



Problem Solving Justice
**The Case for Community
Courts in Ireland**

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The National Crime Council

The National Crime Council is a non-statutory body set up in 1999 to provide a forum for the development, expression and contribution of a wide range of views on crime prevention strategies and policies and to contribute to crime policy development. The Council's web site gives an overview of our work (www.crimecouncil.ie).

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“In order that any punishment should not be an act of violence committed by one person or many against a private citizen, it is essential that it should be public, prompt, necessary, the minimum possible under the circumstances, proportionate to the crimes and established by law.”

Cesare Beccaria, *On Crimes and Punishment*, 1764.

Summary of Recommendations

1. **The Council recommends that Community Courts be established in Ireland. The Council further recommends that Community Courts be established as stand alone courts in areas of high population. Community Courts could form part of an ordinary District Court in rural areas where this factor is not present. The Council recommends that each stand alone Community Court be located in a dedicated building within the geographic area of the community it serves. (p.35, p.38)**

2. **The Council recommends that the following offences should come within the remit of any Community Courts established in Ireland³: (p.38)**
 - **Drunk in Public:** Section 4 – Criminal Justice (Public Order) Act, 1994;
 - **Disorderly Conduct – Night Time:** Section 5 – Criminal Justice (Public Order) Act, 1994;
 - **Disorderly Conduct:** Section 5 – Criminal Justice (Public Order) Act, 1994;
 - **Threatening/Abusive/Insulting Behaviour:** Section 6 – Criminal Justice (Public Order) Act, 1994;
 - **Refuse to Give Name:** Section 24 (3) – Criminal Justice (Public Order) Act, 1994;
 - **Wilful Obstruction:** Section 9 – Criminal Justice (Public Order) Act, 1994;
 - **Failure to Comply with the Direction of a Member of Garda Síochána:** Section 8 – Criminal Justice (Public Order) Act, 1994;
 - **Assault:** Section 2 – Non-Fatal Offences Against the Person Act, 1997;
 - **Criminal Damage:** Section 2 – Criminal Damage Act, 1981;
 - **Soliciting/Loitering:** Sections 7 and 8 – Criminal Law (Sexual Offences) Act, 1993;
 - **Drug Use:** Section 3 – Misuse of Drugs Act, 1977;
 - **Theft:** Section 4 – Theft and Fraud Offences Act, 2001;
 - **Handling Stolen Property:** Section 17 – Theft and Fraud Offences Act, 2001. Whilst this is not defined in legislation, only offences where the value of the property is less than €1,000 will be dealt with by the Community Court;
 - **Illegal Street Trading** – Section 2 – Street Trading Act 1926; Section 3 – Casual Trading Act 1980; Section 10 – Non-Fatal (Offences Against the Persons) Act 1997.

The list is not intended to be exhaustive.

3 Some of these offences are also covered by the fixed penalty offences as provided for in the Criminal Justice Act, 2006 and the Garda Adult Cautioning Scheme. The DPP, as the prosecuting authority, will have the right of veto over all defendants being sent to the Community Court.

Dublin Community Court

3. The Council recommends that a Community Court be established in the inner city of Dublin to deal with 'quality of life' offences committed in the Store Street and Pearse Street Garda station catchment areas and, when convincing evidence of its success emerges, Community Courts should be extended to other centres subject to any necessary refinements. (p.39)
4. The Council recommends that the Dublin Community Court should deal with sufficient cases so as to justify the services it retains. The caseload of the Community Court should be built incrementally, permitting the new court to develop and refine its operating procedures. The Council recommends that the caseload of each Community Court be kept under regular review to ensure that the caseload is a manageable one. (p.40)
5. The Council further recommends that, as in other jurisdictions, each Community Court should have one, dedicated judge. (p.40)
6. The Council considers that it is not essential that all of the services, such as drug/alcohol addiction counselling, be delivered onsite. The Council recommends that these services be delivered on the basis of specific service level agreements with the relevant agencies. (p.40)
7. Recognising the focus of Community Courts on solving an individual's problems, the Council recommends that all therapeutic services/programmes which defendants are ordered to complete/participate in, operate within the area of the Dublin Community Court or close to where the defendant lives. This will facilitate participation by those who offend in the city centre area but live in another location. As was seen to be beneficial in other jurisdictions, the Council recommends that there be continued contact between the staff of the Dublin Community Court and the defendant in cases where it is not possible for a defendant to begin his/her programme/addiction counselling immediately following his/her appearance before the Community Court. (p.41)

Assessment

8. The Council recommends that a pre court assessment be carried out in all cases. (p.41)

Monitoring of Compliance

9. The Council recommends that there be rigorous monitoring by the Community Court of compliance with Court orders. (p.49)

10. The Council recommends that, at a minimum, the following services be available to the Dublin Community Court when it is initially established:

- Alcohol/Drug Addiction assessment and counselling;
- Educational/Literacy courses;
- Pre-employment and other training programmes;
- Family, Housing and other Social Services;
- Parenting programmes; and
- Anger Management Courses.

These services are likely to be subject to revision and possibly expansion in the future. (p.41)

Community Work Placements

11. (a) The Council recommends that community work assignments should:

- i) be measured in periods of days up to a maximum of four days for those cases at the highest end of offending;
- ii) ideally, be linked to the offence committed and be completed in the area where the crime was committed;
- iii) commence, or firm arrangements be put in place for its commencement, immediately after the defendant has appeared before the Community Court;

(b) The Council also recommends that:

- i) a variety of different types of community work should be available to the Community Court at any given time;
- ii) efforts should be made to facilitate defendants who have children when making arrangements for the completion of community work; and
- iii) opportunities for community work, suitable for defendants with substance abuse problems, should be available to the Community Court.
- iv) in carrying out community work, care should be taken to ensure that defendants are treated with respect and dignity;
- v) community work placements should not be used in situations which would displace others in paid employment. (p.42, p.43)

Implementation Group

12. The Council recommends that an implementation group be established immediately to oversee the introduction of the Dublin Community Court. Relevant statutory and non statutory agencies should be represented on this implementation group. (p.52)
13. The Council further recommends that there should be community representation on the implementation group. (p.52)

Project Management

14. The Council recommends that a Project Manager, with a proven track record in service delivery, be appointed by the Courts Service to oversee the development of the Dublin Community Court. (p.52)
15. The Council recommends that the Dublin Community Court be open within six months of the appointment of the Project Manager. (p.52)
16. Furthermore, the Council recommends that the Project Manager consult with all the organisations which will provide services to the Dublin Community Court to secure a guaranteed level and quality of service and, in particular, speedy delivery of services. (p.53)

Community Involvement

17. All avenues to formalise the involvement of the community should be explored. (p.43)

Evaluation

18. The Council recommends that there be an on-going, dedicated research component to the work of the Dublin Community Court and that a formal, independent evaluation of the Dublin Community Court be conducted after three years of operation. (p.53)
19. The Council further recommends that an evaluation should also be carried out prior to the commencement of the Dublin Community Court of the perception of the quality of life in the neighbourhood. This should not delay the implementation group in its deliberations. (p.53)
20. The Council recommends that detailed statistics be compiled and published which should include:
 - the caseload of the Dublin Community Court;
 - the characteristics of the defendants;
 - the number and type of court ordered disposals etc.
 - recidivism rates amongst those dealt with by the Dublin Community Court. (p.53)

Introduction

Introduction

National Crime Council Brief

The National Crime Council was established in July, 1999 as a non-statutory body in order to facilitate broadly based, informed discussion on crime issues and to aid policy formulation. In establishing the Council, the then Minister for Justice, Equality and Law Reform listed the priority areas on which it should focus, as crime prevention and raising the awareness of crime. The key roles of the Council are to:

- focus on crime prevention, with particular emphasis on the underlying causes of crime and the development of partnerships and practical approaches which will be effective at community level;
- focus on raising public knowledge and awareness of crime;
- examine the 'fear of crime';
- undertake in-house research; and
- identify research priorities which could be commissioned by the Department of Justice, Equality and Law Reform.

Subgroup Brief

The concept of Community Courts was first brought to the attention of the National Crime Council by Mr. Tom Coffey, the Chief Executive Officer of the Dublin City Business Association (DCBA) and Council member. A presentation on Community Courts by Mr. Julius Lang of the Center for Court Innovation, New York had been made to the DCBA. Those in attendance at the presentation included representatives of the Department of Justice, Equality and Law Reform, An Garda Síochána and the National Crime Council.

Judge Michael Reilly, Chairman of the Criminal Justice System Subgroup of the Council supported the concept of Community Courts and, as a result, the Council asked the subgroup to explore the topic further. Work on this project commenced in September, 2006.

Research Process

The research process began with a detailed consideration of the literature available on the concept, origin and development of Community Courts internationally. In September, 2006, a delegation went on a fact finding mission to a number of the Community Courts which are in operation in US – Midtown Community Court and Red Hook Community Justice Center, both in New York and the Philadelphia Community Court. In November, 2006, the group also visited the Liverpool Community Justice Centre. These visits allowed the subgroup to witness the Community Courts in operation, to ascertain exactly how each Court works in practice, to ascertain how each Community Court was adapted to suit its location and to ask detailed questions in relation to the operation of the Court and other services of the relevant staff.

An additional part of the research involved analysing statistics, including some produced specifically for the project, from An Garda Síochána and the Courts Service to establish the existing levels of anti-social criminal behaviour and the outcomes of these cases in the Courts.

Consultative Process

During the course of the research, the subgroup consulted with senior members of An Garda Síochána to seek their input and suggestions in relation to the project. This consultation focused particular attention on the types of crimes which it might be recommended that a Community Court in Ireland target and the most suitable areas for the establishment of Community Courts in Ireland.

A number of senior staff from the Courts Service were also involved in the project. Following discussions with Mr. P.J. Fitzpatrick, the Chief Executive Officer of the Courts Service, Judge Mary Collins, Judge of the District Court and Ms. Olive Caulfield, Northern Regional Manager, Courts Service, were invited to join the subgroup for the duration of the project to represent the views of the Courts Service. Mr. P.J. Fitzpatrick, CEO of the Courts Service and Mr. Diarmaid MacDiarmada, Director of Operations, Circuit and District Courts, joined the subgroup on their visit to the Liverpool Community Justice Centre.

The Council subgroup also consulted with Ms. Marie Metcalfe, Co-Ordinator of the North East Inner City Community Policing Forum, Ms. Mary McCann and Mr. Gerry Fay, members of the North East Inner City Community Policing Forum, Mr. Niall Counihan of the Cabra Community Policing Forum and Mr. Joe Doyle of the Safer Blanchardstown Forum.

Deliberative Process

Following the examination of the relevant literature, the study visits, the examination of the statistics from other criminal justice system agencies and the consultation process, the subgroup engaged in a thorough deliberation process. This allowed for the development and refinement of the subgroup's thinking and for the final proposals in relation to the introduction of Community Courts in Ireland to be agreed by the Council.

Chapter One
The Community Court Concept

Chapter One

The Community Court Concept

Origin and Spread of Concept in US and UK

Community Courts evolved from the Drugs Courts in the US, the first of which was established in 1989. Community Courts share with traditional courts the goals of ensuring community safety while protecting the due process of defendants. However, Community Courts differ in their approach to these goals and Community Courts add other goals reflecting their mission to address local needs and priorities. In particular, Community Courts:

- are designed to help defendants to solve the problems that underlie their criminal behaviour;
- hold them to account for the specific incidents that brought them to court;
- consult with the local stakeholders to set and accomplish priorities;
- are pro-active in preventing crime rather than merely responding when crime has occurred;
- bring the criminal justice agencies (courts, prosecutors, defence lawyers and police) into close co-ordination to address community issues; and
- strive to create an atmosphere which is conducive to engaging communities.⁴

As problem solving courts, Community Courts recognise that to “dispose of a case is not the same thing as to resolve it”⁵.

Community Courts are normally located in a neighbourhood and their jurisdiction is limited to that neighbourhood. They are, therefore, neighbourhood focused – they attempt to tackle the problems of specific communities, targeting ‘quality of life’ crimes such as drug possession, public order offences, petty theft, prostitution and vandalism. They bring persons charged with low level crimes to justice in the area where the incidents occurred, thereby producing greater efficiency, visibility and accountability. They also aim to improve public safety and to break the cycle of re-offending by addressing the problems, addictions, mental illness, lack of job skills etc., presented by some low level offenders. Community Courts mandate punishment or help, or, in a minority of cases, a combination of punishment and help for defendants. The punishment imposed may include community work⁶. In order to be dealt with by the Community Courts⁷, a defendant has to have indicated a guilty plea. **Defendants who comply with the orders of the Community Court avoid a criminal conviction.**

4 Frazer, 2006: p.4.

5 Berman and Feinblatt, 2005: p.33.

6 *Ibid*: p.7.

7 In the District Courts in Dublin and elsewhere, evidence of arrest is already supplied by way of certificate in some instances rather than direct evidence – the same model could apply to the Community Courts. This applies if there is no challenge and a guilty plea is given. Section 6 (1) of the Criminal Justice (Miscellaneous Provisions) Act 1997 refers.

The first Community Court, the Midtown Community Court, was opened in the Times Square area of Manhattan, New York in 1993. The idea was developed because of the frustration felt by judges, attorneys and the public at ‘revolving-door justice’ and the belief that “the traditional court response to low-level offences (short term jail sentence or ‘time served’) was neither constructive nor meaningful to victims, defendants or the community”⁸. Community Courts have now opened in many States across America, with some being called Community Justice Centres rather than Community Courts. Red Hook Community Justice Center in Brooklyn, New York, is an example of the latter. There is no identifiable difference between Community Courts and Community Justice Centers – it is a difference in nomenclature only. Internationally, Community Courts have also opened in South Africa and England. Sweden, the Netherlands and Manitoba, Canada have all launched programmes based on the Community Court model. Australia, British Columbia in Canada and Scotland are planning developments in relation to Community Courts.

The first Community Court in England and Wales opened in Liverpool in December, 2004⁹. It was broadly modelled upon the Red Hook Community Justice Center and is called the Liverpool Community Justice Centre. It primarily focuses on criminal anti-social behaviour including petty theft and disorderly conduct¹⁰. As with the American Community Courts, a single judge presides over the court. In Liverpool, this judge was specifically recruited for the court and there is a dedicated team of prosecutors. Also, as with the Community Courts in America, court orders consist of punishment or help or a combination of punishment and help for the defendant. Probation staff supervise community work and many social services are located on site. In deciding upon a location for the first Community Court, government officials considered factors such as, “social needs, levels of quality of life crime, levels of truancy and unemployment, sense of community, existing inter-agency structures and local enthusiasm”¹¹.

In November, 2005, an initiative was launched in Salford, which is guided by the principles of the American Community Court model. The initiative involves using problem-solving strategies in a regular Magistrates’ Court which meets once a week¹². The initiative cost £100,000 in its first year of operation.

8 Sviridoff et al, 1997: p.1.

9 Initially, the Liverpool Community Justice Centre heard cases in a courtroom of Liverpool Magistrates’ Court on a temporary basis. In September, 2005, the Community Justice Centre moved to and began operating from its own dedicated facilities.

10 All non-trial, summary and most offences which are triable either summarily or on indictment (sexual offences are the only group of offences specifically excluded) which are committed within the catchment area are dealt with by the court in Liverpool.

11 Wolf, 2006: p.9.

12 *Ibid*, 2006: p.9.

In October, 2006, the Department for Constitutional Affairs announced that the U.K. Government intended to extend the Community Justice initiative to ten other areas – Birmingham, Bradford, Devon and Cornwall, Kingston upon Hull, Leicestershire, Merthyr Tydfil, Middlesbrough, Nottingham and two areas of London. It is understood that the model being rolled out in the ten new centres is closer to the Salford than the Liverpool model. A budget of £1 million has been set aside for this purpose.

Characteristics of Community Courts

The characteristics common to Community Courts are:

- a dedicated judge;
- pre-trial assessment in every case to identify any underlying problems;
- offenders must plead guilty in order to participate in the process;
- a problem solving focus – the provision of a well planned and immediate response to each defendant;
- a team based approach to each defendant;
- on-site provision of key services;
- speedy access to social and other services and community work;
- rigorous monitoring of compliance with court orders;
- the provision of an element of restitution to the local community through community work completed by defendants in appropriate cases; and
- formalised involvement of the local community.

Restitution to the Community

As indicated previously, some defendants are required to perform a number of hours of community work as part of their overall assignment. A community work order requires the defendant in a Community Court case to carry out work designed to provide direct benefit to the community. This can range from an individual placement providing assistance to elderly or disabled people, to group work on outdoor environmental improvement projects. All work is intended to be challenging and demanding and is supervised – the person who is the subject of the order is required to comply with various conditions. Failure to comply with the conditions of the order will result in him/her being returned to court. In such cases, the court has the power to give the defendant a warning, resolve any issues that have arisen or to deal with the defendant in any way which would have been appropriate to the original offence, including imposing a custodial sentence.

Midtown Community Court, Manhattan

During the late 1970s and the 1980s in Manhattan, there was a high crime rate generally and a high volume of visible, low-level offending such as prostitution, shoplifting, minor drug possession, turnstile jumping, unlicensed vending and disorderly conduct. The police increased enforcement in relation to this low-level offending. By the time defendants appeared in Court, they would generally have spent in the region of 30 hours in custody. These cases were often dealt with without further sanction (i.e. the defendants were released having been sentenced to a period equivalent to the time already spent in custody) as judges felt the time already spent in detention was all that was warranted in proportion to the gravity of the offence. However, there was a demand from the local residential and business communities to tackle this low-level offending. This provided an impetus to expand the options available to the judge to include intermediate sanctions, that is, sanctions between ‘walks’ (time served or conditional discharge) and jail.

Community members in the Midtown Community Court catchment area are involved with the Community Court in a number of ways – there is regular consultation with the community, community members sit on the Advisory Board of the court and community impact panels are formed to represent the views of the community to defendants. One of the sanctions available to the judge at the Midtown Community Court is the ‘quality of life’ option. This draws on elements of the restorative justice model¹³. Defendants are required to attend a course where they discuss the impact of low-level offending (e.g. prostitution, shoplifting) on the community. A member of court staff or community members represent the community view. The ‘quality of life’ course takes approximately half a day to complete.

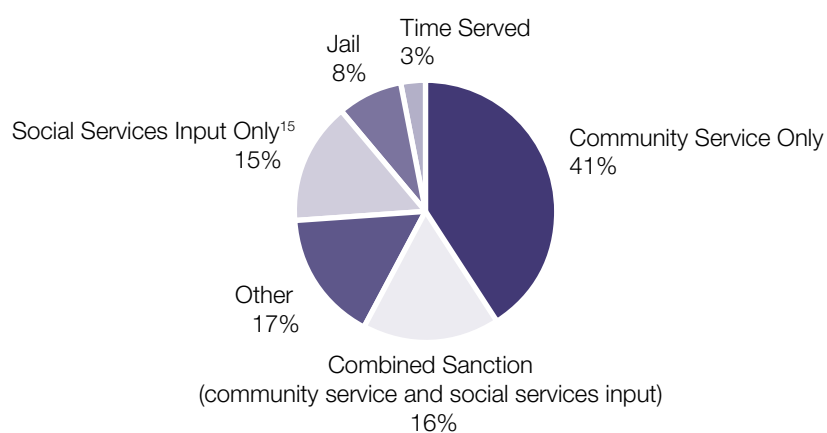
The Midtown Community Court also provides a group counselling programme for defendants with a substance abuse problem which takes place over three sessions. Each session consists of acupuncture, drug awareness and life coping skills. Individual counselling sessions are also available for defendants with a mental health problem that precludes them from partaking in other services or for individuals who have multiple problems and who would not benefit from other groups. In addition, the Court offers a variety of services that are open to any defendant or member of the local community on a voluntary basis. These include English as a second language classes, high school diploma equivalency classes, voluntary drug testing, a health clinic run by the New York University School of Nursing, a job employment programme and sessions of Alcoholics Anonymous.

The Midtown Community Court has become particularly experienced in dealing with prostitution and illegal street trading cases. For example, in response to the high levels of illegal street trading cases coming before the court, a special course was developed to educate defendants as to how to apply for a trading licence. Similarly, in order to mitigate against any possible displacement of prostitution workers to outside the Court catchment area, all persons arrested (during court hours) for prostitution anywhere in Manhattan are taken to the Midtown Community Court.

13 “Restorative justice is a process whereby parties with a stake in a specific offence resolve collectively how to deal with the aftermath of the offence and its implications for the future” (Marshall in Johnstone (ed), 2003: p.28).

The Midtown Community Court serves a population of approximately 200,000 people. In 2005, the Court dealt with 9,208 cases described as 'misdemeanour' cases and 7,766 cases described as 'summons' appearances. Figure 1 shows the outcomes of the 'misdemeanour' cases disposed of by the Midtown Community Court in 2005.

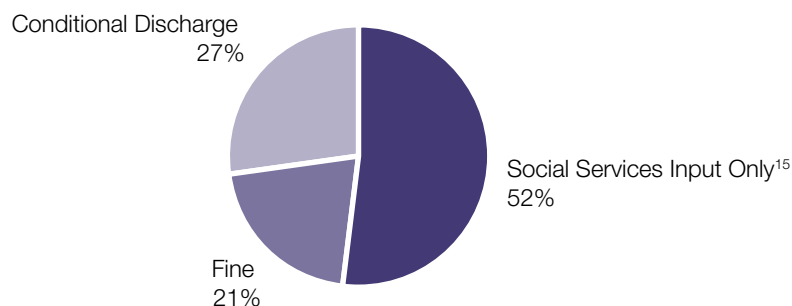
Figure 1:
Outcomes of 'Misdemeanour' Cases Disposed of by the Midtown Community Court in 2005¹⁴



There was an 85 per cent compliance rate with community service sanctions and a 73 per cent compliance rate with social service assignments.

Seventeen per cent of 'summons' cases were dismissed at arraignment. A further 21 per cent of 'summons' cases were 'adjourned in contemplation of dismissal' (typically dismissed in six months if no additional arrest in the meantime). Figure 2 shows the outcomes of the 'summons' cases disposed of by the Midtown Community Court in 2005 which were not dismissed.

Figure 2:
Outcomes of 'Summons' Cases Disposed of by the Midtown Community Court in 2005 which were not Dismissed



¹⁴ Other includes conditional discharge.

¹⁵ Social services input includes education, treatment, counselling etc.

The staff of the Midtown Community Court identified the most notable benefits brought about by the Court to be:

- Improved confidence in the criminal justice system amongst the local community;
- Improved compliance with court orders by defendants;
- Service providers on site;
- More visible enforcement of justice in the community;
- Speedier processing of cases with fewer adjournments as all defendants taking part in the process plead guilty;
- A safer city centre; and
- An improved environment for the local business community.

The Center for Court Innovation report on the Midtown Community Court 'Dispensing Justice Locally' (2005) states "The court was one of several factors which converged to produce a general improvement in neighbourhood conditions – increased police enforcement, clean up crews provided by Business Improvement Districts, the redevelopment of the Times Square area and the general economic development of Midtown as a whole."

The Centre also reported a visible reduction in prostitution, unlicensed trading and a reduction of graffiti in the Midtown area. Interviews with participants in drug treatment also supported the conclusion that the Midtown Community Court is capable of facilitating improvement in some drug addicted offender's lives – the reduction in annual arrest rate was confined to those who completed over 90 days in treatment however.

Red Hook Community Justice Center, Brooklyn

During the 1970s and 1980s, the Red Hook area of Brooklyn experienced high levels of deprivation. There was a significant drug problem, particularly with heroin and crack cocaine in the local community. The community also experienced high volumes of other criminal activity. The community felt that offenders were not being held accountable and that there was no restitution made by offenders. Furthermore, the responses to offending behaviour which were being used at the time did not have any impact on the underlying problems of offenders. The murder, in 1992, of a local school principal was a turning point for the community – action had to be taken and all the stakeholders were receptive to new ideas. While the Red Hook Community Justice Center did not open its doors until June 2000, its community engagement efforts, including community surveys, youth court programme and the Red Hook Public Safety Corps programme all commenced at various times between 1995 and 2000.

The Red Hook Community Justice Center is the first multi-jurisdictional community court which deals with a wide range of cases – criminal, family, juvenile and domestic cases and cases related to housing matters (which mainly involve the Housing Authority or housing associations). At Red Hook, a single judge hears neighbourhood cases that, under ordinary circumstances, would go to three different courts – Civil, Family and Criminal. The goal is to offer a co-ordinated rather than piecemeal approach to people’s problems. The judge at Red Hook has an array of sanctions and services at his disposal – on site educational workshops and classes, job training and community restitution projects, drug treatment and mental health counselling. The Centre also operates a Youth Court. In the Youth Court, young people are trained to take on the roles of judge, prosecutors, defenders and defendants in cases, mainly dealing with non-criminal behaviour. The aim is to use peer pressure to stop these minor infractions which might otherwise be ignored and to make young people aware of the impact of their behaviour on others.

The Red Hook Community Justice Center serves a community of approximately 200,000, of which approximately 12,000 live in Red Hook itself. In 2005, the Red Hook Community Justice Center dealt with 3,612 cases described as ‘misdemeanour’ cases and 13,393 cases described as ‘violations’ (summonses). Figure 3 outlines the outcomes of ‘misdemeanour’ cases dealt with by the Red Hook Community Justice Center in 2005. Among ‘misdemeanour’ cases, there was a 77 per cent compliance rate with community service sanctions and an 81 per cent compliance rate with social service assignments.

Figure 3:
Outcomes of ‘Misdemeanour’ Cases Dealt With by Red Hook Community Justice Center in 2005

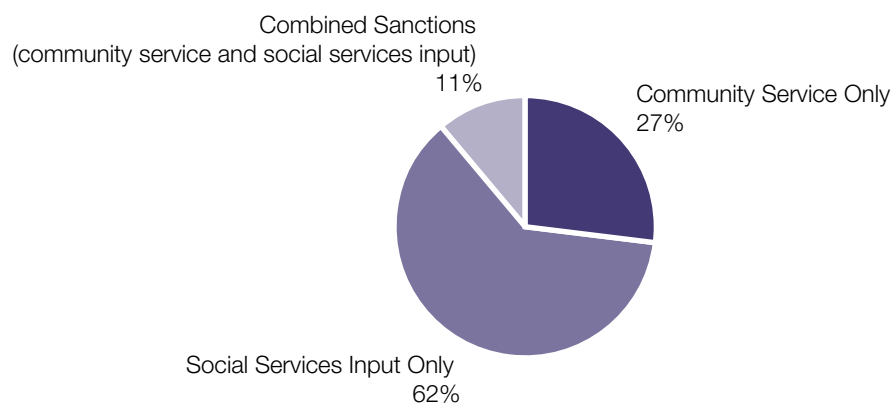
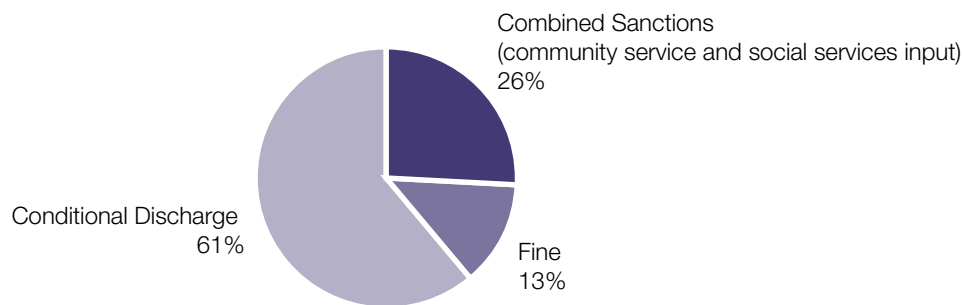


Figure 4 below outlines the outcomes of ‘summons’ cases dealt with by the Red Hook Community Justice Center in 2005. A conditional discharge typically means that the charge will eventually be dismissed if the offender stays out of trouble for six months.

Figure 4:
Outcomes of 'Summons' Cases Disposed of by the Red Hook Community Justice Center in 2005



According to the local Police Captain, whom the delegation met on their visit to the Red Hook Community Justice Center, since 1993, overall crime has declined by 62 per cent in the Red Hook area. Indeed, in 2005, the Red Hook area had the third best rate of crime reduction of all precincts in New York City. The Police Captain believed this significant reduction in crime had been achieved by the police revising their deployment patterns, concentrating their efforts on the types of low-level crime dealt with by the Community Justice Center and, since 2000, the work of the Community Justice Center itself.

Surveys have been conducted of the local community in Red Hook, Brooklyn, since before the Community Justice Center opened, to ascertain opinions and concerns of the local community in relation to their neighbourhood. When surveys from before and after the opening of the Community Justice Center are compared, there is some evidence that "overall perceptions of safety (day and night time) at public locations (streets, parks, subway stations etc.) have increased"¹⁶. In addition, positive views of the criminal justice system were positively correlated to using the services at the Community Justice Center¹⁷. However, these surveys have also found that Red Hook's residents' opinions of the police response to the community fell slightly between 2002 and 2004 – the percentage characterising this response as excellent dropped from 14 per cent to 10 per cent while the number characterising the response as unsatisfactory rose from 18 per cent to 21 per cent¹⁸. In 2004, respondents felt that problems with youth were less serious than in 2002. Youth drug seeking and drug use remain serious however, both at 69 per cent. These issues have remained the top two problems since 1999¹⁹.

16 Moore, 2004: p. 1 – review of 2001 published in 2004.

17 Red Hook Community Justice Center, 2000, Moore, 2004 and Frazer, 2005.

18 Frazer, 2005.

19 Frazer, 2005.

The same author in 2006 said “Separate studies of three different community courts (Red Hook, Hartford, and Hennepin County) all reported positive defendant perceptions of their court experience. In the absence of a comparison group, it is impossible to know whether these studies of defendant perceptions were reporting findings that differed from what would have been detected in a traditional court setting”.

The staff of the Red Hook Community Justice Center also identified the benefits brought about by the Court, namely:

- Improved public confidence in the criminal justice system;
- Improved property values in the immediate area;
- Reduction in the fear of crime;
- Access to certain programmes for all local residents, for example, mediation; and
- Work completed for the benefit of the community.

Philadelphia Community Court

The Philadelphia Community Court opened in February, 2002. The Community Court started as a result of the efforts of the members of the local Business Improvement District who had been conducting surveys annually amongst those working in or visiting the city centre area. These surveys revealed a perception that, whilst low-level offending was prolific and highly visible on the streets, these offences were often not dealt with as effectively as they could be by the Criminal Justice System. This issue was compounded by the fact that the local prisons were overcrowded. The local police statistics showed that many of these offenders did not appear in court when granted bail and that many had alcohol and/or drug addictions. The Philadelphia Court offers drug and alcohol assessment, behavioural and anger management classes, a court nurse and other services to defendants.

The establishment of the Philadelphia Community Court was driven by a steering committee of in the region of 25 people who raised the money to hire the necessary staff. The involvement and commitment to the project of a local Senator gave the project extra momentum and encouraged all of the key players, both within and outside of the Criminal Justice System, to assist the project. Whilst the City of Philadelphia funded the court element of the project, a generous donation was also received from a local charitable foundation to assist in the establishment of the Community Court.

According to the Court’s newsletter²⁰, approximately 70 per cent of defendants before the Philadelphia Community Court have drug or alcohol problems. The experience of the drug addiction service providers in the Philadelphia Community Court suggests that those who are coerced into treatment by the court are more likely to have successful outcomes than voluntary

²⁰ Philadelphia Community Court Newsletter, Winter 2006-2007.

admissions. The services offered in the Community Court building are available to the general public as well as to defendants but the take up of the services by the general public is not very high. As with the other Community Courts, there is one dedicated judge. A person may only appear before the Philadelphia Community Court on the same type of charge a maximum of three times. After this, if there is an arrest for the same charge, defendants will be sent to the regular court.

Philadelphia Community Court reports a 60 per cent compliance rate with community work assignments. This figure includes assignments which have only been partially completed. The Philadelphia completion rate is therefore lower than that of some other Community Courts. A view was expressed that the fact that judges in the Philadelphia Community Court require almost every defendant to complete four day community work assignments may be a contributory factor. Judges in other Community Courts tend to differentiate more and order many defendants to complete one or two days community work which makes compliance easier.

The Philadelphia Community Court serves a community of approximately 380,000 people and its catchment area includes ten police districts. In the period from 25th February, 2002, when the Philadelphia Community Court opened, and 30th September, 2006, it dealt with a total of 33,022 new cases (27,218 ‘summons’ cases and 5,804 ‘misdemeanour’ cases).

The staff of the Philadelphia Community Court identified the most notable benefits brought about by the Court to be:

- The crackdown on ‘quality of life’ crimes contributed to a 28 per cent drop in city centre crime between 2003 – 2004;²¹
- The Court’s recidivism rate for ‘misdemeanours’ is 20 per cent;²² and
- In excess of 250,000 hours of community work completed since the Community Court opened.

Liverpool Community Justice Centre

The Liverpool Community Justice Centre is a part of the UK Government’s RESPECT agenda – a cross Government strategy to tackle anti-social behaviour. Plans for the Centre were first set out in the U.K. Government’s White Paper entitled ‘Respect and Responsibility – Taking a Stand Against Anti-Social Behaviour’. This White Paper was published in March, 2003. The commitment to establish a Community Court in England was made following a visit by the Home Secretary, the Right Honourable David Blunkett in April, 2003 to the Community Courts in New York and a further visit by the Lord Chancellor, the Right Honourable Lord Falconer, in December, 2003. Lord Falconer and the Home Secretary were convinced of the merits of the system and garnered the support of their Ministerial Colleagues, the Attorney General, Lord Goldsmith, and

21 Philadelphia Community Court Newsletter, Winter 2005.

22 Philadelphia Community Court Press release dated 31 March, 2006.

the Minister of State at the Department for Constitutional Affairs, the Right Honourable Harriet Harman. This political backing and the commitment to provide funding²³ facilitated the speedy implementation of the Community Justice Centre. The Liverpool Community Justice Centre began operating in December, 2004.

The key principles upon which the establishment of the Liverpool Community Justice Centre was based were to facilitate community engagement in the criminal justice system, to provide robust and speedy case management, to apply a problem solving approach to each defendant and the outcome of his/her case and to develop collaborative working amongst the service providers. Defendants plead guilty or not guilty but those defendants who plead not guilty and are referred to the regular court for hearing, are referred back to the Community Justice Centre for sentencing.

The area of North Liverpool was selected for the first pilot Community Court in England and Wales because there was a low level of public confidence in the criminal justice system, high levels of crime and high levels of social and economic deprivation in the area. One example given by the Project Manager in Liverpool was that only one per cent of those within the catchment area of the court go to university compared to a national average of 43 per cent.

The organisation and implementation of the Liverpool Community Justice Centre was overseen by a specifically appointed Project Manager. The Project Manager was responsible for all aspects of the establishment of the Community Justice Centre, from the identification and refurbishment of a suitable building to getting all of the relevant agencies and services to engage with the Centre. The Community Justice Centre was operating within four months of the Project Manager being appointed²⁴.

The fact that the Community Justice Centre was given its own dedicated budget was another key driver in the speed and success of its implementation. As financial resources were not being taken away from other agencies/services, they were willing to place members of staff in the Centre on a permanent basis. Furthermore, as all staff were being paid by the Community Justice Centre, it meant that the Project Manager had a greater degree of authority. The Project Manager also spoke of the benefits of the various agency/service staff working from the same office in the Community Justice Centre on a daily basis. This meant that all of the staff had a greater appreciation of each others roles, were more likely to go out of their way to assist a colleague from another agency and generally encouraged more collaborative working.

23 Funding was not taken away from any of the agencies/services involved in the Community Justice Centre. Instead additional funding was provided in the initial period. It is anticipated that, in the longer term, the agencies/services will be able to fund this themselves through cost savings made in other areas of their work as a result of the Community Justice Centre. Approximately £5 million was spent on establishing the Liverpool Community Justice Centre. Running costs are approximately £1.8 million per annum.

24 As mentioned earlier, the Liverpool Community Justice Centre initially began operating in another courtroom and subsequently moved to its own dedicated building.

In March, 2006, the judge at the Liverpool Community Justice Centre was given special legislative powers under the 'Community Order (Review by Specified Courts in Liverpool and Salford) Order 2006'. These facilitate the monitoring of those who have appeared before the Community Courts whilst they complete their court orders. The judge may make an order, commonly referred to as a 'review order', for the defendant to reappear before the court to review their progress and to address any relevant issues which may have arisen since his/her last court appearance.

Furthermore, in the minority of cases where a person is given a custodial sentence, the staff of the Community Justice Centre maintain contact with the offender whilst he/she is in prison. This allows a support package to be developed prior to the offender's release. Upon release, the offender will return to the Centre – housing may have been organised for him/her, information on benefits will be provided and other support services can also be put in place.

The Liverpool Community Justice Centre serves a community of approximately 83,000 people and handles approximately 2,500 cases a year which is significantly lower than the caseloads of the courts in US. In the first eight months of 2006, the Centre, led by Judge David Fletcher, heard over 1,100 adult cases and more than 300 youth cases. Of these, 10 per cent of adult hearings resulted in custodial sentences, 17 per cent of youth hearings resulted in custodial sentences. In the same period, the centre ordered 3,231 hours of unpaid work. An evaluation of the Liverpool Community Justice Centre is expected to be published later in 2007.

The staff of the Liverpool Community Justice Centre identified the most notable benefits brought about by the Court to be:

- Greater compliance by defendants with court orders;
- Greater engagement by the local community with the criminal justice system; and
- 3,200 hours of unpaid community work completed by those appearing before the Community Courts up to August, 2006.

Chapter Two

The Case for Community Courts in Ireland

Chapter Two

The Case for Community Courts in Ireland

In order to understand the case being made in this chapter for the introduction of Community Courts in Ireland, it is necessary to set out briefly the limitations, difficulties and deficiencies in the present system.

The options available to a Judge in the District Court are limited. At one end of the spectrum is imprisonment and at the other end is a dismissal under the Probation of Offenders Act, 1907. In between these, the options can include – probation, a fine, a suspended sentence, a community service order or a combination of a number of these. These are final sanctions in their own right. The system therefore cannot be said to be proactive in dealing with underlying problems that offenders may have prior to a final order being made. The Court does not have a range of problem solving options such as speedy access to social and other services. It is also not proactive in monitoring compliance with its own orders. Pre-sanction and community service order assessments take weeks to complete. There is not a dedicated Judge and there are many adjournments or remands before steps are taken which might be of benefit to the defendant.

Table 1 at the end of this chapter while giving an overview of the characteristics of a Community Court, also serves to point up the deficiencies in the present system.

Broken Windows Theory

Under the Community Court model, police focus particular attention on low level crimes and public disorder which affect the quality of life for residents in the local area. There may be a particular focus upon the types of offences which are of most concern to the local community in the area where the court is located. This is closely linked to the ‘broken windows’ theory of crime prevention proposed by Wilson and Kelling in 1982. The ‘broken windows’ theory stipulates that “If a window in a building is broken and is left un-repaired, all the rest of the windows will soon be broken. This is true of nice neighbourhoods as in run-down ones. One un-repaired window is a signal that no one cares, and so breaking more windows costs nothing”²⁵. The broken window not only symbolises an actual window which has been smashed but also serves as an allegory for any signs of public disorder which are present in a local community. The theory is that, if one small incident goes unchecked, it will lead to numerous others and eventually to a lack of control and proliferation of crime.

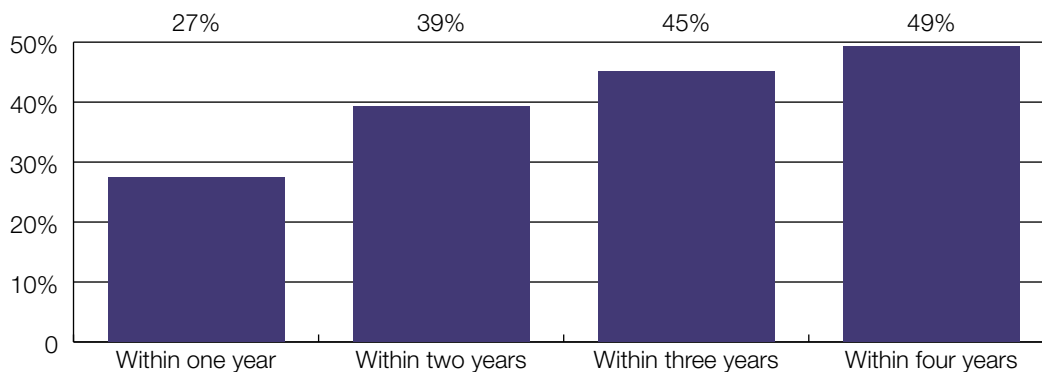
Recidivism

A recent study by the Institute of Criminology in University College Dublin²⁶ found that, of all those released from prison sentences in Ireland between 2001 and 2004, 27 per cent were serving a new prison sentence within one year. This figure rose to 49 per cent within four years of release. The rate of re-imprisonment was found to be highest amongst offenders sentenced for crimes against property.

25 Wilson and Kelling, 1982: pp.30-31.

26 Press release from the Institute of Criminology, University College Dublin, issued 5th December, 2006.

Figure 5:
The Recommittal Rates of Prisoners Released from Prison Sentences in Ireland in the Period
Between 1.1. 2001 and 30.11. 2004



Of those who served a prison sentence for defaulting on a fine, 85 per cent were serving a new prison sentence within four years.

Recidivism statistics are not generally available in relation to offenders sentenced to non-custodial sanctions in Ireland. However, there is anecdotal evidence that many persistent low level offenders tend to cycle through the court process again and again – arrest, arraignment, sanctions and return to the streets and little or no impact is made on the individual or the overall incidence of low level crime. Community Courts provide a court process that has the capacity to address the social problems that underlie minor crimes and thereby halt this cycle. Literature from the Center for Court Innovation in US suggests that Community Courts produce reductions in recidivism compared to conventional case processing in traditional courts.

The Community Court model will bring a range of benefits to defendants and communities which are not currently available in Ireland. These benefits include:

- Pre-trial assessment in every case;
- A wider range of sanctions available to the judiciary;
- Targeting of the issues which underlie offending such as substance abuse or homelessness so as to reduce re-offending;
- An element of restitution to the community in appropriate cases;
- Defendants who comply with the Community Court assignments avoid a criminal conviction;
- Formalised involvement of the local community in restoring order in an area;

- Renewed confidence in the Criminal Justice System as the Gardaí focus increased attention on minor offences affecting quality of life in an area;
- Gains in public safety and perceptions of safety; and
- Swift and visible justice for low level offences.

1. Benefits for Defendants

Pre-trial Assessment

In traditional courts, assessments of offenders' criminogenic needs are not available unless the presiding judge specifically requests such an assessment. The provision of the report generally takes several weeks. The Community Court model, with its detailed, pre-court assessment of defendants, provides the judge with the means to identify and tackle the problems of all those appearing before court and to help them to access the services they need as soon as possible. The detailed pre-trial assessment in a Community Court therefore facilitates early identification of any problems that require to be addressed in an individual case and informs judicial decision making. In cases where an underlying problem such as alcohol addiction, drug addiction or homelessness has been identified at the assessment stage, addressing that addiction or problem is the main goal of all the major players in the courtroom.

Dedicated Judge

The Community Court model calls for the establishment of a separate court to hear quality of life cases committed within specific boundaries. Each Community Court has a dedicated judge and hence, the defendant benefits from seeing the same judge on all occasions upon which he/she appears before the Community Court. In traditional courts, a defendant may see a different judge at each appearance in the District Court.

Early Guilty Plea from Defendants

In a traditional court, an early plea of guilty will be a factor which may mitigate sentence. Defendants who opt to be dealt with in the Community Court by entering a guilty plea and by complying with the orders of the Community Court, have the opportunity to avoid a criminal conviction.

Problem Solving Focus/Individualised Response

Community Courts offer problem-solving justice to those who appear before them by focusing their attention on the defendant as an individual rather than the processing of a case through the system. The aim of the Community Court is to achieve a positive outcome for every defendant by identifying and addressing any underlying problems the defendant may have thereby breaking the cycle of re-offending by addressing the root causes of crime. Problem solving is at the heart

of the Community Court approach. The treatment programmes mandated by the Court are designed to address the underlying causes of the criminal behaviour which led to the defendant's court appearance.

Using Community Court as a Gateway to Treatment

Anecdotal evidence from other jurisdictions suggests that defendants may be more willing to accept or be more open to the opportunity to avail of assistance/services to deal with their underlying problems when they are at the point of appearing before the court. The Community Court model increases the use of services by and engagement of defendants with these services. Defendants either commence their programme/course immediately after they have appeared before the judge or a start date is arranged immediately and defendants do not have to join waiting lists to be assessed or treated. Immediate engagement in treatment was found by the Center for Court Innovation in the US to be a strong predictor of participation and graduation from the treatment programmes provided.

Guaranteed Speedy Access to Key Services

In an ideal Community Court system, key services would be provided on site. However, co-location of services may not be economically viable in Ireland. The Council carried out an audit of available services in the inner city in Dublin and found that key services are already in situ in the geographic area suggested in Chapter Three as the site for the Community Court. What is critical is speed of access to services.

Rigorous Monitoring of Compliance with Court Orders

Community Courts provide increased monitoring of defendants. Defendants are required to report back to court to discuss progress with court mandates. This is considered to be one of the most effective practices of Community Courts. Due to the limited time available, this is difficult to integrate into conventional court practice. Breaches of court orders are also dealt with by the same judge who originally imposed the order thus ensuring continuity.

Case Conclusion

An important element of the Community Court process is that defendants who have completed all the requirements of the Court return to court prior to a final order being made, and the judge notes and comments on the defendant's progress/compliance with all prior orders. The case is then disposed of without a conviction being recorded.

2. Benefits for the Community

Traditionally, community members have little role to play in courts. This is particularly true in the case of low level criminal courts. Traditional courts have little interaction with community members except in their roles as jurors, witnesses or victims. The primary role for a community in a traditional court is that of audience. Community Courts are based on a central premise that communities victimised by low level crime, have a stake in court outcomes and a broader role to play in informing the criminal justice system.

Element of Restitution Through Community Work

The community also has the opportunity to benefit from any community work completed by those who have appeared before the Community Court. Wherever possible, the Community Court aims to ensure that any community work imposed is linked to the offence committed and is completed in the area where the offence was committed. This provides restitution for the offence to the community and makes those who have appeared before the Community Court accountable for their offending behaviour. Experience from other jurisdictions suggests that community work has the most positive benefits for the defendant when the defendant works alongside voluntary/ community groups or other non-offenders. Community service provides the defendant with the opportunity to meet and work with his/her peers whose normal practice is to work and be good citizens. Example is a powerful instrument in rehabilitation and towards reduced re-offending.

What is also noteworthy is the fact that a defendant who has an addiction or other problem need not be precluded from community work either as a stand alone sanction or as part of a combination of orders as is almost always the case under the traditional system. In Midtown Community Court, for example, defendants who are drug addicted may complete their community work inside the Community Court building by working in a mail room established to assist charitable and not-for-profit organisations working in the Court's catchment area.

Formalised Involvement of the Local Community

The operation of a Community Court requires consultation with the local community to listen to their concerns about crime in their area. The efficient manner in which defendants are dealt with and how low-level offending is targeted is visible to the community. This can serve to improve confidence in the criminal justice system, to increase the reporting of low-level crime and to reduce concern about crime amongst both the local residential and business communities. Community Courts also promote a situation where there is a shift away from the concept of a 'victimless crime'.

The community representatives in Ireland consulted by the Council were impressed by the approach of Community Courts to the quality of life issues which affect many communities and by the comprehensive way Community Courts attempt to address the social and other issues which underlie offending thereby preventing repeat offending. There was a consensus that there was real value in handling cases from a neighbourhood in a single courtroom in that neighbourhood and in assigning all cases to a single judge. The community representatives in

Ireland also endorsed the practice of Community Courts of building more effective partnerships between the court and social service providers. Pre-court assessment processes and the emphasis on community restorative justice projects were also endorsed by the representatives.

3. Benefits to the Criminal Justice System

The nature of the operation of Community Courts demands that decisions on prosecutions be made quickly. The number of adjournments will be reduced as the defendant, in order to avail of the system, enters a guilty plea on his/her first appearance²⁷. This results in more efficient use of court time and resources (including administration staff) and the elimination of unnecessary remands.

The Council recommends that Community Courts be established in Ireland.

Overview

Table 1 below provides an overview of the characteristics of a Community Court.

Table 1:
Overview of the Characteristics of Community Courts

Community Court Characteristics	Who Benefits	Currently Available in Ireland?
Pre-trial assessment in every case	Defendant	No
Dedicated Judge	Defendant	No
Early guilty plea from defendants	Defendant	Yes
Problem solving focus/Individualised response	Defendant	No
Using Court as gateway to treatment	Defendant	Yes (Limited)
Speedy access to key services	Defendant	No
Rigorous monitoring of compliance with court orders	Defendant and Community	No
Element of restitution through community work	Community	Yes (Limited)
Formalised involvement of the local community	Community	No

²⁷ Many defendants may be dealt with on the first occasion that they appear before the Community Court. In other cases, there will be fewer appearances because, for example, defendants are not repeatedly remanded on bail and the case is not contested.

Chapter Three

Community Courts in Ireland

Chapter Three

Community Courts in Ireland

The Council recommended in Chapter Two that Community Courts be established in Ireland.

Location of Community Court

Community Courts should be located in the larger, urban areas where one or more of the following factors exist – a considerable residential population, a concentration of business outlets, a significant transient/tourist population and a high footfall.

Locating a Community Court in such an area facilitates quick arraignments and immediate assignments to community or social service programmes. It also makes the Court more accessible to the community it serves.

The Council recommends that Community Courts be established as stand alone courts in areas of high population. Community Courts could form part of an ordinary District Court in rural areas where this factor is not present.

The Council recommends that each Community Court be located in a dedicated building within the geographic area of the community it serves.

Offence Types

The Council consulted with An Garda Síochána, community representatives and some judges regarding the kind of offences appropriate for a Community Court to deal with in Ireland.

The Council recommends that the following offences should come within the remit of any Community Courts established in Ireland²⁸:

- **Drunk in Public:** Section 4 – Criminal Justice (Public Order) Act, 1994;
- **Disorderly Conduct – Night Time:** Section 5 – Criminal Justice (Public Order) Act, 1994;
- **Disorderly Conduct:** Section 5 – Criminal Justice (Public Order) Act, 1994;
- **Threatening/Abusive/Insulting Behaviour:** Section 6 – Criminal Justice (Public Order) Act, 1994;
- **Refuse to Give Name:** Section 24 (3) – Criminal Justice (Public Order) Act, 1994;
- **Wilful Obstruction:** Section 9 – Criminal Justice (Public Order) Act, 1994;
- **Failure to Comply with the Direction of a Member of Garda Síochána:** Section 8 – Criminal Justice (Public Order) Act, 1994;

²⁸ Some of these offences are also covered by the fixed penalty offences as provided for in the Criminal Justice Act, 2006 and the Garda Adult Cautioning Scheme. The DPP, as the prosecuting authority, will have the right of veto over all defendants being sent to the Community Court.

- **Assault:** Section 2 – Non-Fatal Offences Against the Person Act, 1997;
- **Criminal Damage:** Section 2 – Criminal Damage Act, 1981;
- **Soliciting/Loitering:** Sections 7 and 8 – Criminal Law (Sexual Offences) Act, 1993;
- **Drug Use:** Section 3 – Misuse of Drugs Act, 1977;
- **Theft:** Section 4 – Theft and Fraud Offences Act, 2001;
- **Handling Stolen Property:** Section 17 – Theft and Fraud Offences Act, 2001. Whilst this is not defined in legislation, only offences where the value of the property is less than €1,000 will be dealt with by the Community Court;
- **Illegal Street Trading** – Section 2 – Street Trading Act 1926; Section 3 – Casual Trading Act 1980; Section 10 – Non-Fatal (Offences Against the Persons) Act 1997.

Typically, these offences affect the quality of life of communities, are at the lower end of gravity of offences and reflect the underlying social problems which Community Courts are designed to address.

The list is not intended to be exhaustive.

Dublin Community Court

An examination of Court and Garda statistics for the ‘quality of life’ offences identified as suitable for inclusion in the remit of a Community Court in Ireland would suggest that, approximately, one third of such offences occur in the Dublin area. Further analysis points to the fact that the highest concentration of such offences occurs in the catchment areas of the Store Street and Pearse Street Garda Stations which cover the inner city area where the footfall is highest and there is a concentration of business outlets, a considerable residential population and a significant transient/tourist population.

The Council therefore recommends that an initial Community Court be established in the inner city in Dublin which would deal with ‘quality of life’ offences committed in the Store Street and Pearse Street Garda station catchment areas.

Building

The Council is aware of the new Criminal Court Complex where building work is due to commence in the coming months. However, the Council does not believe this to be the most appropriate setting for the new Dublin Community Court.

The Council recommends that the Dublin Community Court be located in a dedicated building within the geographic area covered by Store Street and Pearse Street Garda stations.

Model for Dublin Community Court

Caseload

Caseloads in other jurisdictions vary widely – from 2,500 cases in the Liverpool Criminal Justice Centre to 17,000 cases per annum in Midtown Community Court Manhattan. Experience from other jurisdictions suggests that each established Community Court should be able to deal with in the region of 40 new cases per day. The daily work of the Community Court will also include regular reviews of many of the defendants who have appeared before the Court on previous occasions to ensure their compliance with Court orders and to address any issues which may arise. The Council has outlined earlier the types of offences which it believes could most appropriately be dealt with by the Dublin Community Court. The Community Court caseload will depend on the exact offences selected for inclusion in the court's remit.

The Council recommends that the Dublin Community Court should deal with sufficient cases so as to justify the services it retains. The caseload of the Community Court should be built incrementally, permitting the new court to develop and refine its operating procedures. The Council recommends that the caseload of the Community Court be kept under regular review to ensure that the caseload is a manageable one.

Dedicated Judge

The Council recommends that, as in other jurisdictions, the Community Court should have one dedicated judge.

Staff and Services

It is essential that all of the relevant criminal justice agencies, such as the Gardáí and the Probation Service, have staff located within the Dublin Community Court. It is not essential, however, that all of the services, such as drug/alcohol addiction counselling, be delivered onsite. It is essential that these services are available to the Court on a priority basis and this must be underpinned by appropriate service level agreements.

The Council recommends that these services be delivered on the basis of specific service level agreements with the relevant agencies.

Recognising the focus of Community Courts on solving an individual's problems and to facilitate participation by those who offend in the city centre area but live in another location, the Council recommends that all therapeutic services/programmes which defendants are ordered to complete/participate in are undertaken within the area of the Dublin Community Court or close to where the defendant lives as was seen to be beneficial in other jurisdictions.

The Council recommends that there be continued contact between the staff of the Dublin Community Court and the defendant in cases where it is not possible for a defendant to begin his/her community work/programme/addiction counselling immediately following their appearance before the Community Court until such time as the defendant commences his/her work/programme or counselling.

The Council recommends that, at a minimum, the following services be available to the Dublin Community Court when it is initially established:

- Alcohol/Drug Addiction assessment and counselling;
- Educational/Literacy courses;
- Pre-employment and other training programmes;
- Family, Housing and other Social Services;
- Parenting programmes; and
- Anger Management Courses

These services are likely to be subject to revision and possibly expansion in the future.

Pre-court Assessment

Central to any informed sentencing decision is a proper assessment of each defendant. Every defendant at the Midtown Community Court is interviewed by New York's pre-trial services agency, the Criminal Justice Agency (CJA), between arrest and arraignment to determine whether he/she has a substance abuse problem, a place to sleep, social welfare entitlements, a history of mental illness or other problems. A standardised form is used for the pre-trial assessment/interview. A copy of the Pre-Trial Assessment form used in the Midtown Community Court is at Appendix One.

The Council recommends that a pre-court assessment be carried out in all cases.

Court Co-ordinator/s

A crucial role within the Dublin Community Court will be that of the Court Co-ordinator/s. The role of the person(s) will be to review all the information available on the case, identify the problems/needs of defendants and to seek placement/treatment for them where this is appropriate i.e. to match defendants with drug or alcohol or other treatment, community service etc. The Court Co-ordinator(s) will, with the support of the prosecution and the defence, relay this information to the judge with a recommendation as to the appropriate course of action. If the judge agrees with the recommendation, it is the role of the co-ordinating staff to link the defendant with the various service providers.

Community Work Programmes

When addressing the concept of community work, the Council, for the sake of clarity, wishes to point out that community work as detailed in this report is not the same as Community Service as legislated for in the Criminal Justice (Community Service) Act 1983. Community work is but an option that can be used by the judge in the Community Court as a task to be completed by the defendant either as a stand alone requirement or in tandem with others such as attendance for drug counselling *before* a final order is made. Community Service work as provided for in the above mentioned Act is a stand alone *final* order.

As already indicated, one of the options available to the Community Court as a punishment and to provide some reparation to the local community is that of mandating suitable defendants to complete a period of unpaid community work. Community work sites and tasks should be developed in consultation with neighbourhood groups. It is an important principle that community work placements must not be used in situations which would displace others in paid employment. If possible, there should also be some link between the offence and the community work. As already indicated, community work will not form part of the court order in every defendant's case.

The Council notes, that in other jurisdictions, local charities and voluntary groups are able to suggest projects which could usefully avail of community work to the Court for consideration. The Council recommends that community work should, ideally, be completed in the area where the crime was committed.

Experience from other jurisdictions suggests that community work has the most positive benefits for the defendant when the defendant works alongside voluntary/community groups or other non-offenders. Persons charged with developing community work projects should look for opportunities to put offenders working alongside community residents on neighbourhood projects. This has been found to be successful in terms of compliance and hence a positive community response in US. In carrying out community work, care should be taken to ensure that defendants are treated with respect and dignity.

Defendants will require varying levels of supervision while completing community work orders. Defendants with no criminal history will be assigned to the lowest level of supervision. Appropriate

work will need to be developed for defendants who are normally considered poor risks to comply with community work orders.

The Council recommends that opportunities for community work, suitable for defendants with substance abuse problems, should be available to the Community Court.

The Council notes, that in other jurisdictions, local charities and voluntary groups are able to suggest projects which could usefully avail of community work to the Court for consideration.

The Council recommends that a variety of different types of community work be available to the Community Court at any given time.

The Council also notes that, in other jurisdictions, efforts are made to facilitate defendants who have children when making arrangements for the completion of community work and recommends that similar consideration be given by Community Courts in Ireland.

In exceptional circumstances only, consideration may be given to facilitating existing employment and education/training commitments of defendants.

Duration of Community Work Placements

In other jurisdictions, one day of community work mandated by a Community Court is six hours. Defendants are normally mandated to between one to four days community work.

The Council recommends that all community work assignments should be measured in periods of days up to a maximum of four days for those cases at the highest end of offending. The Council further recommends that, to give credence to the Community Court process, community work should commence, or firm arrangements be put in place for its commencement, immediately after the defendant has been ordered to do such community work by the Community Court.

Community Involvement

Community involvement has varied through the different Community Courts investigated by the Council. In every community, however, the persons involved in implementation attended neighbourhood meetings and met with key community stakeholders. When Community Courts are in full operation, communities are engaged through door-to-door surveys, community committees and newsletters etc.

The Council recommends that all avenues to formalise the involvement of the local community should be explored.

Chapter Four

The Community Court Process

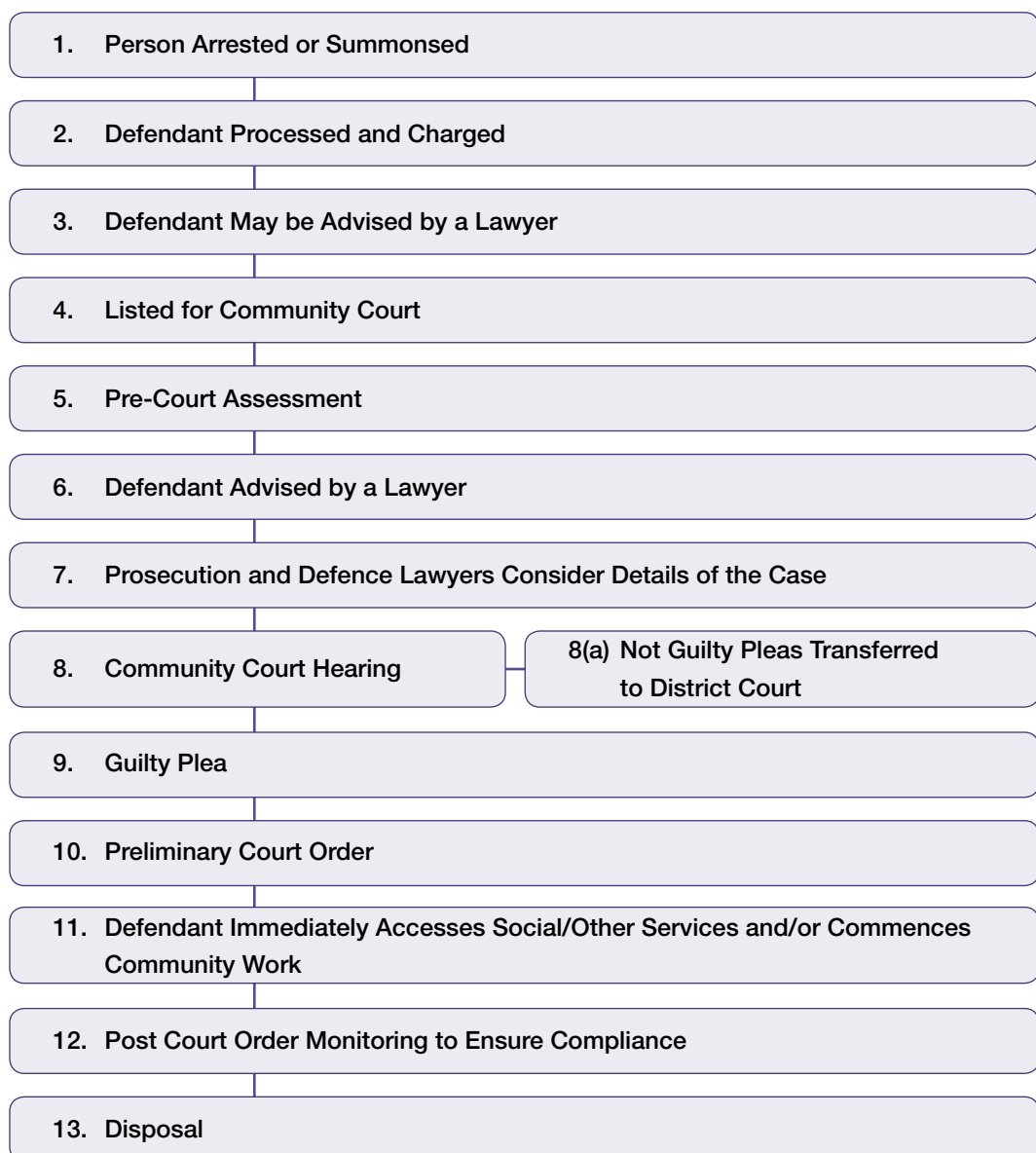
Chapter Four

The Community Court Process

Case Progression through the Community Courts in Ireland

Figure 6 provides an overview of the progression of a defendant through the Community Court model recommended for Ireland. This process is also described in greater detail in the discussion which follows the Figure.

Figure 6:
Recommended Case Flow Summary for Community Courts in Ireland



1. Person Arrested or Summoned

All persons **arrested or summonsed** for an offence which comes within the remit of and occurred within the geographic area of the Community Court will, subject to the agreement of the Gardaí and the D.P.P., be dealt with by the Court²⁹. Protocols in respect of these agreements will be required.

2. Defendant Processed and Charged

Once a **person has been arrested and charged**, they will be taken directly to the Community Court if sitting or, if not sitting, they will be held in custody or released on bail to appear at the Community Court.

3. Defendant May be Advised by a Lawyer

While in custody as detailed at point 2 above, the **defendant may be advised by a lawyer** if he/she has chosen to exercise his/her right in this regard³⁰.

4. Listed for Community Court

The case will be **listed for the Community Court**.

5. Pre-Court Assessment

After the defendant arrives at the Community Court building, he/she will be handed a notice detailing the Community Court process. A **pre-court assessment**, which is conducted via an interview with the Court Co-ordinator³¹, will then be held with the defendant. The Court Co-ordinator will assess any individual needs the defendant may have. There may also be a pre-court problem solving meeting/discussion between the Court Co-ordinator and other interested parties to include the prosecution and defence lawyers to discuss any needs the defendant may have and to formulate options of assistance for him/her. The role of the Court Co-ordinator, as in other Community Courts, will be to compile a report for the judge on the basis of the pre-court assessment interview with the defendant and the problem solving meeting/discussion. The report, which may be oral, will provide a suggested approach to dealing with the defendant to the Court.

29 The DPP, as the prosecuting authority, will have the right of veto over all defendants being sent to the Community Court.

30 As provided for in the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987.

31 In other jurisdictions, the Court Co-ordinator is referred to as a Resource Co-ordinator.

6. Defendant Advised by a Lawyer

The defendant will then be **advised by a lawyer** in the normal way, if he/she so wishes. During the consultation with his/her lawyer, the Community Court process and the implications of participating in the Community Court process will be again explained in detail to the defendant. The defendant will know that, if he/she chooses to plead guilty, he/she will be dealt with by the Community Court and given the opportunity to avail of services which might assist with any issues which contribute to offending. The lawyer will also inform the defendant that he/she has the opportunity to avoid a criminal conviction if he/she complies with the orders of the Community Court.

7. Prosecution and Defence Lawyers Consider Details of the Case

At this stage, the **prosecution and defence lawyers will consider all the details of the case**. There must also be full disclosure of evidence by the prosecution and the defence.

8. Community Court Hearing

The judge will confirm with the defendant that he/she has been fully informed of the Community Court process and that he/she is making any guilty plea voluntarily. If the defendant pleads guilty to the charges preferred against him/her, he/she will be dealt with by the Court at this first **Community Court Hearing**. The judge will, at all times, have jurisdiction to transfer the case to the District Court.

8 (a). Defendants Who Plead Not Guilty Transferred to the District Court

If the defendant opts to plead not guilty to the charges preferred against him/her, he/she will forfeit the option of being dealt with by the Community Court and will be **transferred** to the District Court.

9. Guilty Plea

After the **defendant pleads guilty**, the Court Co-ordinator will outline any underlying problems the defendant may have to the Court and make suggestions to the Court as to the types of services/treatment/courses which are immediately or otherwise available to the judge. Where the accused has no underlying problem, the Co-ordinator will make available to the court, suggestions as to the other sanctions available, including community work. The prosecution and defence lawyers may also make representations in relation to the defendant to the Court at this stage.

10. Preliminary Court Order

Having considered the facts of the case, any representations in relation to the defendant and the report given by the Court Co-ordinator, the judge will make a **decision/preliminary court order** as to the appropriate sanction to be imposed and will, if required, adjourn the case pending compliance with the order.

11. Defendant Immediately Accesses Social/Other Services and/or Commences Community Work

In all cases, the priority of the Community Court is that ***the defendant is able to access social services or commence community work immediately or as soon as practicable***. Ideally, after their appearance before the Community Court, defendants, if required, would go to meet with the Court Co-ordinator to get details of where to go to start their treatment programme and/or community work immediately or at least to be given details of where and when they will commence any treatment programme and/or community work. The importance of immediacy is in tying the crime to its consequences. In some cases, the defendant will be brought back before the court for daily/regular monitoring prior to the commencement of his/her programme and/or treatment.

12. Post Court Order Monitoring to Ensure Compliance

(a) ***The defendant will be actively monitored during the period covered by the court order to ensure that he/she complies with all of the conditions of the order.*** The administrative staff of the Community Court will take on this role. In any case where there has been a breach of compliance, the defendant will be immediately called back to appear before the Community Court.

(b) In the event of non-compliance, the defendant will be brought back to court and, in those circumstances, the judge will have available to him/her, the sanctions prescribed by law.

13. Disposal

Once the defendant has complied with the conditions of the court order, his/her ***case will be disposed of*** in court. A final order will be made with no criminal conviction recorded.

Chapter Five

Issues and Implementation

Chapter Five

Issues and Implementation

Implementation

The operation of Community Courts in Ireland shall be the responsibility of the Courts Service. The Council was fortunate to have the full co-operation of the Courts Service for the duration of this project. The Council trusts that this early commitment from the Courts Service will facilitate the introduction of Community Courts in Ireland.

The Council recommends that an implementation group be established immediately to oversee the introduction of the Dublin Community Court. Relevant statutory and non-statutory agencies should be represented on this implementation group.

The Council recommends that the implementation group should be chaired by a nominee of the Courts Service and that, at a minimum, the following agencies/Departments should be represented by a member of staff at Assistant Secretary level or equivalent grade:

- 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.

The Council further recommends that there should be community representation on the implementation group.

Project Management

In Liverpool, a Project Manager was responsible for overseeing the development and implementation of the Community Justice Centre. The Council was impressed with the efficiency with which the Project Manager was able to deliver an operational Community Justice Centre. The Liverpool Community Justice Centre was operating within four months of the Project Manager being appointed. The full backing of the Secretary for State and co-operation of senior officials of the Department for Constitutional Affairs in London facilitated the speedy delivery of this project.

The Council recommends that a Project Manager, with a proven track record in service delivery, be appointed by the Courts Service to oversee the development of the Dublin Community Court. The Council recommends that the Dublin Community Court be open within six months of the appointment of the Project Manager.

The Council recommends that the Project Manager consult with all the organisations which will provide services to the Dublin Community Court to secure a guaranteed level and quality of service and, in particular, speedy delivery of services.

At a minimum, representatives of the following services should be consulted:

- Alcohol and Drug Addiction Services;
- Adult Education/Training Providers;
- Mental Health Practitioners;
- Other Social Services;
- The Probation Service; and
- Representatives of the local residential and business communities.

The services to be provided will be the subject of a service level agreement in each case.

Evaluation

Community Court Projects must be evaluated. It is, therefore, essential, to facilitate evaluation, that they monitor their caseloads, how quickly cases are processed as well as considering recidivism rates amongst offenders. An evaluation should also be carried out prior to the commencement of the Community Court of the perception of the quality of life in the neighbourhood. This should not delay the implementation group in its deliberations.

It is vital to facilitate evaluation of the effectiveness of the Dublin Community Court that detailed statistics be compiled and published which should include:

- the caseload of the Dublin Community Court;
- the characteristics of the defendants;
- the number and type of court ordered disposals etc.; and
- recidivism rates amongst those dealt with by the Dublin Community Court.

The Council recommends that there be an on-going, dedicated research component to the work of the Dublin Community Court. Furthermore, the Council recommends that a formal, independent evaluation of the Dublin Community Court be conducted after the first three years of the Court's operation.

The evaluation should also include the updated perception of the worth of the Community Court in the area. The evaluation should also provide suggested adjustments to the court processing system as it proceeds.

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Appendices

Appendix One

Pre-Trial Assessment Form Used in Midtown Community Court

Arrest Number:	CJA Log: Page Number:	Line Number:	Interviewer Code:
MANHATTAN MIDTOWN COMMUNITY COURT PROJECT			
NYSID Number:	Top Arrest Charge:	Precinct:	Interview Date:
Docket Number:	Unable to complete interview due to: <input type="checkbox"/> Language Barrier <input type="checkbox"/> Refused Interview		Interview Time:
Type of Arrest? <input type="checkbox"/> On-line <input type="checkbox"/> DAT	Interview Language? <input type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Other: _____		
DEFENDANT INFORMATION			
Last Name (NYSID or Arrest Report)	First	Middle	Defendant's Name: (If Different from NYSID or Arrest Name)
Age:	Date of Birth:	Sex? <input type="checkbox"/> Male <input type="checkbox"/> Female	Do you speak English? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> DK <input type="checkbox"/> RA
ETHNICITY			
Are you Hispanic? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> DK <input type="checkbox"/> RA	Race (check one): <input type="checkbox"/> Black <input type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> American Indian <input type="checkbox"/> Other		
RESIDENCE/FAMILY			
Street		Apt./Flr./Rm:	
City	State	ZIP Code	Phone No: () -
Do you live in a? <input type="checkbox"/> Private House <input type="checkbox"/> Apartment <input type="checkbox"/> DK <input type="checkbox"/> RA	How long at primary residence? _____ yrs _____ mos _____ wks		
Care of Name:	Contact at Primary Address:	Relationship:	
Who do you currently live with? (Check all that apply.)			
<input type="checkbox"/> Lives Alone	<input type="checkbox"/> Spouse	<input type="checkbox"/> Parent(s)	<input type="checkbox"/> Common Law Spouse (6mos)
<input type="checkbox"/> Grandparent(s)	<input type="checkbox"/> Legal Guardian	<input type="checkbox"/> Siblings	<input type="checkbox"/> Friends
<input type="checkbox"/> Defendant's Children (How Many?) _____	<input type="checkbox"/> Group Home/Shelter		
<input type="checkbox"/> Other _____			
ALTERNATE RESIDENCE			
If summary arrest, use this area to record Prior address when there is no Alternate. If there is an Alternate, record Prior in Comments Section.			
Street		Apt./Flr./Rm:	
City	State	ZIP Code	Phone No: () -
Care of Name:	(If Prior Address) How long there? _____ yrs _____ mos		
Contact at Alternate Address:	Relationship:	Is Contact still there: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Does Defendant expect someone at Arraignment? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> RA <input type="checkbox"/> DK	Name:	Relationship:	
PAROLE/PROBATION			
Are you currently on Probation? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> RA	Are you on parole from state prison? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> RA		
Supervisor: <input type="checkbox"/> DK	Supervisor: <input type="checkbox"/> DK		
MEANS OF SUPPORT			
Are you employed? <input type="checkbox"/> FT <input type="checkbox"/> PT <input type="checkbox"/> Odd Jobs <input type="checkbox"/> No <input type="checkbox"/> RA	Average take-home pay? \$ _____ daily <input type="checkbox"/> weekly <input type="checkbox"/> bi-weekly		
Employers Name:	Address:		
How long have you been employed at current job? Yrs. / Mos.	Hours worked per week? <input type="checkbox"/> 35+ <input type="checkbox"/> - 35 <input type="checkbox"/> varies		
If employed, what is your job title or occupation? _____			
Length of Unemployment? _____ Yrs. _____ Mos. <input type="checkbox"/> Never worked	Reason for not working? <input type="checkbox"/> Retired <input type="checkbox"/> Disabled <input type="checkbox"/> Home Maker <input type="checkbox"/> None <input type="checkbox"/> Other _____		
OTHER SOURCES OF FINANCIAL SUPPORT			
Do you have any other sources of income? (Check all that apply) Circle defendant's (D) or other's (O) where applicable.			
Does the defendant provide for others? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N			
<input type="checkbox"/> D/O Welfare	<input type="checkbox"/> D/O AFDC	<input type="checkbox"/> D/O Unemployment	<input type="checkbox"/> Parents
<input type="checkbox"/> Veteran's Assistance	<input type="checkbox"/> Medicaid	<input type="checkbox"/> Spouse	<input type="checkbox"/> Medicare
<input type="checkbox"/> Foodstamps	<input type="checkbox"/> None	<input type="checkbox"/> Supplemental Security Income (SSI)	
<input type="checkbox"/> RA	<input type="checkbox"/> Other _____		
EDUCATION/ TREATMENT			
Choose One: Highest grade completed? (1-11) _____	<input type="checkbox"/> GED	<input type="checkbox"/> High-school diploma	<input type="checkbox"/> Some College
<input type="checkbox"/> College Graduate	<input type="checkbox"/> Grad School	<input type="checkbox"/> Phd	
Are you currently enrolled in <input type="checkbox"/> School	<input type="checkbox"/> Training program	<input type="checkbox"/> FT	<input type="checkbox"/> PT
Are you currently in a treatment program? <input type="checkbox"/> Drug <input type="checkbox"/> Alcohol <input type="checkbox"/> No <input type="checkbox"/> RA	If yes, Name _____		
Address: _____			

Problem Solving Justice
The Case for Community Courts in Ireland

from the National Crime Council

April, 2007.

