



**IPRT Submission to the Joint Committee on Justice on the topic of
Anti-Social Behaviour**

21st January 2022

About IPRT

Established in 1994, the Irish Penal Reform Trust (IPRT) is Ireland's leading civil society organisation campaigning for rights in the penal system and the progressive reform of Irish penal policy. Our vision is one of respect for human rights in the penal system, with imprisonment used only as a sanction of last resort. We work towards progressive reform of the penal system based on evidence-led policies and on a commitment to combating social injustice. IPRT publishes a wide range of policy positions and research documents; we campaign across a wide range of penal policy issues; we work constructively with all stakeholders; and we have established IPRT as the leading independent voice in public debate on the Irish penal system.

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Introduction

1. IPRT welcomes the decision of the Joint Committee on Justice to examine the issue of Anti-Social Behaviour (ASB) in detail, and appreciates the opportunity to make a submission on this topic.
2. At the outset, IPRT notes that there have been a number of positive actions taken by the Government in recent months on the issue of ASB. These include many of the measures outlined in the *Youth Justice Strategy 2021-2027*;¹ the establishment of an Anti-Social Behaviour Forum in 2020, which includes a special sub-group to examine responses to knife crime;² and initiatives to develop Local Community Safety Partnerships (LCSPs) on a pilot basis in Dublin's North Inner City, Waterford and Longford.³
3. IPRT further acknowledges the emphasis that Minister McEntee and Minister Browne have placed on developing a community safety approach that "*recognises that the problems communities face are not just limited to policing issues*"⁴ and responds to ASB through "*holistic, community-oriented approaches that deal with the underlying factors*".⁵ IPRT agrees that the best response to ASB will not focus solely on criminal justice measures but instead address the broader societal issues leading to ASB.
4. While recognising these positive developments, IPRT believes that there is more that can be done. Our key recommendations for action are outlined at paragraph 19 below.

Meaning of "Anti-Social Behaviour"

5. As a preliminary point, it is noted that the term "Anti-Social Behaviour" can be used to capture a broad range of behaviour, which may or may not be criminal *per se*. Given the various explanations available⁶ IPRT recommends that the Committee is clear, when considering this topic, as to what exactly it understands by the term.

¹ Department of Justice, *Youth Justice Strategy 2021-2027*, April 2021, available at: https://www.justice.ie/en/JELR/Pages/Youth_Justice_Strategy.

² Government of Ireland, *Minister Browne chairs first meeting of special sub-group of Anti-Social Behaviour Forum to examine responses to knife crime*, 29 September 2021, available at: <https://www.gov.ie/en/press-release/9e284-minister-browne-chairs-first-meeting-of-special-sub-group-of-anti-social-behaviour-forum-to-examine-responses-to-knife-crime/>.

³ Government of Ireland, *Minister McEntee announces new local partnership projects to strengthen community safety*, 25 June 2021, available at: <https://www.gov.ie/en/press-release/45365-minister-mcentee-announces-new-local-partnership-projects-to-strengthen-community-safety/>.

⁴ See comments of Minister Helen McEntee, Department of Justice, *Minister McEntee announces new local partnership projects to strengthen community safety*, 13 November 2020, available at: <https://www.justice.ie/en/JELR/Pages/PR20000261>.

⁵ See comments of Minister of State James Browne, Government of Ireland, *Minister Browne chairs first meeting of special sub-group of Anti-Social Behaviour Forum to examine responses to knife crime*, 29 September 2021, available at: <https://www.gov.ie/en/press-release/9e284-minister-browne-chairs-first-meeting-of-special-sub-group-of-anti-social-behaviour-forum-to-examine-responses-to-knife-crime/>.

⁶ See e.g. the definition of ASB as set out in sections 113(2) and 159 of the Criminal Justice Act 2006, available at: <https://revisedacts.lawreform.ie/eli/2006/act/26/revised/en/html#id1152029046.06>

Causes of Anti-Social Behaviour

6. The causes of ASB are complex and multifactorial, but there is a strong indication that – similar to more general offending behaviour – ASB is linked with socio-economic deprivation, addictions, mental health and child/family welfare issues. This is recognised to some extent by the *Youth Justice Strategy*,⁷ and data relating to Oberstown Children Detention Campus and Irish prisons further supports such a conclusion.
7. For example, a 2019 ‘snapshot’ study of the characteristics of children detained in Oberstown revealed that:
 - a. 19% of the children were members of the Traveller community.
 - b. 31% had suffered the loss of a parent through either death, imprisonment or no long-term contact.
 - c. 41% were either in care or had significant involvement with Tusla.
 - d. 23% had a diagnosed learning disability.
 - e. 41% had mental health needs, with 25% prescribed medication for a mental health concern.
 - f. 71% were considered to have substance misuse problems.
 - g. 57% were not engaged in education prior to detention.⁸
8. Studies conducted in respect of the adult prison population have shown as follows:
 - a. In 2019, 7.8% of committals to prison declared they were of ‘no fixed abode’,⁹ while one Irish study has found that 17.4% of people were homeless on committal to prison.¹⁰
 - b. An estimated one in two people in prison have substance misuse/dependence issues,¹¹ with a former Director General of the Irish Prison Service indicating in 2017 that 70% of the prison population have drug/alcohol addiction problems.¹²
 - c. Central Statistics Office (CSO) figures show that the highest level of educational attainment for over half of the prison population (57%) is the Junior Cert or less.¹³

⁷ See Department of Justice, *Youth Justice Strategy 2021-2027*, April 2021, at p.1, available at:

https://www.justice.ie/en/JELR/Pages/Youth_Justice_Strategy

⁸ Oberstown Children Detention Campus, *Key characteristics of young people in detention: A snapshot (Q1, 2019)*, available at:

<https://www.oberstown.com/wp-content/uploads/2019/10/Oberstown-Final-Characteristics-of-Young-People-Report-2019.pdf>. A factsheet

summarising the findings is also available at: https://www.oberstown.com/wp-content/uploads/2019/10/OBERSTOWN_Profile_of_Young_People_SEPT_2019_V3.pdf.

⁹ Irish Prison Service, *Annual Report 2019*, at p.31, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf

¹⁰ Gulati, G., Keating N., O'Neill, A., Delaunois, I., Meagher D. and Dunne, C.P. (2018), “The prevalence of major mental illness, substance misuse and homelessness in Irish prisoners: Systematic review and meta-analyses,” *Irish Journal of Psychological Medicine* (2019), Vol. 36, pp.35-45.

¹¹ Gulati G., Cusack A., Kelly B.D., Murphy V.E., Kilcommins S., and Dunne C.P., *Trans-institutionalisation in Ireland: New and Emerging Congregated Settings for People with Disabilities*, 12 August 2021, Health & Human Rights Journal, available at: <https://www.hhrjournal.org/2021/08/trans-institutionalisation-in-ireland-new-and-emerging-congregated-settings-for-people-with-disabilities/>.

¹² See comments of former Director General Michael Donnellan during a Committee of Public Accounts Debate, 2 February 2017, available at:

https://www.oireachtas.ie/en/debates/debate/committee_of_public_accounts/2017-02-02/5/.

¹³ CSO, *Offenders 2016: Employment, Education and other Outcomes, 2016-2019*, available at:

<https://www.cso.ie/en/releasesandpublications/ftp/p-offo/offenders2016employmenteducationandotheroutcomes2016-2019/>.

- d. The prevalence of severe mental illness among the prison population is an estimated four times that of the general population.¹⁴
 - e. A 2007 study suggested that nearly 24% of all prisoners came from 1% of Electoral Districts, while less than 5% of the overall population of Ireland came from the same 1% of Electoral Districts.¹⁵
9. While IPRT is not aware of extensive Irish data studying whether ASB is more prevalent in a particular age-group or gender, some work has been done by groups such as the *Research Evidence into Policy, Programmes and Practice* (REPPP) based in University of Limerick.¹⁶ There is further an indication that in regards certain types of crime (e.g. knife crime) the majority of perpetrators (and victims) are young men.¹⁷ IPRT has also previously detailed the disproportionate representation of young adults in the Irish prison system.¹⁸
10. Given the strong links between ASB/criminal behaviour and broader societal issues such as disadvantage, homelessness, poor education, and inadequate mental health/addiction supports, IPRT is of the view that the best way to deter ASB is to take an approach that is grounded in addressing these social issues, rather than focusing exclusively on a criminal justice or penal approach.

Strategies for Deterring Anti-Social Behaviour

What Doesn't Work

- 11. Purely punitive responses to ASB and low-level crime, focused predominantly on increasing penalties and prison, fail to address the underlying causes that lead to people engaging in ASB. This is borne out by the high rates of recidivism seen post-prison in Ireland.
- 12. For example, recent CSO figures found that almost 62% of people released from prison in 2015 re-offended within three years. Breaking that down by age, the CSO figures showed that approximately 84% of those aged under 21 re-offended within three years of being released,

¹⁴ Gulati G., Cusack A., Kelly B.D., Murphy V.E., Kilcommins S., and Dunne C.P., *Trans-institutionalisation in Ireland: New and Emerging Congregated Settings for People with Disabilities*, 12 August 2021, Health & Human Rights Journal, available at: <https://www.hhrjournal.org/2021/08/trans-institutionalisation-in-ireland-new-and-emerging-congregated-settings-for-people-with-disabilities/>. The Committee might also note the findings of the Inspector of Mental Health Services, who has noted that studies suggest a significant proportion of people in Irish prisons present with a current psychotic or major affective disorder, see Mental Health Commission, *Access to Mental Health Services for People in the Criminal Justice System* (2021), at p.15, available at: <https://www.mhcirl.ie/publications/access-mental-health-services-people-criminal-justice-system>.

¹⁵ IPRT, "It's like stepping on a landmine..." – *Reintegration of Prisoners in Ireland* (2010), at p.12, available at: https://www.iprt.ie/site/assets/files/6189/its_like_stepping_on_a_landmine_reintegration_of_prisoners_in_ireland_embargoed_to_0000_tuesday_25_may_2010.pdf. This information cites the following study in support of this data: O'Donnell, I., Teljeur, C., Hughes, N., Baumer, E. and Kelly, A. (2007) 'When prisoners go home: Punishment, Social Deprivation and the Geography of Re-integration' in *Irish Criminal Law Journal*, Vol.17, No.3.

¹⁶ See e.g. Connolly, J. and Mulcahy, J., *Building community resilience. Responding to criminal and anti-social behaviour networks across Dublin South Central: a research study* (2019), available at: <https://www.drugsandalcohol.ie/31426/1/building-community-resilience.pdf>. In particular, Section 2 of this report examines the nature and reach of key criminal/ASB networks in Dublin South Central.

¹⁷ *European report on Preventing Violence and Knife Crime among Young People*, World Health Organisation, 2010, at p.29, available at: https://www.euro.who.int/_data/assets/pdf_file/0012/121314/E94277.pdf. In the Irish context, see e.g. comments of An Garda Síochána to the effect that "young people, mostly boys and young men, were carrying knives for "reassurance" after being the victim of assaults or because they feared they would be targeted." See Conor Lally, "Rise in seizures appears to show growth of knife-carrying culture", *The Irish Times*, November 16, 2020, <https://www.irishtimes.com/news/crime-and-law/rise-in-seizures-appears-to-show-growth-of-knife-carrying-culture-1.4409989>

¹⁸ IPRT, *Turnaround Youth: Young Adults (18-24) in the Criminal Justice System: The case for a distinct approach* (2015), at p.9, available at: <https://www.iprt.ie/site/assets/files/6357/iprt-turnaround-web-optimised.pdf>.

as compared to 27% of those aged over 50.¹⁹ Some of the highest rates of re-offending (73.2%) were for public order and social code offences (i.e. the offending most associated with ASB).²⁰ These findings show that prison does not work to deter most people from re-offending, especially young people and those involved in more low-level crime.

13. While increasing penalties (e.g. through harsher sentences) is often put forward as a response to ASB, there is limited evidence that such measures are effective in reducing crime.²¹ This is underpinned by previous IPRT research in respect of young adults, which has found that *“contact with the criminal justice system in the community, as well as imprisonment, can actually increase the likelihood of offending behaviour among young people.”*²² This should be understood against the background that most young people who offend tend to stop committing crime as they grow older,²³ but that the *“wrong interventions with young adults are likely to extend the length of time they are involved in the criminal justice system”*²⁴ and can risk *“establishing criminal reputations and identities rather than diminishing them”*.²⁵

What Works

14. In contrast to the above, approaches that focus on addressing the underlying causes of ASB and offending are more effective in reducing such behaviours.
15. In respect of young people again, IPRT research has found that the *“right interventions at the right points of time can successfully lead to a reduction in the offending rate among young adults”*.²⁶ Such interventions might include focusing on supports in the areas of employment and education, and extending the use of existing youth diversion programmes that already exist (such as the Bail Supervision Scheme (BSS) and the use of restorative practices for young adults in particular).²⁷
16. The success of such measures in Ireland has already been evidenced. For example:

¹⁹ CSO, *Prison Re-offending Statistics 2011 – 2018*, available at: <https://www.cso.ie/en/releasesandpublications/ep/p-pros/prisonre-offendingstatistics2011-2018/>.

²⁰ CSO, *Prison Re-offending Statistics 2011 – 2018: Details of 3-year Custodial Re-offending*, available at: <https://www.cso.ie/en/releasesandpublications/ep/p-pros/prisonre-offendingstatistics2011-2018/detailsof3-yearcustodialre-offending/>.

²¹ See e.g. Law Reform Commission, *Suspended Sentences* (2020), at para.3.6, available at: <https://www.lawreform.ie/fileupload/Reports/LRC%20123-2020%20Suspended%20Sentences.pdf>; IPRT, *Position Paper 3: Mandatory Sentencing* (2018), available at: <https://www.iprt.ie/sentencing/iprt-position-paper-3-mandatory-sentencing/>. Research has further shown that the certainty of punishment is more effective as a deterrent than severity of punishment, see Valerie Wright, *Deterrence in Criminal Justice, Evaluating Certainty vs. Severity of Punishment* (2010), available at: <https://www.sentencingproject.org/publications/deterrence-in-criminal-justice-evaluating-certainty-vs-severity-of-punishment/>; National Institute of Justice, *Five Things about Deterrence* (2016), available at: <https://nij.ojp.gov/topics/articles/five-things-about-deterrence#addenda>.

²² IPRT, *Turnaround Youth: Young Adults (18-24) in the Criminal Justice System: The case for a distinct approach* (2015), at p.1, available at: <https://www.iprt.ie/site/assets/files/6357/iprt-turnaround-web-optimised.pdf>

²³ *Ibid.*, at p.23. See also Department of Justice, *An Evidence Review of Recidivism and Policy Responses* (2020), at p.34, available at: <https://www.gov.ie/en/publication/a9e4e-an-evidence-review-of-recidivism-and-policy-responses/>. In this latter report, the author, Prof Ian O'Donnell noted that *“Generally speaking, there is an inverse relationship between age and the probability of recidivism: as the former rises the latter falls. (The exception is during adolescence where they rise in tandem.)”*

²⁴ IPRT, *Turnaround Youth: Young Adults (18-24) in the Criminal Justice System: The case for a distinct approach* (2015), at p.23, available at: <https://www.iprt.ie/site/assets/files/6357/iprt-turnaround-web-optimised.pdf>.

²⁵ *Ibid.*, at p.24.

²⁶ *Ibid.*, at p.1.

²⁷ *Ibid.*, at pp.24-25, 30-31.

- a. Evaluation of the pilot BSS scheme established in Dublin in 2016 has found that it contributed to positive changes in the participating young people’s behaviour,²⁸ with 62% of children re-engaging with education/training/employment and 56% having no new arrests while on the programme.²⁹
 - b. A 2015 evaluation of the Le Chéile Restorative Justice Project in Limerick found that for every €1 invested in the programme there was a return of approximately €2.92 in social value,³⁰ while a 2017 evaluation of the organisation’s Mentoring Services found a reduction in participating young people’s offending by 28%.³¹
17. Internationally, a 2021 study conducted in conjunction with the Scottish Violence Reduction Unit (SVRU) found that school and education-based approaches (including bullying prevention and social/emotional learning programmes) were effective in reducing youth violence, while mentoring programmes and community-based coalitions were promising in reducing such violence.³² By contrast, the study found that deterrence and fear-based approaches, such as ‘Scared Straight’ programmes, were ineffective or – at worst – potentially harmful to young people and associated with an increased risk of offending.³³
18. More generally, an evidence review of recidivism and policy responses commissioned by the Department of Justice and Equality in 2020 concluded that risk factors associated with recidivism include unemployment and substance misuse.³⁴ As the report author noted, these issues are amenable to intervention. Such matters have been previously examined and recognised by the Joint Committee on Justice and Equality in its 2018 *Report on Penal Reform and Sentencing*, with numerous recommendations made around: non-custodial treatment options for offenders convicted of drugs offences; expansion of Garda diversion and community projects; and addressing the homelessness of prisoners upon release.³⁵

Conclusion and Recommendations

19. The evidence as cited in this brief submission supports an overarching re-think in how we respond to ASB, crime and broader societal issues of disadvantage and lack of equal opportunities. In the immediate term IPRT makes the following recommendations:

²⁸ Department of Children and Youth Affairs, *Evaluation of The Bail Supervision Scheme for Children (Pilot Scheme)* (2019), available at: <https://www.gov.ie/en/publication/0a6bc8-evaluation-of-the-bail-supervision-scheme-for-children-pilot-scheme/>. See Executive Summary for summary of results of the evaluation.

²⁹ Tony O’Donovan & Kevina Maddick, *The Bail Supervision Scheme* (2021), Presentation at 7th Annual Irish Criminal Justice Agencies Conference 2021 on 4th June 2021, available at: https://www.acjrd.ie/images/2021_ICJA_Conference/Tony_ODonovan_and_Kevina_Maddick.pdf.

³⁰ Quigley, M. Martynowicz, A. and Gardner, C., *Building Bridges: An Evaluation and Social Return on Investment Study of the Le Chéile Restorative Justice Project in Limerick* (2014), at p.7, available at: <https://lecheile.ie/wp-content/uploads/2021/04/Building-Bridges.pdf>.

³¹ O’Dwyer, K., *Reducing Youth Crime in Ireland: An Evaluation of Le Chéile Mentoring* (2017), at p.4, available at: <https://lecheile.ie/wp-content/uploads/2021/04/Reducing-Youth-Crime-in-Ireland-Executive-Summary.pdf>.

³² Dr Kirsten Russell, *What Works to Prevent Youth Violence: A Summary of the Evidence* (2021), at pp.7, 23-29, 37-39, 41-43, available at: http://www.svru.co.uk/wp-content/uploads/2021/02/570415_SCT0121834710-001_p2_YVMMainReport.pdf.

³³ *Ibid.*, at pp.7, 43-44.

³⁴ Department of Justice, *An Evidence Review of Recidivism and Policy Responses* (2020), at pp.10-11, available at: <https://www.gov.ie/en/publication/a9e4e-an-evidence-review-of-recidivism-and-policy-responses/>.

³⁵ Houses of the Oireachtas, Joint Committee on Justice and Equality, *Report on Penal Reform and Sentencing* (2018), at pp.57-59, available at: https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf.

Recommendation 1. Extend the diversion measures available to 18-24-year-olds (as *per* the commitments in the *Youth Justice Strategy*)³⁶ without delay, and provide adequate funding in order to ensure the success of such proposals.

Recommendation 2. Extend the Bail Supervision Scheme nationally, and progress the Youth Joint Agency Response to Crime (Y-JARC) pilot (as *per* the commitment in the *Youth Justice Strategy*),³⁷ without delay.

Recommendation 3. Insert into legislation a positive statutory obligation on all agencies to cooperate in respect of a child identified as being at risk.³⁸

Recommendation 4. Invest in community-based sanctions and progress the Criminal Justice (Community Sanctions) Bill without further delay;³⁹ build on the work done through initiatives such as *Restorative Justice: Strategies for Change* (RJS4C) and embed restorative justice processes within all criminal justice agencies, and at every stage of the criminal justice process.⁴⁰

Recommendation 5. Insert into legislation a positive statutory obligation on all agencies (including housing, health, social protection, and education) to cooperate around prisoner release.⁴¹

³⁶ See Objective 2.13 and Actions 2.6.3, 2.7.2 and 2.95 of the *Youth Justice Strategy 2021-2027*.

³⁷ As *per* Action 2.8.1 of the *Youth Justice Strategy* and the commitment set out at p.86 of the Programme for Government, see Government of Ireland, *Programme for Government: Our Shared Future* (2020), available at: <https://www.gov.ie/en/publication/7e05d-programme-for-government-our-shared-future/>.

³⁸ As *per* Objective 1.6 of the *Youth Justice Strategy*.

³⁹ This Bill aims to update the law governing community sanctions and the role of Probation within the criminal justice system, see Heads of Bill on the Department of Justice website, available at: [https://www.justice.ie/en/JELR/Pages/Criminal_Justice_\(Community_Sanctions\)_Bill](https://www.justice.ie/en/JELR/Pages/Criminal_Justice_(Community_Sanctions)_Bill). The Bill has most recently been included within the Autumn Legislative Programme 2021, see Government of Ireland, *Legislation Programme Autumn Session 2021* (2021), available at: <https://www.gov.ie/en/press-release/904c3-autumn-legislative-programme-published-by-chief-whip-jack-chambers/>.

⁴⁰ Again, this is a commitment within the Programme for Government, at p.86. The Department of Justice has funded the RJS4C to conduct a mapping exercise on restorative justice in Ireland; this is extremely useful work that should now be developed to produce new proposals for extending restorative justice mechanisms across the criminal justice system. More information on RJS4C is available here: <https://restorativejustice.ie/>.

⁴¹ IPRT has emphasised the importance of inter-agency cooperation around prisoner release in successive editions of its *Progress in the Penal System (PIPS)* reports, see Standards 34 & 35 of PIPS 2017, 2018, 2019 & 2020, available here: <https://pips.iprt.ie/>.