

Introduction

Barnardos welcomes the opportunity to feed into the development of the White Paper on Crime which covers a wide span of criminal activity including organised crime, white collar crime and the prevention of crime. From a child's perspective, children can be both victims and perpetrators of crime. Barnardos' submission will highlight both these aspects and largely focus on ways of preventing children from engaging in criminal activity.

Children as victims of crime

According to the CSO, children have been victims of a range of crimes including theft, assault, abandonment and neglect as well as sexual crimes. Unsurprisingly, the number of prosecutions and convictions arising from these crimes is fewer than the actual number of crimes committed. Between 2003 and 2008, in incidences of minor assault 16% of cases were brought to court and in abandonment cases only 7% were brought to court which resulted in 73 convictions. Another issue is the time lag between when the crime is committed and if and when court proceedings are heard. This time lag coupled with the adversarial court system can result in the child feeling revictimised. The court room is a very daunting place for a child victim, fear of facing the accused again, having to answer the same questions that were posed when the crime was reported and not understanding all of the legal jargon used. While some inroads have been made including use of video testimony, removal of judges' wigs and screens blocking the accused, these are not available in all court facilities.

The lack of joint-interviewing by professionals at the time of the case being reported can add to the distress of the child and is a disincentive to pursue legal redress through the courts. From the experience of the St. Claire's Unit and St. Louise's Unit joint interviewing by the HSE and Garda is the exception rather than the rule. Repeated interviewing by separate agencies can cause further trauma for a child and can compromise the child's recollection of the events and subsequently lead to a failure in securing a conviction¹.

Recommendations:

- In cases where serious crimes have been committed against children, court proceedings should be expedited to minimise the impact of the court process on them.
- Child friendly procedures within the court room should be the norm not the exception.
- Ensure joint-interviewing of professionals especially HSE and Gardai to avoid duplication and further upset to the child.

Youth Justice Statistics

There has been a reduction in the incidences referred to the Garda Diversion Programme, with 18,519 children in 2009, a drop of 2,893 on the previous year². The top three youth offence categories for 2009 were alcohol offences (17.6%), theft (16.6%) and traffic offences (13%). The majority of children were given an informal caution, and 4,000 were given cautions and ordered to undergo Juvenile Liaison Officer supervision.

¹ Geoffrey Shannon (2010) 4th Rapporteur Report on Child Protection

² Irish Youth Justice Service (2010) Annual Report 2009

It is well known that factors such as poverty, unemployment, poor mental health, educational disadvantage, addiction, inadequate family support and experience of residential care and homelessness play a role in the lives of young offenders³. It is the interplay of these factors and how individuals and society addresses these factors that can determine the extent of their criminal career. One study of Mountjoy prison indicated that 80% of those interviewed had left school before 16 years; 50% had left before the age of 15 and 75% had never sat a state exam⁴.

Preventing Crime

Barnardos welcomes the emphasis on preventing crime in the White Paper as we believe that there is a shift needed in how we respond to crime, moving away from an approach centred on punishment to one which is centred on evidence-led strategies to preventing offending in the first place. Such an approach is outside the remit of the Department of Justice alone. It requires Governmental leadership and actions across all the Departments, including Justice, although this department is well placed to lead reform.

Investing in the social, educational and health policies that focus on individuals' needs can help to prevent and reduce crime, and avoid the human, social and economic cost associated with crime and imprisonment and help to build better communities. It would address the inequalities in our society that contribute to the continuation of poverty and disadvantage and contribute heavily to criminal activity.

Recent Government proposals such as the establishment of the Child and Family Agency which will incorporate the Irish Youth Justice Service and the National Educational Welfare Board are a step in the right direction. A co-ordinated strategy involving availability of universal supports (public health nurse, early childhood education and care services, recreational services etc) coupled with targeted interventions where risks have emerged is required if it is to be effective in preventing crime.

For young people, there are critical moments in their lives that can influence the start of criminal activity, these include having difficulties in school leading to truancy or school exclusion, leaving residential care without access to supports and experimenting with drugs / alcohol. It is prior to these junctures that supports must be available including educational supports, mental health supports, aftercare services and addiction supports. Linked to this is the issue of some young people with outstanding criminal charges being ineligible for a secure care placement when their behaviour merits intervention from a social care perspective rather than seeing the child purely through a justice / criminal lens. An amendment proposed in the Child Care Amendment Bill 2010, would allow these vulnerable young people to access such secure care.

Interestingly when asked about ways to prevent different types of crimes such as drug use, vandalism and violent crime, the young people consulted stated that a combination of law enforcement and education and facilities / services should be available⁵.

Barnardos endorses some the recommendations of these young people including more youth cafes, skate parks, availability of psychological help, more education and awareness campaigns around drug / alcohol and sex crimes. Also improved education for boys on rape

³ Irish Penal Reform Trust, Barnardos and IAYPIC (2010) Shifting Focus: From Criminal Justice to Social Justice; Building Better and Safer Communities

⁴ P O'Mahony Criminal Justice in Ireland

⁵ Department of Justice and Equality (2011) White Paper on Crime Report of the Consultation with Young People, November 2010.

and sex crimes, the impact and consequences of these crimes should be delivered in schools.

Recommendations:

- Move Ireland toward a preventative justice model by investing in social, educational and health policies to shift emphasis onto preventing criminal activity and investing in building healthy communities and individuals instead.
- Reintroduce into the Dail and pass the Child Care Amendment Bill 2010 which would not restrict access to a secure care placement for those young people who have a criminal charge outstanding.

Detention as a last resort

Ireland has ratified the UN Convention on the Rights of the Child which stresses that detention shall be used only as a measure of last resort and for the shortest appropriate period of time, and this principle is also enshrined in the Children Act 2001. However, young offenders are still being imprisoned often in adult prisons. The new national children's detention facility in Oberstown, Lusk with capacity for 157 boys and 10 girls is still at planning stage and the delay means that boys aged between 16 and 21 continue to be detained in St. Patrick's Institution. On average 220 boys aged 16 and 17 are imprisoned in the institution on a yearly basis⁶. This is a wholly inappropriate setting for children and poses a serious risk to their well-being and their further advancement in criminal activity.

Also the vast majority of young people are remanded on bail rather than on custody, having broken their bail conditions. These young people, typically having experienced unstable and unstructured lives with experience of early school leaving, unemployment and addiction, find it difficult to comply with bail conditions such as adherence to a curfew, restrictions on movement and a requirement to sign on at a Garda Station every day. The usual consequence for the breach of a bail condition is that the accused young person is remanded in custody until the case reaches its determination. Given that the majority of offences committed are related to public order and theft, the appropriateness of detaining these young people is seriously questionable. The longer they are in a prison environment the greater the negative consequences on themselves, their family and community.

The introduction of a Bail Support Scheme is a way of engaging with young offenders through providing practical supports based on the needs of the individual¹. This individual case management can include components such as supervision of court attendance, substance use treatment, engagement with employers, work with parents etc. An evaluation of the scheme in the UK, found a success rate of approximately 80% in preventing re-offending and enabling young people to abide by bail conditions and attend court. A pilot Bail Support Scheme in Dublin and Limerick was scheduled to be rolled out by the Young Person's Probation in 2008 but this never commenced.

Recommendations:

- Increase use of non-custodial sanctions on young offenders for instance community service orders, restorative justice practices and parental supervision orders.
- Introduce a Bail Support Scheme, which can improve compliance with bail conditions and reduce likelihood of re-offending while on bail.

⁶ Irish Penal Reform Trust (2010) Briefing on Detention Children in St. Patrick's Institution.

Organised Crime – Human Trafficking

Trafficking is currently an \$8 billion global industry with half of all victims being children. Ireland is regarded as a transit country as well as a destination point given its locality and its common travel area between Ireland and the UK. However, Barnardos believes that human trafficking is globally a serious organised crime that has been shown to disproportionately affect children, especially girls who are trafficked mainly for sexual exploitation and domestic servitude. Concerns have been expressed before by Barnardos and other NGOs that there is too much focus and emphasis placed by the Gardai on the immigration status of suspected victims of the human trafficking rather than treating them as possible victims first and foremost. Barnardos recommends the National Bureau for Criminal Investigation should be the law enforcement agency that should have primary responsibility for tackling human trafficking instead of the Garda National Immigration Bureau, but with links with officers in the Bureau. For instance, the Serious Organised Crime Agency (SOCA) in the United Kingdom oversees investigation into human trafficking instead of the UK Border Agency.

Recommendation:

- The National Bureau for Criminal Investigation should have the principal responsibility of tackling human trafficking working with the Garda National Immigration Bureau. This would go towards ensuring that suspected victims of trafficking are primarily treated as such and not simply as immigrants.

Should you seek additional information please do not hesitate to contact June Tinsley, Policy Officer, at 01-7080440 or june.tinsley@barnardos.ie

Update: United Nations Convention against Torture (UNCAT) Concluding Observations (June 2011) on Ireland made a number of recommendations:

- To introduce new non-custodial alternatives to prison in order to reduce prison numbers,
- Ensure the separation of remand and sentenced prisoners,
- End the practice of imprisoning children in St. Patrick's Institution and to proceed 'without delay' on the new detention centre at Lusk,
- Investigate incidences of racial abuse against the Traveller Community in prison,

ⁱ Geoffrey Shannon (2010) 4th Rapporteur Report on Child Protection