

TAKING BACK THE NEIGHBOURHOOD

A Strategy For Tackling Anti-Social
Behaviour

A Labour Party Discussion Paper
April 2005

INTRODUCTION

Even in the midst of enormous economic growth and development and much reduced national unemployment rates, communities and neighbourhoods in virtually all of our cities and large towns are plagued with juvenile and adolescent crime and anti-social behaviour. Many public representatives – national and local – are all too aware of the problem and its scale. Many thousands of citizens are also more than conscious of the problem – whether in the local community setting or in the setting of the local or central business district. They witness it, live its consequences and are at the receiving end of it.

This situation simply cannot be allowed to continue. There is no simplistic or quick fix, but there are solutions. This discussion paper, aimed at stimulating debate, sets out a detailed analysis of the problem of anti-social behaviour in Ireland, and puts forward positive proposals on how it can be tackled.

Labour is a Party committed to rights. We have campaigned for the rights of children and families, and will always do so. And it is entirely clear that the roots of a lot of anti-social behaviour lie in disadvantage and marginalisation. Because that is true, no solution to the problem is possible without significant investment in early childhood development and education, without support for parents, without the development of safer places to play throughout our community. This paper concentrates on a number of critical issues, but it is not intended in any way to ignore others, which are the subject of separate policy development.

But this paper is also based on the principle that the corollary of rights is responsibility. Parents must have rights, but they also have responsibilities. The community as a whole must protect the rights of children and other citizens. In any vision of the Fair Society, the community has a responsibility to ensure that people are free to live in peace and safety, free from harassment, intimidation, vandalism and fear. That is especially the case when people living in fear are being victimised because of their vulnerability.

While this may not represent what some might regard as a traditional Labour approach to this issue, it reflects a lot of discussion within the Party, including a series of policy debates on the issue of juvenile justice. Public policy must address the needs of people who live at the margins, who suffer from disadvantage. But we must also act on behalf of people who have been terrorised because they are alone, or elderly, or simply because they are different. The thuggery that is too often at the heart of that terror can simply not be allowed to continue. It is time to take back the neighbourhood.

Pat Rabbitte TD
Party Leader

Joe Costello TD
Spokesperson on Justice

Summary of findings and recommendations

Analysis:

- Experience of anti-social behaviour can be as bad as sectarianism, sexism or racism. Consequently, many people live in a climate of fear. Victims and their families are left to carry the cost while young thugs ride high with a sense of impunity and immunity as they believe themselves to be 'the untouchables'. Occasional police blitzes address the worst of the problem for a period and get offenders off the street and occasionally into jail. However, invariably these respites are short term and the thugs return to wreak havoc again on communities and estates throughout the country.
- Anti-Social behaviour often targets those perceived as particularly vulnerable - people living alone; women, single parents and their teenage daughters, elderly people, non-nationals, anyone considered to be "different".
- On examination of all the available data since 1977 it is clear that crime has increased substantially, that serious drug use has spread nationwide, that much crime goes unreported, that the detection rate is on the decrease, that the number of Gardai on the beat is less now than it was seven years ago.
- Anti-social behaviour has its roots in a range of social problems directly thrown up by decades of poor planning, urban design and settlement policy. There are added problems, such as the failure to incorporate commercial, economic and appropriate labour market support and training services into vast and badly-planned neighbourhoods. Educational disadvantage is also a key underlying problem.
- Anti-social behaviour cannot and will not be fought and defeated without the wholehearted commitment of central government on a "whole government" basis including critically, the allocation of rationally determined adequate long-term funding.
- A structured programme must be delivered through local government structures, fully integrated into the mainstream services of local administration and the local dimension to national services such as health, education and policing and anchored in strong local community involvement.
- The family is the primary socialisation influence on an adolescent along with peers. Public policy must make a serious moral and political commitment to the family, recognising the role of the family in society and the importance of inculcating parenting skills and parental responsibility and creating a nurturing society.

Community Policing

- Labour has long advocated the development of joint policing committees, as proposed by the Minister for Justice in the Garda Síochána Bill. There must, however, be a rational and inclusive approach to this issue, and one that is properly adapted to the way in which communities have developed. Under the present proposals there will be in all 114 joint policing committees. Donegal, with a total population of around 138,000, would end up with 5 joint committees – but there are to be none in Tallaght or Ballymun.
- The model advocated by Labour would involve the community far more than the present proposals. At present there is no provision to have local communities represented on the joint policing committees. The community policing fora, which are central to the delivery of a community policing service, can only be established at the sole discretion of the Garda Commissioner.
- Police Community Fora are a necessary feature of any effective revision of current management practices at local level.
- We need real community/neighbourhood policing. That means communities actually being policed with Gardai primarily back on the beat – not just cruising in squad cars.
- We need a Garda corps of community police officers, a community Garda service, staffed by officers who work in communities for significant periods of time.
- The recruitment and training of Gardai who work in community policing is also a core issue. There is a need to increase the number of Gardai who are themselves from those areas that face the worst problems of anti-social behaviour.
- There is also a need for more modern training in an urban setting. Labour has advocated for some time, that some modules of Garda training should be provided through a third level college, with trainee Gardai mixing with other students and living in an urban setting.
- Experience has more than amply demonstrated the importance of keeping the community Garda service separate from the routine of conventional modern policing – an arrest may well be a sign of success in the mainstream service, in community policing it could be an admission of failure.
- The community Garda service is the key to crime prevention and a potentially powerful tool in containing anti-social behaviour. More effective training, longer assignments to the task and greater recognition for promotion purposes of the qualities required are essential if this service is to take off. International evidence shows that putting the police back into the community is the best solution to tackling the epidemic of anti-social behaviour and related crime.
- The community Garda service should also have in support an auxiliary Garda corps drawn from the community. We also need regional Garda taskforces with the resources and skills to tackle particularly difficult cases of anti-social behaviour, backing up the community policing system.

The criminal law and anti-social behaviour orders

- There is a wide range of offences already in law, including:
 - threatening, abusive or insulting words or behaviour
 - offensive conduct
 - intoxication, trespass, preventing the free passage of others
 - violence, intimidation, stalking
 - persistent harassment
- But the law must be adequately enforced. The Gardaí must contribute to creating a new culture of individual responsibility by enforcing the law, a key element in the development of the community policing philosophy and service.
- Tackling the worst cases of anti-social behaviour, however, may require that additional legal options be made available to the Gardaí, including Anti-Social Behaviour Orders.
- It should be possible to adopt and develop the ASBO concept within the context of Irish law and connected to the structures of sanction and supervision provided for in the Children's Act to address such concerns. At the same time, the introduction of ASBOs is an important element in an overall strategy to tackle anti-social behaviour.
- Labour believes that ASBOs should be part of the armoury available to Gardaí and the community in tackling anti-social behaviour, but that their use must be carefully and independently monitored, both to assess their effectiveness and to ensure that any arbitrary risk to civil liberties is minimised. A thorough-going review of the system must be undertaken after no more than two years of operation.

Use of bye-laws

- There is considerably greater scope for local authorities to use bye-laws as a means of restricting some aspects of anti-social behaviour.
- Local authorities have a very general power to make bye-laws, including "where in its opinion it is desirable in the interests of the common good of the local community that any activity or other matter should be regulated or controlled by bye-law or that any nuisance should be controlled or suppressed by bye-law".
- Breach of a bye-law will amount to a criminal offence.

Juvenile Justice and The Children Act 2001

- There is deepening public disquiet about the juvenile justice system in Ireland. A system which is supposed to tackle dysfunction is itself deeply dysfunctional
- The Children Act 2001 is an important piece of progressive legislation, which has simply not been adequately implemented.

- The Labour Party strongly favours the use of restorative justice programmes and Community Service Orders. These should involve young offenders being required to confront the implications of their actions for the community, and where possible to be involved in cleaning up after those who have been involved in anti-social activity.
- Labour believes we must:
 - Bring into force the remaining provisions of the Children Act, 2001, including the sections covering family welfare conferences, special care provision and private foster care.
 - Introduce bail supervision and support schemes to avoid children committing crimes on bail.
 - Give priority to the preventive elements of the 2001 Act and to the investment of resources in community and statutory services necessary to support these measures, including the full staffing of the social work service.
 - Emphasise the resourcing of community-based, non-custodial options and to the provision of community supervision services, step-down facilities and after-care services.
 - End the practice of placing non-offending children in facilities for offenders. Children with severe emotional or behavioural problems should not be placed in facilities for offenders, including juvenile justice institutions or the adult prison system.
 - Correct the practice of misplacing children in Children Detention Schools.
 - Provide specialised community services (and if necessary residential services) to meet the needs of certain at-risk children and adolescents. These children include those with learning disabilities, acute psychiatric illnesses, children requiring medically supervised detoxification for drug use, persistent school non-attendees and those at risk of leaving home. Culturally appropriate prevention services are needed to tackle the disproportionate representation of children from the Travelling Community in detention.
 - Fill vacancies in the social work service to provide children with access to care and counselling services without delays.
 - Implement a drive to recruit and retain suitable, qualified and experienced staff.

The Probation and Welfare Service

- A report by the Comptroller & Auditor General on the Probation and Welfare Service found that the level of demand in the criminal justice system for reports to courts, supervision in the community and assistance to offenders in custody had increased significantly. But there had been no significant change in the relative use of community-based sanctions and custodial sentences.
- Community-based sanctions are significantly less costly to implement than custodial sentences. Implementing community service orders costs about one-third of the cost to the public of implementing the custodial sentences that might otherwise be imposed.
- The report found that the ultimate objective of the Service, in both its community-based work and work with offenders in custody, is to reduce the level of re-offending as much as possible. But neither the Department nor the Service had carried out research into rates of re-offending or the relative effectiveness of custodial sentences and community-based sanctions in Ireland.

- The Probation and Welfare Service continues to be under-staffed and under-resourced.

Structural Issues

- The agenda of work to provide for young people and enhance their chances of avoiding crime requires a very well organised and cohesive system. This requires some kind of overarching Youth Authority that will have the power to oversee and co-ordinate policy in all of the different areas of enterprise, including those relating to criminal justice.
- What is required is a single, statutory and cross-departmental agency to coordinate the work of all the statutory bodies and the community bodies which work with them and on their behalf. This body must have the resources to operate as a central but integrated agency with an independent statutory mandate to implement a cohesive and rights-based youth justice policy at national level. It should have its own Vote, its own accounting officer and have political accountability to its own Minister of full cabinet rank.
- The agency should also act as a rights-based, standard-setting body with a duty to develop models of best practice, and ensure, through regular and effective monitoring, that these standards are implemented throughout the youth justice and welfare system.
- Membership of the agency should not be limited to senior operational and policy officials in the relevant departments and agencies, but must also include the stakeholders in the youth justice system, particularly the communities in which these young people live.

Joyriding

- We need to provide in law for an offence of joyriding. This was an element in the Labour anti-joyriding bill introduced in the Dáil in 2000 and 2002: it proposed to provide for an offence of directing or participating in the unlawful taking of a vehicle for the purposes of dangerous driving in a public place.
- We need also to have a fully effective "death certificate" system for cars being withdrawn from use, accompanying and underpinning the offence of supplying or offering to supply a vehicle to under age drivers.
- And we need education and training programmes and dedicated mentoring support aimed at this segment of the youth population. Restorative justice, the Cinderella of the juvenile justice system also has its role as well as community service orders.

THE PROBLEM

What do we mean by anti-social behaviour?

The type of complaints most frequently received by Labour public representatives fall into the following categories:

- Windows broken by stone throwing youths/children
- Drinking and drug taking in public open spaces, parks, bushes, etc.
- Drinking in private front and rear gardens with or without the owner's permission
- Verbal abuse and harassment
- Vandalism and destruction of public and community spaces
- Urinating in apartment doorways and congregating on corners
- Burning of wheelie bins
- Damage to cars and other property
- Theft
- Joyriding
- Attacks on public and community property, e.g. schools, churches, etc.
- Intimidation and threats to anyone who reports activity to the Gardai
- Intimidation of community leaders

Every day we pass by the fresh graffiti, the again-vandalised public telephones, the broken bus shelters and street furniture, the uprooted street trees and public landscaping. This is the product of what some refer to as 'non-violent' anti-social behaviour - although there is nothing non-violent about it. Then there is the even more violent behaviour, the mugging and theft and worse, the car thefts and the joy riding – what some experts distinguish as 'criminal behaviour' as distinct from 'anti-social' activity. And there is the huge issue of substance abuse and drug related crime, including the business of pushing.

When residents complain about such behaviour and report it to Gardaí and the local authority, they are often advised that these authorities are powerless to take counter action. This is despite the extensive provisions in for example, the Public Order Act, 1994, the Housing (Miscellaneous Provisions) Act, 1997, the making by local authorities of bye-laws under the Local Government Act, 2001 and the Children Act, 2001, all of which are dealt with later in this document.

There are associated problems, of truancy and early school leaving, young people homeless on the streets, very high unemployment black spots, family breakdown and the disintegration in some families of parental control and responsibility.

It is not unusual for neighbourhoods and communities to experience

- Pub shootings
- Assaults on young people late at night, many resulting in serious injury or death
- "Car jackings"

- Drug related crime
- Hate Crime

A climate of fear

Anti-Social behaviour often targets those perceived as particularly vulnerable

- People living alone
- Women single parents and their teenage daughters
- Old people
- Non-nationals
- Anyone considered to be “different”

Experience of anti-social behaviour can be as bad as sectarianism, sexism or racism. Consequently, many people live in a climate of fear. There is widespread fear of repercussions from reporting anti-social behaviour to the police.

Victims and their families are left to carry the cost while young thugs ride high with a sense of impunity and immunity as they believe themselves to be ‘the untouchables’. Occasional police blitzes address the worst of the problem for a period and get offenders off the street and occasionally into jail. Invariably, however, these respites are short term and the thugs return to wreak havoc again on communities and estates throughout the country.

The effect is to undermine the sense of community and reinforce an already strong tendency towards public frustration, apathy and withdrawal from participation in community affairs and politics. Sometimes, this is the direct result of intimidation of community leaders. Increasing low-level anti-social behaviour creates a seed-bed for more serious criminality.

The Scale of the Problem

What evidence we have indicates that despite a relatively low level of *recorded* crime by international standards, there has been significant growth in crimes against the person and property and a sense of vulnerability and fear has increased significantly in recent years.

In July 2004 the Central Statistics Office gave us a snapshot picture of the state of play in its publication, Quarterly National Household Survey on Crime Victimization. It compared the incidence of crime and victimisation in the year up to Q4, 1998 with the incidence up to the same quarter of 2003.

- Crimes against the person had doubled between 1998 and 2003;
- More than one in twenty persons aged 18 or over were victims of personal crime such as theft with or without violence or physical assault in the 12 months to Q4, 2003;
- In the 18 – 24 age group the incidence was higher, at one in ten;
- One household in thirty was burgled; and
- One household in twenty experienced vandalism.

The rate of reporting also varied enormously, from 90 per cent in the case of motor vehicle crimes (which relates to insurance requirements) to 39 per cent for cases of vandalism – which relates to the victim’s belief that the Gardai could or would do nothing about public order offences such as vandalism and personal crime.

In the words of Labour’s spokesperson on Justice, Joe Costello TD, giving the Michael O’Brien memorial lecture, in Waterford in November 2004,

“In summary on examination of all the available data since 1977 it is clear that crime has increased substantially, that serious drug use has spread nationwide, that much crime goes unreported, that the detection rate is on the decrease, that the number of Gardai on the beat is less now that it was seven years ago and that the present and previous administrations have been perpetrating a cruel deception on the people through PR, promises and downright lies.”

EXAMPLES OF ANTI-SOCIAL BEHAVIOUR

Collated by Labour Party Public Representatives

Case A. A 14 year old boy who has over 50 charges against him for joy-riding and general intimidation in the area finally receives a custodial sentence. However, there is no place for him so he is released back into the community and continues in the same activity with a brazen attitude to the Gardaí. This completely undermines their work and locals see little benefit in taking the risk to contact the Gardaí or local authority about it.

Case B. A Group of women form a residents association to improve their area. They work with Gardaí and the local authority to tackle local issues. They organise regular meetings and send out newsletters encouraging neighbours to take greater interest in their area. However, the chairperson becomes a target of anti-social elements. Her front windows are smashed, her car is damaged, her children are afraid to come home after school, she gets threatening phone-calls in the middle of the night. Eventually she moves.

Case C. When a playground was proposed for a barren and under-used green in xxx residents strenuously objected saying that it would lead to further problems with youngsters hanging out in the area. There has been a long history of joy-riding, drug abuse, stray horses and vandalism in the area.

With this rejection, the Council offered to move the playground proposal to a different part of the town. Again, an underused and barren green/park was identified. This time, the proposal would not only provide a playground but also several other leisure facilities for youths in the area, including all-weather pitches, tennis and basketball courts, performance space, a bowling green etc. The area had long been deprived of such facilities, a factor contributing to the anti-social activity in the first place. However, a petition from residents fronting the green meant the plans had to be abandoned for fear of this area becoming the renewed focus of attention from local youths. The history of mopeds and motor-cycles being driven at high speed around the green, stone and egg throwing at local houses (mainly older in profile), petty criminality, break-ins, all night drinking parties, including much sexual activity, on the green had left its toll. Residents had no confidence that such a venture could ever be secure or that they would ever have adequate support of the local Gardaí.

Case D. The residential area was a model estate with a good social mix, an active community and few problems. Where they did exist, they surrounded a laneway adjacent to two houses in the estate which lead to the local shops, buses, park and church and where local youths engaged in mostly low-level anti-social behaviour.. congregating, graffiti, general "devilment". The owner of one of the houses on the laneway was a particularly vigilant man who wouldn't stand for such carry-on and generally kept the lid on things as much as he could. He did seek the closure of the laneway under local authority procedures but this was rejected by residents as it was used by many, particularly older people, as a short-cut to local services. Eventually he sold, and within months the problems which he alone had dealt with for years had crossed to other areas of the estate. A variety of activities from urinating in front gardens to window smashing and stealing wheeled bins have now become a sporadic feature of this estate.

Case E. Every Halloween, a grassed area adjacent to this working class estate is destroyed by the Halloween night bonfire. Not that unusual, except that in this case, the flames can reach the height of a three-story building. Wheelie bins from neighbouring houses are stolen by drunken youths and wheeled on top of the fire to keep it going. Residents must endure a build up of several weeks as every combustible item from old toys to suites of furniture are gathered up, and often simply left strewn around the area. The operation by local Council staff to curb this activity and remove the material is very costly and it can't keep up. There are also legal difficulties in taking material that is stored on private or disused property

TACKLING ANTI-SOCIAL BEHAVIOUR

Before we can consider appropriate responses to the problem, we have to consider the causes of anti-social behaviour. These are often complex and inter-related. That should not, however, discourage us from demanding immediate remedies. Rather, what is required is a combination of medium-term and long-term measures to address both the immediate problem and its underlying causes.

Clearly, a central issue relates to the creation of vast socially-homogenous estates with few or no neighbourhood economic or community services or facilities, plagued by poor public transport and significantly deficient policing arrangements. While nationally we have virtually full employment in some areas unemployment still exceeds a rate of 50 per cent.

Anti-social behaviour has its roots in a range of social problems directly thrown up by decades of poor planning, urban design and settlement policy. There are added problems, such as the failure to incorporate commercial, economic and appropriate labour market support and training services into these vast neighbourhoods. The cynical promotion and subsequent abandonment of the RAPID programme, is a reflection of the low level of priority attached by Government to dealing with the problems of areas of multiple disadvantage.

As we have argued, however, anti-social behaviour is not confined to disadvantaged or working class areas. While it may be particularly acute in such areas, it is to be found in neighbourhoods right across the country. Its causes can be found in problems of family breakdown, inadequate control and supervision of young people, inadequate parenting, poor or non-existent youth facilities and activities, and paltry resourcing of social, educational and public health services.

In the Education area, large classes and the failure to develop measures to address educational disadvantage and to support children with learning difficulties mean that the school system can often re-enforce negative self-image and negative behaviour in children and alienate them from the system and subsequently from society. Early intervention is crucial. Statistics show that the prison population has large numbers of people with dyslexia, add, ADHD, and poor literacy. Labour had recently published a detailed policy document on Tackling Educational Disadvantage.

We have also published policies in the areas of drugs and alcohol abuse. We continue to be deeply concerned at the inaction of the Government in resourcing of the National Anti-Drugs strategy, at the increase in the number of addicts, and in the widespread evidence of alcohol abuse among young people.

These problems have been compounded by the effective non-implementation for financial reasons of crucial provisions in the Children Act 2001, legislated by the Oireachtas. It is a similar story in relation to under funding, delay and

piecemeal roll out of the National Education Welfare Board and Service formally established under the Education Welfare Act, 2000.

Labour seeks to act on all of those factors that lie behind anti-social behaviour and will continue to do so. We are also deeply attached to civil liberties, and rightly so.

As a social democratic party, however, we stand also for the common good, the protection of citizens and the policing of public spaces, and the public realm when they are threatened. No one committed to advance the interests of the ordinary people of Ireland, can stand by and see the lives of ordinary people, of their families, and of whole communities, made miserable by sometimes tiny minorities.

There is no single answer to the problem of juvenile, adolescent and early adult anti-social behaviour. Despite a large volume of international research there is no consensus on what the relationship is between non-violent and violent anti-social behaviour or to what the pathways and precursors of such behaviour are (including links and experiences stretching back to childhood and early education). Nor is there a quick-fix solution. What is required is determined and sustained commitment over a long period of time.

Neither, however, can we abandon the victims of anti-social behaviour with promises of a better future, at some unspecified future time. There is also a requirement for robust and immediate action. We need to start taking back our neighbourhoods, protecting our public spaces, and offering protection to the victims of anti-social behaviour.

Some things *are* certain. First, anti-social behaviour cannot and will not be fought and defeated without the wholehearted commitment of central government on a “whole government” basis including critically, the allocation of rationally determined adequate long-term funding. Defeating anti-social activity will not come cheap and will also require a re-ordering of current government political priorities. It is clear where the current political priorities of government lie – in the direction of false promises on policing and playing electoral games with public spending.

Second, while the role of central government is key to success, such a structured programme or initiative *must* be delivered through local government structures, fully integrated into the mainstream services of local administration and the local dimension to national services such as health, education and policing and anchored in strong local community involvement.

Thirdly, and arguably most important, there is the family. The family, in its modern multiplicity of forms is the primary socialisation influence on an adolescent along with peers. Public policy must make a serious commitment to the family, recognising the role of the family in society and the importance of inculcating parenting skills and parental responsibility and creating a nurturing society. Overall our society must raise, in the words of the Canadian political thinker Michael Ignatieff, a “protective arch” over its families, “[modern

families] need help to survive ... effective child protection, universal access to health care, affordable child care, first-rate primary and secondary education – these are the building blocks of the protective arch that society must raise over its families. This institutional arch doesn't come cheap but those exponents of family values who won't stump up for it are just engaging in cheap talk.”

In Ballymun, for example, Lifestart is a small project where trained persons go regularly to the homes of families with very young children, to support, encourage and help the parents in the difficulties they experience in parenting, living on low incomes and in areas with too few family supports. Lifestart is working with forty families, but there are 20,000 people living in Ballymun. A serious commitment to services of this kind is required.

No progress, however, will be achieved, unless we enlist the support of the community. The emphasis on community involvement, including in policing but not confined to it, is a recurring theme the experiences of other countries in fighting anti-social behaviour. As one commentary put it

“There is a great deal that the government can and should do to improve public safety, but first it must recognize that it needs help. Restoring public safety demands a renewed partnership between the police and the community. Police must reacquaint themselves with the people in the communities they serve, and communities must recognize that the brunt of the task of policing a free society does not lie with the police, but with citizens themselves.”

As the urban anthropologist Jane Jacobs has argued :“No amount of policing can enforce civilization where the normal, casual enforcement of it has broken down.” . As she puts it

“The first thing to understand is that the public space -- the sidewalk and street peace -- of cities is not kept primarily by the police, necessary as police are. Rather, it is kept by an intricate, almost unconscious, network of voluntary controls and standards established and enforced by the people themselves.”

The problem of course, if that communities cannot be a force for improved public order, and contribute to tackling anti-social behaviour, where policing has broken down, where the police service has virtually abdicated its role, where people have withdrawn behind their locked doors in fear. We need to begin, therefore, by introducing real community policing in Ireland.

COMMUNITY POLICING

Labour knows more than any other party the misery that criminal and anti-social behaviour inflicts on urban communities, particularly on the elderly. There seems little appreciation on the part of Government, however, of the corrosive effect of anti-social behaviour on communities besieged by such behaviour.

There also seems to be little concern that where and when a policing vacuum is allowed to develop, as has been the case in so many communities in our cities and towns, it facilitates the emergence in such communities of both organised crime and the machinations of those who take it on themselves to “provide” policing (and the two may at times overlap significantly).

Labour totally rejects the tyranny of vigilantism. There is only one police service in this state – An Garda Síochána. Labour believes that the men and women of the Garda deserve resources, equipment, relevant operational structures and modern management systems. And it is as much in the interests of the Gardaí themselves as in the interest of the public at large that there be proper systems of accountability for policing, and appropriate democratic structures in relation to the delivery of the policing service. We have called for the establishment of an independent Commission on policing to examine the culture, role, structures and operation of the Gardaí.

The Labour Party was the first political party in the state to propose a proper system of accountability in the shape of joint policing committees based on local government structures.

So far as democratic policing service structures are concerned, Labour has long advocated the development of joint policing committees, as proposed by the Minister for Justice in the Garda Síochána Bill. There must, however, be a rational and inclusive approach to this issue, and one that is properly adapted to the way in which communities have developed. Under the present proposals there will be in all 114 joint policing committees. Donegal, with a total population of around 138,000, would end up with 5 joint committees – but there are to be none in Tallaght or Ballymun.

The model advocated by Labour would involve the community far more than the present proposals. At present there is no provision to have local communities represented on the joint policing committees. Moreover, the community policing fora, which are central to the delivery of a community policing service can only be established at the sole discretion of the Garda Commissioner.

Police Community Fora are a necessary feature of any effective revision of current management practices at local level. Labour’s vision of such an aspect to community policing sees it comprising public representatives, the Garda in charge and other officers, representatives of residents’ associations community groups as well as members of the public and local authority officials. Such an initiative would require the ‘Garda in charge’ to meet forum

members at regular, say monthly intervals, to both receive and impart views on the challenges of policing in their area.

Neighbourhood policing: a Community Garda service

Current police performance criteria in the Garda are skewed to encourage a focus on medium gravity (e.g. burglary, car theft etc.) offences which yield both primary and secondary clear ups. The Garda practice of 'cuffing and stuffing' – non-recording of certain calls for service and over-recording of 'promising' offences are largely driven by assessment criteria. A change of criteria to focus on soft offending and more effective local intelligence gathering would require a change of management style, which is currently excessively rigid and centralised.

From the operational standpoint, reduction in response times and greater use of foot patrols is an evident and common sense management strategy that would encourage people, many of whom at present consider reporting minor offences a waste of time, to relate more effectively to Gardai and would enable the Gardai to improve their often inadequate knowledge of and intelligence on, the areas for which they are responsible.

Community Gardai also need to feed back to other agencies, including local authorities, information and advice on where crime is taking place, and what non-policing measures are required to tackle anti-social behaviour in specific areas.

We need real community/neighbourhood policing. By which Labour means not lip service to the idea and neighbourhood watch window stickers, but communities actually being policed with Gardai primarily back on the beat – not just cruising in squad cars. We need a Garda corps of community police officers, a community Garda service, staffed by officers who work in communities for significant periods of time.

The recruitment and training of Gardai who work in community policing is also a core issue. There is a need to increase the number of Gardai who are themselves from those areas that face the worst problems of anti-social behaviour. There is also a need for more modern training in an urban setting. Labour has advocated for some time, that some modules of Garda training should be provided through a third level college, with trainee Gardai mixing with other students and living in an urban setting.

The community Garda is currently the Cinderella of the national police service, isolated and viewed with a degree of condescension by colleagues, and seen by Garda management as a ready source of 'surplus' manpower to be plundered as needed. Experience has more than amply demonstrated the importance of keeping this service separate from the routine of conventional modern policing – an arrest may well be a sign of success in the mainstream service, in community policing it could be an admission of failure.

The community Garda service is the key to crime prevention and a potentially powerful tool in containing anti-social behaviour. More effective training, longer assignments to the task and greater recognition for promotion purposes of the qualities required are essential if this service is to take off. International evidence shows that putting the police back into the community is the best solution to tackling the epidemic of anti-social behaviour and related crime.

Auxiliary Policing

The community Garda service should also have in support an auxiliary Garda corps drawn from the community.

There is scope for further debate on how such a force should be structured. One option is that introduced by the London Met, which established Police Community Support Officers (PCSOs) in 2002. The service – comprising trained and uniformed community police officers and PCSOs – is organised into safer neighbourhood teams based in “neighbourhood cop shops”. A number of other constabularies are following the Met model under a UK Home Office sponsored pilot scheme.

An alternative approach is that of supporting a local authority and community based street warden service for neighbourhoods that would interact with a range of local services, housing, educational, youth and policing. In Newcastle, for example, the local authority-based street warden model has been adopted, initially in the Byker estate and since extended to one other neighbourhood. Dublin City Council is currently developing a pilot street warden service and favours this approach over that of a second tier of policing.

Additional Garda Resources

Even with adequate Community Policing, however, Labour believes we need regional Garda taskforces with the resources and skills to tackle particularly difficult cases of anti-social behaviour, backing up the community policing system. It is also important that Gardai have adequate information technology at their disposal to track and monitor the spatial pattern and timing of offences. This is important in moving away from a ‘call for service’ model, towards a more intelligence-driven pattern of policing.

THE CRIMINAL LAW AND ANTI-SOCIAL BEHAVIOUR ORDERS

Anti-social behaviour is activity that is not wanted by all or most people living in an area. It can be criminal or it may be a nuisance. It covers a multitude of phenomena and refers to behaviour that causes reactions ranging from fear, distress or alarm to serious annoyance or offence.

It could be said that all criminal law is intended to deal with anti-social behaviour. However there are a number of remedies in both the civil and the criminal law which attempt to deal more specifically with anti-social behaviour that does not necessarily cause physical injury or damage to property but which is nevertheless threatening or upsetting.

The Public Order Act 1994 provides Gardai with wide-ranging powers in respect of public order offences. For example

- It is an offence if, in a public place, a person uses or engages in any threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or being reckless as to whether a breach of the peace may be occasioned;
- It is an offence for any person in a public place to engage in offensive conduct (meaning any unreasonable behaviour that is likely to cause serious offence or serious annoyance to any person who is, or might reasonably be expected to be, aware of such behaviour) between 12 o'clock midnight and 7 o'clock in the morning, or at any other time after having been requested by a Garda to desist. (That time restriction will be lifted in forthcoming legislation.);
- It is an offence for any person to be present in any public place while intoxicated to such an extent as would give rise to a reasonable fear that he might endanger himself or any other person in his vicinity;
- Anyone who, without lawful authority or reasonable excuse, wilfully prevents or interrupts the free passage of any person or vehicle in any public place is guilty of an offence;
- Trespass on any building, or its curtilage, in such a manner as causes or is likely to cause fear in another person, is an offence.

All of the above offences are arrestable without warrant.

The use of violence or intimidation, damage to property, stalking or watching and besetting, with a view to coercing another person, is an offence.

Any form of persistent harassment that seriously interferes with another person's peace and privacy or causes alarm, distress or harm to that person, is an offence.

A Garda, or indeed any other person, may make an arrest where a breach of the peace has been committed, is being committed, or where there is reasonable cause to believe that such a breach will be committed or renewed.

Actual or apprehended violence is an essential ingredient of a breach of the peace.

People who are arrested under these powers whether or not they have been convicted of any substantive offence, may be brought before the District Court and bound over for a set period (often a year) to be of good behaviour and keep the peace. Breach is an offence.

Without effective, consistent and uniform enforcement, however, the law is ineffectual. The Gardaí must contribute to creating a new culture of individual responsibility by enforcing the law even more rigorously than at present, a key element in the development of the community policing philosophy and service.

Tackling the worst cases of anti-social behaviour, however, may require that additional legal options be made available to the Gardai. In the UK, for example, a system of Anti-Social Behaviour Orders has recently been introduced. These are essentially preventative orders, aimed at preventing named individuals from engaging in stated forms of anti-social behaviour. They are civil orders, meaning that the burden of proof in relevant cases is the civil burden of 'the balance of probabilities', rather than the criminal one of 'beyond reasonable doubt'. Breach of an anti-social behaviour order, however, is a criminal offence, and carries the possibility of a fine or imprisonment.

Serious reservations have been expressed about the civil liberties implications of ASBOs. While in no way dismissing such concerns, there is also an obligation to protect citizens whose lives are being made miserable by anti-social behaviour. It should be possible to adopt and develop the ASBO concept within the context of Irish law and connected to the structures of sanction and supervision provided for in the Children's Act to address such concerns. At the same time, the introduction of ASBOs can be an important element in an overall strategy to tackle anti-social behaviour.

Labour believes that ASBOs should be part of the armoury available to Gardaí and the community in tackling anti-social behaviour, but that their use must be carefully and independently monitored, both to assess their effectiveness and to ensure that any arbitrary risk to civil liberties is minimised. A thorough-going review of the system must be undertaken after no more than two years of operation.

Use of bye-laws

Local authorities have a very general power to make bye-laws. By section 199 of the Local Government Act 2001, a local authority may make a bye-law –

- for or in relation to the use, operation, protection, regulation or management of any land, services, or any other matter provided by or under the control or management of the local authority, whether within or without its functional area or in relation to any connected matter, or
- where in its opinion it is desirable in the interests of the common good of the local community that any activity or other matter should be

regulated or controlled by bye-law or that any nuisance should be controlled or suppressed by bye-law.

Breach of a bye-law will amount to a criminal offence. However, with the exception of intoxicating liquor bye-laws, it seems that few local authorities use the power to make bye-laws otherwise than in relation to some public parks.

There is considerably greater scope for local authorities to use bye-laws as a means of restricting some aspects of anti-social behaviour, provided that effective enforcement is also put in place.

JUVENILE JUSTICE

There is growing public disquiet about Ireland's system of juvenile justice. Recent coverage in the national press points to a dysfunctional system, which regularly fails the children who come in contact with it, deeply frustrates the professionals who work in it, and unnecessarily exposes the wider community to criminal activity and anti-social behaviour. In short, the system which is supposed to deal with dysfunction is in itself dysfunctional.

The problematic nature of the present system has been highlighted in press coverage of cases coming before the children's court, where children who have committed numerous offences, and whose lives are often chaotic, cannot be found suitable accommodation, or otherwise dealt with in an effective manner.

The box on the next page points to some concrete examples of how the system is failing children, and society. The examples are taken from media reports, principally by Carl O'Brien in the Irish Times, of actual cases.

The response to juvenile offending in Ireland is fragmented, uncoordinated and sometimes self-contradictory. It does not constitute an adequate, comprehensive system that would maximise the chances of persuading troubled and troublesome young people to avoid crime. It also fails to provide at risk young people with constructive alternatives and opportunities in life so that they would not consider crime either feasible or desirable.

PROBLEMS IN THE JUVENILE JUSTICE SYSTEM

Case A. A homeless 16 year old boy is before the court. The boy, under questioning from the judge, tells him that he hasn't seen his parents in two years and that he lives in an "out-of-hours place". When asked whether he has a job or any money he replies that he does not. The arresting Garda tells the judge how two bench warrants were issued for the boys arrest after he failed to turn up in court and that he had provided a false name and address when arrested.

The judge suggested that the boy be "put in Cloverhill for a week" until more information could be obtained about the boy and his circumstances. "I want action on this" he said "I don't want this young man to be wandering the streets with nowhere to go. He's wandering around doing nothing. I don't want to be held responsible for what happens" The boy is remanded to Clover Hill for a day until more information about him can be obtained.

Case B: A 17-year old appears in the Children's Court at 10.45am on a Tuesday morning. He is released on bail, but is re-arrested on suspicion of shop-lifting within an hour and a half. He appears in Court again at 3.50pm. He is remanded to Clover Hill Prison. He appears in Court the next day at 11.10am, but his parents are not present. He is released on bail. He breaches his bail conditions, is arrested and appears in Court again at 4.10pm.

The boy appears in Court the next morning, and is remanded in custody for a week, when a number of charges against him will be dealt with. He pleads guilty. This is simply another in a long string of convictions. He is sentenced to ten months imprisonment.

Case C: The Aunt of a boy suffering from a head injury addresses the judge. "We're not happy at all with the situation. He's in a flat, smoking hash, drinking cans. When he came out of Ballydowd the health board promised us he'd have care 24 hours a day, but he hasn't spent one night in that flat." The boy has been estimated by one expert to have a mental age of a seven- or eight-year-old.

The same judge had, six months previously, criticised the Health Board's handling of the case when he was detained in prison for five weeks because it could not find anywhere else suitable for him. The boy's aunt is angry and fears that he is drifting back into the same chaotic lifestyle which damaged him so much in the first place." That report sounds great," she said, pointing to a health board update on the boy's status. "There's someone there for a few hours a day, but that's it. He has no FÁS course. He's not doing anything."

Case D: A father addresses the judge in desperation. "I'm crying out for help," he said. His 17-year-old daughter and 14-year-old son were before the Children's Court on a series of charges relating to public order and breach of bail conditions. "I'm a lone parent. My daughter needs psychiatric care. When she was 14, they just let her go. There was a big report done when the family broke up, but the social worker said she was going off to Australia. I paid my taxes and did everything, so why aren't they contributing anything."

The children had repeatedly breached their bail conditions, the garda said, and there was every indication they would do so again. However, there were no secure residential places for the boy, while the only option for the girl was Mountjoy. *"The health board has no interest in this young girl," the judge commented. "Has anyone gone out to her, to see if she is dead or alive? This is a case which is known to them. It's not something new. It's as if they dumped the file."*

The Children Act, 2001

For the greater part of the past century the processing of juvenile offenders within the criminal justice system was based on Victorian notions of the 'depraved and the deprived', and permitted young persons 'of criminal habits or tendencies or who associated with persons of bad character' to be consigned for a term of not less than one year and no more than three years to an industrial school. To ensure that any such tendencies were nipped in the bud, the Act set the age of criminal responsibility at seven.

In its conception the law reflected the tensions between a welfare and a punitive approach to juvenile delinquency. The former sees the young offender as a child in need of protection and support, the latter as a threat to society who should be dealt with according to their misdeeds. The former approach stresses rehabilitation, the latter retribution.

By the late nineteen seventies the professional consensus in Ireland, influenced in part by British practice, moved towards a welfare view of the offender. The Whitaker Committee attributed juvenile delinquency to '*poverty, unemployment, poor educational attainment and broken families*'. Some twelve years later, the National Crime Forum argued for a community based approach to young offenders.

Somewhat belatedly, the Children Act of 2001 formalised this approach. The Children Act 2001 together with the Children Act 1941 & Children's Amendment Act 1957 address issues raised by juvenile offenders, the treatment of unruly children or children with special needs. The 2001 Act was three decades in gestation and was eventually signed into law by the President on July 8, 2001. Unfortunately only some sections of the Act have been brought into force by ministerial order.

The Act prioritises the needs, as opposed to the deeds, of the child and as such gives formal recognition to the welfare and community based approach to the young offender.

Among other things, the Act provided:

- That the age of criminal responsibility will be raised to 12 years (from 7 years);
- The Garda Diversion scheme to be placed on a statutory basis;
- Detention to be seen as a last resort (in spite of the creation of the extra custodial places in Children Detention Schools), with an emphasis on diversion and community disposal of cases as seen in the provision of Day Centres and legal orders for attendance at them and sentences to treatment, especially for drug abusing offenders;
- A separation of the provisions and mechanisms for care and protection from the criminal justice system, leading to the provision of a number of high and moderate support units under the control of the Health Boards;
- The introduction of family conferences largely based on the restorative justice philosophy

It was intended that conferences could be called at the diversion stage by the Juvenile liaison system, when they would be facilitated by a Garda, or at the prosecution stage by the court, when they would be facilitated by a Probation and Welfare Officer. They would bring interested parties together to discuss how the parents or guardian, family members and relatives or any other person or agency could help to prevent similar behaviour in future.

The Children Act could have been a very significant stepping stone towards a better way of doing things but as Paul O'Mahony has observed "there is often a huge chasm between the aspirations of the drafters of legislation of this kind and what eventually becomes the everyday reality of the system on the ground".

The reality is that there has been a complete failure to create an effective system to implement social programmes underlying the Children Act. Moreover, the non-implementation of the Act means that to a large extent the juvenile justice system in Ireland remains governed by legislation that dates back nearly a hundred years. The ongoing delay in bringing most of the new provisions into force has resulted in the continued use of the 1908 Act.

Unimplemented provisions

While Parts 2 and 3 of the Act concerning special care orders and health board-directed family welfare conferencing were commenced in September 2004, the provision which allows the Children Court to divert a young person charged with an offence to the attention of the health board on the basis of need has not been commenced.

The slow rate of investment in prevention, early intervention and diversion services contrasts with an increase in the provision of detention places over the past five years. But the lack of secure Health Board accommodation has led to non-offending children being routinely detained under court orders in Children Detention Schools, Garda stations, hotels, adult prisons and adult psychiatric hospitals.

Part 5 of the Act, raising the age of criminal responsibility to 12 years has not been commenced, meaning that children as young as 7 years may be prosecuted. When compared with the rest of Europe, Ireland stands out as the state with the lowest age of criminal responsibility. Even when Part 5 of the Children Act is commenced, raising the age to 12, this age will still be lower than many European countries who only prosecute children from 16 years upwards.

The failure to commence this straightforward provision might seem hard to fathom but the reason for delay in this case is the same as it is for all the other unimplemented parts of the Act – cost. The law reforms with the heaviest resource implications for the Exchequer are the ones that have been left on the shelf.

At its most basic, the problem is that if the age of criminal liability is raised, there will then be a larger cohort of children to be dealt with through the civil procedures of the Child Care Acts rather than the criminal procedures of the Children Act. There are simply not enough professional and other resources available to the HSE to cope with this workload.

Part 8 of the Act providing for a wide range of community sanctions has not been commenced, meaning that the principle of imposing detention as a measure of last resort, intended to be a cornerstone of the Act, remains unfulfilled due to the lack of alternatives to custody.

The resources necessary to make implementation fully effective have not been made available. For example, Part 7 of the Act was commenced in 2004 allowing the Court to divert young people charged with an offence to the attention of the Probation and Welfare Service for a family conference and enabling the drawing up an action plan to prevent the child from reoffending. However, while there has been a marginal increase in the staffing of the Probation Service and training has taken place to prepare the Service to run family conferencing, no additional resources have been made available to facilitate the implementation of action plans.

For example, if the conference identifies the need for the young person to receive treatment for alcohol or substance abuse, or to undertake a vocational training course, it is not clear what will happen when such a placement is not available due to a lack of resources.

Only the provision of long-term funding for community groups as well as statutory agencies will allow Part 7 of the Act to be effectively implemented.

While the Children Act provides for training of judges this has never taken place. Where provisions of the act have been implemented by the Government, this has not always been reflected in practice. For example, in an answer to Deputy Roisín Shortall in May 2004, the courts service confirmed that, while the Act allowed for parents to be made to pay compensation for the actions of their children, to date only one such payment has been made. While the Act allows the State to secure orders against parents requiring them to exercise proper and adequate control over their children, not a single such order has been granted to date. Moreover, while the Act allows for curfews to be imposed on children found guilty of offences, only ten such orders have been imposed.

The Government must without delay:

- publish a detailed plan and deadline for the full implementation of the Children Act 2001;
- invest resources in community and statutory services to adequately support the effective implementation of the parts of the Act already commenced;
- put in place appropriate and comprehensive support services and fully resource the HSE to fulfil its child protection functions in order to prevent children becoming involved in conflict with the law;

- allocate resources to provide rehabilitative and support services for children and young people with drug or alcohol problems and services for children and young people with mental health difficulties.

Sentencing and Diversion Programmes

Juvenile diversion programs are programmes created to divert youth from their early encounters with the mainstream juvenile court system. They may involve cautioning and counselling, including family counselling. There is broad agreement among academic criminologists, social scientists, judges and Gardai on the need to keep contact between juveniles and the conventional criminal justice system to an absolute minimum.

The Courts system should be given the widest possible scope to make appropriate sentences, including restorative justice measures, probation and welfare services, formal cautioning and so on, using imprisonment only as a last resort.

The Labour Party strongly favours the use of restorative justice programmes and Community Service Orders. These should involve young offenders being required to confront the implications of their actions for the community, and where possible to be involved in cleaning up after those who have been involved in anti-social activity. We strongly support the concept underlying the Drug Referral Programme.

Under the restorative justice heading there are currently only two community-based pilot reparation programmes in Ireland – and then only since January 2004 despite the fact that a restorative justice service was established in the Department of Justice since 1999. Again the story is of government failing to act in a timely and adequate manner despite the enactment by the Oireachtas of comprehensive legislation.

Some preventive measures in current use are progressive and can, with certain individuals, be very effective, such as the juvenile diversion scheme or indeed Youthreach. However some also are inappropriate and ineffective, such as our overuse of detention for people under the age of 21.

Others, such as preventative work with at risk youngsters as in the Garda projects have potential but as ever, are under-resourced and not integrated into any overall strategy.

The Courts show huge inconsistencies in their sentencing policy. There are no sentencing guidelines for the judiciary and consequently no consistency. There is furthermore a shortage of District Court judges and several more need to be appointed. In the Dublin area, there should be local district courts in each of the main areas of the city and county. In this way, the local judges can build up an understanding of the impact of anti-social behaviour, including drug abuse and drug pushing, on local communities, get to know the offending families, acquire an appreciation of local needs in terms of the community sanctions and community service orders they impose and so

discharge in a visible way their obligations to the community for the way they run its court.

Detention places for Young Offenders

In April 2002, following the death of two Gardaí in connection with a juvenile-related auto theft and joyriding offence, the Minister for Justice announced immediate plans to open a “temporary” children’s prison wing for 14 and 15-year-olds at St. Patrick’s Institution. The announcement was preceded by revelations that one of the youths involved in the crash had been in the care of the health board and had been refused a place in a Children Detention School as it was full. It was also highlighted that in order for the youths to be detained another young offender, described as being “prone to extreme physical violence”, had to be released from custody.

The re-designation of a wing of St. Patrick’s Institution, a prison for juveniles aged 16 to 21 years, as a detention centre for offenders between the ages of 14 and 15 years, cost €10 million. It was described as a stopgap measure. Its siting in St. Patrick’s would not have been permissible if the Children Act 2001 had been in force.

In the event, this expensive, ill-considered, knee-jerk project was never formally commissioned. It has never been used for child offenders and will, with the rest of the Mountjoy complex, soon be demolished.

Meanwhile, the accommodation that ought to have been available for young offenders, in Oberstown and Trinity House for example, is generally unavailable. Those institutions are used instead by the courts to house children who have never been in trouble with the law. These “out of control” children are at serious risk and are in need of secure residential accommodation.

The State is, as the High Court has found, in default of its constitutional obligations to these children and has failed to finance and staff such accommodation, with appropriate treatment and other services. (The delay in providing such units and the inadequate number of beds provided prompted Mr. Justice Peter Kelly to hold three Government Ministers in contempt of court.)

These non-offending children are instead sent to entirely unsuitable institutions such as detention schools, Garda stations, hotels, adult prisons and adult psychiatric hospitals. As a result, at times as many as 40% of places in Oberstown and Trinity House are occupied by children who have not been sentenced for a criminal offence but have been remanded there due to behaviour or emotional needs.

It is also noteworthy that there is at present no place of detention for females from the age of 17 years. This makes it impossible to commence part ten of the Act.

Misplacement within the detention schools is also a problem. According to the report, *Left Out on Their Own: Young People Leaving Care in Ireland (2000)*, staff at the schools believed that 23% of the young people surveyed were inappropriately placed. Some were in need of a less secure setting, while others required specialised units to deal with addiction problems or to respond to the specific challenges of mental handicap or the cultural needs of the Travelling community. The report comments that the “misplacement of a significant proportion of the population results from the fact that many young people are placed not on the basis of need but on the basis of which places are available” .

The report tracked 88% of the young people after they left the Children Detention Schools. Two years after leaving care, 33% of those tracked had experienced homelessness, 65% had been in a place of detention or prison and a further 7% had been sentenced by the courts but not sent to prison.

One of the main difficulties facing the juvenile justice system is recruiting and retaining suitable, qualified and experienced staff. The high level of staff turnover poses difficulties in creating a stable environment for the children and building up trust between the workers and the young people. Many justice and welfare centres are operating well below full capacity due to difficulties in recruiting and retaining qualified and experienced staff.

The widespread and chronic failure to fill vacancies in the social service, particularly in the Dublin area, has had a crippling impact on efforts to provide non-punitive services to children with behavioural problems, to children who have committed offences and to children in and out of care who are at-risk of becoming offenders. No system of service provision can operate with any reasonable degree of effectiveness when staff vacancy rates reach 25 – 50% of staff complement, as they have in the Dublin area.

Labour believes we must

1. Bring into force the remaining provisions of the Children Act, 2001, including the sections covering family welfare conferences, special care provision and private foster care. Introduce bail supervision and support schemes to avoid children committing crimes on bail. Priority should be given to the preventive elements of the 2001 Act and to the investment of resources in community and statutory services necessary to support these measures, including the full staffing of the social work service. Priority should also be given to resourcing community-based, non-custodial options and to the provision of community supervision services, step-down facilities and after-care services.
2. End the practice of placing non-offending children in facilities for offenders. Children with severe emotional or behavioural problems should not be placed in facilities for offenders, including juvenile justice institutions or the adult prison system.

3. Correct the practice of misplacing children in Children Detention Schools. Provide specialised community services (and if necessary residential services) to meet the needs of certain at-risk children and adolescents. These children include those with learning disabilities, acute psychiatric illnesses, children requiring medically supervised detoxification for drug use, persistent school non-attendees and those at risk of leaving home. Culturally appropriate prevention services are needed to tackle the disproportionate representation of children from the Travelling Community in detention.

4. Fill vacancies in the social work service to provide children with access to care and counselling services without delays. Implement a drive to recruit and retain suitable, qualified and experienced staff, including staff from the areas worst affected.

The Probation and Welfare Service

One of the reasons for the delay in bringing the Children Act 2001 into effect is that the Probation and Welfare Service has not the capacity to supervise the sanctions provided for in that legislation. The Probation and Welfare Service is not an independent or statutory body. It is simply an operational branch of the Department of Justice, Equality and Law Reform. The main functions of the Service in the criminal justice system are to –

- prepare reports at the request of judges, to assist them in deciding on appropriate sentences for offenders,
- supervise offenders subject to community-based sanctions, and
- plan and assist in the rehabilitation of offenders in prisons and places of detention.

The Service also funds various schemes and programmes that provide education, accommodation, treatment and counselling services for offenders under supervision in the community. In addition, in the civil area, the Service is expected to provide reports and advice to the family courts.

The Minister for Justice, Equality and Law Reform established an expert group to review the Service in 1998. The group reported in October 1998 and July 1999. And the Comptroller and Auditor General carried out a “value for money” examination on the service and reported in April 2004.

The Comptroller’s examination focused on the operations of the Service from 1995 to 2002 and examined the demands for the Service, the efficiency of its operations and the effectiveness of its services.

The Comptroller reported that the Service had a staff of just over 320, working mainly in community-based teams, or in prisons and places of detention. It also employed contract staff to oversee community service work carried out by offenders. The Service’s workload can be judged from the fact that, in 2002 there were around 4,100 persons under supervision in the community and a daily average of around 3,200 prisoners in custody.

The report found that the level of demand in the criminal justice system for reports to courts, supervision in the community and assistance to offenders in custody had increased significantly. But there had been no significant change in the relative use of community-based sanctions and custodial sentences. Although the total number of persons under supervision had increased by half, there had also been a similar increase in the average prison population.

The Comptroller pointed out that some of the main activities the Service carries out in the criminal justice system are not based on statutory powers at all. For example, almost half of offenders referred for supervision are supervised by the Service without any formal court order being made – in these cases sentence is simply adjourned by the judge for a stated period. Most reports to courts are also provided on a non-statutory basis.

But, while it is carrying out non-statutory functions in the criminal justice area, the Service did not discharge any of its functions in the family law area, for which there is a statutory basis, in the period 1995 to 2002. It had not the resources to discharge its statutory functions and the administration of justice in the family courts suffered the deficiency.

Up to 1995, the Service had provided support in family law cases but this was suspended because of demands in the criminal justice area. Following an increase in staff levels in recent years, the Service then agreed to provide some support for family law courts, on a pilot basis.

The estimated cost to the Service in 2001 of providing an individual pre-sentence report, about the suitability of community-based sanctions for offenders, averaged around €800 to €900. Implementing orders for supervision cost an estimated average of €1,500 for each community service order, €4,100 for supervision of an offender during deferment of penalty and €6,100 for supervision of an offender subject to a probation order.

In other words, community-based sanctions are significantly less costly to implement than custodial sentences. Implementing community service orders costs about one-third of the cost to the public of implementing the custodial sentences that might otherwise be imposed.

Less than 10% of the cost of the Service related to work in prisons and other places of detention. The cost of the Service's work with offenders in prisons and places of detention in 2001 averaged just €750 per offender, reflecting the fact that the ratio of prisoners to Probation and Welfare Officers was significantly higher than the Service's target ratio. In 2002 the ratio was 87 prisoners per Probation and Welfare Officer, compared to a target figure of 50:1 generally and 30:1 for special category prisoners such as young offenders, prisoners serving life sentences and sex offenders.

The report concluded that the ultimate objective of the Service, in both its community-based work and work with offenders in custody, is to reduce the level of re-offending as much as possible. But neither the Department nor the

Service had carried out research into rates of re-offending or the relative effectiveness of custodial sentences and community-based sanctions in Ireland.

The report of the expert group on the Service had recommended in 1999 that the Probation of Offenders Act 1907 should be repealed and that new legislation should be enacted to provide for a statutory institutional framework for the Service and additional non-custodial sanctions. However, there has been no new legislation for the Service and the relevant sections of the Children Act on community sanctions have not been brought into effect.

In fact, that Comptroller and Auditor General reported in 2004 that, of the 31 recommendations made by the expert group five years earlier, there had been either no developments at all, or only partial implementation, in relation to 24 of them.

Structural issues

Currently, responsibility for youth justice is shared by the Department of Justice, Equality and Law Reform, the Department of Education and Science, and the Department of Health and Children. In addition, the Garda Síochána, the Probation and Welfare Service, the Courts Service, the Prison Service, the Health Boards (now the HSE) and the newly created Special Residential Services Board all have statutory duties in this area.

While the little known National Children's Office currently has responsibility for co-ordinating implementation of the Children Act 2001, it has no statutory mandate to co-ordinate service provision or to ensure that high standards of rights protection are maintained. According to its surely misnamed 2003 progress report, published on the 27th July, 2004:

“From the time of its enactment it was clear that the Children Act 2001 would be commenced on a phased basis. The three core Departments continue to work on commencement issues but it is now likely that the full implementation of the Act will not be achieved until 2008 ...”

It is obvious that the agenda of work to provide for young people and enhance their chances of avoiding crime requires a very well organised and cohesive system. This requires some kind of overarching Youth Authority that will have the power to oversee and co-ordinate policy in all of the different areas of enterprise, including those relating to criminal justice.

What is required is a single, statutory and cross-departmental agency to coordinate the work of all the statutory bodies and the community bodies which work with them and on their behalf. This body must have the resources to operate as a central but integrated agency with an independent statutory mandate to implement a cohesive and rights-based youth justice policy at national level. It should have its own Vote, its own accounting officer and have political accountability to its own Minister of full cabinet rank.

The agency should also act as a rights-based, standard-setting body with a duty to develop models of best practice, and ensure, through regular and effective monitoring, that these standards are implemented throughout the youth justice and welfare system.

Membership of the agency should not be limited to senior operational and policy officials in the relevant departments and agencies, but must also include the stakeholders in the youth justice system, particularly the communities in which these young people live.

JOYRIDING

In many estates and neighbourhoods residents still live in dread the sound of screeching tyres and screaming engines - the sound of cars being driven at speed and performing "wheelies", the signal sound of the joyriders.

Joyriding, which would be more appropriately known as deathriding, remains a continuing problem in many neighbourhoods. This is despite the government adopting without acknowledgement one Labour party proposal to tackle the scourge - making it an offence to sell a vehicle to anyone under the age of sixteen. Twice in recent years - in 2000 and 2002 - Labour in the Dáil introduced legislative proposals in this area and twice they were rejected and summarily dismissed by the government. Then in 2004 the government introduced its own equivalent. As ever though, enforcement and the allocation of the necessary resources to ensure effective enforcement is the issue.

In addition the scrapping rules and the car "death certificate", first proposed at a Labour seminar on the topic by Connor Faughnan of the AA, remain problematic. Further, joyrider diversion/education programmes, including mechanical and car maintenance training for joyriders, such as the now defunct initiative of City Motor Sports operated in Dublin's south inner city, have not been able to survive and have not been mainstreamed - perhaps through FAS and with a contribution from the motor industry.

Obviously neighbourhood based community policing has its contribution to make in stamping out joyriding. In addition though we do need to provide in law for an offence of joyriding. This was an element in the Labour anti-joyriding bill introduced in the Dáil in 2000 and 2002: it proposed to provide for an offence of directing or participating in the unlawful taking of a vehicle for the purposes of dangerous driving in a public place. We need also to have a fully effective "death certificate" system for cars being withdrawn from use, accompanying and underpinning the offence of supplying or offering to supply a vehicle to under age drivers.

And we need education and training programmes and dedicated mentoring support aimed at this segment of the youth population. Restorative justice, the Cinderella of the juvenile justice system also has its role as well as community service orders.

CONCLUSION

It will be clear that this document focuses on specific proposals to deal with a specific and growing problem. Our proposals deal with policing, especially the need for a much more focused approach to well-managed and accountable community policing. They deal with necessary changes in the law and in administrative structures. They call, in general, for a much tougher approach where thuggery and intimidation are concerned.

If we are to tackle this issue over time, we cannot be effective if we ignore the need for investment and new strategy in education, in early childhood development and childcare, in support for parents and families.

At the same time, it is entirely consistent with any view of the Fair Society, and indeed with the traditions of European Social Democracy, that people have a right to expect norms of civic responsibility to be observed.

This document is about taking back the neighbourhood. Taking it back so that everyone who lives there can live free and at peace, so that neighbourhoods can once again be places where children are free to play safely, where elderly people know they are cared for by a community, where single mothers and young girls know they are free from harassment and danger.