it was clear that it was too small for its purposes, he agreed to finance the school's expansion.[136] Whitmore leased one of his own properties, Dower House on his Dudmaston Estate, to the District in 1850; it was grander than the usual workhouse school.[137] He was also responsible for the appointment of Henry Garland as Schoolmaster to the Bridgnorth Union School in 1837, to whom much of the success of Quatt was attributed.[138] By having an already established and successful model school in the district, with a Chair of one of the founding Unions a strong proponent of the movement, it is not surprising that Shropshire successfully started a district school where others

[131] ibid., p.67.
[132] ibid.
[133] J. E. Livingstone, *Pauper Education in Victorian England: Organisation and Administration within the New Poor Law, 1834-1880*, PhD thesis, London Guildhall University, 1993, p.195. Whitmore would later become MP for Wolverhampton in 1832.
[134] Whitmore had been Vice President of the Management Committee of the Bridgnorth National School during the 1820s; Livingstone, *Pauper Education in Victorian England*, p.191.
[135] ibid.
[136] ibid., p.198.
[137] ibid., p.203.
[138] Garland was one of the few teachers in the country to be given an Efficiency I certificate in 1849 (the year it was launched, awarded by the Committee of Council on Education) allowing for a full grant of £40 to £50 and was representative of the quality of teaching, as viewed by the inspectors for Poor Law Schools; ibid., p.195.

failed. Whitmore was the driving force behind its establishment, and he was able to overcome one of the greatest objections that led to the failure of most district schools: cost to the ratepayer. Whitmore persuaded the founding unions that in the long term, the children at Quatt would be less likely to become a burden on the poor rates and this would lead to a reduction in Poor Law expenditure. This was important in persuading the Union of Madeley, a populous industrial area, that it could reduce its Poor Law burden and that the running costs of the district school would lessen over time. [139]

In 1854 Henry Garland recalled the success of the school in a testimony delivered to Jellinger Cookson Symons, Inspector of Poor Law schools for the West of England and Wales. He could recall only two cases of boys from the school appearing before magistrates in twenty previous years, and only five girls who had 'disgraced themselves'.[140] The reason for the successful establishment of the South-East Shropshire District School lay in the motivation of an able, influential, and wealthy landowner and the existence of an already well-established exemplary school. It would seem likely that Atcham, the Union controlled by Baldwin Leighton, was also ripe for a District School. However, Leighton had built up the Atcham Workhouse School for the industrial training of paupers and was reluctant to give over any control to government inspectors, often resisting their calls for the introduction of a female schoolteacher and clashing over the reading material they recommended. Leighton felt that part of being a model chairman of a union was to dominate all dissenting voices and to believe 'that his knowledge of all details is superior to that of other guardians'.[141] Janet Livingstone describes Baldwin's approach towards central authorities as both independent and autocratic.[142] When Atcham approached Ellesmere Union to admit, for a fee, children from that area in order to bolster the numbers in school, a counter-proposal for Atcham's children to be educated in Ellesmere instead was rejected by Leighton who would not relinquish control to another union.[143] Furthermore, he was also opposed to further expanding the Poor Law Union, of which he was the Chair, by including the county town of Shrewsbury. He feared a deprivation of power and the addition of (what he considered to be) a poorly managed union to his well-oiled machine.[144] Although Leighton had been a vocal supporter of district schools, and of the need for governmental

[139] ibid., p.205.
[140] *PP, Minutes of the Committee of Council on Education; schools of parochial unions, and reformatory schools, in England and Wales. With reports by Her Majesty's inspectors of schools. 1856-7*, p.199.
[141] Speech by Sir Baldwin Leighton to the Conference of Chairmen and Vice-Chairmen of Boards of Guardians for the West Midlands Counties held at Malvern, 4 May 1870, quoted in Livingstone, *Pauper Education in Victorian England*, p.164.
[142] Livingstone, *Pauper Education in Victorian England*, p.166.
[143] ibid., p.170.
[144] ibid., p.172.

legislation to enable their easier adoption, he also believed in local initiative and administration which made him resistant to any interference in his management of personal projects.[145] This demonstrates the power of local interests, and the sway of wealthy and influential individuals within the same county, to drive through the adoption of district schools, in the case of Whitmore, or resist their implementation, in the case of Leighton.

The first wave of district schools was plagued by inadequate legislation that hampered their adoption. This was not limited merely to the financial burdens that many unions felt were unequally distributed, but also included restrictions placed on distance for the location of the school from all combining unions and the necessary support required from members of a union's board of governors. In its original form, the statute required two-thirds of governors to agree before a district could be considered. The Poor Law Amendment Act 1866 and 1868 removed some of the obstacles.[146] Despite these changes, and a concerted effort in the capital to build more establishments, rural district schools remained problematic. An attempt to form a district between unions in Lincolnshire and Nottinghamshire in 1868 was eventually rejected when 4 out of the 6 forming unions asked for the project to be abandoned as the cost was too great.[147] No more rural district schools were formed but the School Inspectors cherished hopes of creating a district in densely populated industrial areas, such as the Midlands.

Before the Amended Poor Law Acts of 1866 and 1868 that removed some of the barriers to district schools, attempts had been made to form a school district in Staffordshire. In 1852 Inspector Bowyer reported plans for a Staffordshire union to form a district with Warwickshire, to include Warwick, Stratford-upon-Avon, Alcester, Meriden, Solihull, Rugby and Tamworth, although a reluctance to include any manufacturing districts was noted and the scheme came to nought.[148] A district formed from Wolstanton, Burslem and Stoke unions was proposed in 1863. The debates surrounding the formation of the district echo those in other parts of the county and allow insight into the reasons

[145] In 1878, the President of the Local Government Board, George Sclater-Booth, suggested that Atcham would be the perfect hub for a central Shropshire district school. Although Leighton had died some six years previously, nothing would come of this proposal, probably as a result of district schools becoming increasingly out of favour within reformatory ideology. *Shrewsbury Chronicle* - Friday 30 August 1878.

[146] Such as: lowering the number of consenting guardians needed to half of the board; removing the twenty-mile limit that had been in place to keep out children on contract from a district outside the region; and changing the way the cost of a District School was divided between unions from an average based on expenditure to one based on the total rateable value of the property within a union. Ross, *The Care and Education of Pauper Children*, p.82.

[147] ibid., p.87.

[148] *PP, Committee of Council on Education: Minutes (Schools of Parochial Unions); Reports by H.M. Inspectors of Schools on Workhouse Schools* 1853-4, p.48.

why proposed formations failed to materialise. In a discussion between the guardians of Burslem and Wolstanton the Chairman believed that costs could be kept only slightly higher than they had been at present, and the institution would remove much of the stigma faced by children being brought up in the workhouse. In contrast, fellow guardians argued that the distress in the county would not suffer the initial outlay of expenditure and that this class of child would receive better education than children of ratepayers.[149] The idea of less eligibility was a concern for both Poor Law officials and magistrates who did not wish to alienate the poorest classes who tried to live honestly. A principle of mid-nineteenth-century policy for dealing with pauper members of society was that the conditions they experienced should be less encouraging than those of an independent labourer.[150] Despite the fact that the Poor Law Commission felt that pauper education should be of the highest priority, elected Poor Law Guardians were often reluctant to spend any more of the county rates on providing better education for the poorest when they relied on the ratepayers for their position.[151]

The guardians of Stoke held a similar debate one month beforehand, raising objections to the idea that each union in the District would have an equal say in the running of the school even though Wolstanton and Burslem would incur only a quarter of the costs borne by Stoke.[152] Historian Alexander Ross notes the 'possessiveness' felt by some guardians over their charges and that, with a school district being controlled by managers appointed from its constituent members, many were loath to hand over control to other unions.[153] This appears to have been the stumbling block that prevented further district schools in Shropshire centred around the successful Atcham Union School. In Staffordshire, guardians dismissed the idea that the school at Quatt was a successful example of a functioning district school because comparisons with the urban conditions of the Potteries invalidated this conclusion. They also believed that they could not risk spending upwards of £10,000 on 'an experiment' as they had no guarantee that children from a district school would turn out better than those from the workhouse. A further meeting in August rejected the need for a district school because an excellent programme of industrial training already existed in Stoke. At the end of this meeting a resolution was passed that the need for a district school could not be proven

[149] *Staffordshire Sentinel and Commercial & General Advertiser* - Saturday 06 June 1863. Inspector Bowyer reported in 1853 an earlier attempt by these Unions to form a district. *PP, Committee of Council on Education: Minutes (Schools of Parochial Unions); Reports by H.M. Inspectors of Schools on Workhouse Schools* 1853-4, p.51.
[150] J. H. Stallard, *Pauperism, Charity, & Poor Laws: Being an Inquiry Into the Present State of the Poorer Classes in the Metropolis, the Resources and Effects of Charity, and the Influence of the Poor-law System of Relief with Suggestions for an Improved Administration*, London 1868, p.31.
[151] *PP, Second Annual Report Poor Law Commission, Appendix C, No 8. 1836,* p.477.
[152] *Staffordshire Advertiser* - Saturday 01 August 1863.
[153] Ross, *The Care and Education of Pauper Children*, p.76.

conclusively.[154] One year later, the guardians felt that they had been right in rejecting the proposal by citing evidence from a report of the House of Commons Select Committee on Poor Relief that schooling in workhouses was not inferior to district schools. They also highlighted that the children of the Stoke Workhouse School were well turned out and sought-after.[155] The case for a Potteries District School is indicative of the multiple missteps and challenges faced by such establishments and explains their scarcity across the country despite strong central government support.

Despite the failure at Stoke, a further attempt to establish a district school in an urban and industrial setting was made once changes in legislation removed some of the serious objections raised by earlier efforts. In February 1868 the guardians of Walsall enquired of the Wolverhampton guardians regarding cooperation to form a district.[156] This was backed by the Rev. J. Gettings, the Chair of the Wolverhampton School Committee, who believed that it was necessary to remove the school from the workhouse premises because it was becoming overcrowded. The Rev. H. Bollard countered, with the familiar objection that the ratepayers should not be pauperised to pay for the education of the poorest. Despite appointing an investigating committee, nothing came of this proposal.[157] However, in December of the same year, West Bromwich sent a deputation to the Walsall guardians to rejuvenate interest in a Staffordshire district school.[158] Initially the district was to include Lichfield and Penkridge, but the two least industrial unions could not be persuaded to join.[159] Objections were raised by the Walsall governors, claiming that a school built adjacent to the existing Walsall Union would be more economical. However, they were persuaded by the availability of 27 acres offered to the West Bromwich Union in Pennyhill Lane, Wigmore.[160] West Bromwich Workhouse School was itself overcrowded with 116 children for just 48 beds.[161] Henry Ward, the Clerk to the Board of Managers, emphasised that both Union Workhouses were overcrowded and that this could be alleviated by the removal of the children to the new school.[162] The pressing needs of West Bromwich, the desire to build by Walsall, the reduced cost to Walsall of joining with West Bromwich's proposed development, and the newly encouraging legislation combined to overcome many of the

[154] *Staffordshire Advertiser* - Saturday 01 August 1863.
[155] *Staffordshire Advertiser* - Saturday 16 July 1864.
[156] Earlier in 1851 the Chair of the Wolverhampton Board of Governors, Rev. B. Owen, had tried to join Dudley and Wolverhampton with Walsall and West Bromwich to no avail. *Staffordshire Advertiser* - Saturday 19 July 1851.
[157] *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 26 February 1868.
[158] *Staffordshire Advertiser* - Saturday 19 December 1868.
[159] Ross, *The Care and Education of Pauper Children in England and Wales*, p.88.
[160] *Staffordshire Advertiser* - Saturday 19 December 1868.
[161] *Staffordshire Advertiser* - Saturday 11 December 1869.
[162] The new school could accommodate 400 with three divisions for boys, girls and infants. Boys had access to a workshop for industrial training and girls had a sewing room, with the addition of access to the officers' kitchen for service training for older girls. *National Archives MH27/112 Walsall and West Bromwich District School at Wigmore Farm, formation of school district by unions of West Bromwich and Walsall*; 1869-71.

usual objections to the District School. The costs were considerable: £14,720 was estimated for the buildings and a further loan of £4,000 was requested in 1871.[163] Mr Cozen, the Chair of the Walsall Board of Guardians, on the opening of the school declared the 'object of the school was to remove poor children from places where they were likely to be contaminated, to a place where they would be educated both morally and intellectually'.[164] However, by this time the aggregation of large bodies of children was going out of fashion amongst those concerned with the education of pauper children.[165] Wigmore itself suffered from poor sanitary conditions, with outbreaks of both ophthalmia and cutaneous disease, and in a report on the School in 1874, H. G. Bowyer, Inspector of Schools for the Eastern and Midland District, claimed that standards of teaching at the school were not much higher than the average workhouse school.[166] The Walsall Board quickly lost faith in the project and resisted expansion in 1878.[167] As the nineteenth century progressed, the influence of central government grew and the power of local officials correspondingly waned. By the end of the century, magistrates, poor law guardians and prison officials had lost much of the autonomy that allowed them to pursue locally-flavoured responses to the problem of juvenile delinquency.

Criticism of district schools grew throughout the 1860s and carried on to the end of the century. In 1871, Inspector for Schools T.B. Browne, of the North-Western District and Wales, questioned whether district schools produced superior results to well-managed workhouse schools. Browne cited the similar circumstances in Shropshire of Atcham and Quatt, a workhouse school compared with a district school. He felt that both were well managed, but he believed that children in Atcham were slightly superior in schoolwork, and that the industrial training of girls in Atcham was not surpassed anywhere else.[168] These echoed similar sentiments from Andrew Doyle, Poor Law Inspector in 1863, that workhouse schools were superior to district schools. Doyle was doubtful whether the extension of district schools in agricultural regions would be possible with scattered populations.[169] Unless urban unions were located adjacent to other urban unions, the chances of more districts forming were few, especially since rural unions were reluctant to join with urban parishes. He was also openly critical of the efforts at Quatt, reporting that out of 60 girls sent to

[163] The expenditure for the relief of the poor over three years up to 1870 amounted to £60,122 in Walsall and £115,954 in the West Bromwich Union, indicating the substantial outlay for the school in comparison to relief payments; ibid.
[164] *Walsall Free Press and General Advertiser* - Saturday 14 May 1870.
[165] Ross, *The Care and Education of Pauper Children in England and Wales*, p.100.
[166] ibid., p.89.
[167] ibid., p.90.
[168] *Shrewsbury Chronicle* - Friday 18 August 1871.
[169] Based on a typology of adult occupation alone, Doyle estimated that 660 unions in England and Wales could be classed as agricultural and just 187 could be defined as urban, manufacturing or mining. *Shrewsbury Chronicle* - Friday 06 February 1863.

service over ten years, 15% returned to workhouses for misconduct. Doyle, on inspecting the Seisdon workhouse, found three girls of bad character who had formerly attended Quatt School. By the late 1860s, experiments were made in the limited boarding out of pauper children and by 1888 a Select Committee on Poor Relief reported that very large district schools had a deleterious effect on children, especially girls, by denying them contact with their families and the outside world.[170]

The district school was proposed as a means of schooling the poorest in society in a way that could overcome juvenile crime by raising the honest standing and employability of the young. The cycle of juvenile misbehaviour leading to a lifetime of adult criminality could be broken through such establishments. Yet, despite strong support from central government, resistance at the local level caused the experiment to be limited, and few district schools were established outside the capital. Unique but different circumstances were required for their adoption in Shropshire and Staffordshire. Because neither county had full access to their own reform school to reclaim the growing number of juveniles imprisoned, interest turned to preventive measures. District schools would remove juveniles from the contaminating influences of pauper life and instil virtues to prevent them from becoming future criminals. In Shropshire, an existing school backed by a motivated and influential landowner smoothed the way for the adoption of such an establishment. In Staffordshire, encouraging legislation at a time when both unions sought to expand their schooling created the conditions for the only district school in an urbanised, industrial area outside London.

7.4 Conclusion

With the ending of transportation and the growing realisation of juvenile offenders' special needs during incarceration, a new penal regime was proposed to deal with the growing numbers of juveniles in the county gaols through the enactment of new legislation. Although this was a countrywide movement led by renowned philanthropists, notably Mary Carpenter, and backed by politicians, local officials in both Staffordshire and Shropshire participated in passionate debates. Economics and political interests in each region defined their reformatory responses to the juvenile offender. However, both counties faced financial restrictions that made a county-specific institution unfeasible. Furthermore, in Shropshire, the scale of juvenile criminality made the viability of such a

[170] Ross, *The Care and Education of Pauper Children*, pp.100, 109. The benefits of sending children to be 'boarded out' over workhouse or pauper schools was espoused by Florence Davenport-Hill in 1893 who believed that the individual needs of each child would be overlooked in such large establishments – 'a real home must be better than even the best imitation'. F. Davenport-Hill, 'The System of Boarding-Out Pauper Children', *The Economic Journal, Vol. 3, No. 9*, 1893, pp.63-65.

school unlikely despite the interests of many leading magistrates in relieving juveniles from the punitive regime of the county gaol. In Staffordshire, Charles Adderley, founder of the Saltley Reformatory, moved the county's efforts towards cooperation with that institution, despite its location in a neighbouring county. All facets of the debate were considered at regional level, from those who argued for punitive regimes to those who wanted to help the most impoverished juveniles. Parents and their responsibility to ensure well-behaved offspring also entered the reformatory discussion. The desire amongst strict disciplinarians to force parents to maintain their children after being placed in an institution raised questions as to whether such penalties were in fact counterproductive to the desired goals of reform. Regardless of where a local official fitted on the spectrum of opinions, realities were tempered by local circumstances which were often the controlling factor in determining the characteristics of reformation.

As both counties failed to find satisfactory reformatory solutions for their juvenile criminals, the idea of prevention came to the fore. Education was once more the central focus. Pauper District Schools, despite being favoured by leading figures in central authority, often clashed with the specific regional concerns of the officials who were the deciding influence in their adoption. Few district schools were established outside London, and it is of special interest that both counties, at different points in time, adopted them within their borders for specific reasons. This explains resistance in some areas and their eventual establishment elsewhere. Leading figures in both counties could be both a hindrance and an advantage to their adoption, and causal factors were present that were specific to legislative changes and the pressing needs of certain unions to alleviate the growing burden of pauper education. It is beyond the scope of this thesis to judge the effectiveness of these initiatives. However, officials in Staffordshire and Shropshire demonstrated concern for the youngest members of society, interwoven with a need to punish without causing permanent long-term damage.

Chapter 8 – Conclusion

This thesis examines the nature of, and the measures adopted to deal with, the apparent growth of juvenile delinquency in early nineteenth-century England. It focuses on individuals, ideologies and institutions in two neighbouring counties, Shropshire and Staffordshire. The way juveniles were viewed and treated, both as vulnerable members of society, and as a potential threat to civil order, became a point of discussion amongst industrial, commercial, political, and religious elites. The magistrates who administered law and order within their counties tackled a perceived crisis of criminality amongst the young of the poor and labouring classes. They increasingly labelled juvenile activity as 'criminal' as interactions between the poor, the emerging middling classes and the once dominant landed gentry changed, and as social pressures increased with an expanding industrial and urban population. The local magistracy played a pivotal role in defining juvenile criminality, one consequence of which was to increase juvenile presence within county institutions. In response, they investigated novel approaches to removing juveniles from a prison system that, under their oversight, was seemingly unfit for young offenders and they actively sought remedies for what they considered to be the causes of juvenile delinquency. Although these measures were guided by national debates, the substance of discussions at county level was heavily influenced by the personalities who dominated the local Sessions. The economic, social, and political factors that were unique to each county administration also yielded distinct solutions. Decisions were made at the county level. Few local studies of this type have been undertaken, particularly for this period, covering the process from trial to rehabilitation.[1] This chapter summarises the wider findings of this thesis, assesses its significance and suggests further avenues of investigation.

8.1 Thesis findings

While the behaviour of the young was a recurring concern for earlier generations, Chapter 1 examines the seismic shift in the perception – and management – of delinquency that occurred in the nineteenth century and its attendant profound impact on the way mischief and acts of delinquency were perceived and treated. It is argued by this thesis that this attitudinal shift was a far more potent contributing factor underlying the increase in juvenile committals over and above any notion that juveniles were becoming more criminal in the nineteenth century. Roger Hood, Leon Radzinowicz and Susan Magarey have posited that the archetype of the juvenile criminal was formed

[1] See Heather Shore for the most complete study of this type; however, her work focuses mainly on the metropolis with its own unique characteristics that were distinct from those seen in the rest of the country. H. Shore, *The Social History of Juvenile Crime in Middlesex, 1790-1850*, PhD thesis, Royal Holloway, University of London, 1996.

in the second quarter of the nineteenth century, created through rapidly changing legislation and the growing concerns surrounding the behaviour of this age grouping.[2] However, disorderly youths were viewed as a problem in earlier periods and in the sixteenth century children were seen as a component of a growing vagrancy problem. The idea that idleness led to corruption was a familiar theme that would resonate again in the nineteenth century. The wayward behaviour of insubordinate apprentices and masterless young people during the early modern era represented a divergence from established norms of obedience and expected contributions to the established social structure. This phenomenon intensified in the nineteenth century as growth in population, urbanisation and industrialisation challenged previous notions of a properly stratified society. The young became a focal point as one of the most rapidly expanding sections of society at this time.[3] The definition of juvenile remained fluid throughout this period as society debated at which point a child became accountable for its own actions and at what age the full force of punishment should be applied.[4] This thesis illuminates this shift through a local study encompassing various aspects of the justice system.

Heather Shore has argued that the 'criminal child' was a product of the nineteenth century, formed in the mind's eye of literate society through pamphlets, newspaper reports and investigations led by both official select committees and voluntary organisations.[5] However, juvenile criminals were also created through changes in legislation, and a diminution in the tolerance of behaviour previously regarded as petty and merely mischievous. These changes had an impact on the numbers of prosecutions brought against young offenders. The timing of this change has been challenged by Peter King and others through a study of the Quarter Sessions material that officially recorded committals for acts of larceny at the local courts.[6] Margaret May and Susan Magarey identified the period after 1820 as marking the beginnings of the perceived crisis in juvenile criminality. The

[2] See L. Radzinowicz & R. Hood, *A History of English Criminal Law and its Administration from 1750. Vol.5, The Emergence of Penal Policy*, London 1986, p.133; and S. Magarey, 'The Invention of Juvenile Delinquency in Early Nineteenth-Century England', *Labour History, No.34*, 1978, p.18.

[3] In an accompanying redefinition of 'conceptions of property ownership', the middling and land-owning classes, sought both to protect their growing material property and to assert claims over traditional forms of rights of the lower orders. The waste (or by-products) of the land were believed by custom to be privileges of these labouring classes. P. King, *Crime and Law in England, 1750–1840: Remaking Justice from the Margins*, Cambridge 2006, p.309.

[4] Although a growing number of legal initiatives defined the age of 16 as marking the final transition from juvenile to adult punishment, it was not uncommon for custom to treat offenders up to the age of 21 as diminished in responsibility as they were under the supervision of their parents until that age. J. F. Archbold, *The Jurisdiction and Practice of the Court of Quarter Sessions*, London 1836, p.77.

[5] Shore, *The Social History of Juvenile Crime in Middlesex*, p.276.

[6] See Magarey, 'The Invention of Juvenile Delinquency in Early Nineteenth-Century England', pp.24-5; M. May, 'Innocence and Experience: The Evolution of the Concept of Juvenile Delinquency in the Mid-Nineteenth Century', *Victorian Studies, Vol.17, No.1*, 1973, p.117; and Peter King's earlier dating of this rise: P. King, 'The Rise of Juvenile Delinquency in England 1780-1840: Changing Patterns of Perception and Prosecution', *Past & Present, No.160*, 1998, p.128.

increase in recorded juvenile crime in the wake of the proliferation of summary legislation and unofficial enquires in the 1820s and 1830s in fact had its origins a decade earlier and coincided with the ending of the Napoleonic Wars.[7] King also argued that the increasing use of summary legalisation had the effect of reducing juvenile committals at the major courts, especially in urbanised areas, whilst increasing the number of incarcerated juveniles. As summary courts took over the bulk of juvenile convictions, the need for jury trials at the higher courts diminished. Both the timing of the increase in recorded juvenile crime, and the shift towards summary forms of justice, are central to this study. It builds upon the work of King in following his research into committals in Shropshire, setting it within a broader study of offending for the county, and places it alongside a comparative analysis of the neighbouring county of Staffordshire.[8] It adopts a quantitative analysis of surviving court material to ascertain the timing of these changes in Staffordshire and Shropshire and compares typologies of crimes for which juveniles were presented to court, patterns of sentencing compared with other sections of the population, and changes in these patterns through time, using a triennial analysis of over twenty years' worth of Quarter Session and Assize proceedings. This thesis also confirms Shore's contention that the treatment of juveniles in these higher courts became harsher throughout the first half of the nineteenth century.[9] There are limitations to this approach. The real extent of juvenile crime is always hidden.[10] Much crime went unreported, undetected, or was dealt with informally before being documented in official records. Furthermore, the findings of this study cannot tell us whether juveniles were becoming more criminal during this period. If we accept that crime is defined as a product of a system of judicial machinery, then we must accept that it was redefined through legislation and changes in the tolerance of certain acts throughout the nineteenth century that caused previously condoned modes of behaviour to be proscribed.[11] This has led to the quantitative assessment of crime in this period to be dismissed by J. J. Tobias as being too detached from the act of lawbreaking to be of any use in understanding the nature of crime in this century. However, perceptions of increasing crime were a driving force in the manifestation of the evident social crisis of the period.[12] Statistics might be challenged as an accurate reflection of the nature of juvenile offending, but they were acknowledged

[7] King, 'The Rise of Juvenile Delinquency in England', p.128
[8] ibid., p.119.
[9] Shore's study focused on Middlesex. Shore, *The Social History of Juvenile Crime in Middlesex*, p.161.
[10] Prosecution was a multi-layered process which could be affected by detection, a willingness to pursue action by a victim, and the ability for a charge to withstand various tests of worthiness before reaching the sessions proper.
[11] As already mentioned, the rise of summary legislation caused a levelling off or decline in prosecutions in the major courts but the numbers of juveniles finding themselves brought before the law increased as summary justice could be dispensed much more swiftly than the drawn-out process of the sessions.
[12] J. J. Tobias, *Crime and Industrial Society in the Nineteenth Century*, Harmondsworth 1972, p.296.

by the judicial elites and reinforced their underlying concerns for the moral behaviour of the lower orders, particularly of the young as part of a prosperous ordered society.[13]

Chapter 2 investigates the impact of industrial change upon each county as the nineteenth century progressed and examines the changing nature and composition of the magistracy. Industrial figures permeated the Staffordshire bench as the century progressed, in contrast to Shropshire where continuity in the influence of the landed classes was maintained. This finding challenges the notion that these men were of uniform background with vested interests and builds on the work of David Phillips and Roger Swift to demonstrate how the changing composition of the magistracy in these counties impacted the criminalisation of juveniles.[14] Investigation of the socio-economic factors at play in these counties reveals that expanding urban populations in Staffordshire helped to drive committal rates. However, pressure on the urban magistracy transformed an institution once dominated by the landed gentry into one with growing middling-class representation whose capitalist interests affected the ways in which juveniles were criminalised.

Chapter 3 explores criminal records and the reality of more juveniles appearing before the major courts in Shropshire and Staffordshire and illustrates how this evidence informed law makers that a growing juvenile offender problem existed, even if the underlying causes were not fully understood. The chapter examines the extent and timing of this rise in juvenile committals and the points of distinction between counties with differing urban and rural concentrations of population. Thus, the driving forces behind the apparently differing rates of committals between the counties are evaluated. Furthermore, increasingly severe punishment is revealed throughout the period as juveniles were less likely to see their cases dismissed throughout the century, demonstrating the changing nature of juvenile justice over time. The extent of the rise in committals was affected by the social and economic conditions of each county. Industrialised and urban Staffordshire saw a greater rise in juvenile committals than Shropshire, although the responses by both counties were equally proactive and deliberated. Crucial changes in juvenile justice during the first half of the nineteenth century are revealed more comprehensively than by earlier studies.

[13] R. Sindall, *Street Violence in the Second Half of the Nineteenth Century,* PhD thesis, University of Leicester, 1984, p.830.
[14] See R. Swift, 'The English urban magistracy and the administration of justice during the early nineteenth century: Wolverhampton 1815-1860', *Midland History, Vol.17, No.1*, 1992; and D. Phillips, 'The Black Country magistracy', 1835-60, *Midland History, Vol.3, No.2,* 1975.

Chapter 4 concentrates on the rise of summary justice and its impact on the number of juveniles interred in the county gaols. The changing social composition of the urban magistracy in Staffordshire impacted upon juvenile justice in a different manner compared with Shropshire where the magistracy remained more socially static. The application of summary justice in these counties to criminalise acts of misbehaviour, formerly regarded as too inconsequential to pursue in the major courts, is one of the findings of this thesis. Throughout the late eighteenth century and into the nineteenth century magistrates had acquired a series of powers that were so broad in definition that they allowed the prosecution of crimes, which were otherwise difficult to undertake in a full county court, to be tried as lesser charges. Statutes, such as the Vagrancy Acts 1822-23 and Malicious Trespass Act 1820, allowed behaviour considered as aberrant to be re-characterised as criminal – directly increasing the number of juveniles found within the country's gaols. By the 1830s summary trial was the leading cause of juvenile imprisonment across England.[15] This thesis shows that this replacement of traditional trial by jury occurred later for both Staffordshire and Shropshire, extending into the 1840s. This evolution was largely driven by the formalisation of summary proceedings aimed specifically at juveniles, under the Juvenile Offenders Act 1847, targeting and defining them as a subset of criminals in need of special consideration.[16] It confirms King's assertion that the increased use of summary jurisdiction, beginning as early as the 1820s for the largest urban centres, led to a stagnation or decline in indictable offences throughout the first half of the nineteenth century.[17] This thesis demonstrates the methods by which magistrates could tailor the justice within their region to reflect the concerns of the propertied classes; the criminalisation of petty acts of pilfering that had been too costly to pursue in the county courts was enabled by the introduction of the JOA. This study argues that magistrates were able to shift and direct the type of justice pursued against juveniles within their jurisdiction. Although they had to work within the legal framework that was guided by national directives and legislation, they had freedom to interpret and administer law as agreed through debate at the county sessions. This is illustrated particularly in Staffordshire by the scale of prosecution of coal thefts by juveniles, specifically females, once summary powers could be wielded effectively. Cumulatively, these minor thefts directly impacted the profitability of industrialists. In turn, the increasing presence of magistrates with direct links to manufacturing or industry came to shape the composition of the Staffordshire bench and it cannot be coincidental that coal theft became a prime concern once powers allowed its easier prosecution.

[15] Magarey, 'The Invention of Juvenile Delinquency in Early Nineteenth-Century England', p.23.
[16] Hereafter JOA
[17] King, 'The Rise of Juvenile Delinquency in England', p.135.

Its highlighting in returns, and the numbers pursued for coal theft once the JOA became law, demonstrate that new powers were being used to tackle local law and order concerns.

Local magistrates had a direct influence over the penal character of the county gaols. Although work has been undertaken on the gaols in both Stafford and Shrewsbury by Helen Johnston and Rebecca Wynter respectively, juveniles were only briefly mentioned.[18] Chapter 5 expands on these studies to show the distinctive nature of penal administration which was tailored to suit a class of criminal increasingly acknowledged as being particularly vulnerable to harm from traditional methods of incarceration. Again, although central governmental regulated these gaols throughout the first half of the nineteenth century, the magistrates and gaol officials were the strongest force in determining the implementation of directives. This led to Shrewsbury Gaol becoming a pioneer in the application of the separate system before a nationwide recommendation for its adoption was passed down by the 1839 Prisons Act. Regimes of punishment and discipline were defined by the governance of each institution: at Stafford the enforced silence pursued by Governor Brutton in the 1830s led to a high level of secondary punishment that diminished when Governor Fulford relaxed the strict necessity for silence within the gaol. Shrewsbury could be considered lenient as juveniles were never required to work the treadwheel as part of their hard labour punishment. This study reveals the efforts to alleviate conditions for the increasing numbers of juveniles found within each gaol, and how the realities of overcrowding and economics often defeated the best intentions to remove juveniles from being incarcerated at close quarters with more hardened criminals. Once again, the nature of juvenile justice was determined by the magistrates in each locality and the economic and social realities of increasing gaol populations in each county.

Chapter 6 is distinctive in its exploration of juvenile criminal biographies as revealed by their transportation records. This punishment was one of the most severe forms of sentencing, but it was based on the belief that it was particularly beneficial for juveniles. It illuminates the dichotomy faced by magistrates of these counties as they navigated the difficult course between punishment and reformation. Newspapers reporting on the proceedings of the Quarter Sessions and Assizes reveal some of the sentencing decisions behind the punishments handed down by magistrates. The rationale for sending young people thousands of miles away from their home and family was to save

[18] See H. Johnston, *The Transformations of Imprisonment in a Local Context: A Case Study of Shrewsbury in the Nineteenth Century*, PhD thesis, University of Keele, 2003; R. Wynter, *"Diseased Vessels and Punished Bodies": A Study of Material Culture and Control in Staffordshire County Gaol and Lunatic Asylum c.1793–1866*, PhD thesis, University of Birmingham, 2007.

them from their circumstances and to offer them better prospects. With the opening of Parkhurst, the argument for reformation became stronger as magistrates actively sentenced juveniles to transportation in the hope of securing them a place in a penitentiary where they could receive vocational training away from the contamination of the county gaols. The reality of this belief has been challenged by this thesis: study of a diverse range of cross-linked sources has shown that colonial observation was both more severe and prolonged than any single form of punishment that a juvenile would have faced in their home counties. This approach utilises the information in colonial transport records in combination with both census and newspaper reports of trials to reveal the criminal lives of young offenders. Whilst it admittedly limits our understanding of these juveniles to those aspects of their lives that interacted with the penal system – by definition, as seen through the eyes of officialdom – such analysis has allowed this thesis to contest the contemporary rhetoric surrounding gang culture when reporting the anxiety provoked by juvenile delinquency. By following multiple cases within a given locality, it is possible to piece together the associations of various juveniles involved in interrelated felonies and infringements of the summary laws. What is revealed is a more complex picture than that presented by the nineteenth-century discourse with its intimations of depraved and organised bands of delinquents depredating urban settings. The reality was that while many of the felonies in question were petty and trifling in nature, repeated appearances for minor infringements of the law almost certainly ended in a sentence of transportation. This corroborates the contention of this thesis that it was the magistrates themselves who were prime movers in reinforcing and realising the developing picture of an increasing juvenile criminal problem through their own actions which were intended to alleviate the perceived problem.

Finally, Chapter 7 deals with the rapidly evolving nature of penal ideology during the first half of the nineteenth century. The previous chapters reveal that escalating juvenile indictments were a reality and that magistrates became aware of the inadequate conditions and penal practice in gaols. When transportation failed to offer a viable solution, reform through local schooling in reformatory institutions became the favoured approach. While both Staffordshire and Shropshire had leading advocates for the reformatory movement amongst their magistracy and parliamentarians, neither county established a reform school. Shore has described the debate over the handling of juvenile delinquents as 'torpid', and while the subject was indeed discussed over many decades, this thesis contends that these debates were in fact impassioned and well-articulated by each side.[19] This is

[19] Shore, *The Social History of Juvenile Crime in Middlesex*, p.278.

uncovered by a detailed study of local newspaper reports and official records of Quarter Session proceedings that reveals the depth and breadth of local debate to illustrate the complicated interplay of motivations behind both sides of the argument for juvenile criminal reformation. Magistrates such as Baldwin Leighton in Shropshire and John Leigh in Staffordshire were complex characters struggling with the need to adequately penalise wrongdoing, a goal that was tempered by their belief that juvenile delinquents were a special subset of criminals requiring different punishments from adult offenders. The history of the reformatory movement can be truly understood at the local level as a reflection of competing ideologies amongst the attendees of the county sessions. Economic constraints in each county also determined the form taken by reformatory efforts. In Shropshire, the level of offending amongst juveniles was inadequate to justify the funding required to establish a dedicated county establishment. In Staffordshire, a privately administered reformatory in neighbouring Warwickshire founded by Charles Adderley MP, and backed by the Chairman of the Sessions, meant that Staffordshire never formed its own school.[20] More success was found with attempts at preventative education that aimed to elevate the young of the honest poor to become industrious and thus break the perceived link between criminal habits and indolence. Although the District School Movement was backed by an enthusiastic Poor Law inspectorate, it failed to overcome the many challenges to local governance presented by the need for cooperation between unions. Nor was it able to promote the idea that the working poor should pay for an education for pauper children that they could barely afford for themselves. Unusually then, both Shropshire and Staffordshire produced district schools, although coloured by local factors. In Shropshire the passion of Wolrych Whitmore, and his generosity in providing both land and buildings, allowed the South-East Shropshire District School to be established early.[21] Much later in Staffordshire, severe overcrowding in two neighbouring unions led to the founding of the Walsall and West Bromwich District School. It is beyond the scope of this thesis to evaluate the success of both schools but the debates regarding their establishment, and the earlier struggles to fund county-based reformatory solutions, reveal the discussions that the treatment of juvenile offenders engendered throughout the first fifty years of the nineteenth century. The magistrates of Staffordshire and Shropshire were never one single unified voice, and the solutions that were adopted were the result of the multifaceted interplay between those who sought to chastise and those who wanted to defend the youngest criminals.

[20] *The Irish Quarterly Review*, Dublin January 1860.
[21] Chair of the Bridgnorth Union, one-time High Sheriff of Shropshire, and founder of the South-East Shropshire District School.

8.2 Broadening the historical understanding of juvenile crime

This study is not an attempt to measure the extent of juvenile crime in the nineteenth century. The thesis argues that any ideas that juveniles became quantifiably more 'criminal' must be abandoned since criminalisation was an ever-shifting process. Toleration of misbehaviour evolved over the fifty years under investigation, as beliefs in acceptable modes of conduct faced pressure from changing societal conditions and legislation was redrawn to reflect these developments.[22] A more interesting line of enquiry is to try to understand the criminalisation process itself – particularly amongst those members of society who were responsible for administering the sentencing of juvenile offenders brought to trial; the disciplinary regimes of punitive institutions; and the later transformation of penal ideology towards a reformative method of punishing the very youngest offenders. This thesis argues that the direct impact of the changing social composition of the magistracy in these counties on the nature of criminalisation experienced by juveniles was at least on a par with other pressures brought about by changing socio-economic circumstances experienced by the accused. It reveals insights not just into the criminal justice system of the first half of the nineteenth century, but also into class and age relationships and the interaction of authority with the lower orders of society. Furthermore, it investigates the expanding impact on the increasingly influential middling classes keen to protect their material interests as they found their voice in the ranks of the established judicial powers of these counties. Simultaneously, this research has demonstrated the protective attitudes adopted by magisterial authority towards the young of the lower orders. The young had potential for disorder but were also central to the future. Energy and expense were expended in alleviating and improving conditions for these children and it would be inaccurate to say that this was driven solely by a desire to control them.

Effects of gender on sentencing and punishment have also been explored. Juveniles prosecuted in both counties were largely male, but this fact cannot be used to argue that female juveniles were less criminal than their male counterparts. Opportunities to appear before the major county courts were limited for girls, either because of societal pressures that kept them under greater observation or greater discretion that lessened the number of potential indictees. This thesis has also shown that where girls were largely involved in a specific type of theft, as in coal stealing, they were actively targeted under new legislation. The nature of juvenile crime in urban and rural settings has also been investigated, contrasting the heavily urbanised Staffordshire with the more rural Shropshire.

[22] Alongside the under-detection of crimes, the unwillingness of victims to pursue or adopt more informal modes of punishment means that the true total number of juvenile criminals was always unknowable.

There was clearly a greater opportunity for crime to be committed in urban locations where greater measures to protect property were sought, particularly in Staffordshire where the interests of manufacturers grew alongside their involvement with the county bench.

Societal fears therefore helped to form the image of the 'juvenile offender' that generated so much concern among the literate classes of both Staffordshire and Shropshire. That realisation stimulated the present investigation of a more subtle process of criminalisation beyond a simplistic reaction to perceived rising levels of juvenile crime. When the behaviour of juveniles affected the personal interest of local law overseers, new legislation was introduced to pursue otherwise minor offences that would previously have been prohibited by cost and time. This development reveals differences between the newly emerging industrialist magistrates and the older established land-owning justices, also illustrating how another facet of changing social relations amongst this stratum of society impacted upon the application of juvenile justice at a county level. This thesis explores the little-studied evolution of summary jurisdiction in two counties, lending weight to Peter King's hypothesis that summary jurisdiction was the driving force behind the gradual plateauing and decline of juvenile indictments before the major county courts.[23] An examination of JOA (1847) returns has shown the criminalisation of youthful misbehaviour in action and is an important – yet traditionally rarely used – source for quantitative analysis. While there was no diminishing of juveniles entering the judicial system, there was a change of theatre. The prison records of incarcerated juveniles reveal that the problem of juveniles within penal establishments was an escalating problem.

Using a range of sources this thesis also presents an original analysis of juvenile subculture, highlighting associations between larger groups of adolescents, and giving agency to their decisions about their choice of lifestyle by investigating the motivations that drove them to commit crimes.[24] The recent digitisation of newspaper sources has allowed this thesis to examine the rhetoric surrounding juvenile crime and the ways an apparent crisis involving the lower orders was articulated amongst literate society.[25] The resultant findings challenge the narratives and anecdotal evidence of

[23] King, 'The Rise of Juvenile Delinquency in England', p.135.
[24] Those sources include newspaper reports of trial proceedings; convict transport and indent papers; census and local Quarter Session calendars and national criminal registers.
[25] Two main methods of newspaper research were utilised. The first relied on keyword searching to reveal instances of reporting related to juvenile crime. This is aided by the application of Optical Character Recognition in newspaper archive websites, such as The British Newspaper Archive (https://www.britishnewspaperarchive.co.uk), that allows the searching of a multitude of publications across a broad range of dates. Nineteenth century newspapers are well suited to the

contemporary observers and local officials regarding the behaviour of these juveniles.[26] Notions of organised youth gangs can be put aside, as a picture emerges of general delinquent misbehaviour combined with thefts for basic subsistence rather than premeditated acts of larceny motivated by material gain. This criminal behaviour was committed by work colleagues, friends, and relatives as part of the general delinquent urban subculture rather than as a coordinated effort to provide for themselves an alternative means of maintenance based on profit. The notion of hardened criminal gangs espoused by literature and reporting in the period cannot stand in the face of the petty misconduct that could lead to sentences of transportation.[27] Using record-linkage techniques derived from micro-historical methods, it has been possible to combine local sources with colonial transportation logs to reconstruct the events leading to this harsh punishment. Whilst this results in a reconstruction of individual criminal lives over their lived experience, it goes some way to fleshing out the backgrounds of the young who lay behind the hyperbole of the alleged anarchy of lower-class juveniles. The juveniles themselves have often been obfuscated by a proliferation of statistics in the first half of the nineteenth century; this thesis provides some redress by melding differing forms of statistical analysis with micro-historical methods to offer a balanced picture of the criminalisation of juveniles in this period.

application of this technology as improved typography in this century allows more accurate matches to occur. (B. Nicholson, 'The Digital Turn, Exploring the methodological possibilities of digital newspaper archives', *Media History Vol.19, No.1,* 2013, p.60). As Adrian Bingham has noted, this can be a blunt instrument, and the absence of a particular term does not indicate a lack of coverage – especially when other words may have been used. (A. Bingham, 'The Digitization of Newspaper Archives: Opportunities and Challenges for Historians', *Twentieth Century British History, Vol.21, No.2*, 2010 pp.229-30). Broad searches of terms including: 'juvenile'; 'youth'; 'child and 'young' in conjunction with 'crime'; 'criminal'; 'theft' and 'break in' for instance produced a varied sample of juvenile crime reporting across several publications. Similalrly the terms 'depredators'; 'plague' and 'infestation' were regularly used as a substitute term for 'gang'. This allows an otherwise time-consuming task to filter any references specific to commentaries either in judicial statements or in general discussions held by magistrates at the Quarter Sessions to become more manageable. As Nicholson notes: 'searching for these residual, and often deeply embedded, references using a top-down approach would be impractical. (Nicholson, 'The Digital Turn', p.66). The second method applied was a more targeted top-down research technique. When a period of legislative change was occurring, for instance the introduction of summary justice or the search for reformatory solutions in each county, a reading of all quarter session coverage within a given time frame in various regional newspapers would be undertaken to allow the evolution of discourse on the subjects to tracked. This narrowed down research to those periods in the year (between four and six on average) when Sessions were held, and coverage was reported. For instance, local discussions regarding the use of summary powers in juvenile justice can be seen to have begun in earnest ten years prior to its actual introduction nationally. Much of the discourse surrounding this was debated in the opening addresses of the Sessions allowing its identification to be quickly made despite the length of period involved. This was also aided by keyword searching to identify any editorial or conference coverage outside of the main sessions business.

[26] Emotive terms (e.g. 'infest', 'depredators' and 'vagabonds') were regularly used by both officials and the local press to describe the 'gangs' of juveniles that were caught together committing acts of delinquency in urban settings; Stafford Gaol Governor Thomas Brutton SRO *QS/B 1825 M; Staffordshire Advertiser* – Saturday 17 January 1824; *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 13 April 1842; *Wolverhampton Chronicle and Staffordshire Advertiser* - Wednesday 26 October 1842.

[27] For example: C. Dickens, *Oliver Twist, or the Parish Boy's Progress,* London 1838; Anon.*, The Wild boys of London: or, The Children of Night*, London 1866.

The main objective of this study is to reveal how magistrates in Staffordshire and Shropshire understood, and attempted to address, the changing nature of local juvenile delinquency. The history of the magistracy has often treated local benches as a unified social group driven by the desire to protect class interests that dictated all decisions regarding juvenile delinquents.[28] This study has questioned that interpretation and reveals not only that benches were composed of varied individuals with different beliefs and aims, but also that the debates surrounding the correct handling of juvenile criminals were passionate, involved, and extended over many years. Individual magistrates were profoundly exercised over the contradiction of needing to fulfil their role as guardians of the law against the stark reality of treating the youngest of offenders in the same manner as hardened adult criminals. Furthermore, the interaction and evolution of class relationships is explored as the once dominant gentry made way for increasing numbers of the middling classes with their own motivations for criminalising the behaviour of juveniles in a class below both themselves and the landed elite. The move from punitive penal ideologies towards reformative efforts was driven not only by the social and economic conditions within each county, but also by the personal motivations of individuals who dictated the tone of new methods of dealing with juvenile criminality. It is only through a better understanding of the debates and decisions within the county sessions that the direction of new penal philosophies in Staffordshire and Shropshire can be truly understood. This thesis adds to the historical debate by illuminating this complexity within local contexts.

8.3 Further research

Despite the need to investigate several stages of criminal procedure over fifty years of continuous debate about juvenile crime, certain areas could not be covered. While their establishment and impact fell towards the end of the period under review, an analysis of the impact of the introduction of professional police forces was beyond the scope of this thesis. Further avenues of interest relate to the nature of gang culture, its evolution through the nineteenth century, and an assessment of whether it was truly an urban phenomenon or whether rural districts had their own juvenile gang problem. Research into this intriguing aspect might be undertaken by comparing cases where several juveniles were indicted together in rural contexts and comparing them with their depositional records, or newspaper reports, to ascertain whether these individuals were related to

[28] See D. Hay, *Property, Authority and the Criminal Law*, in D. Hay, (et al.), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, London 1975, p.25; M. Ignatieff, 'State, Civil Society, and Total Institutions: A Critique of Recent Social Histories of Punishment', in *Crime and Justice, Vol.3*, 1981, p.77.

other acts of lawbreaking and whether this was noted by either officials or court reporters.[29] A deeper reading of the national reporting of interrelated juvenile crimes might also reveal whether this was exclusively reported for urban settings. It would additionally be satisfying to follow the history of the Wigmore District School, a largely unresearched establishment, its successes and failures, and its adoption during a period when pauper district schools were beginning to fall out of favour with central government.

8.4 Summary

The magistrates of Staffordshire and Shropshire were aware of a serious criminal justice social problem that treated juveniles in the same manner as adult offenders. They knew that fundamental changes had occurred during the previous century, and in their own lifetimes, regarding the toleration of juvenile misbehaviour. The solutions they sought were founded on principles of reform rather than punishment and a belief in 'nipping crime in the bud' became the central platform for more than five decades of debate about the best means to deal with the perceived problem.[30] Many of these solutions were missteps, and some merely served to exacerbate the problem. The use of transportation and summary legislation – to secure juvenile places within penitentiaries or avoid lengthy holding periods in gaol awaiting trial – often led to greater numbers of juveniles being prosecuted throughout the first half of the nineteenth century. However, it can no longer be argued that these local lawmakers were one-dimensional authoritarians who had no concern for the youngest members of society who fell under their judicial purview. Indeed, their influence shaped the flavour of the reformatory efforts and penal justice in each county, and their motivations, assumptions and debates about the juvenile criminal are vital to understanding the changing nature of juvenile crime during the first half of the nineteenth century. They, more than the 'criminals' themselves, determined the essence of juvenile wrongdoing.

[29] Much of the research for later chapters was conducted during Covid-19 lockdown restrictions in 2020-21, curtailing any expansion to include these topics.

[30] "The detection and punishment of these young culprits is sometimes called "nipping crime in the bud". *Staffordshire Advertiser* - 06 February 1847.

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Appendix 1

Key Legislation

Penitentiary Act 1779

Promoted by the prison reformer, John Howard, this provided for the building of two penitentiaries that would offer imprisonment with hard labour as an alternative to transportation. Neither institution was founded but the intervention of Howard paved the way for Local Acts which saw local authorities build new prisons.[1]

Thames Police Act 1800

Early local act that would include provisions for justices to deal summarily with offences. The 'divers ill-disposed and suspected persons and reputed thieves' could be classed as rogues and vagabonds. The suspected and reputed thief provisions would be included in the later Vagrancy Act Legislation.[2]

Disorderly Houses Act 1818

Allowed the courts to grant a payment for the loss of time and expense accrued by all witnesses and prosecutors in felony cases.[3]

The Whipping of Female Offenders Abolition Act 1820

A law proposed by Sir George Chetwynd, M.P. for Stafford 1820-26, to finally abolish the private whipping of female offenders following the abolition of public whippings in 1817.[4]

The Malicious Trespass Act 1820 & 1827

Allowing for the prosecution of maliciously damaging or committing trespasses on public or private property. Revised in 1827 to include the taking of fruit from gardens, effectively criminalising scrumping.[5]

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[1] *The National Archives*, https://discovery.nationalarchives.gov.uk/details/r/bd7861bf-6f01-4945-8218-68eec54966c1, accessed 12/6/23.
[2] Thames Police Museum, http://www.thamespolicemuseum.org.uk/h_magistrates_1.html, accessed 12/6/23 & Legislation.gov.uk, https://www.legislation.gov.uk/ukpga/Geo4/5/83/section/4, accessed 12/6/23.
[3] D. Phillips, *Crime and Authority in Victorian England: The Black Country, 1835-1860*, London 1977, pp.112-113.
[4] HANSARD 1803–2005 HC Deb 29 June 1820 vol 2 cc.105-6.
[5] S. Magarey, 'The Invention of Juvenile Delinquency in Early Nineteenth-Century England', *Labour History*, No.34, 1978, p.20.

Gaols Act 1823

This Act saw the beginning of central government's efforts to impose order and control on the locally administered prison system, which were to be inspected by local magistrates and with their reports submitted to Parliament.[6]

Vagrancy Act 1824

'An Act for the Punishment of idle and disorderly Persons, and Rogues and Vagabonds, in England'. 'Every suspected person or reputed thief with intent to commit an indictable offence… shall be deemed a rogue and vagabond'.[7]

Peel Criminal Justice Act 1826

Further extended renumeration for those who helped in the apprehension of criminals.[8]

Larceny Act 1827

The distinction between grand and petty larceny was abolished based on value of goods for one based on the involvement of aggravating factors. Transferred some larcenies to summary offences e.g., animals, trees and shrubs.[9]

Factory Act 1833

Limited both the working hours of children under eighteen years of age and legislated against the employment of children under nine years of age.[10]

Poor Law Amendment Act 1834

Grouped local parishes into poor law unions and greatly reduced outdoor relief for those deemed eligible for work.[11]

The Prisons Act 1835

[6] UK Parliament, https://www.parliament.uk/about/living-heritage/transformingsociety/laworder/policeprisons/overview/centralcontrol/, accessed 8/2/23.
[7] Legislation.gov.uk, https://www.legislation.gov.uk/ukpga/Geo4/5/83, accessed 12/6/23.
[8] Legislation.gov.uk, https://www.legislation.gov.uk/ukpga/Geo4/7/64/section/28, accessed 12/6/23.
[9] D. Philips, *Crime, law and punishment in the Industrial Revolution*, in P. O'Brien & R. Quinault (eds), *The Industrial Revolution and British Society,* Cambridge 2012 p.167.
[10] *The National Archives*, https://www.nationalarchives.gov.uk/education/resources/1833-factory-act, accessed 12/6/23.
[11] UK Parliament, https://www.parliament.uk/about/living-heritage/transformingsociety/livinglearning/19thcentury/overview/poorlaw/, accessed 8/2/23.

Increased centralised monitoring of prisons through the introduction of Home Office prison inspectors required to make annual reports.[12]

The County Police Act 1839

Encouraged the establishment of county police forces but was not compulsory.[13]

Prison Act 1839

Enabled magistrates to adopt the system of separation within the gaols under their oversight.[14]

Juvenile Offenders Act 1847

Enabled the summary prosecution by two magistrates of thefts for juveniles fourteen and under not exceeding 40s.[15] Extended to include those under sixteen years of age in 1854.

Reformatory School Act of 1854

Allowed magistrates to send children under sixteen years of age to a reformatory institution, after fourteen days of imprisonment.[16]

County and Borough Police Act in 1856

Made the creation of police forces compulsory in those areas which did not already possess them.[17]

The Poor Law Amendment Act 1866 and 1868

Helped remove both administrative and cost concerns regarding the establishment of district schools in the hope that it would encourage more to be founded.[18]

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[12] UK Parliament, https://www.parliament.uk/about/living-heritage/transformingsociety/laworder/policeprisons/overview/centralcontrol/, accessed 8/2/23.
[13] V. A. C. Gatrell, & T. B. Hadden, *Criminal statistics and their interpretation,* in E. A. Wrigley (ed.), *Nineteenth-century society: Essays in the use of quantitative methods for the study of social data*, London 1972 p.353.
[14] HANSARD 1803–2005 HL Deb 11 July 1839 vol 49 cc136-45.
[15] HANSARD 1803–2005 HC Deb 28 April 1847 vol 92 cc33-47.
[16] *The National Archives,* https://discovery.nationalarchives.gov.uk/details/r/0c30afa4-02ce-4eeb-8acd-0a2e4571484b, accessed 12/6/23.
[17] Gatrell & Hadden, *Criminal statistics and their interpretation*, p.353.
[18] A. M. Ross, *The care and education of pauper children in England and Wales, 1834 to 1896*, PhD thesis, University of London, 1955 p.82.