

## Tithe an Oireachtais

An Comhchoiste um Dhlí agus Ceart, Cosaint agus Comhionannas

Tuarascáil maidir le héisteachtaí i ndáil le Cúirteanna Pobail

Iúil 2014

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**Houses of the Oireachtas**

Joint Committee on Justice, Defence and Equality

# Report on hearings in relation to Community Courts

# July 2014

**31/JDAE/13a**

**Report of the Joint Committee**

The Joint Committee on Justice, Defence and Equality agreed to invite written submissions from interested groups and individuals in relation to its proposed study on the feasibility of introducing a Community Courts system in Ireland.

The Committee was interested to hear from anyone who had direct and/or indirect experience of dealing with the judicial system and their views on whether a Community Courts system would be beneficial.

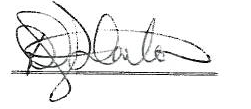
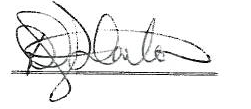
This Joint Committee received 17 submissions from various groups/individuals on this matter which identified a number of key areas which need to be examined.

These submissions were published by the Committee in February 2014 and can be viewed on the Oireachtas website at [www.oireachtas.ie](http://www.oireachtas.ie).

The Joint Committee is conscious of the effort that went into producing the submissions and wishes to express, to all concerned, its gratitude for the work and effort that was made in their preparation.

On foot of these submissions, the Committee agreed to hold a public hearing on 29th January 2014, to further explore the key points raised in the submissions.





David Stanton, T.D.

Chairman

July 2014

The Committee invited the following to a public hearing on the matter on 29th January 2014:

Mr. Julius Lang Centre for Court Innovation – New York

Mr. Philip Bowen Centre for Justice Innovation - UK

Mr. Justice Michael Reilly Inspector of Prisons

Mr. David Brennan Dublin City Business Association

Mr. Oisín Quinn Lord Mayor of Dublin

Mr Tony McGillicuddy The Bar Council

Mr Ken Murphy The Law Society

Ms Maura Butler Chairperson - ACJRD

Also in attendance was Mr Alan Shatter TD, Minister for Justice and Equality.

The full transcript of the meeting is available on the Oireachtas website ([www.oireachtas.ie](http://www.oireachtas.ie)).

However, the Committee wished to place particular emphasis on the following points made during the hearings.

**Background to Community Courts Model**

The Committee was told that the Community Court model first operated in the Times Square area of New York in 1993 and since then has gone from strength to strength.

It was established as a result of an accumulation of relatively minor crime which transformed the area into a “mecca for the small and ugly, including street prostitution, open-air drug dealing, drunken brawling, assaults, shoplifting, and illegal street trading” which ruined the quality of the experiences of workers, tourists, residents and everyone who passed through the neighbourhood.

The traditional response to this level of offending had become something of a treadmill or, in an oft-used cliché, a “revolving door” and would typically result in a short-term jail sentence, a release without conditions or a fine that was rarely paid.

The Committee was told that the common negative experiences identified by visitors to Dublin related to anti-social behaviour which affects the quality of life for those living and working in the city. Issues such as drug use and drug dealing on our streets, theft, alcohol related crimes and graffiti are ones which some may perceive as relatively minor in comparison with other major crimes. However, these have a huge impact on the lives of those living and working in the city and they can also give a negative perception of the city. A perception of the city not being safe can undo all the good work done by organisations such as Dublin City Council, an Garda Síochána, business associations and tourism groups.

**Aim of the Community Courts Model**

As recently quoted by Mr. Julius Lang in his submission, incoming New York Mayor, Bill de Blasio stated that “the way to fight crime is *with* the community”. The aim of the Community Court is to administer justice in a way whereby the punishments administered are meaningful and might actually serve as a disincentive to further offending while also being proportionate to the crime. It was also about helping offenders get on a better life track.

The typical punishment consists of a combination of a community restitution assignment and mandated social services. Community restitution could consist of painting over graffiti, cleaning a local park or stuffing envelopes for a non-governmental agency all under supervision. In addition, the Community Court has on-site key social services, drug and mental health counselling, job training and fatherhood classes. These services are all available in the same building a few flights above the courtroom.

This means that sanctions were meaningful because, unlike a fine or a night in jail, they seek to address factors associated with underlying behaviour.

**Introduction of Community Courts Model**

It was proposed to the Committee that if the Community Court concept is to introduced, it should be explained to the public at large so that it is not imposed without proper planning, communication and consultation with the community in question to highlight the potential of such as scheme in bringing about a positive change for all members of the community.

The offenders come from the same communities and if they can give something back they can gain an element of pride that they are making a positive contribution to their community. The community can see itself as being supportive rather than seeing something imposed as some kind of solution without the community being able to partake in it.

It was suggested to the Committee that following the introduction of the drugs court in 2001, a Community Court system would be a natural progression in dealing with low level offences and anti-social behaviour on our streets.

**Features of Community Courts**

An important feature of the Community Courts model is its flexibility to adapt to the needs of the particular community in which it operates. They can take account of the local concerns raised by local stakeholders and collaborators.

Failure to take account of local needs was seen as a possible reason for the Community Courts initiative in Liverpool not being as successful as it was elsewhere. The Committee was also told that while the Community Courts model is a new concept, it could quite easily sit side by side with the existing system. This approach has already been taken with the Drug Treatment Court, whereby if an offender fails to complete the programme he is returned back to the courts for sentencing.

It was also submitted to the Committee that the approach of the Community Court model is that instead of only sanctioning people the system could administer sanctions plus remedies, not just remedies for society in general but also for the offender who is before the courts. That person might be suffering from drug or alcohol addiction, mental health difficulties or undiagnosed educational disabilities and these issues need to be addressed appropriately.

The emphasis of the Community Court focuses on the principles of restorative justice, where the underlying issues behind offending are addressed, as opposed to the retributive character of the classical criminal justice system, where fines and incarceration are the principle modes of punishment and deterrence. The types of crimes addressed focus on the community at large. Such crimes may include vandalism, public order offences and alcohol related crime.

**Legal Considerations**

Among the submissions received, the Committee were asked to consider a number of legal issues which may arise with the establishment of Community Courts. These issues can be outlined as follows:

* The potential interference with constitutional rights, including the right to silence, access to justice, administration of justice and the presumption of innocence.
* The extent in which a person receives legal advise before being brought to the community courts on the basis of an agreement that he or she will plead guilty. There are also issues that may arise around the accused knowing the full facts of the case before entering a plea.
* The extent of legal representation in the deliberative process in which the Judge engages. This is relevant in terms of the extent a community representative can fulfil the role of legal advisor, in particular on evidentiary issues that may be relevant in determining the appropriate sanction.
* The possibility of the accused not being afforded legal advice or representation throughout the process may also have implications.
* There is also an issue that may arise in terms of the admissibility of evidence in subsequent courts in circumstances where the accused changes their plea, or if participation in the community courts process may in any way affect the accused’s constitutional rights in subsequent processes.

**Resources**

The application of resources during these economic times is another issue that was raised in submissions. It is extremely important that a strong inter-agency approach is adopted in facing the issues any Community Court is established to address. It has been noted by the Committee that an absence of adequate resources and inter-agency support would mean that any Community Court would have limited impact.

There were also references to the Drug Treatment Court in submissions. The Drug Treatment Court operates as a court-monitored alternative to sentencing within the District Court system, allowing the defendant to participate on a number of community and educational schemes. If there is a failure to complete the programme, the offender is referred back to the District Court for sentencing.

However, repeated strain on resources has diminished the effectiveness of the Drug Treatment Court, due to cut backs in services which would have been central to its work. The present economic situation raises concerns from the Committee on the effectiveness of Community Courts at this time. To ensure the most effective use of resources, the Committee suggests that any pilot scheme would almost certainly require relevant expertise on project and financial management, to ensure that a pilot court attains the greatest possible benefit out of the resources available.

**Recidivism in the Criminal Justice System**

The issue of recidivism among offenders was mentioned in a number of submissions. One statistic was noted whereby imprisonment leads to higher recidivism than community based sanctions. For example, 85% of those jailed for defaulting on fines return to prison within 4 years. The Committee was concerned by the apparent ineffectiveness of prison as a deterrent, and the suggestion that incarceration may result in those jailed for petty offences becoming involved in more serious crime. The Committee also noted the long-term consequences of imprisonment and criminal convictions, for example the imposing of permanent barriers to employment.

The Committee was impressed with a number of examples it received with regard to the potential success of reform programmes some non-governmental groups have supplied. Many of those who completed such programmes have now progressed to third level, with many revolving back to volunteer their own support. The Committee would like to see initiatives like this on a wider scale, and believes the provision of services through Community Courts would be an invaluable initiative.

**Other Jurisdictions**

As detailed above, the first Community Courts were established in the United States, most notably Community Courts established in New York, which serve as the main role models for the establishment of Community Courts globally. For example, Liverpool Community Justice Center is largely modelled on the Red Hook Community Justice Center in New York.

The introduction of Community Courts has been considered in Scotland and Canada. In Scotland, a project team held meetings with the judge from the Red Hook Community Justice Center and visited the pilot operating in North Liverpool. The Scottish Justice Minister also visited Midtown Community Court in 2004. Despite difficulty in establishing a Community Court in Glasgow, a different pilot in Scotland explored the use of Community Payback Orders to speed up the punishment of low level offenders. This was established in 2011.

In Canada, the Downtown Community Court (DCC) was established in Vancouver in 2008. An evaluation process of the court’s effectiveness was completed in 2012. In 2013, a report on the final evaluation was published. The report found a reduction in recidivism among high-need offenders managed by the court’s Case Management Team (CMT). The report indicated a need for further research to determine “why the CMT was successful in reducing recidivism; whether the positive impacts could extend to other offenders in the DCC; whether similar results could be achieved in other settings; whether positive impacts extend to other outcomes such as health and social services; and which interventions were most effective”.

**National Crime Council Report**

In 2007, the National Crime Council published its report, “Problem Solving Justice- the case for Community Courts in Ireland”. where it made the case for Community Courts in Ireland and made a number of recommendations. Among these recommendations was the introduction of a pilot Dublin Community Court.

The National Crime Council noted a number of benefits in establishing a Community Court system in Ireland. These can be summarised as follows:

* Community Courts attempt to deal with the problems of specific communities, targeting “quality of life” crimes such as drug possession, public order offences, petty theft, prostitution and vandalism;
* Community Courts bring persons charged with low level crimes to justice in the area where the incidents occurred, thereby producing greater efficiency, visibility and accountability;
* In order to be dealt with by the Community Court, an accused must indicate a guilty plea; and
* Offenders who comply with the orders of the Community Court would avoid a criminal conviction.

The National Crime Council also noted that the Community Court model would bring a range of benefits to offenders and communities which are not currently available in Ireland. These benefits include:

* A pre-trial assessment in every case;
* A wider range of available sanctions;
* The targeting of underlying issues which may cause offending such as substance abuse or homelessness so as to reduce re-offending;
* An element of restitution to the community in appropriate cases;
* That offenders who comply with the Community Court avoid a criminal conviction;
* Renewed confidence in the Criminal Justice System;
* Gains in public safety and perceptions of safety; and
* Swift and visible justice for low level offences.

The Report proposes a Community Court structure that takes many of the concerns raised in submissions into account. It suggests the appointment of an Implementation Group, chaired by a nominee of the Courts Service, ensure that there is representation from the following agencies / Departments:

* The Courts Service;
* An Garda Síochána;
* The Law Society;
* The Bar Council;
* The Department of Justice, Equality and Law Reform;
* The Department of Health and Children;
* The Health Service Executive; and
* The Department of Education and Science.

These bodies were in place at the publication of the Report in 2007, but it should be noted that some agencies and Government Departments were subsequently reconstituted after the 2011 General Election. The 2007 Report of the National Crime Council also advocated the inclusion of community groups on the Implementation Group.

**Application in Ireland**

The Community Courts model would serve to address underlying social problems to crimes committed in the community, and may serve to combat crime in disadvantaged and vulnerable areas. The success of the Midtown Community Court model, among other things, serves to underline this.

This is in stark contrast to present punishments such as fines or incarceration which are applied by the District Courts and occasionally, the Circuit Courts. Presently, the courts can apply forms of community service as a punishment for some crimes. However, the community court structure could allow this to apply in a more meaningful way. The provision of such social services could enable the Community Court to consider a wider ambit of remedies.

Part of the purpose of considering such a model is to remove what are often referred to as petty offences from the Criminal Justice system, as part of addressing more general social problems. This is not to be confused with the application of the Probation Act for one-off or occasional offences. Arguably, the provision of the Community Court Model would equip the community to guide the offender towards a better life other than one dominated by crime.

**Conclusions and Recommendations**

The Committee acknowledges the success of Community Courts in other parts of the world, most notably the Midtown Community Court and the Red Hook Community Justice Center in New York. The problem-solving approach provides added capacity to address the wider socio-economic problem of crime in disadvantaged and high-need areas, by helping offenders through restorative justice, rather than deterrent and retributive models. It also offers an added advantage of engagement with businesses and the wider public in addressing problems.

The Committee was told that, based on actual crime statistics, Dublin is one of the safest capital cities in the world, however, a new initiative is required to improve the environment of the streets which in turn will enhance business activity and thus bring jobs to our city.

The Committee concludes that:

* Local communities must have a change in mindset regarding the feasibility and potential benefits of the Community Courts model;
* Any attempt to introduce a Community Courts systems must be undertaken in consultation with the local community and should take account of local needs;
* Community Courts can only be successful with a strong commitment to community engagement and collaboration between various agencies;
* The Community Courts model has transformed the Times Square area of New York and returned the streets to the community.

The Committee recommends:

* That a pilot scheme be carried out in one of the policing districts in central Dublin, under the supervision of a single judge, supported by an Implementation Group and with the support of local community groups and services.
* The Committee also suggests central Dublin as a location for the pilot scheme, as this would place it in close proximity to the Department of Justice and the Committee, allowing the maximum capacity to review and monitor the pilot scheme’s progression and identify areas where further work is required.

The Committee recommends that this initiative be given full consideration by the Minister for Justice and Equality, with a view to the introduction of a pilot scheme as soon as possible.